



# Surface Transportation Board

## Budget Request Fiscal Year 2022

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# Introduction

## Mission

The Surface Transportation Board (STB, Board, or agency) exercises its statutory authority and resolves disputes in support of an efficient, competitive, and economically viable surface transportation network that meets the needs of its users.

## Responsibilities

The STB is primarily charged with the economic oversight of the nation's freight rail system. The bipartisan Board was established in 1996 as the successor to the Interstate Commerce Commission. The Board was administratively aligned with the Department of Transportation (DOT) until enactment of the Surface Transportation Board Reauthorization Act of 2015 (STB Reauthorization Act), Pub. L. No. 114-110, which established the Board as a fully independent agency on December 18, 2015.

The economics of freight rail regulation impact the national transportation network and are important to our nation's economy. For this reason, Congress gave the STB sole jurisdiction over rail mergers and consolidations, exempting STB-approved transactions from federal antitrust laws and state and municipal laws. The Board also has exclusive authority to determine whether certain railroad rates and practices are reasonable. The Board has regulatory jurisdiction over, among other things, railroad rate reasonableness, mergers, line acquisitions, new rail line construction, and abandonments of existing rail lines.

While a majority of the Board's work involves freight railroads, the STB also performs certain oversight of passenger rail matters, the intercity bus industry, non-energy pipelines, household goods carriers' tariffs, and rate regulation of non-contiguous domestic water transportation (marine freight shipping involving the mainland United States, Hawaii, Alaska, Puerto Rico, and other U.S. territories and possessions).

## FY 2022 Budget Overview

The STB requests \$39,152,000 for FY 2022 to carry out its statutory responsibilities and to continue to meet the needs of stakeholders and the public. This level of funding would permit the Board to sustain the personnel investments made in FYs 2020 and 2021, support the ongoing information technology (IT) modernization and cybersecurity efforts that have already yielded exceptional results, and further enhance the agency's ability to use data as a strategic asset.

The Board's funding request is based on a projected staffing level of 142 FTEs, which is the same level that was requested for FY 2021. The proposed FY 2022 personnel costs would increase by \$1,652,000 over the FY 2021 estimate to offset the remaining costs of the pay adjustment enacted in December 2019 (effective January 2020). It would also offset the 1.0% pay raise for FY 2021 and the anticipated 2.7% pay raise for FY 2022, and the increased cost of employee promotions, within-grade increases, and benefits. The non-personnel expenses would remain flat.

Hiring and retaining highly skilled, high-performing staff is a Board priority. The STB fills positions that directly support the Board's mission and addresses vacancies resulting from employee retirements or other separations with a keen understanding of the mix of skills required to meet the Board's needs. The Board has increased its recruitment efforts in FY 2020 and will continue to actively seek to fill staff vacancies, including staff to support data analytics and evidence-based decision-making.

The Board's non-personnel budget request would support several IT system and infrastructure maintenance and modernization efforts. The request also would support additional data and analytical capabilities to continue to enhance the Board's evidence-based decision-making. Further, the requested funding would support continued improvements to the Board's cybersecurity program.

In FY 2021, the Board will complete its data maturity assessment as part of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435, 132 Stat. 5529. As the Board continues to modernize and automate its processes, it is also pursuing a performance management tool from a shared service provider and evaluating tools and other capabilities to improve operational efficiencies and respond to the needs of the Board, stakeholders, and the broader public. In FY 2022, the Board would continue to modernize its enterprise-wide data and analytics technology, skills, processes, and products to better leverage its data as a strategic asset.

## Summary of Changes Compared to the FY 2021 Budget Request

(dollar amounts in thousands)

### Personnel Cost Change

#### Personnel Costs



Personnel costs are expected to increase to support the requested staffing level while providing the resources necessary to cover the pay increases beginning in FY 2020 and the projected increased costs of promotions, within-grade increases, employee benefits, and a workforce fund plan to recognize and retain high-performing staff.

#### Awards and Recognition

The estimate of FY 2021 salary spending, excluding salary spending for Senior Executive Service and Senior Level, is \$17.8 million, with 2.5% (\$445,000) set aside for employee recognition awards spending. The STB will maintain awards spending for FY 2022 at 2.5% (1% above FY 2020 estimated awards spending).

### Non-Personnel Cost Changes

#### Rent



The Board's rent and associated obligations in FY 2022 are expected to decrease slightly, reflecting the phased implementation approach of the Federal Protective Service's new method for assessing Basic Security fees. In addition, the STB is working to consolidate its telecommunication infrastructure either through the updated Enterprise Infrastructure Solution or with another solution to implement a lower-cost, modern model. The STB also expects further reduction in printing costs due to lower demand.

#### Information Technology



IT obligations are expected to increase as the Board continues to evaluate and modernize its IT infrastructure and maintain its improved systems. The Board would continue to replace outdated technology with useful tools to leverage data as a strategic asset, creating opportunities for enhanced evidence-based decision-making and increased transparency, with FY 2022 projections reflecting past years' actual expenditures. The STB cloud migration is projected to be completed in FY 2021, and, as a result, the Board is planning additional IT enhancements that are cloud-based. The increase reflects the Board's emphasis on cybersecurity, privacy, records management, and evidence-based policymaking initiatives. These funds would also enable the Board to make progress in managing its internal data and making certain data more accessible to stakeholders.

#### Interagency Agreements and Technical Services



These obligations are expected to increase as the Board works to identify new opportunities with shared service providers to achieve operational efficiencies. The Board's use of these shared service providers for records management, Human Resources (HR), IT, FOIA, and finance through agreements with other federal agencies improves the efficiency and effectiveness of mission support.

### Travel and Transportation



+\$0

Travel obligations are expected to remain level with prior years' budget requests to support regulatory reviews, stakeholder engagement, site visits, representation at stakeholder meetings, representation in court, and other travel required to meet the STB's mission, as appropriate.

### Training



-\$25

Training obligations are expected to decrease as the Board continues to utilize FedTalent and offers more in-house training sessions to advance staff skills, obtain required certifications, and meet professional education requirements for an evolving workforce.

### Office Supplies and Subscriptions



+\$19

The STB has centralized its purchasing of supplies and consolidated its subscriptions. While the cost of supplies is expected to decrease, the STB anticipates that the cost of online subscriptions will increase.

### Miscellaneous Services



-\$25

The cost of miscellaneous services is expected to decrease as most of HR services have been switched to different shared service providers, which will achieve further efficiencies that reduce the costs for security investigations and other items that are not captured in another category.

### Working Capital Fund (WCF)



-\$85

The Board continues to rely on the WCF for property management, personnel security administration, and procurement support. These services are included in the estimated payment to the WCF, which is expected to decrease due to the STB's use of other shared service providers for certain HR programs and other functions.

### Net Non-Personnel Cost Changes

-\$0

### Total Adjustment to Base (\$37,500)

+\$1,652

## Total Budget Request

**\$39,152**

## Proposed Appropriation Language

### **Salaries and Expenses**

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. § 3109, \$39,152,000: Provided, that notwithstanding any other provision of law, not to exceed \$1,250,000 from fees established by the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: Provided further, that the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2022, to result in a final appropriation from the general fund estimated at no more than \$37,902,000.



# Program Overview

## Strategic Goals

The work that the Board conducts to carry out its responsibilities is guided by the following four strategic goals as set forth in its Strategic Plan FYs 2018-2022:

**First strategic goal: Protect and further the public interest in surface transportation matters.**

Strategic Objectives-

- Promote and ensure reasonable transportation rates and practices for users of freight railroads, non-energy pipelines, household goods movers, motor carriers acting collectively, and those providing or receiving service in the noncontiguous domestic water trades;
- Ensure that railroad restructurings (mergers, acquisitions, constructions, and abandonments) are consistent with the public interest and that any resulting economic, environmental, or operational harm is minimized to the extent practicable;
- Promote efficient and reliable surface transportation service that is responsive to the needs of customers, with adequate capacity to meet the needs of a changing economy; and
- Ensure consideration of environmental concerns in agency decision-making consistent with existing laws and regulations.

**Second strategic goal: Foster economic efficiencies through reliance, where possible, on marketplace factors to encourage the development and continuation of economically sound, efficient, and reliable surface transportation systems that have adequate capacity to meet the needs of our economy.**

Strategic Objectives-

- Encourage the efficient management and operation of surface transportation industries under the Board's jurisdiction;
- Promote a climate that encourages carriers to invest in needed additional capacity; and
- Minimize Federal regulatory control over surface transportation systems.

**Third strategic goal: Provide a timely, efficient, and decisive regulatory process that enables stakeholders in the surface transportation industry to plan and conduct their operations more effectively and with minimal regulatory costs.**

Strategic Objectives-

- Ensure that there is sufficient transparency with respect to the Board's dispute resolution activities to enable parties to make informed decisions as to whether they

- should voluntarily settle their disputes or litigate before the Board;
- Ensure the timeliness of Board adjudicatory decisions by setting and adhering to appropriate processing timelines; and
- Ensure that the Board’s decisions comport with the applicable statutes, precedents, and policies.

