

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

**DEPARTMENT OF TRANSPORTATION
Federal Railroad Administration**

**[FRA Emergency Order No. 21,
Notice No. 2]**

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 approximately 1.5 miles of its line near Willits, California, including trackage between the junction with the California Western Railroad and the Willits Depot, as well as Tracks 20, 24, 25, 26, 27, 709, and 711 in Willits Yard. The purpose of the partial relief is to allow the California Western Railroad to renew its operations over NWP tracks to Willits Depot and turn its trains at Willits. The remainder of the NWP line, from Arcata, California, to mile post 63.4 between Schellville and Napa Junction, 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 63.4 between Schellville, California and Napa Junction, 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 63.4 near Napa Junction, 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. Railways, Inc. is the operating agent for the North Coast Railroad Authority, doing business as the NWP.

The NWP connects to the California Western Railroad, among other railroads, which operates both freight and passenger trains, to Willits. Prior to the issuance of Emergency Order No. 21, the California Western operated over about one mile of NWP trackage in order to interchange freight operations with the NWP at Willits and to reach its passenger terminal in Willits.

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. The closure included the trackage near Willits over which the California Western Railroad operated.

Emergency Order No. 21 detailed requirements the NWP must meet in order to gain full relief from the order. The railroad 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 also 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 May 20, 1999, in accordance with the terms of the emergency order, the NWP formally requested that FRA grant it partial relief from the emergency order for the 1.5 miles of track in Willits, California, over which the California Western Railroad needs to operate to Willits Depot and turn its train. At this time, I find that the NWP has 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. Railways, Inc. has adopted for use on the NWP 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 the sole employee responsible for track inspections, a chief engineer for Rail-Ways, Inc., has sufficient knowledge, skills and ability to successfully conduct track inspections.

NWP's compliance at this time with the systemic requirements of the emergency order makes

requirements of the emergency order are met.

On May 20, 1999, in accordance with the terms of the emergency order, the NWP formally requested that FRA grant it partial relief from the emergency order for the 1.5 miles of track in Willits, California, over which the California Western Railroad needs to operate to Willits Depot and turn its train. At this time, the NWP has been found to meet 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. Railways, Inc. has adopted for use on the NWP 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 the sole employee responsible for track inspections, a chief engineer for Rail-Ways, Inc., has 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.

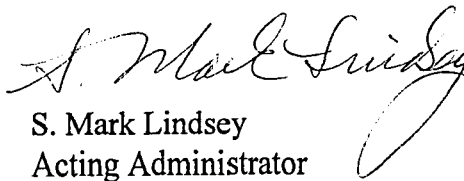
NWP's compliance at this time with the systemic requirements of the emergency order makes the railroad eligible to request partial relief for the designated segment of track in Willits. However, FRA will monitor the railroad's continuing compliance with these systemic requirements.

On May 25, 1999, FRA inspected the track for which the NWP has 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. On May 27, 1999, FRA inspected the grade crossing signal systems on the track for which NWP has requested relief from the emergency order and found that all necessary repairs, inspections and tests had been performed.

Relief

In light of the foregoing, I grant NWP partial relief from Emergency Order No. 21. NWP trackage between its junction with the California Western Railroad and the Willits Depot, as well as Tracks 20, 24, 25, 26, 27, 709, and 711 in Willits Yard 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 MAY 28 1999


S. Mark Lindsey
Acting Administrator