

Report on Pending STB Regulatory Proceedings – July 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 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	11/2017	N/A

Explanation for any delay: The Board will need 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: Publication Date 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.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

3. Expanding Access to Rate Relief

Popular Title: Expanding Access to Rate Relief

RIN 2140-AB16

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:

Milestone	Scheduled Date	New Projected Date	Actual Date
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.

Federal Register Citation for Next Action: N/A

Surface Transportation Board

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; 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
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

5. 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

6. Railroad Revenue Adequacy

Popular Title: Revenue Adequacy

RIN 2140-AB19

Stage: Pre-Rule

Previous Stage: Notice 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

7. Offers of Financial Assistance

Popular Title: Offers of Financial Assistance

RIN 2140-AB27

Stage: Final Rule

Previous Stage: ANPRM issued 12/11/2015; End of Comment Period 03/14/2016; NPRM served 09/30/2016; Final Rule served 6/29/2017.

Abstract: The Board updated 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 Final Rule:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service date	06/2017	N/A	06/29/2017

Explanation for any delay: N/A

Federal Register Citation for Final Rule: Not yet available

Surface Transportation Board

8. Expediting Rate Cases

Popular Title: Expediting Rate Cases

RIN # 2140-AB33

Stage: Proposed 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.

Abstract: As mandated by the Surface Transportation Board Reauthorization Act of 2015, Pub. L. No 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 STB 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
Next Action	11/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Surface Transportation Board

9. Publication Requirements for Agricultural Products
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Popular Title: Publication Requirements for Agricultural Products

RIN # 2140-AB35

Stage: Final Rules

Previous Stage: NPRM served 12/29/2016; End of comment period 3/20/2017; Final Rules served 6/30/2017.

Abstract: The Board amended 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 clarified 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 Final Rules:

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	06/2017	N/A	06/30/2017

Explanation for any delay: N/A

Federal Register Citation for Final Rules: Not yet available

Surface Transportation Board

10. Revisions to the Cost-of-Capital Composite Railroad Criteria

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

RIN # TBD

Stage: Proposed Rules

Previous Stage: NPRM served 4/18/2017; End of comment period 6/19/2017.

Abstract: To better reflect the current marketplace, the Surface Transportation Board (Board) is proposing 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 proposes that one of its screening criteria now require 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: 4/18/2017

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

Dates for Next Action:

Milestone	Scheduled Date	New Projected Date	Actual Date
Next Action	10/2017	N/A	N/A

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A