

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96-113; Notice 2]

Ford Motor Company; Denial of Application for Decision of Inconsequential Noncompliance

This notice denies the application by Ford Motor Company (Ford) for exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for a noncompliance with the requirements of 49 CFR 571.118 Federal Motor Vehicle Safety Standard No. 118 "Power-Operated Window, Partition, and Roof Panel Systems." Ford applied for the exemption on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published on October 28, 1996, and an opportunity afforded for comment (61 FR 55686).

Paragraph S4(e) of Standard No. 118 requires that "power operated windows may be closed only" during the interval between the time the locking device which controls the activation of the vehicle's engine is turned off and the opening of either of a two-door vehicle's doors or, in the case of a vehicle with more than two doors, the opening of either of its front doors.

From September 18, 1995, through July 31, 1996, Ford manufactured approximately 57,400 Mercury Villager and 46,500 Nissan Quest vehicles that do not comply with Paragraph S4(e) because their power-operated windows can be closed after the ignition key is turned to the "off" position and the right front (passenger) door is opened.

Ford supported its application for inconsequential noncompliance with the following arguments:

In the affected Villager and Quest vehicles, it is likely that as long as the driver's door has not been opened, an adult (the driver) would remain present in the vehicle to supervise any children because a driver would exit the vehicle through the driver's door under all but the most extraordinary circumstances. As previously noted, the power window operation is canceled when the driver door is opened—the door through which the operator would be expected to exit the vehicle—thus eliminating any potential risk associated with operation of the power windows by unsupervised children remaining in the vehicle. In addition, the design of the front door power window control switches located on the door arm rests is such that closing these windows requires the switch to be pulled up and held. Further the switches are recessed in a cavity below the switch assembly surface. The intent of these design features is to minimize the chance of unintentional activation of

power window closing that could, with other switch design configurations, result from a child leaning or resting a foot on the switch. An additional feature that minimizes the potential risk of injury to unsupervised children in the affected vehicles is that no power window switch controls are located in the rear seat positions, and the control switches for the third row seat optional power quarter windows are located in an overhead console in the front passenger compartment, relatively out of sight. In addition to the items cited above to mitigate the risk of injury, the Villager and Quest owner guides warn against leaving children unattended in the vehicle, specifically warn of the potential danger of children playing with the vehicle's power windows, and identify the fact that the accessory delay feature allows the power windows to be operated for a fifteen minute period after the ignition is turned off or until the driver door is opened.

Neither Ford nor Nissan is aware of any field or owner reports or allegations of injuries related to this condition. We [Ford] believe the likelihood of unsupervised children left in one of the affected vehicles being exposed to injury during the fifteen minute period after the ignition key has been turned off and a driver has exited the vehicle through other than the driver's door is very remote, and therefore the noncompliance presents no reasonably anticipated risk to motor vehicle safety. We [Ford] request that the agency find this condition to be inconsequential to motor vehicle safety, and accordingly that Ford and Nissan be exempted from the notice and remedy requirements of the Code. The agency recently granted a petition from Volkswagen of America, Inc., as documented in **Federal Register**, Volume 60, page 48197, (September 18, 1995), for vehicles with power windows operating in a manner similar to the affected Villagers and Quests.

No comments were received in response to the public notice.

Ford is correct that the Volkswagen noncompliance is similar. The power windows in the noncompliant Volkswagen GTIs and Jetta IIIs could be operated when the ignition key was in the "off" position and the passenger side front door has been opened. And as in the Mercury and Nissan vehicles, if the operator exits by the driver's door, the system is disabled. In granting Volkswagen's application, the agency concluded that it was "not likely that an operator would exit by means of the passenger door since that would entail passing over the cumbersome console between the two seats. Thus, the purpose of the requirement in this situation is still highly likely to be met." (61 FR at 48198).

The agency examined the front seating area in the noncompliant Mercury and Nissan vehicles and found no console or other impediment such as a transmission tunnel that would hinder a driver from exiting on the passenger

side. Indeed, a prudent driver might well choose to exit by the front passenger door when parked on a busy city street. Thus, the configuration of the vehicles that the agency exempted from notification and remedy is clearly distinguishable from that of the Mercury/Nissan vehicles for which exemption is sought. Further, there is a greater floor pan to ceiling height resulting in the seating in the Quests and Villagers being more upright, making it easier for the driver to move across the front seats and out the passenger side.

The purpose of requiring inoperative power windows is to reduce the possibility of unsupervised children operating them. The agency is sensitive to the fact that a greater number of children are likely to be at risk from Ford's noncompliance. Although children can be carried in the approximately 20,000 GTIs and Jetta IIIs that were excused from notification and remedy, these passenger cars are not advertised and promoted for family use in the same manner that minivans are marketed, including the approximately 103,900 noncomplying Villagers and Quests.

