

Commercial Motor Vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle—

(a) Has a gross combination weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or

(b) Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 pounds or more); or

(c) Is designed to transport 16 or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of *hazardous materials* as defined in this section.

EI currently owns a truck-trailer combination used to provide audiometric (hearing) testing services at industrial and commercial sites. The truck, a 2006 Ford F450, has a gross vehicle weight rating (GVWR) of 16,000 pounds. The trailer, a 2007 Cimarron, has a GVWR of 14,000 pounds. Together these units have a combined GVWR of 30,000 pounds. EI states these units are never operated in a configuration that would exceed a gross vehicle weight (GVW) of 26,000 pounds. According to EI:

a. The truck has a fifth wheel coupling device and no bed or other means of carrying cargo when coupled to the trailer;

b. The trailer is configured with test booths, furniture and electronic test equipment, and operating parameters are never varied in a way that would substantially alter the actual weight of the trailer;

c. Company procedures prohibit the transportation of persons or cargo in the testing trailer when it is in motion; and

d. The combination of units has been weighed in full operating configuration and does not exceed 22,000 pounds.

Under current regulations this combination vehicle must be operated by a driver holding a commercial driver's license (CDL) and must meet all other applicable Federal Motor Carrier Safety Regulations (FMCSR). EI currently employs three drivers who may be required to drive this vehicle. These drivers do not have a CDL and are unable to legally operate this vehicle combination over public highways. EI currently employs a contract driver with a CDL to drive the vehicle. The persons covered by the exemption would include all drivers of the vehicle who are employed or contracted by EI.

EI states that public safety would not be impacted by granting this exemption. EI advises that it operates two other testing vehicles. One is a single unit truck with a GVWR of 24,500 pounds. The second is a truck-trailer combination with a combined GVWR of

24,500 pounds. According to EI, these vehicles are operated by EI drivers under strict supervision. EI states the subject vehicle would also be operated at a GVW less than 26,000 pounds and, therefore, would not pose a hazard that is unique or different from those inherent in operating the other two vehicles currently owned and operated by EI. EI states it would continue to monitor drivers, require them to undergo regular DOT physical examinations, and maintain all other aspects of the EI driver safety program.

EI advises that if FMCSA does not grant the exemption:

A. Current EI drivers not holding or unable to obtain a CDL could not operate the subject vehicle combination, reducing flexibility in scheduling and possibly affecting their continued employment;

B. EI would need to hire or contract new CDL drivers, at a higher rate, to operate this vehicle combination; and

C. EI would be subject to additional overhead and administrative requirements of maintaining a full CDL driver program as required by the FMCSRs.

A copy of EI's application for exemption, along with supporting documentation, is available for review in the docket for this notice.

#### Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment on EI's application for exemption from 49 CFR 383.5. FMCSA will consider all comments received by close of business on August 8, 2007. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. FMCSA will file comments received after the comment closing date in the public docket and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file in the public docket relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: June 29, 2007.

**Larry W. Minor,**

*Acting Associate Administrator, Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-32 (Sub-No. 53X); STB Docket No. AB-355 (Sub-No. 5X)]

### Boston and Maine Corporation— Abandonment Exemption—in Essex County, MA; Springfield Terminal Railway Company—Discontinuance of Service Exemption—in Essex County, MA

Boston and Maine Corporation (B&M) and Springfield Terminal Railway Company (ST) (collectively, applicants) jointly have filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for B&M to abandon, and for ST to discontinue service over, approximately 1.47 miles of railroad known as the Georgetown Branch, extending from milepost 4.66 to milepost 6.13 in Haverhill, Essex County, MA. The line traverses United States Postal Service Zip Code 01830.

B&M and ST have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on August 8, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup>

<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent

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formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 19, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 30, 2007, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.<sup>3</sup>

A copy of any petition filed with the Board should be sent to applicants' representative: Michael Q. Geary, Esq., Boston & Maine Corporation, Iron Horse Park, North Billerica, MA 01862.

investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. *See* 49 CFR 1002.2(f)(25).

<sup>3</sup> Without further explanation, applicants state that, prior to the effective date of these exemptions, title to the line will be acquired by third parties. Applicants are advised that they cannot transfer the title until the exemptions become effective or until they obtain appropriate Board authority.

If the verified notice contains false or misleading information, the exemptions are void *ab initio*.

B&M and ST have filed an environmental and historic report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 13, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.<sup>4</sup>

<sup>4</sup> On February 27, 2007, the City of Haverhill, Massachusetts (the City) submitted a request for

Pursuant to the provisions of 49 CFR 1152.29(e)(2), B&M shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by B&M's filing of a notice of consummation by July 9, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at: <http://www.stb.dot.gov>.

Decided: June 29, 2007.

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

**Vernon A. Williams,**

Secretary.

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issuance of a notice of interim trail use and for imposition of a public use condition. However, this request could not be processed until after the June 19, 2007 filing of the involved notice of exemption. As noted the Board will address the City's trail use and public use requests and any others that may be filed in a subsequent decision.