to DSRC, abandonment of the MRC Line was not consummated and instead the MRC Line was acquired by the State in 1980. (DSRC Notice 3.) DSRC states that the portion of the MRC Line west of Kadoka is now railbanked. *See Mitchell-Rapid City Reg'l R.R. Auth.—Modified Rail Certificate—Between Caputa & Rapid City, S.D.,* FD 35149 (STB served Apr. 28, 2009) (issuing notice of interim trail use between milepost 659.6 to milepost 646.0); *Sammamish Transp. Co.—Notice of Interim Trail Use & Termination of Modified Certificate,* FD 33398 (Sub-No. 1) (STB served Feb. 26, 1998) (issuing notice of interim trail use between milepost 646.0 to milepost 562.53). In addition, DSRC states that, to the best of its knowledge, two carriers have obtained modified certificate rights to operate over portions of the MRC Line east of Kadoka but no longer exercise those rights.[2]

The verified notice indicates that the State leases the Segment to the MRC Regional Rail Authority (MRCA), a political subdivision of the State. In 2012, MRCA entered into a sublease with DSRC, which provides that DSRC will be the operator of the Segment and will assume all common carrier obligations to provide service on the Segment. (DSRC Notice Ex. C, 2 ¶ 6.) Under the terms of the sublease, DSRC will provide rail service on the Segment for 20 years from and after the effective date of January 1, 2012.[3] (*Id.* at 4 ¶ 17.)

According to DSRC, it interchanges with BNSF Railway Company (BNSF) at or near Mitchell, pursuant to interchange, trackage, haulage, and lease agreements with BNSF.

The Segment qualifies for a modified certificate of public convenience and necessity. *See Common Carrier Status of States, State Agencies & Instrumentalities & Political Subdivisions,* FD 28990F (ICC served July 16, 1981); 49 CFR 1150.22.

DSRC indicates that no subsidy is involved and that there are no preconditions that shippers must meet to receive rail service; DSRC also provides information regarding the nature and extent of its liability insurance coverage. *See* 49 CFR 1150.23(b)(4)–(5).

This notice will be served on the Association of American Railroads (Car Service Division), as agent for all railroads subscribing to the car-service and car-hire agreement, at 425 Third Street SW, Suite 1000, Washington, DC 20024; and on the American Short Line and Regional Railroad Association at 50 F Street NW, Suite 7020, Washington, DC 20001.

Board decisions and notices are available at *www.stb.gov.*

Decided: June 14, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–13152 Filed 6–20–19; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36306]

Brookhaven Rail Partners, LLC, Related Infrastructure, LLC, BRX Transportation Holdings, LLC, and BRX Acquisition Sub, Inc.—Control Exemption—Pioneer Railcorp, et al.

Brookhaven Rail Partners, LLC (Brookhaven), Related Infrastructure, LLC (Related Infrastructure), BRX Transportation Holdings, LLC (BRX Transportation), and BRX Acquisition Sub, Inc. (BRX Acquisition) (collectively, Applicants), filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to acquire control of Pioneer Railcorp (Pioneer), a noncarrier holding company that controls 15 Class III railroad subsidiaries: Alabama & Florida Railway Co., Inc.; Alabama Railroad Co., Inc.; Decatur Junction Railway Co.; Elkhart & Western Railroad Co.; Fort Smith Railroad Co.; The Garden City Western Railway, Inc.; Georgia Southern Railway Co.; Gettysburg & Northern Railroad Co.; Indiana Southwestern Railway Co.; Kendallville Terminal Railway Co.; Keokuk Junction Railway Co.; Michigan Southern Railroad Company; Mississippi Central Railroad Co.; Pioneer Industrial Railway Co.; and Vandalia Railroad Company (collectively, Pioneer Railroads).

According to the verified notice, Applicants intend to acquire 100% of the equity interests of Pioneer pursuant to an Agreement and Plan of Merger dated May 16, 2019.[1] As a result of the proposed transaction, BRX Acquisition will merge with and into Pioneer, with Pioneer the surviving corporation. Pioneer will become a wholly owned subsidiary of BRX Transportation, and, indirectly, Brookhaven and Related Infrastructure will thereby acquire control of the Pioneer Railroads.[2]

The verified notice states that the parties contemplate that the transaction will be consummated during the third quarter of 2019. The earliest the transaction may be consummated is July 7, 2019, the effective date of the exemption (30 days after the verified notice was filed).

The verified notice states that: (i) Applicants do not own or control any rail line that connect with any of the Pioneer Railroads; (ii) the proposed transaction is not part of a series of anticipated transactions that would connect any railroad owned or controlled by Applicants with the Pioneer Railroads or connect any of the Pioneer Railroads with one another; and (iii) the proposed transaction does not involve a Class I 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. 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.

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 June 28, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36306, must be filed with the Surface Transportation Board via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Applicants'

[2] *See Nobles Rock R.R.—Modified Rail Certificate,* FD 33792 (STB served Sept. 16, 1999); *Burlington N. R.R.—Operations—in States of Iowa & S.D.,* FD 29672 (ICC served Aug. 17, 1981). DSRC states that, to the best of its knowledge, Burlington Northern's rights were terminated by notice, (*see* Burlington N. R.R. Letter, Oct. 14, 1986, *Burlington N. R.R.,* FD 29672), and Nobles Rock became insolvent and no longer exists. (DSRC Notice 4 n.2.)

[3] DSRC states that it has been operating pursuant to the terms of the sublease since January 1, 2012. According to DSRC, SDR Holding Company, which controls DSRC, had been under the impression that a modified certificate previously had been issued. (DSRC Notice 2, 4–5.)

