



Surface Transportation Board

Budget Request Fiscal Year 2021

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Introduction

Mission

The Surface Transportation Board (STB, Board, or agency) exercises its statutory authority and resolves disputes in support of an efficient, competitive, and economically viable surface transportation network that meets the needs of its users.

Responsibilities

The STB is primarily charged with the economic oversight of the nation's freight rail system. The bipartisan Board was established in 1996 as the successor to the Interstate Commerce Commission. The Board was administratively aligned with the Department of Transportation (DOT) until enactment of the Surface Transportation Board Reauthorization Act of 2015 (STB Reauthorization Act), Public Law No. 114-110, which established the Board as a fully independent agency on December 18, 2015.

The economics of freight rail regulation impact the national transportation network and are important to our nation's economy. For this reason, Congress gave the STB sole jurisdiction over rail mergers and consolidations, exempting STB-approved transactions from federal antitrust laws and state and municipal laws. The Board also has exclusive authority to determine whether certain railroad rates and practices are reasonable. The Board has regulatory jurisdiction over, among other things, railroad rate reasonableness, mergers, line acquisitions, new rail line construction, and abandonments of existing rail lines.

While a majority of the Board's work involves freight railroads, the STB also performs certain oversight of passenger rail matters, the intercity bus industry, non-energy pipelines, household goods carriers' tariffs, and rate regulation of non-contiguous domestic water transportation (marine freight shipping involving the mainland United States, Hawaii, Alaska, Puerto Rico, and other U.S. territories and possessions).

FY 2021 Budget Overview

The STB requests \$37.5 million for FY 2021 to carry out its statutory responsibilities and to continue meeting the needs of stakeholders and the public.¹ This level of funding would permit the Board to sustain the personnel investments made in FYs 2019 and 2020 and to continue to modernize the Board's IT infrastructure and improve its security posture. Further, the request includes the resources necessary to increase efficiencies and modernize the Board's workflow processes and data capabilities.

The Board's funding request is based on a projected staffing level of 142 full-time equivalents (FTE), which is the same level that was requested for FY 2020. The proposed FY 2021 personnel costs would increase by \$1,155 million over the FY 2020 estimate to help offset the costs of the pay adjustment enacted in December 2019 (effective January 2020) and the projected increase in costs for promotions, within-grade increases, and higher benefit costs, while non-personnel expenses would decrease by \$755 thousand. The Board will continue its efforts to hire employees who meet the administration's "People - Developing a Workforce for the 21st Century" priority area as it increases its staffing to the requested FTE level, providing the necessary support to carry out the Board's mission and address vacancies resulting from employee retirements or other separations. The Board's non-personnel budget supports several IT system and infrastructure maintenance and modernization efforts. Funding would also be required to continue improvements to the Board's cybersecurity program. Further, the request supports added research and analytical capabilities to continue to enhance the Board's evidence-based decision-making.

The Board seeks to build on its FY 2020 business process solutions assessments by investing in the tools necessary to improve operational efficiency. This would be done by using analytics tools to transform internal data into graphics that display a far clearer view of trends, outliers, and patterns in the data collected by the Board. The STB would also better utilize its internal data by developing dashboards and tracking systems to leverage valuable information that would assist the Board in performing its economic oversight. In turn, certain data could be integrated into its website, increasing transparency. Analysis of this data would also be useful to increase efficiencies in the acquisition, technology, finance, and human resources areas.

¹ The Board initially proposed the same funding level requested in its FY 2020 budget request, which was submitted along with the President's FY 2020 Budget to the Congress. However, due to the unanticipated Federal pay raise enacted in December 2019, the Board requests \$37.5 million to help offset the impact of that pay adjustment.

Summary of Changes from the FY 2020 Budget Request

(dollar amounts in thousands)

Personnel Cost Change

Personnel Costs



Personnel costs are expected to increase to support the requested staffing level while providing the resources necessary to help offset the pay adjustment enacted in December 2019 (effective January 2020) and the projected increased costs of promotions, within-grade increases, and employee benefits.

Non-Personnel Cost Changes

Rent



The Board's rent and associated obligations in FY 2021 are expected to decrease, reflecting the lower levelized annual rate in the Board's 15-year lease agreement that were not yet in place for FY 2020 budget estimate. The STB expects that costs for security and utilities would continue to decrease as additional tenants occupy the building.

Information Technology



IT obligations are expected to increase as the Board continues to evaluate and modernize its IT infrastructure and maintain its improved systems and software. The Board would continue to replace outdated technology with useful tools to leverage data as a strategic asset, creating opportunities for enhanced data-based decision-making and increased transparency, with FY 2021 projections reflecting past years' actual expenditures. The increase also reflects the Board's emphasis on cybersecurity, privacy, records management, and evidence-based policymaking initiatives. These funds would also enable the Board to make progress in managing its internal data and making the data more accessible to stakeholders.

Interagency Agreements and Technical Services



These obligations are expected to decrease as the Board works to improve organizational efficiencies through IT modernization efforts. The Board would also continue leveraging Sharing Quality Services (SQS) for records management, human resources, and finance through agreements with other federal agencies as the use of SQSs improves the efficiency and effectiveness of mission support.

Travel and Transportation



Travel obligations are expected to remain level to support regulatory reviews, stakeholder engagement, site visits, representation at stakeholder meetings, representation in court, and other travel required to meet the STB’s mission.

Training



Training obligations are expected to decrease as the Board utilizes FedTalent and offers more in-house training sessions to advance staff skills, obtain required certifications, and meet professional education requirements for an evolving workforce.

Office Supplies and Subscriptions



Costs for purchases of supplies and reference material for staff are expected to decrease as the Board continues to consolidate subscriptions, rely on electronic media and records management, and centralize supply purchasing.

Miscellaneous Services



The cost of miscellaneous services would decrease as most of human resources services have been switched to an SQS provider, and the costs for security investigations and other items that are not captured in another category would decrease as efficiencies are achieved by the use of SQS providers.

Working Capital Fund (WCF)



The Board’s share of procurement and property management costs included in the estimated payment to the DOT’s WCF is expected to increase as the Board now relies on the WCF for its substance awareness program and continues to rely on the WCF for procurement, property management, and accounting support.

Net Non-Personnel Cost Changes
Total Adjustment to Base (\$37,100)

-755
 +400

Total Budget Request

\$37,500

Proposed Appropriation Language

Salaries and Expenses

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. § 3109, \$37,500,000: Provided, that notwithstanding any other provision of law, not to exceed \$1,250,000 from fees established by the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: Provided further, that the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2021, to result in a final appropriation from the general fund estimated at no more than \$36,250,000.

Program Overview

Strategic Goals

The work that the Board conducts to carry out its responsibilities is guided by the following four strategic goals as set forth in its Strategic Plan FYs 2018-2022:

First strategic goal: Protect and further the public interest in surface transportation matters.

Strategic Objectives-

- Promote and ensure reasonable transportation rates and practices for users of freight railroads, non-energy pipelines, household goods movers, motor carriers acting collectively, and those providing or receiving service in the noncontiguous domestic water trades;
- Ensure that railroad restructurings (mergers, acquisitions, constructions, and abandonments) are consistent with the public interest and that any resulting economic, environmental, or operational harm is minimized to the extent practicable;
- Promote efficient and reliable surface transportation service that is responsive to the needs of customers, with adequate capacity to meet the needs of a changing economy; and
- Ensure consideration of environmental concerns in agency decision-making consistent with existing laws and regulations.

Second strategic goal: Foster economic efficiencies through reliance, where possible, on marketplace factors to encourage the development and continuation of economically sound, efficient, and reliable surface transportation systems that have adequate capacity to meet the needs of our economy.

Strategic Objectives-

- Encourage the efficient management and operation of surface transportation industries under the Board's jurisdiction;
- Promote a climate that encourages carriers to invest in needed additional capacity; and
- Minimize Federal regulatory control over surface transportation systems.

Third strategic goal: Provide a timely, efficient, and decisive regulatory process that enables stakeholders in the surface transportation industry to plan and conduct their operations more effectively and with minimal regulatory costs.

