

the MT900 is utilized as a “second vehicle,” due to its extreme design and high cost, and therefore driven a limited amount and generally without child occupants. Second, we believe that allowing production of the MT900 will help further consumer choice, as well as help to preserve the jobs of Mosler’s 25 U.S. based employees.

VI. Issuance of Notice of Final Action

In sum, the agency concludes that Mosler has demonstrated good faith effort to bring the MT900 into compliance with the advanced air bag requirements of FMVSS No. 208 and has also demonstrated the requisite financial hardship. Further, we find these exemptions to be in the public interest.

In consideration of the foregoing, we conclude that compliance with the advanced air bag requirements of FMVSS No. 208, *Occupant Crash Protection*, would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. We further conclude that granting of an exemption from these provisions would be in the public interest and consistent with the objectives of traffic safety.

We note that, as explained below, prospective purchasers will be notified that the vehicle is exempted from the specified advanced air bag requirements of Standard No. 208. Under § 555.9(b), a manufacturer of an exempted passenger car must affix securely to the windshield or side window of each exempted vehicle a label containing a statement that the vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture “except for Standard Nos. [listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No. _____” This label notifies prospective purchasers about the exemption and its subject. Under § 555.9(c), this information must also be included on the vehicle’s certification label.

We note that the text of § 555.9 does not expressly indicate how the required statement on the two labels should read in situations where an exemption covers part but not all of a Federal motor vehicle safety standard. Specifically in the case of FMVSS No. 208, we believe that a statement that the vehicle has been exempted from Standard No. 208 generally, without an indication that the exemption is limited to the specified advanced air bag provisions, could be misleading. A consumer might incorrectly believe that the vehicle has been exempted from all of Standard No.

208’s requirements. Moreover, we believe that the addition of a reference to such provisions by number without an indication of its subject matter would be of little use to consumers, since they would not know the subject of those specific provisions. For these reasons, we believe the two labels should read in relevant part, “except for S14.5.2, S15, S17, S19, S21, S23, and S25 (Advanced Air Bag Requirements) of Standard No. 208, Occupant Crash Protection, exempted pursuant to * * *.” We note that the phrase “Advanced Air Bag Requirements” is an abbreviated form of the title of S14 of Standard No. 208.

In accordance with 49 U.S.C. 30113(b)(3)(B)(i), the Mosler MT900 is granted NHTSA Temporary Exemption No. EX 08–02, from S14.5.2, S15, S17, S19, S21, S23, and S25 of 49 CFR 571.208. The exemption is effective immediately and continues in effect for thirty months.

Issued on: April 9, 2008.

James F. Ports, Jr.,

Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–43 (Sub-No. 183X)]

Illinois Central Railroad Company— Abandonment Exemption—in Dyer County, TN

Illinois Central Railroad Company (IC)¹ has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.01-mile line of railroad between milepost 48.51 and milepost 47.50 in Dyersburg, Dyer County, TN. The line traverses United States Postal Service Zip Code 38024.

IC has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to 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 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 reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and

¹ IC is a wholly owned subsidiary of Canadian National Railway Company.

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 (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 May 16, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 28, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 6, 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 IC’s representative: Thomas J. Healey, 17641 S. Ashland Avenue, Homewood, IL, 60430–1345.

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

IC has filed a combined environmental and historic report addressing the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 21, 2008. 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.

² 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.

³ Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

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), IC 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 IC's filing of a notice of consummation by April 16, 2009, 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 <http://www.stb.dot.gov>.

Decided: April 9, 2008.

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

Anne K. Quinlan,
Acting Secretary.

[FR Doc. E8-7965 Filed 4-15-08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35106]

United States Department of Energy— Rail Construction and Operation— Caliente Rail Line in Lincoln, Nye, and Esmeralda Counties, NV

AGENCY: Surface Transportation Board,
DOT.

ACTION: Notice of Construction and
Operation Application and Adoption of
Procedural Schedule.

