

service performance data that indicated substantial deterioration in service. This information collection focuses on the adequacy of service recovery efforts involving BNSF Railway Company (BNSF), CSX Transportation (CSXT), Norfolk Southern Railway Company (NS), and Union Pacific Railroad Company (UP), and it requires more comprehensive and customer-centric reporting of all Class I (large) railroads' service metrics.

In a decision served on May 6, 2022, the Board found that immediate action was needed to address the significant service problems, and it ordered certain railroads to immediately submit relevant information. This information collection directs the four largest U.S. rail carriers—UP, BNSF, CSX, and NS—to submit service recovery plans, along with bi-weekly progress reports for the next six months, in an effort to address service deficiencies that are impacting the public, businesses, and the U.S. economy. This collection also requires all Class I rail carriers operating in the United States to report more comprehensive and customer-centric performance metrics and employment data, also for a six-month period. The Board is taking this action to better inform its assessment of actions that may be warranted to address the acute service issues described above.

The information received by the Board from this collection will be filed in Docket No. EP 770 (Sub-No. 1) and will be publicly available at www.stb.gov and may be found by a search in that docket under the “proceedings and dockets” pull-down menu.

The Board makes this submission because, under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 5 CFR 1320.13, emergency processing is appropriate here and the Board is providing a two-week comment period through publication in the **Federal Register** concerning each proposed collection of information.

Dated: May 31, 2022.

Jeffrey Herzig,
Clearance Clerk.

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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36597]

Kean Burenga and Chesapeake and Delaware, LLC—Continuance in Control Exemption—Delaware and Raritan River Railroad, LLC

Kean Burenga (Burenga), an individual and noncarrier, and Chesapeake and Delaware, LLC (CAD), a noncarrier holding company, (collectively, Applicants) filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Delaware and Raritan River Railroad, LLC (DRRR), a noncarrier, upon DRRR's becoming a Class III rail carrier.

This notice of exemption is related to a concurrently filed notice of exemption in *Delaware & Raritan River Railroad—Operation Exemption—Consolidated Rail Corporation*, Docket No. FD 36596, in which DRRR seeks authority to operate over certain rail lines owned by New Jersey Transit Corporation (NJT) and to lease and operate certain rail lines owned by Consolidated Rail Corporation (Conrail), totaling 49.9 miles in New Jersey, and a concurrently filed notice of modified certificate of public convenience and necessity in *Delaware & Raritan River Railroad—Modified Rail Certificate*, Docket No. FD 36598, in which DRRR seeks to operate over an additional NJT-owned line segment in New Jersey.

The transaction may be consummated on or after June 19, 2022, the effective date of the exemption (30 days after the verified notice was filed).

According to the notice, CAD currently controls two Class III railroads, Dover and Rockaway River Railroad, LLC (DRRV) and Dover and Delaware River Railroad, LLC (DDRR), and Burenga has authority to control DRRV, DDRR, Belvidere & Delaware River Railway Company, Inc. (BDRV), and Black River & Western Corp. (BRW).¹

Applicants represent that: (1) DRRR will not connect with any of the

¹ DRRV, DDRR, BDRV, and BRW collectively are referred to as the Burenga Railroads. The verified notice states that Burenga has a controlling interest in BDRV and that he recently acquired a controlling interest in BRW, but that he only possesses a minority equity interest in DDRR and DRRV, although he is a director for both railroads and currently holds a management position in each. According to the verified notice, Burenga will assume a similar minority stake in DRRR and will hold a like directorship in, and management position with, DRRR, and that Burenga “seeks permissive control authority for DRRR out of an abundance of caution.”

Burenga Railroads; (2) the transaction is not part of a series of anticipated transactions that would connect DRRR with any of the Burenga Railroads or any of the Burenga Railroads with each other; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than June 10, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36597, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Applicants' representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to Applicants, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 31, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Eden Besera,
Clearance Clerk.

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