

§ 52.1620 Identification of plan.

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(c) * * *

(63) A revision to the New Mexico SIP approving a request for redesignation to attainment, a vehicle inspection and maintenance program, and the required maintenance plan for the Albuquerque/Bernalillo County CO nonattainment area, submitted by the Governor on May 11, 1995. The 1993 emissions inventory and projections were included in the maintenance plan.

(i) Incorporation by reference.

(A) A letter from the Governor of New Mexico to EPA dated April 14, 1995, in which the Governor requested redesignation to attainment based on the adopted Carbon Monoxide Redesignation Request and Maintenance

Plan for Albuquerque/Bernalillo County New Mexico.

(B) Albuquerque/Bernalillo County Air Quality Control Board Regulation No. 28, Motor Vehicle Inspection, as amended April 12, 1995 and effective on July 1, 1995.

(ii) Additional material. Carbon Monoxide Redesignation Request and Maintenance Plan for Albuquerque/Bernalillo County New Mexico, approved and adopted by the Air Quality Control Board on April 13, 1995.

3. Section 52.1627 is revised to read as follows:

§ 52.1627 Control strategy and regulations: Carbon monoxide.

Part D Approval. The Albuquerque/Bernalillo County carbon monoxide maintenance plan as adopted on April

13, 1995, meets the requirements of Section 172 of the Clean Air Act, and is therefore approved.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.332 the table for “New Mexico-Carbon Monoxide” is amended by revising the entry for the Albuquerque Area Bernalillo County to read as follows:

§ 81.332 New Mexico.

* * * * *

NEW MEXICO-CARBON MONOXIDE

	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Albuquerque Area Bernalillo County	July 15, 1996 ...	Attainment.

¹ This date is November 15, 1990, unless otherwise noted.

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[FR Doc. 96-14968 Filed 6-12-96; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1150

[Ex Parte No. 392 (Sub-Nos. 2 and 3)]

Class Exemption for the Construction of Connecting Track and Rail Construction Under 49 U.S.C. 10901

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) grants final approval to a class exemption for the construction and operation of connecting railroad track in Ex Parte No. 392 (Sub-No. 2) and terminates the Ex Parte No. 392 (Sub-No. 3) proceeding that proposed to adopt a different class exemption for all rail construction projects not covered by the connecting track exemption. Final regulations establishing the exemption for connecting track are set forth below.

EFFECTIVE DATE: July 13, 1996.

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

SUPPLEMENTARY INFORMATION: The exemption for the construction of connecting track was initially proposed in Ex Parte No. 392 (Sub-No. 2). By decision served on September 15, 1992, and notice of proposed rulemaking published in the Federal Register on September 16, 1992 (57 FR 42733), our predecessor agency, the Interstate Commerce Commission (ICC), sought public comments on proposed changes to 49 CFR Part 1150 that would establish a class exemption for all rail construction, or, alternatively, for construction of connecting railroad tracks. The Board is adopting (with minor changes) the proposed class exemption for the construction and operation of connecting tracks. We believe the changes will facilitate expanded rail service and reduce regulatory delay and also satisfy the requirements of the environmental laws, because the exemption has been structured so as to assure that there will be a full and timely environmental review in each case. We do not believe a class exemption for other rail constructions is warranted. Therefore, we will terminate the Ex Parte No. 392 (Sub-No. 3) proceeding and simply continue our practice of expeditiously handling individual construction exemption requests as an alternative to the class exemption the ICC had proposed. Additional information is contained in the Board's decision served

on June 13, 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 in 49 CFR Part 1150

Administrative practice and procedure, Railroads.

Decided: May 29, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, Title 49, Chapter X, part 1150 is amended as set forth below:

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES

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

Authority: 5 U.S.C. 553 and 559; 49 U.S.C. 701 note (sec. 204 of the ICC Termination Act of 1995), 721(a), 10502, and 10901.

2. A new § 1150.36 is added to read as follows:

§ 1150.36 Exempt construction of connecting track.

