



# SURFACE TRANSPORTATION BOARD

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## **SURFACE TRANSPORTATION BOARD ISSUES FINAL RULE ON TRAIL USE NEGOTIATING PERIODS**

The Surface Transportation Board announced today that it is adopting a final rule amending its regulations related to the National Trails System Act (Trails Act).

The final rule amends current regulations and will: (1) provide that the initial term for a certificate of interim trail use or abandonment (CITU) or notice of interim trail use or abandonment (NITU) will be one year (instead of the current 180 days); (2) permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and (3) permit additional one-year extensions if the trail sponsor and the railroad agree and extraordinary circumstances are shown.

Adoption of this rule limiting extensions of trail use negotiating periods is intended to strike an appropriate balance between the interests of landowners, trail proponents, railroads, and the agency. The final rule will lead to more efficiency, clarity, and finality in the Trails Act process, reducing burdens on parties, conserving Board resources, and providing greater overall certainty, while also providing a reasonable amount of time (at least four years) for railroads and prospective trail sponsors to negotiate voluntary agreements for interim trail use/railbanking.

The final rule will become effective on February 2, 2020, and apply as follows:

- The part of the new rule that establishes a one-year duration for any initial interim trail use/railbanking negotiating period will apply to any new CITU or NITU requested on or after February 2, 2020.
- Parties in negotiations under existing CITUs or NITUs on February 2, 2020, who wish to extend their negotiating period will be required to seek extensions of one year, rather than 180 days as is the current practice (or any other duration).
- The part of the final rule that limits the number of one-year extensions of an interim trail use/railbanking negotiating period to three will apply both to new CITUs or NITUs requested on or after February 2, 2020, and to cases where a CITU or NITU was

requested before the final rule took effect. In the latter instance, a showing of extraordinary circumstances will be required for any request that would extend the interim trail use/railbanking negotiating period to a date after the four-year anniversary of the issuance of the CITU or NITU. However, parties engaged in negotiations under an existing CITU or NITU that was originally issued before February 2, 2017, may request one additional extension of one year, beyond the four-year anniversary without showing extraordinary circumstances.

The Board's final rule in Limiting Extensions of Trail Use Negotiation Periods, EP 749 (Sub-No. 1), and Rails-to-Trails Conservancy—Petition for Rulemaking, EP 753, may be viewed and downloaded at the Board's website [here](#).

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