

(13) Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-serving institutions (institutions of higher education eligible to receive Federal assistance under title III, parts A and F, and title V of the HEA).

(14) Federal Family Education Loan (FFEL) lenders, servicers, or guaranty agencies.

The Department is particularly interested in ensuring the primary and alternate negotiators who represent the different borrower and student constituencies reflect a variety of experiences with student loans and postsecondary education, including attending different types of institutions, for different types of programs borrowing a Parent PLUS loan to pay for a dependent student's education, borrowing either Direct or FFEL loans, and receiving a Pell grant. We also seek negotiators who have borrowed varied amounts and have varied repayment histories. We encourage nominations that provide the Department with diverse information about borrowing and repayment experiences.

The goal of the committee is to develop proposed regulations that reflect a final consensus of the committee. Consensus means that there is no dissent by any member of a negotiating committee, including the committee member representing the Department.

A negotiator is expected to represent the interests of their constituency and to participate in the negotiations in a manner consistent with the goal of developing proposed regulations on which the committee will reach consensus. If consensus is reached, all members of the organization or group represented by a negotiator are bound by the consensus and are prohibited from commenting negatively on the resulting proposed regulations. The Department will not consider any such negative comments on the proposed regulations that are submitted by a member of such an organization.

#### Nominations

We request that nominations include the information described in this section.

- (1) The name of the nominee;
- (2) The name of the constituency (or constituencies) for which the nominee is being nominated (see *Constituencies for Negotiator Nominations*);
- (3) The nominee's place of employment or institution at which they are or were enrolled and, if different, the organization the nominee represents;
- (4) A resume or evidence of the nominee's expertise and experience in

the topics proposed for negotiations; and

(5) The nominee's contact information, including email address, telephone number, and mailing address.

Please see the **ADDRESSES** section for submission information. We will confirm receipt of nominations to the submitter. The Department will provide additional information to those we select to serve as negotiators. Once complete, a list of negotiators will be posted here: <https://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html>.

1. The Department will also provide information at that site about how any committee vacancies can be filled at the beginning of the first committee meeting.

#### Schedule for Negotiations

The Committee will meet for three sessions on the following dates:

*Session 1:* October 10–11, 2023.

*Session 2:* November 6–7, 2023.

*Session 3:* December 11–12, 2023.

Session times will be from 10 a.m. to 12 p.m. and 1 to 4 p.m., with a public comment period from approximately 3:30 to 4 p.m., Eastern time.

All sessions will be conducted virtually and available for the public to view. Individuals who wish to observe the committee meetings will be required to register for each session they would like to observe. We will post registration links closer to the start of negotiations on our website at [www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html](http://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html). The Department will also post recordings and transcripts of the meetings on that site.

At the end of each day (except for the final day of the final session), the Department will reserve 30 minutes for public comment. We will provide information on how to request time to speak on our website at [www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html](http://www2.ed.gov/policy/highered/reg/hearulemaking/2023/index.html).

**Accessible Format:** On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access the documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

*Program Authority:* 20 U.S.C. 1098a.

**Nasser H. Paydar,**

*Assistant Secretary, Office of Postsecondary Education.*

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## NATIONAL TRANSPORTATION SAFETY BOARD

### 49 CFR Part 831

[Docket No.: NTSB–2023–0007]

RIN 3147–AA28

#### Authority of NTSB in Railroad, Pipeline, and Hazardous Materials Investigations

**AGENCY:** National Transportation Safety Board (NTSB).

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** The National Transportation Safety Board (NTSB) is publishing this advance notice of proposed rulemaking (ANPRM) to seek public feedback on whether it should define the term “substantial property damage” as it relates to the agency's authority to investigate railroad accidents. Neither the agency's statute nor the regulation currently defines this term, thus, the NTSB seeks comments on whether defining “substantial property damage” would better clarify the scope of regulatory coverage for its railroad investigations. The issues raised in the comments submitted in response to this ANPRM will inform whether and how the NTSB will define this term in its regulation.

**DATES:** Send comments on or before October 30, 2023.

**ADDRESSES:** You may send comments, identified by Docket Number (No.) NTSB–2023–0007, by any of the following methods:

- *Federal e-Rulemaking Portal:* <https://www.regulations.gov>.
- *Email:* [rulemaking@ntsb.gov](mailto:rulemaking@ntsb.gov).

• Fax: 202–314–6090.

• Mail/Hand Delivery/Courier: NTSB, Office of General Counsel, 490 L'Enfant Plaza East SW, Washington, DC 20594.

**Instructions:** All submissions in response to this ANPRM must include Docket No. NTSB–2023–0007. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

**Docket:** For access to the docket, go to <https://www.regulations.gov> and search Docket No. NTSB–2023–0007.

**FOR FURTHER INFORMATION CONTACT:** William Thomas (Tom) McMurry, Jr., General Counsel, (202) 314–6080, [rulemaking@ntsb.gov](mailto:rulemaking@ntsb.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with the Independent Safety Board Act of 1974, as amended, the NTSB is required to “investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of . . . a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train.” 49 U.S.C. 1131(a)(1)(C). The NTSB’s regulations found at 49 CFR 831.40(a)(1) further explain that the NTSB has the authority to investigate “railroad accidents, collisions, crashes, derailments, explosions, incidents, and releases in which involve a fatality, substantial property damage, or a passenger train.” Section 840.2 defines railroad as “any system of surface transportation of persons or property over rails. It includes, but is not limited to, line-haul freight and passenger-carrying railroads, and rapid transit, commuter, scenic, subway, and elevated railways.”

