

83 FR 17210-01, 2018 WL 1807151(F.R.)  
NOTICES  
SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval and  
Merger of Collections: Statutory Authority To Preserve Rail Service

Wednesday, April 18, 2018

AGENCY: Surface Transportation Board.

**\*17210 ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, the Surface Transportation Board (STB or Board) gives notice that it is requesting from the Office of Management and Budget (OMB) an extension of approval for the information collections. The Board is also seeking approval to merge into this collection (OMB Control Number: 2140-0022) the collection of information about notifications of Trails Act agreement and substitute sponsorship (OMB Control Number: 2140-0017).

**DATES:** Comments on this information collection should be submitted by June 18, 2018.

**ADDRESSES:** Direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, or to [PRA@stb.gov](mailto:PRA@stb.gov). When submitting comments, please refer to "Paperwork Reduction Act Comments, Statutory Authority to Preserve Rail Service."

**FOR FURTHER INFORMATION CONTACT:** For further information regarding this collection, contact Michael Higgins, Deputy Director, Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0284 or at [michael.higgins@stb.gov](mailto:michael.higgins@stb.gov). [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:** The Board currently collects information from those seeking statutory authority to preserve rail carrier service under OMB Control Number 2140-0022. The authority under OMB Control Number 2140-0022 includes the collection of information under the Trails Act and its regulations, such as the notifications of Trails Act agreement and substitute sponsorship, which is also addressed under OMB Control Number 2140-0017. This request proposes to combine collections under Control Numbers 2140-0017 and 2140-0022, with 2140-0022 being the survivor. The Board will request to discontinue Control Number 2140-0017 upon OMB approval of the merger.

Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

**Description of Collection 1**

Title: Statutory Authority to Preserve Rail Service.

OMB Control Number: 2140-0022.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Affected shippers, communities, or other interested persons seeking to preserve rail service over rail lines that are proposed or identified for abandonment, and railroads that are required to provide information to the offeror or applicant.

Number of Respondents: 40.

Frequency: On occasion.

**Table—Number of Yearly Responses**

Type of filing	Number of filings
Offer of Financial Assistance	1
OFA—Railroad Reply to Request for Information	1
OFA—Request To Set Terms and Conditions	1
Request for Public Use Condition	1
Feeder Line Application	5
Trail-Use Request	23
Trail-Use Request Extension	84

Total Burden Hours (annually including all respondents): 826 Hours (sum total of estimated hours per response x number of responses for each type of filing).

**Table—Estimated Hours per Response**

Type of filing	Number of hours per response
Offer of Financial Assistance	32
OFA—Railroad Reply to Request for Information	10
OFA—Request To Set Terms and Conditions	4
Request for Public Use Condition	2
Feeder Line Application	70
Trail-Use Request	4

## Trail-Use Request Extension

4

Total “Non-hour Burden” Cost: None identified. Filings may be submitted electronically to the Board.

Needs and Uses: Under the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (1995), amended by the Surface Transportation Board Reauthorization Act of 2015, Public Law 114-110 (2015), and under Section 8(d) of the Trails Act, persons seeking to preserve rail service over a rail line that is in the process of being abandoned may file pleadings before the Board to \*17211 acquire or subsidize a rail line for continued service, or to impose a trail use/railbanking or public use condition.

First, under 49 U.S.C. 10904, the filing of an “Offer of Financial Assistance” (OFA) starts a process of negotiations to define the financial assistance needed to purchase or subsidize the rail line sought for abandonment. Once the OFA is filed, the offeror may request additional information from the railroad, which the railroad must provide. If the parties cannot agree to the sale or subsidy, either party also may file a request for the Board to set the terms and conditions of the financial assistance. Or, under section 10905, a public use request allows the Board to impose a 180-day public use condition on the abandonment of a rail line, permitting the parties to negotiate a public use for the rail line. Alternatively, under section 10907, a feeder line application provides the basis for authorizing an involuntary sale of a rail line.

Finally, under the Trails Act and its regulations (49 CFR 1152.29), a trail-use request, if agreed upon by the abandoning carrier, requires the Board to condition the abandonment by issuing a Notice of Interim Trail Use (NITU) or Certificate of Interim Trail Use (CITU). The CITU/NITU permits parties, for 180 days, to negotiate for an interim trail use/railbanking agreement for the rail line. If parties reach an agreement, the CITU/NITU automatically authorizes interim trail use/railbanking, and the parties must notify the Board that they have reached an agreement. The interim trails use/railbanking preserves the rail corridor for possible future use as an active rail line again. If no agreement is reached, then upon expiration of the negotiation period, the CITU/NITU authorizes the railroad to exercise its option to fully abandon the line without further action by the Board.

The collection by the Board of these offers, requests, and applications, and the railroad's replies (when required), enables the Board to meet its statutory duty to regulate the referenced rail transactions.

**Description of Collection 2**

Title: Notifications of Trails Act Agreement and Substitute Sponsorship.

OMB Control Number: 2140-0017.

STB Form Number: None.

Type of Review: Merger.

Respondents: Rail carriers; parties to an interim trail use agreement; substitute trail sponsors; and state and local governments.

Number of Respondents: 40.

Estimated Time per Response: One hour.

Frequency: On occasion.

Total Burden Hours (annually including all respondents): 40 hours.

Total “Non-hour Burden” Cost: None identified. Submissions may be submitted electronically to the Board.

Needs and Uses: As described in “Description of Collection 1” above, the STB will issue a CITU or NITU to a prospective trail sponsor who seeks a trails use/railbanking agreement with the rail carrier of the rail line that is being abandoned. The CITU/NITU permits parties, for 180 days, to negotiate for a trails use/railbanking agreement. If parties reach an agreement, then, under 49 CFR 1152.29, they must jointly notify the Board of that fact and must identify the exact location of the right-of-way subject to the agreement, including a map and milepost marker information. The rules also require parties to file a petition to modify or vacate the CITU/NITU if the trail use/railbanking agreement applies to less of the right-of-way than what is covered by the CITU/NITU. Finally, the rules require that a substitute trail sponsor must acknowledge that interim trail use is subject to restoration and reactivation at any time. The collection by the Board of this information enables the agency to ensure that the documentation for activities under the Trails Act remains current.

The Board makes this submission because, under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. The Board also notes that it will be seeking approval to merge the two related collections, as described above. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: April 13, 2018.

Jeffrey Herzig,

Clearance Clerk.

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