[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
[FRA Emergency Order No. 8]

NEW YORK, SUSQUEHANNA AND
WESTERN RAILROAD COMPANY

The Federal Railroad Administration (FRA), Department of Transportation, has determined that considerations of public safety necessitate the issuance of an emergency order prohibiting the further movement of placarded hazardous materials cars over the line of railroad operated by the New York, Susquehanna and Western Railroad Company (NYSW).

NYSW operates a line of railroad between Jersey City, New Jersey and Butler, New Jersey, a distance of approximately 35 miles. An additional 24 miles of track between Butler, New Jersey and Sparta, New Jersey is presently out of service. In January 1976, the NYSW filed a petition for reorganization under Section 77 of the Federal Bankruptcy Act with the Federal district court in Newark, New Jersey. The railroad consists of a single main-line track from milepost 3.5 near Croxton Station in Jersey City to milepost 11.0, located just west of the Little Ferry drawbridge. Between mileposts 11.0 and 21.8, near Riverside, New Jersey, the line consists of double main track. One of these tracks is designated as eastbound track; the other is designated as westbound track. From milepost 21.8 to the railroad's present terminal at Butler, the line is again single

track territory. Train movements over the railroad at the present time are made in accordance with Rule 93, operations within yard limits. In accordance with that rule, which has been adopted as a federal standard by FRA, 49 CFR 218.35, train operations are conducted with the locomotive engineer prepared to stop within one-half of the range of his or her vision. In any event, under that rule train speed may not exceed 20 miles per hour.

FRA inspectors have inspected the track of the NYSW to determine its condition in relation to the Track Safety Standards (49 CFR Part 213) in the past several weeks. The FRA inspection revealed that the railroad installed the vast majority of the existing crossties in the period between 1929 and 1932. Particularly since filing for reorganization in 1976, the NYSW has had no track maintenance program to allow for the replacement of defective crossties. Although FRA inspectors have, on several occasions, advised NYSW personnel of the requirements concerning inspections (49 CFR Part 213, Subpart F), NYSW admitted to FRA on April 20, 1978 that they have not designated anyone as qualified to inspect track. 49 CFR 213.7. They further admitted that no track inspections have been made by the NYSW for several years.

During the FRA inspections of the NYSW a significant number of locations where the track was not in compliance with the minimum federal standards were observed. Due to the age of the crossties, much of the railroad is not in compliance with the federal standards with respect to crossties.

FRA Track Safety Standards prescribe that the maximum allowable distance between nondefective ties for Class 1 track, which is the lowest class of track, authorizing a maximum operating speed of 10 miles per hour for freight trains, is 100 inches. (49 CFR § 213.109). Distances of 600 inches between nondefective ties

were measured by FRA inspectors during their inspections. Numerous other locations where distances between nondefective ties exceeded 100 inches were also found by FRA during those inspections. Appendix A to this emergency order details the precise locations measured by FRA, together with the deviations found during those inspections. The conditions actually measured reflect the general condition of the rest of the track which FRA observed by hi-rail car between mileposts 3.5 and 27.0. Inspection by FRA of the Passaic and Lodi Branch lines also revealed numerous locations where the track was not in compliance with the minimum federal standards. Approximately thirty percent (30%) of these branch lines was covered with sod, preventing any actual observation of the tie conditions on those portions of the branch lines. Because of the age of the ties on both the mainline and branch line tracks, the lines will continue to deteriorate unless prompt remedial action is taken by the NYSW.

In addition to numerous areas of non-compliance with the requirements concerning crossties, there is a serious weakening of the sub-grade of the track between mileposts 3.5 (Croxton Station) and 9.1 (Little Ferry). Because of the low elevation of this portion of the NYSW, this track is occasionally submerged by water due to tidal intrusions and rainfall. The on-ground inspection of this track on April 14, 1978 disclosed that approximately 35% of the track was covered by mud and sod, which precluded actual measurement of portions of the track. However, as indicated on Appendix A, where measurements were taken by FRA, significant deviations from the Standards were discovered.

