

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****49 CFR Parts 1105 and 1180****[Ex Parte No. 282 (Sub-No. 19)]****New Procedures in Rail Acquisitions, Mergers and Consolidations****AGENCY:** Surface Transportation Board.**ACTION:** Proposed rule, withdrawal.

**SUMMARY:** The Surface Transportation Board (Board) is withdrawing the proposed rule and discontinuing the Ex Parte No. 282 (Sub-No. 19) rulemaking proceeding relating to new procedures in rail acquisitions, mergers and consolidations.

**DATES:** The proposed rule is withdrawn and the rulemaking proceeding is discontinued on November 24, 1999.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695.]

**SUPPLEMENTARY INFORMATION:** In a notice of proposed rulemaking (NPR) that was served January 26, 1995 (an inadvertently omitted Appendix A was served January 27, 1995), and that was published in the **Federal Register** on January 31, 1995, at 60 FR 5890, the Interstate Commerce Commission (Commission) proposed to revise parts 1105 and 1180 of Title 49, Code of Federal Regulations, in order to establish procedures that might ensure a more expeditious handling of proceedings involving transactions subject to the jurisdiction of the Commission under former 49 U.S.C. 11343, 11344, and 11345. As respects "major" transactions (*i.e.*, transactions involving the merger or control of two or more Class I railroads), the Commission proposed a 180-day procedural schedule (*i.e.*, a procedural schedule under which the final decision would be issued 180 days after the date on which the primary application was filed). As respects "significant" transactions (*i.e.*, transactions that are of regional or national transportation significance but that do not involve the merger or control of two or more Class I railroads) and "minor" transactions (*i.e.*, transactions that are neither major nor significant), the Commission proposed conforming changes to 49 CFR 1180.4 (to ensure that the timetables applicable to significant transactions and minor transactions would be at least as expedited as the timetable applicable to major transactions). The Commission also proposed conforming changes to its 49 CFR part 1105 environmental regulations.

The ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (ICCTA), which was signed into law by President Clinton on December 29, 1995, abolished the Commission, established the Board, reenacted with certain changes the relevant statutory provisions, and transferred to the Board responsibility for the performance of functions respecting those statutory provisions. *See* ICCTA section 101 (abolition of the Commission); new 49 U.S.C. 701(a), as enacted by ICCTA section 201(a) (establishment of the Board); new 49 U.S.C. 11323, 11324, and 11325, as enacted by ICCTA section 102(a) (these are the post-1995 versions, as respects railroads, of what had been 49 U.S.C. 11343, 11344, and 11345, respectively); new 49 U.S.C. 702, as enacted by ICCTA section 201(a) (except as otherwise provided, the functions previously performed by the Commission shall henceforth be performed by the Board); ICCTA section 204(b)(1) (any proceeding pending before the Commission at the time of the enactment of ICCTA shall be transferred to the Board, insofar as that proceeding concerns functions transferred to the Board). In accordance with the mandate of ICCTA section 204(b)(1), the Ex Parte No. 282 (Sub-No. 19) rulemaking proceeding, which had been instituted by the Commission in the 1995 NPR, was transferred to the Board.

We have decided to withdraw the rule proposed by the Commission in the 1995 NPR and to discontinue the Ex Parte No. 282 (Sub-No. 19) rulemaking proceeding. Our experience with the administration of major transaction cases handled under new 49 U.S.C. 11323-25 has led us to conclude that we should continue the case-by-case approach under which, as respects any particular major transaction, we can adopt a procedural schedule best suited to the full and fair development of the record for that transaction. *See, e.g., CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidation Rail Corporation*, STB Finance Docket No. 33388, Decision No. 6 (STB served May 30, 1997, and published that day in the **Federal Register** at 62 FR 29387) (adopting a 350-day procedural schedule to govern the major transaction at issue in the STB Finance Docket No. 33388 proceeding); *Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporated—Control—Illinois Central Corporation, Illinois*

*Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company*, STB Finance Docket No. 33556, Decision No. 6 (STB served Aug. 14, 1998, and published that day in the **Federal Register** at 63 FR 43744) (adopting a 300-day procedural schedule to govern the major transaction at issue in the STB Finance Docket No. 33556 proceeding).

**Small Entities**

The Board certifies that the action taken in this proceeding will not have a significant economic impact on a substantial number of small entities.

**Environmental and Energy Considerations**

The action taken in this proceeding will not significantly affect either the quality of the human environment or the conservation of energy resources.

**Board Releases Available Via the Internet**

Decisions and notices of the Board, including this notice, are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: November 17, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 99-30543 Filed 11-23-99; 8:45 am]

**BILLING CODE 4915-00-P**

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****49 CFR Part 1180****[Ex Parte No. 282 (Sub-No. 15)]****Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision****AGENCY:** Surface Transportation Board.**ACTION:** Proposed rule, withdrawal.

**SUMMARY:** The Surface Transportation Board (Board) is withdrawing the proposed rule and discontinuing the Ex Parte No. 282 (Sub-No. 15) rulemaking proceeding relating to a class exemption for railroad transactions subject to the statutory consolidation provision.

**DATES:** The proposed rule is withdrawn and the rulemaking proceeding is discontinued on November 24, 1999.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695.]

**SUPPLEMENTARY INFORMATION:** In a notice of proposed rulemaking (NPR) served July 13, 1992 (published in the **Federal Register** on July 14, 1992, at 57 FR 31165), the Interstate Commerce Commission (Commission) proposed to expand the scope of its 49 CFR 1180.2(d)(2) class exemption. That exemption, as it existed in 1992 and as it continues to exist today, exempts from the otherwise applicable prior approval requirements the acquisition or continuance in control of a nonconnecting railroad or one of its lines where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a Class I railroad. In the NPR, the Commission proposed to expand the 49 CFR 1180.2(d)(2) exemption so that it would embrace any transaction that required approval and authorization under former 49 U.S.C. 11343, provided that the transaction did not involve (i) the merger or control of at least two Class I railroads, (ii) a reduction in the number of noncommonly-controlled railroads conducting operations between any two points, or (iii) a reduction from three to two in the number of noncommonly-controlled railroads serving any interchange point.

The ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (ICCTA), which was signed into law by President Clinton on December 29, 1995, abolished the Commission, established the Board, reenacted (with certain changes not presently of consequence) the relevant statutory provision, and transferred to the Board responsibility for the performance of functions respecting that statutory provision. See ICCTA section 101 (abolition of the Commission); new 49 U.S.C. 701(a), as enacted by ICCTA section 201(a) (establishment of the Board); new 49 U.S.C. 11323, as enacted by ICCTA section 102(a) (this is the post-1995 version, as respects railroads, of what had been 49 U.S.C. 11343); new 49 U.S.C. 702, as enacted by ICCTA section 201(a) (except as otherwise provided, the functions previously performed by the Commission shall henceforth be performed by the Board); ICCTA section 204(b)(1) (any proceeding pending before the Commission at the time of the enactment of ICCTA shall be transferred to the Board, insofar as that proceeding concerns functions transferred to the

Board). In accordance with the mandate of ICCTA section 204(b)(1), the Ex Parte No. 282 (Sub-No. 15) rulemaking proceeding, which had been instituted by the Commission in the 1992 NPR, was transferred to the Board.

We have decided to withdraw the rule proposed by the Commission in the 1992 NPR and to discontinue the Ex Parte No. 282 (Sub-No. 15) rulemaking proceeding. Our experience with the administration of cases handled under new 49 U.S.C. 11323 has led us to conclude that there is no pressing necessity for the expansion of the 49 CFR 1180.2(d)(2) class exemption. Any 49 U.S.C. 11323 transaction that is not embraced by any of the existing 49 CFR 1180.2(d) class exemptions but that would be embraced by the expanded 49 CFR 1180.2(d)(2) class exemption proposed by the Commission can be handled under the individualized exemption procedures now codified at 49 CFR part 1121, and appropriate determinations can be made on a case-by-case basis.

#### Small Entities

The Board certifies that the action taken in this proceeding will not have a significant economic impact on a substantial number of small entities.

#### Environmental and Energy Considerations

The action taken in this proceeding will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### Board Releases Available Via the Internet

Decisions and notices of the Board, including this notice, are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: November 17, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

**Vernon A. Williams,**

*Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 991118308-9308-01; I.D. 101899C]

RIN 0648-AN33

#### Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Control Date

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Advance notice of proposed rulemaking; notice of control date for the Pacific Coast groundfish fishery; request for comments.

**SUMMARY:** This document announces a control date of September 16, 1999, after which vessels eligible for benefits under the American Fisheries Act (AFA) may be subject to restrictions on participation in the Pacific Coast groundfish fisheries. The intended effect of announcing this control date is to discourage speculative entry into the Pacific coast groundfish fisheries by AFA-qualified vessels while the Pacific Fishery Management Council (Council) develops recommendations to protect the Pacific Coast groundfish fisheries from adverse impacts caused by the AFA.

**DATES:** Comments may be submitted in writing by December 27, 1999.

**ADDRESSES:** Comments may be mailed to Jerry Mallet, Chairman, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

**FOR FURTHER INFORMATION CONTACT:** The Pacific Fishery Management Council at 503-326-6352; or Bill Robinson at 206-526-6140; or Svein Fougner at 562-980-4000.

**SUPPLEMENTARY INFORMATION:** The Pacific Fishery Management Council (Council) established under section 302(a)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(F)) is considering recommendations for approval by NMFS of conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by the AFA (Pub.L. 105-277, Div. C, Title II, October 21, 1998, 112 Stat. 2681-616; 16 U.S.C. 1851 note; 46 U.S.C. 101 note, 12102, 31322; 46 App. 1274 note), or by any