

Carolina State University, Raleigh, North Carolina 27695, beginning at 9:30 a.m. The third public meeting will be held in San Francisco, California, on October 26, 2006, at the Philip Burton Federal Building and Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, beginning at 9:30 a.m. The fourth public meeting will be held in New Orleans, Louisiana, on December 6, 2006, at the Chateau Sonesta Hotel, 800 Iberville Street, New Orleans, Louisiana 70112, beginning at 9:30 a.m.

Persons wishing to participate are requested to provide their names, organizational affiliation, and contact information to Michelle Silva, Docket Clerk, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6030). Persons needing sign language interpretation or other reasonable accommodation for disability are also encouraged to contact Michelle Silva, FRA Docket Clerk, at (202) 493-6030. Additional public meetings will be announced over the next three months.

**FOR FURTHER INFORMATION CONTACT:** Ron Ries, Office of Safety, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6299); Miriam Kloeppel, Office of Safety, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6299); or Kathryn Shelton, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6038).

**SUPPLEMENTARY INFORMATION:** For additional information, please see the initial notice, published July 27, 2006, in the *Federal Register* (citation: 71 FR 42713) and available at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-6501.pdf>.

#### Request for Comments

While FRA solicits discussion and comments on all areas of safety at private highway-rail grade crossings, we particularly encourage comments on the following topics:

- At-grade highway-rail crossings present inherent risks to users, including the railroad and its employees, and to other persons in the vicinity if a train were to derail into an occupied area or release hazardous materials. When passenger trains are involved, the risks are heightened. From the standpoint of public policy, how do we determine whether the creation or continuation of a private crossing is justified?
- Is the current assignment of responsibility for safety at private

crossings effective? To what extent do risk-management practices associated with insurance arrangements result in "regulation" of safety at private crossings?

- How should improvement and/or maintenance costs associated with private crossing be allocated?
- Is there a need for alternative dispute resolution mechanisms to handle disputes that may arise between private crossing owners and the railroads?
- Should the State or Federal government assume greater responsibility for safety at private crossings?
- Should there be nationwide standards for warning devices at private crossings or for intersection design of new private grade crossings?
- How do we determine when a private crossing has a public purpose and is subject to public use?
- Should some crossings be categorized as commercial crossings rather than private crossings?
- Are there innovative traffic control treatments that could improve safety at private crossings on major rail corridors, including those on which passenger service is provided?
- Should the DOT request enactment of legislation to address private crossings? If so, what should it include?

Issued in Washington, DC, on September 15, 2006.

**Michael J. Logue,**

*Deputy Associate Administrator for Safety.*

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**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 558 (Sub-No. 9)]

### Railroad Cost of Capital—2005

**AGENCY:** Surface Transportation Board. DOT.

**ACTION:** Notice of decision.

**SUMMARY:** On August 28, 2006, the Board served a decision to update its computation of the railroad industry's cost of capital for 2005. The composite after-tax cost-of-capital rate for 2005 is found to be 12.2%, based on a current cost of debt of 5.36%; a cost of common equity capital of 15.18%; and a capital structure mix comprised of 30.41% debt and 69.59% common equity. The cost-of-capital finding made in this proceeding will be used in a variety of Board proceedings.

**DATES:** Effective Date: This action is effective August 28, 2006.

**FOR FURTHER INFORMATION CONTACT:** Paul Aguiar, 202-565-1527. (Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339).

**SUPPLEMENTARY INFORMATION:** The cost-of-capital finding in this decision may be used for a variety of regulatory purposes. Based upon Western Coal Traffic League reply comments, we will institute a separate advance notice of proposed rulemaking to explore the most suitable methodology to calculate the cost of capital. That proceeding will provide all interested parties an opportunity to comment on the discounted cash flow (DCF) model, the proper source for the inputs to that model, and whether the Board should adopt an alternative to that method, such as the Capital Asset Pricing Model (CAPM), for future cost-of-capital determinations. The Board's decision is posted on the Board's Web site, <http://www.stb.dot.gov>. In addition, copies of the decision may be purchased from ASAP Document Solutions by calling 202-306-4004 (assistance for the hearing impaired is available through FIRS at 1-800-877-8339), or by e-mail at [asapdc@verizon.net](mailto:asapdc@verizon.net).

### Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

### Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 605(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose and effect of this action are to update the annual railroad industry cost-of-capital finding by the Board. No new reporting or other regulatory requirements are imposed, directly or indirectly, on small entities.

**Authority:** 49 U.S.C. 10704(a).

*Decided:* September 15, 2006.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

**Vernon A. Williams,**

*Secretary.*

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