The proper spacing of nondefective crossties, in connection with effective ballast, provides lateral and vertical support to the rail which is necessary to prevent trains from derailing. If the lateral support is not present, because ties are defective, the likelihood of wide gage occurring while the track is under load also increases greatly. Because of the large number of locations on NYSW line of railroad where adequate crossties are not provided, the possibilities for derailments increase significantly. During FRA's inspection of the NYSW, several areas where gage is in excess of the maximum prescribed by the federal standards were discovered. However, because of the defective crosstie conditions on the NYSW which fail to provide lateral support to the rails, numerous other locations where there would be the possibility of wide gage while the track was under load were also observed. In addition to the defective crosstie problem, the track between Croxton Station and Little Ferry has also been subjected to substantial saturation of the subgrade of the track. Thus, track in that area fails to provide either lateral or vertical support, which further increases the possibilities of derailments.

FRA's concern with the deteriorated condition of the NYSW led to a meeting between the two organizations on April 20, 1978. The NYSW did not dispute the findings of the FRA inspectors with respect to the condition of the track. The NYSW also admitted their failure to inspect the track and their failure to have established a program of restoration. However, the NYSW had developed a proposal for such a restoration project which they presented orally to FRA on April 20. They cautioned FRA, however, that the program was only a proposal and could not be implemented until both the trustee and the Bankruptcy Court had approved the plan. The NYSW indicated that it would be a minimum of three to four weeks before such approval was finally given, at which time the railroad could

begin applying for funds necessary for the projects. Following FRA's concern with respect to the failure of the NYSW to have the track inspected by a qualified individual, the NYSW further agreed to implement a track inspection program. The NYSW further admitted that their present track maintenance program consists solely of performing only the work that is necessary to rerail a train and fix the track following a derailment.

While the FRA is somewhat encouraged because the NYSW has started to plan for the restoration of their track, the railroad is presently in such a deteriorated condition that derailments on the line occur almost daily. Approximately 10% of the traffic (906 cars of a total of 8,969 cars transported in 1977) over the line consists of cars containing materials which were required by Department of Transportation regulations to be placarded as hazardous materials. Included in the hazardous materials transported by the NYSW is anhydrous ammonia, liquid chlorine and ethylene oxide. Most of the hazardous materials traffic is handled between Croxton Station (Jersey City) and Hawthorne, New Jersey. According to the NYSW, approximately two-thirds (2/3) of the hazardous materials transported by the NYSW is delivered to shippers located on the Lodi Branch. While trains only operate at a speed of 10 miles per hour over the line of the NYSW, records of the railroad indicate that a total of 41 derailments occurred on the NYSW during the six month period between September 1, 1977 and February 28, 1978. Not included in this number of derailments are those derailments which involve only one wheel or one axle being derailed.

FRA recognizes that the NYSW provides a valuable service to the customers on its line. However, in the opinion of FRA, the continued transportation of cars

containing hazardous materials over the NYSW railroad in its present deteriorated condition constitutes an unsafe condition and creates an emergency situation involving a hazard of death or injury to persons affected by the use of this line.

Therefore, pursuant to authority contained in section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 432), delegated to me by the Secretary of Transportation (49 CFR § 1.49(n)), it is hereby ordered:

1. That all transportation of railroad cars containing a material which is required to be placarded in accordance with Department of Transportation regulations, 49 CFR Parts 170-189, ("placarded hazardous materials cars") over the New York, Susquehanna and Western Railroad Company shall cease not later than 12:01 a.m., Friday, April 28, 1978. However, any placarded hazardous materials car on that line at that time may continue to its final terminal.

2. This order shall remain in effect until the track is brought into compliance with the minimum federal standards prescribed by the Track Safety Standards (49 CFR Part 213). This order does not authorize the New York, Susquehanna and Western to operate trains, which do not contain placarded hazardous materials cars, over track which is not in compliance with the Track Safety Standards. Any such operation may subject the NYSW to the imposition of the penalties prescribed by the Federal Railroad Safety Act of 1970 (45 U.S.C. § 438).

