

SURFACE TRANSPORTATION BOARD



Regulatory Status – 2021/22 Federal Regulations

(Items in red text indicate a change of status or new item)

October 22, 2021

Key Updates on IANA Policy Issues

Type	Date Posted	Title <i>(As Published in the Federal Register)</i>	Federal Register Page # (Vol. #)	Status
Decision No. 8; Notice of Receipt of Amended Prefiling Notification	9/30/21	[Docket No. FD 36500] Canadian Pacific Railway Limited; Canadian Pacific Railway Company; Soo Line Railroad Company; Central Maine & Quebec Railway US Inc; Dakota, Minnesota & Eastern Railroad Corporation; and Delaware & Hudson Railway Company, Inc – Control – Kansas City Southern Railway Company, Gateway Eastern Rail Company, and the Texas Mexican Railway Company	<u>55678(86)</u>	STB determines its previous approval of CP/KCS voting trust on 05/06/21 will apply to amended notice of intent.
Amended notice of intent	09/15/21	Keywords: <i>Surface Transportation Board; Rail</i>	<u>Update</u>	KCS and CP file amended notice of intent to file an application for a merger.
Decision	08/31/21		<u>Decision</u>	STB rejects use of proposed voting trust agreement in CN/KCS merger.
Decision	08/02/21		<u>Decision</u>	STB grants in part and denies in part CP's petition for declaratory relief.
Update	07/06/21		<u>Update</u>	CN and KCS file reply to comments on proposed voting trust agreement.
Update	06/28/21		<u>Update</u>	CP files reply to CN and KCS joint motion for approval of a voting trust.
Update	06/23/21		<u>Update</u>	KCS files motion to strike CP's reply.
Update	06/21/21		<u>Update</u>	CP submits response to reply filed by KCS.
Update	06/16/21		<u>Update</u>	KCS files reply to CP's petition for declaratory relief.
Decision	06/08/21		<u>Decision</u>	STB directs KCS and CN to submit specified documents for review, grants CN's motion to adopt a procedural schedule, and establishes a comment period for the motion to approve the proposed voting trust

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Decision	06/07/21		<u>Decision</u>	agreement. Documents are due 06/14/21. Comments on the proposed use of a voting trust are due 06/28/21 and replies are due 07/06/21.
Update	5/28/21		<u>Petition</u>	STB denies CP's petition for expedited declaratory relief. Replies to CP's petition are due 06/16/21.
Update	05/26/21		<u>Motion</u>	CP files petition for expedited declaratory relief requesting STB confirm that KCS has a continuing obligation to provide CP with the information needed to prepare its merger application.
Update	05/21/21		<u>Letter</u>	CN and KCS file joint motion for approval of their revised voting trust agreement.
Update	05/20/21		<u>27499(86)</u>	CP files letter informing STB that KCS has terminated its merger agreement with CP and CP intends to proceed with its application for a merger.
Update	05/18/21		<u>Update</u>	STB issues notice of receipt of prefiling notification for the proposed merger between CN and KCS.
Decision	05/17/21		<u>Decision</u>	CN files motion to adopt procedural schedule for renewed motion for approval of voting trust agreement and requests 10- day comment period.
Update	05/13/21		<u>Update</u>	STB determines that current merger rules apply to proposed CN/KCS merger and denies CN's motion for approval of the voting trust agreement without prejudice.
Update			<u>Update</u>	KCS accepts CN's revised merger proposal.

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Decision	05/06/21		<u>Decision</u>	STB approves voting trust agreement for the proposed CP/KCS merger, subject to modifications.
Update	04/30/21		<u>Update</u>	CP files objection to applying waiver to the proposed merger between CN and KCS.
Motion	04/30/21		<u>Update</u>	Stakeholders file motion to revoke KCS waiver under CN transaction.
Notice of decision	04/23/21		<u>Decision</u>	STB determines regulatory waiver applies to the proposed merger between CP and KCS.
Decision	04/21/21		<u>20782(86)</u>	STB issues notice of receipt of prefiling notification for the proposed merger between CP and KCS.
Notice of intent	04/20/21		<u>Notice</u>	CN files notice of intent to acquire KCS.
Update	04/12/21		<u>Reply</u>	CP and KCS file response to waiver objections.
Notice of decision	04/05/21		<u>Decision</u>	STB directs CP and KCS to submit response to waiver objections by 04/12/21.
Notice of intent	03/23/21		<u>Notice of Intent</u>	CP and KCS submit notice of intent to file application for merger.
Decision	09/21/21	First-Mile/Last-Mile (FMLM) Service Keywords: <i>Surface Transportation Board (STB); Rail; Shippers</i>	<u>Update</u>	STB grants motion to extend deadline for comments. Comments due 12/17/21 and replies due 2/17/22.
Request for comments	09/08/21		<u>50421(86)</u>	STB requests comments on FMLM service issues, existing service data metrics, and recommendations for the collection of new metrics, due 10/18/21.
Notice of Decision	09/10/21	[Docket No. EP 552 (Sub-No. 25)] Railroad Revenue Adequacy—2020 Determination Keywords: <i>Surface Transportation Board</i>	<u>50752(86)</u>	STB finds that five Class I railroads were revenue adequate for the year 2020.

