

purposes of this section, a long-term agreement is one having a term in excess of five years. The FAA has issued guidelines for determining whether an agreement is exclusive, as used in this section. You can obtain them from any FAA Regional Civil Rights Officer or from the FAA Office of Civil Rights, 800 Independence Avenue, SW., Washington, DC 20591, Attention, ACR-4.

(b) You may enter into a long-term, exclusive concession agreement only under the following conditions:

(1) Special local circumstances exist that make it important to enter such agreement, and

(2) The responsible FAA regional civil rights officer approves of a plan for meeting the standards of paragraph (c) of this section.

(c) In order to obtain FAA approval of a long-term-exclusive concession agreement, you must submit the following information to the FAA regional civil rights officer:

(1) A description of the special local circumstances that warrant a long-term, exclusive agreement.

(2) A copy of the draft and final leasing and subleasing or other agreements. This long-term, exclusive agreement must provide that:

(i) A number of DBEs that roughly reflects their availability in the absence of discrimination to do the types of work required will participate as concessionaires throughout the term of the agreement and account for at a percentage of the estimated annual gross receipts equivalent to a level set in accordance with §§ 26.125–127 of this subpart.

(ii) You will review the extent of DBE participation before the exercise of each renewal option to consider whether an increase or decrease in DBE participation may be warranted.

(iii) A DBE concessionaire that is unable to perform successfully will be replaced by another DBE concessionaire, if the remaining term of the agreement makes this feasible. In the event that such action is not feasible, you will require the concessionaire to make good faith efforts during the remaining term of the agreement encourage DBEs to compete for the purchases and/or leases of goods and services to be made by the concessionaire.

(3) Assurances that any DBE participant will be in an acceptable form, such as a sublease, joint venture, or partnership.

(4) Documentation that DBE participants are properly certified.

(5) A description of the type of business or businesses to be operated

(e.g., location, storage and delivery space, “back-of-the-house facilities” such as kitchens, window display space, advertising space, and other amenities that will increase the DBE’s chance to succeed).

(6) Information on the investment required on the part of the DBE and any unusual management or financial arrangements between the prime concessionaire and DBE.

(7) Information on the estimated gross receipts and net profit to be earned by the DBE.

§ 26.159 Does this subpart preempt local requirements?

Nothing in this subpart preempts any State or local law, regulation, or policy enacted by the governing body of a sponsor, or the authority of any State or local government or sponsor to adopt or enforce any law, regulation, or policy relating to DBEs. In the event that a State or local law, regulation, or policy conflicts with the requirements of this subpart, the sponsor shall, as a condition of remaining eligible to receive Federal financial assistance from the DOT, take such steps as may be necessary to comply with the requirements of this subpart.

§ 26.161 Does this subpart permit sponsors to use local geographic preferences?

(a) As a sponsor you are permitted to use a local geographic preference only as provided in this section. By a local geographic preference, we mean any requirement that you impose that gives a DBE located near you an advantage over DBEs from other places in obtaining business as or with a concession or other covered activity at your airport.

(b) You must submit a program waiver request meeting the requirements of § 26.15(b). In the case of such a request, the Secretary’s authority to review and approve the request is delegated to the FAA Administrator.

(c) In order for your request to be granted, you must make the following additional showings:

(1) The preference does not conflict with any provision of this part or have the effect of defeating or substantially impairing accomplishment of the objectives of the program;

(2) The preference does not have the effect of limiting or foreclosing DBE participation in your concessions and other covered activities;

(3) The preference will make it possible for you to diversify the DBE firms participating in your concession and other covered activities (e.g., by permitting smaller DBEs to participate

that otherwise would be unable to compete in certain fields with larger, better-established DBEs from other areas);

(4) The preference applies on a race-neutral basis, to DBEs and non-DBEs alike;

(5) The preference is consistent with Federal law; and

(6) The preference meets any additional conditions established by the Administrator.

APPENDIX F TO PART 26.—SIZE STANDARDS FOR AIRPORT CONCESSIONAIRES MAXIMUM AVERAGE ANNUAL GROSS RECEIPTS IN PRECEDING 3 YEARS

[In millions of dollars]

Concession	Amount
Auto Rentals	44,520
Toy stores	33,390
Beauty shops	33,390
Vending machines	33,390
Coin-operated lockers	33,390
Florists	33,390
Advertising	33,390
Taxicabs	33,390
Limousines	33,390
Duty free shops	33,390
Local pay telephone service	¹ 1500
Gambling machines	33,390
Other concessions not shown above	33,390
OTHER PARTICIPANTS	
Management contractors:	
Parking lots	5.0
Other	(²)
Motor vehicle dealers (new and used)	¹ 500
Other providers of goods or services	(²)

¹For these types of businesses, the standard is expressed in terms of number of employees, rather than dollars.

