

SUPPORTING STATEMENT – COMPLAINTS

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 the Interstate Commerce Act, 49 U.S.C. §§ 10101-16106, and corresponding regulations, the Board has broad authority to hear and act upon complaints. Shippers and other persons may bring claims for damages against railroads or other carriers regulated by the Board by filing a complaint before the Board under the procedures set forth in 49 C.F.R. § 1111 for claims under 49 U.S.C. §§ 10701-10707, 11101-11103, 11701-11707 (rail), 14701-14707 (motor, water & intermediaries), and 15901-15906 (pipelines). The Board's collection of these complaints enables the Board to meet its statutory duty.

2. How the collection will be used. Persons seeking to file a claim for certain damages against a railroad or other regulated carrier must file a complaint before the Board. For example, a shipper may allege that railroads are charging unreasonable rates or that they are engaging in unreasonable practices. See 49 U.S.C §§ 10701, 10704, 11701, 14701, 15901. The content of the complaint is outlined in 49 C.F.R. § 1111(a). Upon the filing of a complaint, an adjudicatory process is initiated similar to claims brought in federal court. The Board uses the information in the complaint to help it adjudicate the claims raised in the complaint. Complaints are designated as permanent records, and, accordingly, the Board 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 federal agency has authority to adjudicate these complaints, and no other 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, complaints filed by, or filed against, small entities are limited in nature. Complaints with the potential to have the largest economic effect are rate reasonableness complaints, and these complaints are typically filed by large electric utilities against large railroads.

6. Impact of less frequent collections. Congress provided for several causes of action, and the Board is charged with adjudicating those causes of action through the complaint process. Failure to allow regulated carriers, shippers, and other persons to make complaints before the Board would eliminate the ability of the Board to fulfill its statutory mandate to adjudicate these

cases and would deprive shippers of their right to seek redress when carriers act in violation of a statute.

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 complaint before the Board, or responding to a complaint, 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. 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: Four respondents filed complaints during Fiscal Year 2012 (FY 2012).
- (2) Frequency of response: On occasion. (Five complaints 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, it is estimated that it takes approximately 467 hours to prepare and file a complaint with the Board. The resulting total hourly burden for this collection is estimated at 2,335 hours (estimated hours per complaint (467) X number of FY 2012 complaints (5)).

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 \$1,462 per complaint filing. (However, the actual costs to respondents will depend on the facts of each filing situation.) In FY 2012, respondents made 5 filings. When multiplied by the estimated average non-hourly costs, the total estimated cost for all respondents is, therefore, no more than \$7,310 (estimated “non-hour burden” cost per complaint (\$1,462) X number of FY 2012 responses (5)).

14. Estimated costs to the Board: The total annual cost to the Board of this collection is estimated at \$943,828. 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 complaints. 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 complaints. Nevertheless, the Board continues to track the full cost for each type of complaint proceedings, 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, complaints are published on the Board’s website, located at www.stb.dot.gov. However, as discussed above, when complaints 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.