

The time interval for the requirements of Part 229.29(a) was extended to 1,104 calendar days in 1985 for 26L Brake equipment, based on proven service reliability with the evolution of improved components. The time interval for CCB equipment was extended to 1,840 calendar days in 1996, per FRA Test Waiver, H-95-3.

CSXT states that the CCB equipment used on their locomotives provides reliable operation based upon the availability of diagnostics, which continuously monitors the function of all critical components. When the CCB diagnostics detects operational characteristics outside allowed limits, the system automatically takes appropriate action to assure safety. Because failures are detected and fault action is automatically initiated, CSXT believes that COT&S intervals can be increased without any impact on safety.

CSXT bases their Test Plan on the following: (1) The reduction of mechanical devices through the use of micro-processor logic; (2) the replacement of "O" ring technology with "poppet" technology; (3) the immediate detection of faults or improper operation through the vigilance of a microcomputer; (4) the control of faults to a known safe condition; (5) emergency brake initiation and brake cylinder pressure development is accomplished mechanically as well as electronically under any condition; and (6) the performance of CCB equipment during current FRA Waiver H-95-3.

The Test Plan is designed to determine the feasibility of a "performance-based" COT&S. The initial duration of the test shall be six years from the in-service date of the locomotives listed in the control group. At the end of the six years, an evaluation and review will be made to assess whether an extension of an additional year for the test will be granted. Data collection for this test shall be accomplished within the present structure of the CSXT Mechanical Operations group, with assistance of NYAB Field Service Engineering. The test plan has specific requirements to tag and record detailed information on all faulty brake components removed from locomotives equipped with the CCB system and covered by this waiver. Data analysis for confirmation of failures will be determined by CSXT, NYAB Field Service Engineering and/or NYAB Service Department. A "criticality rating" will be assigned to each component failure and all information will be compiled for an evaluation of performance.

The periodic (92-day) test, per § 229.23, will be performed on all locomotives in the test group and replacement of all filtering devices and dirt collectors will be done annually. CSXT, NYAB, and FRA will perform an annual test of the CCB system, per NYAB Test ABT-2771, on select locomotives from the control group. The results of the tests and the information gathered throughout the year will be used to determine if the test plan can be extended for another year.

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 party desires an opportunity for oral comment, 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 (e.g., Waiver Petition Docket Number FRA-1999-6252) and must be submitted to the Docket Management Facility, Room PL-401, (Plaza Level) 400 Seventh Street, SW, Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by 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 the above facility. 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>.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petitions for Waivers of Compliance; Petition for Exemption for Technological Improvements

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, and 49 U.S.C. 20306, notice is hereby given that the Federal Railroad Administration (FRA) has

received a request for waiver of compliance with certain requirements of the Federal railroad safety regulations and a request for exemption of certain statutory provisions. The individual petition is described below, including the party seeking relief, the regulatory and statutory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

#### Santa Clara County Transit District

[FRA Waiver Petition No. FRA-1999-6254]

The Santa Clara County Transit District, also known as the Santa Clara Valley Transportation Authority ("VTA") seeks a permanent waiver of compliance from certain CFR parts of Title 49, specifically: part 214, Railroad Workplace Safety; part 217, Railroad Operating Rules; part 219, Control of Alcohol and Drug Use; part 220, Railroad Communications; part, 221 Rear End Marking Device—Passenger, Commuter and Freight Trains; part 223, Safety Gazing Standards—Locomotives, Passenger Cars and Caboose; part 225, Railroad Accidents/Incidents—Report Classification, and Investigations; part 228, Hours of Service of Railroad Employees; part 229, Railroad Locomotive Safety Standards; part 231 Railroad Safety Appliance Standards; part 234, Grade Crossing Signal System Safety; part 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances; part 238, Passenger Equipment Safety Standards; part 239, Passenger Train Emergency Preparedness; part 240, Qualification and Certification of Locomotive Engineers; and the statutory requirements 49 U.S.C. §§ 20301 through 20305.

Initial service began on the VTA light rail system in 1987, and by 1991 the 21-mile system was operational. With 33 stations and free parking at 11 park-and-ride lots, the light rail system currently provides service in California to the residential area of South San Jose, the industrial area of Santa Clara, the San Jose Civic Center, the North First Street industrial area and downtown San Jose.

VTA's Tasman West Extension, scheduled to open on December 17, 1999, is a 7.6-mile extension of VTA's light rail system. Adding 11 new stations between Old Ironsides Station in Santa Clara and downtown Mountain View, the Tasman West Extension will extend VTA's light rail system further into Silicon Valley and provide transit accessibility to major high technology employers.

The Tasman West Extension includes approximately 1.6 miles of track that

VTA acquired from the Southern Pacific Transportation Company ("SP") in 1994, known as the "Moffett Drill Track." This short segment of track (hereinafter referred to as the "Drill Track") constitutes a middle section of the Tasman West Extension. It also will be used on an occasional basis by the Union Pacific Railroad (UPRR), the successor by merger with SP, for freight deliveries to the National Aeronautics and Space Administration ("NASA") and other federal agencies that may be located in the Ames Research Center at the Moffett Federal Airfield; Moffett Federal Airfield is located at one end of the Drill Track.

VTA seeks approval of shared use and waiver of regulations from the Federal Railroad Administration ("FRA") for light rail passenger operations on the Drill Track. FRA has jurisdiction over this portion of the VTA because it will be connected to the general railroad system of transportation.

In each section entitled "Justification," FRA merely sets out VTA's justifications which are included in its petition. In doing so, VTA references the proposed Joint Policy Statement on Shared Use of the General Railroad System issued by FRA and the Federal Transit Administration (FTA) (64 FR 28238; May 25, 1999) ("Policy Statement"). The proposed policy statement suggests that regulation of light rail service on the general rail system, under conditions of temporal separation from conventional rail movements, be handled through application of complementary strategies. FRA regulations would generally be employed to address hazards common to light rail and conventional operations for which consistent handling is necessary, while other hazards would be handled under FTA's program of State Safety Oversight (49 CFR part 659). See proposed Policy Statement for details. Since FRA has not yet concluded its investigation of the planned VTA operation, the agency takes no position at this time on the merits of VTA's stated justifications. As part of FRA's review of the petition, the FTA will appoint a non-voting liaison to FRA's Safety Board, and that person will participate in the board's consideration of VTA's waiver petition.

#### **Part 214 Roadway Worker Protection**

Subpart C of part 214 sets forth requirements for the protection of roadway workers along railroad rights-of-way. These requirements are intended to help prevent accidents and injuries to railroad employees engaged in roadway maintenance activities.

#### *Justification*

VTA requests a waiver of the subpart C requirements during its period of operations over the Drill Track because VTA will be following its standard operating procedures and safety rules, as required by § 13.01 of California Public Utilities Commission (CPUC) General Order 143-A, § 3 of CPUC General Order 164-A, § 5 of the VTA Safety Plan and the Rulebook. Specifically, § 7 of the VTA Rulebook, entitled "Protection of Employees on Right of Way," sets forth the safety equipment, blue flag, and operating practice requirements designed to ensure the safety of VTA employees working along the right of way.

Under those rules, employees working along the right of way must wear visible safety vests. After dark, work crews also must have and use lanterns to alert trains to their presence. If emergency or repair work is done to vehicles on the main track, such vehicles must be tagged with blue flags or blue lights to alert workers. In addition to the required safety equipment, employees on the right of way are often working in a Work Zone or Reduced Speed Zone, established by the Operation Control Center (OCC), which gives the workers either the exclusive right to be on the track or requires trains moving through such zones to do so at reduced speed. When a train approaches a work zone, the operator is required to sound an audible warning of its approach. The work crew is then required to respond to the warning by either clearing the track and permitting the train to proceed, or by giving the train a stop signal until the crew can clear and permit the train to proceed. All work crews are required to call into OCC every 30 minutes to apprise OCC of their status and movements (if any). This allows OCC to notify trains of any changes in work crew locations. When performing work of 20 minutes or less, and when done without pneumatic tools, employees may be protected by "simple protection." In these circumstances, employees must report to OCC upon entering and exiting the right of way. OCC relays that information to trains in the area. If work extends beyond 20 minutes, permission to remain on the right-of-way must be renewed with OCC. The Rule 7 protections are similar to the FRA requirements, but tailored to the VTA operating environment. Currently in practice over the rest of the VTA light rail system, the rules have been effective at preventing injuries to employees working in the right of way.

#### **Part 217 Railroad Operating Rules**

Part 217 requires each railroad to provide training to employees on the operating rules and perform periodic operational tests to monitor compliance with the operating rules. Under this part, each railroad must also file copies of its operating rules with FRA. These requirements are intended to ensure the safety of railroad operations through employee knowledge of and compliance with operating rules.

#### *Justification*

VTA requests a waiver from all of the requirements of this part because VTA operating rule training and compliance monitoring will be carried on as required by § 13 of General Order 143-A. Under General Order 143-A, VTA is required to submit its operating rules to the CPUC, conduct initial and biennial training to employees on the operating rules, and conduct operational testing on a periodic basis. Section 5 of the VTA Safety Plan, and SOPs 1.5 and 1.9, contain additional operator training and testing requirements. These requirements will ensure that the VTA employees know and comply with VTA operating rules. This request is consistent with the FRA's position on the appropriate treatment of this part as stated in the Policy Statement (see Policy Statement at 28422).

#### **Part 219 Control of Alcohol and Drug Use**

Part 219, Control of Alcohol and Drug Use, prescribes minimum Federal safety standards for the control of alcohol and drug use by railroad workers for the purpose of preventing accidents and casualties in railroad operations that result from impairment of employees by alcohol or drugs.

#### *Justification*

VTA requests a waiver of all of the requirements of part 219 because all of the employees assigned to the VTA light rail system who would otherwise be covered employees under this part, are already covered employees subject to VTA's existing drug and alcohol program under the FTA rules at 49 CFR part 653, Prevention of Prohibited Drug Use in Transit Operations, and part 654, Prevention of Alcohol Misuse in Transit Operations. Subjecting certain employees to FRA regulations would create an administrative burden for VTA, both in terms of cost and recordkeeping, and in determining which employees were subject to which regulations on a given day.

The FTA regulations apply to recipients of Federal mass transit funds except those "specifically excluded"

because those recipient operating railroads regulated by the FRA. 49 CFR §§ 653.5 and 654.5. In such cases, a recipient is to follow FRA regulations in 49 CFR part 219 for its "railroad operations." However, such a recipient is still required to certify that it is in compliance with applicable rules and comply with parts 653 and 654 for its "non-railroad operations."

VTA is a recipient of Federal mass transit funds, and therefore, would be subject to the compliance certification provision of FTA's regulations at parts 653 and 654 for any railroad operations otherwise covered by FRA's regulations at 49 CFR part 219, and is currently subject to all of the requirements of parts 653 and 654 for VTA's bus and current light rail operations. If granted a waiver from the requirements of part 219, the subject light rail operations would automatically fall under the regulatory jurisdiction of FTA. Thus, all of the employees assigned to the LRT operation who would otherwise be covered employees under this part, would be subject to FTA's rules at parts 653 and 654.

Application of the FTA drug and alcohol rules, when implemented in compliance with the FTA rule, would provide a level of safety consistent with the policy underlying part 219. A basic review of the respective FRA and FTA regulations reveals that the regulations are quite similar in purpose, structure and substance. Both regulations are intended to enhance safety by prohibiting and eliminating misuse of drugs and alcohol which might otherwise result in accidents and injuries to employees and the traveling public. Both regulations provide for procedural and recordkeeping requirements to safeguard the integrity of the program, and provide privacy and due process protections for covered employees. Finally, both sets of regulations prohibit impaired employees from performing safety-sensitive functions and require testing of essentially the same personnel under the similar circumstances (i.e., random, post-accident, reasonable suspicion, and return-to-duty testing, and in the case of drugs, pre-employment testing).

Although there are differences between the regulations, there are no major policy differences with respect to the need to eliminate drug and alcohol misuse or the primary importance of safety in transportation operations. The most obvious difference involves the application of penalties for non-compliance. Under FRA rules, a regulated entity found to be in violation of the rule may be subject to the assessment of civil penalties in

accordance with a published schedule. The FTA regulations do not contain such a civil penalty structure. However, under the FTA regulations, compliance is a condition for eligibility for receipt of Federal funds. Non-compliance can result in suspension of eligibility for applicable Federal funding altogether. Thus, the severity of the potential penalty serves as a deterrent in the same way as the FRA civil penalty program.

Application of the FTA regulations will provide a level of safety similar to that provided by the FRA regulations. This request is consistent with the FRA's position on the appropriate treatment of this part, as stated in the Policy Statement (see Policy Statement at 28422).

#### **Part 220 Radio and Wireless Communication Procedures**

Part 220 sets forth minimum requirements governing the use of radios and other wireless communications equipment in connection with railroad operations. These requirements are intended to enhance operational safety by facilitating communications among railroad employees and offices through the availability of radios and the use of standardized communications protocols.

##### *Justification*

VTA requests a waiver from all of the requirements of this part because radio communications on VTA light rail operations are conducted according to the requirements of § 4 of the Rulebook, "Radio Procedures" and SOPs 2.1, "Standard Two-Way Radio Procedures" and 2.5 "Radio Failure." Under the Rules and SOPs, light rail vehicles are equipped with radios and all personnel requiring two-way communications are provided with radios. The Rules and SOPs specify communication protocols addressing identification of speakers, proper use of radios, emergency communications, and procedures for communication in the event of radio failure. SOP 6.2 provides that all radio transmissions are governed and monitored by the Federal Communications Commission. In addition, compliance with these Rules and SOPs is monitored, as required in § 7 of the Safety Plan and Sections 3 and 4 of CPUC General Order 164-A. The VTA Rules and SOPs provide for an equivalent level of safety as the FRA rules. This request is consistent with FRA's position on the appropriate treatment of this part, as stated in the Policy Statement (see Policy Statement at 28422).

