

16. Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters.

17. Resource management.

18. Maritime training programmes.

19. External relations.

20. Report on the status of the Convention and membership of the Organization.

21. Report on the status of conventions and other multilateral instruments in respect of which the Organization performs functions.

22. Election of Members of the Council, as provided for in Articles 16 and 17 of the IMO Convention.

23. Election of Members of the IMO Staff Pension Committee.

24. Date and place of the twenty-seventh regular session of the Assembly.

#### **Twenty-Fifth Extraordinary Session of Council**

1. Adoption of the agenda.

2. Report of the Secretary-General on credentials.

3. Strategy and planning.

4. Organizational reforms.

5. Resource management:

6. Voluntary IMO Member State Audit Scheme.

7. Results-based budget for the twenty-sixth financial period 2010–2011.

8. Consideration of the report of the Marine Environment Protection Committee.

9. Consideration of the report of the Legal Committee.

10. Report on the 31st Consultative Meeting of Contracting Parties to the London Convention 1972 and the 4th Meeting of Contracting Parties to the 1996 Protocol to the London Convention.

11. World Maritime University.

12. Protection of vital shipping lanes.

13. Report of the Council to the Assembly on the work of the Organization since the twenty-fifth regular session of the Assembly.

14. External relations:

15. Report on the status of the Convention and membership of the Organization.

16. Report on the status of conventions and other multilateral instruments in respect of which the Organization performs functions.

17. Supplementary agenda items, if any.

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, those who plan to attend should contact the meeting coordinator; LCDR Jason Smith by e-mail at [jason.e.smith2@uscg.mil](mailto:jason.e.smith2@uscg.mil), by phone at (202) 372–1376, by fax at (202)

372–1925, or in writing at Commandant (CG–5212), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Room 1308, Washington, DC 20593–0001 not later than 72 hours before the meeting. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Headquarters building. The Headquarters building is accessible by taxi and privately owned conveyance (public transportation is not generally available). However, parking in the vicinity of the building is extremely limited.

This announcement might appear in the **Federal Register** less than 15 days prior to the meeting. The Department of State finds that there is an exceptional circumstance in that this advisory committee meeting must be held on November 13th in order to prepare for the IMO Assembly to be convened on November 23rd.

Dated: October 23, 2009.

**J. Trent Warner,**

*Executive Secretary, Shipping Coordinating Committee, Department of State.*

[FR Doc. E9–26317 Filed 10–30–09; 8:45 am]

**BILLING CODE 4710–09–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Surface Transportation Board**

**[STB Docket No. AB–57 (Sub-No. 58X)]**

#### **Soo Line Railroad Company d/b/a Canadian Pacific Railway Company—Abandonment Exemption—in Waukesha and Milwaukee Counties, WI**

Soo Line Railroad Company d/b/a Canadian Pacific Railway Company (CPR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a line of railroad approximately 4,458 feet in length between milepost 94.04 +/– (southeast of Watertown Plank Road) and milepost 93.2 +/– (approximately 1,100 feet southeast of West Bluemound Road), in Waukesha and Milwaukee Counties, WI. The line traverses United States Postal Service Zip Codes 53005, 53122, and 53226.

CPR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) all overhead traffic can and has been rerouted over other lines; (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

(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 report), 49 CFR 1105.8 (historic report), 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 December 2, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR

1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 12, 2009. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 23, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CPR's representative: W. Karl Hansen, Leonard, Street and Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

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

CPR has filed a combined environmental and historic report addressing the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 6, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC

<sup>1</sup> 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.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 CFR 1002.2(f)(25).

20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is 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), CPR 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 CPR's filing of a notice of consummation by November 2, 2010, 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: October 27, 2009.

By the Board, Rachel D. Campbell,  
Director, Office of Proceedings.

**Kulunie L. Cannon,**  
*Clearance Clerk.*

[FR Doc. E9-26210 Filed 10-30-09; 8:45 am]

BILLING CODE 4915-01-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 a petition for a defect investigation.

**SUMMARY:** This notice sets forth the reasons for the denial of a petition (Defect Petition DP09-001) submitted by Mr. Jeffrey A. Pepski (petitioner) to the Administrator of NHTSA by a letter dated March 13, 2009, under 49 CFR part 552. The petitioner requests additional investigations of: (1) The unwanted and unintended acceleration of model year 2007 Lexus ES350 vehicles and (2) model years 2002-2003 Lexus ES300 for long duration incidents involving uncontrolled acceleration where brake pedal application had no effect.