For the reasons expressed above, it is hereby found that the applicant has not met its burden of persuasion that the noncompliance herein described is inconsequential to motor vehicle safety, and the application is denied.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on September 24, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97-25971 Filed 9-30-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33388]

CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail, Inc. and Consolidated Rail Corporation

AGENCY: Surface Transportation Board.

ACTION: Notice of final scope of environmental impact statement (EIS).

SUMMARY: On June 23, 1997, CSX Corporation and CSX Transportation, Inc. (CSX), Norfolk Southern Corporation, and Norfolk Southern

Railway Company (NS), and Conrail Inc. and Consolidated Rail Corporation (Conrail) filed an application (primary application) with the Surface Transportation Board (Board) under 49 U.S.C. 11323-25. NS, CSX, and Conrail are jointly seeking authority for NS and CSX to acquire control of Conrail and for the subsequent division of some of Conrail's assets and for the joint operation of other Conrail assets. The proposed transaction involves more than 44,000 miles of rail lines and related facilities covering a large portion of the eastern United States. To evaluate and consider the potential environmental impacts that might result from the proposed transaction, the Board's Section of Environmental Analysis (SEA) is preparing an environmental impact statement (EIS). The Board has determined that an EIS is warranted due to the nature and scope of environmental issues that may arise. SEA published the draft scope of the EIS in the **Federal Register** on July 7, 1997, a 30-day public comment period on the draft scope ended August 6, 1997, and the final scope of the EIS is included as part of this notice. Changes made to the draft scope are detailed in the Response to Comments section of this notice.

DATES: SEA expects to distribute the Draft EIS for public review and comment in November 1997.

ADDRESSES: Office of the Secretary, Case Control Unit, STB Finance Docket No. 33388, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

In the lower left-hand corner of the envelope, include: Attention: Elaine K. Kaiser, Chief, Section of Environmental Analysis, Environmental Filing.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Dalton, SEA Project Manager, Conrail Control Transaction, (202) 565-1530; or Ms. Dana White, SEA Environmental Specialist, at (202) 565-1552. (TDD for the hearing impaired: (202) 565-1695).

SUPPLEMENTARY INFORMATION:

Background

The proposed transaction, also referred to as the proposed action, would result in the individual assignment of certain existing Conrail facilities and operations to either CSX or NS through operating agreements or other mechanisms, and the sharing and operation of other existing Conrail facilities and operations for the benefit of both CSX and NS. This would result in an expanded CSX rail system, an expanded NS rail system, and certain areas of joint ownership and operation.

According to CSX, NS, and Conrail (collectively, Applicants), CSX and NS would continue to compete with each other in providing rail freight services and would expand their competition to areas in which Conrail is currently the only major rail carrier. Each of the two railroads would utilize its existing lines, would operate certain Conrail lines independently of the other, and would jointly operate certain Conrail lines.

Applicants anticipate that the proposed transaction would provide benefits that include: reduced energy usage, enhanced safety, reduced highway congestion, reduced system-wide air pollutant emissions, expanded competition, and a more efficient rail transportation system. The proposed transaction includes changes in railroad operations such as increases and decreases in train traffic, changes in activity at rail yards and intermodal facilities, rail line abandonments and rail line connection construction projects. The proposed transaction is detailed in the primary application, and is discussed in specific terms in the operating plans and the environmental report (ER) that are part of the application. The ER describes the physical and operational changes that would be associated with the proposed transaction and discusses the potential environmental impacts of those changes. Applicants also filed corrected and supplemental information in the Errata and Supplemental ER on August 28, 1997.

Applicants served the ER, the Errata and the Supplemental ER on appropriate Federal, state, and local agencies. Applicants also served these documents on affected cities with populations of more than 50,000, as well as on counties and regional planning organizations that could be affected.

Environmental Review Process and Alternatives

The National Environmental Policy Act (NEPA) process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before the Board may make a decision on a proposed action. During scoping, the first phase of the NEPA process, the Board's environmental staff, SEA, published a draft scope in July 1997, soliciting information and comments on the scope of environmental issues to be addressed in the EIS for the proposed transaction. Under the NEPA process, SEA will evaluate the potential environmental impacts of operational and physical changes that are related to the proposed

transaction. Existing rail operations are the baseline against which the potential environmental impacts of the proposed transaction will be evaluated. SEA will not propose mitigation of environmental impacts relating to existing rail operations and existing railroad facilities.¹

In making its decision in this proceeding, the Board will consider public comments and SEA's environmental analysis contained in the EIS, including any proposed environmental mitigation. The alternatives SEA will consider in the EIS are: (1) Approval of the transaction as proposed; (2) disapproval of the proposed transaction in whole (No-Action alternative); and, (3) approval of the proposed transaction with conditions, including environmental mitigation conditions.²

Other parties may file inconsistent or responsive applications requesting modifications to the proposed transaction, such as requests for trackage rights or the acquisition of particular rail lines. The EIS will address potential environmental impacts and rail system changes proposed in the inconsistent and responsive applications.