SUMMARY: The Board is publishing notice of an application filed by the United States Department of Energy (DOE) seeking authority to construct and operate an approximately 300-mile rail line, to be known as the Caliente Line, connecting an existing Union Pacific Railroad Company line near Caliente, NV, to a proposed geologic repository at Yucca Mountain, Nye County, NV. The purpose of this proposed rail line is to allow DOE to transport spent nuclear fuel and high-level radioactive waste for disposal at the proposed geologic repository, as well as to provide common carrier rail service to communities situated along the proposed line.

The Board, on its own motion, is adopting a procedural schedule that calls for notices of intent to participate and establishes filing dates for submissions on whether this application meets the criteria of 49 U.S.C. 10901.

DATES: This notice is effective on April 16, 2008. Pleadings must be filed in

accordance with the schedule set forth in the Appendix to this notice. All filings, except notices of intent to participate, must be concurrently served on all parties of record and must be accompanied by a certificate of service.

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 at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (and also an electronic version) to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of each filing in this proceeding must be sent (and may be sent by e-mail only if service by e-mail is acceptable to the recipient) to each of the following: (1) Director, Office of Civilian Radioactive Waste Management, United States Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585; (2) Director, Office of Logistics Management, United States Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585; (3) Assistant General Counsel for Civilian Nuclear Programs, ATTN: Bradley L. Levine, GC-52, United States Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585; and (4) any other person designated as a party of record on the service list notice described below.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 245-0395. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: 1-800-877-8339].

SUPPLEMENTARY INFORMATION: The Board's review of construction applications is governed by 49 U.S.C. 10901 and by the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4370d (NEPA), and related environmental laws. Section 10901 requires the Board to grant a construction application unless the Board finds that the proposal is inconsistent with the public convenience and necessity. Under our regulations, comments on DOE's application are due 35 days after its March 17, 2008 filing date, and DOE's reply is due 5 days after the comments are due. See 49 CFR 1150.10(g) and (h). However, because the application is extensive, replies might be lengthy, and the proceeding might be controversial,

we find that the standard timetable is not appropriate in this proceeding. Accordingly, to guide the submission of filings on the merits of the application, we will adopt a procedural schedule similar to the one used in a recent proceeding involving a voluminous and controversial construction application, *Tongue River Railroad Company, Inc.—Construction and Operation—Western Alignment*, STB Finance Docket No. 30186 (Sub-No. 3). The schedule for the DOE proceeding, which is set forth in the Appendix, will accord all parties due process because it provides ample time and opportunity for the submission of comments and replies. The schedule will also better enable the Board to determine whether the proposed construction meets the criteria of section 10901.

DOE has caused notices to be published stating that comments on the application are due on or before April 21, 2008, as ordinarily required by our rules. While interested parties may continue to file comments by April 21, 2008, the parties may also file comments pursuant to the longer time frames in the procedural schedule we establish here. To alert the parties of the new schedule, we will require DOE to cause this notice to be published in the same places as the prior notices and to certify to the Board that it has done so.

Any person who wishes to participate as a party of record in this proceeding by filing comments and by receiving other parties' pleadings must file with the Acting Secretary of the Board an original and 10 copies of a notice of intent to participate in accordance with the attached procedural schedule. In order to facilitate service of pleadings on parties of record, the Board will issue a list of those persons who have given notice of their intent to participate. However, an interested person does not need to be on the service list to obtain a copy of the primary application or any other filing made in this proceeding. The primary application and other filings in this proceeding will also be available on the Board's Web site at <http://www.stb.dot.gov> under "E-LIBRARY/Filings." Additionally, electronic copies of the application are available from DOE online at <http://www.ocrwm.doe.gov>.

On April 2, 2008, the State of Nevada filed a motion asking the Board to reject the application, or in the alternative, to make replies to the application due after the applicant has supplemented the record. DOE's reply to this motion is due by April 22, 2008. We will address the State's motion and any reply in a