After conducting a technical review of the material cited and provided by the petitioner, material contained within investigations cited by petitioner, information relevant to material cited by

petitioner, and conducting interviews with complainants and manufacturer representatives, and taking into account several considerations, including, among others, a recent safety recall by Toyota (NHTSA Recall 09V-388), allocation of agency resources, agency priorities, and the likelihood that additional investigations would result in a finding that a defect related to motor vehicle safety exists, NHTSA has concluded that further investigation of the issues raised by the petition is not warranted. The agency accordingly has denied the petition.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen McHenry, Vehicle Control Division, Office of Defects Investigation, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone 202-366-0139. E-mail [stephen.mchenry@dot.gov](mailto:stephen.mchenry@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Interested persons may petition NHTSA requesting that the agency initiate an investigation to determine whether a motor vehicle or item of replacement equipment does not comply with an applicable motor vehicle safety standard or contains a defect that relates to motor vehicle safety. 49 CFR 552.1. Upon receipt of a properly filed petition the agency conducts a technical review of the petition, material submitted with the petition, and any additional information. § 552.6. After considering the technical review and taking into account appropriate factors, which may include, among others, allocation of agency resources, agency priorities, and the likelihood of success in litigation that might arise from a determination of a noncompliance or a defect related to motor vehicle safety, the agency will grant or deny the petition. § 552.8.

##### II. Defect Petition Background Information

The petitioner, Mr. Jeffrey Pepski of Plymouth, Minnesota, owns a model year (MY) 2007 Lexus ES350 (VIN JTHBJ46G072131671). On March 12, 2009, Mr. Pepski filed a complaint with NHTSA (ODI No. 10261660) alleging a "sudden and uncontrollable surge in acceleration" while driving home from work on February 3, 2009:

Driving home from work, I experienced a sudden uncontrollable surge in acceleration causing my speed to increase from about 60 mph to 80+ mph. Immediately I began to brake hard as I was rapidly approaching traffic just ahead of me. Fortunately the inside left lane was unoccupied and I was able to make an immediate lane change. Initially I depressed the brake pedal as hard

as I could using both feet but only managed to slow the vehicle to 40-45 mph. With my speed reduced, I alternated between pumping the accelerator pedal and pulling up on it from the underside with my right foot as it became clear that the throttle was stuck in an open position. The vehicle continued to speed back up to over 65 mph with less pressure on the brake pedal.

With traffic just ahead of me, I moved over to the left shoulder next to the center barrier and continued to try to release the open throttle. There were clouds of smoke around the vehicle and the smell of burning materials from the overheating brakes. After finally getting the vehicle slowed down to about 25-30 mph, I shifted into "Neutral" and depressed the start/stop push button a number of times hoping to stop the engine but nothing happened. Instead the RPMs moved up into the redline range on the tachometer. I quickly shifted back into "Drive"; the vehicle jolted and rapidly accelerated to 60+ mph.

As the brakes were fading quickly, I was certain that I would need to shift back into "Neutral" and let the engine blow up to stop the vehicle. Suddenly the acceleration surge stopped and I was able to bring the vehicle to a stop about 1½ to 2 miles from where it had started. I quickly shifted into "Park" and depressed the start/stop push button to turn off the engine. The vehicle seemed to shutter as I did so. Upon restarting the car, I drove cautiously to Lexus of Wayzata a short distance away fully prepared to shift into "Neutral" if the acceleration repeated. The car remains there over 5 weeks later.

Following the incident, Mr. Pepski submitted a complaint to Toyota and a claim to the Lexus Customer Satisfaction Department, requesting that Lexus repurchase his vehicle. According to Toyota, the Lexus dealer service technician who inspected Mr. Pepski's vehicle after the incident observed that the driver's side floor mat retaining clips were not properly secured and "the floor mat was in a position where it could interfere with the operation and travel of the accelerator pedal."<sup>1</sup> Toyota denied Mr. Pepski's claim on March 10, 2009, concluding that the event was caused by an out-of-position floor mat.<sup>2 3</sup>

The inspection of your vehicle revealed no evidence of any vehicle defects or malfunction. The throttle assembly and accelerator pedal were operating as designed, with no binding or sticking of any of the components. The brakes showed signs of excessive wear which is consistent with what you described happened to you.

<sup>1</sup> Chris Tinto, Toyota Motor North America, Inc., letter to Kathleen DeMeter, ODI, May 14, 2009, *Response to the Petition for a Defect Investigation Submitted by Jeffrey Pepski* (see public file for DP09-001).

<sup>2</sup> Troy Higa, Toyota Motor Sales, U.S.A., Inc., letter to Jeff Pepski, March 10, 2009 (see public file for DP09-001).

<sup>3</sup> The issue of accelerator pedal entrapment by an unsecured floor mat in the subject vehicles is addressed by Recall 09V-388.