

response personnel concentrating on HOS regulations and paperwork, thereby diverting attention from the main objective of the incident response;

(4) Operation of CMVs is subordinate to its primary business, and most movements are 200 miles or less;

(5) States routinely issue special emergency permits for the movement of Hulcher's oversize or overweight loads, and by issuance of these permits, States have declared the move an emergency;

(6) It wants to receive the same consideration in the FMCSRs as Oil Field Operations, Ground Water Well Drilling Operations, Agricultural Operations, and Construction Materials, and Equipment.

Ms. Rachelle Biggs stated a general observation that the current system of HOS regulation is unduly complex and the regulations should be changed to provide for an 80-hour/8-day maximum on-duty period and a total restart after 24 hours off-duty. The comment did not specifically identify whether Hulcher should be granted or denied its petition.

The Brotherhood of Maintenance of Way Employees (BMWE) supported the intent to deny on the basis that Hulcher is routinely contracted by railroads in the case of a derailment or other railroad accident, and that these situations do not meet the definition of emergency in 49 CFR 390.5. In addition, BMWE stated its concern that the exemption request would be used most frequently, not in responding to an emergency, but rather, subsequent to the employees' cessation of work as laborers and heavy equipment operators. BMWE saw the exemption as a means to get more hours of on-duty time rather than a legitimate exemption which permitted workers to get to the site of an emergency. BMWE submits that an exemption from the HOS regulations for employees who have often worked under extreme physical and environmental conditions without sufficient rest is contrary to public safety.

The International Brotherhood of Teamsters (IBT), while supporting the intent to deny, stated its belief that the agency does not have the statutory authority to grant exemptions from HOS regulations.

The Advocates for Highway and Auto Safety (AHAS) also supported the denial, stating that Hulcher had failed to demonstrate that its company's services required elimination of the maximum driving and on-duty hours, or of the minimum off-duty period following the exhaustion of available driving and total duty hours at the end of a seven- or eight-day driver tour of duty. The AHAS also noted its objection to the agency's issuance of notices requesting public

comment on exemption applications that include an indication of the agency's predetermination on the merits.

#### FMCSA Decision

The FMCSA has carefully reviewed Hulcher's application for an exemption from the HOS regulations and the comments on the request for the exemption, and has decided to deny the application. As stated in the proposal to deny the application, Hulcher has not demonstrated how it will meet the standard of an exemption, and achieve a level of safety equal to, or greater than, the level of safety that would be achieved by complying with the HOS regulations.

The fact that Hulcher has a safety program that it believes exceeds the industry norm is, in itself, an insufficient reason to grant an exemption. The fact that States grant permits for oversize or overweight loads, and may, in some cases, designate these permits as emergency permits, does not constitute an emergency as defined in 49 CFR parts 390.5 and 393.23. In fact, the issuance of oversize and overweight permits is a routine matter for most State highway and transportation departments.

Hulcher has not demonstrated that the current emergency relief provisions of 49 CFR 393.23 are inadequate to meet incidents to which they typically respond. In fact, Hulcher indicates that it has not had any difficulty to date, but is concerned about potential problems that might occur in the future. In the absence of any defined need, it would be inappropriate to grant the request.

Specific statutory exemptions granted to several industries by Congress in section 345 of the National Highway Designation Act of 1995 (Pub. L. 104-59) (109 Stat. 568, 613) are not relevant to Hulcher's request for an exemption under 49 CFR 381.310.

With regard to the comments of the AHAS on the agency's issuance of notices that include preliminary determinations, the FMCSA has discontinued that practice.

Finally, the FMCSA notes that on April 28, 2003, it published new hours-of-service (HOS) regulations for commercial motor vehicle drivers (68 FR 22456). The compliance date for the new regulations is January 4, 2004. Under the new regulations, drivers of CMVs will be allowed to restart the 60- or 70-hour "clock" after taking 34 or more consecutive hours off-duty. This provision may provide some of the flexibility Hulcher sought in its application.

Issued on: September 8, 2003.

**Pamela M. Pelcovits,**

*Office Director, Policy, Plans, and Regulation.*

[FR Doc. 03-23189 Filed 9-10-03; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### Indexing the Annual Operating Revenues of Railroads

This Notice sets forth the annual inflation adjusting index numbers which are used to adjust gross annual operating revenues of railroads for classification purposes. This indexing methodology will insure that regulated carriers are classified based on real business expansion and not from the effects of inflation. Classification is important because it determines the extent of reporting for each carrier.

