exact date, time and location of the session they can attend, as well as other information about the Holiday Inn Capitol in case they want to stay there overnight. (The Hotel's phone number for reservations is (202) 479–4000.) We cannot guarantee that anyone not registered for the consultations in advance will be able to attend a session.

FOR FURTHER INFORMATION CONTACT: David Lawhead, Overflight Fee Program Manager (ABU–40), Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591, (202) 267–9759.

SUPPLEMENTARY INFORMATION:

History

The Federal Aviation Reauthorization Act of 1996 directs the FAA to establish by Interim Final Rule (IFR) a fee schedule and collection process for air traffic control and related services provided to aircraft, other than military and civilian aircraft of the U.S. Government or of a foreign government, that fly in U.S.-controlled airspace but neither take off from, nor land in, the United States (49 U.S.C. 45301, as amended by Pub. L. 104–264). Such flights are commonly referred to as ''Overflights.''

The FAA began charging Overflight Fees in May 1997. The IFR under which the fees were established was challenged in court by the Air Transport Association of Canada (ATAC) and seven foreign air carriers. On January 30, 1998, the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion in *Asiana Airlines* v. *FAA*, 134 F.3d 393 (D.C. Cir. 1998), vacating the IFR, finding that FAA's methodology for allocating certain costs did not comport with statutory requirements. The FAA subsequently refunded all fees (nearly $40 million) collected under the IFR.

Although the 1997 IFR was withdrawn, the statutory requirement that FAA establish Overflight Fees by IFR remained in effect. In 1998, the FAA began developing a new IFR on Overflight Fees using a different methodology. The fees were derived from cost data produced by the FAA's new Cost Accounting System. FAA issued a new IFR in May 2000 and began charging fees again on August 1, 2000. Thereafter, the ATAC and seven foreign air carriers (six of the original seven, plus one new one) challenged the IFR and the legality of the fees assessed thereunder and petitioned the U.S. Court of Appeals for the District of Columbia Circuit to invalidate the new IFR. The petitions were consolidated into a single case (*ATAC* v. *FAA*, No. 00–1334).

While this case was ongoing, the FAA issued a Final Rule that became effective on August 20, 2001. The rule reduced fees more than 15%, reflecting accounting adjustments, and provided additional information that the Court had stated should appear in the administrative record to support the agency's schedule of Overflight Fees. The eight Petitioners sought judicial review to invalidate the Final Rule, which became the second case captioned *ATAC* v. *FAA* (No. 01–1446) and was combined with the first. On April 8, 2003, the Court of Appeals issued a decision setting aside both the IFR and the Final Rule, finding that the FAA had failed to demonstrate that the Overflight Fees were directly related to FAA's costs (*ATAC* v. *FAA*, 323 F.3d 1093 (D.C. Cir. 2003)). The decision did not address any international agreements or commitments of the United States.

Vision 100 Legislation

On December 12, 2003, the President signed into law H.R. 2115, the ''Vision 100—Century of Aviation Reauthorization Act'' (Pub. L. 108–176; 117 Stat. 2490). Section 229 of that Act contains several provisions relating to Overflight Fees. One of those provisions in effect clarifies that, under earlier legislation the Overflight Fees need only be ''reasonably,'' not ''directly'' related to FAA's costs of providing the services, and shields the Administrator's determinations of such costs from judicial review. Another provision of section 229 provides that the IFR and Final Rule are ''adopted, legalized, and confirmed'' by Congress ''as of the date those rules were originally issued,'' that is, May 30, 2000, and August 13, 2001, respectively.

Section 229 of the Act also provides that before the FAA may resume the actual collection of Overflight Fees, it must first report to Congress on the issues raised by the Court in *ATAC* v. *FAA* and ''consult with users and other interested parties regarding the consistency of the fees under such section with the international obligations of the United States.'' With this Notice, the FAA is establishing the process of consultation required by the new statute.

Future Actions

In addition to the September 2004 consultations announced in this Notice, which will be narrowly focused on the consistency of the current fees with the international obligations of the United States, the FAA is now in the process of establishing an aviation rulemaking committee (ARC) on Overflight Fees. The purpose of the Overflight Fees ARC will be to provide a forum for in-depth review and discussion of the data and analytic framework used by the FAA in establishing Overflight Fees. Representatives of air carriers, foreign air carriers, other system users, and aviation associations will be members of the ARC. The ARC will be tasked with providing advice and recommendations to the FAA regarding possible changes to Overflight Fees in light of methodological improvements, more recent data on costs, changes in the scope of the services provided by the FAA, and other factors that may be relevant to revising fees.

Dated: July 28, 2004.

Ramesh K. Punwani,

Assistant Administrator for Financial Services and Chief Financial Officer.

