

Since MDS acquired its rail line in 2000,<sup>1</sup> MDS has served several major customers on the line, including the Marshall Durbin Poultry complex at Waynesboro, the Hood Lumber Company at Waynesboro, Georgia Pacific at Meridian, and Atlas Roofing at Meridian. MDS also serves a number of smaller customers including Bazor Lumber Company in Quitman, Scotch Plywood in Waynesboro, Culbreth Timber Company in Quitman, and Southwood Door Company in Quitman. MDS anticipates that the proposed connecting track will provide these existing shippers and consignees with improved access to the national rail system by the addition of a routing option with more efficient flow and adding price competition. MDS anticipates that the proposed connection will encourage increased shipments from existing customers and foster new economic development in the East Mississippi area served by MDS.

Construction is proposed to begin no earlier than 90 days after the filing of this notice of exemption.

MDS has certified that it has complied with the Board's environmental rules at 49 CFR 1105 and with the pre-filing notice requirements at 49 CFR 1150.36(c)(1).

MDS has submitted environmental and historic reports required under 49 CFR 1105.7 and 1105.8. Under 49 CFR 1150.36(c)(3), the Board's Section of Environmental Analysis (SEA) will generally issue an environmental assessment (EA) 15 days after the **Federal Register** notice, here by July 30, 2009. However, under 49 CFR 1150.36(c)(10), a stay of the effective date may be issued if an informed decision on environmental issues cannot be made prior to September 23, 2009.<sup>2</sup> Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20523-0001) 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 30 days after the EA becomes available to the public.

On completion of the environmental review, the Board will issue a decision addressing those matters and making

the exemption effective at that time, if appropriate, subject to any necessary conditions, thereby allowing construction to begin.

This exemption will be effective on September 23, 2009, unless stayed. Petitions to stay that do not involve environmental issues must be filed by July 24, 2009. Petitions for reconsideration must be filed by August 4, 2009.

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

If the verified 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.

Any original and 10 copies of all pleadings, referring to STB Finance Docket No. 35218, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kevin M. Shays, K&L Gates LLP, 1601 K Street, NW., Washington, DC 20006.

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

Decided: July 8, 2009.

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

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. E9-16636 Filed 7-10-09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35256]

#### **Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Continuance in Control Exemption—Temple & Central Texas Railway, Inc.**

Patriot Rail, LLC (PRL) and its subsidiaries Patriot Rail Holdings LLC (PRH) and Patriot Rail Corp. (Patriot), have filed a verified notice of exemption to continue in control of Temple & Central Texas Railway, Inc. (TC), upon TC's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption for TC to operate about 7.7 miles of unmarked rail line owned by the City of Temple, in Bell County, TX. See STB Finance Docket No. 35255, *Temple & Central Texas Railway, Inc.—Operation Exemption—City of Temple, TX*.

The parties intend to consummate the transaction on or after August 1, 2009.

PRL is a noncarrier limited liability company that owns not less than 51 percent of the equity interests in PRH, which owns 100 percent of the stock of Patriot. Patriot is a noncarrier holding company that owns 100 percent of the stock of TC and 5 Class III railroad subsidiaries: Tennessee Southern Railroad Company (TSRR), Rarus Railway Company (Rarus), Utah Central Railway Company (Utah), Sacramento Valley Railroad, Inc. (SAVR), and The Louisiana and North West Railroad Company (L&NW).

PRL, PRH, and Patriot state that each has successfully managed short line railroads for more than a decade and that they intend to use that experience and expertise and their purchasing power to effect operating efficiencies for TC, to improve service to shippers, and to make TC a financially viable railroad.

The parties represent that: (1) The rail line to be operated by TC does not connect with any other railroads in the corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail lines with any other railroad in the corporate family;<sup>1</sup> and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the verified 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

<sup>1</sup> See *Meridian Southern Railway, LLC—Acquisition and Operation—Lines of Kansas City Southern Railway Company*, STB Finance Docket No. 33854 (STB served Aug. 29, 2000).

<sup>2</sup> See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989).

<sup>1</sup> TSRR's lines are located in Tennessee and Alabama, Rarus' lines are located in Montana, Utah's lines are located in Utah, SAVR's lines are located in California, and L&NW's lines are located in Arkansas and Louisiana.

automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than July 22, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35256, 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 Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

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

Decided: July 9, 2009.

By the Board.

