

Ordinance, it can apply to RSPA for a determination of whether Federal hazardous materials transportation law preempts its new requirement.

E. Reporting Requirements

The County states that it will revise its reporting requirements by deleting § 27-439(g)(2) in the upcoming version of Chapter 27. In its decision, RSPA preempted this section under the "obstacle" test because it required information in excess of the Federal reporting requirements. 65 FR 81959-60. If the County does remove this section in an upcoming revision of the County Code, then RSPA's preemption determination as to this particular section will become moot. Until that time, however, the section remains preempted.

III. Ruling

The County's petition for reconsideration and stay of determination is denied. RSPA finds that Federal hazardous materials preemption law preempts:

- Portions of revised §§ 27-352 and 27-436 containing the definitions of biomedical waste, combustible liquid, discarded hazardous materials, flammable liquid, hazardous material and sludge, to the extent that these definitions relate to transportation in commerce.
- All County hazardous materials transportation requirements that rely on these definitions.
- Portions of §§ 27-355(a)(1) and 27-439(f)(1) containing written incident release reporting requirements, to the extent that these sections pertain to transportation in commerce.
- Section 27-356(b)(4)d.1 containing shipping paper requirements, to the extent that they differ from HMR or EPA requirements for shipping paper and waste manifest retention. (Section 27-439(g)(1) is preempted only if it is applied to intermediate rail transporters.)
- Section 27-439(b) containing the fee requirements for obtaining a waste transporter license.
- Section 27-439(g)(2) containing monthly reporting requirements, to the extent that this requirement relates to transportation in commerce.

The County's request for a six-month stay to modify its existing regulations is also denied. It has been more than six months since the County submitted its request for a stay, but the County has provided no evidence that it has made the contemplated revisions to its Ordinance. Therefore, the specific sections discussed above are preempted.

IV. Final Agency Action

In accordance with 49 CFR 107.211(d), this decision constitutes RSPA's final agency action on ATA/AWHMT's application for a determination of preemption of specific sections of Broward County, Florida's revised Ordinances. Any party to this proceeding "may bring a civil action in an appropriate district court of the United States for judicial review of [this] decision * * * not later than 60 days after the decision becomes final." 49 U.S.C. 5125(f). This decision becomes final on the date of **Federal Register** publication. 49 CFR 107.213.

Issued in Washington, DC on May 13, 2002.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-565 (Sub-No. 9X); STB Docket No. AB-55 (Sub-No. 611X)]

New York Central Lines, LLC- Discontinuance of Service Exemption- in Allen County, OH; CSX Transportation, Inc.—Discontinuance of Service Exemption-in Allen County, OH

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for NYC and CSXT to discontinue service over approximately 0.9 miles of railroad from milepost QFL 51.0 to milepost QFL 51.9 in Lima, Allen County, OH.¹ The line traverses United States Postal Service Zip Code 45804.

NYC and CSXT have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (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 reports), 49 CFR 1105.8 (historic reports), 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 these exemptions, any employee adversely affected by the discontinuance 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, these exemptions will be effective on June 18, 2002,² unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ must be filed by May 28, 2002. Petitions to reopen must be filed by June 6, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.⁵

A copy of any petition filed with the Board should be sent to applicants' representative: Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

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

² Pursuant to 49 CFR 1150.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. In its verified notice, applicant did not indicate a consummation date as required. A Board staff member consulted with applicant's representative and applicant's representative has subsequently confirmed that consummation cannot occur before June 18, 2002, 50 days after the April 29, 2002 filing of the verified notice.

³ 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.

⁴ Each offer of financial assistance must be accompanied by the filing fee, which as of April 8, 2002, is set at \$1,100. See 49 CFR 1002.2(f)(25).

⁵ Because these are discontinuance proceedings and abandonment is not proposed, trail use/rail banking and public use conditions are not appropriate.

¹ Pursuant to Board authorization in 1998, CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation jointly acquired control of Conrail Inc., and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line for discontinuance is included among the property being operated by CSXT pursuant to the NYC operating agreement.

NYC and CSXT have filed an environmental report which addresses the effects, if any, of the discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by May 24, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1552. [TDD for the hearing impaired is available 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.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 13, 2002.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 02-12407 Filed 5-16-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Reports, Forms and Recordkeeping Requirements; Activity Under OMB Review; Report of Financial and Reporting Statistics for Large Certificated Air Carriers

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on January 16, 2002 (67 FR 2282).

DATES: Written comments should be submitted by June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K-14, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone Number (202) 366-4387, Fax Number (202) 366-3383 or e-mail bernard.stankus@bts.gov.

Comments: Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information on respondents, in including the use of automated collection techniques of other forms of information technology.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Report of Financial and Operating Statistics for Large Certificated Air Carriers

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2138-0013.

Forms: BTS Form 41.

Affected Public: Large certificated air carriers.

Number of Respondents: 74.

Estimated Time per Response: 4 hours per schedule, an average carrier may submit 90 schedules in one year.

Total Annual Burden: 24,428 hours.

Needs and Uses: Program uses for Form 41 data are as follows:

Mail Rates

The Department of Transportation sets and updates the international and mainline Alaska mail rates based on carrier aircraft operating expense, traffic and operational data. Form 41 cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Submission of U.S. Carrier Data to ICAO

As a party to the Convention on International Civil Aviation, the United States is obligated to provide the International Civil Aviation Organization with financial and statistical data on operations of U.S. air carriers. Over 99 percent of the data

filed with ICAO is extracted from the carriers' Form 41 reports.

Standard Foreign Fare and Rate Levels

DOT uses Form 41 cost data to calculate the Standard Foreign Fare Level (SFFL) for passengers and the Standard Foreign Rate Level (SFRL) for freight. Any international fare or rate set below this fare level are automatically approved. Separate passenger fare and rate levels are established for Canadian, Atlantic, Latin America, and Pacific areas. In markets where liberal bilateral or multilateral pricing agreements provide for more competitive open market pricing, such agreements may take precedence over the SFFL and SFRL.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 41 for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

Form 41 reports, particularly balance sheet reports and cash flow statements play a major role in the identification of vulnerable carriers. Data comparisons are made between current and past periods in order to assess the current financial position of the carrier. Financial trend lines are extended into the future to analyze the continued viability of the carrier. DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier is operating, DOT is required to monitor its continuing fitness.

Status Reports

Senior DOT officials must be kept fully informed as to all current and developing economic issues affecting the airline industry. In preparing financial conditions reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers may use the same information.