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Before the

SURFACE TRANSPORTATION BOARD

Ex Parte No. 587

INFORMATION QUALITY GUIDELINES

COMMENTS

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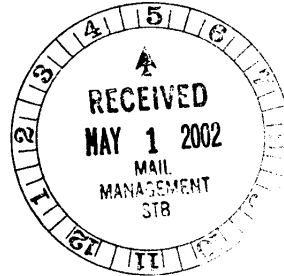
GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington DC 20036

Attorney for John D. Fitzgerald

Due Date: May 1, 2002

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Preliminary Statement

John D. Fitzgerald,^{1/} for and on behalf of United Transportation Union-General Committee of Adjustment (UTU/GO-386), submits these comments in response to Notice of Guidelines (NOG) issued April 1, 2002 (dated March 27), 67 FR 15450. (Apr. 1, 2002).

The NOG is in the form of a "Draft Report," consisting of 8 pages,

The Draft Report lists some 14 subjects, all of which are concern to this commentator.^{2/} Mr. Fitzgerald is a frequent participant in STB proceedings.

1. Untimely. The April 1, 2002 NOG is premature. The only other agencies which published reports on or about April 1 were Federal Housing Finance Board, 67 FR 15203 (March 29, 2002),

^{1/} General Chairman for United Transportation Union on lines of The Burlington Northern and Santa Fe Railway Company, with offices at 400 E. Evergreen Boulevard, Vancouver, WA 98660.

^{2/} UTU/GCA-386 has special interest in (b) STB Policy Statements, (c) STB Annual Reports, (d) STB Fee Regulations, (e) STB Reports Mandated by Statute or STB Policy, (h) Monitoring Reports, (i) STB Proceeding-Related Publications, (j) Railroad Data, (k) Railroad Rate Studies, (m) Joint Publications with Other Entities, and (n) Public or Party Comment.

and Office of Federal Housing Enterprise Oversight, 67 FR 15580 (April 2, 2002).

The Office of Management and Budget (OMB) final guidelines were republished, as corrected, on February 22, 2002. 67 FR 8452.^{3/} The deadline for agencies to prepare their draft reports subsequently was extended from April 1, 2002, to May 1, 2002. 67 FR 9797. (March 4, 2002). Other agencies such as Department of Agriculture and Social Security Administration, have established June 1 or July 1, 2002, as dates for public comment.

The effect of the STB's rush to issue its draft report (through its Executive Counsel), or "Designated Official," is to have precluded meaningful prior examination of draft proposals which might be forthcoming from other agencies. Moreover, the subject of the new data quality norms was a leading subject scheduled for the April 19, 2002 meeting of the American Bar Association's Section of Administrative Law and Regulatory Practice, held at Richmond, VA.^{4/}

2. Supplemental Comments. The OMB guidelines set forth a July 1, 2002 deadline for agencies to submit their draft reports in light of comments received. The STB should extend the period of filing comments, or supplemental comments, until June 1, 2002, at the minimum.

3. The STB's Draft Report. The draft report is in serious error. Rather than addressed to the correction of data,

^{3/} The Interim guidelines were issued September 28, 2001, and subsequently revised on January 3, 2002, and then corrected.

^{4/} See: Vol.27, No.3, Administrative & Regulatory Law News, 12 (Spring 2002).

the draft report imposes agency deadlines for releasing correcting information tied to web posting. The availability of information should not be confined to web posting. The agency practice is to make information immediately available as issued to the public and the parties, with web posting subsequent thereto. Yet the draft report would turn the process upside down.

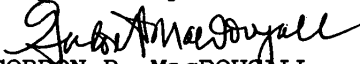
The STB should completely revise the draft report guidelines. For example, STB policy statements should be made available to the public upon publication, irrespective of later availability on website. Similarly, STB Fee Regulations should not be made available 10 days after the effective date of the fees, but should be made available to the public when published, hopefully well in advance of the proposed fees.

An important deficiency in the draft report is with respect to public or party comment, where availability is to be 10 days after agency receipt, with the draft report claiming "currency evaluation" is after service of STB decision. Comments from the public or parties to proceedings should be available within 24 hours of filing with the agency, irrespective of later web listing, or the pendency of the proceeding. To be sure, agency staff sometimes would prefer that the agency first decide a matter prior to providing the public with an opportunity to review the filings of others.

Railroad employee organizations, and individuals, have a particular concern with monitoring reports and STB proceeding publications. Public access should not be delayed for web posting. They should be made available for public examination upon receipt or issuance.

In general, is suggested that compliance with the OMB guidelines should not be made an excuse for delaying public access; further, that the agency should make provision for supplemental comments.

Respectfully submitted,


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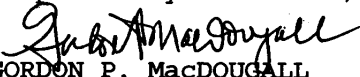
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