

Utah Transit Authority**FRA Waiver Petition No. FRA-1999-6253-2**

Utah Transit Authority (UTA) seeks a permanent waiver of compliance from certain CFR parts of Title 49, specifically: Part 219, Control of Alcohol and Drug Use; part 221, Rear End Marking Device-Passenger, Commuter and Freight Trains; part 223, Safety Gazing Standards-Locomotives, Passenger Cars and Cabooses; 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 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.

UTA seeks approval of shared track usage and waiver of certain FRA regulations involving light rail passenger operations on the planned light rail transit system known as "TRAX." The TRAX System will operate on an approximately 15 mile track between downtown Salt Lake City and the City of Sandy, Utah to the south. FRA has jurisdiction over a portion of the TRAX System because it will be connected to the general railroad system of transportation; a portion of the TRAX System will be on a rail line on which a short line freight railroad currently operates, and will continue to operate after start-up of TRAX service.

In each section entitled "Justification," FRA merely sets out UTA's justifications which are included in its petition. In doing so, UTA 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

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.

investigation of the planned TRAX system, the agency takes no position at this time on the merits of UTA's stated justifications. As part of FRA's review of the petition, the Federal Transit Administration will appoint a non-voting liaison to FRA's Safety Board, and that person will participate in the board's consideration of UTA's waiver petition.

Part 219 Control of Alcohol and Drug Use

Part 219 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

UTA requests a waiver of all of the requirements of part 219 so that all of the employees assigned to the TRAX System who would otherwise be covered employees under this part, would become covered employees subject to UTA'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. UTA believes that this would provide UTA with operational advantages while preserving an equivalent level of safety.

The FTA regulations apply to recipients of Federal mass transit funds, except those "specifically excluded" because they are recipients operating railroads regulated by 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 to comply with parts 653 and 654 for its "non-railroad operations."

UTA 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 UTA's bus 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 become covered employees under FTA's rules at parts 653 and 654.

Application of the FTA drug and alcohol rules, when implemented in compliance with the FRA rule, would provide an equivalent level of safety consistent with the policy underlying part 219. A basic review of the respective FRA and FTA regulations reveals that they 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 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.

Part 221 Section 221.13(d)-Marking Devices Display; Section 221.14(a)—Marking Devices

Sections 221.13(d) and 221.14(a) contain requirements that passenger, commuter and freight trains be equipped with and display 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

UTA seeks a waiver from these requirements because the TRAX vehicles, while having rear end lights,

will not have the specific marking devices set forth in the regulation. However, exemption from the marking device requirement in this case will not compromise safety. The TRAX light rail cars are designed to have two taillights permanently mounted into the car body. These red lights are designed to be visible for a distance of 500 feet from the rear-end of the train and are located 45 inches above the top of rail. Because the rear lights on the TRAX vehicles will make them conspicuous to any trailing train, the TRAX 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. This requirement is 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

UTA requests a waiver of this requirement because the TRAX vehicle will conform instead to the windshield and window requirements of § 6.04 of Appendix A of California Public Utilities Commission (CPUC) General Order 143-A. Under this standard, 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.

Section 223.9 Emergency Exit Window Markings.

Section 223.9(d) sets forth requirements for the marking of emergency windows and the posting of emergency window operating instructions. These requirements are intended to help passengers and emergency responders distinguish emergency windows from other windows and provide information on the operation of the emergency windows.

Justification

UTA requests a waiver from these requirements because the TRAX vehicles are not equipped with emergency windows. Thus, identification of some windows as "emergency windows" and the posting of special operating instructions is not appropriate in this instance.

Section 223.15(c) Emergency Window Requirements

Section 223.15(c) requires each passenger train car to be equipped with at least four emergency windows designed to permit rapid and easy removal during an emergency. This requirement is intended to enhance safety by providing emergency egress in addition to egress through vehicle doorways.

Justification

UTA requests a waiver of this requirement because although the TRAX vehicle will not literally meet this standard, it will meet or exceed the safety objective of the requirement. As noted above, the TRAX vehicles will not be manufactured with emergency windows. Rather, the TRAX vehicle is designed so that the doorways provide the requisite emergency exit capability. In fact, the TRAX vehicle doorways provide greater access/egress capability than is found on conventional commuter rail cars.

Each vehicle has four sets of double doors on each side of the vehicle. Each set of double doors provides a 8-foot by 4-foot opening, and the vehicle is designed such that the cars can completely empty in less than one minute with all doors open. The doors are releasable through an emergency release lever and may be opened without power supply. The interior door release levers will be clearly marked and in a location accessible to all passengers. These release features make

it very unlikely that a crash would render more than one set of doors in a car, if any, inoperative, and enable quick and easy opening of the doors by passengers. Even if one set of doors were inoperative after a crash, the other sets of doors would still provide significant opportunity for egress. The placement of two sets of doors on each side of the vehicle will provide significant capacity for mobility in and out of each side of the car should one side not be suitable for use in exiting the train.

