

described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefor, and established an effective date of December 4, 2003. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States

Court of Appeals for the appropriate circuit by February 2, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 7, 2003.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### 49 CFR Part 1152

[STB Ex Parte No. 537 (Sub-No. 1)]

#### Public Participation in Railroad Abandonment Proceedings

**AGENCY:** Surface Transportation Board.

**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board) is amending its regulations concerning the service of a notice of intent to abandon or discontinue rail service by removing an obsolete reference to a labor organization and making technical changes.

**EFFECTIVE DATE:** This rule is effective January 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** John Sado, (202) 565-1661 (Federal Information Relay Service for the hearing impaired: 1-800-877-8339).

**SUPPLEMENTARY INFORMATION:** On September 2, 2003 at 68 FR 52168, the Board published a notice of proposed rulemaking (NPR) in this proceeding seeking comments on the Board's proposed removal of an obsolete reference and technical changes.<sup>1</sup> As noted in the NPR, the regulations at 49 CFR 1152.20(a)(2) provide that applicants seeking to abandon or

discontinue rail service must serve their notices of intent on certain interested parties, including, under section 1152.20(a)(2)(xi), "[t]he headquarters of the Railroad Labor Executives' Association" (RLEA). Because it was the Board's understanding that RLEA no longer existed, it was proposed that section 1152.20(a)(2)(xi) be removed. The NPR noted that the regulations still provide labor interests with notice of proposed abandonments or discontinuances, because current section 1152.20(a)(2)(xiii) requires service on "[t]he headquarters of all duly certified labor organizations that represent employees on the affected rail line."<sup>2</sup>

The NPR also indicated that paragraph 1152.20(a)(2)(xiii) contains language that should be moved for clarity: "For the purposes of this subsection 'directly affected states' are those in which any part of the line sought to be abandoned is located." This language would be more appropriate in section 1152.20(a)(2)(ii), and the Board proposed to move the substance of that language there. Finally, NPR proposed to redesignate sections 1152.20(a)(2)(xii) and (xiii) as sections 1152.20(a)(2)(xi) and (xii), respectively.

No comments were filed in response to the NPR. Accordingly, the obsolete reference will be removed and the technical changes will be made.

The Board certifies that the proposed rule will not have a significant impact on a substantial number of small entities. 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 1152

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, and Uniform System of Accounts.

Decided: November 24, 2003.  
By the Board, Chairman Nober.

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

■ For the reasons set forth in the preamble, the Surface Transportation Board amends part 1152, of title 49, chapter X, of the Code of Federal Regulations as follows:

<sup>2</sup> Similar language for giving notice to labor representatives is found at sections 1121.4(h), 1150.32(e), 1150.35(c)(3), 1150.42(e), 1150.45(c)(3) and 1151.2(a)(6) concerning acquisition or operation of rail lines or feeder line applications.

<sup>1</sup> Comment was also sought on the certification that the proposed rule would not have a significant impact on a substantial number of small entities.

**PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903**

■ 1. The authority citation for part 1152 continues to read as follows:

**Authority:** 11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 701 note (1995) (section 204 of the ICC Termination Act of 1995), 721(a), 10502, 10903–10905, and 11161.

■ 2. § 1152.20 is amended by removing paragraph (a)(2)(xi) and redesignating

paragraphs (a)(2)(xii) and (xiii) as paragraphs 1152.20(a)(2)(xi) and (xii), respectively.

■ 3. Revise § 1152.20(a)(2)(ii) and newly redesignated § 1152.20(a)(2)(xii) to read as follows:

**§ 1152.20 Notice of intent to abandon or discontinue service.**

(a) \* \* \*

(2) \* \* \*

(ii) The Governor (by certified mail) of each state directly affected by the abandonment or discontinuance. (For

the purposes of this section “states directly affected” are those in which any part of the line sought to be abandoned is located).

\* \* \* \* \*

(xii) The headquarters of all duly certified labor organizations that represent employees on the affected rail line.

\* \* \* \* \*

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