

RICHARD R. WILSON, P.C.

**Attorney at Law
A Professional Corporation
127 Lexington Avenue, Suite 100
Altoona, PA 16601**

(814) 944-5302
888-454-3817 (Toll Free)
(814) 944-6978 FAX
rrwilson@atlanticbbn.net

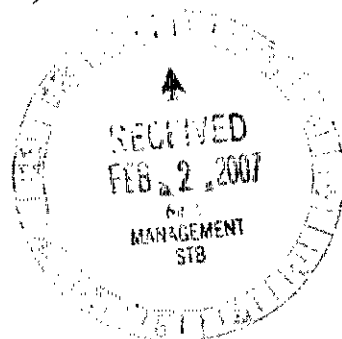
851 Twelfth Street
Oakmont, PA 15139

Of Counsel to:
Vuono & Gray LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
(412) 471-4477 FAX

January 30, 2007

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

218572



Re: Conrail Abandonment in Northumberland, Columbia and Montour Counties, Pennsylvania, AB-167(Sub. No. 489N)

Dear Sir:

Enclosed for filing please find the original and ten copies of a revised operating agreement between North Shore Railroad Company and SEDA-COG Joint Rail Authority for continued common carrier rail operations initially authorized by the Interstate Commerce Commission in the above captioned docket.

Please date stamp and return the enclosed copy of this cover letter in the self addressed, stamped envelope to indicate the receipt and filing of this agreement.

Very truly yours,

RICHARD R. WILSON, P.C.

A handwritten signature in cursive script that reads "Richard R. Wilson".

Richard R. Wilson, Esq.
Attorney for North Shore Railroad Company

RRW/bab
Enclosure

xc: Richard Robey
SEDA-COG Joint Rail Authority
Keith O'Brien, Esq.
Steven Hurvitz, Esq.

ENTERED
Office of Proceedings

FEB 5 - 2007

Part of
Public Record

ORIGINAL

OPERATING AGREEMENT

218572

THIS AGREEMENT is made and entered into on the 13th day of December, 2006, to become effective January 1, 2007, by and between SEDA-COG JOINT RAIL AUTHORITY, a Pennsylvania municipal authority created under the Municipality Authorities Act of 1945, referred to herein as the "Authority;"

a
n
d

LYCOMING VALLEY RAILROAD COMPANY ("LVRR"), NITTANY & BALD EAGLE RAILROAD COMPANY ("NBER"), NORTH SHORE RAILROAD COMPANY ("NSHR"), JUNIATA VALLEY RAILROAD COMPANY ("JVRR") and SHAMOKIN VALLEY RAILROAD COMPANY ("SVRR"), the foregoing parties all being Pennsylvania corporations and are individually referred to herein as an "Operator" and collectively referred to herein as the "Operators".

ENTERED
Office of Proceedings

FEB 5 - 2007

WITNESSETH

Part of
Public Record

WHEREAS, the Authority is the owner of certain lines of railroad (the "Railroad Premises") described in Exhibit A as authorized by the Interstate Commerce Commission in Docket No. AB-167 (Sub Nos. 392N, 457N, 489N, 989, 779 and 485N)), and STB Finance Docket Nos. 33010 and 33008; and

WHEREAS, The Operating Companies have been authorized to conduct and provide common carrier railroad operations and service on lines of railroad (the "Railroad Premises") described in Exhibit "A", in ICC Finance Docket Nos. 30536, 31543, 31378 and 31378 (Sub No. 1) and STB Finance Docket Nos. 33010 and 33008; and

WHEREAS, the Authority has selected the Operating Companies to provide rail freight service and to maintain the Railroad Premises for the benefit of shippers and communities served by said lines of railroad;

NOW THEREFORE, the parties, intending to be legally bound, agree as follows:

Section 1. Definitions

"Affiliate" means any entity engaged in providing railroad services to the Operators, owned, directly or indirectly, in whole or in part, by either: (i) any of the Operators; (ii) any of the directors, officers or employees of any of the Operators or their spouses or lineal descendants; (iii) any individual having greater than a 25% ownership interest in the equity of any of the Operators (a "Principal"), or (iii) a Principal's spouse or lineal descendants.

"Authority Standards" means the maintenance standards set forth in Exhibit B, "Track Maintenance Standards", of this agreement.

"Capital Improvements" mean asset additions, improvements, or replacements, that are not the result of ordinary maintenance activities to be performed by Operators under this Agreement. In the event of a dispute as to whether an improvement constitutes a Capital Improvement or Maintenance, the dispute shall be submitted to Arbitration pursuant to Section 29 of this Agreement.

"Change in Control" of the Operators shall be deemed to have occurred if and when any person or group of persons shall, subsequent to the date of this Operating Agreement, have acquired ownership of or the right to vote or to direct the voting of shares of any of the Operators representing fifty-one (51%) percent or more of the total voting interest of such Operator.

"Environmental Contamination" shall mean any contamination of the Railroad Premises arising from the deposit, acceptance, use, storage, transport, disposal or release of Hazardous Materials to, or under the Railroad Premises as a result of the receipt, transportation, delivery, use or storage of said materials by any of the Operating Companies.

"Hazardous Materials" shall mean and include, without limitation, (1) "hazardous substances" or "toxic substances", or "pollutants or contaminants" as those terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; or the Transportation of Hazardous Materials Act, 49 U.S.C. §5102, et. seq., all as amended; (2) "hazardous wastes" as that term is defined by the Resource Conservation and Recovery act, 42 U.S.C. §6901, et seq., as amended; (3) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any other applicable federal, state or local law, regulation, code, ordinance, guideline, order, agreement or requirement imposing liability or standards of conduct concerning any hazardous, toxic or dangerous residual waste substance or material, or the exposure of persons thereto all as amended as of the date hereof; (4) any crude oil or any other petroleum product; (5) any radioactive material, including any source, special or nuclear or by-product material as defined in 42 U.S.C. §2100, et seq. as amended; (6) asbestos and asbestos containing materials in any form; or (7), compounds containing polychlorinated biphenyls.

"Janotti Report" means the Track Inspection and Maintenance Right of Way Report to be prepared by Paul Janotti pursuant to Section 13(a) of this Agreement, and appended to this Agreement as Exhibit "E".

"Railroad Premises" means all property of every kind and description, real, personal, and mixed, including, but not limited

to, the right of way, roadbed, tracks, bridges, track materials, poles, wire lines, signals, switches, and other facilities, buildings, and appurtenances comprising the premises described on Exhibit "A" and utilized in the provision of rail freight services pursuant to this agreement.

"Rail Freight Service" means rail freight transportation service to be provided by the Operating Companies pursuant to the provisions of Title 49 of the United States Code, Part A, and under the terms of this Agreement.

"STB" means the Surface Transportation Board of the United States Department of Transportation.

"This Agreement" means this Operating Agreement.

"Track Consultant" means a qualified consultant engaged by the Authority from time to time for the purpose of inspecting the Railroad Premises and providing periodic reports to the Authority regarding the condition thereof.

Section 2. Exclusive Use of Railroad Premises. The Authority shall provide to the Operating Companies access to and use of the Railroad Premises. The Operating Companies shall have the exclusive right to use the Railroad Premises only for the purpose of providing rail freight service thereon during the term of this Agreement, or any extension or renewal thereof, subject to the terms and conditions hereinafter contained. This Agreement shall not be construed as conveying any ownership interest to Operators. Any use for purposes other than rail freight service, including passenger service or rail excursions, shall require prior written permission of the Authority.

Section 3. Use by Other Carriers or Third Parties. In the event that Operators desire to allow any other person or entity access to or upon the Railroad Premises for any purpose other than the provision of rail freight services hereunder, the Operator shall secure prior written approval from the Authority which approval shall not be unreasonably withheld. Nothing herein shall

prohibit Operator from providing access to or upon the Railroad Premises by persons or entities as required to enable Operator to provide rail freight services as provided herein.

Section 4. Non-Transferability. This Agreement and the rights herein granted shall not be assigned, sold, leased, transferred, or in any other way alienated without prior written consent of the Authority. For purposes of this Section 4, an assignment shall include any transfer of any rights under this agreement, whether voluntary or involuntary or by operation of law, including any merger or consolidation of the Operator or any Change in Control of the Operator made without the Authority's prior written consent.

Section 5. Defects in Title. The rights contained herein as to the Railroad Premises are granted only insofar as the Authority's federal regulatory authorization and title permits. The Authority specifically disavows any implied or other warranty of title, nor shall the Authority be liable to Operators for any defects or encumbrances upon the title to the properties constituting the grant of exclusive use in Section 2. Should a third party assert a claim of title to the Railroad Premises, Authority and Operators shall cooperate with each other and take action as necessary to preserve the Railroad Premises for its intended use hereunder.

Section 6. Right to Inspect. The Authority, its agents or assigns, shall have the right, upon reasonable notice, to enter upon the properties constituting the Railroad Premises for the purpose of making reasonable inspections. The parties shall make reasonable arrangements to assure that the inspections can be performed safely, without undue interference or disruption of the Operators' railroad operations, in a manner consistent with the security of the railroad facilities. Operators shall, upon adequate advance notice, provide hi-rail equipment and a qualified driver to facilitate inspections exercised hereunder. The cost of such hi-rail equipment and driver shall be borne by Operators; provided, however that in the event the Authority requires such inspections more than two times during any calendar year, the Authority shall reimburse to Operators the cost incurred by Operators for such additional inspections.

Section 7. Taxes and Utilities. Operators shall pay and discharge, on or before the last day on which payment may be made without penalty or interest, any and all taxes (including without limitation all real property taxes), assessments, charges for public utilities, excise, license and permit fees, assessments, sewer rentals and other governmental impositions and charges which shall or may during the term hereof be charged, assessed, imposed, become due and payable, or a lien upon, or arising in connection with the use by the Operators of the Railroad Premises for rail freight service. Operators shall have the right to contest any such taxes or other charges by appropriate legal proceedings, conducted at their own expense, providing that Operators shall furnish to Authority a surety bond or other security satisfactory to the Authority sufficient to cover the amount of the contested item or items when such item or items exceed \$2,500.00, with interest and penalty for the period which such proceeding may be expected to take. Operators shall also pay any and all charges for water, gas, electricity, and other utility services provided to the Railroad Premises and used by the Operator in the provision of rail freight services hereunder.

