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SERVICE DATE – OCTOBER 12, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 712

IMPROVING REGULATION AND REGULATORY REVIEW

Decided: October 5, 2011

AGENCY: Surface Transportation Board.

ACTION: Notice of Request for Comments.

SUMMARY: In accordance with Executive Order 13563, “Improving Regulation and Regulatory Review,” and Executive Order 13579, “Regulation and Independent Regulatory Agencies,” the Surface Transportation Board is undertaking review of its existing regulations to evaluate their continued validity and determine whether they are crafted effectively to solve current problems facing shippers and railroads. As part of this review, the Board seeks public comments on whether any of its regulations may be outmoded, ineffective, insufficient, or excessively burdensome, and how to modify, streamline, expand, or repeal them, as appropriate.

DATES: Comments are due by January 10, 2012.

ADDRESSES: Comments may be submitted either via the Board’s e-filing process or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-Filing link on the Board’s website, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 712, 395 E Street, S.W., Washington, DC 20423-0001.

Copies of paper comments will be available for viewing and self-copying at the Board’s Public Docket Room, Room 131; paper and electronic copies will be posted to the Board’s website.

FOR FURTHER INFORMATION CONTACT: Christopher Oehrle at 202-245-0375. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On January 18, 2011, President Obama directed executive agencies to take steps to improve federal regulation and regulatory review. See Executive Order 13563, 76 Fed. Reg. 3,821-23 (January 31, 2011). In particular, the President

directed executive agencies to conduct a retrospective analysis of existing regulations and develop a preliminary plan to review periodically significant regulations to determine if such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. The order also called for public participation in this regulatory process.

Although Executive Order 13563 did not apply to independent agencies, the Board reported its ongoing efforts to conduct, on a voluntary basis, an analysis of its existing regulations. On May 18, 2011, the Board's Chairman sent a letter to the Administrator of the Office of Information and Regulatory Affairs that described the regulatory review the Board had already initiated and outlined the review the Board had planned for the next 2 years and beyond. The letter described two major initiatives to review significant areas of regulation that have not been comprehensively reviewed and amended over the last two decades: competition in the rail industry and environmental regulations. The Board listed several other initiatives to amend its regulations and procedures to make them more efficient and effective. See, e.g., EP 707, Demurrage Liability; EP 706, Reporting Requirement for Positive Train Control Expenses and Invs.; EP 702, Nat'l Trails System Act & R.R. Rights-of-Way; EP 699, Assessment of Mediation and Arbitration Procedures; EP 684, Solid Waste Rail Transfer Facilities. The Board also stated that it was reviewing the Uniform Rail Costing System, which is the Board's general purpose costing methodology for the nation's largest railroads, and planning to update it. A copy of the letter is available on the Board's website at <http://www.stb.dot.gov/stb/docs/2011AgencyPreliminaryPlan%20--%20signed%20final%20051811.pdf>.

On July 11, 2011, President Obama requested that independent agencies comply with Executive Order 13563, to the extent permissible by law. Specifically, independent agencies were asked to retrospectively analyze existing regulations and produce a plan to periodically reassess and streamline their existing regulations. See Executive Order 13579, 76 Fed. Reg. 41,587-88 (July 14, 2011). To facilitate this process, the Board institutes this proceeding and provides interested members of the public with an opportunity to comment and participate in the Board's retrospective review.

Consistent with the President's directive, the Board asks those filing comments to:

- specifically identify which of the Board's existing regulations or reporting requirements are outmoded, ineffective, insufficient, or excessively burdensome, and explain why;
- propose which regulations should be modified, streamlined, expanded, or repealed;
- provide evidentiary support to help the Board analyze the costs and benefits (both quantitative and qualitative) of any proposed changes; and
- suggest an appropriate timeframe for conducting the next retrospective review of the agency's regulations and reporting requirements.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Comments are due by January 10, 2012.
2. Notice of this decision will be published in the Federal Register.
3. This decision is effective on its date of service.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.