

appreciates these railroads' efforts for what they believed was going above and beyond what is considered a reasonable sample size. However, FRA makes clear that for a railroad to truly test 100 percent of its windows, the railroad would need to test all of the emergency windows in each of its cars at least once during a 184-day period. FRA also clarifies that simply testing 100 percent of the emergency window exits does not necessarily ensure that the windows will operate as intended when needed in an emergency situation. As discussed in this document, it is how a railroad characterizes the results of those tests and what a railroad does with the results of those tests that will help ensure the windows will operate as intended.

Choosing the number of windows to test (whether it is 20 percent or 100 percent) is only the first step. Second, if testing fewer than 100 percent of the windows in a 184-day period, railroads must also ensure the sample is representative of the various window types in its fleet or fleets.<sup>6</sup> Third, even if a railroad is testing 100 percent of its emergency window exits, it must have a program in place that requires monitoring of the tests to determine whether the test results demonstrate a 95-percent confidence level that all emergency window exits operate as intended. Although EO 20, Notice No. 1, would have required testing all window exits on a specific series or type of car if one such car had a defective window exit, the amended order, Notice No. 2, permitted the use of commonly accepted sampling techniques to determine how many additional windows to test. See 61 FR 8703, 8705. In general, these principles require that the greater the percentage of windows initially found defective, the greater the percentage of windows the railroad will have to test.

FRA expects all railroads to: (1) Conduct periodic reviews of records of window testing using an acceptable attribute sampling method to determine whether they are achieving a 95-percent confidence level that no defective units remain;<sup>7</sup> (2) assess the probable cause of any window test failures; and (3) address any such failures. In setting up their testing programs, railroads must

<sup>6</sup> Railroads can easily set up a simple spreadsheet (using off-the-shelf software) to generate a random sample that includes windows representing all of the window types in a railroad's fleet or fleets.

<sup>7</sup> Although the goal is to have no defective units remaining in a railroad's emergency window population, FRA recognizes that because the railroad is performing a statistical sample that achieves a 95-percent confidence level, there will always be a possibility that some defective units remain.

set the confidence level of the sample at 95 percent or more and set the defect (failure) rate at less than 5 percent.<sup>8</sup> To perform their analyses, railroads must review the test results at the end of a sampling period (at a minimum) and take further action if the testing reveals that 5 percent or more of the windows in the sample are defective. When assessing the probable cause(s) of any window test failures, railroads should consider whether the failures are a result of design issues, useful life issues, or other systemic issues common to a particular window design or windows in service of a similar age. If the test failure appears to be due to a systemic issue, then the potential exists for the failure to repeatedly present itself. In such cases, FRA strongly urges that the railroad consider replacing all the emergency windows or window components of like design or similar service age, as applicable.

As stated in the E-Prep final rule, a railroad must repair any window found to be broken, disabled, or otherwise incapable of performing its intended safety function before the railroad may return the car to passenger service. See 63 FR 24669. This remains true even when the number of windows that failed is below the 5-percent defect rate threshold. Railroads should also document the remedial action(s) planned or taken to address the window test failures, and create a timetable for window inspection and replacement for the window type or car series to remedy the problem in the most expedient manner.

### III. Maintenance of Emergency Window Exits

As noted above, FRA expects railroads to periodically perform visual inspections to verify no emergency window exit has a broken release mechanism or other overt indication that would render it unable to function in an emergency. Ideally, railroads would incorporate these visual inspections as part of the interior calendar day mechanical inspections of passenger cars, since they already need to inspect the window markings daily to ensure that the safety-related signage is in place and legible. See 49 CFR 238.305(c)(7). As demonstrated by the 1996 accident that led to EO 20 (in which some of the window gaskets could not readily be pulled out due to lack of lubrication and maintenance), it is important that maintenance, including lubrication or scheduled replacement of degraded parts or

<sup>8</sup> These numbers are not intended always to add up to 100.

mechanisms, be performed using standard industry practice and/or manufacturer recommendations to ensure that window exits will operate as intended during an emergency. This will also help to prevent a situation where a passenger in an emergency would panic or be delayed by trying to determine how to remove a window after the pull handle breaks off or a piece of the gasket tears off, for example.

Finally, FRA discovered in its investigations that some employees were installing the window gaskets with a sharp tool (such as a screwdriver), which may have damaged the gaskets and may explain why, when pulled, the gaskets were not coming out in one piece as designed. Therefore, to ensure that railroads perform proper maintenance, the railroads should ensure that employees have and use proper tools when installing emergency windows to avoid damaging the window gaskets.

