

Washing Systems, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch System*, 116 *Motor Vehicle Brake Fluids*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Mounting*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 225 *Child Restraint Anchorage Systems*, 301 *Fuel System Integrity*, 302 *Flammability of Interior Materials*, and 401 *Interior Trunk Release*.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: installation of a U.S.-model instrument cluster. U.S. version software must also be downloaded to meet the requirements of this standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model headlamps, front side marker lamps, taillamp assemblies that incorporate rear side marker lamps, a high-mounted stoplamp assembly, and front and rear side reflex reflectors.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirrors*: installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection*: installation of U.S. version software to meet the requirements of this standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems*: installation of U.S. version software, or installation of a supplemental relay system to meet the requirements of the standard.

Standard No. 208 *Occupant Crash Protection*: installation of U.S. version software to ensure that the seat belt warning system meets the requirements of this standard.

Petitioner states that the vehicle's restraint system components include U.S.-model airbags and knee bolsters, and combination lap and shoulder belts at the outboard front designated seating positions.

Standard No. 209 *Seat Belt Assemblies*: inspection of all vehicles and replacement of any non-U.S.-model

seat belts with U.S.-model components on vehicles that are not already so equipped.

The petitioner also states that all vehicles will be inspected for conformity with the Bumper Standard found in 49 CFR Part 581 and that any non-U.S.-model components necessary for conformity with this standard will be replaced with U.S.-model components.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 05-4297 Filed 3-7-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34667]

BNSF Railway Company—Acquisition and Operation—State of South Dakota

AGENCY: Surface Transportation Board.

ACTION: Notice of filing of application and request for public comments.

SUMMARY: BNSF Railway Company (BNSF)¹ has filed an application under 49 U.S.C. 10901 for authority to acquire and operate approximately 368 miles of railroad lines (referred to as the “Core Lines”) that are owned by the State of

South Dakota (the State).² The Core Lines, which are described in a July 10, 1986 Operating Agreement between Burlington Northern Railroad Company (BN, a BNSF predecessor) and the State, extend principally: between milepost (MP) 777.0 near Aberdeen, SD, and MP 650.6 near Mitchell, SD; between MP 518.9 near Sioux City, IA, and MP 649.7 near Mitchell, SD; between MP 293.1 near Canton, SD, and MP 650.6 near Mitchell, SD;³ between MPs 74.1 and 68.8 in Sioux Falls, SD; between MP 68.8 near Sioux Falls, SD, and MP 49.4 near Canton, SD; and between MPs 511.9 and 518.9 in Sioux City, IA.

DATES: Comments respecting the BNSF application must be filed by March 11, 2005. Replies to such comments must be filed by March 25, 2005.

ADDRESSES: Any filing submitted in this proceeding must be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's <http://www.stb.dot.gov> Web site, at the “E-FILING” link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (and also an IBM-compatible floppy disk with any textual submission in any version of either Microsoft Word or WordPerfect) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each filing in this proceeding must be sent to each of the following (any such copy may be sent by e-mail or fax, but only if service by e-mail or fax is acceptable to the recipient): Adrian L. Steel, Jr., Mayer, Brown, Rowe & Maw LLP, 1909 K Street, NW., Washington, DC 20006-1101 (phone: (202) 263-3237; fax: (202) 263-5237); and Sarah W. Bailiff, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131 (phone: (817) 352-2354; fax: (817) 352-2397).

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1609. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

² BNSF previously indicated that the Core Lines consist of approximately 369.7 miles of railroad lines. See *The Burlington Northern and Santa Fe Railway Company C—Acquisition and Operation Exemption—State of South Dakota*, STB Finance Docket No. 34645 (STB served Jan. 19, 2005). The slight discrepancy (the 368 miles now indicated vs. the 369.7 miles previously indicated) has not been explained.

³ The distance between MP 293.1 near Canton and MP 650.6 near Mitchell is approximately 81.50 miles. See BNSF's application, Exhibit B, Appendix 1 at 6. BNSF has not explained the discrepancy respecting the milepost designations.

¹ Effective January 20, 2005, The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company.

SUPPLEMENTARY INFORMATION: The Core Lines were once part of the rail system operated by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (the Milwaukee Road). The Milwaukee Road entered bankruptcy in 1977, and, in 1980, it received, both from the Interstate Commerce Commission (ICC) and from the bankruptcy court, approval to abandon the Core Lines. In March 1980, the Milwaukee Road terminated its Core Lines operations, and thereafter, for more than a year, shippers located on the Core Lines had no rail service of any kind. In 1981, the abandoned Core Lines were acquired by the State, and, since on or about July 6, 1981, BN/BNSF has provided common carrier rail service over the Core Lines pursuant to various agreements (the most recent of which is the 1986 Operating Agreement) with the State,⁴ and pursuant to a Modified Certificate of Public Convenience and Necessity (the modified certificate) issued by the ICC. See 49 CFR Part 1150, Subpart C (§ 1150.21 *et seq.*) (these are the “modified certificate” regulations that apply to operations over abandoned rail lines that have been acquired, through purchase or lease, by a State).

A contractual dispute has arisen respecting the scope of the rights retained by or granted to the State and/or BNSF under the 1986 Operating Agreement. On June 29, 2004, BNSF advised the State that it desired to exercise its “purchase option” right (said to be provided in the 1986 Operating Agreement) to acquire the Core Lines. The State apparently contends that the 1986 Operating Agreement gives BNSF no right to acquire the Core Lines and/or gives the State a right to allow other railroads to operate over the Core Lines. BNSF apparently contends that the 1986 Operating Agreement gives BNSF a right to acquire the Core Lines and gives the State no right to allow other railroads to operate over the Core Lines. The dispute concerning the various rights asserted by the State and BNSF is now the subject of litigation in *The Burlington Northern and Santa Fe Railway Company v. State of South Dakota*, Civ. No. 04-470 (S.D. 6th Circuit).

The contractual dispute between BNSF and the State must be resolved by the court; that dispute will *not* be resolved by the Board. However, a related matter—BNSF’s request that the Board authorize BNSF to acquire and operate the Core Lines—must be

resolved by the Board. But even if the Board authorizes BNSF to acquire the Core Lines, that authorization is only permissive. If the South Dakota state court decides that BNSF does not have, under the 1986 Operating Agreement, a right to acquire the Core Lines, then any Board-granted authority cannot be exercised.⁵

On December 23, 2004, BNSF filed, in STB Finance Docket No. 34645, *The Burlington Northern and Santa Fe Railway Company—Acquisition and Operation Exemption—State of South Dakota*, a verified notice of exemption under 49 CFR 1150.31 to acquire and operate the Core Lines. By decision served January 14, 2005,⁶ the Board rejected BNSF’s § 1150.31 exemption notice on the ground that the transaction contemplated by BNSF (the transfer of the Core Lines from modified certificate” status to § 10901 “railroad line” status) was not appropriate for consideration under the § 1150.31 “class exemption” procedure. The Board explained that, whereas the § 1150.31 class exemption typically applies to routine transactions that are not subject to substantial controversy and opposition, the transaction contemplated by BNSF was neither routine nor noncontroversial. Therefore, the Board required BNSF to file either a § 10502 exemption petition or a formal § 10901 application, in order to compile a record that would allow the Board to resolve the issues raised. The Board specified that BNSF should file a petition or an application as soon as possible; that BNSF should include, in this filing, its entire “case in chief”; that the State should submit its reply to this filing no later than the 21st day after the date on which the filing was made; that the State should include, in this submission, its entire case; and that BNSF should submit its response to the State’s reply no later than the 14th day after the date on which the reply was filed.

On February 18, 2005, BNSF filed, in STB Finance Docket No. 34667, *BNSF Railway Company—Acquisition and Operation—State of South Dakota*, a formal “10901 application. This application seeks authority, under 49 U.S.C. 10901 and 49 CFR part 1150, subpart A (§ 1150.1 *et seq.*), to acquire

and operate the Core Lines. The formal application filed in STB Finance Docket No. 34667 contemplates the same transaction that was contemplated by the class exemption notice previously filed in STB Finance Docket No. 34645: the transfer of the Core Lines from “modified certificate” status to § 10901 “railroad line” status.

As indicated in the decision served January 14, 2005, in STB Finance Docket No. 34645, comments respecting the BNSF application must be filed by March 11, 2005 (the 21st day after the date on which the application was filed), and replies to such comments must be filed by March 25, 2005 (the 14th day after March 11th).

The application filed by BNSF in STB Finance Docket No. 34667 is available for public inspection in the Docket File Reading Room (Room 755) at the offices of the Surface Transportation Board, 1925 K Street, NW., in Washington, DC. The application is also available for inspection at BNSF’s offices, at 2500 Lou Menk Drive, in Fort Worth, TX. The application is also available for viewing and downloading at the Board’s Web site, at <http://www.stb.dot.gov>. In addition, copies of the application may be obtained from BNSF’s representatives (Adrian L. Steel, Jr., and Sarah W. Bailiff) at the addresses indicated above.

Board decisions and notices are available on the Board’s Web site at <http://www.stb.dot.gov>.

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

Decided: March 2, 2005.

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

Vernon A. Williams,
Secretary.

[FR Doc. 05-4417 Filed 3-7-05; 8:45 am]

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DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 2, 2005.

The Department of the 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

⁴ BNSF advises that, under the 1986 Operating Agreement, it currently operates over the Core Lines as a lessee (*i.e.*, the 1986 Operating Agreement provides for a lease of the Core Lines to BNSF).

⁵ BNSF has acknowledged this point. See BNSF’s application at 4: “BNSF recognizes that it will need to prevail in acquiring the Core Lines from the State whether through voluntary conveyance by the State or involuntary conveyance as may be ordered by the state court before BNSF can acquire title to the Lines.

⁶ *The Burlington Northern and Santa Fe Railway Company C Acquisition and Operation Exemption C State of South Dakota*, STB Finance Docket No. 34645 (STB served Jan. 14, 2005).