UTA believes that the doors will provide emergency egress capacity equivalent to or better than FRA emergency exit window requirements. With these features, there is little risk of passengers becoming trapped or rescue personnel being unable to reach passengers. Accordingly, a waiver of § 223.15(c) is justified. In addition, the TRAX Emergency Response Plan provides for passenger evacuation and crowd control planning.

Part 225 Railroad Accidents/Incidents Reporting

Part 225, Reports Classification, and Investigations, prescribes reporting requirements for accident/incidents meeting the materiality thresholds in § 225.19. The reporting requirements support FRA's enforcement efforts and provide information to detect trends on an industry-wide basis.

Justification

UTA requests a waiver of reporting and investigation requirements for injuries because UTA will be following the injury reporting requirements which will be established by UDOT, as required by UTA's System Safety Program Plan (SSPP). In addition, UTA is responsible for compliance with applicable Occupational Safety and Health Administration workplace injury reporting requirements. Compliance with FRA regulations for injuries on the Shared Trackage would require the creation of a separate administrative structure for injury reporting, which would place an unnecessary administrative burden on UTA without enhancing safety.

Part 228 Records and Reporting

Sections 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

UTA requests a waiver of these requirements because they will create an unnecessary paperwork burden for UTA, 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 usually are 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.

TRAX service, however, is very different. TRAX Controllers will operate out of one facility, running the same consist on the same route every operating day. TRAX service will operate on a scheduled basis on a 15-mile line, and will make station stops. Controllers and vehicle operators will work fixed schedules, with many of the same controllers and vehicle operators working the same hours each week. TRAX records maintained by other personnel will contain information on the controllers and vehicle operators working on particular times on particular days. Controllers and vehicle operators will not need to be away from their home terminals as part of their work duty. Although TRAX controllers will control the movement of freight trains once the trains are admitted to the Shared Trackage, the controllers are not responsible for dispatching freight trains or tracking crew movements generally. Thus, in the TRAX operating environment, the standard records maintained by UTA on train and train crew movements and operator attendance will provide sufficient information to determine service hours worked.

Part 229 Railroad Locomotive Safety Standards

Sections 229.46-229.59 set forth standards related to operation and maintenance of railroad locomotive air brake systems. These requirements are intended to ensure that locomotive brake components are and remain in good working order to permit the proper function of the brake system and to

reduce the likelihood of accidents due to failures of locomotive brakes and/or brake system components.

Justification

Standard railroad locomotives employ air brake systems and §§ 229.46-229.59 are designed to regulate such systems. The TRAX vehicles, however, use electrically activated hydraulic brakes, supplemented by dynamic brakes and magnetic track brakes. Because the TRAX vehicles do not have air brakes, §§ 229.46-229.59 are not applicable to the TRAX vehicle brake system. UTA assures FRA, however, that safety will not be compromised. UDOT regulations and UTA's Safety Plan for the operation and maintenance of the TRAX System will require that the inspection, testing, maintenance and operation of the brake equipment on the TRAX vehicle rise to an equivalent level of safety as that achieved through compliance with §§ 229.46-229.59 on conventional commuter rail equipment.

UTA requests that FRA confirm that §§ 229.46-229.59 are not applicable to the TRAX System. Alternatively, should FRA determine that these sections do apply, UTA requests a waiver of these sections since the differences between air brake and electrically activated hydraulic brake systems render application of the requirements inappropriate and because UDOT regulations and the UTA Safety Plan will provide an equivalent level of safety.

Section 229.61 Draft System

Section 229.61 requires that couplers be free of excessive slack, breaks and cracks in certain critical component areas. Section 229.61 also requires a device to be provided to prevent drawbar and articulated connection pins from falling out in the case of breakage. The purpose of these requirements is to ensure that the coupler is in good working order to perform as required.

Justification

UTA requests a waiver from the requirements in § 229.61 because the TRAX vehicles do not utilize a draft system for coupling. Rather, the TRAX vehicle has a Scharfenberg Coupler, which is an automatic way of connecting the light rail vehicles both physically and electrically. As the two couplers come into contact with each other, the indexed male/female coupler faces its mate providing a ridged interface. As the coupler faces come together the electrical head cover swings up and allows the pin connectors to engage, allowing train line communication. The coupler is an

energy absorbing connecting device in both buff and draft. The coupler is capable of absorbing 175 kN at a velocity of 3 mph. The buff and draft loads are transmitted to the car underframe via the coupler shank and rubber cushion draw gear. When the two couplers are connected, the coupler locks form a parallelogram where the draft forces are counterbalancing each other, thus making unintentional uncoupling impossible. The coupler attaches to the vehicle underframe via four cap bolts torqued to 295 ft. lbs. See Exhibit J. The Safety Plan will provide for operation and maintenance of vehicle couplers in good working order.

