DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 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”.

[SFR Doc. C1–2016–15188 Filed 8–2–16; 8:45 am]

BILLING CODE 1505–01–D

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).


amend that cost-allocation methodology. Section 24712(c)(1) gives the Board jurisdiction to “conduct dispute resolution” pertaining to (1) the Committee’s rules and procedures, (2) the invoices to be produced by Amtrak or reports to be produced by Amtrak or the states as described in section 24712(b), and (3) the implementation of or compliance with the cost allocation methodology. Section 24712(c)(2) requires the Board to establish procedures for resolving such disputes, which procedures “may include provision of professional mediation services.”

The Proposed Rules

The proposed rules would add to the Board’s current mediation rules at 49 CFR part 1109 a new § 1109.5 that includes provisions specific to the State-Sponsored Route Committee and the Northeast Corridor Committee, to implement the FAST Act’s directive that procedures for resolving certain disputes arising from those committees “may include provision of professional mediation services.” In the proposed regulations, parties to a dispute under sections 24712 and 24905 would be permitted to request, by letter submitted to the Board’s Office of Public Assistance, Governmental Affairs, and Compliance, the Board’s informal assistance in securing outside professional mediation services in order to resolve certain disputes as set forth in the FAST Act, without the necessity of a formal complaint being filed with the Board.

The Northeast Corridor

Section 11305 of the FAST Act, which amends 49 U.S.C. 24905, involves the powers and obligations of the Northeast Corridor Commission (NEC Commission), created by Congress in 2008 as part of PRIIA. The NEC Commission, composed of voting representatives from Amtrak, the U.S. Department of Transportation, and the states comprising the Northeast Corridor (including the District of Columbia), is responsible for developing and implementing a standardized policy for determining and allocating costs, revenues, and compensation between Amtrak and the providers of commuter rail passenger transportation on the Northeast Corridor. 49 U.S.C. 24905(c).

The FAST Act amends 49 U.S.C. 24905 with respect to the Board’s role in resolving disputes between Amtrak and the states in determining compensation for use of the Northeast Corridor by applying the policy approved by the NEC Commission. Under section 24903(c), formerly section 24904(c), Congress gave Amtrak the authority to allow freight and commuter rail passenger operations over Amtrak’s Northeast Corridor and laid out the standard for the Board to determine compensation if the parties did not reach agreement. The FAST Act creates a new subsection, section 24905(c)(4), that permits the NEC Commission, Amtrak, or public authorities providing commuter rail passenger transportation on the Northeast Corridor to request that the Board conduct dispute resolution if a dispute arises over implementation of, or compliance with, the NEC Commission’s cost allocation policy. The new subsection requires the Board to establish procedures for resolving such disputes and provides that those procedures “may include the provision of professional mediation services.”

The proposed rules would add to the Board’s current mediation rules at 49 CFR part 1109 a new § 1109.5 that includes provisions specific to the State-Sponsored Route Committee and the Northeast Corridor Committee, to implement the FAST Act’s directive that procedures for resolving certain disputes arising from those committees “may include provision of professional mediation services.” In the proposed regulations, parties to a dispute under sections 24712 and 24905 would be permitted to request, by letter submitted to the Board’s Office of Public Assistance, Governmental Affairs, and Compliance, the Board’s informal assistance in securing outside professional mediation services in order to resolve certain disputes as set forth in the FAST Act, without the necessity of a formal complaint being filed with the Board.

The proposed mediation procedures originated in the events leading up to the FAST Act’s creation of the State-Sponsored Route Committee. Following the enactment of PRIIA in 2008, and pursuant to PRIIA section 209, Amtrak developed a single, nationwide standardized methodology for establishing and allocating operating and capital costs among the states and Amtrak for all State-sponsored intercity passenger rail services. This methodology has been in place since 2009. That committee was the predecessor of, and model for, the State-Sponsored Route Committee established in the FAST Act and codified at 49 U.S.C. 24712.
do not mandate or circumscribe the conduct of small entities. If a party wishing to utilize the proposed procedures files a complaint, petition, application, or request for dispute resolution, that entity will not encounter any additional burden. Rather, the procedures are being updated and clarified by the proposed regulations. Therefore, the Board certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as defined by the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

List of Subjects in 49 CFR Part 1109

Administrative practice and procedure, Maritime carriers, Motor carriers, Railroads.

