

- *Type of Request*: Extension of a Currently Approved Collection.
- *Originating Office*: Directorate of Defense Trade Controls (DDTC).
- *Form Number*: DS-4294.
- *Respondents*: Respondents are U.S. and foreign persons who wish to engage in International Traffic in Arms Regulations (ITAR)-controlled brokering of defense articles and defense services.
- *Estimated Number of Respondents*: 170.
- *Estimated Number of Responses*: 170.
- *Average Time per Response*: 2 hours.
- *Total Estimated Burden Time*: 340 hours.
- *Frequency*: On occasion.
- *Obligation to Respond*: Required to Obtain Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

In accordance with part 129 of the International Traffic in Arms Regulations (ITAR), U.S. and foreign persons who wish to engage in ITAR-controlled brokering activity of defense articles and defense services must first register with DDTC. Brokers must then submit a written request for approval to DDTC and must receive DDTC's consent prior to engaging in such activities unless exempted. This information is currently used in the review of the brokering request submitted for approval and to ensure compliance with defense trade statutes and regulations. It is also used to monitor and control the transfer of sensitive U.S. technology.

Methodology

Currently submissions are made via hardcopy documentation. Applicants

are referred to ITAR part 129 for guidance on information to submit regarding proposed brokering activity. Upon implementation of DDTC's new case management system, the Defense Export Control and Compliance System (DECCS), a DS-4294 may be submitted electronically.

Anthony M. Dearth,

Chief of Staff, Directorate of Defense Trade Controls, U.S. Department of State.

[FR Doc. 2018-22447 Filed 10-15-18; 8:45 am]

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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36222]

BNSF Railway Company—Lease Exemption—Union Pacific Railroad Company

On September 6, 2018, BNSF Railway Company (BNSF) filed a petition under 49 U.S.C. 10502 seeking exemption from the prior approval requirements under 49 U.S.C. 11323-25 for BNSF to lease from Union Pacific Railroad Company (UP) an approximately 13.62-mile rail line (Line) in Pueblo County, Colo., between milepost 591.66 at NA Junction and milepost 605.28 at Avondale (Nyberg).

BNSF explains that, its predecessor, The Atchison, Topeka and Santa Fe Railway Company (ATSF), and UP's predecessor, Missouri Pacific Railroad Company (Missouri Pacific), entered into an agreement in 1967 relating to ownership and operation, maintenance, and joint use of ATSF's and Missouri Pacific's railroad tracks and facilities between NA Junction and Pueblo, which includes the Line. Pursuant to this agreement, BNSF and UP have jointly operated over the Line for the last 50 years, and UP has been responsible for maintaining the Line. BNSF has been the primary user of the Line and currently dispatches it.

BNSF and UP have recently entered into a lease agreement that would modify certain roles and responsibilities set forth in the 1967 agreement. BNSF would "non-exclusively lease the Line in order [] to maintain, construct, repair and renew the Line's track and appurtenant structures and facilities." (Pet. 2.)¹ BNSF states that the lease would align track and signal

¹ BNSF's reference to "construction" is in connection with the planned repair and maintenance of the existing Line. See Pet. 1. Therefore, the Board does not construe that reference as involving any new line of railroad for which construction authority would be needed pursuant to 49 U.S.C. 10901, and this decision does not grant any such authority.

maintenance with BNSF's current dispatching responsibilities and is intended to streamline maintenance activity and improve planning processes in coordination with BNSF's maintenance of contiguous lines on either side of the Line. BNSF states that these changes would reduce the number and frequency of maintenance windows and outages, resulting in improved operations for customers along the route. According to BNSF, beyond this enhancement of operational efficiency, no other impacts to commercial or operational access to customers, either locally or in through service, would result from the transaction.²

BNSF asks for expedited consideration of its petition so that the exemption can become effective by November 1, 2018. BNSF explains that this would allow it to plan for and commence maintenance work necessary to remove slow orders and improve track conditions before winter weather makes maintenance difficult.

Discussion and Conclusions

Under 49 U.S.C. 11323(a)(2), prior Board approval is required for a rail carrier to lease the property of another rail carrier. Under 49 U.S.C. 10502, however, the Board must exempt a transaction or service from regulation when it finds that: (1) Regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power.

Detailed scrutiny of the proposed transaction through an application for review and approval under 49 U.S.C. 11323-25 is not necessary here to carry out the rail transportation policy. The proposed transaction would align track and signal maintenance with dispatching and further align maintenance of the Line with BNSF's maintenance activities on contiguous lines, which would result in improved operations along the route. As such, the proposed transaction would, among other things, promote a safe and efficient rail transportation system (49 U.S.C. 10101(3)), ensure continuation of a sound rail transportation system with effective competition among rail carriers (49 U.S.C. 10101(4)), foster sound economic conditions in transportation and ensure effective competition (49 U.S.C. 10101(5)), and encourage honest

² Pursuant to 49 CFR 1121.3(d), BNSF certifies that the lease does not contain a provision or agreement that may limit future interchange with a third-party connecting carrier.

and efficient management (49 U.S.C. 10101(9)). Further, an exemption from the application process would expedite regulatory action (49 U.S.C. 10101(2)). Other aspects of the rail transportation policy would not be adversely affected.

