4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 30, Notice No. 1]

Emergency Order Establishing a Maximum Operating Speed of 40 mph in High-Threat Urban Areas for Certain Trains Transporting Large Quantities of Class 3 Flammable Liquids

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SUMMARY: FRA is issuing this Emergency Order (EO or Order) to require that trains transporting large amounts of Class 3 flammable liquid through certain highly populated areas adhere to a maximum authorized operating speed limit. FRA has determined that public safety compels issuance of this Order. This Order is necessary due to the recent occurrence of railroad accidents involving trains transporting petroleum crude oil and ethanol and the increasing reliance on railroads to transport voluminous amounts of those hazardous materials in recent years. Under the EO, an affected train is one that contains: 1) 20 or more loaded tank cars in a continuous block, or 35 or more loaded tank cars, of Class 3 flammable liquid; and, 2) at least one DOT Specification 111 (DOT-111) tank car (including those built in accordance with Association of American Railroads (AAR) Casualty Prevention Circular 1232 (CPC-1232)) loaded with a Class 3 flammable liquid. Affected trains must not exceed 40 miles per hour (mph) in high-threat urban areas (HTUAs) as defined in 49 CFR 1580.3.

EFFECTIVE DATE: This Order is effective immediately. Railroads shall immediately initiate steps to implement FRA Emergency Order No. 30. Railroads shall complete implementation no later than April 24, 2015.

FOR FURTHER INFORMATION CONTACT: Ron Hynes, Director, Office of Safety Assurance and Compliance, Office of Railroad Safety, FRA, 1200 New Jersey Avenue, SE, Washington, DC 20590, telephone (202) 493- 6404; or, Thomas Herrmann, Assistant Chief Counsel for Safety, Office of Chief Counsel, FRA, 1200 New Jersey Avenue, SE, Washington, DC 20590, telephone (202) 493-6036.

INTRODUCTION: FRA has determined that public safety compels issuance of this EO. This Order sets the maximum authorized operating speed of 40 mph for certain trains transporting large quantities of Class 3 flammable liquids within HTUAs.[1] FRA finds that this action is necessary as a result of the unique risks associated with the growing reliance on trains to transport large quantities of flammable liquids. The risk of flammability is compounded in the context of rail transportation because petroleum crude oil and ethanol are commonly shipped in large blocks or single commodity unit trains. Further, the differing tank cars currently available to transport petroleum crude oil and ethanol in this country have varying levels of protection, with the most commonly used tank cars having shown a propensity to puncture or otherwise release hazardous material that catches fire in the event of a derailment.

DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) has developed a final rule that will contain enhanced tank car standards for both new and existing tank cars and certain speed restrictions. Until those standards are issued, FRA believes that public safety dictates that an appropriate speed restriction be placed on trains containing large quantities of flammable liquid, particularly in areas where a derailment could cause a significant hazard of death, personal injury, or harm to the environment and property.

[1] HTUA is defined by the Transportation Security Administration as "an area comprising one or more cities and surrounding areas include a 10-mile buffer zone, as listed in appendix A to [part 1580]." 49 CFR 1580.3. Appendix A to part 1580 lists the specific metropolitan areas within the United States that are considered HTUAs.

Since the July 2013 derailment in Lac-Mégantic, Quebec, Canada, which demonstrated the consequences of a railroad accident resulting in the sudden release of flammable liquids, there have been numerous derailments in the United States involving trains transporting large quantities of crude oil and ethanol. Although none of these recent derailments resulted in the tragic loss of life that occurred as a result of the Lac-Mégantic derailment, the pattern of derailments and resulting hazardous material releases and fires involving tank cars transporting flammable liquids lead FRA to the conclusion that additional action is necessary in highly populated areas where any such derailment could result in catastrophic consequences. This action is being taken to eliminate an unsafe condition or practice, or a combination of such, causing an emergency situation involving the hazard of death, personal injury, or significant harm to the environment.