Section 8. Existing Agreements. Operators' use of the Railroad Premises is subject to all of the terms and conditions contained in the following existing agreements, copies of which have been previously delivered to the Operator:

a) Acquisition Agreement dated July 25, 1984 between the Authority and the Consolidated Rail Corporation ("Conrail") under which the Railroad Premises was acquired from Conrail (referred to herein as the July 25, 1984 Agreement);

b) Acquisition Agreement dated November 28, 1988, between the Authority and Conrail (referred to herein as the November 28, 1988 Agreement);

(c) Acquisition Agreement dated November 6, 1996 between the Authority, NBER and Conrail (referred to herein as the "November 6, 1996 Agreement");

(d) Trackage Rights Agreement dated August 15, 1996, between the Norfolk Southern (as successor to Conrail), NBER and the Authority (the "Trackage Rights Agreement"); and

(e) Settlement Agreement dated July 1, 2005 between Norfolk Southern Railway (NSR), LVRR, NBER, NSHR, SVRR, and Union County Industrial Railroad (UCIR) and the Authority.

The Operators shall conduct their operations over said Railroad Premises in accordance with the terms and conditions of the aforesaid Agreements and all other agreements to which they are a party and the Authority is now or hereafter becomes a party or third party beneficiary. Additionally the Operators hereby jointly and severally assume all obligations of LVRR under the July 1, 2005 Settlement Agreement and all obligations of NBER under the November 6, 1996 Agreement and the Trackage Rights Agreements, and shall indemnify and hold the Authority harmless from all liability with respect thereto. Except as set forth herein, neither the Authority nor the Operators shall incur any obligation, undertake any action or assume any liability of the other party under the aforesaid Agreements.

Section 9. Term. The term of this Agreement shall commence January 1, 2007 and continue until June 30, 2017, unless terminated prior thereto in accordance with the provisions of this Agreement,

Section 10. Operating Fees.

(a) Operators shall be jointly and severally obligated to pay certain Operating Fees for the use of the Railroad Premises as set forth in Exhibit C, "Operating Fees".

(b) It is expressly understood that such Operating Fees shall be paid to the Authority without off-set for any charges incurred by Operators in the provision of rail freight services.

Section 11. Condition of Railroad Premises. Operators have inspected the Railroad Premises and accept the same "as is". The Authority makes no representation or warranty as to the physical condition of the Railroad Premises or the condition of the legal title. Operators shall return the Railroad Premises to the Authority upon the termination of this Agreement in the same condition as received or as improved. Notwithstanding the foregoing, the Authority shall make no claim or demand against the Operators regarding the condition of the Railroad Premises at the termination of this Agreement,

provided that the Operators have complied with their annual maintenance responsibilities as set forth in Section 13 of this Agreement.

Section 12. Provision of Additional Equipment and Facilities. Operators shall be responsible for providing all equipment and facilities that are reasonably necessary for the safe and adequate rail freight services on the Railroad Premises. Such equipment and facilities shall include, but shall not be limited to, locomotives, rolling stock as available, maintenance equipment, office space, and such other facilities and equipment as are reasonably necessary to provide rail freight service on the Railroad Premises as contemplated under this Agreement. Notwithstanding the above, Operators shall not be found in default if cars which must be obtained from a Class I Carrier are not available at that time.

Section 13. Maintenance

(a) Promptly following the execution of this Agreement, the parties shall engage, Mr. Paul Janotti, at Operators' sole expense, to prepare a comprehensive report (the "Janotti Report"), setting forth the existing condition of the Railroad Premises, which report shall be appended to this Agreement as Exhibit "E." Operators shall be solely responsible for maintaining the Railroad Premises in accordance with the Authority Standards or to the condition to which they have been improved. Notwithstanding the foregoing, to the extent the Janotti Report establishes that the present condition of any portion of the Railroad Premises fails to comply with the Authority Standards, Operators shall not be required to maintain such portion of the Railroad Premises to the Authority Standards, but shall instead maintain said portion of the Railroad Premises to condition as described in the Janotti Report, but not less than applicable FRA Standards. It is the intention of the parties that any portion of the Railroad Premises that do not presently comply with the Authority Standards shall be improved to a condition that complies with Authority Standards over a reasonable period of time, giving due consideration to the reasonable rail traffic and revenue projections for said portions of the Railroad Premises through the Annual Maintenance Program hereinafter described, and which

shall thereafter be maintained to the Authority Standards. Without limiting the foregoing, the parties further agree as follows:

(1) On or before January 15 of each year, Operators shall prepare and submit to the Authority, a program (hereinafter referred to as the "Annual Maintenance Program") setting forth the maintenance items to be performed for the entire Railroad Premises during the remainder of the calendar year, and the anticipated cost of such items to ensure that the Railroad Premises are maintained in accordance with the Authority Standards.

(2) Operators will review the Annual Maintenance Program with the Authority's Staff and Track Consultant who shall review and amend the same to ensure that it complies with the Authority Standards not later than March 1 of said year.

(3) Operators shall at their own cost be responsible for maintaining the Railroad Premises in accordance with the Authority Standards as set forth in the Annual Maintenance Program approved by the Authority's Track Consultant.

(4) The Authority's Track Consultant shall inspect the Railroad Premises at least twice each calendar year to ensure that Operator is maintaining the same in accordance with the Annual Maintenance Program adopted by the parties for the Railroad Premises. Any deficiencies noted by the Track Consultant or by inspectors from the Federal Railroad Administration or the Pennsylvania Public Utilities Commission in routine inspections of the Railroad Premises shall be promptly remedied by the Operators at their sole cost and expense.

(5) Any disputes arising with respect to either the terms or requirements of the Annual Maintenance Program or Operators' compliance with the Annual Maintenance Program shall be submitted to Arbitration pursuant to Section 29 of this Agreement.

(b) The parties agree that any and all rails, ties or other items of track and signaling equipment removed and replaced by Operators in the performance of required maintenance (the "Replaced Materials") shall become the property of the Operators, regardless of whether such removed property is sold or retained by Operator as materials and

supplies, provided the Operators purchased the material used in the replacement.

(c) It is expressly agreed that Operators shall be financially responsible for the repair of damage to any portion of the Railroad Premises caused by a landslide, geological disturbance, flood or significant natural catastrophe in an amount not to exceed \$25,000 per occurrence. In the event of an uninsured catastrophe resulting in damages to the Railroad Premises in excess of \$25,000, the Authority shall have the right, but not the obligation to pay such excess amount required to repair the damages, and in the absence of such repair the provisions of Section 27 of this Agreement shall apply.

Section 14. Capital Improvements. Operators shall have the right, but not the obligation with the prior written approval of the Authority, to make, at their own expense, Capital Improvements for railroad purposes on the Railroad Premises during the term of this Agreement. In such voluntary capital improvements, Operators shall be required to pay the cost of removal of appurtenant structures, excluding track improvements, where required by the Authority. Where such Operator financed Capital Improvements require or involve the replacement of an asset in place, the parties shall agree in writing in advance of installation of the replacement asset, who will have ownership of the assets to be removed from the Railroad Premises, and in the absence of such written agreement such assets will belong to the Authority. The Operators shall have no other obligations to finance or pay for any capital improvement to the Railroad Premises under the terms of this Agreement.

Section 15. Operators' Obligations. Operators agree that they will at all times during the continuance of this Agreement:

(a) Pay all charges in accordance with Sections 7 and 10 herein, at such time as the same are due and payable, which charges may be recovered by the Authority in the same manner as any charge due or in arrears.

(b) Operate rail freight service in accordance with all federal, state and local requirements and shall be responsible for obtaining all governmental approvals, authorizations, franchises, licenses and permits as may be prerequisite to the rendering of such service.

(c) Observe and comply with any and all requirements of all constituted public authorities and with all federal, state and local statutes, ordinances, regulations and standards applicable to Operators or their use of the Railroad Premises.

(d) Maintain and operate at their own expense the Railroad Premises, including any buildings used or leased by Operators thereon, in good operating condition and repair in a manner consistent with sound, accepted engineering practices and maintain the track in accordance with the provisions of Section 13 of this Agreement. Such operations shall include, but not be limited to, the removal of all wrecks and derailments within thirty (30) days following any such occurrence, restoration of the derailment site to safe operating condition within thirty (30) days following such occurrence, and restoration of a derailment site to its original condition or better within ninety (90) days following the occurrence, subject to the provisions of Sections 13(c) and 27 of this Agreement.

(e) Operate rail freight service on lines of the Authority at such levels and at such frequency as reasonably acceptable to the Authority, subject to the following guidelines:

(1) Frequency of Service: The Operators shall provide rail freight service a minimum of twice a week. Nothing herein shall require the Operators to operate a scheduled train when there are no cars to be picked up from or delivered to shippers on the Railroad Premises. The failure to provide rail freight service for ten (10) days (exclusive of Saturdays, Sundays, and Holidays) after need for such rail freight service has been established, according to subsection (e)(2) hereof, shall constitute a breach of this agreement by the Operators.

(2) Shipments destined to and from stations on the Railroad Premises shall be handled in accordance with rail transportation contractors or delivered to consignee not later than the third day (exclusive of Saturdays, Sundays, and Legal Holidays) after arrival of the shipment in the yard serving the line with adequate billing information unless consignee notifies the supervisor in charge of the Operator's Rail Freight Service of the shipment's imminent arrival on the lines of the Operators, in

which case the consignee can request a prompt placement date. The Operators shall exercise reasonable efforts to provide prompt empty car placement whenever the consignor notifies the Operators' supervisor three (3) days prior to the day on which the loaded car(s) shall be placed for loading, specifying the date for the placement of the empty car(s) for movement to the destination. However, nothing in this paragraph contemplates the Operators' providing better levels of rail freight service for certain customers with similar, but not identical, characteristics without collection of the applicable contract or appropriate published charges for such special rail freight service. Nothing in this paragraph precludes the Operators from providing more frequent rail freight service than that agreed upon in accordance with Section 15(e) (1).