Relationship With Other Agencies

The authority of the Board is broad and extends to all matters affecting change in rail operations resulting directly from the proposed transaction. Conditions may be imposed to mitigate adverse environmental impacts that are the result of the proposed transaction, or any alternative considered and approved by the Board. In determining appropriate conditions for the transaction, the Board will exercise its authority with due regard for the jurisdiction and expertise of other Federal agencies (e.g., the Federal Railroad Administration, the Environmental Protection Agency, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service).

¹ In merger and control cases, the Board's practice consistently has been to mitigate only those environmental impacts that result from the transaction. The Board, like its predecessor, the Interstate Commerce Commission, has not imposed mitigation to remedy preexisting conditions such as those that might make the quality of life in a particular community better, but are not a direct result of the merger (i.e., congestion associated with the existing rail line traffic, or the traffic of other railroads).

² The Board has broad authority to impose conditions in railroad control transactions under 49 U.S.C. 11324 (c). However, the Board's power to impose conditions is not limitless; the record must support the imposition of the condition at issue. Moreover, there must be a sufficient relationship between the condition imposed and the transaction before the agency, and the condition imposed must be reasonable.

Related Activities

NS and CSX requested, and the Board allowed, the proposed construction of seven small rail line connections (Seven Connections) totaling approximately four miles to be filed and reviewed separately from the primary application. This separate environmental review process will address only the potential environmental impacts of the physical construction of these Seven Connections and Applicants' proposed operations over these individual lines. The operational implications of the transaction as a whole, including proposed operations over these Seven Connections, if authorized, will be examined in the context of the EIS that is being prepared for the proposed transaction.³

Public Participation

SEA encourages broad participation in the EIS process during scoping and review of the Draft EIS. Interested agencies and persons were invited to participate in the scoping phase by reviewing the draft scope of the EIS. Due to the broad geographic scope of the proposed transaction, SEA did not conduct public scoping meetings. However, in addition to publication of the draft scope of the EIS in the **Federal Register** on July 7, 1997, SEA implemented an extensive public outreach program to notify the public that SEA was soliciting comments on the draft scope of the EIS and to encourage public participation in the environmental review process.

SEA distributed information about the proposed transaction and SEA's intent to prepare an EIS through the following outreach activities:

- On July 3, 1997, a scoping package that included the draft scope of the EIS was distributed to approximately 1,900 Federal, state and local elected and agency officials. In this package, the Board also announced its intent to prepare an EIS and requested comments on the draft scope.
- On July 7, 1997, SEA published a notice in the **Federal Register** to

announce the Board's intent to prepare an EIS, to publish the draft scope of the EIS, and to request comments on the proposed scope.

- In July 1997, a press release detailing this same information was distributed to the media in the 24 affected states, and a legal notice was placed in the newspapers with the highest circulation for each of the potentially affected counties.
- During July and August 1997, SEA also prepared and widely distributed a Fact Sheet describing the proposed transaction to 7,000 elected officials, agencies and organizations for cities and counties potentially affected by the proposed transaction.

- To further assist SEA in receiving input from the public, SEA established a toll-free environmental hotline (1-888-869-1997), established a website (www.conrailmerger.com), and initiated media monitoring services that involved a weekly review of newspaper articles.

The SEA study team established a comprehensive database to record and maintain all comments received in writing and via telephone and the website. Written comments on the draft scope of the EIS were due to the Board within the 30-day comment period, which ended on August 6, 1997. All comments have been placed in the Public Record for this proceeding. In preparing the final scope of the EIS, SEA has considered all the environmental comments.

Response to Comments: SEA received more than 170 comments concerning the draft scope of the EIS. Twenty-one comments were received from Federal agencies, including the U.S. Departments of Agriculture, Commerce, Housing and Urban Development, Interior, and Transportation; the U.S. Army Corps of Engineers; the U.S. Coast Guard; and the Environmental Protection Agency. Forty-eight comments were received from state agencies in AL, DE, FL, GA, IL, IN, KY, LA, MD, MA, MI, MS, MO, NC, NJ, NY, OH, PA, RI, SC, TN, VT, VA, and WV. Seventy-eight comments were received from local, county, and regional agencies from the states of AL, DE, DC, FL, GA, IL, IN, KY, LA, MD, MA, MI, NC, NJ, NY, OH, PA, TN, and VA. Nine comments were received from citizens in DE, GA, and OH. Five businesses—including Interstate Commodities, Inc., Johnson Environmental Consulting Group, Inc., Newark (DE) Center for Creative Learning, Newark (DE) Day Nursery, and Port Richmond Community Council, Inc., provided comment, as did a rail carrier, National Railroad Passenger Corporation (Amtrak). Seven comments were

received from other interested parties, including the League of Women Voters of New Castle County, DE; the American Public Transit Association; The Waterfront Historic Area League, New Bedford, MA; Indianapolis Power & Light Company, IN; Downtown Newark, DE; University of Delaware, DE; and Rutgers, The State University of New Jersey School of Law. The comments covered a broad range of topics, including air quality, water resources, noise, at-grade highway safety, rail accidents, emergency vehicle response times, hazardous materials transportation and spills, environmental justice, and current and future commuter rail service.

