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#### Public Comments Invited

Interested parties are invited to send comments regarding any aspect of this information collection, including but not limited to: (1) the necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance for a renewal of this information collection.

#### Electronic Availability

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** electronic bulletin board service (telephone number: 202-512-1661). Internet users may reach the **Federal Register's** WWW site at: [http://www.access.gpo.gov/su\\_docs](http://www.access.gpo.gov/su_docs).

**Authority:** 23 U.S.C. 315 and 49 CFR 1.48.

Issued on: May 13, 1998.

**George S. Moore, Jr.,**

*Associate Administrator for Administration.*

[FR Doc. 98-13906 Filed 5-22-98; 8:45 am]

BILLING CODE 4910-22-P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[FRA Docket No. RSGC-7]

#### Environmental Impact Statement: FRA Regulation of the Use of Locomotive Horns at Highway-Rail Grade Crossings Nationwide

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

**ACTION:** Notice of intent.

**SUMMARY:** FRA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for the proposed regulation covering the sounding of locomotive horns at highway-rail grade crossings and to solicit input into the development of the scope of that EIS.

#### FOR FURTHER INFORMATION CONTACT:

Regarding the environmental review contact David Valenstein, Environmental Specialist, Office of Railroad Development, Federal Railroad Administration (RDV 13), 400 Seventh

Street, SW (Mail Stop 20), Washington, D.C. 20590, (telephone 202 632-3268). For information regarding the rule making process contact Bruce F. George, Staff Director, Highway Rail Crossing and Trespasser Programs, Office of Safety, FRA, 400 Seventh Street, SW (Mail Stop 25), Washington, D.C. 20590 (telephone 202 632-3312), or Mark H. Tessler, Office of Chief Counsel, FRA, 400 Seventh Street, SW (Mail Stop 10), Washington, D.C. 20590 (telephone 202 632-3171).

#### SUPPLEMENTARY INFORMATION:

##### Background 0

The Swift Rail Development Act (Pub. L. 103-440, November 2, 1994) added Section 20153 to title 49, United States Code. That section directs the Secretary of Transportation (delegated to the Federal Railroad Administrator) to prescribe regulations requiring that a locomotive horn be sounded while each train is approaching and entering upon each public highway-rail grade crossing. In addition, 49 U.S.C. 20153 provides FRA the authority to except from this requirement, categories of rail operations or categories of grade crossings that: (1) Are determined not to present significant risk with respect to loss of life or serious personal injury; (2) for which the use of a locomotive horn is impractical; or (3) for which supplementary safety measures fully compensate for the absence of the warning provided by the locomotive horn.

The sounding of locomotive horns at highway-rail grade crossings is recognized by FRA and the railroad industry as contributing to railroad and highway safety. Studies conducted by FRA of circumstances where the sounding of horns had been restricted in eastern Florida (so-called "whistle bans") have indicated an increased incidence of collisions involving trains and highway users where locomotive horns were not sounded. Although the sounding of locomotive horns at highway-rail grade crossings is the normal practice at most of the 162,000 public grade crossings in the U.S., FRA is aware of approximately 2,200 crossings in 200 communities where locomotive horns are not routinely sounded.

In preparing for the rulemaking process required by 49 U.S.C. 20153, FRA established a public docket to enable local officials and citizens to offer their insight into the issues surrounding whistle bans and to comment on how FRA might best implement 49 U.S.C. 20153. FRA also undertook extensive research into locomotive horns and their relationship

to grade crossing safety through the Department of Transportation's John A. Volpe National Transportation Systems Center. Some of the comments offered by the public expressed concerns that any regulation requiring the sounding of locomotive horns could create adverse environmental impacts in the form of significantly higher community noise levels in the vicinity of those highway-rail grade crossings where horns are presently not sounded. Based upon a review of these comments, and ongoing research, FRA has concluded that the promulgation of the regulation required by 49 U.S.C. 20153 is a major Federal action as this term is used in section 102(c) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) As a consequence, FRA is initiating the preparation of an EIS as required under NEPA and the regulations of the President's Council on Environmental Quality implementing NEPA (40 CFR S 1502).

#### Alternatives

FRA currently plans to analyze two alternatives in this environmental review, the proposed action and the "no-action" alternative. The proposed action is to comply with the statutory mandate and issue a regulation requiring the sounding of locomotive horns at every public highway-rail grade crossing in the U.S., including those where locomotive horns are presently not sounded. Such a rule would effectively preempt any State or local law or regulation to the contrary. The regulation encompassed in the proposed action would also identify a number of measures which the States and communities can undertake to provide improved safety at public highway-rail grade crossings. In such situations regular sounding of railroad horns would then become unnecessary from a safety perspective and could cease. The regulation would also establish a procedure for consideration by FRA of proposals by States, communities or other interested persons for approval of new supplementary safety measures that would permit designation of a quiet zone. The environmental impacts of requiring the sounding of locomotive horns at public highway-rail crossings where the horns are not presently sounded and a consideration of the environmental impacts associated with the implementation of supplementary safety measures would be a part of the proposed action analysis.

The no-action alternative would involve maintenance of the status quo with respect to the sounding of locomotive horns. This would require

alternative amendments to existing legislation.

