

**Surface Transportation Board  
Agency Equity Action Plan per Executive Order (EO) 13985  
January 20, 2022**

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**(1) Executive summary**

The Surface Transportation Board (STB or Board) is an independent federal agency that is charged with the economic regulation of various modes of surface transportation, primarily freight rail.

The STB has a mission to exercise its statutory authority and resolve disputes in support of an efficient, competitive, and economically viable surface transportation network that meets the needs of its users.

The agency has jurisdiction over railroad rate, practice, and service issues and rail restructuring transactions, including mergers, line sales, line construction, and line abandonments. The STB also has jurisdiction over certain passenger rail matters, the intercity bus industry, non-energy pipelines, household goods carriers' tariffs, and rate regulation of non-contiguous domestic water transportation (marine freight shipping involving the mainland United States, Hawaii, Alaska, Puerto Rico, and other U.S. territories and possessions).

Created on January 1, 1996 by the ICC Termination Act of 1995, the Board is the successor to the former Interstate Commerce Commission (1887-1995) and was decisionally independent but administratively housed in the U.S. Department of Transportation from 1996 to mid-December 2015. The STB Reauthorization Act of 2015 established the STB as a wholly independent federal agency on December 18, 2015.

The STB consists of five Board Members, one of which serves as the Chairman. The STB staff is divided into six program offices, in addition to an Equal Employment Opportunity office.

**Summary of Action Plan**

This Action Plan sets forth the STB actions geared towards addressing the barriers and opportunities identified through the agency's equity assessment. This Action Plan will be used to identify opportunities to promote equity and accountability to the public, and it will inform the agency's equity planning and implementation strategy.

The agency is approaching the assessment process by thinking broadly about possible opportunities for advancing equity. As a small independent agency focused on economic regulation of freight rail, the STB does not administer grant or public assistance programs. However, the equity team is thinking creatively about ways in which agency staff do interact with members of the public and how the agency might advance equity in those interactions. As will be further explained in Action item #2, the

STB has a clear role in advancing environmental justice for minority and low-income communities and the Board administers that role as part of its environmental review process. With regard to procurement, the STB primarily uses the Department of Transportation (DOT) to administer its procurement program on larger expenditures. The STB is communicating with DOT regarding its procurement program and the equity assessment process. Additionally, as discussed further below, the agency has reviewed its actions taken under EO 13950 and has rescinded and replaced an Administrative Issuance that was issued pursuant to that EO.

## **(2) Summary of early accomplishments**

Pursuant to EO 13985, the Board reviewed its agency actions related to EO 13950. On March 22, 2021, the Board's Chairman rescinded and replaced Administrative Issuance 5-829 (dated December 22, 2020), which was issued pursuant to EO 13950 (revoked). Additionally, the Board's Office of the Managing Director was directed to take the necessary steps to remove from any agency contracts the specific language from § 4 of Executive Order 13950, barring the teaching or promotion of the concepts prohibited by the Order.

## **(3) Equity action plan**

The agency has identified three key actions that make up its Equity Action Plan: changes to agency stakeholder committees; agency data and information sharing; and the creation of an internal diversity & equity committee at the agency.

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# **ACTION #1: Changes to Stakeholder Committees Recruitment**

## ***A. Barrier to Equitable Outcome(s)***

The STB currently has three stakeholder committees that provide guidance to the Board and others. Although the STB does not collect detailed diversity information regarding committee membership, there currently appears to be a lack of representation from some of the EO 13985 diverse communities on STB Stakeholder Committees.

The Railroad-Shipper Transportation Advisory Council (RSTAC) is a statutorily created advisory committee that advises the Board, the Secretary of Transportation, and Congress on railroad-transportation policy issues of particular importance to small shippers and small railroads, such as rail car supply, rates, and competitive matters. Its 15 appointed members consist of senior officials representing large and small shippers, large and small railroads, and one at-large representative. RSTAC holds meetings quarterly. Unlike many other Federal agency advisory committees, RSTAC is not subject to the Federal Advisory Committee Act (FACA), so its meetings are not public.