SEA reviewed and considered all comments received in its preparation of the final scope of the EIS. The final scope reflects changes made because of comments on the draft scope of the EIS. Other changes in the final scope of the EIS were made for clarification.

Specifically, the Safety Section of the final scope of the EIS provides that grade crossing safety generally will be considered for at-grade highway crossings with average daily traffic levels of 5,000 or more vehicles. In applying this threshold for the review of at-grade crossings in past environmental documents, SEA found it to be a conservative baseline.

SEA received several comments concerning hazardous waste. In response, section 1(D)(7) of the final scope of the EIS was added to indicate that the Draft EIS will assess the locations and types of hazardous waste sites and spills on the rights-of-way of proposed construction projects and rail line abandonments. SEA notes, however, that other Federal and state agencies have primary jurisdiction for investigation, clean-up, and remediation of hazardous waste sites.

SEA received approximately 20 comments related to potential impacts on commuter rail service. In response, Section 2 of the final scope has been expanded to include an analysis of potential passenger diversions, and reasonably foreseeable commuter rail inception or expansion plans (i.e., where capital improvements are planned, approved, and funded). Section 2 also addresses comments requesting that SEA discuss the potential impacts of increased train traffic on movable (draw) bridges over navigable channels.

Section 4, Energy, has been clarified in the final scope to address estimated system-wide changes in energy efficiency (fuel use), including the impact of truck-to-rail diversions. Section 4(C) addresses the overall

³ Board Decision No. 9 in this proceeding, issued June 12, 1997, granted Applicants' petition for waiver related to the Seven Connections and explained what the environmental review process for those projects would be. Specifically, SEA intends to prepare a separate Environmental Assessment for each of these small construction projects. However, if SEA determines that any one of the construction proposals could potentially cause, or contribute to, significant environmental impacts, then the project will be incorporated into the EIS for the overall proposed transaction, and will not be separately considered. Also, no rail operations can begin over these Seven Connections until completion of the EIS process, and issuance of a further decision.

estimated changes in energy efficiency resulting from rail-to-truck diversions subject to the Board's regulatory thresholds in 49 CFR 1105.7(e)(4)(iv).

Section 5, Air Quality, has been expanded to include the calculation of net increases of emissions from the proposed transaction for counties where increases in locomotive emissions are projected to be 100 tons or more per year. Section 6, Noise, has been modified to reflect the actual data that are available to analyze noise impacts. Estimates of receptors will be developed where noise levels are predicted to rise to 65 decibels L_{dn} or greater as a result of rail traffic increases related to the proposed transaction.

Section 9, Environmental Justice, has been expanded in the final scope to include a report on the demographics in the vicinity of rail line segments with projected rail traffic increases of eight (8) trains or more per day. The portion of Section 3 of the final scope of the EIS, involving Socioeconomic Issues, includes a consideration of socioeconomic impacts to the extent that they result directly from changes to the physical environment due to the proposed transaction. That approach is consistent with the U.S. Supreme Court decision in *Metropolitan Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766 (1982). Those most directly and immediately affected by the proposed transaction, the employees of the consolidating carriers, will be covered by the labor protection afforded by the Board in considering the merits of the proposed transaction. Therefore, these impacts need not be addressed in the EIS. Section 3 also has been expanded to specifically state that the EIS will address the potential environmental impacts of proposed rail line construction and abandonment activities on Native American reservations and sacred sites.

Several comments on the draft scope of the EIS suggested there be an analysis of the cumulative impacts of certain environmental effects related to the proposed transaction. The final scope of the EIS indicates the Draft EIS will undertake cumulative effects analyses related to the proposed transaction where such effects could have regional or system-wide impacts. The effects to be analyzed will include air quality and energy. Cumulative effects also may be analyzed for other projects or activities related to the proposed transaction where information is provided in a timely fashion to the Board describing those projects, their interrelationship to the proposed transaction, and the type and severity of the potential environmental impacts, and SEA

determines that there is the likelihood of significant environmental impacts.

Parties of Record

The Board received 228 notices of designation as a Party of Record (POR). As stated in Board Decision No. 6 in this case,⁴ copies of Board decisions, orders, and notices will be served only on persons designated as PORs, members of Congress, and governors on the Board's official service list. All other interested persons who wish to receive copies of Board decisions, orders, and notices served in this proceeding are encouraged to make advance arrangements with the Board's copy contractor, DC News & Data, Inc., at (202) 289-4357.