Strategic Objectives-

- Ensure that there is sufficient transparency with respect to the Board's dispute resolution activities to enable parties to make informed decisions as to whether they

- should voluntarily settle their disputes or litigate before the Board;
- Ensure the timeliness of Board adjudicatory decisions by setting and adhering to appropriate processing timelines; and
- Ensure that the Board’s decisions comport with the applicable statutes, precedents, and policies

Fourth strategic goal: Ensure that the STB has the organizational structure, managerial leadership, and skilled workforce necessary to carry out the agency's strategic goals.

Strategic Objectives-

- Organize management, deploy staff, and track operational performance throughout the agency to ensure the achievement of the Board’s strategic goals;
- Recruit, retain, and train staff with a focus on critical needs, skills shortages, and diversity; and
- Employ new technologies to improve the Board’s operational efficiency.

Evidence and Evaluation

The STB relies on evidence-based policy and program decision-making to implement its strategic plan. Reliance on evidence-based decision-making is the responsibility of each Board office, from substantive matters of case adjudication and informal assistance regarding rail service metrics to administrative matters concerning IT modernization and budgeting. As the agency continues to implement reforms to provide a more efficient and effective regulatory review process, it will endeavor to analyze new proposals against historical data to evaluate these reform initiatives. It will also endeavor to analyze the results of finalized actions to ensure they achieve their intended results. In FY 2019, the Board, in compliance with the Foundations for Evidence-Based Policymaking Act of 2018, Pub. L. No. 115-435, 132 Stat. 5529, appointed a Chief Data Officer who will lead the agency’s effort to assess its data maturity and identify its priority data assets.

Risk Management and Cybersecurity

During FY 2019, the STB continued working to implement a cost-effective, risk-based security program that is aligned with the National Institute of Standards and Technology security standards and guidelines. In that effort, the Board focused on addressing the remaining open recommendations from its FY 2017 and FY 2018 Federal Information Security Modernization Act (FISMA) audits. The STB is pleased to report that its recently concluded FY 2019 FISMA audit found that the Board’s overall information security maturity level has improved to the “defined” level.

The Board also continues to mature its internal risk management process and procedure controls. At least once per quarter, the Board's Risk Management Committee meets to assess organizational risk and identify ways to mitigate that risk. At least once per year, the Board reviews and updates its Risk Profile to ensure enterprise risk is considered and addressed.

In FY 2021, the Board would continue to strengthen its cybersecurity posture by investing in new technologies, processes, and capabilities to meet FISMA requirements and OMB regulations, as well as current needs of its IT modernization efforts. Planned improvements include continuous security monitoring efforts of the STB's network, for which the STB would leverage resources of the Department of Homeland Security Continuous Diagnostics and Mitigation Program. In addition, IT staff would continue assessing security and privacy controls of the STB's systems to ensure that security controls are applied correctly, operating as intended, and producing the desired outcome.

FY 2019 Activities and Accomplishments

Rate Reform Task Force

In January 2018, the Board established its Rate Reform Task Force (RRTF), with the objective of developing recommendations to reform and streamline the Board’s rate review process for large cases, and determining how to best provide a rate review process for smaller cases. After holding informal meetings throughout the country with representatives of shippers and rail carriers, as well as academics, practitioners, and other interested parties, the RRTF issued a report on April 25, 2019 (RRTF Report), which was posted on the Board’s website on April 28, 2019.² The RRTF recommended both administrative and legislative proposals to reduce the cost and complexity of rate disputes, particularly for smaller cases.

The Board recognizes that, for smaller disputes, the litigation costs required to bring a case under the Board’s existing rate reasonableness methodologies can quickly exceed the value of the case. The Board has also heard from shippers and other interested parties that the agency’s current options for challenging the reasonableness of rates do not meet their need for expeditious resolution at a reasonable cost.

For smaller cases, the RRTF recommended “final offer decision-making,” an administrative approach that would take advantage of procedural limitations to constrain the cost and complexity of a case. Versions of a final offer method for rate review have also been recommended by the United States Department of Agriculture and the Transportation Research Board. The RRTF also made several recommendations pertaining to the Board’s existing “Three-Benchmark” methodology, including modifications to the Board’s Waybill Sample, which is used in cases under that methodology. In addition, the RRTF suggested legislation to permit mandatory arbitration.

For large cases, the RRTF suggested both significant simplification of the existing rate review methodology and an entirely new methodology for reviewing rate reasonableness. For cases under any of the Board’s methodologies, it also proposed a simplified approach for determining whether a carrier has “market dominance,” a finding that is required by statute before the Board can consider the reasonableness of a rate. Additionally, the RRTF recommended a new approach for determining whether a carrier is long-term “revenue-adequate,” and it proposed new remedies for the Board to consider for rate cases involving revenue-adequate carriers.

² The RRTF Report can be accessed on the Board’s website at https://www.stb.gov/stb/rail/Rate_Reform_Task_Force_Report.pdf.

After the RRTF Report was issued, the Board promptly held several collaborative meetings pursuant to Section 5 of the STB Reauthorization Act, which permits a majority of the Board to hold a non-public meeting to discuss official agency business, so long as certain conditions are met.³

After reviewing the RRTF Report, the Board proposed a new rate review option for smaller cases, a streamlined market dominance process that could be used in any rate review proceeding, and revised regulations to improve the utility of the Waybill Sample reporting that railroads submit to the Board. The Board requested public comment on these proposals. The Board also held a public hearing in December 2019 on revenue adequacy issues raised in the RRTF Report.

Rail Demurrage and Accessorial Charges Oversight

During FY 2019, the Board worked proactively to address significant changes to Class I railroad practices and policies regarding demurrage and accessorial charges. For background, demurrage is a charge that both compensates rail carriers for the expense incurred when rail cars are detained beyond a specified period of time (i.e., free time) and serves as a penalty for undue car detention to encourage the efficient use of rail cars in the rail network. Accessorial charges are additional fees imposed by rail carriers for services such as diversion, inspection, storing, weighing, and other activities.

In November 2018, the Board sent letters to Union Pacific Railroad Company (UP) and Norfolk Southern Railway Company (NS), which had announced changes to their practices and policies in connection with new operating plans they were implementing. In particular, the Board requested that these carriers examine their changes from the perspective of reciprocity and commercial fairness. After receiving responses from these two carriers, the Board individually asked each of the Class I railroads to report their revenues from demurrage and accessorial charges for each quarter of 2018, and, on a going-forward basis, for each quarter of 2019. The responses from the railroads are posted on the Board's website.

To supplement the information that it had received from shippers, carriers, and other interested parties about changes to these charges, the Board held a two-day public oversight

³ In particular, no formal or informal vote or other official agency action may be taken at the meeting; each individual present at the meeting must be a member or an employee of the Board; and the General Counsel of the Board must be present at the meeting. In addition, after the meeting's conclusion, the Board must make available to the public a list of the meeting's participants and a summary of the matters discussed at the meeting, except for any matters the Board properly determines may be withheld from the public under 5 U.S.C. § 552b(c). The disclosure must be made two days after the meeting, unless the discussion directly relates to an ongoing proceeding before the Board, in which case the Board shall make the disclosure on the date of the final Board decision.

hearing on May 22 and 23, 2019. The Board received over 90 pre-hearing submissions from industry stakeholders; heard testimony from 12 panels comprised, collectively, of over 50 participants; and received 36 post-hearing comments. During the hearing, one Class I carrier announced that it would modify a recent tariff change as a result of the testimony. Following the hearing, that same carrier advised the Board that it was making additional modifications and another Class I carrier also announced that it would reverse or withdraw certain of its earlier tariff modifications that had been a focus at the hearing.

Based on the numerous written comments filed in the docket and the hearing testimony, all of which greatly contributed to the Board's understanding of these issues, the Board, in October 2019, issued a series of decisions on demurrage and accessorial rules and charges, continuing its efforts to improve dispute resolution processes, promote transparency, and make the agency more accessible. Specifically, the Board issued: (1) a proposed policy statement to facilitate more effective problem solving between railroads, shippers, and receivers by providing information on principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges; (2) a proposed rule to enhance the transparency and accuracy of demurrage invoices; and (3) a proposed rule to make unambiguous that the regulation of demurrage is not excluded for exempt miscellaneous commodities and boxcar transportation, and to treat the exemption for certain agricultural commodities similarly. The Board requested public comment on these proposals.