The Rail Energy Transportation Advisory Committee (RETAC) is a FACA committee that provides advice and guidance to the Board regarding the transportation by rail of energy resources such as coal, ethanol, and other biofuels. RETAC is composed of 25 voting members representing a balance of stakeholders, including large and small

railroads, coal producers, electric utilities, the biofuels industry, the private railcar industry, the domestic petroleum industry, and rail labor.

The National Grain Car Council (NGCC) assists the Board in addressing problems concerning grain transportation by fostering communication among railroads, shippers, rail-car manufacturers and lessors, and government. The NGCC consists of 14 representatives from Class I (large) railroads, seven representatives from Class II (medium-sized) and Class III (small) railroads, 14 representatives of grain shippers and receivers, and five representatives of private rail car owners and manufacturers. Meetings are held annually and, in accordance with FACA, are open to the public.

This action item is intended to increase the diversity of membership on these committees. These stakeholder committees provide important perspectives that inform the Board and others regarding policy decisions that have wide ranging impact on rail carriers as well as the shippers, receivers, private rail car owners, coal producers, biofuel producers, electric utilities and rail carrier employees impacted by those policies. Diversity of membership on these committees is therefore important so the Board can ensure it is making equitable policy decisions on the topics on which these committees advise.

Our goal is to impact both the membership and work these committees do. This effort will serve as an example of how to implement equity and increase diversity. Many of the representatives in these committees are among the highest-ranking employees in their companies. In the longer term, introducing the concepts of equity and diversity as part of the work these committees do could potentially impact and promote similar initiatives within their organizations.

*Program, policy, or regulation that contributes to this barrier.*

The Board's three stakeholder committees take varying approaches to membership recruitment, in particular the processes of publicizing open membership positions, selecting new members, and renewing the membership of existing members. RSTAC, for example, publishes notices in the Federal Register soliciting nominations for open membership positions and has a limit of two three-year terms per individual member. NGCC, by contrast, does not publish public notice for open membership positions and does not have a limit on the number of terms an individual may serve on the council. While the membership rules of each of the three stakeholder committees are all compliant with relevant laws and their charters, those membership policies that are less public and provide less opportunity for new membership limit the diversity and equity of participation in the committees to which they apply.

*Populations most impacted by this barrier.*

Potentially all underserved communities are impacted by this barrier. The applicant pool for the stakeholder committees can extend to almost any individual in the Nation that possesses the requisite qualifications and experience for membership. Accordingly, almost all underserved communities could be impacted.

*Evidence indicating that this barrier meaningfully impacts full and equal participation.*

Membership on these committees is meaningful because those who participate have a built-in mechanism to interact with Board members and other industry executives by virtue of their participation in the committee meetings and an opportunity to form professional relationships directly with the Board members. Giving those from underserved communities a voice at regular meetings involving corporate directors, presidents, vice presidents, and government officials is valuable participation.

***B. Action and Intended Impact on Barrier***

The equity team plans to explore the following actions:

- Explore changes to the Federal Register notices and, where relevant, the charters, for each stakeholder committee.
- Explore a uniform policy for issuing press releases when a notice is published announcing vacancies.
- Explore proactive outreach through social media, as discussed in Action # 3 below, when communicating with the public about membership options and vacancies.
- Explore incorporating the stakeholder committee equity items into the agency strategic planning.
- Explore legal avenues for collecting data on an annual basis from the committees. Data could include company demographics and metrics to assess progress towards improving equity.
- Utilize committee meetings to advance the goal of equity in the transportation sector through engagement of committee members. Specifically, showing how diversity at an executive level benefits business.

*Reason for prioritizing these actions*

These actions will set a framework to address equitable access to the committees; establish data points to enable us to measure diversity now and into the future and reinforce the return-on-investment incentive needed to encourage industry executives to embrace these efforts.

*How these actions are expected to result in reducing or eliminating the barrier to equitable outcomes.*

Increasing awareness of vacancies and emphasizing the importance of diversity in the selection process should result in more diversity on stakeholder committees. In the long term, greater diversity along with the ability to convey the importance of diversity to industry leaders is a starting point for advancing equity.