This Order applies to:

1) Any train in the United States transporting 20 or more loaded tank cars in a continuous block, or containing 35 or more loaded tank cars, of Class 3 flammable liquid; and
2) Which contains at least one DOT-111 tank car (including those built to the CPC-1232 standard) loaded with Class 3 flammable liquid.

FRA believes that only trains transporting large quantities of petroleum crude oil and ethanol (Class 3 flammable liquids described by DOT's Hazardous Materials Regulations (HMR; 49 CFR parts 171 to 180)) will be affected by this Order as those are the only Class 3 flammable liquids transported in this quantity. FRA is ordering that any affected train adhere to a maximum authorized operating speed limit of 40 mph in HTUAs as defined in 49 CFR 1580.3.

AUTHORITY: Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Administrator of the FRA. 49 CFR 1.89. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice, or a combination thereof, "causes an emergency situation involving a hazard of death, personal injury or significant harm to the environment . . . ." 49 U.S.C. 20104(a). These orders may immediately impose "restrictions and prohibitions . . . that may be necessary to abate the situation." Id.

BACKGROUND: In the last two years, DOT (including FRA and PHMSA) has taken numerous actions to address the safe transportation by rail of flammable liquids. Among other actions, DOT has issued three emergency orders[2] and several safety advisories, has reached voluntary agreements with the railroad industry,[3] and has undertaken several separate rulemaking proceedings to address the transportation and handling of trains transporting large quantities of flammable liquids. Notably, PHMSA, in cooperation with FRA, has formulated the final rule mentioned above that will address issues including a new HMR tank car standard and speed limits governing the transportation of large quantities of flammable liquids. The final rule will codify certain proposals contained in the Notice of Proposed Rulemaking (NPRM) in the HM-251 rulemaking proceeding (79 FR 45016, Aug. 1, 2014).[4] The final rule was submitted to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12866 on

[2] DOT Emergency Restriction/Prohibition Order, Docket No. DOT-OST-2014-0067 (May 7, 2014); DOT Amended and Restated Emergency Restriction/Prohibition Order, Docket No. DOT-OST-2014-0025 (March 6, 2014); and, FRA Emergency Order No. 28, 78 FR 48218, Aug. 2, 2013.

[3] http://www.dot.gov/briefing-room/letter-association-american-railroads.

[4] http://www.gpo.gov/fdsys/pkg/FR-2014-08-01/pdf/2014-17764.pdf.

February 5, 2015 (http://www.reginfo.gov/public). A chronology of certain DOT actions to address safe transportation of flammable liquids is listed on PHMSA's Internet website.[5]

Despite efforts by DOT, the railroad industry, tank car manufacturers, and other interested parties, trains transporting large quantities of petroleum crude oil and ethanol continue to derail in this country. These derailments have resulted in the release of large quantities of hazardous material and subsequent fires. In addition to the 2013 Lac-Mégantic derailment mentioned above in which 47 people were killed, numerous derailments involving crude oil unit and ethanol trains have occurred in this country. Three significant accidents have occurred domestically already in 2015 in Iowa, West Virginia, and Illinois, respectively.

2015 Accidents

The following is an overview of the circumstance surrounding the most recent derailments involving trains transporting large amounts of crude oil or ethanol that have occurred in 2015. FRA has not definitively established the probable causes of these accidents. Accordingly, nothing in this Order is intended to attribute definitive causes to these accidents, or to place responsibility for the accidents on the acts or omissions of any specific person or entity.

On February 4, a southbound Canadian Pacific Railway Co. (CP) train consisting of three locomotives, 1 buffer car loaded with sand, and 80 tank cars loaded with ethanol derailed near Dubuque, Iowa while traveling approximately 24 mph. As a result there was an ethanol spill, a fire, and at least two loaded tank cars came to rest on the frozen Mississippi River. Legacy DOT-111 cars were among the seven cars that released ethanol during the incident. One non-jacketed CPC-1232 car was punctured. It is estimated that approximately 53,000 gallons of ethanol was released as a result of the derailment.

