

**DATES:** This rule is effective on June 22, 2003.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565-1600. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:** The rules adopted here were initially proposed in the **Federal Register** at 68 FR 6695, on February 10, 2003. Additional information is contained in the Board's decision. Copies of the Board's decision may be purchased from Da-2-Da Legal Copy Service by calling 202-293-7776 (assistance for the hearing impaired is available through FIRS at 1-800-877-8339) or visiting Suite 405, 1925 K Street, NW., Washington, DC 20006.

By a separate decision served on February 10, 2003, in these proceedings, the Director of the Office of Proceedings has certified that this rule would not have a significant impact on a substantial number of small entities. The Board has received no public comment disputing the certification.

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

#### List of Subjects in 49 CFR Part 1180

Administrative practice and procedure, Railroads.

**Authority:** 49 U.S.C. 10502(b) and 5 U.S.C. 553.

Decided: May 9, 2003.

By the Board, Chairman Nober and Commissioner Morgan.

**Vernon A. Williams,**  
*Secretary.*

■ For the reasons set forth in the preamble, the Surface Transportation Board amends part 1180 of title 49, chapter X, of the Code of Federal Regulations as follows:

#### **PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES**

■ 1. The authority citation for Part 1180 continues to read as follows:

**Authority:** 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, and 11323-11325.

■ 2. Amend § 1180.2 by revising the first sentence of paragraph (d) introductory text and by adding a new paragraph (d)(8) to read as follows:

#### **§ 1180.2 Types of transactions.**

\* \* \* \* \*

(d) A transaction is exempt if it is within one of the eight categories described in paragraphs (d)(1) through (8). \* \* \*

\* \* \* \* \*

(8) Acquisition of temporary trackage rights by a rail carrier over lines owned or operated by any other rail carrier or carriers that are: (i) based on written agreements, (ii) not filed or sought in responsive applications in rail consolidation proceedings, (iii) for overhead operations only, and (iv) scheduled to expire on a specific date not to exceed 1 year from the effective date of the exemption. If the operations contemplated by the exemption will not be concluded within the 1-year period, the parties may, prior to expiration of the period, file a request for a renewal of the temporary rights for an additional period of up to 1 year, including the reason(s) therefor. Rail carriers acquiring temporary trackage rights need not seek authority from the Board to discontinue the trackage rights as of the expiration date specified under 49 CFR 1180.4(g)(2)(iii). All transactions under these rules will be subject to applicable statutory labor protective conditions.

■ 3. Amend § 1180.4 by adding new paragraphs (g)(2)(iii) and (iv) to read as follows:

#### **§ 1180.4 Procedures.**

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(iii) To qualify for an exemption under § 1180.2(d)(8) (acquisition of temporary trackage rights), in addition to the notice, the railroad must file a caption summary suitable for publication in the **Federal Register**. The caption summary must be in the following form:

#### **Surface Transportation Board**

Notice of Exemption

STB Finance Docket No.

(1)—Temporary Trackage Rights—(2)

(2) (3) to grant overhead temporary trackage rights to (1) between (4). The temporary trackage rights will be effective on (5). The authorization will expire on (6).

This notice is filed under § 1180.2(d)(8). Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board.

[Insert name]

Secretary.

The following key identifies the information symbolized in the summary.

(1) Name of the tenant railroad.

(2) Name of the landlord railroad.

(3) If an agreement has been entered use "has agreed," but if an agreement has been reached but not entered use "will agree."

(4) Describe the temporary trackage rights.

(5) State the date the temporary trackage rights agreement is proposed to be consummated.

(6) State the date the authorization will expire (not to exceed 1 year from the date the trackage rights will become effective).

(iv) The Board will publish the caption summary in the **Federal Register** within 20 days of the date that it is filed with the Board. The filing of a petition to revoke under 49 U.S.C. 10502(d) does not stay the effectiveness of an exemption.

\* \* \* \* \*

[FR Doc. 03-12449 Filed 5-22-03; 8:45 am]

**BILLING CODE 4915-00-P**