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SERVICE DATE – APRIL 29, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 769

URCS DATA REPORTING

Decided: April 29, 2022

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board proposes a rule to codify a longstanding voluntary practice whereby Class I carriers, through the Association of American Railroads (AAR), have annually reported tare weight and loss and damage data for use in the Board's Uniform Railroad Costing System. Under the Board's proposal, Class I carriers may choose whether to provide tare weight and loss and damage data through AAR or file the data individually.

DATES: Comments are due by June 13, 2022. Reply comments are due by June 28, 2022.

ADDRESSES: Comments and replies may be filed with the Board via e-filing. Written comments and replies will be posted to the Board's website at www.stb.gov.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245-0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: The Board is authorized, under 49 U.S.C. § 11161, to maintain cost accounting rules for rail carriers. In 1989, the Board's predecessor, the Interstate Commerce Commission, adopted the Uniform Railroad Costing System (URCS) as its general purpose costing system. Adoption of the Unif. R.R. Costing Sys. as a Gen. Purpose Costing Sys. for All Regul. Costing Purposes, 5 I.C.C.2d 894 (1989). The Board uses URCS for a variety of regulatory functions. URCS is used in rate reasonableness proceedings as part of the initial market dominance determination, and at later stages is used in parts of the Board's determination as to whether the challenged rate is reasonable, and, when warranted, the maximum rate prescription. URCS is also used to, among other things, develop variable costs for making cost determinations in abandonment proceedings, to provide the railroad industry and shippers with a standardized costing model, to cost the Board's Carload Waybill Sample to develop industry cost information, and to provide interested parties with basic cost information regarding railroad industry operations.

As a longstanding practice, the Association of American Railroads (AAR) has collected from Class I carriers, and voluntarily provided annually to the Board, tare weight and loss and damage data for use in URCS. While the Board appreciates AAR’s longstanding voluntary practice, to ensure the continued availability of the data, which are essential components of URCS,¹ the Board proposes to formalize that reporting requirement and require Class I carriers to provide tare weight and loss and damage data on an annual basis, as described below. The Board has the statutory authority to obtain data from carriers and associations under 49 U.S.C. §§ 11144 and 11145.

The Board’s proposal is consistent with Class I carriers’ current and longstanding practice of providing summarized tare weight and loss and damage data to the Board through AAR. AAR’s practice has been to provide the average tare weight by AAR car type code² in tons and pounds, as well as the number of cars. Additionally, AAR has historically provided summarized annual loss and damage expenses³ and the number of tons originated by commodity.

¹ Tare weights are used in URCS to calculate gross ton-mile costs, while loss and damage data are used to calculate the total variable shipment costs of each rail movement. The Railroad Cost Program User Manual is available on the Board’s website at www.stb.gov/reports-data/uniform-rail-costing-system/.

² AAR car type codes include freight car types and intermodal equipment:

A	Equipped box car
B	Unequipped box car
C	Covered hopper car
D	Locomotive
E	Equipped gondola
F	Flat car
G	Unequipped gondola
H	Unequipped hopper
J	Gondola car
K	Equipped hopper car
L	Special type car
M	Maintenance of way, scale, passenger, caboose, and end-of-train information systems
P	Conventional intermodal car
Q	Lighter weight, low-profile intermodal car
R	Refrigerator car
S	Stack car
T	Tank car
U	Container
V	Vehicular flat car
Z	Trailer

³ Historically, AAR has not reported loss and damage expenses for Grand Trunk Corporation (including U.S. affiliates of Canadian National Railway Company) (CN) and Soo

Class I carriers are required to report, quarterly and annually, the number of tons originated on their rail lines by commodity through the freight commodity statistics (FCS) report. 49 C.F.R. § 1248.2. AAR's practice has been to provide the Board with its own version of the FCS report that aggregates data from the Class I carriers. AAR has also provided the loss and damage per ton, which is calculated by dividing loss and damage expenses by the number of tons originated by commodity. The Board proposes that Class I carriers may continue to provide tare weight and loss and damage data in this format.

