

Surface Transportation Board, DOT

§1185.1

area, including a description of the projected volume of traffic, the revenues, and the commodities which will be subject to the pooling agreement;

(i) Certification that rates set for traffic moving under the agreement do not violate the restrictions on collective ratemaking contained in 49 U.S.C. Subtitle IV and Board regulations;

(j) A narrative statement as to the relative transportation importance of the pooling agreement as it would affect the public and the national transportation system;

(k) If any known non-pooling carriers authorized to transport the subject traffic are not included in the pooling arrangement explain why, and explain whether inclusion would enhance or restrain competition;

(l) A statement of the energy and environmental effects of the agreement, if any; and

(m) Certification by applicant, or its representatives, that the representations made in the application are, to the best of applicant's knowledge and belief, true and complete.

As appendices, applicants must submit: (1) A copy of the pooling agreement; (2) a copy of the specific operating authority of each carrier which is the subject of the pooling agreement; and (3) a caption summary (for FEDERAL REGISTER publication) of the pooling transaction sought to be approved.

[46 FR 21181, Apr. 9, 1981. Redesignated and amended at 47 FR 49595, Nov. 1, 1982; 64 FR 53269, Oct. 1, 1999]

§1184.3 Processing pooling applications.

After the pooling application is received (not less than 50 days before the effective date specified in the pooling agreement), the Board will either reject it or determine initially whether the pooling agreement is of major transportation importance and whether there is a substantial likelihood that the pooling agreement will unduly restrain competition. If neither of these two factors is present, the application will be granted without further hearing. Where either factor is found to exist, the application will be published in the FEDERAL REGISTER using the caption summary filed with the application, and a hearing will be scheduled

(normally to receive written verified statements) to consider the issues further. In this second phase of the proceeding, the Board will consider whether the pooling agreement would be in the interest of better service to the public or of economy of operation and whether it will unduly restrain competition.

PART 1185—INTERLOCKING OFFICERS

Sec.

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AUTHORITY: 5 U.S.C. 553 and 559 and 49 U.S.C. 721, 10502, and 11328.

SOURCE: 62 FR 2042, Jan. 15, 1997, unless otherwise noted.

§1185.1 Definitions and scope of regulations.

(a) This part addresses the requirement of 49 U.S.C. 11328 authorization of the Surface Transportation Board (STB) needed for a person to hold the position of officer or director of more than one rail carrier, except where only Class III carriers are involved. STB authorization is not needed for individuals seeking to hold the positions of officers or directors only of Class III railroads. 49 U.S.C. 11328(b).

(b) When a person is an officer of a Class I railroad and seeks to become an officer of another Class I railroad, an application under 49 U.S.C. 11328(a) (or petition for individual exemption under 49 U.S.C. 10502) must be filed. All other "interlocking directorates" have been exempted as a class from the prior approval requirements of 49 U.S.C. 11328(a), pursuant to 49 U.S.C. 10502 and former 49 U.S.C. 10505. For such interlocking directorates exempted as a class, no filing with the STB is necessary to invoke the exemption.

(c) An *interlocking directorate* exists whenever an individual holds the position of officer or director of one rail carrier and assumes the position of officer or director of another rail carrier. This provision applies to any person