2140-0021
December 2023
Expires 12/31/23

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 an extension of approval of the information collection for the **Demurrage Liability Disclosure Requirements**.

A. Justification.

1. Why the collection is necessary. Demurrage is a charge by a rail carrier that both compensates it for the expense incurred when its rail cars are detained beyond a specified period of time (i.e., "free time") for loading and unloading and serves as a penalty for undue car detention to encourage the efficient use of rail cars in the rail network. See 49 C.F.R. § 1333.1. Demurrage is subject to Board regulation under 49 U.S.C. § 10702 (requiring railroads to establish reasonable rates and transportation-related rules and practices) and 49 U.S.C. § 10746 (requiring railroads to compute demurrage charges and related rules in a way that will fulfill national needs related to freight car use and distribution and maintenance of an adequate car supply).

In the simplest demurrage case, a railroad assesses demurrage on the consignor (the shipper of the goods) for delays in loading cars at origin and on the consignee (the receiver of the goods) for delays in unloading cars and returning them to the rail carrier at destination. Demurrage can also, however, involve warehousemen that accept freight cars for loading and unloading but have no property interest in the freight being transported. Warehousemen are not typically owners of property being shipped (even though, by accepting the cars, they could be in a position to facilitate or impede car supply), but rail carriers sometimes bill them for demurrage as well. Thus, with multiple participants, it is important to provide clarity and notice for all parties involved.

2. Use of Data Collected. While disputes between railroads and parties that originate or terminate rail cars can involve relatively straightforward application of the carrier's tariffs to the circumstances of the case, complications can arise in cases involving warehousemen or other "third-party intermediaries" who handle the goods but have no property interest in them. In recent years, it has been more important to determine what party should bear liability when an intermediary accepts rail cars and detains them too long, especially when the party named as consignee in the bill of lading asserts either that it did not know of its consignee status or that it affirmatively asked the shipper not to name it consignee. Thus, a demurrage liability disclosure requirement is used to ensure that parties to rail transactions provide and/or receive notice regarding any potential liability for demurrage charges. Additionally, for the same purpose, this collection requires Class I carriers to directly bill the shipper for demurrage when the shipper and warehousemen agree to that arrangement and so notify the rail carrier.

3. Extent of automated information collection. Carriers may use electronic means to satisfy the proposed notice requirement. A carrier may email an affected party the tariff itself or a link to the tariff that is posted on the carrier's website.

4. Identification of duplication. The information requested does not duplicate any other information available to the Board or the public. No other federal agency has authority to adjudicate these complaints, and no other agency collects this information.

5. Effects on small business. The burden of providing notice is minimal. Moreover, providing the required notice will help small businesses avoid costly litigation regarding demurrage disputes. Notice is only required once per shipper, and not again unless the railroad chooses to materially change the terms of its tariff.

6. Impact of less frequent collections. The notice requirement is triggered when a shipper initially arranges with a rail carrier for transportation of goods pursuant to the railroad's tariff, or when a rail carrier materially changes the terms of its demurrage tariff. Class I rail carriers are also required to bill shippers more often, but, if there was less frequent notice or no notice at all, it would expose the parties to possible litigation regarding demurrage liability in the instances when such notice has not been provided.

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

8. Compliance with 5 C.F.R. § 1320.8. The Board published a 60-day notice requesting comments on this collection at 88 Fed. Reg. 65419 (Sept. 22, 2023). No comments were received. A 30-day notice was published concurrently with this submission to Office of Management and Budget (OMB). 88 Fed. Reg. 88209 (December 20, 2023).

9. Payments or gifts to respondents. The Board does not provide any payment or gift to respondents.

10. Assurance of confidentiality. No confidential information is involved in this collection.

11. Justification for collection of sensitive information. No sensitive information is requested.

12. Estimation of burden hours for respondents.

(1) Number of respondents: 620 (including six Class I railroads)

(2) Frequency of response: On occasion. The existing demurrage liability disclosure requirement is triggered in two circumstances: (1) when a shipper initially arranges with a railroad for transportation of freight pursuant to the rail carrier's tariff; or (2) when a rail carrier changes the terms of its demurrage tariff.

(3) Annual hour burden for all respondents: 1,330.7 hours. Consistent with the existing, approved information collection, Board staff estimates that: (1) six Class I carriers would each take on 18 new customers each year (108 hours); (2) each of the six Class I carriers would update its demurrage tariffs annually (6 hours); (3) 620 non-Class I carriers (which are already subject to the existing collection requirements, but which will not be subject to the new requirements) would each take on one new customer a year (620 hours); and (4) each of the non-Class I carriers would update its demurrage tariffs every three years (206.7 hours annualized). For the requirement that Class I carriers must directly bill the shipper for demurrage when the shipper and warehouseman agree to the arrangement and so notify the rail carrier, Board staff estimates that annually six Class I carriers would each receive 65 direct-billing agreements per year at one hour per agreement (390 hours). The total hourly burdens are also set forth in the table below.

Table – Total Burden Hours (per year)

Respondents	**New Customer Burden**	**Tariff Update Burden**	**Burden for Invoicing Agreement**	**Total Annual Burden Hours**
6 Class I Carriers	108 hours	6 hours	390 hours	504 hours
620 Non-Class I Carriers	620 hours	206.7 hours	---	826.7 hours
Totals	728 hours	212.7 hours	390 hours	1,330.7 hours

13. Other costs to respondents. No non-labor costs are anticipated as the notice is likely to be delivered electronically.

14. Estimated costs to the federal government. This collection is a requirement that Class I carriers invoice demurrage involving a warehouseman to the shipper if the shipper and warehouseman have agreed to that arrangement and have so notified the rail carrier. Because the Board will not collect any information, there will be no cost to the Board.

15. Explanation of Program Changes or Adjustments. The estimates in this information collection reflect the agency's updated estimates for the number of carriers, notifications and billings.

16. Plans for tabulation and publication. Because the agency will not be collecting this information, there are no plans for the agency to publish the information.

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.