[1] A redacted version of the agreement was filed with the notice of exemption. An unredacted version was filed concurrently under seal, along with Applicants' motion for protective order under 49 CFR 1104.14(b). The motion for protective order will be addressed in a separate decision.

[2] The verified notice states that Brookhaven and Related Infrastructure are separate unaffiliated entities, except for their joint ownership of BRX Transportation, which is the parent of BRX Acquisition.

representative, David F. Rifkind, Stinson LLP, 1775 Pennsylvania Avenue NW, Suite 800, Washington, DC 20006.

Board decisions and notices are available at *www.stb.gov.*

Decided: June 18, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–13204 Filed 6–20–19; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2017–0023]

RIN 2125–ZA11

Guidance on Safe Harbor Rate Streamlining for Engineering and Design Services Consultant Contracts

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This Notice announces and outlines the final guidance for the implementation of a Safe Harbor indirect cost rate for certain engineering design service firms that find establishing such rates to be costly and a barrier to participating in engineering and design service contracts reimbursed with Federal-aid Highway Program (FAHP) funds.

DATES: This guidance is effective June 21, 2019.

ADDRESSES: This document, the request for comments, and the comments received may be viewed online through the Federal eRulemaking portal at: *http://www.regulations.gov.* An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at: *https://www.federalregister.gov* and the Government Publishing Office's website at: *http://www.gpo.gov/fdsys.*

FOR FURTHER INFORMATION CONTACT: Mr. John McAvoy, Consultant Services Program Manager, Office of Infrastructure, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–9898, (202) 853–5593. For legal questions: Mr. Steven Rochlis, Office of the Chief Counsel, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–9898, (202) 366–1395. Office hours are from 8:00 a.m. to 4:30 p.m. E.T., Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION:

Summary Discussion of Comments

The FHWA published a **Federal Register** Notice on July 17, 2018, at 83 FR 33288, seeking public comment on its proposed guidance for implementation of a Safe Harbor indirect cost rate and, its intention to notify all contracting agencies receiving FAHP funds that an agency-developed Safe Harbor indirect cost rate for eligible consulting firms may be used as a component of a risk-based oversight process to provide reasonable assurance to FHWA that consultant costs on FAHP-funded contracts are allowable in accordance with the Federal regulations. In preparing this guidance to assist in the implementation of a Safe Harbor program, FHWA considered all public comments submitted to the **Federal Register** Notice.

Based on the comments received, FHWA is finalizing the guidance. Since compliance with this guidance is voluntary for both the contracting agency and the consulting firm, it is not anticipated to impose any costs. Entities that choose to use this guidance would do so only if they anticipate a net positive impact. In particular, consulting firms that voluntarily comply could experience expanded business opportunities because they become eligible to work on contracts funded by a Federal grant, which they previously were not. This guidance may also result in cost savings due to a reduction in resources needed to conduct oversight and audits of small consulting firms.

Commenters included several State departments of transportation (State DOT), the American Council of Engineering Companies, and one individual. The respondents were in favor of the implementation of a Safe Harbor indirect cost rate program. Several commenters provided suggestions on how to make the program operate most efficiently. The following summarizes the comments and FHWA's response.

General Comments

- Multiple commenters expressed support for expansion of the Safe Harbor indirect cost rate program beyond the 10 States that are currently piloting the program. Multiple commenters noted that they were a pilot State for the Safe Harbor Indirect Cost Rate Experiment and Test and that the program is effectively meeting its stated goals.
- One commenter suggested that each State DOT implement its own Safe Harbor indirect cost rate, and that the rate apply to agreements within the respective State DOT only. If a Safe Harbor firm does work for multiple State DOTs, the Safe Harbor indirect cost rate for the respective State DOT would take precedence.

The FHWA agrees with the suggestion that each State DOT implement its own Safe Harbor indirect cost rate and that the rate apply to agreements within the respective State DOT only. The Safe Harbor indirect cost rate is applicable to individual specific contracts, and if a Safe Harbor firm does work on multiple contracts in multiple States, the Safe Harbor indirect cost rate for the respective State DOT should take precedent.

- Multiple commenters made recommendations regarding the indirect cost rate to be used in the Safe Harbor Program. One suggested a nationwide rate of 110 percent as was tested in the pilot program. Another suggested that States determine their own rate with a floor of 110 percent.

The FHWA disagrees with the recommendation that one nationwide Safe Harbor indirect cost rate be established. The FHWA believes that State DOTs should be able to determine their policy for accepting eligible firms into their program, applying the Safe Harbor indirect cost rate, and graduating firms into a cognizant agency approved indirect cost rate. This would be consistent with current indirect cost rate procedures where contracting agencies develop their own policy pertaining to application of cognizant agency approved indirect cost rates. A rate that is set too low will not achieve the desired result of incentivizing new, small, or disadvantaged business enterprises into the professional services market. A rate that is set too high is at risk for overpaying consultant actual costs.

- Multiple commenters suggested that once a firm has established a cognizant agency indirect cost, that firm should be allowed to immediately start using the new rate on existing contracts.

The FHWA agrees that the State DOT should be allowed to develop criteria for transitioning firms out of the program based on its own risk assessment.

- Multiple commenters suggested that the guidance should clearly indicate the Safe Harbor indirect cost rate program is voluntary for both the contracting agency and consultant and temporary in nature, intended to provide the consultant a window to work on Government contracts while developing its cost accounting procedures.

The FHWA agrees that use of the Safe Harbor indirect cost rate is voluntary for both the contracting agency and consultant. Existing regulations found at 23 CFR 172.11(b)(1)(iii) allow for the