

N.C., Docket No. FD 36592. In that proceeding, CWRR has filed a verified notice of exemption pursuant to 49 CFR 1150.31 to assume operation of approximately 13.04 miles of rail line currently operated by Piedmont and Northern Railroad LLC (PNRW) and owned by the North Carolina Department of Transportation (NCDOT), extending from milepost SFC 11.39 at Mt. Holly to milepost SFC 23.0 at Gastonia, including the Belmont Spur extending from milepost SFF 0.13/SFC 13.6 at Mt. Holly to milepost SFF 1.56 at or near Belmont (collectively, the Line), all in Gaston County, N.C. CWRR will assume an existing lease of the Line, to be assigned to CWRR by PNRW with NCDOT's consent.

Jaguar states that it will continue in control of CWRR upon CWRR's becoming a railroad common carrier. According to the verified notice, OPTrust indirectly controls JTH, which directly controls JRH. JTH currently controls, indirectly: Four Class III railroads directly controlled by JRH—Southwestern Railroad, Inc., Texas & Eastern Railroad, LLC, Wyoming and Colorado Railroad, Inc., (WYCO) (which also does business under the name Oregon Eastern Railroad), and Missouri Eastern Railroad, LLC; two Class III railroads indirectly controlled by JRH through WYCO—Cimarron Valley Railroad, L.C., and Washington Eastern Railroad, LLC; and one Class III railroad indirectly controlled by JTH through its subsidiary Jaguar Transport, LLC—West Memphis Base Railroad, L.L.C. The lines of the rail carriers controlled by JTH and JRH are located in Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, Oregon, Texas, and Washington.

Jaguar states that: (1) The Line does not connect with any other rail lines operated by carriers controlled by Jaguar, and none of those rail lines connect with each other; (2) the continuance in control transaction is not part of a series of anticipated transactions that would connect the Line with any railroad lines controlled by Jaguar or that would connect any of those rail lines with each other; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed 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. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail

carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

The earliest this transaction may be consummated is March 30, 2022, the effective date of the exemption (30 days after the verified notice was filed). 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 effectiveness of the exemption. Petitions to stay must be filed no later than March 23, 2022.

All pleadings, referring to Docket No. FD 36593, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on Jaguar's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to Jaguar, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: March 10, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Kenyatta Clay,**  
Clearance Clerk.

[FR Doc. 2022–05527 Filed 3–15–22; 8:45 am]

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## **SURFACE TRANSPORTATION BOARD**

**[Docket No. FD 36592]**

### **Charlotte Western Railroad, LLC— Change in Operator Exemption— Piedmont & Northern Railroad, LLC**

Charlotte Western Railroad, LLC (CWRR), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1150.31 to assume operation of approximately 13.04 miles of rail line extending from milepost SFC 11.39 at Mt. Holly to milepost SFC 23.0 at Gastonia, including the Belmont Spur extending from milepost SFF 0.13/SFC 13.6 at Mt. Holly to milepost SFF 1.56 at or near Belmont (collectively, the Line), all in Gaston County, N.C. The North Carolina Department of Transportation (NCDOT) owns the Line, and Piedmont and Northern Railroad, LLC (PNRW), currently operates the

Line under a lease with NCDOT (the Lease) and has done so since 2017.<sup>1</sup>

According to the verified notice, CWRR has entered into an agreement with PNRW—with NCDOT's consent—under which PNRW will assign its rights and obligations under the Lease to operate the Line to CWRR, and CWRR will commence common carrier operations over the Line in place of PNRW. Based on projected annual revenues for the Line, CWRR expects to become a Class III rail carrier after consummation of the proposed transaction.

This transaction is related to a concurrently filed verified notice in *OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, & Jaguar Rail Holdings, LLC—Continuance in Control Exemption—Charlotte Western Railroad, LLC*, Docket No. FD 36593, in which the filings parties seek to continue in control of CWRR upon CWRR's becoming a Class III rail carrier.

As required under 49 CFR 1150.33(h)(1), CWRR certifies in its verified notice that the proposed change of operator on the Line does not involve, and the Lease between NCDOT and PNRW does not include, any provision or agreement that may limit future interchange with a third-party connecting carrier.

CWRR certifies that its projected annual revenues as a result of the transaction will not exceed \$5 million and will not result in the creation of a Class I or Class II rail carrier. Under 49 CFR 1150.32(b), a change in operator exemption requires that notice be given to shippers. CWRR certifies that it has provided notice of the proposed change in operator to the shippers on the Line.

The transaction may be consummated on or after March 30, 2022, the effective date of the exemption (30 days after the verified notice was filed).

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 effectiveness of the exemption. Petitions for stay must be filed no later than March 23, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36592, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on CWRR's representative,

<sup>1</sup> See *Piedmont & N. R.R.—Change in Operator Exemption—Piedmont Ry.*, FD 36120 (STB served June 16, 2017).

Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to CWRR, this action is categorically excluded from historic preservation reporting requirements under 49 CFR 1105.8(b) and from environmental reporting requirements under 49 CFR 1105.6(c).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: March 10, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Kenyatta Clay,**  
Clearance Clerk.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0017]

#### Qualification of Drivers; Exemption Applications; Hearing

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 23 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on March 4, 2022. The exemptions expire on March 4, 2024.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation

###### A. Viewing Comments

To view comments go to [www.regulations.gov](http://www.regulations.gov). Insert the docket number, FMCSA–2021–0017, in the keyword box, and click “Search.” Next,

sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

##### B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

##### II. Background

On January 19, 2022, FMCSA published a notice announcing receipt of applications from 23 individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (87 FR 2979). The public comment period ended on February 18, 2022, and two comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 3, 1971).

##### III. Discussion of Comments

FMCSA received two comments in this proceeding. Both comments received indicated that Gary Sturdevant submitted a hearing exemption application to FMCSA.

##### IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver’s medical certification.

The Agency’s decision regarding these exemption applications is based on current medical information and literature, and the 2008 Evidence Report, “Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety.” The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver’s license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant’s driving record found in the Commercial Driver’s License Information System, for commercial driver’s license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver’s Licensing Agency. Each applicant’s record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce, the Agency believes the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the hearing standard in § 391.41(b)(11) is likely to achieve a