

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Michigan State Trust for Railway Preservation, Inc.

[Docket Number FRA-2001-10255]

The Michigan State Trust for Railway Preservation, Inc. seeks a waiver of compliance with the Inspection and Maintenance Standards for Steam Locomotives, 49 CFR part 230, published November 17, 1999. Section 230.3(c) of the standards requires steam locomotives having flue tubes replaced prior to September 25, 1995, have a one thousand four hundred seventy-two service day inspection (49 CFR 230.17) performed prior to being allowed to operate under the requirements. The Michigan State Trust for Railway Preservation, Inc. seeks this waiver for one locomotive number 1225, which had the flue tubes replaced and was returned to service August 5, 1995, fifty-one days prior to the cut off date published in the requirements.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2001-10255) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are

available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Issued in Washington, DC on October 2, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01-25222 Filed 10-5-01; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

The Minnesota Transportation Museum, Inc.

[Docket Number FRA-2001-10213]

The Minnesota Transportation Museum, Inc. of St. Paul, MN, has petitioned for a waiver of compliance for one locomotive identified as "Anderson Windows 3110" from the requirements of the Safety Glazing Standards-Locomotive, 49 CFR Part 223.11, which requires that other than yard locomotives, locomotives manufactured prior to July 1, 1980, must be equipped with certified glazing in all locations of cab windows. The subject locomotive is reported to be a Electro-Motive Division SW-1 built in 1949. The locomotive is used in tourist service over the Wisconsin Central and the Union Pacific Railroad in rural east-central Minnesota and north-west Wisconsin.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2001-10213) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, Washington, DC. 20590.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.-5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Issued in Washington, DC. on October 2, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01-25220 Filed 10-5-01; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket No. FRA-2001-10278]

Temporary Cessation of Sounding of Locomotive Horn—Coon Rapids, MN

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of interim final order and request for comments.

SUMMARY: FRA is issuing an Interim Final Order in which The Burlington Northern and Santa Fe Railway Company is ordered to temporarily cease the sounding of locomotive horns at specific crossings within the City of Coon Rapids, Minnesota. As provided by statute, the Secretary of Transportation, and by delegation, the Federal Railroad Administrator, in order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail crossings, may, in connection with demonstration of proposed new supplementary safety measures, order a railroad to temporarily cease the sounding of locomotive horns at such crossings.

DATES: Written comments must be received by November 8, 2001. Comments received after that date will be considered to the extent possible without incurring additional delay.

ADDRESSES: Written comments concerning these proceedings should identify the appropriate docket number (e.g. Docket No. FRA-2001-10278) and must be submitted to the Docket Clerk, DOT Docket Management System (DMS), Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All written communications concerning these proceedings are available for examination during regular business hours (9 am-5 pm) at DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590. You may submit comments online through the DMS at <http://dmses.dot.gov/submit>. All documents in the public docket are also available for inspection and downloading at the DMS web site at <http://dms.dot.gov>. Internet users may also reach the Office of the Federal Register's home page at <http://www.nara.gov/fedreg> and the Government Printing Office's web page at <http://www.access.gpo.gov/nara>.

FOR FURTHER INFORMATION CONTACT: Ron Ries, Staff Director, Highway Rail Crossing and Trespasser Programs, Office of Safety, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone: 202-493-6285); or Mark Tessler, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6061 (e-mail address: mark.tessler@fra.dot.gov)).

SUPPLEMENTARY INFORMATION:

Background

Section 20153 of Title 49 of the United States Code authorizes the Secretary of Transportation (and by delegation of the Secretary of Transportation, the Federal Railroad Administrator) to prescribe regulations requiring that locomotive horns be sounded while each train is approaching and entering upon each public highway-rail grade crossing. The statute also permits the Secretary to exempt from the requirement to sound the locomotive horn any category of rail operations or categories of highway-rail grade crossings for which supplementary safety measures fully compensate for the absence of the warning provided by the horn. Section 20153(e)(1) states that "In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to

cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn."