As noted previously, FRA is issuing this document to provide basic information and guidance to railroads operating passenger train service to ensure that they understand the existing regulatory requirements regarding the ITM of emergency window exits. FRA believes that compliance with the existing emergency window exit regulatory requirements will help ensure the safety of the Nation's railroad employees, passengers, and the general public. FRA may take other appropriate actions it deems necessary to ensure the highest level of safety, including pursuing other corrective measures under its rail safety authority.

Issued in Washington, DC, on November 17, 2015.

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety  
Chief Safety Officer.*

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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

#### Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held from 2:00 p.m. to 4 p.m. (EDT) on Tuesday, December 15, 2015, via conference call at the SLSDC's Policy Headquarters, 55 M Street SE., Suite 930, Washington, DC 20003.

The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Quarterly Report; Old and New Business; Closing Discussion; Adjournment.

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than Thursday, December 10, 2015, Carrie Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, NY 13662; 315-764-3231.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on November 17, 2015.

**Carrie Lavigne,**  
Chief Counsel.

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. AB 33 (Sub-No. 323X)]

#### **Union Pacific Railroad Company— Abandonment of Freight Easement—in Adams County, Colo.**

On November 2, 2015, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an 8.57-mile freight rail operating easement over a portion of the Boulder Industrial Lead (Lead) extending from milepost 0.70 near Commerce City, Colo., to milepost 9.27 near Eastlake, Colo. (the Line), in Adams County, Colo. The Line traverses U.S. Postal Service Zip Codes 80022, 80640, 80229, 80233, and 80241.

According to UP, in June 2009, it sold the entire 32.97-mile Lead, right-of-way, trackage, and structures, including all bridges, from milepost 0.20 near Commerce City to milepost 33.17 near Valmont, to the Denver Regional Transportation District (RTD), a political subdivision of the State of Colorado. *Reg'l Transp. Dist.—Acquis.*

*Exemption—Union Pac. R.R. in Adams, Boulder, Broomfield, & Weld, Colo.*, FD 35252 (STB served June 29, 2010). UP retained an exclusive, perpetual freight easement over the entire Lead. UP states that following abandonment, the Line would continue to be owned by RTD

and would be rebuilt for inclusion in RTD's integrated mass transit system known as FasTracks. UP points out that this is the same transit use as is planned for the western portion of the Lead, which was the subject matter of *Union Pacific Railroad Co.—Abandonment Exemption—in Adams, Weld, & Boulder Counties, Colo.*, Docket No. AB 33 (Sub-No. 307X) (STB served Oct. 23, 2012). Following consummation of the proposed abandonment, UP would retain its freight easement from milepost 0.20 to milepost 0.70 of the Lead.

According to UP, only one customer located on the Line, Atlas Roofing Corporation (Atlas), has moved traffic over the Line within the past two years. The last Atlas shipment moved over the Line in February 2015. UP states that RTD, Atlas, and Leroy Industries LLC (Leroy) (the owner of the facility Atlas leases for its operations) have entered into an agreement covering alternative transportation arrangements for service off the Line. UP states that it does not anticipate any need for future rail service on the Line to Atlas, Leroy, or any other potential customer and that the proposed abandonment will have no adverse effect on any shippers. UP notes that, in the agreement, Atlas and Leroy state that they do not object to and are willing to support the proposed abandonment.

In addition to an exemption from the provisions of 49 U.S.C. 10903, UP seeks an exemption from 49 U.S.C. 10904 (offer of financial assistance (OFA) procedures) and 49 U.S.C. 10905 (public use conditions) for reasons of overriding public need. In support, UP states that the right-of-way is needed for a valid public purpose by RTD for public passenger transportation purposes, and there is no other overriding public need for continued freight rail service on the Line.<sup>1</sup> UP adds that the area the Lead served has shifted away from rail-oriented industries, and as a consequence, no new shippers are expected to locate on the Line. The request for exemption from § 10904 and § 10905 will be addressed in the final decision.

According to UP, the Line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham &*

<sup>1</sup> According to UP, a transit line will use the former right-of-way from milepost 1.15 to milepost 9.27.

*Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 19, 2016.

Any OFA under 49 CFR 1152.27(b)(2) will be due by February 29, 2016, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a \$1,600 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than December 10, 2015. Each trail use request must be accompanied by a \$300 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 33 (Sub-No. 323X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001; and (2) Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606. Replies to the petition are due on or before December 10, 2015.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1-800-877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any other agencies or persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: November 17, 2015.