It is ordered:

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

2. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

3. Notice of this decision will be published in the Federal Register.

4. This decision is effective on its service date.

Decided: July 28, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Kenya Clay,
Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend part 1109 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1109—USE OF MEDIATION IN BOARD PROCEEDINGS

1. Revise the authority citation for part 1109 to read as follows:

Authority: 5 U.S.C. 571 et seq. and 49 U.S.C. 1321(a), 24712(c), and 24905(c).

2. Add § 1109.5 to read as follows:

§ 1109.5 Resolution of certain disputes involving the State Sponsored Route Committee and the Northeast Corridor Commission.

(a) In addition to the mediation procedures under this part that are available following the filing of a complaint in a proceeding before the Board, Amtrak or a State member of the State Supported Route Committee established under 49 U.S.C. 24712 may request that the Board informally assist in securing outside professional mediation services in order to resolve disputes arising from:

1. Implementation of, or compliance with, the cost allocation methodology for State-Supported Routes developed under section 209 of the Passenger Rail Investment and Improvement Act of 2008 or amended under 49 U.S.C. 24712(a)(6);

2. Invoices or reports provided under 49 U.S.C. 24712(b); or

3. Rules and procedures implemented by the State Supported Route Committee under 49 U.S.C. 24712(a)(4). Such a request for informal assistance in securing outside professional mediation services may be submitted to the Board even in the absence of a complaint proceeding before the Board.

(b) In addition to the mediation procedures under this part that are available following the filing of a complaint in a proceeding before the Board, the Northeast Corridor Commission established under 49 U.S.C. 24905, Amtrak, or public authorities providing commuter rail passenger transportation on the Northeast Corridor may request that the Board informally assist in securing outside professional mediation services in order to resolve disputes involving implementation of, or compliance with, the policy developed under 49 U.S.C. 24905(c)(1). Such a request for informal assistance in securing outside professional mediation services may be submitted to the Board even in the absence of a complaint proceeding before the Board.

(c) A request for informal Board assistance in securing outside professional mediation services under paragraph (a) or (b) of this section shall be submitted by letter duly authorized to be submitted to the Board by the requesting party. The request letter shall be addressed to the Director of the Board’s Office of Public Assistance, Governmental Affairs, and Compliance, and shall include a concise description of the issues for which outside professional mediation services are sought. The Office of Public Assistance, Governmental Affairs, and Compliance shall contact the requesting party in response to such request within 14 days of receipt of the request.

[FR Doc. 2016–18102 Filed 8–2–16; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1144 and 1145

[Docket No. EP 711; Docket No. EP 711 (Sub-No. 1)]

Petition for Rulemaking To Adopt Revised Competitive Switching Rules; Reciprocal Switching

AGENCY: Surface Transportation Board (the Board or STB).

ACTION: Notice of proposed rulemaking.

SUMMARY: In this decision, the Board grants in part a petition for rulemaking filed by the National Industrial Transportation League seeking revised reciprocal switching regulations. The Board proposes new regulations governing reciprocal switching in Docket No. EP 711 (Sub-No. 1), which would allow a party to seek a reciprocal switching prescription that is either practicable and in the public interest or necessary to provide competitive rail service.

DATES: Comments are due by September 26, 2016. Replies are due by October 25, 2016. Requests for ex parte meetings with Board Members are due by October 10, 2016 and meetings will be conducted between October 25, 2016 and November 14, 2016. Meeting summaries are to be submitted within two business days of the ex parte meeting.

ADDRESSES: Comments and replies may be submitted either via the Board’s e-filing format or in paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board’s Web site at “www.stb.dot.gov” at the “E-FILING” link. Any person submitting a filing in paper format should send an original and 10 paper copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 711 (Sub-No. 1), 395 E Street SW., Washington, DC 20423–0001. Copies of written comments and replies will be available for viewing and self-copying at the Board’s Public Docket Room, Room 131, and will be posted to the Board’s Web site.

FOR FURTHER INFORMATION CONTACT: Allison Davis at (202) 245–0378.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Competitive access generally refers to the ability of a shipper or a competitor railroad to use the facilities or services of an incumbent railroad to extend the reach of the services provided by the competitor railroad. The Interstate Commerce Act makes three competitive