(3) Quality of Service: The Operators shall provide safe and efficient rail freight service, including, but not limited to: (1) delivery and access to empty rail cars subject to car availability; (2) prompt handling of loaded rail cars with reasonable dispatch to and from points of interchange with other carriers; and (3) maintenance and repairs, snow removal, and clearing of train derailments and wrecks on the Railroad Premises, all as specified in this agreement. The Operators shall provide the name, address, telephone number, and point of contact of the shippers that are served on the Railroad Premises to the Authority within thirty (30) days from the date of execution of this agreement. The Authority will survey shippers during the term of this agreement to determine quality of rail freight service provided by the Operators, provided, however, that such survey shall not seek information concerning confidential rail transportation contracts, rates or price negotiations of rail freight service by any of the Operators or their connecting carriers, and the survey results will be provided to Operators.

(4) Control: The Operators shall have exclusive control of the operation, performance and pricing of the rail freight service, including but not limited to the dispatching and control of trains, assignment of available cars in good order, assignment

of crews and other employees, and assignment and use of power. The Operators shall use their best efforts to provide such rail freight service in an efficient manner.

(5) Operating Rules and Regulations: The Operators shall have the exclusive authority to promulgate and adopt rules, regulations and tariffs that are consistent with regulations issued by the STB and FRA and the provisions of Title 49 United States Code, Subtitle IV, Part A.

(f) Notify the Authority in writing within ten (10) days of any management and supervisory personnel changes. In the event that such employee is no longer part of the Operators' organization, the Operator shall advise the Authority of the action taken to ensure that it will be able to provide rail freight services under this Agreement.

(g) The individual Operator authorized by the STB to provide rail freight services on the rail line on which a claim arises shall fully indemnify, defend and hold harmless the Authority, its members, officers, agents, employees, successors and assigns, from and against all claims and actions up to the Authority's legal obligation to pay any such claims, including the Authority's reasonable attorney's fees and litigation costs and expenses, based upon or arising out of (i) Operator's breach of its obligations under this Agreement; or (ii) damage or injuries to persons or property (including the Railroad Premises) caused by the negligence of the involved individual Operator, or its agents, employees, guests, invitees, contractors, suppliers of materials, or furnishers of service in the use and occupancy of the Railroad Premises by the Operator.

(h) The individual Operator authorized by the STB to provide rail freight services on the rail line on which a claim arises shall be liable, defend and indemnify the Authority for any damages, harm or injury to the Railroad Premises caused by the negligence of the involved individual Operator, its agents or employees.

(i) All of the Operators shall be jointly and severally responsible to the Authority and defend, indemnify and hold the Authority, its directors, officers and agents harmless from and against any liability arising out of any environmental protection or pollution law, or any liability in tort (strict liability or otherwise), up to the

Authority's legal obligation to pay any such liability, arising out of Environmental Contamination of the Railroad Premises caused by any of the Operators' rail operations or their use of the Railroad Premises.

(j) Maintain a policy or policies of liability insurance to insure itself against liability for injury or damage to persons and property, which policies will be in the minimum amounts set forth below:

	<u>Type</u>	<u>Limits</u>
(1)	<u>Comprehensive General Liability</u>	
	Insuring against claims for	For all claims
	(a) Bodily Injury and	\$5,000,000 per
	(b) Property Damage	Occurrence, \$25,000 deductible
(2)	<u>Federal Employer's Liability Act</u>	Covered by blanket policy noted in (1)
(3)	<u>Carco Legal Liability</u>	Covered by blanket policy noted in (1)
(4)	<u>Foreign Rolling Stock</u>	Covered by blanket policy noted in (1)
(5)	<u>Automobile Liability</u>	1,000,000 per occurrence; \$1,000 deductible

(k) Cause the Authority to be named as an additional insured under each such policy (other than Employer's Liability) and furnish the Authority appropriate certificates of such insurance which shall specifically state that the insurance company shall furnish to the Authority at least thirty (30) days notice of any lapse or material changes in such insurance;

(l) Perform marketing and sales activities to promote increased rail traffic to and from the Railroad Premises.

(m) Annually, on the anniversary date of this agreement, provide Authority with the following information, which to the extent possible under applicable law, shall be maintained by the Authority in confidence:

1. Complete listing of names and addresses of all officers, directors and senior management of Operators.
2. Complete listing of names and addresses of all stockholders of Operators, including the total number of shares owned by each stockholder.

(n) Operators hereby covenant and agree to provide one hundred twenty (120) days written notice of any proposed Change in Control of Operators. The Authority shall have the right to approve or disapprove any such Change in Control and shall have the right to terminate this Agreement if any actual Change in Control occurs without Authority approval.

(o) Operators agree to provide and maintain combined unencumbered minimum working capital of fifty thousand dollars (\$50,000.00).

(p) Operators agree to provide and maintain a reserve on deposit with the Authority, of twenty five thousand dollars (\$25,000.00) at all times in addition to the minimum working capital requirements of this section for the purpose of payment of liability claims not otherwise covered by insurance. The said reserve shall be held by the Authority in an interest bearing account, with all interest accruing to the benefit of the Operator. This amount may be reduced or waived upon written approval of the Authority. The Operators shall make an equal deposit to match any withdrawal from this reserve for payment of claims within thirty (30) days thereafter.

(q) Peacefully deliver up and surrender possession of the Railroad Premises to the Authority at the expiration or upon earlier termination of this Agreement.

(r) Upon expiration of this Agreement or termination of this Agreement for any reason, the Operators shall immediately file for discontinuance with the Surface Transportation Board and assist the Authority in making the transition to a new operator. Notwithstanding the foregoing, in the event the Operators contest any asserted termination by reason of default and demand arbitration in accordance with Section 29 of this Agreement, Operators shall not be required to file for discontinuance of rail freight service until such date as such arbitration has been concluded and a determination has been made that Operators have breached the Agreement.

Section 16. Restrictions. Operators further agree that they will not:

(a) Occupy the Railroad Premises in any way or for any purposes unrelated to the provision of rail services on the Railroad Premises;

(b) Assign, mortgage, pledge or encumber the Railroad Premises or any part thereof or assign its obligations under this Agreement without the prior written consent of the Authority;

(c) Permit to be created or knowingly allow to exist upon the Railroad Premises any use or storage (except as necessary for the provision of rail freight services), or the disposal or release of Hazardous Materials, public or private, and Operators shall indemnify and hold harmless the authority and all of its directors, officers, agents and employees, in accordance with Section 15(i). Operators shall comply with all applicable federal, state and local laws, rules and regulations pertaining to air, water, noise and wastes and other pollution or relating to the storage, transport, disposal or release of Hazardous Materials, and shall bear the expense of any and all pollution control structures, devices or equipment which are required during the term of this Agreement under applicable laws, ordinances or governmental regulations as a result of Operator's provision of rail freight services. Operators shall exercise due care in their use and operation of the Railroad Premises, including taking precautions against reasonably foreseeable acts or omissions or the release of Hazardous Materials into the environment.

(d) Initiate or conduct rail passenger service over the Railroad Premises without the prior written approval of the Authority in accordance with Section 2;

(e) Except upon the Authority's prior written consent, neither the Operator(s) nor any Affiliate of the Operator(s) shall continue or enter into negotiations or enter into any agreements with any other railroad, including specifically Class I railroads, which in the reasonable opinion of the Authority affects the interests of the Authority, including: (i) the competitive access of the shippers within the constituent counties of the Authority to Class I rail services; (ii) the proper maintenance of the Railroad Premises; or (iii) the carrying out of the Authority's stated mission to preserve rail service in

Central Pennsylvania and to further economic development through the retention, improvement and expansion of the infrastructure.

(f) Enter into a contract or agreement with an Affiliate of the Operators having a value in excess of \$5,000, except upon the Authority's prior written consent, which consent will not be withheld if the transaction is determined by the Authority to be commercially reasonable.

(g) Except upon the Authority's prior written consent, enter into negotiations or agreements with any third parties for the lease or acquisition of rail lines located within the counties comprising the membership of the SEDA-Council of Governments or which directly connect with the Railroad Premises, it being the parties' express understanding that the Authority shall have the first right and option to acquire any such lines.

Section 17. Relationship between Operators and the Authority. Authority is a Pennsylvania municipal authority, and a body corporate and politic. Each of the Operators is a private corporation, an independent contractor, and none of the Operators are agents of the Authority. Except as set forth in Section 15(g) and (h), each of the Operators shall be jointly and severally liable to the Authority for any breach of this Agreement by any single Operator. Whenever Operators require written approval from the Authority, the signature of the Executive Director will suffice to validate such written approval. Whenever the Authority requires written approval from the Operators, the signature of the President of any single Operator will suffice to validate the written approval of each Operator. Operators and the Authority shall meet at least quarterly to review and discuss revenues, costs, operations, maintenance, marketing, and service. Operators shall inform the Authority and affected shippers of any major action or event related to the Railroad Premises that may affect rail freight service to those shippers as soon as Operators know such action or event. The Authority will inform Operators of any problems or concerns related to the rail freight service.

Section 18. Annual Reporting.

(a) Annual Report: The Operators shall prepare an annual report including, at a minimum, 1) the number of revenue producing carloads, 2) the number of reportable accidents as defined by FRA and their location, 3) reportable derailments as defined by FRA and their location, 4) Financial statements audited by an accounting firm acceptable to the Authority, 5) construction and maintenance expenses, 6) FRA and/or Authority inspection reports with corrective action taken or planned, and 7) a report of other occurrences having a significant impact on the condition of the Railroad Premises or the rail traffic handled thereon. An annual report shall cover the Operator's fiscal years or parts of fiscal years from the date of execution of this agreement to its termination. Annual reports shall be submitted to the Authority within three (3) months after the close of each such fiscal year, provided Operators' tax filings are completed by that time and shall be submitted to the Authority subsequent to a deferred tax filing upon completion by Operators' accountant, in which instance a preliminary Report shall be submitted within three (3) months after the close of the Operator's fiscal year.

(b) Audit and Inspection: Upon reasonable notice, the Operator will allow the auditors of the Authority to audit all the records of the Operators that were used to determine the revenues and costs related to the annual report. All such records shall be kept for a period of four (4) years after the issuance of the related annual report. The Operators will also allow inspection of the Railroad Premises and the equipment used thereon by the authorized representatives of the Authority upon reasonable notice.

Section 19. Performance Audit. The Authority may at its expense, from time to time, conduct a performance audit of marketing, operating, maintenance, and other obligations and functions of the Operators.

