

the deficiency has to be corrected, or a PCA submitted, within 45 calendar days of notification. The State will have 45 days to either correct the issue of noncompliance or submit a PCA to FHWA. The PCA should, at a minimum, include the following information:

- (a) Identify area of noncompliance;
- (b) Identify the date FHWA notified State of noncompliance;
- (c) Identify actions to be taken to address areas of noncompliance;
- (d) Estimate duration and completion date for each action;
- (e) Define frequency and reporting format which will be used to monitor progress towards successful completion of the PCA; and
- (f) Identify what the State considers to be successful completion of PCA.

After the State submits a PCA, FHWA will have 45 days to review and if appropriate, accept the submitted PCA. Upon FHWA acceptance of the PCA, the final compliance determination for the associated metric will be conditionally compliant. If the PCA is not submitted to FHWA in 45 days after notification of noncompliance or the PCA does not address the issues of noncompliance, the final compliance determination for the associated metric will be noncompliant.

Penalty for Noncompliance

The FHWA will continue to encourage the State to address the noncompliance issues following the final noncompliance determination and expiration of the period allowed to develop a PCA. If a State remains in noncompliance on August 1 following a final compliance determination of noncompliance, FHWA will require the State to dedicate funds to correct the noncompliance, in accordance with 23 U.S.C. 144(h)(5). The State must submit an analysis of actions needed to correct the finding of noncompliance to FHWA no later than August 1. The analysis must identify the actions to be taken, estimated duration and completion date for each action, and an itemized amount of funds to be directed for each action to address the noncompliance. The analysis plan will require the approval of the FHWA. The FHWA will require

on October 1 of that year, and each year thereafter as may be necessary, the State to dedicate funds apportioned to the State under sections 23 U.S.C. 119 and 23 U.S.C. 133 to correct the issue of noncompliance.

Authority: 23 U.S.C. 144 and 315; 23 CFR 1.32 and 650 Subpart C; 49 CFR 1.85.

Issued on: May 24, 2013.

Victor M. Mendez,

Administrator, Federal Highway Administration.

[FR Doc. 2013-13526 Filed 6-6-13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 682 (Sub-No. 4)]

2012 Tax Information for Use In The Revenue Shortfall Allocation Method

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice.

SUMMARY: The Board is publishing, and providing the public an opportunity to comment on, the 2012 weighted average state tax rates for each Class I railroad, as calculated by the Association of American Railroads (AAR), for use in the Revenue Shortfall Allocation Method (RSAM).

DATES: Comments are due by July 9, 2013. If any comment opposing AAR's calculation is filed, AAR's reply will be due by July 29, 2013. If no comments are filed by the due date, AAR's calculation of the 2012 weighted average state tax rates will be automatically adopted by the Board, effective July 10, 2013.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies referring to Docket No. EP 682 (Sub-No.

4) to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT:

Jonathon Binet, (202) 245-0368.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

The RSAM figure is one of three benchmarks that together are used to determine the reasonableness of a challenged rate under the Board's *Simplified Standards for Rail Rate Cases*, EP 646 (Sub-No. 1) (STB served Sept. 5, 2007),¹ as further revised in *Simplified Standards for Rail Rate Cases—Taxes in Revenue Shortfall Allocation Method*, EP 646 (Sub-No. 2) (STB served Nov. 21, 2008). RSAM is intended to measure the average markup that the railroad would need to collect from all of its "potentially captive traffic" (traffic with a revenue-to-variable-cost ratio above 180%) to earn adequate revenues as measured by the Board under 49 U.S.C. 10704(a)(2) (i.e., earn a return on investment equal to the railroad industry cost of capital).

Simplified Standards—Taxes in RSAM, slip op. at 1. In *Simplified Standards—Taxes in RSAM*, slip op. at 3, 5, the Board modified its RSAM formula to account for taxes, as the prior formula mistakenly compared pre-tax and after-tax revenues. In that decision, the Board stated that it would institute a separate proceeding in which Class I railroads would be required to submit the annual tax information necessary for the Board's annual RSAM calculation. *Id.* at 5-6.

In *Annual Submission of Tax Information for Use in the Revenue Shortfall Allocation Method*, EP 682 (STB served Feb. 26, 2010), the Board adopted rules to require AAR—a national trade association—to annually calculate and submit to the Board the weighted average state tax rate for each Class I railroad. See 49 CFR 1135.2(a). On May 30, 2013, AAR filed its calculation of the weighted average state tax rates for 2012, listed below for each Class I railroad:

WEIGHTED AVERAGE STATE TAX RATES

[In percent]

Railroad	2012	2011	Percent change
BNSF Railway Company	5.567	5.584	-0.017
CSX Transportation, Inc	5.588	5.660	-0.072
Grand Trunk Corporation	8.078	8.089	-0.011

¹ *Aff'd sub nom. CSX Transp., Inc. v. STB*, 568 F.3d 236 (D.C. Cir. 2009), and vacated in part on

reh'g, CSX Transp., Inc. v. STB, 584 F.3d 1076 (D.C. Cir. 2009).

WEIGHTED AVERAGE STATE TAX RATES—Continued

[In percent]

Railroad	2012	2011	Percent change
The Kansas City Southern Railway	5.877	6.139	-0.262
Norfolk Southern Combined	5.891	5.942	-0.051
Soo Line Corporation	7.351	7.350	0.001
Union Pacific Railroad Company	5.970	6.035	-0.065

Any party wishing to comment on AAR's calculation of the 2011 weighted average state tax rates should file a comment by July 9, 2013. See 49 CFR 1135.2(c). If any comments opposing AAR's calculations are filed, AAR's reply will be due by July 29, 2013. *Id.* If any comments are filed, the Board will review AAR's submission, together with the comments, and serve a decision within 60 days of the close of the record that either accepts, rejects, or modifies AAR's railroad-specific tax information. *Id.* If no comments are filed by July 9, 2013, AAR's submitted weighted average state tax rates will be automatically adopted by the Board, effective July 10, 2013. *Id.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: June 4, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2013-13572 Filed 6-6-13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1068 (Sub-No. 1X); Docket No. AB 1070; (Sub-No. 1X)]

Missouri Central Railroad Company—Abandonment Exemption—in Cass, Henry, Johnson, and Pettis Counties, MO; Central Midland Railway Company—Discontinuance of Service Exemption—in Cass, Henry, Johnson, and Pettis Counties, MO

Missouri Central Railroad Company (MCRR) and Central Midland Railway Company (CMR) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments and Discontinuances of Service for MCRR to abandon, and for CMR to discontinue service over, approximately 42 miles of rail line between milepost 257.283 near Wingate, in Cass County, Mo., and milepost 215.325 near

Windsor, in Pettis County, Mo. The line traverses United States Postal Service Zip Codes 64040, 64061, 64080, 64726, 64733, 64761, and 65360.

Applicants 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(c) (environmental report), 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 abandonment or discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 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 July 9, 2013, 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

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Serv. 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 is currently set at \$1,600. See 49 CFR 1002.2 (f)(25).

CFR 1152.29 must be filed by June 17, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 27, 2013, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Sandra L. Brown, 1919 M St. NW., Suite 700, Washington, DC 20036, and Lon Van Gemert, 21778 Highview Ave., Lakeville, MN 55044.

If the verified notice contains false or misleading information, the exemptions are void *ab initio*.

Applicants have filed a combined environmental and historic report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by June 14, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. 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), MCRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by MCRR's filing of a notice of consummation by June 7, 2014, 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 “www.stb.dot.gov.”

Decided: June 3, 2013.