

imposes a condition prohibiting the railroad from selling the line, altering any sites or structures on the line, or conducting salvage activities on the line until the historic review process is complete and the Board removes the condition. This maintains the status quo pending completion of the historic review process. In some instances, where it becomes apparent that mitigation (i.e., documentation of the historic resources) is necessary only for a portion of the line or for a particular structure or structures, the Board may modify the condition to allow salvage of the rest of the line. But otherwise, abandonment may not be consummated, and potentially historic property may not be disturbed for any part of the line, until either there is a formal final determination by the Board's Section of Environmental Analysis (SEA) (acting on behalf of the Board) that the project would have no adverse effect on historic resources or a Memorandum of Agreement is entered into that sets forth the appropriate mitigation (i.e., documentation) to satisfy section 106 and the historic review condition is removed.

In some instances, railroads have sought to consummate the abandonment of part or all of a railroad line before the historic review process required by section 106 of NHPA is complete and the historic preservation condition imposed by the Board has been modified or removed. By this policy statement, the Board clarifies that, regardless of whether a section 106 condition applies to the entire line or is more limited, an historic preservation condition is a regulatory barrier to consummation. Therefore, a railroad should not file a notice of consummation seeking to remove the property from the Board's jurisdiction until the historic review process has been completed and the Board has removed the section 106 condition.

The Board recognizes that in some cases there can be an overriding need for partial consummation and that partial consummation could be in the public interest (for example, where a portion of the line is needed to complete a highway project that is important to the community and the historic preservation condition applies only to another part of the line or to a structure that would not be disturbed by the highway project), or could further a legitimate private interest. Therefore, the Board's policy will be that, for good cause shown, a railroad may make a request to file a notice of consummation for a portion of the line prior to formal removal of a section 106 condition. The Board would then consider, on a case-

by-case basis, whether to waive its no-partial-consummation policy. The Board's primary concern in considering such requests will be to assure that partial consummation would not compromise satisfactory completion of the historic preservation process.

In some cases railroads have taken actions affecting rail property without first seeking abandonment authority. When this occurs on inactive lines, we generally do not discover these actions until after the fact when the carrier seeks abandonment authority. Such actions are unlawful. Not only is the rail line unlawfully severed from the national transportation system when this occurs, but the Board's ability to carry out its obligations under NEPA and NHPA may then be adversely affected. The Board will continue to carry out its obligations under those statutes and will take whatever steps necessary to enforce compliance with them. Railroads that take such actions may find not only that obtaining abandonment authority is delayed, but that the Board will require historic preservation training for the railroad's staff members who are involved with abandonment projects and require the railroad to document the in-house measures that it will implement to prevent such actions from occurring in the future. Other possible actions the Board may take include restricting the railroad's future ability to employ expedited procedures to obtain abandonment authority, imposing a financial penalty, and seeking a legal remedy against the railroad in a court of law.

**Other Environmental Conditions.** Most other environmental conditions imposed by the Board in abandonment cases relate to salvage activities. As discussed above, salvage activities can be one indicium of a railroad's intent to abandon. However, it is not necessary for a railroad to salvage a rail line in order to consummate abandonment authority. A railroad may decide not to salvage the line immediately upon being relieved of its service obligations, but rather to leave the track and ties in place. Therefore, the Board's policy is that a salvage condition,<sup>2</sup> unlike a section 106 condition, typically is not a regulatory barrier to the filing of a notice of consummation, and thus the existence of a salvage condition has no bearing on the consummation deadline.

<sup>2</sup> Salvage conditions are imposed on a case-by-case basis, but examples of conditions imposed in the past include permitting the railroad to salvage the line only during a particular time of year and requiring the railroad to provide notice to, or consult with, appropriate agencies prior to salvaging the line.

However, the salvage condition remains in place as a condition that attaches to the property and applies to salvage activities whenever they occur, even if salvage is conducted years later by a successor interest. Therefore, our policy will be to require any successor interest to agree to the condition by referencing the condition in the purchase contract or other instrument of conveyance, and by submitting a copy of that instrument of conveyance to the Board so that it can be filed in the docket of the relevant abandonment proceeding.

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

#### **Regulatory Flexibility Certification**

Pursuant to 5 U.S.C. 605(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. This action clarifies that conditions imposed by the Board under section 106 of NHPA are barriers to abandonment consummation, while NEPA salvage conditions are not. It also requires successor interests in properties encumbered with salvage conditions to reference the conditions in the instruments of conveyance, and to provide a copy of the instrument of conveyance to the Board so that it can be filed in the pertinent abandonment proceeding docket. These requirements will require little additional work and should not have a significant economic impact on a substantial number of small entities.

Decided: April 16, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

**Anne K. Quinlan,**

*Acting Secretary.*

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## **DEPARTMENT OF THE TREASURY**

### **Office of the Comptroller of the Currency**

#### **Agency Information Collection Activities: Proposed Information Collection; Comment Request**

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing

information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning its information collection titled, "OCC Communications Questionnaire and Usability Test Survey." The OCC is also giving notice that it has submitted the collection to OMB for review.

**DATES:** Comments must be submitted on or before May 23, 2008.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1-5, Attention: 1557-0226, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You may personally inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874-5043. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557-0226, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** You can request additional information or a copy of the collection from Mary Gottlieb, (202) 874-5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** The OCC is proposing to extend OMB approval of the following information collection:

*Title:* OCC Communications Questionnaire.

*OMB Control Number:* 1557-0226.

*Description:* The OCC is proposing to continue to collect information from national banks regarding the quality, timeliness, and effectiveness of OCC communications products, such as booklets, issuances, and CDs, and expand its collection to include a usability test of its Web site. Case scenarios would be presented to users to test their ability to find information or

complete a task on the Web site. Completed questionnaires will provide the OCC with information needed to properly evaluate the effectiveness of its paper and electronic communications products. The OCC would use the information to identify problems and to improve its service to national banks.

*Type of Review:* Regular review.

*Affected Public:* Businesses or other for-profit.

*Estimated Number of Respondents:* Communications Questionnaire: 2,600. Usability Test: 300.

*Estimated Total Annual Responses:* Communications Questionnaire: 2,600. Usability Test: 300.

*Estimated Frequency of Response:* 1 to 2 times annually.

*Estimated Time per Respondent:* Communications Questionnaire: 10 minutes.

Usability Test: 1 hour.

*Estimated Total Annual Burden:* 1,100 hours.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number.

On February 15, 2008, the OCC published a notice in the **Federal Register** soliciting comments for 60 days on this information collection (73 FR 8931). No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has 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 on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 17, 2008.

**Michele Meyer,**

*Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.*

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## DEPARTMENT OF THE TREASURY

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**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning its information collection titled, "Community Reinvestment Act Regulation—12 CFR 25." The OCC is also giving notice that it has submitted the collection to OMB for review.

**DATES:** Comments must be submitted on or before May 23, 2008.

**ADDRESSES:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mail Stop 1-5, Attention: 1557-0160, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You may personally inspect and photocopy comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874-5043. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

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