3. Transportation of placarded hazardous materials cars over this line shall be and is prohibited by this order until the authorized designated official of the New York, Susquehanna and Western Railroad Company has certified that the

track has been brought into compliance with the Track Safety Standards and the line has been inspected by a representative of the Federal Railroad Administration. Subject to these procedures, service over the line may be restored incrementally.

In consideration of the discussions between FRA and the NYSW, I have further determined that the above-stated order shall become effective according to its terms notwithstanding any provision in Part 216 of Title 49, Code of Federal Regulations. I have further determined that the action prescribed by this order is required immediately to assure the public safety.

An opportunity for formal review of this order will be provided in accordance with sections 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 432) and with section 554 of Title 5 of the United States Code. Petition for such review must be submitted in writing to the Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590 in accordance with 49 CFR § 216.25.

A civil penalty of $2,500 will be assessed for any violation of this order (45 U.S.C. § 438).

Issued in Washington, D.C. on APR 26 1978

John M. Sullivan

JOHN M. SULLIVAN
Administrator

APPENDIX A

New York, Susquehanna and Western Railroad

Track Inspected Between Milepost	and Milepost	(49 CFR 213) (Numbers in parentheses are number of defects)
4.0	4.3	.109 (38) (Maximum distance between non-defective ties—576")
4.8	5.0	.109 (35) (Maximum distance between non-defective ties—528")
5.9	6.1	.109 (36) (Maximum distance between non-defective ties—600")
7.1	7.5	.109 (36) (Maximum distance between non-defective ties—360")

In an inspection of 1.1 miles of railroad, 145 deviations from the minimum federal safety standards relating to crossties were discovered. Three locations where the crosslevel was measured at 5 inches (crosslevel can not exceed 3 inches in Class 1 track) were also discovered by FRA inspectors in this segment of track. The track inspected was representative of the remainder of the track between mileposts 3.5 (Jersey City) and 9.1 (Little Ferry). Due to the low elevation of this track, much of the track was covered by sod and mud. Additionally, this track is subject to substantial intrusions of water due to tides and rain fall. Three locations where there was a break out in the railhead were also observed in this segment of track.

Track Inspected Between Milepost	and Milepost	(49 CFR 213) (Numbers in parentheses are number of defects)
12.7	13.0	
Westbound Main		.109 (16) (Maximum distance between nondefective ties—528")
Eastbound Main		.109 (20) (Maximum distance between nondefective ties—416")
14.0	14.75	
Westbound Main		.109 (71) (Maximum distance between nondefective ties—330")
Eastbound Main		.109(53) (Maximum distance between nondefective ties—564")
15.0	15.5	
Westbound Main		.109 (42) (Maximum distance between nondefective ties—330")
Eastbound Main		.109 (13) (Maximum distance between nondefective ties—216")
16.0	16.25	
Westbound Main		.109 (23) (Maximum distance between nondefective ties—280")
Total miles of track inspected:		Total number of defects found:
2.35		238

The track inspected was representative of the remainder of the track between mileposts 9.1 (Little Ferry) and 27.0 (Wyckoff). In addition to the crosstie defects, three locations with excessive gage were measured by FRA inspectors. At those locations, gage on a curve was measured at 58-1/2 inches, 58-1/4 inches and 58-1/2 inches. Maximum gage

for Class 1 track is 57-3/4 inches on curved track. Because of the deteriorated tie conditions, the ties will no longer provide gage support and the possibility of wide gage under load exists at any location where these tie conditions exist.

Track Inspected Between Milepost and Milepost	(49 CFR 213) (Numbers in parentheses are number of defects)
Branch Lines	
Passaic Branch	
0.0—1.5	.63 (2) .109 (57) (120"—444") .113 (4) .137 (2)
Lodi Branch	
1.0—2.0	.63 (2) .109 (41) (120"—288") .113 (1)