

*Total Burden Hours* (annually including all respondents): 2,745 hours (183 estimated hours per petition × total number of petitions (15)).

*Total “Non-hour Burden” Cost:* \$18,540 (estimated non-hour burden cost per petition (\$1,236) × total number of petitions (15)).

*Needs and Uses:* Under 5 U.S.C. 554(e) and 49 U.S.C. 1321, the Board may issue a declaratory order to terminate a controversy or remove uncertainty. Because petitions for declaratory orders cover a broad range of requests, the Board does not prescribe specific instructions for the filing of them. The collection by the Board of petitions for declaratory orders enables the Board to meet its statutory duty to regulate the rail industry.

### Collection Number 3

*Title:* Petitions for relief not otherwise provided.

*OMB Control Number:* 2140–0030.

*STB Form Number:* None.

*Type of Review:* Extension with change.

*Respondents:* Affected shippers, railroads and communities that seek to address transportation-related issues under the Board’s jurisdiction that are not otherwise specifically provided for under the Board’s other regulatory provisions.

*Number of Respondents:*

Approximately four.<sup>3</sup>

*Estimated Time per Response:* 24.5 hours.

*Frequency:* On occasion. In calendar years 2014–2016, approximately four petitions of this type were filed with the Board.

*Total Burden Hours* (annually including all respondents): 98 (estimated hours per petition (24.5) × total number of petitions (4)).

*Total “Non-hour Burden” Cost:* \$280 (estimated non-hour burden cost per petition (\$70) × total number of petitions (four)).

*Needs and Uses:* Under 49 U.S.C. 1321 and 49 CFR part 1117 (the Board’s catch-all petition provision), shippers, railroads, and the public in general may seek relief (such as petitions seeking waivers of the Board’s regulations) not otherwise specifically provided for under the Board’s other regulatory provisions. Under section 1117.1, such petitions should contain three items: (a)

<sup>3</sup>In this notice, the Board has updated its estimate of the number of respondents and responses based on the number of catch-all petitions filed with the Board in calendar years 2014–2016. Staff believes this more accurately reflects future filings. Accordingly, its estimate of the number of respondents and responses has changed from five, as set forth in its 60-day notice, to four.

A short, plain statement of jurisdiction, (b) a short, plain statement of petitioner’s claim, and (c) request for relief. The collection by the Board of these petitions enables the Board to more fully meet its statutory duty to regulate the rail industry.

Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. 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. Section 3507(b) of the PRA requires, concurrent with an agency’s submitting a collection to OMB for approval, a 30-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: March 3, 2017.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2017–04555 Filed 3–7–17; 8:45 am]

**BILLING CODE 4915–01–P**

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36071]

### Delmarva Central Railroad Company— Lease and Operation Exemption With Interchange Commitment—Norfolk Southern Railway Company

On November 17, 2016, Delmarva Central Railroad Company (DCR), at that time a noncarrier, filed a verified notice of exemption under 49 CFR 1150.31 to lease and operate approximately 161.59 miles of rail line (the Line) owned by Norfolk Southern Railway Company (NSR). Notice of the exemption was served and published in the **Federal Register** on December 2, 2016 (81 FR 87,122).<sup>1</sup>

On December 14, 2016, SMART/TD Delaware State Legislative Board (SMART/TD) petitioned the Board to revoke the lease and operation exemption.<sup>2</sup> SMART/TD asserts that the DCR’s lease and operation has economic

<sup>1</sup>DCR’s parent, Carload Express, Inc. (Carload), filed a verified notice of exemption to continue in control of DCR upon DCR’s becoming a Class III carrier. See *Carload Express, Inc.—Continuance in Control Exemption—Delmarva Cent. R.R.*, Docket No. FD 36072. Notice of that exemption was also served and published in the **Federal Register** on December 2, 2016. (81 FR 87,123).

<sup>2</sup>No stay was sought or imposed. Because the effective date was not stayed, the exemption became effective on December 17, 2016. DCR later notified the Board that it has since consummated the transaction.

and safety considerations that should be investigated by the Board. In particular, SMART/TD claims that DCR, a company with fewer resources than NSR, cannot adequately maintain the Line’s rails and bridges as they have been maintained by NSR. SMART/TD notes that the Line crosses three bridges, two of those bridges are 100 years old and the remaining bridge is 60 years old. It notes that one of the bridges was recently out of service for 30 days and questions whether DCR could have restored the bridge in the same expeditious manner as NSR, given DCR’s “limited finances.” It further asserts that the Line is deteriorating and maintenance will become increasingly expensive. SMART/TD also claims that there are no insurance minimums in place for smaller carriers and that it fears that local taxpayers might be forced to carry the burden in case of a disaster.

SMART/TD also asserts that the lease will result in replacing a “qualified, experienced, and knowledgeable” labor force with “untrained and unfamiliar” employees, which, according to SMART/TD, raises safety concerns. According to SMART/TD, these concerns implicate the national rail transportation policy (RTP) goal of “operat[ing] transportation facilities and equipment without detriment to the public health and safety.” 49 U.S.C. 10101(8). Moreover, citing the RTP policy goal of “encourag[ing] fair wages and safe and suitable working conditions in the railroad industry,” 49 U.S.C. 10101(11), SMART/TD asserts that DCR will employ “an inferior, unqualified labor force that is willing to accept less money because they are less qualified,” and that DCR’s employees’ wages and benefits will be inferior to those of Class I railroad employees.