Section 229.65 Spring Rigging

Section 229.65 sets forth requirements for the safety of springs and shock absorbers. The purpose of these requirements is to ensure that these components are in good working order and that safety hazards will be minimized if the components do break.

Justification

UTA requests a waiver of the requirements of § 229.65 because the TRAX vehicle has a different type of suspension system than that envisioned by the regulation. The suspension system of the TRAX vehicle consists of a primary elastometric element (Chevron spring type) and a secondary coil spring. The maximum amount of vehicle drop in the event of spring breakage is three inches. In the event of a vehicle derailment, the powered and non-powered bogies are held to the car frame using bogie retainer rods.

In accordance with the Safety Plan, UTA will maintain the TRAX vehicles' suspension system to ensure that the suspension system is free of material defects and operates in good working order.

Section 229.71 Clearance above Top of Rail

Section 229.71 requires that no part or appliance of a locomotive, with limited exceptions, be less than 2 1/2 inches above the top of rail. The purpose of this requirement is to ensure that inappropriate parts of the locomotive do not make contact with the tracks or obstructions on the tracks, thereby decreasing the risk of derailment.

Justification

UTA requests a waiver from this requirement because the track brakes on the TRAX vehicle are located between the wheels of the truck just one inch above the rail. The track brakes, which are essentially large magnets, must be positioned there to operate properly.

However, the presence of the track brakes close to the track does not present a safety hazard. Because of the placement of the brakes between the wheels, any obstruction on the track would be struck by the wheels before striking the brakes.

Section 229.77(b) Current Collectors

Section 229.77(b) requires that each pantograph operating on an overhead trolley wire have a device for locking and grounding it in the lowest position, which can be applied and released only from a position where the operator has a clear view of the pantograph and roof and without mounting the roof. The purpose of this requirement is to reduce the risk of electrical shock injury due to defective or ungrounded pantographs.

Justification

UTA requests a waiver from this requirement because in the TRAX vehicle the operator will not be able to see the pantograph from the cab. However, if the pantograph is defective, the train will be unable to move and the operator will know there is a problem with the pantograph. On the TRAX vehicles, the pantograph is raised and lowered electrically from inside the controlling cab. In the event that manually raising or lowering the pantograph is necessary, it is done from inside the vehicle with a specialized tool. Thus, the operator remains separated from risks associated with contact with the pantograph.

Section 229.125 Headlights and Auxiliary Lights

Sections 229.125(a), (b), (d), and (f) contain specifications for the placement and brightness of locomotive headlights and auxiliary lights. The purpose of these requirements is to reduce the risk of collisions attributable to inconspicuity of the train, particularly in low light level situations.

Justification

UTA requests a waiver from this requirement because the exterior lighting of the TRAX vehicle is designed in conformance with §§ 5.01 and 5.02 of Appendix A of CPUC General Order 143-A. See Exhibit I. These lights on the TRAX vehicles will provide an equivalent level of conspicuity to the vehicles, thereby meeting FRA's regulatory objective.

In accordance with CPUC General Order 143-A, the TRAX vehicles will be equipped with two headlights that are capable of revealing a person or motor vehicle in clear weather at a distance of 600 feet and which will be adjusted so as not to interfere with the vision of

motor vehicle drivers. The TRAX vehicles also will be equipped with a third light, centrally positioned near the top of the vehicle, creating a triangle configuration with the headlights. This triangular lighting configuration will render the TRAX vehicle easily distinguishable to motor vehicles and freight trains.

In addition, the TRAX vehicle will have two red lights which will emit a light plainly visible in clear weather from a distance of not less than 500 feet to the rear of the train. The TRAX vehicle will also have two red stoplights mounted on the end with the taillights. These stoplights will be capable of producing approximately 150 percent of the intensity of the taillights and will be illuminated whenever any brake other than the parking brake is applied. These lights will make the TRAX vehicle clearly visible to any other train on the tracks, as well as to motor vehicle traffic at grade crossings.

Section 229.135 Event Recorders

Section 229.135 requires that, with certain exceptions, any train which is operated faster than 30 mph must be equipped with an in-train event recorder in the lead locomotive. Event recorders keep automatic records of various type of train activities, such as speed, brake applications, signals passed, etc., that can be used both to aid in the reconstruction of accidents and to monitor safety compliance by train operators.