Section 20. Rents from Non-Operating Properties. The Authority is solely responsible for entering into, extending, or terminating all non-operating leases, licenses, and easements on all Authority property, including the Railroad Premises. The Authority shall receive any and all rents arising from any leases, private crossings, licenses and occupations or renewals thereof

on any portion of the Railroad Premises, including, but not limited to, rents, license fees, crossing fees, easements, and other revenues paid by any party occupying a portion of the Railroad Premises with poles and wire, and rentals and fees for signboards, platform locations, driveways, storage facilities, side tracks, pipe lines, water rights, fiber optics, land rents, building rents and water tank rents, among other things. The Authority shall collect such amounts as they become due. The Authority shall determine the properties classified as "Non-Operating Properties," except that any such designation shall not interfere with Operators' ability to fulfill its obligations under this Agreement. It is expressly agreed that the Authority shall have the unilateral right to withdraw such portions of the Railroad Premises from the provisions of this Operating Agreement as it reasonably determines are not required to enable Operators to fulfill their common carrier obligations and to provide Rail Freight Services to customers under this Agreement.

Section 21. Public Crossings. During the term of this Agreement or any renewal thereof, Operators shall assume and shall indemnify the Authority for and against all obligations with respect to all public crossings by public highways, bridges, or utilities, including such obligations as presently exist or which may be hereinafter imposed under the provisions of Pennsylvania Public Utility Code and any orders issued thereunder with respect to the Railroad Premises except those "non-operating properties" for which the Authority has sole responsibility under Section 20 of this Agreement.

Section 22. Condemnation of Railroad Premises. If the Authority's ownership interest in the Railroad Premises, or any portion thereof, are condemned or taken by any competent authority for public use, the award for payment of damages resulting therefrom, or any amount paid in settlement thereof, shall be paid to and retained by the Authority, except as hereinafter provided. If the Operators' occupancy interest in the Railroad Premises or any portion thereof are condemned or taken by any competent authority for public use, the award or payment of damage resulting or any amount paid in settlement thereof shall be paid to and retained by the Operators. If the entire Railroad Premises are so taken or such substantial part thereof as shall materially impair or interfere with Operators' proper use and enjoyment thereof, this Agreement shall automatically terminate as of the date of the taking. If only

such portion of the Railroad Premises is taken as shall not materially impair or interfere with the Operator's proper use and enjoyment thereof, this Agreement shall continue in full force and effect, and all proceeds of the condemnation award or payment to either party shall first be used as may be required for the restoration of the Railroad Premises in such a manner as will enable the continuing operation thereof for rail freight services hereunder.

Section 23. Breach

(a) Any one or more of the following events shall constitute an event of default (an "Event of Default"):

(i) Operators' failure to pay any Operating Fees to the Authority hereunder within fifteen (15) days of the date due and payable hereunder;

(ii) Operators' failure to observe and perform any of the terms, covenants, conditions, limitation or commitments under this Agreement on Operators' part to be observed or performed (other than payment of Operating Fees) for a period of thirty (30) days following written notice thereof ;

(iii) Any of the Operators shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangements, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy or insolvency statute or law (collectively in this Article "insolvency laws"), or shall seek, consent to or acquiesce in the appointment of any bankruptcy or insolvency trustee, receiver or liquidator of any such Operators or of all or any substantial part of their properties;

(iv) The commencement of any action, case or proceeding ("proceeding") against any of the Operators seeking (i) any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any insolvency laws, or (ii) the appointment, without the consent or acquiescence of such Operator, of any trustee, receiver or liquidator of Operator or of all or substantially all of its properties, and the proceedings shall continue un-dismissed for a period of sixty (60) days;

(v) Operators shall discontinue service or vacate any portion of the Railroad Premises without the Authority's prior written consent;

(vi) If a federal or state tax Lien is filed against any of the Operators affecting the Railroad Premises and remains undischarged within sixty (60) days after its filing;

(vii) If a final judgment for the payment of money in excess of \$25,000 shall be rendered against any of the Operators and such judgment shall remain undischarged for a period of sixty (60) days during which execution shall not be effectively stayed;

(viii) A Change in Control of any of the Operators shall occur without the Authority's prior written consent

(b) Notwithstanding the provisions of Section 23(a), if any default other than a default in payment is curable, it may be cured (and no Event of Default will deemed to have occurred) if Operators, after receiving written notice from the Authority demanding cure of such default: (1) either cure the default within thirty (30) days; or (2) if the cure requires more than thirty (30) days, immediately initiate to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical;

(c) In the event any of the Operators commits an Event of Default as provided in Section 23(a), which Event of Default is not timely cured as provided in Section 23(b), in addition to its other rights and remedies available at law or equity, the Authority shall have the immediate right upon written notice to the Operators to terminate this Agreement. In the event of such termination, the Authority will use its best efforts to engage a replacement operator to provide such service. In the event such replacement operator must be subsidized by the Authority, the Authority will bill the Operator for the subsidy amount and the Operator shall remit payment to the Authority in a timely manner for a period not to exceed one (1) year from the date of such termination. However, in the event no operator can be engaged for such purpose, and in the event the Railroad Premises are abandoned by the Authority by reason of such breach, or otherwise terminated by legal action, the Operator shall cooperate fully with the Authority in settling any and all claims sought by any party as a result.

Section 24. Notice. Notice provided for herein shall be sufficient if sent by certified mail postage prepaid, or commercial overnight delivery service requiring execution of a receipt indicating delivery, as follows:

To the Authority:

SEDA-COG JOINT RAIL AUTHORITY
201 Furnace Road
Lewisburg, PA. 17837

To Operators:

North Shore Railroad Company
356 Priestley Avenue
Northumberland, PA 17857

or to such other address as either party may, from time to time designate to the other in writing. It is expressly agreed that notice to any of the Operators provided to the above addressed shall constitute notice to all Operators.

Section 25. Regulatory Jurisdiction.

(a) This Agreement is subject to the orders, rules and regulations of appropriate regulatory authorities, including the STB and the Pennsylvania Public Utility Commission, having jurisdiction over Operators and the Authority.

(b) In the event that either party determines that it is necessary to participate in an administrative or judicial proceeding or to take a position before any governmental body which may affect the interests of the other or the rail freight services provided hereunder, each party shall provide the other party reasonable advance notice of its intent to do so and the nature of the interest or position it will assert. The parties shall use their best efforts to communicate and coordinate their participation and/or positions.

Section 26. Access to Records.

(a) Operator agrees to maintain sufficient records and reports to permit the Authority to fully verify statements of traffic, revenue, and expenditures furnished to the Authority by Operator. The

Authority shall maintain the information contained in such records and reports in confidence to the extent possible under applicable law.

(b) The Authority shall have full access to these records and reports during normal business hours and the right to make copies at the Operators' office upon 48 hours written notice, duly given to Operator.

Section 27. Force Majeure. None of the parties hereto shall be held responsible or liable, either directly or indirectly, or be deemed in default or breach of this Agreement for any loss, damage, injury, delay, failure or inability to meet all or any portion of its commitments hereunder caused by or arising from any cause which is unavoidable or beyond its reasonable control, including without limitation, war, hostilities, invasion, insurrection, riot, terrorist activities the order of any competent civil or military government, explosion, fire, strikes, lockouts, AAR service orders, actions of other carriers that materially affects Operator's operations, labor disputes, perils of water including floods, ice, breakdowns, Acts of God including storms or other adverse weather conditions, washouts, wrecks or derailments that cannot be removed within thirty (30) days pursuant to Section 15(d) or other causes of a similar or dissimilar nature which wholly or partially prevent the Parties or either of them from carrying out the terms of this Agreement; provided that the Party experiencing such force majeure or partial force majeure promptly gives to the other Party written notice that the disabling effect of such force majeure shall be eliminated as soon as and to the extent reasonably possible and that each Party shall have the right to determine and settle any strike, lockout and labor dispute in which that Party may be involved in its sole discretion. In the event that one Party's performance is suspended in whole or in part by force majeure, the other Party's obligation to perform hereunder shall be suspended or commensurately reduced for the duration of the force majeure and for such additional reasonable period as may be required because of the existence of the force majeure. In the event that one party's performance hereunder is suspended by force majeure and cannot be resumed within a reasonable period of time, either party shall have the right to seek STB authorization to abandon and/or seek a discontinuance of service with respect to that portion of the Rail Premises adversely affected by the

force majeure condition and upon receipt of such authorization to terminate this Agreement with respect thereto.

Section 28. Labor Conditions. If during the term of this Agreement or subsequent renewal thereof, any labor protective conditions should be imposed as a result of an STB order or pursuant to the Railway Labor Act, Operator agrees to fully indemnify the Authority from the costs of said labor protective conditions.

Section 29. Arbitration. Any claim or controversy arising under the provisions of this Agreement, or an asserted breach thereof, which cannot be resolved by the parties, shall be settled by arbitration in Lewisburg, Pennsylvania, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration proceeding shall be held in Lewisburg, Pennsylvania. The decision of the arbitrator(s) shall be final and conclusive upon the parties hereto and shall be enforceable in a court of competent jurisdiction. Each party to the arbitration shall pay the compensation costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation costs of the arbitrator(s), if any, shall be borne equally by the parties hereto. The arbitrator(s) shall not have the power to award consequential or punitive damages or to determine violations of criminal law or antitrust law. The arbitrators shall have the right to refer any rail regulatory issues to the STB for an advisory opinion.

Section 30. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. However, this provision shall not be construed to confer on Operators any right or authority to assign all or any part of this Agreement without the Authority's prior consent. It is expressly agreed that the Authority shall have the right to assign its interest in this Agreement to a lending institution for purposes of financial security.

Section 31. Entire Agreement. This Agreement, together with the Agreements described in Section 8, contains the entire understanding of the parties with respect to its subject matter. It is expressly understood that the within Agreement shall supersede and replace the existing Operating Agreements

between the Authority and the Operators, which shall each terminate effective midnight, December 31, 2006. No oral statement or prior written matter shall have any force or effect. The parties hereby acknowledge that they are not relying on any representations or agreements other than those contained in this Agreement and the Agreements described in Section 8. This Agreement shall not be modified except by a written instrument subscribed by both parties hereto.

Section 32. Severability. If any term, covenant, condition or provision (or part thereof) of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision (or remainder thereof) to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 33. Nondiscrimination. The Operator shall comply with the nondiscrimination clause attached hereto and incorporated herein as Exhibit D.

Section 34. Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties hereto have caused this Operating Agreement to be executed by themselves or by their respective duly authorized officers as of the date and year first above written.

