

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board****49 CFR Ch. X****[STB Ex Parte No. 536 (Sub-No. 24)]****Semiannual Regulatory Agenda**

**AGENCY:** Surface Transportation Board.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** The Surface Transportation Board (the 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.

**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, semiannually, 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 that 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).

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.

The agenda represents the Board's best estimate of rules that 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 spring 2008 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Unified Agenda is coordinated by the Office of Management and Budget (OMB), pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

**Decided:** March 5, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

**NAME: Anne K. Quinlan**  
*Acting Secretary.*

## The 5 Regulatory Agendas

**Surface Transportation Board - Long-term Action**

Title	Regulation Identifier Number
Interpretation of the Term "Contract" in 49 U.S.C. 10709, STB Ex Parte No. 669	<a href="#">2140-AA86</a>
Disclosure of Rail Interchange Commitments, STB Ex Parte No. 575 Sub-No. 1	<a href="#">2140-AA87</a>
Use of a Multi-Stage Discounted Cash Flow Model in Determining the Railroad Industry's Cost of Capital, STB Ex Parte No. 664 (Sub-No. 1)	<a href="#">2140-AA88</a>

**Surface Transportation Board - Completed Action**

Title	Regulation Identifier Number
Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1)	<a href="#">2140-AA82</a>
Methodology To Be Employed in Determining the Railroad Industry's Cost of Capital, STB Ex Parte No. 664	<a href="#">2140-AA84</a>

**Surface Transportation Board ( STB )**

RIN: 2140-AA86

 [View Related Documents](#)**Title:** Interpretation of the Term "Contract" in 49 U.S.C. 10709, STB Ex Parte No. 669

**Abstract:** The Board is reviewing comments on a proposal to interpret the term "contract" in 49 U.S.C. 10709, which removes contract disputes from the Board's jurisdiction, as embracing a bilateral agreement between a carrier and a shipper for rail transportation in which the railroad agrees to a specific rate for a specific period of time in exchange for consideration from the shipper such as a traffic commitment or a commitment to make a specific investment in rail facilities.

**Priority:** Substantive, Nonsignificant**Agenda Stage of Rulemaking:** Long-term Action**Major:** Undetermined**Unfunded Mandates:** No

**CFR Citation:** 49 CFR 1300.1(c)(1); 49 CFR 1300.1(c)(2) (To search for a specific CFR, visit the [Code of Federal Regulations](#).)

**Legal Authority:** 49 USC 721(a); 49 USC 11101(f)**Legal Deadline:** None**Timetable:**

Action	Date	FR Cite
Next Action Undetermined		
NPRM	04/04/2007	72 FR 16316
NPRM Comment Period End	08/02/2007	

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** No**Small Entities Affected:** No**Federalism:** No**Energy Affected:** No**RIN Information URL:** [www.stb.dot.gov](http://www.stb.dot.gov)**Public Comment URL:** [www.stb.dot.gov](http://www.stb.dot.gov)

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**Surface Transportation Board ( STB )****RIN:** 2140-AA87 [View Related Documents](#)**Title:** Disclosure of Rail Interchange Commitments, STB Ex Parte No. 575 Sub-No. 1

**Abstract:** The Board is proposing rules to require that parties seeking to exempt, or to invoke class exemptions covering, transactions involving sale or lease of railroad lines identify provisions in their agreements that restrict the ability of the purchaser or tenant railroad to interchange traffic with rail carriers other than the seller or landlord railroad.

**Priority:** Substantive, Nonsignificant**Agenda Stage of Rulemaking:** Long-term Action**Major:** Undetermined**Unfunded Mandates:** No

**CFR Citation:** 49 CFR 1114.30(c); 49 CFR 1121.3(d); 49 CFR 1150.43(h); 49 CFR 1180.4(g)(4) (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 49 USC 721; 5 USC 553**Legal Deadline:** None**Timetable:**

Action	Date	FR Cite
Next Action Undetermined		
NPRM	11/02/2007	72 FR 62200
NPRM Comment Period End	01/22/2008	

**Regulatory Flexibility Analysis Required:** No**Government Levels Affected:** No**Small Entities Affected:** No**Federalism:** No**Energy Affected:** No**RIN Information URL:** [www.stb.dot.gov](http://www.stb.dot.gov)**Public Comment URL:** [www.stb.dot.gov](http://www.stb.dot.gov)

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**Surface Transportation Board ( STB )****RIN:** 2140-AA88

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**Title:** Use of a Multi-Stage Discounted Cash Flow Model in Determining the Railroad Industry's Cost of Capital, STB Ex Parte No. 664 (Sub-No. 1)

**Abstract:** Board decision provides advance notice of a proposed rulemaking which seeks public comments on the use of a multi-stage discounted cash flow model to complement the use of the cost of capital asset pricing model in determining the railroad industry's cost of capital.