The railroad's inflation factors are based on the annual average Railroad's Freight Price Index. This index is developed by the Bureau of Labor Statistics (BLS). This index will be used to deflate revenues for comparison with established revenue thresholds.

The base year for railroads is 1991. The inflation index factors are presented as follows:

#### RAILROAD FREIGHT INDEX

Year	Index	Deflator percent
1991 .....	409.50	100.00
1992 .....	411.80	99.45
1993 .....	415.50	98.55
1994 .....	418.80	97.70
1995 .....	418.17	97.85
1996 .....	417.46	98.02
1997 .....	419.67	97.50
1998 .....	424.54	96.38
1999 .....	423.01	96.72
2000 .....	428.64	95.45
2001 .....	436.48	93.73
2002 .....	445.03	91.92

<sup>1</sup> Ex Parte No. 492, *Montana Rail Link, Inc., and Wisconsin Central Ltd., Joint Petition For Rulemaking With Respect To 49 CFR 1201, 8 I.C.C. 2d 625 (1992)*, raised the revenue classification level for Class I railroads from \$50 million to \$250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also revised to reflect a rebasing from \$10 million (1978 dollars) to \$20 million (1991 dollars).

**EFFECTIVE DATE:** January 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Scott Decker (202)-565-1531. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

By the Board, Leland L. Gardner, Director, Office of Economics, Environmental Analysis, and Administration.

**Vernon A. Williams,**  
Secretary.

[FR Doc. 03-22908 Filed 9-10-03; 8:45 am]

BILLING CODE 4915-00-P

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

[STB Docket No. AB-602X]

**Tecumseh Branch Connecting Railroad Company—Abandonment Exemption—in Lenawee County, MI**

Tecumseh Branch Connecting Railroad Company (TBCR) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon approximately 0.8 miles of railroad of the Tecumseh Branch of the former Detroit, Toledo & Ironton Railroad extending from TBCR's point of interchange with Adrian & Blissfield Rail Road Company's mainline at milepost 45.5 to the end of track at milepost 46.3 in the City of Adrian, Lenawee County, MI. The line traverses United States Postal Service ZIP Code 49221.

TBCR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (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 OFA has been received, this exemption will be effective on October 11, 2003, unless stayed pending reconsideration. Petitions to stay that do not involve

environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 22, 2003. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 1, 2003, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to TBCR's representative: Mr. Myles Paisley, 850 Mandoline, Madison Heights, MI 48071.

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

TBCR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 16, 2003. 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) 565-1539. [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), TBCR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by TBCR's filing of a notice of consummation by September 11, 2004, 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](http://www.stb.dot.gov).

Decided: September 4, 2003.

<sup>1</sup> 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.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

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

**Vernon A. Williams,**  
Secretary.

[FR Doc. 03-23014 Filed 9-10-03; 8:45 am]

BILLING CODE 4915-00-P

**DEPARTMENT OF THE TREASURY**

**Submission for OMB Review; Comment Request**

September 4, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW Washington, DC 20220.

**DATES:** Written comments should be received on or before October 14, 2003 to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545-0098.

*Form Number:* IRS Form 1045.

*Type of Review:* Extension.

*Title:* Application for Tentative Refund.

*Description:* Form 1045 is used by individuals, estates, and trusts for a quick refund of taxes due to carryback of a net operating loss, unused general business credit, or claim of right adjustment under section 1341(b). The information obtained is used to determine the validity of the application.

*Respondents:* Individuals or households, Business or other for-profit, Farms.

*Estimated Number of Respondents/Recordkeepers:* 65,220.

*Estimated Burden Hours Respondent/Recordkeepers:*

Recordkeeping .....	4 hr., 9 min.
Learning about the law or the form.	47 min.
Preparing the form .....	6 hr., 44 min.
Copying, assembling, and sending the form to the IRS.	1 hr., 3 min.

*Frequency of Response:* On occasion.  
*Estimated Total Reporting/Recordkeeping Burden:* 830,251 hours.  
*OMB Number:* 1545-0219.