ATTEST:

By: Donald R. Krone

ATTEST:

By: M. Susan B. Polley
Su-Tuas

SEDA-COG JOINT RAIL AUTHORITY

By: Jerry S. Walker

OPERATORS:

LYCOMING VALLEY RAILROAD COMPANY

By: Paul W. Roberg, CEO

NITTANY & BALD EAGLE RAILROAD COMPANY

By: M. M. R. Policy
Sec. - Treas

By: Richard N. Moberg CEO

NORTH SHORE RAILROAD COMPANY

By: M. M. R. Policy
Sec. - Treas

By: Richard N. Moberg CEO

JUNIATA VALLEY RAILROAD COMPANY,

By: M. M. R. Policy
Sec. - Treas

By: Richard N. Moberg CEO

SHAMOKIN VALLEY RAILROAD COMPANY

By: M. M. R. Policy
Sec. - Treas

By: Richard N. Moberg CEO

Exhibit A – Railroad Premises

The Railroad Premises shall include all of the property of every kind and description, real, personal, and mixed, including the right-of-way, roadbed, track, track materials, poles, wire lines, signals, and other facilities, buildings, and appurtenances for the following lines, except as otherwise defined or provided for in the Operating Agreement. These Premises are more fully described in certain deeds from the Consolidated Rail Corporation to the Authority.

Nittany & Bald Eagle Railroad

Nittany Main Line from M.P. 1.0W to M.P. 54.3 (Lock Haven to Tyrone)
Gray Yard adjacent to M.P. 222.2 – M.P. 223.2 (Norfolk Southern Pittsburgh line M.P. numbers)
Lock Haven Yard adjacent to M.P. 194.3 – M.P. 195.1 (Norfolk Southern Buffalo line M.P. numbers)
Pleasant Gap Industrial Track from M.P. 0.0 to M.P. 3.0
Bellefonte Branch from M.P. 30.8 to M.P. 42.5 (Milesburg to Lemont)
Bellefonte Sunnyside Yard M.P. 32.4 to M.P. 33.1
“Shop” Track from M.P. 0.0 to M.P. 1.0
All operating remnants of the Mill Hall Industrial Track (N&BE main line M.P. 51.9)

North Shore Railroad

North Shore Railroad from M.P. 213.45 to M.P. 176.97
Berwick Yard M.P. 178.7

Shamokin Valley Railroad

Shamokin Valley Main from M.P. 0.0 to M.P. 25.2
Carbon Run Branch from M.P. 0.0 to M.P. 1.5
SAIC Industrial Park Track from M.P. 0.0 to M.P. 1.0

Lycoming Valley Railroad

Lycoming Secondary from M.P. 199.8 to M.P. 181.1
Newberry Yard M.P. 181.1 to M.P. 179.4
Avis branch from M.P. 179.4 to M.P. 166.00 at Avis
All operating remnants of the Williamsport Industrial Track
Antlers Running Track M.P. 179.4 to M.P. 178.7

Juniata Valley Railroad

Lewistown Yard M.P. 0.2
Maitland Industrial Track from M.P. 0.0 to M.P. 7.4
Burnham Branch from M.P. 0.0 to M.P. 4.0
MCIDC track

Exhibit B - SEDA-COG JOINT RAIL AUTHORITY Track Maintenance and Safety Standards

CFR Title 49: Transportation, PART 213—Modified TRACK SAFETY STANDARDS

The following subparts have been extracted from the U.S. Department of Transportation's Code of Federal Regulations Title 49: Track Safety Standards - Part 213 and have been modified to provide enhanced track standards to be utilized by the Operator/s for the Railroad Premises owned by the SEDA-COG Joint Rail Authority (JRA). Applicable Subparts that have been modified from the FRA Track Safety Standards for the Authority include the following Subparts: B-Roadbed, C-Track Geometry, D-Track Structure, and E-Track Appliances and Track Related Devices. An additional subpart, JRA Maintenance of Way General Requirements, has been added to include general items pertaining to the Operators' responsibilities to the Authority under the Agreement regarding reporting and Operators' response to identified defects.

Applicable Subparts have been identified with the prefix lettering JRA to distinguish the Subpart from the FRA Track Safety Standards. FRA Subparts not listed or modified have not been incorporated into this document for the sake of brevity. All other FRA Track Safety Standard Subparts, any other Federal, State, or local regulatory requirements and AREMA track standards shall apply to the Railroad Premises and shall be followed by the Operators in the maintenance thereof.

FRA Section Contents Modified for the SEDA-COG Joint Rail Authority:

Subpart A—JRA Maintenance of Way General Requirements

- § JRA 200 Operator's Responsibilities.
- § JRA 201 Reporting.
- § JRA 202 Annual M/W Plan.
- § JRA 203 Response to Identified Defects.

Subpart B—Roadbed

- § JRA 213.31 Scope.
- § JRA 213.33 Drainage.
- § JRA 213.37 Vegetation.

Subpart C—Track Geometry

- § JRA 213.51 Scope.
- § JRA 213.53 Gage.
- § JRA 213.55 Alinement.
- § JRA 213.57 Curves: elevation and speed limitations.
- § JRA 213.59 Elevation of curved track: runoff.
- § JRA 213.63 Track surface.

Subpart D—Track Structure

- § JRA 213.101 Scope.
- § JRA 213.103 Ballast: general.
- § JRA 213.109 Crossties.

§ JRA 213.110 Gage restraint measurement systems.
§ JRA 213.113 Defective rails.
§ JRA 213.115 Rail end mismatch.
§ JRA 213.119 Continuous welded rail (CWR): general.
§ JRA 213.121 Rail joints.
§ JRA 213.122 Torch cut rail.
§ JRA 213.123 Tie plates.
§ JRA 213.127 Rail fastening systems.
§ JRA 213.133 Turnouts and track crossings generally.
§ JRA 213.135 Switches.
§ JRA 213.137 Frogs.
§ JRA 213.139 Spring rail frogs.
§ JRA 213.141 Self-guarded frogs.
§ JRA 213.143 Frog guard rails and guard faces: gage.

Subpart E—Track Appliances and Track-Related Devices

§ JRA 213.201 Scope.
§ JRA 213.205 Derails.

Subpart A—JRA Maintenance of Way General Requirements

Subpart B—Roadbed

§ JRA 213.31 Scope.

This subpart prescribes minimum requirements for roadbed and areas immediately adjacent to roadbed within the Railroad Premises.

§ JRA 213.33 Drainage.

Each drainage or other water carrying facility under or immediately adjacent to the roadbed shall be maintained and kept free of obstruction to accommodate expected water flow for the area concerned.

Special attention shall be given to maintaining drainage flow away from the track structure at turnouts and grade crossings.

§ JRA 213.37 Vegetation.

Vegetation on railroad property which is on or immediately adjacent to roadbed shall be controlled so that it does not—

- (a) Become a fire hazard to track-carrying structures;
- (b) Obstruct visibility of railroad signs and signals:
 - (1) Along the right-of-way, and
 - (2) At highway-rail crossings;
- (c) Interfere with railroad employees performing normal trackside duties;
- (d) Prevent proper functioning of signal and communication lines; or
- (e) Prevent railroad employees from visually inspecting moving equipment from their normal duty stations.

Subpart C—Track Geometry

§ JRA 213.51 Scope.

This subpart prescribes requirements for the gage, alinement, and surface of track, and the elevation of outer rails and speed limitations for curved track.

§ JRA 213.53 Gage.

(a) Gage is measured between the heads of the rails at right-angles to the rails in a plane five-eighths of an inch below the top of the rail head.

(b) Gage shall be within the limits prescribed in the following table—

Class of track	The gage must be at least-	But not more than-
Excepted track	NA	4' 10"
Class 1 track	4' 8"	4' 10"
Class 2 and 3 track	4' 8"	4' 9¾"
Class 4 and 5 track	4' 8"	4' 9½"

§ JRA 213.55 Alinement.

Alinement may not deviate from uniformity more than the amount prescribed in the following table:

Class of track	Tangent track	Curved track	
	The deviation of the mid-offset from a 62 foot line ¹ may not be more than – (inches)	The deviation of the mid-ordinate from a 31 foot chord ² may not be more than – (inches)	The deviation of the mid-ordinate from a 62 foot chord ² may not be more than – (inches)
Class 1 track	3	NA ³	3
Class 2 track	2	NA ³	2
Class 3 track	1½	1¼	1½
Class 4 track	1½	1	1½
Class 5 track	¾	½	¾

¹The ends of the line shall be at points on the gage side of the line rail, five-eighths of an inch below the top of the railhead. Either rail may be used as the line rail, however, the same rail shall be used for the full length of that tangential segment of track.

²The ends of the chord shall be at points on the gage side of the outer rail, five-eighths of an inch below the top of the railhead.

³N/A- Not Applicable.

§ JRA 213.57 Curves; elevation and speed limitations.

(a) The maximum crosslevel on the outside rail of a curve may not be more than 6 inches on track Classes 1 and 2; and 6 inches on Classes 3 through 5. Except as provided in §213.63, the outside rail of a curve may not be lower than the inside rail.

(b)(1) The maximum allowable operating speed for each curve is determined by the following formula—

$$V_{\max} = \sqrt{\frac{E_a + 3}{0.0007D}}$$

Where—

$V_{\max}$ = Maximum allowable operating speed (miles per hour).

E_a = Actual elevation of the outside rail (inches). ¹

¹ Actual elevation for each 155 foot track segment in the body of the curve is determined by averaging the elevation for 10 points through the segment at 15.5 foot spacing. If the curve length is less than 155 feet, average the points through the full length of the body of the curve.

D = Degree of curvature (degrees). ²

² Degree of curvature is determined by averaging the degree of curvature over the same track segment as the elevation.

(2) Table 1 of Appendix A is a table of maximum allowable operating speed computed in accordance with this formula for various elevations and degrees of curvature.

(c)(1) For rolling stock meeting the requirements specified in paragraph (d) of this section, the maximum operating speed for each curve may be determined by the following formula—

$$V_{\max} = \sqrt{\frac{E_a + 4}{0.0007D}}$$

Where—

$V_{\max}$ = Maximum allowable operating speed (miles per hour).

