

non-operation of ETMS equipment installed on board, whether through malfunction or deactivation shall not be construed as an unsafe condition requiring special notice for repairs; waiver is sought for non-equipped-ETMS-equipped locomotives operating in the ETMS pilot territory to the extent that the absence of ETMS equipment on-board shall not be construed as an unsafe condition requiring special notice for repairs.

Justification: With or without ETMS equipment operating on board the controlling locomotive, a train remains subject to existing signal and control systems and to railroad operating rules. (ETMS is an overlaid system, enhancing current safety without affecting the operation of existing systems.) ETMS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. The ETMS tests will involve only a small subset of locomotives operating in the pilot territory.

Section 217.9

Program of operational tests and inspections; recordkeeping. Waiver is requested exempting operation of ETMS equipment and procedures from the requirements for operational tests, inspections, and associated recordkeeping.

Justification: The ETMS pilot is a test program during which procedures for using ETMS equipment and functions will be refined and modified. Until such procedures are defined, they cannot be addressed in the code of operating rules, timetables, and timetable special instructions to which this section applies.

Section 217.11

Program of instruction on operating rules; recordkeeping; and electronic recordkeeping. Waiver is requested exempting operation of ETMS equipment and procedures from the requirements for instruction and associated record keeping.

Justification: The ETMS pilot is a test program during which procedures for using ETMS equipment and functions will be refined and modified. Until such procedures are defined, they cannot be addressed in the code of operating rules.

Part 218

[Subpart D] Prohibition Against Tampering With Safety Devices. Waiver is requested exempting on-board ETMS equipment from the requirements of §§ 218.51, 218.53, 218.55, 218.57, 218.59, and 218.61 to the extent that ETMS equipment on board a locomotive shall not be considered a "safety

device" subject to the provisions of this subpart at any time during the pilot program.

Justification: The ETMS pilot is a test program. ETMS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. BNSF requires the flexibility to permanently disable or remove ETMS equipment in the event that a production system is not implemented.

Section 229.135

Event recorders. Waiver is requested to the extent that ETMS equipment on-board a locomotive shall not be considered an "event recorder" subject to the provisions of this section.

Justification: ETMS equipment by design will operate intermittently during the pilot program. ETMS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. BNSF requires the flexibility to temporarily or permanently disable on-board ETMS equipment.

Section 233.9

Reports. Waiver is requested exempting ETMS operations in the pilot program from the reporting requirements of this section.

Justification: While an ETMS production system may belong to the category of "other similar appliances, methods, and systems" specified in 233.1, this requirement would impose an unnecessary paperwork burden for a test program.

Section 235.5

Changes requiring filing of application. Waiver is requested exempting the ETMS pilot program from the filing requirements of this section.

Justification: The ETMS pilot is a test program. ETMS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. BNSF requires the flexibility to permanently disable or remove on-board ETMS equipment in the event the ETMS system is not implemented.

Section 236.4

Interference with normal functioning of device. Waiver is requested to the extent that ETMS equipment shall be excluded from this requirement during the pilot program.

Justification: The ETMS pilot is a test program through which the normal functioning of ETMS will be defined and redefined. ETMS tests require flexibility in installing, removing, turning on, and turning off the on-board equipment. With or without ETMS; equipment on-board the controlling

locomotive, the train remains subject to the provisions of the existing signal and control systems and to the BNSF operating rules.

Section 236.5

Design of control circuits on closed circuit principle. Waiver is requested excepting ETMS equipment from the closed circuit design requirement.

Justification: ETMS is composed of solid-state components that are software driven. Neither the hardware nor software can technically be designed to meet the provisions of this section.

Section 236.11

Adjustment, repair, or replacement of component. Waiver is requested exempting ETMS components on-board a locomotive from the requirements of this section.

Justification: ETMS tests require flexibility in installing, removing, modifying, turning on and turning off equipment. Failure of a component during the test phase will not jeopardize the safety of train operations. With or without ETMS equipment operating on-board the controlling locomotive, the train remains subject to the provisions of the rules governing the existing method of operation.

Section 236.15

Timetable instructions. Waiver is requested exempting the ETMS pilot territory from the timetable designation requirement of this section.

Justification: Since the pilot program will consist of tests and demonstrations, identifying the test territory in the timetable as "ETMS" (or some similar label) would be both premature and an unnecessary paperwork burden.

Section 236.23

Aspects and indications. Waiver is requested to the extent that the ETMS display on-board an equipped locomotive shall not be construed to represent or correspond to signal aspects or indications subject to the requirements of this section.

Justification: The ETMS design excludes any visual display of signal aspects or indications. ETMS enforceable authorities which may or may not derive from signal indications are on-board. Text authorities such as name of signal or track bulletins are displayed to the train crew. Information on the ETMS display will correspond with authority conveyed through wayside signals.

Section 236.76

Tagging of wires and interference of wires or tags with signal apparatus.