

TABLE 1.—INJURY RISK VALUE FOR AN AIS≥3 NECK INJURY OF NECK EXTENSION MOMENTS FOR NO MUSCLE TONE AND FOR 80 PERCENT MUSCLE TONE MEASURED WITH THE 50TH PERCENTILE ADULT MALE ATD

	Neck extension moment (Nm)	% Risk of AIS≥3 Neck Injury		Potential number of occupants with AIS≥3 neck injury	
		No muscle tone	80% muscle tone	No muscle tone	80% muscle tone
MVSS Req'mt .....	57	0.8	0.09	<1 (0.76)	0 (0.09)
TRC Test .....	67	2.2	0.3	2 (2.09)	0 (0.29)

Therefore, if corrective action is not implemented for the 279,132 subject vehicles, the increase in the estimated number of occupants that may be exposed to an AIS≥3 neck injury would be no more than one occupant, but more likely would be close to zero depending on the degree of muscle tone involved. The reason this increase is so small is that the current FMVSS 208 neck extension moment limit of 57 Nm is an extremely conservative limit. This value corresponds to only a 0.8 percent risk of an AIS≥3 neck injury with no muscle tone assumed and only a 0.09 percent risk if 80 percent muscle tone is assumed.

As part of the aforementioned ongoing rulemaking, the agency is currently considering the AAMA recommendation that an injury risk level of 5 percent be used for setting regulated injury criteria limits. This includes the recommendation that the neck extension limit be set at a 5 percent risk of an AIS≥3 neck injury. For out-of-position occupant measurements with the 50th percentile male ATD, this would be a 77 Nm limit without consideration for muscle tone, and the neck extension limit for in-position occupants would be 96 Nm considering 80 percent muscle tone. For either case, the resultant 67 Nm measurement from the agency's test is substantially below these recommended limits.

These recommended neck extension limits of 77 and 96 Nm are also exceptionally conservative compared to the risk level associated with brain injury that is currently comprehended in FMVSS 208. The current head injury criteria (HIC) limit of 1000 allows for a 16 percent risk of an AIS≥4 brain injury. Furthermore, the current FMVSS 208 injury criteria for chest displacement and femur loads are regulated at even higher risk levels than HIC. In fact, the rigid barrier test methods prescribed in FMVSS 208 for both belted and unbelted ATDs currently include these HIC, chest displacement and femur injury criteria, but do not currently specify any of the neck criteria associated with the Sled Test.

The current neck extension limit of 57 Nm is a very conservative limit, especially when compared to the current HIC, chest displacement and femur load limits required by FMVSS 208. Because of this and because of no more than one occupant and possible zero occupants may be at risk of an AIS ≥ 3 neck injury if corrective action is not implemented for 279,132 subject vehicles, GM believes this noncompliance is inconsequential as it relates to motor vehicle safety. Therefore, GM requests the affected vehicles be exempted from the recall and

remedy provisions of Section 30120 of the Safety Act.

The agency is aware that significant controversy continues with regard to the injury criteria currently specified for the neck. This is a continuing topic of discussion between the agency and others in the ongoing rulemaking regarding air bag related injuries and fatalities to unbelted and out-of-position occupants. These ongoing rulemaking discussions support GM's belief that the current limit of 57 Nm for the specified neck extension criteria is well below the level necessary to meet the need for motor vehicle safety.

Interested persons are invited to submit written data, views and arguments on the petition of GM, described above. Comments should refer to the Docket Number and be submitted to: Docket Management, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent practicable. When the application is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: July 26, 1999. (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: June 21, 1999.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 99-16165 Filed 6-24-99; 8:45 am]

BILLING CODE 4910-59-P

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

[STB Finance Docket No. 33757]

**Delaware Transportation Group, Inc.—Corporate Family Exemption—Diamond State Port Railway Company, Inc., and Gettysburg Railway Company, Inc.**

Delaware Transportation Group, Inc. (DTGI), a Class III rail common carrier, has filed a notice of exemption. The exempt transaction involves restructuring of the corporate family. John H. Marino owns a controlling interest in DTGI and Gettysburg Railway Company, Inc. (GRCI).<sup>1</sup> Through the transaction covered by this filing, the relationship between DTGI and GRCI would change from one between corporate siblings to one where DTGI would become the parent company of GRCI. DTGI would also control Diamond State Port Railway Company, Inc. (DSPR).

