

Issued on: May 7, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E8-10824 Filed 5-14-08; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA-99-5748, FMCSA-99-6156, FMCSA-99-6480, FMCSA-00-7363, FMCSA-01-9258, FMCSA-03-16564, FMCSA-05-23238, FMCSA-06-23773]

#### Qualification of Drivers; Exemption Renewals; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA, in an earlier notice, announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 34 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

##### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions

at the end of the 2-year period. The notice was published on March 5, 2008 (FR 73 11989), and the comment period ended on April 4, 2008.

#### Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

#### Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 34 renewal applications, FMCSA renews the Federal vision exemptions for Scott E. Ames, Otto J. Ammer, Jr., Nick D. Bacon, Mark A. Baisden, Johnny W. Bradford, Lawrence M. Daley, Clifford H. Dovel, Ray L. Emert, Arthur L. Fields, John W. Forgy, Daniel R. Franks, Glenn E. Gee, Rupert G. Gilmore, III, Albert L. Gschwind, Walter R. Hardiman, George A. Hoffman, III, Laurent G. Jacques, Michael W. Jones, Matthew J. Konecki, Duane R. Krug, Paul E. Lindon, Jack D. Miller, Eric M. Moats, Sr., Rick Moreno, Robert W. Nicks, Joseph S. Nix, IV., Monte L. Purcifil, George S. Rayson, Luis F. Saavedra, Gerald M. Smith, Edward J. Sullivan, Steven Valley, Darel G. Wagner, and Bernard J. Wood.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a

lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: May 6, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E8-10825 Filed 5-14-08; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 299X); STB Docket No. AB-1024X]

#### Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Chesapeake, VA; Norfolk and Portsmouth Belt Line Railroad Company—Discontinuance of Trackage Rights Exemption—in Chesapeake, VA

Norfolk Southern Railway Company (NSR) and Norfolk and Portsmouth Belt Line Railroad Company (NPBL)<sup>1</sup> (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for NSR to discontinue service over, and for NPBL to discontinue trackage rights over, 0.90 miles of railroad between milepost NS 1.40 and milepost NS 2.30, in Chesapeake, VA. The line traverses United States Postal Service Zip Code 23324.

NSR and NPBL have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (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 1105.12 (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 service discontinuance/discontinuance of trackage rights shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this

<sup>1</sup> NPBL is jointly owned by NSR and CSX Transportation, Inc.

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 June 14, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),<sup>2</sup> must be filed by May 27, 2008.<sup>3</sup> Petitions to reopen must be filed by June 4, 2008, with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: James R. Paschall, Three Commercial Place, Norfolk, VA 23510, and James L. Chapman, IV, 1200 Bank of America Center, One Commercial Place, Norfolk, VA 23510.

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

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

Decided: May 6, 2008.

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

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8-10703 Filed 5-13-08; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35139]

#### **Genesee & Wyoming Inc.—Control Exemption—Columbus and Greenville Railway Company, The Chattooga and Chickamauga Railway Company, and Luxapalila Valley Railroad, Inc.**

Genesee & Wyoming Inc. (GWI), a noncarrier holding company, has filed a verified notice of exemption to permit GWI to acquire indirect control of Columbus and Greenville Railway Company, the Chattooga and Chickamauga Railway Company, and Luxapalila Valley Railroad, Inc. (collectively, CAGY Railroads) pursuant to a Stock Purchase and Merger

<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> In discontinuance proceedings, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

Agreement (Stock Purchase Agreement).<sup>1</sup> CAGY Industries, Inc. (CAGY Industries) is a noncarrier holding company that directly controls the three Class III CAGY Railroads. According to GWI, CAGY Acquisition Co. (CAGY Acquisition), a noncarrier wholly owned subsidiary of GWI, CAGY Industries, and certain stockholders of CAGY Industries have entered into a Stock Purchase Agreement whereby CAGY Acquisition will obtain at least 90% of the outstanding capital stock of CAGY Industries and then merge with and into CAGY Industries. As a result, CAGY Acquisition will cease to exist and CAGY Industries will continue as the surviving corporation whose sole stockholder will be GWI. Accordingly, upon consummation of the proposed stock purchase and merger transaction, GWI will acquire direct control of CAGY Industries and indirect control of the three CAGY Railroads.

GWI directly or indirectly controls Buffalo & Pittsburgh Railroad, Inc., a Class II rail carrier, and 25 Class III rail carriers. Also, GWI controls additional rail carriers with two of its wholly owned subsidiaries that are noncarrier holding companies: RP Acquisition Company One (RP1) and RP Acquisition Company Two (RP2). GWI, along with RP1 and RP2, control one Class II rail carrier and a total of 13 Class III rail carriers.<sup>2</sup>

The transaction will be consummated on or after May 29, 2008 (the effective date of this exemption).

GWI represents and warrants that: (1) The CAGY Railroads do not connect with the rail lines of any existing rail carrier controlled by GWI; (2) the transaction is not part of a series of anticipated transactions that would connect the CAGY Railroads with any of the railroads in the GWI corporate family; and (3) 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. Because the transaction involves the control of at least one Class

<sup>1</sup> The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. The request for a protective order is being addressed in a separate decision.

<sup>2</sup> The members of the GWI family of railroads own and/or operate rail property located in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Kentucky, Louisiana, Maine, Maryland, Mississippi, New Hampshire, New York, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Utah, Vermont, Virginia, and Wisconsin.

II and one or more Class III carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the 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 effectiveness of the exemption. Petitions for stay must be filed no later than May 22, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35139, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on Kevin M. Sheys, Kirkpatrick & Lockhart Preston Gates Ellis LLP, 1601 K Street, NW., Washington, DC 20006.

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

Decided: May 8, 2008.

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

**Anne K. Quinlan,**

*Acting Secretary.*

[FR Doc. E8-10875 Filed 5-14-08; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35137]

#### **The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.**

Pursuant to a written trackage rights agreement entered into between CSX Transportation, Inc. (CSXT), and The Indiana Rail Road Company (INRD), CSXT has agreed to grant non-exclusive, limited local trackage rights to INRD over CSXT's line of railroad between the connection of CSXT and INRD trackage at Sullivan, IN, at approximately CSXT milepost OZA 205.5, and the connection between CSXT's line and the tracks leading to the Sunrise Coal Company loading facility (Sunrise facility) at Carlisle, IN, at approximately CSXT milepost OZA 214.5, a distance of 9.0 miles (Line). According to INRD, the trackage rights are limited to empty hopper trains moving to, and loaded hopper trains carrying coal from, the Sunrise facility, located on the Line, and destined to Indianapolis Power & Light's Harding Street Plant at Indianapolis, IN,