Notably, the agency’s regulation has neither a definition nor a monetary threshold for the term “substantial property damage” as reflected in § 831.40(a)(1). The NTSB believes that defining this term will clarify the types of railroad accidents the NTSB will investigate. Thus, the NTSB is soliciting comments on the promulgation of a regulatory definition of “substantial property damage” particular to railroad accidents.

To define “substantial property damage,” the NTSB has considered regulatory thresholds utilized by the Federal Railroad Administration (FRA) and the Federal Transit Administration (FTA) at the United States Department of Transportation (DOT). The FRA “[e]nables the safe, reliable, and efficient movement of people and goods along the Nation’s railroads.”<sup>1</sup> The FRA

has a monetary threshold for reporting rail equipment accidents/incidents of \$11,300 for calendar year (CY) 2022.<sup>2</sup> The NTSB is disinclined to align itself with FRA’s threshold as the NTSB believes that \$11,300 is too low of a value. However, if the NTSB does promulgate a rule establishing a monetary value for “substantial property damage,” the NTSB may consider periodically adjusting for inflation the monetary threshold as the FRA recently did for CY 2022. See 85 FR 79130 (Dec. 9, 2020).

By contrast, the FTA, which “[p]rovides financial and technical assistance to local public transit systems, including buses, subways, light rail, commuter rail, trolleys and ferries,”<sup>3</sup> does not have a monetary value for reporting major events, but bases reporting requirements on whether there is “substantial damage” as defined by FTA.<sup>4</sup> The FTA defines “substantial damage” as “[d]amage to transit or non-transit property including vehicles, facilities, equipment, rolling stock, or infrastructure that disrupts the operations of the rail transit agency and adversely affects the structural strength, performance, or operating characteristics of the of the property, requiring towing, rescue, on-site maintenance, or immediate removal prior to safe operation.”<sup>5</sup> Notably, excluded from this definition is damage that is limited to: cracked windows; dents, bends, or small puncture holes in the body; broken lights or mirrors; or removal from service under the vehicle’s own power for minor repair or maintenance, testing, or video and event recorder download.

The NTSB does have a reporting threshold notification requirement contained in 49 CFR 840.3(b), which requires reporting of accidents with \$150,000 damage or more to railroad and nonrailroad property; or \$25,000 or more for a passenger train, and railroad and nonrailroad property. The NTSB is considering these monetary values to establish the threshold for “substantial property damage.” However, with the different threshold reporting requirements for freight and passenger trains, the NTSB is considering whether the same distinctions should apply to “substantial property damage.”

<sup>2</sup> The FRA’s Monetary Threshold Notice is available at: <https://railroads.dot.gov/safety-data/forms-guides-publications/guides/monetary-threshold-notice>.

<sup>3</sup> <https://www.transportation.gov/public-transit>.

<sup>4</sup> <https://www.transit.dot.gov/ntd/national-transit-database-ntd-glossary#S>.

<sup>5</sup> <https://www.transit.dot.gov/ntd/national-transit-database-ntd-glossary#S>.

Further, the NTSB is considering whether its proposed definition of “substantial property damage” should contain a distinction between public railroads and private railroads reporting thresholds. The Board acknowledges, however, that if the NTSB were to define “substantial property damage” differently between public and private railroads, doing so may give rise to a question regarding which definition of “substantial property damage” applies if there were an accident involving both a public and private railroad.

Accordingly, the public is asked to address any or all of the following questions:

1. Should the NTSB define “substantial property damage”?
2. If not, why not?
3. If so, how should the NTSB define “substantial property damage”?
4. If “substantial property damage” is defined using a specific dollar amount, what would be a reasonable monetary threshold?
5. How should the NTSB calculate the threshold value of “substantial property damage”?
6. Should the dollar amount established be indexed for inflation?
7. Should the property damage value be consistent with the reporting threshold established by the FRA? Why or why not?
8. Should the property damage value be consistent with the reporting threshold established by the NTSB? Why or why not?
9. Should “substantial property damage” be based on total property damage, railroad property damage, or non-railroad property damage?
10. Should “substantial property damage” consider factors other than monetary value?
11. Should there be a distinction in threshold reporting requirements between public railroads and private railroads?
12. And which definition should apply to an accident involving both a public railroad and private railroad?
13. The NTSB has different threshold reporting requirements for freight and passenger trains. Should the definition of “substantial property damage” contain a similar distinction?

#### List of Subjects in 49 CFR Part 831

Aircraft accidents, Aircraft incidents, Aviation safety, Hazardous materials transportation, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

**William T. McMurry, Jr.,**  
General Counsel.

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<sup>1</sup> <https://www.transportation.gov/railroads>.