

Report on Pending STB Regulatory Proceedings – January 3, 2017

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Surface Transportation Board

1. Review of the General Purpose Costing System
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Popular Title: Review of the General Purpose Costing System

RIN 2140-AB14

Stage: Proposed Rule

Previous Stage: NPRM: Publication Date 02/04/2013; End of Comment Period 06/20/2013; End of Reply Comment Period 09/05/2013; SNPRM Served 08/04/2016 (published in Fed. Reg. 08/10/2016); End of Comment Period 10/11/2016; End of Reply Comment Period 11/07/2016.

Abstract: The Board proposes certain changes to its general purpose costing system—the Uniform Railroad Costing System (URCS). Specifically, the Board proposes in a Supplemental Notice of Proposed Rulemaking to modify certain inputs into Phase II of URCS and to modify certain cost calculations in Phase III of URCS in order to eliminate the “make-whole adjustment” in Phase III. The Board proposes certain other related changes to URCS, including proposals for locomotive unit-miles and train miles allocations, that would result in more appropriate rail movement costs.

Effects:

Paperwork Reduction Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 02/04/2013

Docket Number: EP 431 (Sub-No. 4)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	05/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Surface Transportation Board

2. Rail Fuel Surcharges (Safe Harbor)

Popular Title: Rail Fuel Surcharges (Safe Harbor)

RIN 2140-AB17

Stage: Pre-Rule

Previous Stage: ANPRM: Publication Date 05/29/2014; End of Comment Period 08/04/2014; End of Reply Comment Period 10/15/2014.

Abstract: The Board is giving shippers, rail carriers, and other interested parties the opportunity to comment on the Board’s “safe harbor” standard, which allows carriers to rely on a Board-approved fuel index to measure changes in fuel prices for purposes of their fuel surcharge programs.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 05/29/2014

Docket Number: EP 661 (Sub-No. 2)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	09/2016	TBD	N/A

Explanation for any delay: The next action target date has been modified given that the Board is in a time of transition, with potential changes to the Board’s membership due to the changeover in administration.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

3. Petition of the Western Coal Traffic League to Institute a Rulemaking Proceeding to Abolish the use of the Multi-Stage Discounted Cash Flow Model in Determining the Railroad's Cost of Capital

Popular Title: Petition of the Western Coal Traffic League

RIN 2140-AB20

Stage: Proceeding Closed

Previous Stage: Petition Filed 08/27/2013; Decision Opening Rulemaking Proceeding 12/20/2013; End of Comment Period 09/05/2014; End of Reply Comment Period 11/04/2014; Public Hearing 07/22/2015 and 07/23/2015; Decision on the merits served 10/31/2016; Petition for Reconsideration filed 11/21/2016.

Abstract: The Board instituted a proceeding to address how it calculates the railroad industry’s cost of equity capital, in response to a request that the Board abolish the use of the multi-stage discounted cash flow model in making that calculation. After holding a public hearing and examining the comments and evidence submitted into the record, the Board declined to issue a Notice of Proposed Rulemaking and closed this proceeding.

Effects:

None

Prompting action: Petition from the Western Coal Traffic League

Legal Deadline: None

Rulemaking Project Initiated: Pet. filed 08/27/2013

Docket Number: EP 664 (Sub-No. 2)

Dates for Final Decision:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	10/2016	N/A	10/31/2016

Explanation for any delay: N/A

Federal Register Citation for Final Decision: N/A

Surface Transportation Board

4. Rail Transportation of Grain, Rate Regulation Review

Popular Title: Rail Transportation of Grain, Rate Regulation Review

RIN 2140-AB16

Stage: Proceeding Closed

Previous Stage: ANPRM 12/12/2013; End of ANPRM Comment Period 06/26/2014; End of Reply Comment Period 08/25/2014; Public Hearing 06/10/2015; ANPRM served 08/31/2016; Final Decision served 12/29/2016.

