propriate telephone plant or other accounts. No reversal of interest during construction on property estimated to be completed in over one year but completed earlier is necessary.

NOTE.—There may be charged directly to the appropriate plant accounts the cost of any construction project which is estimated to be completed and ready for service within two months. There may also be charged directly to the plant accounts the cost of any construction project for which the gross additions to plant are estimated to amount to less than $25,000.

In § 31.100:3 paragraph (a) is revised to read as follows:

§ 31.100:3 Property held for future telephone use.

(a) This account shall include the original cost of property other than station apparatus, owned and held for no longer than two years under a definite plan for use in telephone service. If at the end of two years, the property is not in service, the original cost of the property shall be transferred to account 103, "Miscellaneous physical property." Should a carrier desire to retain the property in this account for a period longer than two years, it shall request direction or approval of this Commission according to the circumstances surrounding that property. The request should include the property item in question, demonstrate that the waiver is in the public interest, and indicate the precise additional time required for the property to be held in account 100.3.

* * * * *

3. § 31.6-60 is amended by adding a note to read as follows:

§ 31.6-60 Purpose of operating expense accounts.

* * * * *

NOTE.—The company's records shall be maintained so that payments to institutions or individuals for academic programs including company-run seminars, identifiable by recipient indicating address and college affiliation, where appropriate, and by service performed shall be readily available for reports to this Commission.

[FR Doc. 78-13428 Filed 5-16-78; 8:45 am]

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Emergency Order No. 7; Notice No. 3]

REMOVAL OF HIGH CARBON CAST STEEL WHEELS FROM SERVICE; INTERIM RESTRICTIONS ON THEIR USE

Amendment of Emergency Order

AGENCY: Federal Railroad Administration, DOT.

ACTION: Emergency order.

SUMMARY: FRA is amending paragraphs 4 and 9 of Emergency Order No. 7 published March 27, 1978 (43 FR 12691) to exclude freight cars equipped with 28-inch wheels from the prescribed inspection and stenciling requirements and to require that monthly reports be filed by the last day rather than the 10th day of the following month. These amendments are based upon experience in administration of Emergency Order No. 7; their purpose is to clarify the order and lessen the reporting burden.

EFFECTIVE DATE: This amendment to Emergency Order No. 7 becomes effective on May 17, 1978.

ADDRESSES: (1) Submission of written comments: All correspondence concerning this amendment should identify the Emergency Order Number and Notice Number and be submitted in triplicate to the Docket Clerk (RCC-1), Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

(2) Examination of written comments: All correspondence concerning this emergency order will be available for examination during regular business hours in Room 5101 Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-0924. *Principal Attorney:* Edward F. Conway, Jr., Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND INFORMATION

On March 27, 1978, FRA published Emergency Order No. 7 (43 FR 12691) under section 203 of the Federal Railroad Safety Act of 1970 (45 USC 432). This emergency order restricts the use of freight cars with 70-ton 1 percent carbon cast steel wheels (commonly referred to as "70T U-1 wheels"), prescribes a mandatory program for locating these wheels and removing them from cars, and requires these wheels to be found and removed from service before January 1, 1979.

On April 25, 1978, FRA published an amendment of Emergency Order No. 7 (43 FR 17472) to allow more flexibility in the timing and method of destroying "70T U-1 wheels" after they have been removed from cars.

The Association of American Railroads (AAR) has petitioned the FRA to amend paragraphs 4, 8 and 9 of Emergency Order No. 7.

Paragraph 4 of Emergency Order No. 7 now requires that each 70 ton or less capacity car that is on a shop or repair track and that has not been inspected and stenciled to indicate the presence or absence of "70T U-1 wheels" must be inspected and appropriately stenciled before the car is removed from that shop or repair track. In its petition, AAR requests that paragraph 4 be amended to: (1) limit these requirements to cars with 33-inch wheels and a nominal capacity of 55-tons, and (2) exclude cars of Canadian ownership from these requirements.

In support of the first modification, AAR states that the railroad industry will continue to inspect 50-ton cars when they are on repair tracks and will remove all "70T U-1 wheels" found, although AAR does not expect many of these wheels will be found under 50-ton cars. AAR also contends that the safety record of 1 percent carbon wheels under 50-ton cars does not justify the cost of applying a stencil to about 550,000 of these cars and that the railroad industry has other and more urgent needs for this money.

FRA does not agree that the requirement that 50-ton cars be stenciled is unjustified. This requirement was devised to forestall the necessity for *repeated* inspections of the same car each time it is on a shop or repair track and again each time it is loaded with a placarded hazardous material. Moreover, the prescribed stenciling of cars provides the information needed by railroad personnel to assure that cars with "70T U-1 wheels" are not inadvertently placed in trains containing placarded hazardous materials.

