

S.P No.	S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
<b>DENIED</b>				
8006-M .....	Request by JA-RU, Inc., Jacksonville, FL, February 25, 2009. To modify the special permit to authorize the transportation in commerce of certain toy caps by JaRu customers between their distribution centers and their retail stores without meeting the marking and packaging requirements.			
14742-N .....	Request by Strong Environmental, Inc., Norcross, GA, October 01, 2008. To authorize the manufacture, marking, sale and use of a UN standard 4G fiberboard box for use as the outer packaging for lab pack applications in accordance with § 173.12(b).			
14774-N .....	Request by Mercury Marine, Fond du Lac, WI, January 13, 2009. To authorize the transportation in commerce of internal combustion engines that contain small amounts of hazardous materials residue by cargo vessel.			
14730-N .....	Request by ITW Military Products, Waterbury, CT, August 12, 2008.			
11827-M .....	.....	NRS Logistics, White Plains, NY.	49 CFR 180.605(c)(1); 180.352(b)(3).	To modify the special permit to authorize rail cargo as an approved transportation.
14729-N .....	.....	Veolia ES Technical Solutions, L.L.C., Flanders, NJ.	49 CFR 172.102(c) Special Provision 36.	To authorize the transportation in commerce of certain waste medicines in packagings that exceed the maximum authorized net quantity as required by Special Provision 36 when transported by motor vehicle. (mode 1)
14738-N .....	.....	Bridgeview Aerosol, LLC, Bridgeview, IL.	49 CFR 171.8 .....	To authorize the transportation in commerce of pure compressed gas as an 'aerosol.' (mode 1)
14775-N .....	.....	Source Production & Equipment Co., Inc., St. Rose, LA.	49 CFR 173.416 .....	To authorize the continued transportation in commerce of one 2OWC packaging containing radioactive material after October 1, 2008. (mode 1)
14804-N .....	.....	Cordstrap USA, Inc., Racine, WI.	49 CFR 174.55(a) .....	To authorize the use of a corded polyester lashing securement system for blocking and bracing hazardous materials transported by rail. (mode 2)
EE 14783-N	.....	New York State Department of Environmental Conservation, Albany, NY.	49 CFR 173.240, 173.241.	To authorize the transportation in commerce of PCB capacitors in non-DOT specification bulk containers. (mode 1)

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 BILLING CODE 4910-60-M

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

[STB Finance Docket No. 35219]

**Union Pacific Railroad Company—  
 Petition for Declaratory Order**

**AGENCY:** Surface Transportation Board.  
**ACTION:** Institution of declaratory order proceeding; request for comments.

**SUMMARY:** In response to a petition filed by Union Pacific Railroad Company (UP) on February 18, 2009, the Board is instituting a declaratory order proceeding under 49 U.S.C. 721 and 5 U.S.C. 554(e).<sup>1</sup> UP requests that the Board determine the extent of the common carrier obligation to quote rates for new, lengthy movements of chlorine, a toxic inhalation hazard (TIH), where the transportation would require movement through High Threat Urban Areas (HTUAs)<sup>2</sup> and other large communities to destinations where,

<sup>1</sup> By a separate decision served on March 10, 2009, the Board issued a protective order in this proceeding.  
<sup>2</sup> As UP refers to them, HTUAs are defined by the Transportation Security Administration (TSA) at 49 CFR 1580.3.

according to UP, an ample supply of chlorine is available from nearby sources. The Board seeks public comment on this matter.

**DATES:** Replies to UP's petition and comments are due by March 31, 2009. UP's rebuttal and reply to comments are due by April 20, 2009.

**ADDRESSES:** Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's website, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies, referring to STB Finance Docket No. 35219, to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, send one copy of comments to UP's representative, Tonya W. Conley, Union Pacific Railroad Company, 1400 Douglas Street, Omaha, NE 68179. Copies of written comments will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site.

**FOR FURTHER INFORMATION CONTACT:** Timothy Strafford, (202) 245-0356. [Assistance for the hearing impaired is available through the Federal

Information Relay Service (FIRS) at: 1-800-877-8339].

**SUPPLEMENTARY INFORMATION:** UP, as a rail common carrier, has an obligation under 49 U.S.C. 11101(b) to provide common carrier rates and other service terms upon reasonable request. UP's petition for declaratory order seeks to address a recent request from a customer for common carriage rates for the transportation of chlorine from Utah to destinations in or near Houston and Dallas, TX, and Allemania and Plaquemine, LA. These movements would average 1,900 miles in distance and travel through two HTUAs and several other large cities. UP declined to quote rates for these movements, pending the outcome of this proceeding, because, according to UP, the risk of potential exposure from long distance shipments of chlorine is unnecessary where all four of these destinations are located less than 300 miles from ample alternate chlorine supplies. UP asserts that the facilities in both Allemania and Plaquemine have alternate chlorine sources accessible by rail within 70 miles, none of which will route through any HTUAs, and that the facilities in Houston and Dallas have alternative chlorine sources within 300 miles, with potential sources located in the Houston metropolitan area. UP also asserts that other governmental agencies have

requested that it find ways to reduce TIH shipments in order to reduce TIH transportation risks.

