

30115, *Certification*, which does not require notification or remedy. Therefore, after due consideration, we have decided that this application is moot.

(49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 17, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01-18306 Filed 7-20-01; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34062]

C & C Railroad, Inc.—Reincorporation Exemption—C&C Railroad, LLC

C & C Railroad, Inc., a Class III rail carrier, and C&C Railroad, LLC, a noncarrier (collectively applicants), have filed a notice of exemption under 49 CFR 1180.2(d)(6) wherein C&C Railroad, Inc. will be merged with and into C&C Railroad, LLC.¹

The parties reported that they intended to consummate the transaction immediately following the effective date of the exemption. The earliest the transaction could have been consummated was July 2, 2001, 7 days after the exemption was filed.

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. However, applicants have stated that they will provide their employees with the protections and benefits of *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the notice contains false or misleading information, the exemption

¹ C&C Railroad, LLC is a newly formed limited liability company organized by the shareholders of C & C Railroad, Inc. for the sole purpose of reincorporating in the State of Delaware. The separate existence of C & C Railroad, Inc. shall cease and C&C Railroad, LLC shall be the surviving entity. C&C Railroad, LLC will continue the operations formerly provided by C & C Railroad, Inc. See *C & C Railroad, Inc.—Operation Exemption—Centerpoint Properties, L.L.C.*, STB Finance Docket No. 33990 (STB served Jan. 17, 2001).

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. 34062, 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 Michael A. Abramson, Esq., 120 S. Riverside Plaza, Suite 1200, Chicago, IL 60606.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: July 16, 2001.

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

Vernon A. Williams,

Secretary.

[FR Doc. 01-18183 Filed 7-20-01; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Customs Service

Second Test: Importer Compliance Monitoring Program

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document announces the second test to be conducted regarding the Importer Compliance Monitoring Program (ICMP). The test is intended to be run for three years whereupon a decision will be made whether to extend the test. The ICMP is intended to promote importer compliance with Customs laws and regulations pertaining to cargo processing and will afford mutual benefits to both Customs and the importing community. By a document published in the **Federal Register** on April 24, 1998, Customs initially announced a test of the ICMP that was thereafter conducted with limited participation. Customs now seeks to achieve more extensive participation in the program test in order to ensure a more comprehensive and effective evaluation of the program. Written requests to participate in the program test, as well as public comments on any aspect of the test, are solicited.

EFFECTIVE DATES: The program test will commence no earlier than August 22, 2001, and will continue for three years. Comments on any aspect of the planned test must be received on or before

August 22, 2001. Written requests to participate in the program test may be submitted on or after July 23, 2001.

ADDRESSES: Written applications to participate in the program test should be addressed to: Director, Regulatory Audit, Office of Strategic Trade, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229. Written comments on any aspect of the planned test may be addressed to: Matthew Krinski, Director, Compliance Assessments, Regulatory Audit Division, 1300 Pennsylvania Avenue, NW, Room 6.3-A, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

ICMP program coordinator for the application process: Mark Zaepfel, Senior Auditor, Regulatory Audit Division, (202) 927-0809.

ICMP program coordinator for marketing: Russell Ugone, Director, Trade Agreements Branch, Regulatory Audit Division, (202) 927-0728.

For general information about the ICMP: Matthew Krinski, Director, Compliance Assessments Branch, (202) 927-0411; Joseph Palmer, Field Director, Regulatory Audit, (312) 983-9615; Russell Ugone, Director, Trade Agreements Branch, (202) 927-0728.

SUPPLEMENTARY INFORMATION:

Background

Since passage of the Customs Modernization provisions (107 Stat. 2170) contained in the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057, December 8, 1993), the primary goal of the trade compliance process has been to maximize importer compliance with U.S. trade laws, while facilitating the importation and entry of admissible merchandise. To meet these challenges, Customs has extensively reviewed and sought to improve and redesign the trade compliance process using established business practices, re-engineered tools, and new methodologies that enhance service to importers without compromising the enforcement aspect of the Customs mission.

To this end, one of the methodologies that Customs has developed is the Compliance Assessment Process which has been subject to continual process improvement since its introduction (see § 163.11, Customs Regulations (19 CFR 163.11)). The Compliance Assessment Process allows Customs to determine the level of compliance based on an overall assessment of a company's import operations.

Also, Customs has under development a new program called the

Focused Assessment Process. The Focused Assessment Process is an additional tool that will be used by Customs for purposes of assessing the compliance levels of major importers. Similar to the Compliance Assessment Process, the Focused Assessment Process will be a more closely defined assessment program designed to focus on those areas of a particular importer's transactions that pose a risk to Customs and the importer.

Both the Compliance Assessment Process and the Focused Assessment Process are geared toward the company's import operations that occurred prior to the time the assessment is conducted.