For Additional Information

Contact Mr. Michael Dalton, SEA Project Manager, Conrail Control Transaction, (202) 565-1530; or Ms. Dana White, SEA Environmental Specialist, at (202) 565-1552 (TDD for the hearing impaired: (202) 565-1695). Summary information about the proposed transaction and the final scope of the EIS can be found at the following Internet web site: <http://www.conrailmerger.com>. Requests for summary environmental information on the proposed transaction and the EIS process can be made through SEA's toll-free Environmental Hotline at (888) 869-1997.

Environmental Review Schedule

The Board has adopted a 350-day procedural schedule for this proceeding,⁵ and has determined that preparation of an EIS is warranted in this case. The 350-day schedule will permit SEA to prepare an EIS that fully considers the potential environmental consequences of this proposed action. Below is a discussion of how SEA plans to conduct the environmental review process in this case.

On June 23, 1997, Applicants filed an ER containing the information specified in the Board's environmental rules at 49 CFR 1105.7(e), as part of the primary application. The ER was served concurrently on the agencies listed in the Board's environmental rules at 49 CFR 1105.7(b), and other appropriate entities. The ER describes the physical and operational changes in the rail systems and facilities anticipated as a result of the proposed transaction. In the ER, Applicants also discuss the potential environmental impacts that

would be associated with the anticipated changes. The Applicants have provided, and continue to provide, SEA with supplemental information to the ER. Also, as previously discussed, on August 28, 1997, the Applicants filed an Errata and Supplemental ER.

Based on the Council on Environmental Quality's (CEQ) regulations, the Board's environmental rules at 49 CFR 1105, the ER, the draft scope, the comments received on the draft scope, and all other information available to date, SEA has prepared this final scope of the EIS. This final scope of the EIS will be distributed to all PORs, interested parties, and appropriate agencies.

Based on SEA's independent environmental analysis, review of all information available to date, and consultations with appropriate agencies, SEA will prepare a Draft EIS. The Draft EIS will address relevant environmental concerns, as described in the final scope of the EIS, and will recommend appropriate environmental mitigation. In addition, the Draft EIS will include environmental impacts associated with any inconsistent or responsive applications or settlement agreements.⁶ SEA intends to serve the Draft EIS in November 1997. SEA will serve the Draft EIS on all PORs to this proceeding, all interested parties, appropriate Federal, state, and local government agencies, and any other parties specifically requesting a copy of the Draft EIS. In addition, the Environmental Protection Agency will publish a notice of the availability of the Draft EIS in the **Federal Register**. There will be a 45-day comment period on the Draft EIS, as required by CEQ regulations at 40 CFR 1506.10(c).

After considering comments on the Draft EIS, SEA will issue a Final EIS. The Final EIS will address comments on the Draft EIS and will include SEA's final recommendations, including appropriate environmental mitigation. Environmental comments not received in accordance with the 45-day comment period for the Draft EIS will not be incorporated into the Final EIS. The Final EIS and SEA's final environmental

⁶ Under the procedural schedule previously established for this proceeding in Decision No. 6, inconsistent and responsive applicants must provide a description of the proposed inconsistent or responsive application by August 22, 1997. Inconsistent and responsive applicants must file Responsive Environmental Reports or verified statements indicating that there are no potentially significant environmental impacts by October 1, 1997. They must file inconsistent and responsive applications by October 21, 1997. SEA anticipates that the issues addressed in the final scope of the EIS will be similar to issues that may be raised in any subsequent filing of inconsistent or responsive applications.

⁴ Board Decision No. 6 was issued May 30, 1997, and published at 62 FR 29387-29391.

⁵ See Decision No. 6. This schedule is based on the filing date (F) of the primary application, which was June 23, 1997.

recommendations serve as the basis for the Board's disposition of environmental issues.

SEA plans to serve the Final EIS in late March or early April 1998, prior to the Board's voting conference, which currently is scheduled for April 14, 1998. At the voting conference, the Board will announce whether it will grant or deny the application, or grant it with appropriate conditions, including environmental mitigation conditions. The Board intends to serve a written decision in this case by June 8, 1998. In that decision, the Board will address both environmental and transportation issues and impose any conditions deemed appropriate.

Parties who wish to file an administrative appeal of the Board's written decision (including any environmental conditions that the Board might impose) may do so within 20 days from the service date of the Board's written decision, as provided in the Board's rules. Any interested party will have approximately two months to consider the Final EIS prior to commencement of the aforementioned period for filing administrative appeals. The schedule will provide adequate time to pursue administrative review of the Board's June 1998 decision after it is issued. Any administrative appeals will be addressed in a subsequent decision. This process is consistent with CEQ rules (40 CFR 1506.10(b)).