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Notice	08/19/21	Passenger Rail On-Time Performance (OTP) <i>Keywords: Surface Transportation Board (STB); Rail</i>	<u>Notice</u>	STB appoints coordinator for passenger rail OTP preparedness.
Letters	08/10/21	[Docket No. EP 754] Oversight Hearing on Demurrage and Accessorial Charges <i>Keywords: Surface Transportation Board (STB)</i>	<u>Letters</u>	Class I railroads send letters to STB Chairman providing information about congestion at container terminals and their policies and practices for assessing storage charges.
Letters	07/22/21		<u>Letters</u>	STB Chairman sends letters to Class I railroads requesting information about the extent of congestion at key container terminals and their policies and practices for assessing storage charges.
Letters	06/17/21		<u>Letters</u>	Four Class I railroads send letters providing update on their preparedness to meet current and anticipated demand for rail service.
Letters	05/28/21		<u>Letters</u>	STB send letters to all Class I railroads requesting they continue to provide quarterly information about their revenues from demurrage and accessorial charges.
Letters	05/27/21		<u>Letters</u>	STB sends letters to all Class I railroads requesting update on their preparedness to meet current and anticipated demand for rail service.
Letter	04/20/21		<u>Letter</u>	Greater Memphis Chamber requests STB take action to address container storage fees and chassis availability.
Final Rule	04/06/21		<u>17735(86)</u>	STB issues final rule adopting minimum information requirements for Class I demurrage invoices. Effective 10/06/21.

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Supplemental notice of proposed rulemaking	05/06/20		<u>26915(85)</u>	STB requests comments on minimum information requirements of Class I demurrage invoices. Comments due 06/05/20.
Final Rule	05/06/20		<u>26858(85)</u>	STB adopts new demurrage billing requirements for Class I carriers, effective 06/20/20.
Statement of Board Policy	05/06/20		<u>26866(85)</u>	STB issues final policy statement clarifying how it will evaluate the reasonableness of demurrage and accessorial charges, effective 05/30/20.
Final rule	03/04/20		<u>12749(85)</u>	STB adopts revisions to clarify demurrage charges apply to miscellaneous commodities and box car transportation. The final rule is effective 04/03/20.
Notice of proposed rulemaking	10/15/19		<u>55109(84)</u>	STB proposes changes to clearly define that exemptions for miscellaneous commodities and box car transportation do not apply to demurrage charges. Comments due 11/06/19.
Notice of proposed rulemaking	10/15/19		<u>55114(84)</u>	STB proposes changes to the invoicing requirements for demurrage charges. Comments due 11/06/19.
Notice of proposed statement of board policy	10/10/19		<u>45717(84)</u>	STB proposes a policy statement clarifying how it will evaluate the reasonableness of demurrage and accessorial charges. Comments due 11/06/19.
Notice of Public Hearing	04/16/19		<u>15662(84)</u>	STB will hold a public hearing on railroad demurrage and accessorial charges on 05/22/19.
Decision	07/30/21	[Docket No. FD 36472] CSX Corporation and CSX Transportation, Inc., et al.—Control and Merger—Pan	<u>41145(86)</u>	STB accepts for consideration CSX's revised merger application and establishes

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Update	07/02/21	Am Systems, Inc., Pan Am Railways, Inc., Boston and Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railway Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company <i>Keywords: Surface Transportation Board; Rail</i>	<u>Update</u>	procedural schedule. Comments due 08/27/21.
Decision	06/02/21		<u>29623(86)</u>	CSX submits amended application for merger. STB rejects CSX's application for approval to acquire Pan Am Railways as incomplete, permits CSX to file revised application consistent with "significant" transaction requirements by 08/26/21.
Update	05/28/21		<u>Letter</u>	CSX notifies STB it intends to file a revised application for merger by 07/01/21.
Notice of proposed procedural schedule; request for comments	04/26/21		<u>22091(86)</u>	STB issues notice of proposed procedural schedule and request for comments. Comments due 05/06/21.
Notice of decision; notice of receipt of prefiling notification	03/25/21		<u>16009(86)</u>	STB determines that the proposed acquisition by CSX of Pan Am Railways will be considered a "significant" transaction. Applicants will supplement their submission with the requisite information between 04/25/21 and 06/25/21.
Notice	07/12/21	[Docket No. EP 748] Indexing the Annual Operating Revenues of Railroads <i>Keywords: Surface Transportation Board; Rail</i>	<u>36590(86)</u>	STB publishes annual deflator factor and inflation-adjusted railroad revenue thresholds for 2020.
Notice of proposed rulemaking	5/28/21	Railroad Consolidation Procedures—Exemption for Emergency Temporary Trackage Rights <i>Keywords: Rail</i>	<u>30243(86)</u>	STB issues NPRM to establish new class exemption for emergency temporary trackage rights, comments due 07/12/21.
Petition for rulemaking	02/05/21		<u>8336(86)</u>	STB initiates proceeding to consider rulemaking proposed by AAR to establish new class exemption for emergency temporary trackage rights.

