

SUPPORTING STATEMENT – CATCH-ALL PETITIONS

A. Justification:

1. Why the collection is necessary. The Surface Transportation Board is, by statute, responsible for the economic regulation of common carrier freight railroads and certain other carriers operating in the United States. Under 49 U.S.C. § 721 and 49 C.F.R. § 1117 (the Board's catch-all petition provision), shippers, railroads, other regulated carriers, communities and other persons may seek relief (such as petitions seeking waivers of the Board's regulations) not otherwise specifically provided for under the Board's other regulatory provisions. The Board's collection of these petitions enables the Board to more efficiently meet its statutory duty and grant the requested relief if appropriate.

2. How the collection will be used. Persons seeking to make requests or claims not otherwise specifically provided for by the Board's regulations may file a catch-all petition under 49 C.F.R. § 1117. Under this regulation, catch-all petitions must contain three items: (a) a short, plain statement of jurisdiction, (b) a short, plain statement of petitioner's claim, and (c) request for relief. A common use of the catch-all petition is made by a party to a proceeding, or a party seeking to institute a proceeding, seeking waivers of specific Board regulations. For example, in an adverse abandonment case, persons seeking to force railroads to abandon a rail line may seek a waiver of requirements to provide information when only the railroad would have that information. The Board uses the information in the catch-all petition to evaluate such a request and determine whether to grant the requested relief. The filings that comprise this collection are designated as permanent records. Accordingly, the STB retains them for 10 years, after which they are transferred to the custody of the National Archives and Records Administration.

3. Extent of automated information collection. These documents may be e-filed on the Board's website, located at www.stb.dot.gov. With limited exceptions (as discussed in response #10), these documents are publicly available on the Board's website.

4. Identification of duplication. The information requested does not duplicate any other information available to the Board or the public. No other entity has authority to address these petitions, and no other federal agency collects this information.

5. Effects on small business. This collection does not have a significant economic effect on a substantial number of small entities. Generally, catch-all petitions are limited in scope and nature. They primarily have been used, as discussed, for waivers of specific subsections of the Board's regulations.

6. Impact of less frequent collections. Congress provided for the Board to address these petitions not otherwise specifically provided for by statute. See 49 U.S.C. § 721. Failure to

allow persons to formally address issues not otherwise specifically addressed by the Board's regulations could lead to inequities and gaps in procedures, and, therefore, eliminate the Board's ability to completely fulfill its statutory mandate by granting appropriate relief.

7. Special circumstances. No special circumstances apply to this collection.

8. Compliance with 5 C.F.R. § 1320.8. As required, the Board published a notice providing a 60-day comment period regarding this collection. See 78 Fed. Reg. 23826 (4/22/13). No comments were received. A 30-day notice was published concurrently with this submission to Office of Management and Budget (OMB). See 79 Fed. Reg. 2249 (1/13/14).

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

10. Assurance of confidentiality. This collection is generally available to the public as filings on the Board's website, located at <http://www.stb.dot.gov/filings/all.nsf/WebFilingDate?openform>. However, some of the information collected may be protected and treated as confidential. At times, persons filing a catch-all petition before the Board, or responding to one, may wish to file commercially sensitive information. To protect such information, parties may mark documents or portions of documents as "confidential" or "highly confidential" and simultaneously file a motion for a protective order. See 49 C.F.R. § 1104.14. Generally, the Board will issue a protective order (sometimes with modifications), limiting access to confidential pleadings to parties who demonstrate a need for the information and adequately ensuring that the documents will be kept confidential. In such circumstances, a redacted public version of the document will be posted on the Board's website in lieu of the document containing confidential information.

11. Justification for collection of sensitive information. No sensitive information of a personal nature is requested.

12. Estimation of burden hours for respondents. The following information pertains to the estimate of burden hours associated with this collection:

- (1) Number of respondents: Six respondents filed catch-all petitions during Fiscal Year 2012 (FY 2012).
- (2) Frequency of response: On occasion. (Nine catch-all petitions were filed during FY 2012.)
- (3) Annual hour burden per respondent and total for all respondents: Based on informal feedback recently provided by a small sampling (less than five) of respondents for similarly small filings, it is estimated that it takes approximately 24.5 hours to prepare and file a catch-all petition with the Board. The resulting total hourly burden for this

collection is estimated at 220.5 hours (estimated hours per petition (24.5) X number of FY 2012 petitions (9)).

For respondents, there is no Board-generated record keeping requirement associated with this collection.

13. Other costs to respondents: The total annual costs to respondents, or the “non-hour burden” costs associated with this information collection, will consist of printing, copying, mailing and messenger costs. Based on informal feedback recently provided by a small sampling (less than five) of respondents, it is estimated that it will average approximately \$70 per petition. (However, the actual costs to respondents will depend on the facts of each filing situation.) In FY 2012, respondents made nine filings. When multiplied by the estimated average non-hourly costs, the total estimated cost for all respondents is, therefore, no more than \$630 (estimated “non-hour burden” cost per petition (\$70) X number of FY 2012 responses (9)).

14. Estimated costs to the Board: The total annual cost to the Board of this collection is estimated at \$5,027. This estimate is based on a cost study performed by the Board to determine the cost to the Board of various Board functions. These cost studies are typically used to determine the various fees set by the Board, including the fees for filing petitions. While the Board generally sets its fees to capture the total cost of collection to the Board, the Board recently reduced the fees for filing these petitions. Nevertheless, the Board continues to track the full cost for each type of petition and, therefore, staff is able to derive the estimated total annual cost to the Board for this collection.

15. Changes in burden hours. This is an existing collection without a control number.

16. Plans for tabulation and publication: Generally, catch-all petitions are published on the Board’s website, located at www.stb.dot.gov. However, as discussed above, when these petitions contain confidential information, only a public, redacted version is published on the Board’s website.

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

18. Exceptions to Certification Statement. Not applicable.

B. Collections of Information Employing Statistical Methods:

Not applicable.