

Issued on: December 15, 2009.

Larry W. Minor,

Associate Administrator for Policy and  
Program Development.

[FR Doc. E9-30343 Filed 12-21-09; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 290 (Sub-No. 5) (2010-1)]

#### Quarterly Rail Cost Adjustment Factor

**AGENCY:** Surface Transportation Board.

**ACTION:** Approval of rail cost adjustment factor.

**SUMMARY:** The Board has approved the first quarter 2010 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The first quarter 2010 RCAF (Unadjusted) is 1.038. The first quarter 2010 RCAF (Adjusted) is 0.467. The first quarter 2010 RCAF-5 is 0.443.

**DATES:** *Effective Date:* January 1, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Pedro Ramirez, (202) 245-0333. Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's decision, which is available on our Web site <http://www.stb.dot.gov>. Copies of the decision may be purchased by contacting the office of Public Assistance, Governmental Affairs, and Compliance at (202)-245-0235. Assistance for the hearing impaired is available through FIRS at 1-800-877-8339.

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: December 16, 2009.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9-30361 Filed 12-21-09; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 684]

#### Solid Waste Rail Transfer Facilities

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice.

**SUMMARY:** This decision provides the factual basis for the Board's certification under 5 U.S.C. 605(b) of the Regulatory Flexibility Act that the interim rules governing the submission and review of applications for land-use-exemption permits and related filings under 49 CFR 1155 will not have a significant economic impact on a substantial number of small entities.

**DATES:** Comments on the factual basis for the Board's Regulatory Flexibility Act certification are due by January 6, 2010, and reply comments are due by January 19, 2010.

**ADDRESSES:** Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: STB Ex Parte No. 684, 395 E Street, SW., Washington, DC 20423-0001. Copies of written comments will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site.

#### FOR FURTHER INFORMATION CONTACT:

Valerie Quinn at (202) 245-0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** The Clean Railroads Act of 2008, Public Law No. 110-432, 122 Stat. 4848 (Clean Railroads Act or CRA), enacted October 16, 2008, removed from the jurisdiction of the Surface Transportation Board the regulation of solid waste rail transfer facilities,<sup>1</sup> except as provided for in that act. The CRA limited the Board's authority with regard to solid waste rail

<sup>1</sup> The CRA defines a solid waste transfer facility as including the portion of a facility: (1) That is owned or operated by or on behalf of a rail carrier; (2) where solid waste is treated as a commodity transported for a charge; (3) where the solid waste is collected, stored, separated, processed, treated, managed, disposed of, or transferred; and (4) to the extent that solid-waste activity is conducted outside of the original shipping container. 49 U.S.C. 10908(e)(1)(H)(i).

transfer facilities to the issuance of land-use-exemption permits, a license that preempts a facility from compliance with state laws, regulations, orders, and other requirements affecting the siting of the facility.<sup>2</sup> On January 14, 2009, the Board served a notice of proposed rulemaking that set forth proposed procedures governing the submission and review of applications for land-use-exemption permits and related filings. *See Solid Waste Rail Transfer Facilities*, STB Ex Parte No. 684 (STB served Jan. 14, 2009) (*January 14 Notice*). Pursuant to 49 U.S.C. 10909(b), those proposed rules serve as the current interim rules.

In accordance with 5 U.S.C. 605(b) of the Regulatory Flexibility Act, we certified in the *January 14 Notice* that the proposed action would not have a significant economic impact on a substantial number of small entities. The Board also sought comment on the interim rules and the Board's interpretation of the CRA. During the time period allotted for comments, we received a request that we publish the factual basis for our certification and allow comments on it. *See Salem Rail Logistics Comments* at 3.

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, generally requires a description and analysis of new rules that will have a significant economic impact on a substantial number of small entities. In drafting a rule an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. 5 U.S.C. 601-604. When proposing new rules, the agency must either include an initial regulatory flexibility analysis, 5 U.S.C. 603(a), or certify that the proposed rule will not have a "significant impact on a substantial number of small entities," 5 U.S.C. 605(b). The impact must be a direct impact on small entities "whose conduct is circumscribed or mandated" by the proposed rule. *White Eagle Coop. Ass'n v. Conner*, 553 F.3d 467, 480 (7th Cir. 2009).

