

#### IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(G) of the Payment, Clearing and Settlement Supervision Act,<sup>19</sup> that the Commission DOES NOT OBJECT to Advance Notice (SR-OCC-2017-801) and that OCC is AUTHORIZED to implement the proposed change.

By the Commission.

**Eduardo A. Aleman,**

*Assistant Secretary.*

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#### SURFACE TRANSPORTATION BOARD

##### 30-day Notice of Intent To Seek Extension of Approval: Information Collection Activities (Complaints, Petitions for Declaratory Orders, and Petitions for Relief Not Otherwise Specified)

**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, 44 U.S.C. 3501-3521 (PRA), the Surface Transportation Board (STB or Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval of an extension of the information collections required for (1) complaints filed under 49 U.S.C. 10701-10707, 11101-11103, 11701-11707 (rail), 14701-14707 (motor, water & intermediaries), and 15901-15906 (pipelines) and 49 CFR part 1111; (2) petitions for declaratory orders under 5 U.S.C. 554(e) and 49 U.S.C. 1321; and (3) catch-all petitions (for relief not otherwise specified) under 49 U.S.C. 1321 and 49 CFR part 1117. Under these statutory and regulatory sections, the Board provides procedures for persons to make a broad range of claims and to seek a broad range of remedies before the Board. The information collections relevant to these complaints and petitions are described separately below. The Board previously published a notice about this collection in the **Federal Register**. 81 FR 86061 (Nov. 29, 2016). That notice allowed for a 60-day public review and comment period. No comments were received.

**DATES:** Comments on this information collection should be submitted by April 7, 2017.

**ADDRESSES:** Written comments should be identified as "Paperwork Reduction Act Comments, Surface Transportation Board: Information Collection Activities." These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Chad Lallemand, Surface Transportation Board Desk Officer, by email at [OIRA.SUBMISSION@OMB.EOP.GOV](mailto:OIRA.SUBMISSION@OMB.EOP.GOV); by fax at (202) 395-6974; or by mail to Room 10235, 725 17th Street NW., Washington, DC 20503. Please also direct a copy of comments to Chris Oehrle, Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001, or to [pra@stb.gov](mailto:pra@stb.gov).

**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 Collections

###### Collection Number 1

*Title:* Complaints under 49 CFR part 1111.

*OMB Control Number:* 2140-0029.

*STB Form Number:* None.

*Type of Review:* Extension with change.

*Respondents:* Affected shippers, railroads and communities that seek redress for alleged violations related to unreasonable rates, unreasonable practices, service issues, and other statutory claims.

*Number of Respondents:* Approximately five.<sup>1</sup>

<sup>1</sup> In this notice, the Board has updated its estimate of the number of respondents and responses based on the number of complaints filed with the Board

*Estimated Time per Response:* 467 hours.

*Frequency:* On occasion. In calendar years 2014-2016, respondents filed approximately five complaints per year with the Board.

*Total Burden Hours* (annually including all respondents): 2,335 (estimated hours per complaint (467) × total number of complaints (5)).

*Total "Non-hour Burden" Cost:* \$7,310 (estimated non-hour burden cost per complaint (\$1,462) × total number of complaints (5)).

*Needs and Uses:* Under the Board's regulations, persons may file complaints before the Board pursuant to 49 CFR part 1111 seeking redress for alleged violations of provisions of the Interstate Commerce Act, as amended by the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (1995). The required content of a complaint is outlined at 49 CFR 1111(a). In the last few years, the most significant complaints filed at the Board allege that railroads are charging unreasonable rates or that they are engaging in unreasonable practices in violation of 49 U.S.C. 10701, 10704, or 11701. The collection by the Board of these complaints, and the agency's action in conducting proceedings and ruling on the complaints, enables the Board to meet its statutory duty to regulate the rail industry.

###### Collection Number 2

*Title:* Petitions for declaratory orders.

*OMB Control Number:* 2140-0031.

*STB Form Number:* None.

*Type of Review:* Extension with change.

*Respondents:* Affected shippers, railroads and communities that seek a declaratory order from the Board to terminate a controversy or remove uncertainty.

*Number of Respondents:* Approximately 15.<sup>2</sup>

*Estimated Time per Response:* 183 hours.

*Frequency:* On occasion. In calendar years 2014-2016, respondents filed approximately 15 petitions for declaratory orders per year 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 three, as set forth in its 60-day notice, to five.

<sup>2</sup> In this notice, the Board has updated its estimate of the number of respondents and responses based on the number of petitions for declaratory orders 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 has changed from 11, as set forth in the 60-day filing, to 15, and the number of responses has changed from 12 to 15.

<sup>19</sup> 12 U.S.C. 5465(e)(1)(G).

*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.

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## 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,