

Federal Register

Friday
November 29, 1996

Part LXI

**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. 1]

Semiannual Regulatory Agenda and Regulatory Plan

AGENCY: Surface Transportation Board, DOT.

ACTION: Semiannual regulatory agenda and regulatory plan.

SUMMARY: The Surface Transportation 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. Also, in response to Executive Order No. 12866, those proceedings which are part of The Regulatory Plan are identified.

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, during the months of April and October of each year, 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 which 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).

In addition, Executive Order No. 12866 "Regulatory Planning and Review" requires that each agency prepare a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in the fiscal year or thereafter.

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.

For this edition of the Surface Transportation Board's regulatory agenda, the most important significant regulatory actions are included in The Regulatory Plan, which appears in Part II of this issue of the Federal Register. The Regulatory Plan entries are listed in the Table of Contents below and are denoted by a bracketed bold reference, which directs the reader to the appropriate Sequence Number in Part II.

The agenda represents the Board's best estimate of rules which 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 October 1996 regulatory flexibility agenda and regulatory plan as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions. The Unified Agenda of Federal Regulatory and Deregulatory Actions is coordinated by the Office of Management and Budget pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: September 19, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4840	Rate Guidelines—Noncoal Proceedings, Ex Parte No. 347 (Sub-No. 2) (Reg Plan Seq. No. 171)	2140-AA01
4841	Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 USC 10903, STB Ex Parte No. 537 (Reg Plan Seq. No. 172)	2140-AA17

References in boldface appear in the Regulatory Plan in Part II of this issue of the **Federal Register**.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4842	Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision, Ex Parte No. 282 (Sub-No. 15)	2140-AA03
4843	Rail General Exemption Authority—Exemption of Paints, Enamels, Lacquers, Shellacs, Etc., Ex Parte No. 346 (Sub-No. 33)	2140-AA05

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Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
4844	Rail General Exemption Authority—Exemption of Non-Ferrous Recyclables and Railroad Rates on Recyclable Commodities, Ex Parte No. 346 (Sub-No. 36)	2140-AA06
4845	Petition for Rulemaking—Invoiceless Billing Transactions, Ex Parte No. 55 (Sub-No. 95)	2140-AA07
4846	Railroad Contracts, STB Ex Parte No. 541	2140-AA19

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4847	Exemption of Demurrage From Regulation, Ex Parte No. 462	2140-AA00
4848	Class Exemption for the Construction of Connecting Tracks Under 49 USC 10901, Ex Parte No. 392 (Sub-No. 2)	2140-AA02
4849	Expedited Procedures for Processing Rail Rate Reasonableness, Exemption, and Revocation Proceedings, STB Ex Parte No. 527	2140-AA08
4850	Disclosure, Publication, and Notice of Change of Rates and Other Service Terms for Rail Common Carriage, STB Ex Parte No. 528	2140-AA09
4851	Class Exemption for Acquisition or Operation of Rail Lines by Class III Rail Carriers Under 49 USC 10902, STB Ex Parte No. 529	2140-AA10
4852	Disclosure and Notice of Change of Rates and Other Service Terms for Pipeline Common Carriage, STB Ex Parte No. 538	2140-AA18

SURFACE TRANSPORTATION BOARD (STB)

Final Rule Stage

4840. RATE GUIDELINES—NONCOAL PROCEEDINGS, EX PARTE NO. 347 (SUB-NO. 2)

Regulatory Plan: This entry is Seq. No. 171 in Part II of this issue of the Federal Register.

RIN: 2140-AA01

4841. ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 USC 10903, STB EX PARTE NO. 537

Regulatory Plan: This entry is Seq. No. 172 in Part II of this issue of the Federal Register.

RIN: 2140-AA17

SURFACE TRANSPORTATION BOARD (STB)

Long-Term Actions

4842. RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, EX PARTE NO. 282 (SUB-NO. 15)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 11341; 49 USC 11343 to 11346; 11 USC 1172; 45 USC 904; 45 USC 915; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1180

Legal Deadline: None

Abstract: The Board is considering whether to expand the “nonconnecting carrier” class exemption to embrace all transactions subject to the statutory consolidation provision, except (1) transactions involving the merger or control of at least two class I railroads; (2) transactions involving a reduction in the number of noncommonly controlled railroads serving any two points; (3) transactions involving a reduction from three to two in the number of noncommonly controlled railroads serving any interchange points.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803,

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which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5660
TDD: 202 927-5721
Fax: 202 927-5984

RIN: 2140-AA03

4843. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF PAINTS, ENAMELS, LACQUERS, SHELLACS, ETC., EX PARTE NO. 346 (SUB-NO. 33)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10708; 49 USC 10762; 49 USC 11105; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Board is investigating whether to exempt from regulation the rail transportation of paints, enamels, lacquers, shellacs, and other commodities included within Standard Transportation Commodity Code (STCC) No. 285.

