(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: June 12, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–15949 Filed 6–11–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1136

[STB Ex Parte No. 624]

Removal of Obsolete Regulations Concerning Rail Passenger Fare Increases

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing from the Code of Federal Regulations obsolete regulations concerning rail passenger carrier commutation or suburban fare increases.

EFFECTIVE DATE: July 18, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC or Commission) and established the Board within the Department of Transportation. Section 204(a) of the ICCTA provides that ''[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act.''

The regulations at 49 CFR part 1136 require that a rail passenger carrier proposing commutation or suburban fare increases shall concurrently file tariffs and verified statements on the former ICC and on the Governor and appropriate State or county regulatory agency. The carrier is also to certify that the notice provisions of 49 CFR 1312.5 have been met.[1] In a notice of proposed rulemaking in this proceeding served and published in the **Federal Register** on February 24, 1997, we proposed to remove part 1136. In response to that notice, we received a comment from Joseph C. Szabo, for and on behalf of United Transportation Union-Illinois Legislative Board (UTU–IL).

Background

In Notice of Increases in Frt. Rates and Pass. Fares, 349 I.C.C. 741 (1975), the ICC issued regulations for rail and motor carriers to give advance notice of and justification for commutation and suburban passenger fare increases.[2] The purpose of the rules was to facilitate the filing of potential protests seeking the suspension and/or investigation of fare increases.

Subsequently, the ICC modified these regulations by removing their application to motor passenger carriers. Practice and Procedure—Misc. Amendments—Revisions, 6 I.C.C.2d 587 (1990).[3] The ICC reasoned that it could not investigate, suspend, revise or revoke for being unreasonable a rate proposed by a motor passenger carrier acting independently and, moreover, there had been no complaints or protests resulting from collective ratemaking activity by passenger carriers. See Practice and Procedure—Miscellaneous Amendments—Revision, Ex Parte No. 55 (Sub-No. 73) (ICC served Oct. 10, 1989).

Discussion and Conclusions

The only party responding to the February notice was UTU–IL, which states that its international organization is the collective bargaining representative for certain employees of rail carriers providing passenger train transportation in Indiana, Illinois, and Wisconsin. UTU–IL asserts, without substantiation or elaboration, that ''[t]he interest of rail carrier employees in maximum train service is sometimes compromised by the different fare levels, or by the desire to discourage business'', and that ''[r]ail employee organizations desire to monitor the fare changes, from both an individual route and regional basis.''

UTU–IL argues that, even though Congress eliminated tariff filing with the Board, we should maintain the requirement of filing justification statements for commutation or suburban fare increases. UTU–IL contends that this would not be a burden upon the railroads, and that they have continued to file justification statements with the Board as information.[4]

In addition to a justification statement, UTU–IL asks that other information, such as ''interstate tariffs,'' be made available to the public. It contends that, because the Board can require reports from freight rail carriers (49 U.S.C. 721(b)), we should require the submission of information concerning freight carrier participation in mass transportation related to local authorities. UTU–IL asks that the Board establish notice and disclosure requirements for rail passenger fares similar to those we established for rail freight rates in Disclosure, Publication & Notice of Change of Rates—Rail Carriage, 1 S.T.B. 153 (1996) (Rail Disclosure).

We conclude that the regulations in part 1136 can be eliminated. As explained in the February notice, under the ICCTA, with certain exceptions not relevant here,[5] ''the Board does not have jurisdiction * * * over mass transportation provided by a local governmental authority.'' 49 U.S.C. 10501(c)(2).[6] Even as to rail passenger transportation that might not qualify for that exemption, our regulatory authority is quite limited. The vast bulk, if not all of such transportation, is currently provided by Amtrak, over which we have no rate regulatory authority. The tariff filing requirements formerly applicable to rail carriers at former 49 U.S.C. 10761 and 10762 have been repealed,[7] and the circumstances under

[1] These regulations describe, *inter alia,* the placement, form, and content of the notice given when a rail passenger carrier seeks a fare increase. The Board has eliminated these regulations. Regulations for the Publication, Posting and Filing of Tariffs for the Transportation of Property by or with a Water Carrier in the Noncontiguous Domestic Trade, STB Ex Parte No. 618 (STB served Apr. 17, 1997).

[2] The rules were originally issued at 49 CFR part 1105. They were subsequently redesignated in part 1136. 47 FR 49576, November 1, 1982.

[3] This decision issued the part 1136 regulations (designated 49 CFR 1136.1) that are now in effect: A rail passenger carrier proposing commutation or suburban fare increases shall concurrently file appropriate tariffs with the Commission and serve supporting verified statements on the Commission (at its headquarters office and at each Commission office in States affected by the proposal) and on the Governor and appropriate State or County regulatory agency in each affected State, certifying that the notice requirements of 49 CFR 1312.5 have been met.

[4] UTU–IL states that a justification statement was filed on February 17, 1996, with tariff CSX 001–B. However, the Board's policy has been to return or not consider rail tariff filings proffered after December 31, 1995, in light of the ICCTA's repeal of rail tariff filing requirements.

[5] The exceptions, listed in 49 U.S.C. 10501(c)(3)(A), concern safety, employee representation for collective bargaining, and other employee-related matters. Also, under 49 U.S.C. 10501(c)(3)(B), the Board has jurisdiction over transportation by local transportation authorities relating to use of terminal facilities (49 U.S.C. 11102) and switch connections and tracks (49 U.S.C. 11103).