Justification

UTA requests a waiver from this requirement because the TRAX vehicles will not be equipped with event recorders. However, the Train Control Units (TCU) within each vehicle are capable of capturing all of the information required by the regulation, except for throttle position. Although the TCU is not a continuous recorder, it is activated any time a fault is seen and the information captured is saved indefinitely (it cannot be overwritten like it can be on a traditional event recorder). Consequently, in the event of an accident, the TCU will capture virtually all the same information required by the regulation, making this information available to UTA and state and federal investigators for accident reconstruction and safety oversight purposes.

Part 231 Passenger Cars Without End Platforms

Section 23.1.14 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 through 20305.

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 § 23.1.14 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, UTA requests exemption from and/or waiver of these requirements, as appropriate, because the TRAX 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 TRAX light rail vehicles are low boarding vehicles. The risk of falling while climbing aboard the vehicle is minimal, and therefore most of the listed appliances are not necessary for safety. The TRAX light rail vehicles do, however, have equivalent versions of some of the safety appliances that are tailored to TRAX operations. For example, to ensure passenger and crew safety during the embarking/disembarking process and during operation of the vehicles, the TRAX 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 TRAX light rail vehicles are equipped with automatic couplers, rendering uncoupling levers unnecessary.

The TRAX light rail vehicles will have brakes that meet the standards set forth in CPUC General Order 143-A, Exhibit I, and will be inspected, tested, and maintained as required by Section 5 of the UTA Safety Plan, Exhibit G. Therefore, the TRAX light rail vehicle brake system will be equivalent to a standard air brake system, and thus provide an equivalent level of safety.

UTA 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." FRA 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." 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 TRAX 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 UTA'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 TRAX 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 TRAX operating environment.

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

UTA requests a waiver from this requirement because this procedure is not compatible with TRAX operations. In cases of grade crossing warning system activation failures, UTA 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, UTA will not be able to follow the procedure in § 234.105(c) (3) to move the train through the crossing because the TRAX vehicles will be operated by one person crews, and that crewmember cannot leave the train to flag the crossing. Instead, UTA 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 combination of the proposed procedure along with the fact that almost all of the crossings will have non-mountable clearly marked medians, will provide a level of safety equivalent to that provided by the FRA rule, while causing less disruption to TRAX service.

Section 238.113 Emergency Window Exits

Section 238.235 requires passenger cars to have a minimum of four emergency exit windows of specified size and operational characteristics. This requirement is intended to provide for sufficient, easily accessible avenues of egress from passenger cars in the case of emergency.

Justification

UTA requests a waiver of this requirement on the same basis with, and with the same justification as, the waiver requested for § 223.15 (c).

Section 238.115(b) Emergency Lighting and Back-up Power

Section 238.123 (b) requires passenger cars to provide battery powered emergency lighting meeting certain specified standards. The purpose of this requirement is to ensure that in an emergency situation, sufficient lighting will remain available to aid passengers, crew members and, rescue personnel to access and leave the train safely.

Justification

UTA seeks a waiver from some of the requirements of § 238.115(b) because the TRAX vehicle uses an emergency lighting system typical of light rail vehicles in service throughout North America.

The emergency lighting on the TRAX vehicle will operate in all equipment within 45 degrees of vertical and will operate for a period of at least four hours, in excess of the FRA standard. The emergency lights, placed over every other door, will provide sufficient light to facilitate easy egress from and access to the low interior floor. The emergency lighting and back-up power in the operator's cab will be sufficient to

permit safe operation of the control, radio, and public address system.

TRAX vehicles will operate in an urban/suburban region; the route is at-grade with many easy points of access. The farthest distance between the track and a street access point is 1,000 feet. Emergency responders will be able to reach any portion of the system reasonably quickly.

The TRAX emergency lighting and back-up power systems will provide necessary and adequate functioning in the TRAX environment. This request is consistent with FRA's position on the appropriate treatment of this part as stated in the Policy Statement. Policy Statement at 28242. Accordingly, a waiver of § 238.115 (b) is justified.

Section 238.203 Static End Strength

Section 238.203 provides for the overall compressive strength of rail passenger cars. This section is intended to prevent sudden, brittle-type failure of the main structure of a passenger car, thereby providing protection of occupants in the case of a crash.

Justification

UTA requests a waiver of these requirements because the TRAX vehicles are constructed to comply with Sections 6.02-6.03 of Appendix A of CPUC General Order 143-A. Specifically, each TRAX vehicle will be equipped with collision or cab-end corner posts, and the connection of the corner posts to the supporting structures (and the supporting structure itself) must be able to develop the full bending capacity of the collision or corner posts. Further, the vehicle will be designed and constructed such that all major structural components meet or exceed the following for both an unloaded and a fully loaded LRV body: under the action of an end compression load applied to twice the unladen car body weight applied longitudinally at the end sills, there shall be no permanent strain in any structural member and there shall be no stress in any such member exceeding the yield strength of yield point of the material.