E_a = Actual elevation of the outside rail (inches). ¹

D = Degree of curvature (degrees). ²

(2) Table 2 of Appendix A is a table of maximum allowable operating speed computed in accordance with this formula for various elevations and degrees of curvature.

§ JRA 213.59 Elevation of curved track; runoff.

(a) If a curve is elevated, the full elevation shall be provided throughout the curve, unless physical conditions do not permit. If elevation runoff occurs in a curve, the actual minimum elevation shall be used in computing the maximum allowable operating speed for that curve under §213.57(b).

(b) Elevation runoff shall be at a uniform rate, within the limits of track surface deviation prescribed in §213.63, and it shall extend at least the full length of the spirals. If physical conditions do not permit a spiral long enough to accommodate the minimum length of runoff, part of the runoff may be on tangent track.

§ JRA 213.63 Track surface.

The Operators shall maintain the surface of its track within the limits prescribed in the following table:

Track surface	Class of track				
	1 (inches)	2 (inches)	3 (inches)	4 (inches)	5 (inches)
The runoff in any 31 feet of rail at the end of a raise may not be more than.....	3 ½	3	2	1 ½	1
The deviation from uniform profile on either rail at the mid-ordinate of a 62-foot chord may not be more than.....	2¾	2¾	2¼	2	1¼
The deviation from zero crosslevel at any point on tangent or reverse crosslevel elevation on curves may not be more than.....	3	2	1¾	1¼	1
The difference in crosslevel between any two points less than 62 feet apart may not be more than* 1. 2	3	2¾	2	1¾	1½
*Where determined by engineering decision prior to the promulgation of this rule, due to physical restrictions on spiral length and operating practices and experience, the variation in crosslevel on spirals per 31 feet may not be more than.....	2	1¾	1¼	1	¾

¹Except as limited by § 213.57(a), where the elevation at any point in a curve equals or exceeds 6 inches, the difference in crosslevel within 62 feet between that point and a point with greater elevation may not be more than 1½ inches.

²However, to control harmonics on Class 2 through 5 jointed track with staggered joints, the crosslevel differences shall not exceed 1¼ inches in all of six consecutive pairs of joints, as created by 7 low joints. Track with joints staggered less than 10 feet shall not be considered as having staggered joints. Joints within the 7 low joints outside of the regular joint spacing shall not be considered as joints for purposes of this footnote.

Subpart D—Track Structure

§ JRA 213.101 Scope.

This subpart prescribes minimum requirements for ballast, crossties, track assembly fittings, and the physical conditions of rails.

§ JRA 213.103 Ballast; general.

Unless it is otherwise structurally supported, all track shall be supported by material which will —

- (a) Transmit and distribute the load of the track and railroad rolling equipment to the subgrade;
- (b) Restrain the track laterally, longitudinally, and vertically under dynamic loads imposed by railroad rolling equipment and thermal stress exerted by the rails;
- (c) Provide adequate drainage for the track; and
- (d) Maintain proper track crosslevel, surface, and alinement.

§ JRA 213.109-A Crossties.

(a) Crossties shall be made of a material to which rail can be securely fastened.

(b) Each 39 foot segment of track shall have—

(1) A sufficient number of crossties which in combination provide effective support that will—

- (i) Hold gage within the limits prescribed in §213.53(b);
- (ii) Maintain surface within the limits prescribed in §213.63; and
- (iii) Maintain alinement within the limits prescribed in §213.55.

(2) The minimum number and type of crossties specified in paragraphs (c) and (d) of this section effectively distributed to support the entire segment; and

(3) At least one crosstie of the type specified in paragraphs (c) and (d) of this section that is located at a joint location as specified in paragraph (f) of this section.

(c) Each 39 foot segment of: Class 1 track shall have seven crossties; Classes 2 and 3 track shall have eleven crossties; and Classes 4 and 5 track shall have 14 crossties, which are not:

- (1) Broken or split through;
- (2) Split or otherwise impaired to the extent the crossties will allow the ballast to work through, or will not hold spikes or rail fasteners in place;

(3) So deteriorated that the tie plate or base of rail can move laterally more than 1/2 inch relative to the crossties; or

(4) Cut by the tie plate through more than 10 percent of a ties' thickness.

(d) Each 39 foot segment of track shall have the minimum number and type of crossties as indicated in the following table:

Class of track	Tangent track and curves less than or equal to 2 degrees	Turnouts and curved track over 2 degrees
Class 1 track	7	8
Class 2 track	11	13
Class 3 track	11	13
Class 4 and 5 track	14	15

(e) Crossties counted to satisfy the requirements set forth in the table in paragraph (d) of this section shall not be—

(1) Broken or split through;

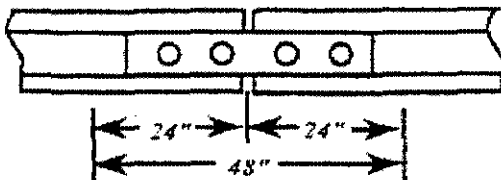
(2) Split or otherwise impaired to the extent the crossties will allow the ballast to work through, or will not hold spikes or rail fasteners in place;

(3) So deteriorated that the tie plate or base of rail can move laterally 1/2 inch relative to the crossties; or

(4) Cut by the tie plate through more than 10 percent of a crosstie's thickness.

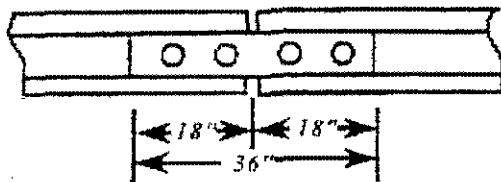
(f) Class 1 and Class 2 track shall have one crosstie whose centerline is within 24 inches of each rail joint location, and Classes 3 through 5 track shall have one crosstie whose centerline is within 18 inches of each rail joint location or, two crossties whose centerlines are within 24 inches either side of each rail joint location. The relative position of these ties is described in the following diagrams:

Classes 1 and 2

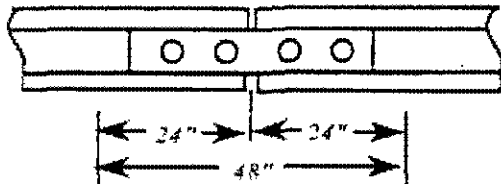


Each rail joint in Classes 1 and 2 track shall be supported by at least one crosstie specified in paragraphs (c) and (d) of this section whose centerline is within 48&inch; shown above.

Classes 3 through 5



Each rail joint in Classes 3 through 5 track shall be supported by either at least one cross tie specified in paragraphs (c) and (d) of this section whose centerline is within 36&inch; shown above, or:



Two cross ties, one on each side of the rail joint, whose centerlines are within 24&inch; of the rail joint location shown above.

Curves greater than 2 degrees on Classes 2 through 5 track shall have the high side joints supported by effective ties on each side of the rail joint.

(g) For track constructed without cross ties, such as slab track, track connected directly to bridge structural components, and track over servicing pits, the track structure shall meet the requirements of paragraphs (b)(1)(i), (ii), and (iii) of this section.

§ JRA 213.109-B Switch Timber.

§ JRA 213.113 Defective rails.

(a) When the Operators learn, through inspection or otherwise, that a rail in that track contains any of the defects listed in the following table, a person designated under §213.7 shall determine whether or not the track may continue in use. If he determines that the track may continue in use, operation over the defective rail is not permitted until—

- (1) The rail is replaced; or
- (2) The remedial action prescribed in the table is initiated.

REMEDIAL ACTION

Defect	Length of defect (inch)		Percent of rail head cross-sectional area weakened by defect		If defective rail is not replaced, take the remedial action prescribed in note
	More than	But not more than	Less than	But not less than	
Transverse flaws			75 100	5 10 100	B, A2, A.
Complete failure			75 100	5 10 100	B, A2, A.
Brill fracture Engine horn fracture In-fixture weld			75 100	5 10 100	B, A2, A.
Horizontal split head Vertical split head Split web Piped rail Head web separation	1 2 4 (1)	3 4 (1)	25 50 100	5 25 40 100	C, B, (A) or (E and H), (A) or (E and H), H and E, E and G, B, A.
Roll hole crack	1 10 100 (1)	1 10 100 (1)	25 50 100	5 25 40 100	H and E, E and G, B, A.
Broken base	1 10 100 (1)	1 10 100 (1)	25 50 100	5 25 40 100	H and E, E and G, B, A.
Ordinary break	1 10 100 (1)	1 10 100 (1)	25 50 100	5 25 40 100	H and E, E and G, B, A.
Overstressed rail	1 10 100 (1)	1 10 100 (1)	25 50 100	5 25 40 100	H and E, E and G, B, A.
Flattened rail	1 10 100 (1)	1 10 100 (1)	25 50 100	5 25 40 100	H and E, E and G, B, A.

(1) Break out in rail head.

Notes A. Assign person designated under §213.7 to visually supervise each operation over defective rail.

A2. Assign person designated under §213.7 to make visual inspection. After a visual inspection, that person may authorize operation to continue without continuous visual supervision at a maximum of 10 m.p.h. for up to 24 hours prior to another such visual inspection or replacement or repair of the rail.

B. Limit operating speed over defective rail to that as authorized by a person designated under §213.7(a), who has at least one year of supervisory experience in railroad track maintenance. The

operating speed cannot be over 30 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

C. Apply joint bars bolted only through the outermost holes to defect within 20 days after it is determined to continue the track in use. In the case of Classes 3 through 5 track, limit operating speed over defective rail to 30 m.p.h. until joint bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower. When a search for internal rail defects is conducted under §213.237, and defects are discovered in Classes 3 through 5 which require remedial action C, the operating speed shall be limited to 50 m.p.h., or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower, for a period not to exceed 4 days. If the defective rail has not been removed from the track or a permanent repair made within 4 days of the discovery, limit operating speed over the defective rail to 30 m.p.h. until joint bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

D. Apply joint bars bolted only through the outermost holes to defect within 10 days after it is determined to continue the track in use. In the case of Classes 3 through 5 track, limit operating speed over the defective rail to 30 m.p.h. or less as authorized by a person designated under §213.7(a), who has at least one year of supervisory experience in railroad track maintenance, until joint bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

E. Apply joint bars to defect and bolt in accordance with §213.121(d) and (e).

F. Inspect rail 90 days after it is determined to continue the track in use.

G. Inspect rail 30 days after it is determined to continue the track in use.

H. Limit operating speed over defective rail to 50 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

I. Limit operating speed over defective rail to 30 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

(b) As used in this section—

(1) *Transverse fissure* means a progressive crosswise fracture starting from a crystalline center or nucleus inside the head from which it spreads outward as a smooth, bright, or dark, round or oval surface substantially at a right angle to the length of the rail. The distinguishing features of a transverse fissure from other types of fractures or defects are the crystalline center or nucleus and the nearly smooth surface of the development which surrounds it.