The transaction was scheduled to be consummated on or shortly after June 4, 1999.

This transaction is related to two simultaneously filed notices of exemption in STB Finance Docket No. 33755, *Diamond State Port Railway, Inc.—Lease and Operation Exemption—Diamond State Corporation and F.A. Potts & Company International, Inc.*, wherein DSPR seeks to lease and operate certain rail lines of the Diamond State Port Corporation and F.A. Potts & Company International, Inc., and STB Finance Docket No. 33756, *Delaware Transportation Group, Inc.—Continuance in Control Exemption—Diamond State Port Railway Company, Inc.*, wherein DTGI seeks to continue in control of DSPR, upon its becoming a

<sup>1</sup> See John H. Marino—Continuance in Control Exemption—Delaware Transportation Group, Inc., Gettysburg Railway Company, Inc., and Evansville Terminal Company, Inc., STB Finance Docket No. 33505 (STB served Nov. 21, 1997). As indicated in DTGI's notice, Mr. Marino never acquired any controlling interest in the Evansville Terminal Company, Inc.

Class III rail carrier as well as to control one existing railroad (GRCI).<sup>2</sup>

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33757, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Robert A. Wimbish, Rea, Cross, & Auchincloss, 1707 L Street, NW., Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 21, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

Secretary.

[FR Doc. 99-16239 Filed 6-24-99; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33756]

#### Delaware Transportation Group, Inc.—Continuance in Control Exemption—Diamond State Port Railway Company, Inc.

Delaware Transportation Group, Inc. (DTGI), has filed a notice of exemption to continue in control of Diamond State Port Railway Company, Inc. (DSPR), upon DSPR's becoming a Class III railroad.

The transaction was scheduled to be consummated on or shortly after June 4, 1999.

This transaction is related to two simultaneously filed verified notices of exemption in STB Finance Docket No. 33755, *Diamond State Port Railway, Inc.—Lease and Operation Exemption—Diamond State Corporation and F.A. Potts & Company International, Inc.*, wherein DSPR seeks to lease and operate certain rail lines of Diamond State Port Corporation and F.A. Potts & Company International, Inc., and STB Finance Docket No. 33757, *Delaware Transportation Group, Inc.—Corporate Family Exemption—Diamond State Port Railway Company, Inc., and Gettysburg Railway Company, Inc.*, wherein DTGI will become the parent company for its affiliates Gettysburg Railway Company, Inc., (GRCI) and DSPR.

In addition to its control of DSPR, DTGI will control one previously existing Class III railroad: GRCI, operating in the State of Pennsylvania.<sup>1</sup>

DTGI states that: (i) The railroads will not connect with each other or any railroad in their corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the

Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33756, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Robert A. Wimbish, Rea, Cross & Auchincloss, 1707 L Street, NW, Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 21, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

Secretary.

[FR Doc. 99-16241 Filed 6-24-99; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33755]

#### Diamond State Port Railway Company, Inc.—Lease and Operation Exemption—Diamond State Port Corporation and F.A. Potts & Company International, Inc.

Diamond State Port Railway Company, Inc. (DSPR), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to lease and operate approximately 1.1 miles of certain rail lines owned by the Diamond State Port Corporation (DPC), a political subdivision of the State of Delaware, and F.A. Potts & Company International, Inc. (FAPC), located adjacent to and within the Port of Wilmington in the State of Delaware. The lines involved consist of the following: (1) Approximately 0.5 miles of DPC's rail line (the Diamond Line) extending from a connection with Consolidated Rail Corporation's (Conrail) New Castle Secondary Track at approximately Conrail milepost 2.0, to the vicinity of Gist Road in Wilmington, DE; and (2) approximately 3,000 feet of FAPC's trackage (the Potts Line) extending from a connection with Conrail (approximately 300 feet north of the

<sup>2</sup> See *Gettysburg Railway Company, Inc.—Lease and Operation Exemption—Delaware Transportation Group, Inc.*, STB Finance Docket No. 33504 (STB served Nov. 21, 1997).

<sup>1</sup> See *Gettysburg Railway Company, Inc.—Lease and Operate Exemption—Delaware Transportation Group, Inc.*, STB Finance Docket No. 33504 (STB served Nov. 21, 1997).