Rail Service Oversight and Monitoring

During FY 2019, the Board continued its informal monitoring of rail service across the freight rail network. In particular, the Board focused its attention on UP and NS, in light of their respective announcements in the Fall of 2018 that they intended to implement significant operating changes across their systems. As noted in the Board's previous budget submission, both Class I railroads stated that they would initiate key tenets of the railroad operating philosophy referred to as "precision scheduled railroading" (PSR). In light of the widespread and severe service disruptions that followed adoption of PSR by CSX Transportation, Inc. (CSX), in 2017, the Board believed that it was appropriate for its Rail Customer and Public Assistance (RCPA) office to engage in weekly phone calls with UP and NS to monitor their progress and to keep the Board informed about impacts of these operational changes on rail customers, other railroads, and the transportation network. The weekly calls allow Board staff to have productive and informative discussions with senior managers at these railroads to better understand operational and commercial changes that the railroads are making in connection with implementation of PSR and to monitor service and operational developments.

Additionally, as part of informal oversight, during FY 2019, the Board members met individually with members of both UP's and NS's senior executive and leadership teams to better understand the changes to their respective operating plans. During these meetings, the Board members emphasized the need for a transparent and responsible approach to implementing operating changes, and, in particular, the need to communicate proactively with their rail customers and other affected parties. The Board also exchanged correspondence with the two carriers about their plans to implement PSR. Although the Board's intent is not to substitute its judgment for that of the carriers, the agency views these steps as necessary to protect against rail service disruptions.

Finally, RCPA continued its monthly calls with the other Class I railroads to informally monitor rail service across the network and maintain awareness of positive and negative developments in the industry. These calls are informed by the rail service performance data that the Class I railroads and the Chicago terminal report to the Board on a weekly basis. RCPA reviews the data to identify performance trends and outliers and to make year-over-year and month-over-month comparisons in performance. RCPA also monitors and tracks carrier embargoes, which are temporary cessations of service imposed by railroads, typically due to unanticipated weather events.

Enhanced Communications with Stakeholders

During FY 2019, the Board and interested stakeholders continued to benefit from agency rules, updated in 2018, to permit ex parte communications in informal rulemaking proceedings, subject to disclosure requirements. For example, in June 2019, the Board completed a series of ex parte meetings with interested stakeholders to discuss the revocation of certain class exemptions in *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Docket No. EP 704 (Sub-No. 1). Representatives from the paper and forest products, steel and scrap metal, cement, rail, and other industries participated in these meetings, which were held separately with each member. A summary of each meeting is posted on the Board's website. These communications enhance the Board's ability to make informed decisions while ensuring that the Board's record-building process in rulemaking proceedings remains transparent and fair.

Rate Cases

In *Consumers Energy Company v. CSX Transportation, Inc.*, Docket No. NOR 42142, the Board granted a petition jointly submitted by complainant Consumers Energy Company and defendant CSX, to vacate the rate prescription, dismiss the complaint with prejudice, and discontinue the proceeding.

Unreasonable Practice Cases

In *Ameropan Oil Corp. v. Canadian National Railway Co.*, Docket No. NOR 42161, the Board granted a motion filed by Illinois Central Railroad Company and Canadian National Railway Company (collectively, CN) to dismiss a complaint filed by Ameropan Oil Corporation (Ameropan), alleging, among other things, that CN had reduced rail service to Ameropan's facilities from five days per week to two days per week. The Board concluded that, for purposes of 49 U.S.C. § 10709, where transportation is provided pursuant to a contract, the Board lacks regulatory authority over the terms and conditions related to that transportation, whether or not explicitly addressed in the contract.

Rulemakings

In *Limiting Extensions of Trail Use Negotiating Periods*, Docket No. EP 749 (Sub-No. 1), and *Rails-to-Trails Conservancy—Petition for Rulemaking*, Docket No. EP 753, in June 2019, the Board issued a supplemental notice of proposed rulemaking proposing to establish a new one-year period for an initial interim trail use negotiating period, instead of the existing 180-day initial negotiating period; to permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown. The Board issued a final rule in December 2019.

In *Railroad Revenue Adequacy—2017 Determination*, Docket No. EP 552 (Sub-No. 22) et al., the Board adopted its proposal to make a one-time adjustments to its 2017 annual cost of capital determination, revenue adequacy determination, and URCS calculations to remove the accounting impacts of the Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017), on rail carriers' deferred tax liability to ensure that the rail carriers' financial state for 2017 is more accurately reflected in the Board's determinations and calculations.

In *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*, Docket No. EP 704 (Sub-No. 1), the Board waived the general prohibition on ex parte communications in effect when it first initiated the proceeding to permit informal discussions with stakeholders for a period of 90 days, ending June 17, 2019.

In *Payment, Filing, and Service Procedures*, Docket No. EP 747, the Board adopted modifications to its rules pertaining to certain payment, filing, and service procedures recommended by the Board's Regulatory Reform Task Force. The adopted rule also updated and clarified fees for copying, printing, and related services and removed outdated language from the Board's regulations.

In *Petition for Rulemaking to Amend 49 C.F.R. Part 1250*, Docket No. EP 724 (Sub-No. 5), the Board opened a rulemaking proceeding in response to a petition to amend its railroad performance data reporting rules and requested additional information regarding several issues raised in the petition and reply. After considering the additional information, the Board granted in part the petition and proposed to modify its reporting regulations to include chemical and plastics traffic as a distinct reporting category for the “cars-held” metric.

In *Water Carrier Tariff Filing Procedures*, Docket No. EP 743, the Board proposed updating its water carrier tariff filing regulations to reflect current business practices based on a recommendation by the Board’s Regulatory Reform Task Force. The Board proposed to allow water carriers operating in the noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection. After considering public comments, the Board adopted the proposed rule, without substantive change, as a final rule.

In *Review of the General Purpose Costing System*, Docket No. EP 431 (Sub-No. 4), the Board discontinued the proceeding after determining that potential refinements of URCS would benefit from additional study and analysis.

In *Rail Fuel Surcharges (Safe Harbor)*, Docket No. EP 661 (Sub-No. 2), the Board discontinued a proceeding in which it had sought comment on whether the “safe harbor” provision of its current fuel surcharge rules should be modified or removed. The proceeding was discontinued because the Board was unable to reach a majority decision on what additional Board action should be taken in response to the comments received.

In *Revisions to the Board’s Methodology for Determining the Railroad Industry’s Cost of Capital*, Docket No. EP 664 (Sub-No. 4), the Board proposed to incorporate an additional model to complement its use of the Morningstar/Ibbotson Multi-Stage Discounted Cash Flow Model and the Capital Asset Pricing Model in determining the cost-of-equity component of the cost of capital.

In *Final Offer Rate Review*, Docket No. EP 755 et al., the Board proposed a new procedure for challenging the reasonableness of railroad rates in smaller cases, under which the Board would decide a case by selecting either the complainant’s or the defendant’s final offer, subject to an expedited procedural schedule that adheres to firm deadlines and results in a Board decision within 135 days from the filing of a complaint.

In *Market Dominance Streamlined Approach*, Docket No. EP 756, the Board proposed a streamlined approach for pleading market dominance in rate reasonableness proceedings.

In *Waybill Sample Reporting*, EP 385 (Sub-No. 8), the Board proposed revised regulations to improve the utility of the Waybill Sample reporting that railroads submit to the Board. These amendments are part of the Board's continued effort to make the agency's rate review procedures more accessible, efficient, and transparent.

Declaratory Orders

In *Santa Cruz County Regional Transportation Commission—Petition For Declaratory Order*, Docket No. FD 36213, the Board found that Santa Cruz Regional Transportation Commission (Santa Cruz) would not become a common carrier if it entered into a proposed agreement with a new operator to provide freight rail service over a line whose physical assets are owned by Santa Cruz.

In *Oakland Global Rail Enterprise—Petition for Declaratory Order*, Docket No. FD 36168, the Board concluded that Oakland Global Rail Enterprise, LLC (OGRE), would not require construction authority to rehabilitate a portion of track at the former Oakland Army Base in Oakland, Cal. However, the Board directed OGRE and other parties to seek authority for the previous acquisitions of the track at issue or to explain why such authority was not required.

In *Utah Central Railway Company, LLC—Petition for Declaratory Order—Kenco Logistic Services, LLC, Kenco Group, And Specialized Rail Service, Inc.*, Docket No. FD 36131, the Board found, on the record presented, that there was no basis for concluding the rates in the applicable demurrage tariffs, the method of calculating demurrage, or the demurrage rules and practices of Utah Central Railway Company, LLC, are unlawful.