***C. Tracking Progress***

The STB equity team is in the process of exploring ways to track progress, including developing avenues to gather data and develop metrics to analyze progress. Because the membership of each of the committees discussed above are subject to staggered, multi-year year terms, reduction of this barrier may not be immediate, even if changes to the public notices and charters described above are made in the very near term. As such, near- to mid-term success in this effort will be measured by the agency's

increased marketing of the committees and their vacancies through social media and traditional mediums like the Federal Register and the agency's website.

*What success might ultimately look like in the long-term (5-8 years out).*

Again, the STB equity team is in the process of exploring ways to track progress, including developing avenues to gather data and develop metrics to analyze progress. Nonetheless, the near-term goal of creating a tool to gather data on the membership of these committees should allow the agency to measure its progress. Currently, there is not a way to measure whether committee members come from underserved communities, but the team expects there to be a small percentage of committee members who identify as such. Accordingly, even a small increase in diversity could be positive change.

Long-term success would be if there was an effort to increase diversity. This would be shown by groups making an effort to put forth nominees from underserved communities. Of course, an increase of actual STB appointments to the committees of individuals who come from underserved communities would be an important measure of success. The agency would measure this through a periodic assessment and data found in nominee submissions.

***D. Accountability***

The agency is currently in the process of updating its Strategic Plan and plans to enhance the integration of equity-related goals in that plan. This will likely include bringing equity concepts more front-and-center in the agency's mission/vision, as well as adding new specific strategic goals and objectives that are focused on increasing equity and integrating Diversity, Equity, Inclusion, and Accessibility (DEIA) concepts. The agency's Performance and Accountability Report is the annual document the agency uses to communicate to the public the progress being made under the Strategic Plan.

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**ACTION #2: Agency Data & Information Sharing**

***A. Barrier to Equitable Outcome(s):***

Some underserved communities have less access to STB resources, data, and procedures than communities that are more familiar with the STB's processes and resources. The Office of Environmental Analysis (OEA) reaches out to underserved communities during the environmental review process for certain types of proceedings before the Board. As required under the National Environmental Policy Act of 1969 (NEPA) and the National Historic Preservation Act (NHPA), the Board assesses the potential environmental and historic impacts in its decision-making. As a matter of advancing environmental justice, the Board fulfills its requirement under NEPA to assess its actions with a goal to "preserve historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment which supports diversity and variety of individual choice." Additionally, under NHPA, the Board furthers the Federal government policy to "assist State and Local governments, Indian tribes and

Native Hawaiian organizations, and the National Trust to expand and accelerate their historic preservation programs and activities.” 54 U.S.C. § 300101(6). OEA is responsible for conducting environmental and historic reviews and ensuring that the public is informed and has the opportunity to become involved in the environmental and historic process for new rail line constructions, mergers and abandonments. As part of this process, OEA utilizes Census data to identify low income and minority communities in the project area and/or vicinity and utilizes creative strategies to conduct outreach. Some strategies have included identifying and contacting church and community leaders, sending flyers, or even door-knocking in the impacted community. The Board also utilizes a Cultural Resources Specialist with expertise in NHPA and tribal outreach. While the Board undertakes these reviews in the context of environmental analysis, identifying and engaging diverse communities outside of those environmental reviews can be challenging.

Stakeholder participation before the Board can often involve arguments based on data analysis, some of which is collected and disseminated by the Board. Those from underserved communities may lack the resources to access or process data and may not have access to the legal or technical consultants necessary to decipher or translate that raw data into more accessible and useable formats. Certain data also is best utilized through costly software and the costs of digitizing certain materials may also be prohibitively high for relatively small stakeholders.

