

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****42 CFR Part 413, 414 and 494**

[CMS-1651-P]

RIN 0938-AS83

Medicare Program; End-Stage Renal Disease Prospective Payment System, Coverage and Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, Durable Medical Equipment, Prosthetics, Orthotics and Supplies Competitive Bidding Program Bid Surety Bonds, State Licensure and Appeals Process for Breach of Contract Actions, Durable Medical Equipment, Prosthetics, Orthotics and Supplies Competitive Bidding Program and Fee Schedule Adjustments, Access to Care Issues for Durable Medical Equipment; and the Comprehensive End-Stage Renal Disease Care Model

Correction

In proposed rule document 2016-15188 beginning on page 42802 in the issue of Thursday, June 30, 2016, make the following corrections:

1. On page 42851, in the third column, in the ninth line from the bottom, “2035” should read “2015”.
2. On page 42852, in the table, in the first column, in the seventeenth row, “E0303” should read “E0301”.
3. On the same page, in the same table, in the same column, in the final row on this page, “E0330” should read “E0130”.
4. On page 42853, in the table, in the first column, in the first row on this page, “E0335” should read “E0135”.
5. On the same page, in the same table, in the same column, in the second row on this page, “E0341” should read “E0141”.
6. On the same page, in the same table, in the same column, in the second row on this page, “E0343” should read “E0143”.

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SURFACE TRANSPORTATION BOARD**49 CFR Parts 1109**

[Docket No. EP 734]

Dispute Resolution Procedures Under the Fixing America's Surface Transportation Act of 2015

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) proposes regulations to implement passenger rail-related dispute resolution provisions of the Fixing America's Surface Transportation Act of 2015.

DATES: Comments on this proposal are due by August 31, 2016; reply comments are due by September 30, 2016.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 734, 395 E Street SW., Washington, DC 20423-0001.

Copies of written comments received by the Board will be posted to the Board's Web site at <http://www.stb.dot.gov> and will be available for viewing and self-copying in the Board's Public Docket Room, Suite 131, 395 E Street SW., Washington, DC. Copies of the comments will also be available (for a fee) by contacting the Board's Chief Records Officer at (202) 245-0235 or 395 E Street SW., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT: Scott M. Zimmerman, (202) 245-0386. Assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION: Title XI of the Fixing America's Surface Transportation Act of 2015 (FAST Act),¹ entitled “Passenger Rail Reform and Investment Act of 2015,” adds to the Board's existing passenger rail adjudicatory responsibilities related to the National Railroad Passenger Corporation (Amtrak). Among other things, Title XI includes new provisions involving cost recovery by Amtrak for Amtrak's operation of “state-supported

routes” and for the costs allocated to states (including state entities) using the Northeast Corridor rail facilities for their commuter rail operations. As relevant here, Title XI gives the Board jurisdiction to resolve cost allocation and access disputes between Amtrak, the states, and potential non-Amtrak operators of intercity passenger rail service.² In this notice, the Board is proposing a set of procedural rules for the mediation of passenger rail matters arising under Title XI of the FAST Act. Because the Board does not presently have in place a general set of procedural rules to govern the presentation and conduct of proceedings before the Board involving passenger rail matters entrusted to the Board under 49 U.S.C. 24101-24910,³ which would include contested matters arising under Title XI of the FAST Act, parties seeking to bring contested matters before the Board should be guided by the Board's existing Rules of Practice, as applicable.

FAST Act Provisions

The State-Supported Route Committee. Section 11204 of the FAST Act adds a new section to the United States Code: 49 U.S.C. 24712, “State supported routes operated by Amtrak.” State-supported routes are intercity rail passenger routes for which operating and capital costs are established and allocated among the states and Amtrak under Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).⁴ Under these agreements, Amtrak currently receives funding from states and state-related entities to operate routes under 750 miles in length. New section 24712 establishes a State-Supported Route Committee comprising Amtrak, the U.S. Department of Transportation/Federal Railroad Administration, and states that subsidize state-supported routes, to implement the cost-allocation methodology previously developed under section 209 of PRIIA through negotiation between Amtrak and the affected states and approved by the Board. *See Amtrak's Pet. for Determination of PRIIA Sec. 209 Cost Methodology*, FD 35571 (STB served Mar. 15, 2012). The Committee may also

² Currently, Amtrak is the only operator of regularly scheduled, common carrier intercity passenger rail service in the United States. Certain statutory provisions contemplate the possibility, in the future, of other such intercity passenger rail operators. *See, e.g.*, 49 U.S.C. 24711 & 49 U.S.C. 24308(f).

³ *See* 49 CFR 1100.1 (limiting the scope of the Rules of Practice to matters under title 49, subtitle IV of the United States Code, 49 U.S.C. 10101 *et seq.*).

⁴ Public Law 110-432, Section 209; 49 U.S.C. 24101 note.

¹ Fixing America's Surface Transportation Act of 2015, Pub. L. 114-94 (signed Dec. 4, 2015).