

## B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule addresses the deletion of a term used to describe a system for the electronic data interchange of acquisition information between the private section and the Federal Government without removing the use of the system. Additionally, where necessary in the FAR, the term has been replaced with a more appropriate term that incorporates various electronic data interchange systems. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 4, 5, and 13 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2006-015), in correspondence.

## C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

## List of Subjects in 48 CFR Parts 2, 4, 5, and 13

Government procurement.

Dated: January 24, 2007.

**Ralph De Stefano**

*Director, Contract Policy Division.*

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 4, 5, and 13 as set forth below:

1. The authority citation for 48 CFR parts 2, 4, 5, and 13 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

## PART 2—DEFINITIONS OF WORDS AND TERMS

### 2.101 [Amended]

2. Amend section 2.101 by removing from paragraph (b) the definition “Federal Acquisition Computer Network (FACNET) Architecture”.

## PART 4—ADMINISTRATIVE MATTERS

### 4.502 [Amended]

3. Amend section 4.502 by removing from paragraph (b)(2) “, (e.g., the

Federal Acquisition Computer Network (FACNET))”.

## PART 5—PUBLICIZING CONTRACT ACTIONS

### 5.101 [Amended]

4. Amend section 5.101 by removing from paragraph (a)(2)(ii) “or Federal Acquisition Computer Network (FACNET)”.

### 5.102 [Amended]

5. Amend section 5.102 by removing from paragraph (a)(3) “to FACNET” and adding “using electronic commerce” in its place.

### 5.201 [Amended]

6. Amend section 5.201 by removing from paragraph (b)(2) “to FACNET” and adding “using electronic commerce” in its place.

### 5.203 [Amended]

7. Amend section 5.203 by removing from paragraph (b) “via FACNET or for which” and adding “where” in its place.

## PART 13—SIMPLIFIED ACQUISITION PROCEDURES

### 13.104 [Amended]

8. Amend section 13.104 by removing from paragraph (b) “using either FACNET or”.

9. Amend section 13.105 by revising paragraph (a) to read as follows:

### 13.105 Synopsis and posting requirements.

(a) The contracting officer must comply with the public display and synopsis requirements of 5.101 and 5.203 unless an exception in 5.202 applies.

\* \* \* \* \*

10. Amend section 13.106-1 by revising paragraph (f) to read as follows:

### 13.106-1 Soliciting competition.

\* \* \* \* \*

(f) *Inquiries.* An agency should respond to inquiries received through any medium (including electronic commerce) if doing so would not interfere with the efficient conduct of the acquisition.

### 13.106-2 [Amended]

11. Amend section 13.106-2 by removing from paragraph (b)(4) “FACNET or”.

### 13.106-3 [Amended]

12. Amend section 13.106-3 by removing from paragraph (c) “FACNET or”.

### 13.307 [Amended]

13. Amend section 13.307 by removing from paragraph (b)(1) “via FACNET, electronically,” and adding “electronically” in its place.

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BILLING CODE 6820-EP-S

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

### 49 CFR Part 1243

[STB Ex Parte No. 661 (Sub-No. 1)]

### Rail Fuel Surcharges

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** In conjunction with the Surface Transportation Board’s decision in Rail Fuel Surcharges, STB Ex Parte No. 661 (STB served Jan. 26, 2007), the Board has proposed to require all large (Class I) railroads to submit a monthly report containing the following information: total monthly fuel cost; gallons of fuel consumed during the month; increased or decreased cost of fuel over the previous month; and total monthly revenue from fuel surcharges. **DATES:** Comments are due by April 2, 2007.

**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 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. 661 (Sub-No. 1), 1925 K Street, NW., Washington, DC 20423-0001.

Copies of written comments received by the Board will be available from the Board’s contractor, ASAP Document Solutions (mailing address: Suite 103, 9332 Annapolis Rd., Lanham, MD 20706; e-mail address:

[asapdc@verizon.net](mailto:asapdc@verizon.net); telephone number: 202-306-4004). The comments will also be available for viewing and self-copying in the Board’s Public Docket Room, Room 755, and will be posted to the Board’s Web site at <http://www.stb.dot.gov>.

### FOR FURTHER INFORMATION, CONTACT:

Joseph H. Dettmar at 202-565-1609. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:** Under 49 U.S.C. 10702, the Board has the authority to address the reasonableness of a rail carrier's practices. And the Board has specific authority under 49 U.S.C. 11145(a)(1) to require regulated rail carriers to file annual, periodic, and special reports with the Board. The proposed monthly Report of Fuel Cost, Consumption, and Surcharge Revenues is intended to permit the Board to monitor the current fuel surcharge practices of the large (Class I) carriers. The proposed reporting form is included as Appendix A. See the Board's decision in this proceeding served January 26, 2007, for a discussion of the background and history of rail fuel surcharge reporting.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (PRA) and Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3), the Board now seeks comments regarding: (1) Whether the particular collection of information described below 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. Information pertinent to these issues is included in Appendix B. This proposed rule has been submitted to OMB for review as required under the PRA, 5 U.S.C. 3507(d) and 5 CFR 1320.11. In accordance with the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

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

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

#### **List of Subjects in 49 CFR Part 1243**

Quarterly Operating Reports—  
Railroads.