Licensing

In *BNSF Railway Company—Lease Exemption—Union Pacific Railroad Company*, Docket No. FD 36222, the Board permitted BNSF Railway Company (BNSF) to lease from UP an approximately 13.62-mile rail line in Pueblo County, Colo.

In *North Central Mississippi Regional Railroad Authority—Continuance in Control Exemption*, Docket No. FD 36234 et al., the Board allowed North Central Mississippi Regional Railroad Authority (NCMRRRA), a noncarrier, to continue in control of Grenada Railway, LLC, a Class III carrier currently owned and controlled by NCMRRRA, when NCMRRRA becomes a Class III rail carrier in a related transaction involving its acquisition of a rail line.

In *Eastside Community Rail, LLC—Acquisition and Operation Exemption—GNP RLY Inc.*, FD 35692 et al., the Board denied Snohomish County's petitions to revoke the acquisition exemption of Eastside Community Rail, LLC, and the lease exemption of Ballard Terminal Railroad Company, L.L.C. The Board found that the petitions were based on issues of

property, contract, and bankruptcy law that should be resolved by an appropriate court. In *City of Fishers, City of Noblesville, & Hamilton County, Ind.—Petition for Partial Revocation of Exemption*, Docket No. FD 36137 et al., the Board issued three notices of interim trail use or abandonment (NITUs) and clarified the path by which service could be restored over the rail line at issue. In a subsequent decision, the Board denied as premature a request from US Rail Holdings, LLC (US Rail), for the Board to vacate the three NITUs and permit rail service to be reactivated over portions of the rail line. The Board also denied US Rail’s motion for preliminary injunction to prohibit the removal of track and other rail assets along the line.

In *Kean Burenga and Chesapeake and Delaware, LLC—Continuance in Control Exemption—Dover and Delaware River Railroad, LLC*, Docket No. FD 36259 et al., the Board allowed Kean Burenga and Chesapeake and Delaware, LLC, both noncarriers, to continue in control of Dover and Delaware River Railroad, LLC (DDRR), when DDRR becomes a Class III rail carrier in a related transaction involving its lease and operation of trackage rights in New Jersey. The Board also set an effective date for the related transaction, which the Board had previously held in abeyance.

In *Variant Equity I, LP, and Project Kenwood Acquisition, LLC—Acquisition of Control—Coach USA Administration, Inc., and Coach USA, Inc.*, Docket No. MCF 21084, the Board tentatively approved and authorized, subject to opposing comments, Variant Equity I, LP, and Project Kenwood Acquisition, LLC, both noncarriers, to acquire from SCUSI Limited 100% of the stock in Coach USA Administration, Inc., a noncarrier that owns 100% of Coach USA, Inc., another noncarrier, that controls 29 motor passenger carriers that hold federally issued interstate operating authority. No opposing comments were filed. Consequently, the acquisition became effective on April 9, 2019.

In *National Express LLC—Acquisition of Control—Free Enterprise System/Royal, LLC*, Docket No. MCF 21085, the Board tentatively approved and authorized, subject to opposing comments, the jointly filed application of National Express LLC (National Express) and Sodrel Holding Company, Inc. (Sodrel Holding), both noncarriers, for National Express to acquire control of Free Enterprise System/Royal, LLC from Sodrel Holding. No opposing comments were filed. Consequently, the acquisition became effective on May 14, 2019.

In *CSX Transportation, Inc.—Lease—Western and Atlantic Railroad*, Docket No. FD 36220, the Board allowed CSX to continue to lease approximately 137.33 miles of rail line of the Western and Atlantic Railroad from the State of Georgia, subject to standard employee protective conditions.

In *Spokane, Spangle & Palouse Railway, L.L.C.—Lease and Operation Exemption—Washington State Department of Transportation*, Docket No. FD 36325, the Board permitted Spokane, Spangle & Palouse Railway, L.L.C., to commence operations on an expedited basis over approximately 102.6 miles of rail line in Washington state.

In *Jackson County, Mo.—Acquisition and Operation Exemption—Union Pacific Railroad Company*, Docket No. FD 35982, the Board revoked the 2016 exemption for Jackson County, Mo., to acquire and operate a rail line, finding that the County's actions were not consistent with the acquisition exemption it invoked to acquire the Line.

In *Palmetto Railways—Construction and Operation Exemption—in Berkley County, S.C.*, Docket No. FD 36095, the Board authorized Palmetto Railways to construct and operate approximately 28.01 miles of new rail line in Berkeley County, S.C., subject to certain environmental mitigation conditions.

In *National Express Transit Corp.—Acquisition of Control—Fox Bus Lines Inc.*, Docket No. MCF 21086, the Board tentatively approved and authorized National Express Transit Corporation, an intrastate passenger motor carrier, to acquire control of Fox Bus Lines, Inc. (Fox), an interstate passenger motor carrier, from Fox's shareholders.

In *Arkansas-Oklahoma Railroad Co.—Acquisition and Operation Exemption—State of Oklahoma*, Docket No. FD 36323, the Board granted Arkansas-Oklahoma Railroad Company the authority to acquire and operate approximately 69.60 miles of rail line that it acquired in 2016 but did not make the authority retroactive.

Abandonments/Discontinuances

In *Boston and Maine Corporation & Springfield Terminal Railway Company—Application for Adverse Discontinuance of Operating Authority—Milford-Bennington Railroad Company, Inc.*, Docket No. AB 1256, the Board denied an application filed by Boston and Maine Corporation and the Springfield Terminal Railway Company for third-party, or "adverse," discontinuance of the operating authority of Milford-Bennington Railroad Company, Inc., over approximately 5.36 miles of rail line between Wilton and Milford, N.H. The Board denied the application because the applicants failed to demonstrate that an adverse discontinuance would meet the required public convenience and necessity standard.

In *Savage, Bingham & Garfield Railroad Company—Discontinuance of Trackage Rights Exemption—in Whiting, Ind.*, Docket No. AB 1271X, the Board allowed Savage, Bingham & Garfield Railroad Company to discontinue its trackage rights over a 0.6-mile rail line owned by Elgin, Joliet and Eastern Railway Company in Whiting, Ind., subject to standard employee

protective conditions.

In *Union Pacific Railroad Company—Abandonment Exemption—in Douglas County, Neb.*, Docket No. AB 33 (Sub-No. 336X), the Board allowed UP to end its common carrier obligation to provide freight rail service over approximately 0.28 miles of rail line in Douglas County, Neb., subject to environmental conditions and standard employee protections.

In *Canton Railroad Company—Abandonment Exemption—in Baltimore City, Md.*, Docket No. AB 193 (Sub-No. 3X), the Board allowed Canton Railroad Company to end its common carrier obligation to provide freight rail service over approximately 0.23 miles of rail line in Baltimore City, Md., subject to environmental conditions and standard employee protective conditions.

In *Providence and Worcester Railroad Company—Discontinuance of Service Exemption—in Middlesex County, Conn.*, Docket No. AB 254 (Sub-No. 11X), the Board permitted Providence and Worcester Railroad Company to discontinue rail service over an approximately 0.74-mile rail line in Portland, Conn., subject to standard employee protective conditions.

In *Savage Davenport Railroad Co.—Discontinuance of Service Exemption—in Scott County, Iowa*, Docket No. AB 1277X, the Board allowed Savage Davenport Railroad Company to discontinue service over an approximately 2.8-mile rail line owned by the City of Davenport, in Scott County, Iowa, subject to standard employee protective conditions. The Board subsequently modified the effective date of the exemption and directed the City to provide the Board a status update regarding its efforts to secure a replacement operator for the line.

In *New York & Greenwood Lake Railway—Abandonment Exemption—in Bergen and Passaic Counties, N.J.*, Docket No. AB 1273X et al., the Board allowed New York & Greenwood Lake Railway to end its common carrier obligation to provide freight rail service over approximately 1.1 miles of rail line in Bergen and Passaic Counties, N.J., subject to environmental, historic preservation, and standard employee protective conditions.

Petitions for Reconsideration or Reopening

A party may file a discretionary appeal to the Board to reconsider or reopen a decision by: (1) presenting new evidence or substantially changed circumstances that have a material impact on the Board’s action, or (2) demonstrating that material error occurred. In FY 2019, the Board issued decisions denying petitions for reconsideration or reopening in a number of dockets, including:

Jimmy Lee Waneck and Starr Swearingen Waneck, et al.—Petition for Declaratory Order, Docket No. FD 36167.

