

## National Highway Traffic Safety Administration

[Docket No. 96-082; Notice 2]

### General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance

This notice grants the application by General Motors Corporation (GM) of Warren, Michigan, to be exempted from the notification and remedy requirements of 49 U.S.C. 30118, and 30120 for a noncompliance with 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, Reflective Devices and Associated Equipment." The basis of the application is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the application was published on July 16, 1996, and an opportunity afforded for comment (61 FR 37109).

Standard No. 108 requires that turn signals be self-canceling by steering wheel rotation and capable of cancellation by a manually operated control. GM discovered that the self-canceling feature only works intermittently after left turns on slightly less than 2,000 1996 Model Buick Skylarks, because of a "defective multi-function switch." GM believes that the failure is inconsequential because it occurs intermittently and in one direction only, and because the Skylarks are equipped with a reminder chime that activates if the turn signal is still on after 1/2 mile of driving.

GM supported its application for inconsequential noncompliance with the following:

"No more than 5.5 percent of the 1,969 vehicles, or 108 vehicles, are predicted to have a defective switch. This prediction is based on a sort of 400 switches, of which 22 were determined to possibly be suspect. This projection may overstate the field condition since the sort was very conservative; many of the suspect 22 switches may function properly in vehicles. In addition, the projection is based on a sort of the latest shipments of switches before the supplier corrected its manufacturing problem. Since the condition was caused by tooling dimensions drifting out of specification, the actual rate of defective switches for the entire production run may well be less than the projected rate.

"The self-cancel feature will operate properly for a majority of turn signal activations even on vehicles with a defective switch. The self-canceling feature works correctly when signaling for all right turns, as well as for some

left turns. The switch is sensitive to the rate of turn signal lever actuation and position of the steering wheel, and will not cancel only intermittently, for some left hand turns. On one of the vehicles discovered with this condition, it took about 20 turn signal cycles to recreate the failure.

"All 1996 Skylarks have a turn signal reminder chime that will signal the driver if the turn signal indicator is still on after 1/2 mile of driving. Therefore, even in those instances when the self-cancel feature fails, the driver will get an additional cue that the turn signal is on and deactivate it.

"GM is not aware of any accidents, injuries, owner complaints or field reports associated with this condition."

No comments were received on the application.

NHTSA accepts GM's analyses of the reported noncompliance and concur with their recommendation. The agency believes that the effects of this referenced noncompliance will not affect motor vehicle safety in a consequential position since the turn signal lamps meet all other requirements of Standard No. 108. Furthermore, GM has stated that the turn signals may be canceled through a manually-operated control and the 1996 Skylarks have a turn signal reminder chime that will signal the driver if the turn signal indicator is still on after 1/2 mile of driving. Although the agency is concerned by the "defective multi-function switch" reported by GM on the 1996 Model Buick Skylarks, the performance of the noncompliant equipment conforms to Standard No. 108 a substantial part of the time.

Accordingly, for the reasons expressed above, the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential to motor vehicle safety, and the agency grants GM's application for exemption from notification of the noncompliance as required by 49 U.S.C. 30118 and from remedy as required by 49 U.S.C. 30120. (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: October 29, 1996.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards

[FR Doc. 96-28227 Filed 11-1-96; 8:45 am]

BILLING CODE 4910-59-P

## Surface Transportation Board

[STB Finance Docket No. 32760 (Sub-No. 20)]

### The Atchison, Topeka and Santa Fe Railway Company—Trackage Rights Exemption—Southern Pacific Transportation Company

Southern Pacific Transportation Company (SPT) will assign overhead trackage rights to The Atchison, Topeka and Santa Fe Railway Company over a total of approximately 3,683 feet of track owned by Kansas City Southern Railway (KCS) from KCS milepost 766.70 to SPT milepost 30.50 near Beaumont, TX.<sup>1</sup> The transaction is expected to be consummated on or about December 16, 1996.

These trackage rights are related to conditions imposed as part of the recently approved merger in *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company*; Finance Docket No. 32760 (STB served Aug. 12, 1996) (Decision No. 44).

This notice is filed under 49 CFR 1180.2(d)(7). If the 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 stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32760 (Sub-No. 20), must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: (1) Richard E. Weicher, Vice President and General Counsel, The Atchison, Topeka and Santa Fe Railway Company, 6th Floor, 1700 East Golf Road, Schaumburg, IL 60173-5860; and (2) Gary A. Laakso, General Attorney, Southern Pacific Transportation Company, One Market Plaza, San Francisco, CA 94105.

