

SURFACE TRANSPORTATION BOARD**[Docket No. FD 36252]****North Carolina & Virginia Railroad Company, L.L.C., Chesapeake & Albemarle Railroad Division—Lease Amendment and Operation Exemption Including Interchange Commitment—Norfolk Southern Railway Company**

Chesapeake & Albemarle Railroad (CA), a Class III railroad and division of North Carolina & Virginia Railroad Company, L.L.C. (NCVA), has filed a verified notice of exemption under 49 U.S.C. 10902 to enter into a superseding and replacement lease with Norfolk Southern Railway Company (NSR) and operate lines of railroad between (1) milepost NS 4.00 at Providence Junction, Va., and milepost NS 8.00 at Butts, Va., (2) milepost NS 8.00 at Butts, Va., and milepost NS 73.59 at Edenton, N.C., and (3) milepost WK 0.00 at Elizabeth City, N.C., and milepost WK 7.48 at Weeksville, N.C. (collectively, the Line). The Line totals approximately 77.07 miles.

CA and NSR entered into a lease in 1990, which covered lines between (1) milepost NS 8.00, and milepost NS 74.00, and (2) milepost WK 0.00, and milepost WK 7.48 (Original Lease).¹ A 2003 amendment added a line between milepost NS 4.00, and milepost NS 8.00.² In 2004 and 2007, the Board issued abandonment and discontinuance of service exemptions for line included in the Original Lease between (1) milepost NS 73.67 and milepost NS 74.00 at Edenton, N.C.,³ and (2) milepost NS 73.59 and milepost NS 73.67 at Edenton, N.C.⁴ In 2011, CA and NSR added an amendment to extend the term of the Original Lease and strike all provisions relating to the option to purchase.⁵ Now, CA explains that the Original Lease has expired, and

¹ *Chesapeake & Albemarle R.R.—Lease, Acquis. & Operation Exemption—S. Ry.*, FD 31617 (ICC served Apr. 17, 1990).

² *N.C. & Va. R.R.—Lease & Operation Exemption—Norfolk S. Ry.*, FD 34272 (STB served Jan. 22, 2003).

³ *Norfolk S. Ry.—Aban. Exemption—in Chowan Cty., N.C.*, AB 290 (Sub-No. 251X) et al. (STB served July 16, 2004). NSR consummated the abandonment between milepost NS 73.67 and milepost NS 74.00.

⁴ The verified notices filed by NSR and CA describe the line to be abandoned and discontinued as between milepost NS 73.59 and milepost NS 73.67. Likewise, NSR consummated the abandonment between milepost NS 73.59 and milepost NS 73.67. Therefore, it appears this milepost was erroneously stated as 73.50 in the published notice. See *Norfolk S. Ry.—Aban. Exemption—in Chowan Cty., N.C.*, AB 290 (Sub-No. 295X) et al. (STB served Aug. 9, 2007).

⁵ *N.C. & Va. R.R., Chesapeake & Albemarle R.R. Div.—Lease Amendment Exemption—Norfolk S. Ry.*, FD 35564 (Sub-No. 1) (STB served Dec. 16, 2011).

CA and NSR have reached a new Lease Agreement (New Lease). CA and NSR intend the New Lease to supersede and replace the Original Lease and extend the term for an additional 10 years. CA declares that it currently operates the Line pursuant to the Original Lease and will continue to operate the Line under the New Lease.⁶

According to CA, the New Lease includes an interchange commitment that is similar in structure to the interchange commitment included in the Original Lease. As required under 49 CFR 1150.43(h)(1), CA provided additional information regarding the interchange commitment.

CA does not project that this transaction will result in annual revenues significant enough to establish a Class I or Class II rail carrier. Additionally, CA confirms that its total revenues will not exceed \$5 million after the transaction; however, CA states that NCVA, of which CA is a division, will have revenues over \$5 million following the transaction. Accordingly, CA is required by Board regulations to send notice of the transaction to the national offices of the labor unions with employees on the affected lines at least 60 days before this exemption is to become effective, to post a copy of the notice at the workplace of the employees on the affected lines, and to certify to the Board that it has done so. 49 CFR 1150.42(e).