**Fourth strategic goal: Ensure that the STB has the organizational structure, managerial leadership, and skilled workforce necessary to carry out the agency's strategic goals.**

Strategic Objectives-

- Organize management, deploy staff, and track operational performance throughout the agency to ensure the achievement of the Board’s strategic goals;
- Recruit, retain, and train staff with a focus on critical needs, skills shortages, and diversity; and
- Employ new technologies to improve the Board’s operational efficiency.

## **Evidence and Evaluation**

The STB relies on evidence-based decision-making to implement its strategic plan. Reliance on evidence-based decision-making is the responsibility of each Board office, from substantive matters of case adjudication and informal assistance regarding freight rail service metrics to administrative matters concerning IT modernization and budgeting. As the agency continues to implement reforms to provide a more efficient and effective regulatory review process, it will endeavor to analyze new proposals against historical and other data to evaluate these reform initiatives. It will also endeavor to analyze the results of finalized actions to ensure they achieve their intended results. In FY 2020, the Board, in compliance with the Evidence Act, formalized its Data Governance Body charter, which is chaired by the Chief Data Officer. The Data Governance Body is charged with recommending and enforcing priorities for managing data as a strategic asset to meet the STB’s mission. In addition, the STB has partnered with the General Services Administration’s Centers of Excellence to further the STB’s data and analytics maturity and develop a data strategy that would enable the Board to meet its mission more efficiently and effectively.

## **Risk Management, Cybersecurity, and IT Modernization**

During FY 2020, the STB continued working to implement a cost-effective, risk-based cybersecurity program that is aligned with the National Institute of Standards and Technology security standards and guidelines. The Board’s Federal Information Security Modernization Act (FISMA) security level continued to be “Defined” with one additional FISMA Function moving from “Ad Hoc” to “Defined”. All of the FY 2017 FISMA audit recommendations have been addressed and closed, two FY 2018 recommendations remain open, and there were no

new recommendations in FY 2019. There were six new recommendations issued in the FY 2020 audit which the Board has a plan to address.

In FY 2020, the Board continued to strengthen its cybersecurity posture by investing in new technologies, processes, and capabilities to meet FISMA requirements and OMB regulations, as well as the current needs of its IT modernization efforts. The Board continued to make incremental progress to the next FISMA security level. The STB continues to leverage resources of the Department of Homeland Security Continuous Diagnostics and Mitigation Program as it automates its continuous security monitoring of the STB's network. The Board also strengthened its Privacy Program by formalizing its privacy policies, procedures, and assessments.

The benefits of the Board's ongoing IT modernization efforts were evident as the agency successfully transitioned to mandatory teleworking in early response to the coronavirus disease 2019 pandemic (COVID-19). Staff was able to work remotely using STB-issued laptops with no loss in productivity. Without the investments in the Board's IT architecture and infrastructure, such a seamless transition would not have been possible.

The Board also continues to mature its internal risk management process and procedure controls. At least once per quarter, the Board's Risk Management Committee meets to assess organizational risk and identify ways to mitigate that risk. At least once per year, the Board reviews and updates its Risk Profile to ensure enterprise risk is considered and addressed.

## **FY 2020 Activities and Accomplishments**

### **Rate Review Reform**

During FY 2020, the Board made significant progress in reforming its rate review processes based in large part on the recommendations contained in the Board's Rate Reform Task Force report (RRTF Report) issued on April 25, 2019, which is posted on the Board's website. The Task Force, after holding informal meetings throughout the country with representatives of shippers, rail carriers, academics, practitioners, and other interested parties, suggested that the Board consider various ways to reduce the cost and complexity of rate disputes, particularly for smaller cases.

After the RRTF Report was issued, the Board promptly held several collaborative meetings pursuant to Section 5 of the STB Reauthorization Act, which permits a majority of the Board to hold non-public meetings to discuss official agency business. In FYs 2019 and 2020, the Board initiated several proceedings in which it proposed rules to establish a new rate review option for smaller cases (called "Final Offer Rate Review," or "FORR"), amend its "Waybill Sample" data collection procedures, and provide a streamlined market dominance process that could be used in any rate review proceeding. The Board also held a two-day public hearing on "revenue adequacy" issues raised in the RRTF Report.

Since the hearing, the Board has held several additional Section 5 meetings on rate reform topics and has finalized two of the three proposed rules. Finding that it would benefit from additional stakeholder input in the FORR rulemaking proceeding, in May 2020, the Board waived its general prohibition on ex parte communications to permit post-comment period discussions with railroad and shipper interests about the FORR proposal and possible supplements or alternatives to it. In July 2020, the Board voted to adopt new regulations to streamline the market dominance procedures. In August 2020, the Board voted to adopt revised Waybill Sample data collection regulations to increase the sampling rates of certain non-intermodal carload shipments, specify separate sampling strata and rates for intermodal shipments, and eliminate the manual system for reporting waybill data. Additional information about these proceedings is provided below.

### **Rail Demurrage and Accessorial Charges Oversight**

During FY 2020, the Board continued to work proactively to address concerns relating to Class I railroad practices and policies regarding demurrage and accessorial charges.

Demurrage is a charge that serves principally as an incentive to prevent undue car detention and encourage the efficient use of rail cars in the rail network, while also compensating rail carriers for the expense incurred when rail cars are unduly detained beyond a specified period of time. Accessorial charges are not specifically defined by statute or regulation but

are generally understood to include charges other than linehaul and demurrage charges.

The Board began these initiatives in FY 2019 after learning that some Class I carriers had announced changes to their practices and policies in connection with new operating plans they were implementing. The Board initially asked each of the Class I railroads to report their revenues from demurrage and accessorial charges for each quarter of 2018 and 2019. Later, the Board extended this request for 2020. The Board's letters to the Class I railroads and their responses are posted on the Board's website.

To supplement the information that it had received from shippers, carriers, and other interested parties about changes to demurrage and accessorial charges, the Board held a two-day public oversight hearing in May 2019. Based on the written comments and testimony received at the hearing, the Board served decisions in October 2019 initiating three related proceedings, continuing its efforts to improve dispute resolution processes, promote transparency, and make the agency more accessible. After reviewing comments on the October 2019 proposals, the Board issued four additional decisions in those proceedings during FY 2020, finalizing several proposals and inviting additional comment on aspects of one proposal. Specifically:

- In *Policy Statement on Demurrage and Accessorial Rules and Charges*, Docket No. EP 757, the Board adopted a policy statement in April 2020 to facilitate more effective problem solving among railroads, shippers, and receivers by providing information on principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges.
- In *Demurrage Billing Requirements*, Docket No. EP 759, the Board issued two decisions in a rulemaking proceeding intended to address several issues with demurrage billing practices raised by many stakeholders. In April 2020, the Board finalized regulations requiring Class I carriers to directly bill the shipper for demurrage when the shipper and warehouseman agree to that arrangement and so notify the rail carrier. In a separate decision in April 2020, the Board, in response to comments received on the initial proposal, invited comment on certain modifications and additions to the previously proposed minimum requirements for demurrage invoices issued by Class I carriers.
- In *Exclusion of Demurrage Regulation from Certain Class Exemptions*, Docket No. EP 760, the Board amended its regulations in February 2020 to clarify that the class exemptions for the rail transportation of certain miscellaneous commodities and rail transportation by boxcar do not apply to the regulation of demurrage, and to revoke, in part, the class

exemption for the rail transportation of certain agricultural commodities to permit the regulation of demurrage, as was already the case with similar class exemptions covering non-intermodal transportation.

## **Rail Service Oversight and Monitoring**

During FY 2020, the Board continued its informal monitoring of rail service across the freight rail network. In particular, the Board focused its attention on the disruptive impact on rail service and operations caused by COVID-19. During the acute phase of the pandemic, as many state and local jurisdictions implemented lockdowns, the Board engaged in daily and weekly communications with key railroad and shipper stakeholders to actively monitor the reliability of the freight rail network with a special focus on critical supply chains. These communications included weekly (and later bi-weekly) conference calls convened by the Board and its Railroad-Shipper Transportation Advisory Committee (RSTAC). The Board also participated in calls hosted by the Federal Railroad Administration (FRA), held with representatives from each Class I railroad, the short line and regional railroads, and Amtrak.

In April, the Board issued a statement in support of rail service to provide informal guidance to state and local governments in implementing public health and safety measures in response to COVID-19 that might negatively impact freight rail operations, such as travel and lodging restrictions that might impair railroad crew and maintenance operations. The Board also monitored the imposition of railroad embargoes, which are temporary cessations of service imposed by railroads, related to COVID-19.

In addition, the Board, through its Rail Customer and Public Assistance (RCPA) program, continued its monthly calls with each Class I railroad to informally monitor rail service across the network and maintain awareness of positive and negative developments in the industry. These calls are informed by the rail service performance data that the Class I railroads and the Chicago Transportation Coordination Office report to the Board on a weekly basis. RCPA reviews the data to identify performance trends and outliers and to make year-over-year and month-over-month comparisons in performance. RCPA also monitors and tracks carrier embargoes, typically due to unanticipated weather events.