On July 22, 2008, the Board held a public hearing in STB Ex Parte 677 (Sub-No. 1) to examine issues related to the common carrier obligation of railroads with respect to the transportation of hazardous materials. Comments were filed in that proceeding by the railroads (including UP) and TIH shippers. Many of the comments touched on the issues that are likely to arise in this proceeding. Thus, the parties that participated in STB Ex Parte 677 (Sub-No. 1) may have an interest in the issues raised in this proceeding.

Under 5 U.S.C. 554(e), the Board has discretionary authority to issue a declaratory order to terminate a controversy or remove uncertainty. A declaratory order proceeding is thus instituted in this proceeding to invite broad public comment. Any person seeking to comment on UP's petition may submit written comments to the Board regarding the extent of UP's common carrier obligation to quote rates for new, lengthy movements of chlorine, where the transportation would require movement through HTUAs and other large communities to destinations where an ample supply of chlorine may be available from nearby sources.

In its petition, UP urges the Board to consult with TSA and the Federal Railroad Administration (FRA) because UP suggests that a decision by the Board in this proceeding could conflict with TSA and FRA policies. Because the Board's consideration of the issues raised by UP's petition may relate to statutes and regulations governed by TSA, FRA, and other agencies, any agency with an interest in the outcome of these issues is encouraged to comment.

Board decisions, notices, and filings in this and other Board proceedings are available on our Web site at <http://www.stb.dot.gov>.

Decided: March 10, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9-5456 Filed 3-12-09; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35224]

#### Elgin, Joliet & Eastern Railway Company—Intra-Corporate Family Lease Exemption—Illinois Central Railroad Company

Elgin, Joliet & Eastern Railway Company (EJ&E), a Class II rail common carrier, filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for an intra-corporate family lease of a line of railroad of Illinois Central Railroad Company (IC), a Class I rail common carrier, in Will County, IL.<sup>1</sup> Pursuant to the lease agreement entered into by EJ&E and IC, EJ&E will lease from IC a line of rail from milepost 41.0 to milepost 39.43, near Plainfield, IL, a distance of approximately 1.57 miles. IC will retain its right to use the line to serve any future industries on the line and to access IC's other rail operations in the Joliet, IL area.

The transaction is scheduled to be consummated on or shortly after March 29, 2009, the effective date of the exemption.

The purpose of the transaction is to allow EJ&E to store and spot railroad cars delivered to a local power company and thereby increase operating efficiency.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). EJ&E states that the transaction will not result in adverse changes in service levels, significant operational changes, or any change in the competitive balance between IC/EJ&E and carriers outside the CN corporate family.

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. As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth 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).

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

<sup>1</sup> EJ&E and IC are wholly owned indirect subsidiaries of Canadian National Railway Corporation (CN).

automatically stay the transaction. Petitions for stay must be filed no later than March 20, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35224, must be filed with the Surface Transportation Board, 395 E Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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

Decided: March 4, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9-5129 Filed 3-12-09; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35223]

#### Illinois Central Railroad Company—Trackage Rights Exemption—Wisconsin Central Ltd.

Pursuant to a written trackage rights agreement entered into between Illinois Central Railroad Company (IC) and Wisconsin Central Ltd. (WC), IC has agreed to grant non-exclusive overhead and interchange trackage rights to WC over IC's line of railroad between milepost 31.6 at University Park, IL (Stuenkel Road), and milepost 20.1 at Harvey, IL (South Junction), a distance of approximately 11.5 miles (line).<sup>1</sup>

The transaction may be consummated on or after March 28, 2009, the effective date of the exemption (30 days after the exemption was filed).

The purpose of the proposed transaction is to enable WC to handle efficiently overhead and interchange freight movements between University Park and Harvey. Under the trackage rights agreement, WC shall not perform any local freight service on the line. WC does not indicate that the transaction imposes interchange commitments. See 49 CFR 1180.4(g)(4).

As a condition to this exemption, any employees affected by the acquisition of

<sup>1</sup> A redacted version of the trackage rights agreement between WC and IC was filed with the notice of exemption. The full version was concurrently filed under seal along with a motion for protective order, which will be addressed in a separate decision.