

continuous use on a full charge, and in-cab wire-less monitoring systems give the driver constant information on the functioning of the system, displaying state of charge of the battery inside the unit, displaying the functioning of the system during operation, and warning the driver if the unit is no longer functioning. In this sense, wireless tow lights provide a level of safety and redundancy that is not currently required on wired temporary lighting systems. In an emergency situation with a drained battery, power can be directly connected to the temporary wireless stop, turn, and tail lighting system from a standard 4 pin or 7 pin electrical connection.

Without the proposed temporary exemption, tow and haul away operators will be forced to continue to use cumbersome wired temporary towing light systems, placing an unnecessary burden on their daily operations. The current temporary lighting requirements for stop, tail, and turn lamps require that the lamps receive their power from a direct wired connection to the towing vehicle with no ascertainable benefit from doing such. Wireless tow lights afford benefits that wired systems are unable to, such as redundancies like monitoring the status of the unit in real time, thus assuring their proper operation at all times.

On August 6, 2015, FMCSA published notice of the TowMate application and requested public comment (80 FR 47031). The Agency received twenty comments, all in support of TowMate's application. FMCSA granted the exemption on February 9, 2016 (81 FR 6927). The Agency concluded that permitting the use of rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations will reduce the time tow operators spend at the side of the road connecting wired lighting systems between vehicles, thereby reducing their risk of injury and increasing safety. The Agency determined that use of the rechargeable wireless lighting systems will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. In towing operations during the exemption period, motor carriers are allowed to use rechargeable wireless temporary stop, turn, and tail lighting systems that do not meet the lighting power supply requirements of 49 CFR 393.23, provided the requirements of 49 CFR 393.17(b)(2) are met. The decision to grant the temporary exemption was also consistent with an amendment made in an August 15, 2005 final rule allowing battery powered lamps on the rear of projecting loads.

#### **TowMate's Request To Renew the Exemption**

At the time the exemption was granted, the term of temporary exemptions was limited by statute to a

maximum of 2 years. However, the Fixing America's Surface Transportation (FAST) Act, signed on December 4, 2015, now allows an exemption to be granted for a period of up to 5 years (49 U.S.C. 31315(b)(2)) if FMCSA finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption" (§ 31315(b)(1)). TowMate has requested a 5-year extension of the current exemption.

#### **Basis for Renewing Exemption**

FMCSA is not aware of any evidence showing that the operation of rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations during the current exemption has resulted in any degradation of safety. The Agency believes that extending the exemption for a period of 5 years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

The renewal outlined in this notice extends the exemption from February 9, 2018, through February 9, 2023, and requests public comment. During that period, motor carriers will be allowed to use rechargeable wireless temporary stop, turn, and tail lighting systems that do not meet the lighting power supply requirements of 49 CFR 393.23 during temporary towing operations, provided the requirements of 49 CFR 393.17(b)(2) are met. The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

#### **Preemption**

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

#### **Request for Comments**

FMCSA requests comments from parties with data concerning the safety record of motor carriers using rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations in accordance with the conditions of the exemption. The Agency will evaluate adverse evidence submitted during the comment period and at any time during the 5-year period of the exemption. 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(b)(1), FMCSA will take immediate steps to revoke the exemption.

Issued on: February 6, 2018.

**Cathy F. Gautreaux,**  
*Deputy Administrator.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

[Docket Number FRA-2017-0118]

#### **Petition for Waiver of Compliance**

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on November 7, 2017, Denver's Regional Transportation District (RTDC) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 236. FRA assigned the petition Docket Number FRA-2017-0118.

In accordance with 49 CFR 236.588, RTDC is requesting approval to perform periodic testing of the Automatic Train Control system (ATC) at an interval of 92 days for the RTDC fleet of electric multiple unit equipment (EMUs), numbered RTDC 4001 through RTDC 4066. Currently RTDC is performing ATC periodic testing at an interval of 60 days as required by 49 CFR 236.588. In support of this request, RTDC states that the original equipment manufacturer (OEM) Siemens Rail Automation (formerly PHW, Inc.) has developed the maintenance and testing program for these vehicles based on a 92-day interval. RTDC has included relevant portions of this program with its petition. RTDC further states that to date, there have been no issues with the ATC system found during periodic testing that would be impacted by increasing the testing interval to 92 days. RTDC adds that granting the

requested approval would not result in an additional costs and would allow RTDC to improve efficiency and resource allocation while complying with the OEM's maintenance requirements.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 30, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.regulations.gov>.

[www.transportation.gov/privacy](http://www.transportation.gov/privacy). See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety,  
Chief Safety Officer.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2006-25764]

#### Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that by a letter dated December 21, 2017, Union Pacific Railroad Company (UP) petitioned the Federal Railroad Administration (FRA) for an extension of its waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 232. FRA assigned the petition Docket Number FRA-2006-25764.

UP originally received conditional relief in 2007 from 49 CFR 232.205, *Class I brake test-initial terminal inspection*, and 49 CFR 215 *Freight car safety standards*, for freight cars received in interchange at the United States/Mexico border crossing in Calexico, California, to permit required inspections to be conducted in El Centro, California, 10.1 miles north of Calexico. The original justification for the relief, as stated by UP, included: Inadequate capacity at the yard in Calexico, due to increased rail traffic volume;

- Inability to adjust its infrastructure due to Calexico yard's location in the middle of the city (causing the yard to be effectively "boxed in" by existing development and the locations of highway crossings);

- The need to avoid "bottleneck" delays at Calexico, affecting commerce on both sides of the border; and

- The elimination of choked flow of automobile traffic in Calexico, when trains stop or go very slowly across street crossings for inspections.

UP's relief was extended for an additional five years in a decision letter dated March 26, 2013. In support of its present petition to extend its relief, UP states it has been operating under the requirements set forth in the waiver for the past ten years and no adverse effect on the safety of operations has occurred.

A copy of the petition, as well as any written communications concerning the

petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590.
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Communications received by March 30, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [regulations.gov](http://www.regulations.gov).