

provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information smart USA provided about its antitheft device.

For the foregoing reasons, the agency hereby grants in full smart USA's petition for exemption for the fortwo vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If smart USA decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if smart USA wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, part 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: May 12, 2008.

Stephen R. Kratzke,
Associate Administrator for Rulemaking.
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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35138]

Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Control Exemption—The Louisiana and North West Railroad Company LLC

Patriot Rail, LLC (PRL) and its subsidiaries, Patriot Rail Holdings LLC (PRH) and Patriot Rail Corp. (Patriot) (collectively, applicants), jointly have filed a verified notice of exemption to permit PRL, PRH, and Patriot to acquire control of The Louisiana and North West Railroad Company LLC (L&NW) through Patriot's acquisition of 100% of the membership interests and/or substantially all of the assets of L&NW, pursuant to a Letter of Intent dated April 8, 2008.¹ Applicants state that a Purchase and Sale Agreement, as required by 49 CFR 1180.6(a)(7)(ii), will be entered prior to closing.

PRL is a noncarrier limited liability company that owns 51% of the equity interests in PRH, which, in turn, owns 100% of the stock of Patriot. Patriot is a noncarrier holding company that controls the following Class III railroads: (1) The Tennessee Southern Railroad Company, operating in Tennessee and Alabama; (2) Rarus Railway Company, operating in Montana; (3) Utah Central Railway Company, operating in Utah; and (4) Sacramento Valley Railroad, Inc., operating in California. LN&W, a Class III rail carrier, owns and operates an approximately 62.6-mile line of railroad between McNeil, AR, and Gibsland, LA, and leases a 6.5-mile line of railroad between McNeil and Magnolia, AR, from the Union Pacific Railroad Company. Pursuant to the transaction, Patriot will acquire direct control of L&NW. PRL and PRH, through their control of Patriot, will acquire indirect control of L&NW.

The transaction is scheduled to be consummated on or after the date that this notice becomes effective (which will occur on May 30, 2008).

¹ A redacted version of the Letter of Intent was included with the notice. The full version of the Letter of Intent was concurrently filed under seal along with a motion for protective order. The motion for protective order is being addressed in a separate decision.

Applicants state that: (i) The rail lines involved in this transaction do not connect with any rail lines now controlled, directly or indirectly, by PRL, PRH, or Patriot; (ii) the acquisition of control of L&NW by PRL, PRH, and Patriot is not part of a series of anticipated transactions that would connect any of these railroads with each other or any railroad in their corporate family; and (iii) this transaction does not involve a Class I carrier. Therefore, this 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. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III rail carriers.

If the verified 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 23, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35138, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

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. Konschnick,
Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

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