

**SUPPORTING STATEMENT
FOR REQUEST OF OMB APPROVAL
UNDER THE PAPERWORK REDUCTION ACT AND 5 C.F.R. § 1320**

The Surface Transportation Board (STB or Board) requests approval of the regulations governing the collection of Joint Notice of Request of Arbitration.

A. Justification:

1. Need for Information in Collection. Under Section 13 of the Surface Transportation Board Reauthorization Act of 2015, P.L. 114-110 (2015) (STB Reauthorization Act) (codified at 49 U.S.C. § 11708), the Board is required to “promulgate regulations to establish a voluntary and binding arbitration process to resolve rail rate and practice complaints” that are subject to the Board’s jurisdiction. Section 11708 sets forth specific requirements and procedures for the Board’s arbitration process. In a notice of proposed rulemaking, the Surface Transportation Board (Board) proposed to amend its arbitration procedures set forth at 49 C.F.R. §§ 1108 and 1115.8 to conform to the requirements of the STB Reauthorization Act. Revisions to Arbitration Procedures, Docket No. EP 730 (STB served May 12, 2016) (NPRM). The Board now plans to issue final rules consistent with the NPRM.

The Board’s current regulations are mostly consistent with § 11708(c), which makes the arbitration process available only after the Board receives written consent to arbitrate from all relevant parties and after the filing of a written complaint. Under the statute, however, in lieu of a written complaint, the arbitration process also may be made available “through other procedures adopted by the Board in a rulemaking proceeding.” § 11708(c)(1)(B)(ii)(II). Thus, to encourage greater use of arbitration to resolve disputes, the final rules allow, as an alternative to filing a written complaint, parties to submit a joint notice to the Board, indicating the consent of both parties to submit an issue in dispute to the Board’s arbitration program.

In the joint notice, parties would state the issues that the parties are willing to submit to arbitration. The joint notice would also contain a statement indicating that (1) all relevant parties are participants in the Board’s arbitration program pursuant to §1108.3(a), or (2) the relevant parties are willing to arbitrate voluntarily a matter pursuant to the Board’s arbitration procedures and the relief requested.

2. Use of Data Collected. The collection of the joint notices will be used to inform the Board, and other interested persons, that certain parties have an issue in dispute and have agreed to participate in the arbitration program.

3. Reduction through Improved Technology. 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 certain parties 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. Minimizing Burden for Small Business. The final rules will not have 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 notice to the Board of potential issues in dispute between parties.

6. Consequences if Collection not Conducted or Conducted Less Frequently. Without this collection, the Board could not encourage greater use of its arbitration program, and the Board's stakeholders, rail carriers and shippers would not have even faster access to this dispute resolution program.

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

8. Consultation with Outside Agency. The Board published a notice in the Federal Register, providing a 28-day comment period for initial comments and an 18-day comment period for replies regarding this collection. See 81 Fed. Reg. 30229 (May 16, 2016). No comments were received.

9. Payments or Gifts. The Board does not provide any payment or gifts for this collection.

10. Assurance of Confidentiality. All information collected through this report will be subject to the Board's confidentiality procedures.

11. Sensitive Information. This collection contains sensitive information but is necessary to process information for the Board's arbitration program, and is collected and handled consistent with the Board's rules.

12. Estimated Burden Hours. The following information pertains to the estimate of burden hours associated with this collection:

(1) Number of respondents. Five. There were, on-average, approximately five matters sought for mediation during each of the last few calendar years. Thus, we estimate, at a minimum, that five joint notices will be filed for this information collection annually.

(2) Frequency of response. On occasion.

(3) Annual hour burden per respondent and total for all respondents. Five hours annually (five responses X one hour per response).

13. Estimated Total Annual Cost to Respondents. The filings may be made electronically. No non-hour burdens have been identified.

14. Annualized Cost to the Federal Government. We estimate that the maximum cost to the Board of entering the joint 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 \$273.94 per year, which includes 5 hours (one hour per notice X a maximum of 5 notices filed) at a GS-12 pay grade.

15. Explanation of Program Changes or Adjustments. This ICR requests a change because this is a new collection.

16. Plans for tabulation and publication. The notices required by this collection are or 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 and 1115.8. The control number and expiration date for this collection will be published in the Federal Register after OMB approves the collection.

18. Exceptions to Certification Statement. Not applicable.

B. Collections of Information Employing Statistical Methods:

Not applicable.