

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>20</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)<sup>21</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that it may immediately provide participants the benefits of the clarified order types. The Commission believes that waiving the 30-day operative delay<sup>22</sup> is consistent with the protection of investors and the public interest because it will allow the Exchange to immediately modify the rules relating to the cross and cross-with-size order types to account for the exceptions and exemptions with respect to Rule 611 of Regulation NMS.<sup>23</sup> For this reason, the Commission designates that the proposed rule change become operative upon filing.

At any time within 60 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

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

<sup>21</sup> 17 CFR 240.19b-4(f)(6).

<sup>22</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>23</sup> Rule 611 of Regulation NMS includes various exceptions. See 17 CFR 242.611(b). In addition, the Commission has issued exemptive orders relating to Rule 611 of Regulation NMS. See *supra* notes 12-15.

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CHX-2009-16 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-CHX-2009-16. 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 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 the Exchange. 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 publicly available. All submissions should refer to File Number SR-CHX-2009-16 and should be submitted on or before January 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>24</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-30425 Filed 12-22-09; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>24</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-295 (Sub-No. 7X)]

#### The Indiana Rail Road Company— Abandonment Exemption—in Martin and Lawrence Counties, IN

On December 7, 2009, the Indiana Rail Road Company (INRD), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon 22.80 miles of rail line in Martin and Lawrence Counties, IN, comprised of the Crane-Bedford Line extending from milepost 241.35 near Crane, IN, to milepost 262.50 in Bedford, IN, and the Bedford Industrial Track extending from Bedford Industrial Track railroad milepost 0.00 at Crane-Bedford milepost 262.40, to Bedford Industrial Track railroad milepost 1.65. The line traverses U.S. Postal Service Zip Codes 47581, 47470, and 47421, and includes the stations of Williams at milepost 251.40 and Bedford at milepost 262.50.

INRD states that the line does not contain Federally granted rights-of-way. Any documentation in INRD'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 March 26, 2010.<sup>1</sup>

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. Each OFA must be accompanied by a \$1,500 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.<sup>2</sup> Any

<sup>1</sup> In its petition, INRD requests that the Board render its decision on the petition immediately effective if it is issued after February 28, 2010. This request will be addressed in the decision on the merits of the petition.

<sup>2</sup> INRD notes that it acquired its interest in the line by quit claim. INRD states that it is investigating the nature of its title to the right-of-way, and that the outcome of this investigation may affect how it chooses to proceed with regard to trail use negotiations. INRD also states that part of the Crane-Bedford Line runs through the Naval Surface Warfare Center at Crane, and that security requirements may limit the availability of the right-of-way at that location.

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 January 12, 2010.<sup>3</sup> Each trail use request must be accompanied by a \$250 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-295 (Sub-No. 7X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001, and (2) John Broadley, John H. Broadley & Associates, P.C., 1054 31st Street, NW., Suite 200, Washington, DC 20007. Replies to INRD's petition are due on or before January 12, 2010.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238 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) 245-0305. 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). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

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

Decided: December 18, 2009.

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

**Kulunie L. Cannon,**  
*Clearance Clerk.*

[FR Doc. E9-30473 Filed 12-22-09; 8:45 am]

**BILLING CODE 4915-01-P**

<sup>3</sup> INRD also petitions for exemption from any condition imposed under 49 U.S.C. 10905 that would prohibit or delay the recovery and reuse of the line's rail, ties, and other track materials and ballast. The Board will address this request in the decision on the merits, if necessary.

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35314]

#### Massachusetts Coastal Railroad, LLC—Acquisition—CSXT Transportation, Inc.

**AGENCY:** Surface Transportation Board.

**ACTION:** Decision No. 2 in STB Finance Docket No. 35314; Notice of Acceptance of Application; Issuance of Procedural Schedule.

