

FMVSS No. 209 *Seat Belt Assemblies*: Installation of U.S.-model seat belts.

FMVSS No. 210 *Seat Belt Assembly Anchorages*: Inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model anchorages.

FMVSS No. 212 *Windshield Mounting*: Installation of the complete body style-specific U.S.-model safari cage including the full external front hoop on vehicles not already so equipped.

FMVSS No. 216 *Roof Crush Resistance*: The substantially similar U.S.-model vehicles were not certified to FMVSS No. 216, either because they were manufactured before September 1, 1994, the date the standard became applicable to MPVs, or because their gross vehicle weight rating (GVWR) was 6,000 lbs. or greater. Therefore, nonconforming vehicles manufactured on or after September 1, 1994 will only be eligible under this decision if they were manufactured with a GVWR greater than 2722 kg (6,000 lb).

FMVSS No. 219 *Windshield Zone Intrusion*: Installation of the complete body style-specific U.S.-model safari cage including the full external front hoop.

FMVSS No. 301 *Fuel System Integrity*: Installation of a U.S.-model rear step bar, rollover valve, and inertia switch. Inspection of all vehicles and replacement of any non-U.S.-model fuel system components with U.S.-model components.

49 CFR Part 565 *Vehicle Identification number—Content Requirements*: Nonconforming vehicles imported and certified by RIs are not required to have vehicle identification numbers (VINs) that conform to the style and content requirements of 49 CFR Part 565. However, as required by 49 CFR Part 565.5(b), the VIN that was assigned to an imported vehicle by its original manufacturer must be displayed on the certification label applied by the RI and must also be on a plate or label located inside the vehicle and visible.

49 CFR Part 567 *Certification*: Installation of an RI's certification label as required by 49 CFR Part 567.2(b).

49 CFR Part 575.105 *Consumer Information Regulations*: In addition to ensuring that converted vehicles conform to all applicable FMVSS, an RI who converts one of the subject vehicles must also install a rollover warning label on the driver's sun visor to meet the requirements of 49 CFR Part 575.105.

While the modifications detailed above are extensive, NHTSA has decided that a specific subgroup of nonconforming 1994 and 1995 Land Rover Defender 90 MPVs are capable of being readily modified to conform to applicable FMVSS.

Accordingly, the agency has decided to grant the petition subject to the limitations discussed below.

Applicability

The applicability of this decision is limited to nonconforming 1994 and 1995 Land Rover Defender 90 MPVs with the following characteristics:

(1) 1994 Land Rover Defender 90 MPVs—2-door pickup only,

(2) 1995 Land Rover Defender 90 MPVs—2-door pickup and 2-door station wagon hardtop only,

(3) 1994 & 1995 Land Rover Defender 90 MPVs—The seventh position of the VIN must be the character "A,"

(4) 1994 & 1995 Land Rover Defender 90 MPVs—The eighth position must be the character "M,"

(5) 1994 & 1995 Land Rover Defender 90 MPVs manufactured on or after September 1, 1994—The GVWR assigned by the original manufacturer must be greater than 2722 kg.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-512 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA has decided that the previously described subset of 1994 and 1995 Land Rover Defender 90 MPVs that were not originally manufactured to comply with all applicable FMVSS are substantially similar to 1994 and 1995 Land Rover Defender 90 MPVs originally manufactured for sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable FMVSS.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 16, 2008.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 210X)]

Norfolk Southern Railway Company— Abandonment Exemption—in Fulton County, GA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption¹ under 49 CFR 1152 Subpart

¹ NSR concurrently filed a petition seeking an exemption from the offer of financial assistance (OFA) and the public use provisions at 49 U.S.C.

F—*Exempt Abandonments* to abandon a 4.30-mile line of railroad between milepost DF 633.10 and milepost DF 637.40, in Atlanta, Fulton County, GA. The line traverses United States Postal Service Zip Codes 30303, 30306, 30307, 30308, 30309, 30312, 30324, 30337, 30340, and 30354.²

NSR has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) overhead traffic on the line, if 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 (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 January 22, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an

10904 and 49 U.S.C. 10905, respectively. The merits of the petition will be addressed in a separate decision.

