

extending each public director's term on the Board from a maximum of four consecutive years to a maximum of six consecutive years. Under the proposed rule change, public directors elected prior to 1999 shall serve a maximum of three consecutive two-year terms, and public directors elected in 1999 or thereafter shall serve a maximum of two consecutive three-year terms. On October 16, 1992, the Commission approved a proposed rule change extending a public director's term from one two-year term to two consecutive two-year terms.<sup>3</sup> OCC believes that the reasons supporting Commission approval of that proposed rule change are very similar to the reasons for the present proposed rule change. In particular, OCC's business has been and continues to be increasingly complex. A public director may find that two two-year terms are still insufficient time to prepare for meaningful administration and interpretation of OCC's rules, operations, and policies and for input of meaningful guidance once the public director has gained the necessary knowledge and expertise. Because each public director's term would be limited to a total of six consecutive years, diversity in that position will still be preserved.

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>4</sup> and the rules and regulations thereunder because the proposed rule change enhances the ability of public directors to have meaningful input on the Board and contributes to the fair representation of OCC's members in the selection of its directors and administration of its affairs.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

OCC does not believe that the proposed rule change will impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comment were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Section 17A(b)(3)(C) of the Act states that the rules of a clearing agency must

assure a fair representation of its shareholders and participants in the selection of its directors and administration of its affairs.<sup>5</sup> The Commission believes that the proposed modification to OCC's Restated Certificate of Incorporation and By-Laws to extend each public director's term on the Board from a maximum of four consecutive years to a maximum of six consecutive years is consistent with OCC's obligations under Section 17A of the Act. The proposed rule change should result in OCC's Board having greater continuity of leadership and more meaningful representation. Due to the increasing complexity of OCC's business, continuity of leadership has become more important to the proper functioning of OCC. Allowing a public director's maximum tenure to extend to six consecutive years will enhance the continuity of leadership on OCC's Board and still preserve the requirement of fair representation under the Act.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing because accelerated approval will allow OCC to implement the new term structure without disrupting the current composition of the OCC Board.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should

refer to File No. SR-OCC-97-03 and should be submitted by June 22, 1997.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-97-03) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 97-8223 Filed 3-31-97; 8:45 am]

BILLING CODE 8010-01-M

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**Statement of Policy on the Rights of Small Entities in OST Enforcement Cases**

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Statement of policy on the rights of small entities in OST enforcement cases.

**SUMMARY:** This is the Office of the Secretary's statement of policy with respect to the reduction and waiver of civil penalties for small entities in OST enforcement cases.

**DATES:** This policy is effective on March 29, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mark Holmstrup, Office of the General Counsel, Department of Transportation, (202) 366-9342, 400 7th Street SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires agencies to establish a policy with respect to the reduction and waiver of civil penalties for small entities in OST enforcement cases. This policy statement closely tracks the requirements of Section 223, and will apply to the Office of the Secretary's (OST) enforcement of (a) the Department's aviation economic requirements contained in 49 U.S.C. Subtitle VII and 14 CFR Parts 200-399, as well as the orders, certificates, and permits issued thereunder; and (b) the Program Fraud Civil Remedies Act (31 U.S.C. 3801-3812) and the Department's implementing regulations (49 CFR Part 31).

**The Policy**

The following shall apply in assessing the need for and the amount of any civil

<sup>3</sup> Securities Exchange Act Release No. 31329 (October 16, 1992), 57 FR 48414.