Projected Schedule ⁷

- Preliminary Environmental Report ⁸ submitted to SEA. (F-30). ⁹—May 16, 1997.
- Primary Application and Environmental Report filed.—(F). June 23, 1997.
- Notice of Intent to Prepare an Environmental Impact Statement and Environmental Impact Statement Scoping Notice issued. (**Federal Register** Notice).—July 7, 1997.
- Comments on the Draft Scope of the Environmental Impact Statement due (end of 30-day comment period).—August 6, 1997.
- Descriptions of Inconsistent and Responsive Applications filed. (F + 60).—August 22, 1997.
- Preliminary Draft Environmental Assessments for the Seven Separate Construction Projects referenced in Decision No. 9.—September 5, 1997.

- Final Scope of the Environmental Impact Statement issued.—September 1997.
- Responsive Environmental Reports and Verified Environmental Statements due. (F + 100).—October 1, 1997.
- Inconsistent and Responsive Applications due. (F + 120).—October 21, 1997.
- Draft Environmental Impact Statement served.—November 1997.
- Draft Environmental Impact Statement comments due (end of 45-day comment period).—January 1998.
- Final Environmental Impact Statement served.—Late March or Early April 1998.
- Oral Argument.—April 9, 1998.
- Voting Conference.—April 14, 1998.
- Final Decision served.—June 8, 1998.
- Administrative Appeals filing deadline.—June 29, 1998.

Final Scope of the EIS

Proposed Action and Definition of Alternatives

The proposed action is Applicants' proposed acquisition and control, jointly or individually, of Conrail's rail lines and facilities, as explained in the primary application's operating plan and ER. The proposed transaction includes changes in railroad operations such as increases and decreases in train traffic on rail lines, changes in activity at rail yards and intermodal facilities, and rail line abandonment and construction projects.

Reasonable or feasible alternatives that will be evaluated in the EIS are: (1) Approval of the proposed transaction; (2) the No-Action alternative; and (3) approval of the proposed transaction with conditions, including environmental mitigation conditions. Proposed modifications to the proposed transaction as requested by other parties in their inconsistent or responsive applications also will be addressed in the EIS.

Environmental Impact Analysis

Analysis in the EIS will address proposed activities and their potential environmental impacts, as appropriate. The scope of the analysis will include the following types of activities:

1. Anticipated changes in level of operations on rail lines (e.g., an increase in average trains per day) for those rail line segments that meet or exceed the Board's thresholds for environmental review in 49 CFR 1105.7. In circumstances where the Board's environmental rules do not provide a threshold, the EIS generally will use increases of eight trains per day or more

as the threshold for addressing environmental impacts.

2. Proposed rail line abandonments.
3. Proposed changes in activity at rail yards and intermodal facilities to the extent such changes may exceed the Board's thresholds for environmental analysis in 49 CFR 1105.7.
4. Proposed requests for trackage rights or rail line acquisitions that meet or exceed the Board's thresholds that may be included in inconsistent and responsive applications.
5. Proposed physical construction of rail line segments other than the Seven Connections discussed above and in Decision No. 9.¹⁰ Subsequent references to construction projects in this scoping document do not include these Seven Connections. Alternatives to construction may include feasible alternate alignments that may be environmentally preferable.

Environmental Impact Categories

The EIS will address potential impacts on the environment that will include the areas of safety, transportation systems, land use, energy, air quality, noise, biological resources, water resources, socioeconomic effects related to physical changes in the environment, environmental justice, and cultural and historic resources, as described below.

1. Safety

The EIS will:

- A. Consider at-grade rail crossing accident probability and safety factors. This will generally include grade crossings with average daily traffic levels of 5,000 or more trips.¹¹ Accident probability analysis will address the potential for rail and vehicle accidents.
- B. Consider increased probability of train accidents and derailments due to increased traffic on a system-wide basis.
- C. Address potential effects of increased freight traffic on commuter and intercity passenger service operations.
- D. Discuss the potential environmental impacts of the proposed transaction on public health and safety with respect to the transportation of hazardous materials, including:

¹⁰ As noted in Decision No. 9, in reviewing the Seven Connections separately, the Board will consider the regulatory and environmental aspects of these proposed constructions and Applicants' proposed operations over these lines together in the context of whether to authorize each individual physical construction project. The operational implications of the proposed transaction as a whole, including operations over the four or so miles embraced in the Seven Connections, will be examined in the context of the EIS for the overall proposed transaction.

¹¹ Previous SEA environmental analyses have used the 5,000 average daily traffic level threshold.

⁷ Actual dates for environmental documents may vary slightly.

⁸ The Preliminary Environmental Report contained preliminary, descriptive information on the proposed transaction.

⁹ "F" is the filing date of the primary application. The Board established the time periods related to the filing date in the procedural schedule set out in Decision No. 6 in this proceeding.

(1) Changes in the types of hazardous materials and quantities transported or re-routed;

(2) Nature of the hazardous materials being transported;

(3) Applicants' safety practices and protocols;

(4) Applicants' relevant safety data on derailments, accidents and hazardous materials spills;

(5) Contingency plans to address accidental spills;

(6) Probability of increased spills given railroad safety statistics and applicable Federal Railroad Administration requirements; and

(7) Location and types of hazardous substances at hazardous waste sites or hazardous materials spills on the right-of-way of any proposed connection or rail line abandonment site.