Timetable:

Action	Date	FR Cite
NPRM	10/21/93	58 FR 54318
NPRM Comment Period End	11/22/93	
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423
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RIN: 2140-AA05

4844. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF NON-FERROUS RECYCLABLES AND RAILROAD RATES ON RECYCLABLE COMMODITIES, EX PARTE NO. 346 (SUB-NO. 36)

Priority: Substantive, Nonsignificant

Legal Authority: 49 USC 10321; 49 USC 10505; 49 USC 10731; 49 USC 10707a; 5 USC 553

CFR Citation: 49 CFR 1039; 49 CFR 1145

Legal Deadline: None

Abstract: The Board is considering whether to exempt from regulation the rail transportation of non-ferrous recyclables subject to exemptions.

Timetable:

Action	Date	FR Cite
NPRM	08/24/94	59 FR 43529
Comment Period Extended to 10/24/94	09/15/94	59 FR 47292
NPRM Comment Period End	09/23/94	59 FR 43529
Comment Period Extended to 11/07/94	10/26/94	59 FR 53775
Internal Review of Comments	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th & Constitution Avenue NW., Washington, DC 20423
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RIN: 2140-AA06

4845. PETITION FOR RULEMAKING—INVOICELESS BILLING TRANSACTIONS, EX PARTE NO. 55 (SUB-NO. 95)

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or

duplication, or streamline requirements.

Legal Authority: 49 USC 10321; 49 USC 11144; 5 USC 553

CFR Citation: 49 CFR 1051; 49 CFR 1220

Legal Deadline: None

Abstract: The Board is examining whether restrictions against invoiceless bills between shippers and carriers should be removed or modified. In this context, invoiceless billing means a system in which payments are made with no paper or electronic freight bill being issued by the carrier.

Timetable:

Action	Date	FR Cite
ANPRM	08/09/95	60 FR 40548
ANPRM Comment Period End	10/10/95	
Comments Under Review	00/00/00	

Small Entities Affected: None

Government Levels Affected: None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
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Fax: 202 927-5984

RIN: 2140-AA07

4846. RAILROAD CONTRACTS, STB EX PARTE NO. 541

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 721(a); 49 USC 10709

CFR Citation: 49 CFR 1313

Legal Deadline: None

Abstract: The Board has removed from the Code of Federal Regulations obsolete regulations exempting non-

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agricultural railroad transportation contracts from the contract requirements that applied prior to the ICC Termination Act. New regulations are needed for administering regulatory provisions applicable to contracts for the transportation of agricultural products.

Timetable:

Action	Date	FR Cite
ANPRM	03/26/96	61 FR 13147

Action	Date	FR Cite
ANPRM Comment Period End	04/25/96	
ANPRM Comment Period Extended to	05/28/96	61 FR 17682
Obsolete regulations removed	06/07/96	61 FR 29036
Comments Under Review	00/00/00	

Small Entities Affected: None
Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721
Fax: 202 927-5984
RIN: 2140-AA19

SURFACE TRANSPORTATION BOARD (STB)

Completed Actions

4847. EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Priority: Substantive, Nonsignificant
Legal Authority: 49 USC 10505; 49 USC 10750; 49 USC 11121 to 11122; 5 USC 553
CFR Citation: 49 CFR 1033
Legal Deadline: None

Abstract: The Board has withdrawn antitrust immunity for the collective consideration of demurrage charges. The Board did not adopt the two alternative proposals considered in this proceeding.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	
NPRM	04/22/92	57 FR 14689
Extension of Public Comment Period to 07/21/92	05/13/92	57 FR 20442
NPRM Comment Period End	05/22/92	57 FR 14689
Extension of Public Comment Period to 09/21/92	07/27/92	57 FR 33166
Final Action	03/29/96	61 FR 14200
Final Action Effective	04/28/96	

Small Entities Affected: None
Government Levels Affected: None
Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, Room

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RIN: 2140-AA00

4848. CLASS EXEMPTION FOR THE CONSTRUCTION OF CONNECTING TRACKS UNDER 49 USC 10901, EX PARTE NO. 392 (SUB-NO. 2)

Priority: Substantive, Nonsignificant
Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10901; 49 USC 10505
CFR Citation: 49 CFR 1150
Legal Deadline: None

Abstract: The Board has adopted a class exemption for the construction and operation of connecting railroad track. The Board rejected a proposed class exemption for other railroad constructions but will continue to process individual exemption requests for these construction projects on an expedited basis.

Timetable:

Action	Date	FR Cite
NPRM	07/24/86	51 FR 26563
NPRM Comment Period End	08/25/86	
NPRM	09/16/92	57 FR 42733
NPRM Comment Period End	10/16/92	
Final Action	06/13/96	61 FR 29973
Final Action Effective	07/13/96	

Small Entities Affected: None
Government Levels Affected: None
Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat.

803, which became effective on January 1, 1996.

