# Report on Pending STB Regulatory Proceedings

## First Quarter 2022

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1. Expanding Access to Rate Relief

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

**RIN 2140-AB37**

**Stage:** Pre-Rule

**Previous Stage:** ANPRM served 8/31/2016; End of Comment Period 12/19/2016. Decision served 3/28/2018 waiving the prohibition on ex parte communications in this proceeding. In conjunction with a NPRM in Docket No. EP 755, served 9/12/2019, the Board requested additional comment on this proceeding, including whether to close it; End of Comment Period 1/10/2020. SNPRM served 11/15/2021, including a proposal to close this docket.

**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. In response to comments received and to ensure parallel consideration of the proposal in Docket Number EP 755, the Board is inviting parties to comment on certain modifications to that rate reasonableness procedure and its proposal to close this docket.

**Effects:**

None

**Prompting action:** Board Initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** 08/31/2016

**Docket Number:** EP 665 (Sub-No. 2) [the decision issuing the SNPRM also requested comments in Final Offer Rate Review, Docket No. EP 755]

**Dates for Comments:**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Scheduled Date</th>
<th>New Projected Date</th>
<th>Actual Date</th>
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<td>Comments</td>
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<td>Replies</td>
<td>3/15/2022</td>
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**Explanation for any delay:** By decision served 12/29/2021, the Board partially granted a request to extend the procedural schedule made in Docket No. EP 765 and extended the deadline for reply comments in this docket and in EP 755 until 4/15/2022 so that the related rulemakings remain on the same schedule.

**Federal Register Citation for SNPRM:** 86 Fed. Reg. 67,622 (Nov. 26, 2021)
2. Review of Commodity, Boxcar, and TOFC/COFC Exemptions

Popular Title: Commodity Exemptions

RIN 2140-AB29

Stage: Proposed Rule


Abstract: In this proceeding, the Board issued a notice of proposed rulemaking seeking public comment on its proposal to revoke the existing class exemptions under 49 C.F.R. Part 1039 for crushed or broken stone or rip rap; hydraulic cement; and coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes or tailings. The Board is committed to ensuring that a robust analysis be conducted when determining whether to proceed with any commodity exemptions or exemption revocations. Therefore, following the feedback received during the course of this proceeding, the Board’s Office of Economics developed an approach for possible use in considering class exemption and revocation issues and the Board is seeking comments on the approach from interested parties.

Effects: Regulatory Flexibility Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 3/23/2016

Docket Number: EP 704 (Sub-No. 1)

Dates for Next Action:

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Explanation for any delay: By decision served 11/25/2020, the Board granted the Association of American Railroads’ request for a technical conference, which was held on 12/18/2020 and reconvened on 1/15/2021. The procedural schedule was extended to accommodate the technical conference.

Please note that on 2/28/2020, the Board issued a final rule related to this proceeding in Exclusion of Demurrage Regulation from Certain Class Exemptions, Docket No. EP 760.

Federal Register Citation for Next Action: N/A
3. Reciprocal Switching

Popular Title: Competitive Switching Rules

RIN 2140-AB32

Stage: Proposed Rule

Previous Stage: NPRM served 7/27/2016; End of Comment Period 1/13/2017.

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: 7/27/2016

Docket Number: EP 711 (Sub-No. 1)

Dates for Comments:

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<td>Reply Comments Due</td>
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The Board held a hearing on this matter on 3/15/2022 and 3/16/2022. Ex parte meetings on this matter were paused between 1/24/2022 and 3/17/2022 and are now scheduled to close on 4/22/2022.

Explanation for any delay: N/A

Federal Register Citation for Supplemental Comments: N/A
4. Railroad Revenue Adequacy

Popular Title: Revenue Adequacy

RIN 2140-AB19

Stage: Pre-Rule


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: 4/2/2014

Docket Number: EP 722

Dates for Next Action:

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On 3/28/2018, 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 was under review by the Board’s Rate Reform Task Force. The Task Force issued its findings and recommendations in its 4/25/19 report, which was publicly released on 4/29/2019. The Board held a public hearing on 12/12 and 12/13/2019, to receive input from interested stakeholders on the Task Force’s options regarding possible changes to revenue adequacy. The hearing record closed on 2/13/2020.

Please note that, on 12/30/2020, in response to a joint petition for rulemaking, the Board opened a rulemaking proceeding regarding the Board’s annual revenue adequacy determinations and requested supplemental information.

Explanation for any delay: Prior quarterly submissions available on the Board’s website provide information regarding the status of this matter relevant at the time of each submission.

Federal Register Citation for Next Action: N/A
Surface Transportation Board

5. Final Offer Rate Review

Popular Title: FORR, Final Offer

RIN 2140-AB46

Stage: Proposed Rule


Abstract: The Board proposes a new procedure for challenging the reasonableness of railroad rates in smaller cases. In this procedure, the Board would decide a case by selecting either the complainant’s or the defendant’s final offer, subject to an expedited procedural schedule that adheres to firm deadlines. In response to comments received and to ensure parallel consideration of the proposal in Docket Number EP 765, the Board is inviting parties to comment on certain modifications to this rate reasonableness procedure. It has also again waived the prohibition on ex parte communication between 11/15/2021 and 02/23/2022.

