



Office of the Chairman

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

February 4, 2008

The Honorable David R. Obey  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Obey:

The fiscal year (FY) 2009 budget estimates for the Surface Transportation Board are enclosed. In accordance with the ICC Termination Act of 1995, P.L. 104-88, I am transmitting this budget estimate and appropriation request to Congress.

Specifically, the Board is requesting \$26.847 million, which is an increase over the Board's FY 2007 budgetary authority. The funding level requested reflects the agency's higher rental payments to the General Services Administration, associated with the Board's relocation to new office space in FY 2007, and increased funds to cover salary and employee benefit costs associated with the FY 2008 and the FY 2009 pay increases.

The overall budget request reflects the workload that is expected and the statutory and regulatory deadlines associated with the resolution of the cases filed and highlights the staffing and funding resources needed to accomplish this goal.

The Board is sending an identical letter to the Senate Appropriations Committee.

Sincerely



Charles D. Nottingham

Enclosure

cc: Chairman John W. Olver



Office of the Chairman

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

February 4, 2008

The Honorable Robert C. Byrd  
Chairman  
Committee on Appropriations  
United States Senate  
Washington, DC 20510

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Charles D. Nottingham

Enclosure

cc: Chairman Patty Murray

# Surface Transportation Board

## Budget Request

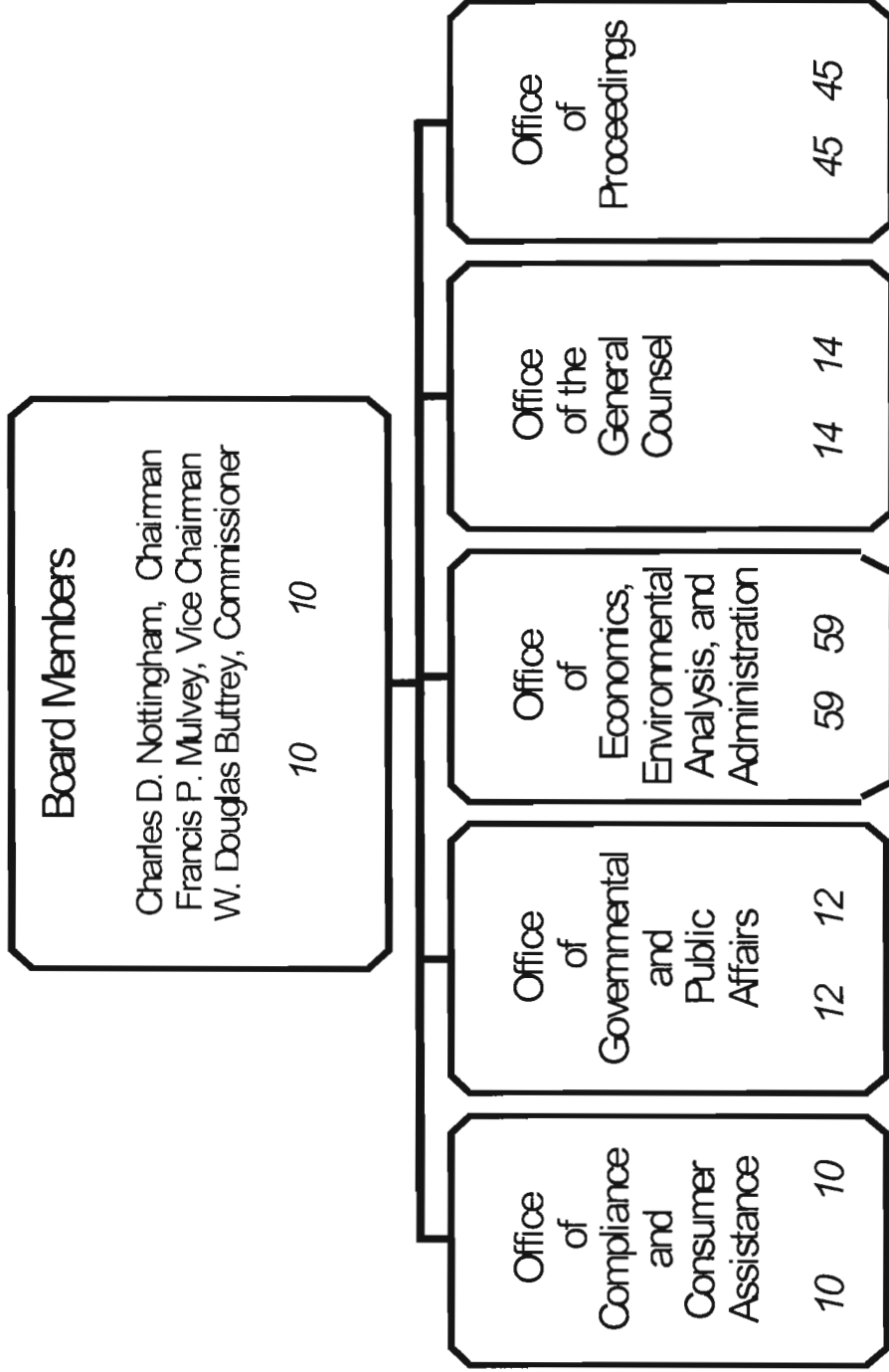
FY 2009



February 2008

# Surface Transportation Board

FTEs for FY 2009 Budget



The above numbers to the left represent FY 2008 FTEs; numbers to the right represent FY 2009 FTEs. The number of Full-Time Permanent positions and FTEs is the same. The total number of FTEs for the Surface Transportation Board is 150 for FY 2008 and 150 for FY 2009.

## **SURFACE TRANSPORTATION BOARD**

### **OVERVIEW OF BOARD AND BUDGET REQUEST**

#### **Introduction**

The budget request submitted by the Surface Transportation Board (Board) for fiscal year (FY) 2009 reflects its FY 2008 budget, with an increase in funding for salary increases due to the FY 2008/2009 pay increases. Operationally, the Board requests budget resources of \$26,847,000 and authority to continue to operate at 150 full time equivalents (FTEs).

#### **Background on the Board**

The Board is a three-member, bipartisan, decisionally independent adjudicatory body organizationally housed within the Department of Transportation (DOT). The Board has jurisdiction over certain economic regulatory matters relating to surface transportation.