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Final Rule	04/05/21	[Docket No. EP 763] Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers <i>Keywords: Surface Transportation Board (STB)</i>	<u>17548(86)</u>	STB adopts final rule raising revenue thresholds for Class I classification. Effective 06/04/21.
Notice of proposed rulemaking	10/02/20		<u>62271(85)</u>	STB proposes to increase revenue thresholds for Class I rail carriers in response to petition filed by Montana Rail Link. Comments due 11/02/20.
Presentation of the Board's calculation for the change in railroad productivity for the 2015-2019 averaging period	02/24/21	[Docket No. EP 290 (Sub-No. 4)] Railroad Cost Recovery Procedures—Productivity Adjustment <i>Keywords: Surface Transportation Board</i>	<u>11376(86)</u>	STB proposes a 0.8% increase per year for the railroad productivity calculation for 2015-2019. Comments due 03/08/21.
Notice of decision instituting a proceeding to determine the railroad industry's 2020 cost of capital	02/10/21	[Docket No. EP 558] (Sub-No. 24) Railroad Cost of Capital – 2020 <i>Keywords: Rail; Railroad Regulation (Staggers Act)</i>	<u>8983(86)</u>	STB seeks comments from Class I railroads, and other interested parties, to assist in determining the railroad cost of capital for 2020. Statements from railroads due 04/19/21, statements of other interested parties due 05/10/21.
Notice	01/13/21	[Docket No. EP 526 (Sub-No. 14)] Notice of Railroad-Shipper Transportation Advisory Council Vacancies; Solicitation of Nominations <i>Keywords: Rail; Intermodal</i>	<u>2720(86)</u>	STB seeks nominations from small railroad representatives to fill two vacancies on the Railroad-Shipper Transportation Advisory Council. Nominations due 02/12/21.
Announcement of technical conference	01/07/21	[Docket No. EP 704 (Sub-No. 1)] Review of Commodity, Boxcar, and Trailer-on-Flatcar/Container-on-Flatcar (TOFC/COFC) Exemptions	<u>Update</u>	STB will reconvene technical conference on market analysis approach and extends comment deadline, now due 01/29/21.
Announcement of technical conference	12/03/20	<i>Keywords: Surface Transportation Board (STB)</i>	<u>78075(85)</u>	STB grants AAR's request to hold technical conference on market analysis approach and extend comment deadline, now due 01/22/20.
Notice of proposed rulemaking; request for comments	10/05/20		<u>62689(85)</u>	STB requests comments on new approach to analyze market conditions for class commodity exemption determinations, due 12/04/20.

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Notice of proposed rulemaking	03/28/16		<u>17125(81)</u>	STB is seeking public comment on its proposal to revoke certain existing class exemptions. Comments due 05/27/16.
Petition for rulemaking	12/31/20	Joint Petition For Rulemaking—Annual Revenue Adequacy Determinations <i>Keywords: Rail</i>	<u>86876 (85)</u>	STB opens a rulemaking proceeding to consider a petition by several Class I railroads to change procedures for determining whether Class I railroads are revenue adequate. Comments due 03/01/21; responses due 03/31/21.
Announcement	12/08/20	Surface Transportation Board Reauthorization Act of 2015 <i>Keywords: Surface Transportation Board (STB); Rail</i>	<u>79070(85)</u>	STB updates its roster of arbitrators who resolve rail rate practice and complaints.
Announcement	02/13/20		<u>Decision</u>	STB revises its roster of arbitrators who will help resolve rail rate and practice complaints.
Final Rule	11/29/17		<u>Decision</u>	STB is modifying its rate case procedures to expedite the rate review process. Effective 12/30/17.
Final rules	12/14/16		<u>90229(81)</u>	STB publishes final rules for investigations conducted on the Board's own initiative in accordance with the STB Reauthorization Act of 2015. Rules are effective 01/12/17.
Final rules	10/6/16		<u>69410(81)</u>	STB adopts changes to its arbitration procedures in accordance with the STB Reauthorization Act of 2015. Effective 10/30/16.
Notice of proposed rulemaking	12/03/20	[Docket No. EP 738] Regulatory Reform Task Force <i>Keywords: Surface Transportation Board (STB)</i>	<u>78075(85)</u>	STB grants petition by five Class I railroads to initiate rulemaking considering new arbitration program for small rate disputes.
Final rule	09/03/20		<u>54936(85)</u>	STB publishes final rule to improve waybill sample reporting and data collection for non-intermodal and intermodal shipments, effective 01/01/21.