E. Address local truck traffic increases attributable to increased intermodal activities.

F. Address safety issues associated with the integration of differing rail operating systems and procedures.

2. Transportation Systems

The EIS will:

A. Describe system-wide effects of the proposed operational changes, constructions, and rail line abandonments, and evaluate potential impacts on commuter rail service and intercity passenger (Amtrak) service. Estimates will be made of the number of passengers who may be diverted from commuter rail to other modes of transportation due to constraints resulting from the proposed transaction that limit the number of passenger trains.

B. Evaluate those commuter rail line segments that would experience increased freight traffic as a result of the proposed transaction for the capability of the rail line segments to accommodate the reasonably foreseeable addition of commuter trains.

C. Discuss potential effects on proposed passenger rail service where such future rail operation inception or expansion is reasonably foreseeable (i.e., where capital improvements are planned, approved, and funded).

D. Discuss potential diversions of freight traffic from trucks to rail and from rail to trucks, as appropriate.

E. Address vehicular delays at rail crossings and intermodal facilities due to increases in rail-related operations as a result of the proposed transaction. Estimates of typical delays at grade crossings will be made for crossings that have vehicle traffic levels of 5,000 ADT or more and that exceed train traffic increases of three trains per day for non-

attainment areas or eight trains per day for attainment areas.

F. Discuss potential effects of increased train traffic on railroad bridges that cross navigation channels to the extent that such bridges allow only one mode of transportation to pass at a time.

3. Land Use and Socioeconomics

The EIS will:

A. Describe whether the proposed rail line construction and abandonment activities are consistent with existing land use plans.

B. Describe environmental impacts associated with the proposed construction of new rail lines or expansion of facilities as to acres of prime farmland potentially removed from production.

C. Discuss consistency of proposed rail line construction and abandonment activities with applicable coastal zone requirements.

D. Address potential environmental impacts of proposed rail line construction and abandonment activities on Native American reservations and sacred sites.

E. Address socioeconomic issues shown to be related to changes in the physical environment as a result of the proposed transaction.

4. Energy

The EIS will:

A. Describe the potential environmental impact of the proposed transaction on transportation of energy resources and recyclable commodities to the extent that such information is available.

B. Discuss estimated changes in energy efficiency from truck-to-rail diversions.

C. Discuss the effect on energy efficiency (fuel use) from rail-to-truck diversions based on estimates of diversions which are subject to the Board's thresholds in 49 CFR 1105.7(e)(4)(iv).

5. Air Quality

The EIS will:

A. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds in 49 CFR 1105.7(e)(5)(i), in an air quality attainment or maintenance area as designated under the Clean Air Act as it existed on the date the primary application was filed.¹² Thresholds are as follows:

¹² Air quality attainment areas are areas that comply with national ambient air quality standards for particulate matter, sulfur dioxide, nitrogen

(1) A 100 percent increase in rail traffic (measured in gross-ton miles annually) or an increase of eight trains a day on any segment of rail line affected by the proposal; or

(2) An increase in rail yard activity of at least 100 percent or more; or

(3) An increase in truck traffic at an intermodal facility of more than 10 percent of the average daily traffic or 50 vehicles a day.

B. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds for a non-attainment area as designated under the Clean Air Act as of the date the application was filed. Thresholds for non-attainment areas are as follows:

(1) An increase in rail traffic of at least 50 percent (measured in gross-ton miles annually) or an increase of three trains a day or more; or

(2) An increase in rail yard activity of at least 20 percent; or

(3) An increase in truck traffic at intermodal facilities of more than 10 percent of the average daily traffic or 50 vehicles a day.

C. Discuss the net increase in emissions from increased railroad operations associated with the proposed transaction. Net emissions changes will be calculated for counties with projected transaction-related emissions increases of:

(1) 100 tons per year or more of any pollutant in attainment areas;

(2) 50 tons per year or more of nitrogen oxides or volatile organic compounds in serious¹³ ozone non-attainment areas; or

(3) 25 tons per year or more of nitrogen oxides or volatile organic compounds in severe¹⁴ ozone non-attainment areas.

D. Evaluate potential air quality benefits of system-wide emission reductions that would result from projected truck-to-rail diversions. Net increases, less any estimated reductions due to truck-to-rail diversions, will be compared to the entire emission inventory for affected non-attainment areas. This evaluation will be based on emission inventory data provided by the appropriate state agency.

oxides, ozone, carbon monoxide, and lead. Non-attainment areas are areas that do not comply with one or more ambient air quality standards. Maintenance areas are areas that were non-attainment in the past but have air quality that complies with standards at present. All of these areas are designated by EPA.

