

§ 1105.7 [Amended]

- 7. In § 1105.7(e)(5)(i)(C) and (e)(5)(ii)(C) remove the reference “10505” and in its place add “10502”.

Appendix to § 1105.12 [Amended]

- 8. In the appendix to § 1105.12, in the second sample newspaper notice remove the reference “10505” and in its place add “10502”, and in both sample newspaper notices remove “202–927–6211.” and in its place add “[INSERT TELEPHONE NUMBER].”

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES

- 9. The authority citation for Part 1150 is revised to read as follows:

Authority: 49 U.S.C. 721(a), 10502, 10901, and 10902.

§ 1150.1 [Amended]

- 10. In § 1150.1(a) remove the reference “49 U.S.C. 11343” and in its place add “49 U.S.C. 11323”, and remove the reference “10505” and in its place add “10502”.

§ 1150.32 [Amended]

- 11. In § 1150.32(c) remove the reference “10505(d)” and in its place add “10502(d)”.

§ 1150.34 [Amended]

- 12. In § 1150.34 remove the reference “10505(d)” in the concluding paragraph, and in its place add “10502(d)”.

§ 1150.35 [Amended]

- 13. In § 1150.35(f) remove the reference “10505(d)” and in its place add “10502(d)”.

PART 1185—INTERLOCKING OFFICERS

- 14. The authority citation for Part 1185 is revised to read as follows:

Authority: 49 U.S.C. 721, 10502, and 11328.

§ 1185.5 [Amended]

- 15. In § 1185.5(a) remove the first reference to “STB” and in its place add “ICC”, and in paragraph (b) remove the first reference to “STB” and in its place add “ICC”.

PART 1201—RAILROAD COMPANIES

- 16. The authority citation for Part 1201 is revised to read as follows:

Authority: 49 U.S.C. 11142 and 11164.

[FR Doc. 04–21798 Filed 9–29–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****49 CFR Part 1114**

[STB Ex Parte No. 638]

Procedures To Expedite Resolution of Rail Rate Challenges To Be Considered Under the Stand-Alone Cost Methodology

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board is amending its regulations regarding discovery procedures to correct an inadvertent omission.

DATES: These rules are effective on September 30, 2004.

FOR FURTHER INFORMATION CONTACT:

Jamie Rennert, (202) 565–1566. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION:

Procedures to Expedite Resolution of Rail Rate Challenges to Be Considered Under the Stand-Alone Cost Methodology, STB Ex Parte No. 638 (STB served Apr. 3, 2003, and published Apr. 9, 2003 (68 FR 17312)), the Board revised the procedures at 49 CFR 1114.31 dealing with discovery disputes in rail rate challenge cases considered under the stand-alone cost methodology. As relevant here, the Board added four numbered paragraphs (a)(1)–(4) to § 1114.31(a) to expedite the discovery process. However, in the course of formatting these amendments for publication in the **Federal Register**, the Board inadvertently omitted then-existing § 1114.31(a), which was to be retained as the introductory paragraph to new paragraphs (a)(1)–(4). As a result, § 1114.31(a) is being revised to reincorporate the omitted paragraph. To comply with **Federal Register** form, we are also changing “section 1104.13” to “49 CFR 1104.13” in paragraph (a)(1), and changing “subparagraph (a)(3)” to “paragraph (a)(3)” in paragraph (a)(4).

Because this rule change simply corrects a technical error that occurred during the prior rule change and makes other technical changes to conform with **Federal Register** form, it will be issued as a final rule without requesting public comment. *See* 5 U.S.C. 553(b)(A). Moreover, there is good cause to make this rule effective on less than 30 days’ notice in order to correct the regulation as soon as possible. *See* 5 U.S.C. 553(d).

The Board certifies that the 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 1114

Administrative practice and procedure.

Decided: September 24, 2004.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams,
Secretary.

- For the reasons set forth in the preamble, Part 1114 of title 49, chapter X, of the Code of Federal Regulations is amended as follows:

PART 1114—EVIDENCE; DISCOVERY

- 1. The authority citation for Part 1114 continues to read as follows:

Authority: 5 U.S.C. 559; 49 U.S.C. 721.

§ 1114.31 [Amended]

- 2. Revise § 1114.31(a) to read as follows:

§ 1114.31 Failure to respond to discovery.

(a) *Failure to answer.* If a deponent fails to answer or gives an evasive answer or incomplete answer to a question propounded under § 1114.24(a), or a party fails to answer or gives evasive or incomplete answers to written interrogatories served pursuant to § 1114.26(a), the party seeking discovery may apply for an order compelling an answer by motion filed with the Board and served on all parties and deponents. Such motion to compel an answer must be filed with the Board within 10 days after the failure to obtain a responsive answer upon deposition, or within 10 days after expiration of the period allowed for submission of answers to interrogatories. On matters relating to a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

(1) *Reply to motion to compel generally.* Except in rate cases to be considered under the stand-alone cost methodology, the time for filing a reply to a motion to compel is governed by 49 CFR 1104.13.

(2) *Reply to motion to compel in stand-alone cost rate cases.* A reply to a motion to compel must be filed with the Board within 10 days thereafter in a rate case to be considered under the stand-alone cost methodology.

(3) *Conference with parties on motion to compel.* Within 5 business days after the filing of a reply to a motion to compel in a rate case to be considered under the stand-alone cost methodology, Board staff may convene a conference with the parties to discuss the dispute, attempt to narrow the issues, and gather any further information needed to render a ruling.

(4) *Ruling on motion to compel in stand-alone cost rate cases.* Within 5 business days after a conference with the parties convened pursuant to paragraph (a)(3) of this section, the Secretary will issue a summary ruling on the motion to compel discovery in a stand-alone cost rate case. If no conference is convened, the Secretary will issue this summary ruling within 10 business days after the filing of the reply to the motion to compel. Appeals of a Secretary's ruling will proceed under 49 CFR 1115.9, and the Board will attempt to rule on such appeals within 20 days after the filing of the reply to the appeal.

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[FR Doc. 04-21799 Filed 9-29-04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031125292-4061-02; I.D. 092404A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully use the 2004 B season total allowable catch (TAC) of Pacific cod specified for vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 28, 2004, through 2400 hrs, A.l.t., December 31, 2004.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA under § 679.20(d)(1)(iii) on September 10, 2004 (69 FR 55361, September 14, 2004).

NMFS has determined that approximately 730 mt of Pacific cod remain in the 2004 B season directed fishing allowance. Therefore, in accordance with §§ 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the 2004 B season TAC of Pacific cod specified for vessels catching Pacific cod for processing by the inshore

component in the Central Regulatory Area of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA effective 1200 hrs, A.l.t., September 28, 2004.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the fishery under the Pacific cod 2004 B season TAC specified for vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by §§ 679.20 and 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 24, 2004.

Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04-21936 Filed 9-27-04; 1:53 pm]

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