

project will be barred unless the claim is filed on or before April 14, 2010. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Mr. Herman Rodrigo, Office Director, Office of Engineering and Operations, Federal Highway Administration, 200 North High Street, Room 328, Columbus, Ohio 43215; telephone: (614) 280-6896; e-mail: [ohio.fhwa@dot.gov](mailto:ohio.fhwa@dot.gov); FHWA Ohio Division Office's normal business hours are 8 a.m. to 4:30 p.m. (eastern time). You may also contact Mr. Craig K. Hebebrand, PE, Project Manager, Ohio Department of Transportation (ODOT), District 12, 5500 Transportation Blvd., Garfield Heights, Ohio 44125; telephone: (216) 584-2113; e-mail: [Craig.Hebebrand@dot.state.oh.us](mailto:Craig.Hebebrand@dot.state.oh.us); ODOT District 12's normal business hours are 8 a.m. to 4:30 p.m. (eastern time).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following major highway improvement project in the State of Ohio: The Cleveland Innerbelt Project provides for the major reconstruction and reconfiguration of Interstates 71 and 90, the I-90/I-77 interchange, the intersecting and overlapping local roadways, intersections, and interchanges, and the transitional connections to adjoining radial freeways and roadways. The Cleveland Innerbelt is routed across the Cuyahoga River valley and around the south and east sides of downtown Cleveland, Ohio. The Project length is approximately 3.24 miles. The Project's three main termini are located approximately at: (1) The merge/diverge point of State Route 176, (the Jennings Freeway) and Interstate 71 southwest of downtown, (2) the Pershing Avenue interchange on Interstate 77 south of downtown, and; (3) east of the Interstate 90/State Route 2 interchange east of downtown along the shore of Lake Erie and adjacent to the Burke Lakefront Airport. The current estimated Project cost to implement Alternative A, the approved environmentally preferred alternative, is \$2.7 to \$3.5 billion, based upon expected year of expenditure. Implementation is expected to occur in phases over the period from 2010 to 2033. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Cleveland Innerbelt Project,

CUY-71/90-16.79/14.90, PID 77510, Conceptual Alternatives Study, dated and accepted on August 11, 2006, the Draft Environmental Impact Statement/Section 4(f) Evaluation, approved on March 3, 2009, the March 2009 Interchange Justification Study, the Final Environmental Impact Statement/Section 4(f) Evaluation, approved on July 22, 2009, and the Record of Decision, Section 4(f) Approval, and Interchange Justification Study Approval issued on September 18, 2009, and in other documents specifically incorporated into the listed documents by reference or by extension which in total constitute the Project environmental record. The Project environmental record and other Project records reside within the FHWA and ODOT administrative record/Project files. Project records are available for review by contacting either the FHWA or the ODOT at the addresses provided above. All of the above records as expressly listed are available for review on, and for downloading from, the Project's Web site as maintained by the ODOT District 12 Office in Garfield Heights, Ohio which is located within the City of Cleveland metro area. The Project Web site address is as follows: <http://www.dot.state.oh.us/projects/ClevelandUrbanCoreProjects/Innerbelt/Pages/default.aspx>.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109, 23 U.S.C. 128 and 23 U.S.C. 139].

2. Design: Federal-Aid Highway Act [23 U.S.C. 101 and 23 U.S.C. 109] FHWA, February 11, 1998 Interstate Access Policy: Additional Interchanges to the Interstate System.

3. Air: Clean Air Act, 42 U.S.C. 7401-7671(q).

4. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Federal-Aid Highway Act [23 U.S.C. 138]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

5. Wildlife: Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703-712].

6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological

Resources Protection Act of 1977 [16 U.S.C. 470(aa)-(11)]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].

7. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].

8. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251-1377]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601-4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; Wild and Scenic Rivers Act [16 U.S.C. 1271-1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation [23 U.S.C. 103(b)(6)(M) and 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].

9. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: October 1, 2009.

**Patrick A. Bauer,**

*Acting Division Administrator, Columbus, Ohio.*

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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation Advisory Board

#### Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the

Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held from 3 p.m. to 4 p.m. (EDT) on Monday, October 26, 2009, via conference call at the Corporation's Administration Headquarters, Suite W32-300, 1200 New Jersey Avenue, SE., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Quarterly Report; Old and New Business; Closing Discussion; Adjournment.

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than Friday, October 23, 2009, Anita K. Blackman, Chief of Staff, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue, SE., Washington, DC 20590; 202-366-0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on October 8, 2009.

**Collister Johnson, Jr.,**

*Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Safety Advisory 2009-02

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of Safety Advisory 2009-02; Inspection of Bottom Outlet Valves and Assemblies.