However, events can occur within a company, such as mergers, system changes, and loss of key personnel, that may potentially have an impact on the company's continuing compliance with Customs laws and regulations.

Accordingly, the Importer Compliance Monitoring Program (ICMP) was initiated to enable interested importers to participate in a program to assess their own ongoing compliance with Customs laws and regulations related to cargo processing on a continuing basis.

After identifying necessary policies and procedures upon which to test the ICMP, Customs, by a document published in the **Federal Register** (63 FR 20442) on April 24, 1998, announced that a test of the ICMP would be conducted and requested that companies apply to participate in the test. Participation in the program test, however, was limited to no more than 50 companies. Following the selection of test participants, a test of the ICMP was thereafter conducted for a period of one year.

Due to the limited participation in the test, Customs has found that a further test of the ICMP is warranted in which increased importer participation is requested, and encouraged. Customs seeks to develop additional and more complete information that will help ensure a more comprehensive and effective evaluation of the ICMP.

Generally, the procedures and approach to be used in the new ICMP test will be consistent with those that will be adopted in the new Focused Assessment procedure under development by Customs. These procedures will be similar to those employed under the Compliance Assessment process, but will be oriented to those areas that are identified as posing the most risk to Customs and the importer.

It is also noted, as more fully explained below, that as a result of the

prior test, Customs has made some alterations to the ICMP test procedures. In particular, only those areas of a company's import operations that are initially identified by Customs as posing a risk to both the importer and Customs will be covered in the new test. Customs will review these areas periodically for current applicability. ICMP participants can expect that these areas may change over the duration of the importer's participation in the ICMP as the importer's business evolves.

Low Risk Designation

The new ICMP test also includes significant benefits for participation. Customs recognizes that many companies have voluntarily invested extensive resources in an effort to heighten their compliance with Customs import requirements. In consideration of this, the ICMP will now provide a framework, with significant commensurate benefits, for those companies to maintain their efforts at increased compliance. These benefits will include having the company designated as Low Risk for Customs purposes on a conditional basis as long as the company meets the requirements of the ICMP. This Low Risk designation can result in a marked decrease in the number of cargo examinations performed by Customs. It should be clearly understood, however, that this Low Risk designation may be withdrawn at Customs discretion if, for example, a company fails to meet its commitments regarding the ICMP program or if there are significant departures from Customs law and regulation by the company.

It should be recognized that the benefit of the Low Risk designation is specifically tied to the importations associated with individual company IRS numbers. If a company uses multiple numbers in its importations, only those numbers identified by the company and reviewed and evaluated by Customs will be identified for Low Risk.

Components of ICMP Test: Application and Implementation

The new ICMP test is comprised of two parts: the application part of the test and the implementation phase.

The first part of the test is an application phase that will allow Customs to review the company's operations to determine its readiness to be recommended for Low Risk. If issues arise during this phase, the company will have the opportunity to take corrective action before participating in the program. Customs recognizes that companies volunteering for the ICMP are demonstrating a commitment to a

continuing program of compliance. As such, Customs makes a similar commitment to assist importers with their efforts to participate in the program including working with importers to resolve initial issues in the application process.

The second part of the test, the implementation phase, will provide the company Low Risk benefits as long as it meets the commitments it has made to Customs to stay in the program and does not engage in any misconduct (see section below on Misconduct and Removal from Test Participation). These commitments include testing the company's business transactions for specific areas identified by Customs using Customs approved testing procedures. The commitments also provide for the company to meet certain reporting requirements on an annual basis to ensure Customs is made aware of the most recent significant information regarding the company's activities.

As with the initial test, this program test is undertaken pursuant to ' 101.9(a), Customs Regulations (19 CFR 101.9(a)), which permits the implementation of a test program or procedure designed to evaluate the effectiveness of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise.

Overview of Importer Compliance Monitoring Program

In general, the ICMP is designed to enhance the cargo processing of participating importers as well as their level of compliance with Customs laws and regulations. After the company is notified of acceptance into the program, Customs will continue the consultation process with the company. This consultation process, which is an essential cornerstone of the ICMP, is necessary to ensure that all parties involved with the company's import functions have a mutual understanding of the company's business practices and the ICMP requirements for their successful participation in the program.

While the ICMP is voluntary and does not require a company to have undergone or been scheduled for a Customs compliance or focused assessment, the ICMP employs many of the same procedures that are used in a compliance or focused assessment. In this regard, the ICMP will require the importer to conduct a systemic overview of a selected group of its import operations that will involve both import process and transactional reviews of those operations. An objective group, independent of the company's importing function, may

conduct these reviews; use of outside professionals for this purpose is not required but may be done at the discretion of the importer.

