

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-156 (Sub-No. 21X)]

Delaware & Hudson Railway Company—Discontinuance of Trackage Rights Exemption—in Niagara and Erie Counties, NY

Delaware & Hudson Railway Company, d/b/a Canadian Pacific Railway (D&H), has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to discontinue trackage rights over a 26.7+/- mile portion of trackage owned by CSX Transportation, Inc. from a point near the base of the international railway bridge at Niagara Falls, Niagara County, NY, to Buffalo, Erie County, NY (line). The line is described as the following track segments: (i) Lockport Branch—milepost 75.8+/- to milepost 70.4+/-; (ii) Niagara Branch—milepost 19.7+/- to milepost 5.6+/-; and (iii) Belt Line Branch—milepost 7.2+/- to milepost 0.0+/- . The line traverses United States Postal Service Zip Codes 14304, 14305, 14120, 14150, 14206, 14207, 14211, 14212, 14214, 14216, and 14217.

D&H has certified that: (1) No local traffic has been handled to or from any customer for at least 2 years; (2) any overhead traffic routed over the line can be and has been 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 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 1152.50(d)(1) (notice to governmental agencies), and 49 CFR 1105.12 (newspaper publication) 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 April 4, 2002, unless stayed pending

reconsideration. Petitions to stay¹ and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² must be filed by March 15, 2002. Petitions to reopen must be filed by March 25, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to D&H's representative: Diane P. Gerth, Esq., Leonard, Street and Deinard Professional Association, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: February 22, 2002.

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

Vernon A. Williams,
Secretary.

[FR Doc. 02-4927 Filed 3-4-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket BTS-2001-10909]

Agency Information Collection Activities Under OMB Review: OMB No. 2139-0002 and 2139-0004 (Financial and Operating Statistics for Motor Carriers of Property)

AGENCY: Bureau of Transportation Statistics (BTS), U.S. DOT.

ACTION: Notice.

SUMMARY: The BTS announces that two Information Collection Requests (ICR) described in this notice have been sent to the Office of Management and Budget (OMB) for review and approval. The BTS is requesting OMB's renewal of the information collections required for the Financial and Operating Statistics for Motor Carriers of Property. The ICRs describe each information collection and its expected cost and burden. The **Federal Register** notice allowing for a 60-day comment period on the two information collections was published on November 5, 2001 (66 FR 55981).

¹ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c)(6).

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).

The BTS is required to send ICRs to OMB under the Paperwork Reduction Act.

DATES: Comments must be submitted by April 4, 2002.

ADDRESSES: Send comments to the U. S. Department of Transportation, Dockets Management System (DMS). You may submit your comments by mail or in person to the Docket Clerk, Docket No. BTS-2001-10909, Department of Transportation, 400 Seventh Street, SW., Room PL-401, Washington, DC 20590-0001. Comments should identify the docket number and be submitted in duplicate. If you would like the Department to acknowledge receipt of your comments, you must submit a self-addressed stamped postcard on which the following statement is made: Comments on Docket BTS-2001-10909. The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. The DMS is open for examination and copying, at the above address, from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (the Internet, fax, or professional delivery service) to submit comments to the docket and ensure their timely receipt at U.S. DOT. You may fax your comments to the DMS at (202) 493-2251.

If you wish to file comments using the Internet, you may use the DOT DMS Web site at <http://dms.dot.gov>. Please follow the online instructions for submitting an electronic comment.

We particularly request your comments on the accuracy of the estimated burden; ways to enhance the quality, usefulness, and clarity of the collected information; and ways to minimize the collection burden without reducing the quality of the information collected including additional use of automated collection techniques or other forms of information technology. The OMB requests comments within 30 days of publication of this notice to process the ICR expeditiously.

FOR FURTHER INFORMATION CONTACT: Paula R. Robinson, Compliance Program Manager, Office of Motor Carrier Information, K-13, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001; (202) 366-2984; fax: (202) 366-3364; e-mail: Paula.Robinson@bts.gov.

SUPPLEMENTARY INFORMATION:**Electronic Access**

You may view all comments submitted to Docket BTS-2001-10909

online through the Document Management System at <http://dms.dot.gov>.

