

SUPPORTING STATEMENT

**A. Justification:**

1. Why the collection is necessary. In a notice of proposed rulemaking, the Surface Transportation Board (Board) proposed an arbitration program which permits shippers and rail carriers to arbitrate certain types of disputes. Assessment of Mediation and Arbitration Procedures, Docket No. EP 699 (STB served Mar. 28, 2012). Under the proposed rules, Class I and Class II rail carriers would be deemed to agree to participate in the Board's proposed arbitration program unless they file a notice with the Board notifying the Board of their decision not to participate in the Board's arbitration program. This "opt out" notice must be filed for each calendar year that the carrier does not agree to participate in the program. Class III carriers would not be deemed to agree to participate in the arbitration program, but could agree to participate in the program by filing a notice with the Board to "opt in." Finally, once a carrier is participating in the Board's arbitration program, it may discontinue its participation only by filing a notice to opt out with the Board, which would become effective 90 days after filing.

The Board has authority to collect information from rail carriers under 49 U.S.C. § 11145(a). Failure to collect this information would impede the Board's ability to establish the proposed arbitration program.

2. How the collection will be used. The opt-out and opt-in notices will be used to inform the Board and other interested persons which rail carriers have agreed to participate in the proposed arbitration program.

3. Extent of automated information collection. The Board expects all respondents to file the notices electronically through the Board's e-filing system.

4. Identification of duplication. No other federal agency collects the information in this collection, nor is this information available from any other source. Therefore, there will be no duplication of information.

5. Effects on small business. The proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. To the extent that the rule would have any impact, it would be to provide faster resolution of disputes before the Board at a lower cost than could be obtained through use of the Board's existing formal adjudicatory procedures.

6. Impact of less frequent collections. Without this annual collection, the Board could not establish the proposed arbitration program.

7. Special circumstances. No special circumstances described in question 7 apply to this collection.

8. Compliance with 5 C.F.R. § 1320.8. The Board published a notice in the Federal Register, providing a 45-day comment period for initial comments and a 30-day comment period for replies regarding this collection. See 77 Fed. Reg. 19591 (Apr. 2, 2012). In addition, a notice specifically requesting comments regarding the collections contained in the proposed rule was published in the Federal Register today. See 77 Fed. Reg. 23208 (Apr. 18, 2012).

9. Payments of gifts to respondents. The Board does not provide any payment or gift to respondents.

10. Assurance of confidentiality. All information collected through this report is available to the public.

11. Justification for collection of sensitive information. This collection contains no information of a sensitive nature.

12. Estimation of burden hours for respondents. There are approximately 7 Class I rail carriers, 8 Class II rail carriers, and 635 Class III rail carriers that could respond to this information collection annually, for a total of 650 potential respondents. We estimate a per-respondent-railroad burden of no more than 1 hour annually to file the opt-out or opt-in notices. The total estimated annual burden hours for all 650 potential rail carrier respondents is, therefore, no more than 650 hours annually (650 potential respondents X 1 hour each).

13. Other costs to respondents: No non-hour burdens have been identified.

14. Costs to Board: We estimate that the maximum cost to the Board of entering the notices into the Board's e-Library under the appropriate docket and posting the searchable pdf's to the website would total \$14,875.00 per year, which includes 325 hours (0.50 hours per notice X a maximum of 650 notices filed annually) at a GS-11/12 pay grade.

15. Changes in burden hours. This ICR requests a change because this is a new collection.

16. Plans for tabulation and publication: The agency does not tabulate the results of this collection. Rather, the notices are posted to the appropriate docket within the Board's e-Library at [www.stb.dot.gov](http://www.stb.dot.gov).

17. Display of expiration date for OMB approval. No exception is sought. The control number and expiration date for this collection will be published in the Federal Register.

18. Exceptions to Certification Statement. No exceptions are sought.

**B. Collections of Information Employing Statistical Methods:**

Not applicable.