The Board maintained its frequent contact with stakeholders in an effort to monitor the adequacy of rail service in meeting demand growth as shippers ramped up production following many industries' production curtailments. Toward this end, in May 2020, the Board requested that Class I railroads provide detailed information to the Board about their respective plans to meet increased rail service demand, including the availability of employee and equipment resources and enhancement of communication with shipper and other stakeholders. In August, the Board and the FRA reemphasized in a joint letter to all Class I

railroads the importance of safe and reliable rail service as the Nation works to restore jobs and promote economic recovery, and the agency received responses from the Class I railroads.

## **Enhanced Communications with Stakeholders**

In November 2019, the Board launched a redesigned website and updated electronic filing system. The enhanced look, organization, and functionality of the website has provided an easier and more intuitive user experience. The Board made several improvements to its electronic filing system to make it more convenient and accessible to its stakeholders. Additional features will be added to the website, including optimization of the website for mobile viewing, further integration with the STB's case management system, and additional Section 508 compliance-related enhancements.

In July 2020, the Board completed a series of ex parte meetings with interested stakeholders to discuss its proposal in *Final Offer Rate Review*, Docket No. EP 755, and to explore issues involving the potential use of voluntary arbitration to resolve smaller rate disputes. A summary of each meeting is posted on the Board's website. These ex parte communications enhance the Board's ability to make informed decisions while ensuring that the Board's record-building process in rulemaking proceedings remains transparent and fair.

## **Rulemakings**

In *Association of American Railroads—Petition for Rulemaking*, Docket No. EP 752, the Board sought information in November 2019 on whether and how particular cost-benefit analysis approaches might be more formally integrated into its rulemaking process.

In *Limiting Extensions of Trail Use Negotiating Periods*, Docket No. EP 749 (Sub-No. 1), and *Rails-to-Trails Conservancy—Petition for Rulemaking*, Docket No. EP 753, the Board voted to adopt a final rule in November 2019 amending its regulations related to the National Trails System Act to: (1) provide that the initial term for a trail use negotiating period will be one year (instead of 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.

In *Rail Fuel Surcharges (Safe Harbor)*, Docket No. EP 661 (Sub-No. 2), the Board in December 2019 denied a petition for reconsideration of an earlier Board decision that discontinued the docket.

In *Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers*, Docket No. EP 763, the Board opened a rulemaking proceeding in May 2020 in response to a petition to

amend the current revenue threshold for classifying Class I rail carriers. In September 2020, the Board proposed to modify the thresholds for classifying rail carriers.

In *Petition for Rulemaking to Amend 49 C.F.R. Part 1250*, Docket No. EP 724 (Sub-No. 5), the Board adopted a final rule in May 2020, amending its railroad performance data reporting regulations to include chemical and plastics traffic as a distinct reporting category for the “cars-held” metric.

In *Revisions to the Board’s Methodology for Determining the Railroad Industry’s Cost of Capital*, Docket No. EP 664 (Sub-No. 4), the Board withdrew in June 2020 its earlier proposal to incorporate an additional model into the methodology for calculating the cost-of-equity component of the railroad industry’s cost of capital.

In *Market Dominance Streamlined Approach*, Docket No. EP 756, the Board voted in July 2020 to adopt a streamlined approach for pleading market dominance in rate reasonableness proceedings.

In *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Docket No. EP 704 (Sub-No. 1), the Board in September 2020 sought public comment on a new approach developed by the Office of Economics (OE) for possible use in considering class exemption and revocation issues.

## **Unreasonable Practice and Other Complaint Cases**

In *Benton v. CSX Transportation, Inc.*, Docket No. NOR 42166, the Board dismissed a complaint that was based on an alleged violation of an element of the national rail transportation policy for failure to state a claim, and denied complainant’s request to hold the proceeding in abeyance.

## **Declaratory Orders**

In *Landowners—Motion for Declaratory Order & Injunctive Relief*, Docket No. AB 1065 (Sub-No. 1), the Board denied a request seeking a declaratory order filed by a group of landowners who own property adjacent to 17.2 miles of interconnecting rail lines in Posey and Vanderburgh Counties, Ind., and found that the lines remain under the Board’s jurisdiction.

In *Great Walton Railroad Company—Petition for Declaratory Order*, Docket No. AB 1242 (Sub-No. 1), the Board determined that the track at issue is ancillary track and deferred ruling on whether it has been removed from the interstate rail system pending the outcome of related state court proceedings.



In *Landowners—Motion for Declaratory Order & Injunctive Relief*, Docket No. FD 35982 (Sub-No. 1), the Board denied a request for a declaratory order voiding several agreements concerning a rail line in Jackson County, Mo., as well as a request for injunctive relief.

In *Naval Nuclear Propulsion Program, United States Army Military Surface Deployment & Distribution Command, & Fluor Marine Propulsion, LLC—Petition for Declaratory Order*, Docket No. FD 36298, the Board granted a petition for declaratory order and made findings concerning the regulatory status of, and a railroad's obligations concerning, a rail segment near Ballston Spa, N.Y.

In *Soo Line Railroad Company—Petition for Declaratory Order & Preliminary Injunction—Interchange with Canadian National*, Docket No. FD 36299, the Board granted Soo Line Railroad Company's petition for declaratory order and found that Wisconsin Central Ltd.'s designated interchange point of Kirk Yard is unreasonable. The Board also denied a request for a preliminary injunction as moot.

In *Holland Park Owner, LLC—Petition for Declaratory Order*, Docket No. FD 36308, the Board denied in part a petition for declaratory order and directed Consolidated Rail Corporation to provide supplemental information regarding the nature of certain previously removed track. The proceeding was subsequently dismissed following settlement of the dispute.

In *Cattaraugus Local Development Corp.—Petition for Declaratory Order*, Docket No. FD 36389 et al., the Board declined to issue a declaratory order and instead opened an abandonment exemption proceeding.

In *Commuter Rail Division of the Regional Transportation Authority d/b/a Metra—Petition for Declaratory Order*, Docket No. FD 36420, the Board denied a request for declaratory order on issues already pending before a district court, declined to institute a proceeding, and denied a related petition for preliminary injunction.

## **Licensing**

In *BNSF Railway Company—Terminal Trackage Rights—Kansas City Southern Railway Company & Union Pacific Railroad Company*, Docket No. FD 32760 (Sub-No. 46), the Board established conditions for direct service by BNSF Railway Company to a facility in West Lake Charles, La., pursuant to Board-authorized terminal trackage rights granted in 2016, and set forth a procedure for establishing compensation for such trackage rights.

In *Port of Moses Lake—Construction Exemption—Moses Lake, Wash.*, Docket No. FD 34936, the Board authorized the Port of Moses Lake to modify the route of a rail construction

project in the City of Moses Lake, Wash., which the Board had authorized in 2009, subject to environmental mitigation measures.

*In Jackson County, Mo.—Acquisition & Operation Exemption—Union Pacific Railroad Company*, Docket No. FD 35982, the Board ordered Jackson County, Mo., to cease all construction of a hiking and biking trail in the right-of-way of a rail line. This order occurred following the Board’s revocation of the County’s acquisition and operation exemption, having found that the County’s actions were no longer consistent with the acquisition exemption it invoked to acquire the line.

*In Texas Central Railroad & Infrastructure, Inc. & Texas Central Railroad, LLC—Petition for Exemption—Passenger Rail Line Between Dallas & Houston, Tex.*, Docket No. FD 36025, the Board granted a petition filed by Texas Central Railroad and Infrastructure, Inc., and Texas Central Railroad, LLC (collectively, Texas Central) to reopen a prior Board decision finding that a proposed rail line between Dallas, Tex., and Houston, Tex., was not subject to the Board’s jurisdiction. The Board concluded that, due to substantially changed circumstances, the proposed rail line would be constructed and operated as part of the interstate rail network and therefore subject to Board jurisdiction. The Board also denied Texas Central’s petition for exemption and found that, should Texas Central wish to request Board authority for its project, an application process under 49 U.S.C. § 10901 would be required.

*In Texas Railway Exchange LLC—Construction & Operation Exemption—Galveston County, Tex.*, Docket No. FD 36186, et al., the Board granted a petition for exemption filed by Texas Railway Exchange LLC to construct and operate a new one-half mile rail line in Galveston County, Tex., subject to environmental mitigation conditions. The decision also granted the unopposed petition for issuance of a crossing order to allow the new rail line to cross tracks owned by Union Pacific Railroad Company.

*In Oakland Global Rail Enterprise, LLC—Acquisition Exemption—Rail Line in Alameda County, Cal.*, Docket No. FD 36301, et al., the Board denied a petition filed by the City of Oakland, Cal., to reject or revoke two notices of exemption filed by Oakland Global Rail Enterprises, LLC, and Oakland Bulk and Oversize Terminal, LLC, regarding a rail line at the former Oakland Army Base in Oakland, Cal. The Board also set an effective date for those two exemptions and for an exemption sought by the City of Oakland regarding the same rail line.

