

Petition Docket Number FRA-2006-25452) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, 400 7th Street, SW., 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>.

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78), or you may visit <http://dms.dot.gov>.

Issued in Washington, DC on September 20, 2006.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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## 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.

#### Union Pacific Railroad Company

[Waiver Petition Docket Number FRA-2006-25764]

Union Pacific Railroad Company (UP) seeks a waiver of compliance with certain requirements of 49 CFR, 232.205, *Class I Brake Test-Initial Terminal inspection*, published January 17, 2001, and 49 CFR 215—*Railroad*

*Freight Car Safety Standards*, published April 21, 1980, for freight cars received in interchange from the Ferrocarriles Nacionales de Mexico Railroad (FXE), at Calexico, California. Specifically, UP seeks approval to move the equipment from the interchange point, at MP 708.5 on the Calexico Subdivision, to the UP rail yard in El Centro, California (a distance of 10.1 miles), without performing the inspections and tests specified.

According to UP, a Class III brake test-trainline continuity inspection would be performed per the requirements of 49 CFR 232.211, prior to departing Calexico, and the equipment would be inspected to ensure safe movement to El Centro at a train speed not to exceed 20 mph. Equipment found unsafe for movement to El Centro for repairs would be set out of the train at Calexico. The train would be equipped with a compliant end-of-train device per 49 CFR 232, Subpart E.

UP currently receives approximately 50 freight cars per day from FXE at the interchange point in Calexico. The volume has grown steadily in recent years and stands to grow even more as the effects of both the NAFTA and GATT trade agreements. United States Customs conduct inspections of the equipment at Heber, which usually takes more than an hour. If the equipment is "off air" for more than 4 hours at Heber, a "transfer train brake test" per the requirements of 49 CFR 232.215, would be performed prior to departure. From Heber, the train would move to El Centro (a distance of 4.6 miles), where a Class I brake test-initial terminal inspection would be performed per the requirements of 49 CFR 232.205.

UP states that the capacity of the existing railroad facility in Calexico is inadequate to handle current volume and the waiver is necessary to facilitate movement and to avoid restricting the volume of rail cars handled through this gateway. UP asserts that Calexico is a "bottleneck" that causes delays to international commerce on both sides of the border, and granting the requested waiver, will have no adverse effect on safety. UP also references current railroad operations at border crossings in Brownsville and Laredo, Texas, where trains move several miles from the border without performing a Class I air test.

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 (FRA-2006-25764) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., 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 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>.

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**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for a Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR), Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of Federal railroad safety regulations. The individual petitions are 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.

**Union Pacific Railroad Company**

[Waiver Petition Docket Number FRA–2006–25862]

The above parties seek a waiver for relief of sanctions from 49 CFR Part 240.117(e)(1) through (4), 49 CFR Part 240.305(a)(1) through (4) and (6) [excluding supervisors as indicated], and 49 CFR Part 240.307. These sections of the regulation relate to punitive actions that are required to be taken against locomotive engineers for the violation of certain railroad operating rules. Refer to 49 CFR Part 240 for a detailed listing of these sections.

The Union Pacific Railroad (UP) and the employees of UP's North Platte Service Unit, represented by the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the United Transportation Union (UTU), desire to participate in a Close Call Reporting System (C3RS) Demonstration Pilot Project sponsored by FRA's Office of Research and Development. The C3RS Demonstration Pilot Project is one of the action items included in FRA's Rail Safety Action Plan announced on January 25, 2006.

In other industries such as aviation, implementation of close call reporting systems that shield the reporting employee from discipline (and the employer from punitive sanctions levied by the regulation) have contributed to major reductions in accidents. In March 2005, FRA completed an overarching memorandum of understanding with railroad labor organizations and management to develop pilot programs to document close calls, *i.e.*, unsafe events that do not result in a reportable accident, but very well could have.

Participating railroads will be expected to develop corrective actions to address the problems that may be revealed. The aggregate data may prove useful in FRA's decision-making concerning regulatory and other options to address human factor-caused accidents. Experiences on the Norwegian Railway (Sernbaneverket) showed a 40 percent reduction in accidents after 3 years of implementation of a similar program. In a manufacturing environment, Syncrude, a mining company, experienced a 33 percent reduction in lost time frequency after 1 year of implementing a close call system.