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, Room 2144, 12th & Constitution Avenue NW., Washington, DC 20423
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Fax: 202 927-5984
RIN: 2140-AA02

4849. EXPEDITED PROCEDURES FOR PROCESSING RAIL RATE REASONABLENESS, EXEMPTION, AND REVOCATION PROCEEDINGS, STB EX PARTE NO. 527

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 701; 49 USC 721; 49 USC 10502; 49 USC 10701; 49 USC 10704; 49 USC 11701; 5 USC 553; 49 USC 10501

CFR Citation: None

Legal Deadline: Final, Statutory, October 1, 1996.

Abstract: The Board is proposing to establish procedures to expedite the handling of challenges to the reasonableness of railroad rates and the handling of railroad exemption and revocation proceedings. As part of this proceeding, the Board is also proposing to eliminate certain provisions of its Rules of Practice that are no longer needed.

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Timetable:

Action	Date	FR Cite
ANPRM	03/22/96	61 FR 11799
ANPRM Comment Period End	05/06/96	
NPRM	07/22/96	61 FR 39110
NPRM Comment Period End	08/21/96	
Final Action	10/01/96	61 FR 52710

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas J. Stilling, Attorney, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-7312
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Fax: 202 927-5984

RIN: 2140-AA08

4850. DISCLOSURE, PUBLICATION, AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR RAIL COMMON CARRIAGE, STB EX PARTE NO. 528

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 721(a); 49 USC 11101(f)

CFR Citation: 49 CFR 1300

Legal Deadline: Final, Statutory, June 29, 1996.

Abstract: The Board adopted regulations governing the disclosure, publication, and notice of change of rates and other service terms for rail common carriers. Rail carriers must disclose to any person, upon formal request, the specific rate(s), as well as all charges and service terms that may apply to a particular service, and provide notice of any future increases in rates or terms. The information must be provided on a timely basis (at least by the following day in most instances). Upon request by a shipper, carriers must provide new rates within 10 days of the request. Rate increases may not take effect unless 20 days' notice is provided to all persons who have used the rate in the previous 12 months. For the transportation of agricultural products, carriers must set forth their rates in publications. Carriers may use

written or electronic forms to comply with these regulations.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/96	61 FR 9413
ANPRM Comment Period End	04/08/96	
NPRM	05/09/96	61 FR 21153
NPRM Comment Period End	06/10/96	
Final Action	07/05/96	61 FR 35139
Final Action Effective	08/04/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th & Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-5610
TDD: 202 927-5721
Fax: 202 927-5984

RIN: 2140-AA09

4851. CLASS EXEMPTION FOR ACQUISITION OR OPERATION OF RAIL LINES BY CLASS III RAIL CARRIERS UNDER 49 USC 10902, STB EX PARTE NO. 529

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 5 USC 553; 49 USC 721; 49 USC 10502; 49 USC 10902

CFR Citation: 49 CFR 1002.2(f)(36); 49 CFR 1150 subpart (D); 49 CFR 1150 subpart (E)

Legal Deadline: None

Abstract: The Board has adopted a new class exemption for transactions in which Class III rail carriers acquire or operate additional rail properties under 49 USC 10902. The new exemption is similar to the Board's existing rules for noncarrier transactions under 49 USC 10901. Because section 10902 precludes the Board from imposing labor protection for affected rail employees, the new exemption will not provide for labor protection.

Timetable:

Action	Date	FR Cite
NPRM	03/22/96	61 FR 11802
NPRM Comment Period End	04/22/96	

Action	Date	FR Cite
Final Action	06/24/96	61 FR 32355
Final Action Effective	07/24/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423
Phone: 202 927-7312
TDD: 202 927-5721
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RIN: 2140-AA10

4852. DISCLOSURE AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR PIPELINE COMMON CARRIAGE, STB EX PARTE NO. 538

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 49 USC 721(a); 49 USC 15701(e)

CFR Citation: 49 CFR 1305

Legal Deadline: Final, Statutory, June 29, 1996.

Abstract: The Board adopted regulations governing the disclosure, publication, and notice of change of rates and other service terms for pipeline carriers transporting commodities other than water, gas or oil. These carriers must disclose to any person, upon formal request, the specific rate(s), as well as all charges and service terms that may apply to a particular service, and provide notice of any future increases in rates or terms. The information must be provided on a timely basis (at least by the following day in most instances). Upon request by a shipper, carriers must provide new rates within 10 days of the request. Rate increases may not take effect unless 20 days' notice is provided to all persons who have used the rate in the previous 12 months. Carriers may use written or electronic forms to comply with these regulations.

Timetable:

Action	Date	FR Cite
ANPRM	03/14/96	61 FR 10526

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Action	Date	FR Cite	Small Entities Affected: None	Phone: 202 927-5610
ANPRM Comment Period End	04/15/96		Government Levels Affected: None	TDD: 202 927-5721 Fax: 202 927-5984
NPRM	05/15/96	61 FR 24474	Agency Contact: Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 12th and Constitution Avenue NW., Washington, DC 20423	RIN: 2140-AA18 [FR Doc. 96-24940 Filed 11-27-96; 8:45 am] BILLING CODE 4915-00-F
NPRM Comment Period End	06/04/96			
Final Action	07/05/96	61 FR 35141		
Final Action Effective	08/04/96			