The rail oversight of the Board encompasses rate reasonableness, car service and interchange, mergers, line acquisitions, line constructions, and abandonments. The jurisdiction of the Board also includes certain oversight of the intercity bus industry; pipeline carriers; and rate regulation involving noncontiguous domestic water transportation, household goods carriers, and collectively determined motor carrier rates. The Board is statutorily empowered, through its exemption authority, to promote deregulation administratively.

The Board has kept up with its steady workload, and issued 1,138 decisions and court-related matters in FY 2007, with new cases being filed even as pending cases are resolved. In recent years, the Board experienced an increase in the number of major rail rate disputes and work related to these disputes. In past years, the Board had two or three of these cases pending at any one time. In FY 2007, it had four major rail rate cases pending and 3 small rate rail rate cases that were filed late in the fiscal year. The Board had one pipeline rate dispute, which was resolved during the fiscal year, and one water carrier rate dispute that was pending in FY 2007. The Board also defended its decisions in court in a number of rate cases. These cases are costly and time consuming for the Board and its staff.

The Board has taken a number of actions in the past year that have promoted, where appropriate, substantive and procedural regulatory reform in the economic regulation of surface transportation to provide an efficient and effective forum for the resolution of disputes. In this regard, during FY 2007, the Board held public meetings, hearings, and oral arguments; processed rulemakings streamlining or otherwise improving the regulatory process; handled several pending rail rate reasonableness complaints; addressed labor arbitration matters; processed other rail restructuring cases; handled proposed rail construction cases; and took action on a number of non-rail matters.

The Board's Section of Environmental Analysis has also performed environmental reviews on the Board's construction, abandonment, and merger matters as required by the National Environmental Policy Act. As these reviews have become more controversial and complex, they have consumed an increasing amount of Board resources.

### **Board's Budget Request**

In FY 2009, the Board requests budget resources totaling \$26,847,000. This budget level reflects the current resources provided by Congress in recent years with additional funds for the Board's higher rental payments and the salary increases due to the FY 2008/2009 mandated pay increases. The Board also seeks resources and authority to operate at 150 FTEs, the current staffing level authorized by Congress.

First, the Board was relocated in FY 2007 by GSA from its previous physical site to new leased space. Funds were included in the FY 2006/2007 appropriations acts, which provided GSA with the resources to develop the network and telecommunication connections and interfaces and perform needed structural changes to the leased space to support the Board's mission. However, the rental payments for the new leased space are double those that GSA secured in 1996 for the Board's previous location. The higher rental costs are reflected in the FY 2009 budget request.

Second, the additional funds requested would cover salary and employee benefit costs associated with the FY 2008 and FY 2009 pay increases. Unlike many agencies, there is little room in the Board's budget to absorb a pay increase without additional resources, because fixed costs, including salary, rent, and other mandatory Governmental interagency payments, comprise about 95% of the agency's expenses. Absorbing even a small amount of the pay increase could impair the Board's ability to perform its statutory mission.

The requested authorization for 150 FTEs also will provide the Board with the discretion to hire staff to replace tenured, retirement-eligible staff prior to their anticipated retirement date. Currently, 47 employees, or 34% of the Board staff are retirement-eligible. Several retirements are expected in FY 2009, and having the flexibility to hire qualified people when they are available is particularly important for a highly skilled workforce in an agency that must obtain economic, legal, and technical expertise when they become available.

Consistent with appropriation acts for past fiscal years, the Board requests a provision allowing user fee collections to be credited to the appropriation as offsetting collections and used for necessary and authorized expenses to the extent that they are collected. The overall budget request reflects the workload that is expected and the statutory and regulatory deadlines associated with the resolution of the cases filed.

## **PERFORMANCE GOALS**

In the performance of its functions, the Board's objective is to ensure that, where regulatory oversight is necessary, it is exercised efficiently and effectively, integrating market forces and private-sector resolutions, where possible, into the overall regulatory framework.

In particular, the Board seeks to resolve matters brought before it fairly and expeditiously. Through use of its regulatory exemption authority, streamlining of its decisional process and the regulations applicable thereto, and consistent application of legal and equitable principles, the Board seeks to facilitate commerce by providing an effective forum for efficient dispute resolution and facilitation of appropriate business transactions. The Board continues to strive to develop, through rulemakings and case disposition, new and better ways to analyze unique and complex problems, to reach fully justified decisions more quickly, and to reduce the costs associated with regulatory oversight. The resources that the Board requests would be used to further these initiatives.

## **ACHIEVEMENT OF THE BOARD'S GOALS**

To be more responsive to the surface transportation community by fostering governmental efficiency, innovation in dispute resolution, private-sector solutions to problems, and competition in the provision of transportation services, the Board will continue to:

- strive for a more streamlined process for the expeditious handling of rail rate reasonableness and other complaint cases in an effort to provide additional regulatory predictability to shippers and carriers;
- diligently process cases before the Board and ensure that appropriate market-based activities in the public interest are facilitated;
- adhere to all statutory deadlines for the resolution of matters pending before the Board;



- encourage new opportunities for the various sectors of the transportation community to work cooperatively with the Board and with one another to find creative solutions to industry and/or regulatory problems involving carriers, shippers, employees, and local communities;
- work to ensure the provision of rail service that is responsive to the needs of customers; and
- ensure that the Board's processes are open and transparent to the public.

## ACCOMPLISHMENTS AND WORKLOAD

Attached is a table showing workload trends and accomplishments, which provides the basis for the Board's budget request for FY 2009. As the table indicates, the Board believes that the number of decisions it issues and court-related matters it handles are the best measure of workload and performance. In accordance with its continued commitment to resolving matters before it expeditiously, the Board anticipates a relatively constant overall output in each year through the end of FY 2009. If, however, Congress were to make changes in the statute that the Board administers or vest the Board with additional responsibilities, then such actions could have an impact on the Board's resources.

### **Fiscal Year 2007**

During FY 2007, the Board's workload included 1,138 decisions and court-related matters that involved adjudications and rulemakings dealing with rail and non-rail transportation issues. This work pertained to rail carrier consolidations, review of rail labor arbitral decisions, rail rates and service, rail line sales, rail line constructions, terms and conditions for continued rail service, and abandonments. It also involved intercity bus merger and pooling matters, motor carrier collective ratemaking oversight, and other non-rail matters such as water carrier and pipeline rate cases.

