

SERVICE DATE – FEBRUARY 5, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 282 (Sub-No. 21)

PETITION FOR RULEMAKING—RAILROAD CONSOLIDATION PROCEDURES—
EXEMPTION FOR EMERGENCY TEMPORARY TRACKAGE RIGHTS

Digest:¹ The Board institutes a rulemaking proceeding to consider a proposal by the Association of American Railroads to establish a new emergency temporary trackage rights class exemption.

Decided: February 1, 2021

On October 9, 2020, the Association of American Railroads (AAR) filed a petition requesting that the Board initiate a rulemaking proceeding to establish a new emergency temporary trackage rights class exemption that could be invoked in specific situations and would allow emergency temporary trackage rights to take effect immediately, without need to waive the 30-day notice requirement under 49 C.F.R. § 1180.4(g)(1). AAR argues that the current two-step approach for obtaining temporary trackage rights that take effect on less than 30 days' notice is inefficient, and AAR asserts that its proposed class exemption would benefit shippers, railroads, and the Board by providing a streamlined and simple approach for obtaining temporary trackage rights in emergency situations, ensuring the continued flow of commerce without any decrease in regulatory oversight. (Pet. 1-4.) On November 4, 2020, Samuel J. Nasca, for and on behalf of SMART-Transportation Division-New York State Legislative Board (SMART/TD-NY), filed a reply in opposition to AAR's petition.

The Board concludes that it is appropriate to institute a rulemaking proceeding to consider AAR's proposal. The Board will provide an opportunity for additional public participation in a subsequent decision.

It is ordered:

1. AAR's request to initiate a rulemaking proceeding is granted, as discussed above.
2. Notice of this decision will be published in the Federal Register.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

3. This decision is effective on its service date.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.