The TRAX vehicle is manufactured using a low alloy high tensile steel frame. This framework consists of two end sections attached to a single articulation joint. Each end section is made up of an end underframe which contains the anti-climber, body bolster, corner posts and the anti-telescoping structural safety design feature. The SD 100 design permits end structure loading to be transferred from the anti-climber through the corner posts up to the roof structure. This transfer of structural loading to the roof structure

helps to protect the passenger compartment by preventing the floor structure from receiving the full load. The car body side sheets also add to the structural integrity of the SD 100 car body. The TRAX vehicle has a specified compression load at coupler anchorage level of 445 kN (100,000 lbs). The tested compression loading, using an empty car at the level of the anti-climber, was 687.21 kN (154,500 lbs). This is in line with the design compression loads commonly found on light rail transit vehicles in service in North America.

UTA believes that the design and construction of the TRAX vehicles will provide an equivalent level of safety, particularly in the TRAX operating environment. As noted previously, because of the temporal separation of the freight and passenger operations over the TRAX line, the risk of collisions between freight and passenger trains is virtually eliminated.

Consequently, the need for the TRAX vehicles to have sufficient structural strength to survive a collision with a freight train is minimized. The CPUC standard for light rail vehicles will ensure that the vehicles will have sufficient structural capacity to survive collision with each other or other objects (such as motor vehicles) with limited risk of injury to occupants.

Section 238.205(b) Anti-climbing Mechanism

Section 238.205(b) requires locomotives, including MU locomotives (as defined in § 238.5), to have forward and rear end anti-climbing mechanisms capable of resisting an upward or downward vertical force of 200,000 pounds without failure. These requirements are intended to prevent override or telescoping of one passenger train unit into another in the event of high compressive forces caused by a derailment or collision.

Justification

UTA requests a waiver from these requirements because the TRAX vehicle will have an anti-climber mechanism on each end of the vehicle designed and constructed with projecting steel corrugations that will interlock with a similar device on another LRV, as required under Section 6.01 of Appendix A of CPUC General Order 143-A.

UTA believes that the design and construction of the TRAX vehicle anti-climbers will provide an equivalent level of safety, particularly in the TRAX operating environment. As noted previously, because of the temporal separation of the freight and passenger operations over the TRAX line, the risk

of collisions between freight and passenger trains is significantly reduced. Consequently, a requirement that the TRAX vehicles have anti-climbers designed to sustain a collision with a freight train is unnecessarily burdensome. The CPUC standard for light rail vehicles will ensure that the anticlimbers function as intended to lessen the severity of collision between light rail vehicles.

Section 238.207 Link Between Coupling Mechanism and Car Body

Section 238.207 sets forth strength requirements for the link between the car coupling mechanism and the car body. The purpose of this requirement is to avoid a premature failure of the draft system so that the anticlimbing mechanism will have an opportunity to engage.

Justification

UTA requests a waiver from the requirements of § 238.207 because the TRAX vehicle does not utilize a draft system for coupling. Rather, the TRAX vehicle has a Scharfenberg Coupler, which is an automatic way of connecting the light rail vehicles both physically and electrically. As the two couplers come into contact with each other, the indexed male/female coupler faces its mate providing a ridged interface. As the coupler faces come together the electrical head cover swings up and allows the pin connectors to engage, allowing train line communication. The coupler is an energy absorbing connecting device in both buff and draft. The coupler is capable of absorbing 175 kN at a velocity of 3 mph. The buff and draft loads are transmitted to the car underframe via the coupler shank and rubber cushion draw gear. When the two couplers are connected, the coupler locks form a parallelogram where the draft forces are counterbalancing each other, thus making unintentional uncoupling impossible. The coupler attaches to the vehicle underframe via four cap bolts torqued to 295 ft. lbs. The Safety Plan will provide for operation and maintenance of vehicle couplers in good working order.

Section 238.209 Forward-Facing End Structure of Locomotives

Section 238.209 prescribes several strength-related characteristics for the skin of the forward-facing end of each locomotive. These requirements are intended to provide protection to persons in the occupied area of the locomotive cab.

