

**SUPPORTING STATEMENT
FOR REQUEST OF OMB APPROVAL
UNDER THE PAPERWORK REDUCTION ACT AND 5 CFR 1320
Modification to Existing Collection: Disclosure of Rail Interchange Commitments**

The Surface Transportation Board (STB or Board) adopts final rules modifying the collection contained in the Board's regulations governing the disclosure of rail interchange commitments. Under the Board's current regulations, whenever a carrier or other person seeks authority, through the Board's abbreviated exemption procedures, to acquire (through sale or lease) a rail line, that carrier or other person is required to submit a copy of the agreement that contains such a commitment. The final rules require additional information about the interchange commitment.

A. Justification

1. (a) Why the collection is necessary. Under 49 U.S.C. §§ 10901, 10902, and 11323, carriers or other persons seeking to acquire (through purchase or lease) 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. Pursuant to the current regulations, the Board requires that if a proposed transaction to acquire (by sale or lease) a rail line includes an agreement containing an interchange commitment (whether through restrictions or incentives), the party seeking Board authorization for such transaction must identify the presence of such an interchange commitment and must file with the Board a confidential, unredacted copy of the pertinent agreement and any related documents containing the terms of such commitment. See 49 C.F.R. §§ 1121.3(d); 1150.33 (h); 1150.43(h); 1180.4(g)(4). The current collection allows the Board to monitor the use of rail interchange commitments in proposed transactions.

(b) Why the modification is necessary. The Board is adopting rules requiring that parties filing notices of, or petitions for, exemption also certify whether or not such an interchange commitment exists and provide additional information regarding the possible impact of the proposed interchange commitment as follows: a list of shippers that currently use or have used the line within the last two years; the number of carloads that those shippers originated or terminated; a list of third party railroads that could physically interchange with the line sought to be acquired or leased; an estimate of the difference between the sale or lease price with and without the interchange commitment; and a change in the case caption so that the existence of the interchange commitment is apparent from the case title. In addition, the railroad that is currently using the line must certify that it has provided notice of the proposed transaction and interchange commitment to shippers that use or have used the line in question. The final rules drop the discounted annual value requirement and the revenue-disclosure requirement that were included in the proposed rules. The adopted modifications will further ensure that the Board has

sufficient information about these transactions to determine whether they are appropriate for the exemption process and will also help parties objecting to a petition or filing a petition to revoke an exemption by providing access to this relevant information initially, thus minimizing the length of time spent on the process of filing and deciding a petition to revoke.

2. How the collection will be used. The adopted modifications will further ensure that the Board has sufficient information about these transactions to determine whether they are appropriate for the exemption process and will also help parties objecting to a petition or filing a petition to revoke an exemption by providing access to this relevant information early on, thus expediting the process.

3. Extent of automated information collection. These documents may be faxed or e-filed by carriers.

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. The agency has determined that this rulemaking associated with this collection will not have a significant impact on a substantial number of small businesses.

6. Impact of less frequent collections. The information will be 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. Without this collection, interested parties would have to litigate to obtain this information, thus complicating and delaying resolution of these matters.

7. Special circumstances. None

8. Compliance with 5 C.F.R. § 1320.8 (outside consultations). As required under 44 U.S.C. § 1320.11, the Board requested public comments in its notice of proposed rulemaking in the Federal Register. The comments are summarized and addressed in the final rule, which was served by the Board on September 5, 2013. On the same date, a 30-day notice was published in the Federal Register, 78 Fed. Reg. 54589 (9/5/13), and this submission was submitted to Office of Management and Budget (OMB).

9. Payment or gift to respondents. None

10. Assurance of confidentiality. The proposed rules regarding this collection state that certain information may be “submitted under seal.” The Board limits access to confidential information to shippers or other affected parties who demonstrate a need for the information and 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. Justification for collection of sensitive Information. No sensitive information of a personal

nature is requested.

12. Estimation of burden hours for respondents. The Board estimates that the annual labor burden for this amended collection will total no more than 32 hours. The estimated annual burden is based on four respondents, each submitting one filing in a year, with an hourly burden per response of no more than eight hours, including one hour to prepare a redacted public copy of the required submission to be filed under seal.

13. Other costs to respondents. No non-labor costs are anticipated, other than the possible cost of mailing or delivering the agreement to the STB if the respondent so chooses. This information may be submitted electronically.

14. Estimated costs to the agency. The Board estimates the use of no more than eight hours of professional staff time to monitor the information in each of the estimated four agreements collected per year. This includes six hours for review by either a line attorney (GS 14/4 at \$69.31 pay plus benefits per hour) or paralegal (GS 13/6 at \$62.21 pay plus benefits per hour) and two hours review by a supervisory attorney (GS 15/10 at \$93.14 pay plus benefits per hour). This would result in an annualized cost to the government of between \$559.54 and \$602.14 for each agreement, resulting in an approximate total annual cost of between \$2,238 and \$2,409 to review all four agreements.

15. Changes in burden hours. Prior to the adopted modification, the annual number of burden hours for this collection was 15 minutes. With the adopted modifications, we estimate that the hourly burden of each respondent will increase to a total of no more than eight hours per respondent.

16. Plans for tabulation and publication. The information in this collection that is not confidential will be posted on the Board's website with other filings.

17. Display of expiration date for OMB approval. There is no form associated with this collection. The control number and expiration date will be noticed in the Federal Register.

18. Exceptions to certification statement. No exceptions are sought.

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