Title: Financial and Operating Statistics for Motor Carriers of Property

OMB Approval Numbers: 2139-0002 (Form QFR) and 2139-0004 (Form M)

Following the publication of the November 5, 2001 Notice, the BTS received three comments. The issues raised in the comments are also addressed in the agency's supporting statement that was submitted previously to OMB. Requests for information on the supporting statement should be directed to the Information Contact named in this notice.

Background: The Quarterly Report of Class I Motor Carriers of Property (Form QFR) and Annual Report of Class I and Class II Motor Carriers of Property (Form M) are mandated reporting requirements for for-hire motor carriers. Motor carriers required to comply with the BTS regulations are classified on the basis of their gross annual operating revenues. Under the financial and operating statistics (F&OS) program, the BTS collects balance sheet and income statement data along with information on tonnage, mileage, employees, transportation equipment, and other related data. The data and information collected are made publicly available and used by the BTS to determine a motor carrier's compliance with the F&OS program requirements prescribed in the BTS regulations (49 CFR 1420). The regulations were formerly administered by Interstate Commerce Commission (ICC) and later transferred to the U.S. Department of Transportation on January 1, 1996, by the ICC Termination Act of 1995 (the Act), Public Law 104-88, 109 Stat. 803 (1995) (codified at 49 U.S.C. 14123).

The BTS published the required notice offering a 60-day comment period on two ICRs on November 5, 2001 (66 FR 55981). The agency received three comments to the docket. The commenters were: The Central Analysis Bureau, Inc. (CAB); International Brotherhood of Teamsters (IBT); and Inland Marine Underwriters Association (IMUA).

The first commenter, the CAB supported the agency's need for the data collection and categorized themselves as a "major user" of the F&OS data. They did however, point out that one ICR, the Form M, could be completed in substantially less time than 9 hours based on a motor carrier's efforts to compile the same data for corporate and tax purposes. The CAB felt the burden estimate for the second ICR, the Form QFR, was reasonable. Additionally, CAB

recommended the agency include additional data items on the Form M.

The second commenter, the IBT, made similar comments to those made by the CAB, estimating that the agency may have overstated the burden hours for Form M, and commented on other specific issues. Regarding the IBT's recommendation about "an explanatory statement," BTS does now include detailed instructions with the forms and does solicit "explanatory statement[s] * * * setting forth [any alternative] methodology used" by filing motor carriers, as suggested by the IBT.

Based on the fact that BTS collects F&OS data of critical importance, the agency recognizes the need to improve compliance as commenters suggested. BTS now carefully documents all communication (phone calls, faxes, e-mails, letters, etc.) and is adding staff in preparation for continuing to decrease the number of motor carriers not in compliance with BTS regulations.

Furthermore, the IBT commented on the need for a more automated system to track nonfilers and remind late-filers. BTS has, within the past year, developed and implemented a detailed, automated quality control and edit-check (QC/EC) system to improve the completeness of filed reports and the accuracy of the data submitted on them. In combination with motor carriers filing their Form M and Form QFR data over the Internet, which was implemented in the past year, this provides a system to track and remind carriers who aren't filing regularly. BTS notes that motor carriers are increasingly using electronic filing methods provided by the agency—diskettes, CDs, and the Internet.

In response to the IBT's comments on new-entrant classification, BTS recognizes the challenges in correctly classifying new-entrant carriers and welcomes suggestions of the IBT and other commenters to improve the system. The IBT states that "[a]lthough the regulations provide for [classification] * * * on the basis of estimated annual revenues, 49 CFR 1420(b)(2), in practice this is not done. Instead, new entrant carriers are automatically placed in Class III, where they may remain until BTS discovers that they have revenues sufficient to be in Class I or II." In practice, according to 49 CFR 1420.2(b)(1), BTS uses the three-year/\$3-million rule to classify carriers: "Upward and downward classification will be effected as of January 1 of the year immediately following the third consecutive year of revenue qualification." However, applying that rule to new entrants is particularly challenging and requires

using private sector data in the absence of a new-entrant carriers abiding by the mandatory self-classification requirement: "Carriers must notify [BTS] of any change in classification" (49 CFR 1420.2(b)(4)). BTS is working to remedy that new-entrant classification conundrum (no data upon which to estimate) by working with the Federal Motor Carrier Safety Administration (FMCSA) to include revenue data in the proposed Motor Carrier Replacement Information/Registration System. The BTS expects the revenue information on the proposed form, combined with number-of-power-units and other information, will improve the basis for carrier classification by providing public sector revenue-estimating information where there is none now (prior to a carrier's filing its Form M). However, BTS encourages the IBT and other commenters to provide information to BTS for new-entrant and other carrier classification purposes.

BTS recognizes the challenges that will arise as new Mexican carrier entrants appear in U.S. commerce. The IBT suggested that BTS use procedures to classify Mexican motor carriers based on annual earnings from their existing operations in Mexico combined with estimated or actual revenues from U.S. operations. With regard to the new-entrant classification regulations in 49 CFR 1420.2(b)(2), BTS understands the IBT is suggesting that [Mexican] revenue earned by Mexican carriers in Mexico could be used to estimate whether and how much a Mexican carrier likely began to earn over \$3 million gross operating revenue while traveling on U.S. highways. Such estimates would be used to classify the Mexican carrier as Class I, II or III. BTS will investigate that possibility, although BTS is not aware of the availability of public sector individual-carrier revenue-size data for Mexican carriers operating in Mexico. The point made by the IBT is that a more active effort needs to be taken to classify and include new-entrant North American carriers earning revenue on U.S. highways and intermodally. While this comment goes beyond the immediate paperwork burden issues, BTS will work with the available private sector data sources and develop FMCSA and other public sector sources. BTS recognizes this challenge and will continue to place emphasis on this issue.

The third commenter, the Inland Marine Underwriters Association (IMUA), supported the agency's need to renew the data collection and placed great value on the data and information collected by BTS. However, the IMUA, like the CAB, suggested that BTS

expand Form M to include suggested refinements to line items to collect what they consider useful data. With respect to the IMUA's recommendation about "names of corporate officers," it is instructive to point out that those data were collected in the past on predecessor forms to Form M and, as a result of a previous rulemaking, after receiving public comments, line items of limited value, including the listing of corporate officers were eliminated from predecessor forms to Form M. BTS is a statistical and a data agency specializing in numerical data for analysis. Although useful to some users, directory-like information would probably fall below the threshold of usefulness when compared with the additional burden to collect it. For public companies, this type of corporate information is a matter of record in the state of incorporation and easily retrieved by interested parties.

BTS thanks CAB, IBT, and IMUA for their comments and assures them and other potential commenters that BTS will continue to balance the need for a reduction in the paperwork burden

against the need for additional financial information. The CAB and IMUA provided no estimates for the additional data items suggested and the agency is reluctant to impose additional burdens without accurate estimates. Based on its previous efforts, BTS has found that the shorter the form, the easier it is for carriers to file; the easier it is for carriers to file, the more numerous the carriers that file; the greater the number of carriers that file, the less time needs to be devoted to compliance activities. Additional resources can then be put toward increasing data accuracy and report completeness to make the F&OS data more useful to thousands of users who value the increased comprehensiveness BTS has accomplished within the past year (approximately 50% increase in the number of motor carriers filing the 2000 Form M when compared to the number filing the 1999 Form M).

For additional information, interested parties may review the supporting statement the agency submitted to OMB.

(1) *Title:* Quarterly Report of Class I Motor Carriers of Property.

OMB Control No.: 2139-0002.

Respondents: Class I Motor Carriers of Property.

Number of Respondents: 1,000 (per quarter).

Estimated Time Per Response: 1.8 hours (27 minutes per quarter)

Total Annual Burden: 1,800 hours.

(2) *Title:* Annual Report of Class I and Class II Motor Carriers of Property. OMB Control No. 2139-0004.

Form No.: BTS Form M.

Respondents: Class I and Class II Motor Carriers of Property.

Number of Respondents: 3,000 (per year)

Estimated Time Per Response: 9 hours.

Total Annual Burden: 27,000 hours.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Issued on: February 26, 2002.

Russell B. Capelle, Jr.,

Assistant BTS Director for Motor Carrier Information, Department of Transportation.

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