

Type of proceeding	Fee
(86) Informal opinions:	
(i) A request for an informal opinion not otherwise covered	1,100
(ii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) in connection with a major financial proceeding as defined at 49 CFR 1180.2(a)	3,500
(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered	350
(88) Basic fee for STB adjudicatory services not otherwise covered	200
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Board or State proceeding that:	
(i) Does not require a FEDERAL REGISTER notice:	
(A) Set cost portion	100
(B) Sliding cost portion	132
(ii) Does require a FEDERAL REGISTER notice:	
(a) Set cost portion	300
(b) Sliding cost portion	32
(100) Uniform Railroad Costing System (URCS) software and information:	
(i) Initial PC version URCS Phase III software program and manual	50
(ii) Updated URCS PC version Phase III cost file—per year	25
(iii) Public requests for <i>Source Codes</i> to the PC version URCS Phase III	100
(101) Carload Waybill Sample data or recordable disk (R-CD):	
(i) Requests for Public Use File on R-CD—per year	250
(ii) Waybill—Surface Transportation Board or State proceedings on R-CD—per year	500
(iii) User Guide for latest available Carload Waybill Sample	50
(iv) Specialized Programming for Waybill requests to the Board	276

¹ Per party.
² Per hour.

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 BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR 1109 and 1114

[STB Ex Parte No. 638]

Procedures To Expedite Resolution of Rate Challenges To Be Considered Under the Stand-Alone Cost Methodology

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Board proposes to amend its regulations at parts 1109 and 1114 to expedite the resolution of rate challenges considered under the stand-alone cost (SAC) methodology. We are proposing to change both our discovery standard and the way we handle discovery disputes in rate cases considered under the SAC methodology. We are also proposing to institute a requirement that a shipper seeking rate relief from a railroad in such cases

engage in non-binding mediation of its dispute with the railroad prior to filing its complaint with us. We request comments on these proposals.

DATES: Comments are due October 11, 2002, with reply comments due 20 days thereafter.

ADDRESSES: Send comments (an original plus 10 copies) referring to *Ex Parte* No. 638 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT: Thomas J. Stilling (202) 565-1567. [Federal Information Relay Service (FIRS) (Hearing Impaired): (800) 877-8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To obtain a free copy of the full decision, visit the Board's Web site at www.stb.dot.gov; call the Board's Information Officer at (202) 565-1674; or pick up in person from the Information Officer, Suite 100, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. To purchase a copy of the decision, write to, call, e-mail, or pick up in person from Dā-2-Dā Legal Copy Service, Room 405, 1925 K Street, NW., Washington, DC 20006, (202) 293-7776,

da2dalegal@earthlink.net. [Federal Information Relay Service (FIRS) (Hearing Impaired): (800) 877-8339.]

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

We tentatively conclude that our action will not have a significant effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Parts 1109 and 1114

Practice and procedure, Railroads.

Decided: September 3, 2002.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend 49 CFR parts 1109 and 1114 as follows:

PART 1109—USE OF ALTERNATIVE DISPUTE RESOLUTION IN BOARD PROCEEDINGS AND THOSE IN WHICH THE BOARD IS A PARTY

Add new § 1109.4, *Mandatory Mediation in Rate Cases To Be*

Considered Under the Stand-Alone Cost Methodology, as follows:

§ 1109.4 Mandatory Mediation in Rate Cases To Be Considered Under the Stand-Alone Cost Methodology.

(a) A shipper seeking rate relief from a railroad or railroads in a case involving the stand-alone cost methodology must engage in non-binding mediation of its dispute with the railroad prior to filing a formal complaint under part 1111.

(b) The shipper must file a request for mediation with the Board, indicating its intent to file a complaint alleging a violation of 49 U.S.C. 10701 and 10704. This request will engage the Board's processes and serve to fix the relevant limitations period for any relief for rates or charges already paid, just as would the filing of a formal complaint. The request for mediation must specify the relevant facts and nature of the dispute in sufficient detail to frame the issues requiring mediation. The shipper must serve a copy of its request on the defendant railroad as specified in § 1104.12. A mediator will be assigned by the Board within 5 business days of filing of the shipper's request.

