

toward completion. The first Working Group meeting was held May 8–10, 2006. The Working Group met on August 8–9, 2006, and the next meeting is scheduled for September 25–26, 2006. Contact: George Scerbo, (202) 493–6249.

*Task 06–02*—Track Safety Standards and Continuous Welded Rail. Section 9005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. No. 109–59, “SAFETEA-LU”), the 2005 surface transportation authorization act, requires FRA to issue requirements for inspection of joint bars in continuous welded rail (CWR) to detect cracks that could affect the integrity of the track structure. 49 U.S.C. 20142(e). FRA published an Interim Final Rule establishing new requirements for inspections on November 2, 2005, (70 FR 66288). On October 11, 2005, FRA offered the RSAC a task to review comments on this IFR, but the conditions could not be established under which the Committee could have undertaken this with a view toward consensus. Comments on the IFR were received through December 19, 2005. FRA is reviewing the comments. On February 22, 2006, the RSAC accepted this task to review and revise the CWR related to provisions of the Track Safety Standards, with particular emphasis on reduction of derailments and consequent injuries and damage caused by defective conditions, including joint failures, in track using CWR. A Working Group has been established. The Working Group will report any planned activity to the full Committee at each scheduled full RSAC meeting, including milestones for completion of projects and progress toward completion. The first Working Group meeting was held April 3–4, 2006, at which time the Working Group reviewed comments on the IFR. The second Working Group meeting was held April 26–28, 2006. The Working Group also met May 24–25, 2006, and July 19–20, 2006. The Working Group reported consensus recommendations for the final rule that were accepted by the full Committee by mail ballot on August 11, 2006. FRA is currently preparing a final rule. Contact: Ken Rusk, (202) 493–6236.

#### Completed Tasks

*Task 96–1*—(Completed) Revising the Freight Power Brake Regulations.

*Task 96–2*—(Completed) Reviewing and recommending revisions to the Track Safety Standards (49 CFR Part 213).

*Task 96–3*—(Completed) Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR Part 220).

*Task 96–5*—(Completed) Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR Part 230).

*Task 96–6*—(Completed) Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR Part 240).

*Task 96–7*—(Completed) Developing Roadway Maintenance Machines (On-Track Equipment) Safety Standards.

*Task 96–8*—(Completed) This Planning Task evaluated the need for action responsive to recommendations contained in a report to Congress entitled, Locomotive Crashworthiness & Working Conditions.

*Task 97–1*—(Completed) Developing crashworthiness specifications (49 CFR Part 229) to promote the integrity of the locomotive cab in accidents resulting from collisions.

*Task 97–3*—(Completed) Developing event recorder data survivability standards.

*Task 97–4 and Task 97–5*—(Completed) Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

*Task 97–6*—(Completed) Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems.

*Task 97–7*—(Completed) Determining damages qualifying an event as a reportable train accident.

*Task 00–1*—(Completed—task withdrawn) Determining the need to amend regulations protecting persons who work on, under, or between rolling equipment and persons applying, removing or inspecting rear end marking devices (Blue Signal Protection).

*Task 01–1*—(Completed) Developing conformity of FRA’s regulations for accident/incident reporting (49 CFR Part 225) to revised regulations of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, and to make appropriate revisions to the FRA Guide for Preparing Accident/Incident Reports (Reporting Guide).

Please refer to the notice published in the **Federal Register** on March 11, 1996, (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC, on September 18, 2006.

**Grady C. Cothen, Jr.**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 664]

#### Methodology To Be Employed in Determining the Railroad Industry’s Cost of Capital

**AGENCY:** Surface Transportation Board.

**ACTION:** Request for comments.

**SUMMARY:** The Board is seeking comments on the appropriate methodology to be employed in determining the railroad industry’s estimated cost of capital to be used in future annual cost-of-capital determinations. We are also soliciting comments on how evidence should be submitted and analyzed in future cost-of-capital proceedings.