Canadian National Railway Company and Grand Trunk Corporation—Control—EJ&E West Company, Docket No. FD 35087 (Sub-No. 8).

Eastside Community Rail, LLC—Acquisition and Operation Exemption—GNP RLY Inc., Docket No. FD 35692, et al.

Oakland Global Rail Enterprise—Petition for Declaratory Order, Docket No. FD 36168.
Union Pacific Railroad Company—Abandonment—in Carver and Scott Counties, Minn., Docket No. AB 33 (Sub-No. 255).

Uniform Railroad Costing System Update

The Board continues to work towards modernizing URCS. In light of the comments from stakeholders, and recognizing the need for additional study, the Board discontinued its proceeding in Review of the General Purpose Costing System, Docket No. EP 431 (Sub-No. 4). The Board is in the process of assessing how URCS might best be updated.

Environmental Review

The Board considers environmental impacts in its decision-making process under the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370i and related laws. By preparing the requisite environmental reviews and inviting the public to participate in the Board's environmental review process, the Board ensures its compliance with NEPA. The Board documents its NEPA findings by preparing Environmental Impact Statements (EIS) and Environmental Assessments (EA), which assess the potential environmental impacts that could result from a Board decision. The EISs and EAs currently being prepared by the Board's Office of Environmental Analysis (OEA) vary in scope and location.

During FY 2019, the Board worked on 14 EISs and 36 EAs in rail projects, comprising rail line constructions and rail line abandonments. Some of these cases have not been formally filed with the Board, but OEA has begun the environmental reviews to ensure a streamlined approach to these infrastructure projects.

Environmental Impact Statements

The EISs addressed projects such as the construction of an 80-mile rail line to ship commodities from the Uinta Basin in Utah. The Board also served as a cooperating agency in three Federal environmental construction reviews. The Board is also monitoring environmental mitigation in two completed rail construction cases, one in Alaska and one in Texas.

Environmental Assessments

The EAs addressed six rail line constructions and 27 rail line abandonments. These EAs included 28 miles of new rail line construction to connect shippers, including: Volvo Cars North America, to the rail network in Berkeley County, S.C.; 2,600 feet of new track to connect to a marine terminal in Galveston, Tex.; and route modifications to 11 miles of a previously approved rail line construction and acquisition in Moses Lake, Wash. In addition, the Board has conducted oversight and monitoring for two joint-easement transactions in Illinois and in Indiana and Kentucky. Finally, the Board has continued working towards completion of the National Historic Preservation Act requirements for a complex rail line abandonment in Jersey City, N.J.

Categorical Exclusions

During FY 2019, 143 cases before the Board fell within a categorical exclusion from NEPA review. These cases included acquisitions, leases, operating exemptions, declaratory orders, rulemakings, transactions involving corporate changes, and certain discontinuances.

Alternative Dispute Resolution

The Board has established arbitration and mediation rules to encourage parties informally to help resolve disputes and avoid costly litigation, and the Board actively encourages parties to use alternative dispute resolution. Mediation efforts have facilitated the settlement of cases and satisfactorily addressed other conflicts; however, no parties have yet agreed to participate in Board-sponsored arbitration. Successful mediation settlements result in significant savings of litigation expenses to the parties, allow both sides to reach mutually satisfactory agreements, and make available the Board's limited staff resources to work on other matters. The Board engaged the expertise of the Federal Mediation and Conciliation Service in FY 2019 to conduct Board-sponsored mediations with agency staff. This partnership has greatly enhanced the Board's mediation services offered to our stakeholders. In FY 2019, the Board held seven mediations, one of which reached successful resolution, and three of which are ongoing.

Public Outreach and Informal Dispute Resolution

Through the RCPA program in the Board's Office of Public Assistance, Governmental Affairs, and Compliance, the Board continues to provide shippers, state and local governments, and members of the public with an accessible and effective resource for resolving disputes with rail carriers on an informal basis. RCPA works to resolve conflicts that would otherwise be submitted to the Board for adjudication, thereby conserving stakeholder and agency resources.

In FY 2019, RCPA handled 1,624 inquiries from stakeholders, of which 215 pertained to shipper-railroad disputes. RCPA worked with parties to successfully resolve matters related to timely fulfillment of car orders, availability of rail resources, track maintenance, interchange operations, inter-carrier disputes, switching services, car storage, rates and charges, and responsibility for spur track.

RCPA also informally assisted customers of household goods (HHG) moving companies to resolve service and rate disputes. The Federal Motor Carrier Safety Administration (FMCSA) has primary regulatory jurisdiction in this area. RCPA maintained its informal engagement with FMCSA to discuss HHG trends and with the Federal Maritime Commission (FMC) to discuss issues of common interest. Also, an RCPA staff member serves on an HHG consumer protection working group established under the FAST Act of 2015, Pub. L. No. 114-94, 129 Stat. 1312.

In addition to its dispute resolution function, RCPA also serves as a liaison between the public and the Board. RCPA fields inquiries from Board practitioners as well as from members of the public to provide those parties with a better understanding of Board regulations, rules, and procedures.

Court Actions

In FY 2019, the Office of the General Counsel (OGC) handled a variety of cases on behalf of the Board. In a case involving a wood pellet transloading facility, the First Circuit upheld a Board determination that federal preemption would bar a municipality's regulation of various railroad activities, including bagging, palletizing, and shrink-wrapping. *Del Grosso v. STB*, 898 F.3d 139 (1st Cir. 2018).

In a case involving an NS/Delaware & Hudson (D&H) acquisition transaction and a separate case involving D&H's discontinuance of nearby unused trackage rights, the Third Circuit denied petitions by Eric Strohmeyer and CNJ Rail Corporation for panel rehearing and rehearing en banc in both appeals. *Strohmeyer v. STB*, No. 16-4362 (3d Cir. Dec. 21, 2018); *Strohmeyer v. STB*, No. 16-4435 (3d Cir. July 3, 2018). Subsequent petitions for certiorari were denied by the U.S. Supreme Court. *Strohmeyer v. STB*, No. 18-805 (U.S. Mar. 18, 2019); *Strohmeyer v. STB*; No. 18-1481 (U.S. Oct. 7, 2019).

In a rate reasonableness case, *Consumers Energy Co. v. CSX Transportation, Inc.*, Docket No. NOR 42142, the Board's decision granting relief to the shipper was appealed to the D.C. Circuit by both the shipper and the railroad. Before briefing, the case was settled by the parties. *Consumers Energy Co. v. STB*, No. 18-1259 (D.C. Cir. Jan. 25, 2019).

In a case involving the constitutionality of the provision of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), Pub. L. No. 110 432, 122 Stat. 4848, regarding on-time performance standards to be issued by Federal Railroad Administration (FRA) and Amtrak, the U.S. Supreme Court denied requests that the Court reverse an earlier D.C. Circuit decision ultimately finding the operative portion of the law to be constitutional. Board counsel worked on the matter with lead counsel from the Department of Justice. *Ass'n of Am. R.Rs. v. DOT*, No. 18-976 (U.S. June 3, 2019).

In a case having implications for several agencies whose decisions are reviewed under the Hobbs Act, the U.S. Supreme Court held that an agency's "interpretive rule"—one that simply advises the public of the agency's construction of the statutes and rules it administers—can be challenged at any time when applied to a party that was not in a position to challenge it when it was issued by the agency. Board counsel worked on the matter with lead counsel from the Department of Justice. *PDR Network v. Carlton & Harris Chiropractic*, No. 17-1705 (U.S. June 20, 2019).

In a case involving state taxes that allegedly discriminated against rail carriers in violation of 49 U.S.C. § 11501(b)(4), the United States filed an amicus curiae brief, incorporating recommendations from the Board, opposing petitions for a writ of certiorari. The Supreme Court denied the petitions. *Ala. Dep't of Rev. v. CSX Transp. Inc.*, No. 18-447 (U.S. June 24, 2019); *CSX Transp. Inc. v. Ala. Dep't of Rev.*, No. 18-612 (U.S. June 24, 2019).

