

SERVICE DATE – JANUARY 31, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 777

JOINT PETITION FOR RULEMAKING TO CONSIDER AMENDMENTS TO
REGULATIONS GOVERNING INTERIM USE OF RIGHTS-OF-WAY AS TRAILS
(49 C.F.R. PART 1152)

Decided: January 31, 2025

On December 20, 2024, the U.S. Department of the Interior and the U.S. Department of Justice’s Environment and Natural Resources Division petitioned the Board to open a rulemaking to consider potential amendments to the Board’s regulations implementing section 208 of the National Trails System Act Amendments of 1983. (Joint Pet. 1.) Pursuant to the Board’s procedural rules, replies to the joint petition originally were due by January 9, 2025.¹

On January 8, 2025, the Board granted a request by the Association of American Railroads for an extension of time, until January 29, 2025, for the filing of replies. Joint Pet. for Rulemaking to Consider Amends. to Reguls. Governing Interim Use of Rts.-of-Way as Trails (49 C.F.R. Part 1152) (January 8 Decision), EP 777, slip op. at 1 (STB served Jan. 8, 2025).

On January 10, 2025, several other entities, including the National Association of Reversionary Property Owners (NARPO),² also sought an extension of the original reply deadline, consistent with the extension granted in the January 8 Decision. In response to those requests, the Board extended the reply deadline to January 29 for all interested persons. Joint Pet. for Rulemaking to Consider Amends. to Reguls. Governing Interim Use of Rts.-of-Way as Trails (49 C.F.R. Part 1152), EP 777, slip op. at 2 (STB served Jan. 13, 2025).

On January 28, 2025, one day before the extended reply deadline, NARPO filed another request, seeking either a stay of the reply deadline or “a thirty-day extension of time until February 29 [sic] to file a reply.” In support, NARPO cites the “significant effort” needed to respond to the joint petition and the recent change in presidential administrations.

While NARPO cites the recent change in presidential administrations and a desire to confirm the new administration’s views on this matter, NARPO was aware of the then-

¹ Under 49 C.F.R. § 1104.13(a), a party “may file a reply or motion addressed to any pleading within 20 days after the pleading is filed with the Board, unless otherwise provided.”

² The other entities that filed requests for an extension of the reply deadline were the Rails to Trails Conservancy and the Lassen Land and Trail Trust.

impending change of administrations when it sought its initial extension request on January 10. In addition, under 49 C.F.R. § 1104.7(b), parties must submit extension requests no less than 10 days prior to an established deadline. But here, NARPO filed its second extension request only one day before the already-extended January 29 deadline.

For these reasons, the Board will deny NARPO's request seeking either a stay or an extension of the reply deadline. Nonetheless, if NARPO still desires to file a reply to the petition for rulemaking, it may do so by February 3, 2025.

It is ordered:

1. NARPO's January 28 request to stay or extend for another 30 days the January 29 reply deadline is denied.
2. Any reply to the joint petition from NARPO is due by February 3, 2025.
3. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.