As a condition to this exemption, any employees affected by the trackage

<sup>1</sup> SPT has overhead trackage rights on this trackage pursuant to its 1979 Agreement with KCS, which was approved by the Interstate Commerce Commission (ICC) in *Southern Pacific Transportation Company—Trackage Rights—Over Kansas City Southern Railway Company*, Finance Docket No. 29441 (ICC served Dec. 1, 1980). SPT states that the instant verified notice of exemption corrects the description of the total footage and SPT milepost number stated in that ICC decision.

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).

Decided: October 28, 1996.

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

Vernon A. Williams,  
Secretary.

[FR Doc. 96-28232 Filed 11-1-96; 8:45 am]

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[STB Finance Docket No. 33160]

**Falls Road Railroad Co., Inc.—  
Acquisition and Operation  
Exemption—Consolidated Rail  
Corporation**

Falls Road Railroad Co., Inc. (FRRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate the line of railroad now owned and operated by Consolidated Rail Corporation (Conrail) known as the Falls Road Secondary Track, extending from milepost 58.29±, at Lockport, to milepost 16.60±, at Brockport, in Niagara, Orleans, and Monroe Counties, NY, a total of 41.69 route miles. In addition, FRRR will acquire operating easements only between mileposts 16.60± and 16.92± (owned by, or to be conveyed by Conrail to, Monroe County) and between mileposts 45.01± and 45.53± (owned by, or to be conveyed by Conrail to, the adjoining landowner).

Operations were expected to commence on or after October 24, 1996.

This transaction is related to STB Finance Docket No. 33161, *David Monte Verde, Michael Thomas, Charles Riedmiller, Jeffrey Baxter and John Herbrand and Genesee Valley Transportation Co. Inc.—Continuance in Control Exemption—Falls Road Railroad Co., Inc.*, wherein the named individuals and Genesee Valley Transportation Co., Inc., have concurrently filed a verified notice to continue in control of FRRR, upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding 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. 33160, must be filed with

the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Eric M. Hocky, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

Decided: October 25, 1996.

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

Vernon A. Williams,  
Secretary.

[FR Doc. 96-28235 Filed 11-1-96; 8:45 am]

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[STB Finance Docket No. 33161]

**David Monte Verde, Michael Thomas,  
Charles Riedmiller, Jeffrey Baxter and  
John Herbrand, and Genesee Valley  
Transportation Co. Inc.—Continuance  
in Control Exemption—Falls Road  
Railroad Co., Inc.**

David Monte Verde, Michael Thomas, Charles Riedmiller, Jeffrey Baxter and John Herbrand (Individual Applicants), and Genesee Valley Transportation Co. Inc. (GVT), a noncarrier holding company,<sup>1</sup> have filed a notice of exemption to continue in control of the Falls Road Railroad Co., Inc. (FRRR), upon FRRR's becoming a Class III railroad.<sup>2</sup>

The transaction was expected to be consummated upon FRRR's commencement of operations on or after October 24, 1996.

This transaction is related to STB Finance Docket No. 33160, *Falls Road Railroad Co., Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation*, wherein FRRR seeks to acquire and operate certain rail lines from Consolidated Rail Corporation.

GVT controls 5 existing Class III railroad subsidiaries: Depew, Lancaster & Western Railroad Co., Inc., operating between Lancaster and Depew, NY; Lowville & Beaver River Railroad Co., operating between Lowville and Croghan, NY; Mohawk Adirondack & Northern Railroad Corp., operating (a) between Carthage and Lowville, (b) between Carthage and Newton Falls, and (c) between Utica and Lyons Falls, NY; Genesee & Mohawk Valley Railroad Co., operating (a) a portion of the Utica

Yard, (b) a portion of the Rome Industrial trackage in Oneida County, NY, and (c) a portion of the Batavia-Lehigh and Lower Town Industrial trackage in Genesee County, NY; and Delaware-Lackawanna Railroad Co., Inc., operating (a) between Fell Township and Moosic (Scranton), (b) tracks within Scranton, and (c) between Scranton and Mt. Pocono, PA.<sup>3</sup>

GVT states that: (i) The rail lines to be operated by FRRR do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect FRRR with any railroads in the 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 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. 33161, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

Decided: October 25, 1996.

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

Vernon A. Williams,  
Secretary.

[FR Doc. 96-28236 Filed 11-1-96; 8:45 am]

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<sup>1</sup> The Individual Applicants collectively own 100% of the outstanding shares of GVT that in turn controls a number of Class III carriers.

<sup>2</sup> At commencement of operations by FRRR, the entire outstanding capital stock of FRRR will be owned by GVT. Individual Applicants will continue in indirect control of FRRR.

<sup>3</sup> GVT owns a controlling interest of the stock of Lowville & Beaver River Railroad and 100% of the stock of the other carriers under its control.