²As defined in 13 CFR Part 121.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1244

[STB Ex Parte No. 385 (Sub–No. 5)]

Modification of the Carload Waybill Sample Reporting Procedures

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board solicits comments on modifying the Waybill Sample reporting regulations to require all railroads to

identify international rail traffic moving from or through the United States and to report such traffic in the Waybill Sample as if the traffic had terminated at the United States border. The intent of this proposal is to ensure that the Waybill Sample reflects a representative sample of all railroad traffic moving on the United States rail system.

DATES: Comments are due on October 23, 2000.

ADDRESSES: Send comments referring to STB Ex Parte No. 385 (Sub-No. 5) to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, NW, Washington, D.C. 20423-0001. See 49 CFR part 1104 for specific filing requirements.

FOR FURTHER INFORMATION CONTACT: James Nash, (202) 565-1542 or H. Jeff Warren, (202) 565-1533. [Assistance for the hearing impaired is available through TDD services (202) 565-1695.]

SUPPLEMENTARY INFORMATION: Railroads that annually terminate 4,500 or more carloads (or 5 percent of the carloads in any state) are required to report data, including revenues, on individual movements drawn from a representative sampling of their traffic. This Waybill Sample is used for a variety of purposes by the Board, by parties appearing before the agency, by other Federal and State agencies, and by the public in general. Because of the increasing volume of rail traffic moving between the United States, Canada and Mexico, we are proposing to revise the Waybill Sample reporting requirements to ensure that the United States portion of such traffic is captured in the Waybill Sample. To do so, we seek comment on requiring all railroads operating in the United States: (1) To report traffic moving to Canada or Mexico as if it terminated at the United States border, (2) to identify ("flag") that traffic as international traffic in the waybill records, and (3) to report only the United States portion of the total revenue.¹

Without this modification, the Waybill Sample will not reflect information on railroad shipments that originate in the United States and terminate in either Canada or Mexico or that originate in either Canada or Mexico, move through the United States, and terminate outside the United States. International traffic moving from or through the United States is expected to increase significantly as a result of the

North American Free Trade Agreement (NAFTA) and this proposal is designed to ensure that the Waybill Sample captures that traffic.

We do not believe this proposed modification will place a significant additional reporting burden on the railroad industry. Only railroads already submitting a Waybill Sample should be affected, and the impact should be limited to a one-time modification of the computer programs used to develop the Waybill Sample. Indeed, the Canadian National Railway Company and the Canadian Pacific Railway Company have volunteered to develop the Waybill Sample for their United States affiliates in accordance with our proposed rules.

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we preliminarily conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 1244

Freight, Railroads, Reporting, and recordkeeping requirements.

Decided: August 31, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, Title 49, Part 1244 of the Code of Federal Regulations would be amended as follows:

1. The authority citation for Part 1244 continues to read as follows:

Authority: 49 U.S.C. 721, 10707, 11144, 11145.

2. Section 1244.3 is amended by revising the heading and adding paragraphs (c) through (e) to read as follows:

§ 1244.3 Reporting contract shipment waybills and international waybills.

* * * * *

(c) Railroads shall treat international rail traffic that moves from or through the United States, but terminates outside the United States, as terminating at the United States border.

(d) Railroads shall identify ("flag") such movements as international traffic in the waybill records.

(e) Railroads shall include only the United States portion of the total revenue of international traffic. The United States portion shall be calculated as the total shipment revenue less that portion of the total revenue attributable

to those segments of the movement occurring outside the United States.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF79

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on the Proposed Threatened Status and Critical Habitat Determination for *Silene spaldingii* (Spalding's Catchfly)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), reopen the comment period on the proposal to list *Silene spaldingii* (Spalding's catchfly) as a threatened species, and our critical habitat determination for the species. The comment period is extended to accommodate the public notice requirement of the Act. In addition, reopening of the comment period will allow further opportunity for all interested parties to submit comments on the proposal, which is available (see **ADDRESSES** section). We are seeking comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning the proposed rule and critical habitat determination. Comments already submitted on the proposed rule and critical habitat determination need not be resubmitted as they will be fully considered in the final determination.

DATES: Comments from all interested parties must be received by September 22, 2000.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods.

1. You may submit written comments and information to the Supervisor, U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709.

2. You may hand-deliver written comments to our Snake River Basin Office, at the address given above.

¹ The Waybill Sample reporting railroad would be required to calculate the revenue for international traffic as the total shipment revenue less that portion of the total revenue attributable to those segments of the movement occurring outside the United States.