[5] http://phmsa.dot.gov/hazmat/osd/chronology.

On February 16, 2015, a CSX Transportation, Inc. (CSX) train consisting of 109 tank cars loaded with crude oil derailed near Mt. Carbon, West Virginia. The train was en route to a shipping terminal in Yorktown, Virginia, and was transporting crude oil sourced from the Bakken region (Bakken oil) and traveling at an approximate speed of 33 mph when 28 cars derailed. Two tank cars were punctured, thirteen cars experienced catastrophic thermal tears, and two cars released crude oil through their bottom outlet valves. Multiple fires and explosions occurred and emergency responders established a one-half mile evacuation zone, involving approximately 300 people. In all, the tank cars lost a total of almost 379,000 gallons of crude oil. All of the tank cars involved in this accident were CPC-1232 tank cars built between 2011 and 2013 and were non-jacketed tank cars.

Most recently, on March 5, 2015, a BNSF Railway Co. (BNSF) train consisting of 103 tank cars also loaded with Bakken crude oil derailed near Galena, Illinois, resulting in a fire. The train was traveling at an approximate speed of 23 mph when 21 cars derailed. Seven cars experienced thermal tears, three cars released product through their bottom outlet valves, and two cars released product from their top fittings. All of the tank cars involved in this accident were constructed to the CPC-1232 standard, and were non-jacketed. FRA notes that no cars were punctured as a result of this derailment.

In addition to the above-described incidents, previous publicized derailments resulting in releases of crude oil or ethanol and and/or resulting fires have occurred with increasing frequency (e.g., Casselton, North Dakota; Aliceville, Alabama; Lynchburg, Virginia; Columbus, Ohio; Cherry Valley, Illinois; Arcadia, Ohio; New Brighton, Pennsylvania). Since February 2015, an additional three incidents have occurred in Ontario, Canada, two of which involved trains transporting large quantities of petroleum crude in loaded CPC-1232 tank cars that were

punctured, one of which occurred at a train speed of over 40 mph. Some of these recent accidents listed above that occurred prior to 2015 have been the impetus for DOT regulatory actions, such as the recent DOT emergency orders and the HM-251 rulemaking proceeding mentioned above. Rail incidents involving crude oil have also been the subject of several National Transportation Safety Board (NTSB) investigations and subsequent NTSB recommendations to DOT.

Tank Cars

Traditionally, DOT-111 cars have been the primary type of tank cars used to transport large quantities of flammable liquids such as petroleum crude oil and ethanol in this country. Part 173 of the HMR authorizes the DOT-111 as a permissible packaging to transport ethanol and crude oil, as well as certain other low, medium, and high-hazard liquids and solids. DOT-111 cars are general purpose, non-pressure railroad tank cars. Subpart D of 49 CFR part 179 in the HMR establishes the design requirements for DOT-111 cars. Baseline (legacy) DOT 111 tank cars have traditionally been designed to operate at a gross rail load of 263,000 pounds, and additional tank car protections intended to improve crashworthiness, such as head shields, jackets, and thermal protection systems, are optional features. DOT-111 cars are required to have a shell and head thickness of 7/16".

However, there have been changes in railroad operations over the last several years that have impacted the use of DOT-111 cars to transport flammable liquids. These changes primarily include (1) increased DOT-111 traffic due the rapid increase in production levels of domestic energy products such as petroleum crude oil, (2) higher in-train forces due to the transportation of hazardous materials in tank cars at higher gross rail loads (286,000 lbs.), and (3) the likelihood of tank cars accumulating more miles annually. This has resulted in tank car design

modifications to accommodate these increased stresses and to reduce the chance of a catastrophic tank car failure.