The UP, BLET, and UTU have developed and signed an implementing memorandum of understanding (IMOU), based on the FRA's overarching memorandum of understanding, as a first step in commencing the demonstration pilot project. The project would involve approximately 1,200

yard and road service employees headquartered in North Platte, Nebraska. This IMOU was sent to FRA for consideration and acceptance on August 28, 2006. As referenced in the IMOU, certain close calls may be properly reported by the employee(s) involved and later discovered by UP, for example, through subsequent retrospective analysis of locomotive event recorder data, *etc.* In order to encourage employee reporting of close calls, the IMOU contains provisions to shield the reporting employee from UP discipline.

The UP, BLET, and UTU also desire to shield the reporting employee(s) and UP from punitive sanctions that would otherwise arise as provided in selected sections of 49 CFR Part 240 for properly reported close call events as defined in the C3RS IMOU. The waiver petition is requested for the duration of the C3RS demonstration project (5 years from implementation or until the demonstration project is completed or parties to the IMOU withdraw as described in the IMOU, whichever is first).

**Note:** Article 7.2 (of the IMOU) *Conditions under which a Reporting Employee is Not Protected from UP Discipline and/or Decertification and from FRA Enforcement:* UP employees included in this C3RS/IMOU receive no protection from discipline and/or decertification or from FRA enforcement action when one or more of the following conditions occur:

1. The employee's action or lack of action was intended to damage UP or another entity's operations or equipment or to injure other individuals, or the employee's action or lack of action purposely places others in danger (*e.g.*, sabotage);
2. The employee's action or lack of action involved a criminal offense;
3. The employee's behavior involved substance abuse or inappropriate use of controlled substances;
4. The close call report contains falsified information as determined by the Bureau of Transportation Statistics;
5. The event resulted in a railroad accident/incident that qualifies as reportable under 49 CFR Part 225.11;
6. The event resulted in an identifiable release of a hazardous material; or
7. The event was observed in real-time and reported to UP management (such as a train dispatcher or operator observing a signal violation) or was observed as part of Operating Practices testing.

Operating Practices testing (*e.g.*, operating rule efficiency testing, signal compliance testing) generally consists of real-time observations and do not qualify for exemption. Similarly, an employee is not exempt from discipline and/or decertification for a violation that UP or FRA identifies contemporaneously (*e.g.*, a block circuit

is occupied by a train without authority, and the train dispatcher notices it before the train backs off the circuit) before the employee files a close call report. In such situations, UP or FRA may use event recorder information to support discipline and/or decertification and/or enforcement. For example, a UP official, who observes a train operating past a signal that requires a stop, may use any relevant data recorded by the locomotive's event recorder in pursuing disciplinary action against the train crew, regardless of whether a member of the crew files a close call report in a timely manner.

UP and other parties signatory to the IMOU dated August 25, 2006, believe the data from these properly reported close call incidents as defined in the IMOU will be invaluable in analysis and development of effective corrective actions. Without the requested waiver of sanctions and exemption from mandatory revocation of the engineer's certificate, the employee(s) involved in the incidents described above will not file a report of the incident. The incident(s) will likely go undetected and there will be no opportunity for analysis, data trending or appropriate corrective actions.

All parties signatory to the IMOU and participating in the demonstration pilot project believe that the close calls demonstration project and granting this waiver petition is in the public interest and consistent with improving railroad safety. All parties believe that the improvement in safety experienced in Norway as stated above: "the Norwegian Railway (Sernbaneverket) showed a 40 percent reduction in accidents after 3 years of implementation of a similar program." These results of improved safety performance have also been observed in other modes of transportation and other industries following the implementation of a close calls reporting system.

The Federal Aviation Administration (FAA) reports numerous safety benefits from their close calls reporting system compared to non-U.S. flight operations (See FAA Web site). Examples of close call reporting system benefits from the U.S. Coast Guard include: "Response costs decline 30–40 percent, resulting in potential USCG savings of \$12–\$16 million and potential shipping industry savings of \$39–\$52 million; potential reduction in seamen injuries and claims category savings range between 15–45 percent; potential savings on an industry-wide scale = \$100s of millions."

