

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-1264

September Term 2008

TRAN-73FR35961

Filed On: October 31, 2008

BNSF Railway Company, et al.,

Petitioners

v.

Department of Transportation,

Respondent

Consolidated with 08-1276

BEFORE: Henderson, Randolph, and Rogers, Circuit Judges

ORDER

Upon consideration of the emergency motion for a stay pending review, and the opposition thereto, it is

ORDERED that the portion of the Department of Transportation's order issued on October 22, 2008, 73 Fed. Reg. 62910, making 49 C.F.R. § 40.67(b) mandatory rather than optional effective November 1, 2008, be stayed pending further order of the court. The purpose of this administrative stay is to give the court sufficient opportunity to consider the merits of the motion for a stay and should not be construed in any way as a ruling on the merits of that motion. See D.C. Circuit Handbook of Practice and Internal Procedures 32 (2007).

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
MaryAnne Lister
Deputy Clerk