In the *January 14 Notice*, the Board certified that the interim rules would not have a significant economic impact on a substantial number of small entities. The basis for that determination is as follows. While applicants for land-use-exemption permits could be small entities, as defined in 13 CFR Part 121, nothing in the interim rules gives the

<sup>2</sup> The Board, however, has the authority to require as a condition of the permit compliance with State laws, regulations, orders, and other requirements that affect the siting of a facility. 49 U.S.C. 10909(f).

Board the authority, on its own volition, to require a party to apply for a Board permit. *See* 49 U.S.C. 10908(b)(2)(B), 10909(a); *January 14 Notice*, slip op. at 8–9. In general, that decision is solely within the control of the entity. The one exception is that a governor of the State in which an existing facility is located could petition the Board under 49 CFR 1155 Subpart B to require that facility to obtain a land-use-exemption permit in order for it to continue to operate. 49 U.S.C. 10908(b)(2)(B). But even in that circumstance, the authority lies with the State governors—not the Board—to initiate the Board’s processes. *Id.* In all other scenarios, a party can avoid being subject to the Board’s rules regarding land-use-exemption permits by complying with State requirements. Therefore, the interim rules will not circumscribe or mandate the conduct of a substantial number of small entities.

Moreover, there are no alternatives to the interim rules that would adequately achieve the objectives of the Clean Railroads Act. The only scenario in which a small entity might be compelled to avail itself of the new Board processes (when a State governor has properly petitioned the Board under 49 CFR 1155 Subpart B) must be included in the new rules because it is specifically required under the CRA. 49 U.S.C. 10908(b)(2)(B). Finally, we have provided a waiver provision that could mitigate any significant negative impact on small entities—an applicant may request a waiver of any particular part of the application procedures. *See* 49 CFR 1155.24(d)(2).

Pursuant to 5 U.S.C. 605(b), the factual basis for the certification that the regulations proposed in the *January 14 Notice* will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act has hereby been provided. Comments regarding this certification and its factual basis as described in this decision will be due by January 6, 2010, and replies to those comments will be due by January 19, 2010. A copy of the Board’s decision will be served upon the Chief Counsel for Advocacy, Offices of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9–30358 Filed 12–21–09; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0465]**

### Agency Information Collection (Student Verification of Enrollment) Activity Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATE:** Comments must be submitted on or before January 21, 2010.

**ADDRESSES:** Submit written comments on the collection of information through <http://www.Regulations.gov>; or to VA’s OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to “OMB Control No. 2900–0465” in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail [denise.mclamb@mail.va.gov](mailto:denise.mclamb@mail.va.gov). Please refer to “OMB Control No. 2900–0465.”

#### SUPPLEMENTARY INFORMATION:

*Title:* Student Verification of Enrollment, VA Form 22–8979.

*OMB Control Number:* 2900–0465.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* VA Form 22–8979 contains a student’s certification of actual attendance and verification of the student’s continued enrollment in courses leading to a standard college degree or in non-college degree programs. VA uses the data collected to determine the student’s continued

entitlement to benefits. Students are required to submit verification on a monthly basis to allow for a frequent, periodic release of payment.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 14, 2009, at page 52843.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 17,024 hours.

*Estimated Average Burden Per Respondent:* 1 minute.

*Frequency of Response:* 4 times per year.

*Estimated Number of Respondents:* 255,354.

*Estimated Number of Responses:* 1,021,416.

Dated: December 17, 2009.

By direction of the Secretary:

**Denise McLamb,**

*Program Analyst, Enterprise Records Service.*

[FR Doc. E9–30363 Filed 12–21–09; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0518]**

### Agency Information Collection (Income Verification) Activity Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATE:** Comments must be submitted on or before January 21, 2010.

**ADDRESSES:** Submit written comments on the collection of information through <http://www.Regulations.gov>; or to VA’s OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316.