§ 1152.37 Financial status reports.

Within 30 days after the end of each quarter of the subsidy year, each carrier which is party to the financial assistance agreement shall submit to the subsidizer a Financial Status Report for each line operated under subsidy. Such Financial Status Report shall be in the form prescribed below. Significant deviations from the negotiated estimates must be explained. All data shall be developed in accordance with the methodology set forth in §§ 1152.31 through 1152.35. In the quarterly reports, the actual data for the year to date and a projection to the end of the subsidy year shall be shown for each item.

<table>
<thead>
<tr>
<th>Revenues for:</th>
<th>Actual</th>
<th>Projected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Freight originated and/or terminated on branch</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Bridge traffic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. All other revenue and income</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Total revenues (lines 1 through 3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avoidable costs for:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. On-branch costs (lines 5a through 5j)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Maintenance of way and structures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Maintenance of equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Transportation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. General administrative</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Deadheading, taxi, and hotel</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Overhead movement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Freight car costs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>h. Return on investment—locomotives</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Revenue taxes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>j. Property taxes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Off-branch costs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Total avoidable costs (line 5 plus line 6)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subsidization costs for:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Rehabilitation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Administrative costs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Casualty</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Total subsidization costs (lines 8 through 10)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Return on value:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. Valuation of property (lines 12a through 12c)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Working capital</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Income tax consequences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Net liquidation value</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Rate of return</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. Total return on value (line 12 times line 13)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subsidy payment:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15. Subsidy payment (line 4 minus lines 7, 11, and 14)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Subpart E [Reserved]

Subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights

§ 1152.50 Exempt abandonments and discontinuances of service and trackage rights.

(a)(1) A proposed abandonment or discontinuance of service or trackage rights over a railroad line is exempt from the provisions of 49 U.S.C. 10903 if the criteria in this section are satisfied.

(2) Whenever the Board determines a proposed abandonment to be exempt from the requirements of 49 U.S.C. 10903, whether under this section or on the basis of the merits of an individual petition, the provisions of §§ 1152.27, 1152.28, and 1152.29 as they relate to exemption proceedings shall be applicable.

(b) An abandonment or discontinuance of service or trackage rights is exempt if the carrier certifies that no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines and that no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or
any U.S. District Court or has been de-
cided in favor of the complainant with-
in the 2-year period. The complaint
must allege (if pending), or prove (if de-
cided) that the carrier has imposed an
illegal embargo or other unlawful im-
pediment to service.

(c) The Board has found:
(1) That its prior review and approval
of these abandonments and
 discontinuances is not necessary to
carry out the rail transportation policy
of 49 U.S.C. 10101; and
(2) That these transactions are of
limited scope and continued regulation
is unnecessary to protect shippers from
abuse of market power. 49 U.S.C. 10502.

A notice must be filed to use this class
exemption. The procedures are set out
in §1152.50(d). This class exemption
does not relieve a carrier of its statu-
tory obligation to protect the interests
of employees. 49 U.S.C. 10502(g) and
10903(b)(2). This also does not preclude
a carrier from seeking an exemption of
a specific abandonment or discontinu-
ance that does not fall within this
class.

(d) Notice of exemption. (1) At least 10
days prior to filing a notice of exemp-
tion with the Board, the railroad seek-
ing the exemption must notify in writ-
ing:
(i) The Public Service Commission
(or equivalent agency) in the state(s)
where the line will be abandoned or the
service or trackage rights discon-
tinued;
(ii) Department of Defense (Military
Traffic Management Command, Trans-
portation Engineering Agency, Rail-
roads for National Defense Program);
(iii) The National Park Service,
Recreation Resources Assistance Divi-
sion; and
(iv) The U.S. Department of Agri-
culture, Chief of the Forest Service.

The notice shall name the railroad,
describe the line involved, including
United States Postal Service ZIP
Codes, indicate that the exemption pro-
cedure is being used, and include the
approximate date that the notice of ex-
emption will be filed with the Board.
The notice shall include the following
statement “Based on information in
our possession, the line (does) (does
not) contain federally granted rights-
of-way. Any documentation in the rail-
road’s possession will be made avail-
able promptly to those requesting it.”

(2) The railroad must file a verified
notice using its appropriate abandon-
ment docket number and subnumber
(followed by the letter “X”) with the
Board at least 50 days before the aban-
donment or discontinuance is to be
consummated. The notice shall include
the proposed consummation date, the
certification required in §1152.50(b), the
information required in §§1152.22(a) (1)
through (4), (7) and (8), and (e)(4), the
level of labor protection, and a certifi-
cate that the notice requirements of
§§1152.50(d)(1) and 1105.11 have been
complied with.

