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. Deerath,  
Chief of Staff, Directorate of Defense Trade Controls, U.S. Department of State.
[FR Doc. 2018–22447 Filed 10–15–18; 8:45 am]  
BILLING CODE 4710–25–P

SURFACE TRANSPORTATION BOARD  
[Docket No. FD 36222]  

BNSF Railway Company—Lease Exemption—Union Pacific Railroad Company


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 [l] 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 Pursuant to 49 CFR 1121.13(d), BNSF certifies that the lease does not contain a provision or agreement that may limit future interchange with a third-party connecting carrier.

2 Pursuant to 49 CFR 1121.13(d), BNSF certifies that the lease does not contain a provision or agreement that may limit future interchange with a third-party connecting carrier.

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.
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 Railroad—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

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.

[FR Doc. 2018–22463 Filed 10–15–18; 8:45 am]

**BILLING CODE** 4915–01–P

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**


**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).