CA requests a waiver of the 60-day advance labor notice requirement under 49 CFR 1150.42(e). In that request, CA argues that: (1) No employees of the transferring carrier, NSR, will be affected by the lease and no employees of NSR have worked on any part of the Line since 2003 and therefore, posting notices would be futile because no NSR employees work on the Line and (2) there will be no operational changes and no CA employees will be affected by the lease. CA's waiver request will be addressed in a separate decision.

CA states that it expects to consummate the transaction on the effective date of this exemption. The Board will establish the effective date in its separate decision on the waiver request.

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

⁶ The Original Lease, as amended in 2011, appears to have included line from mileposts NS 73.59 to NS 74.00, which had been abandoned prior to the 2011 lease amendment. CA does not state whether it continued to operate over that abandoned line after the 2011 renewal.

automatically stay the effectiveness of the exemption. Petitions for stay must be filed at least seven days before the exemption becomes effective.

An original and 10 copies of all pleadings, referring to Docket No. FD 36252, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Clark Hill PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

Board decisions and notices are available on our website at www.stb.gov.

Decided: December 3, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2018-26575 Filed 12-6-18; 8:45 am]

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TENNESSEE VALLEY AUTHORITY**Environmental Impact Statement for Gallatin Fossil Plant Surface Impoundment Closure and Restoration Project**

AGENCY: Tennessee Valley Authority.

ACTION: Notice of intent.

SUMMARY: The Tennessee Valley Authority (TVA) intends to prepare an Environmental Impact Statement (EIS) to address the potential environmental effects associated with management of coal combustion residual (CCR) material at the Gallatin Fossil Plant (GAF) located near Gallatin in Sumner County, Tennessee. The purpose of the EIS is to address the final disposition of CCR onsite at GAF, support TVA's goal to eliminate wet CCR storage at its plants, and assist TVA in complying with the U.S. Environmental Protection Agency's (EPA's) CCR Rule. The proposed actions would also provide long-term on-site landfill space for operations and/or storage of CCR. TVA will develop and evaluate various alternatives for these actions, including the No Action Alternative. Public comments are invited concerning both the scope of the review and environmental issues that should be addressed.

DATES: Comments on the scope of the EIS must be received on or before January 11, 2019.

ADDRESSES: Comments may be submitted in writing to Ashley Farless, NEPA Specialist, 1101 Market Street, BR4A-C, Chattanooga, TN, 37402. Comments may also be submitted online

at: <https://www.tva.gov/nepa> or by email to CCR@tva.gov.

FOR FURTHER INFORMATION CONTACT:

Other related questions should be sent to Tennessee Valley Authority, Ashley Farless, NEPA Specialist, 1101 Market Street, BR4A-C, Chattanooga, TN, 37402, Phone 423.751.2361 or arfarless@tva.gov.

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508) for implementing the National Environmental Policy Act (NEPA), TVA's procedures for implementing NEPA, and Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations (36 CFR part 800).

TVA Power System and CCR Management

TVA is a corporate agency and instrumentality of the United States created by and existing pursuant to the TVA Act of 1933 that provides electricity for business customers and local power distributors. TVA serves more than 9 million people in parts of seven southeastern states. TVA receives no taxpayer funding, deriving virtually all of its revenues from sales of electricity. In addition to operating and investing its revenues in its electric system, TVA provides flood control, navigation and land management for the Tennessee River system and assists local power companies and state and local governments with economic development and job creation.

The GAF is located in Sumner County, Tennessee, on 1,950 acres of land on the north bank of the Cumberland River. The plant has four turbo-generating units with a combined summer net generating capacity of 976 megawatts. The plant consumes an average of 3.5 million tons of coal per year which results in the annual production of approximately 255,000 tons of CCR. This CCR is the byproduct produced from burning coal and includes fly ash, bottom ash, boiler slag, and flue gas desulfurization materials. Historically, GAF stored CCR wet in onsite surface impoundments (commonly referred to as ash ponds). Bottom ash and boiler slag are the only remaining CCRs currently sent to the ponds. Newly installed air emission controls at GAF allow the majority of CCR to be stored dry in the North Rail Loop Landfill located at GAF, a state-of-the-art lined and state permitted facility. When the construction of a new bottom ash dewatering facility is finished in 2020, the plant will have completed its

transition from wet CCR handling to dry handling of all CCR.