The Board proposes, as an alternative for Class I carriers, to allow those carriers to individually report tare weight and loss and damage data directly to the Board. Under this option, Class I carriers would provide the tare weight totals by AAR car type code in tons and pounds and the number of cars, and the Board would calculate the average tare weight. For loss and damage data, Class I carriers would provide their total annual loss and damage expenses, number of tons originated, and loss and damage per ton by commodity using the specific commodity groupings identified in the Annual Report of Loss and Damage Data (see App. C), and the Board would consolidate the data to calculate the loss and damage per ton for all Class I carriers.

To ensure the timely availability of data for use in URCS, the Board proposes to require Class I carriers, either individually or through AAR, to file the annual tare weight and loss and damage data with the Board within 60 days after the end of each calendar year. Additionally, to facilitate the prompt receipt of 2021 data for use in URCS this year, the Board proposes to require Class I carriers, either individually or through AAR, to file tare weight and loss and damage data for the year 2021 within 30 days of the effective date of the final rule. To provide additional guidance, the Board proposes sample forms in Appendices B (for reporting through AAR) and C (for reporting individually) that Class I carriers may use to file tare weight and loss and damage data. The Board's Office of Economics (OE) would make technical changes to the format of these forms in the future as necessary.⁴

The Board invites comments on the proposed rule. Comments will be due by June 13, 2022; replies will be due by June 28, 2022.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. §§ 601-612, generally requires a description and analysis of new rules that would 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

Line Corporation (including U.S. affiliates of Canadian Pacific Railway Company) (CP). As discussed, the Board's proposed rule would require reporting from all Class I carriers either individually or through AAR. The Board's collection of loss and damage expenses from CN and CP for inclusion in URCS, which uses industry-wide loss and damage information, would allow the Board to provide more accurate cost estimates.

⁴ OE would post the revised templates to the Board's website and so notify the Class I carriers.

analysis available for public comment. §§ 601-604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, § 603(a), or certify that the proposed rule would not have a “significant impact on a substantial number of small entities,” § 605(b). Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities “whose conduct is circumscribed or mandated” by the proposed rule. White Eagle Coop. v. Conner, 553 F.3d 467, 480 (7th Cir. 2009).

The proposed rule would not have a significant impact on a substantial number of small entities within the meaning of the RFA⁵ because it is limited to Class I carriers. Accordingly, the Board certifies under 5 U.S.C. § 605(b) that this rule would not have a significant economic impact on a substantial number of small entities as defined by the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

Paperwork Reduction Act. Under the Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3521, Office of Management and Budget (OMB) regulations at 5 C.F.R. § 1320.8(d), and Appendix D, the Board seeks comment about the impact of the new collection for URCS Data Reporting (OMB Control No. 2140-XXXX), concerning: (1) whether the proposed collection of information, which is further described in Appendix A, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board’s burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

The Board estimates that the proposed new requirements would include a total annual hourly burden of 28 hours and a one-time, start-up hourly burden of 63 hours. There are no non-hourly burdens associated with this collection. The Board welcomes comment on the estimates of actual time and costs of the collection, as detailed in Appendix D below. Other information pertinent to this collection is also included in Appendix D. The proposed rule will be submitted to OMB for review as required under 44 U.S.C. § 3507(d) and 5 C.F.R. § 1320.11. Comments received by the Board regarding the information collection will also be forwarded to OMB for its review when the final rule is published.

⁵ For purposes of the RFA analysis, the Board defines a small entity as only including those rail carriers classified as Class III carriers under 49 C.F.R. § 1201.1-1. See Small Entity Size Standards Under the Regul. Flexibility Act, EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of \$20 million or less in 1991 dollars (\$40,400,000 when adjusted for inflation using 2020 data). Class II carriers have annual operating revenues of less than \$250 million in 1991 dollars (\$900 million when adjusted for inflation using 2020 data). The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds on its website. 49 C.F.R. § 1201.1-1; Indexing the Ann. Operating Revenues of R.Rs., EP 748 (STB served July 12, 2021).