**DATES:** Comments are due on or before November 6, 2006.

**ADDRESSES:** Send comments (an original and 10 copies) referring to STB Ex Parte No. 664 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

**FOR FURTHER INFORMATION CONTACT:** Paul Aguiar, (202) 565–1527. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

**SUPPLEMENTARY INFORMATION:** Section 205 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) first codified the requirement for the Board or its predecessor to establish and maintain standards for railroad revenue adequacy. This provision stated that railroad revenues should provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, cover the effects of inflation, and attract and retain capital in amounts adequate to provide a sound transportation system in the United States. Subsequent laws (including the ICC Termination Act of 1995) have retained this requirement. Thus, each year the Board makes a determination of which railroads are or are not revenue adequate.

The annual determination of the railroad industry’s cost of capital is used in evaluating the adequacy of railroad

revenues each year. It may also be utilized in other Board proceedings, including, but not necessarily limited to, those involving the prescription of maximum reasonable rate levels.

The cost-of-capital calculation has three elements: (1) The railroads' cost-of-debt capital; (2) the railroads' cost of preferred stock equity capital; (3) the railroads' cost of common stock equity capital; and (4) the capital structure mix of the railroad industry on a market value basis. With respect to the cost of equity, there are essentially two general approaches. It can be estimated directly by estimating its component parts, the factors for which investors ask compensation. These parts are the real time value of money, a premium for expected inflation, and a premium for risk. This is commonly referred to as the Capital Asset Pricing Model (CAPM) methodology. Alternatively, it can be estimated indirectly on the basis of the return expectations embodied in the prices investors are willing to pay for stocks, the Discounted Cash Flow (DCF) methodology. The point has often been raised, most notably by the railroads, that investors place less importance on historical growth factors than on the analysts' forecasts, thus making the forecast more meaningful. Other parties contend that investors do rely on historical trends and tend to discount the analysts' forecasts as being overly optimistic.

The Board has, for all previous cost-of-capital determinations, relied upon the DCF methodology to determine the railroads' cost of capital. We have also used the Institutional Brokers Estimate System (IBES) consensus forecast data to determine the growth rate ("g") component of the DCF formula. While the Board has relied on the use of the DCF methodology for determining the cost of common equity, there are other methodologies that could be employed. These include the CAPM, risk premium methods other than CAPM, earnings-price ratios, and the comparable earnings method.

We are seeking comments on the appropriate techniques and methodologies to be used to develop and evaluate the evidence submitted for the cost of capital. Parties should discuss any changes in underlying railroad industry economic conditions that would create the need to change the methodology currently employed by the Board, and how any proposed methodology will overcome the shortcomings, if any, of the currently used DCF method.

This proceeding will provide all interested parties an opportunity to comment on the DCF model, the proper

source for the inputs to that model, and whether the Board should adopt an alternative to that method, such as the CAPM model, for future cost of capital determinations.

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

Pursuant to 5 U.S.C. 605(b), we certify that the proposed action would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: September 15, 2006.

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

**Vernon A. Williams,**  
Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-871X]

#### State of New Hampshire Department of Transportation—Abandonment Exemption—in Belknap County, NH

The State of New Hampshire, Department of Transportation, Bureau of Rail and Transit (NHDOT), has filed an amended notice of exemption<sup>1</sup> under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a portion of rail line known as the Lakeport Spur, in Belknap County, NH, extending from engineering station 1 + 70 to engineering station 11 + 28.11 (on Valuation Section V.21, Map 65-A).<sup>2</sup> The line traverses United States Postal Service Zip Code 03246.

NHDOT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service

<sup>1</sup> NHDOT originally filed its notice of exemption on March 14, 2006. After consulting with the Board's Section of Environmental Analysis (SEA), NHDOT filed an amended notice of exemption on September 5, 2006, which became the official filing date.

<sup>2</sup> NHDOT states that, prior to the filing of this notice of exemption, the property was acquired by James R. Irwin, & Sons, Inc., and currently is being used for a commercial boat storage facility and marina.

over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 25, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>4</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 5, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 16, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NHDOT's representative: Stephen G. LaBonte, Assistant Attorney General, Office of the Attorney General, 33 Capitol Street, Concord, NH 03301.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NHDOT has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 29, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC

<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by SEA in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>4</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).