Regarding rate complaint cases, the Board issued decisions in STB Docket No. 41191 (Sub-No.1), *AEP Texas North Company v. The Burlington Northern and Santa Fe Railway Company*; and STB Docket No. 42088, *Western Fuels Association, Inc., and Basin Electric Power Cooperative, Inc. v. The Burlington Northern and Santa Fe Railway Company* and in STB Docket No. 41191, *West Texas Utilities Company v. The Burlington Northern and Santa Fe Railway Company* on remand. The Board also has worked on the pending rate complaint in STB Docket No. 42095, *Kansas City Power & Light Company v. Union Pacific Railroad Company*. Additionally, the Board successfully defended its decision in court in STB Docket No. 42071, *Otter Tail Power Company v. The Burlington Northern and Santa Fe Railway Company*.

The agency issued a decision in September 2007 in STB Ex Parte No. 646 (Sub-No. 1), *Simplified Standards for Rail Rate Cases*, which is intended to make the Board's rate case process more accessible to all shippers and to set new standards and

procedures for medium and small rate cases. In an earlier notice of proposed rulemaking, the Board proposed a new methodology for deciding medium sized rate cases called “simplified stand-alone cost,” guidelines for deciding small cases, and thresholds for eligibility for filing large, medium and small rate cases.

The Board issued a final decision in STB Ex Parte No. 657 (Sub-No.1), *Major Issues in Rail Rate Cases*, which addressed major issues regarding the proper application of the stand-alone cost (SAC) test in rail rate cases and the proper calculation of the floor for any rail rate relief. The Board’s general standards for judging reasonableness of rail freight rates are set forth in the “Coal Rate Guidelines,” which adopted a set of pricing principles known as constrained market pricing (CMP). Most captive rail shippers seek relief under CMP’s SAC test. Under the SAC constraint, the rate at issue cannot be higher than what a hypothetical, highly efficient railroad would need to charge to serve the complaining shipper while fully covering all of its costs, including a reasonable return on investment.

The Board issued a final decision in STB Ex Parte No. 661, *Rail Fuel Surcharges*, after holding a hearing to inquire into the practices of the railroad industry of imposing surcharges to recoup the rising costs of fuel. Based on the testimony from shippers, carriers, labor, consultants, and representatives of the public, the Board adopted rules that prohibit assessment of fuel surcharges based on a percentage of the “base rate.” The Board also prohibited the practice of “double-dipping” (imposing more than one charge for a single fuel cost increase) and asked carriers to file periodic fuel cost reports. The Board subsequently made these reports mandatory, adopting rules under STB Ex Parte No. 661 (Sub-No. 1), *Rail Fuel Surcharges*.

The Board issued a decision in STB Ex Parte No. 659, *Public Participation in Class Exemption Proceedings*, which increased the notice that the public receives before line sales, corporate family transactions, trackage rights and certain other transactions may be consummated pursuant to the Board’s “class exemptions.” The adopted rule ensures that the public is given more notice of a transaction before the exemption becomes effective.

The Board instituted a proceeding in STB Ex Parte No. 671, *Rail Capacity and Infrastructure Requirements*, to inquire whether current plans and investments are adequate to meet rail capacity demands and to evaluate if new policies and strategies need to be implemented. At the public hearing in the matter the Board received testimony from shippers, carriers, consultants, and representatives of the public regarding rail-freight traffic forecasts, the extent of capacity constraints and the ability

of railroads to meet rising demands, the infrastructure investment needed to ensure that the Nation's rail-freight system continues to operate in an efficient and reliable manner, possible solutions to the challenges presented by growing rail traffic and limited capacity, and the potential role of public-private partnerships and innovative financing tools in meeting these challenges.

Rail abandonments continued at a heavy volume in FY 2007 as the major railroads continue to shed their unprofitable lines. Sometimes abandonment proceedings result in line sales to shortlines and non-rail entities through offers of financial assistance or to public or non-profit entities for interim trail use under the National Trails System Act. Other line transactions, which have been chiefly acquisitions by purchase or lease, continue to be heavy, typically involving small lines of carriers acquired by other small or mid-sized carriers or by noncarriers. During FY 2007, a petition was filed for the control and acquisition of the Class II (mid-sized) Florida East Coast Railway by a private equity fund manager with other rail holdings, in STB Finance Docket No. 35031, *Fortress Investment Group LLC, et al—Acquisition—Florida East Coast Railway, LLC*. The Board issued a final decision in this proceeding in September 2007.

Regarding other rail matters, the Board continued to handle some labor arbitration appeals associated with previously approved major rail mergers. It issued 414 rail abandonment decisions, 22 rail line construction decisions, and 217 shortline and noncarrier acquisition decisions.

The Board had a large number of railroad line construction proposals pending during FY 2007, which entailed considerable environmental review work. The 17 rail construction cases that were pending during FY 2007 vary in size and scope, ranging from less than a mile to 319 miles of new rail line. The Board also was involved in assuring compliance with the extensive cultural resources mitigation that the Board required DM&E to complete prior to constructing and operating its new 280-mile line into Wyoming's Powder River Basin, in STB Finance Docket No. 33407, *Dakota, Minnesota & Eastern Railroad Corporation Construction Into The Powder River Basin*. The Board's 2006 decision authorizing that construction was upheld by the U.S. Court of Appeals for the Eighth Circuit in December 2006. The Board also issued a draft EIS in STB Finance Docket No. 34075, *Six County Association of Governments—Construction and Operation Exemption—Rail Line Between Levan and Salina, Utah*, involving the construction and operation of a 43-mile line to provide rail service to local industries and coal mines in Utah that currently must rely on truck transportation of goods. The Board issued its Final Supplemental EIS in STB Finance

Docket No. 30186 (Sub No. 3), *Tongue River Railroad Company, Inc.—Construction and Operation—Western Alignment*, which involves a new 17.3-mile line to access coal mines in Montana that the railroad wishes to use to reduce environmental impacts, reduce higher operating and maintenance costs, and address safety concerns resulting from steep grades that would be associated with a longer line that the Board had previously authorized. The Board also was involved in the environmental review of a case involving the construction and operation of an 80-mile rail line near Eielson Air Force Base, Alaska, to support both military and civilian activities along the proposed rail corridor, in STB Finance Docket No. 34658, *Alaska Railroad Corporation—Construction and Operations Exemption*.

