USDA Requests Changes To Railroad Merger Regulations

WASHINGTON, D.C. — On May 16, the USDA filed comments before the Surface Transportation Board (STB) regarding proposed changes to its regulations governing major railroad mergers.

STB has requested public comment since it believes the current regulations no longer adequately protect the public interest. The comments address those issues most related to USDA's mandate and expertise, such as downstream effects, safeguarding rail service, promoting and enhancing competition, short line and regional railroads issues, merger-related public interest benefits, and cross-border issues.

"In 1999, American farmers produced more than 16 billion bushels of grain and oilseeds. Agricultural shippers pay more than $3.5 billion annually in freight costs to U.S. railroads to transport agricultural products. Nearly half of all grain produced in the U.S. moves to market by rail," said Michael V. Dunn, undersecretary for USDA's marketing and regulatory programs. "Therefore, the issue of rail mergers is a matter of great concern."

USDA has made these 10 recommendations designed to protect the interests of agricultural producers, shippers, and rural communities:

1. The STB incorporate possible downstream and crossover effects of all future major railroad mergers upon the railroad industry, other railroad firms, other transportation modes, shippers, and communities into its revised merger guidelines.

2. The STB institute a rebuttable presumption against future major railroad mergers unless the merging railroads come up with a plan that mitigates any adverse consequences of the merger upon shippers and other railroad firms, prove the existence of merger-related benefits, and demonstrate that those benefits cannot be achieved by other means short of merger.

3. The STB require that railroads involved in major railroad consolidations indemnify shippers and other railroads during the merger implementation period for costs incurred because of merger-related service interruptions and require binding arbitration of all claims which the consolidated railroad disputes.

4. The STB continue to consider the ability of the merged firm to make the necessary infrastructure improvements before approving any major rail consolidation.

5. The STB, before approving any future major railroad consolidations, require the railroads involved to offer specific proposals to enhance competition and to mitigate any adverse competitive consequences of the consolidation upon shippers.

6. The STB, in approving further major railroad mergers, require the merging railroads to keep all existing rail gateways open.

7. The STB carefully analyze the impacts of future major railroad consolidations upon short line and regional railroads since significant quantities of grain and food products originate or terminate on these smaller railroads and because of the damages that diversion to truck transportation causes to the rural road infrastructure.

8. The STB examine more closely merger applicants' estimates of the synergies and other public interest benefits when balancing the benefits of proposed major railroad mergers against societal costs.

9. The STB consider the effects that different commercial and regulatory regimes between two countries can have upon cross-border trade and the potential international beneficiaries of a proposed transnational rail merger.

10. The STB, when considering major transnational rail mergers or combinations, analyze the effect of a foreign government's jurisdiction on the rail operations of the resulting railroad and the influence of the Canadian Wheat Board, particularly on the distribution of railcar capacity among U.S. and Canadian agricultural shippers which could have impacts in world markets.