



Surface Transportation Board
Washington, D.C. 20423-0001

MEMORANDUM

To: Dominic Mancini, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President

From: Craig M. Keats, General Counsel

Date: June 3, 2022

Re: OMB Emergency Clearance for New Information Collection Request

This is a request for an emergency clearance for a new information collection to address the acute and unanticipated service issues currently facing the U.S. rail industry and network. This information collection directs the four largest U.S. rail carriers – Union Pacific (UP), BNSF, CSX, and Norfolk Southern (NS) – to submit service recovery plans, along with bi-weekly progress reports for the next six months, in an effort to address service deficiencies that are impacting the public, businesses, and the U.S. economy. For related purposes, this collection also requires all of the Class I (large) rail carriers operating in the United States to report more comprehensive and customer-centric performance metrics and employment data, also for a six-month period. The Board is taking this action to better inform its assessment of actions that may be warranted to address the acute service issues facing the rail industry. Failure to receive emergency approval could impede the Board's efforts to help facilitate the resolution of the rail-related, supply-chain issues impacting the U.S. rail network.

On April 26 and 27, 2022, the Board held a [hearing](#) in [Urgent Issues in Freight Rail Service](#), where it received extensive testimony on severe rail service issues reported by a wide range of witnesses—including agricultural, energy, and other shippers, as well as government officials, rail labor, and rail experts. At the hearing, the Board received [testimony](#) from, among others, Secretary of Transportation Pete Buttigieg, Deputy Secretary of Agriculture Dr. Jewel H. Bronaugh, and Commissioner Carl W. Bentzel of the Federal Maritime Commission. After reviewing the information provided at the hearing and further analyzing the circumstance surrounding the service issues, the Board determined to immediately obtain additional relevant and immediate information from the nation's largest rail carriers. In a [decision](#) served on May 6, 2022, the Board ordered this information collection from the nation's seven largest railroads; it is now seeking emergency approval for this urgent collection.

Pursuant to 5 CFR § 1320.13, emergency processing is appropriate where (1) the collection of information is needed prior to the expiration of time periods established under the Paperwork Reduction Act and that collection is essential to the mission of the Agency; and (2) the Agency cannot reasonably comply with the normal clearance procedures because public harm is likely to result if normal clearance procedures are

followed. The Board published a Federal Register notice ([87 Fed. Reg. 33868 \(June 3, 2022\)](#)), which provided for a 14-day comment period regarding this collection

This Information Collection is Essential to the Board’s Mission.

The collection of this information is essential to the Board’s mission of regulating the nation’s railroads and facilitating reliable rail service. See, 49 U.S.C. § [11101\(a\)](#). Congress has expressly empowered the Board to address immediate service issues. See, e.g., 49 U.S.C. §§ [1321\(b\)](#), [11123](#), and [11145\(a\)](#). As empowered, the Board is collecting this information to be able to timely deal with the unanticipated and urgent service issues facing the U.S. rail system. Moreover, timely receipt of this information collection is critical for the Board to be able to use its statutory powers to help remediate the immediate service issues, to guard against continuing service issues, and to promote the reliability of the U.S. rail system.

Use of the normal clearance process could prevent the Board from attaining the information it requires to address these unanticipated and immediate rail service issues.

This Information Collection Results from an Unanticipated Occurrence

The Board and many other agencies and private organizations are still analyzing the supply-chain disruptions affecting the U.S. economy and attempting to find the best ways to alleviate the impact of these disruptions on the public, businesses, and the U.S. economy. The public testimony at the Board’s [April 26-27, 2022, hearing stressed the urgency and broad scope of](#) the existing service issues. The data submitted to the Board in other collections showing increased terminal dwell and reduced average train speed for UP, BNSF, CSX, and NS indicate operational and service challenges that negatively impact the rail network. In its May 6 decision, the Board found, after reviewing the efforts and timelines for recovery presented by Class I carriers at the hearing, that “immediate action is needed to address the significant service problems.” Therefore, the Board ordered the collection of this information to better address these urgent service issues and to timely implement and facilitate a response that would relieve rail-related supply chain issues impacting the U.S. economy.

This collection of information is necessary to assure that the Board has the information necessary to regulate the rail industry at a time of immediate crisis. It is also essential to the Board’s mission to ensure the rail network reliability. Moreover, the use of the normal clearance process would prevent the Board from attaining the immediate information it requires to meet its mission.

Public Harm is Likely to Result if Emergency Processing is Not Granted

Public harm will likely result if the Board is prevented from immediately collecting this necessary and essential information. Failure to process this request could impede the Board’s ability to fully assess the reliability of the rail network at a time of economic stress and supply chain struggles and to determine whether particular targeted remedies

are warranted. Impediments to the Board's ability to obtain the information it is seeking would cause harm to the public, businesses, and the U.S. economy during a time of unprecedented economic stress.

The Board's Role

In executing its exclusive economic regulatory jurisdiction over railroad transportation, 49 U.S.C. § 10501(a), the Board plays a significant role in rail network reliability that is essential to the Nation's economy. Pursuant to 49 U.S.C. § 11101(a), railroads are to provide transportation on reasonable request. The Board has statutory authority to enforce that provision, 49 U.S.C. § 1321(a), and to address immediate service issues, 49 U.S.C. § 11123. Pursuant to 49 U.S.C. § 1321(b) and 11145(a), the Board has statutory authority to collect "information the Board decides is necessary to carry out" its regulatory mission and to provide special or periodic reports to assist the agency in carrying out that mission. The information sought by this collection is necessary to enable the Board to carry out its mission.

Due to the Board's urgent need for this information collection, the Board respectfully requests approval by June 30, 2022.