

Supporting Statement for
Paperwork Reduction Act Submission

Waybill Sample as Modified in Ex Parte No. 385 (Sub-No. 7)

A. Justification

1. Need for Information

The Surface Transportation Board is statutorily responsible for the economic regulation of common carrier railroads operating in the United States. Some of the information the Board uses to carry out its responsibilities comes from rail carload waybills. A carload waybill, which is a document describing the characteristics of an individual rail shipment, identifies originating and terminating freight stations, the names of all railroads participating in the movement, the points of all railroad interchanges, the number of cars, the car types, the movement weight in hundredweight, the commodity, and the freight revenue. Under 49 CFR Part 1244, a railroad is required to file carload waybill sample information (Waybill Sample) for all line-haul revenue waybills terminating on its lines if, in any of the three preceding years, it terminated 4500 or more carloads, or it terminated at least 5% of the total revenue carloads that terminate in a particular state. The Waybill Sample is the Board's primary means of gathering information about freight rail shipments terminated in the United States. The Board has authority to collect this information under 49 U.S.C. 11144 and 11145.

The Board proposes to amend its rules with respect to the Waybill Sample information railroads are required to submit to the Board pursuant to 49 CFR 1244. Currently, railroads that are required to file Waybill Sample information report a random sample of as little as 1% of carloads on a waybill. See 49 CFR 1244.4(b)-(c). The proposed amendment, set forth in the Appendix, would expand the carload Waybill Sample information submitted to include all traffic movements designated as a TIH (Toxic Inhalation Hazard). The revised reporting would commence with the January 2011 Waybill Sample collection. The expanded information gathered from this proposed rule would permit the Board to assess more accurately TIH traffic within the United States, and specifically would give parties more data to draw upon in rail-rate disputes involving TIH traffic. The additional information would also assist the Board in quantifying the magnitude of TIH traffic, and would help the Board more accurately measure the associated costs of handling such traffic.

2. Use of Data Collected

The information in the Waybill Sample is used by the Board, other Federal agencies (the Department of Transportation and the Department of Agriculture, for example), and industry stakeholders to monitor traffic flows and rate trends in the industry, and to develop evidence in Board proceedings. The Waybill Sample is also a major source of information for states when developing state transportation plans. In addition, non-government groups seek access to Waybill Sample data for such uses as market surveys, forecasts of rail equipment requirements, economic analyses and forecasts, and academic research. The expanded information gathered from this proposed rule would permit the Board to assess more accurately TIH traffic within the

United States, and specifically would give parties more data to draw upon in rail-rate disputes involving TIH traffic. In those cases, the parties would have more data to draw upon when forming their comparison groups; therefore, the parties could construct comparison groups that would be more comparable to the issue traffic. The additional information would also assist the Board in quantifying the magnitude of TIH traffic, and would help the Board more accurately measure the associated costs of handling such traffic.

3. Reduction Through Improved Technology

Respondents may report electronically, and the vast majority of respondents do so. In fact, none of the most recently reported TIH waybills (representing 2008) were reported manually.

4. Identification of Duplication

This information is not duplicated by any other agency. The Board is the only source of waybill information.

5. Minimizing Burden for Small Businesses

The Board requires a railroad to submit a statistical sample of the waybills for the traffic it handles only if, in any of the three preceding years, it terminated 4500 or more carloads, or it terminated at least 5% of the total revenue carloads that terminate in a particular state. In addition, a carrier need only report quarterly (rather than monthly) if it submits computerized (rather than paper) Waybill Samples or it submits less than 1,000 waybills per year.

6. Frequency Reduction Consequences

The Waybill Sample may be submitted quarterly. Less frequent collection would impede the access by government regulators and private stakeholders to timely information about the industry.

7. Special Circumstances

There are no special circumstances. (Note: Although 49 CFR 1244.6, states that railroads submitting computerized Waybill Samples are required to retain copies of the underlying waybills for 4 years, that retention period conflicts with the 1-year retention period for waybills provided in section 1220.6. The agency has treated section 1220.6 as controlling in this matter.)

8. Consultation Outside Agency

The Board provided a 30-day comment period, with an additional 30 days for replies, regarding approval of the proposed modification in 72 FR 28549.

9. Payment or Gift

No payment or gift is made in connection with this survey form.

10. Assurance of Confidentiality

The Board recognizes that some of the submitted information is commercially sensitive, and thus the Board's regulations place limitations on releasing Waybill Sample data. See 49 CFR 1244.9.

11. Sensitive Information

This form does not collect any sensitive personal information.

12. Estimated Burden Hours and Cost

The total burden hours (annually including all respondents) is estimated at 320 hours (based on 50 respondents, 7 of whom (by their own choice) report monthly and 42 of whom report quarterly), with an average estimated time per response of 75 minutes. Note that the burden reported in ROCIS for this IC is only 250 hours because the ROCIS program does not allow input of data where a small percentage of respondents are reporting monthly by choice. Therefore, the ROCIS data assumes that all respondents report quarterly. No "non-hour cost" burdens associated with this collection have been identified.

13. Record Keeping Burden

Waybills are created by rail carriers in the normal course of business. Thus, this collection does not require additional record keeping.

14. Annualized Cost To the Federal Government

The Board contracts out the collection of the Waybill Sample. The annualized cost of the contract is \$340,092.

15. Changes in Burden Hours.

None.

16. Publication of Data and/or Results

Waybill Sample data, aggregated at the industry level to protect commercially sensitive information, is available on the Board's website (under Industry Data in the Waybill Public User Guide).

17. Display of Expiration date for OMB approval

The control number for this collection is 2140-0015. The expiration date for this collection will be published in the Federal register when the collection is approved by OMB.

18. Exceptions to the Certification for Paperwork Reduction Act Submissions

Not applicable.

B. Collection of Information Employing Statistical Methods

Not Applicable.

APPENDIX

For the reasons set forth above, as well as in *Waybill Data Reporting for Toxic Inhalation Hazards*, STB Ex Parte No. 385 (Sub-No. 7), STB served Jan. 28, 2010 and 75 FR 5261 (Feb. 2, 2010), the Surface Transportation Board proposes to amend part 1244 of title 49, chapter X, of the Code of Federal Regulations as follows:

**PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—
RAILROADS**

1. The authority citation for Part 1244 continues to read as follows:

Authority: 49 U.S.C. 721, 10707, 11144, 11145.

2. Add § 1244.4(b)(5) to read as follows:

* * * * *

(5) Subject railroads shall submit all waybill information for movements of Toxic Inhalation Hazards (TIH). For purposes of this section, TIH shall be defined in accordance with 49 CFR § 171.8, § 173.115, and § 173.132 to include materials that, when inhaled, are known or presumed on the basis of testing to be so toxic to humans as to pose a hazard to health in the event of a release during transportation. These materials include, but are not limited to, hazardous materials listed at 49 CFR § 172.101 as either Division 2.3 materials, or Division 6.1 materials that can be characterized as an inhalant under § 173.132.

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3. Add § 1244.4(c)(3) to read as follows:

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(3) Subject railroads shall submit all waybill information for movements of Toxic Inhalation Hazards (TIH). For purposes of this section, TIH shall be defined in accordance with 49 CFR § 171.8, § 173.115, and § 173.132 to include materials that, when inhaled, are known or presumed on the basis of testing to be so toxic to humans as to pose a hazard to health in the event of a release during transportation. These materials include, but are not limited to, hazardous materials listed at 49 CFR § 172.101 as either Division 2.3 materials, or Division 6.1 materials that can be characterized as an inhalant under § 173.132.