#### **Part 221 Rear End Marking Device—Passenger, Commuter and Freight Trains**

Part 221 contains requirements that passenger, commuter, and freight trains be equipped with and display rear end marking devices. Part 221 also sets forth requirements related to the inspection of such devices and the movement of vehicles with defective rear end marking devices. The requirements are intended to reduce the likelihood of rear-end collisions due to the inconspicuity of the rear-end of a leading train.

##### *Justification*

VTA seeks a waiver from all of the requirements of part 221 because the VTA light rail vehicles are designed in conformance with the requirements of § 5 of CPUC General Order 143-A. The VTA light rail cars have two red taillights that are designed to be visible for a distance of 500 feet from the rear-end of the train and that are located 45 inches above the top of rail. Because the rear lights on the VTA vehicles will make them conspicuous to any trailing train, the VTA vehicle lighting will provide an equivalent level of safety to that provided by the FRA regulation.

#### **Part 223 Section 223.9(c)—Glazing Requirements; Section 223.17—Identification**

Section 223.9(c) requires that passenger cars be equipped with FRA-certified glazing in all windows. These requirements are intended to reduce the likelihood of injury to passengers and/or employees from breakage and shattering of windows (including windshields). Section 223.17 requires each passenger car that is fully equipped with FRA compliant glazing material to have a notice of compliance stenciled on an interior wall of the car. This serves the purpose of providing notice about the glazing material in the car.

##### *Justification*

VTA requests a waiver of these requirements because the VTA light rail vehicle will conform instead to the windshield and window requirements of § 6.04 of CPUC General Order 143-A. Under § 6.04, windshields and other windows must be made of laminated safety glass or shatter-proof or tempered glazing material. Glass meeting this standard is break-resistant in normal usage, but if broken, will "crumble" into pebble-like pieces, posing no significant hazard to passengers, employees, or rescue personnel. The use of such safety glass windows is standard throughout the rail transit industry for (among other

applications) in-street light rail operations, where it has proved both durable and safe. In addition, the interior side of the window surfaces will have a carbonate coating. While the primary purpose of the coating is to render the windows resistant to graffiti, the coating also serves to provide additional protection against spalling in the event the window is broken. This extra protection adds to the safety of the windows. Finally, the risk associated with vandalism (such as by rocks thrown against the windows) is addressed from an operational standpoint in the security portions of the Safety Plan. There is no reason to believe that the VTA light rail vehicle windows will pose any safety hazard in conventional railroad corridor operations. This request is consistent with the FRA's position on the appropriate treatment of this part, as stated in the Policy Statement (see Policy Statement at 28421).

#### **Part 225 Railroad Accidents/Incidents: Reports Classification, and Investigations**

Part 225 prescribes reporting requirements for accidents and injuries meeting specified materiality thresholds. Part 225 also provides for recordkeeping and record retention policies. These requirements support FRA's enforcement efforts and provide information to detect trends on an industry-wide basis.

##### *Justification*

VTA requests a waiver of the reporting and investigation requirements for injuries because VTA will be following the injury reporting requirements prescribed in Sections 5 and 6 of CPUC General Order 164-A and § 4.10 of the VTA Safety Plan. In addition, VTA is responsible for compliance with applicable Occupational Safety and Health Administration workplace injury reporting requirements. Compliance with FRA regulations just for injuries on the Drill Track segment would require the creation of a separate administrative structure for injury reporting, which would place an unnecessary administrative burden on VTA without enhancing safety (see Policy Statement at 28422).

#### **Part 228 Records and Reporting**

Subsections 228.17(a)(2)-(10) of part 228 contain train movement recordkeeping requirements to be maintained by persons performing dispatcher functions. These requirements are intended to aid FRA in enforcing the statutory hours of service

requirements by providing a detailed record of train movements and crew locations.

##### *Justification*

VTA requests a waiver of these requirements because they will create an unnecessary paperwork burden for VTA, while providing little of the benefit they do in the freight railroad operating environment. The requirements of §§ 228.17(a)(2)-(10) are designed for freight railroad operations, where there are often: multiple dispatching districts; varying train consists, routes and locomotive power units; changing train schedules; and unscheduled trains. On freight railroads, dispatcher and train crew working hours may vary and reporting stations may change. Usually work is not confined to a short segment of rail line and overnight time away from home is common. In this environment, the FRA-required dispatcher records are useful for keeping track of trains and train crews, which is essential to assuring compliance with the hours of service requirements without disruption to service.