However, despite those efforts, a significant number of older, legacy DOT-111 tank cars remain in flammable liquid service. In the HM-251 NPRM, DOT estimated that over 50,000 such non-jacketed DOT-111 cars (and an estimated 5,500 jacketed DOT-111 cars (79 FR 45025)) were still being used in crude oil and ethanol service as of August 2014.[6] FRA is aware that the number of CPC-1232 and DOT-111 cars in crude oil service is variable, as new cars are currently being constructed and older cars are retired.

The NTSB has described DOT-111 tank cars as having "…a high incidence of failure when involved in accidents,"[7] and has recommended that DOT update the design requirements for DOT-111 tank cars, including for use in crude oil and ethanol service specifically.[8] The NTSB recommendations were made with the intent to enhance the cars' performance in accidents.[9] The forthcoming HM-251 rulemaking will address certain of these NTSB recommendations.

In 2011, the rail industry, through CPC-1232, adopted a new industry standard intended to improve the crashworthiness of newly-constructed DOT-111 tank cars intended for use in crude oil and ethanol service. Cars built to the CPC-1232 standard are DOT-111 cars that are designed to operate at a gross rail load of 286,000 pounds, and include a thicker shell and head protection (1/2 height head shield, 1/2" thick shell and head thickness), are constructed with

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[6] Id.

[7] DERAILMENT OF CN FREIGHT TRAIN U70691-18 WITH SUBSEQUENT HAZARDOUS MATERIALS RELEASE AND FIRE, CHERRY VALLEY, ILLINOIS JUNE 19, 2009; NTSB Accident Report NTSB/RAR-12-01 (Feb. 14, 2012); http://www.ntsb.gov/investigations/AccidentReports/Reports/RAR1201.pdf .

[8] Id.

[9] Id.

normalized steel, are constructed with top fittings protection, and with relief valves having a greater flow capacity as when compared to legacy DOT-111 cars. Additionally, some new tank cars constructed to the CPC-1232 standard are also jacketed and equipped with insulation and/or thermal protection. The jacket is 1/8" thick around the shell and ½" thick at the heads providing full-height head protection

Based on recent railroad accidents, the risk of additional future accidents, and the NTSB's findings that DOT-111 cars have a propensity to fail when involved in accidents, FRA has a safety concern regarding the continued use of a large number of DOT-111 cars to transport large quantities of crude oil and ethanol, especially at higher speeds. Under current Federal regulations and applicable railroad industry practices, unit trains containing these older non-jacketed DOT cars may travel in flammable liquid unit trains at up to 50 mph in this country, and at speeds of up to 40 mph in populated urban areas under certain circumstances (as further discussed below).

FRA's safety concern also extends to the newer CPC-1232 tank cars in light of recent incidents, especially those incidents occurring at higher speeds. FRA notes that a total of only five tank cars were punctured as a result of the 2015 accidents in Iowa and West Virginia. No CPC-1232 cars were punctured as a result the Galena, Illinois derailment, and only one CPC-1232 tank car was punctured as a result of the 2014 Lynchburg, Virginia, derailment (23 mph). However, these accidents indicate that the newer CPC-1232 cars will still release hazardous material which catches fire when the cars derail.

Train Speed

Speed is a factor that may contribute to the severity of a derailment or the derailment itself. Speeds can influence the probability of an accident. A lower speed may allow for a brake

application to stop a train before a collision, or allow a locomotive engineer to identify a safety problem and stop the train before an accident or derailment occurs. Higher speeds will increase the kinetic energy of an accident or derailment and the associated damage caused, resulting in a greater possibility of tank cars being punctured. For example, the unmanned train that derailed and caught fire in the Lac-Mégantic derailment was believed to have been traveling at over 60 mph at the time of the incident, resulting in approximately 59 tank car being breached. As explained in the HM-251 NPRM, if an accident occurs at 40 mph instead of 50 mph, DOT expects a reduction in kinetic energy of 36 percent. 79 FR 45046. As discussed above, the most recent derailment in the United States near Galena, Illinois, that occurred at 23 mph resulted in no tank cars being punctured, and the 2014 Lynchburg derailment that occurred at a similar speed only resulted in one CPC-1232 tank car puncture.

