

Federal Register published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

*Deputy Associate Administrator for
Regulatory and Legislative Operations.*

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2013-0051]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated May 6, 2013, the Erie Lackawanna Dining Car Preservation Society (ELDCPS) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR section 223.15, *Requirements for existing passenger cars*. FRA assigned the petition Docket Number FRA-2013-0051.

This petition relates to the operation of a sleeping car, "The City of Lima," Reporting Mark RPCX 211. The petitioner is requesting permission to continue to operate the car that does not have window glazing meeting the requirements of 49 CFR 223.15. This car is interchanged with railroads operating on the general system, moved short distances over freight railroads for storage when not in use, and operated behind Amtrak passenger trains or in special trains made up of similar passenger cars. ELDCPS is a not-for-profit corporation, incorporated in the State of New Jersey since 2001.

The private passenger car fleet is a small fraction of the total passenger fleet operating in the country, and continues to have an excellent safety record, due in part to the operating characteristics and the operating environment of the cars. Operation of this private passenger car has been injury-free as related to window glazing for the past 20 years, and the car has operated in the service described in this petition since 2008.

Specifically, Car RPCX 211 was built by Pullman Standard in February 1950 and is equipped with 20 Adams & Westlake #64 sash, double-glazed, 30" x 42" side windows with a mixture of unmarked polycarbonate and automotive-type, windshield-grade, laminated safety glass. FRA Type II polycarbonate glazing is present in the vestibule's Dutch doors, but is badly

hazed. Carbody end-door windows are unmarked polycarbonate.

ELDCPS seeks relief from the glazing requirements for operation of this passenger car for short distances over freight lines, behind Amtrak passenger trains, or in special trains made up of similar passenger cars. Typically, these cars are operated over scenic, long-distance routes through rural countryside, which are low-risk areas for window damage or breakage. The car is operated at a maximum track speed, as authorized by the railroad that is controlling the movement.

Since ELDCPS purchased RPCX 211, in 2007, FRA has not received any reports of personal injuries involving the operation of this equipment as the result of the presently installed noncompliant glazing. There have not been any acts of vandalism to this car while in storage or in operation. When not in use, this equipment is stored at a private siding on the Delaware-Lackawanna Railroad in Scranton, PA.

ELDCPS has a current and feasible emergency egress plan for this car. The plan includes four, clearly marked emergency exit windows, emergency battery lights throughout the car, and standard emergency tools in a well-marked cabinet near Bedroom A in the hallway.

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

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested 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 and may be submitted by any of the following methods:

- **Web site:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200

New Jersey Avenue SE., W12-140, Washington, DC 20590.

- **Hand Delivery:** 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 26, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2013-0136]

Pipeline Safety: Potential for Damage to Pipeline Facilities Caused by Flooding

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice; Issuance of Advisory Bulletin.

SUMMARY: PHMSA is issuing this advisory bulletin to all owners and operators of gas and hazardous liquid pipelines to communicate the potential for damage to pipeline facilities caused by severe flooding. This advisory includes actions that operators should consider taking to ensure the integrity of pipelines in case of flooding.

FOR FURTHER INFORMATION CONTACT: Operators of pipelines subject to regulation by PHMSA should contact the appropriate PHMSA Regional Office. The PHMSA Regional Offices and their contact information are as follows:

- **Central Region:** 816-329-3800
Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio,

- South Dakota, and Wisconsin
- Eastern Region: 609–989–2171
Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia
- Southern Region: 404–832–1147
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, and Tennessee
- Southwest Region: 713–272–2859
Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
- Western Region: 720–963–3160
Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming

Intrastate pipeline operators should contact the appropriate state pipeline safety authority. A list of state pipeline safety authorities is provided at: www.napsr.org.

SUPPLEMENTARY INFORMATION:

I. Background

Section 192.613(a) of the Pipeline Safety Regulations (49 CFR Parts 190–199) states that “[e]ach operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.” Section 192.613(b) further states that “[i]f a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with § 192.619(a) and (b).”

Likewise, § 195.401(b)(1) of the Pipeline Safety Regulations states that “[w]hen an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it must correct the condition within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.” Section 195.401(b)(2) further states that “[w]hen an operator discovers a condition on a pipeline covered under [the integrity management requirements in] § 195.452,

the operator must correct the condition as prescribed in § 195.452(h).” Severe flooding is the kind of unusual operating condition that can adversely affect the safe operation of a pipeline and require corrective action under §§ 192.613(a) and 195.401(b).