Once accepted into the ICMP program, the company will conduct tests of the trade areas identified by Customs using sampling procedures meeting Customs standards. The company will test each area identified once during the three year test period. The company will notify Customs of the timing of the tests in order to develop an approved sampling plan and to allow Customs to monitor and validate the sampling procedures if it so chooses.

The participating company will also prepare an annual submission that will update the flowchart and narrative of the company's internal controls over its import process. Also, the company will identify for Customs those areas of its import operations that it plans to test in the upcoming year. This submission will form the basis of the annual consultation conducted by Customs with the ICMP participant every year that will provide needed guidance to the participant to effectively carry out its testing program. Customs will provide ongoing guidance and assistance to the company through continual communication by the ICMP Customs Regulatory Audit team and the company's Customs Account Manager, if one is assigned. A Customs Account Manager is a Customs employee (from Customs Office of Field Operations) who may be assigned to a major importing company in order to act as a facilitator between the company and Customs. Because of their role, Customs Account Managers can provide significant benefits in the ICMP coordination process.

The above process will continue for three years. If the test is extended beyond three years, a new three year program will be developed by Customs and the importer taking into account any significant changes to the importer's Customs transactions.

Transactional reviews under the program will use testing procedures or statistical and judgmental sampling methodologies that are also fully coordinated with Customs during the consultation process and will be the same or equivalent testing procedures and sampling programs utilized in compliance and/or focused assessments. Errors detected in a company's import transactions will be evaluated based on the number, nature and the materiality of these errors, and, where applicable, a compliance improvement plan will be prepared and submitted to Customs outlining actions taken or proposed to correct any identified deficiencies.

Reports of errors that are detected by the importer through its own review may be treated as prior disclosures under part 162 of the Customs Regulations (19 CFR part 162) if they meet these prior disclosure regulatory requirements.

Test participants are expected to retain all applicable documentation pertaining to these import process and transactional reviews. As necessary, Customs will validate these import process and transactional reviews.

Benefits of participation in the ICMP accruing to an importer, as stated, include the preferential designation of Low Risk that will be accorded the importer upon acceptance into the program and will be retained as long as the importer meets the conditions and requirements of the program (see section below on Misconduct and Removal from Test Participation). This Low Risk category can significantly decrease the number of cargo examinations conducted by Customs. Additionally, Customs, through the interaction of the company's Customs Account Manager, can decrease the information demands made by Customs on the company.

Duration of Test; Selection of Test Participants

The ICMP program test will commence not earlier than August 22, 2001, and will proceed for three years at which time it may be extended. Once Customs determines to extend or end the program test, reasonable advance notice of this will be published in the **Federal Register**. Customs seeks and encourages increased importer participation in this ICMP test, in order that additional and more complete information may be gathered during the course of the test. This information will help Customs ensure a more comprehensive and effective evaluation of the ICMP. Written requests to participate in the program test may be submitted on or after July 23, 2001.

Test Application

In order to apply for the test, the applicant must provide in writing the following information:

1. The name of the company;
2. The address of the company;
3. All importer Internal Revenue Service (IRS) numbers used by the company;
4. The location of the business records dealing with the Customs transactions of the company; and
5. The name and telephone number of a person in the company that will be a contact point for the ICMP application and who is knowledgeable about the company's Customs business transactions.

The application containing the above information should be sent to: Director, Regulatory Audit, Office of Strategic Trade, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229.

Customs reserves the right in its discretion to approve or disapprove an application. Applications may be sent to Customs at any time. Further, in selecting applicants for participation in the program test, Customs reserves the right, if necessary, depending upon the number of applications received, to prioritize the processing of such applications based upon the volume and/or nature of each applicant's Customs transactions. Customs will notify each applicant in writing of its selection or non-selection to participate in the test, and give the reason(s) for non-selection, should that be the case.

In the event that an applicant should not be selected for participation as a result of an initial review by Customs, the applicant may appeal in writing to the Director, Regulatory Audit Division, Office of Strategic Trade, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229, within 10 days of the date of Customs written notification of non-selection.

Due to the voluntary nature of the program, a company selected for participation in the test may discontinue its participation at any time. It should be kept in mind, however, that participation in this program does not insulate a company from enforcement actions on specific imports.

Upon receipt of the application from the importer, Customs will immediately conduct an internal review within Customs of the company's current transactions to determine if there are any immediate issues that may impact further processing the application. If there are issues, Customs will attempt to resolve them with the importer. Customs will work closely with the applicant throughout this process.

The application process requires that a company intending to participate in the program apply by filling out a questionnaire and a process map detailing its Customs transactions and compliance processes. Customs will schedule an on-site review to validate the information and identify those areas posing the highest risk to the company and Customs.

