

## **SURFACE TRANSPORTATION BOARD MODIFIES RULES TO FACILITATE INTERACTION WITH STAKEHOLDERS**

The Surface Transportation Board today updates its long-standing rules on ex parte communications to enhance the Board's ability to make informed decisions through increased stakeholder communications. The modified regulations will permit ex parte communications, subject to disclosure requirements, in informal rulemaking proceedings, and also clarify when and how interested persons may communicate informally with the Board regarding pending proceedings other than rulemakings.

In advance of adopting these final rules, the Board issued a [Notice of Proposed Rulemaking](#) (NPRM) on September 28, 2017, and asked for public comment. The Board's final rule addresses comments and suggestions received in response to the NPRM and discusses clarifications and modifications adopted in the final rule.

Among other things, the final rule:

- permits ex parte communications without restrictions, such as disclosure and timing requirements, in informal rulemaking proceedings up until the Board issues an NPRM;
- allows for ex parte communications with Board Members in informal rulemaking proceedings after the issuance of an NPRM and up until 20 days before the deadline for reply comments, subject to disclosure requirements;
- clarifies that ex parte prohibitions in on-the-record proceedings and informal rulemaking proceedings remain in effect until the proceeding is no longer subject to administrative reconsideration or judicial review; and
- establishes that, when disclosure is required, the Board will post meeting summaries within five days of submission of a summary (rather than seven days as proposed in the NPRM).

The final rule will apply to proceedings newly initiated following the effective date of April 4, 2018. The Board, however, may continue to waive the existing prohibition on ex parte communications in pending informal rulemaking proceedings on a case-by-case basis, as it has recently done.

The Board's decision in [Ex Parte Communications in Informal Rulemaking Proceedings, EP 739](#), may be viewed and downloaded at the Board's website, [www.stb.gov](http://www.stb.gov), under "E-LIBRARY / Decisions & Notices / 02/ 28 / 2018 " .

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