*Program, policy, or regulation that contributes to this barrier.*

Given the STB’s specialized mission, unless a licensing proceeding affects a particular geographic area, general public engagement is often minimal. Once a licensing proceeding commences, depending on the type of proceeding, some potentially affected underserved communities may be notified but may have insufficient access to legal or technical resources to most effectively interpret and analyze pertinent data (i.e., relevant legal precedent, technical analyses of environmental resource area data, economic analyses) and then to provide meaningful public input. Other types of STB matters may involve issues that could impact local communities, but those communities may not be engaged directly in the proceeding if environmental review is not applicable. There is not a particular program, policy, or regulation acting as the barrier here; rather, it is the nature of the types of matters that come before the Board that makes predicting and targeting areas of potential engagement a challenge.

*Populations most impacted by this barrier.*

Populations most impacted by this barrier include those in underserved communities located in close proximity to areas where there are or could be future pending matters before the Board. In particular, impacted populations may include underserved communities near the location of pending licensing matters that may not trigger environmental reviews and their associated local public outreach requirements.

*Evidence indicating that this barrier meaningfully impacts full and equal participation.*

A stakeholder cannot provide effective input into a proceeding that may affect them if they have little knowledge of that proceeding before a final decision is issued, or if they

have difficulty accessing and using data that would both inform and help them make their arguments to the Board in a proceeding. Providing the public generally, and underserved communities in particular, improved access to relevant data is likely to increase public involvement in Board proceedings.

### ***B. Action and Intended Impact on Barrier***

- Potential adjustment of processes to identify underserved populations in ways similar to those used by OEA in its environmental reviews (ex: census data, local government outreach, identification of community groups) to provide greater public information on pending cases before the Board.
- Potential increase in the use of virtual participation in hearings and other agency public meetings, when appropriate and possible.
- Increased use of mapping resources to allow for geospatial identification of underserved communities.
- Assessment, via the agency's existing data maturity efforts, of the possibility of improving the agency's data aggregation, processing, transfer, and visualization tools, with the goal of increasing the amount of data publicly available on the Board's website.

### ***Reason for prioritizing these actions***

As primarily a licensing and adjudicatory agency, direct interactions with the public are minimal. The Board does not regulate consumer products, workplaces, healthcare, or publicly owned roadways. However, providing more accessible information about Board proceedings, as well as data that could be used by stakeholders in proceedings, could provide tangible public benefits by providing opportunities for greater public input into the agency's decision making. In addition, because the agency is already engaged in data maturity analysis and efforts, it is an appropriate time to incorporate equity goals into those efforts.

### ***How the actions are expected to result in reducing or eliminating the barrier to equitable outcomes.***

A key factor in strong public participation is an informed public. The actions taken here are intended to enhance public information and promote equitable access to STB resources and procedures.

### ***C. Tracking Progress***

The equity team is in the process of exploring specific ways to track progress on eliminating this barrier. In the near- to mid-term, success here will likely be measured by simply increasing the amount of information and data available to the public via the Board's website. The team is also considering how social media, as discussed in Action # 3 below, could be used as an educational tool for helping stakeholders to understand and use data the Board provides.

### ***What success might ultimately look like in the long-term (5-8 years out).***

The equity team is in the process of exploring how to track long-term progress on eliminating this barrier. One simple measure of success in the long-term will be the increased overall visibility of the agency to the public.

#### **D. Accountability**

The agency is currently in the process of updating its Strategic Plan and plans to enhance the integration of equity-related goals in that plan. This will likely include bringing equity concepts more front-and-center in the agency's mission/vision, as well as adding new specific strategic goals and objectives that are focused on increasing equity and integrating DEIA concepts. The agency's Performance and Accountability Report is then the annual document the agency uses to communicate to the public the progress being made under the Strategic Plan.

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### **ACTION #3: Social Media Public Outreach**

#### ***A. Barrier to Equitable Outcome(s):***

The STB is not well-known outside of the constituent circles that regularly interact directly with the Board. As a threshold issue to meaningful engagement with the agency, potential participants in Board proceedings need to know more about the mission and functions of the Board. This is particularly true for potential participants from underserved communities. Based on anecdotal observation of current rail industry demographics, we suspect that individuals from underserved communities are less likely to be aware of the Board.

#### ***Program, policy, or regulation that contributes to this barrier.***

The Board is currently in the process of developing an enhanced social media presence. Up to this point, the Board has not used social media to engage in communication with potential job applicants, individuals from underserved communities who may be affected by Board proceedings, and the general public.