**SUMMARY:** The Surface Transportation Board (Board) is accepting for consideration the application seeking Board approval of the acquisition by Massachusetts Coastal Railroad, LLC (Mass Coastal) of a permanent rail freight easement on about 33 miles of the rail lines of CSX Transportation, Inc. (CSXT) in Massachusetts. Collectively, Mass Coastal and CSXT will be referred to as "Applicants." If the application is approved, Mass Coastal would replace CSXT as the only railroad providing freight service on these rail lines.

In the proposed transaction (the Acquisition), which is governed by 49 U.S.C. 11323-26, Mass Coastal would acquire a rail freight easement in CSXT's "South Coast Lines" consisting of: (1) The New Bedford Subdivision, which is 18.40 miles between milepost QN 13.40 at Cotley Junction and milepost QN 31.80 at New Bedford; (2) the Fall River Subdivision, which is 14.20 miles between milepost QNF 0.00 at Myricks and milepost QNF 14.20 at the Fall River, Massachusetts—Rhode Island state line; and (3) 0.08 miles of the North Dartmouth Industrial Track between milepost QND 0.00 and milepost QND 0.08, a total distance of approximately 32.68 miles.

The Board finds that the Acquisition is a "minor transaction" under 49 CFR 1180.2(c) and adopts a procedural schedule for consideration of the application, providing for the Board's final decision to be issued on March 29, 2010, and to become effective on April 28, 2010.

In related matters, CSXT has agreed to sell the real estate, track, and materials in the South Coast Lines, among other property interests in other rail lines, to the Massachusetts Department of Transportation (MassDOT) and to retain a permanent freight easement over the South Coast Lines (the MassDOT Transaction). Consequently, MassDOT also filed on November 24, 2009, a notice of exemption under 49 CFR 1150.31 and a concurrent motion to dismiss the notice, in STB Finance Docket No. 35312, *Massachusetts*

*Department of Transportation—Acquisition Exemption—Certain Assets of CSX Transportation, Inc.*, which was served and published in the **Federal Register** (74 FR 65589) on December 10, 2009, to become effective December 24, 2009. If approved, the Acquisition would occur concurrently with the MassDOT Transaction.

In a second transaction, CSXT has agreed to grant Mass Coastal certain overhead trackage rights<sup>1</sup> so that Mass Coastal can connect the South Coast Lines to its existing lines (the Trackage Rights Transaction). This agreement led to the concurrent filing of a notice of exemption under 49 C.F.R. 1180.2(d)(7) in STB Finance Docket No. 35314 (Sub-No. 1X), *Massachusetts Coastal Railroad, LLC—Trackage Rights Exemption—CSX Transportation, Inc.*, which also was served and published in the **Federal Register** (74 FR 65592-93) on December 10, 2009, to become effective December 24, 2009.<sup>2</sup>

**DATES:** The effective date of this decision is December 23, 2009. Any person who wishes to participate in this proceeding as a party of record (POR) must file a notice of intent to participate no later than January 6, 2010. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the application, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by January 25, 2010. Any responses to such filings and rebuttal in support of the application must be filed by February 12, 2010. If a public hearing or oral argument is held, it will be on a date to be determined by the Board. The Board expects to issue a final decision on March 29, 2010. For further information respecting dates, see Appendix A (Procedural Schedule).

**ADDRESSES:** Any filing submitted in this proceeding must be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's Web site at "[www.stb.dot.gov](http://www.stb.dot.gov)" at the "E-FILING" link. Any person submitting a

<sup>1</sup> These trackage rights are on CSXT's Middleboro Subdivision (1) between Mass Coastal's interchange tracks at Taunton, MA, at approximately milepost QN 11.6, and milepost QN 13.4, a distance of approximately 1.8 miles; and (2) between milepost QNB 13.3 and Mass Coastal's interchange tracks at Middleboro, MA, at approximately milepost QNB 20.4, a distance of about 7.1 miles, for a total distance of approximately 8.9 miles.

<sup>2</sup> The related exemptions are permissive and do not require the parties to consummate those transactions.