

**SUPPORTING STATEMENT
FOR REQUEST OF OMB APPROVAL
UNDER THE PAPERWORK REDUCTION ACT AND 5 CFR 1320**

The Surface Transportation Board (STB or Board) requests a three-year reinstatement of approval of the collection contained in the Board's regulations governing the disclosure of rail interchange commitments (OMB control number 2140-0016). A rail interchange commitment is a contractual provision, which may be included with a sale or lease of a rail line, that limits the incentive or the ability of the purchaser or tenant carrier to interchange traffic with rail carriers other than the seller or lessor railroad. Under the Board's regulations, whenever a carrier or other person seeks authority, through the Board's abbreviated exemption procedures, to acquire (through sale or lease) or to operate a rail line, that carrier or other person is required to submit a copy of any agreement that contains such an interchange commitment.

A. Justification

1. Need for Collection. Under 49 U.S.C. §§ 10901, 10902, and 11323, carriers or other persons seeking to acquire (through purchase or lease) or to operate a rail line must obtain authority from the Board. Pursuant to § 10502, the Board has abbreviated procedures under which that authority may be obtained by seeking an exemption from the otherwise applicable full application procedures. Under § 721, the Board may require a person or business to submit information that the Board needs to carry out its statutory duties. See also 49 C.F.R. §§ 1121.3(d); 1150.33 (h); 1150.43(h); 1180.4(g)(4). The Board needs this information in order to monitor the case-specific usage of rail interchange commitments. The Board is seeking reinstatement of this authorization, which was inadvertently permitted to expire on March 1, 2011.
2. Uses of Information. The collection of the underlying agreements containing interchange commitments facilitates the Board's monitoring of their case-specific usage.
3. Reduction of Burden through Use of Technology. These documents may be e-filed on the Board's website, www.stb.dot.gov.
4. Identification of Duplication. The information requested does not duplicate any other information available to the Board or the public.
5. Impact on Small Business. Because the burden to respondents of submitting documents already in their possession is small, the impact on small businesses is minimal.
6. Impact of Less Frequent Collection. The underlying agreements are collected only when a carrier or other person seeks by exemption authority to acquire or to operate a rail line under an agreement that includes an interchange commitment. Failure to collect these agreements, when they are used, would impede the Board's ability to monitor the use of such agreements.

7. Special Circumstances. None

8. Outside Consultations and Compliance with 5 C.F.R. § 1320.8. As required under 44 U.S.C. § 3506(c)(2)(A), the Board published a 60-day notice regarding this collection in the Federal Register (75 Fed. Reg. 80,569 (12/22/2010)). No comments were received. As required under section 3507(b), the Board has published a 30-day notice regarding this collection in the Federal Register (76 Fed. Reg. 19,827 (4/8/2011)). This collection complies with 5 C.F.R. § 1320.8.

9. Payment or Gift to Respondents. None

10. Confidentiality. The rules regarding the collection of these agreements state that the agreements “may be filed with the Board under 49 CFR § 1104.12(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 CFR 1104.14(b).” Accordingly, the Board limits access to these confidential contracts to shippers or other affected parties who demonstrate a need for the information and adequately ensure that the documents will be kept confidential. See 49 C.F.R. §§ 1121.3(d); 1150.33 (h); 1150.43(h); 1180.4(g)(4).

11. Sensitive Information. No sensitive information of a personal nature is requested.

12. Collection Burden to Respondents. The Board estimates that the annual labor burden for an estimated 6 potential respondents totals less than 1.5 hours. The estimated annual burden is based on 6 respondents submitting 1 filing in a year, with an hourly burden per response of less than 15 minutes to do the following: (1) copy the existing agreement; and (2) mail, fax, email or otherwise deliver the agreement to the STB. When this collection was proposed, the Board had estimated 65 respondents annually. The revised estimate here is based on the Board’s experience over the past 3 years and represents a reduction in burden.

13. Annual Cost to Respondents. No non-labor costs are anticipated, other than the possible cost of mailing or delivering the agreement to the STB. We estimate the cost of copying and mailing each agreement to be \$22.40 and \$1.04, respectively. Therefore, we estimate that the total cost to each respondent of copying and mailing two copies of an interchange agreement (one to the Board and one to a requester) to be \$46.88 and the total cost to all respondents to be \$282. However, respondents may elect to send documents electronically. The dollar cost of this collection has increased because in its prior requests, the agency failed to specify the possible cost of copying and mailing the agreements.

14. Annualized Cost to the Federal Government. The Board estimates the use of approximately 1 hour of professional staff time to monitor the information in each of the estimated 6 agreements collected per year. This would result in an annualized cost to the government of \$428 for the total monitoring. The cost per hour of a GS-14 attorney is \$71.40, which includes salary and benefits.

15. Changes in Burden Hours. The reduction in burden hours from 16 to two is the result of a change in the agency's estimated number of respondents from 65 to six.

16. Publication of Data and/or Results. Because these agreements often contain confidential information, a public, redacted version is published on the Board's website. There are no plans to publish for statistical use information derived from this collection.

17. Display of Expiration Date for OMB Approval.

The new 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

No exceptions are sought.

B. Collection of Information for Employing Statistical Methods. Not applicable. This collection of information does not involve statistical methods.