List of Subjects
49 C.F.R. part 1249
Railroads, Reporting and recordkeeping requirements

It is ordered:

1. The Board requests comments on the proposed rule as set forth in this decision. Comments on are due by June 13, 2022; replies are due by June 28, 2022.
2. Notice of the proposed rule will be published in the Federal Register.
3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.
4. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Appendix A
Code of Federal Regulations

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend title 49, chapter X, subchapter C, of the Code of Federal Regulations by adding part 1249 to read as follows:

PART 1249—REPORTS OF TARE WEIGHT AND LOSS AND DAMAGE DATA

Sec.

1249.1 Annual Report of Tare Weight Data.

1249.2 Annual Report of Loss and Damage Data.

Authority: 49 U.S.C. §§ 1321, 11144, 11145.

§ 1249.1 Annual Report of Tare Weight Data.

Class I carriers, either individually or through AAR, shall annually file tare weight data, as detailed in the Annual Report of Tare Weight Data, with the Surface Transportation Board's Office of Economics within 60 days after the end of the calendar year. Forms and instructions are available at www.stb.gov and may also be obtained by contacting the Office of Economics.

§ 1249.2 Annual Report of Loss and Damage Data.

Class I carriers, either individually or through AAR, shall annually file loss and damage data, as detailed in the Annual Report of Loss and Damage Data, with the Surface Transportation Board's Office of Economics within 60 days after the end of the calendar year. Forms and instructions are available at www.stb.gov and may also be obtained by contacting the Office of Economics.

Appendix B
Sample Forms for AAR Reporting

ANNUAL REPORT OF LOSS AND DAMAGE DATA INSTRUCTIONS

This report is applicable to all Class I railroads.

1. Update current reporting year.
2. For each standard transportation commodity code (STCC) identified, report total annual loss and damage expenses, the number of tons originated, and the loss and damage per ton.
3. Report the number of tons originated for each commodity for all railroads.
4. The loss and damage per ton is calculated by dividing loss and damage expenses by the number of tons originated by commodity. Round to the thousandths place.
5. For Commodity 49 Hazmat, only report data in the loss and damage column.

**SURFACE TRANSPORTATION BOARD
ANNUAL REPORT OF LOSS AND DAMAGE DATA**

All Class I Railroads

For the year ending December 31, 20__

STCC	Commodity	Loss & Damage	Number of Tons Originated	Loss & Damage Per Ton
01	FARM PRODUCTS			
	0113 Grains			
	01195 Potatoes			
	012 Fresh Fruits/Tree Nuts			
	013 Fresh Vegetables			
10	METALLIC ORES			
11	COAL			
14	NONMETALLIC MINERALS			
20	FOOD & KINDRED PRODUCTS			
	2011 Fresh Meat			
	202 Dairy Products			
	203 Canned/Preserved Fruits/Vegetable			
	204 Grain Mill Products			
	2041 Flour			
	2042 Prep/Canned Animal Feeds			
	2043 Cereal Preparations			
	2044 Milled Rice/Flour/M meal			
	2045 Prepared Flour			
	2046 Corn Milling Products			
	2062 Sugar, Refined			
	20821 Beer/Ale/Porter/Stout			
	2084 Wines/Brandy/Brandy Spirits			
	20851 Distilled/Blended Liquors			
	209 Misc. Food Preparations			
21	TOBACCO PRODUCTS			
24	LUMBER & WOOD PRODUCTS			
	2421 Lumber/Dimension Stock			
	2432 Veneer/Plywood			
25	FURNITURE & FIXTURES			
26	PULP/PAPER/ALLIED PRODUCTS			
	26211 Newsprint			
	26213 Printing Paper			
	263 Paperboard/Pulpboard/Fiberboard			
	264 Conv. Paper/Paperboard Products			
	26471 Sanitary Tissues/Health Products			
28	CHEMICALS & ALLIED PRODUCTS			
	281 Industrial Chemicals			
	2812 Sodium/Potassium			
	282 Plastic Materials/Synthetic Resins			
	289 Miscellaneous Chemical Products			
29	PETROLEUM & COAL PRODUCTS			
30	RUBBER & MISC. PLASTICS			
	301 Tires/Inner Tubes			
32	STONE/CLAY/GLASS/CONC. PROD.			
	321 Flat Glass			
	3295 Nonmetallic Minerals/Earths			
33	PRIMARY METAL PRODUCTS			
	3312 Primary Iron/Steel Products			
	3352 Aluminum/ABA Basic Shapes			
34	FABRICATED METAL PRODUCTS			
	344 Fabric. Structural Metal Products			
35	MACHINERY, EXCEPT ELECTRIC			
	351 Engines/Turbines			
	352 Farm Machinery/Equipment			
	353 Constr./Mining/Material Handling			
36	ELECTRIC MACH./EQUIP./SUPPLIES			
	361 Electrical Trans./Distr. Equipment			
	363 Household Appliances			
	365 Radio/TV Sets			
37	TRANSPORTATION EQUIPMENT			
	37111 Automobiles			
	37112 Truck Tractors/Trucks			
	3714 Motor Vehicle Parts/Access.			
44	FREIGHT FORWARDER TRAFFIC			
45	SHIPPER ASSN. TRAFFIC			

