

remain in place and will be transferred to ND Paper Inc. (ND Paper), which owns a paper mill that is the sole rail-served facility on the Line. (Joint Pet. 1–2.) Petitioners state that upon consummation of the discontinuance and abandonment and conveyance of the Line to ND Paper, WCL will continue to handle ND Paper's traffic to Plover Road pursuant to a rail transportation contract, and WRR (or an affiliate) will handle traffic over the Line as a private contract switching carrier for ND Paper. (Joint Pet. 2.) ND Paper supports the joint petition. (Joint Pet., Ex. C.)

According to WCL, the Line does not contain any federally granted rights-of-way and any relevant documentation in WCL's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 8, 2020.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must file a formal expression of intent to file an offer by October 21, 2019, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(1)(i).

Following authorization for abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 30, 2019.²

All pleadings, referring to Docket Nos. AB 1290X and AB 303 (Sub-No. 52X), must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on (1) WRR's representative,

Michael E. Gray, Watco Companies, LLC, 315 West 3rd Street, Pittsburg, KS 66762 and (2) WCL's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Dr., Suite 800, Chicago, IL 60606. Replies to this petition are due on or before October 30, 2019.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152.

Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available at www.stb.gov.

Decided: October 3, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Kenyatta Clay,
Clearance Clerk.

[FR Doc. 2019–22195 Filed 10–9–19; 8:45 am]

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SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 405X)]

Norfolk Southern Railway Company—Abandonment Exemption—in the City of Cincinnati, Ohio and Hamilton County, Ohio

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon rail service over an approximately 0.64-mile rail line, from milepost CT 3.06 to milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at milepost CT 3.49, in the City of Cincinnati, Ohio, and Hamilton County, Ohio (the Line).

The Line traverses U.S. Postal Service Zip Codes 45207 and 45212.

NSR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two 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 (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), 49 CFR 1152.50(d)(1) (notice to governmental agencies), and 49 CFR 1105.7 and 1105.8 (environmental and historic report), have been met.

As a condition to this exemption, any employee adversely affected by the abandonment 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)¹ has been received, this exemption will be effective on November 9, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by October 18, 2019.² Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 21, 2019.³ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 30, 2019, with the Surface

¹ Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

² 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.

³ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

² Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

Transportation Board, 395 E Street SW, Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representatives, William A. Mullins and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW, Suite 300, Washington, DC 20037.

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

NSR has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by October 15, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (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 consummation has not been effected by NSR's filing a notice of consummation by October 10, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: October 4, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Kenyatta Clay,
Clearance Clerk.

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SURFACE TRANSPORTATION BOARD

[Docket No. EP 757]

Policy Statement on Demurrage and Accessorial Rules and Charges

AGENCY: Surface Transportation Board.

ACTION: Notice of Proposed Statement of Board Policy.

SUMMARY: The Surface Transportation Board (STB or Board) is issuing this proposed policy statement to provide the public with information on

principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges. The Board seeks public comment on this proposed policy statement, and may revise it, as appropriate, after consideration of the comments received.

DATES: Comments on this proposed policy statement are due by November 6, 2019. Reply comments are due by December 6, 2019.

ADDRESSES: Comments and replies may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, Attn: Docket No. EP 757, 395 E Street SW, Washington, DC 20423-0001. Comments and replies will be posted to the Board's website at www.stb.gov.