As part of its continuing emphasis on ensuring that rail service is responsive to the needs of customers and that related disputes are resolved effectively and expeditiously, the Board continues a number of actions to foster resolution of service-related issues. During FY 2007, the Board has continued its focus on private-sector resolution through its Rail Consumer Assistance Program, which has a special toll-free telephone number and a specific website connection, to assist rail customers and others with concerns involving railroads. During FY 2007, the Board resolved 92 rail consumer issues through that program. In these matters, Board staff expeditiously handled and brought to a successful conclusion on an informal basis rail consumer inquiries and complaints concerning matters related to rates and other charges, car supply and other service issues, claims for damages, service-related problems, employee concerns, and community issues.

During FY 2007 the Board participated in numerous outreach activities between railroads and their customers to facilitate better communications regarding service issues and the plans to resolve them. And the Board continued to act in cases before it to assist the parties in devising private-sector solutions to their disputes outside of the Board's formal processes.

The Board established a Rail Energy Transportation Advisory Committee (RETAC) in STB Ex Parte No. 670 to provide advice and guidance to the agency and to serve as a forum for discussion of emerging issues regarding the railroad transportation of energy resources including coal, ethanol, and other biofuels. The RETAC will provide independent, candid policy advice to the Board and foster open, effective communication among affected interests on issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, railroad, and energy-resource users.

The Board held a field hearing in STB Ex Parte No. 672, *Rail Transportation of Resources Critical to the Nation's Energy Supply*, to provide views and information about issues relating to the efficiency and reliability of rail transportation of resources critical to the Nation's energy supply. The Board views the reliability of the energy supply as critical to the Nation's economic and national security, and the transportation by rail of coal and other energy resources as a vital link in the energy supply chain.

On other non-rail matters, in FY 2007, the Board issued decisions dealing with intercity bus merger cases and motor carrier rate bureaus. The Board finished working on its remaining pipeline case, which concerned rates for pipeline transportation of anhydrous ammonia, STB Docket No. 42084, *CF Industries, Inc. v. Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P.* (the parties reached a settlement agreement in this case); and it worked on a water carrier rate case involving the non-contiguous domestic water trade, STB Docket No. WCC-101, *Government of the Territory of Guam v. Sea-Land Service, Inc., American President Lines, Ltd., and Matson Navigation Company, Inc.*, which was dismissed at the request of the parties in October 2007. The Board defended in court its decision in STB Docket No. WCC-105, *DHX, Inc. v. Matson Navigation Company and Sea-Land Service, Inc.*, regarding rate practices of a water carrier.

In September 2007, the Board contracted with Christensen Associates (CA) to conduct an independent study that will assess the current state of competition in the freight railroad industry in the U.S. The Government Accountability Office (GAO) expressed concerns and recommended that the Board conduct a rigorous analysis of the competition in the industry and consider actions to address problems associated with abuses of market power. CA's study will address GAO's concerns and will focus on providing a comprehensive analysis of a wide range of issues including competition, capacity, and interplay between the two and examine the various regulatory policy alternatives and will be completed and made public in the Fall of 2008.

### **Fiscal Years 2008 and 2009**

During FY 2008 and 2009, the Board will continue to look for ways to streamline or otherwise improve applicable regulations and the regulatory process and to promote private-sector resolution of disputes. The Board is continuing to look independently for ways to shorten and streamline its procedures for bringing and prosecuting both large and small rate cases, and to make the environmental review process for new rail line construction cases more streamlined as well. And it will continue to use its processes to encourage private-sector dispute resolution.

The workload involving rail rates and services is expected to increase through FY 2009, particularly given the likely continuing expiration of long-term coal transportation contracts and some rail carriers' stated intention to move away from pricing through contracts, and the likelihood of an increased number of smaller rate cases. Rate case resolutions continue to strive for a balance between the railroads' need to earn adequate returns and shippers' need for fair and reasonable rates.

The Board will continue to resolve its pending rate complaints and to work on new rail rate cases that come before it. The Board currently has three large rate complaint cases at various states of adjudication, and a related decision that has been appealed in court. These proceedings, which will be in various stages of litigation during FY 2008/2009, will require significant staff attention and additional resources, given the complex nature of the cases and the substantial efforts that will need to be devoted to matters such as motions and discovery resolution in the adjudications. The Board also will work on a number of small rail rate complaints, including STB Docket Nos. 42099, 42100, 42101, *E.I. duPont de Nemours and Company v. CSX Transportation, Inc.*, which were filed late in FY 2007. Other rail cases that will continue to require considerable resources involve questions of whether certain activity connected to rail service cannot be regulated at the state or local level because such regulation is preempted by Federal law.

During FY 2008, the Board issued a final decision in STB Ex Parte No. 664, *Methodology To Be Employed in Determining the Railroad Industry's Cost of Capital*, regarding the appropriate methodology to be used in determining the railroad industry's cost of capital, which is part of the annual evaluation of the adequacy of railroad revenues. The cost-of-capital determination may also be utilized in other Board proceedings, including, but not necessarily limited to, those involving the prescription of maximum reasonable rate levels. The Board is continuing to refine its cost-of-capital calculation through rulemaking that focuses on how to calculate the railroads' cost of equity capital, which is an important part of the cost of capital. The Board earlier issued an advance notice of proposed rulemaking in September 2006, and then held a public hearing on this matter in February 2007 to obtain public comments and testimony.

After receiving public comments and holding an oral hearing, the Board issued a decision in STB Ex Parte No. 575, *Review of Rail Access and Competition Issues—Renewed Petition of the Western Coal Traffic League*, addressing a request that it adopt rules limiting the extent to which agreements for the sale or lease of railroad

lines may contain interchange restrictions that limited the incentive or ability of a purchaser or tenant to interchange traffic with connecting railroads that could compete with the seller or landlord railroad.

