

Issued in Washington, DC, on October 5, 2012.

Ray LaHood,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors Meeting.

TIME AND DATE: The meeting will be held on October 25, 2012, from 12:00 noon to 3:00 p.m., Eastern Standard Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1-877-820-7831, passcode, 908048 to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827-4565.

Issued on: September 21, 2012.

Larry W. Minor,

Associate Administrator, Office of Policy,
Federal Motor Carrier Safety Administration.

[FR Doc. 2012-25350 Filed 10-11-12; 11:15 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket Nos. NOR 38302S and NOR 38376S]

United States Department of Energy and United States Department of Defense v. Baltimore & Ohio Railroad Company, et al. and Aberdeen & Rockfish Railroad Company, et al.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Proposed Settlement Agreement, Issuance of Procedural Schedule.

SUMMARY: On September 4, 2012, United States Department of Energy and the United States Department of Defense (the Government) and BNSF Railway Company (BNSF) (collectively Movants), filed a motion requesting approval of an agreement that would settle these rate reasonableness disputes as between them only. The Board is adopting a procedural schedule for filing comments and replies addressing their proposed settlement agreement. (As detailed below, these proceedings involve disputes among a number of different entities, including other railroad carriers besides BNSF. This settlement applies only to the parties submitting the instant agreement and does not resolve these proceedings in their entirety.)

DATES: Comments are due by November 29, 2012. Reply comments are due by December 31, 2012.

ADDRESSES: Comments and replies may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. NOR 38302S, et al., 395 E Street SW., Washington, DC 20423-0001. Copies of written comments and replies will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site. In addition, send one copy of comments to each of the following: (1) Stephen C. Skubel, Room 6H087, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585; (2) Terrance A. Spann, U.S. Department of Defense, 9275 Gunston Road, Suite 1300, Fort Belvoir, VA 22060; and (3) Jill K. Mulligan, BNSF Railway Company, 2500 Lou Menk Drive, AOB-3, Fort Worth, TX 76131.

FOR FURTHER INFORMATION CONTACT:

Marc Lerner, (202) 245-0390.
[Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: In March 1981, the Government filed these complaints against 21 major railroads (the Railroad Defendants) under section 229 of the Staggers Rail Act of 1980, Public Law 96-448, 94 Stat. 1895. The Government sought reparations and a rate prescription relating to the nationwide movement of spent nuclear fuel, other high level radioactive wastes,

and the empty containers (casks) and buffer and escort cars used for their movement (radioactive materials). In 1986, the Board's predecessor, the Interstate Commerce Commission (ICC), found that the Railroad Defendants were engaging in an unreasonable practice, imposing substantial and unwarranted cost additives—above and beyond the regular train service rates—in an effort to avoid transporting these radioactive materials. The ICC canceled the existing rates and cost additives, prescribed new rates, and awarded reparations. See *Commonwealth Edison Co. v. Aberdeen & Rockfish R.R.*, 2 I.C.C.2d 642 (1986). The United States Court of Appeals for the D.C. Circuit set aside and remanded the decision. See *Union Pacific R.R. v. ICC*, 867 F.2d 646 (D.C. Cir. 1989). On remand, the ICC ruled that the movement of these radioactive materials for reprocessing was subject to the rate cap on recyclables set out in former 49 U.S.C. 10731(e) and directed the parties to file revenue-to-variable cost (R/VC) evidence to resolve the remaining reparations and rate prescription issues. See *United States Department of Energy v. Baltimore & Ohio R.R.*, 10 I.C.C.2d 112 (1994). While judicial review was pending, Congress enacted the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803, which repealed § 10731 in its entirety and directed that all proceedings pending under the repealed section be terminated.

The Railroad Defendants petitioned the Board to dismiss the complaints in 1996, and, in 1997, they invited the Government to explore the possibility of settling the complaints. Discussions commenced on a nationwide settlement covering all of the Railroad Defendants that might carry radioactive materials. The Government subsequently chose to negotiate only with Union Pacific Railroad Company (UP), the destination carrier for most of the movements of radioactive materials that were to be covered by the nationwide settlement, after the parties concluded that there were potential antitrust problems in negotiating with the Railroad Defendants as a group. On September 15, 2004, the Government and UP filed a motion seeking approval under 49 U.S.C. 10704 of a settlement agreement (the UP Agreement) they had negotiated to resolve these complaints as between them only. The Board, in a decision served in these proceedings on August 2, 2005: (1) Approved the UP Agreement; (2) dismissed UP as a party to these proceedings; (3) relieved UP of any obligation to participate in these or related proceedings involving claims against connecting railroad defendants

(except that UP remained obligated to respond to the Board's subpoena authority); (4) continued to hold these proceedings in abeyance; and (5) directed the Government to file quarterly reports on the progress of future settlement negotiations with the remaining Railroad Defendants.

Movants jointly request that the Board approve the proposed agreement they have negotiated (the BNSF Agreement) to settle these rate reasonableness complaints as between them only and that the requested approval be without prejudice to the Governments' complaints and other actions insofar as they apply to the remaining Railroad Defendants involved in these proceedings. The UP Agreement, according to Movants, served as a model for their Agreement.