Justification

UTA requests a waiver from these requirements because the TRAX vehicles are designed to meet standard light rail transit car specifications. The TRAX vehicle is manufactured with a low alloy high tensile steel frame. This framework consists of two end sections attached to a single articulation joint. Each end section is made up of an end underframe which contains the anti-climber, body bolster, corner posts, and the anti-telescoping structural safety design feature. This design permits end structure loading to be transferred away from the end of the locomotive to the roof structure, providing protection to the passengers and crew inside the vehicle. This design has been used in light rail vehicles in service throughout the country without reported problems arising related to the front end strength of the vehicles.

Section 238.211 Collision Posts

Section 238.211 requires passenger equipment to have two full-height collision posts of specified strength at each end where coupling and uncoupling are expected. This requirement is intended to provide for protection against crushing of occupied areas of passenger cars in the event of a collision or derailment.

Justification

UTA requests a waiver of these requirements because the TRAX vehicles are constructed to comply with §§ 6.02-6.03 of Appendix A of CPUC General Order 143-A. Specifically, each TRAX vehicle will be equipped with collision or cab-end corner posts, and the connection of the corner posts to the supporting structures (and the supporting structure itself) must be able to develop the full bending capacity of the collision or corner posts. Further, the vehicle will be designed and constructed such that all major structural components meet or exceed the following for both an unloaded and a fully loaded LRV body: under the action of an end compression load applied to twice the unladen car body weight applied longitudinally at the end sills, there shall be no permanent strain in any structural member and there shall be no stress in any such member exceeding the yield strength of yield point of the material.

The TRAX vehicle is manufactured using a low alloy high tensile steel frame. This framework consists of two end sections attached to a single articulation joint. Each end section is made up of an end underframe which contains the anti-climber, body bolster,

corner posts, and the anti-telescoping structural safety design feature. The SD 100 design permits end structure loading to be transferred from the anti-climber through the corner posts up to the roof structure. This transfer of structural loading to the roof structure helps to protect the passenger compartment by preventing the floor structure from receiving the full load. The car body side sheets also add to the structural integrity of the SD 100 car body. The TRAX vehicle has a specified compression load at coupler anchorage level of 445 kN (100,000 lbs). The tested compression loading, using an empty car at the level of the anti-climber, was 687.21 kN (154,500 lbs). This is in line with the design compression loads commonly found on light rail transit vehicles in service in North America.

The design and construction of the TRAX vehicles will provide an equivalent level of safety, particularly in the TRAX operating environment. As noted previously, because of the temporal separation of the freight and passenger operations over the TRAX line, the risk of collisions between freight and passenger trains is virtually eliminated. Consequently, the need for the TRAX vehicles to have sufficient structural strength to survive a collision with a freight train is minimized. The CPUC standard for light rail vehicles will ensure that the vehicles will have sufficient structural capacity to survive collision with each other or other objects (such as motor vehicles) with limited risk of injury to occupants.

Section 238.213 Corner Posts

Section 238.2 13 requires two full-height corner posts of specified strength at the end of each vehicle. These requirements serve to provide protection to occupant compartments from side-swipe type collisions.

Justification

UTA requests a waiver of these requirements because the TRAX vehicles are constructed to comply with §§ 6.02-6.03 of Appendix A of CPUC General Order 143-A. Specifically, each TRAX vehicle will be equipped with collision or cab-end corner posts, and the connection of the corner posts to the supporting structures (and the supporting structure itself) must be able to develop the full bending capacity of the collision or corner posts. Further, the vehicle will be designed and constructed such that all major structural components meet or exceed the following for both an unloaded and a fully loaded LRV body: under the action of an end compression load applied to twice the unladen car body

weight applied longitudinally at the end sills, there shall be no permanent strain in any structural member and there shall be no stress in any such member exceeding the yield strength of yield point of the material.

The TRAX vehicle is manufactured using a low alloy high tensile steel frame. This framework consists of two end sections attached to a single articulation joint. Each end section is made up of an end underframe which contains the anti-climber, body bolster, corner posts, and the anti-telescoping structural safety design feature. The SD 100 design permits end structure loading to be transferred from the anti-climber through the corner posts up to the roof structure. This transfer of structural loading to the roof structure helps to protect the passenger compartment by preventing the floor structure from receiving the full load. The car body side sheets also add to the structural integrity of the SD 100 car body. The TRAX vehicle has a specified compression load at coupler anchorage level of 445 kN (100,000 lbs). The tested compression loading, using an empty car at the level of the anti-climber, was 687.21 kN (154,500 lbs). This is in line with the design compression loads commonly found on light rail transit vehicles in service in North America.

The design and construction of the TRAX vehicles will provide an equivalent level of safety, particularly in the TRAX operating environment. As noted previously, because of the temporal separation of the freight and passenger operations over the TRAX line, the risk of collisions between freight and passenger trains is virtually eliminated. Consequently, the need for the TRAX vehicles to have sufficient structural strength to survive a collision with a freight train is minimized. The CPUC standard for light rail vehicles will ensure that the vehicles will have sufficient structural capacity to sustain collision with each other or other objects (such as motor vehicles) with limited risk of injury to occupants.

