

evidence the Congress meant to sanction non-federal fees that are discriminatory or malapportioned, a "fair" fee within the meaning of 49 U.S.C. 5125(g)(1) surely is one that, at a minimum, complies with the requirements of the Commerce Clause.

Additionally, it must be remembered that the Code and Rule impose the challenged flat fee only on transporters engaged in the transportation of manifested shipments of hazardous waste moving to or from locations in Tennessee. However, AWHMT has reviewed the hazardous materials incident reports filed with DOT pursuant to 49 CFR 171.16 and discovered, for the five-year representative period 1992–1996, that 1819 hazardous materials incidents were reported in Tennessee of which 102 involved the transportation of hazardous waste.⁴¹ Forty-six percent of the hazardous waste incidents involved shipments by transporters technically unpermitted by the State and not subject to the remedial action fee because the shipments were not destined to or from locations in the State. Of the 1819 incidents, 42 met DOT's definition of "serious;" only one of the 42 involved the transportation of hazardous waste.⁴² The State clearly has unfairly burdened certain hazardous waste carriers with fees and requirements that are unsupported by the risk presented to the citizens and/or environment of the State.

For the above listed reasons, we assert that flat fees are inherently "unfair" and that the State's fee scheme should fall to the obstacle test pursuant to 49 U.S.C. 5125(a)(2).

The Written Notification, Recording, and Reporting of the Unintentional Release in Transportation of Hazardous Material Is Reversed to the Federal Government

Rule 1200–1–11.04(4)(a)4 requires written notification of each hazardous waste discharge during transportation that occurs in the State. These reports must be filed with the DEC within 15 days. The written notification must provide information about the incident. The DEC allows the filing of form F5800.1, the DOT incident report, to suffice if it is "properly completed and supplemented as necessary to include all information required by the (DEC)."⁴³

It is clear that the DEC's written notification requirements are not substantively the same as corresponding federal requirements.⁴⁴ The HMTA expressly preempts such requirements.⁴⁵ DOT has even moved to preempt non-federal written incident reports when the non-federal requirement has been only "to provide copies of the incident reports filed with (DOT)"

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⁴¹ Hazardous Materials Information System, U.S. Department of Transportation—1992–1996, January 28, 1998.

⁴² "Serious" incidents are those that result in one or more of the following: death; accident/derailment of vehicle; evacuation of six or more individuals; injury requiring hospitalization; or road closure.

⁴³ Rule 1200–1–11.04(4)(a)4. *Note*.

⁴⁴ 49 CFR 171.16.

⁴⁵ 49 U.S.C. 5125(b)(1)(D).

⁴⁶ IR–31, 55 FR 25582 (June 21, 1990).

Conclusion

The State's hazardous waste remedial action fee requirements imposed on the transportation of manifested shipments of hazardous waste are preempted by federal law. The State is enforcing the above suspect requirements. We request timely consideration of the concerns we have raised.

Certification

Pursuant to 49 CFR 107.205(a), we hereby certify that a copy of this application has been forwarded with an invitation to submit comments to: Milton Hamilton, Jr., Commissioner, Department of Environment & Conservation, 401 Church St., 21st Floor, L&C Tower, Nashville, TN 37243.

Respectfully submitted,

Michael Carney,

Chairman.

Enclosures.

cc: Ed Bonekemper, Asst. Chief Counsel for, Hazardous Materials Safety, RSPA–DCC–10, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590.

Attachments

(A) Tenn. Code 68–212 §§ 101–121

(B) Tenn. Code 68–212 §§ 203–206

(C) DEC Rule 1200–1–11–.04

(D) DEC Rule 1200–1–11–.08

(E) DEC Rule 1200–1–13

(F) Hazardous Waste Transporter Permit Application

[FR Doc. 98–9212 Filed 4–8–98; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–391 (Sub–No. 4X)]

Red River Valley & Western Railroad Company—Abandonment Exemption—in Benson County, ND

Red River Valley & Western Railroad Company (RRVW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon an approximately 10.55-mile line of railroad from milepost 79.08, approximately 0.6 miles north of Oberon, to milepost 89.63, in Minnewaukan, in Benson County, ND. The line traverses United States Postal Service Zip Codes 58357 and 58351.

RRVW has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over 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 (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 May 9, 1998, 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 April 20, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 29, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Jo A DeRoche, Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005–4797.

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

RRVW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 14, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation

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 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 offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

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), RRVW 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 RRVW's filing of a notice of consummation by April 9, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: March 31, 1998.

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

Vernon A. Williams,
Secretary.

[FR Doc. 98-8945 Filed 4-8-98; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Executive Office for Asset Forfeiture; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Executive Office for Asset Forfeiture within the Department of the Treasury is soliciting comments concerning the "Request for Transfer of Property Seized/Forfeited by a Treasury Agency", TD F 92-22.46.

DATES: Written comments should be received on or before June 8, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to the Executive Office for Asset Forfeiture, Attn: Ms Rebecca Brown, Suite 700, 740-15th Street, NW, Washington, DC 20220. Telephone: (202) 622-2807.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions

should be directed to Executive Office for Asset Forfeiture, Attn: Ms Rebecca Brown, Suite 700, 740-15th Street, NW, Washington, DC 20220. Telephone (202) 622-2807.

Title: Request for Transfer of Property Seized/Forfeited by a Treasury Agency, TD F 92-22.46.

OMB Number: 1505-0152.

Form Number: TD F 92-22.46.

Abstract: The form was developed to capture the minimum amount of data necessary to process the application for equitable sharing benefits. Only one form is required per seizure. If a law enforcement agency does not make this one time application for benefits under the equitable sharing process, the agency will not benefit from the forfeiture process.

Current Action: This is a notice for the continued use of the established form. There are no changes to the form or instructions.

Type of Review: Extension.

Affected Public: Federal, state and local law enforcement agencies participating in the Treasury asset sharing program.

Estimated Number of Respondents: 600.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,300 hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval.

All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Jan P. Blanton,

Director, Executive Office for Asset Forfeiture.

[FR Doc. 98-9283 Filed 4-8-98; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY

Commission to Study Capital Budgeting

AGENCY: Advisory Commission to the President of the United States.

ACTION: Notice of meetings.

SUMMARY: The agenda for the next meetings of the Commission to Study Capital Budgeting includes discussions and hearing of testimony on capital budgeting issues on Friday, April 24. On Saturday morning, April 25, the Commission will hear reports from its working groups studying different aspects of capital budgeting and discuss the next steps to be taken in preparation of its report. The Commission's final report on capital budgeting is due on December 13, 1998. Meetings are open to the public. Limited seating capacity is available.

Dates, Times and Places of the Next Commission Meetings

April 24, 1998, 9:00 a.m. to 4:00 p.m.,
White House Conference Center,
Truman Room, 726 Jackson Place,
NW., Washington, DC 20503

April 25, 1998, 9:00 a.m. to 12:00 noon,
White House Conference Center,
Truman Room, 726 Jackson Place,
NW., Washington, DC 20503

The Commission is seeking all views on capital budgeting. Interested parties may submit their views to: Barry Anderson, Executive Director, President's Commission to Study Capital Budgeting, Old Executive Office Building (Room 258), Washington, DC 20503, Voice: (202) 395-4630, Fax: (202) 395-6170, E-Mail: capital_budget@oa.eop.gov, Website: <http://www.whitehouse.gov/wh/eop/omb/pcscb/>.

FOR FURTHER INFORMATION CONTACT: E. William Dinkelacker, Senior Economist, Room 4456 Main Treasury, Washington, DC 20220, Voice: (202) 622-1285, Fax: (202) 622-1294, E-Mail: william.dinkelacker@treas.sprint.com.

Dated: April 3, 1998.

Angel E. Ray,

Committee Management Officer.

[FR Doc. 98-9279 Filed 4-8-98; 8:45 am]

BILLING CODE 4810-25-P