The parties are confident that railroad operations will benefit from this demonstration pilot project, and by full

implementation of a close call reporting system, public and railroad safety will be improved.

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 2006-25862) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 20 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 examinations 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>.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78). The Statement may also be found at <http://dms.dot.gov>.

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**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[USCG-2004-17696]

#### **Freeport McMoRan Energy L.L.C. Main Pass Energy Hub Liquefied Natural Gas Deepwater Port License Application Amendment; Final Public Hearings, Environmental Assessment and Draft Finding of No Significant Impact**

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice of availability; notice of public hearings; request for comments.

**SUMMARY:** The Maritime Administration (MARAD) and U.S. Coast Guard announce the availability of the Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) on the Main Pass Energy Hub (MPEH) Deepwater Port Amended License Application. We are also announcing the dates and locations of public hearings for input regarding the approval or denial of the license application.

The application and the amendment describe a project that would be located in the Gulf of Mexico in Main Pass Lease Block 299 (MP 299), approximately 16 miles southeast of Venice, Louisiana. Draft and final Environmental Impact Statements (EIS) evaluating the original application were published on June 17, 2005 and March 14, 2006, respectively.

The Main Pass Energy Hub Deepwater Port License Application originally proposed the use of "open-loop" open rack vaporization (ORV). In the amended application, the applicant is proposing a "closed-loop" system using submerged combustion vaporization with selective catalytic reduction (SCV/SCR). Though similar, a more generic SCV/SCR system was analyzed in detail in the Final EIS (FEIS) as an alternative. The amended application provides expanded and refined design information regarding the proposed changes. The EA was prepared to provide analysis of the actual SCV/SCR design now being proposed and to determine if there were any significant impacts resulting from this change in proposed regassification technology in addition to or different from those previously assessed in the FEIS. The original application and environmental analysis contained in the FEIS still apply, including facilities, offshore and onshore pipelines, and salt cavern gas storage. Previous comments on the FEIS and application will continue to be considered in this process and need not be repeated. Based upon the EA, we

have determined that the project changes as proposed in this amended application will not have a significant impact on the environment and we are therefore issuing a Draft Finding of No Significant Impact (FONSI) for public review and comment.

**DATES:** Public hearings will be held in Grand Bay, Alabama on October 3, 2006; Pascagoula, Mississippi on October 4, 2006; and New Orleans, Louisiana, on October 5, 2006. Each public hearing will begin at 6 p.m. and end at 8 p.m., and will be preceded by an informational open house from 4:30 p.m. to 6 p.m. The public hearings may end later than the stated time, depending on the number of attendees requesting to speak.

Material submitted in response to the request for comments must reach the Docket Management Facility on or before November 6, 2006, which is the end of the 45 day public comment period. Federal and State agencies must submit comments on the application as amended, recommended conditions for licensing, or letters of no objection by November 20, 2006 (45 days after the final public hearings). Also by November 20, 2006 the Governors of the adjacent coastal states of Alabama, Louisiana, and Mississippi may approve, disapprove, or notify MARAD of inconsistencies with State programs relating to environmental protection, land and water use, and coastal zone management, in which case MARAD will condition any license granted to make it consistent with state programs. MARAD will issue a record of decision (ROD) to approve, approve with conditions, or deny the DWP license application by January 3, 2007 (90 days after the final public hearing).

**ADDRESSES:** The first public hearing and informational open house will be held on October 3, 2006, at the Grand Bay St. Elmo Community Center, 11610 Highway 90 West, Grand Bay, Alabama, phone: 251-865-4010. The second public hearing and informational open house will be held on October 4, 2006, at the La Font Inn, 2703 Denny Avenue, Pascagoula, Mississippi, phone: 228-762-7111. The third public hearing and informational open house will be held on October 5, 2006, at the New Orleans Marriott, 555 Canal Street, New Orleans, Louisiana, phone: 504-581-1000.

A copy of the EA, FEIS, license application, license application amendment, comments and associated documentation is available for view at the DOT's docket management Web site: <http://dms.dot.gov> under docket number 17696. Copies of the EA and FEIS are also available for review at the