

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 would have permitted 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) (NPRM). Under the proposed rules, Class I and Class II rail carriers would have been deemed to agree to participate in the Board's proposed arbitration program unless they filed a notice with the Board notifying the Board of their decision not to participate in the Board's arbitration program, i.e. to "opt out." Class III carriers would not have been 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 was participating in the Board's arbitration program, it could have discontinued its participation only by filing a notice to opt out with the Board, which would have become effective 90 days after filing.

In the Final Rule, the Board modified the collection associated with the arbitration program in one respect. Class I and II rail carriers will no longer be deemed to agree to participate unless they file a notice opting out of the program. Rather, like Class III carriers, Class I and II carriers may agree to participate in the arbitration program by filing a notice with the Board to "opt in." As explained in the Final Rule decision (Assessment of Mediation and Arbitration Procedures, Docket No. EP 699 (STB served May 13, 2013); 78 Fed. Reg. 29071 (May 17, 2013), this change was adopted in response to numerous comments received in response to the NPRM.

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-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, which is information from rail carriers regarding their willingness to participate in the Board's arbitration program, nor is this information available from any other source. Therefore,

there will be no duplication of information.

5. Effects on small business. The Final Rule will not have had a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. To the extent that the Final Rule will have any impact, it will 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 collection, the Board could not establish the proposed arbitration program and the Board's stakeholders, rail carriers and shippers, would not have access to this less costly dispute resolution program.

7. Special circumstances. No special circumstances 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).). The Board also published a supplemental notice, seeking comments under the PRA. See 77 Fed. Reg. 23208 (April 18, 2012). Finally, notice of the Final Rule was published in the Federal Register at 78 Fed. Reg. 29071 (May 17, 2013).

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, for a total of 650 potential respondents. We estimate a per-respondent-railroad burden of no more than 1 hour to file the 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). In the supporting statement to the NPRM, we assumed one notice from each carrier per year. Because we make the same assumption here, the burden remains 650 hours.

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 no more than \$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 notices required by this collection will be posted to the appropriate docket within the Board's e-Library at www.stb.dot.gov.

17. Display of expiration date for OMB approval. There is no form associated with this collection. The instructions will be found in the Board's regulations at 49 C.F.R. 1108.3. 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.