46	MISC. MIXED SHIPMENTS 461 Miscellaneous Mixed Shipments ALL OTHERS			
49	HAZMAT		†	-

† Do not report tons for Commodity 49 Hazmat.

ANNUAL REPORT OF TARE WEIGHT DATA INSTRUCTIONS

1. For each four-digit AAR Car Type Code, report the average tare weight for all Class I railroads by tons and pounds, and the number of cars.
2. Report detailed data for freight car types and intermodal equipment codes: A, B, C, D, E, F, G, H, J, K, L, M, P, Q, R, S, T, U, V, and Z.

**SURFACE TRANSPORTATION BOARD
ANNUAL REPORT OF TARE WEIGHT DATA**

All Class I Railroads

For the year ending December 31, 20__

AAR Car Type Code	Average Tare Weight (Tons)	Cars	Average Tare Weight (Pounds)
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Appendix C
Sample Forms for Individual Reporting

ANNUAL REPORT OF LOSS AND DAMAGE DATA INSTRUCTIONS

This report is applicable to all Class I railroads.

1. Update current reporting year.
2. For each standard transportation commodity code (STCC) identified, report total annual loss and damage expenses, the number of tons originated, and the loss and damage per ton.
3. Report the number of tons originated for each commodity for all railroads.
4. The loss and damage per ton is calculated by dividing loss and damage expenses by the number of tons originated by commodity. Round to the thousandths place.
5. For Commodity 49 Hazmat, only report data in the loss and damage column.

