

Surface Transportation Board & FRA Jointly Issue Final Rules for Adequate & Coordinated Consideration of Safety Integration Issues in Certain Rail Mergers & Consolidations

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board and the Federal Railroad Administration (FRA), working in conjunction, have jointly issued final rules designed to enable each agency to ensure adequate and coordinated consideration of safety integration issues involved in certain railroad merger or consolidation transactions.

In the "*Conrail Acquisition*" proceeding (*CSX Corporation and CSXT Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail Inc. and Consolidated Rail Corporation*, STB Finance Docket No. 33388), the two agencies recognized the need to work together to ensure that the merger transaction proposed in that case would be safely implemented. At the request of the FRA and rail labor interests, the Board required the applicants to file detailed Safety Integration Plans (SIPs), developed within guidelines set by the FRA, explaining how each step in implementing the proposed acquisition would be performed safely. The Board required the same type of showing in subsequent merger proceedings involving the "Canadian National" and "Illinois Central" railroads, and later involving the Canadian National and the "Wisconsin Central" railroads. In addition, in an Advanced Notice of Proposed Rulemaking (ANPR) issued in December 1997, the Board sought public comment on the extent to which railroads should be required to submit information pertaining to how they intend to provide for the safe implementation of authority granted by the Board.

In response to the ANPR, the U.S. Department of Transportation suggested a joint rulemaking. Accordingly, the Board proceeded to work with the FRA to formalize a partnership in regulating the safe implementation of future merger and consolidation transactions. The FRA and the Board issued a joint Notice of Proposed Rulemaking for public review and comment in December 1998. A public hearing was held jointly with the FRA in May 1999.

The joint final rules issued today reflect the concerns raised by various parties in written comments and at the 1999 hearing. The general scope of the transactions covered by the rules that each agency is adopting is the same--the consolidation of two or more Class I (the largest) railroads, or the consolidation of a Class I and a Class II (medium-sized) railroad in which the consolidation involves an integration of operations. The Board's rules establish a procedure for its consideration of SIPs in those transactions where consideration of a SIP is necessary, and for FRA participation in that process. In such cases, a proposed SIP containing the information required by the FRA rules would be filed with the Board, as well as with the FRA. The proposed SIP would need to be submitted to the Board and the FRA no later than 60 days from the date an application for authority to execute such a transaction is filed with the Board. As the joint final rules explain, the rules are intended to promote safety in the rail industry and assure consistency in the agencies' regulatory requirements, while imposing as little burden as possible on the participating parties.

The final rules were jointly issued today in the cases entitled *Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, and Acquisitions of Control; and Procedures For Surface Transportation Board Consideration of Safety Integration Plans In Cases Involving Railroad Consolidations, Mergers, and Acquisitions of Control*, FRA Docket No. 1999-4985, Notice No. 4, and in STB Ex Parte No. 574. A printed copy of the decision issued today is available for a fee by contacting **D~ 2 D~ Legal Copy Service, Suite 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 293-7776**, or via da2dalegal@earthlink.net. The decision also is available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>.

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