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A copy of the application is available for public inspection. The applicant shall furnish a copy of the application to any interested person proposing to file a comment, upon request.

Questions concerning the environmental review process or potential environmental issues may be directed to the Board's Office of Environmental Analysis (OEA). After the close of the environmental review, interested parties may file final comments on how the information developed during the environmental review should be weighed by the Board in determining whether to grant the requested land use exemption permit. See 49 CFR part 1155 for details on these processes.

PARTS 1156–1176 [RESERVED]

Parts 1177–1199—Finance Procedures

Parts 1177–1179—Securities, Security Interests and Financial Structures

PART 1177—RECORDATION OF DOCUMENTS

Sec.

1177.1 Definitions and classifications of documents.

1177.2 To whom documents should be submitted for recordation.

1177.3 Requirements for submission.

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AUTHORITY: 49 U.S.C. 721, 11301.

SOURCE: 46 FR 54946, Nov. 5, 1981, unless otherwise noted. Redesignated at 47 FR 49592, Nov. 1, 1982.

§ 1177.1 Definitions and classifications of documents.

(a) A “primary document” is a mortgage (excluding those under the Ship Mortgage Act of 1920, as amended—46 U.S.C. et seq.), lease, equipment trust agreement, conditional sales agreement, assignment of a lease or leases which have not previously been filed, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of one or more vessels operated subject to Surface Transportation Board jurisdiction, railroad cars, locomotives, or other rolling stock for a use related to interstate commerce.

(b) A “secondary document” is any assignment of rights or interest, sup-

plement, or amendment to any primary or other secondary document. These include releases, discharges, or satisfactions, either total or partial.

§ 1177.2 To whom documents should be submitted for recordation.

Documents to be recorded shall be submitted in person, via the Board's website, or by mail addressed to the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington, DC 20423–0001. All documents submitted by mail should clearly state “Documents for Recordation” on the envelope.

[74 FR 52910, Oct. 15, 2009]

§ 1177.3 Requirements for submission.

In order to be accepted for recordation, an original of any primary or secondary document must:

(a) Be in writing and executed by the parties to the document, and acknowledged or verified either in a form:

(1) Authorized by the law of the state, territory, district or possession where executed for the acknowledgment or verification of deeds of land; or

(2) Substantially as follows:

INDIVIDUAL FORM OF ACKNOWLEDGEMENT

I, (name of signor), certify that I am the person described in and who executed the foregoing instrument and that I acknowledge that I executed the same as my free act and deed. I further declare (certify, verify or state) under penalty of perjury (“under the laws of the United States of America” if executed outside the United States) that the foregoing is true and correct. Executed on (date).

Signature.

OR:

CORPORATE FORM OF ACKNOWLEDGEMENT

I, (name of signor), certify that I am (title of office) of (name of corporation), that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors, and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the corporation. I further declare (certify, verify or state) under penalty of perjury (“under the laws of the United States of America” if executed outside the United States of America) that the foregoing is true and correct. Executed on (date).

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Signature.

or;

(3) Substantially as follows:

INDIVIDUAL FORM OF ACKNOWLEDGEMENT

State of _____

County of _____, ss:

On this _____ day of _____, 19____, before me, personally appeared (name of signor), to me known to be the person described in and who executed the foregoing instrument and (s)he acknowledged that (s)he executed the same as his/her free act and deed. (SEAL)

Signature of Notary Public

My Commission expires _____

Corporate Form of Acknowledgement

State of _____ County of _____, ss: _____

On this _____ day of _____, 19____ before me personally appeared (name of signor), to me personally known, who being by me duly sworn, says that (s)he is the (title of office) of (name of corporation), that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation. (SEAL)

Signature of Notary Public

My Commission expires _____

(b) Be accompanied by at least one fully executed and acknowledged or verified counterpart, or if no counterpart has been executed and acknowledged by the parties, one certified true copy. A certified true copy of an original document is a complete and identical copy in all respects to the original attached with:

(1) A certificate executed by a notary public, stating that he or she has compared the copy with the original and has found the copy to be complete and identical in all respects to the original document; or

(2) A certification of the filer stating that he or she has compared the copy with the original and found the copy to be complete and identical in all re-

spects to the original document and that he or she declares under penalty of perjury ("under the laws of the United States of America" if executed outside the United States) that the foregoing is true and correct; or

(3) There may be attached to the copy, affidavits, wherein the affidavit states that he or she has compared the copy with the original document and found the copy to be complete and identical in all respects to the original documents.

(c) Be accompanied by the fee set forth in 49 CFR 1002.2(f)(83). However, assignments which are executed prior to the filing of the primary document and which are submitted concurrently will be treated along with the primary document as one for fee purposes and will be assessed only one fee. A lease and agreement (Philadelphia Plan) shall be similarly treated.

