

**EMERGENCY ORDERS
No. 21
Northwestern Pacific Railroad**

**DEPARTMENT OF TRANSPORTATION
Federal Railroad Administration**

**[FRA Emergency Order No. 21,
Notice No. 3]**

Northwestern Pacific Railroad; Notice of Partial Relief from Emergency Order No. 21

AGENCY: Federal Railroad Administration, Department of Transportation

ACTION: Notice of Partial Relief

SUMMARY: This notice provides partial relief for the Northwestern Pacific Railroad from the limitations of Federal Railroad Administration Emergency Order No. 21. The relief allows the Northwestern Pacific Railroad to re-open to rail traffic on approximately 40.8 miles of its line between mile post 49.8S, formerly designated as mile post 63.4, near Lombard, California and mile post 43.0, near Petaluma, California. The remainder of the NWP line, from mile post 43.0 to Arcata, California, remains closed pending further relief from the emergency order.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 C.F.R. § 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws, 49 U.S.C. §§ 20102, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an emergency situation involving a hazard of death or personal injury." 49 U.S.C. § 20104. These orders may impose such "restrictions and prohibitions . . . that may be necessary to abate the situation." (*Ibid.*) Likewise, FRA is authorized to grant relief from an emergency order when the agency deems that the unsafe condition or practice which gave rise to the emergency order no longer exists.

Background

The NWP operates on a 286-mile line between mile post 295.5 near Arcata, California and mile post 49.8S (formerly designated as mile post 63.4) near Lombard, California. The North Coast Railroad Authority, a California public agency formed pursuant to California Government Code Section 93000 *et seq.*, owns and operates that portion of the NWP between Healdsburg, mile post 68, and Arcata. Another portion over which the NWP operates and for which it is responsible for maintenance, Healdsburg to mile post 49.8S (formerly mile post 63.4) near Lombard, is owned by the Northwestern Pacific Railroad Authority, a joint powers agency representing the Golden Gate Bridge, Highway and Transportation District, the County of Marin, and the North Coast Railroad Authority. Northwestern Pacific Railway Co., LLC (formerly doing business as Railways, Inc.) is the operating agent for the North Coast Railroad Authority, doing business as the NWP.

The NWP is subject to the jurisdiction of FRA. In 1997, FRA, in partnership with the California Public Utilities Commission (CPUC), reviewed NWP's compliance with Federal safety statutes and regulations. The review revealed widespread noncompliance, including hundreds of track defects and a general failure to perform periodic tests of locomotive air brake equipment. On June 11, 1997, FRA, CPUC, and the NWP signed a safety compliance agreement which detailed 11 action items for the NWP to perform. On June 28, 1998, upon finding that the NWP had failed to comply with most of the agreement, the Federal Railroad Administrator issued Compliance Order 98-1 directing NWP to perform the corrections listed in the compliance agreement. When FRA later found that the NWP failed to comply with the directives in the compliance order, and the defects on the rail line posed an imminent and unacceptable threat to

public safety, the Federal Railroad Administrator issued Emergency Order No. 21 on November 25, 1998. The emergency order closed all railroad operations except the operation of work trains for the specific and sole purpose of effecting repairs on the railroad.

In May, 1999, FRA granted the NWP partial relief from Emergency Order No. 21 for approximately 1.5 miles of its line near Willits, California. The partial relief allowed the NWP to re-open traffic between the junction with the California Western Railroad and the Willits Depot, as well as several tracks in Willits Yard.

In order to gain full relief from Emergency Order No. 21, the NWP must:

- (1) Properly repair and inspect all grade crossing signals and certify to the Federal Railroad Administrator that all necessary repairs and inspections have been performed and that all required tests are up-to-date.
- (2) Adopt a set of grade crossing signal standards and instructions acceptable by FRA.
- (3) Update, correct and/or redraw circuit plans for each the grade crossing signal system to meet compliance with 49 CFR §§234.201 and 234.203. A list of locations of the updated, corrected or redrawn circuit plans should be submitted to FRA.
- (4) Provide proper and adequate test equipment for signal maintainers.
- (5) Repair all track not subject to Emergency Order No. 14 to class 1 track standards as detailed in 49 CFR Part 213. [Note: Emergency Order No. 14 requires the Northwestern Pacific Railroad to repair certain segments of track to class 1 track standards for the hauling of passengers and all hazardous materials. Otherwise, the railroad may designate the track still subject to that order as excepted.]
- (6) Clear all vegetation from drainage facilities and away from signs and signals and track

bed so that the track meets the requirements of 49 CFR § 213.37;

