



SURFACE TRANSPORTATION BOARD

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STB INVITES PUBLIC INPUT ON NEW APPROACH FOR CONSIDERING CLASS EXEMPTION AND REVOCATION ISSUES

The Surface Transportation Board today announced that it is seeking public comment concerning a new approach its Office of Economics (OE) has developed for possible use in considering class exemption and revocation issues.

In March 2016, the Board issued a notice of proposed rulemaking (NPRM) seeking public comment on its proposal 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; (3) coke produced from coal; (4) primary iron or steel products; and (5) iron or steel scrap, wastes, or tailings. The NPRM also asked for comments regarding possible revocation of other commodity class exemptions. Following a request by the American Forest & Paper Association and the Institute of Scrap Recycling Industries, the Board waived the general prohibition on ex parte communications on March 19, 2019, to permit informal discussions with interested parties.

The Board appreciates the many comments received in this proceeding and is committed to ensuring that a robust analysis be conducted when determining whether to proceed with any commodity exemptions or exemption revocations. After careful consideration of the feedback received and concerns about the prior analysis, the Board directed OE to give further consideration to the issue. OE has developed a new approach to help the Board evaluate market conditions using a variety of metrics related to or indicative of rail transportation competition. The new approach would serve as a potential tool for evaluating market conditions governing a commodity, including changes in conditions over time, but would not serve as a mechanical test for determining whether the commodity exemptions at issue should be revoked or whether a new exemption should be issued. The Board now seeks public comment on the approach, whether and how it should be used in the proceeding, and its potential use in future proceedings.

Initial comments on the new approach are due by December 4, 2020, and replies to initial comments are due by January 4, 2021.

The Board's decision in Review of Commodity, Boxcar, & TOFC/COFC Exemptions, Docket No. EP 704 (Sub-No. 1), may be viewed and downloaded [here](#).

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