In a case involving rail fuel surcharges, the Board's motion to dismiss a petition for a writ of mandamus asking the court to direct Board action following up on an advanced notice of proposed rulemaking was granted after the Board issued a decision discontinuing the matter. *In re W. Coal Traffic League*, No. 19-1080 (D.C. Cir. filed Sept. 12, 2019).

During FY 2019, the Board also continued to defend in court its decisions regarding BNSF terminal trackage rights in *Kansas City Southern v. STB*, No. 16-1308 (D.C. Cir.) (currently in mediation); and its decisions denying petitions to revoke exemptions permitting operations by *Ballard Terminal Railroad & Eastside Community Rail in Snohomish County, Wash. v. STB*, Nos. 19-1030 & 19-116 (D.C. Cir.).

Other Legal Matters

The OGC continued to handle a wide variety of other legal matters, including matters involving the Freedom of Information Act, the Privacy Act, the Paperwork Reduction Act, the Equal Employment Opportunity Act, NEPA, the National Historic Preservation Act, the National Trails System Act, the Federal Advisory Committee Act, FISMA, the Federal Information Technology Acquisition Reform Act, and the Federal Managers Financial Integrity

Act. In addition, OGC provided legal counsel on ethics issues and government contracting, and participated in the Administrative Conference of the United States.

Advisory Committees

During FY 2019, the Board hosted meetings for three transportation advisory committees of which the Board members are ex-officio members.

Established under the ICC Termination Act of 1995, the Railroad-Shipper Transportation Advisory Council (RSTAC) advises the Board, the Secretary of Transportation, and Congress on railroad-transportation policy issues of particular importance to small shippers and small railroads, such as rail-car supply, rates, and competitive matters. Its 15 appointed members consist of senior officials representing large and small shippers, large and small railroads, and one at-large representative. The Secretary of Transportation and the Board members are ex-officio members. RSTAC holds meetings quarterly.

The Rail Energy Transportation Advisory Committee (RETAC) was created in 2007 to provide advice and guidance to the agency on emerging issues concerning the rail transportation of energy resources such as coal, crude oil, ethanol, and other biofuels. The 25 voting members of RETAC represent a balance of stakeholders, including large and small railroads, coal producers, electric utilities, the biofuels industry, the petroleum production industry, and the private railcar industry. RETAC holds meetings twice per year.

The National Grain Car Council (NGCC) assists the Board in addressing issues concerning grain transportation by fostering communication among railroads, shippers, rail-car manufacturers, and the government. The NGCC, which meets once a year, is composed of 14 representatives from Class I railroads, seven from Class II and Class III railroads, 14 from grain shippers and receivers, and five from private rail car owners and manufacturers.

Amtrak and Passenger Rail

During FY 2019, STB staff monitored Amtrak performance through publicly available information and responded to informal inquiries about Amtrak and PRIIA, as needed. Agency staff also met regularly with Amtrak staff to discuss Amtrak's publicly available, monthly, on-time performance operating statistics. Amtrak had previously brought two on-time performance cases under PRIIA before the Board. But the Board dismissed those cases, without prejudice, after the U.S. Court of Appeals for the D.C. Circuit initially found section 207 of PRIIA—the provision under which the FRA/Amtrak regulations governing on-time performance had been adopted—to be unconstitutional. The Board had attempted to fill in the gap and adopt its own on-time performance rules under section 213 of PRIIA, but the U.S. Court of Appeals for the Eighth Circuit rejected that approach. Ultimately, however, in a

subsequent decision, the D.C. Circuit held the operative provision of PRIIA section 207 to be constitutional (although it did not reinstate the FRA/Amtrak on-time performance regulations). On June 3, 2019, the U.S. Supreme Court denied a petition filed by the Association of American Railroads for a writ of certiorari, meaning that the latest D.C. Circuit opinion finding the operative portion of section 207 to be constitutional stands. FRA and Amtrak must now promulgate new on-time performance regulations for the Board's investigative authority under PRIIA section 213 to become effective.

The Board issued a number of decisions concerning Amtrak-related matters:

In *Application of the National Railroad Passenger Corporation Under 49 U.S.C. § 24308(a)—Canadian National Railway Company*, Docket No. FD 35743, the Board issued interim findings and guidance to Amtrak and Illinois Central Railroad Company and Grand Trunk Western Railroad Company (subsidiaries of CN) and initiated Board-sponsored mediation in an effort to establish reasonable terms and compensation for Amtrak's use of the carriers' facilities (including rail lines) and services.

In *Petition By National Railroad Passenger Corporation for Proceedings Under 49 U.S.C. § 24903(c)(2)*, Docket No. FD 36332, the Board required Amtrak to continue to provide the Northeast Illinois Regional Commuter Railroad Corporation and the Commuter Rail Division of the Regional Transportation Authority (collectively, Metra) access to Chicago Union Station on an interim basis. The Board also instituted a proceeding to determine the compensation that Metra must pay Amtrak for the use of Chicago Union Station and issued a procedural schedule.

In *Petition By The Southeastern Pennsylvania Transportation Authority for Relief Under 49 U.S.C. § 24903*, Docket No. FD 36281, the Board instituted a proceeding to determine compensation for use by the Southeastern Pennsylvania Transportation Authority (SEPTA) of certain Amtrak passenger rail stations and parking facilities, required Amtrak to continue to provide SEPTA access to the stations and facilities on an interim basis, and granted a joint motion to hold the proceeding in abeyance.

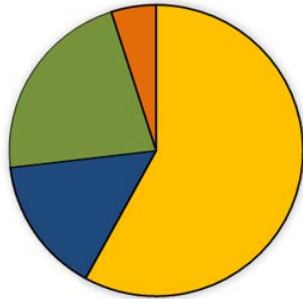
Budget Data

Dollar Cost: Comparison by Object Classification, FYs 2019–2021

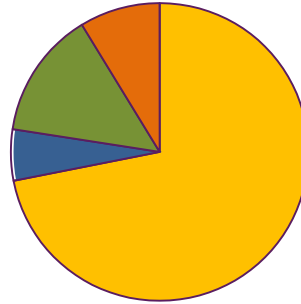
(as of 9/30/2019)

(dollar amounts in thousands)

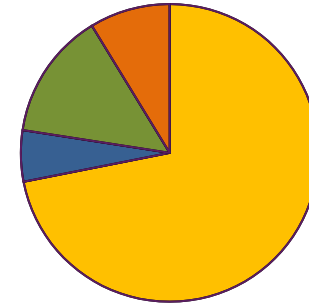
FY 2019: \$35,258



FY 2020: \$37,100



FY 2021: \$37,500



CATEGORY OF OBLIGATION ⁴	FY 2019 Actual		FY 2020 Request		FY 2021 Request	
	Dollars	Percent of Total	Dollars	Percent of Total	Dollars	Percent of Total
Personnel Compensation and Benefits	\$21,382	61%	\$25,150	67%	\$26,305	70%
Rent, Utilities, and Security	4,635	13%	4,345	12%	3,940	11%
Services ⁵	7,835	22%	5,469	15%	5,294	14%
Other ⁶	1,406	4%	2,136	6%	1,961	5%
TOTAL⁷	\$35,258	100%	\$37,100	100%	\$37,500	100%

⁴ Note: Dollars may not add due to rounding in this and subsequent charts.

⁵ Services include, but are not limited to, obligations for contractor staff (IT services; financial management, internal controls, and financial audits), software licenses, and the Working Capital Fund.

⁶ Other includes budget object classes such as equipment, supplies, reimbursable collections, travel, training, printing, postage and contractual mail, and miscellaneous services.

⁷ Includes funds obligated for Requests for Proposals (RFPs) and other procurement actions that have not yet been awarded.