With respect to rail carrier consolidations, no major rail mergers are currently pending. Nevertheless, the workload in this category is expected to increase through FY 2009 because the Board is seeing a shift to, or an increase in, the number of smaller rail mergers and control filings. Of course, it is impossible to know whether a major merger may be proposed during FY 2008 or FY 2009. The Board continues to resolve issues related to past Class I rail mergers, including issues involved with the interpretation of conditions imposed or rulings issued in approving those prior mergers.

During FY 2008, an application was filed for control and acquisition in STB Finance Docket No. 35081, *Canadian Pacific Railway Company, et al.—Control—Dakota, Minnesota & Eastern Railroad Corporation, et al.* The Board designated this rail acquisition as a significant transaction and adopted a procedural schedule under which the final decision would be issued by September 30, 2008. DM&E is a Class II rail carrier operating over 2,500 miles of rail lines in eight mid-western states and interchanges rail traffic with all seven Class I railroads. An application also was filed for control and acquisition in STB Finance Docket No. 35087, *Canadian National Railway Corp. and Grand Trunk Corp.—Control—EJ&E West Company.* The Board designated this rail acquisition as a minor transaction and adopted a procedural schedule under which the final decision would be issued in April 2008, or later if the necessary environmental review has not been completed by that time. The Elgin, Joliet and Eastern Railway Company (EJ&E) is a Class II railroad that currently operates over 198 miles of track in Illinois and Indiana serving shippers around Chicago.

Concerning other rail restructuring matters, rail abandonment decisions are expected to increase through FY 2009. The Board continues to see a high volume of “post abandonment” activity relating to (1) trail use, as proponents avail themselves of opportunities under the National Trails System Act, and (2) offers of financial assistance, whereby shippers and others seek to acquire rail lines approved for abandonment at a price negotiated with the abandoning railroad or set by the Board to continue rail freight service.

The Board projects an increase in the number of line construction decisions involving the 18 rail line construction proposals and additional applications that are anticipated during FY 2008 and 2009, all of which can implicate significant



environmental review issues. The complexity of the environmental reviews the Board must conduct continues to grow, and the environmental matters require an increasing amount of resources. With respect to construction matters in FY 2008, the Board expects to be issuing a number of EIS and environmental assessments in many pending and new construction cases. The Board will continue work on a proceeding involving the construction of an 8-mile rail extension to a new copper mine in Arizona (STB Finance Docket No. 34836, *Arizona Eastern Railway, Inc. – Construction Exemption – In Graham County, AZ*) and the anticipated request for authorization to construct a 30-mile rail line in Texas to facilitate train operations and to relieve rail congestion in Houston. Additionally, as noted, the Board's environmental staff will continue its environmental review of the Alaska Railroad proposal to construct and operate an 80-mile rail line in Alaska. Finally, the Board will prepare an EIS concerning the potential cumulative environmental effects of the DM&E coal trains from the Powder River Basin operating over the former I&M Rail Link system, which DM&E has acquired, in STB Finance Docket No. 34177, *Iowa, Chicago & Eastern Railroad Corporation– Acquisition and Operation Exemption – Lines of I&M Rail Link, LLC*.

Other line transaction activity is expected to remain fairly constant through FY 2009 as carriers announce intentions to continue to sell unprofitable or marginally profitable lines as an alternative to service abandonment. These line sales can be beneficial in light of the desirability of preserving rail service for shippers as an alternative to abandonment. In the past few years, the Board has seen an increase in the number of line acquisitions by both small carriers and noncarriers as rail carriers restructure their rail systems.

Regarding non-rail matters, we are projecting that pipeline work will remain constant, although the one case that had been pending in FY 2007 has been resolved. The intercity bus merger and bus or motor carrier of property pooling workload are projected to remain constant through FY 2009. The noncontiguous domestic water trade rate case activity is expected to remain constant through FY 2009, although the water carrier rate case pending in FY 2007 has now been completed.

**FY 2009 Congressional Budget Justification  
Workload Summary<sup>1</sup>**

<b>Workload Category</b>	<b>Actual FY 2007 Board Decisions and Court-related Work</b>	<b>Estimated<sup>2</sup> FY 2008 Board Decisions and Court-related Work</b>	<b>Estimated<sup>2</sup> FY 2009 Board Decisions and Court-related Work</b>
Rail Carrier Control Cases	31	45	45
Rail Rates and Service	91	120	120
Rail Abandonments and Constructions	436	504	504
Other Line Transactions	217	214	214
Other Rail Activities	88	94	94
Non-Rail Activities	275	280	280
<b>Total</b>	<b>1,138</b>	<b>1,257</b>	<b>1,257</b>

<sup>1</sup> At this time, the Board believes that the number of Board decisions and court-related work is the best measure of workload at the Board. Certain activities performed at the Board that provide direct and indirect support for rulemakings and decisions in specific cases are not reflected in these workload numbers. Such activities not reflected include: enforcement activities; rail audits and rail carrier reporting oversight; administration of the rail waybill sample and development of the Uniform Rail Costing System; and case-related correspondence and informal public assistance.

<sup>2</sup> Estimated workloads for FY 2008 and 2009 are based on historical information regarding actual filings and best estimates of probable future filings by parties. Because the Board is principally an adjudicatory body, it does not directly control the level or timing of actual case filings.

**SALARIES AND EXPENSES**  
(Dollars in thousands)

	FY 2007 <u>Actual</u>	FY 2008 <u>Estimate</u>	FY 2009 <u>Request</u>	Difference <u>from Estimate</u>
Permanent Positions	141	150	150	0
Full-time Equivalents	136	150	150	0
Personnel Compensation and Benefits	\$18,313	\$20,292	\$20,647	\$ 355
Travel	94	110	115	5
Other Costs	<u>7,846</u>	<u>5,923</u>	<u>6,085</u>	<u>162</u>
<b>TOTAL BUDGET RESOURCES</b>	<b>\$26,253</b>	<b>\$26,325</b>	<b>\$26,847</b>	<b>\$ 522</b>

Changes in Resources:

The Board seeks a budget increase of \$522,000 for FY 2009 for the 150 FTEs that Congress has authorized in past years. This includes the higher rental payments to GSA at the agency's new location and salary increases due to the FY 2008/2009 pay increases. The Board completed the agency's relocation in FY 2007 from its previous physical site to the new site leased by the General Services Administration (GSA).