- (7) Furnish FRA with a 12-month track maintenance plan.
- (8) Establish a program of employee training on the Federal Track Standards to ensure that employees performing inspection, maintenance, and restoration work are qualified in accordance with 49 CFR § 213.7.
- (9) Certify in writing that each individual conducting track inspections has sufficient knowledge, skills, and ability to successfully conduct the types of inspections which will be performed by that individual. Records of that certification are to be maintained by the railroad.
- (10) Obtain approval from the Federal Railroad Administrator that all of the requirements of this Emergency Order have been met and properly performed.

The emergency order allows for partial relief for designated portions of the NWP's line.

The NWP is required to first meet all of the system-wide requirements, as listed in items 2, 4, 7, 8, and 9. The NWP may then obtain partial relief for any portion of its line for which all of the requirements of the emergency order are met.

On November 15, 2000, in accordance with the terms of the emergency order, the NWP formally requested that FRA grant it partial relief from the emergency order for its rail line between mile post 49.8S (formerly designated as mile post 63.4) near Lombard, and mile post 43.0 near Petaluma, California. At this time, the NWP stated that it met all of the systemic requirements of Emergency Order No. 21, namely:

- The NWP adopted a set of grade crossing signal standards and instructions that is acceptable to FRA;

- The NWP has entered into a contract with MEC Rail Systems, a signal maintenance company, for the testing and maintenance of NWP signals. In response to the agreement, MEC Rail Systems purchased proper and adequate test equipment for signal maintainers for use on the NWP;
- The NWP has furnished to FRA a 12-month track maintenance plan that includes all of the necessary information required by Emergency Order No. 21;
- The NWP has established a program of employee training on the Federal Track Safety Standards, adopting the Railway Educational Bureau's Track Foreman's Training Program. Individual testing of roadmaster and office engineer candidates has begun;
- The NWP has certified that three employees of Northwestern Pacific Railway Co., LLC. (formerly doing business as Rail-Ways, Inc.), who are responsible for track inspections, have sufficient knowledge, skills and ability to successfully conduct track inspections. Any employees who become responsible for track inspections subsequent to the granting of this partial relief will be certified by the NWP as well.

NWP's compliance at this time with the systemic requirements of the emergency order makes the railroad eligible to request partial relief for the designated segment of track between Lombard and Petaluma. However, FRA will monitor the railroad's continuing compliance with these systemic requirements.

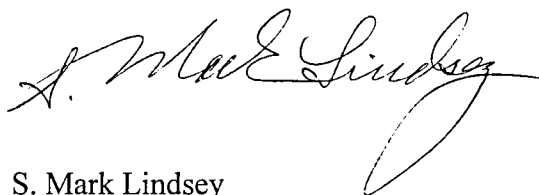
On December 18 and 19, 2000, FRA inspected the track for which the NWP requested relief from the emergency order. FRA found the track to meet Class 1 track standards in accordance with 49 C.F.R. part 213. Between December 11 and December 13, 2000, FRA inspected the grade crossing signal systems on the track for which NWP requested relief from the

emergency order and found that not all necessary repairs, inspections and tests had been performed. FRA found that several grade crossing signals were not in compliance with Federal regulations. In addition, FRA found that the grade crossing signal on the east approach to "D" Street in Petaluma, California had been removed. FRA informed NWP that all signal systems would have to be in complete working order and that restoration of the grade crossing signal at "D" Street in Petaluma would be required in order for partial relief to be granted. As of January 31, 2001, FRA found that all of the signal systems on the rail line between Lombard and Petaluma, including the grade crossing signal system at D Street in Petaluma, are in compliance with FRA regulations.

Relief

In light of the foregoing, I grant NWP partial relief from Emergency Order No. 21. NWP trackage between mile post 49.8S (formerly designated as mile post 63.4) near Lombard and mile post 43.0 near Petaluma may open immediately to rail traffic. The issuance of this Notice does not preclude imposition of another emergency order governing the segment of track should conditions of the track or rail operations deteriorate to the extent that I believe they pose an imminent and unacceptable threat to public safety.

Issued in Washington on FEB - 1 2001



S. Mark Lindsey
Acting Deputy Administrator