

Notice is also given that Lykes has been authorized to be a party to operating agreements under the Maritime Security Program (MSP) Contract Nos. MA/MSP-21 through MA/MSP-23. Section 656 of the Act provides that no contractor or related party shall receive MSP payments during a period when it participates in a noncontiguous trade without written permission. The SEA-LAND NAVIGATOR operates in the noncontiguous trade to Hawaii. Sea-Land made application under section 656 for the operation of the SEA-LAND NAVIGATOR among others. A Gilman subsidiary is the Owner Participant of the SEA-LAND NAVIGATOR. The section 656 aspects are being addressed in Docket MSP-002.

The application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest (within the meaning of section 805(a)) in Lykes' request and desiring to submit comments concerning the request must by 5:00 PM on April 16, 1997, file written comments in triplicate with the Secretary, Maritime Administration, together with petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petition for leave to intervene is received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such actions as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.805 (Operating-Differential Subsidy)).

Dated: April 7, 1997.

By order of the Maritime Administrator.

Joel C. Richard,
Secretary.

[FR Doc. 97-9205 Filed 4-8-97; 8:45 am]

BILLING CODE 9410-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96-110; Notice 2]

Cosco, Inc.; Mootness of Application for Decision of Inconsequential Noncompliance

On August 29, 1996, Cosco, Inc. (Cosco), filed an application with the agency for exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for noncompliance with the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 213 "Child Restraint Systems."

Notice of receipt of the application was published on October 29, 1996, and an opportunity afforded for comment (61 FR 55836). The comment closing date was November 29, 1996. The reader is referred to that notice for further information.

After the comment period closed, in a December 6, 1996, letter to the agency, Cosco made a request to withdraw its application for the following reasons:

Upon further review, we (Cosco) do not believe these booster seats (Cosco Grand Explorer-Model #02-424 OXF and 02-424 GDM) fall under the jurisdiction of this section (S5.2.3.2 of S5.2.3, Head Impact Protection). S5.2.3.1 specifies the child restraints systems which must meet the S5.2.3.2 criteria:

S5.2.3.1 Each child restraint system, other than a child harness, which is recommended under S5.5.2(f) or children whose masses are less than 10 kg, shall comply with S5.2.3.2.

The booster seats in question are recommended for 30 lbs. (13.6 kg) to 60 lbs. (27 kg), therefore, they are not recommended for children under 10 kg and the booster seats are not required to meet S5.2.3.2.

After review of Standard No. 213 and the facts of this case, the agency agrees with Cosco's interpretation of the applicable sections of the Standard. Therefore, Cosco's application is moot, and the agency is closing Docket No. 96-110 without making a decision on Cosco's application.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: April 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97-9054 Filed 4-8-97; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. PDA-15(R)]

Application by Association of Waste Hazardous Materials Transporters for a Preemption Determination as to Houston, Texas, Requirements on the Storage, Use, Dispensing and Handling of Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public Notice Reopening Comment Period.

SUMMARY: RSPA is reopening the comment period on the application by the Association of Waste Hazardous Materials Transporters (AWHMT) for an administrative determination that Federal hazardous material transportation law preempts certain provisions of the Fire Code of the City of Houston, Texas (Houston Fire Code), relating to the storage, use, dispensing, and handling of hazardous materials. In November 1996, the Houston City Council amended the Houston Fire Code, including provisions challenged in AWHMT's application. The comment period is being reopened to allow interested parties the opportunity to comment upon the amended requirements in the Houston Fire Code and the manner in which these requirements are presently being applied and enforced.

DATES: Comments received on or before May 27, 1997, and rebuttal comments received on or before July 8, 1997, will be considered before an administrative ruling is issued by RSPA's Associate Administrator for Hazardous Materials Safety. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and all comments received may be reviewed in the Dockets Unit, Research and Special Programs Administration, Room 8421, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590-0001 (Tel. No. 202-366-4453). Comments and rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number (PDA-15(R)). Three copies of each should be submitted. In addition, a copy of each comment and each rebuttal comment must also be sent to (1) Mr. Charles Dickhut, Chairman, Association of Waste Hazardous Materials Transporters, 2200 Mill Road, Alexandria, VA 22314, and (2) Mr. Gene

L. Locke, City Attorney, City of Houston Legal Department, P.O. Box 1562, Houston, TX 77251. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Messrs. Dickhut and Locke at the addresses specified in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001 (Tel. No. 202-366-4400).

