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D.J. Stadler,

Director, Office of Budget, Federal Railroad Administration.

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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.

Quantum Engineering, Inc.

(Waiver Petition Docket Number FRA-2006-23751)

Quantum Engineering, Inc. (Quantum), seeks a waiver of compliance with the requirements of 49 CFR, 221.13(d), *Rear End Marking Devices*, published January 11, 1977, and 49 CFR, 232.403(g)(2), *End-of Train Devices*, published January 17, 2001. Specifically, § 221.13(d) requires: "The centroid of the marking device must be located at a minimum of 48 inches above the top of the rail." And, § 232.403(g)(2) requires: "If power is supplied by one or more batteries, the operating life shall be a minimum of 36 hours at 0 °C." Quantum seeks to reduce the specified battery capacity by eliminating one of the two batteries from their end-of-train device. According to Quantum, their end-of-train device includes both an air turbine powered alternator (which has been in service for several years), and two batteries. Both the batteries and the alternator are continuously connected to provide power to the device and by removing one of the two batteries, the weight of the device could be substantially reduced. The remaining battery, which is charged by the alternator during normal operations, would provide power for approximately 18 hours in cases where the alternator would not be able to function such as during switching operations when train line brake pressure is cut out. Quantum's test data indicates that the end-of-train device will operate for

approximately 18 hours with only one battery after loss of train line air.

Quantum also seeks relief from the regulatory requirement that the centroid of the marking device be located at a minimum of 48 inches above the top of the rail. Quantum states that with the coupler attachment mechanism approximately 36 inches above the rail, the 48 inch regulatory requirement requires designing the device to be at least 12 inches higher than necessary and that 12 inches is marginal at best in providing greater sight distance but introduces a substantial mechanical moment in a high G force area promoting fatigue of components. A marker minimum height of 36 inches would allow the device to be more compact with a center of gravity closer to the coupler mounting mechanism and allow a further reduction in the weight of the device. Therefore, Quantum is requesting a waiver to allow a marker height at a minimum of 36 inches above the top of the rail.

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-2006-23751) 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>.

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>.

Issued in Washington, DC on February 14, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6-2552 Filed 2-22-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

[Docket No. FRA-2006-23707]

Applicant: Norfolk Southern Corporation, Mr. Brian L. Sykes, Chief Engineer, C&S Engineering, 99 Spring Street, SW., Atlanta, Georgia 30303.

Norfolk Southern Corporation seeks approval of the proposed modification of the traffic control system, on Main Track No. 2, at Control Point Southern Avenue, milepost -654.6, on the Lake Division, Columbus District, near Chillicothe, Ohio. The proposed changes consist of the conversion of the power-operated switch to a hand-operated switch, equipped with an electric lock, and the discontinuance and removal of the three associated controlled signals.

The reason given for the proposed changes is the elimination of facilities no longer needed for present day operation. An electrically locked hand-operated switch, would better serve the minimum use the turnout currently receives.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket

Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by the 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>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

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Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-03-16456 (PD-30(R))]

Houston, TX Requirements on Storage of Hazardous Materials During Transportation

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of administrative determination of preemption.

Local Laws Affected: Houston Fire Code.

Applicable Federal Requirements: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials

Regulations (HMR), 49 CFR parts 171-180.

Modes Affected: Air and Highway.

SUMMARY: A. Federal hazardous material transportation law preempts the following requirements in the Houston Fire Code as applied by the Houston Fire Department to the storage of hazardous materials during transportation at George Bush Intercontinental Airport, because (a) the designation, description, and classification of hazardous materials in the Fire Code is not substantively the same as in the HMR; (b) these requirements are not substantively the same as requirements in the HMR regarding the use of shipping documents to provide emergency response information in the event of an incident during the transportation of hazardous material; and (c) these requirements require advance notification of the transportation of hazardous materials which creates an obstacle to accomplishing and carrying out the purposes and goals of Federal hazardous material transportation law and the HMR:

1. Sections 105.8.h.1 and 8001.3.1, which require a permit to store, transport on site, dispense, use or handle hazardous materials in excess of certain "exempt" amounts listed in Table 105-C of the Fire Code.

2. Sections 105.8.f.3 and 7901.3.1, which require a permit to store, handle, transport, dispense, or use flammable or combustible liquids in excess of the amounts specified in § 105.8.f.3.

3. Sections 8001.3.2 and 8001.3.3, which specify the Houston Fire Chief may require an applicant for a permit to provide a hazardous materials management plan and a hazardous materials inventory statement in accordance with the provisions of Appendix II-E of the Fire Code.

B. Federal hazardous material transportation law preempts the separation requirements in sections 7902.1.6 and 8001.11.8 of the Houston Fire Code as applied by the Houston Fire Department to the storage of hazardous materials during transportation at George Bush Intercontinental Airport, because these requirements are not substantively the same as the segregation requirements in 49 CFR 175.78.

C. There is insufficient information to find Federal hazardous material transportation law preempts the secondary containment requirements in sections 7901.8 and 8003.1.3.3 in the Houston Fire Code as enforced and applied by the Houston Fire Department to the storage of hazardous materials during transportation at George Bush

Intercontinental Airport, including the construction and capacity requirements for storage cabinets for secondary containment in sections 7902.5.9 and 8001.10.6, because the application and comments do not show (a) it is impossible to comply with both these requirements and the Federal hazardous material transportation law, the regulations issued under that law, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security (DHS), or (b) these requirements, as enforced and applied, are likely to cause diversions or delays in the transportation of hazardous materials. If the applicant wishes to provide further information regarding the secondary containment requirements in the Houston Fire Code, it may submit a new application.

FOR FURTHER INFORMATION CONTACT:

Frazer C. Hilder, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001 (Tel. No. 202-366-4400).

SUPPLEMENTARY INFORMATION:

I. Background

A. Local Requirements Considered

In this determination, PHMSA considers the following requirements in the Houston Fire Code (Fire Code) as those requirements are applied by the Houston Fire Department (HFD) to the temporary storage of hazardous materials at George Bush Intercontinental Airport (IAH) during transportation.

• *Permits:*

1. Sections 105.8.h.1 and 8001.3.1, which require a permit to store, transport on site, dispense, use or handle hazardous materials in excess of certain "exempt" amounts listed in Table 105-C of the Fire Code.

2. Sections 105.8.f.3 and 7901.3.1, which require a permit to store, handle, transport, dispense, or use flammable or combustible liquids in excess of the amounts specified in § 105.8.f.3.

3. Sections 8001.3.2 and 8001.3.3, which specify the HFD chief may require an applicant for a permit to provide a hazardous materials management plan (HMMP) and a hazardous materials inventory statement (HMIS) in accordance with the provisions of Appendix II-E of the Fire Code.

• *Containment and Separation:*

1. Sections 8003.1.3.3 and 7901.8, which require secondary containment in buildings, rooms or areas used for storage of hazardous materials and