Generally, with respect to operating speeds, FRA has developed a system of classification that defines different track classes based on track quality. The track classes include Class 1 through Class 9 and "excepted track." See 49 CFR 213.9 and 213.307. Freight trains transporting hazardous materials, including crude oil, operate at track speeds associated with Class 1 through Class 5 track and, in certain limited instances, at or below "excepted track" speeds (10 mph or less up to 80 mph). However, AAR design specifications effectively limit most freight equipment to a maximum allowable speed of 70 mph. The HMR contain speed restrictions on railroad cars transporting loads of certain hazardous materials, such as material poisonous-by-inhalation. See, e.g., 49 CFR 174.86.

In addition, the rail industry, through AAR, implements a detailed protocol on recommended operating practices for the transportation of hazardous materials. This protocol,

set forth in AAR Circular No. OT-55-N, August 5, 2013 (Circular)[10] includes a 50 mph maximum speed for any "key train." The Circular establishes that a key train includes any train with 20 or more loads of "any combination of hazardous material." This definition includes trains affected by this Order that transport large quantities of petroleum crude oil and ethanol. In February 2014, by way of Secretary of Transportation Anthony Foxx's letter to AAR,[11] the major railroads in this country voluntarily committed to a lower 40-mph speed limit for trains containing one or more legacy DOT-111 tank cars (or one non-DOT specification car) and transporting large quantities of crude oil within the limits of any HTUA as defined by the regulations of the Transportation Security Administration.

In addition, FRA is aware that the nation's second largest freight railroad, BNSF, recently took steps to lower the speeds of key trains in populated areas. BNSF recently amended its railroad rules to require that key trains traveling within large municipal areas travel no more than 35 mph, or an even lower speed and in more locations than they, other Class I railroads, AAR, and some short line railroads committed to in response to Secretary Foxx's February 2014 letter described above.

PHMSA requested public comment on appropriate speed limits for trains transporting large quantities of certain flammable liquids in the HM-251 NPRM, and will address train speeds in the forthcoming final rule. As discussed above, PHMSA will also address updated tank car standards as related to the transportation of flammable liquids by rail. However, any lowered speed requirements in the forthcoming PHMSA rule will not be applicable until the effective date of the final rule. In the interim, FRA believes that further action is necessary to ensure public safety.

[10] http://www.boe.aar.com/CPC-1258%20OT-55-N%208-5-13.pdf.

[11] http://www.dot.gov/briefing-room/letter-association-american-railroads.

While FRA applauds the industry for its voluntary commitments related to speed reductions, FRA believes that it is necessary for it to require that the existing industry commitments be applied to all trains carrying large quantities of Class 3 flammable liquids, including those transporting newer CPC-1232 cars. FRA believes that immediately lowering maximum train speeds in HTUAs to all trains carrying large quantities of flammable liquids will help to mitigate the potential effects of future accidents should they occur in a highly populated area. Despite the efforts of all stakeholders, these accidents continue to occur on a regular basis. While accidents involving affected trains have recently occurred at speeds below 40 mph, FRA anticipates that the reduction in maximum speed for certain trains carrying large volumes of flammable liquid in higher risk areas based on the type of tank car being used may prevent fatalities and other injuries and damages, and limit the amount of environmental damage that would likely result were an accident to occur in one of these densely populated areas. HTUA's encompass locales where, were a derailment to occur, there is a greater chance that a catastrophic loss of human life could occur than in other less populated areas. Further, by limiting speeds for certain higher risk trains, FRA also hopes to reduce in-train forces related to acceleration, braking, and slack action that are sometimes the cause of derailments.[12] FRA believes these restrictions are necessary until the HM-251 final rule is issued and becomes effective.