Section 238.215 Rollover Strength

Section 238.2 15 sets forth the structural requirements intended to prevent significant deformation of the occupant compartments of passenger cars in the event the car rolls onto its side or roof. Under this section, a passenger car must be able to support twice the dead weight of the vehicle while the vehicle is resting on its roof or side.

Justification

UTA requests a waiver from the requirements of § 238.2 15 because the

TRAX vehicle is built to different design criteria which will provide an equivalent level of safety. The TRAX vehicle employs a low alloy high tensile steel frame in a lightweight low-floor design. The low-floor design lowers the center of gravity, as well as the load conditions, in rollover circumstances. The lower center of gravity makes the TRAX vehicle less prone to rollover than a standard commuter rail car. Moreover, in the unlikely event of a rollover, the lighter weight of the TRAX vehicle means that the roof does not have to support as much weight as a standard commuter rail car. Finally, the design features of the TRAX vehicle provide for structural protection of the occupant compartments, achieving an adequate level of safety.

The basic TRAX vehicle design has been in use in transit systems throughout North America for the last 20 years without reported problems related to rollover strength issues.

Section 238.217 Side Structure

Section 238.2 17 sets strength requirements for side posts, corner braces and outside sheathing. These specifications are intended to provide for additional structural protection, so that a car will derail before it collapses into the occupant compartments.

Justification

UTA requests a waiver from the requirements of § 238.2 17 because the TRAX vehicle is built to different design criteria which will provide an equivalent level of safety. The TRAX vehicle is manufactured using a low alloy high tensile steel frame with car body side sheets which provide protection to the occupant compartment of the vehicle by safeguarding the structural integrity of the vehicle, while also maintaining the vehicle's lightweight design features. Additionally, the relatively short train length ensures that the vehicle will not occupy a grade crossing for an extended period, lowering the risk of collisions.

Overall, UTA believes that although the TRAX vehicle may not conform to the specific requirements of the regulation, the vehicle will provide, in conjunction with the other safety design features of the vehicle, a sufficient measure of safety.

Section 238.22 1 Glazing

Section 238.221 reiterates the safety glazing standards of 49 CFR part 223 and establishes standards for glazing securement components. The new requirements for glazing securement are designed to ensure that the glazing frame be capable of holding the glazing

in place against all forces which it is required to resist under part 223, and forces created by air pressure differences caused when two trains pass at their authorized maximum speeds in opposite directions at the minimum track separation for two adjacent tracks. Glazing forced from the window opening is a potential hazard.

UTA will be in compliance with the new glazing securement requirements, but seeks a waiver from § 238.221 on the same basis as the waiver request for the part 223.

Section 238.229 Safety Appliances

This section reiterates the applicability of the safety appliance requirements of 49 CFR part 231 to passenger train cars. UTA seeks a waiver from this section on the same basis and with the same justification, as the waiver requested from the part 231 requirements directly.

Section 238.231 Brake System

Section 238.231 sets forth standards related to operation and maintenance of passenger rail equipment brake systems. These requirements are intended to ensure that passenger rail equipment brake components are and remain in good working order to permit the proper function of the brake system and to reduce the likelihood of accidents due to failures of brakes and/or brake system components.

Justification

Standard commuter rail equipment employs air brake systems and § 238.231 is designed to regulate such systems. The TRAX vehicles, however, use electrically activated hydraulic brakes, supplemented by dynamic brakes and magnetic track brakes. Because the TRAX vehicles do not have air brakes, the requirements of § 238.231 are not applicable to the TRAX vehicle brake system. UTA assures FRA, however, that safety will not be compromised. UTA's Safety Plan for the operation and maintenance of the TRAX System will require the inspection, testing, maintenance, and operation of the brake equipment on the TRAX vehicle to an equivalent level of safety as that achieved through compliance with § 238.231 on conventional commuter rail equipment.

UTA requests that FRA confirm that § 238.231 is not applicable to the TRAX System. Alternatively, should FRA determine that the requirements of this section do apply, UTA requests a waiver of these sections because the differences between air brake and electrically activated hydraulic brake systems render application of the requirements

inappropriate and because the UTA Safety Plan will provide an equivalent level of safety.