PHMSA has released five Advisory Bulletins on this subject with the earliest issued July 29, 1993 (ADB–93–03), and the most recent Advisory Bulletin (ADB–11–04) on July 27, 2011, 76 FR 44985, each of which followed an event that involved severe flooding that affected pipelines in the areas of rising waters. Three of the more notable events are briefly described below:

On August 13, 2011, Enterprise Products Operating, LLC discovered a release of 28,350 gallons (675 barrels) of natural gasoline into the Missouri River in Iowa. The rupture, according to the metallurgical report, was the result of fatigue crack growth driven by vibrations in the pipe from vortex shedding.

On July 1, 2011, ExxonMobil Pipeline Company experienced a pipeline failure near Laurel, Montana, resulting in the release of 63,000 gallons of crude oil into the Yellowstone River. The rupture was caused by debris washing downstream in the river damaging the exposed pipeline.

On July 15, 2011, NuStar Pipeline Operating Partnership, L.P. reported a 100-barrel anhydrous ammonia spill in the Missouri River in Nebraska. The 6-inch-diameter pipeline was exposed by scouring during extreme flooding.

As shown in these previous events, damage to a pipeline may occur as a result of additional stresses imposed on piping by undermining of the support structure and by impact and/or waterborne forces. Washouts and erosion may result in loss of support for both buried and exposed pipelines. The flow of water against an exposed pipeline may also result in forces sufficient to cause a failure. These forces are increased by the accumulation of debris against the pipeline. Reduction of cover over pipelines in farmland may also result in the pipeline being struck by equipment used in farming or clean-up operations.

Additionally, the safety of valves, regulators, relief sets, and other facilities normally above ground or above water is jeopardized when covered by water. This threat is posed not only by operational factors, but also by the possibility of damage by outside forces, floating debris, current, and craft operating on the water. Boaters involved in rescue operations, emergency support functions, sightseeing, and other activities are generally not aware of the

seriousness of an incident that could result from their craft damaging a pipeline facility that is unseen beneath the surface of the water. Depending on the size of the craft and the pipeline facility struck, significant pipeline damage may result.

Though these accidents account for less than one percent of the total number of pipeline accidents, the consequences of a release in water can be much more severe because of the threats to drinking water supplies and potential environmental damage.

II. Advisory Bulletin (ADB–2013–02)

To: Owners and Operators of Gas and Hazardous Liquid Pipeline Systems.

Subject: Potential for Damage to Pipeline Facilities Caused by Severe Flooding.

Advisory: Severe flooding can adversely affect the safe operation of a pipeline. Operators need to direct their resources in a manner that will enable them to determine the potential effects of flooding on their pipeline systems. Operators are urged to take the following actions to prevent and mitigate damage to pipeline facilities and ensure public and environmental safety in areas affected by flooding:

1. Evaluate the accessibility of pipeline facilities that may be in jeopardy, such as valve settings, which are needed to isolate water crossings or other sections of a pipeline.
2. Extend regulator vents and relief stacks above the level of anticipated flooding, as appropriate.
3. Coordinate with emergency and spill responders on pipeline location and condition. Provide maps and other relevant information to such responders.
4. Coordinate with other pipeline operators in the flood area and establish emergency response centers to act as a liaison for pipeline problems and solutions.
5. Deploy personnel so that they will be in position to take emergency actions, such as shut down, isolation, or containment.
6. Determine if facilities that are normally above ground (e.g., valves, regulators, relief sets, etc.) have become submerged and are in danger of being struck by vessels or debris and, if possible, mark such facilities with an appropriate buoy and Coast Guard approval.
7. Perform frequent patrols, including appropriate overflights, to evaluate right-of-way conditions at water crossings during flooding and after waters subside. Determine if flooding has exposed or undermined pipelines as a result of new river channels cut by the flooding or by erosion or scouring.

8. Perform surveys to determine the depth of cover over pipelines and the condition of any exposed pipelines, such as those crossing scour holes. Where appropriate, surveys of underwater pipe should include the use of visual inspection by divers or instrumented detection. Information gathered by these surveys should be shared with affected landowners. Agricultural agencies may help to inform farmers of the potential hazard from reduced cover over pipelines.