*In Brookfield Asset Management, Inc. & DJP XX, LLC—Control Exemption—Genesee & Wyoming Inc., et al.*, Docket No. FD 36326, the Board permitted an exemption to become effective for the control of Genesee and Wyoming, Inc., a noncarrier holding company of

106 rail carriers, by Brookfield Asset Management, Inc., and DJP XX, LLC. The Board subsequently denied a petition for reconsideration of that decision and also denied an alternative request to revoke the corresponding notice of exemption.

*In Wisconsin Central Ltd.—Operation Exemption—Hallett Docket No. 5 in Duluth, Minn.,* Docket No. FD 36346, the Board authorized Wisconsin Central Ltd. to operate a rail/water dock facility, known as Hallet Dock No. 5, located in Duluth, Minn.

*In Bessemer & Lake Erie Railroad Company—Acquisition & Operation—Certain Rail Lines of CSX Transportation, Inc. in Onondaga, Oswego, Jefferson, Saint Lawrence, & Franklin Counties, N.Y.,* Docket No. FD 36347, the Board authorized Bessemer and Lake Erie Railroad Company to acquire from CSX Transportation, Inc., and operate 236.3 miles of rail line in New York, subject to conditions.

*In Soo Line Corporation—Control—Central Maine & Quebec Railway US Inc.,* Docket No. FD 36368, the Board authorized Soo Line Corporation to acquire control of Central Maine & Quebec Railway US Inc., subject to employee protective conditions.

*In BNSF Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company,* Docket No. FD 36377 (Sub-No. 1), the Board authorized the expiration of certain Board-approved rights by BNSF Railway Company to operate over the lines of Union Pacific Railroad Company, even though such rights typically continue indefinitely.

*In Trans Rail Holding Company—Acquisition of Control Exemption—Vermont Railway, Inc., the Clarendon & Pittsford Railroad Company, Washington County Railroad Company, the New York & Ogdensburg Railway Company, Inc., & Green Mountain Railroad Corporation,* Docket No. FD 36390, the Board dismissed a petition for retroactive exemption because the transaction described in the petition was not subject to the Board's prior approval.

*In AAAHI Regional Acquisition LLC—Acquisition of Control—First Class Tours, Inc., & Sierra Stage Coaches, Inc.,* Docket No. MCF 21087, the Board tentatively approved and authorized, subject to the filing of opposing comments, AAAHI Regional Acquisition LLC's acquisition of control of two interstate passenger motor carriers.

*In Transportation Demand Management Holdings, LLC—Acquisition of Control—Badger Bus Transportation Group, Inc.,* Docket No. MCF 21088, the Board tentatively approved and authorized, subject to the filing of opposing comments, Transportation Demand Management Holdings, LLC's acquisition of control of Badger Bus Transportation Group, Inc., a noncarrier

that controls, among other entities, an interstate and intrastate motor carrier.

In *Winthrop Sargent, John Cogliano, & Paul Fuerst—Acquisition of Control—Plymouth & Brockton Street Railway Company, Brush Hill Transportation Co., & McGinn Bus Co., Inc.*, Docket No. MCF 21089, the Board tentatively approved and granted, subject to the filing of opposing comments, after-the-fact authorization for applicants to acquire control of three motor carriers.

In *National Express LLC—Acquisition of Control—Premier Transportation, LLC*, Docket No. MCF 21091, the Board tentatively approved and authorized, subject to the filing of opposing comments, National Express LLC's acquisition of control of Premier Transportation, LLC.

## **Abandonments/Discontinuances**

In *Union Pacific Railroad Company & Jackson County, Mo.—Abandonment Exemption—in Jackson County, Mo.*, Docket No. AB 33 (Sub-No. 342X), the Board allowed the abandonment of a 17.7-mile rail line in Jackson County, Mo., subject to environmental, trail use, and standard employee protective conditions.

In *CSX Transportation, Inc.—Abandonment Exemption—in Alachua County, Fla.*, Docket No. AB 55 (Sub-No. 718X), the Board granted an extension of the interim trail use negotiating period, and clarified that, in applying its recent rule change limiting the number of extensions, the Board will consider trail use negotiating periods cumulatively.

In *CSX Transportation, Inc.—Abandonment Exemption—Pinellas County, Fla.*, Docket No. AB 55 (Sub-No. 794X), the Board denied an appeal of a decision of the Director of the Office of Proceedings issuing a notice of interim trail use or abandonment.

In *Norfolk Southern Railway Company—Abandonment Exemption—in the City of Fort Wayne, Ind.*, Docket No. AB 290 (Sub-No. 406X), the Board allowed Norfolk Southern Railway Company to abandon an approximately 2.29-mile rail line in the City of Fort Wayne, Ind., subject to standard employee protective conditions.

In *Norfolk Southern Railway Company—Abandonment Exemption—in Hudson & Essex Counties, N.J.*, Docket No. AB 290 (Sub-No. 408X), the Board allowed Norfolk Southern Railway Company to abandon approximately 8.6 miles of rail line in Hudson and Essex Counties, N.J., subject to trail use, historic preservation, environmental, and standard employee protective conditions.

In *Kansas & Oklahoma Railroad, Inc.—Abandonment Exemption—in Hodgeman, Comanche,*

*Kiowa, and Pratt Counties, KS*, Docket No. AB 853 (Sub-No. 1X), the Board denied a petition to reopen an earlier Board decision permitting negotiations for interim trail use on a rail line located in Kansas.

In *Sierra Northern Railway—Abandonment Exemption—in Yolo County, Cal.*, Docket No. AB 874 (Sub-No. 1X), the Board permitted Sierra Northern Railway to abandon approximately 0.70 miles of rail line in Yolo County, Cal., subject to standard employee protective conditions.

In *Mission Mountain Railroad, L.L.C.—Discontinuance of Service Exemption—in Flathead County, Mont.*, Docket No. AB 1009 (Sub-No. 2X), the Board allowed Mission Mountain Railroad, L.L.C., to discontinue service over approximately 13.33 miles of rail line in Flathead County, Mont., subject to standard employee protective conditions.

In *Blacklands Railroad—Discontinuance of Service Exemption—in Hunt, Delta, Hopkins, Franklin & Titus Counties, Tex.*, Docket No. AB 1108 (Sub-No. 1X), the Board allowed the Blacklands Railroad to discontinue freight rail service over 65.59 miles of rail line owned by the Northeast Texas Rural Rail Transportation District and to discontinue trackage rights over 10.41 miles of rail line owned by Union Pacific Railroad Company.

In *Canonie Atlantic Co.—Abandonment Exemption—Hallwood to Cape Charles, Va.*, Docket No. AB 1266X, et al., the Board allowed Canonie Atlantic Co. to abandon, and Cassatt Management LLC d/b/a Bay Coast Railroad and Eastern Shore Railroad, Inc., to discontinue service over approximately 49.1 miles of rail line in Accomack and Northhampton Counties, Va., subject to conditions. In these dockets, the Board also denied an appeal of a decision by the Office of Proceedings denying a request to waive a filing fee.

In *Iowa Traction Railway Company—Discontinuance of Service Exemption—in Cerro Gordo County, Iowa*, Docket No. AB 1269 (Sub-No. 1X), the Board lifted the abeyance in the proceeding and allowed Iowa Traction Railway Company’s notice of exemption to discontinue service to proceed. The Board also found that it cannot consider requests for interim trail use/rail banking for the line of railroad at issue because the line was previously abandoned and is no longer within the Board’s jurisdiction.

In *Port of Benton, Wash.—Adverse Discontinuance of Rail Service—Tri-City Railroad Company, LLC*, Docket No. AB 1270, the Board granted the Port of Benton’s application for “adverse” discontinuance of the operating authority of Tri-City Railroad Company, LLC, over a rail line in Richland, Wash.

In *Wisconsin Rapids Railroad, L.L.C.—Discontinuance of Service Exemption—in Wood County, Wis.*, Docket No. AB 1290X, et al., the Board allowed Wisconsin Rapids Railroad, L.L.C., to discontinue service over, and Wisconsin Central Ltd. to abandon, approximately 1.1 miles of rail line in Wood County, Wis., subject to standard employee protective conditions.

In *Alcoa Energy Services, Inc.—Abandonment Exemption—in Milam County, Tex.*, Docket No. AB 1291X, the Board allowed Alcoa Energy Services, Inc., to abandon approximately 6 miles of rail line in Milam County, Tex., subject to an environmental condition.

In *R.J. Corman Railroad Property, LLC—Abandonment Exemption—in Scott, Campbell, & Anderson Counties, Tenn.*, Docket No. AB 1296X, the Board denied an appeal of a decision of the Director of the Office of Proceedings rejecting the offer of financial assistance filed by Arkansas-Oklahoma Railroad Co.

## **Waybill Sample**

In *Waybill Sample Reporting*, Docket No. EP 385 (Sub-No. 8), the Board proposed amendments in November 2019 to its Waybill Sample data collection regulations. In August 2020, the Board voted to amend these regulations by increasing the sampling rates of certain non-intermodal carload shipments, specifying separate sampling strata and rates for intermodal shipments, and eliminating the manual system for reporting waybill data. The final rule was issued on September 3, 2020.

In *Request for Waybill Access*, Docket No. WB 19-44 and *Request for Waybill Access*, Docket No. WB 20-23, the Board issued separate decisions denying appeals of rulings by the Director of the OE relating to access to the Confidential Carload Waybill Sample.