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Final rule	08/06/20		<u>47675(85)</u>	STB adopts streamlined approach for pleading market dominance in rate reasonableness cases, effective 09/05/20.
Decision	05/15/20		<u>Decision</u>	STB waives prohibition on ex parte communications to seek additional stakeholder input on Final Offer Rate Review proposed rulemaking.
Notice of proposed rulemaking	11/29/19		<u>65768(84)</u>	STB proposes changes to waybill sampling rates for both non-intermodal and intermodal shipments. Comments due 01/28/20.
Notice of public hearing	11/22/19		<u>Decision</u>	STB publishes speaker list for its hearing on revenue adequacy and announces the hearing will take place over two days: 12/12/19-12/13/19.
Notice of proposed rulemaking; request for comments	09/12/19		<u>48872(84)</u>	STB proposes a new process for smaller cases challenging the reasonableness of railroad rates. Comments due 11/12/19.
Notice of proposed rulemaking	09/12/19		<u>48882(84)</u>	STB proposes a streamlined approach for pleading market dominance in rate reasonableness proceedings. Comments due 11/12/19.
Notice of public hearing	09/12/19		<u>48982(84)</u>	STB will hold a public hearing to discuss RRTF's recommendations regarding revenue adequacy on 12/12/19.
Report	04/25/19		<u>Report</u>	The Rate Reform Task Force submits report to STB recommending possible changes to rate review methodologies and processes.
Final Rule	04/03/19		<u>12940(84)</u>	STB adopts modifications to certain payment, filing and service procedures at the recommendation of the Regulatory Reform Task Force.

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Notice of proposed rulemaking; withdrawal	06/30/20	[Docket No. EP 664] (Sub-No.4) Revisions to the Board's Methodology for Determining the Railroad Industry's Cost of Capital <i>Keywords: Rail; Railroad Regulation (Staggers Act)</i>	<u>39154(85)</u>	STB withdraws the proposal to modify its existing cost of capital methodology and discontinues the proceeding.
Update	10/21/19		<u>Decision</u>	STB extends the comment period for proposed changes to the methodology of cost of capital calculations. Comments now due 12/05/19.
Notice of proposed rulemaking	10/04/19		<u>53094(84)</u>	STB proposes to adopt a third finance model to use in determining the cost of equity component within its cost of capital calculation. Comments due 11/05/19.
Final rule	05/21/20	[Docket No. EP 724] (Sub-No. 5) Petition for Rulemaking; Railroad Performance Data Reporting <i>Keywords: Surface Transportation Board (STB)</i>	<u>30849(85)</u>	STB finalizes rule to classify chemical and plastic traffic as separate reporting category as requested in ACC's petition, effective 07/20/20.
Notice of proposed rulemaking	10/07/19		<u>53375(84)</u>	STB partially grants ACC's petition on railroad performance data reporting. Comments due 12/06/19.
Notification of commencement of proceeding and request for comments.	04/12/19		<u>14907(84)</u>	STB grants the American Chemistry Council's petition for rulemaking regarding railroad performance data reporting requirements, requests additional information from ACC and AAR.
Extension of comment period	12/09/19	EP 752 Petition for Rulemaking to Incorporate Cost-Benefit Analyses in Rulemaking Proceedings <i>Keywords: Surface Transportation Board</i>	<u>Decision</u>	STB extends comment period on incorporating cost-benefit analyses into its rulemaking proceedings. Comments now due 01/31/20.
Solicitation of information	11/08/19		<u>60466(84)</u>	STB seeks additional information on implementing cost-benefit analyses into its rulemaking proceedings. Comments due 01/17/19.
Decision	07/10/19		<u>Decision</u>	STB defers action on AAR's petition for rulemaking.

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Petition for Rulemaking	03/14/19		<u>Petition</u>	AAR petitions STB to adopt a rulemaking to incorporate cost-benefit analyses into its rulemaking proceedings.
Report	10/25/19	The Signs and Symptoms of Regulatory Obsolescence in Network Industries <i>Keywords: Surface Transportation Board (STB); Rail; Railroad Regulation (Staggers Act)</i>	<u>Report</u>	AEI publishes report recommending STB be housed under USDOT, rather than serving as an independent agency.