

Report on Pending STB Regulatory Proceedings

Second Quarter 2019

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Surface Transportation Board

1. Review of the General Purpose Costing System

Popular Title: Review of the General Purpose Costing System

RIN 2140-AB14

Stage: Discontinued

Previous Stage: NPRM served 2/4/2013; End of Comment Period 9/5/2013; SNPRM served 8/4/2016 (published in Fed. Reg. 8/10/2016); End of Comment Period 11/7/2016; Proceeding Discontinued 6/6/2019.

Abstract: The Board sought comment on proposed modifications to its Uniform Railroad Costing System (URCS), including elimination of a feature known as the “make-whole adjustment” and certain other related changes. After receiving comments on an NPRM, the Board issued a SNPRM, held a technical workshop, and received additional comments. Based on the comments received, the Board determined that potential refinements of URCS would benefit from additional study and analysis. As a result, and to ensure efficient docket management, the Board stated that it would not take further action in this proceeding and discontinued this docket.

Effects:

Paperwork Reduction Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 2/4/2013

Docket Number: EP 431 (Sub-No. 4)

Dates for Next Action:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|------------------|-----------------------|---------------------------|--------------------|
| Service Date | 5/2017 | 6/2019 | 6/6/2019 |

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A

Surface Transportation Board

2. Rail Fuel Surcharges (Safe Harbor)

Popular Title: Rail Fuel Surcharges (Safe Harbor)

RIN 2140-AB17

Stage: Pre-Rule

Previous Stage: ANPRM served 5/29/2014; End of Comment Period 10/15/2014.

Abstract: The Board is giving shippers, rail carriers, and other interested parties the opportunity to comment on the Board's "safe harbor" standard, which allows carriers to rely on a Board-approved fuel index to measure changes in fuel prices for purposes of their fuel surcharge programs.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 5/29/2014

Docket Number: EP 661 (Sub-No. 2)

Dates for Next Action:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|--------------|----------------|--------------------|-------------|
| Service Date | 9/2016 | 8/2019 | N/A |

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

3. 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.

Abstract: The Board is considering procedures that could comprise a new rate reasonableness methodology for use in very small disputes, which would be available to shippers of agricultural products and all other commodities.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 08/31/2016

Docket Number: EP 665 (Sub-No. 2)

Dates for Next Actions:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|-------------------|-----------------------|---------------------------|--------------------|
| Ex Parte Meetings | Beginning 3/28/2018 | N/A | N/A |
| Service Date | 8/2019 | N/A | N/A |

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 April 25, 2019 report, which was publicly released on April 29, 2019. The Board is carefully reviewing the Rate Reform Task Force report and working to determine next steps.

Explanation for any delay: N/A

Federal Register Citation for Next Actions: N/A

Surface Transportation Board

4. Review of Commodity, Boxcar, and TOFC/COFC Exemptions

Popular Title: Commodity Exemptions

RIN 2140-AB29

Stage: Proposed Rule

Previous Stage: NPRM served 3/23/2016; End of Comment Period 8/26/2016. Decision served 3/19/2019 waiving the prohibition on ex parte communications in this proceeding, and providing a 90-day period for meetings with Board members.

Abstract: In this proceeding, the Board proposes to revoke the existing class exemptions under 49 C.F.R. Part 1039 for (1) crushed or broken stone or rip rap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes or tailings.

Effects:

Regulatory Flexibility Act

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 3/23/2016

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

Dates for Ex Parte Meetings:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|---|--|--------------------|--|
| Ex Parte Meetings | Beginning 3/19/2019; ending 6/17/2019 | N/A | Beginning 3/19/2019; ending 6/17/2019 |
| Comment Period on Ex Parte Meeting Summaries Ends | 7/2/2019 | N/A | N/A |

Explanation for any delay: N/A

Federal Register Citation for Ex Parte Meetings: N/A

Surface Transportation Board

5. 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 Ex Parte Meetings:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|-------------------|---------------------|--------------------|-------------|
| Ex Parte Meetings | Beginning 1/30/2017 | N/A | N/A |

Ex parte meetings have continued during second quarter 2019.