DCR filed a reply on December 27, 2016. In response to SMART/TD’s suggestion that DCR cannot safely operate the Line, DCR notes that it is under the control of Carload, a noncarrier holding company that owns and operates other Class III carriers. See, e.g., *Carload Express, Inc.—Continuance in Control Exemption—Ohio Terminal Ry.*, FD 35704 (STB served Jan. 11, 2013). As such, DCR states that its owners, managers, and personnel are already familiar with the safety regulations administered by the Federal Railroad Administration (FRA). DCR states that it will operate the Line in accordance with FRA regulations.

DCR further explains that the concerns about bridge maintenance are unwarranted. DCR states that NSR has maintained the bridges in full compliance with FRA standards and safe operating practices. DCR notes that,

although one of the bridges was closed for 30 days, this was for routine maintenance and resulted from construction delays caused by weather conditions. DCR adds that it has inspected the bridges and has the knowledge and resources to maintain them.

As to concerns about wages and benefits, DCR asserts that it offers some of the best wages and benefits of any employer on the Delmarva Peninsula. DCR notes that it received more applications for employment than there are available positions. It adds that it requires all its employees to abide by all applicable safety rules and offers suitable working conditions.

### Discussion and Conclusions

Because DCR's lease and operation exemption has gone into effect, SMART/TD's request will be treated as a petition to reopen and revoke the exemption under 49 U.S.C. 10502(d).<sup>3</sup> Under 49 U.S.C. 10502(d), an exemption may be revoked, in whole or in part, if the Board finds that regulation of the transaction is necessary to carry out the RTP of 49 U.S.C. 10101. Under 49 CFR 1115.3(b), the petition must state in detail whether revocation is supported by material error, new evidence, or substantially changed circumstances. *See N.Y. Cent. Lines—Aban. Exemption—in Montgomery & Schenectady Cts., N.Y.*, AB 565 (Sub-No. 14X) (STB served Jan. 22, 2004). The party seeking revocation has the burden of showing that regulation is necessary to carry out the RTP, 49 CFR 1121.4(f), and petitions to revoke must be based on reasonable, specific concerns demonstrating that revocation of the exemption is warranted and more detailed scrutiny of the transaction is necessary. *See Consol. Rail Corp.—Trackage Rights Exemption—Mo. Pac. R.R.*, FD 32662 (STB served June 18, 1998).

Here, SMART/TD fails to establish that revocation of the exemption is necessary to carry out the RTP. Although SMART/TD has cited the RTP goals of operating without detriment to the public health and safety (49 U.S.C. 10101(8)) and encouraging fair wages and suitable working conditions (49 U.S.C. 10101(11)), it has not shown that regulation is necessary to carry out these goals.

<sup>3</sup> See e.g., *BNSF Ry.—Trackage Rights Exemption—Union Pac. R.R.*, FD 35601, slip op. at 3–4 (STB served Sept. 11, 2013); *Watco Holdings, Inc.—Acquis. of Control Exemption—Wis. & S. R.R.*, FD 35573, slip op. at 1–2 (STB served Mar. 22, 2012); *Elk River R.R.—Constr. & Operation Exemption—Clay & Kanawha Cts., W.Va.*, FD 31989, slip op. at 1 n.3 (STB served Apr. 11, 1997).

The Board takes safety concerns seriously; however, SMART/TD's concerns here are vague and speculative and do not arise from any demonstrated shortcomings specific to DCR. DCR has expressed a commitment to abide by FRA regulations, and its parent, Carload, is familiar with FRA's requirements. As to maintenance, DCR states that it has already inspected the bridges and has explained the one extended bridge closure cited by SMART/TD. Furthermore, NSR's contract with DCR obligates DCR to comply with FRA standards of operation, to maintain the tracks at standards specified by NSR, and to carry certain insurance policies covering incidents that might occur while operating the Line.

SMART/TD's concern about DCR's having fewer resources than NSR, the Line's Class I owner, also does not warrant revocation. Class I carriers routinely spin-off lines to newly formed Class III carriers, and SMART/TD has not demonstrated that DCR will be any less prepared to assume the responsibility to maintain and operate the Line that any other new Class III carrier would be. Moreover, as DCR notes, its parent company, Carload, is an experienced shortline operator. DCR explains that Carload's railroads "have strong safety records and there have been no FRA or STB reported allegations that its shortline employees have been treated unfairly or required to operate in unsafe conditions;" SMART/TD has offered no evidence to the contrary. SMART/TD has also failed to show that the labor impact here is different from, or greater than, the impacts typically associated with the acquisition of a rail line by any new carrier.

For the foregoing reasons, SMART/TD has not shown that reopening and revocation are supported by material error, new evidence, or substantially changed circumstances, or that applying the Board's regulation to the transaction is necessary to carry out the RTP. Accordingly, the Board finds no basis to revoke DCR's exemption or begin a revocation proceeding.

#### It is ordered:

1. SMART/TD's petition to revoke DCR's exemption is denied.
2. This decision is effective on its date of service.

Decided: March 1, 2017.

By the Board, Board Members Begeman, Elliott, and Miller.

**Raina S. Contee,**  
Clearance Clerk.

[FR Doc. 2017–04472 Filed 3–7–17; 8:45 am]

**BILLING CODE 4915–01–P**

## SURFACE TRANSPORTATION BOARD

### 60-Day Notice of Intent To Seek Extension of Approval: Information Collection Activities (Report of Fuel Cost, Consumption, and Surcharge Revenue)

**AGENCY:** Surface Transportation Board.

**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 collection of the Report of Fuel Cost, Consumption, and Surcharge Revenue.

**DATES:** Comments on this information collection should be submitted by May 8, 2017.

**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, Report of Fuel Cost, Consumption, and Surcharge Revenue."

**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:** For each collection, 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

*Title:* Report of Fuel Cost, Consumption, and Surcharge Revenue.  
*OMB Control Number:* 2140–0014.  
*STB Form Number:* None.