**SUMMARY:** FRA is issuing Safety Advisory 2009-02 to ensure that tank cars with defective or inoperable bottom outlet valves are not loaded with hazardous materials and offered for transportation, or in the event that a bottom outlet valve becomes inoperable en route, adequate unloading procedures are followed to prevent any unintended release of the car's contents. This safety advisory recommends specific loading and unloading procedures for hazardous materials tank cars equipped with bottom outlet valves, as well as the inspection, and as necessary, the repair of these valves.

**FOR FURTHER INFORMATION CONTACT:** Albert R. Taber or Erich P. Rudolph,

Railroad Safety Specialists, Hazardous Materials Division, FRA Office of Safety Assurance and Compliance, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: (202) 493-6254, e-mail: *Albert.Taber@dot.gov*; or telephone (202) 493-6248, e-mail: *Erich.Rudolph@dot.gov*).

#### SUPPLEMENTARY INFORMATION:

##### Background

By way of the one-time movement approval process (Title 49 Code of Federal Regulations (CFR) 174.50), FRA has documented approximately 390 service equipment failures of bottom outlet valves since 2004. One hundred and eight of these failures occurred in calendar year 2008 alone, and to date in 2009, approximately 110 failures have already occurred. FRA believes that these documented failures do not reflect the entire population of bottom outlet failures that occur each year, as many may go unreported.

As exemplified by documented incidents of bottom outlet failures, a defective or inoperable bottom outlet valve may lead to the unintended release of a tank car's contents during the unloading process. As an example, on October 28, 2004, at Techsol Chemical Company, in Huntington, WV, more than 22,000 gallons of a Class 3 hazardous material was released during the unloading of a tank car equipped with a bottom outlet valve. The release was determined to be the result of a bottom outlet valve clogged with sludge, and an unloading procedure that failed to detect the inoperative valve. On May 31, 2008, approximately 170,000 lbs of a Class 9 elevated temperature material was released during the unloading of a tank car equipped with a bottom outlet valve. The elevated temperature material had been heated to approximately 280 °F for unloading and although the individual unloading the car reportedly observed the bottom outlet valve handle secured and in the closed position, as that individual removed the bottom outlet cap, hot steamed resin was released from the bottom outlet, splashing the unloader. The resin released at a rate of approximately 160 gallons per minute and the unloader suffered first- and second-degree burns from contact with the material. The release was determined to be the result of a bent bottom outlet valve handle, which allowed the internal valve to be in the open position, and unloading procedures that failed to detect the inoperative valve. More recently, on May 13, 2009, approximately 23,500 gallons of hot asphalt, a Class 9

hazardous material, was released during the unloading of a tank car equipped with a bottom outlet valve. In this case, because the valve operating handle was improperly applied to the valve assembly, the handle appeared to be in the closed position, but the internal valve was actually in the open position. Accordingly, this release was determined to be the result of the improperly applied valve handle, and loading and unloading procedures that failed to detect the improperly assembled valve.

FRA believes that the occurrence of bottom outlet valve failures could be significantly reduced by (1) ensuring that certain procedures are followed during the tank car loading and unloading process, and (2) ensuring that a proper preliminary examination of the valve assembly is performed after a tank car is cleaned and purged, and before the car is loaded and offered for transportation.

FRA's recommendations in this safety advisory take into consideration the typical operational steps involved in loading/unloading tank cars equipped with bottom outlet valves, regardless of whether the valve is "top-operated" or controlled by a valve-mounted handle ("bottom-operated"). Generally, the bottom outlet cap or plug should not be removed from a tank car's bottom outlet discharge nozzle until it is ascertained that the bottom outlet valve is actually closed and functioning properly. In accordance with Appendix E of the Association of American Railroads' (AAR) Tank Car Committee Tank Car Manual,<sup>1</sup> tank car bottom outlet caps and plugs are designed to provide tell-tale warnings upon loosening if a bottom outlet valve is not functioning properly. Accordingly, the design of bottom outlet discharge nozzles and closures allows any product that has accumulated between the bottom outlet operating valves and the bottom outlet closure cap or plug (*i.e.*, in the outlet chamber) to drain in a safe and controlled manner. Once it is determined, by using the relationship of the handle to the valve as an indicator, that the bottom outlet valve is in the closed position, a person unloading a tank car should loosen the bottom outlet cap a few turns, leaving sufficient threads engaged, and allowing the passage of sufficient time to permit the controlled seepage of any liquid accumulated in the outlet chamber. If a tank car is equipped with an auxiliary

<sup>1</sup> AAR, Operations and Maintenance Department, Mechanical Division, "Manual of Standards and Recommended Practices Section C Part III—Specifications for Tank Cars M-1002" (revised annually).