### Areas of Significant Environmental Concern

FRA's review of the current practice of sounding locomotive horns at highway-rail grade crossings and the comments received thus far in the public docket of this rulemaking have identified two primary areas of environmental concern associated with the proposed regulation, noise (and related impacts) and safety.

### Scoping and Comments

FRA encourages broad participation in the EIS process during scoping and review of the resulting environmental documentation. Comments and suggestions are invited from all interested agencies and the public at large to insure the full range of issues related to the proposed action and all reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in determining whether there are any other reasonable alternatives consistent with the provisions of 49 U.S.C. 20153 and whether there are other areas of environmental concern where there might be the potential for significant impacts, either adverse or favorable, as a result of promulgating the proposed rule.

Due to the national scope of the proposed regulation, FRA does not plan to hold public scoping meetings. Notices soliciting comments have been and will be sent to appropriate Federal, State, and local agencies, private organizations and citizens who have expressed an interest in this rulemaking and made available to the media in areas that have been identified to date as currently subject to whistle bans or where whistle bans have been preempted by FRA order. Persons interested in providing comments on the scope of this environmental document should do so by June 19, 1998. Comments can be sent in writing to Mr. David Valenstein at the address identified above. Comments can also be sent via the Internet at: [FRAEIS@fra.dot.gov](mailto:FRAEIS@fra.dot.gov).

### The Remaining Environmental Review Process

Comments received on the scope and methodology to be used in preparation of the EIS will be reviewed by FRA to develop the final scope of the environmental review. A summary of the comments received will be provided to agencies and members of the public expressing an interest in this environmental review. FRA and its

consultants will then undertake preparation of a draft EIS which will be made available to the public for comment. This is presently scheduled for the late fall 1998. It is FRA's intention that the comment period for the draft EIS will occur during the comment period associated with the proposed rule so that interested agencies and the public can combine their comments and that the environmental issues can be fully considered as FRA develops the final rule. After reviewing comments on the draft EIS, FRA will prepare a final EIS that addresses these comments and incorporates any additional analyses and material deemed necessary. The final EIS will be made available for public review for not less than 30 days before FRA takes any final action on the proposed rule.

### Internet

This notice and all subsequent documents prepared as part of this environmental review will be available in the environmental pages of the FRA Internet website, located at: <http://www.fra.dot.gov>

Issued in Washington, D.C. on: May 19, 1998.

**Donald M. Itzkoff,**

*Deputy Administrator.*

[FR Doc. 98-13804 Filed 5-22-98; 8:45 am]

BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 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. App. 26, the following railroads have 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.

#### Block Signal Application (BS-AP)-No. 3463

*Applicants:* Houston Belt and Terminal Railway Company, Mr. J. B. Mathis, General Manager, 501 Crawford, Room 515, Houston, Texas 77002-2192.

Burlington Northern and Santa Fe Railway Company, Mr. William G. Peterson, Director Signal Engineering, 4515 Kansas Avenue, Kansas City, Kansas 66106.

Union Pacific Railroad Company, Mr. Bruce E. Williams, Director Signal Design, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179-1000.

The Houston Belt and Terminal Railway Company, Burlington Northern and Santa Fe Railway Company, and Union Pacific Railroad Company, jointly seek approval of the proposed discontinuance and removal of the traffic control system, on the East Main Track, between Control Point 169, milepost 9.6 and Control Point 183, milepost 10.9, on the West Belt Subdivision, in Houston, Texas, including removal of Control Points 175 and 178, and associated signals, power-operated switch machines, and track circuits.

The reasons given for the proposed changes are that the track serves yards and the signal system is no longer required.

#### BS-AP-No. 3464

*Applicants:* Southern California Regional Rail Authority, Mr. David Solow, Deputy Executive Director, 700 South Flower Street, Suite 2600, Los Angeles, California 90017-4101.

Santa Clarita Railroad, Mr. James Clark, Manager of Operations, 25135 Anza, Santa Clarita, California 91355.

Union Pacific Railroad Company, Mr. Bruce E. Williams, Director Signal Design, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179-1000.

The Southern California Regional Rail Authority, Santa Clarita Railroad, and Union Pacific Railroad Company jointly seek approval of the proposed reduction to the interlocking limits of CP Saugus, milepost 32.4, Saugus, California, Valley Subdivision, consisting of the conversion of the No. 3 power-operated switch to hand operation, conversion of interlocked signal "2WC" to absolute signal "3240," in lieu of an electric lock, removal of signal "2WA," and installation of a new interlocked signal "W," 642 feet west of the 2WA location.

The reason given for the proposed changes is to modify the interlocking to reflect change in operating practices.

#### BS-AP-No. 3465

*Applicant:* Long Island Rail Road, Mr. Frederick E. Smith, P.E., Chief Engineer, Hillside Maintenance Complex, 93-59 183 Street, Hollis, New York 11423.

The Long Island Rail Road seeks approval of the proposed temporary discontinuance of Cabin "M" Interlocking, on the Montauk Branch, in Queens County, New York, until June 1999, and govern train movements through the interlocking by issuance of a Clearance Card Form C, Rule 331 of