



ENTERED
Office of Proceedings
August 12, 2016
Part of
Public Record

Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

Aarthy S. Thamodaran
Assistant General Attorney

(757) 823-5296
E-Mail: aarthy.thamodaran@nscorp.com

August 12, 2016

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: STB Ex Parte No. 731 – *Rules Relating to Board-Initiated Investigations*

Dear Ms. Brown:

Pursuant to the Notice of Proposed Rulemaking served on May 16, 2016 in the above docketed proceeding, Norfolk Southern Railway Company respectfully submits the enclosed reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Aarthy S. Thamodaran". The signature is fluid and cursive, written over a white background.

Aarthy S. Thamodaran
Counsel for Norfolk Southern Railway Co.

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Ex Parte No. 731

RULES RELATING TO BOARD-INITIATED INVESTIGATIONS

**REPLY OF
NORFOLK SOUTHERN RAILWAY COMPANY**

**James A. Hixon
John M. Scheib
Aarth S. Thamodaran
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510**

***Counsel to Norfolk Southern
Railway Co.***

Dated: August 12, 2016

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Ex Parte No. 731

RULES RELATING TO BOARD-INITIATED INVESTIGATIONS

**REPLY OF
NORFOLK SOUTHERN RAILWAY COMPANY**

Norfolk Southern Railway Company (“NS”) appreciates the Surface Transportation Board’s (“STB” or “Board”) diligence in promulgating proposed regulations to comply with Section 12(c) of the Surface Transportation Board Reauthorization Act of 2015, Public Law 114—110, 129 Stat. 2228 (“Act”). NS joins in support of the reply comments filed by the Association of American Railroads.

As discussed in detail in its opening comments filed on July 15, 2016, NS reiterates that the STB’s authority to bring an investigation on its own initiative is substantially limited by two sources of constraints: (1) the Board’s governing statute, 49 U.S.C. Subtitle IV, as amended by the Act; and (2) due process and the Administrative Procedure Act, Public Law 79—404, 60 Stat. 237. In addition, the STB should be guided by investigative best practices of other agencies. Any final regulations must comply with these statutes and should observe these best practices.

The STB must wield its limited investigative authority judiciously to ensure that it remains an impartial and neutral regulator in furtherance of its statutory mandate to “minimize

the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required.”¹

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. A. Hixon', written in a cursive style.

James A. Hixon
John M. Scheib
Aarthy S. Thamodaran
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

*Counsel to Norfolk Southern
Railway Co.*

Dated: August 12, 2016

¹ 49 U.S.C. § 10101(2).