

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
March 11, 2025
Part of
Public Record

STB Ex Parte No. 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)**

**PETITIONERS' PETITION FOR LEAVE TO FILE RESPONSE TO REPLY
COMMENTS AND FOR CORRESPONDING EXTENSION OF THE 120-DAY
DEADLINE TO RULE ON RULEMAKING PETITION**

Petitioners, the U.S. Department of the Interior and the U.S. Department of Justice's Environment and Natural Resources Division, respectfully petition the Board for the following:

(1) leave to file a response to reply comments submitted by stakeholders in the above-captioned proceeding concerning the Petitioners' rulemaking petition filed on December 20, 2024; and

(2) a corresponding extension or temporary waiver of the 120-day deadline for the Board to grant or deny the rulemaking petition. If the Board grants the instant petition, Petitioners would file any response to reply comments within sixty days of the Board's decision.

While the Board's rules do not permit responses to replies as a matter of right, *see* 49 C.F.R. § 1104.13(c), the Board grants leave to file responses to replies in the interest of having a more complete record, including in the context of rulemaking petitions. *See, e.g., Joint Petition for Rulemaking—Annual Revenue Adequacy Determinations*, EP 766, slip op. at 3 n.6 (STB Served Dec. 30, 2020). Petitioners file this petition to provide the opportunity for Petitioners to respond to specific stakeholder comments, and to allow new leadership at the Department of the Interior and the Department of Justice the opportunity to familiarize themselves with the relevant issues and, if necessary, to apprise the Board whether any adjustment in the petition is warranted

in light of the policies of the new Administration.¹ By granting this petition, the Board would help ensure it has a more complete record upon which to evaluate the rulemaking petition.

Under 49 C.F.R. § 1110.2(d), the Board must decide whether to open a rulemaking proceeding to further consider the rulemaking petition within 120 days of the filing of the petition. As Petitioners filed the petition on December 20, 2024, this regulation would require the Board to issue a decision by April 19, 2025. To help ensure that the Board has sufficient time to consider any response filed by Petitioners before issuing a decision on the rulemaking petition, Petitioners respectfully ask (in addition to seeking leave to file a response to reply comments) that the Board extend (or temporarily waive) the 120-day deadline 60 days until June 18, 2025. *See, e.g., Association of American Railroads – Petition Regarding Methodology for Determining Railroad Revenue Adequacy*, EP 679, slip op. at 1 (STB Served Aug. 27, 2008) (extending by 60 days the deadline for the Board to grant or deny a rulemaking petition). *See also* 49 C.F.R. § 1110.9 (“Any person may petition the Board for a permanent or temporary waiver of any rule.”); 49 C.F.R. § 1100.3 (“The rules will be construed liberally to secure just, speedy and inexpensive determination of the issues presented.”); *Association of American Railroads—Petition for Rulemaking*, EP 752, slip op. at 2 (STB Served July 10, 2019) (“the Board will waive the provision at 49 C.F.R. § 1110.2(d) and defer ruling on AAR’s petition”).

Respectfully submitted,

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¹ To be clear, while Petitioners are requesting an opportunity to make a further filing, Petitioners have not made a determination at this juncture that a further filing is necessary and appropriate.

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CERTIFICATE OF SERVICE

I certify that I have this day served copies of document upon all parties of record in this proceeding, by emailing a copy to each of the individuals included on the Board's service list.

/s/ Peter McVeigh
PETER MCVEIGH