² NSR states that the property underlying the line proposed for abandonment between milepost DF 633.10 and the crossing at grade of DeKalb Avenue/Decatur Street at approximately milepost DF 636.56 was conveyed to a local developer in 2004, and that the developer subsequently conveyed the property to NE Corridor Partners, LLC, which intends to develop the property as part of the Atlanta BeltLine project. NSR also states that it has retained an operating easement and complete operating authority over this property pending receipt of abandonment authority or exemption from the Board.

³ 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.

OFA under 49 CFR 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 2, 2009.⁵ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 12, 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 December 24, 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.

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), 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 December 23, 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: December 12, 2008.

⁴ Effective July 18, 2008, the filing fee for an OFA increased to \$1,500. See *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 Update*, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

⁵ NSR states that it does not have fee title to the right-of-way underlying the line proposed for abandonment and, therefore, that it will not have a corridor available for public use.

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

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. E8-30146 Filed 12-22-08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35163]

Kansas City Southern, The Kansas City Southern Railway Company, and The Texas Mexican Railway Company—Exemption for Transactions Within a Corporate Family

Kansas City Southern (KCS), The Kansas City Southern Railway Company (KCSR), and The Texas Mexican Railway Company (Tex Mex), have filed a verified notice of exemption for a transaction within a corporate family. The transaction involves: (1) KCSR's acquisition by lease and operation of Tex Mex's right-of-way and rail line extending between milepost 2.5 (near Rosenberg, TX) and milepost 87.0 (near Victoria, TX); and (2) the assignment to KCSR of Tex Mex's overhead trackage rights over certain rail lines of Union Pacific Railroad Company (UP) (a) between mileposts 0.0 and 2.5 (near Rosenberg), and (b) between mileposts 87.0 and 90.8 (near Victoria), along with Tex Mex's rights to interchange with BNSF Railway Company at Rosenberg.¹

KCS is a privately held noncarrier holding company, with both rail and non-rail assets. KCS currently controls 3 rail common carriers: (1) KCSR, a Class I carrier that owns and operates approximately 3,226 miles of rail line in ten states; (2) Gateway Eastern Railway Company, a Class III carrier that owns and operates approximately 17 miles of rail line between East Alton and East St. Louis, IL; and (3) Tex Mex, a Class II carrier that owns approximately 157 miles of rail line between Laredo and Corpus Christi, TX, and approximately 84.5 miles of rail line between Rosenberg and Victoria (including overhead trackage rights over UP's line between mileposts 0.0 and 2.5 and between mileposts 87.0 and 90.8), and that possesses overhead trackage rights over UP's rail lines between Beaumont, Houston, and Corpus Christi, TX.

The transaction is expected to be consummated on January 7, 2009 (30 days after the exemption was filed).

¹ The rail line segment between mileposts 2.5 and 87.0 is owned by Tex Mex, and the segments between mileposts 0.0 and 2.5 and mileposts 87.0 and 90.8 are owned by UP.

As a result of this transaction, KCSR will possess sufficient rights to operate and provide service over a contiguous rail line bounded by Kansas City, MO, at the north end and Laredo, TX, at the south end. According to applicants, the transaction will reduce operating costs, improve efficiency, and enable KCSR to provide seamless service over the various parts of its rail system.

This is a transaction within a corporate family of the type exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the KCS corporate family.

As a condition to the use of this exemption, any employees adversely affected by the lease and operation will be protected by the conditions set forth in *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980), as clarified in *Wilmington Term. RR, Inc.—Pur. and Lease—CSX Transp., Inc.*, 6 I.C.C.2d 799, 814-26 (1990). Any employees adversely affected by the assignment of trackage rights will be protected by the conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

If the 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 transaction. Petitions for stay will be due no later than December 31, 2008 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35163, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on applicants' representatives, William A. Mullins, 2401 Pennsylvania Ave., NW., Suite 300, Washington, DC 20037, and W. James Wochner, P.O. Box 219335, Kansas City, MO 64121.

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

Decided: December 16, 2008.