## **Uniform Railroad Costing System Update**

The Uniform Railroad Costing System (URCS) is the STB's general-purpose costing system that estimates unit costs and total variable costs of rail shipments. In FY 2020, the Board retained a contractor to evaluate the current URCS programming and applications and to provide guidance for the future state of its costing programs and applications. The Board is reviewing that report and planning for future action. In addition, the Board continues to explore alternatives to its existing costing methodology and awarded a contract in support of this effort.

## **Environmental Review**

The Board considers environmental impacts in its decision-making process under the National Environmental Policy Act (NEPA) and related laws and regulations. By preparing the requisite environmental reviews and inviting the public to participate in the Board's environmental

review process, the Board ensures its compliance with NEPA. The Board documents its NEPA findings by preparing Environmental Impact Statements (EISs) or Environmental Assessments (EAs), which assess the potential environmental impacts that could result from Board decisions.

During FY 2020, the Office of Environmental Analysis (OEA) worked on 13 EISs and 29 EAs in rail projects, comprising rail line constructions and rail line abandonments. During FY 2020, 155 cases before the Board fell within a categorical exclusion from NEPA review. These cases included acquisitions, leases, operating exemptions, declaratory orders, rulemakings, transactions involving corporate changes, and certain discontinuances.

### ***Environmental Impact Statements***

The EISs addressed projects such as the construction of an 85-mile rail line to transport commodities from the Uinta Basin in Utah. The Board also served as a cooperating agency in four federal environmental construction reviews in Maryland, Texas, Nevada, and California. The Board is monitoring environmental mitigation in two completed rail construction cases, one in Alaska and one in Texas.

### ***Environmental Assessments***

The EAs addressed five rail line constructions and 24 rail line abandonments. In addition, the Board has conducted oversight and monitoring for one joint-easement transaction in Indiana and Kentucky. Finally, the Board has continued working towards completion of the National Historic Preservation Act requirements for a complex rail line abandonment in Jersey City, N.J.

## **Alternative Dispute Resolution**

The Board has established arbitration and mediation rules to help parties informally resolve disputes and avoid costly litigation, and the Board actively encourages parties to use alternative dispute resolution. Mediation efforts have facilitated the settlement of cases and satisfactorily addressed other conflicts; however, no parties have yet agreed to participate in Board-sponsored arbitration. Successful mediation settlements result in significant savings of litigation expenses to the parties, allow both sides to reach mutually satisfactory agreements, and make available the Board's limited staff resources to work on other matters. The Board continued to engage the expertise of the Federal Mediation and Conciliation Service in FY 2020 to conduct Board-sponsored mediations with Board staff. This partnership has greatly enhanced the Board's mediation services offered to our stakeholders. In FY 2020, the Board held six mediations, two of which reached successful resolution, and two of which are ongoing.

## **Public Outreach and Informal Dispute Resolution**

RCPA continues to provide shippers, carriers, state and local governments, and members of the public with an accessible and effective resource for resolving certain disputes on an informal basis. RCPA works to resolve conflicts that might otherwise be submitted to the Board for adjudication, thereby conserving stakeholder and agency resources.

In FY 2020, RCPA handled 1,204 inquiries from stakeholders, of which 140 pertained to shipper-railroad disputes. RCPA worked with parties to successfully resolve matters related to timely fulfillment of car orders, availability of rail resources, track maintenance, interchange operations, inter-carrier disputes, switching services, car storage, rates and charges, track lease agreements, and responsibility for spur track.

RCPA also informally assisted customers of household goods (HHG) moving companies to resolve service and rate disputes. The Federal Motor Carrier Safety Administration (FMCSA) has primary regulatory and enforcement jurisdiction in this area. RCPA maintained its informal engagement with FMCSA to discuss HHG trends and with the Federal Maritime Commission to discuss issues of common interest.



| STB RCPA Inquiries FY 2020<br>(as of 9/30/20)  |              |
|--|--------------|
| Commodity Group  | FY 2020      |
| Aggregates   | 1            |
| Agricultural Products  | 53           |
| Automobile   | 5            |
| Chemicals  | 22           |
| Coal   | 4            |
| Construction Materials   | 3            |
| Empty Freight Cars   | 1            |
| Forest Products  | 2            |
| Hazardous Waste/Radioactive Waste  | 3            |
| High/Wide Loads  | 1            |
| Household Goods  | 67           |
| Industrial Products  | 36           |
| Intermodal   | 8            |
| Metals and Minerals  | 11           |
| Municipal Waste  | 3            |
| Not Specified by Shipper   | 15           |
| Passenger  | 24           |
| TIH  | 2            |
| Other  | 11           |
| N/A <sup>a</sup>   | 925          |
| Unspecified  | 7            |
| <b>Total</b>   | <b>1,204</b> |
| <sup>a</sup> Includes inquiries regarding procedural assistance, informal legal or regulatory guidance, agency information, abandonment records, other records, tariff rule or rate questions, or other commercial or rail service disputes where an underlying commodity is not at issue. |              |

In addition to its dispute resolution function, RCPA also serves as a primary liaison between the public and the Board. RCPA fields inquiries from Board practitioners as well as from members of the broader public to provide those parties with a better understanding of the laws and regulations administered by the Board, as well as proceedings before the Board.

### Court Actions and Other Legal Matters

In FY 2020, the Office of the General Counsel (OGC) handled a variety of cases on behalf of the Board:

In a case involving a Norfolk Southern/Delaware & Hudson (D&H) acquisition transaction and a separate case involving D&H's discontinuance of nearby unused trackage rights, the

Supreme Court denied the final petition for certiorari filed by Eric Strohmeier, thereby leaving intact the Board's decisions allowing the matters to proceed. *Strohmeier v. STB*, No. 18-1481 (U.S. Oct. 7, 2019).

In a case involving petitions to revoke acquisition and operation exemptions that were allegedly based on false and misleading information, the U.S. Court of Appeals for the District of Columbia Circuit set aside the Board's determination not to resolve certain issues arising under bankruptcy and state property law. The court found that the Board should have separately considered whether the information was misleading, without resolving the state law issues, and remanded for further proceedings before the Board. *Snohomish County, Wash. v. STB*, 954 F.3d 290 (D.C. Cir. 2020).

In a case involving rail fuel surcharges, the D.C. Circuit denied the Board's motion for summary affirmance of a decision terminating an advanced notice of proposed rulemaking proceeding after the Board members were unable to reach a consensus on whether and how to move forward. The court carried the Board's separate motion to dismiss forward to be considered by a "merits" panel. *W. Coal Traffic League v. STB*, No. 20-1058 (D.C. Cir. filed July 8, 2020).

In multidistrict litigation involving allegations that certain carriers' rail fuel surcharges were coordinated in violation of federal antitrust laws, the U.S. District Court for the District of Columbia invited the United States, including the Department of Justice (DOJ), the Federal Trade Commission (FTC), and the STB, to submit a statement regarding the interpretation and application of 49 U.S.C. § 10706(a)(3)(B)(ii). Lead counsel from the DOJ consulted with counsel from the Board, the FTC, and DOT in preparing the timely filed statement addressing the matter. *In Re Rail Fuel Surcharges Antitrust Litigation*, MDL Docket No. 1869, Misc. No. 07-0489 (D.D.C.).

In a case brought against the Board (and its individual members) involving a "quiet title" claim related to the conversion of a rail line to interim trail use under the National Trails System Act, the Board, along with the DOJ, filed a motion to dismiss on July 27, 2020. *Grames, et al. v. Sarasota County, Florida, et al.*, No. 8:20-cv-00739-CEH-CPT (M.D. Fla.).

The Board continued to assist the DOJ in the defense of numerous Fifth Amendment takings cases arising from the conversion or attempted conversion of rail lines to interim trail use under the National Trails System Act. See, e.g., *Caquelin v. United States*, 959 F.3d 1360 (Fed. Cir. 2020); *Hardy v. United States*, No. 19-1793 (Fed. Cir.); *Butler v. United States*, No. 17-667L (Fed. Cl.); *Memmer v. United States*, No. 14-135L (Fed. Cl.).

The Board continued to defend in court its decisions regarding BNSF Railway Company terminal trackage rights in *Kansas City Southern v. STB*, No. 16-1308 (D.C. Cir.), and in a second appeal filed in April 2020, *Kansas City Southern v. STB*, No. 20-1116 (D.C. Cir.). In the latter, the reviewing court granted the Board's motion to consolidate and hold both cases in abeyance pending the completion of the compensation-setting phase at the Board. Pursuant to the schedule proposed by the parties and adopted by the Board, the parties' evidentiary filings are due to the Board in 2021.

The OGC continued to work on a wide variety of other legal matters, including matters involving FOIA, the Privacy Act, the Paperwork Reduction Act, the Equal Employment Opportunity Act, NEPA, the National Historic Preservation Act, the National Trails System Act, the Federal Advisory Committee Act, and the Evidence Act. It provided legal counsel on general personnel and ethics issues, motor carrier finance transactions, and government contracting, and participated in the Administrative Conference of the United States. The OGC also now houses the Board's Records Office, which manages the agency's compliance with the Federal Records Act and related authorities.

