preemption, RSPA's role to is to interpret and clarify the Federal-State relationship in the regulation of hazardous materials transportation, ''within the rule-making process lying at the center of the responsibilities of federal executive agencies,'' and not to ''adjudicate'' specific cases as a substitute for (or reviewing the decision of) the cognizant State or local forum. *Tennessee* v. *U.S. Department of Transportation,* 326 F3d 729, 736 (6th Cir.), *cert. denied,* ____ U.S., _____, 124 S.Ct. 464 (2003). There is also no basis for finding that Louisiana's interpretation of ''immediately'' in La. R.S. 32:1510A must be the same as the standard of ''no later than 12 hours after the occurrence'' adopted in the revisions to 49 CFR 171.15(a) in HM–229. 68 FR at 67759.

In the HM–229 rulemaking, RSPA considered, and declined to adopt, the recommendation of the American Trucking Associations, Inc. ''to incorporate one-call notification for both local and national requirements'' for immediate notification of an incident involving hazardous material in transportation. In the preamble to the final rule, RSPA stated that, ''In the case of any incident involving hazardous materials that requires immediate emergency response, the local authorities should be immediately notified.'' *Id.* at 67750. While ''contacting emergency response entities may be of primary concern immediately following an incident * * * notification of federal authorities through the NRC [National Response Center] is also essential.'' *Id.* at 67752. RSPA also noted that it ''has a system for identifying duplicative reporting,'' *id.* at 67751, and we must assume that DPSC is able to deal with the possibility of duplicate reports without being confused, as ATOFINA seems to fear. In any event, that potential concern does not create an ''obstacle'' to accomplishing and carrying out Federal hazardous material transportation law or the HMR.

There is also insufficient information to find it is impossible to comply with a State or local requirement to call a ''non-911'' number for emergency response, or that this requirement will frustrate the Federal law or regulations. In its comments to the docket in HM–229, Norfolk Southern Railway Company asked RSPA to confirm that it is not ''the specific individual in physical control of the hazardous materials (who could be the engineer or conductor)'' who must make the telephone call. ''In other words, carriers can continue their existing practice of designating persons within the company to make such calls (such as the Chief Dispatcher or the Control Center) and file the follow-up written reports.'' In this circumstance, it would not be practicable to limit immediate telephone reporting to ''911'' numbers because, whenever the designated company representative (such as the Chief Dispatcher or Control Center, as suggested by Norfolk Southern) is located at a distance from the scene of the incident, its call to a local ''911'' number would not reach the appropriate emergency response personnel. In the absence of information to the contrary, it must be assumed that a designated company representative is able to obtain and contact the required emergency response telephone number within a brief period of time after learning of an incident involving hazardous materials in transportation, without diverting resources from responding to the incident. It must also be assumed that a call to the local ''911'' number in the vicinity of the incident would yield the appropriate ''non-911'' telephone number of the State Police or other agency required to be notified.

In sum, RSPA's prior decisions make it clear that a State's immediate notification requirement need not be ''substantively the same as'' 49 CFR 171.15, as the *Union Pacific* case recognized. ATOFINA's application and the other comments submitted in this proceeding do not show that it is impossible for persons that are ''involved'' in an incident (or its clean-up) in Louisiana to immediately notify DPSC, in addition to (and perhaps before) making the required telephonic notification to the National Response Center under 49 CFR 171.15. There is also insufficient information to find that La. R.S. 32:1510A as enforced and applied, to require another person besides the carrier to provide immediate telephonic notification of an incident, is an ''obstacle'' to accomplishing and carrying out Federal hazardous material transportation law, the HMR, or a DHS security regulation or directive.

IV. Ruling

For all the reasons set forth above and in IR–31, Federal hazardous material transportation law: (1) Does not preempt Louisiana's immediate telephone notification requirement in La. R.S. 32:1510A, and (2) preempts Louisiana's written incident reporting requirement in La. R.S. 32:1510B & C.

V. Petition for Reconsideration/Judicial Review

In accordance with 49 CFR 107.211(a), any person aggrieved by this decision may file a petition for reconsideration within 20 days of publication of this decision in the **Federal Register**. Any party to this proceeding may seek review of RSPA's decision ''in an appropriate district court of the United States * * * not later than 60 days after the decision becomes final.'' 49 U.S.C. 5125(f).

This decision will become RSPA's final decision 20 days after publication in the **Federal Register** if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5125(f).

If a petition for reconsideration of this decision is filed within 20 days of publication in the **Federal Register**, the action by RSPA's Associate Administrator for Hazardous Materials Safety on the petition for reconsideration will be RSPA's final decision. 49 CFR 107.211(d).

Issued in Washington, DC on November 22, 2004.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 04–26352 Filed 11–29–04; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34531][1]

The Indiana Rail Road Company—Acquisition Exemption—Line of Monon Rail Preservation Corporation

The Indiana Rail Road Company (INRD), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Monon Rail Preservation Corporation (Monon), approximately 3.98 miles of rail line between milepost Q217.67 at Hunters, IN, and milepost Q213.69 at Ellettsville, IN, in Monroe County, IN. In 2001, INRD entered into an operating agreement with Monon, whereby INRD became the operator of the line.[2]

INRD certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier.

INRD indicates that the parties would like to consummate the transaction on or shortly after December 6, 2004.

If the 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34531, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John Broadley, 1054 31st Street, NW., Suite 200, Washington, DC 20007.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 22, 2004.

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

Vernon A. Williams,

Secretary.

[FR Doc. 04–26301 Filed 11–29–04; 8:45 am]

BILLING CODE 4910–01–P

[1] In a decision in this proceeding served on November 22, 2004, the Board granted a request by INRD for waiver of the 60-day advance labor notice requirement of 49 CFR 1150.42(e).

[2] *See The Indiana Rail Road Company—Operation Exemption—Monon Rail Preservation Corporation,* STB Finance Docket No. 33670 (STB served Feb. 21, 2001).