(a) *Scope.* This class exemption applies to proceedings involving the construction and operation of connecting lines of railroad within existing rail rights-of-way, or on land owned by connecting railroads, under 49 U.S.C. 10901 (a), (b), and (c). (See the reference to connecting track in 49 CFR 1105.6(b)(1).) This class exemption is designed to expedite and facilitate connecting track construction while ensuring full and timely environmental review. The Surface Transportation Board (Board) has found that its prior review of connecting track construction and operation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; that continued regulation is not necessary to protect shippers from abuse of market power; and that the construction of connecting track would be of limited scope. See 49 U.S.C. 10502. To use this class exemption, a pre-filing notice, environmental report, historic report, and notice of exemption must be filed that complies with the procedures in § 1150.36 (b) and (c), and the Board's environmental rules, codified at 49 CFR part 1105.

(b) *Environmental requirements.* The environmental regulations at 49 CFR part 1105 must be complied with fully. An environmental report containing the information specified at 49 CFR 1105.7(e), as well as an historic report containing the information specified at 49 CFR 1105.8(d), must be filed either before or at the same time as the notice of exemption is filed. See 49 CFR 1105.7(a). The entity seeking the exemption authority must also serve copies of the environmental report on the agencies listed at 49 CFR 1105.7(b). Because the environmental report must include a certification that appropriate agencies have been consulted in its preparation (see 49 CFR 1105.7(c)), parties should begin environmental and historic consultations well before the notice of exemption is filed. Environmental requirements may be waived or modified where a petitioner demonstrates in writing that such action is appropriate. See 49 CFR 1105.10(c). It is to the advantage of parties to consult with the Board's Section of Environmental Analysis (SEA) at the earliest possible date to begin environmental review.

(c) *Procedures and dates.* (1) At least 20 days prior to the filing of a notice of exemption with the Board, the party seeking the exemption authority must notify in writing: the State Public Service Commission, the State Department of Transportation (or equivalent agency), and the State

Clearinghouse (if there is no clearinghouse, the State Environmental Protection Agency), of each State involved. The pre-filing notice shall include: the name and address of the railroad (or other entity proposing to construct the line) and the proposed operator; a complete description of the proposed construction and operation, including a map; an indication that the class exemption procedure is being used; and the approximate date that construction is proposed to begin. This pre-filing notice shall include a certification that the petitioner will comply with the Board's environmental regulations, codified at 49 CFR part 1105, and a statement that those regulations generally require the Board to:

- (i) Prepare an environmental assessment (EA) (or environmental impact statement (EIS) if necessary),
- (ii) Make the document (EA or EIS, as appropriate) available to the parties (and to the public, upon request to SEA); and
- (iii) Accept for filing and consideration comments on the environmental document as well as petitions for stay and reconsideration.

(2) Petitioner must file a verified notice of exemption with the Board at least 90 days before the construction is proposed to begin. In addition to the information contained in § 1150.36(c)(1), the notice shall include a statement certifying compliance with the environmental rules at 49 CFR part 1105 and the pre-filing notice requirements of 49 CFR 1150.36(c)(1).

(3) The Board, through the Director of the Office of Proceedings, shall publish a notice in the Federal Register within 20 days after the notice of exemption is received that describes the construction project and invites comments. SEA will then prepare an EA (or, if necessary, an EIS). The EA generally will be made available 15 days after the Federal Register notice. It will be served on all parties and appropriate agencies. Others may request a copy from SEA. The deadline for submission of comments on the EA will generally be within 30 days of its availability (see 49 CFR 1105.10(b)). If an EIS is prepared, the time frames and procedures set forth in 49 CFR 1105.10(a) generally will apply.

(4) The Board's environmental document (together with any comments and SEA's recommendations) shall be used in deciding whether to allow the particular construction project to proceed under the class exemption and whether to impose appropriate mitigating conditions upon its use (including use of an environmentally preferable route). If the Board concludes that a particular project will result in

serious adverse environmental consequences that cannot be adequately mitigated, it may deny authority to proceed with the construction under the class exemption (the "no-build" alternative). Persons believing that they can show that the need for a particular line outweighs the adverse environmental consequences can file an application for approval of the proposed construction under 49 U.S.C. 10901.

(5) No construction may begin until the Board has completed its environmental review and issued a final decision.

(6) Petitions to stay the effective date of the notice of exemption on other than environmental and/or historic preservation grounds must be filed within 10 days of the Federal Register publication. Petitions to stay the effective date of the notice on environmental and/or historic preservation grounds may be filed at any time but must be filed sufficiently in advance of the effective date to allow the Board to consider and act on the petition before the notice becomes effective. Petitions for reconsideration must be filed within 20 days of the Federal Register publication.