Effects: None

Prompting action: Recommendation by the Board’s Rate Reform Task Force

Legal Deadline: None

Rulemaking Project Initiated: 9/12/2019

Docket Number: EP 755 [the decision issuing the SNPRM also requested comments in Expanding Access to Rate Relief, Docket No. EP 665 (Sub-No. 2)]

Dates for Comments:

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<td>Comments</td>
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<td>Replies</td>
<td>3/15/2022</td>
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Explanation for any delay: By decision served 12/29/2021, the Board partially granted a request to extend the procedural schedule made in Docket No. EP 765 and extended the deadline for reply comments in this docket and in EP 665 (Sub-No. 2) until 4/15/2022 so that the related rulemakings remain on the same schedule.

Federal Register Citation for SNPRM: 86 Fed. Reg. 67,622 (Nov. 26, 2021)
6. Joint Petition for Rulemaking to Establish a Voluntary Arbitration Program for Small Rate Disputes

**Popular Title:** Voluntary Arbitration for Small Rate Disputes

**RIN:** N/A

**Stage:** Proposed Rule


**Abstract:** The Board proposes to establish a voluntary arbitration program intended to help resolve small rate disputes.

**Effects:**

None

**Prompting action:** Joint petition for rulemaking.

**Legal Deadline:** None

**Rulemaking Project Initiated:** 11/25/2020

**Docket Number:** EP 765

**Dates for Comments:**

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**Explanation for any delay:** By decision served 12/29/2021, the Board partially granted a request made by the petitioners to extend the procedural schedule, extending the deadline for reply comments until 4/15/2022.

**Federal Register Citation for NPRM:** 86 Fed. Reg. 67,588 (Nov. 26, 2021)
7. Joint Petition for Rulemaking—Annual Revenue Adequacy Determinations

**Popular Title:** N/A

**RIN 2140-AB52**

**Stage:** Pre-rule

**Previous Stage:** Rulemaking proceeding initiated 12/30/2020.

**Abstract:** The Board opened a rulemaking proceeding to consider a petition by several Class I railroads to change the Board’s procedures for annually determining whether Class I rail carriers are revenue adequate and requested public comment on the petition and several specific related issues.

**Effects:**

None

**Prompting action:** Joint petition for rulemaking

**Legal Deadline:** None

**Rulemaking Project Initiated:** 12/30/2020.

**Docket Number:** EP 766

**Dates for Next Action:**

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<td>Service Date</td>
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**Explanation for any delay:** By decision served 1/4/2021, the Board granted an unopposed petition to extend the procedural schedule. By decision served 6/4/2021, the Board granted a motion for a 30-day extension of time to file replies, extending the due date from 6/16/2021 to 7/16/2021. By decision served 7/7/2021, the Board granted an additional motion to extend the due date for replies to 8/16/2021.

**Federal Register Citation for Next Action:** N/A
8. First-Mile / Last-Mile Service

**Popular Title:** N/A

**RIN #:** TBD

**Stage:** Pre-Rule

**Previous Stage:** Request for comments served 9/2/2021; End of Comment Period 2/17/2022.

**Abstract:** The Board issued a decision seeking comments on issues regarding first-mile / last-mile (FMLM) service, particularly on whether additional metrics to measure such service might have utility that exceeds any associated burden. FMLM service refers to the movement of railcars between a local railroad serving yard and a shipper receiver facility.

**Effects:** None

**Prompting action:** Stakeholder feedback and Board initiative

**Legal Deadline:** None

**Rulemaking Project Initiated:** N/A

**Docket Number:** EP 767

**Dates for Next Action:**

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**Explanation for any delay:** By decision served 9/21/2021, the Board granted a motion filed by the American Chemistry Council and the Fertilizer Institute to extend the comment and reply due dates; the Association of American Railroads and the American Short Line and Regional Railroad Association filed in support of the motion.

**Federal Register Citation for Next Action:** N/A
9. Petition for Rulemaking to Adopt Rules Governing Private Railcar Use by Railroads

**Popular Title:** Private Railcar Usage

**RIN #:** TBD

**Stage:** Pre-Rule

**Previous Stage:** Proceeding instituted.

**Abstract:** The Board opened a proceeding to consider a proposal by the North American Freight Car Association, The National Grain and Feed Association, The Chlorine Institute, and The National Oilseed Processors Association to adopt regulations governing railroads’ use of private freight cars.

**Effects:** None

**Prompting action:** Petition for rulemaking.

**Legal Deadline:** None

**Rulemaking Project Initiated:** N/A

**Docket Number:** EP 768

**Dates for Next Action:**

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**Explanation for any delay:** A draft decision was circulated for voting on 3/30/2022.

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