FRA has been requested by representatives of the City of Coon Rapids, Minnesota, to order the Burlington Northern Santa Fe Railroad Company (BNSF) to temporarily cease the sounding of locomotive horns at three crossings in the city in order to demonstrate new and innovative engineering solutions to prevent motorists from entering onto highway-rail grade crossings equipped with fully functioning gated grade crossing warning devices. The crossings which are the subject of this Order are located at 121 St. Street (DOT Inventory No. 061574G), Northdale Boulevard, (DOT Inventory No. 061573A) and Egret Boulevard (DOT Inventory No. 061570E). The Minnesota Commissioner of Transportation has approved the quiet zone demonstration project for these crossings. FRA is prepared to order cessation of routine sounding of locomotive horns at the specified public highway grade crossings.

In order to institute this demonstration project as soon as possible, FRA is issuing this order on an interim basis. Upon compliance with the provisions contained in the order, BNSF will be required to cease sounding of the locomotive horn at the crossings under the terms of this order. FRA will revise the order, rescind it, or issue a final order without change, depending on information contained in any comments received.

FRA has evaluated the proposed actions in accordance with its procedures for ensuring full consideration of the environmental impact of FRA action, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and the DOT Order 5610.1c (Procedures for Considering Environmental Impacts). It has been determined that the proposed actions will have a beneficial impact on the environment by the cessation of the sounding of locomotive horns.

This action has been evaluated in accordance with existing regulatory policies and procedures and is considered to be non-significant under DOT policies and procedures (44 FR 11304). This action will not have an impact on a substantial number of small entities.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. Inasmuch as implementation of this order is, by its own terms, dependent on the request of the City of Coon Rapids that such order be issued, and the purpose of the order is to enable effectuation of a quiet zone demonstration project established by the Minnesota Commissioner of Transportation, all appropriate prior consultation with state and local officials has taken place.

Public Participation

Interested parties are invited to participate in this proceeding by submitting to the Docket Clerk at the address listed above written data, views, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify the Docket Clerk, in writing, before the end of the comment period and specify the basis for their request.

Interim Final Order

Based on the above, FRA issues the following order:

**U.S. Department of Transportation
Federal Railroad Administration**

**Interim Final Order to Temporarily
Cease Sounding of Locomotive Horns**

I find that:

1. The City of Coon Rapids, Minnesota, (City) in conjunction with The Burlington Northern and Santa Fe Railway Company (BNSF) and the Minnesota Commissioner of Transportation, and in consultation with the Federal Railroad Administration (FRA), has instituted a demonstration of new and innovative engineering solutions to prevent motorists from entering the public highway-rail grade crossings at 121 St. Street (DOT Inventory No. 061574G), Northdale Boulevard (DOT Inventory No. 061573A) and Egret Boulevard (DOT Inventory No. 061570E) (collectively "crossings").

2. As part of the demonstration, and preliminary to the temporary cessation of the sounding of locomotive horns at the crossing, the City has tested various configurations of mountable median curbs equipped with channelization devices. As configured for the principal phases of the demonstration, these curbs are of different dimensions in height and length than arrangements

previously evaluated. The maintainability of curbs, roadways, and highly visible delineators pose issues of interest for policy development.

3. The demonstration project has been designed with three distinct phases. "Phase 1" entails studying driver behavior at the subject crossings without medians and with locomotive horns routinely sounded. "Phase 2" of the project includes studying driver behavior at those crossings with medians installed but with locomotive horns routinely sounded. "Phase 3" of the project includes studying driver behavior at the crossings with medians installed and routine sounding of locomotive horns prohibited. As an integral part of this demonstration, the City has gathered data during Phases 1 and 2 concerning base line safety risk and the impact on risk of installing these proposed new supplementary safety measures. Data concerning responses to the automated warning system by motor vehicle drivers was gathered by means of video monitoring of driver behavior.