## **Advisory Committees**

The Board has three transportation advisory councils, of which the Board members are ex-officio members.

Established under the ICC Termination Act of 1995, RSTAC advises the Board, the Secretary of Transportation, and Congress on railroad-transportation policy issues of particular importance to small shippers and small railroads, such as railcar supply, rates, and competitive matters. Its 15 appointed members consist of senior officials representing large and small shippers, large and small railroads, and one at-large representative. Along with the Board members, the Secretary of Transportation is also an ex-officio member. RSTAC typically holds meetings quarterly; however, beginning in mid-March, as COVID-19 began to impact the U.S. economy and the transportation network, RSTAC members met virtually each week with the Board Members and the FRA Administrator to report on the status of rail service and operations. In July, those meetings began to be held bi-weekly.

The Rail Energy Transportation Advisory Committee (RETAC) was created in 2007 to provide advice and guidance to the agency on emerging issues concerning the rail transportation of energy resources such as coal, crude oil, ethanol, and other biofuels. The 25 voting members of RETAC represent a balance of stakeholders, including large and small railroads, coal producers, electric utilities, the biofuels industry, the petroleum production industry, and the private railcar industry. RETAC typically holds meetings twice per year. During FY 2020, RETAC met on November 14, 2019, but its meeting scheduled for April 2020 was postponed

due to COVID-19. RETAC met virtually on October 7, 2020.

The National Grain Car Council (NGCC) assists the Board in addressing issues concerning grain transportation by fostering communication among railroads, shippers, rail-car manufacturers, and the government. The NGCC, which meets once a year, is composed of 14 representatives from Class I railroads, seven from Class II and Class III railroads, 14 from grain shippers and receivers, and five from private rail car owners and manufacturers. Due to COVID-19, the NGCC meeting was held virtually on September 10, 2020.

## **Amtrak and Passenger Rail**

During FY 2020, STB staff monitored National Railroad Passenger Corporation (Amtrak) performance through publicly available information and responded to informal inquiries about Amtrak. Agency staff also met regularly with Amtrak staff to discuss Amtrak's publicly available, monthly, on-time performance operating statistics. On March 31, 2020, FRA issued a notice of proposed rulemaking (NPRM) in Docket No. FRA-2019-0069, *Metrics and Minimum Standards for Intercity Passenger Rail Service*, proposing new regulations, pertaining to on-time performance and other issues, relevant to the Board's investigative authority over Amtrak pursuant to the Passenger Rail Investment and Improvement Act of 2008. The Board participated in a public telephonic hearing before the FRA on April 30, 2020, and submitted written comments on the NPRM on June 1, 2020.

The Board issued decisions on the following Amtrak matters:

*In Application of the National Railroad Passenger Corporation Under 49 U.S.C. § 24308(a)—Canadian National Railway Company*, Docket No. FD 35743, the Board extended Board-sponsored mediation through January 10, 2020, in an effort to establish reasonable terms and compensation for Amtrak's use of the Illinois Central Railroad Company and Grand Trunk Western Railroad Company's (subsidiaries of CN) facilities and services. As no settlement was reached, the formal adjudication remains ongoing.

*In Petition By National Railroad Passenger Corporation for Proceedings Under 49 U.S.C. § 24903(c)(2)*, Docket No. FD 36332, the Board granted a request by Amtrak and the Northeast Illinois Regional Commuter Railroad Corporation and the Commuter Rail Division of the Regional Transportation Authority for Board-sponsored mediation on July 6, 2020.

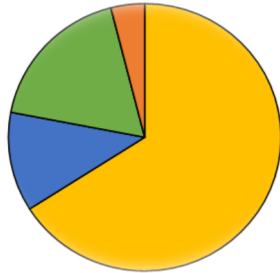
# Budget Data

## Dollar Cost: Comparison by Object Classification, FYs 2020–2022

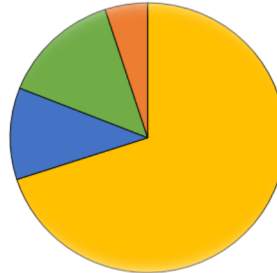
(as of 9/30/2020)

(dollar amounts in thousands)

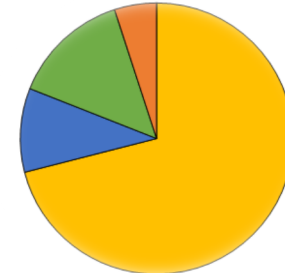
**FY 2020: \$36,625**







**FY 2021: \$37,500**



**FY 2022: \$39,152**



| CATEGORY OF OBLIGATION <sup>1</sup>   | FY 2020 Actual  |                  | FY 2021 Request |                  | FY 2022 Request |                  |
|---|-----------------|------------------|-----------------|------------------|-----------------|------------------|
|   | Dollars         | Percent of Total | Dollars         | Percent of Total | Dollars         | Percent of Total |
| Personnel Compensation and Benefits  | \$22,189        | 61%              | \$26,305        | 70%              | \$27,957        | 71%              |
| Rent, Utilities, and Security        | 3,990           | 11%              | 3,940           | 11%              | 3,900           | 10%              |
| Services <sup>2</sup>                | 9,095           | 24%              | 5,294           | 14%              | 5,365           | 14%              |
| Other <sup>3</sup>                   | 1,351           | 4%               | 1,961           | 5%               | 1,930           | 5%               |
| <b>TOTAL</b>  | <b>\$36,625</b> | <b>100%</b>      | <b>\$37,500</b> | <b>100%</b>      | <b>\$39,152</b> | <b>100%</b>      |

<sup>1</sup> Note: Dollars may not add due to rounding in this and subsequent charts.

<sup>2</sup> Services include, but are not limited to, obligations for contractor staff (IT services; financial management, internal controls, and financial audits), software licenses, and the Working Capital Fund.

<sup>3</sup> Other includes budget object classes such as equipment, supplies, reimbursable collections, travel, training, printing, postage and contractual mail, and miscellaneous services.

## Analysis of Change by Object Classification, FYs 2020–2022

(dollar amounts in thousands)

|  | FY 2020<br>Actual Obligations<br>(as of 9/30/2020) | FY 2021<br>Appropriation | FY 2022<br>Request | FY 2021–22<br>Change | Percentage<br>Change |
|--|--|--------------------------|--------------------|----------------------|----------------------|
| <b>Personnel Compensation and Benefits</b>   | <b>\$22,189</b>                                    | <b>\$26,305</b>          | <b>\$27,957</b>    | <b>\$1,652</b>       | <b>6.3%</b>          |
| <b>Non-personnel Obligations</b>   |  |                          |                    |                      |                      |
| Rent and Utilities   | \$3,073  | \$3,000                  | \$3,000            | 0.00                 | 0.0%                 |
| Security   | 917  | 940                      | 900                | -40.00               | -4.3%                |
| Information Technology   | 4,802  | 3,824                    | 3,920              | 96.00                | 2.5%                 |
| Interagency Agreements and Technical Services  | 3,930  | 1,040                    | 1,100              | 60.00                | 5.8%                 |
| Working Capital Fund   | 363  | 430                      | 345                | -85.00               | -19.8%               |
| Travel and Transportation  | 33   | 130                      | 130                | 0.00                 | 0.0%                 |
| Training   | 30   | 75                       | 50                 | -25.00               | -33.3%               |
| Office Supplies and Subscriptions (Legal and Periodicals)                            | 364  | 356                      | 375                | 19.00                | 5.3%                 |
| Miscellaneous Services (e.g. Health, Employee services, and Security Investigations) | 110  | 150                      | 125                | -25.00               | -16.7%               |
| Offsetting Collections (User fees)   | 814  | 1,250                    | 1,250              | 0.00                 | 0.0%                 |
| <b>Non-personnel Obligations (Total)</b>   | <b>\$14,436</b>                                    | <b>\$11,195</b>          | <b>\$11,195</b>    | <b>\$0</b>           | <b>0.0%</b>          |
| <b>Total Obligations</b>   | <b>\$36,625</b>                                    | <b>\$37,500</b>          | <b>\$39,152</b>    | <b>\$1,652</b>       | <b>4.4%</b>          |