<sup>4</sup> 15 U.S.C. 78q-1.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(C).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

penalties imposed on small entities in OST enforcement cases:

1. In determining penalty assessments, the ability of the small entity to pay shall be considered.
2. The amount of each civil penalty assessed against a small entity shall be reduced, and under appropriate circumstances shall be waived, provided that the following conditions are met:
  - a. The small entity corrects the violation within a reasonable period of time;
  - b. The violation was discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the Office of the Secretary (OST) or a State;
  - c. The small entity has not been subject to multiple enforcement actions by OST;
  - d. The violation did not involve willful or criminal conduct;
  - e. The violation posed no serious health, safety or environmental threats; and
  - f. The small entity shows a continuing good faith effort to comply with the law.
3. The Assistant General Counsel for Aviation Enforcement and Proceedings shall keep records of the number of enforcement actions against small entities that qualified or failed to qualify for civil penalty reductions or waivers under this policy and the total amount of penalty reductions and waivers. To the extent that civil penalty reductions or waivers are effectuated by an Administrative Law Judge within the Office of Hearings or by the Office of an Assistant Secretary, that office shall report the relevant information to the Assistant General Counsel for Aviation Enforcement and Proceedings promptly after the action is taken.
4. The term "small entity" is defined in 5 U.S.C. 601.
5. Any questions regarding this policy shall be addressed to the Assistant General Counsel for Regulations and Enforcement.

Issued in Washington, DC, on March 25, 1997.

**Rodney E. Slater,**

*Secretary of Transportation.*

[FR Doc. 97-8172 Filed 3-31-97; 8:45 am]

BILLING CODE 4910-62-P

## Surface Transportation Board

### Release of Waybill Data

The Surface Transportation Board has received a request from Oppenheimer Wolff & Donnelly on behalf of Gateway Western Railway Company (WB520-3/14/97), for permission to use certain

data from the Board's Carload Waybill Samples. A copy of the request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 565-1542.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 97-8241 Filed 3-31-97; 8:45 am]

BILLING CODE 4915-00-P

### [STB Finance Docket No. 33371]

#### Oil Creek and Titusville Lines—Meadville Division—Operation Exemption

Oil Creek and Titusville Lines—Meadville Division (applicant), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.31 to operate a 41.8-mile line of railroad extending between milepost 102.3 at Meadville and milepost 60.5 at Corry, in Erie and Crawford Counties, PA. The rail line had been abandoned by Consolidated Rail Corporation and will be acquired by the Northwest Pennsylvania Rail Authority (Authority) through condemnation proceedings under state law. Applicant will operate the line under an operating agreement with the Authority. *See Consolidated Rail Corporation—Abandonment—Between Corry and Meadville in Erie and Crawford Counties, PA*, Docket No. AB-167 (Sub-No. 1139) (STB served Feb. 10, 1997). The exemption became effective on March 11, 1997.

Any comments must be filed with the Board<sup>1</sup> and served on applicant's representatives: Richard R. Wilson, Esq., 1126 Eighth Avenue, Suite 403, Altoona, PA 16602 and Derald W. Shuffstall, II, Esq., 201 Arch Street, Suite 200, Meadville, PA 16335-3432.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d)

<sup>1</sup> Due to the Board's relocation on March 16, 1997, any filings made after that date must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 19, 1997.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 97-8240 Filed 3-31-97; 8:45 am]

BILLING CODE 4915-00-P

### [STB Docket No. AB-55 (Sub-No. 535X) and STB Docket No. AB-227 (Sub-No. 6X)]

#### CSX Transportation, Inc.—Abandonment Exemption—in Stark County, OH and Wheeling & Lake Erie Railway Company—Discontinuance of Service Exemption—in Stark County, OH

CSX Transportation, Inc. (CSXT) and Wheeling & Lake Erie Railway Company (W&LE) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* for CSXT to abandon and W&LE to discontinue service over approximately 0.7 miles of railroad owned by CSXT and leased to and operated by W&LE between milepost 16.0 and milepost 15.3 in Canton, Stark County, OH.<sup>1</sup>

CSXT and W&LE has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this

<sup>1</sup> W&LE's lease and operation of CSXT's line between Aultman and Canton, OH, including the line segment involved herein, was exempted by the Interstate Commerce Commission in *Wheeling & Lake Erie Railway Company—Lease, Purchase, and Operation Exemption—CSX Transportation, Inc.*, Finance Docket No. 32083 (ICC served Oct. 15, 1992). At the same time, W&LE purchased an adjoining CSXT line extending south from Canton to Sandyville, OH. Service on the Canton-Sandyville line is not affected by this transaction.