



**In the Matter of:**

**RICHARD A. CLINE,**

**ARB CASE NO. 09-050**

**COMPLAINANT,**

**ALJ CASE NO. 2009-FRS-002**

**v.**

**DATE: March 19, 2009**

**NORFOLK SOUTHERN RAILWAY  
CO.,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**FINAL ORDER OF CASE CLOSING**

On January 15, 2009, a Department of Labor Administrative Law Judge (ALJ) issued a Recommended Decision and Order (R. D. & O) in this case arising under the employee protection provisions of the Federal Rail Safety Act (FRSA).<sup>1</sup> The Department of Labor has not yet enacted regulations governing the procedures to be followed to obtain Administrative Review Board review of Recommended Decision and Orders under the FRSA.<sup>2</sup> Consequently, the ALJ referred the case to the Board for possible review.

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<sup>1</sup> 49 U.S.C.A. § 20109 (West Supp. 2008), as amended by Section 1521 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. No. 110-53.

<sup>2</sup> The FRSA provides that the Secretary of Labor issues final administrative decisions under this Act. 49 U.S.C.A. § 20109(d)(1). The Secretary has in turn delegated her authority to make such final decisions to the Administrative Review Board. *See* Secretary's Order No. 1-2002, 67 Fed. Reg. 64,272, § 4(b)(44) (Oct. 17, 2002).

In response, the Board issued an Order dated February 6, 2009, notifying the parties that if a party wished the Board to review the ALJ's R. D. & O., the party must file a petition for review with the Board no later than ten (10) business days from the date of the Order, requesting the Board to review the R. D. & O. The Order stated that the petition for review must specifically identify the findings, conclusions, or orders to which the party objected and that the Board will ordinarily consider any objection not specifically listed as waived by the party.

The Order cautioned the parties, "[i]f the Board does not receive any petitions for review within the ten (10) day period, the Board will issue an order closing the case, and the ALJ's R. D. & O. will become the Secretary of Labor's final order." The Board has not received any petitions for review in response to our February 6th Order. Accordingly, we **CLOSE** this case and the ALJ's January 15, 2009 R. D. & O. is the Secretary of Labor's final order.

**FOR THE ADMINISTRATIVE REVIEW BOARD:**

**Janet R. Dunlop**  
**General Counsel**