

The possibility of unintended CHMSL illumination is very low, for several reasons. Hazard flashers are infrequently used in service. The condition can occur only when the hazard flasher switch is at the extreme bottom of travel. To turn the hazard flashers on or off, one need merely push the hazard flasher switch. It is not necessary to push the switch all the way to its limit of travel. Even when the switch is depressed all the way to its limit of travel, CHMSL illumination may not occur. In approximately 50% of the switches it would be moderately difficult to get a CHMSL activation. With these switches, it is also necessary to apply a side force to the hazard flasher switch (in addition to having the switch at its bottom of travel) before the CHMSL might illuminate.

Even if the condition does occur, the duration of unintended CHMSL illumination would be very brief. The hazard flasher switch requires less than a second in total to turn the flashers on or off, and only for a fraction of this total time would the switch be all the way to its limit of travel.

About one-third of the affected vehicles have incandescent CHMSLs. In these vehicles, visible illumination of the CHMSL would not occur unless the hazard switch were depressed to its full limit of travel and held there long enough for the incandescent bulb filaments to heat and become visible. Therefore, unless the hazard switch was deliberately held at its limit of travel, and possibly with a side force, any unintended CHMSL illumination would be momentary and as a practical matter virtually imperceptible.

Even if a visible CHMSL illumination occurs upon hazard flasher activation, it would almost certainly have no adverse effect on safety. Hazard flasher lights are typically used when the vehicle is off the road or out of traffic. However, if a CHMSL illuminated due to this condition when the vehicle was on the road, a following driver would likely see a brief single flash of the CHMSL. As a practical matter, the following driver might not notice this flash at all. Even if he or she did, there would seem to be no likelihood of driver confusion or inappropriate responses. In reaching this view, we have considered the following situations and would invite the agency's consideration of them as well:

A driver who turns on the hazard flasher switch does so in order to alert others to some situation that the driver judges to be a highway safety hazard. Indeed, the owner's manual in each of these vehicles states as much: Your hazard warning flashers let you warn others. They also let police know you have a problem.

When the driver turns them on, the hazard lamps on these vehicles commence flashing immediately after the driver releases the switch. In this situation, any momentarily illuminated CHMSL would augment the hazard alert to following drivers.

If the hazard flasher switch is being turned off, the CHMSL could be illuminated momentarily while the hazard lamps are flashing. A following driver is unlikely to react inappropriately to a momentary CHMSL illumination when two hazard lamps are already flashing.

In many situations, it seems likely that a driver suddenly approaching a hazard situation might want to slow down, and therefore the service brakes would be applied when the hazard switch is depressed. In this case, the CHMSL would remain illuminated by the service brakes as required by FMVSS 108. This situation would pose no safety or compliance issue because the CHMSL would already be on.

The CHMSL (and the remainder of the vehicle lighting) otherwise meets all of the requirements of FMVSS 108.

GM is not aware of any accidents, injuries, owner complaints or field reports for the subject vehicles related to this condition.

NHTSA has previously granted inconsequential treatment for a similar condition. In 1995, General Motors applied for inconsequential treatment for a noncompliance while the hazard switch was being used (reference Mr. Milford Bennett letter to Dr. Ricardo Martinez dated June 16, 1995). The agency subsequently granted inconsequential treatment for this condition (reference Docket 95-57, Notice 2 published in the *Federal Register*, 61 Fed. Reg. 2865, January 29, 1996). No one opposed the application. NHTSA found in that situation that "the transient activation of the CHMSL, a false signal, is highly unlikely to mislead a following driver," at 2865-2866.

The current situation would appear to be even less of a highway safety issue, because (a) the previous condition could occur at various positions within the normal operating travel of the hazard switch, while the current condition can only occur at the extreme bottom of travel of the hazard switch; and (b), the previous condition could involve up to three momentary flashes of the CHMSL, while the current condition only has the potential for a single momentary illumination of the CHMSL.

No public comments were received in the docket designated for this action. However, there was a comment submitted to a related application submitted by GM. Notice of receipt of this application was published on August 7, 2000 (65 FR 48280). There has been no agency decision yet on whether to grant or deny this application. In this application, GM states that activating the hazard warning lamps on the same subject vehicles could also enable the power windows to be operated. This is a noncompliance with FMVSS No. 118, "Power-operated Window, Partition, and Roof Panel Systems." In its comments urging denial of GM's power window-related application, the Center for Auto Safety (CAS) also states that the agency should deny GM's application regarding FMVSS No. 108. CAS offered no rationale to support this assertion except to state "[b]oth of these problems suggest the need for the swift implementation of an actual remedy, not the broad exemption GM suggests it should receive."

We have reviewed the application and agree with GM that the noncompliance

is inconsequential to motor vehicle safety. We can foresee no negative effects on motor vehicle safety if a vehicle's CHMSL is briefly illuminated as described upon activation of the hazard warning lamps. The intended use of a hazard warning lamp and the momentary activation of a CHMSL do not provide a conflicting message. The illumination of the CHMSL is intended to signify that the vehicles brakes are being applied and that the vehicle might be decelerating. Hazard warning lamps are intended as a more general message to nearby drivers that extra attention should be given to the vehicle. A brief illumination of the CHMSL while activating the hazard warning lamps would not confuse the intended general message, nor would the brief illumination in the absence of the other brake lamps cause confusion that the brakes were unintentionally applied.

