

drivers submit comments by January 12, 2009.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 5, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E8-29416 Filed 12-11-08; 8:45 am]

**BILLING CODE 4910-EX-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

[Docket Number FRA-2006-25040]

#### **Capital Metropolitan Transportation Authority; Notice of Public Hearing**

On August 8, 2006, the Federal Railroad Administration (FRA) published a notice (Notice) in the **Federal Register** announcing Capital Metropolitan Authority's (CMTA) request for a waiver of compliance from certain provisions of Title 49 of the Code of Federal Regulations (CFR) for the operation of a new planned Commuter Rail Service (CRS) that will share trackage with the Austin Area

Terminal Railroad (AUAR), a common carrier freight railroad. As explained in the Notice, CMTA is constructing a 32-mile rail system (27 miles shared with AUAR) linking the City of Leander, Texas, with downtown Austin, TX. CMTA plans to utilize temporal separation of freight and passenger operations on the shared trackage and a light rail style, non-FRA compliant Diesel-Multiple Unit (DMU) vehicle in order to offer a "one seat ride" operating on both the CMTA mainline and in city streets with tight curvature."

As detailed in the Notice, CMTA seeks a waiver of compliance from certain regulatory provisions of 49 CFR parts 219 (Control of Alcohol and Drug Use), 221 (Rear end marking device), 223 (Safety glazing standards), 225 (Railroad accident/incident reporting), 229 (Railroad locomotive safety standards), 231 (Railroad safety appliance standards), 238 (Passenger equipment safety standards), 239 (Passenger train emergency preparedness) and 240 (Qualification and certification of locomotive engineers).

Noting that certain provisions in 49 CFR part 231 pertaining to safety appliances are statutorily required, and therefore not subject to FRA's waiver authority, CMTA also requests that FRA exercise its authority under 49 U.S.C. 20306 to exempt CMTA from certain provisions of Chapter 203, Title 49, of the United States Code because the "CMTA DMU vehicles will be equipped with their own array of safety devices resulting in equivalent safety." Specifically, CMTA requests that for purposes of its planned CRS system, FRA exempt it from the requirements of 49 U.S.C. 20302 mandating that railroad vehicles be equipped with (1) Handbrakes, (2) sill steps; and (3) side and end handholds.

CMTA indicates that the DMU vehicles it plans to utilize for its CRS service are equipped with automatic spring applied parking brakes, as opposed to conventional hand brakes as required by Section 20302. CMTA further indicates that the parking brakes will be controlled by the one-person crew operating the vehicle from control stands within the vehicle and that the parking brakes are capable of holding a vehicle on a six percent grade at an 84.5 ton load. Accordingly, CMTA states the parking brake of its DMU vehicles serves the same purpose of a conventional hand brake, but in a manner that provides an equivalent or superior level of safety.

CMTA further indicates that sill steps (required by Section 20302) are not necessary for safety on the DMU

vehicles and would not enhance the safety of the vehicles. Specifically, CMTA explains that the door threshold of the vehicles is 23.5 inches above the top of the rail, and such configuration renders sill steps unnecessary.

CMTA also indicates that side and end handholds (required by Section 20302) are not necessary for safety on its DMU vehicles and in fact, such appliances might present a safety hazard in the street-running environment of its planned CRS system. Specifically, noting that handholds are typically intended for use by crew members performing yard and service duties, CMTA notes that its operations will not involve any such activities from positions outside and adjacent to the vehicle or near vehicle doors. Instead, CMTA indicates that yard moves will be controlled from the control stand within the vehicle by the on-board operator and switches will be hand thrown. Therefore, CMTA notes that there is no need for personnel to mount or dismount the vehicles using external appliances of any kind. Further, CMTA expresses reservation about installing external handholds because of the street-running characteristics of its planned CRS service noting that such appliances would give pedestrians "the opportunity to grab onto something on the outside of the vehicle with the intention to hitch an unlawful," and unsafe, ride.

In accordance with 49 U.S.C. 20306, FRA may exempt CMTA from the above statutory requirements based on evidence received and findings developed at a hearing demonstrating that the statutory requirements "preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law." Accordingly, in order to receive evidence and develop findings to determine whether FRA should invoke its discretionary authority under 49 U.S.C. 20306 in this instance, a public hearing is scheduled to begin at 9 a.m. on Thursday, January 8, 2009, at the Hilton Garden Inn located at 815 14th Street, NW., in Washington, DC. Interested parties are invited to present oral statements at the hearing. The hearing will be informal and will be conducted by a representative designated by FRA in accordance with FRA's Rules of Practice (49 CFR 211.25). The hearing will be a non-adversarial proceeding; therefore, there will be no cross examination of persons presenting statements. FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those

persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which initial statements were made. Additional procedures, as necessary for the conduct of the hearing, will be announced at the hearing.

The petitioners should be present at the hearing and prepared to present evidence that any requirements of Chapter 203, title 49, United States Code, for which exemption is sought to "preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law."

Issued in Washington, DC on December 8, 2008.

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

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

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 267X)]

#### Union Pacific Railroad Company— Abandonment Exemption—in Comanche County, OK

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon, and discontinue its lease operation over a 3.85-mile line of railroad known as the Lawton Industrial Lead, extending from milepost 50.75, near Fort Sill, to milepost 54.60, south of Lawton, in Comanche County, OK. The line traverses United States Postal Service Zip Code 73503.<sup>1</sup>

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12

<sup>1</sup> The line is owned by the State of Oklahoma which holds no residual common carrier obligation. The line does contain federally granted right-of-way.

(newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 13, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 22, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 2, 2009, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed a combined environmental and historic report addressing the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 19, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 CFR 1002.2(f)(25).

within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by December 12, 2009, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 5, 2008.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E8-29430 Filed 12-11-08; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35204]

#### Watco Companies, Inc.—Continuance in Control Exemption—Alabama Warrior Railway, L.L.C.

Watco Companies, Inc. (Watco), a noncarrier, has filed a verified notice of exemption to continue in control of Alabama Warrior Railway, L.L.C. (AWR), upon AWR's becoming a Class III rail carrier.<sup>1</sup>

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35203, *Alabama Warrior Railway, L.L.C.—Operation Exemption—Sloss Industries Corporation and Jefferson Warrior Railroad Company, Inc.* In that proceeding, AWR seeks an exemption under 49 CFR 1150.31 to operate approximately 24.575 miles of rail lines owned by Sloss Industries Corporation and Jefferson Warrior Railroad Company, Inc. (JWR) in Birmingham, AL. Also, JWR will assign its operating rights to AWR over approximately 1,532.1 feet of rail line owned by BNSF Railway Company in Birmingham.

The parties intend to consummate the transaction on or shortly after December 26, 2008, the effective date of the exemption.

<sup>1</sup> Watco owns 100% of the issued and outstanding stock of AWR.