

installed such as an ignition cut-off switch, or carried on board, such as a fire extinguisher, and/or stricter blood alcohol concentration (BAC) standards for drivers, etc.), equipment approval, and/or equipment carriage requirements (e.g. fire extinguishers and flares).

cc. Special local regulations issued in conjunction with a motor vehicle rodeo or motor vehicle parade; provided that, if a permit is required, the environmental analysis conducted for the permit included an analysis of the impact of the regulations.

dd. Regulations concerning rules of the road, traffic services, and marking of intelligent transportation systems.

7. Recreational Activities and Events

a. Approval of recreational activities or events (such as an FMCSA picnic) at a location developed or created for that type of activity.

b. Approvals of motor vehicle rodeo and motor vehicle parade event permits for the following events:

(1) Events that are not located in, proximate to, or above an area designated environmentally sensitive by an environmental agency of the Federal, State, or local government. For example, environmentally sensitive areas may include such areas as critical habitats or migration routes for endangered or threatened species or important fish or shellfish nursery areas.

(2) Events that are located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, State, or local government and for which the FMCSA determines, based on consultation with the Governmental agency, that the event will not significantly affect the environmentally sensitive area.

Authority: NEPA, the National Environmental Quality Improvement Act of 1970, as amended [42 U.S.C. 4321, *et. seq.*]; the Council on Environmental Quality Regulations at 40 CFR Parts 1500–1508; DOT Order 5610.1C, as amended on July 13, 1982 and July 30, 1985; and 49 CFR 1.73.

Issued on: September 22, 2003.

Annette M. Sandberg,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR), §§ 211.9 and 211.41 notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance from certain requirements of Federal railroad safety regulations. The individual petition is described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being

requested and the petitioner's arguments in favor of relief.

Burlington Northern and Santa Fe Railway Company

[Docket Number FRA–2003–15432]

The Burlington Northern and Santa Fe Railway Company (BNSF) seeks a waiver of compliance from certain sections of 49 CFR Parts 216, Special Notice and Emergency Order Procedures: Railroad Track, Locomotive and Equipment; 217, Railroad Operating Rules; 218, Railroad Operating Practices; 229, Railroad Locomotive Safety Standards; 233, Signal Systems Reporting Requirements; 235, Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System or Relief from the Requirements of Part 236; 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances; and 240, Qualification and Certification Of Locomotive Engineers, under § 211.51, Tests, to allow them to develop, implement, and test technology designed to prevent train authority violations, overspeed violations and accidents caused by passing restricted signals and open switches. The program will enable BNSF to demonstrate and validate Wabtec Railway Electronics technology, referred to as Electronic Train Management System (ETMS), before it is implemented on a larger scale.

ETMS is a non-vital safety overlay that works in conjunction with existing methods of operation and signal and control systems to protect against the consequences of human error. This approach provides a “safety net” for train operations while retaining the existing systems as a primary means of control. Because these systems continue in operation, a failure or deactivation of the ETMS has the effect only of suspending the safety enhancements associated with the ETMS, without compromising the underlying safety provisions of existing systems and operating rules.

The ETMS safety enhancements are achieved through a communication-based system that enforces movement authority and speed restrictions for ETMS equipped trains. Four segments work together to provide the enforcement: The location segment, the locomotive segment, the dispatcher system segment and the communications segment. The dispatcher segment delivers the enforceable authority and temporary speed limits for each train under ETMS

control. This information is delivered through the communications segment to the locomotive segment. Procedures are implemented to ensure the data received is complete and correct. Failsafe design dictates that an undelivered message will stop the train at the end of its active authority. The locomotive segment confirms the locomotive's location and enforces a train's movement and speed limits by monitoring the train's location and speed and applying the brakes to stop the train if necessary to prevent a violation.

The ETMS will be tested and demonstrated on the BNSF's Wichita Falls subdivision in the State of Texas between Fort Worth, milepost 0 and Valley Junction, milepost 118.4. In addition the system will be tested and demonstrated on the Brookfield subdivision in the State of Illinois between Galesburg, milepost 168 and West Bushnell, milepost 192.4. Finally, the system will be tested and demonstrated on the Beardstown subdivision in the State of Illinois and the Commonwealth of Kentucky between Bushnell, Illinois, milepost 159.6 and Paducah, Kentucky, milepost 239.0. The combined distance of the test territory is 439.3 miles. The present method of operation on the BNSF is by Track Warrant Control and Centralized Traffic Control. These methods of operation will not be affected during the ETMS test period.

ETMS testing may require temporary changes of a benign nature in operating practices, but only on ETMS equipped trains and only when a test is in progress. Such changes in operating practices will include ETMS initialization procedures, digital transmission and on-board display of text authorities and restrictions, on-board display of signal aspect, on-board display of monitored switches, enforcement limits of authority and speed limits/restrictions through automatic brake applications, and procedures for recovery following an enforcement action.

The waiver is requested for a testing period commencing August 1, 2003, and extending to the conclusion of the test phase. The testing period is not expected to exceed one year and will terminate August 1, 2004, unless BNSF notifies FRA of an earlier termination date.

The following are the current waiver requests and their justifications.

Section 216.13

Special notice for repairs—locomotive. Waiver is requested for ETMS locomotives to the extent that