

Supporting Statement for  
Paperwork Reduction Act Submission

OMB Control No. 2140-0018  
Expires June 30, 2014

Applications for Land-Use-Exemption Permits

A. Justification

1. Why Collection Is Necessary.

The Clean Railroads Act of 2008 (CRA) mandated that the Board publish procedures governing the submission and review of applications for the issuance of land-use-exemption permits. See 49 U.S.C. §§ 10908-10910. Pursuant to 49 U.S.C. § 10501(c)(2), as amended by the CRA, the Board issued rules in Solid Waste Rail Transfer Facilities, EP 684 (served on March 24, 2011), providing procedures for persons to file applications for land-use-exemption permits.

Because a land-use-exemption permit preempts state and local laws, the Board requires applications for a land-use-exemption permit to include substantial facts and argument as to why a permit is necessary. The Board also provides for the filing of an environmental report and/or preparation of an environmental impact statement (which is required in most circumstances) in order to satisfy the requirements of the National Environmental Policy Act. See 42 U.S.C. § 4332(c). Further, under 49 C.F.R. § 1155.20, an applicant is required to file a notice of intent to apply for a land-use-exemption permit before filing its application so that the Board and interested parties may have advance notice that a complex and potentially controversial application is about to be filed with the Board, which may exempt the construction of a solid waste rail transfer facility from local and state laws.

2. Uses of Information. This information collection is used by the Board to determine whether a land-use-exemption permit should be issued.

3. Reduction of Burden. This information may be e-filed by parties on the Board's website, <[www.stb.dot.gov](http://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. Generally, the requirement is limited to only those small entities or small businesses that choose to file an application to obtain a permit that would preempt state and local laws. Based on past experience, the Board anticipates less than one application for land-use-exemption permit per year, because most solid waste rail-transfer facilities or railroads owning or operating such facilities will likely conform their activities to state and local laws

rather than seek an exemption permit under the CRA. Given the small number of applications for a land-use-exemption permit, this collection should have little economic impact on small-entity filers.

6. Consequence if Collection Not Conducted or Less Frequent. As discussed above, under 49 U.S.C. §§ 10908-10910, the Board is required to provide for this collection and to review it. Without this collection, the Board could not obtain the information it needs to fulfill its statutory responsibilities.

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. Consultation Outside Agency. As required, the Board provided a 60-day comment period (see 79 Fed. Reg. 20304 (4/11/2014)), and a 30-day comment period (see 79 Fed. Reg. 35411 (6/20/2014)) regarding this collection. No comments were received.

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 sensitive information of a personal 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 160 hours per application for a land-use-exemption permit and that the Board will receive approximately one submission per year, for a total annual labor burden of 160 hours.

13. Annual Cost to Respondents. Under the Board's rules, an applicant will prepare and file an environmental report with the Board and, in most circumstances, will hire a contractor to work with Board staff to prepare an EIS. While the cost of hiring such a contractor or preparing an environmental report may vary depending on the characteristics of the solid waste transfer facility, staff estimates the cost at approximately \$200,000. The actual amount will depend on the facts and complexity of the case.

14. Annualized Cost to Federal Government. Staff estimates an annual cost to the agency of approximately \$225,000.00. This includes 30 minutes of labor for receipt and posting to the Board's website of an estimated one application for a land-use-exemption permit, which is performed by the Board's support staff (GS-12 level) at \$35.88 per hour. The majority of the cost, however, is for reviewing the application and environmental report or, in the alternative, preparing an EIS. Staff estimates that such review will require 3,000 hours of work by professional staff at the GS-14 to SES levels.

15. Changes in Burden Hours. No changes are sought.

16. Publication of Results. 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. 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 the Certification for Paperwork Reduction Act Submissions. No exceptions are sought.

#### **B. Collection of Information Employing Statistical Methods**

Not Applicable.