

(a) Train approach warning shall be given in sufficient time to enable each roadway worker to move to and occupy a previously arranged place of safety not less than 15 seconds before a train moving at the maximum speed authorized on that track can pass the location of the roadway worker.

(b) Watchmen/lookouts assigned to provide train approach warning shall devote full attention to detecting the approach of trains and communicating a warning thereof, and shall not be assigned any other duties while functioning as watchmen/lookouts.

(c) The means used by a watchman/lookout to communicate a train approach warning shall be distinctive and shall clearly signify to all recipients of the warning that a train or other on-track equipment is approaching.

(d) Every roadway worker who depends upon train approach warning for on-track safety shall maintain a position that will enable him or her to receive a train approach warning communicated by a watchman/lookout at any time while on-track safety is provided by train approach warning.

(e) Watchmen/lookouts shall communicate train approach warnings by a means that does not require a warned employee to be looking in any particular direction at the time of the warning, and that can be detected by the warned employee regardless of noise or distraction of work.

(f) Every roadway worker who is assigned the duties of a watchman/lookout shall first be trained, qualified and designated in writing by the employer to do so in accordance with the provisions of Sec. 214.349.

(g) Every watchman/lookout shall be provided by the employer with the equipment necessary for compliance with the on-track safety duties which the watchman/lookout will perform.

MTA requests permission to use radios to provide notification of approaching trains. In addition to use of radios, backup protection would be provided by lookouts, which would provide less than 15 seconds clearing time as required by Sec. 214.329(a), but would provide adequate time for workers clearing crosswalks with hand tools to vacate the fouling envelope.

This waiver applies to employees contracted to MTA who are engaged in the clearing of snow at commuter rail stations. MTA commuter rail stations are located on CSXT and National Railroad Passenger Corporation (Amtrak) rail lines. The MTA contractors, who are trained by MTA on Roadway Worker Protection procedures, remove snow from station platforms clear of the fouling envelope. MTA has

20 stations on CSX where walkways cross the tracks at grade which are used by passengers, including eight stations where the walkways provide ADA access. Amtrak employees provide protection when snow is cleared from walkways on that railroad.

In order to comply with the requirements of 214.329, MTA must place up to four lookouts to relay a visual warning of an approaching trains at certain stations when clearing snow from crosswalks. MTA is concerned about exposing non-railroad contract employees to injury due to the inherent risk involved in walking along a railroad right of way in snowy or icy conditions to position an advance lookout. While the number of lookouts vary by station, lookouts are required to provide 2933 feet sight distance requiring them to walk up to half a mile at certain locations.

MTA's procedure requires a lookout, with a radio, to be located on a bridge or road sufficiently far from the crosswalk to provide a minimum of 30 seconds clearing time. Work cannot begin until the lookout with the radio has established contact with the lookout stationed directly adjacent to the worker. The outlying lookout must transmit a message every five seconds indicating that no trains are approaching. If the lookout adjacent to the worker does not hear a transmission in at least ten seconds he or she must assume radio failure and remove the worker from the fouling envelope. As a backup, a secondary lookout will be placed at each station, with a clear view and within visual and audible range of the worker, who can provide a minimum of 10-15 seconds warning. The clearing time of the worker on the crosswalk is two to three seconds. This backup lookout is a secondary, and not the primary means of protection.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA 1999-5987) and must be submitted to the DOT Docket Management Facility, Room PL-401 (Plaza level) 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45

days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.-5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Issued in Washington, D.C. on September 10, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-99-6078]

Insurer Reporting Requirements

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

ACTION: Notice of availability.

SUMMARY: This notice announces publication by NHTSA of the annual insurer report on motor vehicle theft for the 1994 reporting year. Section 33112(c) of Title 49 of the U.S. Code, requires this information to be compiled periodically and published by the agency in a form that will be helpful to the public, the law enforcement community, and Congress. As required by section 33112(c), this report provides information on theft and recovery of vehicles; rating rules and plans used by motor vehicle insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts.

