



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

December 1, 2016

The Honorable John Thune
Chairman
Senate Committee on Science,
Commerce, and Transportation
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member
Senate Committee on Science,
Commerce, and Transportation
716 Hart Senate Office Building
Washington, DC 20510

The Honorable Deb Fischer
Chairman
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure,
Safety, and Security
United States Senate
Washington, DC 20510

The Honorable Cory A. Booker
Ranking Member
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure,
Safety, and Security
United States Senate
Washington, DC 20510

Dear Chairman Thune, Ranking Member Nelson, Subcommittee Chairman Fischer, and Subcommittee Ranking Member Booker:

I am writing to provide information pertaining to the *Surface Transportation Board Reauthorization Act of 2015*, Pub. L. No. 114-110 (“Reauthorization Act” or “Act”). With this letter, please find a status chart of the major actions that the Board is undertaking to execute these requirements. I will continue to send you monthly updates until all relevant provisions of the Reauthorization Act are completed.

Investigative Authority. As you know, the record in Rules Relating to Board-Initiated Investigations, Docket No. EP 731, is now closed. The Board is on track to issue final rules implementing our new investigative authority by December 18, 2016, as required by the Reauthorization Act.

Rate Cases. As you will recall, in August the Board issued an advance notice of proposed rulemaking for small, streamlined rate reasonableness cases, intended for use by small shippers. I am looking forward to the second round of comments in Expanding Access to Rate Relief, Docket No. EP 665 (Sub-No. 2), which are due by December 19, 2016.

Regulatory Proceedings. I am pleased to announce that on November 30, 2016, the Board adopted a final rule setting permanent data reporting requirements for the Class I railroads in U.S. Rail Service Issues—Performance Data Reporting, Docket No. EP 724 (Sub-No. 4). The

permanent data reporting requirements facilitate the Board's monitoring of current service conditions in the rail industry. The final rule is effective on January 29, 2017.

Also, on November 29, 2016, the Board issued a final rule implementing passenger rail-related dispute resolution provisions of Title XI of the Fixing America's Surface Transportation Act of 2015 ("FAST Act"), Pub. L. No. 114-94, in Dispute Resolution Procedures in Fixing America's Surface Transportation Act of 2015, Docket No. EP 737. The FAST Act requires the Board to establish procedures for resolving certain disputes regarding the National Railroad Passenger Corporation.

Given that our agency is in a time of transition as we await the appointment of new Board members and new leadership, I recognize it may be appropriate to make some adjustments to our forecasted target dates for some of the items the Board has been working to address. As I have stated publicly, I am focusing my efforts and resources on a smooth transition, and a review of our target deadlines will be included in that effort. Any initial revisions will be included in the next quarterly regulatory proceeding, and outlined in my next update letter.

Thank you for your thoughtful oversight and ongoing interest in the Board. Please do not hesitate to contact me with any questions about this letter or any other matter before the Board.

Sincerely,



Daniel R. Elliott III
Chairman

**STB Reauthorization Act of 2015, P.L. 114-110 / STB Action Items
November 2016**

| Section of Law - Action Required | Description | Deadline | Status |
|--|---|----------------------|---|
| Sec. 6(a) - Annual Report | Report on each initiated investigation in Annual Report | Annually | To be included in FY2016 Annual Report and thereafter |
| Sec. 6(b) - Quarterly Rate Case Review Metrics Reports | Post quarterly reports of rate cases pending or completed during the previous quarter | Fourth Qtr 2016 | Third quarterly report completed 10/3/2016; posted to website; next report underway |
| Sec. 6(b) - Formal Service Complaints | 1. Establish & maintain formal complaint database | Fourth Qtr 2016 | Database established, report format created, third quarterly report completed 10/3/2016; posted to website; next report underway |
| | 2. Create report | | |
| | 3. Post quarterly reports on website | | |
| Sec. 6(b) - Informal Service Complaints | 1. Establish & maintain informal complaint database | Fourth Qtr 2016 | Database established, report format created, third quarterly report completed 10/3/2016; posted to website; next report underway |
| | 2. Create report | | |
| | 3. Post to website | | |
| Sec. 11 - Rate Case Expedition Proceeding | Assess procedures to expedite litigation in courts to potentially apply to expedition of STB rate cases | 6/15/2016 | A series of informal meetings with stakeholders and practitioners was held to discuss ideas and proposals; an advanced notice of proposed rulemaking (EP 733, Expediting Rate Cases) was issued on 6/15/2016; comments were due by 8/1/2016; reply comments were due by 8/29/2016; intend to issue a proposal by March 2017 |
| Sec. 11 - Maintain Simplified Rate Case Processes | Maintain one or more simplified rate case methods for when SAC is too costly given value of the case | N/A | Maintain 3B, Simplified SAC; railroad rate regulation study may result in additional ideas/approaches; Board proposed a new streamlined rate reasonableness methodology in EP 665(2) Expanding Access to Rate Relief on 8/31/2016; comments due by 11/14/2016; reply comments due by 12/19/2016 |
| Sec. 11 - Rate Review Timelines | Implement new rate review timelines for SAC cases | Board deadline: ASAP | Final Rules issued 3/9/2016; Board is analyzing ideas to meet these timelines in EP 733, Expediting Rate Cases |
| Sec. 12 - Investigative Authority Rulemaking | Issue rules on STB-initiated investigations after public notice and comment | 12/18/2016 | Section 5 meeting conducted to discuss proposals; NPRM issued 5/16/2016; comments were due by 7/15/2016; reply comments were due by 8/12/2016; intend to issue final rules by 12/18/2016 |

**STB Reauthorization Act of 2015, P.L. 114-110 / STB Action Items
November 2016**

| Section of Law - Action Required | Description | Deadline | Status |
|---|--|-----------------|---|
| Sec. 13 - Arbitration Rulemaking | Promulgate regulations to establish voluntary and binding arbitration process for rate and practice complaints | 12/18/2016 | Section 5 meeting conducted to discuss proposals; NPRM issued 5/12/2016; comments were due by 6/13/2016; reply comments were due by 7/1/2016; Board issued final rules on 9/30/2016 |
| Sec. 15 - Rate Case Methodology Report | Report to Congress on sufficiency of STB rate case methodologies and alternatives | 12/18/2016 | Railroad rate regulation study (InterVISTAS) delivered to Congress and made public on 9/22/2016; on 10/25/2016 the Board held an economic roundtable to discuss the issues and conclusions raised in the report; hearing will be scheduled in the future to provide an opportunity for public comment |
| Sec. 15 - Unfinished Regulatory Proceedings Quarterly Reports | Provide quarterly progress report to Congress on pending proceedings; first report due 60 days after enactment | Fourth Qtr 2016 | Third quarterly report completed and submitted to Congress 10/3/2016; posted to website; next report underway |