

and OIG recommendations. In order to ensure adequate notice to the regulated industry, only those investigations and cases initiated on or after the effective date of this notice will be used to support imposition of maximum penalties under the “two-strikes” policy. Investigations and cases initiated prior to the effective date of this notice will continue to be considered for maximum penalty assessment under the “three-strikes” policy.

“Pattern of Violations”

Effective with this policy, FMCSA is separately defining a “pattern of violations” as occurring when the Agency discovers two or more critical and/or acute violations³ in each of three or more different regulatory parts (i.e., a minimum of six acute and/or critical violations). A “pattern of violations” does not require previous enforcement and can be found even during a first-time investigation. A motor carrier will be subject to maximum fines when a “pattern” of critical or acute violations is discovered after having previous contact with FMCSA, a State motor carrier safety enforcement agency, or other FMCSA-designated representative acting on behalf of FMCSA. This contact may have been through a previous New Entrant Safety Audit, Pre-Authorization Safety Audit, Expedited Action Letter, Compliance Review, Notice of Violation, Notice of Claim, Warning Letter or other significant documented contact reasonably likely to have alerted the motor carrier to FMCSA’s regulatory and enforcement jurisdiction. The previous contact may have occurred prior to the effective date of this notice. A roadside inspection, alone, however, is not a previous contact for the purpose of subjecting a motor carrier to a section 222 pattern of violations finding. Notices of Claim that allege the requisite pattern of violations described herein will include a proposed civil penalty in the maximum amount authorized by statute for each qualifying violation.

“Two Strikes”

Effective with this policy, FMCSA expands its interpretation of “previously committed the same or related violation” and adopts a “two-strikes” policy that is similar to the Agency’s existing “three-strikes” policy. Under this supplemental policy, maximum penalties will be applied in cases where an acute violation is discovered during an investigation

within six years of a previously closed case that contained a finding of violation of a critical or acute regulation in the same FMCSR and/or HMR part. The same standards applied by FMCSA under the three-strikes policy will apply to cases being used as a previous strike under the two-strikes policy. The previous case must have been closed within six years prior to the completion of the investigation in which the second strike is discovered (but no earlier than the effective date of this two-strikes policy); it must contain one or more violations of critical or acute regulations in the same regulatory part(s); and those violations must have been admitted or adjudicated with a finding of violation. FMCSA will continue to measure the six-year period from the date the previous enforcement case was closed to the date the investigation is completed. The revision of the definition of “previously committed the same or related violation” in this supplemental policy is consistent with the emphasis FMCSA places on violations of acute regulations.

Categories of Investigations

Effective with this supplemental policy, FMCSA also expands the category of investigations during which violations of acute and/or critical regulations discovered may be subject to assessment of section 222 maximum penalties to include rated and unrated compliance reviews, terminal reviews, shipper reviews, focused reviews, on- and off-site assessment investigations, and on- and off-site investigations arising under the Agency’s Comprehensive Safety Analysis 2010 program or successor programs.

Settlement Policy

The Agency’s December 28, 2004, policy clarification stated that in order to ensure uniformity in implementing section 222 of MCSIA, FMCSA Service Centers would not be permitted to settle section 222 cases for less than the maximum penalty assessed. The policy permitted settlement agreements establishing a payment plan and noted that the settlement limitation would be re-evaluated as the Agency gained more experience in applying the statutory requirement. The Agency has reviewed this settlement limitation in light of its experience since the issuance of its section 222 policy. The Agency now lifts this settlement restriction and will allow FMCSA Service Centers to evaluate on a case-by-case basis whether section 222 penalty matters are appropriate for approved settlement options. The Agency will continue to monitor its settlement policy on section

222 cases to ensure uniformity and appropriate use of settlement options.

Issued on: March 24, 2009.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. E9–7057 Filed 3–27–09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2009–0028]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel Stewardship.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2009–0028 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

DATES: Submit comments on or before April 29, 2009.

ADDRESSES: Comments should refer to docket number MARAD–2009–0028. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140,

³ Critical and acute regulations are listed in 49 CFR Part 385, Appendix B. “Critical violations” are violations of a critical regulation discovered at or above a 10% violation rate; they involve more than one discovered violation.

1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21-203, Washington, DC 20590. Telephone 202-366-5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *Stewardship* is:

Intended Use: "4 and 6 hour daysail cruises out of Cape Charles, Virginia with no more than 4 paying passengers."

Geographic Region: "Virginia".

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Dated: March 23, 2009.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. E9-6914 Filed 3-27-09; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-511 (Sub-No. 4X)]

Central Railroad Company of Indianapolis—Abandonment Exemption—in Howard County, IN

Central Railroad Company of Indianapolis (CERA)¹ has filed a verified notice of exemption under 49 CFR 1152 Subpart F-*Exempt Abandonments* to abandon 5.18 miles of rail line, consisting of 2.38 miles between milepost 181.26 and milepost

183.64, on CERA's main line (West Kokomo line segment), and 2.8 miles between milepost 51.5 and milepost 54.3, on CERA's Tipton Industrial Lead (South Kokomo line segment), in Howard County, IN. The line traverses United States Postal Service Zip Codes 46901 and 46902.

CERA has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can 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 April 29, 2009, 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 9, 2009. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 20, 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 CERA's

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 \$1,500. See 49 CFR 1002.2(f)(25).

representative: Melanie B. Yasbin, Law offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204-4022.

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

CERA has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 3, 2009. 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), CERA 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 CERA's filing of a notice of consummation by March 30, 2010, 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: March 20, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-6841 Filed 3-27-09; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 23, 2009.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance

¹ CERA is a subsidiary of RailAmerica, Inc.