VTA service, however, is vastly different. VTA light rail dispatchers operate out of a single Operations Control Center, directing the movement of regularly scheduled trains, with regularly scheduled station stops over a fixed route on a day-in, day-out basis. Dispatchers and vehicle operators work fixed schedules, with many of the same dispatchers and vehicle operators working the same hours each week. Moreover, dispatcher and vehicle operator responsibilities do not require them to be away from home during non-duty hours. Thus, in the VTA operating environment, the standard records maintained by VTA on train and train crew movements and operator attendance will provide sufficient information to determine service hours worked.

#### **Part 229 Railroad Locomotive Safety Standards**

Part 229 sets forth standards related to operation and maintenance of railroad locomotives. These requirements are intended to ensure that locomotives and locomotive components are and remain in good working order to permit the proper function of the locomotive and to reduce the likelihood of accidents due to failures of locomotive system components.

##### *Justification*

VTA requests a waiver of the requirements of part 229 because the VTA light rail vehicles are operated and

maintained in accordance with the requirements of Sections 1.08 and 14 of CPUC General Order 143-A, § 5 of the VTA Safety Plan and § 3 of the Rulebook and SOPs 5.1-5.6, 6.1-6.11, 8.7, 8.10 and 8.12. Under these requirements, all light rail cars and component systems must be maintained in proper working condition, inspected and tested on a periodic basis, and operated in a safe manner.

VTA understands that FRA is particularly concerned that locomotives have alerting lights in a triangular pattern at the front end of each vehicle (as required by § 229.125). While the VTA light rail vehicles do not have lights that create a triangular pattern, VTA believes that the front-end lighting on the cars will provide a sufficiently distinctive profile that motor vehicle traffic and pedestrians will be alerted to the presence of an oncoming VTA train. The VTA cars, in accordance with § 5.01 of CPUC General Order 143-A, will have two headlights capable of revealing a person or motor vehicle in clear weather at a distance of 350 feet. They also will have yellow marker lights in the top corners of the cars. These high-mounted yellow lights are distinctive to the light rail vehicle and render the VTA trains clearly identifiable to motorists and pedestrians.

The features of the VTA light rail vehicles, combined with the CPUC, Safety Plan, Rulebook, and SOP inspection, testing, maintenance and operating requirements, will ensure that the VTA vehicles are maintained and operated in safe working order. This request is consistent with the FRA's position on the appropriate treatment of this part, as stated in the Policy Statement (see Policy Statement at 28421).

#### **§ 231.14 Passenger Cars without End Platforms**

Section 231.14 specifies the requisite location, number, dimensions, and manner of application of a variety of railroad car safety appliances (e.g., hand brakes, ladders, handholds, steps), directly implementing a number of statutory requirements found in 49 U.S.C. §§ 20301-05.

The statute contains specific standards for automatic couplers, sill steps, hand brakes, and secure ladders and running boards. Where ladders are required, the statute mandates compliant handholds or grab irons for the roof of the vehicle at the top of each ladder. Compliant grab irons or handholds also are required for the ends and sides of the vehicles, in addition to standard height drawers. In addition, the statute requires trains to be

equipped with a sufficient number of vehicles with power or train brakes so that the engineer may control the train's speed without the use of a common hand brake. At least 50 percent of the vehicles in the train must be equipped with power or train brakes, and the engineer must use the power or train brakes on those vehicles and all other vehicles equipped with such brakes that are associated with the equipped vehicles in the train.

Aside from these statutory-based requirements, the regulations provide additional and parallel specifications for hand brakes, sill steps, side handholds, end handholds, end handrails, side-door steps, and uncoupling levers. More specifically, each passenger vehicle must be equipped with an efficient hand brake that operates in conjunction with the power brake on the train. The hand brake must be located so that it can be safely operated while the passenger vehicle is in motion. Passenger cars must have four sill steps and side-door steps, and prescribed tread length, dimensions, material, location, and attachment devices for sill steps and side-door steps. In addition, there are requirements for the number, composite material, dimensions, location, and other characteristics for side and end handholds and end handrails. Finally, this section requires the presence of uncoupling attachments that can be operated by a person standing on the ground.

These very detailed regulations are intended to ensure that sufficient safety appliances are available and that they will function safely and securely as intended.