SUPPLEMENTARY INFORMATION:

I. Background

On March 20, 1996, RSPA published in the **Federal Register**, and invited comments on, an application by AWHMT for an administrative determination that Federal hazardous material transportation law preempts certain provisions of the Houston Fire Code, as adopted May 15, 1995, in Ordinance No. 95-279. Public Notice and Invitation to Comment, 61 FR 11463. The Houston Fire Code adopted in Ordinance No. 95-279 consisted of the Uniform Fire Code (1991 edition), as modified in a "Conversion Document." The specific provisions challenged by AWHMT concerned the storage, use, dispensing, and handling of hazardous materials.

AWHMT separately provided copies of citations issued to operators of cargo tank motor vehicles for loading or unloading corrosive materials without the permit required by the Houston Fire Code. In its application, AWHMT noted the exception in Sec. 80.101 of the Houston Fire Code for "[o]ff-site hazardous materials transportation in accordance with DOT requirements," but stated that the Houston Fire Department did not consider "off-site" transportation to include loading, unloading, or storage incidental to transportation.

According to comments submitted by the Texas Tank Truck Carriers Association, Inc. (TTTC), the Houston Fire Department was applying the Houston Fire Code's permit requirements to any vehicle transporting hazardous materials (above threshold quantities) that was not transiting the City of Houston (City) on a designated "hazardous material route." TTTC also stated that, in adopting Ordinance No. 95-279, the City had eliminated previous exemptions for: (a) Tank trucks that operated within the City for no more than 30 days per year and were in

compliance with U.S. Department of Transportation requirements, and (b) liquid petroleum gas trucks that possessed a valid "Form 4 Card" issued by the Texas Railroad Commission.

In its initial May 1996 comments, the City stated that the Houston Fire Department did not construe the Houston Fire Code adopted in Ordinance No. 95-279 as applying to "over-the-road (or off-site) transportation of flammable and combustible liquids or hazardous materials," but acknowledged that the Fire Department's practice had been to regulate and require a permit for "any tank vehicle transporting those materials inside the city limits for more than thirty days." The City further stated that the Houston Fire Department intended to submit the 1994 edition of the Uniform Fire Code to the Houston City Council for adoption and would:

- Make clear that permit requirements would not apply to over-the-road (off-site) transportation of hazardous materials;
- Propose the deletion of Sec. 79.1203(n) which required a tank vehicle used for flammable or combustible liquids to be marked with a serial number issued by the fire chief, "FLAMMABLE" and "NO SMOKING" signs, and the company name or corporate symbol; and
- Propose the deletion of Houston's modification of Sec. 79.1207 which required two fire extinguishers (rather than one) on a tank vehicle used for flammable or combustible liquids.

In a February 13, 1997 "supplementary comment," the City provided a certified copy of Ordinance No. 96-1249, approved by the Houston City Council on November 26, 1996, which (among other matters) amended Ordinance No. 95-279 to adopt the 1994 edition of the Uniform Fire Code together with certain "City of Houston Amendments." The City also provided a three-page excerpt from Article 1 of the revised Houston Fire Code in which exceptions to Secs. 106.8(f) and (h) (concerning permit requirements for the storage, use, dispensing, and handling of flammable and combustible liquids and hazardous materials) state that "A permit is not required for any activity where the requirement of local permits is preempted by federal or state law." The City did not otherwise explain the current status of the provisions challenged in the AWHMT application (including those requirements that the City's May 1996 comments stated would be proposed for deletion) or discuss the manner in which those provisions are currently applied and enforced. The City did not provide other excerpts from (or a complete copy of) the current Houston Fire Code.

On March 17, 1997, AWHMT provided RSPA with a copy of TTTC's Circular Letter No. 1224, dated February 21, 1997, in which TTTC expressed the opinion that, because "federal preemption in this area prevails * * * bulk carriers will not be required to get hazardous materials permits for bulk equipment under the Uniform Fire Code for the City of Houston." TTTC stated that it was attempting to obtain information from "the legal division of the Houston City Council" regarding the City's interpretation of Ordinance No. 96-1249, and that it was still seeking deletion of the marking requirements in Sec. 79.1203(n) and the two-fire extinguisher requirement in Sec. 79.1207. TTTC also indicated that it had not yet obtained any parts of the revised Houston Fire Code other than the same three-page excerpt that the City included with its supplementary comment.