(2) *Compound fissure* means a progressive fracture originating in a horizontal split head which turns up or down in the head of the rail as a smooth, bright, or dark surface progressing until substantially at a right angle to the length of the rail. Compound fissures require examination of both faces of the fracture to locate the horizontal split head from which they originate.

(3) *Horizontal split head* means a horizontal progressive defect originating inside of the rail head, usually one-quarter inch or more below the running surface and progressing horizontally in all

directions, and generally accompanied by a flat spot on the running surface. The defect appears as a crack lengthwise of the rail when it reaches the side of the rail head.

(4) *Vertical split head* means a vertical split through or near the middle of the head, and extending into or through it. A crack or rust streak may show under the head close to the web or pieces may be split off the side of the head.

(5) *Split web* means a lengthwise crack along the side of the web and extending into or through it.

(6) *Piped rail* means a vertical split in a rail, usually in the web, due to failure of the shrinkage cavity in the ingot to unite in rolling.

(7) *Broken base* means any break in the base of the rail.

(8) *Detail fracture* means a progressive fracture originating at or near the surface of the rail head. These fractures should not be confused with transverse fissures, compound fissures, or other defects which have internal origins. Detail fractures may arise from shelly spots, head checks, or flaking.

(9) *Engine burn fracture* means a progressive fracture originating in spots where driving wheels have slipped on top of the rail head. In developing downward they frequently resemble the compound or even transverse fissures with which they should not be confused or classified.

(10) *Ordinary break* means a partial or complete break in which there is no sign of a fissure, and in which none of the other defects described in this paragraph (b) are found.

(11) *Damaged rail* means any rail broken or injured by wrecks, broken, flat, or unbalanced wheels, slipping, or similar causes.

(12) *Flattened rail* means a short length of rail, not at a joint, which has flattened out across the width of the rail head to a depth of 3/8 inch or more below the rest of the rail. Flattened rail occurrences have no repetitive regularity and thus do not include corrugations, and have no apparent localized cause such as a weld or engine burn. Their individual length is relatively short, as compared to a condition such as head flow on the low rail of curves.

(13) *Bolt hole crack* means a crack across the web, originating from a bolt hole, and progressing on a path either inclined upward toward the rail head or inclined downward toward the base. Fully developed bolt hole cracks may continue horizontally along the head/web or base/web fillet, or they may progress into and through the head or base to separate a piece of the rail end from the rail. Multiple cracks occurring in one rail end are considered to be a single defect. However, bolt hole cracks occurring in adjacent rail ends within the same joint must be reported as separate defects.

(14) *Defective weld* means a field or plant weld containing any discontinuities or pockets, exceeding 5 percent of the rail head area individually or 10 percent in the aggregate, oriented in or near the transverse plane, due to incomplete penetration of the weld metal between the rail ends, lack of fusion between weld and rail end metal, entrapment of slag or sand, under-bead or other shrinkage cracking, or fatigue cracking. Weld defects may originate in the rail head, web, or base, and in some cases, cracks may progress from the defect into either or both adjoining rail ends.

(15) *Head and web separation* means a progressive fracture, longitudinally separating the head from the web of the rail at the head fillet area.

§ JRA 213.115 Rail end mismatch.

Class of track	Any mismatch of rails at joints may not be more than the following -	
	On the tread of the rail ends (inches)	On the gage side of the rail ends (inches)
Class 1 track	1/4	1/4
Class 2 track	1/4	3/16
Class 3 track	3/16	3/16
Class 4 and 5 track	1/8	1/8

§ JRA 213.119 Continuous welded rail (CWR); general.

Each Operator with track constructed of CWR shall have in effect and comply with written procedures which address the installation, adjustment, maintenance, and inspection of CWR, and a training program for the application of those procedures, which shall be submitted to the Federal Railroad Administration. FRA reviews each plan for compliance with the following—

(a) Procedures for the installation and adjustment of CWR which include—

- (1) Designation of a desired rail installation temperature range for the geographic area in which the CWR is located; and
- (2) De-stressing procedures/methods which address proper attainment of the desired rail installation temperature range when adjusting CWR.

(b) Rail anchoring or fastening requirements that will provide sufficient restraint to limit longitudinal rail and cross-tie movement to the extent practical, and specifically addressing CWR rail anchoring or fastening patterns on bridges, bridge approaches, and at other locations where possible longitudinal rail and cross-tie movement associated with normally expected train-induced forces, is restricted.

(c) Procedures which specifically address maintaining a desired rail installation temperature range when cutting CWR including rail repairs, in-track welding, and in conjunction with adjustments made in the area of tight track, a track buckle, or a pull-apart. Rail repair practices shall take into consideration existing rail temperature so that—

- (1) When rail is removed, the length installed shall be determined by taking into consideration the existing rail temperature and the desired rail installation temperature range; and
- (2) Under no circumstances should rail be added when the rail temperature is below that designated by paragraph (a)(1) of this section, without provisions for later adjustment.

(d) Procedures which address the monitoring of CWR in curved track for inward shifts of alignment toward the center of the curve as a result of disturbed track.

(e) Procedures which control train speed on CWR track when—

(1) Maintenance work, track rehabilitation, track construction, or any other event occurs which disturbs the roadbed or ballast section and reduces the lateral or longitudinal resistance of the track; and

(2) In formulating the procedures under this paragraph (e), the track owner shall—

(i) Determine the speed required, and the duration and subsequent removal of any speed restriction based on the restoration of the ballast, along with sufficient ballast re-consolidation to stabilize the track to a level that can accommodate expected train-induced forces. Ballast re-consolidation can be achieved through either the passage of train tonnage or mechanical stabilization procedures, or both; and

(ii) Take into consideration the type of crossties used.

(f) Procedures which prescribe when physical track inspections are to be performed to detect buckling prone conditions in CWR track. At a minimum, these procedures shall address inspecting track to identify—

(1) Locations where tight or kinky rail conditions are likely to occur;

(2) Locations where track work of the nature described in paragraph (e)(1) of this section have recently been performed; and

(3) In formulating the procedures under this paragraph (f), the track owner shall—

(i) Specify the timing of the inspection; and

(ii) Specify the appropriate remedial actions to be taken when buckling prone conditions are found.

(g) The Operators shall have in effect a comprehensive training program for the application of these written CWR procedures, with provisions for periodic re-training, for those individuals designated under §213.7 of this part as qualified to supervise the installation, adjustment, and maintenance of CWR track and to perform inspections of CWR track.

(h) The Operators shall prescribe record keeping requirements necessary to provide an adequate history of track constructed with CWR. At a minimum, these records must include:

(1) Rail temperature, location, and date of CWR installations. This record shall be retained for at least one year; and

(2) A record of any CWR installation or maintenance work that does not conform with the written procedures. Such record shall include the location of the rail and be maintained until the CWR is brought into conformance with such procedures.

(i) As used in this section—

(1) *Adjusting/de-stressing* means the procedure by which a rail's temperature is re-adjusted to the desired value. It typically consists of cutting the rail and removing rail anchoring devices, which provides for the necessary expansion and contraction, and then re-assembling the track.

(2) *Buckling incident* means the formation of a lateral mis-alignment sufficient in magnitude to constitute a deviation from the Class 1 requirements specified in §213.55 of this part. These normally occur when rail temperatures are relatively high and are caused by high longitudinal compressive forces.

(3) *Continuous welded rail (CWR)* means rail that has been welded together into lengths exceeding 400 feet.

(4) *Desired rail installation temperature range* means the rail temperature range, within a specific geographical area, at which forces in CWR should not cause a buckling incident in extreme heat, or a pull-apart during extreme cold weather.

(5) *Disturbed track* means the disturbance of the roadbed or ballast section, as a result of track maintenance or any other event, which reduces the lateral or longitudinal resistance of the track, or both.

(6) *Mechanical stabilization* means a type of procedure used to restore track resistance to disturbed track following certain maintenance operations. This procedure may incorporate dynamic track stabilizers or ballast consolidators, which are units of work equipment that are used as a substitute for the stabilization action provided by the passage of tonnage trains.

(7) *Rail anchors* means those devices which are attached to the rail and bear against the side of the crosstie to control longitudinal rail movement. Certain types of rail fasteners also act as rail anchors and control longitudinal rail movement by exerting a downward clamping force on the upper surface of the rail base.

(8) *Rail temperature* means the temperature of the rail, measured with a rail thermometer.

(9) *Tight/kinky rail* means CWR which exhibits minute alignment irregularities which indicate that the rail is in a considerable amount of compression.

(10) *Train-induced forces* means the vertical, longitudinal, and lateral dynamic forces which are generated during train movement and which can contribute to the buckling potential.

(11) *Track lateral resistance* means the resistance provided to the rail/crosstie structure against lateral displacement.

(12) *Track longitudinal resistance* means the resistance provided by the rail anchors/rail fasteners and the ballast section to the rail/crosstie structure against longitudinal displacement.

§ JRA 213.121 Rail joints.

(a) Each rail joint, insulated joint, and compromise joint shall be of a structurally sound design and dimensions for the rail on which it is applied.

(b) If a joint bar on Classes 3 through 5 track is cracked, broken, or because of wear allows excessive vertical movement of either rail when all bolts are tight, it shall be replaced.

(c) If a joint bar is cracked or broken between the middle two bolt holes it shall be replaced.

(d) In the case of conventional jointed track, each rail shall be bolted with at least two bolts at each joint in Classes 2 through 5 track, and with at least one bolt in Class 1 track.

(e) In the case of continuous welded rail track, each rail shall be bolted with at least two bolts at each joint.

(f) Each joint bar shall be held in position by track bolts tightened to allow the joint bar to firmly support the abutting rail ends and to allow longitudinal movement of the rail in the joint to accommodate expansion and contraction due to temperature variations. When no-slip, joint-to-rail contact exists by design, the requirements of this paragraph do not apply. Those locations, when over 400 feet in length, are considered to be continuous welded rail track and shall meet all the requirements for continuous welded rail track prescribed in this part.