[6] ''This provision * * * changes the statement of agency jurisdiction to reflect curtailment of regulatory jurisdiction in areas such as passenger transportation * * *. [A]lthough regulation of passenger transportation is generally eliminated, public transportation authorities * * * may invoke the terminal area and reciprocal switching access remedies of section 11102 and 11103.'' See H. R. Conf. Rep. No. 422, 104th Cong., 1st Sess. 167 (1995).

[7] New 49 U.S.C. 11101 (b) and (d) require disclosure of rail common carrier rates and service terms. New 49 U.S.C. 11101(c) requires rail carriers

which we have authority to determine the reasonableness of rates are extremely limited.

UTU–IL has not provided independent grounds to maintain a requirement for justification statements for fare increases over which we have such limited regulatory authority. UTU–IL has not shown how it or its members directly benefits from the filing of a justification statement with the Governor and the relevant state or county regulatory agency. Moreover, the UTU–IL assertion that the filing of justification statements is not a burden on carriers is unsupported.

Moreover, we must reject the UTU–IL suggestion that we can require reports from freight carriers concerning their participation in mass transportation for local authorities. While the Board has jurisdiction over freight carriers under section 721(b), under section 10501(c)(2), we do not have jurisdiction in most cases ''over mass transportation provided by a local governmental authority.'' The statutory definition of local governmental authority ''includes a person or entity that contracts with the local governmental authority to provide transportation services * * *.'' 49 U.S.C. 10501(c)(1)(A)(ii). Accordingly, we see no basis for requiring that rail carriers provide information concerning their participation in mass transportation related to local governmental authority.

Finally, we see no need to institute a rulemaking proceeding regarding disclosure of interstate passenger fares. As to any passenger transportation not covered by the mass transportation exemption of section 10501(c)(2), we believe that the pertinent rate disclosure regulations issued at 49 CFR part 1300 would cover required disclosure of passenger fares.

The Board concludes that the removal of the rule in part 1136 would not have a significant effect on a substantial number of small entities. No comments were filed on this issue in response to the February notice. Moreover, passengers are usually individuals and not small entities within the meaning of 5 U.S.C. 601 and, in any event, we do not expect that any effect on them would be significant.

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

providing common carriage not to increase rates without advance notice. See Rail Disclosure and 49 CFR part 1300.

List of Subjects in 49 CFR Part 1136

Administrative practice and procedure, Railroads.

Decided: June 6, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

PART 1136—[REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1136.

[FR Doc. 97–15965 Filed 6–17–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC96

Endangered and Threatened Wildlife and Plants; Endangered Status for Four Plants From Vernal Pools and Mesic Areas in Northern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for four plants—*Lasthenia conjugens* (Contra Costa goldfields), *Navarretia leucocephala* ssp. *pauciflora* (few-flowered navarretia), *Navarretia leucocephala* ssp. *plieantha* (many-flowered navarretia), and *Parvisedum leiocarpum* (Lake County stonecrop). These species grow in and around the margins of vernal pools and in seasonally wet areas in northern California. Habitat loss and degradation imperil the continued existence of these plants. This final rule implements protection provisions of the Act for listed plants.

EFFECTIVE DATE: July 18, 1997.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Ave., Suite 130, Sacramento, California 95821–6340.

FOR FURTHER INFORMATION CONTACT: Elizabeth Warne or Kirsten Tarp (see **ADDRESSES** section) (telephone 916/979–2120).

SUPPLEMENTARY INFORMATION:

Background

Lasthenia conjugens was described from specimens collected near Antioch in Contra Costa County, California (Greene 1888). Hall (1914) included the taxon within *Baeria fremontii*, however, Ferris (1958) later recognized this material as *B. fremontii* var. *conjugens*. Ornduff (1966) submerged the genus *Baeria* under *Lasthenia* and recognized the specific rank of *L. conjugens*.

Lasthenia conjugens is a showy spring annual in the aster family (Asteraceae) that grows 10 to 30 centimeters (cm) (4 to 12 inches (in.)) tall and is usually branched. The leaves are opposite, light green, and usually have a feather-like arrangement with narrow clefts extending more than halfway toward the stem. The flowers are found in terminal yellow heads. The phyllaries are one-third to one-half fused; the achenes are less than 1.5 millimeters (mm) (0.06 in.) long and always lack a pappus. *Lasthenia conjugens* flowers from March to June. The partially fused phyllaries and the lack of a pappus distinguish this species from *L. fremontii* and *L. burkei*, which it otherwise closely resembles.

Habitat for *Lasthenia conjugens* consists of vernal pools in open grassy areas of woodland and valley grassland communities. Vernal pools are a natural habitat type of the Mediterranean climate region of the Pacific coast and the Central Valley of California. Covered by shallow water for extended periods during the cool season but completely dry for most of the warm season drought, vernal pools hold water long enough to allow some purely aquatic organisms to grow and reproduce, but not long enough to permit the development of a typical pond or marsh ecosystem. The alternation of very wet and very dry conditions creates an unusual ecological situation that supports a unique biota (Zedler 1987). *Lasthenia conjugens* occurs at elevations up to 213 m (700 feet (ft)) (Ornduff 1966) although one disjunct location, which is possibly extirpated, occurred at an elevation of 469 m (1540 ft) (California Natural Diversity Database (CNDDB) 1996).

Historically, *Lasthenia conjugens* grew in vernal pool habitats in seven counties—Alameda, Contra Costa, Mendocino, Santa Barbara, Santa Clara, Napa, and Solano counties, California. Currently, the species is known from a total of 13 populations in Alameda, Contra Costa, Napa, and Solano counties (California Native Plant Society (CNPS) 1978, CNDDB 1996). Eight of these populations were discovered after