The BNSF Agreement, which Movants describe as flexible, comprehensive, long-term, and system-wide:

(1) Provides for a term of 25 years commencing on the effective date of the Board's approval of the BNSF Agreement and continues in effect for additional 5-year periods, subject to a 1-year termination notice requirement;

(2) Applies broadly to the nationwide movement on BNSF's rail lines of irradiated spent fuel, parts, and constituents; spent fuel moving from foreign countries to the United States for disposal; empty casks; radioactive wastes; and buffer and escort cars. Excluded from the BNSF Agreement are local movements originating and terminating in the East, which are covered by the rate basis prescribed in *Trainload Rates on Radioactive Materials, E. Railroads*, 362 I.C.C. 756 (1980) and 364 I.C.C. 981 (1981) (*Eastern Prescription*);¹

(3) Establishes that the movement of these commodities constitutes common carrier service; addresses the elements of service required of BNSF; adopts guidelines for safe handling and security; obligates BNSF to provide, as needed, "extra services" as described in the BNSF Agreement, at the rates agreed upon;

(4) Adopts a rate methodology to:

(a) apply to all future movements of these radioactive materials in common carrier service. The methodology adopts maximum R/VC markups (not to exceed to 1.80, 2.50, or 3.51 times the shipment

cost, depending on commodity type) of BNSF's most current system-average variable unit costs computed under the Board's Uniform Rail Costing System. Movants state that the proposed rate methodology is consistent with, but broadens, the rate prescription adopted in *Eastern Prescription*; and

(b) compensate BNSF for "extra services" and dedicated train service, when requested by the Government, and procedures to calculate "equitable compensation" for emergency related costs that BNSF may incur.

(5) Adopts a procedure to update rates and "extra services" annually to reflect changes in BNSF's system-average unit costs;

(6) Extinguishes BNSF's liability (and that of its predecessors and subsidiaries) for reparations in all matters arising out of these proceedings; and

(7) Adopts Alternative Dispute Resolution procedures with final recourse to the Board and mechanisms to renegotiate portions of the BNSF Agreement in a limited number of circumstances or if changed circumstances make further adherence to the terms of the BNSF Agreement "grossly inequitable" to either party.

Movants request that the Board: (1) Prescribe the rate methodology and maximum R/VC ratios that have been agreed to for the radioactive materials and rail services that are the subject of the BNSF Agreement; (2) dismiss BNSF as a defendant in these proceedings, preserve the liability of connecting carriers for reparations as to their portion of the charges assessed on through routes that include(d) BNSF, and not require BNSF to participate in rate proceedings initiated by the Government against remaining Railroad Defendants (except that BNSF will remain obligated to respond to the Board's subpoena authority); (3) retain jurisdiction over these proceedings and continue to hold them in abeyance pending further settlement negotiations; and (4) publish notice of their motion and the proposed BNSF Agreement in the **Federal Register** and adopt a procedural schedule for the filing of comments and replies.

The Board is granting Movants' request in part. Notice of their motion and the proposed BNSF Agreement is being published in the **Federal Register** and a procedural schedule is being adopted for the filing of comments and replies responsive to Movant's remaining requests.

Decided: October 10, 2012.

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

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2012-25275 Filed 10-12-12; 8:45 am]

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DEPARTMENT OF THE TREASURY

Fiscal Service

Privacy Act of 1974, as Amended; System of Records Notice

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of systems of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, Financial Management Service is publishing its inventory of Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget Circular No. A-130, Financial Management Service (FMS) has completed a review of its Privacy Act systems of records notices to identify minor changes to those notices. The systems of records were last published in their entirety on May 15, 2009, at 74 FR 23006-23021.

The following system of records was added to FMS's inventory of Privacy Act notices since May 9, 2000:

FMS .008—Mailing List Records—Treasury/FMS, published on December 16, 2010, at 75 FR 78802.

On August 17, 2011, FMS published a notice in the **Federal Register** that amended the scope of the categories of individuals covered by the system and the categories of records in the system. 76 FR 51123.

On July 19, 2011, FMS published a notice in the **Federal Register** that amended system of record FMS .006 (Direct Deposit Enrollment Records) to modify the scope of the categories of records in the system, update one routine use and update the record source categories. 76 FR 42765. On February 15, 2012, FMS published a notice in the **Federal Register** that: (a) Combined two pre-existing systems of records (FMS .002—Payment Issue Records for Regular Recurring Benefit Payments and FMS .016—Payment Records for Other Than Regular Recurring Benefit Payments) into one system of record. The resulting system of record is FMS .002 (Payment Records—Financial Management Service). 77 FR 8947. The same **Federal Register** notice also modified routine

¹ Maximum R/VC ratios were prescribed on a commodity-by-commodity basis at various minimum weights as local and proportional rate factors. The prescription was applicable within the East, but primarily was to be used for through movements destined beyond the lines of the rail carriers covered by the prescription. The ICC's 1980 decision, 362 I.C.C. 756, was affirmed in *Consolidated Rail Corp. v. ICC*, 646 F.2d 642 (D.C. Cir. 1981), cert. denied, 454 U.S. 1047 (1981).