#### ***Populations most impacted by this barrier.***

Potentially all underserved communities are impacted by this barrier, but especially those facing economic disadvantages and those residing in rural areas. These populations could specifically encompass the populations described in the first two action items, and could also include potential job applicants (or those who might become potential job applicants; for example, those studying engineering, the environment, or the law), and those who are not currently stakeholders but could become stakeholders in the future (that is, those who are not currently in proximity to the location of a pending Board proceeding but who may have a future Board proceeding impact a location near them).

#### ***Evidence indicating that this barrier meaningfully impacts full and equal participation.***

The STB does not have specific data indicating that the agency's lack of social media presence is impacting full participation in the agency's processes, as the agency has never had a significant social media presence. However, the Pew Research Center



estimates (<https://www.pewresearch.org/internet/fact-sheet/social-media/>) that 69% of adults in the U.S. use Facebook, 81% use YouTube, 23% use Twitter, and 28% use LinkedIn. While some of those users certainly overlap with the Board's existing stakeholders, this data is evidence that there are undoubtedly additional potential stakeholders who could be reached via an agency presence on these and other relevant social media platforms.

### ***B. Action and Intended Impact on Barrier***

The agency is currently in the process of developing social media governance documents to create social media use policies and facilitate the use of social media to share official information about the agency, its decisions, and its processes. The equity team has been and continues to be involved in conversations with agency public affairs staff about these policies and how the agency might use social media and general marketing tools to conduct outreach to underserved communities.

Specifically, the agency is researching ways to utilize hashtags and key words as a means of reaching underserved communities. The use of locality or issue-based hashtags and keywords would allow the agency to get information to people who may be impacted by the Board's work. For example, the Board's work in assessing the potential environmental impacts of certain rail licensing proceedings and related public documentation may be of interest to those in rural or tribal locations. With the prevalence of social media platforms such as Facebook and YouTube amongst all groups, the combination of location-based and issue-based keywords and hashtags should provide the Board with a more effective means of notifying underserved communities of issues that may impact them.

### ***Reason for prioritizing these actions***

As discussed above, the agency is not well known outside of existing constituent circles. The actions described here were prioritized because this is a threshold issue to meaningful participation in the agency's processes.

### ***How the actions are expected to result in reducing or eliminating the barrier to equitable outcomes.***

Increasing the public's access to the agency and the agency's basic information via tools like social media is likely to increase awareness of the agency, what the agency does, and opportunities for potential stakeholders who might otherwise not know they are stakeholders of the agency (for example, an individual who owns land that abuts a proposed rail line construction) to engage with the agency.

### ***C. Tracking Progress***

The equity team is in the process of exploring specific ways to track progress on eliminating this barrier. In the very near term, since the agency's social media usage is currently at the level of almost "zero," a successful outcome will initially be measured by the agency continuing to make progress toward facilitating the use of social media, for example by finalizing governance documents and setting up accounts. Success will then be measured by whether there is an increase in the amount of information the

Board shares publicly via those channels. The equity team will also look at whether it is possible to identify (either via survey or tools like click-through link tracking) where individuals like job applicants or visitors to the STB website learned about the agency, rail actions, a specific job, or found other information from or concerning the Board.

*What success might ultimately look like in the long-term (5-8 years out).*

In the long term, success will be measured by (a) incorporating social media usage into the agency's general procedures so that the use of social media to promote the agency and provide information to the public is no longer novel; and (b) a general increase in the diversity of the Board's stakeholders, whether they are job applicants, individuals participating in Board proceedings, or individuals seeking more information about the Board.

***D. Accountability***

The agency is currently in the process of updating its Strategic Plan and plans to enhance the integration of equity-related goals in that plan. This will likely include bringing equity concepts more front-and-center in the agency's mission/vision, as well as adding new specific strategic goals and objectives that are focused on increasing equity and integrating DEIA concepts. The agency's Performance and Accountability Report is the annual document the agency uses to communicate to the public the progress being made under the Strategic Plan.