(7) The exemption generally will be effective 70 days after publication in the Federal Register, unless stayed. If the notice of exemption contains false or misleading information, the exemption is void *ab initio* and the Board shall summarily reject the exemption notice.

(8) Where significant environmental issues have been raised or discovered during the environmental review process, the Board shall issue, on or before the effective date of the exemption, a final decision allowing the exemption to become effective and imposing appropriate mitigating conditions or taking other appropriate action such as selecting the "no build" alternative.

(9) Where there has been full environmental review and no significant environmental issues have been raised or discovered, the Board, through the Director of the Office of Proceedings, shall issue, on or before the effective date of the exemption, a final decision consisting of a Finding of No Significant Impact (FONSI) to show that the environmental record has been considered (see 49 CFR 1105.10(g)).

(10) The Board, on its own motion or at the request of a party to the case, will stay the effective date of individual notices of exemption when an informed decision on environmental issues cannot be made prior to the date that the exemption authority would otherwise become effective. Stays will be granted initially for a period of 60 days to

permit resolution of environmental issues and issuance of a final decision. The Board expects that this 60-day period will usually be sufficient for these purposes unless preparation of an EIS is required. If, however, environmental issues remain unresolved upon expiration of this 60-day period, the Board, upon its own motion, or at the request of a party to the case, will extend the stay, as necessary to permit completion of environmental review and issuance of a final decision. The Board's order will specify the duration of each extension of the initial stay period. In cases requiring the preparation of an EIS, the Board will extend the stay for a period sufficient to permit compliance with the procedural guidelines established by the Board's environmental regulations.

(d) *Third-Party Consultants.* An environmental and historic report required under 49 CFR 1105.7 and 1105.8 will not be required where a petitioner engages a third-party consultant who is approved by SEA and acts under SEA's direction and supervision in preparing the EA or EIS. In such a case, the third-party consultant must act on behalf of the Board, working under SEA's direction to collect the environmental information that is needed and to compile it into a draft EA or EIS, which is prepared under SEA's direction and then submitted to SEA for its final review and approval. See 49 CFR 1105.10(d).

[FR Doc. 96-14902 Filed 6-12-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 960111003-6068-03; I.D. 060796A]

Pacific Halibut Fisheries; 1996 Halibut Landing Report No. 3

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

ACTION: Inseason action.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes these inseason actions pursuant to IPHC regulations approved by the U.S. Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of the Pacific halibut stock.

EFFECTIVE DATE: Southern Oregon Sport Halibut Season: 11:59 p.m., Pacific Daylight Time, June 1, 1996, until June 2, 1996.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, 907-586-7221; William W. Stelle, Jr., 206-526-6140; or Donald McCaughran, 206-634-1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by NMFS (60 FR 14651, March 20, 1995, and amended at 61 FR 11337, March 20,

1996). On behalf of the IPHC, this inseason action is published in the Federal Register to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

1996 Halibut Landing Report No. 3

Southern Oregon Sport Halibut Season to Close June 1

The preliminary catch estimate for the 1996 sport halibut fishery between the Florence North Jetty (Siuslaw River, 44°01'08" N. lat.) and the California border (42°00'00 N. lat.) indicates the 5,999 lb (2.72 metric tons (mt)) catch limit will be reached on June 1. Therefore, the sport halibut fishery in this area will close at 11:59 p.m. on June 1.

Sport fishing for Pacific halibut will reopen on June 2 and remain open through August 1, 7 days a week, only in the area inside the 30-fathom curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600 from the Florence North Jetty (Siuslaw River) to the California border, or until 1,500 lb (.68 mt) are estimated to have been taken (except that any poundage remaining unharvested after the earlier season will be added to this season) and the season is closed by the IPHC, whichever occurs first. The daily bag limit remains two halibut per person, one with a minimum overall size limit of 32 inches (81.28 centimeters (cm)) and the second with a minimum overall size limit of 50 inches (127.0 cm).

Dated: June 7, 1996.

Richard H. Schaefer,
Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96-15058 Filed 6-12-96; 8:45 am]

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