**Priority:** Substantive, Nonsignificant

**Agenda Stage of Rulemaking:** Long-term Action

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** Not Yet Determined (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 5 USC 605(b)

**Legal Deadline:** None

**Timetable:**

Action	Date	FR Cite
Next Action Undetermined		
ANPRM	02/13/2008	73 FR 8402
ANPRM Comment Period End	04/14/2008	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** No

**Small Entities Affected:** No

**Federalism:** No

**Energy Affected:** No

**RIN Information URL:** [www.stb.dot.gov](http://www.stb.dot.gov)

**Public Comment URL:** [www.stb.dot.gov](http://www.stb.dot.gov)

**Related RINs:** Merge with 2140-AA84

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## Surface Transportation Board ( STB )

**RIN:** 2140-AA82

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**Title:** Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1)

**Abstract:** The Board is proposing to revise its guidelines for determining the reasonableness of challenged rail rates in cases where a full stand-alone cost presentation is too costly, given the value of the case. The proposed revisions to the guidelines would provide for a simplified stand-alone cost procedure for medium-size rate disputes, a modified three-benchmark method for small rate disputes, and would establish eligibility thresholds based on the cost to bring the next most precise type of case. The Board also proposes to amend its procedures for processing such rate cases.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Completed Action

**Major:** Undetermined

**Unfunded Mandates:** No

**CFR Citation:** 49 CFR 1111.1; 49 CFR 1111.4; 49 CFR 1111.9 to 1111.10; 49 CFR 1114.21 to 1114.22; 49 CFR 1114.26; 49 CFR 1114.30 to 1114.31 (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 5 USC 559; 49 USC 721; 49 USC 10701(d)(3); 49 USC 10704; 49 USC 10707; 49 USC 11144 to 11145; 49 USC 11701

**Legal Deadline:** None

**Timetable:**

Action	Date	FR Cite
NPRM	08/02/2006	71 FR 43703
NPRM Comment Period End	10/01/2006	
NPRM Comment Period End	01/11/2007	
Hearing	01/31/2007	
Final Action	09/05/2007	72 FR 51375
Final Action Effective	10/07/2007	
Other	03/19/2008	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Energy Affected:** No

**RIN Information URL:** [www.stb.dot.gov](http://www.stb.dot.gov)

**Related RINs:** Merge with 2140-AA70

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**Government Levels Affected:** No

**Federalism:** No

**Public Comment URL:** [www.stb.dot.gov](http://www.stb.dot.gov)

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## Surface Transportation Board ( STB )

**RIN:** 2140-AA84

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**Title:** Methodology To Be Employed in Determining the Railroad Industry's Cost of Capital, STB Ex Parte No. 664

**Abstract:** The Board replaces its single-stage Discounted Cash Flow (DCF) Model with the Capital Asset Pricing Model.

**Priority:** Other Significant

**Agenda Stage of Rulemaking:** Completed Action

**Major:** No

**Unfunded Mandates:** No

**CFR Citation:** None (To search for a specific CFR, visit the [Code of Federal Regulations](#) )

**Legal Authority:** 5 USC 605(b)

**Legal Deadline:** None

**Timetable:**

Action	Date	FR Cite
ANPRM	09/25/2006	71 FR 55825
ANPRM Comment Period End	11/06/2006	
Public Hearing	01/19/2007	72 FR 2591
Hearing	02/15/2007	
NPRM	08/14/2007	72 FR 45493
NPRM Comment Period End	10/15/2007	
Other	10/26/2007	72 FR 60929
Final Action Effective	01/17/2008	
Final Action	01/17/2008	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Energy Affected:** No

**RIN Information URL:** [www.stb.dot.gov](http://www.stb.dot.gov)

**Related RINs:** Merge with 2140-AA88

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**Government Levels Affected:** No

**Federalism:** No

**Public Comment URL:** [www.stb.dot.gov](http://www.stb.dot.gov)