II. Reopening of Comment Period

The comment period on AWHMT's application is being reopened so that interested parties may provide further information on the current status of the challenged provisions in the Houston Fire Code and how those provisions are being applied or enforced. Interested parties are invited to submit comments on all issues relevant to whether 49 U.S.C. 5125 preempts provisions of the Houston Fire Code, including:

(1) The current text of the provisions that AWHMT's application asserted to be preempted by Federal hazardous material transportation law (see 49 CFR 107.203(b)(2)), and clarification as to which provisions challenged in AWHMT's application have been eliminated by Ordinance No. 96-1249;

(2) The manner in which the challenged provisions of the Houston Fire Code are applied and enforced, including examples of any recent enforcement actions taken by the Houston Fire Department;

(3) Whether the Houston Fire Code (including permit and inspection requirements) are currently being applied to operators of vehicles transporting hazardous materials that:

(a) Pick-up or deliver hazardous materials within the City;

(b) Depart from a designated "hazardous material route" for rest, fuel, food, or other purposes; or

(c) Are operated within the City for no more than 30 calendar days per year;

(4) The scope and meaning of the exceptions in Secs. 79.101(a) and 80.101(a) of the Houston Fire Code, including the City's construction of "transportation * * * in accordance with DOT regulations" in Sec. 79.101(a) and "off-site transportation" in Sec. 80.101(a), and whether the exceptions in Secs. 79.101(a) and 80.101(a) apply to permit requirements set forth in Article 4 (or elsewhere) in the Houston Fire Code; and

(5) Whether AWHMT's application raises issues concerning the applicability of the Hazardous Materials Regulations, 49 CFR parts 171-180, that should be considered by RSPA (in addition to or instead of action on AWHMT's application) in the rulemaking under Docket No. HM-223, "Applicability of the Hazardous Materials Regulations to Loading, Unloading and Storage." See Advance Notice of Proposed Rulemaking, 61 FR 39522 (July 29, 1996), and Notices of Meeting, 61 FR 49723 (Sept. 23, 1996), 61 FR 53483 (Oct. 11, 1996).

Persons intending to comment should review the standards and procedures governing applications for preemption determinations, set forth at 49 CFR 107.201-107.211.

Issued in Washington, DC, on April 3, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 97-9038 Filed 4-8-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33384]

Consolidated Rail Corporation; Trackage Rights Exemption; Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) will agree to grant local trackage rights to Consolidated Rail Corporation (Conrail) between a connection near Panhandle Crossing (Ash Street) located in Chicago, IL, BNSF's milepost 4.51 and a connection near McCook, IL, at BNSF's milepost 12.9, to the town of Willow Springs, IL, BNSF's milepost 17.72, a distance of approximately 13.21 miles.

The transaction is scheduled to be consummated on or about April 7, 1997. The purpose of the trackage rights is to allow Conrail to operate intermodal trains into BNSF's intermodal terminal at Willow Springs, IL.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed 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).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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. 33384, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John K. Enright, Esq., Conrail Law Department, 16-A, 2001 Market Street, Philadelphia, PA 19101-1416.

Decided: April 2, 1997.

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

Vernon A. Williams,
Secretary.

[FR Doc. 97-9098 Filed 4-8-97; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33326]

I&M Rail Link, LLC; Acquisition and Operation Exemption; Certain Lines of Soo Line Railroad Company d/b/a Canadian Pacific Railway

I&M Rail Link, LLC (I&M), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 and 1150.35 to acquire from Soo Line Railroad Company, d/b/a Canadian Pacific Railway (CPR), and operate approximately 1,109 miles of rail line and 262 miles of trackage rights in Iowa, Illinois, Minnesota, Missouri, Wisconsin, and Kansas. I&M will become a Class II rail carrier.¹

The system to be acquired consists of: (1) CPR's "KC Mainline" between Kansas City, MO, and Pingree Grove, IL, including trackage rights between Pingree Grove and Chicago, IL; and (2) CPR's "Corn Lines" between Sabula and Sheldon, IA, including branch lines and trackage rights in southern Minnesota.²

