entity must comply with the requirements in NHTSA’s CBI regulation and satisfy the requirements for one of the exemptions provided under the FOIA, 5 U.S.C. 552(b).

**ADDITIONAL INFORMATION**

**DEPARTMENT OF TRANSPORTATION**

**Research and Innovative Technology Administration**

**Advisory Council on Transportation Statistics; Notice of Meeting**

**AGENCY:** Research Innovative Technology Administration, U.S. Department of Transportation.

**ACTION:** Notice.

This notice announces, pursuant to Section 205(a)(2) of the Federal Advisory Committee Act (FACA) (Pub. L. 72–363; 5 U.S.C. app. 2), a meeting of the Advisory Council on Transportation Statistics (ACTS). The meeting will be held on Thursday, February 24, 2011, from 9 a.m. to 5 p.m. EST in the Oklahoma City Room at the U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC. Section 5601(o) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) directs the U.S. Department of Transportation to establish an Advisory Council on Transportation Statistics subject to the Federal Advisory Committee Act (5 U.S.C., App. 2) to advise the Bureau of Transportation Statistics (BTS) on the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department. The following is a summary of the draft meeting agenda: (1) USDOT welcome and introduction of Council Members; (2) Overview of prior meeting; (3) Discussion of the FY 2012 budget; (4) Discussion of product dissemination; (5) Council Members review and discussion of statistical programs; (6) future Council activities and (7) Public Comments and Closing Remarks. Participation is open to the public. Members of the public who wish to participate must notify Petrina Collier at Petrina.Collier@dot.gov, not later than February 3, 2011. Members of the public may present written comments at the meeting with the approval of Steven K. Smith, Deputy Director of the Bureau of Transportation Statistics. Noncommittee members wishing to present oral statements or obtain information should contact Petrina Collier via e-mail no later than February 3, 2011.

Questions about the agenda or written comments may be e-mailed or submitted by U.S. Mail to: U.S. Department of Transportation, Research and Innovative Technology Administration, Bureau of Transportation Statistics, Attention: Petrina Collier, 1200 New Jersey Avenue, SE., Room # E34–457, Washington, DC 20590, Petrina.Collier@dot.gov or faxed to (202) 366–3640. BTS requests that written comments be received by February 9, 2011. Access to the DOT Headquarters building is controlled therefore all persons who plan to attend the meeting must notify Ms. Petrina Collier at (202) 366–5796 prior to February 9, 2011. Individuals attending the meeting must report to the main DOT entrance on New Jersey Avenue, SE., for admission to the building. Attendance is open to the public, but limited space is available. Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Collier at (202) 366–5796 at least seven calendar days prior to the meeting.

Notice of this meeting is provided in accordance with the FACA and the General Services Administration regulations (41 CFR part 102–3) covering management of Federal advisory committees.

Issued on: January 7, 2011.

O. Kevin Vincent, Chief Counsel.

**[FR Doc. 2011–819 Filed 1–13–11; 8:45 am]**

**BILLING CODE 4910–59–P**
The Board also conducted a review of its competitive access standards in Review of Rail Access & Competition Issues, 3 S.T.B. 92 (1998). More recently, in response to a recommendation of the United States Government Accountability Office (GAO), the Board commissioned Christensen Associates, Inc. (Christensen Associates), to perform an independent study to examine these issues. The resulting report, A Study of Competition in the U.S. Freight Railroad Industry and Analysis of Proposals That Might Enhance Competition (November 2009), is available on the Board’s Web site or at http://www.lrca.com/railroadstudy/.

The United States railroad industry has changed in many significant ways since the Board’s competitive access standards were originally adopted in the mid-1980s. Among the more salient developments have been the improving economic health of the railroad industry, increased consolidation in the Class I railroad sector, the proliferation of a short line railroad network, and an increased participation of rail customers in car ownership and maintenance, as well as other activities previously undertaken by the carrier. Since 1980, railroad productivity improved dramatically, resulting in lower transportation rates. However, productivity gains appear to be diminishing and, since 2004, overall railroad transportation prices have increased. See Christensen Update at 1 & 3-26. Taken together, these events suggest that it is time for the Board to consider the issues of competition and access further.

The Bottleneck Issue. A rail bottleneck rate issue arises when more than one railroad can provide service over at least a portion of the movement of a shipper’s goods from an origin to a destination, but where either the origin or destination is served by only one carrier, i.e., the bottleneck carrier. In each of the Bottleneck cases, an electric utility company sought to require the bottleneck carrier to establish a “local rate” for a segment of the through movement that was served only by that carrier, so that the utility could combine that local rate with a rate for the remainder of the movement by another carrier. The utilities further sought to be able to separately challenge the reasonableness of the rate for the bottleneck segment of the movement, rather than having to challenge the origin-to-destination rate in its entirety.