FRA's approach here is based on longstanding concerns regarding the crashworthiness of legacy DOT-111 cars, as evidenced by NTSB and FRA investigations of derailments involving trains consisting of large blocks or unit trains of tank cars containing flammable liquids. A recent FRA study, involving a tank car puncture model validated by full scale testing was

[12] See, e.g., FRA Report to the Senate Committee on Commerce, Science and Transportation and the House Committee on Transportation and Infrastructure: Safe Placement of Train Cars (June 2005).

conducted at the Transportation Technology Center in Pueblo, Colorado.[13] The study evaluated the relative performance of a variety of DOT-111 tank cars, including those that are the subject of this EO. In addition, a soon to be released report issued in March 2015 by Sharma & Associates, Inc. to FRA, addressed the reduction in tank car puncture probabilities based on changes to tank car designs or the tank car operating environment. FRA expects to post this report to its web-site in the near future. The report discusses the fact that tank cars are exposed to a wide range of hazards during derailments that affect the outcomes. It also discusses the assumption that higher derailment speeds tend to lead to "more cars derailing as well as higher magnitudes of forces, and thereby, a higher probability of puncture." The study estimated derailment impacts at 30, 40, and 50 mph, respectively, as applied to tank cars equipped with varying protections. The results of the study indicate more likely tank car punctures occur as accident speeds increase.

Accordingly, FRA is limiting speeds for affected trains to 40 mph. Recent accidents involving unit trains of crude oil indicate that these legacy DOT-111 cars are prone to punctures, tears, and hazardous material releases when involved in accidents. Newer tank cars built to the CPC-1232 standard have more robust protections than do legacy DOT-111 tank cars. However, recent incidents have shown that those cars will still release hazardous material when involved in derailments. Thus, FRA is also limiting the speed for affected trains transporting CPC-1232 cars to 40 mph or less. While past accidents have shown that there still may be hazardous material releases when derailments occur at less than 40 mph, FRA believes this speed restriction will substantially mitigate the effects of any accidents as when compared to accidents that occur at higher speeds.

[13] http://www.fra.dot.gov/eLib/details/L15900#p6_z50_gD; http://www.fra.dot.gov/eLib/details/L15901#p6_z50_gD

To formulate the speed limitation for certain trains, FRA balanced the need to alleviate an emergency situation involving a hazard of death, personal injury, or significant harm to the environment against the impacts speed limitations may have on efficient rail transportation in this country. An analysis of certain speed restrictions below 40 mph indicated that such restrictions could potentially cause harmful effects on interstate commerce, and actually increase safety risks. Increased safety risks could occur if speed restrictions cause rail traffic delays resulting in trains stopping on main track more often and in trains moving into and out of sidings more often requiring more train dispatching. Increased safety risks could also occur if shippers offer more affected trains onto the rail network to maintain constant inventories to offset train delays. FRA also evaluated speed restrictions in the context of potential delays to passenger rail service. FRA believes the restriction in this Order will address an emergency situation while avoiding other safety impacts and harm to interstate commerce and the flow of necessary goods to the citizens of the United States. FRA and DOT will continue to evaluate whether additional action with regard to train speeds is appropriate.

The speed restriction in this Order applies to trains transporting DOT-111 and CPC-1232 cars that pose dangers in a derailment. In seeking the appropriate approach to ensure safety, FRA has also limited this Order's applicability to only those trains transporting large quantities of flammable liquids. This Order will primarily apply to unit trains only. Further, this Order would have applied to all of the recent incidents described above involving unit trains transporting petroleum crude oil and ethanol. This Order's threshold ensures that FRA is focusing on the highest risk shipments and not unnecessarily imposing safety-related burdens on lesser risks that do not represent the same safety and environmental concerns.