The KC Mainline. The KC Mainline runs from Kansas City, MO (MP 499.2),³ northeasterly through Missouri and Iowa to a junction near Sabula, IA (MP

141.6), at the Iowa-Illinois border,⁴ including branch lines from Davenport, IA (MP 0.0), to Eldridge, IA (MP 9.7) (the Eldridge Branch), and from Davenport, IA (MP 0.0) to Albany, IL (MP 35.0) (the Nitrin Branch);⁵ and then from the junction near Sabula, IA (MP 141.6), easterly across northern Illinois to Pingree Grove, IL (MP 41.9), including a branch line from Davis Jct., IL (MP 0.0), to Rockford, IL (MP 12.9), and then beyond to Janesville, WI (MP 45.8) (the Janesville Branch).⁶

The Corn Lines. The Corn Lines run from the junction near Sabula, IA (MP 141.6), north-northwesterly, approximately following Iowa's eastern border, to a junction near Marquette, IA (MP 98.0),⁷ and then northerly into Minnesota to La Crescent, MN (MP 160.1); from the junction near Marquette (MP 0.0), westerly across northern Iowa to a junction at Mason City, IA (MP 116.7),⁸ and continuing westerly to Sheldon, IA (MP 253.4); from the junction near Mason City northerly into Minnesota to a junction near Comus, MN (MP 123.8); and from a junction near Ramsey, MN (MP 43.0), westerly across southern Minnesota to Jackson, MN (MP 149.4),⁹ including a branch line from Wells, MN (MP 0.0), to Minnesota Lake, MN (MP 9.0).

Additional Incidental Trackage Rights. I&M will also acquire from CPR additional incidental trackage rights: (i) For certain traffic over 34.9 miles of rail line from the end of CPR's line at Pingree Grove, IL, over certain lines owned by the Commuter Rail Division of the Regional Transportation Authority (METRA), to a connection with the Belt Railway Company of Chicago at Cragin Jct. (MP 7.0) in the Chicago Terminal; (ii) for overhead traffic over 125.8 miles of rail line owned by CPR, part of which is owned in common with BNSF, from River Jct.,

⁴ Operation on the mainline at Clinton, IA, will require assumption of CPR's trackage rights through the UP interlocking at approximately MP 158.4.

⁵ Over the Nitrin Branch, which is owned by The Burlington Northern and Santa Fe Railway Company (BNSF), I&M will acquire incidental trackage rights through an assignment of rights from CPR.

⁶ Over the segment of the Janesville Branch that lies between Davis Jct. and Rockford (the Rockford Segment), which segment is owned by BNSF, I&M will acquire incidental trackage rights through an assignment of rights from CPR.

⁷ Operation on the "Dubuque Segment" through Dubuque, IA, will involve the assumption by I&M of CPR's rights to operate on 1.7 miles of the former Chicago, Central & Pacific Railroad Company.

⁸ I&M will assume CPR's trackage rights agreement for operation on the Iowa Northern Railway Company (IANR) from Plymouth Jct., IA (IANR MP 219.5), to Nora Springs, IA (IANR MP 210.7) (the Nora Springs Segment).

⁹ Operation from Fairmont, MN (MP 182.97), to Welcome, MN (MP 190.28) will be by assumption of CPR's trackage rights on UP (the Welcome Segment).

¹ This proceeding is related to STB Finance Docket No. 33327, wherein Dennis Washington, William H. Brodsky, Mort Lowenthal, Dorn Parkinson, J. Fred Simpson, and Thomas J. Walsh have filed a notice of exemption to continue in control of I&M upon I&M's becoming a Class II rail carrier.

² I&M indicates that, to the extent the assumption by I&M of any of these trackage rights requires the consent of third parties, I&M will take appropriate steps to obtain such consent.

³ Operations into and out of Kansas City are via: a paired track agreement with the Union Pacific Railroad Company (UP) from Polo, MO (MP 456.7) to Birmingham, MO (MP 494.5); a joint track agreement with UP from Birmingham, MO (MP 494.5) to Airline Jct., MO (MP 499.2); and beyond for approximately 0.13 miles to Sheffield, MO, on a segment owned jointly by CPR and the Kansas City Southern Railway Company (KCS).