

# Report on Pending STB Regulatory Proceedings – December 31, 2017

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## Surface Transportation Board

### 1. Review of the General Purpose Costing System

**Popular Title:** Review of the General Purpose Costing System

**RIN 2140-AB14**

**Stage:** Proposed Rule

**Previous Stage:** NPRM served 02/04/2013; End of Comment Period 09/05/2013; SNPRM served 08/04/2016 (published in Fed. Reg. 08/10/2016); End of 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	01/2018	N/A

**Explanation for any delay:** The October 2017 report extended the previous projected target date of 11/2017 to 01/2018 to provide the Board additional time to work on this proposal given the complexity of the issues involved.

**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 served 05/29/2014; End of 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 new projected date was modified in the January 2017 report, explaining that the Board is in a time of transition with potential changes to the Board's membership due to the changeover in administration. The new projected target date remains TBD because the Board has not reached a consensus on a next action.

**Federal Register Citation for Next Action:** N/A

**Surface Transportation Board**

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**3. Expanding Access to Rate Relief**

**Popular Title:** Expanding Access to Rate Relief

**RIN 2140-AB37**

**Stage:** Pre-Rule

**Previous Stage:** ANPRM served 08/31/2016; End of Comment Period 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:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Service Date	06/2017	TBD	N/A

**Explanation for any delay:** The 06/2017 date for next action was established in the January 2017 report. The Board did not reach a consensus on a June Board action. The new projected target date was changed to TBD in the July 2017 report.

**Federal Register Citation for Next Action:** N/A

**Surface Transportation Board**

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**4. 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; End of Comment Period 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
Service Date	01/2017	TBD	N/A

**Explanation for any delay:** The new projected date was modified in the January 2017 report, explaining that the Board is in a time of transition with potential changes to the Board's membership due to the changeover in administration. The new projected target date remains TBD.

**Federal Register Citation for Next Action:** N/A

**Surface Transportation Board**

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**5. Reciprocal Switching**

**Popular Title:** Competitive Switching Rules

**RIN 2140-AB32**

**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:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
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

### 6. Railroad Revenue Adequacy

**Popular Title:** Revenue Adequacy

**RIN 2140-AB19**

**Stage:** Pre-Rule

**Previous Stage:** Notice served 04/02/2014; End of 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	TBD	N/A

**Explanation for any delay:** The new projected target date was modified in the April 2017 report, changing it from June 2017 to TBD, in recognition of a new Administration and expected changes to the Board's membership. The new projected target date remains TBD.

**Federal Register Citation for Next Action:** N/A

## Surface Transportation Board

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### 7. Expediting Rate Cases

**Popular Title:** Expediting Rate Cases

**RIN #** 2140-AB33

**Stage:** Final Rule

**Previous Stage:** ANPRM served 06/15/2016; End of Comment Period 08/29/2016; NPRM served 03/31/2017; End of Comment Period 06/14/2017; Final Rule served 11/30/2017.

**Abstract:** As mandated by the Surface Transportation Board Reauthorization Act of 2015, Pub. L. No 114-110, the Board assessed its procedures that are available to parties in litigation before courts to expedite rate litigation and considered the potential application of any such procedures to rate cases. The Board also assessed whether there were additional changes to the SAC case process that could help the Board meet the expedited timeline for a final decision established under the STB Reauthorization Act. Based on these assessments, the Board modified its rules pertaining to its rate case procedures.

**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 Final Rule:**

Milestone	Scheduled Date	New Projected Date	Actual Date
Final Rule Served	11/2017	N/A	11/30/2017

**Explanation for any delay:** N/A

**Federal Register Citation for Final Rule:** 82 Fed. Reg. 57,370 (Dec. 5, 2017)



**Surface Transportation Board**

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**8. Revisions to the Cost-of-Capital Composite Railroad Criteria**

**Popular Title:** Revisions to the Cost-of-Capital Composite Railroad Criteria

**RIN #** N/A

**Stage:** Final Rule

**Previous Stage:** NPRM served 4/18/2017; End of Comment Period 6/19/2017; Final Rule served 10/25/2017.

**Abstract:** To better reflect the current marketplace, the Board adopted a Final Rule to update one of the screening criteria used to create the “composite railroad” for the Board’s annual cost-of-capital determination. Specifically, the Board’s screening criteria now requires a company’s stock to be listed on either the New York Stock Exchange (NYSE) or the Nasdaq Stock Market (NASDAQ), rather than be listed on either the NYSE or American Stock Exchange (AMEX), as the AMEX is no longer in existence.

**Effects:**

None

**Prompting action:** Board Initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 04/18/2017

**Docket Number:** EP 664 (Sub-No. 3)

**Dates for Final Rule:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Final Rule Served	10/2017	N/A	10/25/2017

**Explanation for any delay:** N/A

**Federal Register Citation for Final Rule:** 82 Fed. Reg. 49,295 (Oct. 25, 2017)

## Surface Transportation Board

### 9. Ex Parte Communications in Informal Rulemaking Proceedings

**Popular Title:** Ex Parte

**RIN # 2140-AB39**

**Stage:** Proposed Rules

**Previous Stage:** NPRM served 09/29/2017; End of Comment Period 11/16/2017.

**Abstract:** The Board is proposing to modify its regulations to permit, subject to disclosure requirements, ex parte communications in informal rulemaking proceedings. The Board is also proposing other changes to its ex parte rules that would clarify and update when and how interested persons may communicate informally with the Board regarding pending proceedings other than rulemakings. The intent of the proposed regulations is to enhance the Board's ability to make informed decisions through increased stakeholder communications while ensuring that the Board's record-building process in rulemaking proceedings remains transparent and fair.

**Effects:**

None

**Prompting action:** Board Initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 09/29/2017

**Docket Number:** EP 739

**Dates for Next Action:**

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	02/2018	N/A	N/A

**Explanation for any delay:** N/A

**Federal Register Citation for Next Action:** N/A