Analysis of Change by Object Classification, FYs 2019–2021

(dollar amounts in thousands)

	FY 2019 Actual Obligations (as of 9/30/19)	FY 2020 Request	FY 2021 Request	FY 2020–21 Change	Percentage Change
Personnel Compensation and Benefits	\$21,382	\$25,150	\$26,305	\$1,155	5%
Non-personnel Obligations					
Rent and Utilities	\$3,540	\$3,400	\$3,000	-400	-12%
Security	1,095	945	940	-5	-1%
Information Technology	5,097	2,341	3,824	1,483	63%
Interagency Agreements and Technical Services	2,268	2,710	1,040	-1,670	-62%
Working Capital Fund	470	418	430	12	3%
Travel and Transportation	50	130	130	0	0%
Training	30	150	75	-75	-50%
Office Supplies and Subscriptions (Legal and Periodicals)	362	386	356	-30	-8%
Miscellaneous Services (e.g. Health, Employee services, and Security Investigations)	228	220	150	-70	-32%
Reimbursable Obligations (Offsetting Collections)	736	1,250	1,250	0	0%
Non-personnel Obligations (Total)	\$13,876	\$11,950	\$11,195	(\$755)	-6%
Total Obligations	\$35,258	\$37,100	\$37,500	400	1%

Workload Summary

Workload Category	FY 2019 Actual	FY 2020 Estimate	FY 2021 Estimate
Alternative Dispute Resolution			
Arbitrations	0	0	0
Informal Dispute Resolution	204	180	180
Mediations	7	5	5
Audits	8	7	7
Decisions			
Complaints			
Rate	7	17	17
Non-Rate	25	33	33
Declaratory Orders	40	58	58
Ex Parte Proceeding Decisions			
Rulemakings	25	19	16
Other	28	24	24
Licensing			
Applications/Petitions	85	63	63
Notices of Exemption	224	202	202
Other (incl. Grant Stamps)	68	75	75
Non-Rail Decisions	3	10	10
Other	10	22	22
Defensibility Assessments	108	105	110
Depreciation Studies	12	10	10
Economic Statistical Reports	5	5	5
Environmental			
Categorical Exclusions	143	145	138
Environmental Assessments	36	26	32
Environmental Impact Statements	14	10	8

Ethics Reviews	140	120	125
Fee Waiver Determinations	17	12	12
Advisory Committee Meetings (incl. Federal Advisory Committee Act Committees)	8	8	8
Filings	1,975	2,000	2,000
Freedom of Information Act (FOIA) Requests	46	45	50
Investigations (pursuant to 49 U.S.C. § 11701)	0	1	1
Judicial Review	10	9	10
Outreach & Communication			
Conferences	22	20	20
Environmental Meetings	30	32	28
Ex Parte Meetings	12	10	10
Stakeholder Meetings	204	200	200
Public Forum			
Hearings	1	1	1
Listening Sessions	0	0	0
Oral Arguments	2	0	0
Other	0	0	0
Rail Service Data Reports	384	384	384
Recordations	1,462	1,600	1,600
Section 5 Collaborative Discussions	27	20	20
Technical Conferences	1	2	3
Waybill Requests	101	95	95

Strategic Goals and Annual Performance Measures (as of 9/30/2019)

Summary of Strategic Goals, Objectives, and Performance Measures			
STRATEGIC GOAL 1: Protect the public interest in surface transportation matters.			
Performance Goal 1: Facilitate greater understanding among and between carriers, shippers, and other stakeholders by supporting and participating in the work of the National Grain Car Council, the Railroad-Shipper Transportation Advisory Council, and the Rail Energy Transportation Advisory Committee.	2019 Actual	2020 Target	2021 Target
Performance Measure 1: Facilitate formal outreach efforts to promote effective compliance programs by hosting a minimum of seven collaborative meetings a year to discuss emerging challenges and industry trends with various stakeholder groups.	Met	Meet	Meet
Performance Goal 2: Encourage the voluntary resolution of rail operational and service-related issues involving shippers, railroads, state and local governments, and the public by providing informal access to the Board through the RCPA.	2019 Actual	2020 Target	2021 Target
Performance Measure 1: Informal inquiries and complaints from stakeholders and the public are responded to by RCPA within 3 days of receipt.	Met	Meet	Meet
Performance Goal 3: Conduct responsive, impartial, and timely adjudications.	2019 Actual	2020 Target	2021 Target
Performance Measure 1: Use resources efficiently to issue timely Decisions that are responsive to the needs of the public and are consistent with applicable laws and precedent greater than 90% of the time.	Met	Meet	Meet
Performance Measure 2: Board decisions are responsive to the comments, evidence, and argument, such that court decisions fault the agency for failing to address issues raised less than 25% of the time.	Met	Meet	Meet
Performance Measure 3: Board decisions are substantively supported, such that court decisions set aside agency rulings as beyond the agency's authority, or arbitrary, capricious, or an abuse of discretion, less than 25% of the time.	Met	Meet	Meet

Summary of Strategic Goals, Objectives, and Performance Measures (continued)			
<p>Performance Goal 4: Ensure early and continuing opportunities for public participation and stakeholder input for projects that trigger review under NEPA and other related environmental laws by conducting public outreach, and informational meetings to inform and educate the public, and managing rail-related information databases for public use. Provide consistent, coordinated, and predictable environmental reviews and authorization processes for infrastructure projects.</p>	2019 Actual	2020 Target	2021 Target
<p>Performance Measure 1: Prepare environmental service lists and conduct public outreach through meetings, webinars, and websites, as appropriate, at least 80% of the time in cases requiring environmental review.</p>	Met	Meet	Meet
<p>Performance Measure 2: Process environmental reviews and authorization decisions for major infrastructure projects within 2 years to the maximum extent practicable consistent with Executive Order No. 13807, greater than 80% of the time.</p>	Met	Meet	Meet
<p>Performance Goal 5: Ensure that the public, through efficient FOIA processing, can obtain information about the Board, the programs it administers, and the actions it takes.</p>	2019 Actual	2020 Target	2021 Target
<p>Performance Measure 1: Promote transparency and public confidence in the Board's programs by responding to FOIA requests within the statutory time frame of 20 business days, excluding statutory-authorized extensions.</p>	Met	Meet	Meet
<p>STRATEGIC GOAL 2: Foster economic efficiencies through reliance, where possible, on marketplace factors to encourage the development and continuation of economically sound, efficient, and reliable surface transportation systems that have adequate capacity to meet the needs of our economy.</p>			
<p>Performance Goal 1: Collect and publish statistical data permitting the public to better understand trends in traffic volumes, rates, and the financial health of the rail industry.</p>	2019 Actual	2020 Target	2021 Target
<p>Performance Measure 1: Publish Monthly, Quarterly, and Annual Statistical Reports within 30 days of receiving all needed inputs.</p>	Met	Meet	Meet
<p>Performance Measure 2: Collect and publish rail service metrics within 24 hours of receipt.</p>	Met	Meet	Meet

Summary of Strategic Goals, Objectives, and Performance Measures (continued)			
Performance Goal 2: Support the maintenance and development of adequate surface transportation systems to sustain the Nation’s economic growth.	2019 Actual	2020 Target	2021 Target
Performance Measure 1: Recordations are entered into the Board’s public database within one business day, at least 90% of the time.	Met	Meet	Meet
Performance Measure 2: The Board issues licensing authority within the required statutory and/or regulatory timeframe, at least 95% of the time.	Met	Meet	Meet
STRATEGIC GOAL 3: Provide a Timely, Efficient, and Decisive Process			
Performance Goal 1: Make key, disclosable information from the Board’s internal case monitoring and management system available to the public so that stakeholders can be informed about the expected timing for specific Board decisions.	2019 Actual	2020 Target	2021 Target
Performance Measure 1: Prepare, post, and provide delivery to Congress quarterly reports on status of rate reasonableness cases, formal complaints, informal complaints, and pending regulatory proceedings.	Met	Meet	Meet
Performance Measure 2: Publishes the Semi-annual Regulatory Agenda.	Met	Meet	Meet
STRATEGIC GOAL 4: Ensure Proper Agency Structure			
Performance Goal 1: Identify and alleviate current and future skills gaps by succession planning and by providing appropriate training to staff to prepare for impending retirements of senior staff.	2019 Actual	2020 Target	2021 Target
Performance Measure 1: The Board will assess annually the training and development needs of staff, at least 90% of the time.	Met	Meet	Meet
Performance Goal 2: Ensure that Board members and staff are properly trained on, and abide by, applicable ethics rules, so that they can maintain the public’s trust in impartial Board decisions issued without conflicts of interest.	2019 Actual	2020 Target	2021 Target
Performance Measure 1: Conduct yearly ethics training.	Met	Meet	Meet
Performance Measure 2: Provide initial response to employee’s ethic inquiries within 48 hours, at least 80% of the time.	Met	Meet	Meet

Administrative and Organizational Data

Board Members

The Board is authorized to have five members nominated by the President and confirmed by the Senate.⁸ As of September 30, 2019, there were three members serving on the Board.⁹ Each member serves a term of five years, unless appointed to fill an unexpired term. If a member departs the STB before the end of his or her term, a successor is appointed to the vacant seat for the remainder of the departing member's term. The Board's governing statute permits a member to serve up to one year after the expiration of that member's term, unless a successor is appointed.