## Workload Summary

| Workload Category               | FY 2020 Actual<br>(as of 9/30/20) | FY 2021<br>Estimate | FY 2022<br>Estimate |
|---------------------------------|-----------------------------------|---------------------|---------------------|
| Alternative Dispute Resolution  |                                   |                     |                     |
| Arbitrations                    | 0                                 | 0                   | 0                   |
| Informal Dispute Resolution     | 140                               | 180                 | 180                 |
| Mediations                      | 6                                 | 5                   | 5                   |
| Audits                          | 9                                 | 7                   | 8                   |
| Decisions                       |                                   |                     |                     |
| Complaints                      |                                   |                     |                     |
| Rate                            | 0                                 | 15                  | 17                  |
| Non-Rate                        | 31                                | 33                  | 33                  |
| Declaratory Orders              | 33                                | 50                  | 55                  |
| Ex Parte Proceeding Decisions   |                                   |                     |                     |
| Rulemakings                     | 32                                | 19                  | 16                  |
| Other                           | 25                                | 24                  | 24                  |
| Licensing                       |                                   |                     |                     |
| Applications/Petitions          | 70                                | 65                  | 68                  |
| Notices of Exemption            | 156                               | 185                 | 200                 |
| Other                           | 40                                | 50                  | 50                  |
| Non-Rail Decisions              | 4                                 | 7                   | 7                   |
| Other                           | 28                                | 23                  | 23                  |
| Defensibility Assessments       | 139                               | 140                 | 140                 |
| Depreciation Studies            | 10                                | 10                  | 10                  |
| Economic Statistical Reports    | 5                                 | 5                   | 5                   |
| Environmental                   |                                   |                     |                     |
| Categorical Exclusions          | 155                               | 145                 | 145                 |
| Environmental Assessments       | 29                                | 32                  | 32                  |
| Environmental Impact Statements | 13                                | 10                  | 10                  |

|   |       |       |       |
|---|-------|-------|-------|
| Ethics Reviews  | 145   | 149   | 145   |
| Fee Waiver Decisions  | 9     | 12    | 12    |
| Advisory Committee Meetings (incl. Federal Advisory Committee Act Committees) | 21    | 8     | 8     |
| Filings   | 1,552 | 1,900 | 2,000 |
| FOIA Requests   | 29    | 35    | 40    |
| Investigations (pursuant to 49 U.S.C. § 11701)                                | 0     | 0     | 1     |
| Judicial Review   | 6     | 10    | 10    |
| Outreach & Communication  |       |       |       |
| Conferences   | 21    | 20    | 20    |
| Environmental Meetings  | 32    | 35    | 35    |
| Ex Parte Meetings   | 29    | 10    | 20    |
| Stakeholder Meetings  | 261   | 200   | 200   |
| Public Forum  |       |       |       |
| Hearings  | 1     | 1     | 1     |
| Listening Sessions  | 0     | 0     | 1     |
| Oral Arguments  | 0     | 0     | 1     |
| Other   | 0     | 0     | 0     |
| Rail Service Data Reports   | 384   | 384   | 384   |
| Recordations  | 1,353 | 1,450 | 1,550 |
| Section 5 Collaborative Discussions   | 34    | 36    | 36    |
| Technical Conferences   | 2     | 2     | 2     |
| Waybill Requests  | 102   | 95    | 95    |
| Paperwork Reduction Act Requests and Submissions to OMB                       | 29    | 20    | 22    |



## Strategic Goals and Annual Performance Measures (as of 9/30/2020)

| Summary of Strategic Goals, Objectives, and Performance Measures   |                        |                        |                        |
|--|------------------------|------------------------|------------------------|
| <b>STRATEGIC GOAL 1: Protect the public interest in surface transportation matters.</b>  |                        |                        |                        |
| <b>Performance Goal 1:</b> Facilitate greater understanding among and between carriers, shippers, and other stakeholders by supporting and participating in the work of the National Grain Car Council, the Railroad-Shipper Transportation Advisory Council, and the Rail Energy Transportation Advisory Committee. | <b>2020<br/>Actual</b> | <b>2021<br/>Target</b> | <b>2022<br/>Target</b> |
| <b>Performance Measure 1:</b> Facilitate formal outreach efforts to promote effective compliance programs by hosting a minimum of seven collaborative meetings a year to discuss emerging challenges and industry trends with various stakeholder groups.  | Exceeded               | Meet                   | Meet                   |
|  |                        |                        |                        |
| <b>Performance Goal 2:</b> Encourage the voluntary resolution of rail operational and service-related issues involving shippers, railroads, state and local governments, and the public by providing informal access to the Board through the RCPA.  | <b>2020<br/>Actual</b> | <b>2021<br/>Target</b> | <b>2022<br/>Target</b> |
| <b>Performance Measure 1:</b> Informal inquiries and complaints from stakeholders and the public are responded to by RCPA within 3 days of receipt.  | Met                    | Meet                   | Meet                   |
|  |                        |                        |                        |
| <b>Performance Goal 3:</b> Conduct responsive, impartial, and timely adjudications.  | <b>2020<br/>Actual</b> | <b>2021<br/>Target</b> | <b>2022<br/>Target</b> |
| <b>Performance Measure 1:</b> Use resources efficiently to issue timely Decisions that are responsive to the needs of the public and are consistent with applicable laws and precedent greater than 90% of the time.   | Met                    | Meet                   | Meet                   |
| <b>Performance Measure 2:</b> Board decisions are responsive to the comments, evidence, and argument, such that court decisions fault the agency for failing to address issues raised less than 25% of the time.   | Met                    | Meet                   | Meet                   |
| <b>Performance Measure 3:</b> Board decisions are substantively supported, such that court decisions set aside agency rulings as beyond the agency's authority, or arbitrary, capricious, or an abuse of discretion, less than 25% of the time.  | Did Not Meet           | Meet                   | Meet                   |

| Summary of Strategic Goals, Objectives, and Performance Measures (continued)   |                    |                    |                    |
|--|--------------------|--------------------|--------------------|
| <b>Performance Goal 4:</b> Ensure early and continuing opportunities for public participation and stakeholder input for projects that trigger review under NEPA and other related environmental laws by conducting public outreach, and informational meetings to inform and educate the public, and managing rail-related information databases for public use. Provide consistent, coordinated, and predictable environmental reviews and authorization processes for infrastructure projects. | <b>2020 Actual</b> | <b>2021 Target</b> | <b>2022 Target</b> |
| <b>Performance Measure 1:</b> Prepare environmental service lists and conduct public outreach through meetings, webinars, and websites, as appropriate, at least 80% of the time in cases requiring environmental review.  | Met                | Meet               | Meet               |
| <b>Performance Measure 2:</b> Process environmental reviews and authorization decisions for major infrastructure projects within 2 years to the maximum extent practicable consistent with Executive Order No. 13807, greater than 80% of the time.  | Met                | Meet               | Meet               |
| <b>Performance Goal 5:</b> Ensure that the public, through efficient FOIA processing, can obtain information about the Board, the programs it administers, and the actions it takes.   | <b>2020 Actual</b> | <b>2021 Target</b> | <b>2022 Target</b> |
| <b>Performance Measure 1:</b> To promote transparency and public confidence in the Board's programs, Board staff will respond to requests under the FOIA, within the statutory time frame of 20 business days, excluding statutory-authorized extensions.  | Exceeded           | Meet               | Meet               |
| <b>STRATEGIC GOAL 2: Foster economic efficiencies through reliance, where possible, on marketplace factors to encourage the development and continuation of economically sound, efficient, and reliable surface transportation systems that have adequate capacity to meet the needs of our economy.</b>   |                    |                    |                    |
| <b>Performance Goal 1:</b> Collect and publish statistical data permitting the public to better understand trends in traffic volumes, rates, and the financial health of the rail industry.  | <b>2020 Actual</b> | <b>2021 Target</b> | <b>2022 Target</b> |
| <b>Performance Measure 1:</b> Publish Monthly, Quarterly, and Annual Statistical Reports within 30 days of receiving all needed inputs.  | Met                | Meet               | Meet               |
| <b>Performance Measure 2:</b> Collect and publish rail service metrics within 24 hours of receipt.   | Met                | Meet               | Meet               |

| Summary of Strategic Goals, Objectives, and Performance Measures (continued)  |                        |                        |                        |
|---|------------------------|------------------------|------------------------|
| <b>Performance Goal 2:</b> Support the maintenance and development of adequate surface transportation systems to sustain the Nation's economic growth.  | <b>2020<br/>Actual</b> | <b>2021<br/>Target</b> | <b>2022<br/>Target</b> |
| <b>Performance Measure 1:</b> Recordations are entered into the Board's public database within one business day, at least 90% of the time.  | Exceeded               | Meet                   | Meet                   |
| <b>Performance Measure 2:</b> The Board issues licensing authority within the required statutory and/or regulatory timeframe, at least 95% of the time.   | Met                    | Meet                   | Meet                   |
| <b>STRATEGIC GOAL 3: Provide a Timely, Efficient, and Decisive Process</b>  |                        |                        |                        |
| <b>Performance Goal 1:</b> Make key, disclosable information from the Board's internal case monitoring and management system available to the public so that stakeholders can be informed about the expected timing for specific Board decisions. | <b>2020<br/>Actual</b> | <b>2021<br/>Target</b> | <b>2022<br/>Target</b> |
| <b>Performance Measure 1:</b> Prepare, post, and provide delivery to Congress quarterly reports on status of rate reasonableness cases, formal complaints, informal complaints, and pending regulatory proceedings.                               | Met                    | Meet                   | Meet                   |
| <b>Performance Measure 2:</b> Publishes the Semi-annual Regulatory Agenda.  | Met                    | Meet                   | Meet                   |
| <b>STRATEGIC GOAL 4: Ensure Proper Agency Structure</b>   |                        |                        |                        |
| <b>Performance Goal 1:</b> Identify and alleviate current and future skills gaps by succession planning and by providing appropriate training to staff to prepare for impending retirements of senior staff.                                      | <b>2020<br/>Actual</b> | <b>2021<br/>Target</b> | <b>2022<br/>Target</b> |
| <b>Performance Measure 1:</b> The Board will assess annually the training and development needs of staff, at least 90% of the time.   | Met                    | Meet                   | Meet                   |
|   |                        |                        |                        |
| <b>Performance Goal 2:</b> Ensure that Board members and staff are properly trained on, and abide by, applicable ethics rules, so that they can maintain the public's trust in impartial Board decisions issued without conflicts of interest.    | <b>2020<br/>Actual</b> | <b>2021<br/>Target</b> | <b>2022<br/>Target</b> |
| <b>Performance Measure 1:</b> Conduct yearly ethics training.   | Met                    | Meet                   | Meet                   |
| <b>Performance Measure 2:</b> Provide initial response to employee's ethic inquiries within 48 hours, at least 80% of the time.   | Exceeded               | Meet                   | Meet                   |