(c) The mediator will work with the parties to try to reach a settlement of all or some of their dispute or to narrow the issues in dispute, and reach stipulations that may be incorporated into any subsequent adjudication before the Board if mediation does not fully resolve the dispute.

(d) If the parties reach a settlement, the mediator may assist in preparing a settlement agreement. If the parties fail to reach a settlement, the shipper may proceed to file a formal complaint with the Board. If the parties reach a partial settlement, the shipper may proceed to file a formal complaint with the Board on the remaining issues, which will be handled under the Board's existing rules.

(e) Within 5 business days of the assignment to mediate, the mediator shall contact the parties to discuss ground rules and the time and location of any meeting. The precise procedure used to facilitate the mediation is flexible and is within the mediator's discretion.

(f) The entire mediation process shall be private and confidential, and shall be completed within 60 days of the filing of the shipper's request. If the mediation process cannot be completed in 60 days, a request for an extension may be filed by the mediator, after consultation with the parties, prior to the end of the 60 day period, and may be considered by the Board.

PART 1114—EVIDENCE; DISCOVERY

1. Amend § 1114.21 as follows:

- a. Revise the first sentence of paragraph (a)(1);
- b. Redesignate current paragraphs (b)–(f) as (c)–(g);
- c. Add new paragraph (b).

The revised and added text reads as follows:

§ 1114.21 Applicability; general provisions.

(a) *When discovery is available.* (1) Parties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding or a rate case to be considered under the stand-alone cost methodology. * * *

(b) *Discovery in stand-alone cost rate cases.* In a rate case to be considered under the stand-alone cost methodology, parties may obtain discovery only of information for which the party seeking discovery has a clear, demonstrable need in order to make its case and which is not readily available to it through means other than discovery.

2. Add to § 1114.31, new paragraphs (a)(1)–(4) as follows:

§ 1114.31 Failure to respond to discovery.

(a) * * *

(1) *Reply to motion to compel generally.* Except in rate cases to be considered under the stand-alone cost methodology, the time for filing a reply to a motion to compel is governed by § 1104.13.

(2) *Reply to motion to compel in stand-alone cost rate cases.* A reply to a motion to compel must be filed with the Board within 10 days thereafter in a rate case to be considered under the stand-alone cost methodology.

(3) *Conference with parties.* Within 5 business days after the filing of a reply to a motion to compel in a rate case to be considered under the stand-alone cost methodology, Board staff may convene an informal conference with the parties to discuss the dispute, attempt to narrow the issues, and gather any further information needed to render a ruling.

(4) *Ruling on motion to compel in stand-alone cost rate cases.* Within 5 business days after a conference with the parties convened pursuant to subparagraph (a)(3) of this section, the Secretary will issue a summary ruling on the motion to compel discovery in a stand-alone cost rate case. If no conference is convened, the Secretary will issue this summary ruling within

10 business days after the filing of the reply to the motion to compel.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI60

Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Black-footed Ferrets in South-central South Dakota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), in cooperation with the Rosebud Sioux Tribe (Tribe), the U.S. Forest Service, and the U.S. Bureau of Indian Affairs propose to reintroduce endangered black-footed ferrets (*Mustela nigripes*) into south-central South Dakota on the Rosebud Sioux Reservation. The purposes of this proposed reintroduction are to implement actions required for recovery of the species and to evaluate and improve reintroduction techniques and management applications. If this rule is finalized by October 2002, we will release surplus captive-raised and/or wild-born black-footed ferrets in the fall of 2002, and release additional animals annually for several years thereafter until a self-sustaining population is established. If this reintroduction program is successful, a wild population could be established in 5 years or less. The Rosebud Sioux Reservation black-footed ferret population would be established as a nonessential experimental population in accordance with section 10(j) of the Endangered Species Act of 1973, as amended (Act). We would manage this population under provisions of this proposed special rule. A draft environmental assessment has been prepared on this proposed action.

DATES: Comments from all parties on both the proposed rule and the draft environmental assessment must be received by: October 11, 2002. A public hearing has been scheduled for September 26, 2002 from 4:00 p.m. until 6:00 p.m. in the Commons Area at the Multi-Cultural Center in Mission, South Dakota. An informational meeting/open house will be held prior to this meeting