4. All engineering improvements comprising the demonstration have been tested and evaluated and are deemed necessary in lieu of the locomotive horn.

5. City officials have expressed a strong interest in establishing quiet zones at these crossings, which are placed within a segment of railroad exceeding one-half mile in length, making establishment of a quiet zone clearly practicable.

6. Issuance of this order will assist the FRA in gathering information and data useful to development of innovative supplementary safety devices.

7. At the request of the City and the FRA, the BNSF has fully cooperated in the exploration of options for safety improvements at the crossings but considers that the company is not able to unilaterally cease use of the train horn at the crossings, absent issuance of this order.

Accordingly, pursuant to 49 U.S.C. 20153(e)(1), and in order to promote the quiet of the City, and to promote the development of innovative safety measures at highway-rail crossings, *I hereby order* the BNSF, during the term of this order and in accordance with its provisions, to cease the routine sounding of locomotive horns on approach to and at the above crossings during the period known as Phase 3 of the "Pilot Project Train Whistle Ban, City of Coon Rapids, Inc." approved by the Minnesota Commissioner of Transportation on March 20, 2001 and beginning on such date as the City may

determine, subject to the following conditions:

(a) Once every crossing configuration including all signage, median design, and delineator design and spacing is approved by the Minnesota Commissioner of Transportation and every crossing is so configured, the City, through an authorized officer, shall inform BNSF in writing that the routine sounding of the locomotive horn shall cease pursuant to the terms of this order and shall serve such notice on the BNSF with a copy sent to the Associate Administrator for Safety, FRA, at least 14 days prior to the date on which cessation is planned;

(b) All highway-rail grade crossing warning devices installed at the crossing shall operate properly and in accordance with the provisions of 49 CFR Part 234. In the event of a warning system malfunction as defined in 49 CFR 234.5, an engineer operating a train through the crossing is not responsible for sounding the locomotive horn until he or she has been informed of the warning system malfunction;

(c) Advance warning signs, as approved by the Minnesota Commissioner of Transportation, and in conformance with the Manual on Uniform Traffic Control Devices issued by the Federal Highway Administration, shall be posted and maintained by the City advising motorists that locomotive horns will not be sounded;

(d) In accordance with the above Minnesota Commissioner of Transportation approval of March 20, 2001, the City shall maintain and monitor videotapes of each crossing and submit appropriate reports to the Minnesota Department of Transportation; and

(e) The City, in consultation with the FRA Regional Administrator, Region 4, shall be responsible for further data collection to determine the long-term effect on motorist behavior of the new engineering improvements at these crossings combined with cessation of routine use of locomotive horns.

Unless rescinded by the FRA Associate Administrator for Safety at an earlier date, this order is in effect until the effective date of a final rule issued pursuant to 49 U.S.C. 20153, provided that the Associate Administrator for Safety determines that data developed during the initial demonstration period confirms the effectiveness of the subject engineering improvements and periodic monitoring continues to confirm this effectiveness.

Nothing in this order is intended to prohibit an engineer from sounding the locomotive horn to provide a warning to vehicle operators, pedestrians,

trespassers or crews on other trains in an emergency situation if, in the engineer's sole judgment, such action is appropriate in order to prevent imminent injury, death or property damage. This order does not require that such warnings be provided nor does it impose a legal duty to sound the locomotive horn in such situations.

Nothing in this order excuses compliance with sections 214.339, 234.105, 234.106, and 234.107 of title 49, Code of Federal Regulations, concerning use of the locomotive horn under circumstances therein described. Nothing in this order is intended to prohibit an engineer from sounding the locomotive horn or whistle to provide necessary communication with other trains and train crew members if other means of communication are unavailable.

Issued in Washington, DC, on September 28, 2001.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 01-25105 Filed 10-5-01; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD-2001-10763]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ALBORADA.

SUMMARY: As authorized by Pub. L. 105-383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105-383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before November 8, 2001.