

5. What should be the key attributes of a program to assess motor carrier safety?

6. How should safety be measured? This measurement may be used to focus FMCSA resources and to assess safety under 49 U.S.C. 31144, Safety fitness of owners and operators.

A. Which data elements (crashes, inspection results, violations, financial condition) are the best indicators of safe (or unsafe) operations? Are there other important safety indicators we currently overlook?

B. How should FMCSA consider historical data when measuring safety?

C. How should FMCSA consider unique characteristics of the operations (hazardous materials, passengers, others) when measuring safety?

7. What compliance and enforcement tools are most effective? Currently FMCSA's interventions include issuing warning letters, issuing civil penalties, and placing motor carriers out-of-service.

A. What types of interventions are most effective?

B. How should FMCSA use history and characteristics of the motor carrier's operations in determining which intervention is appropriate?

Effect on Other Regulations

FMCSA is conducting a related rulemaking proceeding (RIN AA37; Docket No. FMCSA-1998-3639) to examine the Safety Fitness Procedures the agency uses to rate motor carriers. An Advance Notice of Proposed Rulemaking was published for this docket in 1998 (63 FR 38788; July 20, 1998). These listening sessions are broader in scope than the Safety Fitness Procedures, because they relate to FMCSA's entire compliance review and safety analysis process, FMCSA does anticipate that some of the comments at the listening session or comments to the docket may contain information relevant to the Safety Fitness Procedures proceeding. Therefore, FMCSA will be adding all comments made during the listening sessions and comments made to this docket to Docket No. FMCSA-1998-3639 for RIN 2126-AA37. FMCSA anticipates publishing a subsequent rulemaking notice under RIN 2126-AA37 following analysis of the listening sessions and decisions on FMCSA's long-term plan for monitoring motor carrier safety.

Issued on: August 18, 2004.

Warren E. Hoemann,
Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34528]

Indiana Boxcar Corporation— Continuance in Control Exemption— Chesapeake & Indiana Railroad Company, Inc.

Indiana Boxcar Corporation (Boxcar) has filed a verified notice of exemption to continue in control of Chesapeake & Indiana Railroad Company, Inc. (Chesapeake), upon Chesapeake's becoming a Class III rail carrier.

The transaction was expected to be consummated on July 29, 2004.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34529, *Chesapeake & Indiana Railroad Company, Inc.—Operation Exemption—The Town of North Judson, IN*. In that proceeding, Chesapeake seeks to operate 32.97 miles of track extending from Wellsboro, milepost 15.2, to LaCrosse, milepost 0.6, in LaPorte County, IN, and from Malden, milepost 230.9 through LaCrosse, to North Judson, milepost 212.5, in Porter and Starke Counties, IN, which is owned by the Town of North Judson.

Boxcar currently controls one Class III rail carrier, the Vermillion Valley Railroad Company, Inc., operating in Vermillion and Warren Counties, IN.

Under 49 CFR 1180.2(d)(2), a continuance in control transaction is exempt if: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. There are no Class I carriers involved in this transaction and Boxcar states that the railroads do not connect with each other and there are no plans to acquire additional rail lines for the purpose of making such a connection. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323.

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. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34528, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Dated: August 16, 2004.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34529]

Chesapeake & Indiana Railroad Company, Inc.—Operation Exemption—The Town of North Judson, IN

Chesapeake & Indiana Railroad Company, Inc. (Chesapeake), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate, pursuant to an unexecuted agreement under negotiation with the Town of North Judson, IN, 32.97 miles of track extending from Wellsboro, milepost 15.2, to LaCrosse, milepost 0.6, in LaPorte County, IN, and from Malden, milepost 230.9, through LaCrosse, to North Judson, milepost 212.5, in Porter and Starke Counties, IN.

The transaction was scheduled to be consummated on or after July 29, 2004.

This transaction is related to STB Finance Docket No. 34528, *Indiana Boxcar Corporation—Continuance in Control Exemption—Chesapeake & Indiana Railroad Company, Inc.*, wherein Indiana Boxcar Corporation has filed a verified notice of exemption to continue in control of Chesapeake upon its becoming a Class III rail carrier.

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 transaction.