

## § 1177.5

document] with Recordation No. [Recordation number of the primary document], dated [date of amendment, supplement, release, etc.] and covering [list amount and types of equipment].

(b) *Sample Letter of Transmittal.*

[Secretary's Name] *Secretary, Surface Transportation Board, Washington, D.C.*

Dear Secretary: I have enclosed an original and one copy/counterpart of the document(s) described below, to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code.

This document is a [mortgage, lease, equipment trust, supplement, etc.], a [primary or secondary] document, dated [date].

(If a secondary document)—The primary document to which this is connected is recorded under Recordation No. \_\_\_\_.

(If an assignment)—We request that this assignment be cross-indexed.

The names and addresses of the parties to the documents are as follows:

Vendor, Lessor, Mortgagor, etc: [name and address]

Vendee, Lessee, Mortgagee, etc: [name and address].

A description of the equipment covered by the document follows:

[Type of equipment, amount of each, AAR designation if any, identifying marks, road or serial numbers, etc., as outlined in 1177.3(d)(4).]

A fee of \_\_\_\_\_ is enclosed. Please return the original and any extra copies not needed by the Board for recordation to [party to whom documents should be returned].

A short summary of the document to appear in the index follows: [a short summary as described in 1177.4(a).]

Very truly yours,

[signature of an executive officer of one of the parties, their attorney, or representative in fact.]

[46 FR 54946, Nov. 5, 1981 as amended at 64 FR 53268, Oct. 1, 1999]

### § 1177.5 Administrative procedure.

(a) At the time of filing of a document with the Board for recordation, a consecutive number will be stamped upon the original document and upon the copies or the counterparts, with the date and hour of the filing. A notation acknowledging that the document has been filed pursuant to 49 U.S.C. 11303 will be made. The original document, along with the notation, will be returned to the party named in the transmittal letter and a copy or coun-

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terpart will be retained by the Board. For a secondary document, the number assigned will be the recordation number of the primary document plus the next available letter suffix.

(b) The Board will maintain an index for public use as required by 49 U.S.C. 11303(b). There will be an index of parties to documents recorded at the Board in alphabetical order by the party's name. If requested by the letter of transmittal, this index will also be amended to reflect an assignment under the name of the party other than the assignor or assignee to the document. There will also be an index of documents by number, which will list secondary documents referenced to the primary ones. The indexes will contain the pertinent information furnished by the parties in the transmittal letter.

(c) The Board cannot judge the validity of documents, nor judge the status of encumbrances to property as reflected by documents recorded at the Board. The public is welcome to research the records or use an agent or attorney to do so, provided that Board rules concerning handling of the documents are respected.

(d) The public should note that filing documents with the Board is discretionary and encumbrances exist which are not on file with the Board.

## PARTS 1178-1179 [RESERVED]

### Parts 1180-1189—Combinations and Ownership

## PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACK-AGE RIGHTS, AND LEASE PROCEDURES

### Subpart A—General Acquisition Procedures

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- 1180.8 Operational data.
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### Subpart B—Transfer or Operation of Lines of Railroads in Reorganization

- 1180.20 Procedures.

AUTHORITY: 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, 11323–11325.

### Subpart A—General Acquisition Procedures

SOURCE: 47 FR 9844, Mar. 8, 1982, unless otherwise noted. Redesignated at 47 FR 49592, Nov. 1, 1982.

#### § 1180.0 Scope and purpose.

(a) *General.* The regulations in this subpart set out the information to be filed and the procedures to be followed in control, merger, acquisition, lease, trackage rights, and any other consolidation transaction involving more than one railroad that is initiated under 49 U.S.C. 11323. Section 1180.2 separates these transactions into four types: *Major, significant, minor, and exempt.* The informational requirements for these types of transactions differ. Before an application is filed, the designation of type of transaction may be clarified or certain of the information required may be waived upon petition to the Board. This procedure is explained in § 1180.4. The required contents of an application are set out in §§ 1180.6 (general information supporting the transaction), 1180.7 (competitive and market information), 1180.8 (operational information), 1180.9 (financial data), 1180.10 (service assurance plans), and 1180.11 (transnational and other informational requirements). A *major* application must contain the information required in §§ 1180.6(a), 1180.6(b), 1180.7(a), 1180.7(b), 1180.8(a), 1180.8(b), 1180.9, 1180.10, and 1180.11. A *significant* application must contain the information required in §§ 1180.6(a), 1180.6(c), 1180.7(a), 1180.7(c), and 1180.8(b). A *minor* application must contain the information required in §§ 1180.6(a) and 1180.8(c). Procedures (including time limits, filing requirements, participation requirements, and other matters) are contained in § 1180.4.

All applications must comply with the Board's Rules of General Applicability, 49 CFR parts 1100 through 1129, unless otherwise specified. These regulations may be cited as the Railroad Consolidation Procedures.

(b) *Waiver.* We will waive application of the regulations contained in this subpart for a consolidation involving The Kansas City Southern Railway Company and another Class I railroad and instead will apply the regulations in this subpart A in effect before July 11, 2001 and contained in the 49 CFR, Parts 1000 to 1199, edition revised as of October 1, 2000, unless we are shown why such a waiver should not be allowed. Interested parties must file any objections to this waiver within 10 days after the applicants' prefiling notification (see 49 CFR § 1180.4(b)(1)).

[66 FR 32583, June 15, 2001]

#### § 1180.1 General policy statement for merger or control of at least two Class I railroads.

(a) *General.* To meet the needs of the public and the national defense, the Surface Transportation Board (Board) seeks to ensure balanced and sustainable competition in the railroad industry. The Board recognizes that the railroad industry (including Class II and III carriers) is a network of competing and complementary components, which in turn is part of a broader transportation infrastructure that also embraces the nation's highways, waterways, ports, and airports. The Board welcomes private-sector initiatives that enhance the capabilities and the competitiveness of this transportation infrastructure. Although mergers of Class I railroads may advance our nation's economic growth and competitiveness through the provision of more efficient and responsive transportation, the Board does not favor consolidations that reduce the transportation alternatives available to shippers unless there are substantial and demonstrable public benefits to the transaction that cannot otherwise be achieved. Such public benefits include improved service, enhanced competition, and greater economic efficiency. The Board also will look with disfavor on consolidations under which the controlling entity does not assume full responsibility