**Rachel D. Campbell,**  
*Director, Office of Proceedings.*

**Jeffrey Herzig,**  
*Clearance Clerk.*

[FR Doc. E9-16616 Filed 7-14-09; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

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

**TIME AND DATE:** August 6, 2009, 12 noon to 3 p.m., Eastern Daylight Time.

**PLACE:** This meeting will take place telephonically. Any interested person may call Mr. Avelino Gutierrez at (505) 827-4565 to receive the toll free number and pass code needed to participate in these meetings by telephone.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

**FOR FURTHER INFORMATION CONTACT:** Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827-4565.

Issued on: July 9, 2009.

**Larry W. Minor,**  
*Associate Administrator for Policy and Program Development.*

[FR Doc. E9-16902 Filed 7-13-09; 11:15 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration (FAA)

[Dockets No. FAA-2007-29320 and FAA-2008-0221]

#### Operating Limitations at John F. Kennedy International Airport and Newark Liberty International Airport

**ACTION:** Notice of limited waiver of the slot usage requirement.

**SUMMARY:** This action announces a limited waiver of the minimum usage requirements that apply to Operating Authorizations at John F. Kennedy International Airport (JFK) and Newark Liberty International Airport (EWR) for nonstop flights to or from Mexico. This policy is effective from April 27, 2009, through September 12, 2009.

**DATES:** Effective Date: effective upon publication.

**FOR FURTHER INFORMATION CONTACT:** James Tegtmeier, Associate Chief Counsel for the Air Traffic Organization; telephone—(202) 267-8323; e-mail—[james.tegtmeier@faa.gov](mailto:james.tegtmeier@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 1, the Air Transport Association (ATA) requested a partial waiver of the minimum slot usage requirements at JFK and EWR. The ATA requested relief for flights between points in Mexico and JFK or EWR, citing the recent incidence of H1N1 influenza that has affected the number of airline passengers traveling to and from cities in Mexico. ATA also cites actions by the U.S. Centers for Disease Control and Prevention (CDC), the World Health Organization, and the Mexican government to address the H1N1 outbreak, which have limited passenger demand for flights to Mexico.

According to ATA, demand had fallen by approximately 50 percent and future bookings were “vastly reduced.” ATA represented that the relief is necessary to address an unexpected and extraordinary disruption of travel demand and service. ATA sought a waiver of the minimum usage requirements on flights to and from Mexico, as well as to and from any other country to which the CDC recommends against unnecessary travel. The CDC issued such a recommendation regarding non-essential travel to and from Mexico on April 27. The CDC withdrew its recommendation on May 15, narrowing its travel-related, precautionary advice to the population that is at risk for complications from the virus.

Under the FAA's orders limiting scheduled operations at the airports, slots must be used at least 80 percent of the time or they will be withdrawn and will not receive historic precedence for the following scheduling season.<sup>1</sup> The FAA may grant a waiver from the minimum usage requirements in highly unusual and unpredictable conditions that are beyond the control of the carrier and affect carrier operations for a period of five consecutive days or more.

#### Statement of Policy

The FAA has determined that the circumstances surrounding the outbreak of the H1N1 flu meet the criteria for a limited waiver of the applicable minimum slot usage requirements. On April 27, the CDC issued a Travel Health Warning recommending against non-essential travel to Mexico. The CDC downgraded this warning on May 15 to a Travel Health Precaution, urging travelers to take steps to protect against contracting the H1N1 flu and to consider postponing travel if the traveler is in a population that is at risk for complications from the virus.

We have evaluated the effect of the CDC recommendations on carriers that conduct scheduled service to affected airports. Our review of carrier schedules at JFK, EWR, and other airports shows that carriers have cancelled flights or adjusted frequencies for various dates through the summer season. Many carriers have also adopted policies to allow limited flexibility for passengers to change or cancel reservations for Mexico flights. Carriers are assessing demand to determine when or if to restore flights to points in Mexico. At the same time, overall demand for flights in the New York City area remains strong, and several carriers are seeking slots for new or expanded service. As a result, carriers that have cancelled service to Mexico could use the slots to serve other markets or to enter into agreements to have other carriers use their slots for a period of time.

The FAA has decided to grant the waiver until September 12, because many carriers have significant schedule changes during that month. This would also afford affected carriers a period of time to arrange for the continued use of the operating authority at or above the minimum use threshold, either by adding service to unaffected locations or by leasing or trading the operating authority to another carrier that can conduct such service. This slot usage waiver applies only to nonstop flights

<sup>1</sup> 73 FR 8,737, 8,737-38, 8,739 (Feb. 14, 2008) (JFK); 73 FR 29,550, 29,554-55 (May 21, 2008).