

## §1105.11

## 49 CFR Ch. X (10–1–01 Edition)

(c) *Waivers.* (1) The provisions of paragraphs (a)(1) or (a)(4) of this section or any STB-established time frames in paragraph (b) of this section may be waived or modified where appropriate.

(2) Requests for waiver of §1105.10(a)(1) must describe as completely as possible the anticipated environmental effects of the proposed action, and the timing of the proposed action, and show that all or part of the six month lead period is not appropriate.

(d) *Third-Party Consultants.* Applicants may utilize independent third-party consultants to prepare any necessary environmental documentation, if approved by SEA. The environmental reporting requirements that would otherwise apply will be waived if a railroad hires a consultant, SEA approves the scope of the consultant's work, and the consultant works under SEA's supervision. In such a case, the consultant acts on behalf of the Board, working under SEA's direction to collect the needed environmental information and compile it into a draft EA or draft EIS, which is then submitted to SEA for its review, verification, and approval. We encourage the use of third-party consultants.

(e) *Service of Environmental Pleadings.* Agencies and interested parties sending material on environmental and historic preservation issues directly to the Board should send copies to the applicant. Copies of Board communications to third-parties involving environmental and historic preservation issues also will be sent to the applicant where appropriate.

(f) *Consideration in decisionmaking.* The environmental documentation (generally an EA or an EIS) and the comments and responses thereto concerning environmental, historic preservation, CZMA, and endangered species issues will be part of the record considered by the Board in the proceeding involved. The Board will decide what, if any, environmental or historic preservation conditions to impose upon the authority it issues based on the environmental record and its substantive responsibilities under the Interstate Commerce Act. The Board will withhold a decision, stay the effective date

of an exemption, or impose appropriate conditions upon any authority granted, when an environmental or historic preservation issue has not yet been resolved.

(g) *Finding of No Significant Impact.* In all exemption cases, if no environmental or historic preservation issues are raised by any party or identified by SEA in its independent investigation, the Board will issue a separate decision making a Finding of No Significant Impact ("FONSI") to show that it has formally considered the environmental record.

[56 FR 36105, July 31, 1991 as amended at 56 FR 49821, Oct. 1, 1991; 64 FR 53268, Oct. 1, 1999]

### §1105.11 Transmittal letter for Applicant's Report.

A carrier shall send a copy of its Environmental and/or Historic Report to the agencies identified in section 1105.7(b) and/or the appropriate State Historic Preservation Officer(s) and certify to the Board that it has done this. The form letter contained in the Appendix to this section should be used in transmitting the Environmental and/or Historic Reports.

#### APPENDIX TO §1105.11—TRANSMITTAL LETTER FOR APPLICANT'S REPORT

(Carrier Letterhead)

(Addresses)

Re: (Brief description of proposed action with STB docket number, if available)

(Date)

On (date), we are (or expect to be) filing with the Surface Transportation Board a (type of proceeding) seeking authority to ( ) located in (state) (city or town) and (mileposts, if applicable). Attached is an Environmental Report (and/or Historic Report) describing the proposed action and any expected environmental (and/or historic) effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423, telephone [INSERT TELEPHONE NUMBER] and refer to the above *Docket No.*

## Surface Transportation Board, DOT

## §1105.12

(if available). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is (name) who may be contacted by telephone at (telephone number) or by mail at (address).

(Complimentary close)  
(Name and title of author of letter)

[56 FR 36105, July 31, 1991, as amended at 58 FR 44619, Aug. 24, 1993; 64 FR 53268, Oct. 1, 1999]

### §1105.12 Sample newspaper notices for abandonment exemption cases.

In every abandonment exemption case, the applicant shall publish a notice in a newspaper of general circulation in each county in which the line is located and certify to the Board that it has done this by the date its notice of (or petition for) exemption is filed. The notice shall alert the public to the proposed abandonment, to available reuse alternatives, such as trail use and public use, and to how it may participate in a Board proceeding. Sample newspaper notices are provided in the Appendix to this section for guidance to the railroads.

#### APPENDIX TO §1105.12—SAMPLE NEWSPAPER NOTICES

##### SAMPLE LOCAL NEWSPAPER NOTICE FOR OUT-OF-SERVICE ABANDONMENT EXEMPTIONS NOTICE OF INTENT TO ABANDON OR TO DISCONTINUE RAIL SERVICE

(Name of railroad) gives notice that on or about (insert date notice of exemption will be filed with the Surface Transportation Board), it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* permitting the (abandonment of or discontinuance of service on) a \_\_\_\_\_ mile line of railroad between railroad milepost \_\_\_\_\_, near (station name), which traverses through United States Postal Service ZIP Codes (ZIP Codes) and railroad milepost \_\_\_\_\_, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes) in \_\_\_\_\_ County(ies), (State). The proceeding will be docketed as No. AB \_\_\_\_\_ (Sub-No. \_\_\_\_\_ X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis (SEA), Surface Transportation Board, Washington, DC 20423 or by calling that office at 202-927-6211.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, NW., Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at [INSERT TELEPHONE NUMBER]. Copies of any comments or requests for conditions should be served on the applicant's representative: (name, address and phone number).

##### SAMPLE LOCAL NEWSPAPER NOTICE FOR PETITIONS FOR ABANDONMENT EXEMPTIONS NOTICE OF INTENT TO ABANDON OR TO DISCONTINUE RAIL SERVICE

(Name of railroad) gives notice that on or about (insert date petition for abandonment exemption will be filed with the Surface Transportation Board) it intends to file with the Surface Transportation Board, Washington, DC 20423, a petition for exemption under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting the (abandonment of or discontinuance of service on) a \_\_\_\_\_ mile line of railroad between railroad milepost \_\_\_\_\_, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes), and railroad milepost \_\_\_\_\_, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes) in \_\_\_\_\_ County(ies), (State). The proceeding has been docketed as No. AB \_\_\_\_\_ (Sub-No. \_\_\_\_\_ X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption.