



Federal Register

**Monday,
April 30, 2007**

Part LX

**Surface
Transportation Board**

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 536 (Sub-No. 22)]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board (the Board), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) current and projected rulemakings; and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule, including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of

requirements for agency rulemaking. Among other things, the RFA requires that, semiannually, each agency shall publish in the **Federal Register** a regulatory flexibility agenda, which shall contain:

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing

regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules that will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its spring 2007 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Unified Agenda is coordinated by the Office of Management and Budget (OMB), pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: February 27, 2007.

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,
Secretary.

Surface Transportation Board—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3817	Rail Fuel Surcharges, STB Ex Parte No. 661 (Sub-No. 1)	2140-AA83

Surface Transportation Board—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3818	Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1)	2140-AA82
3819	Methodology To Be Employed in Determining the Railroad Industry's Cost of Capital, STB Ex Parte No. 664	2140-AA84

Surface Transportation Board—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3820	Class Exemption for Expedited Abandonment Procedure for Class II and Class III Railroads, STB Ex Parte No. 647	2140-AA71
3821	Major Issues in Rail Rate Cases, STB Ex Parte No. 657 (Sub-No. 1)	2140-AA79
3822	Public Participation in Class Exemption Proceedings, STB Ex Parte No. 659	2140-AA80
3823	Rail Fuel Surcharges, STB Ex Parte No. 661	2140-AA81

Surface Transportation Board (STB)

Proposed Rule Stage

3817. • RAIL FUEL SURCHARGES, STB EX PARTE NO. 661 (SUB-NO. 1)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 49 USC 10702; 49 USC 11144 to 11145

CFR Citation: 49 CFR 1243; 49 CFR 1243.3

Legal Deadline: None

Abstract: The Board is seeking comments on the proposed collection of information from

Class I carriers in the form of a Report of Fuel Cost, Consumption, and Surcharge Revenue.

Timetable:

Action	Date	FR Cite
NPRM	02/01/07	72 FR 4676
NPRM Comment Period End	04/01/07	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For More Information:

www.stb.dot.gov

URL For Public Comments:

www.stb.dot.gov

Agency Contact: Marilyn Levitt, Attorney, Surface Transportation Board, 395 E Street SW., Washington, DC 20423

Phone: 202 245-0269

TDD Phone: 800 877-8339

Fax: 202 245-0460

Email: levittm@stb.dot.gov

RIN: 2140-AA83

Surface Transportation Board (STB)

Long-Term Actions

3818. SIMPLIFIED STANDARDS FOR RAIL RATE CASES, STB EX PARTE NO. 646 (SUB-NO. 1)

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 559; 49 USC 721; 49 USC 10701(d)(3); 49 USC 10704; 49 USC 10707; 49 USC 11144 to 11145; 49 USC 11701

CFR Citation: 49 CFR 1111.1; 49 CFR 1111.4; 49 CFR 1111.9 to 1111.10; 49 CFR 1114.21 to 1114.22; 49 CFR 1114.26; 49 CFR 1114.30 to 1114.31

Legal Deadline: None

Abstract: The Board is proposing to revise its guidelines for determining the reasonableness of challenged rail rates in cases where a full stand-alone cost presentation is too costly, given the value of the case. The proposed revisions to the guidelines would provide for a simplified stand-alone cost procedure for medium-size rate disputes, a modified three-benchmark method for small rate disputes, and would establish eligibility presumptions based on the maximum value of the case. The Board also proposes to amend its procedures for processing such rate cases.

Timetable:

Action	Date	FR Cite
NPRM	08/02/06	71 FR 43703
NPRM Comment Period End	10/01/06	
NPRM Comment Period End	01/11/07	

Action**Date****FR Cite**

Hearing 01/31/07
Next Action Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For More Information:

www.stb.dot.gov

URL For Public Comments:

www.stb.dot.gov

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001

Phone: 202 245-0395

TDD Phone: 800 877-8339

Fax: 202 245-0464

Email: dettmarj@stb.dot.gov

Related RIN: Merged with 2140-AA70

RIN: 2140-AA82

Abstract: The Board is seeking comments on the appropriate methodology to be employed in determining the railroad industry's estimated cost of capital to be used in future annual cost-of-capital determinations. We are also soliciting comments on how evidence should be submitted and analyzed in future cost-of-capital proceedings.

Timetable:

Action	Date	FR Cite
Public Hearing	01/19/07	72 FR 2591
ANPRM	09/25/06	71 FR 55825
ANPRM Comment Period End	11/06/06	
Hearing	02/15/07	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For More Information:

www.stb.dot.gov

URL For Public Comments:

www.stb.dot.gov

Agency Contact: Pedro G. Ramirez, Financial Analyst, Surface Transportation Board, 395 E Street SW., Washington, DC 20423

Phone: 202 245-0333

TDD Phone: 800 877-8339

Fax: 202 245-0454

Email: ramirezp@stb.dot.gov

RIN: 2140-AA84

3819. • METHODOLOGY TO BE EMPLOYED IN DETERMINING THE RAILROAD INDUSTRY'S COST OF CAPITAL, STB EX PARTE NO. 664

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 5 USC 605(b)

CFR Citation: Not Yet Determined

Legal Deadline: None

Surface Transportation Board (STB)

Completed Actions

3820. CLASS EXEMPTION FOR EXPEDITED ABANDONMENT PROCEDURE FOR CLASS II AND CLASS III RAILROADS, STB EX PARTE NO. 647**Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 10502; 49 USC 10903**CFR Citation:** 49 CFR 1150.50; 49 CFR 1152.22**Legal Deadline:** None**Abstract:** The Board considered a proposal to create a class exemption for Class II and Class III railroads from some of the prior approval requirements of the abandonment process.**Timetable:**

Action	Date	FR Cite
ANPRM	08/13/03	68 FR 48332
Hearing	07/27/04	69 FR 44727
ANPRM	01/19/06	71 FR 3030
End Review	12/15/06	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None**URL For More Information:** www.stb.dot.gov**URL For Public Comments:** www.stb.dot.gov**Agency Contact:** Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001
Phone: 202 245-0395
TDD Phone: 800 877-8339
Fax: 202 245-0464
Email: dettmarj@stb.dot.gov**RIN:** 2140-AA71**3821. MAJOR ISSUES IN RAIL RATE CASES, STB EX PARTE NO. 657 (SUB-NO. 1)****Priority:** Other Significant**Legal Authority:** 49 USC 10701(d); 49 USC 721**CFR Citation:** 49 CFR 1111**Legal Deadline:** None**Abstract:** The Board adopted proposed changes to its "stand-alone cost" methodology for resolving major rail rate cases.**Timetable:**

Action	Date	FR Cite
NPRM	03/03/06	71 FR 11015
NPRM Comment	06/30/06	
Period End		
Final Action—	10/30/06	
Finalized By The Board		
Final Action Effective	11/29/06	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None**URL For More Information:** www.stb.dot.gov**URL For Public Comments:** www.stb.dot.gov**Agency Contact:** Raymond A. Atkins, Attorney, Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001
Phone: 202 245-0266
TDD Phone: 800 877-8339
Fax: 202 245-0460
Email: atkinsr@stb.dot.gov**RIN:** 2140-AA79**3822. PUBLIC PARTICIPATION IN CLASS EXEMPTION PROCEEDINGS, STB EX PARTE NO. 659****Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 721(a); 49 USC 10502; 49 USC 10901 to 10902; 5 USC 553; 5 USC 559; 11 USC 1172; 49 USC 721; 49 USC 11323 to 11325**CFR Citation:** 49 CFR 1150.32; 49 CFR 1150.35; 49 CFR 1150.42; 49 CFR 1150.45; 49 CFR 1180.4**Legal Deadline:** None**Abstract:** The Board revised its procedures for certain classes of exempt transactions under 49 U.S.C. 10901, 10902, and 11323 to provide for greater public participation in such proceedings and to allow Federal Register notice of covered transactions to precede the effective date of the exemption.**Timetable:**

Action	Date	FR Cite
NPRM	03/16/06	71 FR 13563
NPRM Comment	06/14/06	
Period End		
Final Action	10/19/06	71 FR 62212
Final Action Effective	11/23/06	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None**URL For More Information:** www.stb.dot.gov**URL For Public Comments:** www.stb.dot.gov**Agency Contact:** Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001

Phone: 202 245-0395

TDD Phone: 800 877-8339

Fax: 202 245-0464

Email: dettmarj@stb.dot.gov

RIN: 2140-AA80**3823. RAIL FUEL SURCHARGES, STB EX PARTE NO. 661****Priority:** Other Significant**Legal Authority:** 49 USC 10702(2); 49 USC 721(b)**CFR Citation:** None**Legal Deadline:** None**Abstract:** The Board issued a decision finding that computing rail fuel surcharges as a percentage of a base rate is an unreasonable practice and directed carriers to change this practice. The Board also prohibited the practice of "double dipping" as an unreasonable practice in the same decision.**Timetable:**

Action	Date	FR Cite
Public Hearing	03/17/06	71 FR 13896
Public Hearing	08/10/06	71 FR 45900
Comment Period End	09/25/06	
Final Action—	01/26/07	
Finalized By The Board		
Final Action Effective	01/26/07	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None**URL For More Information:** www.stb.dot.gov**URL For Public Comments:** www.stb.dot.gov**Agency Contact:** Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001

Phone: 202 245-0395

TDD Phone: 800 877-8339

Fax: 202 245-0464

STB

Completed Actions

Email: dettmarj@stb.dot.gov

RIN: 2140-AA81

[FR Doc. 07-01264 Filed 04-27-07; 8:45 am]

BILLING CODE 4915-01-S