**SURFACE TRANSPORTATION BOARD
ANNUAL REPORT OF LOSS AND DAMAGE DATA**

Railroad: _____

For the year ending December 31, 20__

STCC	Commodity	Loss & Damage	Number of Tons Originated	Loss & Damage Per Ton
01	FARM PRODUCTS			
	0113 Grains			
	01195 Potatoes			
	012 Fresh Fruits/Tree Nuts			
	013 Fresh Vegetables			
10	METALLIC ORES			
11	COAL			
14	NONMETALLIC MINERALS			
20	FOOD & KINDRED PRODUCTS			
	2011 Fresh Meat			
	202 Dairy Products			
	203 Canned/Preserved Fruits/Vegetable			
	204 Grain Mill Products			
	2041 Flour			
	2042 Prep/Canned Animal Feeds			
	2043 Cereal Preparations			
	2044 Milled Rice/Flour/M meal			
	2045 Prepared Flour			
	2046 Corn Milling Products			
	2062 Sugar, Refined			
	20821 Beer/Ale/Porter/Stout			
	2084 Wines/Brandy/Brandy Spirits			
	20851 Distilled/Blended Liquors			
	209 Misc. Food Preparations			
21	TOBACCO PRODUCTS			
24	LUMBER & WOOD PRODUCTS			
	2421 Lumber/Dimension Stock			
	2432 Veneer/Plywood			
25	FURNITURE & FIXTURES			
26	PULP/PAPER/ALLIED PRODUCTS			
	26211 Newsprint			
	26213 Printing Paper			
	263 Paperboard/Pulpboard/Fiberboard			
	264 Conv. Paper/Paperboard Products			
	26471 Sanitary Tissues/Health Products			
28	CHEMICALS & ALLIED PRODUCTS			
	281 Industrial Chemicals			
	2812 Sodium/Potassium			
	282 Plastic Materials/Synthetic Resins			
	289 Miscellaneous Chemical Products			
29	PETROLEUM & COAL PRODUCTS			
30	RUBBER & MISC. PLASTICS			
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	321 Flat Glass			
	3295 Nonmetallic Minerals/Earths			
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	3352 Aluminum/ABA Basic Shapes			
34	FABRICATED METAL PRODUCTS			
	344 Fabric. Structural Metal Products			
35	MACHINERY, EXCEPT ELECTRIC			
	351 Engines/Turbines			
	352 Farm Machinery/Equipment			
	353 Constr./Mining/Material Handling			
36	ELECTRIC MACH./EQUIP./SUPPLIES			
	361 Electrical Trans./Distr. Equipment			
	363 Household Appliances			
	365 Radio/TV Sets			
37	TRANSPORTATION EQUIPMENT			
	37111 Automobiles			
	37112 Truck Tractors/Trucks			
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ANNUAL REPORT OF TARE WEIGHT DATA INSTRUCTIONS

1. For each four-digit AAR Car Type Code, report the total tare weight in tons and pounds, and the number of cars.
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SURFACE TRANSPORTATION BOARD
ANNUAL REPORT OF TARE WEIGHT DATA

Railroad: _____

For the year ending December 31, 20__

AAR Car Type Code	Total Tare Weight (Tons)	Cars	Total Tare Weight (Pounds)
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Appendix D
Paperwork Reduction Act Collection

INFORMATION COLLECTION

Title: Annual Reports of Tare Weight and Loss and Damage Data

OMB Control Number: 2140-XXXX

STB Form Number: None

Type of Review: New collection

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 gives notice that it is requesting from the Office of Management and Budget approval of a new collection, Annual Reports of Tare Weight and Loss and Damage Data, OMB Control No. 2140-XXXX. The new collection is necessitated by the notice of proposed rulemaking, which proposes to give Class I carriers the option to provide tare weight and loss and damage data to the Board individually.

Respondents: Class I railroads

Number of Respondents: Seven

Estimated Time per Response: Four hours, plus a one-time addition of nine start-up hours

Frequency: Annual

Total Annual Hour Burden: 49 hours (including the additional 21 hours, which is the estimated 63 start-up hours amortized over the three-year approval period)

Total "Non-hour Burden" Cost: There are no non-hourly burden costs for this collection. The collections may be filed electronically.

Needs and Uses: This collection will be used by the Board in the Uniform Railroad Costing System (URCS). The Board is authorized, under 49 U.S.C. § 11161, to maintain cost accounting rules for rail carriers. In 1989, the Board's predecessor, the Interstate Commerce Commission, adopted URCS as its general purpose costing system. Adoption of the Unif. R.R. Costing Sys. as a Gen. Purpose Costing Sys. for All Regul. Costing Purposes, 5 I.C.C.2d 894 (1989). The Board uses URCS for a variety of regulatory functions. URCS is used in rate reasonableness proceedings as part of the initial market dominance determination, and at later stages is used in parts of the Board's determination as to whether the challenged rate is reasonable and, when warranted, the maximum rate prescription. URCS is also used to, among other things, develop variable costs for making cost determinations in abandonment proceedings, to provide the railroad industry and shippers with a standardized costing model, to cost the Board's Carload

Waybill Sample to develop industry cost information, and to provide interested parties with basic cost information regarding railroad industry operations.