Explanation for any delay: N/A

Federal Register Citation for Ex Parte Meetings: N/A

Surface Transportation Board

6. Railroad Revenue Adequacy

Popular Title: Revenue Adequacy

RIN 2140-AB19

Stage: Pre-Rule

Previous Stage: Notice served 4/2/2014; End of Comment Period 11/4/2014; Hearing 7/22/2015 and 7/23/2015.

Abstract: The Board is exploring its methodology for determining railroad revenue adequacy, as well as the revenue adequacy component used in judging the reasonableness of rail freight rates.

Effects:

None

Prompting action: Board Initiative

Legal Deadline: None

Rulemaking Project Initiated: 4/2/2014

Docket Number: EP 722

Dates for Next Action:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|--------------|----------------|--------------------|-------------|
| Service Date | 10/2016 | 10/2019 | N/A |

On March 28, 2018, the Board issued a decision clarifying that a prohibition on ex parte communications in this proceeding is not applicable.

The subject matter of this proceeding was under review by the Board's Rate Reform Task Force. The Task Force issued its findings and recommendations in its April 25, 2019 report, which was publicly released on April 29, 2019. The Board is carefully reviewing the Rate Reform Task Force report and working to determine next steps.

Explanation for any delay: As noted above, the Rate Reform Task Force report is under review by the Board to determine next steps. 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

7. Limiting Extensions of Trail Use Negotiating Periods

Popular Title: NARPO Rulemaking

RIN 2140-AB42

Stage: Proposed Rule

Previous Stage: NPRM served 10/2/2018; End of Comment Period 11/21/2018; SNPRM served 6/6/2019.

Abstract: The Board proposes in a SNPRM to modify its regulations to establish a new one-year period for any initial interim trail use negotiating period, instead of the existing 180-day initial negotiating period; to permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown.

Effects:

None

Prompting action: Petition for rulemaking.

Legal Deadline: None

Rulemaking Project Initiated: 6/14/2018

Docket Number: EP 749 (Sub-No. 1) [Docket No. EP 753 was consolidated into this proceeding in the 6/6/2019 SNPRM]

Dates for Supplemental Notice of Proposed Rulemaking:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|---------------------|-----------------------|---------------------------|--------------------|
| Comment Period Ends | 7/8/2019 | N/A | N/A |
| Reply Period Ends | 7/26/2019 | N/A | N/A |

Explanation for any delay: N/A

Federal Register Citation for Supplemental Notice of Proposed Rulemaking: 84 Fed. Reg. 26,387 (June 6, 2019)

Surface Transportation Board

8. Water Carrier Tariff Filing Procedures

Popular Title: Water Carrier Rulemaking

RIN 2140-AB43

Stage: Final Rule

Previous Stage: NPRM served 12/21/2018; End of Comment Period 3/4/2019; Final Rule served 5/9/2019

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

Effects:

None

Prompting action: Board initiative

Legal Deadline: None

Rulemaking Project Initiated: 12/21/2018

Docket Number: EP 743

Dates for Final Rule:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|------------------|-----------------------|---------------------------|--------------------|
| Service Date | 5/2019 | N/A | 5/9/2019 |

Explanation for any delay: N/A

Federal Register Citation for Final Rule: 84 Fed. Reg. 20,292 (May 9, 2019)

Surface Transportation Board

9. Petition for Rulemaking to Amend 49 C.F.R. Part 1250

Popular Title: none

RIN: TBD

Stage: Proceeding Opened

Previous Stage: Proceeding opened 4/5/2019; End of Comment Period 5/20/2019.

Abstract: The Board opened a rulemaking proceeding in response to a petition to amend its railroad performance data reporting rules. The Board did not rule on the merits of the petition but requested additional information regarding several issues raised in the petition and reply.

Effects:

None

Prompting action: Petition filed by the American Chemistry Council

Legal Deadline: None

Rulemaking Project Initiated: 4/5/2019

Docket Number: EP 724 (Sub-No. 5)

Dates for Next Action:

| Milestone | Scheduled Date | New Projected Date | Actual Date |
|------------------|-----------------------|---------------------------|--------------------|
| Service Date | 09/2019 | N/A | N/A |

Explanation for any delay: N/A

Federal Register Citation for Next Action: N/A