Abstract: The Board opened this proceeding to obtain input from interested parties on grain shippers' ability to effectively seek relief for unreasonable rates, as well as proposals for modifying existing procedures, or new alternative rate relief methodologies.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 12/12/2013

Docket Number: EP 665 (Sub-No. 1)

Dates for Final Decision:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date (Remaining issues now addressed in Docket No. EP 528 (Sub-No. 1))	12/2016	N/A	12/29/2016

Explanation for any delay: N/A

Federal Register Citation for Final Decision: TBD

Surface Transportation Board

5. Expanding Access to Rate Relief

Popular Title: N/A

RIN 2140-AB16

Stage: Pre-Rule

Previous Stage: ANPRM served 08/31/2016; Comment period closed 12/19/2016.

Abstract: The Board is considering procedures that could comprise a new rate reasonableness methodology for use in very small disputes, which would be available to shippers of agricultural products and all other commodities.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 08/31/2016

Docket Number: EP 665 (Sub-No. 2)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	06/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Surface Transportation Board

6. Review of Commodity, Boxcar, and TOFC/COFC Exemptions

Popular Title: Review of Commodity, Boxcar, and TOFC/COFC Exemptions

RIN 2140-AB29

Stage: Proposed Rule

Previous Stage: NPRM served 03/23/2016; Order granting the Association of American Railroads' request for extension of time served 05/06/2016; Comment period closed 08/26/2016.

Abstract: In this proceeding, the Board proposes to revoke the existing class exemptions under 49 C.F.R. Part 1039 for (1) crushed or broken stone or rip rap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes or tailings.

Effects:

Regulatory Flexibility Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 03/23/2016

Docket Number: EP 704 (Sub-No. 1)

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Next Action	01/2017	TBD	N/A

Explanation for any delay: The next action target date has been modified given that the Board is in a time of transition, with potential changes to the Board's membership due to the changeover in administration.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

7. Reciprocal Switching

Popular Title: Competitive Switching Rules

RIN 2140-AB10

Stage: Proposed Rule

Previous Stage: NPRM served 07/27/2016.

Abstract: The Board proposes regulations which would allow a party to seek a reciprocal switching prescription that is either practicable and in the public interest or necessary to provide competitive rail service, in accordance with 49 U.S.C. § 11102(c)(1).

Effects:

None

Prompting action: Petition from the National Industrial Transportation League.

Legal Deadline: None

Rulemaking Project Initiated: 07/27/2016

Docket Number: EP 711 (Sub-No. 1)

Dates for Notice of Proposed Rulemaking:

Milestone	Scheduled Date	New Projected Date	Actual Date
NPRM Service Date	06/2016	07/2016	07/27/2016
Comment Period Ends	09/26/2016	10/26/2016	N/A
Reply Period Ends	10/10/2016	01/13/2017	N/A
Ex Parte Meetings	Beginning 01/30/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for NPRM: 81 Fed. Reg. 51,149 (Aug. 3, 2016)

Surface Transportation Board

8. Railroad Revenue Adequacy

Popular Title: Revenue Adequacy

RIN 2140-AB19

Stage: Pre-Rule

Previous Stage: Notice 04/02/2014; End of Comment Period 09/05/2014; End of Reply Comment Period 11/04/2014; Hearing 07/22/2015 and 07/23/2015.

Abstract: The Board is exploring its methodology for determining railroad revenue adequacy, as well as the revenue adequacy component used in judging the reasonableness of rail freight rates.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 04/02/2014

Docket Number: EP 722

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	10/2016	06/2017	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Surface Transportation Board

9. United States Rail Service Issues

Popular Title: United States Rail Service Issues

RIN # N/A

Stage: Proceeding Closed

Previous Stage: Notice 04/01/2014; Hearings 04/10/2014 and 09/04/2014.

