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Exemption Decision

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381. This notice addresses 25 individuals who have requested renewal of their exemptions in a timely manner. The FMCSA has evaluated these 25 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Roger D. Anderson, Joey E. Buice, Ronald D. Danberry, Paul W. Dawson, Lois E. De Souza, Tomie L. Estes, Jay E. Finney, Steven A. Garrity, Waylon E. Hall, Britt D. Hazelwood, Jeffrey M. Kimsey, Robert C. Leathers, Richard L. Leonard, Larry T. Morrison, Gerald L. Phelps, Jr., Ronald F. Prezizia, Thomas G. Raymond, Tim M. Seavy, Kim L. Seibel, Randy D. Stanley, Lee T. Taylor, James M. Tayman, Sr., Wesley E. Turner, Kevin L. Wickard, John C. Young.

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or

(3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. §§ 31315 and 31136(e), each of the 25 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 66 FR 41656; 68 FR 44837; 65 FR 66286; 66 FR 13825; 68 FR 10300; 66 FR 17743; 66 FR 33990; 68 FR 35772; 66 FR 30502; 66 FR 41654; 67 FR 76439; 68 FR 10298). Each of these 25 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Comments

The FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, the FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 19, 2005.

In the past the FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew, and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 69 FR 51346 (August 18, 2004). The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued on: July 13, 2005.

Larry W. Minor,

Office Director, Bus and Truck Standards and Operations.

[FR Doc. 05-14258 Filed 7-19-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34719]

Cornhusker Railways LLC— Acquisition and Operation Exemption—Rail Line of DTE Rail Services, Inc.

Cornhusker Railways LLC (CHR), a noncarrier,¹ has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by purchase from DTE Rail Services, Inc. (DTERS) and operate approximately 5.0 miles of rail line, as well as certain related yard, industry, side and spur tracks, between an interchange with BNSF Rail Company (BNSF) at milepost 103.55 near Ovina, and an interchange with Union Pacific Railroad Company (UP) at milepost 154.5 near Alda, in Hall County, NE.² CHR certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

Consummation was scheduled to take place shortly after the effective date of the exemption (the exemption became effective June 27, 2005, 7 days after filing).

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 transaction.

¹ CHR is controlled by noncarrier DTE Coal Services, which does not control any other carriers.

² DTERS purchased the line along with certain other adjacent rail facilities and associated structures from the U.S. Government in 2004 for use in the construction and operation of a railcar repair facility. The line connects with BNSF and UP, and DTERS has used the line as a private spur for the transfer of railcars between its shops and the two railroads. Under the proposed transaction, CHR will purchase both the track and the underlying right-of-way and will grant a non-exclusive, immediately terminable lease of the line back to DTERS for DTERS' non-common carrier use. CHR will retain the responsibility and the ability to provide common carrier service by means of reserved joint use rights.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34719, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on C. Michael Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

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

Decided: July 5, 2005.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 05-14052 Filed 7-19-05; 8:45 am]
BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 243X)]

Norfolk Southern Railway Company— Abandonment Exemption—in Forsyth County, NC

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 2.4-mile line of railroad between milepost R-124.2, and milepost R-126.6, located in Winston-Salem, Forsyth County, NC. The line traverses United States Postal Service Zip Codes 29302 and 29306.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (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 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 this exemption, any employee adversely affected by the abandonment 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, this exemption will be effective on August 19, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 1, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 9, 2005, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

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

NSR has filed environmental and historic reports which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 25, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) 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.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If

¹ 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.

² Each OFA must be accompanied by the filing fee, which currently is set at \$1,200. See 49 CFR 1002.2(f)(25).

consummation has not been effected by NSR's filing of a notice of consummation by July 20, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: July 11, 2005.

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

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 261X)]

Norfolk Southern Railway Company— Abandonment Exemption—in Spartanburg, SC

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 1.92-mile line of railroad between former milepost W 68.69 and former milepost W 70.61, in Spartanburg, SC.¹ The line traverses United States Postal Service Zip Codes 27101, 27104, 27105, and 27107.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years; (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 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 this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—*

¹ NSR states that the line mileposts are described as former because a new main line replaced the subject line as the main line many years ago and that the construction of the new main line resulted in the subject line becoming a stub-end branch line. NSR also states that the milepost numbers were reused on the new line and no new milepost designations were given to the subject line.