For personnel compensation and benefits, \$20,647,000 is requested to support the Board's 150 authorized permanent positions. Included in this request is \$159,000 to fund the annual cost of the January 2008 pay raise and \$490,000 for the January 2009 pay raise. The Board has been able to absorb some of the pay raise increases by filling higher graded retiring staff with mid-level graded new employees. The request also includes \$100,000 for lump-sum leave payments to retiring employees.

A travel budget of \$115,000 is requested primarily for on-site visits to railroads to finalize audits and review public accountants' workpapers, physically inspect proposed rail abandonment and construction sites, gather and verify environmental data provided by parties to proceedings, conduct operational reviews, meet with shippers regarding rail service issues and compliance, defend the Board's decisions in courts across the country, and generally provide presentations, upon request, on issues within the Board's

jurisdiction. Due to the increased number of environmental reviews associated with new rail construction cases and attendance at field hearings on high-profiled cases as well as a Board policy of being open and accessible to stakeholders, agency travel has increased and is expected to remain at the increased level through FY 2009. A significant portion of the environmental travel increase is associated with the Board's cooperating agency participation in the environmental review associated with an 80-mile rail line construction near Eielson Air Force Base, Alaska and other environmental reviews in the western U.S.

Funding to cover other costs is requested at \$6,085,000. Included in this number are rental payments to GSA and payments for employee training, telephone service, postage, information technology systems support and equipment, miscellaneous services and supplies, and reimbursable services acquired from other DOT agencies and other Federal agencies. These costs also include the Board's share of e-Gov initiatives and CIO/CFO Council funding. A payment to the DOT Working Capital Fund of \$133,000 is included in these costs. The Board continues to evaluate its level of physical security in light of the new building's Security Committee and the Department of Homeland Security and has implemented a Business Continuity Plan along with sheltering-in-place procedures to provide for the physical security of its employees and the continuity planning and continuance of its statutory mission.

**SURFACE TRANSPORTATION BOARD**

SALARIES AND EXPENSES

OBJECT CLASSIFICATIONS

(in thousands of dollars)

OBJECT CLASS	FY 2007 ACTUAL	FY 2008 ESTIMATE	FY 2009 REQUEST
PERSONNEL COMPENSATION			
11.10 FULL TIME PERMANENT APPT.	12,622.0	14,113.0	14,470.0
11.30 OTHER THAN FULL-TIME PERMANENT	952.0	962.0	980.0
11.50 OTHER PERSONNEL COMPENSATION	650.0	561.0	536.0
11.90 TOTAL PERSONNEL COMPENSATION	14,224.0	15,636.0	15,986.0
12.10 CIVILIAN PERSONNEL BENEFITS	3,215.0	3,407.0	3,411.0
13.00 BENEFITS FOR FORMER PERSONNEL	0.0	0.0	0.0
21.00 TRAVEL AND TRANSPORTATION OF PERSONS	94.0	110.0	115.0
22.00 TRANSPORTATION OF THINGS	21.0	18.0	19.0
23.10 RENTAL PAYMENTS TO GSA	2,064.0	3,450.0	3,670.0
23.30 COMMUNICATIONS, UTILITIES, MISCELLANEOUS CHARGES	254.0	189.0	189.0
24.00 PRINTING AND PRODUCTION	5.0	6.0	7.0
25.20 OTHER SERVICES	1,984.0	345.0	335.0
25.30 PURCHASES OF GOODS FROM GOVERNMENT ACCOUNTS	2,576.0	1,347.0	1,377.0
26.00 SUPPLIES AND MATERIALS	372.0	341.0	343.0
31.00 EQUIPMENT	555.0	226.0	145.0
42.00 INDEMNITIES-OTHER PAYMENTS	15.0	0.0	0.0
99.00 SUBTOTAL, DIRECT OBLIGATIONS:	25,379.0	25,075.0	25,597.0
REIMBURSABLE OBLIGATIONS:			
11.10 REIMBURSABLE FULL TIME PERMANENT APPT.	715.0	1,066.0	1,066.0
12.10 REIMBURSABLE PERSONNEL BENEFITS	159.0	184.0	184.0
99.00 SUBTOTAL, REIMBURSABLE OBLIGATIONS	874.0	1,250.0	1,250.0
99.90 TOTAL OBLIGATIONS	26,253.0	26,325.0	26,847.0

**SURFACE TRANSPORTATION BOARD**

**SALARIES AND EXPENSES**

**PERSONNEL SUMMARY**

	FY 2007 ACTUAL	FY 2008 ESTIMATE	FY 2009 REQUEST
1001 FULL-TIME EQUIVALENT-DIRECT	129	141	141
2001 FULL-TIME EQUIVALENT-REIMBURSABLE	7	9	9
FULL-TIME EQUIVALENT (FTE) TOTAL	136	150	150

## Surface Transportation Board

### Summary Analysis of Change from FY 2008 to FY 2009 (in thousands of dollars)

Item	Changes from FY 2008 to FY 2009	Appropriation Total
<b>FY 2008 Appropriation Base</b>		
Salaries and Expenses - Funds 150 FTEs		\$26,325
<b>Adjustments to Base</b>		
2008 Pay Raise	\$159	
2009 Pay Raise	\$490	
GSA Rent	\$220	
Working Capital Fund Increase	\$5	
Inflation	\$40	
Subtotal, Adjustments to Base		\$914
<b>Program Increases/Decreases</b>		
One-time FY 2008 equipment purchases	-\$81	
Savings due to employee retirements	-\$295	
One-time FY 2008 service agreements	-\$16	
Subtotal, Program Increases/Decreases		-\$392
<b>Total FY 2009 Request</b>		<b>\$26,847</b>

**SURFACE TRANSPORTATION BOARD  
COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY**  
(in thousands of dollars)

**APPROPRIATIONS, OBLIGATION LIMITATIONS, AND EXEMPT OBLIGATIONS**

ACCOUNT NAME	FY 2007 ACTUAL	FY 2008 PRESIDENT'S BUDGET REQUEST	FY 2008 BOARD'S BUDGET REQUEST	FY 2008 ENACTED	FY 2009 TOTAL REQUEST
SALARIES & EXPENSES	25,379	21,835	25,245	25,075	25,597
<b>TOTALS</b>	25,379	21,835	25,245	25,075	25,597
FTE (direct funded only)	129	115	141	141	141
OFFSETTING COLLECTIONS	874	1,250	1,250	1,250	1,250
FTE (reimbursable funded only)	7	10	9	9	9

**EXPLANATION:**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The FY 2008 and FY 2009 request does not include any future legislative changes that could vest the Board with additional responsibilities.