In view of the overall high failure rate of "70T U-1 wheels" and the fact that these wheels can readily be substituted for 50-ton wheels that are in short supply because they are no longer in production, FRA believes that it is imperative from the standpoint of safety that all cars of less than 70-ton capacity be inspected, stenciled and otherwise handled as prescribed in Emergency Order No. 7. Accordingly, FRA is denying the AAR request that the inspection and sten-

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ciling requirements of paragraph 4 of the order be limited to cars with 33-inch wheels and a nominal capacity of 55 tons. However, FRA is amending the order to exclude cars with 28-inch wheels from these requirements because these wheels can be easily distinguished from 33-inch wheels (such as "70T U-1 wheels"). Moreover 28-inch wheels are generally confined to autorack and other specialized cars that are not part of the general purpose car fleet.

In support of its second requested modification to exclude cars of Canadian ownership from Emergency Order No. 7, AAR states that railroads in Canada did not not purchase any "70T U-1 wheels"; however, AAR admits that some of these wheels may have been applied to Canadian cars during routine maintenance performed in the United States. AAR states that Canadian cars average four trips per year to a repair track and that any "70T U-1 wheels" found will be removed at that time in accordance with the AAR interchange rules. It argues that Canadian railroads should not be required to spend more than a million dollars to stencil the majority of the cars in the Canadian fleet of almost 200,000 cars.

At the outset, FRA wishes to emphasize that Emergency Order No. 7 applies to Canadian cars only while they are in the United States; Canadian cars of 70-ton or less capacity operated exclusively outside the United States *are not* subject to this order. FRA welcomes and appreciates the cooperation of Canadian railroads in agreeing to stencil U.S.-railroad-owned cars in accordance with Emergency Order No. 7.

Nevertheless FRA is constrained in the interest of safety to require that Canadian cars comply with Emergency Order No. 7 while they are in the United States. Many U.S. railroads did not purchase any "70T U-1 wheels" yet their cars must be inspected to determine whether they have any of these wheels. FRA estimates that as many as 45,900 "70T U-1 wheels" were installed as maintenance replacements on interchange cars. Since Canadian cars are freely interchanged with U.S. railroads and operate throughout the United States, many Canadian cars may have had "70T U-1 wheels" installed as maintenance replacements by U.S. railroads. Any Canadian car with these wheels is just as much a safety hazard as a U.S.-railroad-owned car. Finally, the reasons for requiring U.S. cars to be stenciled apply equally to Canadian cars operated in the United States.

AAR also requests that the provision in paragraph 8 of Emergency Order No. 7 that required "70T U-1 wheels" to be destroyed by burning a hole through the plate of each wheel be changed to require instead that they be stenciled. FRA has already amended this requirement to provide that when these wheels are removed from a car they must be stenciled "Scrap FRA EO 7"; and when the wheel is demounted from the axle, the wheel must be made permanently unusable by cutting a hole through the plate, notching the hub or some other destructive and disfiguring measure (Emergency Order No. 7, Notice No. 2 published in the April 25, 1978 issue of the FEDERAL REGISTER, 43 FR 17472).

Finally, AAR requests that paragraph 9 of Emergency Order No. 7 be amended to provide that monthly reports be filed by the last day of the following month instead of by the 10th day of the following month. This would allow railroads to utilize their car repair billing system to prepare these reports rather than establish an unnecessary and costly accounting procedure that AAR contends cannot be justified in the name of safety. FRA agrees and is amending paragraph 9 accordingly.

Therefore, pursuant to the authority of section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432), delegated to the Federal Railroad Administrator by the Secretary of Transportation (49 CFR § 1.49(n)), it is hereby ordered that Emergency Order No. 7 (43 FR 12691 and 43 FR 17472) be revised to read as follows:

1. After March 31, 1978, a 70-ton or less capacity freight car containing any hazardous material required to be placarded by the Department of Transportation Hazardous Materials Regulations ("placarded hazardous material") may not be accepted for transportation unless the car has been inspected to ascertain whether it is equipped with any Southern Wheel Co. (ABEX) 33", 70-ton, one-wear 1 percent carbon cast steel wheels manufactured during the years 1958-1969 ("70T U-1 wheels"). In the event it is ascertained that the car is equipped with any "70T U-1 wheel," and the hazardous material is not off-loaded at the point of origin, the car may be moved only to the nearest point where the "70T U-1 wheels" can be removed.

2. After June 30, 1978, no car listed under the provisions of paragraph 6 of this order as having been originally equipped with "70T U-1 wheels" may be hauled in any train unless it has been inspected and marked as prescribed in paragraph 7 of this order.

