

minimal, and Aston Martin could not initiate the start of FMVSS 214 compliance programs on DB9 or Vantage. Therefore, the company investigated options to deliver more cash into the business. It was not until 30 April 2013 that Aston Martin received a capital increase of £150m into the business from Investindustrial in return for a 37.5% interest in the company. This capital injection provided the funds needed to deliver the next generation of vehicles. In short, Aston Martin needs the exemption to continue the DB9 and Vantage USA production until the replacement vehicles are ready.

The petition provides information on the effect that compliance—or a failure to obtain an exemption—would have on the manufacturer. Petitioner states that the DB9 and Vantage models will not comply with the pole and enhanced MDB test requirements “without complete revision of the side air bag systems and complete validation of crash testing.” Aston Martin states that developing completely new pole and MDB test compliance systems for the vehicles “would be cost prohibitive given that these models will cease USA production in the near term and the cost of amortization over the approximately 670 cars at issue would be economically infeasible.”

Aston Martin indicates that its past three year financial statements show a cumulative loss of approximately £39 Million. Petitioner believes that the effect amounts to substantial economic hardship “above and beyond the substantial economic hardship that Aston Martin is presently experiencing.” Among other matters, petitioner states that approximately \$30 million expenditure would be required to achieve compliance, and the finances needed to meet the new pole and MDB requirements are “just not available.”

In addition, petitioner states, “The new investor in Aston Martin has committed its investment money for the next generation vehicle—as obviously the longer term hopes for the company depend on the future models. Aston Martin funding needs to be focused on the next generation of vehicles to ensure the recovery of the company and protect its dealer network.”

Aston Martin provides information related to its efforts to comply with the standard. Petitioner states that its challenges to reengineer the DB9 and Vantage relate to: its being a small organization with limited skilled internal resources; at least two global restraint system suppliers have indicated that Aston Martin’s volumes are too low for the suppliers to be interested in its projects; “few external CAE/Structural suppliers have experience in Aston Martin’s unique bonded aluminum structural concept;

and the need to also engineer compliance with FMVSS No. 226, “Ejection mitigation.” Petitioner states that “for Aston Martin to find an *interim* MDB/Pole solution for only 670 cars and then to be compelled to *reengineer* FMVSS 208, 214 and 226 compliance for 2017 would be a huge investment which Aston Martin neither has nor can justify.” [Emphases in text.]

Aston Martin believes that the number of vehicles to be sold in the U.S. during the exemption would be “very low and the number of annual miles driven in Aston Martin vehicles is very low (on average 2617 miles).” Further, Aston Martin contends that “denial of the exemption request here will have a negative effect on U.S. employment.” Petitioner believes that if the petition were denied, “for a 2–3 year period U.S. dealers would be restricted in their product range and would only be able to sell Vanquish and Rapide S, which would impact their ability to maintain a financial viable operation.” Aston Martin notes that the DB9 was tested to the pole test with the ES–2re adult male dummy and passed the injury criteria, but did not do so with a compliance margin sufficient for the manufacturer to certify compliance based on a single test.

#### *d. Completeness and Comment Period*

Upon receiving a petition, NHTSA conducts an initial review of the petition with respect to whether the petition is complete and whether the petitioner appears to be eligible to apply for the requested exemption. The agency has tentatively concluded that Aston Martin’s petition is complete and that the petitioner is eligible to apply for a temporary exemption. The agency has not made any judgment on the merits of the application, and is placing a non-confidential copy of the petition in the docket.

The agency seeks comment from the public on the merits of Aston Martin’s petition for a temporary exemption from the pole and enhanced MDB requirements of FMVSS No. 214. After considering public comments and other available information, we will publish a notice of final action on the petition in the **Federal Register**.

Issued on: March 20, 2014.

**Claude H. Harris,**

*Acting Associate Administrator for Rulemaking.*

[FR Doc. 2014–06834 Filed 3–26–14; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. AB 414 (Sub-No. 7X)]

#### Iowa Interstate Railroad, Ltd.— Abandonment Exemption—in Pottawattamie County, Iowa

Iowa Interstate Railroad, Ltd. (IAIS) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a line of railroad extending from milepost 467.77 near Hancock Junction, Iowa, to the end of the track at milepost 469.59 near Oakland, Iowa, a distance of approximately 1.82 miles in Pottawattamie County, Iowa. The line traverses United States Postal Service Zip Code 51560.

IAIS has certified that: (1) No local traffic has moved over the line for at least two years; (2) no overhead traffic could be or was previously handled on the stub-ended line; (3) no formal complaint by a user of rail service on the line (or 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 during the last two years; and (4) the requirements at 49 CFR 1105.7(c) (environmental 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 Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 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, this exemption will be effective on April 26, 2014, 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 Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption’s effective date. See *Exemption of Out-of-Serv. 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

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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 April 7, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 16, 2014, 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 IAIS's representative: Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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

IAIS has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by April 1, 2014. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (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.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), IAIS 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 IAIS's filing of a notice of consummation by March 27, 2015, 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: March 24, 2014.

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

**Derrick A. Gardner,**  
Clearance Clerk.

[FR Doc. 2014-06774 Filed 3-26-14; 8:45 am]

**BILLING CODE 4915-01-P**

take appropriate action before the exemption's effective date.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 CFR 1002.2(f)(25).