**Authority:** 49 U.S.C. 11144, 49 U.S.C. 11145.

Decided: January 25, 2007.

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

**Vernon A. Williams,**  
*Secretary.*

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend part 1243 of

title 49, chapter C, of the Code of Federal Regulations as follows:

#### **PART 1243—QUARTERLY AND MONTHLY OPERATING REPORTS—RAILROADS**

1. Revise the heading of part 1243 to read as set forth above.

2. The authority citation for part 1243 continues to read as follows:

**Authority:** 49 U.S.C. 11144, 49 U.S.C. 11145.

3. Add a new § 1243.3 to read as follows:

##### **§ 1243.3 Report of fuel cost, consumption, and surcharge revenue.**

Commencing with reports regarding the month of [first month beginning 90 days after publication of final rule] 2007, and monthly thereafter, all Class I line-haul railroad companies are required to file a Report of Fuel Cost, Consumption, and Surcharge Revenue, in accordance with the Board's reporting form. Such monthly reports shall be filed, in duplicate, in the Office of Economics, Environmental Analysis, and Administration, Surface Transportation Board, Washington, DC 20423–0001, within 20 days after the end of the month reported.

**Editorial Note:** The following appendices will not appear in the Code of Federal Regulations.

**BILLING CODE 4915–01–P**

## APPENDIX A

OMB Control No. 2140-XXXX

Expires \_\_\_\_\_, 2010

RAILROAD NAME \_\_\_\_\_

**MONTHLY REPORT OF**  
**FUEL COST, CONSUMPTION, AND SURCHARGE REVENUE**  
**FOR THE MONTH OF \_\_\_\_\_, 20\_\_**

**Instructions:** The report shall contain data only for the reported month. Cost and revenue are defined as accrued or earned that month. The report shall be filed with the Surface Transportation Board on or before 20 days after the end of that month.

LINE NO	Data	Amount
	(a)	(in thousands) (b)
1	Total fuel cost <sup>1</sup>	
2	Gallons of fuel consumed <sup>1</sup>	
3	Increase or decrease in cost of fuel <sup>2</sup>	
4	Revenue from fuel surcharges <sup>3</sup>	

I, the undersigned, \_\_\_\_\_, Title: \_\_\_\_\_, state that this report was prepared by me or under my supervision and that I have carefully examined it and on the basis of my knowledge, belief, and verification declare it to be full, true and correct.

<sup>1</sup> Include fuel for freight, yard and work train locomotives. Include fuel charged to train and yard service (function 67- Locomotive Fuels). Include all other fuel used for railroad operations and maintenance, including motor vehicles and power equipment not charged to function 67- Locomotive Fuels.

<sup>2</sup> Show the total increase or decrease in fuel cost over previous month.

<sup>3</sup> Show the total revenue collected from fuel surcharges.

**Appendix B**

The additional information below is included to assist those who may wish to submit comments pertinent to review under the Paperwork Reduction Act:

**Description of Collection**

*Title:* Report of Fuel Cost, Consumption, and Surcharge Revenue.  
*OMB Control Number:* 2140-XXXX.  
*STB Form Number:* None.  
*Type of Review:* New collection.  
*Respondents:* Class I railroads (railroads with operating revenues exceeding \$250 million in 1991 dollars).  
*Number of Respondents:* 7.

*Estimated Time per Response:* 1 hour (after one-time start-up expenditure of 8 hours).

*Frequency:* Monthly.

*Total Burden Hours (annually including all respondents):* 84 hours.

*Total "Non-hour Burden" Cost:* None identified.

*Needs and Uses:* Under 49 U.S.C. 10702, the Surface Transportation Board has the authority to address the reasonableness of a rail carrier's practices. The proposed information collection is intended to permit the Board to monitor the current fuel surcharge practices of the Class I

carriers. Failure to collect this information would impede the Board's ability to fulfill its responsibilities under 49 U.S.C. 10702. The Board has authority to collect information about rail costs and revenues under 49 U.S.C. 11144 and 11145.

*Retention Period:* Information in this report will be maintained on the Board's Web site for a minimum of one year and will be otherwise maintained by the Board for a minimum of two years.

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**BILLING CODE 4915-01-P**