(d) Be accompanied by a letter of transmittal requesting the recording of the document. For a sample of a letter, see §1177.4. Documents submitted concurrently under the same recordation number may be included in a single transmittal letter. Otherwise, each document must have its own letter of transmittal. The letter should be addressed to the Chief, Section of Administration, Office of Proceedings and include the following information:

(1) Type of Agreement. (equipment trust, mortgage, assignment, etc.).

(2) Whether document is a primary document or a secondary document (see §1177.1). If the document is a secondary document, it must contain the recordation number of the primary document to which it is connected, unless it is being filed concurrently with a primary document to which a recordation number has not yet been assigned.

(3) A request for cross-indexing. If the document is an assignment, parties may request the listing of the assignment in the index under the name(s) of parties with continuing interest not involved in this particular assignment.

(4) A description of the equipment covered in the document—(i) For railway equipment—The type of equipment; whether locomotives, cars, or other rolling stock; with any A.A.R. mechanical designation; the number of each type; any identifying marks such as

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the name or initials of the lessee, mortgagee, or vendee, and the road or serial number, or if more than one for each type of equipment, the first and last inclusive numbers.

(ii) *For water carrier equipment*—Whether tow boats, barges or other vessels; type of equipment; description as contained in the United States Coast Guard certificate of enrollment; number of each type of equipment; and any identifying marks such as the name or initial of the lessee, mortgagee, or vendee.

(5) Parties to the agreement, as follows:

(i) Conditional sale-vendor, purchaser, guarantor.

(ii) Mortgage—mortgagor, mortgagee, guarantor.

(iii) Equipment Trust—vendor, trustee, lessor, lessee, guarantor of lease.

(iv) Lease—lessee, lessor, guarantor.

(v) Bailment—bailor, bailee, guarantor.

(vi) Other transactions—principal debtor, trustee, guarantor, and other parties.

(6) Parties to whom original document should be returned.

(7) The amount of the enclosed fee.

(8) A short summary (1 or 2 sentences) of the type of document and a very brief description of the equipment and identifying numbers. This summary will be entered into the index as an aid to researching the encumbrances to title. (For a sample of a summary, see § 1177.4).

(9) The letter must be signed by an executive officer of one of the parties having knowledge of the matters described in the letter, or their attorney or representative in fact.

NOTE: If the document is a mortgage or deed of trust which contains a “hereafter acquired” or similar clause, the following statement may be included in the letter of transmittal in lieu of the equipment description above:

“Included in the property covered by the aforesaid mortgage (or deed of trust) are (here identify generally the equipment such as “barges, tow boats, or other vessels, railroad cars, locomotives and other rolling stock”) intended for use related to interstate commerce, or interests therein, owned by (name of mortgagor) at the date of said mortgage or thereafter acquired by it or its successors as owners of the water carriers or

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the lines of railway covered by the mortgage.”

When such a mortgage or deed of trust is filed, it is not necessary to refile the document whenever additional rolling stock is acquired in order to perfect the lien of the document upon the addition of vessels or rolling stock.

(Authority: 5 U.S.C. 553, 31 U.S.C. 9701; 49 U.S.C. 10321)

[46 FR 54946, Nov. 5, 1981. Redesignated at 47 FR 49592, Nov. 1, 1982 and amended at 52 FR 46484, Dec. 8, 1987; 56 FR 10520, Mar. 13, 1991; 56 FR 12423, Mar. 25, 1991; 64 FR 53268, Oct. 1, 1999; 74 FR 52910, Oct. 15, 2009]

§ 1177.4 Sample forms.

(a) Sample short summary for the Index. (1) *Primary documents*. [Type of document] between [name and address of lessor, mortgagor, bailor, etc.] and [name and address of lessee, mortgagee, bailee, etc.] dated [date], and covering [briefly list amount and types of equipment].

(2) *Secondary documents*. (i) If an assignment—Assignment between [name and address of assignor] and [name and address of assignee] dated [date of assignment] and covering [list amount and types of equipment], and connected to [type of document primary document is] with Recordation No. [recordation number of the primary document if known, at time recorded].

(ii) Other secondary documents—[Type of document] to [type of primary 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*.

[Chief, Section of Administration, Office of Proceedings' Name] Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington, DC.

Dear Section Chief: 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.

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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; 74 FR 52910, Oct. 15, 2009]

§ 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 counterpart 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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- 1180.0 Scope and purpose.
- 1180.1 General policy statement for merger or control of at least two Class I railroads.
- 1180.2 Types of transactions.
- 1180.3 Definitions.
- 1180.4 Procedures.
- 1180.5 [Reserved]
- 1180.6 Supporting information.
- 1180.7 Market analyses.
- 1180.8 Operational data.
- 1180.9 Financial information.
- 1180.10 Service assurance plans.
- 1180.11 Transnational and other informational requirements.

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.