Federal Railroad Administration, DOT

the Regional Administrator for Region 5 is: John.Megary@fra.dot.gov.

(6) Region 6 consists of Nebraska, Iowa, Colorado, Kansas, and Missouri. The mailing address of the Regional Headquarters is: 911 Locust Street, Suite 464, Kansas City, Missouri 64106. The fax number is 816-329-3867. The E-mail address of the Regional Administrator for Region 6 is: Darrell.Tisor@fra.dot.gov.

(7) Region 7 consists of California, Nevada, Utah, Arizona, and Hawaii. The mailing address of the Regional Headquarters is: 901 I Street, Suite 466, Sacramento, California 95814. The fax number is 916-498-6546. The E-mail address of the Regional Administrator for Region 7 is: Alvin.Settle@fra.dot.gov.

(8) Region 8 consists of Washington, Idaho, Montana, North Dakota, Oregon, Wyoming, South Dakota, and Alaska. The mailing address of the Regional Headquarters is: Murdock Executive Plaza, 703 Broadway, Suite 650, Vancouver, Washington 98660. The fax number is 360-696-7548. The E-mail address of the Regional Administrator for Region 8 is: Dick.Clairmont@fra.dot.gov.


PART 244—REGULATIONS ON SAFETY INTEGRATION PLANS GOVERNING RAILROAD CONSOLIDATIONS, MERGERS, AND ACQUISITIONS OF CONTROL

Subpart A—General

§ 244.1 Scope, application, and purpose.

(a) This part prescribes requirements for filing and implementing a Safety Integration Plan with FRA whenever a Class I railroad proposes to consolidate with, merge with, or acquire control of another Class I railroad, or with a Class II railroad where there is a proposed amalgamation of operations.

(b) The purpose of this part is to achieve a reasonable level of railroad safety during the implementation of transactions described in paragraph (a) of this section. This part does not preclude a railroad from taking additional measures not inconsistent with this part to provide for safety in connection with a transaction.

(c) The requirements prescribed under this part apply only to FRA’s disposition of a regulated transaction filed by an applicant. The transactions covered by this part also require separate filing with and approval by the Surface Transportation Board. See 49 CFR part 1106.

§ 244.3 Preemptive effect.

Under 49 U.S.C. 20106, issuance of these regulations preempts any State law, regulation, or order covering the same subject matter, except an additional or more stringent law, regulation, or order that:

(a) Is necessary to eliminate or reduce an essentially local safety hazard;

(b) Is not incompatible with a law, regulation, or order of the United States Government; and

(c) Does not unreasonably burden interstate commerce.

Subpart B—Safety Integration Plans

§ 244.5 Penalties.

(a) Any person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least $650, but not more than $25,000 per day, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed $100,000 per violation may
be assessed. Each day a violation continues shall constitute a separate

offense.

(b) As specified in §244.21, FRA may also exercise any of its other enforce-

ment remedies if a railroad fails to comply with §244.21.

(c) Any person who knowingly and willfully makes a false entry in a

record or report required by this part shall be subject to criminal penalties


§ 244.7 Waivers.

(a) A person subject to a requirement

of this part may petition the Adminis-

trator for a waiver of compliance with

any requirement of this part. The filing

of such a petition does not affect that

person’s responsibility for compliance

with that requirement pending action

on such a petition.

(b) Each petition for a waiver under

this section must be filed in the man-

ner and contain the information re-

quired by part 211 of this chapter.

(c) If the Administrator finds that a

waiver of compliance is in the public

interest and is consistent with railroad

safety, the Administrator may grant

the waiver subject to any conditions

the Administrator deems necessary.

(d) The procedures governing a peti-

tion for a waiver that are prescribed

under this part apply only to FRA’s

disposition of such a petition. A person

seeking a waiver of a Surface Transpor-

tation Board regulation would need to

file a petition for a waiver with the

Board. (See 49 CFR 1106.5.)

§ 244.9 Definitions.

As used in this part—

Administrator means the Adminis-

trator of the Federal Railroad Admin-

istration or the Administrator’s dele-

gate.

Amalgamation of operations means the

migration, combination, or unification

of one set of railroad operations with

another set of railroad operations, in-

cluding, but not limited to, the alloca-

tion of resources affecting railroad op-

erations (e.g., changes in personnel,

track, bridges, or communication or

signal systems; or use or deployment of

maintenance-of-way equipment, loco-

motives, or freight or passenger cars).

Applicant means a Class I railroad or

a Class II railroad engaging in a trans-

action subject to this part.

Best practices means measures that

are tried, tested, and proven to be the

safest and most efficient rules or in-

structions governing railroad oper-

ations.

Class I or Class II railroad has the

meaning assigned by regulations of the

Surface Transportation Board (49 CFR

part 1201; General Instructions 1–1), as

those regulations may be revised by

the Board (including modifications in

class thresholds based on the revenue

deflator formula) from time to time.

Corporate culture means the totality

of the commitments, written and oral

directives, and practices that make up

the way a railroad’s management and

its employees operate their railroad.

Control means actual control, legal

control, or the power to exercise con-

trol through:

(1) Common directors, officers, stock-

holders, a voting trust, or a holding or

investment company, or

(2) Any other means. See 49 U.S.C.

10102.

Consolidation means the creation of a

new Class I railroad by combining ex-

isting Class I railroads or a Class I rail-

road and a Class II railroad where there

is an amalgamation of operations, or

by a railroad or a corporate parent of a

Class I railroad taking over the assets

or assuming the liabilities, or both, of

another Class I railroad such that the

resulting unified entity has the com-

bined capital, powers, and subsidiaries

and affiliates, if applicable, of all of its

constituents.

Environmental documentation means

either an Environmental Assessment

or Environmental Impact Statement

prepared in accordance with the Sur-

face Transportation Board’s environ-

mental rules at 49 CFR part 1105.

Merger means the acquisition of one

Class I railroad or Class II railroad

where there is amalgamation of oper-

ations by a Class I railroad such that

the acquiring railroad or a corporate

parent of that railroad acquires the

stock, assets, liabilities, powers, sub-

sidiaries and affiliates of the railroad

acquired.