FOR FURTHER INFORMATION CONTACT:

Sarah Fancher at (202) 245-0355. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Demurrage is subject to Board regulation under 49 U.S.C. 10702, which requires railroads to establish reasonable rates and transportation-related rules and practices, and under 49 U.S.C. 10746, which requires railroads to compute demurrage charges, and establish rules related to those charges, in a way that will fulfill national needs related to freight car use and distribution and maintenance of an adequate car supply.¹ Demurrage is a charge that both compensates rail carriers for the expense incurred when rail cars are detained beyond a specified period of time (*i.e.*, "free time") for loading and unloading and serves as a penalty for undue car detention to encourage the efficient use of rail cars in the rail network. *See* 49 CFR 1333.1; *see also* 49 CFR pt. 1201, category 106.² Accessorial

¹ The Board notes its authority to regulate demurrage includes, among other things, transportation under the exemptions set forth in 49 CFR 1039.11 (miscellaneous commodities exemptions) and § 1039.14 (boxcar transportation exemptions). *See Savannah Port Terminal R.R.—Pet. for Declaratory Order—Certain Rates & Practices as Applied to Capital Cargo, Inc.*, FD 34920, slip op. at 7–8 (STB served May 30, 2008) (rejecting argument that the Board could not address demurrage dispute because of boxcar and certain commodity exemptions). In *Exclusion of Demurrage Regulation from Certain Class Exemptions*, Docket No. EP 760, served concurrently with this decision, the Board is proposing to revise 49 CFR 1039.10 to make the exemption for the transportation of agricultural commodities (except grain, soybeans, and sunflower seeds, which are already subject to the Board's regulation) consistent with those exemptions.

² In *Demurrage Liability (Demurrage Liability Final Rule)*, EP 707, slip op. at 15–16 (STB served Apr. 11, 2014), the Board clarified that private car

charges are not specifically defined by statute or regulation but are generally understood to include charges other than line-haul and demurrage charges. *See Revisions to Arbitration Procedures*, EP 730, slip op. at 7–8 (STB served Sept. 30, 2016).³

This proposed policy statement provides information with respect to certain principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges. It arises, in part, as a result of the testimony and comments submitted in *Oversight Hearing on Demurrage & Accessorial Charges*, Docket No. EP 754.⁴ The Board commenced that docket by notice served on April 8, 2019, following concerns expressed by users of the freight rail network (rail users)⁵ and other stakeholders about recent changes to demurrage and accessorial tariffs administered by Class I carriers, which the Board was actively monitoring.⁶

Specifically, in *Oversight Hearing on Demurrage & Accessorial Charges (April 2019 Notice)*, EP 754, slip op. at 2 (STB served Apr. 8, 2019), the Board announced a May 22, 2019 public hearing, which was later extended to

storage is included in the definition of demurrage for purposes of the demurrage rules established in that decision. The Board uses the same definition for purposes of this policy statement.

³ As used in this policy statement, the term "accessorial charges" includes charges for diverting a shipment in transit, ordering a railcar but releasing it empty, weighing a railcar, tendering one railroad's car to another railroad without a line-haul move, special train or additional switching services, or releasing a railcar with incomplete or incorrect shipping instructions. Issues relating to accessorial charges may arise in proceedings before the Board in a variety of contexts. *See, e.g., Cent. Valley Ag Grinding, Inc. v. Modesto & Empire Traction Co.*, NOR 42159 (STB served July 25, 2018) (involving a challenge to accessorial charges).

⁴ Unless otherwise noted, all citations to comments are to material docketed in *Oversight Hearing on Demurrage & Accessorial Charges*, Docket EP 754.

⁵ As used in this policy statement, the term "rail users" broadly means any person that receives rail cars for loading or unloading, regardless of whether that person has a property interest in the freight being transported. This policy statement uses the terms "warehousemen" or "third-party intermediaries" to refer to these entities with no property interest in the freight.

⁶ In November 2018, the Board sent letters to two Class I carriers, requesting that they examine, from the perspective of reciprocity and commercial fairness, recently announced changes to their policies and practices made in connection with new operating plans they were implementing. After receiving responses from those two carriers, the Board requested each Class I carrier to report its revenues from demurrage and accessorial charges for each quarter of 2018, and, on a going-forward basis, for each quarter of 2019. Because accessorial charges are not uniform among rail carriers, each Class I carrier was asked to identify the specific accessorial items that account for its reported revenues.