

**SUPPORTING STATEMENT
FOR APPROVAL OF NEW COLLECTION
UNDER THE PAPERWORK REDUCTION ACT AND 5 CFR 1320**

New Submissions Under the Board's Trails Act Regulations

Under its regulations, the Surface Transportation Board (STB or Board) will issue a Certificate of Interim Trail Use (CITU) or Notice of Interim Trail Use (NITU) to a prospective trail sponsor who offers to assume managerial, tax, and legal responsibility for a right-of-way that a rail carrier would otherwise abandon. The CITU/NITU permits parties to negotiate for a 180-day period a railbanking agreement. If parties reach an agreement, the CITU/NITU automatically authorizes railbanking/interim trail use. If no agreement is reached, then upon expiration of the negotiation period, the CITU/NITU authorizes the railroad to exercise its option to fully abandon the line by consummating the abandonment without further action by the Board.

The final rules, unchanged from the proposed rules, require parties to notify the Board when a trail use agreement has been reached, and to notify the Board of the exact location of the right-of-way subject to the agreement, including a map and milepost marker information. The rules also require parties to file a petition to modify or vacate the CITU/NITU if the trail use agreement applies to less of the right-of-way than covered by the CITU/NITU. These submissions will ensure that the agency and the public have accurate information on the status of property after interim trail use conditions have been issued. As is already required for an original trail sponsor, the final rules also clarify that a substitute trail sponsor must acknowledge that interim trail use is subject to restoration and reactivation at any time.

A. Justification

1. Why Collection is Necessary.

Under 16 U.S.C. § 1247(d), the Board must “preserve established railroad rights-of-way for future reactivation of rail service” by prohibiting abandonment where a trail sponsor offers to assume managerial, tax, and legal responsibility for a right-of-way for use in the interim as a trail. Pursuant to this authority, the Board will issue a CITU/NITU to a prospective trail sponsor that submits a statement of willingness to assume responsibility for management, legal liability, and payment of taxes, and an acknowledgement that interim trail use is subject to restoration of rail service at any time. 49 C.F.R. §§ 1152.29(a), (d).

2. Uses of Information. This information collection would ensure that the agency and the public have accurate information on the status of property where a CITU/NITU has been issued.

3. Reduction of Burden. This information may be e-filed by parties 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 to the public.
5. Impact on Small Business. There will not be a significant economic impact on a substantial number of small entities. The information collection should involve little time and expense to draft and file, and thus should have little economic impact on a small-entity filer. The requirement is limited to only those small entities or small businesses who choose to be parties to interim trail use agreements.
6. Consequence if Collection Not Conducted or Less Frequent. CITU/NITUs are self-executing. The Board's current regulations provide no formal means of determining whether an actual interim trail use agreement is reached after the issuance of a CITU or NITU, and, if so, whether the agreement applies to the entire right-of-way at issue. Therefore, collection of this information is needed to provide current and relevant information to the Board.
7. Special Circumstances. No special circumstances require the collection to be conducted in a manner inconsistent with the guidelines in 5 C.F.R. § 1320.5.
8. Outside Consultations. The Board published its proposed rules in the Federal Register (See 76 Fed. Reg. 8,992.). The notice of proposed rules provided 60 days for interested parties to comment on the proposed rules and an additional 30 days for replies to any comments. In the comments received, no party challenged the agency's initial burden estimates or proposed a way to further minimize the burden on respondents from collection of the information and still provide the required information. Therefore, in the final rule (See 77 Fed. Reg. 25910.), the Board found no reason to modify the regulations as proposed.
9. Payment or Gift to Respondents. No payments or gifts to respondents are made.
10. Confidentiality. No confidential information is being collected in this information collection. The collected information is posted on the Board's website.
11. Sensitive Information. No information of a sensitive nature is requested.
12. Collection Burden to Respondents. Based on the Board's experience with similar requirements, the Board estimates that it will take a respondent approximately 1 hour per response and that the Board will receive approximately 40 submissions per year, for a total annual labor burden of 40 hours.
13. Annual Cost to Respondents. There are no filing fees, unless a party petitions to modify or vacate a CITU/NITU. A filing fee of \$250 applies to petitions to modify or vacate a CITU/NITU. No non-labor costs are anticipated.
14. Annualized Cost to Federal Government. Staff estimates an annual burden to the agency of 50 labor hours. This entails 20 hours of labor for receipt and posting to the Board's website of an

estimated 40 notices, which is performed by the Board's support staff (GS-12 level) at \$35.88 per hour. For an estimated 10 petitions to modify or vacate a CITU/NITU pursuant to the proposed rules, this entails 20 hours of labor for drafting a revised CITU/NITU, which is performed by professional staff (GS-13 level) at \$42.66 per hour and 10 hours of labor for reviewing the draft, which is performed by professional staff (GS-15 level) at \$59.30 per hour. Therefore, the estimated annualized cost to the Board is \$2,163.80.

15. Changes in Burden Hours. No change in burden hours is sought.

16. Statistical Use. Individual submissions will be published on the Board's website, <www.stb.dot.gov>. There are, however, no plans to publish for statistical use information derived from this collection.

17. Display of Expiration Date for OMB Approval. The Board will publish notice of the expiration date in the Federal Register if a final rule is adopted by the Board and the collection is assigned a control number by OMB.

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

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