Regulation of the proposed transaction is also not necessary to protect shippers from the abuse of market power.³ Nothing in the record indicates that any shipper would lose an existing rail service option as a result of the proposed lease transaction. According to BNSF, the lease will not affect the routings available to customers on the Line or customers whose traffic is routed over the Line. The record indicates that the transaction would not result in any material change in UP's or BNSF's operations or commercial access to customers and that no customers would experience any degradation of, or competitive change in, rail service. Indeed, the lease transaction should benefit shippers by allowing BNSF and UP to move traffic more efficiently following improved maintenance. Moreover, no shippers or other parties have filed any objections to the proposed transaction.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect the interests of employees. Accordingly, as a condition to granting this exemption, the Board will impose the standard employee protective conditions in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

The proposed lease is exempt from both the environmental reporting requirements under 49 CFR 1105.6(c) and the historic reporting requirements under 49 CFR 1105.8(b).

As noted above, BNSF seeks an expedited effective date so that it can commence maintenance improvements as soon as possible to avoid complications from winter weather conditions. For that reason, the exemption will be effective October 31, 2018, and petitions to stay, petitions for reconsideration, and petitions to reopen will be due by October 24, 2018.

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323–25 BNSF's lease of the Line, subject to the employee protective conditions in

Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

2. Notice of the exemption will be published in the **Federal Register** on October 16, 2018.

3. The exemption will become effective on October 31, 2018.

4. Petitions to stay, petitions for reconsideration, and petitions to reopen must be filed by October 24, 2018.

Decided: October 10, 2018.

By the Board, Board Members Begeman and Miller.

Aretha Laws-Byrum,
Clearance Clerk.

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BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2018–0100; Notice No. 2018–17]

Hazardous Materials: Emergency Waiver No. 7

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of emergency waiver order.

SUMMARY: PHMSA is issuing an emergency waiver order to persons conducting operations under the direction of Environmental Protection Agency (EPA) Region 4 or United States Coast Guard (USCG) Seventh or Eighth Districts within the Hurricane Michael emergency area of Florida. The Waiver is granted to support the EPA and USCG in taking appropriate actions to prepare for, respond to, and recover from a threat to public health, welfare, or the environment caused by actual or potential oil and hazardous materials incidents resulting from Hurricane Michael. This Waiver Order is effective immediately and shall remain in effect for 30 days from the date of issuance.

FOR FURTHER INFORMATION CONTACT:

Adam Horsley, Deputy Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, telephone: (202) 366–4400.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of 49 U.S.C. 5103(c), the Administrator for PHMSA, hereby declares that an emergency exists that warrants issuance

of a Waiver of the Hazardous Materials Regulations (HMR, 49 CFR parts 171–180) to persons conducting operations under the direction of EPA Region 4 or USCG Seventh or Eighth Districts within the Hurricane Michael emergency area of Florida. The Waiver is granted to support the EPA and USCG in taking appropriate actions to prepare for, respond to, and recover from a threat to public health, welfare, or the environment caused by actual or potential oil and hazardous materials incidents resulting from Hurricane Michael.

On October 9, 2018, the President issued an Emergency Declaration for Hurricane Michael for 35 Florida counties (EM 3405). This Waiver Order covers all areas identified in the declaration, as amended. Pursuant to 49 U.S.C. 5103(c), PHMSA has authority delegated by the Secretary (49 CFR 1.97(b)(3)) to waive compliance with any part of the HMR provided that the grant of the waiver is: (1) In the public interest; (2) not inconsistent with the safety of transporting hazardous materials; and (3) necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

Given the continuing impacts caused by Hurricane Michael, PHMSA's Administrator has determined that regulatory relief is in the public interest and necessary to ensure the safe transportation in commerce of hazardous materials while the EPA and USCG execute their recovery and cleanup efforts in Florida. Specifically, PHMSA's Administrator finds that issuing this Waiver Order will allow the EPA and USCG to conduct their Emergency Support Function #10 response activities under the National Response Framework to safely remove, transport, and dispose of hazardous materials. By execution of this Waiver Order, persons conducting operations under the direction of EPA Region 4 or USCG Seventh or Eighth Districts within the Hurricane Michael emergency areas of Florida are authorized to offer and transport non-radioactive hazardous materials under alternative safety requirements imposed by EPA Region 4 or USCG Seventh or Eighth Districts when compliance with the HMR is not practicable. Under this Waiver Order, non-radioactive hazardous materials may be transported to staging areas within 50 miles of the point of origin. Further transportation of the hazardous materials from staging

³ Because the Board concludes that regulation is not needed to protect shippers from the abuse of market power, it is unnecessary to determine whether the transaction is limited in scope. See 49 U.S.C. 10502(a).