#### *Justification*

As noted above, some of the requirements in § 231.14 are required by statute and, therefore, are not subject to waiver under FRA's regulatory waiver provisions. FRA does, however, have the statutory authority to provide exemptions from these statutory requirements. 49 U.S.C. § 20306. Consequently, VTA requests exemption from and/or waiver of these requirements, as appropriate, because the VTA light rail vehicles will be equipped with their own array of safety devices resulting in equivalent safety. These are discussed below in greater detail.

The VTA light rail vehicles have only three steps for entry. The risk of falling while climbing aboard the train is minimal, and therefore most of the listed appliances are not necessary for safety. The VTA light rail vehicles do, however, have equivalent versions of some of the safety appliances that are tailored to VTA operations (§ 3 of CPUC

General Order 143-A). For example, to ensure passenger and crew safety during the embarking/disembarking process and during operation of the vehicles, the VTA light rail vehicles are equipped with grab handles and bars. In addition, each vehicle is equipped with an appliance running the length of the front of the vehicle to provide protection against foreign objects being caught under the car body while the vehicle is in motion. Also, the VTA light rail vehicles are equipped with automatic couplers, rendering uncoupling levers unnecessary.

The VTA light rail vehicles will have brakes as required by § 4 of CPUC General Order 143-A and will be inspected, tested, and maintained as required by §§ 4 and 14 of the General Order, § 5 of the VTA Safety Plan and SOPs 5.1 and 5.3. Therefore, the VTA light rail vehicle brake system will be equivalent to a standard air brake system, and thus provide an equivalent level of safety.

VTA is aware that it may obtain exemption from the statutory safety appliance requirements mentioned above only if application of such requirements would "preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations." 49 U.S.C. § 20306. The exemption for technological improvements was originally enacted to further the implementation of a specific type of freight car, but the legislative history shows that Congress intended the exemption to be used elsewhere so that "other types of railroad equipment might similarly benefit." S. Rep. 96-614, at 8, (1980), reprinted in 1980 U.S.C.C.A.N. 1156, 1164.

FRA has recognized the potential public benefits of temporally-separated transit use on segments of the general railroad system. Light rail transit systems "promote more livable communities by serving those who live and work in urban areas without adding congestion to the Nation's overcrowded highways" (see Policy Statement at 28238). They "take advantage of underutilized urban freight rail corridors to provide service that, in the absence of the existing right of way, would be prohibitively expensive" (Id. at 28238). There have been many technological advances in types of equipment used for passenger rail operations, such as the use of light rail transit vehicles that will be used for the VTA light rail system. Light rail transit equipment is energy efficient for passenger rail operations because it is lighter than conventional passenger equipment. Most light rail vehicles are electric, which reduces air pollution.

Light rail vehicles are able to quickly accelerate or decelerate, which makes them more suitable than other equipment types in systems with closely-configured stations. Denying VTA's request for an exemption from certain safety appliance requirements would preclude the implementation of light rail transit for shared use/temporal separation operations. Moreover, compliance with the statutory requirements is not necessary for safe operations.

With regard to the regulatory requirements of § 231.14, the VTA light rail vehicles will be equipped with safety appliances that are more appropriate for light rail transit vehicles, thus achieving an equivalent or superior level of safety in the VTA operating environment. This request is consistent with the FRA's position on the appropriate treatment of this part, as stated in the Policy Statement (see Policy Statement at 28421).

#### **Section 234.105(c)(3) Activation Failure**

Section 234.105 sets forth procedures to be followed in the event of a failure of the activating mechanism of a highway-rail grade crossing warning system. Section 234.105(c) provides for alternative means of actively warning highway users of approaching trains during periods of warning system activation failure. These requirements are intended to prevent collisions between motor vehicles and trains at grade crossings due to failure of the grade crossing warning system by providing for alternate means of controlling traffic at such crossings.

#### *Justification*

VTA requests a waiver from this requirement because this procedure is not compatible with VTA operations. In cases of grade crossing warning system activation failures, VTA will deploy flaggers or request the deployment of uniformed law enforcement officers to provide traffic control services, in accordance with the requirements of this section. However, there may be times at which no flagger or uniformed law enforcement officer is available. In such instances, VTA will not be able to follow the procedure in § 234.105(c)(3) to move the train through the crossing because the VTA light rail vehicles will be operated by one person crews, and that crew member cannot leave the train to flag the crossing. Instead, VTA proposes to bring the train to a full stop at the crossing, sound an appropriate audible warning device on the vehicle, then proceed through the crossing at

restricted speed as conditions permit (in any case less than 15 mph). The proposed procedure will provide a level of safety equivalent to that provided by the FRA rule, while causing less disruption to VTA light rail service.

#### **Part 236 Track Circuit Requirements**

Section 236.51 requires broken rail protection such that track circuits generally must be de-energized or in their most restrictive state when a rail is broken. This requirement is intended to reduce the likelihood of an accident caused by broken rails by restricting train movement over such rails.

##### *Justification*

VTA requests a waiver of this requirement because audio frequency overlay ("AFO") track circuits are in use over the Drill Track. AFO track circuits were chosen because they eliminate the need for insulated joints and impedance bonds at the insulated joints, making them more cost effective than conventional track circuits. In addition, it was considered preferable to avoid insulated joints because they provide weak spots in the track. Although AFO circuits are not as sensitive to broken rail conditions as conventional power frequency track circuits, VTA believes that safety will not be compromised by their use.

AFO track circuits do provide some broken rail protection; some broken rail situations (where the rail is physically separated) are detected by AFO track circuits, which then show an occupancy to prohibit the entry of trains into the affected block.

While AFO circuits may not detect cracks, VTA maintenance practices make it unlikely that a crack not detected by the AFO track circuits would result in an accident. VTA conducts formal visual inspection of its tracks on a weekly basis. In addition, because of the local and urbanized nature of the system, it is unlikely that erosion, earth movement or some other occurrence which would affect the track would go unnoticed and unremedied between weekly inspections.

#### **Part 238 Passenger Equipment Standards**

These standards deal with structural requirements for passenger rail vehicles and vehicle equipment, along with inspection and maintenance standards for such equipment. These standards are intended to enhance the safety of passenger rail operations in the case of accidents by ensuring that passenger rail vehicles have certain crashworthiness and emergency exit features.

##### *Justification*

VTA requests a waiver from the requirements of part 238 because the VTA light rail vehicles have been manufactured to comply with the requirements of CPUC General Order 143-A. VTA believes that these standards will provide a sufficient level of safety in the VTA operating environment.

Sections 3, 6 and 10 of the General Order contain standards for light rail vehicle equipment, brakes, lighting, emergency exits, windows, structural components (i.e., anti-climbers, collision posts and end sills), and traction power systems. These sections cover both equipment design and performance requirements. More specifically, the Order sets forth requirements that light rail vehicles be equipped with certain pieces of safety equipment (such as deadman controls, audible warning devices, emergency brakes, etc.), along with performance specifications for brake systems and construction requirements for vehicles (CPUC General Order 143-A). These requirements are intended to lower the risk of injury to occupants, both through structural capacity of the vehicles to protect the occupant compartment and through safety precautions against secondary hazards resulting from initial collisions (i.e., fire, lack of egress, etc.). Compliance with the more stringent FRA requirements is not necessary because VTA's light rail operations will be completely separated from UPRR's infrequent freight operations, eliminating the risk that VTA light rail vehicles will enter into collisions with heavier freight trains.

The VTA vehicles will be operated, inspected, tested and maintained, as required by § 5 of the VTA Safety Plan, § 3 of the Rulebook and SOPs 5.1-5.6, 6.1-6.11, 8.7, 8.10 and 8.12. Under these requirements all light rail vehicles and component systems must be maintained in proper working order, inspected and tested on a periodic basis, and must be operated in a safe manner. These provisions also include instructions for marking and moving defective equipment. Compliance with these Rules and SOPs is monitored, as required by § 7 of the Safety Plan and §§ 3 and 4 of General Order 164-A.

The CPUC and VTA requirements will provide for a level of safety at least equivalent to FRA requirements. This request is consistent with the FRA's position on the appropriate treatment of this part, as stated in the Policy Statement (see Policy Statement at 28422).

#### **Part 239 Emergency Preparedness**

Part 239 contains standards for the preparation, adoption, and implementation of emergency preparedness plans by railroads connected with the operation of passenger trains. It is intended that by providing sufficient emergency egress capability and information to passengers, and by having emergency preparedness plans calling for coordination with local emergency response officials, the risk of death or injury to passengers, employees, and others in the case of accidents or other incidents, will be lessened.

##### *Justification*

VTA requests a waiver from the part 239 requirements because VTA will be following CPUC and VTA emergency preparedness requirements. VTA believes that compliance with these emergency preparedness requirements will provide a level of safety equivalent to the FRA standards.

Sections 5.05 and 6.05 of CPUC General Order 143-A contain emergency lighting and emergency exit requirements, respectively. In addition, the VTA vehicles are each equipped with four (4) emergency window exits and fire extinguishers.