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35799]

#### Rapid City, Pierre & Eastern Railroad, Inc.—Acquisition and Operation Exemption Including Interchange Commitment—Dakota, Minnesota & Eastern Railroad Corporation

Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E),<sup>1</sup> a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.35 to acquire from Dakota, Minnesota & Eastern Railroad Corporation d/b/a Canadian Pacific (DM&E)<sup>2</sup> and to operate approximately 670 miles of rail lines known as the DM&E West Lines in Minnesota, South Dakota, Nebraska, and Wyoming. RCP&E would also acquire approximately 219 miles of incidental trackage rights over connecting lines of DM&E and other carriers. RCP&E and DM&E entered into an agreement regarding this transaction on January 2, 2014.<sup>3</sup> This transaction would result in RCP&E's becoming a Class II rail carrier.

*Acquired Lines.*<sup>4</sup> The specific lines to be acquired by RCP&E include: (1) Huron Subdivision between Tracy, Minn., at milepost 231.5 and Huron, S.D., at milepost 362.7, a distance of 131.2 miles; (2) Pierre Subdivision between Huron at milepost 362.7 and Ft. Pierre, S.D., at milepost 484.4, a distance of 121.7 miles; (3) PRC Subdivision between Ft. Pierre at milepost 484.4 and Pressler Jct., S.D., at milepost 649.2, a distance of 164.8 miles; (4) Black Hills Subdivision between Dakota Jct., Neb., at milepost 0.4 and Bentonite/Colony, Wyo., at milepost 174.7, a distance of 174.3 miles; (5) Crawford Subdivision between Dakota Jct. at milepost 411.72± and Crawford, Neb., at milepost 432.5±, a distance of 20.78 miles; (6) Onida Subdivision between Onida, S.D., at

<sup>1</sup> RCP&E is a wholly owned subsidiary of Genesee & Wyoming Inc. (GWI).

<sup>2</sup> In *Canadian Pacific Railway—Control—Dakota, Minnesota & Eastern Railroad*, FD 35081 (STB served Sept. 30, 2008), the Board approved an application allowing Canadian Pacific Railway Company (CP) to acquire indirect control of DM&E and DM&E's wholly owned rail subsidiary, Iowa, Chicago & Eastern Railroad Corporation (IC&E).

<sup>3</sup> The Board is waiving the requirement that RCP&E submit an additional 10 copies of both the Public and Highly Confidential versions of the agreement. As noted by RCP&E, each document is hundreds of pages long, and it would be unduly burdensome and expensive to meet the requirement here. Moreover, RCP&E has submitted an electronic version of each document on a disk.

<sup>4</sup> DM&E is the current operator of the DM&E West Lines, with the exception of the Crawford Subdivision, which is operated by Nebraska Northwestern Railroad, Inc., pursuant to a lease agreement with DM&E.

milepost 97.5 and Blunt, S.D., at milepost 115.1, a distance of 17.6 miles; (7) Mansfield Subdivision between Redfield, S.D., at milepost 39.7 and Mansfield, S.D., at milepost 66.9, a distance of 27.2 miles; and (8) Yale Spur<sup>5</sup> between Yale, S.D., at milepost 145.0 and Huron, S.D., at milepost 160.3±, a distance of 15.3 miles.

Notwithstanding the sale of the lines described above, DM&E would retain the common carrier obligation with respect to the handling of coal to, from, and over the DM&E West Lines until December 31, 2030, and RCP&E would not assume the common carrier obligation to handle coal shipments during that period.<sup>6</sup>

*Incidental Trackage Rights.* The specific incidental trackage rights that RCP&E will acquire are over lines: (1) owned and operated by DM&E between Tracy at milepost 231.5 and Mankato, Minn., at milepost 142.4, a distance of 89.1 miles; (2) operated by BNSF Railway Company (BNSF), being assigned to RCP&E by DM&E, as successor to Chicago and Northwestern Transportation Company between Wolsey, S.D., at milepost 70.50 and Aberdeen, S.D., at milepost 777.04, a distance of 72.04 miles; and (3) owned and operated by BNSF, being assigned to RCP&E by DM&E between Yale at milepost 148.5 and Watertown, S.D., at milepost 90.72, and yard trackage at Huron at milepost 160.33 to the end of track, a distance of 58.65 miles.<sup>7</sup>

RCP&E certifies that the proposed transaction involves an interchange commitment. As part of the transaction, RCP&E will be acquiring DM&E's "Colony Line." RCP&E will be assuming certain interchange rights and obligations arising under the existing agreements that were executed when DM&E acquired the Colony Line from Union Pacific Railroad Company in 1996. Among those assumed obligations will be certain obligations under the existing Colony Line Car Supply, Services, and Divisions Agreement (CSSDA) for the remainder of the term

<sup>5</sup> The Yale Spur is subleased from the East Central Railroad Authority, and the sublease is being assigned by DM&E.

<sup>6</sup> The acquisition by RCP&E also does not include any of the rights of DM&E or its affiliates to build into the Powder River Basin. See *Wyo. Dakota R.R. Prop.—Acquis. & Oper. Exemption—Dakota, Minn. & E. R.R.*, FD 34871 (STB served Aug. 14, 2006).

<sup>7</sup> Additionally, RCP&E would grant DM&E trackage rights between Tracy and Wolsey to allow DM&E to continue to handle overhead grain trains in conjunction with BNSF that are operating today between Florence, Minn., and points on DM&E beyond Tracy, and to handle non-revenue ballast trains, including the right to interchange such trains with BNSF at Wolsey. DM&E is expected to file a separate notice of exemption with the Board for trackage rights granted by RCP&E to DM&E.