The Customs on-site review will include a review of the company's internal controls over the compliance processes outlined in the questionnaire and a limited review of supporting transactions. The purpose of the review will be to identify those areas of the

company's internal controls that pose the maximum risk to the company and Customs. Under the previous test, the ICMP involved a continuing general overview of all of a company's import operations. In this test, only the identified group of higher risk import operations will be reviewed and subsequently monitored.

If Customs finds the internal controls to be in place and working effectively, then a recommendation can be made for acceptance into the program. If there are indications of weak internal controls or non-compliance, Customs will work with the company to develop a Compliance Improvement Plan to correct the situation.

Any company seeking to participate in the ICMP should be aware that any issues concerning non-compliance that come to light during the application/evaluation process must be corrected and can result in enforcement actions depending upon the circumstances. In fact, the ICMP entails an effective commitment by the company to resolve any issues of non-compliance that arise during either the application process or the subsequent program process of the test.

Misconduct and Removal From Test Participation

If a test participant makes late or inadequate submissions to Customs of its annual report or other information, fails to exercise reasonable care in the execution of its test obligations, or otherwise fails to follow the procedures, as outlined in this document, or applicable laws and regulations, the participant may be suspended or removed from the test program and/or subject to penalties or liquidated damages. Customs has the discretion to suspend or remove a test participant based on a determination that an unacceptable compliance risk exists. This action may be invoked at any time after acceptance in the test.

At any time during the test, the appropriate Field Director of Regulatory Audit may propose in writing to remove a company from participation in the program. The notice of proposed removal will inform the company of the facts or conduct warranting removal. Removal from participation in the program test, and elimination of all benefits that were received as a result of test participation including the Low Risk designation, may result from activities including, but not limited to, the following:

(1) Failure of the company to comply with ICMP requirements (such as failing to successfully implement a Compliance

Improvement Plan after two attempts); or

(2) The presence of documented or alleged fraud, other investigative activity, or failing to follow applicable Customs laws and regulations.

Any decision proposing to remove a company from participation in the test may be appealed in writing to the Director, Regulatory Audit Division, Office of Strategic Trade, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington D.C. 20229, within 30 days of the date of the written notice of proposed removal. This decision will notify the company of the facts or conduct warranting removal. In appealing this notice of proposed removal, the company should address the facts or conduct referenced in the notice and state how it complies or will achieve compliance with the requirements for program participation.

In the case of willfulness or where the public health, interest or safety is involved, program removal and elimination of the Low Risk benefit may be effective immediately at Customs discretion. In all other cases, the removal of participation will be effective after 30 days from the date of the notice of removal unless the notice is timely appealed.

Program Consultation

One of the cornerstones of the ICMP is the consultation and review process that Customs affords the importer. Prior to approval for participation in the test, the importer's Customs transactions will be reviewed by Customs during the application/evaluation process and the results of this information will be shared with the importer. The test participant will have continuing access to the Customs Account Manager, if one is assigned, as well as Customs Regulatory Audit sources to provide guidance and information regarding the test and the importer's progress throughout the test. Additionally, Regulatory Audit will consult annually with the company regarding its progress over the prior year and its plans for the upcoming year and will provide guidance toward the accomplishment of the company's scheduled testing.

Comments and Evaluation of Test

Customs will review all public comments that are received concerning any aspect of the planned program test. The test is planned to run for three years, at which time it will be evaluated as to whether it should continue as a test, be adopted for implementation as a permanent program, or be terminated. If Customs determines to end the program test, reasonable notice of the

expiration date will be published in the **Federal Register**. In addition, approximately 90 days after conclusion of the test, evaluations of the test will be conducted and final results will be made available to the public upon request. Participation in the test is not confidential and may be disclosed.

Dated: July 17, 2001.

Cynthia A. Covell,

Director, Regulatory Audit Division.

[FR Doc. 01-18252 Filed 7-20-01; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds-Termination: Developers Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 19 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000 at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874-6765.

SUPPLEMENTARY INFORMATION:

Developers Insurance Company, a California corporation, has formally merged with and into Developers Surety and Indemnity Company, an Iowa corporation, effective December 29, 2000. Developers Insurance Company was last listed as an acceptable surety on Federal bonds at 65 FR 40878, June 30, 2000, and Developers Surety and Indemnity Company was last listed as an acceptable surety on Federal bonds at 65 FR 40878, June 30, 2000.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Developers Insurance Company, under the United States Code, Title 31, sections 9304-9308, to qualify as an acceptable surety on Federal bonds is hereby terminated. With respect to any bonds currently in force with Developers Insurance Company, bond-approving officers may let such bonds run to expiration and need not secure new bonds.

A new Certificate of authority as an acceptable surety on Federal bonds, dated today, is hereby issued under sections 9304 to 9308 of Title 31 of the United States Code, to Developers Surety and Indemnity Company, Des Moines, Iowa. This new certificate replaces the Certificate of Authority issued to the company prior to the merger. A revised underwriting