[FR Doc. 04–17743 Filed 8–3–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34391]

New England Transrail, LLC, d/b/a Wilmington and Woburn Terminal Railroad Co.—Construction, Acquisition, and Operation Exemption—in Wilmington and Woburn, MA

ACTION: Notice of availability of Environmental Assessment and Request for Comments.

SUMMARY: On December 3, 2003, New England Transrail, LLC d/b/a the Wilmington and Woburn Terminal Railroad Company (Applicant or W&WTR) filed a petition with the Surface Transportation Board (Board) pursuant to 49 United States Code (U.S.C.) 10502 seeking exemption from the formal application procedures of 49 U.S.C. 10901 for authority to acquire 1,300 feet of existing track, construct 2,700 feet of new line, and to operate the entire approximately 4,000 feet of track located on and adjacent to a parcel of land owned by Olin Corporation (Olin) in Wilmington, Massachusetts, upon which Olin had in the past operated a chemical plant. The Olin-owned parcel is located in Wilmington, Massachusetts, but a portion of the line to be constructed and operated by W&WTR also would be located in Woburn, Massachusetts. The Board's Section of Environmental Analysis (SEA) has prepared an Environmental Assessment (EA) for this proposed

project. Based on the information provided from all sources to date and its independent analysis, SEA preliminarily concludes that the Proposed Action would have no significant environmental impacts if the Board imposes and the Applicant implements the environmental mitigation conditions recommended in the EA. Accordingly, SEA, recommends that if the Board approves the project, New England Transrail be required to implement the mitigation set forth in the EA. Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. SEA will consider comments received when making its final environmental recommendation to the Board. The Board will consider SEA's final recommendations and the complete environmental record in making its final decision in this proceeding.

DATES: The EA is available for public review and comment for 30 days. Parties should provide written comments to the Board no later than September 3, 2004.

ADDRESSES: Comments (an original and one copy) should be sent to: Case Control Unit, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423. The lower left-hand corner of the envelope should be marked: Attention: Ms. Phillis Johnson-Ball, Environmental Comments, Finance Docket No. 34391. Environmental comments may also be filed electronically on the Board's Web site, *http://www.stb.dot.gov* by clicking on the ''E-FILING'' link.

FOR FURTHER INFORMATION CONTACT: Questions may be directed to Ms. Phillis Johnson-Ball, Environmental Project Manager, at (202) 565–1530 (hearing impaired 1–800–877–8339). The EA is available on the Board's Web site at *http://www.stb.dot.gov*.

SUPPLEMENTARY INFORMATION: The Applicant proposes to acquire the Olin property, construct a reload facility, and to rehabilitate the 1,300 feet of exiting track on the property, that is the subject of the Applicant's acquisition, to facilitate the transload of various commodities between truck trailers and rail cars.

Decided: July 29, 2004.

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 04–17641 Filed 8–3–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 653X)]

CSX Transportation, Inc.—Abandonment Exemption—in Pike County, KY

On July 15, 2004, CSX Transportation, Inc. (CSXT) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–04 to abandon a segment at the end of its line of railroad in its Southern Region, Huntington Division, Big Sandy Subdivision, also known as the Beaver Creek Spur. The 1.43-mile segment extends from milepost CMH 0.00 near Dunleary to the end of the line at milepost CMH 1.43, all in Pike County, KY. The line traverses United States Postal Service ZIP Code 41522 and includes the stations of Praise Dock, Little Beaver, and Little Beaver Dock.

In addition to an exemption from 49 U.S.C. 10903, petitioner seeks exemption from 49 U.S.C. 10904 (offer of financial assistance (OFA) procedures) as clarified in a letter dated July 19, 2004. In support, CSXT states that it has agreed to sell the right-of-way upon abandonment to the Kentucky Transportation Cabinet (KTC) for use in a highway expansion project. Also to assist KTC with this project, CSXT requests that the Board provide expedited handling and issue a decision within 60 days from the filing date of this proceeding, or by September 13, 2004. These requests will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in CSXT's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 2, 2004 (sooner if the request for expedited handling can be accommodated).

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption, unless the Board grants the requested exemption from the OFA process. Each offer must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use, if CSXT does not sell the right-of-way to KTC. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than August 24, 2004. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 653X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Louis E. Gitomer, 1455 F Street, NW., Suite 225, Washington, DC 20005. Replies to the CSXT petition are due on or before August 24, 2004.

Persons seeking further information concerning abandonment procedures may contact the Board?s Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board?s Section of Environmental Analysis (SEA) at (202) 565–1539. (Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.) An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA, will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). The EA in an abandonment proceeding normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service. Here, SEA anticipates issuing the EA on August 4, 2004, and making comments due by August 24, 2004, to help put the Board in a position to accommodate petitioner's request for expedited handling.

Board decisions and notices are available on the Board's Web site at *http://www.stb.dot.gov.*

Decided: July 28, 2004.

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

Vernon A. Williams,

Secretary.

[FR Doc. 04–17655 Filed 8–3–04; 8:45 am]

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