

**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) seeks approval for its final rule requiring the nation's seven Class I (large) railroads and the Chicago Transportation Coordination Office (CTCO), through its Class I members, to report certain railroad service performance metrics on a weekly basis and certain other information on a semiannual and occasional basis under 49 C.F.R. Part 1250 – Railroad Performance Data Reporting.

A. Justification:

1. Need for Information in Collection. The Board is, by statute, responsible for economic regulation of common carrier railroads operating in the United States. The shipping public and the Nation's economy as a whole depend upon reliable, consistent, and efficient freight rail service. In 2013 and 2014, the Nation experienced a severe deterioration in rail service, with widespread service problems affecting a broad range of commodities, including grain, fertilizer, ethanol, coal, automobiles, chemicals, propane, consumer goods, crude oil, and industrial products. In April 2014, the Board initiated an oversight proceeding to ascertain the scope and magnitude of the problems, and to facilitate the railroad industry's recovery efforts.

In the oversight proceeding, the Board implemented performance data reporting to monitor and track the progress of railroads' efforts to restore service. To remedy a lack of readily available performance data, the Board asked the Class I (i.e., large) railroads in October 2014 to report publicly certain data on an interim basis, such as average train speed, average terminal dwell time, cars online, dwell time at origin, numbers of trains holding, and coal and agricultural products loading statistics. The interim order expressly contemplated a subsequent notice-and-comment rulemaking.

After significant input from railroads and shippers, modifications based on public comments, and the Board's experience with the data reported under the interim order, the Board issued the final rule codified at 49 C.F.R. Part 1250. See U.S. Rail Serv. Issues—Performance Data Reporting, EP 724 (Sub-No. 4) 81 Fed. Reg. 87472 (Nov. 30, 2016). The final regulations required railroads to report certain railroad service performance metrics on a weekly basis and certain other information on a semiannual and occasional basis. These are outlined below:

- i. Weekly Reporting. The collection of rail service performance data on a weekly basis will allow the Board to monitor rail service in near real-time, to detect emerging service problems, and to work proactively with industry to mitigate service issues before they grow into severe regional or national crises. The collection of weekly

data from each Class I railroad and the CTCO will allow the Board to quickly identify aberrations from service norms, such as a sudden spike in the number of trains holding at origin, which typically indicate problems affecting vital industries. Weekly data will also allow the Board to establish long-term trends, tracking improvement or decline in a given railroad's service over time. Additionally, the weekly data will allow rail shippers and other interested stakeholders, including Federal agencies and Congress, to monitor rail performance. The publicly reported data will be useful to rail shippers in making operational and logistics decisions.

- ii. Semiannual Reporting. The semiannual reporting requires railroads to report on major rail infrastructure projects on March 1 of each year, followed by a six-month update. Railroads are instructed to report in narrative fashion, briefly describing each project and its purpose and location. Reporting of this information will facilitate the Board's awareness of significant network investments by Class I carriers, and its ability to monitor rail service at these locations.
- iii. Occasional Reporting. The occasional reporting requires Class I railroads (through CTCO) to report to the Board instances when the "Alert Level" for the Chicago gateway is changed. "Alert Levels," which were established through the cooperation of railroads serving the Chicago gateway, require railroads to implement operational contingency measures to proactively counteract congestion, such as by diverting trains to alternate interchanges. Reporting this information on an occasional basis will enhance the Board's visibility into the status of a critical component of the nation's rail network.

2. Use of Data Collected. The shipping community and our economy depend on reliable and efficient freight rail service. The downturn of 2013-2014 affected shippers of all commodities, and the Board initially lacked the service data needed to effectively monitor the situation and facilitate solutions. Under the new rules (Part 1250), the Board, using more frequent and standardized performance data reporting, will be able to keep aware of current Class I rail service issues and to identify and resolve future regional and national service disruptions more quickly.

The transparency created by this reporting will also benefit rail shippers and stakeholders, by allowing them to better plan operations and make informed business decisions based on publicly-available, current data and their own analysis of performance trends over time. (Note that the rule followed several rounds of public comment, which included one-on-one, *ex parte* meetings between stakeholders and Board staff, to ensure that the data was consistent with what the industry already prepares in its day-to-day operations.) A corollary benefit is that shippers and other stakeholders will have access to the reported data to assist in their business decisions and supply-chain planning. The Board will use this information to monitor Class I railroad performance, identify and assess service issues as they arise, and, when necessary, address issues as quickly and efficiently as possible.

3. Reduction through Improved Technology. Respondents will email their responses to the Board.

4. Identification of Duplication. The Board is the only agency tasked with economic regulation of freight railroads. This information is not duplicated by any other agency.

5. Minimizing Burden for Small Business. No small entities will be affected by the collection of this information. Only Class I railroads, which have operating revenues in excess of \$250 million (1991 dollars) adjusted for inflation, will be subject to this reporting requirement.

6. Consequences if Collection not Conducted or Conducted Less Frequently. Recently, the Board codified the reporting rules (see 49 C.F.R. Part 1250) that allow it to reasonably monitor service issues that can have, and have had, significant impacts on the rail service industry and the Nation's economy. See U.S. Rail Serv. Issues—Performance Data Reporting, EP 724 (Sub-No. 4) 81 Fed. Reg. 87472 (Nov. 30, 2016). The 2013-2014 service downturn highlights the importance of the Board having access to timely and detailed service data. Less frequent collections would fail to provide as near real-time information about rail service issues and thus would hinder the Board's ability to address these issues in a manner timely enough to make a difference. Less frequent collection would also deprive the Board of insight into variations in performance, so that potential problems may be addressed. Indeed, the entire purpose of the collections is to obtain more frequent data on freight rail service, data that is collected in a manner (as discussed in question 1 and 2 above) that is consistent with the respondent railroad's current operations. (In fact, some respondents, if not all of them, could provide the data daily without significant burden.)

