

Pipeline Safety (OPS), intends to issue an Advisory Bulletin to begin collecting annual drug and alcohol testing data for contractor employees performing covered functions in the pipeline industry. The collection of contractor testing data is necessary for the calculation of the minimum annual percent rate for random drug testing, which is based on the reported positive rate for the entire industry. No regulatory change is necessary because the current rule already requires operators to report testing data for covered employees to OPS. The Advisory Bulletin will end the deferment period addressed in the preamble to the current rule for reporting contractor data and suggest a method for reporting the data that minimizes the problems associated with duplication. This notice proposes a method for reporting contractor data, seeks public comment on the method, and encourages suggestions for alternative approaches for reporting contractor testing data.

**DATES:** Comments must be received by June 6, 2005.

**ADDRESSES:** You must identify docket number RSPA-04-19856. Comments may either be mailed to U.S. Department of Transportation, Dockets Facility, Plaza 401, 400 7th Street, SW., Washington, DC 20590 or submitted electronically at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Sheila Wright, Program Analyst, PHMSA, OPS at (202) 366-4554, or by e-mail, [sheila.wright@dot.gov](mailto:sheila.wright@dot.gov).

**SUPPLEMENTARY INFORMATION:**

### Background

Under 49 CFR Part 199, each operator having more than 50 covered employees must submit an annual Management Information System (MIS) report to OPS of its drug and alcohol testing results for covered employees by March 15th of each year for the prior calendar year. Operators with 50 or less covered employees may be required to submit annual MIS reports if notified by OPS in writing. A covered employee is a person employed by the operator, a contractor engaged by the operator, or a person employed by such a contractor, who performs operations, maintenance, or emergency-response functions regulated by 49 CFR parts 192, 193, or 195.

In the final rule, 58 FR 68258, Dec. 23, 1993, OPS concluded that submission of contractor testing data by operators could result in duplicative reporting and inaccurate data. OPS noted that inaccuracies could affect the positive rate for the entire industry, thereby affecting the minimum annual percent

rate for random drug testing. Accordingly, OPS deferred collecting contractor testing data, but stated that operators must continue to maintain the records required by 49 CFR Part 199, and ensure their contractors maintain the same. OPS also stated that it would re-evaluate the collection of contractor testing data and develop a method of collecting to avoid the problem of duplication.

During subsequent meetings of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee, OPS discussed its intent to begin collecting contractor testing data. OPS pointed out that it plans to begin collecting this data in the 2006 reporting period, and begin any necessary enforcement in 2007. Comments at the meetings were supportive of the initiative to collect contractor data. Commenters suggested that it would be pragmatic for contractors to report their testing data directly to OPS. The transcript of the most recent public meeting is available in the docket (<http://dms.dot.gov>) under docket number RSPA-04-19856.

OPS does not directly regulate contractors with respect to drug and alcohol testing, but places the responsibility on operators to ensure all covered employees are tested and that the testing results are submitted annually to OPS. Accordingly, pipeline operators monitor contractor compliance with drug and alcohol testing requirements as required by 49 CFR part 199. Operators use a variety of methods to monitor covered contractor employees, such as testing of contract employees, requiring contractors to have their own testing programs, or working with contractors that belong to drug testing consortium groups.

Collecting contractor testing data is essential for analyzing OPS's approach to detecting and deterring use of controlled substances. The information is also necessary to calculate the minimum annual percent rate for random drug testing, which is based on the reported positive rate for the entire industry. Collecting this data will not require a regulatory change because 49 CFR part 199 requires operators to report testing data for all covered employees, which includes contractors. The preamble to the current rule merely deferred submission of the data until the development of a methodology. OPS intends to issue an Advisory Bulletin that will end the deferment period noted in the preamble to the final rule.

### Proposed Method

Commenters to the original final rule and at the public meeting indicated that submission of contractor testing data should be done by contractors themselves, not by pipeline operators. Based on these suggestions, OPS proposes in lieu of operators submitting contractor data, the operators may opt to use contractors as their agents to report the data. If operators choose this method, OPS encourages them to consider adding language in their contractual agreements to that effect. To facilitate these submissions, OPS would create and assign unique identifiers for contractors to submit annual testing data on the DOT MIS data collection form by mail or by online submission.