# Administrative and Organizational Data

## Board Members

The Board is authorized to have five members nominated by the President and confirmed by the Senate. As of September 30, 2020, there are three members serving on the Board and two vacancies. Each member serves a term of five years, unless appointed to fill an unexpired term. If a member departs the STB before the end of his or her term, a successor is appointed to the vacant seat for the remainder of the departing member's term. The Board's governing statute permits a member to serve up to one year after the expiration of that member's term, unless a successor is appointed.

## STB Office Overview

In addition to the five Board members' offices, the staff of the STB is organized into six offices. The six offices are comprised of attorneys, economists, and financial, transportation, and environmental analysts with expertise in the rail industry, as well as HR specialists, paralegals, IT specialists, and contractors providing support to ensure the STB has the capabilities to meet its statutory responsibilities.

***The Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC)*** serves as the STB's principal point of contact for the U.S. Congress, federal agencies, foreign, state, and local governments, interested stakeholders, the public, and the news media. OPAGAC's mission is to aid the public in participating in matters before the STB, to disseminate accurate information concerning the agency and its work, and to help the public understand the law and the agency's decisions. This office is responsible for external operations including governmental affairs, communications, and compliance, as well as internal operations such as rail operations analysis, monitoring and analysis of certain passenger rail matters, tariffs, the Board's library, and mediation coordination. OPAGAC is also responsible for the management of the RCPA program, which assists the public by answering questions pertaining to Board regulations and procedures and facilitating informal private-sector dispute resolution of rail operational and service-related issues and other matters wherever possible.

***The Office of Economics (OE)*** provides economic, cost, financial, and engineering analyses for the Board. OE also makes available to the public a variety of statistical and financial analyses of the railroad industry. OE manages the Board-prescribed Uniform System of Accounts and cost accounting systems. OE also audits Class I carriers to ensure their compliance with these systems

and uses the data provided by carriers to develop and disseminate URCS.

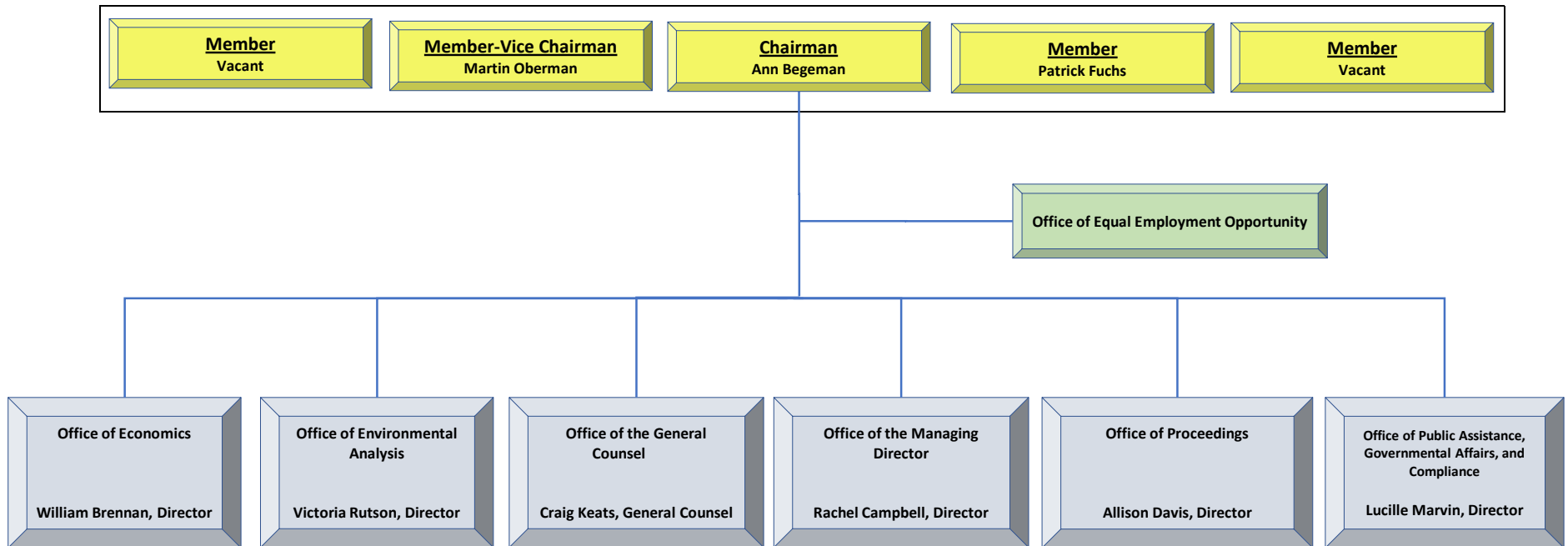
***The Office of the General Counsel (OGC)*** is legal counsel to the Board and provides two main services: enhancing the defensibility of the agency's decisions and defending those decisions in court. The OGC also advises the Board on various mission-related matters, including records management, government ethics requirements and matters involving the Freedom of Information, Paperwork Reduction, Government in the Sunshine, Equal Employment Opportunity Acts, and other laws of government-wide applicability. Finally, the OGC assists both the Department of Justice in responding to ancillary litigation related to Board proceedings and the Solicitor General in transportation-related Supreme Court litigation.

***The Office of Proceedings (OP)*** has primary responsibility for managing the public record in formal cases (or proceedings) filed with the Board, making recommendations regarding the resolution of issues presented in those cases, and preparing the decisions issued by the Board. Specifically, OP oversees the Board's caseload, providing legal and policy recommendations (in conjunction with other Board offices, as needed) to the Board members for resolving the issues presented, and preparing drafts of decisions to be issued by the Board. OP also performs administrative services for the Board, including receiving and processing formal filings from the public; administering the Board's voting process; serving as a clearinghouse for final decisions; coordinating with the Federal Register for publication of decisions; and tracking the Board's casework to provide status updates to senior leaders about the agency's interim progress and to create reports measuring the agency's performance. In addition, OP maintains a database for recording and perfecting secured transactions involving vessels and railroad rolling stock.

***The Office of Environmental Analysis (OEA)*** assists the Board in meeting its responsibilities under NEPA and other related federal statutes. NEPA requires the Board to consider the potential environmental impacts before making its final decision in certain cases. OEA conducts an independent environmental review of cases filed with the Board; prepares any necessary environmental documentation; conducts public outreach to inform the public about proposals before the Board and invites stakeholders' comments; and provides technical advice and recommendations to the Board on environmental matters.

***The Office of the Managing Director (OMD)*** provides a wide range of administrative services in support of the Board's mission, including HR management, financial services, IT operations and support, cybersecurity, privacy, and facilities management.

## STB Office Organization Chart (as of September 2020)<sup>4</sup>



<sup>4</sup> Martin J. Oberman was designated Chairman on 1/21/2021; Robert Primus was sworn in as a new member on 1/07/2021 and designated Vice Chairman on 2/1/2021; Michelle A. Schultz was sworn in as a new member on 1/11/21.

## Current Staffing Plan and Vacancies

| Office  | FY 2020                             |                                    |           |
|---|-------------------------------------|------------------------------------|-----------|
|   | Employee Positions in Staffing Plan | Employees on Board (as of 9/30/20) | Vacancies |
| Members' Offices  | 13                                  | 8                                  | 5         |
| Equal Employment Opportunity*                                     | 0                                   | 0                                  | 0         |
| Office of Economics   | 27                                  | 23                                 | 4         |
| Office of Environmental Analysis                                  | 10                                  | 9                                  | 1         |
| Office of the General Counsel                                     | 18                                  | 18                                 | 0         |
| Office of the Managing Director                                   | 19                                  | 15                                 | 4         |
| Office of Proceedings   | 41                                  | 35                                 | 6         |
| Office of Public Assistance, Governmental Affairs, and Compliance | 14                                  | 8                                  | 6         |
| <b>Board Total</b>  | <b>142</b>                          | <b>116</b>                         | <b>26</b> |

\* The STB through an Interagency agreement with FMC shares the costs of a Director for the Office of Equal Employment Opportunity, which allows both agencies to use funds responsibly while meeting required federal regulations.



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