**SURFACE TRANSPORTATION BOARD  
FY 2009 BUDGET REQUEST BY APPROPRIATION ACCOUNT**  
(in thousands of dollars)

**APPROPRIATIONS, OBLIGATION LIMITATIONS, AND EXEMPT OBLIGATIONS**

<u>ACCOUNT NAME</u>	<u>FY 2007 ACTUAL</u>	<u>FY 2008 PRESIDENT'S BUDGET REQUEST</u>	<u>FY 2008 BOARD'S BUDGET REQUEST</u>	<u>FY 2008 ENACTED</u>	<u>FY 2009 TOTAL REQUEST</u>
SALARIES & EXPENSES	25,379	21,835	25,245	25,075	25,597
OFFSETTING COLLECTIONS: Users Fees Credited to Appropriation	874	1,250	1,250	1,250	1,250
<b>TOTALS</b>	<u>26,253</u>	<u>23,085</u>	<u>26,495</u>	<u>26,325</u>	<u>26,847</u>

**EXPLANATION:**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The FY 2008 and FY 2009 request does not include any future legislative changes that could vest the Board with additional responsibilities.

**SURFACE TRANSPORTATION BOARD  
FY 2009 BUDGET REQUEST BY APPROPRIATION ACCOUNT**  
(in thousands of dollars)

ACCOUNT NAME	BUDGET AUTHORITY				FY 2009 TOTAL REQUEST
	FY 2007 ACTUAL	FY 2008 PRESIDENT'S BUDGET REQUEST	FY 2008 BOARD'S BUDGET REQUEST	FY 2008 ENACTED	
SALARIES & EXPENSES	25,379	21,835	25,245	25,075	25,597
OFFSETTING COLLECTIONS: Users Fees Credited to Appropriation	874	1,250	1,250	1,250	1,250
<b>TOTALS</b>	<u>26,253</u>	<u>23,085</u>	<u>26,495</u>	<u>26,325</u>	<u>26,847</u>

**EXPLANATION:**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The FY 2008 and FY 2009 request does not include any future legislative changes that could vest the Board with additional responsibilities.

**SURFACE TRANSPORTATION BOARD  
FY 2009 BUDGET REQUEST BY APPROPRIATION ACCOUNT**  
(in thousands of dollars)

ACCOUNT NAME	OUTLAYS					FY 2009 TOTAL REQUEST
	FY 2007 ACTUAL	FY 2008 PRESIDENT'S BUDGET REQUEST	FY 2008 BOARD'S BUDGET REQUEST	FY 2008 ENACTED	FY 2009 TOTAL REQUEST	
SALARIES & EXPENSES	25,379	21,835	25,245	25,075	25,597	
OFFSETTING COLLECTIONS: Users Fees Credited to Appropriation	874	1,250	1,250	1,250	1,250	
<b>TOTALS</b>	<u>26,253</u>	<u>23,085</u>	<u>26,495</u>	<u>26,325</u>	<u>26,847</u>	

**EXPLANATION:**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The FY 2008 and FY 2009 request does not include any future legislative changes that could vest the Board with additional responsibilities.

**SURFACE TRANSPORTATION BOARD  
SUMMARY OF REQUESTED FUNDING CHANGES FROM BASE  
APPROPRIATIONS, OBLIGATION LIMITATIONS, AND EXEMPT OBLIGATIONS**  
(in thousands of dollars)

**SALARIES AND EXPENSES**

	FY 2008 Enacted	FY 2008 PC&B By Program	FY 2008 # FTE Per Program	FY 2009 Annualization of FY 2008 Pay Raise	FY 2009 Pay Raise	GSA Rent	WCF Increase/ Decrease	Inflation	Baseline Changes		Program Increase/ Decrease	FY 2009 Request
									FY 2008 Adjusted Base	FY 2008 Request		
<b>Direct:</b>												
<u>Personnel Resources</u>	141									141		141
Direct FTE	141									141		141
<b>Financial Resources</b>												
Salaries and Benefits	\$19,043		141	\$159	\$490					\$19,692	-\$295	\$19,397
Travel	\$110							\$5		\$115		\$115
Transportation	\$18							\$1		\$19		\$19
GSA Rent	\$3,450					\$220				\$3,670		\$3,670
Communications & Utilities	\$189									\$189		\$189
Printing	\$6							\$1		\$7		\$7
<b>Other Services:</b>												
-WCF	\$128						\$5			\$133		\$133
-Other	\$1,564							\$31		\$1,595	-\$16	\$1,579
Supplies	\$341							\$2		\$343		\$343
Equipment	\$226									\$226	-\$81	\$145
<b>Total</b>	\$25,075	\$0	141	\$159	\$490	\$220	\$5	\$40		\$25,989	-\$392	\$25,597
<b>Reimbursable:</b>												
<u>Personnel Resources</u>	9											
Reimbursable FTE	9											
<b>Financial Resources</b>												
Salaries and Benefits	\$1,250		10							\$1,250		\$1,250
<b>TOTAL</b>												
FTE	150		151							\$27,239	-\$392	\$26,847
<b>Budgetary Resources</b>	\$26,325	\$0	\$159	\$490	\$220	\$5	\$40			\$27,239	-\$392	\$26,847

**SURFACE TRANSPORTATION BOARD  
PERSONNEL RESOURCE - SUMMARY  
TOTAL FULL-TIME EQUIVALENTS**

	<u>FY 2007 ACTUAL</u>	<u>FY 2008 PRESIDENT'S BUDGET REQUEST</u>	<u>FY 2008 BOARD'S BUDGET REQUEST</u>	<u>FY 2008 ENACTED</u>	<u>FY 2009 REQUEST</u>
<b><u>DIRECT FUNDED BY APPROPRIATION</u></b>					
SALARIES & EXPENSES					
Civilian	129	115	141	141	141
SUBTOTAL, DIRECT FUNDED	129	115	141	141	141
<b><u>REIMBURSEMENTS/ALLOCATIONS/OTHER</u></b>					
OFFSETTING COLLECTIONS					
Civilian	7	10	9	9	9
SUBTOTAL, REIMBURSEMENTS/ OFFSETTING COLLECTIONS	7	10	9	9	9
TOTAL FTE	136	125	150	150	150

**EXPLANATION:**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The FY 2008 and FY 2009 request does not include any future legislative changes that could vest the Board with additional responsibilities.