Each of the utilities in the Bottleneck cases sought to divide the bottleneck carrier’s long-haul and through rate into smaller portions that could be priced and, accordingly, challenged, independently. The utilities believed that the total charges would be lower if the reasonableness of the rates were adjudicated only for the bottleneck portion of the movement (with the rate set by head-to-head rail competition for the remainder of the movement), rather than for the entire movement. Because the Bottleneck cases raised issues of broad importance, the Board provided for extensive public input and held an oral argument.

In the resulting decisions, the Board concluded that a shipper could not routinely direct a bottleneck carrier that
transporting traffic, usually for a short distance, over its own track on behalf of a competing railroad for a fee. Reciprocal switching thus enables the competing railroad to offer its own single-line rate, even though it cannot physically serve the shipper’s facility, to compete with the incumbent’s single-line rate. The agency has in the past held that reciprocal switching should not be ordered absent a showing of competitive abuse. More specifically, the complaining party must show that the incumbent railroad has used its market power to extract unreasonable terms or, because of its monopoly position, has disregarded the shipper’s needs by rendering inadequate service. Midtec, 3 I.C.C. 2d at 181.

Unlike reciprocal switching, forced terminal arrangements (including some forms of trackage rights) involve the physical presence of a competing carrier on a host carrier’s facilities owned by the incumbent railroad. Under terminal agreements, an incumbent railroad grants access to its terminal facilities or tracks to another carrier’s trains for a fee so that the non-incumbent can serve traffic it would otherwise be unable to access.

Interchange Commitments. Interchange commitments can also fall under the broad rubric of competition and competitive access in the railroad industry. These are contractual provisions included with a sale or lease of a rail line that limit the incentive or the ability of the purchaser or tenant carrier to interchange traffic with rail carriers other than the seller or lessor railroad. The Board has addressed interchange commitments in Review of Rail Access and Competition Issues—Renewed Petition of the Western Coal Traffic League, EP 575, et al. (STB served Oct. 30, 2007), and Disclosure of Rail Interchange Agreements, EP 575 (Sub-No. 1) (STB served May 29, 2008).

There are also several pending cases before the Board that will continue to develop, on a case-by-case basis, the Board’s policies. Because we will continue to consider these issues and look to improve those associated with transactions involving interchange commitments, this hearing will not focus on interchange commitments or the approach adopted in EP 575.

Procedures

This proceeding is intended as a public forum to discuss access and competition in the rail industry, and with a view to what, if any, measures the Board can and should consider to modify its competitive access rules and policies; whether such modification would be appropriate given changes over the last 30 years in the transportation and shipping industries; the effects on rates and service these rules and policies have had; and the likely effects on rates and service of changes to these policies. The Board is providing an opportunity for any person or entity that wishes to participate to file written prepared comments in advance of the hearing, and the Board will provide an opportunity to parties to file replies to those comments. Subsequently, the Board will hold an oral hearing at the agency to explore the issues in more depth.

In particular, we urge the parties to focus their comments, and subsequent testimony and statements for the hearing, as follows:

1. The Financial State of the Railroad Industry. Parties are invited to comment on the evolving economic state of the railroad industry. The industry has changed significantly since 1980, when Congress passed the Staggers Act of 1980, Public Law 96–448, 94 Stat. 1895 (1980) (Staggers) and began the process of devising the current competitive access rules and policies. Today, the industry is in substantially stronger condition financially. In this regard, parties should address both the findings and conclusions of recent studies of the railroad industry, including (but not limited to) the Christensen Study and the joint study of United States Departments of Agriculture and Transportation.

2. 49 U.S.C. 10705 (alternative through routes). Parties are invited to discuss how to construe this provision in light of current transportation market conditions. In this regard, parties may address pre-Staggers practice, Staggers’ effect on this issue, and whether there are statutory constraints on the Board’s ability to change policy at this time. Parties are specifically invited to comment on the differences between §§ 10705(a)(1) and 10705(a)(2), the circumstances under which carriers may seek to protect their long hauls under § 10705(a)(2), and whether § 10705(a)(2) should apply where multiple carriers can originate the traffic, but only a single carrier can deliver the traffic to its destination.

3. 49 U.S.C. 11102(a) (terminal facilities access). Parties are invited to discuss how to construe the terminal access provision in light of current transportation market conditions. Again,
parties may address pre-Staggers practice, Staggers’ effect on this issue, and whether there are statutory constraints on the Board’s ability to change policy at this time. The Board is also interested in how the definition of “terminal facility” evolved over time.

4. 49 U.S.C. 11020(c) (reciprocal switching agreements). Parties are invited to discuss, separately from the terminal facilities access provision, how to construe this provision in light of current transportation market conditions. Again, parties may address pre-Staggers practice, Staggers’ effect on this issue, and whether there are statutory constraints on the Board’s ability to change policy at this time. In particular, parties should address whether the broad “practicable and in the public interest” standard in the statute should be constrained by the provision permitting relief “where necessary to provide competitive rail service.” Finally, parties may discuss the distance limitations, if any, associated with this provision.

5. Bottleneck Rates. Parties are invited to discuss whether the Board could and should change its precedent finding only narrow authority to compel a railroad to quote a separately challengeable rate for a portion of a movement. Parties are also asked to comment on how the Great Northern Railway decision—holding that the reasonableness of a through rate established by carriers is only relevant to the shipper as to the total rate charged, and thus should be evaluated from origin to destination rather than on a segment-by-segment basis—can reasonably be applied in today’s transportation world. In particular, we want to explore how the agency would evaluate the reasonableness of the more elaborate through rates used in today’s global transportation industry including, for example, a local truck movement at origin, a transload to rail for shipment to a port, an international water movement, and finally a foreign movement at origin, a transload to rail or truck movement to destination. In such an example, do Great Northern Railway and other precedent require the agency to evaluate the reasonableness of the rates exclusively from origin to destination? If so, how could the agency evaluate the entire through rate when a portion of that rate includes transportation outside the Board’s jurisdiction? Or does the agency have the discretion to permit the shipper to challenge just the rail carrier’s division of the international through rate? Does the agency have discretion in other purely domestic situations? Participants may also address the role that short lines play in through rates, and whether

the reasoning in Great Northern Railway encompasses “bottleneck” situations and a more highly concentrated rail industry. Should freight rail customers be allowed to determine intermediate origin and destination points that would enable a competing carrier or mode to serve the shipper’s final destination?

6. Access Pricing. If the Board were to modify its competitive access rules, it would also need to address the access price. The Board seeks comments on what tools it can and should consider using (within statutory and constitutional limits) in evaluating how the carriers can assess terminal access prices, reciprocal switch fees, or segment rates, such as Constrained Market Pricing principles, or an alternative set of principles, such as cost-based pricing principles or Efficient Component Pricing. What role, if any, should a carrier’s current financial standing and future prospects bear in this determination?

7. Impact. Finally, we invite comments from all interested parties on the positive and negative impact any proposed change would have on the railroad industry, the shipper community, and the economy as a whole. The introduction of greater rail-to-rail competition could improve service and lower rates for captive shippers. But a loss of revenue could lead to less capital investment, constraining capacity and deteriorating service for future traffic. Any party advocating a change should address these impacts.

In addition to the guidance provided above, parties are welcome to offer their comments on any other aspect of our competitive access rules. Parties are also invited to comment on the specific questions in our prior order on this similar subject. Policy Alts. to Increase Competition in the R.R. Indus., EP 688 (STB served Apr. 14, 2009). Board Releases and Live Video Streaming Available Via the Internet: Decisions and notices of the Board, including this notice, are available on the Board’s Web site at http://www.stb.dot.gov. This hearing will be available on the Board’s Web site by live video streaming. To access the hearing, click on the “Live Video” link under “Information Center” at the left side of the home page beginning at 9 a.m. on May 3, 2011.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. A public hearing in this proceeding will be held on Tuesday, May 3, 2011, at 9:30 a.m., in the Surface Transportation Board Hearing Room, at 395 E Street, SW., Washington, DC, as described above.

2. Initial comments are due on February 18, 2011.

3. Reply comments are due on March 16, 2011.

4. By April 4, 2011, parties wishing to speak at the hearing shall file with the Board a notice of intent to participate identifying the party, the proposed speaker, and the time requested. With the notice of intent, the party shall provide written testimony on the issues it will address at the hearing. Written submissions by interested persons who do not wish to appear at the hearing are also due by April 4, 2011.

5. This decision is effective on the date of service.

Decided: January 11, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Andrea Pope-Matheson,
Clearance Clerk.

[TFR Doc. 2011–774 Filed 1–13–11; 8:45 am]
BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 10, 2011.

The Department of the Treasury will submit the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before February 14, 2011 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1623.

Type of Review: Extension without change to a currently approved collection.

Title: REG–246256–96 [Final] Excise Taxes on Excess Benefit Transactions