

its Certificate. The Certificate is composed of a previous Restated Certificate of Incorporation adopted in 2003 and numerous subsequent amendments, which under Delaware law are adopted as freestanding documents. However, Delaware law allows the various documents comprising a certificate of incorporation to be consolidated into a single restated certificate upon approval of a corporation's board of directors. The change will assist interested persons, including NASDAQ OMX stockholders and Commission staff, in reading the Certificate without having to review multiple documents. The restated Certificate reflects the deletion of both the Certificate of Designations, Preferences and Rights of Series D Preferred Stock and the Certificate of Elimination that was recently filed with respect to it.<sup>6</sup> Since the latter component of the Certificate cancels the former, they are both deleted from the restated Certificate.

## 2. Statutory Basis

The proposed rule change is consistent with Section 17A of the Act<sup>7</sup> in general and with Section 17A(b)(3)(A) of the Act<sup>8</sup> in particular because it is designed to ensure that BSECC is so organized and has the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions. The proposed change will enhance the clarity of NASDAQ OMX's governance documents by restating the various documents comprising the Certificate as a single document.

### (B) Self-Regulatory Organization's Statement on Burden on Competition

BSECC does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

<sup>6</sup> Securities Exchange Act Release No. 59460 (February 26, 2009), 74 FR 9841 (March 6, 2009) (SR-NASDAQ-2009-010, SR-BX-2009-009, SR-Phlx-2009-14); Securities Exchange Act Release No. 59496 (March 3, 2009), 74 FR 10626 (March 11, 2009) (SR-BSECC-2009-01); Securities Exchange Act Release No. 59494 (March 3, 2009), 74 FR 10642 (March 11, 2009) (SR-SCCP-2009-01).

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(A).

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>9</sup> and Rule 19b-4(f)(3)<sup>10</sup> promulgated thereunder because the proposal change is concerned solely with the administration of BSECC. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BSECC-2009-03 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BSECC-2009-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(3).

the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of BSECC. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BSECC-2009-03 and should be submitted on or before May 26, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. E9-10195 Filed 5-4-09; 8:45 am]

BILLING CODE 8010-01-P

## DEPARTMENT OF STATE

### [Delegation of Authority No. 325]

### Delegation by the Deputy Secretary of the Authorities of the Under Secretary for Arms Control and International Security to Rose E. Gottemoeller

By virtue of the authority vested in the Secretary by the laws of the United States, including the Foreign Assistance Act of 1961, the Arms Export Control Act, the Foreign Affairs Reform and Restructuring Act of 1998, and the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), and delegated to me by Delegation of Authority 245-1, dated February 13, 2009, I hereby delegate to Rose E. Gottemoeller, Assistant Secretary for Verification, Compliance, and Implementation, to the extent authorized by law, all authorities vested in the Under Secretary of State for Arms Control and International Security, including all authorities vested in the Secretary of State that have been or may be delegated to that Under Secretary.

Any authority covered by this delegation may also be exercised by the Secretary of State, the Deputy Secretary of State, the Deputy Secretary of State for Management and Resources, the Under Secretary for Political Affairs and the Under Secretary for Management.

This delegation shall expire upon the appointment and entry upon duty of an individual to serve as the Under

<sup>11</sup> 17 CFR 200.30-3(a)(12).

Secretary of State for Arms Control and International Security.

Delegation of Authority No. 321, dated January 16, 2009, is hereby revoked. With this exception, nothing in this delegation of authority shall be deemed to supersede any other delegation of authority, which shall remain in full force and effect during and after this delegation.

This delegation of authority shall be published in the **Federal Register**.

Dated: April 17, 2009.

**James B. Steinberg,**

*Deputy Secretary, Department of State.*

[FR Doc. E9-10348 Filed 5-4-09; 8:45 am]

**BILLING CODE 4710-27-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 310X)]

#### Norfolk Southern Railway Company— Abandonment Exemption—in Floyd and Polk Counties, GA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 12.31-mile line of railroad between milepost 3.69-N and milepost 16.00-N, in Floyd and Polk Counties, GA.<sup>1</sup> The line traverses United States Postal Service Zip Codes 30124 and 30161.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could 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 at 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 this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91

<sup>1</sup> NSR also seeks exemption from the requirements of 49 U.S.C. 10904 (offers of financial assistance (OFA)). The Board will address the merits of this request in a separate decision.

(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 OFA has been received, this exemption will be effective on June 4, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 15, 2009.<sup>4</sup> Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 26, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NSR has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by May 8, 2009. 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

<sup>2</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 investigation) cannot be made before the exemption's 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 exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 CFR 1002.2(f)(25).

<sup>4</sup> NSR states that it is not aware of any restriction on the title to the right-of-way that would affect the transfer of title or the use of property for other than rail purposes but will provide full title information promptly if it receives a proposal to acquire the property for public purposes.

conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR 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 NSR's filing of a notice of consummation by May 5, 2010, 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 [www.stb.dot.gov](http://www.stb.dot.gov).

Decided: April 29, 2009.

By the Board, Rachel D. Campbell,  
Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9-10258 Filed 5-4-09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2008-0078]

#### Commercial Driver's License (CDL) Standards; Rotel North American Tours, LLC; Amendment of Exemption

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

**ACTION:** Notice of amendment; request for comments.

**SUMMARY:** FMCSA announces that the Rotel North American Tours, LLC (Rotel), has applied for amendment of its existing exemption that permits 22 named drivers, employed by Rotel and possessing German CDLs, to operate commercial motor vehicles (CMVs) in the U.S. without a CDL issued by one of the States. Rotel proposes to amend the roster of 22 exempt Rotel drivers in order to substitute three new Rotel drivers for three drivers no longer employed by Rotel. The new Rotel drivers would be subject to all the terms and conditions of the current exemption, including its expiration date of July 30, 2010.

**DATES:** Comments must be received on or before May 20, 2009.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2008-0078 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Telefax:* 1-202-493-2251.