

docket facility's Web site at <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.

Issued in Washington, DC, on March 17, 1999.

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

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

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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. 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.

*Docket No.:* FRA-1998-4821.

*Applicant:* Duluth, Missabe and Iron Range Railway Company, Mr. D. B. Moore, Chief Engineer, Engineering Department, 329 Second Street, Proctor, Minnesota 55810-1091.

The Duluth, Missabe and Iron Range Railway Company (DMIR) seeks relief from the requirements of § 236.51 of the Rules, Standards, and Instructions (49 CFR 236.51), to the extent that DMIR be permitted to utilize wheel count-based trap circuits, on steel deck bridges in signaled territory, in lieu of maintaining the existing track circuits.

Applicant's justification for relief: The insulated bridge pads are approaching the end of their useful life, and replacement pads are only available from an Australian supplier in large quantities, at high cost; the steadily increasing annual cost for maintenance and train delays associated with troubleshooting and repairs, make it impracticable to maintain the existing track circuits; and presently, rail size is limited to 115-pound and cannot be upgraded to DMIR's 136-pound, main line track standard.

Any interested party desiring to protest the granting of an application

shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant 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 PI-401, 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 DOT Central Docket Management Facility, Room PI-401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590-0001. 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 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.

Issued in Washington, DC on March 17, 1999.

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

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

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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. 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.

*Docket No.:* FRA-1998-4926.

*Applicant:* Union Pacific Railroad Company, Mr. Phil Abaray, Chief

Engineer—Signal/Quality, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179-1000.

Union Pacific Railroad Company seeks approval of the proposed modification of the signal system, on the main track and siding, between W.E. Irving, milepost 652.2 and E. E. Irving, milepost 653.3, on the Brooklyn Subdivision, near Eugene, Oregon. The proposal includes the discontinuance and removal of controlled signals 12LA, 12LB, and 12R at W. E. Irving; reduction of the traffic control system limits by approximately 1,700 feet; and the associated extension of the automatic block signal system eastward approximately 1,700 feet to E. E. Irving.

The reason given for the proposed changes is that there is no longer a need for the controlled signals at W. E. Irving because the switch has been permanently removed.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant 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 PI-401, 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 DOT Central Docket Management Facility, Room PI-401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590-0001. 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 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.

Issued in Washington, DC on March 17, 1999.

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

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

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Petition for Exemption From the Federal Motor Vehicle Motor Theft Prevention Standard; NISSAN

**AGENCY:** National Highway Traffic Safety Administration, Department of Transportation (DOT).

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This notice grants in full the petition of Nissan North America, Inc. (Nissan) for an exemption of a high-theft line (whose nameplate is confidential) from the parts-marking requirements of the Federal motor vehicle theft prevention standard. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. Nissan requested confidential treatment for its information and attachments submitted in support of its petition. In a letter to Nissan dated February 12, 1999, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

**DATES:** The exemption granted by this notice is effective beginning with the (confidential) model year.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington DC 20590. Ms. Proctor's phone number is (202) 366-4807. Her fax number is (202) 366-2739.

**SUPPLEMENTARY INFORMATION:** In a petition dated November 25, 1998, Nissan North America, Inc. (Nissan), requested exemption from the parts-marking requirements of the theft prevention standard for a motor vehicle line. The nameplate of the line and the model year of introduction are confidential. The petition requested an exemption from parts marking pursuant to 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard, based on the installation of an antitheft

device as standard equipment for the entire vehicle line.

Nissan's submittal is considered a complete petition, as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6. Nissan requested confidential treatment for the information submitted in support of its petition. In a letter dated February 12, 1999, the agency granted the petitioner's request for confidential treatment of most aspects of its petition.

In its petition, Nissan provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new line. This antitheft device includes an engine-immobilizer system. The antitheft device is activated by turning the ignition switch to the "OFF" position using the proper ignition key.

In order to ensure the reliability and durability of the device, Nissan conducted tests based on its own specified standards. Nissan provided a detailed list of tests conducted and believes that its device is reliable and durable since the device complied with its specified requirements for each test.

Nissan compared the device proposed for its vehicle line with devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements. Nissan stated that its proposed device, as well as other comparable devices that have received full exemptions from the parts-marking requirements, lack an audible and visible alarm. Therefore, these devices cannot perform one of the functions listed in 49 CFR 542.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. However, theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which Nissan proposes. In these instances, the agency has concluded that the lack of a visual or audible alarm has not prevented these antitheft devices from being effective protection against theft.

On the basis of this comparison, Nissan has concluded that the antitheft device proposed for its vehicle line is no less effective than those devices in the lines for which NHTSA has already granted full exemption from the parts-marking requirements.

Based on the evidence submitted by Nissan, the agency believes that the antitheft device for the Nissan vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-

marking requirements of the Theft Prevention Standard (49 CFR part 541).

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

As required by 49 U.S.C. 33106 and 49 CFR 543.6(a)(4) and (5), the agency finds that Nissan has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information Nissan provided about its device, much of which is confidential. This confidential information included a description of reliability and functional tests conducted by Nissan for the antitheft device and its components.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. Advanced listing, including the release of future product nameplates, is necessary in order to notify law enforcement agencies of new models exempted from the parts-marking requirements of the Theft Prevention Standard. Therefore, since Nissan has been granted confidential treatment for its vehicle line, the confidential status of the vehicle line will be protected until the introduction of its vehicle line into the market place. At that time, Appendix A-1 will be revised to reflect the nameplate of Nissan's exempted vehicle line.

If Nissan decides not to use the exemption for this line, it should formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing