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TITLE 49--TRANSPORTATION

CHAPTER X--SURFACE TRANSPORTATION BOARD, DEPARTMENT OF TRANSPORTATION

PART 1114\_EVIDENCE; DISCOVERY--Table of Contents

Subpart B\_Discovery

Sec. 1114.30 Production of documents and records and entry upon land for inspection and other purposes.

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(d) Agreements containing interchange commitments. In any proceeding involving the reasonableness of provisions related to an existing rail carrier sale or lease agreement that serve to induce a party to the agreement to interchange traffic with another party to the agreement, rather than with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means, a party to the proceeding with a need for the information may obtain a confidential, complete version of the agreement, with the prior approval of the Board. The party seeking such approval must file an appropriate motion containing an explanation of the party's need for the information and a draft protective order and undertaking(s) that will ensure the agreement is kept confidential. The motion seeking approval may be filed at any time after the initial complaint or petition, including before the answer to the complaint or petition is due. A reply to such a motion must be filed within 5 days thereafter. The motion will be considered by the Board in an expedited manner.

[61 FR 52713, Oct. 8, 1996, as amended at 72 FR 51377, Sept. 7, 2007; 73 FR 31034, May 30, 2008]

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TITLE 49--TRANSPORTATION

CHAPTER X--SURFACE TRANSPORTATION BOARD, DEPARTMENT OF TRANSPORTATION

PART 1121\_RAIL EXEMPTION PROCEDURES--Table of Contents

Sec. 1121.3 Content.

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(d) Transactions imposing interchange commitments. (1) If a proposed acquisition or operation of a rail line involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means ('`interchange commitment''), the following additional information must be provided:

(i) The existence of that provision or agreement and identification of the affected interchange points; and

(ii) A confidential, complete version of the document(s) containing or addressing that provision or agreement, which may be filed with the Board under 49 CFR 1104.14(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 CFR 1104.14(b).

(2) To obtain information about an interchange commitment for use in a proceeding before the Board, a shipper or other affected party may be granted access to the confidential documents filed pursuant to paragraph (d)(1) of this section by filing, and serving upon the petitioner, a ``Motion for Access to Confidential Documents,' ' containing:

(i) An explanation of the party's need for the information; and

(ii) An appropriate draft protective order and confidentiality undertaking(s) that will ensure that the documents are kept confidential.

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(iii) Parties must produce the relevant documents within 5 days of receipt of a Board approved, signed confidentiality agreement.

[61 FR 52714, Oct. 8, 1996, as amended at 73 FR 31034, May 30, 2008]

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TITLE 49--TRANSPORTATION

CHAPTER X--SURFACE TRANSPORTATION BOARD, DEPARTMENT OF TRANSPORTATION

PART 1150\_CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES--Table of Contents

Subpart D\_Exempt Transactions Under 49 U.S.C. 10901

Sec. 1150.33 Information to be contained in notice--transactions that involve creation of Class III carriers.

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(h) Transactions imposing interchange commitments. (1) If a proposed acquisition or operation of a rail line or change of operators involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means ('`interchange commitment''), the following additional information must be provided:

(i) The existence of that provision or agreement and identification of the affected interchange points; and

(ii) A confidential, complete version of the document(s) containing or addressing that provision or agreement, which may be filed with the Board under 49 CFR 1104.14(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 CFR 1104.14(b).

(2) To obtain information about an interchange commitment for use in a proceeding before the Board, a shipper or other affected party may be granted access to the confidential documents filed pursuant to paragraph (h)(1) of this section by filing, and serving upon the petitioner, a ``Motion for Access to Confidential Documents,' ' containing:

(i) An explanation of the party's need for the information; and  
(ii) An appropriate draft protective order and confidentiality undertaking(s) that will ensure that the documents are kept confidential.

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(ii) The Board will rule on a Motion for Access within 30 days after the motion is filed.

(iii) Parties must produce the relevant documents within 5 days of receipt of a Board approved, signed confidentiality agreement.

[51 FR 2504, Jan. 17, 1986, as amended at 51 FR 25207, July 11, 1986; 53 FR 4626, Feb. 17, 1988; 53 FR 5982, Feb. 29, 1988; 56 FR 36111, July 31, 1991; 73 FR 31034, May 30, 2008]

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## TITLE 49--TRANSPORTATION

### CHAPTER X--SURFACE TRANSPORTATION BOARD, DEPARTMENT OF TRANSPORTATION

#### PART 1150\_CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES--Table of Contents

Subpart E\_Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail

Carriers

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

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(h) Transactions imposing interchange commitments. (1) If a proposed acquisition or operation of a rail line or change of operators involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means ('`interchange commitment''), the following additional information must be provided:

(i) The existence of that provision or agreement and identification of the affected interchange points; and

(ii) A confidential, complete version of the document(s) containing or addressing that provision or agreement, which may be filed with the Board under 49 CFR 1104.14(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 CFR 1104.14(b).

(2) To obtain information about an interchange commitment for use in a proceeding before the Board, a shipper or other affected party may be granted access to the confidential documents filed pursuant to paragraph (h)(1) of this section by filing, and serving upon the petitioner, a ``Motion for Access to Confidential Documents,' ' containing:

(i) An explanation of the party's need for the information; and

(ii) An appropriate draft protective order and confidentiality undertaking(s) that will ensure that the documents are kept confidential.

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(iii) Parties must produce the relevant documents within 5 days of receipt of a Board approved, signed confidentiality agreement.

[61 FR 32355, June 24, 1996, as amended at 73 FR 31035, May 30, 2008]

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TITLE 49--TRANSPORTATION

CHAPTER X--SURFACE TRANSPORTATION BOARD, DEPARTMENT OF TRANSPORTATION

PART 1180\_RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES--Table of Contents

Subpart A\_General Acquisition Procedures

Sec. 1180.4 Procedures.

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(g) Notice of exemption.

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(4) Transactions imposing interchange commitments. (i) If a proposed acquisition or operation of a rail line involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means ('`interchange commitment`'), the following additional information must be provided:

(A) The existence of that provision or agreement and identification of the affected interchange points; and

(B) A confidential, complete version of the document(s) containing or addressing that provision or agreement, which may be filed with the Board under 49 CFR 1104.14(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 CFR 1104.14(b).

(ii) To obtain information about an interchange commitment for use in a proceeding before the Board, a shipper or other affected party may be granted access to the confidential documents filed pursuant to Sec. 1180.4(g)(4)(i) of this section by filing, and serving upon the petitioner, a ``Motion for Access to Confidential Documents,`` containing:

(A) An explanation of the party's need for the information; and

(B) An appropriate draft protective order and confidentiality undertaking(s) that will ensure that the documents are kept confidential.

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(C) Parties must produce the relevant documents within 5 days of receipt of a Board approved, signed confidentiality agreement.

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[47 FR 9844, Mar. 8, 1982]