Section 3.1 of CPUC General Order 164-A requires VTA to adopt an emergency response plan and procedures which must provide for emergency situation training and coordination with external emergency response agencies. Sections 4.3, 4.12, 5.2, 5.5, 5.7 and 5.8 of the Safety Plan set forth the responsibility of the various VTA divisions and personnel for emergency planning and response activities. Section 2.6 of the Security Portion of the Safety Plan also addresses emergency response issues. SOPs 9.1-9.20 prescribe detailed operating procedures in the event of emergency, including coordination with police and fire departments, and passenger evacuation procedures. There are specific SOPs for a variety of emergency situations from derailments and collisions to natural disasters to civil disorders or terrorist activities.

These emergency preparedness standards will provide a level of safety equivalent to the FRA requirements. Compliance with FRA regulations just for emergencies on the Drill Track would require the creation of a separate administrative structure for emergency planning and response, which would place an unnecessary administrative burden on VTA without enhancing safety. This request is consistent with FRA's position on the appropriate

treatment of this part, as stated in the Policy Statement (see Policy Statement at 28422).

#### **Part 240 Qualification and Certification of Locomotive Engineers**

Part 240 contains regulations relating to the qualification and certification of locomotive engineers. The locomotive engineer shoulders significant responsibility for the safety of him/herself and others in the railroad operating environment. Through the regulation's training, eligibility, testing, and monitoring standards, FRA seeks to ensure that only sufficiently qualified individuals are entrusted with those unique responsibilities.

#### **Justification**

VTA requests a waiver from these requirements because VTA will be following CPUC and VTA operator training and qualification standards. VTA believes that compliance with the CPUC/VTA operator qualification and training requirements will provide at least an equivalent level of safety. SOPs 1.5 and 1.9 set forth specific training and certification requirements for VTA light rail operators, in accordance with the requirements of Sections 12.02, 13 and 14.03 of CPUC General Order 143-A and § 5.2 of the Safety Plan. Moreover, compliance with FRA regulations for operators whose routes take them over the Drill Track would require the creation of a separate administrative structure for locomotive engineer training and qualification, which would place an unnecessary administrative burden on VTA without enhancing safety. This request is consistent with FRA's position on the appropriate treatment of this part, as stated in the Policy Statement (see Policy Statement at 28422).

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with either the request for a waiver of certain regulatory provisions or the request for an exemption of certain statutory provisions. If any interested party desires an opportunity for oral comment, he or she should notify FRA, in writing, before the end of the comment period and specify the basis for his or her request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA 1999-6254) and must be submitted to the DOT Docket Management Facility, Room PL-

401 (Plaza level) 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.-5:00 p.m.) at the above facility. 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>.

Issued in Washington, D.C. on October 26, 1999.

**Michael Logue,**

*Deputy Associate Administrator for Safety Compliance and Program Implementation.*

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BILLING CODE 4910-06-P

## **DEPARTMENT OF TRANSPORTATION**

### **Maritime Administration**

[Docket No. MARAD-1999-6414]

#### **Information Collection Available for Public Comments and Recommendations**

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before January 3, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jean McKeever, Maritime Administration, Office of Ship Financing, Room 8122, 400 7th St., S.W., Washington, D.C. 20590. Telephone 202-366-5744, FAX 202-366-7901. Copies of this collection can also be obtained from that office.

#### **SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Capital Construction Fund and Exhibits.

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133-0027.

*Form Numbers:* None.

*Expiration Date of Approval:* June 30, 2000.

*Summary of Collection of Information:* This information collection consists of application for a Capital

Construction Fund (CCF) agreement under section 607 of the Merchant Marine Act, 1936 as amended, and annual submissions of appropriate schedules and exhibits. The Capital Construction Fund is a tax deferred ship construction fund that was created to assist owners and operators of U.S.-flag vessels in accumulating the large amount of capital necessary for the modernization and expansion of the U.S. merchant marine. The program encourages construction, reconstruction, or acquisition of vessels through the deferment of Federal income taxes on certain deposits of money or other property placed into a CCF.

*Need and Use of the Information:* The collected information is necessary for MARAD to determine an applicant's eligibility to enter into a CCF Agreement.

*Description of Respondents:* U.S. citizens who own or lease one or more eligible vessels and who have a program to provide for the acquisition, construction or reconstruction of a qualified vessel.

*Annual Responses:* 140.

*Annual Burden:* 2130 hours total.

*Comments:* Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. Dot Dockets, Room PL-401, 400 Seventh Street, SW, Washington, D.C. 20590. Comments may also be submitted by electronic means via the Internet at <http://dmses.dot.gov/submit>. Specifically address whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at <http://dms.dot.gov>.

By Order of the Maritime Administrator.

Dated: October 27, 1999.

**Michael J. McMorrow,**

*Acting Secretary.*

[FR Doc. 99-28539 Filed 10-29-99; 8:45 am]

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