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November 28, 2025

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: *CSX Transportation, Inc.—Petition for Declaratory Order*, STB Docket No. FD 36886

Dear Ms. Brown:

Please find enclosed for e-filing the Maryland Department of the Environment's Motion to Extend Time for Reply in the above-captioned proceedings. Please do not hesitate to contact me with any questions.

Sincerely,

/s/ Christian L. Alexander

Christian L. Alexander

Counsel for Maryland Department of the Environment

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36886

**CSX TRANSPORTATION, INC. –
PETITION FOR DECLARATORY ORDER**

MOTION TO EXTEND TIME FOR REPLY

Communications with respect to this pleading
should be addressed to:

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*Counsel for Maryland Department of the
Environment*

Dated: November 28, 2025

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36886

**CSX TRANSPORTATION, INC. –
PETITION FOR DECLARATORY ORDER**

MOTION TO EXTEND TIME FOR REPLY

The Maryland Department of the Environment (MDE) hereby submits this Motion to Extend Time for Reply in response to CSX Transportation, Inc.’s (CSXT) Petition for Declaratory Order (CSXT Petition). MDE requests an extension of the reply deadline to January 30, 2026. Good cause exists to grant MDE’s request for more time to reply to CSXT’s 1,500+ page filing, which presents a vast range of facts and assertions requiring responses that the Board’s standard 20-day reply period for motions does not afford sufficient time to address. A complete factual record and responses to CSXT’s assertions are essential for the Board to make a fully informed decision. An extension will permit MDE to coordinate with undersigned outside counsel, whom it has just engaged to represent MDE in these proceedings. Granting an extension will not prejudice any party as the permit conditions at issue here are not in effect pending resolution of an administrative appeal CSXT has filed¹ and MDE has taken no enforcement action prohibiting, limiting, or otherwise affecting CSXT’s current operations.

¹ See CSXT Petition at 11 n.6; *see also* Md. Code Regs. 26.11.02.14.F.

BACKGROUND

MDE is responsible for protecting and restoring Maryland's environment and safeguarding the environmental health of Maryland citizens. Its duties encompass enforcement and regulation, long-term planning and research, and technical assistance to industry and communities in their efforts to take responsibility for pollution, waste disposal, and emergency spills of waste or oil.

MDE's responsibilities include permitting coal transloading facilities such as CSXT's Curtis Bay Piers coal transloading facility in Baltimore (Coal Terminal). Md. Code Regs. 26.11.02.13.A(38). The Coal Terminal sits a mere few hundred feet from a densely developed lower-income residential community. For decades, as CSXT acknowledges, MDE has regulated the Coal Terminal in the interest of protecting local public health and safety.

In July 2025, after evaluating the extensive record submitted to it, MDE re-approved CSXT's permit to operate the Coal Terminal. As before, the approval contained conditions to mitigate fugitive coal dust, including a new condition requiring a windscreen commensurate with the size of the Coal Terminal's coal piles. Four months later, CSXT filed the CSXT Petition in these proceedings, asserting that the condition requiring the new windscreen (but not the underlying permit and concomitant conditions) is preempted.

ARGUMENT

Pursuant to the Board's regulations, a reply to any pleading must be filed within 20 days after the pleading is filed, unless otherwise provided. *See* 49 C.F.R. § 1104.13(a). However, the Board has discretion to extend the time for replies upon request and with good cause. *See id.* § 1104.7(b). MDE's request for an extension is timely. Requests for extensions of time are due not less than 10 days before the due date of the filing pursuant to the Board's regulations. *Id.*

Good cause exists here. CSXT's 1,500+ page filing requires more time for a reply than the 20 days provided for under 49 C.F.R. § 1104.13(a). While some of CSXT's mischaracterizations are easy to dispel, such as that MDE's permit "requires CSXT to construct a 100-foot-tall physical barrier surrounding all transloading coal piles at [the Coal Terminal]," CSXT Petition at 1,² others require more work to develop a complete record for the Board to make a fully informed decision. For example, CSXT's environmental track record and operational history at the Coal Terminal, which precipitated the new condition and justified state regulation in order to protect public health and safety, require more context and foundation to rebut CSXT's claims that the Coal Terminal has no impact on local communities. Likewise, CSXT's characterization of the limitations that the new condition imposes on CSXT's operations, which is the heart of its preemption argument, is highly misleading and demands a complete response that will require more time.

An extension is also justified to permit MDE's newly engaged undersigned counsel to become acquainted with the facts and CSXT's assertions and the extensive record developed in MDE's re-approval of permitting for the Coal Terminal.

The proposed extension will not unduly delay this proceeding or prejudice CSXT. CSXT afforded itself four months after MDE's re-approval to develop and submit its petition. Moreover, the conditions to which CSXT objects are not in effect during the pendency of its administrative appeal, and MDE has not taken any enforcement action that would in any way inhibit CSXT's ability to continue conducting common carrier rail service at the Coal Terminal.

WHEREFORE, and in view of the foregoing, MDE respectfully requests the Board extend the time for responding to the CSXT Petition to January 30, 2026.

² It does not. *See* CSXT Petition Ex. 2.

Respectfully submitted on November 28, 2025.

/s/ Charles A. Spitulnik

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*Counsel for Maryland Department of
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CERTIFICATE OF SERVICE

I certify that on November 28, 2025, I caused to be served a copy of the foregoing Motion for Extension of Time upon all parties of record in this proceeding by email.

/s/ Christian L. Alexander

Dated: November 28, 2025