

# Fourth Quarter 2018 Report on Pending STB Regulatory Proceedings\*

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\* Due to the partial shutdown of the Federal government (December 22, 2018, through January 25, 2019), this fourth quarter 2018 report reflects the status of pending regulatory proceedings through December 21, 2018. Scheduled actions impacted by the shutdown in two proceedings have been updated.

## 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	TBD	N/A

**Explanation for any delay:** The previous projected target date of 01/2018 was changed to TBD in the April 2018 report because the Board could not reach a consensus on the next action.

**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 was 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**

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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 2017 Board action; therefore, the new projected target date was changed to TBD in the July 2017 report. Note, on March 28, 2018, the Board issued a decision waiving the prohibition on ex parte communications in this proceeding. The subject matter of this proceeding is also under review by the Board's Rate Reform Task Force.

**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:** Commodity 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 was 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**

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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; End of Comment Period 01/13/2017.

**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 Ex Parte Meetings:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Ex Parte Meetings	Beginning 01/30/2017	N/A	N/A

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

**Federal Register Citation for Ex Parte Meetings:** N/A

**Surface Transportation Board**

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**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:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
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 06/2017 to TBD, in recognition of a changeover in administration and expected changes to the Board's membership. Note, on March 28, 2018, the Board issued a decision clarifying that a prohibition on ex parte communications in this proceeding is not applicable. The subject matter of this proceeding is also under review by the Board's Rate Reform Task Force.

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

## Surface Transportation Board

### 7. Payment, Filing, and Service Procedures

**Popular Title:** Fees and Billing

**RIN 2140-AB41**

**Stage:** Proposed Rule

**Previous Stage:** NPRM served 08/24/2018; End of Comment Period 09/24/2018.

**Abstract:** The Board proposes updating its regulations relating to methods of payment, filing procedures, electronic service of Board decisions, and fees for copying, printing, and related services. The proposed updates are intended to promote increased use of electronic filing and payment systems and result in cost savings to both the Board and the public, while enhancing the accessibility of information relating to proceedings and functions of the Board.

**Effects:**

None

**Prompting action:** Board initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 08/24/2018

**Docket Number:** EP 747

**Dates for Next Action:**

Milestone	Scheduled Date	New Projected Date	Actual Date
Service Date	1/2019	3/2019	N/A

**Explanation for any delay:** The scheduled service date has been extended due to the partial government shutdown.

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



**Surface Transportation Board**

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**8. Limiting Extensions of Trail Use Negotiating Periods**

**Popular Title:** NARPO Rulemaking

**RIN 2140-AB42**

**Stage:** Proposed Rule

**Previous Stage:** NPRM served 10/2/2018; End of Comment Period 11/21/2018.

**Abstract:** The Board proposes to modify its regulations to limit the number of 180-day extensions of a trail use negotiating period to a maximum of six extensions, absent extraordinary circumstances.

**Effects:**

None

**Prompting action:** Petition for rulemaking.

**Legal Deadline:** None

**Rulemaking Project Initiated:** 06/14/2018

**Docket Number:** EP 749 (Sub-No. 1)

**Dates for Next Action:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
Service Date	5/2019	N/A	N/A

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

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

**Surface Transportation Board**

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**9. Water Carrier Tariff Filing Procedures**

**Popular Title:** Water Carrier Rulemaking

**RIN 2140-AB43**

**Stage:** Proposed Rule

**Previous Stage:** NPRM served 12/21/2018.

**Abstract:** The Board proposes a new procedure for water carriers operating in the noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection, in an effort to better reflect current business practices.

**Effects:**

None

**Prompting action:** Board initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 12/21/2018

**Docket Number:** EP 743

**Dates for NPRM:**

<b>Milestone</b>	<b>Scheduled Date</b>	<b>New Projected Date</b>	<b>Actual Date</b>
NPRM Service Date	N/A	N/A	12/21/2018
Comment Period Ends	01/25/2019	02/04/2019	N/A
Reply Period Ends	02/25/2019	03/04/2019	N/A

**Explanation for any delay:** The scheduled comment and reply period end dates have been tolled due to the partial government shutdown.

**Federal Register Citation for NPRM:** \_\_\_ Fed. Reg. \_\_\_\_ (Dec. \_\_, 2018)