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

8. Consultation with Outside Agency. The Board published in the Federal Register a Notice of Proposed Rulemaking on January 6, 2015, which provided for an approximately 60-day comment period (and an additional approximately 60-day period for reply comments) regarding proposed collections of similar data, with specific reference to concerns detailed in the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3521 and Office of Management and Budget (OMB) regulations at 5 C.F.R. § 1320.8(d)(3). See U.S. Rail Serv. Issues—Performance Data Reporting, EP 724 (Sub-No. 4), 80 Fed. Reg. 473 (Jan. 6, 2015). In response to comments received, the Board revised its proposal and published in the Federal Register a revised Notice of Proposed Rule Making, which provided for an approximately 60-day comment period (and an additional approximately 60-day period for reply comments) regarding its revised proposal for this data collection. See U.S. Rail Serv. Issues—Performance Data Reporting, EP 724 (Sub-No. 4), 81 Fed. Reg. 32,268 (May 23, 2016). The Board published the Final Rule in the Federal Register on December 5, 2016. 81 Fed. Reg. 87,472 (Dec. 5, 2016).

Comments were filed that generally challenged this collection, and the Board's final rule

summarized, analyzed, addressed and partially adopted comments. U.S. Rail Serv. Issues— Performance Data Reporting (NPR), EP 724 (Sub-No. 4) (STB served Nov. 30, 2016); 81 Fed. Reg. 87472 (Dec. 5, 2016), located at [https://www.stb.gov/decisions/readingroom.nsf/UNID/93ED0335B0B4FE128525807B004968B3/\\$file/45432.pdf](https://www.stb.gov/decisions/readingroom.nsf/UNID/93ED0335B0B4FE128525807B004968B3/$file/45432.pdf). While none of the comments specifically addressed the burdens, a few comments are relevant to the PRA analysis. Below is a summary of those comments and the Board’s handling of those comments:

The Association of American Railroads (AAR) contended generally that the Board did not state a valid regulatory purpose for the rule before adding to the cumulative regulatory burden on the railroads. It argued that the proposed rules are not necessary for improving rail service, expressing that the market would do that. After carefully considering these comments, the Board explained that Congress made clear that service adequacy is a key part of the Board’s mandate, beginning with the provisions of the rail transportation policy (RTP) of 49 U.S.C. § 10101. The Board found that having data that will allow it to monitor service across the rail network advances the RTP and allow it to more quickly identify and react to service issues than it would otherwise have the ability to do.

The Board went on to explain that a number of its other statutory responsibilities are supported by this collection, such as 49 U.S.C. § 11123 (adequacy of service); 49 U.S.C. § 10702 (reasonable practices); 49 U.S.C. § 10907 (force a line sale for inadequate service); 49 U.S.C. § 11101 (common carrier obligation); and 49 U.S.C. § 11121 (safe and adequate car service). Thus, the Board articulated a justification for the data’s usefulness. Nor did the Board find merit to AAR’s suggestion that the data reporting would be unhelpful in determining if some of the statutory provisions listed by the Board are met. It was the Board’s conclusion that the long-term utility of the data collection in the final rule outweighs the additional burden placed on the rail industry.

Additionally, and arguably related to the PRA analysis, the railroads generally opposed metrics focused on particular commodities or geographic regions. In response, the Board explained that its objective was to obtain weekly data that allowed the agency to monitor the railroad industry’s current performance and to build a data set that allowed the Board to observe trends and make comparisons against past performance. The set of requests advanced those objectives and struck an appropriate balance of augmenting the Board’s ability to better monitor rail service trends without burdening railroads with excessive reporting requirements. The Board declined to either adopt the railroad industry’s request to narrow the reporting to the “macro level” data or to adopt, for the most part shippers’ requests for additional “granular” data covering discrete subsets of traffic, specific corridors, or local operations.

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 is

available to the public.

11. Sensitive Information. This collection contains no information of a sensitive nature.

12. Estimated Burden Hours. The recurring burden hours are estimated to be no more than 1,140 hours per year, as derived in the table below. In addition, there are some one-time, start-up costs of approximately 2 hours for each respondent filing a semi-annual report that must be added to the first year's total burden hours. To avoid inflating the estimated total annual hourly burden, the two-hour start-up burden has been divided by three and spread over the three-year approval period (7 railroads x 2 start-up hours /3 years = 4.67 hours per year). Thus, the total annual burden hours for each of the three years are estimated at no more than 1,144.67 hours per year.

Table – Total Burden Hours (per Year)

Type of Responses	Number of Respondents	Estimated Time per Response	Frequency of Responses	Total Yearly Burden
Weekly	7	3 hours	52/year	1,092 hours
Semiannually	7	3 hours	2/year	42 hours
On occasion	2	3 hours	1/year	6 hours
Total				1,140 hours

13. Estimated Total Annual Cost to Respondents. There are no non-hourly burdens for respondents. The data will be submitted electronically by email.

14. Annualized Cost to the Federal Government. We estimate a total annual cost to the Board of \$68,237. This amount is calculated using the weekly costs for agency staff and then annualizing them ($\$1,312.25 \times 52 = \$68,237$).

15. Explanation of Program Changes or Adjustments. Change due to a new collection.

16. Plans for tabulation and publication. The collected data will be posted on the Board's website.

17. Display of expiration date for OMB approval. The control number and expiration date for this collection will appear on the form.

18. Exceptions to Certification Statement. No exceptions are sought.

B. Collections of Information Employing Statistical Methods:

Not applicable.