(3) The Board, through the Director
of the Office of Proceedings, shall pub-
lish a notice in the FEDERAL REGISTER
within 20 days after the filing of the
notice of exemption. The notice shall
include a statement to alert the public
that following any abandonment of rail
service and salvage of the line, the line
may be suitable for other public use,
including interim trail use. Petitions
to stay the effective date of the notice
on other than environmental or his-
toric preservation grounds must be
filed within 10 days of the publication.
Petitions to stay the effective date of
the notice on environmental or historic
preservation grounds may be filed at
any time but must be filed sufficiently
in advance of the effective date in
order to allow the Board to consider
and act on the petition before the no-
tice becomes effective. Petitions for re-
consideration, comments regarding en-
vironmental, energy and historic pres-
ervation matters, and requests for pub-
lic use conditions under 49 U.S.C. 10905
and 49 CFR 1152.28(a)(2) must be filed
within 20 days after publication. Re-
quests for a trail use condition under 16
U.S.C. 1247(d) and 49 CFR 1152.29 must
be filed within 10 days after publica-
tion. The exemption will be effective 30
days after publication, unless stayed. If
the notice of exemption contains false
or misleading information, the use of
the exemption is void ab initio and the
Board shall summarily reject the ex-
emption notice.

(4) In out-of-service rail line exemp-
tion proceedings under 49 CFR 1152.50,
the Board, on its own motion, will stay
the effective date of individual notices
of exemption when an informed decision on pending environmental and historic preservation issues cannot be made prior to the date that the exemption authority would otherwise become effective.

(5) A notice or decision to all parties will be issued if use of the exemption is made subject to environmental, energy, historic preservation, public use and/or interim trail use and rail banking conditions.

(6) To address whether the standard labor protective conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979), adequately protect affected employees, a petition for partial revocation of the exemption under 49 U.S.C. 10502(d) must be filed.

(e) **Consummation notice.** As provided in §1152.29(e)(2), rail carriers that receive authority to abandon a line under §1152.50 must file with the Board a notice that abandonment has been consummated.


Subpart G—Special Rules Applicable to Petitions for Abandonments of Service or Trackage Rights Filed Under the 49 U.S.C. 10502 Exemption Procedure

§ 1152.60 Special rules.

(a) This section contains special rules applicable to any proceeding instituted under the 49 U.S.C. 10502 exemption procedure for either the abandonment of a rail line or the discontinuance of service or trackage rights over a rail line. General rules applicable to any proceeding filed under the 49 U.S.C. 10502 exemption procedure may be found at 49 CFR part 1121, but the rules in part 1152 control in case of any conflict with the general exemption rules. In the case of petitions for exemption for abandonment, notice of the filing of the petition will be published by the Board, through the Director of the Office of Proceedings, in the Federal Register 20 days after the petition is filed. There will be no further Federal Register publication later if and when a petition is granted.

(b) Any petition filed under the 49 U.S.C. 10502 exemption procedure for either the abandonment of a rail line or the discontinuance of service or trackage rights over a rail line must be accompanied by a map that meets the requirements of §1152.22(a)(4) of this part.

(c) A petitioner for an abandonment exemption shall submit, with its petition, a draft Federal Register notice of its petition according to the form prescribed below:

Draft Federal Register Notice. The petitioner shall submit a draft notice of its petition to be published by the Board within 20 days of the petition’s filing with the Board. The petitioner must submit a copy of the draft notice as data contained on a computer diskette compatible with the Board’s current word processing capabilities. The draft notice shall be in the form set forth below:

STB No. AB____ (Sub-No._____)

Notice of Petition for Exemption To Abandon or To Discontinue Service  

On (insert date petition was filed with the Board) (name of petitioner) filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of (the discontinuance of service on) a line of railroad known as ______, extending from road milepost near (station name) to (the end of line or rail milepost) near (station name), which traverses through ______ (ZIP Codes) United States Postal Service ZIP Codes, a distance of ______ miles, in [County(ies), State(s)]. The line for which the abandonment (or discontinuance) exemption request was filed includes the stations of (list all stations on the line in order of milepost number, indicating milepost location).

The line (does) (does not) contain federally granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by (specify the appropriate conditions).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption. All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.