### Request for Comments

OPS encourages comments on this proposed method in addition to suggestions for alternative methods of collecting contractor testing data. Specifically, OPS invites comments on the validity of the method being proposed and ways to avoid duplication and enhance quality. Following the review of timely comments, OPS will issue an Advisory Bulletin notifying operators of the selected method to begin reporting contractor testing data in calendar year 2006.

Issued in Washington, DC, on April 15, 2005.

**Theodore L. Willke,**  
*Deputy Associate Administrator for Pipeline Safety.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34684]

### Mississippi Southern Railroad, Inc.— Lease and Operation Exemption—The Kansas City Southern Railway Company

Mississippi Southern Railroad, Inc. (MSRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease, from The Kansas City Southern Railway Company (KCS), and operate approximately 26.5 miles of rail line extending between milepost 133.0, near Bay Springs, MS, and milepost 159.5, near Newton, MS.

This transaction is related to STB Finance Docket No. 34683, *Watco Companies, Inc.—Continuance in Control Exemption—Mississippi Southern Railroad, Inc.*, wherein Watco Companies, Inc., has concurrently filed

a verified notice of exemption to continue in control of MSRR, upon its becoming a Class III rail carrier.

MSRR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and states that such revenues will not exceed \$5 million annually. The transaction was scheduled to be consummated on or shortly after April 5, 2005.

If the verified 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34684, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: April 13, 2005.

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

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 05-7881 Filed 4-20-05; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

[STB Finance Docket No. 34683]

**Watco Companies, Inc.—Continuance in Control Exemption—Mississippi Southern Railroad, Inc.**

Watco Companies, Inc. (Watco), has filed a verified notice of exemption to continue in control of the Mississippi Southern Railroad, Inc. (MSRR), upon MSRR's becoming a Class III rail carrier.<sup>1</sup>

The transaction was scheduled to be consummated on or shortly after April 5, 2005.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34684, *Mississippi Southern Railroad, Inc.—Lease and Operation Exemption—The Kansas City Southern Railway Company*. In that proceeding, MSRR seeks to acquire by lease from The Kansas City Southern Railway Company and operate approximately 26.5 miles of rail line extending between milepost 133.0, near Bay Springs, MS, and milepost 159.5, near Newton, MS.

Watco, a Kansas corporation, is a noncarrier that currently controls 11 Class III rail carriers: South Kansas and Oklahoma Railroad Company (SKO), Palouse River & Coulee City Railroad, Inc. (PRCC), Timber Rock Railroad, Inc. (TIBR), Stillwater Central Railroad (SLWC), Eastern Idaho Railroad, Inc. (EIRR), Kansas & Oklahoma Railroad, Inc. (K&O), Pennsylvania Southwestern Railroad, Inc. (PSWR), Great Northwest Railroad, Inc. (GNR), Kaw River Railroad, Inc. (KRR), Mission Mountain Railroad, Inc. (MMT), and Appalachian & Ohio Railroad, Inc. (AO).

Applicant states that: (1) The rail lines operated by SKO, PRCC, TIBR, SLWC, EIRR, K&O, PSWR, GNR, KRR, MMT, and AO do not connect with the rail line being leased by MSRR; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail line being acquired by MSRR with any railroad in the Watco corporate family; and (3) neither MSRR nor any of the carriers controlled by Watco are Class I carriers. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2). The purpose of the transaction is to reduce overhead expenses, coordinate billing, maintenance, mechanical and personnel policies and practices of applicant's rail carrier subsidiaries and thereby improve the overall efficiency of rail service provided by the 12 railroads.

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 sections 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 verified 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34683, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: April 13, 2005.

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

**Vernon A. Williams,**  
*Secretary.*

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**DEPARTMENT OF VETERANS AFFAIRS**

**Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board; Notice of Meetings**

The Department of Veterans Affairs gives notice under Public Law 92-463 (Federally Advisory Committee Act) that the subcommittees of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board will meet from 8 a.m. to 5 p.m. as indicated below:

Subcommittee for	Date(s)	Location
Nephrology .....	May 16, 2005 .....	One Washington Circle.
Respiration .....	May 16-27, 2005 .....	Holiday Inn on the Hill.
Immunology—B .....	May 19, 2005 .....	The Churchill Hotel.
General Medical Science .....	May 23, 2005 .....	Hotel Madera.
Aging and Clinical Geriatrics .....	May 25, 2005 .....	Hotel Lombardy.
Neurobiology—A .....	May 26-27, 2005 .....	Hotel Rouge.

<sup>1</sup> Watco owns 100% of the issued and outstanding stock of MSRR.