

**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 for the information collections of the **Arbitration Program for Small Rate Disputes**.

A. Justification:

1. Need for Information in Collection. Under 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. In a Notice of Proposed Rulemaking (NPRM), the Board proposes to provide parties with additional options for resolution of smaller rail rate disputes, furthering the Board’s policy favoring the use of mediation and arbitration procedures. To be effective, the proposed Arbitration Program for Small Rate Cases provides the parties with alternatives to traditional litigation, encompassing (a) Arbitration “Opt-In” Notices, (b) Initial Notices of Intent to Arbitrate, (c) Joint Notices to Arbitrate, (d) Post-Arbitration Summaries, and (e) Appeals of Arbitrators’ Decision.

2. Use of Data Collected. Under the proposed 49 C.F.R. part 1108, subpart B, Class I (large) rail carriers subject to the Board’s jurisdiction may agree to participate in the Board’s arbitration program by filing a notice with the Board to “opt in” to arbitration. These “Opt-In” Notices have a five-year term, and, once a rail carrier is participating in the Board’s arbitration program, it may withdraw from participation only if there is a material change in the law regarding how the railroad rates are challenged.

To initiate an actual arbitration over a rate dispute, a shipper may submit an Initial Notice of Intent to Arbitrate to the railroad stating that it wishes to invoke the arbitration process. The parties may then explore mediation. If the mediation is waived or is unsuccessful, the parties may send a Joint Notice to Arbitrate to the Board’s Office of Public Assistance, Governmental Affairs, and Compliance, alerting that office that they intend to proceed to the arbitration phase of the Board’s proposed small rate case arbitration program, upon which time certain waybill data may be available to them.

Upon conclusion of arbitration, the arbitrator’s decision is confidential and not filed with the Board. The parties are required, however, to provide a post-arbitration summary to the Board within 14 days after the arbitrators’ decision. Finally, the parties may appeal an arbitration decision, requesting that the Board vacate or modify the arbitrators’ decision (at which time, a confidential version of the arbitration decision would be provided to the Board). To implement these new rules, the Board initiated a notice of proposed rulemaking proceeding. Joint Petition for Rulemaking to Establish a Voluntary Arbitration Program for Small Rate Disputes, EP 765 (Small Disputes Arbitration NPRM). These are the steps that provide for the collection of information under the PRA.

3. Reduction through Improved Technology. The Board expects all respondents to file any of the proposed notices, summaries, and appeals electronically.
4. Identification of Duplication. No other federal agency collects the information in these collections, and the information in these collections is not available from any other source.
5. Minimizing Burden for Small Business. None of these collections will have a significant economic impact on a substantial number of small entities. The collections allow parties to resolve potential small rate disputes more quickly and efficiently.
6. Consequences if Collection not Conducted or Conducted Less Frequently. Without these collections, the Board could not encourage greater use of arbitration, and rail carriers and shippers may not have access to the Board's dispute resolution program in some situations.
7. Special Circumstances. No special circumstances apply to this collection.
8. Compliance with 5 C.F.R. § 1320.8. As required, the Board published its proposed rule change in Small Disputes Arbitration NPRM (86 Fed. Reg. 67588 (November 26, 2021)), which provided for a 49-day comment period (and an additional 60-day period for reply comments through March 15, 2022) regarding this collection, 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). The comment period was extended in Small Disputes Arbitration NPRM (87 Fed. Reg. 536 (January 5, 2022)), which provided for an additional 31-day period for reply comments through April 15, 2022.
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 may contain sensitive information, but it is necessary to process information for the Board's arbitration program, and sensitive information is collected and handled consistent with the Board's rules.

12. Estimated Burden Hours. 273 hours. As provided in *Table – Total Estimated Annual Burden Hours* below (using sum of estimated hours per response x number of annual responses for each type of filing).

Table – Total Estimated Annual Burden Hours

Type of filing	Hours per response	Annual number of filings	Total annual burden hours
“Opt-In” Notices*	1	3	3
Initial Notices	1	21	21
Joint Notices	2	18	36
Post-Arbitration Summaries	3	21	63
Appeals of Arbitrators’ Decision	25	6	150
Total annual burden hours		69	273

* Each of the seven “Opt-In” Notices have a five-year term and have been averaged over three years and rounded up.

13. Estimated Total Annual Cost to Respondents. There are no non-hourly burden costs for this collection. The itemized collections may be filed electronically.

14. Annualized Cost to the Federal Government. We estimate that the maximum cost to the Board of entering the 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 69 staff hours (one hour per notice X 69 notices filed (for notices, summaries, and appeals)) at a GS-12 pay grade.

15. Explanation of Program Changes or Adjustments. This ICR is due to the Board creating an arbitration program for small rate disputes that did not exist.

16. Plans for tabulation and publication. The information in this collection that is not confidential will be posted on the Board’s website, located at www.stb.gov.

17. Display of expiration date for OMB approval. The new expiration date for this collection will be published in the Federal Register when the collection is approved by OMB.

18. Exceptions to Certification Statement. Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.