Abstract: The Board opened this proceeding to address service problems in the rail industry.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 04/01/2014

Docket Number: EP 724

Dates for Final Decision:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service date	N/A	N/A	11/30/2016

Explanation for any delay: N/A

Federal Register Citation for Final Decision: 81 Fed. Reg. 87,647 (Dec. 5, 2016).

Surface Transportation Board

10. United States Rail Service Issues—Data Collection

Popular Title: United States Rail Service Issues—Data Collection

RIN # N/A

Stage: Proceeding Closed

Previous Stage: Notice of weekly status reports 10/08/2014.

Abstract: Following the 2014 hearings addressing rail service problems, the Board opened this proceeding to collect data on an interim basis and promote industry-wide transparency, accountability, and improvements in rail service.

Effects:

Paperwork Reduction Act
Information Collection

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 10/08/2014

Docket Number: EP 724 (Sub-No. 3)

Dates for Final Decision:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	N/A	N/A	11/30/2016

Explanation for any delay: N/A

Federal Register Citation for Final Decision: 81 Fed. Reg. 87,647 (Dec. 5, 2016).

Surface Transportation Board

11. United States Rail Service Issues—Performance Data Reporting

Popular Title: United States Rail Service Issues—Performance Data Reporting

RIN 2140-AB21

Stage: Final Rule

Previous Stage: NPRM 12/30/2014; End of Comment Period 03/02/2015; End of Reply Comment Period 04/29/2015; Beginning Ex Parte Comment Period 11/16/2015; End of Ex Parte Comment Period 12/07/2015; Supplemental Notice of Proposed Rulemaking 4/29/2016 (corrected decision served 5/13/2016); Final Rule served 11/30/2016; Petition for Reconsideration filed 12/20/2016.

Abstract: The Board proposed new regulations requiring all Class I railroads and the Chicago Transportation Coordination Office, through its Class I members, to report certain service performance metrics on a weekly basis.

Effects:

Paperwork Reduction Act
Information Collection

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 12/30/2014

Docket Number: EP 724 (Sub-No. 4)

Dates for Final Rule:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	11/2016	N/A	11/30/2016

Explanation for any delay: N/A

Federal Register Citation for Final Rule: 81 Fed. Reg. 87,472 (Dec. 5, 2016).

Surface Transportation Board

12. Offers of Financial Assistance

Popular Title: Offers of Financial Assistance

RIN 2140-AB27

Stage: Proposed Rule

Previous Stage: ANPRM issued 12/11/2015; End of Comment Period 02/12/2016; End of Reply Comment Period 03/14/2016; NPRM served 09/30/2016.

Abstract: The Board is proposing to update its rules pertaining to offers of financial assistance under 49 U.S.C. § 10904 to improve that process and protect it against abuse.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 12/11/2015

Docket Number: EP 729

Dates for Notice of Proposed Rulemaking:

Milestone	Scheduled Date	New Projected Date	Actual Date
NPRM Service Date	08/2016	09/2016	09/30/2016
Comment Period Ends	12/05/2016	N/A	N/A
Reply Period Ends	01/03/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for NPRM: 81 Fed. Reg. 69,023 (Oct. 5, 2016).

Surface Transportation Board

13. Rules Relating to Board-Initiated Investigations

Popular Title: Independent Investigations by the Board

RIN 2140-AB23

Stage: Final Rules

Previous Stage: NPRM served 05/16/2016; order granting an extension request by the Association of American Railroads served 06/06/2016; end of comment period 08/12/2016; Final Rules served 12/14/2016.

Abstract: The Board developed regulations to implement its authority to begin certain investigations on its own initiative pursuant to Section 12 of the Surface Transportation Board Reauthorization Act of 2015, P.L. 114-110.