Section 238.233 Interior Fittings and Surfaces

Section 238.233 set forth strength requirements for passenger car interior fittings such as seats, overhead racks, and other similar items. In addition, to the extent possible, all interior fittings in the passenger car are to be recessed or flush-mounted and sharp edges and corners in the locomotive cab or passenger car must be either avoided or padded. These requirements are designed to reduce the likelihood and severity of injury to train occupants caused by the dislodging of seats or other interior items or by occupants striking interior items in the event of an accident.

Justification

UTA seeks a waiver of the requirements of § 229.233 because although the TRAX vehicle interior is designed to provide a safe passenger environment, the vehicle may not meet the specific strength requirements set forth in the regulation. The TRAX vehicle seats are designed with a rigid floor pedestal and wall mounting system widely used throughout the transit industry with a good safety record. The interior fittings are designed to standard transit industry standards for passenger safety and comfort and will not pose a hazard to passengers. The interior design standards will provide an equivalent level of safety to the FRA requirements.

Part 238 Inspection, Testing and Maintenance

Subpart D of part 238, §§ 238.301 through 238.319, contains requirements pertaining to the inspection, testing, and maintenance of the passenger equipment and systems required for Tier I passenger equipment. These requirements are designed to ensure that passenger rail operations are conducted only on vehicles whose components and systems are in good working order, thereby reducing both the chances of an equipment-related accident and the severity of damage or injury in the case of an accident.

UTA anticipates being in compliance with the requirements of subpart D. However, UTA requests a waiver from any requirements that correlate to the subpart B or C standards from which UTA has sought waivers. TRAX equipment will be subject to a detailed program of inspection, testing, and maintenance, as required by the state of Utah and UTA's own Safety Plan.

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. This rule was adopted as a result of several serious crashes involving commuter trains.

Justification

UTA requests a waiver from the part 239 requirements because UTA will be following UDOT emergency preparedness requirements. UTA believes that compliance with the UDOT emergency preparedness requirements will provide a level of safety equivalent or superior to the FRA standards. The Emergency Response Plan provides for emergency preparedness activities. Procedures requiring interface with outside agencies, such as police and fire, will be closely coordinated. Regular drills will be performed with these agencies to simulate real-world conditions. These emergency preparedness standards have been tailored to the TRAX System, but also draw on the experience of emergency preparedness standards from other rail transit systems whose operations and equipment more closely resemble TRAX than other FRA-regulated commuter rail systems.

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

UTA requests a waiver from these requirements because UTA will be following its own operator training and qualification standards under the oversight of UDOT. UTA believes that compliance with its own operator qualification and training requirements

will provide at least an equivalent level of safety. Under the Safety Plan, train operators must receive formal certification to operate on the TRAX System and must receive an annual re-certification, or be re-certified as required in response to rules, violations and long-term absences from the system. See Exhibit G. Train operator training is a four-week course combining classroom and field training. Subjects includes rules, standard operating procedures, emergency operating procedures, light rail vehicle orientation, light rail vehicle troubleshooting, system orientation, and communications. Train operators must pass written and field tests to successfully complete the course. In addition, the TRAX operating rules call for a system of discipline, leading to possible decertification for train operators who violate operating rules.

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 1999-6253) and must be submitted to the DOT Docket Management Facility, Room PL-401 (Plaza level) 400 Seventh Street, SW, Washington, DC 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 September 27, 1999.

Michael Logue,

Deputy Associate Administrator for Safety Compliance and Program Implementation.
[FR Doc. 99-25541 Filed g-30-99; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-1999-6070]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Docket No. FRA-1999-6070

Applicant: Burlington Northern and Santa Fe Railway Mr. William G. Peterson Director Signal Engineering 45 15 Kansas Avenue Kansas City, Kansas 66 106.

Burlington Northern and Santa Fe Railway seeks approval of the proposed annual modification of the signal system for winter operation, on the two main tracks, between milepost 115 1.74 and milepost 1152.34, near Marias, Montana, on the Montana Division, Hi Line Subdivision. The proposed changes consist of the following, on an annual basis, during winter operations:

1. Temporarily spike, clamp, and disable switch controls in field for power-operated double crossover switches;
2. Temporarily discontinue and turn to the field, the westbound home signals at Marias; and
3. Temporarily extend the OS out to the existing westbound repeater signals, remove the number boards from the westbound repeater signals, and in effective convert the westbound repeater signals to the new westbound home signals.

The reasons given for the proposed changes are that during winter operations it is impossible to keep switches clear of snow, causing train delays due to switches being out of correspondence, and the potential for unsafe air loss associated with stopping on a 1.66 percent grade can be prevented.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI-40 1, Washington, D.C. 20590-000 1.

Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.-5:00 p.m.) at DOT Central Docket Management Facility, Room PI-401 (Plaza Level), 400 Seventh Street, S.W., Washington, D.C. 20590-000 1. 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>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on September 27, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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