In consideration of the foregoing, we do not deem this noncompliance to be a serious safety problem warranting notification and remedy. Accordingly, we have decided that the applicant has met its burden of persuasion that the noncompliance described above is inconsequential to motor vehicle safety. Therefore, its application is granted and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118 and from remedying the noncompliance as required by 49 U.S.C. 30120.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: June 12, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01-15275 Filed 6-15-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Indexing the Annual Operating Revenues of Railroads

This Notice sets forth the annual inflation adjusting index numbers which are used to adjust gross annual operating revenues of railroads for classification purposes. This indexing methodology will insure that regulated carriers are classified based on real business expansion and not from the effects of inflation. Classification is important because it determines the extent of reporting for each carrier.

The railroad's inflation factors are based on the annual average Railroad's Freight Price Index. This index is

developed by the Bureau of Labor Statistics (BLS). This index will be used to deflate revenues for comparison with established revenue thresholds.

The base year for railroads is 1991. The inflation index factors are presented as follows:

RAILROAD FREIGHT INDEX

Year	Index	Deflator per cent
1991	409.50	100.00
1992	411.80	99.45
1993	415.50	98.55
1994	418.80	97.70
1995	418.17	97.85
1996	417.46	98.02
1997	419.67	97.50
1998	424.54	96.38
1999	423.01	96.72
2000	428.64	95.45

¹ Ex Parte No. 492, *Montana Rail Link, Inc., and Wisconsin Central Ltd., Joint Petition For Rulemaking With Respect To 49 CFR 1201, 8 I.C.C. 2d 625 (1992)*, raised the revenue classification level for Class I railroads from \$50 million to \$250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also revised to reflect a rebasing from \$10 million (1978 dollars) to \$20 million (1991 dollars).

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Scott Decker (202) 565-1531. (TDD for the hearing impaired: 1-800-877-8339)

By the Board.

Vernon A. Williams,
Secretary.

[FR Doc. 01-15322 Filed 6-15-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34055]

Union Pacific Railroad Company— Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail lines as follows: (1) between Shawnee Jct., WY, BNSF milepost 117.1 and Bridger Jct., WY, BNSF milepost 127.3 (Orin Subdivision); (2) between Bridger Jct., BNSF milepost 133.2 and East Guernsey, WY, BNSF milepost 91.7 (Canyon Subdivision); (3) between East Guernsey, BNSF milepost 91.7 and Northport, NE, BNSF milepost 0.0 (Valley Subdivision); and (4) between Northport, BNSF milepost 33.8 and Sidney, NE, BNSF milepost 75.4

(Angora Subdivision), a distance of approximately 175 miles.¹

The transaction is scheduled to be consummated on June 13, 2001.

The purpose of the trackage rights is to permit UP to use the BNSF trackage when UP's trackage is out of service for scheduled maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978)*, as modified in *Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980)*.

This notice is filed under 49 CFR 1180.2(d)(7). If it 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34055 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Robert T. Opal, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 11, 2001.

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

Vernon A. Williams,
Secretary.

[FR Doc. 01-15321 Filed 6-15-01; 8:45 am]

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UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

Notice of Availability for the Pioneer Irrigation Diversion Final Environmental Assessment and Finding of No Significant Impact

AGENCY: Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission).

ACTION: Notice of Availability.

¹ On June 6, 2001, UP and BNSF filed a petition for exemption in STB Finance Docket No. 34055 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein UP and BNSF request that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on June 22, 2001. That petition will be addressed by the Board in a separate decision.

SUMMARY: The Duchesne River in Duchesne County, Utah, provides both irrigation water and quality sport and native non-sport fisheries. However, some diversion structures impact fish habitat or inhibit fish passage and delivery of instream flows. The Mitigation Commission committed to work with Central Utah Water Conservancy District, Duchesne County Water Conservancy District and other local water users to modify or replace selected diversion structures on the Duchesne River above the confluence with Strawberry River that are causing the greatest problem for fish and wildlife resources.

Diversion structures were evaluated based on their potential adverse impacts on fish and wildlife resources. Diversions to be repaired or replaced were prioritized in an order most beneficial to fish and wildlife. The Mitigation Commission selected Pioneer Canal Diversion as one of the first diversions for modification or replacement.

Two alternatives were fully evaluated in the environmental assessment (EA): The "Proposed Action," which is to reconstruct the Pioneer Diversion, and "No Action." However, while only two alternatives were fully evaluated in the EA, other approaches were considered in developing the Proposed Action.

Proposed Action elements include: Realign about 1,000 feet of existing channel into a more stable pattern as it approaches and passes the diversion location; construct a new diversion, to include concrete wingwalls, fish passage notch, two flush bottom gates, and de-sanding structure; install rock weirs to increase downstream bed elevation for fish passage through the fish passage notch; remove and dispose of old diversion works; and, cooperate with U.S. Fish and Wildlife Service by contributing toward completion of an agency and public review draft status review report of the Ute ladies'-tresses orchid.

Two issues were raised regarding the proposed action during public and agency scoping for the EA: Potential for entrainment of fish into the Pioneer Canal and potential for effects on Ute ladies'-tresses (ULT) a threatened plant species.

The Mitigation Commission conducted field sampling in July 1999 to assess occurrence of fish in the Pioneer Canal. Based on sampling results, there does not appear to be a significant loss of fish into the canal system. Also, because the proposed action is designed to avoid most nearby ULT plants and suitable habitat, and because of the Mitigation Commission's