3. No car stenciled as prescribed in paragraph 7b of this order to indicate that it is equipped with "70T U-1 wheels" may be hauled in a train containing any placarded hazardous material.

4. After March 31, 1978, each 70-ton or less capacity car that is not equipped with 28-inch wheels and is on a shop or repair track but has not been stenciled to indicate whether it is or is not equipped with any "70T U-1 wheels", shall be inspected and stenciled as prescribed in paragraph 7 of this order before the car is removed from that shop or repair track.

5. After December 31, 1978, a car with one or more "70T U-1 wheels" may not be hauled in any train.

6. By April 1, 1978, each railroad that purchased any "70T U-1 wheels" shall compile a list of the cars on which these wheels were installed as original equipment and distribute that list to its mechanical forces, all other railroads, and the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

7. Each railroad that finds on its line a car listed pursuant to paragraph 6 of this order as being originally equipped with "70T U-1 wheels" shall inspect that car to determine whether it still has any of these wheels. This inspection shall be made at the nearest car inspection facility or, if proper protection is provided to the personnel making the inspection, at the point the car is found.

a. If the car inspected does not have any "70T U-1 wheels" or they are replaced with other wheels the car shall be stenciled with a "yellow dot" before the car is moved from the point of inspection. The "yellow dot" shall be at least 6 inches in diameter and centered in a black square that is at least 12 inches square and is located immediately to the right of the consolidated stencil on each side of the car.

b. If the car inspected has any "70T U-1 wheels" and they are not all replaced with other wheels, the car shall be stenciled with a "white dot" before the car is moved from the point of inspection. The "white dot" shall be at least 6 inches in diameter and centered in a black square that is at least 12 inches square and is located immediately to the right of the consolidated stencil on each side of the car.

8. Each railroad shall immediately destroy its supply of "70T U-1 wheels" in addition to those it removes from cars. This shall be accomplished in the following manner: (a) the back plate of each wheel that is not immediately demounted from the axle shall be stenciled in white letters at least two inches high ("Scrap FRA EO 7"); and (b) immediately after each wheel is demounted from the axle, the wheel shall also be made permanently unusable by cutting a hole through the plate, notching the hub or by some other destructive and disfiguring measure.

9. Each railroad shall report in writing to the FRA by the last day of each calendar month through the month of January 1979, the following information:

a. The total number of cars inspected during the preceding month under this emergency order.

b. The total number of cars on which "70T U-1 wheels" were found and the number of wheels removed and destroyed.

c. The total number of cars on which "70T U-1 wheels" were found but were not removed and the number of wheels not removed.

The report shall be a addressed to the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

A civil penalty of $240 to $2,500 will be assessed for any violation of this order (45 U.S.C. 438).

Opportunity for formal review of this emergency order will be provided in accordance with section 203 of the Federal Railroad Safety Act of 1970 by written petition.

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Issued in Washington, D.C. on May 11, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-13308 Filed 5-16-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Revised Service Order No. 1305]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Revised Service Order No. 1305.

SUMMARY: There is a severe shortage of boxcars on the Union Pacific Railroad Co. That line owns a group of mechanical refrigerator cars which have inoperative refrigeration devices. In all other respects these cars are serviceable. Because of their limited cubical capacity many shipments that could be transported in these cars cannot be loaded with the minimum quantities specified by the applicable tariffs. Revised Service Order No. 1305 authorizes the Union Pacific to substitute two of these refrigerator cars for each boxcar ordered. The minimum weight to be applied to each set of two such cars is the minimum weight applicable to the boxcar ordered. The consent of the shippers is required.

DATES: Effective 12:01 a.m., May 12, 1978; Expires 11:59 p.m., October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: This Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 10th day of May, 1978.

There is an acute shortage of plain boxcars for loading shipments of various commodities on the lines of the Union Pacific Railroad Co. (UP). The UP has a surplus of mechanical refrigerator cars with inoperative refrigerating devices which are suitable for transporting these products if the use of two such cars for each boxcar ordered is permitted.

The economic loss suffered by shippers dependent on the UP for their car supplies can be alleviated by the substitution of sufficient smaller cars for the larger cars ordered to transport the shipments offered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of boxcars are ineffective to overcome these shortages of boxcars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1305 Distribution of freight cars.

(a) Subject to the concurrence of the shipper the Union Pacific Railroad Co. (UP) may substitute two mechanical refrigerator cars bearing reporting marks UPRX for each boxcar ordered.

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(c) *Rates and minimum weights applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by section (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(d) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Boxcar Ordered, UPRX ( ) and UPRX ( ) furnished authority ICC Revised Service Order No. 1305.

(e) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order

(h) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(i) *Effective date.* This order shall become effective at 12:01 a.m., May 12, 1978.

(j) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-13450 Filed 5-16-78; 8:45 am]

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