(g) No rail shall have a bolt hole which is torch cut or burned in Classes 2 through 5 track.

(h) No joint bar shall be reconfigured by torch cutting in Classes 3 through 5 track.

§ JRA 213.122 Torch cut rail.

(a) Except as a temporary repair in emergency situations, no rail having a torch cut end shall be used in Classes 3 through 5 track. When a rail end is torch cut in emergency situations, train speed over that rail end shall not exceed the maximum allowable for Class 2 track. For existing torch cut rail ends in Classes 3 through 5 track the following shall apply—

(1) Within one year of July 1, 2007, all torch cut rail ends in Class 5 track shall be removed;

(2) Within two years of July 1, 2007, all torch cut rail ends in Class 4 track shall be removed; and

(3) Within one year of July 1, 2007, all torch cut rail ends in Class 3 track over which regularly scheduled passenger trains operate, shall be inventoried by the track owner.

(b) Following the expiration of the time limits specified in paragraphs (a)(1), (2), and (3) of this section, any torch cut rail end not removed from Classes 4 and 5 track, shall be removed within 30 days of discovery. Train speed over that rail end shall not exceed the maximum allowable for Class 2 track until removed.

§ JRA 213.123 Tie plates.

(a) In Classes 2 through 5 track where timber crossties are in use there shall be tie plates under the running rails on all ties.

(b) In Classes 3 through 5 track no metal object which causes a concentrated load by solely supporting a rail shall be allowed between the base of the rail and the bearing surface of the tie plate.

§ JRA 213.127 Rail fastening systems.

Track shall be fastened by a system of components which effectively maintains gage within the limits prescribed in §213.53(b). Each component of each such system shall be evaluated to determine whether gage is effectively being maintained.

§ JRA 213.133 Turnouts and track crossings generally.

(a) In turnouts and track crossings, the fastenings shall be intact and maintained so as to keep the components securely in place. Also, each switch, frog, and guard rail shall be kept free of obstructions that may interfere with the passage of wheels.

(b) Classes 3 through 5 track shall be equipped with rail anchoring through and on each side of track crossings and turnouts, to restrain rail movement affecting the position of switch points and frogs. (c) Each flangeway at turnouts and track crossings shall be at least 1 1/2 inches wide.

(d) Turnouts shall be level laterally and properly anchored.

§ JRA 213.135 Switches.

(a) Switch points shall match flush to the stock rails with full bearing on all plates. Stock rail or switch point (lip) overflow shall be ground periodically to maintain flush closure of the switch point. Each stock rail must be securely seated in switch plates, but care shall be used to avoid canting the stock rail by overtightening the rail braces.

(b) All plates shall lie flat on all switch timber with braces drawn tight and secure without displacing the "seating" of the stock rail.

(b) Each switch point shall fit its stock rail properly, with the switch stand in either of its closed positions to allow wheels to pass the switch point. Lateral and vertical movement of a stock rail in the switch plates or of a switch plate on a tie shall not adversely affect the fit of the switch point to the stock rail. Broken or cracked switch point rails will be subject to the requirements of §213.113, except that where remedial actions C, D, or E require the use of joint bars, and joint bars cannot be placed due to the physical configuration of the switch, remedial action B will govern, taking into account any added safety provided by the presence of reinforcing bars on the switch points.

(c) Each switch shall be maintained so that the outer edge of the wheel tread cannot contact the gage side of the stock rail.

(d) The heel of each switch rail shall be secure with a complete set of all heel block bolts secured and the bolts in each heel shall be kept tight.

(e) Each switch stand and connecting rod shall be securely fastened and operable without excessive lost motion.

(f) Each throw lever shall be maintained so that it cannot be operated with the lock or keeper in place. Keepers shall be tightly secured to the headblock timber so there is no more than 1/8-inch movement in the keepers when the throw lever is manipulated.

(g) Each switch position indicator shall be clearly visible at all times.

(h) Unusually chipped or worn switch points shall be repaired or replaced. Metal flow shall be removed to insure proper closure. Switch points that are worn in excess of six inches back and 5/8" below the running surface of the stock rail shall be replaced if located on Main Line track. Welding switch points at the point of switch to the head separation shall not be permitted on Main Line Track. Switch points may be welded at the points to the head separation by a qualified track welder on Branch Lines, Industrial Tracks, and in Yards. Rail-end battered switch heels may be welded by a qualified track welder on all track.

(i) Immediate protection and prompt corrective action shall be taken if a switch point is found to stand open more than 3/16 - inch or if a switch point is found to have an unprotected flat vertical surface of 5/16-inch or more in width at a depth of 5/8-inch below the running surface of the stock rail.

(j) Tongue & Plain Mate switches, which by design exceed Class 1 and excepted track maximum gage limits, are permitted in Class 1 and excepted track.

(k) All fastenings shall be properly torqued and secured.

§ JRA 213.137 Frogs.

(a) The flangeway depth measured from a plane across the wheel-bearing area of a frog on Class 1 track shall not be less than 1 3/8 inches, or less than 1 1/2 inches on Classes 2 through 5 track.

(b) If a frog point is chipped, broken, or worn more than five-eighths inch down and 6 inches back, operating speed over the frog shall not be more than 10 m.p.h.

(c) If the tread portion of a frog casting is worn down more than three-eighths inch below the original contour, operating speed over that frog shall not be more than 10 m.p.h.

(d) Where frogs are designed as flange-bearing, flangeway depth may be less than that shown for Class 1 if operated at Class 1 speeds.

§ JRA 213.139 Spring rail frogs.

(a) The outer edge of a wheel tread shall not contact the gage side of a spring wing rail.

(b) The toe of each wing rail shall be solidly tamped and fully and tightly bolted.

(c) Each frog with a bolt hole defect or head-web separation shall be replaced.

(d) Each spring shall have compression sufficient to hold the wing rail against the point rail.

(e) The clearance between the holddown housing and the horn shall not be more than one-fourth of an inch.

§ JRA 213.141 Self-guarded frogs.

- (a) The raised guard on a self-guarded frog shall not be worn more than three-eighths of an inch.
- (b) If repairs are made to a self-guarded frog without removing it from service, the guarding face shall be restored before rebuilding the point.

§ JRA 213.143 Frog guard rails and guard faces; gage.

The guard check and guard face gages in frogs shall be within the limits prescribed in the following table—

Class of track	Guard check gage	Guard face gage
	The distance between the gage line of a frog to the guard line ¹ of its guard rail or guarding face, measured across the track at right angles to the gage line ² , may not be less than -	The distance between guard lines ¹ measured across the track at right angles to the gage line ² , may not be more than -
Class 1 track	4' 6 1/4"	4' 5 1/8"
Class 2 track	4' 6 1/4"	4' 5 1/8"
Class 3 and 4 track	4' 6 3/8"	4' 5 1/8"
Class 5 track	4' 6 1/2"	4' 5"

¹A line along that side of the flangeway which is nearer to the center of the track and at the same elevation as the gage line.

²A line 5/8 inch below the top of the center line of the head of the running rail, or corresponding location of the tread portion of the track structure.

Exhibit C – Operating Fees

On the fifteenth (15th) day of each month following the execution of this Agreement, Operator shall pay to the Authority the following:

(a) Gross Freight Revenues : For the period beginning January 1, 2007, until June 30, 2007, an amount equal to five (5%) percent of the gross freight revenues received by Operator during the previous calendar month. For the period beginning July 1, 2007 and continuing through the remainder of the term of the Operating Agreement, an amount equal to ten (10%) percent of the gross freight revenue received by Operator during the previous calendar month. "Gross Freight Revenues" shall include all freight revenue settlements with the Class 1 carriers, and local freight charges. Excluded from this definition are Operators' revenues received for demurrage, car repairs, car hire, car usage and car cleaning and repair or maintenance of track off of the Railroad Premises.

(b) Car Storage: Twenty five (25%) percent of the car storage rentals received by Operator during the preceding calendar month.

(c) LVR Scale: The Authority has installed a scale in the Newberry Yard, Williamsport, Pennsylvania. The Authority and the Operator agree that such scale will be made available for use by customers of the Operator in weighing such inbound and/or outbound materials as required by such customers; provided that the Operator shall pay to the Authority \$5.00 per each carload weighed on the said scale. Operator shall be solely responsible for the maintenance and repair of the said scale during the term of the Operating Agreement and will be liable, defend and indemnify the Authority for any damages, harm, or injury to the scale caused by the negligence of the Operator, its agents, or employees. Operator shall have the right to charge its customers such amounts as it determines for use of such scale.

(d) NBER Main Trackage Rights: The Authority and Operator have executed a certain agreement with Norfolk Southern (referred to herein as the "Trackage Rights Agreement") providing for the grant of trackage rights to Norfolk Southern on portions of both the Nittany and Bald Eagle and Lycoming Valley Railroads (the "Subject Trackage") in consideration of the payment to Operator of compensation (referred

to as "Current Charges") as set forth in Sections 4 and 5 of said Trackage Rights Agreement. The parties agree that Operator shall be entitled to receive all compensation payable by Norfolk Southern pursuant to said Agreement; provided, however, that in addition to the Operating Fees to be paid to the Authority pursuant to Exhibit C of this Agreement, Operator agrees to pay to the Authority fifteen (15%) percent of all such compensation received by it from Norfolk Southern under the terms of the said Trackage Rights Agreement.

Exhibit D - Anti-Discrimination Clause

During the term of the Operating Agreement, the Operators, pursuant to Presidential Executive Order No. 11246, agree as follows:

- a. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Agreement or any subcontract, the Operator, subcontractor, or any person acting on behalf of the Operator or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Operator nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Agreement on account of gender, race, creed, or color.
- c. The Operator and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated, and employees who practice it will be disciplined.
- d. The Operator shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the Agreement relates.
- e. The Operator and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Authority for the purpose of investigation to ascertain compliance with the provisions of this Anti-Discrimination Clause.
- f. The Operator shall include the provisions of this Anti-Discrimination Clause in every subcontract so that such provisions will be binding upon each subcontractor.
- g. The Authority may cancel or terminate the Agreement, and all money due or to become due from the Authority under the Agreement may be forfeited upon a final determination by an administrative agency or court of the operator's noncompliance with the terms and conditions of this Anti-Discrimination Clause.