

will consider entry of a decision awarding damages.

[47 FR 49575, Nov. 1, 1982, as amended at 64 FR 53268, Oct. 1, 1999]

### PART 1135—RAILROAD COST RECOVERY PROCEDURES

Sec.

1135.1 Quarterly adjustment.

1135.2 Revenue Shortfall Allocation Method: Annual State tax information.

AUTHORITY: 5 U.S.C. 553, and 49 U.S.C. 721, 10701, 10704, 10708, and 11145.

#### § 1135.1 Quarterly adjustment.

To enable the Board to publish the rail cost adjustment factor (RCAF) as required by 49 U.S.C. 10708, the Association of American Railroads (AAR) shall calculate and file with the Board by the fifth day of December, March, June and September of each year its forecast for the next calendar quarter of the all-inclusive index of railroad costs and calculate and file the RCAF unadjusted for changes in railroad productivity as prescribed in *Railroad Cost Recovery Procedures*, 1 I.C.C.2d 207 (1984), and any subsequent amendments thereto. In addition, the AAR shall calculate the productivity-adjusted RCAF as prescribed in *Railroad Cost Recovery Procedures*, 5 I.C.C.2d 434 (1989), and any subsequent amendments thereto. The AAR shall submit workpapers detailing its calculations. The Board will review and verify the AAR submissions and make its RCAF publication by the twentieth day of December, March, June and September of each year.

[67 FR 55166, Aug. 28, 2002]

#### § 1135.2 Revenue Shortfall Allocation Method: Annual State tax information.

(a) To enable the Board to calculate the revenue shortfall allocation method (RSAM), which is one of the three benchmarks that are used to determine the reasonableness of a challenged rate under one standard of the Board's *Simplified Standards for Rail Rate Cases*, STB Docket No. 646 (Sub-No. 1) (STB served Sept. 5, 2007), the Association of American Railroads (AAR) shall file with the Board, on or before May 30, the weighted average State tax rates

applicable to each Class I railroad for the previous year. The AAR shall submit workpapers detailing its calculations.

(b) The Board will serve and publish a notice of the filing in the FEDERAL REGISTER within 10 days of the AAR's filing.

(c) Any interested party may file comments on the AAR's filing within 30 days of the notice described in paragraph (b) of this section. If no comments are received within 30 days, the Board will automatically adopt the AAR's weighted average State tax rates on the 31st day. If comments opposing the AAR's calculations are received, the AAR's response will be due within 20 days of the comments. The Board will review the submission and comments and serve a decision within 60 days from the date of the close of the record that either accepts, rejects, or modifies the AAR's railroad-specific tax information.

[75 FR 8818, Feb. 26, 2010]

### PART 1139—PROCEDURES IN MOTOR CARRIER REVENUE PROCEEDINGS

#### Subpart A—Common Carriers of General Commodities

Sec.

1139.1 Application.

1139.2 Traffic study.

1139.3 Cost study.

1139.4 Revenue need.

1139.5 Affiliate data.

1139.6 Official notice.

1139.7 Service.

1139.8 Availability of underlying data.

APPENDIX I TO SUBPART A OF PART 1139—REVENUE NEED AND ALLOCATION TO TRAFFIC AT ISSUE

APPENDIX II TO SUBPART A OF PART 1139—FINANCIAL RATIOS (TRAFFIC AND COST STUDY CARRIER

#### Subpart B—Intercity Bus Industry

1139.20 Application.

1139.21 Study carriers.

1139.22 Revenue data for study carriers.

1139.23 Revenue need.

1139.24 Official notice.

1139.25 Service.

1139.26 Availability of underlying data.

SCHEDULE A TO SUBPART B OF PART 1139—CLASS I PARTICIPATING CARRIERS' REVENUE DATA