9. Ensure that line markers are still in place or replaced in a timely manner. Notify contractors, highway departments, and others involved in post-flood restoration activities of the presence of pipelines and the risks posed by reduced cover.

If a pipeline has suffered damage, is shut-in, or is being operated at a reduced pressure as a precautionary measure due to flooding, the operator should advise the appropriate PHMSA regional office or state pipeline safety authority before returning the line to service, increasing its operating pressure, or otherwise changing its operating status. Furthermore, reporting a Safety Related Condition as prescribed in §§ 191.23 and 195.55 may also be required.

Issued in Washington, DC on July 8, 2013.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2013-16754 Filed 7-11-13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35726]

Transport Handling Specialists, Inc.—Continuance in Control Exemption—RSL Railroad, LLC

Transport Handling Specialists, Inc. (THS), has filed a verified notice of exemption (Notice) under 49 CFR 1180.2(d)(2) to continue in control of RSL Railroad, LLC (RSL), upon RSL's becoming a Class III rail carrier. By decision served May 15, 2013, the Board held the publication and effectiveness of the Notice in abeyance pending record supplementation and further Board action. THS supplemented the record on June 3, 2013, and June 17, 2013. The abeyance in this proceeding will be lifted upon service of this Notice.

This transaction is related to a verified notice of exemption filed in *RSL Railroad LLC—Operation Exemption—Massillon Energy & Technology Park*, Docket No. FD 35672,

wherein RSL is seeking Board authority to operate an approximately 1.27-mile line in Massillon, Stark County, Ohio.

The transaction may be consummated on or after July 26, 2013 (the effective date of this exemption).

THS states that it has a 50% ownership interest in RSL, with the remaining interest equally split among three other individuals.¹ THS states that it also owns 100% of Big Spring Rail System, Inc., a Class III rail carrier that operates in Big Spring, Texas.²

THS certifies that: (1) The rail line to be operated by RSL does not connect with any other railroads in the THS corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail line to be operated by RSL with any other railroad in the THS corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than July 19, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35726, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Baxter Wellmon, 1554 Paoli Pike #179, West Chester, PA 19380.

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: July 9, 2013.

¹ Notice 3 (Apr. 29, 2013); Notice, Ex. 3, Schedule A.

² Supplement 2 (June 17, 2013).

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013-16741 Filed 7-11-13; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35729]

Ann Arbor Railroad, Inc.—Lease Exemption—Norfolk Southern Railway Company

Under 49 CFR 1011.7(a)(2)(x)(A), the Director of the Office of Proceedings (Director) is delegated the authority to determine whether to issue notices of exemption under 49 U.S.C. 10502 for lease and operation transactions under 49 U.S.C. 10902. However, the Board reserves to itself the consideration and disposition of all matters involving issues of general transportation importance. 49 CFR 1011.2(a)(6). Accordingly, the Board revokes the delegation to the Director with respect to issuance of the notice of exemption for lease and operation of the rail line at issue in this case. The Board determines that this notice of exemption should be issued, and does so here.

Notice

Ann Arbor Railroad, Inc. (AARR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from Norfolk Southern Railway Company (NSR) two rail lines totaling 3.69 miles: (1) A line of railroad between milepost CS 1.26 and milepost CS 2.65 in Toledo, Ohio; and (2) a line of railroad between milepost GY 85.40 and GY 87.70 in Toledo (the Lines). According to AARR, it has entered into a Lease Agreement (Agreement) with NSR whereby AARR will lease the Lines from NSR. The term of the lease is 10 years.

Pursuant to 49 CFR 1150.43(h), AARR has disclosed that the Agreement contains an interchange commitment in the form of lease credits, depending on the number of carloads interchanged with NSR in a given year.¹ AARR states that the interchange commitment will enable it to "invest in improvements on the lines and increase traffic levels."²

¹ AARR has filed under seal, pursuant to 49 CFR 1150.43(h)(1)(ii), a confidential, complete version of the Agreement. On July 1, 2013, the Brotherhood of Locomotive Engineers and Trainmen filed a motion for access to the Agreement. That motion will be addressed in a separate decision.

² Notice 4.