Effects:

None

Prompting action: Surface Transportation Board Reauthorization Act of 2015

Legal Deadline: Statutory (Final Rules) 12/18/2016

Rulemaking Project Initiated: 12/18/2015

Docket Number: EP 731

Dates for Final Rules:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	12/18/2016	N/A	12/14/2016

Explanation for any delay: N/A

Federal Register Citation for Final Rules: 81 Fed. Reg. 90,229 (Dec. 14, 2016)

Surface Transportation Board

14. Expediting Rate Cases

Popular Title: Expediting Rate Cases

RIN # TBD

Stage: Pre-Rule

Previous Stage: ANPRM served 06/15/2016; end of comment period 08/29/2016

Abstract: As mandated by the Surface Transportation Board Reauthorization Act of 2015, P.L. 114-110, the Board is assessing procedures that are available to parties in litigation before courts to expedite rate litigation and consider the potential application of any such procedures to rate cases. The Board is also assessing whether there are additional changes to the SAC case process that could help the Board meet the expedited timeline for a final decision established under the Reauthorization Act.

Effects:

None

Prompting action: Surface Transportation Board Reauthorization Act of 2015

Legal Deadline: 06/15/2016 (Initiate Proceeding)

Rulemaking Project Initiated: 12/18/2015

Docket Number: EP 733

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	03/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Surface Transportation Board

15. FAST Act Regulations

Popular Title: FAST Act Regulations

RIN # 2140-AB30

Stage: Final Rules

Previous Stage: NPRM served 07/28/2016; Comment/Reply period closed 09/30/2016; Final Rules served 11/29/2016; Petition for Reconsideration filed 12/19/2016.

Abstract: The Board developed regulations establishing procedures for resolving disputes brought to it under Title XI of the Fixing America's Surface Transportation Act of 2015, P.L. 114-94.

Effects:

None

Prompting action: Fixing America's Surface Transportation Act of 2015

Legal Deadline: None

Rulemaking Project Initiated: December 4, 2015

Docket Number: EP 734

Dates for Final Rules:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	11/2016	N/A	11/29/2016

Explanation for any delay: N/A

Federal Register Citation for Final Rules: 81 Fed. Reg. 85,961 (Nov. 29, 2016).

Surface Transportation Board

16. Revised Inspection of Records and Related Fees

Popular Title: FOIA Act Rulemaking

RIN # 2140-AB34

Stage: Final Rules

Previous Stage: Final Rules served 12/15/2016.

Abstract: Board revised its regulations governing “Inspection of Records” and “Fees” in accordance with changes to the Freedom of Information Act (FOIA) made by the FOIA Improvement Act of 2016, Pub. L. No. 114-185 (2016). Pursuant to the Act, the Board extended the deadline for administrative appeals, adding information on dispute resolution services, and amending the way fees are charged in certain circumstances.

Effects:

None

Prompting action: FOIA Improvement Act of 2016

Legal Deadline: 12/27/2016

Rulemaking Project Initiated: June 30, 2016

Docket Number: EP 737

Dates for Final Rules:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	12/27/2016	N/A	12/15/2016

Explanation for any delay: N/A

Federal Register Citation for Final Rules: 81 Fed. Reg. 90,750 (Dec. 15, 2016).

Surface Transportation Board

17. Publication Requirements for Agricultural Products

Popular Title: 2140-AB35

RIN # TBD

Stage: Proposed Rules

Previous Stage: NPRM served 12/29/2016.

Abstract: The Board is proposing amendments to its regulations governing the publication, availability, and retention for public inspection of rail carrier rate and service terms for agricultural products and fertilizer. In this proceeding, the Board also clarifies its policies on standing and aggregation of claims as they relate to rate complaint procedures.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 12/29/2016

Docket Number: EP 528 (Sub-No. 1)

Dates for Notice of Proposed Rulemaking:

Milestone	Scheduled Date	New Projected Date	Actual Date
NPRM Service Date	N/A	N/A	12/29/2016
Comment Period Ends	2/21/2017	N/A	N/A
Reply Period Ends	3/20/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for NPRM: TBD