ADDRESSES: Due to the voluminous content of this report, interested persons may obtain a copy of this report by contacting the Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are from 9:30 a.m. to 5:00 p.m., Monday through Friday. Requests should refer to Docket No. 96-130; Notice 04.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Proctor's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

SUPPLEMENTARY INFORMATION: The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act) was implemented to enhance detection and prosecution of motor vehicle theft (Pub. L. 98-547). The Theft Act added a new Title VI to the Motor Vehicle Information and Cost Savings Act, which required the Secretary of Transportation to issue a theft prevention standard for identifying major parts of certain high-theft lines of passenger cars. The Act also addressed several other actions to reduce motor vehicle theft, such as: increased criminal penalties for those who traffic in stolen vehicles and parts; curtailment of the exportation of stolen motor vehicles and off-highway mobile equipment; establishment of penalties for dismantling vehicles for the purpose of trafficking in stolen parts; and development of ways to encourage decreases in premiums charged to consumers for motor vehicle theft insurance.

Title VI (which has since been recodified as 49 U.S.C. Chapter 331), was designed to impede the theft of motor vehicles by creating a theft prevention standard which required manufacturers of designated high-theft car lines to inscribe or affix a vehicle identification number onto the major component and replacement parts of all vehicle lines selected as high theft. The theft standard became effective in Model Year 1987 for designated high-theft car lines.

The "Anti-Car Theft Act of 1992" amended the law relating to the parts-marking of major component parts on designated high-theft vehicles. One amendment made by the Anti-Car Theft Act was to 49 U.S.C. 33101(10), where the definition of "passenger motor vehicle" now includes a "multipurpose passenger vehicle or light-duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight." Since "passenger motor vehicle" was previously defined to include passenger cars only, the effect of the Anti-Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR Part 541).

Section 33112 of Title 49 requires subject insurers or designated agents to report annually to the agency on theft and recovery of vehicles; rating rules and plans used by insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts. Rental and leasing companies also are

required to provide annual theft reports to the agency.

The annual insurer reports provided under section 33112 are intended to aid in implementing the Theft Act and fulfilling the Department's requirements to report to the public the results of the insurer reports. The first annual insurer report, referred to as the Section 612 Report on Motor Vehicle Theft, was prepared by the agency and issued in December 1987. The report included theft and recovery data by vehicle type, make, line, and model which were tabulated by insurance companies and, rental and leasing companies. Comprehensive premium information for each of the reporting insurance companies was also included. This is the tenth report and it discloses the same subject information and follows the same reporting format.

Issued on: September 13, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99-24241 Filed 9-16-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33777]

RailAmerica, Inc.—Control Exemption—Florida Rail Lines, Inc., Toledo, Peoria and Western Railroad Corporation, Marksman Corporation, and Toledo, Peoria & Western Railway Corporation

RailAmerica, Inc. (RailAmerica), a noncarrier holding company, has filed a verified notice of exemption to continue in control of Florida Rail Lines, Inc. (Florida Rail), a noncarrier, and to acquire control of Toledo, Peoria and Western Railroad Corporation (TPW), Marksman Corporation (Marksman), and Toledo, Peoria & Western Railway Corporation (Railway). Florida Rail will acquire 100% of the outstanding stock of TPW. TPW owns 100% of the stock of Marksman,¹ and Marksman owns 100% of the stock of Railway.²

The transaction was scheduled to be consummated on or shortly after August 31, 1999.

On July 30, 1999, RailAmerica also filed a motion for protective order under

49 CFR 1104.14 and a protective order was granted.³

RailAmerica states that, at the time of its filing of the notice of exemption, it controlled 11 common carrier Class III rail carriers operating in 8 states.⁴

RailAmerica states that: (i) These railroads do not connect with each other; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

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. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified 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 automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33777, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001. In addition, one copy of each pleading must be served on (1) Gary A. Laasko, Esq., RailAmerica, Inc., 5300 Broken Sound Boulevard N.W., Second Floor, Boca Raton, FL 33487, and (2) Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

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

¹ See *The Toledo, Peoria and Western Railroad Corporation—Continuance in Control Exemption—Marksman Corporation*, STB Finance Docket No. 33483 (STB served Oct. 16, 1997).

² See *Marksman Corporation—Lease and Operation Exemption—J.K. Line, Inc.*, STB Finance Docket No. 33481 (STB served Oct. 16, 1997).

³ See *RailAmerica, Inc.—Control Exemption—Florida Rail Lines, Inc., Toledo, Peoria and Western Railroad Corporation, Marksman Corporation, and Toledo, Peoria & Western Railway Corporation*, STB Finance Docket No. 33777 (STB served Aug. 5, 1999).

⁴ See *RailAmerica, Inc.—Continuance in Control Exemption—Ventura County Railroad Company*, STB Finance Docket No. 33650 (STB served Sept. 24, 1998).