FINDINGS AND ORDER: Due to the recently increasing volume of petroleum crude oil, and consistently high volume of ethanol being shipped by railroads in recent years, the numerous recent rail accidents involving trains transporting these hazardous materials to occur, and the subsequent releases of large quantities of crude oil into the environment and the imminent hazard those releases present to human life and the environment, this Order is requiring that each railroad carrier in this country adhere to the below-described maximum speed limit when operating certain trains containing large quantities of Class 3 flammable liquid.

The transportation of hazardous materials by rail is extremely safe, and the vast majority of hazardous materials shipped by rail each year arrive at their destinations without incident. However, FRA finds that there are gaps in the existing regulatory scheme that create an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, with respect to the speed at which trains transporting large quantities of certain flammable liquids are currently operated and the crashworthiness of the tank cars being used to transport those materials. The risks are magnified when less robust tank cars are used to transport large quantities of flammable liquids. As evidenced by recent accidents, even affected trains traveling at lower speeds have accidents with a propensity to result in fires and the release of large quantities of hazardous material.

To mitigate the effects of future accidents and to prevent others from occurring, and pursuant to the authority of 49 U.S.C. 20104, delegated to the FRA Administrator by the Secretary of Transportation (49 CFR 1.89), effective immediately, this Order requires that certain trains identified below must not exceed 40 mph while operating within High Threat Urban Areas. This Order applies to:

1) Any train in the United States transporting 20 or more loaded tank cars in a continuous block, or containing 35 or more loaded tank cars, of Class 3 flammable liquid; and
2) Which contains at least one DOT-111 tank car (including those built to the CPC-1232 standard) loaded with Class 3 flammable liquid.

A High Threat Urban Area is as defined by 49 CFR 1580.3. A Class 3 flammable liquid is as described by § 173.120 of the HMR. A Class 3 flammable liquid includes the hazardous materials described by § 172.101 of the HMR as UN 1267, petroleum crude oil, 3, PG I, II, or III, and UN 3475, Ethanol and gasoline mixture, 3, PG II, or UN 1287, Denatured alcohol, 3, PG II or III. For purposes of this Order, a Class 3 flammable liquid includes petroleum crude oil that might otherwise be reclassified as a combustible liquid under § 173.150 of the HMR. A DOT-111 car means a jacketed or non-jacketed tank car built to the specification established by subpart D of part 179 of the HMR, but not meeting the standard established by CPC-1232. A CPC-1232 car is a jacketed or non-jacketed DOT-111 tank car built to the CPC-1232 standard. A "train" for purposes of this order is as defined by 49 CFR 232.5. This Order will remain in effect until the effective date of the HM-251 final rule (Docket No. PHMSA-2012-0082; RIN 2137-AE91).

RELIEF: Petitions for special approval to take actions not in accordance with this Order may be submitted to the Associate Administrator for Railroad Safety and Chief Safety Officer (Associate Administrator), who is authorized to dispose of those requests without needing to amend this Order. When reviewing any petition for special approval, the Associate Administrator shall grant petitions only when a petitioner has clearly articulated an alternative action that will provide, in the Associate Administrator's judgment, at least a level of safety

equivalent to that provided by this Order. This Order will be supplanted and terminated upon the effective date of the HM-251 final rule (Docket No. PHMSA-2012-0082; RIN 2137-AE91).

PENALTIES: Any violation of this Order shall subject the person committing the violation to a civil penalty of up to $105,000. 49 U.S.C. 21301. Any individual who willfully violates a prohibition stated in this order is subject to civil penalties under 49 U.S.C. 21301. In addition, such an individual whose violation of this order demonstrates the individual's unfitness for safety-sensitive service may be removed from safety-sensitive service on the railroad under 49 U.S.C. 20111. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

REVIEW: Opportunity for formal review of this Order will be provided in accordance with 49 U.S.C. 20104(b) and 5 U.S.C. 554. Administrative procedures governing such review are found at 49 CFR part 211. See 49 CFR 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, D.C. on _____.

Sarah Feinberg,
Acting Administrator.

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