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SERVICE DATE – JANUARY 16, 2008

SURFACE TRANSPORTATION BOARD

NOTICE

STB Ex Parte No. 675

CONSOLIDATED APPROPRIATIONS ACT, 2008—
SOLID WASTE RAIL TRANSFER FACILITIES

Decided: January 15, 2008

This notice advises the public of a new statutory provision affecting the Board and how the Board plans to proceed to ensure compliance with that provision.

On December 26, 2007, the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844 (2007) (Act), was enacted into law, which among other things, provides the Board with funding for fiscal year 2008. As pertinent here, section 193 of the Act provides:

(a) None of the funds appropriated or otherwise made available under this Act to the Surface Transportation Board of the Department of Transportation may be used to take any action to allow any activity described in subsection (b) in a case, matter, or declaratory order involving a railroad, or an entity claiming or seeking authority to operate as a railroad, unless the Board receives written assurance from the Governor, or the Governor's designee, of the State in which such activity will occur that such railroad or entity has agreed to comply with State and local regulations that establish public health, safety, and environmental standards for the activities described in subsection (b), other than zoning laws or regulations.

(b) Activities referred to in subsection (a) are activities that occur at a solid waste rail transfer facility involving—

(1) the collection, storage, or transfer of solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) outside of original shipping containers; or

(2) the separation or processing of solid waste (including baling, crushing, compacting, and shredding).

While the Board will continue to accept and process petitions, notices, and other filings in conformance with its regulations, the Board will ensure compliance with the Act by providing notice herein that no pertinent Board decision issued during the period covered by the Act will authorize any of the aforementioned activities prior to receipt of the written assurance referenced

in the Act from the governor (or governor's designee) of the state where such activities are proposed. The Board intends to include in all pertinent agency decisions issued during that period a statement substantially similar to the following:

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term 'solid waste' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Anne K. Quinlan
Acting Secretary