¹³⁻¹⁴ Ozone non-attainment areas are further classified as Marginal, Moderate, Serious, Severe, or Extreme Areas. These classifications are based on the level, in parts per million (ppm), of ozone measured for each area. Serious Areas are defined as containing 0.160 to 0.180 ppm, and Severe Areas are defined as containing 0.180 to 0.280 ppm.

E. Discuss the following information regarding the anticipated transportation of ozone depleting materials (such as nitrogen oxide and freon):

- (1) Materials and quantity;
- (2) Applicants' safety practices;
- (3) Applicants' safety record (to the extent available) on derailments, accidents, and spills;
- (4) Contingency plans to address accidental spills; and
- (5) Likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

F. Discuss potential air emissions increases from vehicle delays at rail crossings where the rail crossing is projected to experience an increase in rail traffic over the thresholds described above in Section 5(A) for attainment and maintenance areas, and in Section 5(B) for non-attainment areas, and which have an average daily vehicle traffic level above 5,000. Such increases will be factored into the net emissions estimates for the affected area.

6. Noise

The EIS will:

A. Describe potential noise impacts of the proposed transaction for those areas that exceed the Board's environmental thresholds identified in Section 5A of the Air Quality discussion.

B. Identify whether the proposed transaction-related increases in rail traffic will cause an increase to a noise level of 65 decibels L_{DN} or greater. If so, an estimate of the number of sensitive receptors (e.g., schools and residences) within such areas will be made.

C. Identify transaction-related activities that have the potential to result in an increase in noise level of 3 decibels L_{DN} or more.

7. Biological Resources

The EIS will:

A. Discuss the potential environmental impacts of proposed rail line construction and abandonment projects on federal endangered or threatened species or designated critical habitats.

B. Discuss the effects of proposed rail line construction and abandonment projects on wildlife sanctuaries or refuges, and national or state parks or forests.

8. Water Resources

The EIS will:

A. Discuss whether potential impacts from proposed rail line construction and abandonment projects may be inconsistent with applicable federal or state water quality standards.

B. Discuss whether permits may be required under Sections 404 or 402 of

the Clean Water Act (33 U.S.C. 1344) for any proposed rail line construction and abandonment projects, and whether any such projects have the potential to encroach upon any designated wetlands or 100-year floodplains.

9. Environmental Justice

The EIS will:

A. Report on the demographics in the immediate vicinity of any area where major activity such as an abandonment or construction is proposed.

B. Report on the demographics in the vicinity of rail lines with projected rail traffic increases above eight trains per day.

C. Evaluate whether such activities potentially have a disproportionately high and adverse health effect or environmental impact on any minority or low-income group.

10. Cultural and Historic Resources

The EIS will address potential impacts from proposed rail line construction and abandonment projects on cultural and historic resources that are on, or immediately adjacent to, a railroad right-of-way.

11. Cumulative Effects

The EIS will:

A. Address cumulative effects of environmental impacts that have regional or system-wide ramifications. This analysis will be done for environmental impacts that warrant such analysis given the context and scope of the proposed transaction. The environmental effects to be analyzed include air quality and energy.

B. Evaluate cumulative effects, as appropriate, for other projects or activities that relate to the proposed transaction, where information is provided to the Board that describes (1) those other projects or activities, (2) their interrelationship with the proposed transaction, (3) the type and severity of the potential environmental impacts; and SEA determines that there is the likelihood of significant environmental impacts. This information must be provided to the Board within sufficient time to allow for review and analysis within the schedule for the preparation of the EIS.

C. Discuss the potential environmental impacts of construction or facility modification activities within railroad-owned property affected by the proposed merger, and additional environmental impacts related to the proposed transaction but not subject to Board approval, in order to identify cumulative impacts.

By the Board, Elaine K. Kaiser, Chief,
Section of Environmental Analysis.

Vernon A. Williams,
Secretary.

[FR Doc. 97-26039 Filed 9-30-97; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 19, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Financial Management Service (FMS)

OMB Number: 1510-0007.

Form Number: SF 1199A.

Type of Review: Extension.

Title: Direct Deposit Sign-Up Form.

Description: The Direct Deposit Sign-Up Form is used by recipients to authorize the deposit of Federal payments into their accounts at financial institutions. This information is used to route the Direct Deposit payment to the correct account at the correct financial institution. It identifies persons who have executed the form.

Respondents: Individuals or households, Business or other for-profit, Federal Government.

Estimated Number of Respondents/Recordkeepers: 2,197,960.

Estimated Burden Hours Per Response/Recordkeeper: 10 minutes.

Frequency of Response: Other (one-time).

Estimated Total Reporting/Recordkeeping Burden: 373,653 hours.

Clearance Officer: Jacqueline R. Perry, (301) 344-8577, Financial Management Service, 3361-L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97-26024 Filed 9-30-97; 8:45 am]

BILLING CODE 4810-35-P