STB Office Overview

In addition to the Board members' offices, the staff of the STB is organized into six offices. The six offices are comprised of attorneys, economists, financial, transportation, and environmental analysts with expertise in the rail industry, as well as human resource specialists, paralegals, IT specialists, and contractors providing support to ensure the STB has the capabilities to meet its statutory responsibilities.

The Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) serves as the STB's principal point of contact for the U.S. Congress, federal agencies, foreign, state and local governments, interested stakeholders, the public, and the news media. OPAGAC's mission is to aid the public in participating in matters before the STB, to disseminate accurate information concerning the agency and its work, and to help the public understand the law and the agency's decisions. This office is responsible for external operations including governmental affairs, communications, and compliance, as well as internal operations such as rail operations analysis, monitoring and analysis of certain passenger rail matters, tariffs, the Board's library, records management, and mediation coordination. OPAGAC is also responsible for the management of the RCPA program, which assists the public by answering questions pertaining to Board regulations and procedures and facilitating informal private-sector dispute resolution of rail operational and service-related issues and other matters wherever possible.

The Office of Economics (OE) provides economic, cost, financial, and engineering analyses for the Board. OE also makes available

⁸ The STB Reauthorization Act expanded the Board's membership from three to five Board members.

⁹ Patrick Fuchs was sworn in as a member on January 17, 2019, and Martin Oberman was sworn in as a member on January 22, 2019.

to the public a variety of statistical and financial analyses of the railroad industry. OE manages the Board-prescribed Uniform System of Accounts and cost accounting systems. OE also audits Class I carriers to ensure their compliance with these systems and uses the data provided by carriers to develop and disseminate the Uniform Rail Costing System.

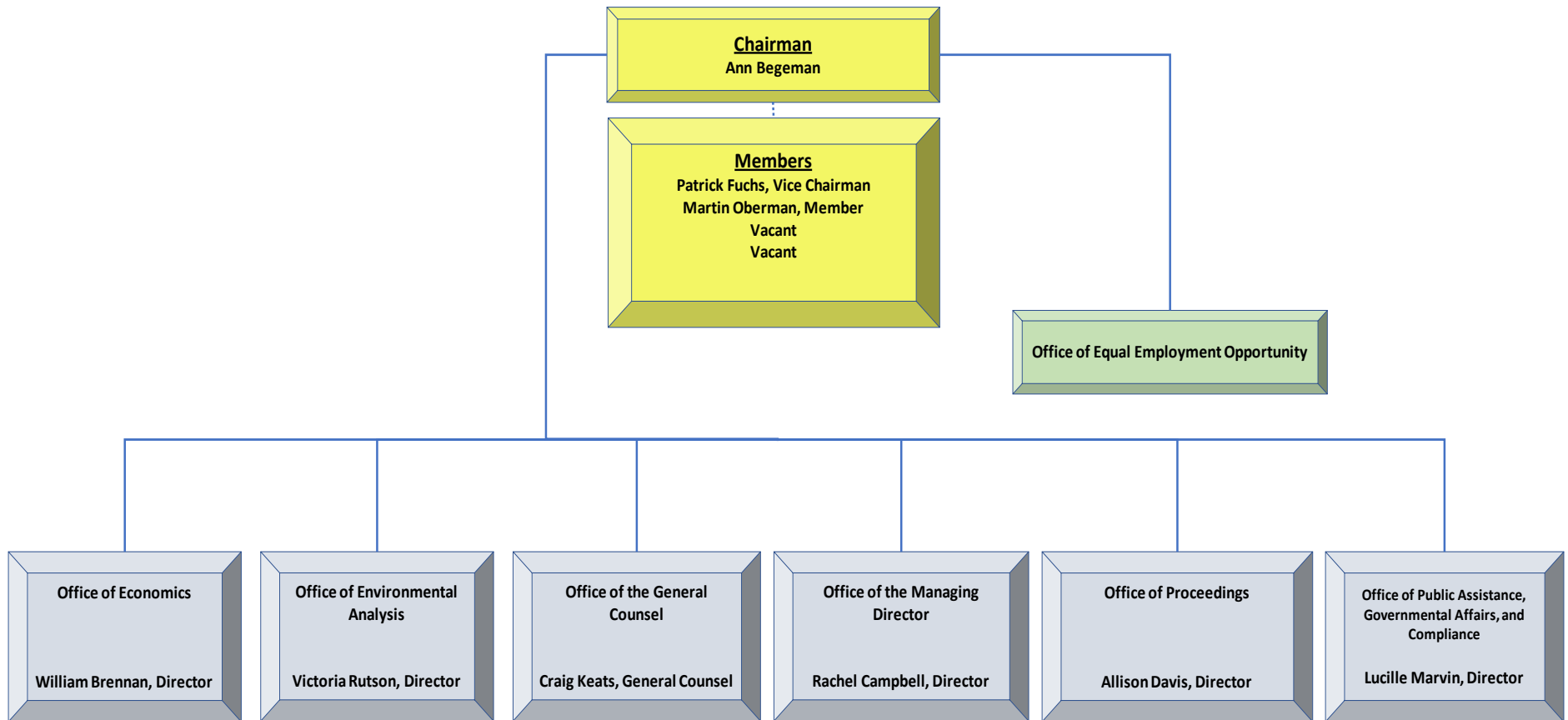
The Office of the General Counsel (OGC) is legal counsel to the Board and provides two main services: enhancing the defensibility of the agency's decisions and defending those decisions in court. The OGC also advises the Board on various mission-related matters, including government ethics requirements and matters involving the Freedom of Information, Privacy, Paperwork Reduction, Sunshine, and Equal Employment Opportunity Acts. Finally, the OGC assists both the Department of Justice in responding to ancillary litigation related to Board proceedings and the Solicitor General in transportation-related Supreme Court litigation.

The Office of Proceedings (OP) has primary responsibility for managing the public record in formal cases (or proceedings) filed with the Board, making recommendations regarding the resolution of issues presented in those cases, and preparing the decisions issued by the Board. Specifically, OP oversees the Board's caseload, providing legal and policy recommendations (in conjunction with other Board offices, as needed) to the Board members for resolving the issues presented, and preparing drafts of decisions to be issued by the Board. OP also performs administrative services for the Board, including receiving and processing formal filings from the public; administering the Board's voting process; serving as a clearinghouse for final decisions; coordinating with the Federal Register for publication of decisions; and tracking the Board's casework to provide status updates to senior leaders about the agency's interim progress and create reports measuring the agency's performance. In addition, OP maintains a database for recording and perfecting secured transactions involving vessels and railroad rolling stock.

The Office of Environmental Analysis (OEA) assists the Board in meeting its responsibilities under NEPA, and other related federal statutes. NEPA requires the Board to consider the potential environmental impacts before making its final decision in certain cases. OEA conducts an independent environmental review of cases filed with the Board; prepares any necessary environmental documentation; conducts public outreach to inform the public about proposals before the Board and invites stakeholders' comments; and provides technical advice and recommendations to the Board on environmental matters.

The Office of the Managing Director (OMD) provides a wide range of administrative services in support of the Board's mission, including human resource management, financial services, IT support, cybersecurity, and facilities management.

Surface Transportation Board Office—Organization Chart (as of September 2019)



Current Staffing Plan and Vacancies

Office	FY 2019		
	Permanent and Term Positions in Staffing Plan	Permanent and Term on Board (as of 9/30/19)	Vacancies
Members' Offices	13	8	5
Equal Employment Opportunity*	0	0	0
Subtotal Independent Offices	13	8	5
Office of Economics	27	24	3
Office of Environmental Analysis	10	9	1
Office of the General Counsel	18	17	1
Office of the Managing Director**	19	17	2
Office of Proceedings	41	35	6
Office of Public Assistance, Governmental Affairs, and Compliance	14	12	2
Subtotal Operational Offices	129	114	15
Board Total	142	122	20

* The STB through an Interagency agreement with FMC shares the costs of a Director for the Office of Equal Employment Opportunity, which allows both agencies to use funds responsibly while meeting required Federal regulations.

** The STB is continuously evaluating its workload and aligning resources to meet organizational needs.



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