**SURFACE TRANSPORTATION BOARD  
PERSONNEL RESOURCE - SUMMARY  
TOTAL FULL-TIME PERMANENT POSITIONS**

	FY 2007 ACTUAL	FY 2008 PRESIDENT'S BUDGET REQUEST	FY 2008 BOARD'S BUDGET REQUEST	FY 2008 ENACTED	FY 2009 REQUEST
<b><u>DIRECT FUNDED BY APPROPRIATION</u></b>					
SALARIES & EXPENSES					
Civilian	126	112	138	138	138
SUBTOTAL, DIRECT FUNDED	126	112	138	138	138
<b><u>REIMBURSEMENTS/ALLOCATIONS/OTHER</u></b>					
OFFSETTING COLLECTIONS					
Civilian	7	10	9	9	9
SUBTOTAL, REIMBURSEMENTS/ OFFSETTING COLLECTIONS	7	10	9	9	9
TOTAL FTE	133	122	147	147	147

**EXPLANATION:**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The FY 2008 and FY 2009 request does not include any future legislative changes that could vest the Board with additional responsibilities.

**SURFACE TRANSPORTATION BOARD  
SUMMARY BY PROGRAM ACTIVITY**  
(in thousands of dollars)

**APPROPRIATIONS, OBLIGATION LIMITATIONS, AND EXEMPT OBLIGATIONS**

<u>PROGRAM ACTIVITIES</u>	<u>FY 2007 ACTUAL</u>	<u>FY 2008 PRESIDENT'S BUDGET REQUEST</u>	<u>FY 2008 BOARD'S BUDGET REQUEST</u>	<u>FY 2008 ENACTED</u>	<u>FY 2009 TOTAL REQUEST</u>
SALARIES & EXPENSES	25,379	21,835	25,245	25,075	25,597
<b>TOTALS</b>	<u>25,379</u>	<u>21,835</u>	<u>25,245</u>	<u>25,075</u>	<u>25,597</u>
FTE (direct funded only)	129	115	141	141	141
OFFSETTING COLLECTIONS	874	1,250	1,250	1,250	1,250
FTE (reimbursable funded only)	7	10	9	9	9

**EXPLANATION:**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The FY 2008 and FY 2009 request does not include any future legislative changes that could vest the Board with additional responsibilities.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

10-YEAR TABLE

<u>ESTIMATES</u>			<u>APPROPRIATIONS</u>		
1999.....	1	(16,000,000)	1999.....	2	15,959,000
2000.....	1	(17,000,000)	2000.....	3	16,930,000
2001.....	1	(17,954,000)	2001.....	4	17,916,481
2002.....	5	18,457,000	2002.....	6	18,435,000
2003.....	7	20,651,300	2003.....	8	19,320,075
2004.....	9	20,516,000	2004.....	10	19,395,599
2005.....	11	21,283,000	2005.....	12	21,069,400
2006.....	11	26,622,000	2006.....	13	26,198,000
2007.....	11	25,618,000	2007.....	11	26,324,501
2008.....	11	26,495,000	2008.....	11	26,324,500
2009.....	11	26,847,000			

<sup>1</sup> To be derived from offsetting collections.

<sup>2</sup> Reflects reduction of \$10,000 for TASC (P.L. 105-277, sec. 320). Reflects reduction of \$31,000 for administrative and travel expenses, P.L. 106-51 (sec. 202). Includes \$2,600,000 from offsetting collections as a credit to the appropriation.

<sup>3</sup> Reflects reduction of \$12,000 for TASC (P.L. 106-69, sec. 319). Reflects reduction of \$58,000 (0.38 percent) (Sec. 301, title III, Appendix E-HR 3425, P.L. 106-113). Includes \$1,600,000 from offsetting collections as a credit to the appropriation.

<sup>4</sup> Reflects reduction of \$37,519 (0.22 percent) (Sec. 1403 of Chapter 14, Division A, Appendix D of P.L. 106-554). Includes \$900,000 from offsetting collections as a credit to the appropriation.

<sup>5</sup> Includes \$950,000 from offsetting collections as a credit to the appropriation.

<sup>6</sup> Reflects reduction of \$5,000 for TASC (P.L. 107-87, sec. 349), an additional reduction of \$4,000 for TASC (P.L. 107-117, sec. 1106), and reduction of \$13,000 for across-the-board rescission (P.L. 107-206). Includes \$950,000 from offsetting collections as a credit to the appropriation.

<sup>7</sup> Includes \$1,180,200 for CSRS/FEHB accrual. Includes \$1,000,000 from offsetting collections as a credit to the appropriation.

<sup>8</sup> Reflects reduction of \$10,000 for TASC (P.L. 108-7, sec. 362) and reduction of \$119,925 for across-the-board rescission (P.L. 108-7, sec. 601). Includes \$1,000,000 from offsetting collections as a credit to the appropriation.

<sup>9</sup> Includes \$1,050,000 from offsetting collections as a credit to the appropriation.

<sup>10</sup> Reflects reduction of \$16,422 for TASC (P.L. 108-199, Div. F, Title V, sec. 317) and reduction of \$108,979 for across-the-board rescission (P.L. 108-199, Div. H, sec. 168(b)). Includes \$1,050,000 from offsetting collections as a credit to the appropriation.

<sup>11</sup> Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>12</sup> Reflects reduction of \$19,000 for TASC (P.L. 108-447, Div. H, Title I, sec.197) and reduction of \$161,600 for across-the-board rescission (P.L. 108-447, Div. J, Title I, sec. 122). Includes \$1,050,000 from offsetting collections as a credit to the appropriation.

<sup>13</sup> Reflects reduction of \$252,000 for across-the-board rescission (P.L. 109-148, Title III, Chap. 8, sec. 3801). Includes \$1,250,000 from offsetting collections as a credit to the appropriation.