

Issued on Washington, DC, on May 31, 1996.
 Federico Peña,
Secretary of Transportation.
 [FR Doc. 96-14246 Filed 6-21-96; 8:45 am]
 BILLING CODE 4910-62-P

Surface Transportation Board

49 CFR Parts 1002 and 1150

[STB Ex Parte No. 529]

Class Exemption for Acquisition Or Operation Of Rail Lines By Class III Rail Carriers Under 49 U.S.C. 10902

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: Pursuant to the request by the Regional Railroads of America and The American Short Line Railroad Association, the Surface Transportation Board (Board) grants final approval for a class exemption for the acquisition or operation of additional rail lines by Class III rail carriers. Final regulations establishing the exemption for the acquisitions are set forth below.

EFFECTIVE DATE: July 24, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph Dettmar, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Pursuant to the request by the Regional Railroads of America and The American Short Line Railroad Association, the Board proposed a new class exemption to apply to transactions in which Class III rail carriers acquire or operate additional rail properties under 49 U.S.C. 10902. By notice of proposed rulemaking served and published in the Federal Register on March 22, 1996 (61 FR 11802-11804), the Board requested comments on the proposed exemption. Upon reviewing the comments, the Board is adopting the proposed class exemption, with minor editorial changes, because it meets the exemption criteria of 49 U.S.C. 10502. The class exemption will be similar to the Board's existing rules for noncarrier transactions under 49 U.S.C. 10901. Because section 10902 precludes the Board from imposing labor protection on Class III carriers receiving a certificate under the statute, the class exemption will not provide labor protection for affected rail employees. Additional information is contained in the Board's decision served on June 21, 1996. To purchase a copy of the decision, write to, call, or pick up in person from: DC News & Data, Inc., 1201 Constitution Avenue, N.W., Room 2229, Washington, D.C. 20423.

[Assistance for the hearing impaired is available through TDD service (202) 927-5721.]

List of Subjects

49 CFR Part 1002

Administrative practice and procedure, Freedom of information, User fees.

49 CFR Part 1150

Administrative practice and procedure, Railroads.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen. Chairman Morgan commented with a separate expression. Commissioner Owen concurred in part and dissented in part with a separate expression.

Decided: June 14, 1996.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, the Board amends title 49, chapter X, parts 1002 and 1150 of the Code of Federal Regulations, as follows:

PART 1002—FEES

1. The authority citation for part 1002 is revised to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721(a).

2. Section 1002.2 is amended by adding a new paragraph (f) (36) to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) * * *

Type of proceeding	Fee
* * * * *	*
(36) Notice of exemption under 49 CFR 1150.41-1150.45	\$950
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PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES

3. The authority citation for part 1150 is revised to read as follows:

Authority: 5 U.S.C. 553 and 559; 49 U.S.C. 721(a), 10502, 10901, and 10902.

4. The heading for Subpart D is revised to read as follows:

Subpart D—Exempt Transactions Under 49 U.S.C. 10901

5. A new Subpart E, consisting of §§ 1150.41-1150.45, is added to read as follows:

Subpart E—Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers

Sec.

1150.41 Scope of exemption.

1150.42 Procedures and relevant dates for small line acquisitions.

1150.43 Information to be contained in notice for small line acquisitions.

1150.44 Caption summary.

1150.45 Procedures and relevant dates—transactions under section 10902 that involve creation of Class I or Class II rail carriers.

Subpart E—Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers

§ 1150.41 Scope of exemption.

Except as indicated in paragraphs (a) through (d) of this section, this exemption applies to acquisitions or operations by Class III rail carriers under section 10902. This exemption also includes:

(a) Acquisition by a Class III rail carrier of rail property that would be operated by a third party;

(b) Operation by a Class III carrier of rail property acquired by a third party;

(c) A change in operators on such a line; and

(d) Acquisition of incidental trackage rights. Incidental trackage rights include the grant of trackage rights by the seller, or the acquisition of trackage rights to operate over the line of a third party, that occurs at the time of the purchase.

§ 1150.42 Procedures and relevant dates for small line acquisitions.

(a) This exemption applies to the acquisition of rail lines with projected annual revenues which, together with the acquiring carrier's projected annual revenue, do not exceed the annual revenue of a Class III railroad. To qualify for this exemption, the Class III rail carrier applicant must file a verified notice providing details about the transaction, and a brief caption summary, conforming to the format in § 1150.44, for publication in the Federal Register. In addition to the written submission, the notice and summary must be submitted on a 3.5-inch diskette formatted for WordPerfect 5.1.

(b) The exemption will be effective 7 days after the notice is filed. The Board, through the Director of the Office of Proceedings, will publish a notice in the Federal Register within 30 days of the filing. A change in operators must follow the provisions at § 1150.44, and notice must be given to shippers.

(c) If the notice contains false or misleading information, the exemption is void *ab initio*. A petition to revoke

under 49 U.S.C. 10502(d) does not automatically stay the exemption.

(d) Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, is achieved.

§ 1150.43 Information to be contained in notice for small line acquisitions.

(a) The full name and address of the Class III rail carrier applicant;

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

(d) The operator of the property;

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant;

(2) The proposed time schedule for consummation of the transaction;

(3) The mileposts of the subject property, including any branch lines; and

(4) The total route miles being acquired;

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states; and

(g) A certificate that applicant's projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier so as to require processing under § 1150.45.

§ 1150.44 Caption summary.

The caption summary must be in the following form. The information symbolized by numbers is identified in the key as follows:

Surface Transportation Board; Notice of Exemption; STB Finance Docket No. (1)—Exemption (2)—(3)

(1) Has filed a notice of exemption to (2) (3)'s line between (4). Comments must be filed with the Board and served on (5). (6).

Key to symbols:

(1) Name of carrier acquiring or operating the line.

(2) The type of transaction, e.g., to acquire or operate.

(3) The transferor.

(4) Describe the line.

(5) Petitioner's representative, address, and telephone number.

(6) Cross reference to other class exemptions being used.

The notice is filed under 49 CFR 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

§ 1150.45 Procedures and relevant dates—transactions under section 10902 that involve creation of Class I or Class II rail carriers.

(a) To qualify for this exemption, applicant must serve a notice of intent to file a notice of exemption no later than 14 days before the notice of exemption is filed with the Board.

(b) The notice of intent must contain all the information required in § 1150.43 plus:

(1) A general statement of service intentions; and

(2) A general statement of labor impacts.

(c) The notice of intent must be served on:

(1) The Governor of each state in which track is to be sold;

(2) The state(s) Department of Transportation or equivalent agency;

(3) The national offices of the labor unions with employees on the affected line(s); and

(4) Shippers representing at least 50 percent of the volume of local traffic and traffic originating or terminating on the line(s) in the most recent 12 months for which data are available (beginning with the largest shipper and working down).

(d) Applicant must also file a verified notice of exemption conforming to the requirements of paragraph (b) of this section and of § 1150.44, and certify compliance with paragraphs (a), (b), and (c) of this section, attaching a copy of the notice of intent. In addition to the written submission, the notice must be submitted on a 3.5-inch diskette formatted for WordPerfect 5.1.

(e) The exemption will be effective 21 days after the notice is filed. The Board, through the Director of the Office of Proceedings, will publish a notice in the Federal Register within 30 days of the filing.

(f) If the notice contains false or misleading information, the exemption is void *ab initio*. A petition to revoke under 49 U.S.C. 10502(d) does not automatically stay the transaction. Stay petitions must be filed within 7 days of the filing of the notice of exemption. Replies will be due 7 days thereafter. To be considered, stay petitions must be timely served on the applicant.

(g) Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, is achieved.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018 AC30

Endangered and Threatened Wildlife and Plants; Reclassification of Saltwater Crocodile Population in Australia From Endangered to Threatened With Special Rule for the Saltwater and Nile Crocodiles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The saltwater crocodile (*Crocodylus porosus*) in Australia is reclassified from endangered to threatened under the provisions of the U.S. Endangered Species Act (Act) of 1973. The saltwater crocodile had been listed as endangered throughout its range since 1979, except the Papua New Guinea population, which has never been listed. A special rule, included herein, allows for the importation into the United States of certain specimens of saltwater crocodiles from Australia and Nile crocodiles from those countries in which this latter species is listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Such imports must be consistent with the requirements of CITES and certain other provisions.

EFFECTIVE DATE: July 24, 1996. However, compliance with § 17.42(c)(3)(i)(A) is not required until July 24, 1997.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; room 725, Arlington Square; 4401 N. Fairfax Drive, U.S. Fish and Wildlife Service; Arlington, Virginia 22203. Fax number (703) 358-2276. Express and messenger delivered mail should be addressed to the Office of Scientific Authority; room 750, 4401 N. Fairfax Drive; Arlington, Virginia 22203. Comments and other information received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address, or by phone at (703) 358-1708.

SUPPLEMENTARY INFORMATION:

Background

The saltwater or estuarine crocodile (*Crocodylus porosus*) ranges from southwest India and along its eastern