Background

In July 2009, the TVA Board of Directors passed a resolution for staff to review TVA practices for storing CCRs at its generating facilities, including GAF, which resulted in a recommendation to convert the wet ash management system at GAF to a dry storage system. On April 17, 2015, the EPA published the final Disposal of CCRs from Electric Utilities rule, also known as the CCR Rule.

In June 2016, TVA issued a Final Programmatic Environmental Impact Statement (PEIS) that analyzed methods for closing CCR impoundments at TVA fossil plants and identified specific screening and evaluation factors to help frame its evaluation of closures at its other facilities. A Record of Decision was released in July 2016 that would allow future environmental reviews of qualifying CCR impoundment closures to tier from the PEIS. This PEIS can be found at www.tva.com/nepa.

Alternatives

The EIS will examine closure of the following surface impoundments: Ash Pond A, Ash Pond E, Middle Pond A and a Non-Registered Site. In addition, TVA will examine removal of CCR from on-site Stilling Ponds and permanent disposition of CCR from the Bottom Ash Pond at Gallatin. TVA is performing a separate NEPA review for a project at Gallatin that could result in a temporary stockpile of CCR from the Bottom Ash Pond in the on-site landfill (North Rail Loop Landfill). The Bottom Ash Pond CCR would be temporarily stockpiled to make the most efficient use of property at GAF. Whether the Bottom Ash Pond CCR remains in its current location onsite at GAF or is temporarily stockpiled to allow TVA to make use of real estate available onsite, the final disposition of the Bottom Ash Pond CCR will be addressed in this EIS. Construction of a new on-site landfill will be examined as well as construction of a CCR beneficial re-use facility.

In addition to a No Action Alternative, this EIS will address alternatives that meet the purpose and need for the project. One alternative identified by TVA is closure of all surface impoundments and stilling ponds via closure-by-removal with construction of a new on-site landfill. The CCR material removed in this closure-by-removal alternative would be disposed of in a new on-site landfill and/or a beneficial re-use facility. Another alternative identified by TVA is

closure of all surface impoundments and stilling ponds via closure-in-place with construction of a new on-site landfill that would be used to support ongoing long-term plant operations. TVA could also consider a combination closure-in-place and closure-by-removal alternative(s).

No decision has been made about CCR storage at GAF beyond the current operations. TVA is preparing this EIS to inform decision makers, other agencies and the public about the potential for environmental impacts associated with management of CCR at GAF.

Proposed Resources and Issues To Be Considered

This EIS will identify the purpose and need of the project and will contain descriptions of the existing environmental and socioeconomic resources within the area that could be affected by management of CCR at GAF. Evaluation of potential environmental impacts to these resources will include, but not be limited to, water quality, aquatic and terrestrial ecology, threatened and endangered species, wetlands, land use, historic and archaeological resources, solid and hazardous waste, safety, and socioeconomic and environmental justice issues. The final range of issues to be addressed in the environmental review will be determined, in part, from scoping comments received. The preliminary identification of reasonable alternatives and environmental issues in this notice is not meant to be exhaustive or final.

Public Participation

TVA is interested in an open process and wants to hear from the community. The public is invited to submit comments on the scope of this EIS no later than the date identified in the "Dates" section of this notice. Federal, state, local agencies and Native American Tribes are invited to provide comments.

After consideration of comments received during the scoping period, TVA will develop and distribute a scoping document that will summarize public and agency comments that were received and identify the schedule for completing the EIS process. Following analysis of the issues, TVA will prepare a draft EIS for public review and comment. In making its final decision, TVA will consider the analyses in this EIS and substantive comments that it receives. A final decision on proceeding with the management and storage of CCRs at GAF will depend on a number of factors. These include results of the EIS, requirements of the CCR Rule,

relevant state law requirements, engineering and risk evaluations, financial considerations, as well as the resolution of ongoing litigation concerning Gallatin.

TVA anticipates holding a community meeting near the plant after releasing the Draft EIS. Meeting details will be posted on TVA's website. TVA expects to release the Draft EIS in the Fall 2019.

Authority: 40 CFR 1501.7.

M. Susan Smelley,

Director, Environmental Compliance and Operations.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Dockets No. FMCSA-2017-0243, FMCSA-2017-0296, FMCSA-2017-0337, FMCSA-2017-0340, FMCSA-2017-0342, FMCSA-2017-0356, FMCSA-2017-0361, FMCSA-2017-0373, FMCSA-2018-0003, FMCSA-2017-0336]

Hours of Service (HOS) of Drivers; Applications for Exemption From the Electronic Logging Device Rule

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; denial of applications for exemption.

SUMMARY: As required by statute, FMCSA announces denials of 10 applications for exemptions from the hours-of-service (HOS) electronic logging device (ELD) rule. The applicants are as follows: Power and Construction Contractors Association; Western Equipment Dealers Association; Association of Energy Service Companies; Cudd Energy Services, Inc.; SikhsPAC and North American Punjabi Trucker Association; Owner- Operator Independent Drivers Association, Inc.; American Disposal Service; Towing and Recovery Association of America; National Electrical Contractors Association; and the Agricultural Retailers Association. The Agency reviewed each application and any comments received and rendered each decision based upon the merits of the application.

DATES: On June 16, 2018, FMCSA denied 9 applications for exemption and on July 26, 2018, the Agency denied the application of the Agricultural Retailers Association.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlle Robinson, FMCSA Driver and Carrier Operations Division; Office of

Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. Email: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. In the case of denials, 49 U.S.C. 31315 explicitly states that the Agency may meet the requirements by periodically publishing in the **Federal Register** the names of persons denied exemptions and the reasons for the denials.

Applications for Exemption

The current hours-of-service (HOS) regulations in 49 CFR 395.8(a) require motor carriers subject to the regulation to ensure their drivers use ELDs in place of written logs to record their duty status for each 24-hour period. Additionally, Part 395 lists certain ELD exceptions for short-haul operations within a 100 air-mile radius and agricultural operations within a 150 air-mile radius.

The 10 applicants cited below applied for an exemption from the requirement to use an ELD to record HOS for drivers subject to the regulation for various reasons. FMCSA published **Federal Register** notices requesting public comment on each application. Each notice established a docket to provide the public an opportunity to inspect the application and other docketed information, such as comments of others submitted to the docket. Details of the Agency's analysis follows.

Power and Construction Association (PCCA)

The PCCA requested that motor carriers and drivers operating commercial motor vehicles (CMVs) in the power and communication construction industry be allowed to use paper records of duty status (RODS) instead of ELDs. PCCA noted that construction contractors spend considerable time off-road on varying jobsites; a single CMV may have several different drivers over the course of a day, moving the vehicle short distances around the jobsite. Due to the limited time that their drivers spend driving on public roads within a workday, PCCA states that the ELD and RODS requirements for drivers in its industries do not result in a significant safety benefit.

FMCSA reviewed the application and the 259 public comments submitted. On June 16, 2018, FMCSA denied PCCA's application for exemption because the Agency could not ensure that the exemption would provide the requisite level of safety. A copy of the denial letter is available for review in the docket (FMCSA-2017-0243).

Western Equipment Dealers Association (WEDA)

WEDA requested this exemption from ELD use on behalf of several organizations and their members. Effectively, the requested exemption would eliminate the requirement for agricultural equipment dealers to install ELDs on their CMVs. WEDA stated that equipment dealer operations in agriculture present unique circumstances that warrant the requested exemption and that the failure to grant it would pose an undue burden on equipment dealers and their customers without a measurable safety benefit.

FMCSA reviewed the application and the 125 public comments submitted. On June 16, 2018, FMCSA denied WEDA's application for exemption because the Agency could not ensure that the exemption would provide the requisite level of safety. A copy of the denial letter is available for review in the docket (FMCSA-2017-0296).

Association of Energy Service Companies (AESC)

AESC requested this exemption to allow all drivers of well service rigs to complete paper RODS instead of using an ELD whenever the drivers exceeded the requirements of the short-haul exception. According to AESC, complying with the ELD requirement would be overly burdensome for well