

mail between any point or points in Germany and any point or points in the United States; and between any point or points in the United States and any point or points in a third country or countries, provided that, except with cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes air service to Germany for the purpose of carrying local traffic between Germany and the United States; and other charter between third countries and the United States. ACM AIR CHARTER requests that its application be decided on the basis of written submissions and the Streamlined Licensing Procedures Notice.

Docket Number: OST-2006-24223.

Date Filed: March 16, 2006.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 6, 2006.

Description: Application of Partner Aviation Enterprises d/b/a Empire Airways requesting authority to engage in scheduled passenger operations as a commuter air carrier and proposes to operate casino charter flights between Republic Airport in Farmingdale, NY and Atlantic City International Airport in Atlantic City, NJ, using BAE Jetstream 31 type aircraft.

Renee V. Wright,

*Program Manager, Docket Operations,
Federal Register Liaison.*

[FR Doc. E6-4839 Filed 4-3-06; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted by Mr. Brad Lamb, Executive Director, North Carolina Consumers Council (NCCC) to NHTSA's Office of Defects Investigation (ODI). The petition was received on December 2, 2005. The petitioner requests, pursuant to 49 U.S.C. 30162, that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety with respect to the performance of the head lamp assemblies on model year (MY) 2004 Pontiac Grand Prix vehicles. After a review of the petition and other information, NHTSA has

concluded that further expenditure of the agency's resources on the issue raised by the petition does not appear to be warranted. The agency has accordingly denied the petition. The petition is herein after identified as DP05-010.

FOR FURTHER INFORMATION CONTACT: Mr. Leamon H. Strickland, Vehicle Integrity Division, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5201.

SUPPLEMENTARY INFORMATION: On December 2, 2005, ODI received a petition submitted by Mr. Brad Lamb, Executive Director of the North Carolina Consumers Council, requesting an investigation of an alleged defect evidenced by shake or bounce of the head lamps installed on MY 2004 Pontiac Grand Prix vehicles (subject vehicles), a condition that may potentially distract the operators of other motor vehicles being approached or followed by the subject vehicles. The petition alleges that this condition may be exhibited when the subject vehicles are being driven on smooth as well as rough road surfaces. The petition states that as a result of this problem, the manufacturer redesigned the head lamp bracket and issued a procedure to dealers for retrofit of the revised bracket on early models of the subject vehicles to correct this problem. The petition also identifies and lists 33 non-duplicative reports regarding the alleged defect in the subject vehicles that are contained in the ODI consumer complaint database.

In October 2003, ODI discovered that its consumer letter database contained six consumer complaints regarding this matter, and initiated a routine screening review of the matter. The review included road tests of six randomly selected subject vehicles in order to qualitatively assess the potential safety implications of the condition. The evaluation concluded that the problem appeared to be more apparent on those subject vehicle models equipped with the "sport" suspension system, designed with more rigidity than the standard suspension system. The review also found that the condition was more noticeable when the subject vehicles were driven on rough road surfaces. The details of this initial review were presented to and evaluated by a panel of ODI engineers and managers, who decided that the issue did not rise to the level of a potential safety-related matter that should be formally investigated.

The current petition prompted an additional and contemporary ODI review of the matter. ODI has confirmed

that its consumer complaint database now contains the 33 consumer complaints cited by the petition, plus an additional three complaints, *i.e.*, a total of 36 complaints. These complaints, however, contain no allegations or reports of accidents or compromise to control of the subject vehicles, or of compromise to driver control of other vehicles resulting from head lamp bounce or shake in the subject vehicles. It is noted, however, that in one instance a driver being followed by a subject vehicle reported thinking that he was being signaled, and stopped alongside the roadway with no additional consequence. ODI estimates that approximately 180,000 of the subject vehicles were sold for use in the United States.

ODI has also reviewed Early Warning Reports submitted by the manufacturer for any evidence of additional reports of this problem through field reports or other documentation generated by the manufacturer's evaluations. Some relevant product evaluation reports were identified but in each case the concern was reported to be limited to operation of the subject vehicles on rough road surfaces, and none of these reports noted compromise to safe operation to the subject vehicles or to any other vehicles.

On November 23, 2004, the manufacturer issued a Technical Service Bulletin (TSB) on this condition to authorized dealers of the subject vehicles. The TSB prescribed a procedure for the installation of revised bracket and associated hardware to improve securement of the headlamp assembly to the vehicle.

The subject MY 2004 vehicles were first sold to the public beginning approximately in September 2003, and carried a standard 36-month/36,000-mile warranty. All of the subject vehicles are still within the 36 month limit of the original warranty, and that coverage continues unless the mileage limits have been exceeded. Therefore, any vehicle that developed the headlight shake condition has been eligible for repair at no cost to the owner by simply returning it to an authorized dealer; this eligibility is still in effect for those vehicles for which the mileage limits have not been surpassed. The repairs covered under the provisions of the warranty would typically involve installation of the revised headlamp bracket using the procedures outlined in the TSB issued in November 2004.

ODI's review disclosed that the first of the 36 consumer complaints was dated October 2003, and that the vehicle involved has been eligible for repair under the warranty provisions for

approximately 15 months. Unless the mileage limit of warranty coverage has been exceeded, that vehicle is still eligible for warranty repair. ODI further noted that 34 of the 36 consumer complaints were submitted prior to issuance of the manufacturer's TSB. Only two consumer complaints have been submitted since the TSB was issued, and the most recent was dated July 2005. It is clear that consumer complaints regarding the alleged defect have exhibited a declining trend.

ODI concludes that no evidence has been identified to suggest that headlamp shake in the subject vehicles constitutes significantly more than a nuisance, and that no potential safety-related implications of this condition have been demonstrated.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of the alleged defect as defined by the petitioner at the conclusion of the investigation requested in the petition. Therefore, and in view of the need to prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E6-4815 Filed 4-3-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 233X)]

Union Pacific Railroad Company— Abandonment Exemption—in Woodson County, KS

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR part 1152, Subpart F—*Exempt Abandonments* to abandon its Durand Industrial Lead, a 1.55-mile line of railroad, between milepost 385.45 and milepost 387.00, near Yates Center in Woodson County, KS. The line traverses United States Postal Service Zip Code 66783.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line that would have to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S.

District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 28, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 10, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 18, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 3, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each OFA must be accompanied by the filing fee, which is currently set at \$1,200. See 49 CFR 1002.2(f)(25).

available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by March 29, 2007, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: March 17, 2006.

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

Vernon A. Williams,
Secretary.

[FR Doc. E6-4804 Filed 4-3-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 175X)]

Union Pacific Railroad Company— Abandonment Exemption—in Hamilton County, IA

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its Ellsworth Industrial Lead, a 3.2-mile line of railroad, between milepost 0.0, near Jewell, and milepost 3.2, at Ellsworth in Hamilton County, IA. The line traverses United States Postal Service Zip Codes 50075 and 50130.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line that would have to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49