F. Unfunded Mandates Reform Act of 1995

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

G. Paperwork Reduction Act

Under 49 U.S.C. 5108(i), the information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) do not apply to this proposed rule.

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

I. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. There are no significant environmental impacts associated with this proposed rule. PHMSA is proposing in this rule changes to the requirements in the Hazardous Materials Regulations on the registration and fee assessment program for persons who transport or offer for transportation certain categories and quantities of hazardous materials. The proposed increase in registration fees will provide additional funding for the HMEP program to help mitigate the safety and environmental consequences of hazardous materials transportation accidents.

J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the Federal Register published on April 13, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit http://www.regulations.gov.
characteristics of an individual rail shipment, and includes the following information: the originating and terminating freight stations, the railroads participating in the movement, the points of all railroad interchanges, the number of cars, the car initial and number, the movement weight in hundredweight, the commodity, and the freight revenue. Under 49 CFR 1244.2, a railroad is required to file Waybill Sample information for all line-haul revenue waybills terminating on its lines if: (a) It terminated at least 4,500 revenue carloads in any of the 3 preceding years; or (b) it terminated at least 5% of the revenue carloads terminating in any state in any of the 3 preceding years. The Board recognizes that some of the submitted information is commercially sensitive, and thus the Board’s regulations place limitations on releasing Waybill Sample data. See 49 CFR 1244.9.

The Waybill Sample is the Board’s primary source of information about freight rail shipments terminating in the United States. The expanded information gathered from this proposed rule would permit the Board to assess more accurately TIH traffic within the United States, and specifically would be beneficial in Three-Benchmark rail rate cases involving TIH traffic. In those cases, the parties would have more data to draw upon when forming their comparison groups; therefore, the parties could construct comparison groups that would be more comparable to the issue traffic. The additional information would also assist the Board in quantifying the magnitude of TIH traffic, and would help the Board more accurately measure the associated costs of handling such traffic.

Pursuant to 5 U.S.C. 605(b), the Board certifies that the regulations proposed herein would not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612. Most railroads that are required to report Waybill Sample information are not small entities. As explained above, these reporting requirements would apply only to railroads that terminate a large number of carloads. See 49 CFR 1244.2. Because small entities (small railroads) typically do not terminate the number of carloads necessary to trigger the reporting requirement, any resulting impact would not affect a substantial number of that group. Moreover, any resulting impact on small entities that report TIH movements would not be significant. The Board’s regulations allow for either computerized or manual reporting. 49 CFR 1244.4(a). In the most recent submission of Waybill Sample information—representing 2008—all railroads that reported TIH traffic did so using a computerized system, and it is likely that such computerized systems are easily adaptable to expanding the traffic to be reported under the proposed rule. 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.

Pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3549, and Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3), the Board seeks comments regarding: (1) Whether this collection of information, as modified in the proposed rule and further described in the Appendix, 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 the Appendix. This proposed rule has been submitted to OMB for review as required under 44 U.S.C. 3507(d) and 5 CFR 1320.11.

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 Mulvey, and Commissioner Nottingham.

Kulnie L. Cannon, Clearance Clerk.

List of Subjects in 49 CFR Part 1244

Freight, Railroads, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend part 1244 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1244—WAYBILL ANALYSIS OF TRANSPORTATION OF PROPERTY—RAILROADS

1. The authority citation for Part 1244 continues to read as follows:


2. In § 1244.4, add paragraphs (b)(5) and (c)(3) to read as follows:

§ 1244.4 Sampling of waybills.

(b) * * * *(5) Subject railroads shall submit all waybill information for movements of Toxic Inhalation Hazards (TIH). For purposes of this section, TIH shall be defined in accordance with 49 CFR 171.8, 173.115, and 173.132 to include materials that, when inhaled, known or presumed on the basis of testing to be so toxic to humans as to pose a hazard to health in the event of a release during transportation. These materials include, but are not limited to, hazardous materials listed at 49 CFR 172.101 as either Division 2.3 materials, or Division 6.1 materials that can be characterized as an inhalant under § 173.132.

(c) * * *

(3) Subject railroads shall submit all waybill information for movements of Toxic Inhalation Hazards (TIH). For purposes of this section, TIH shall be defined in accordance with 49 CFR 171.8, 173.115, and 173.132 to include materials that, when inhaled, are known or presumed on the basis of testing to be so toxic to humans as to pose a hazard to health in the event of a release during transportation. These materials include, but are not limited to, hazardous materials listed at 49 CFR 172.101 as either Division 2.3 materials, or Division 6.1 materials that can be characterized as an inhalant under § 173.132.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix

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: Waybill Sample.

OMB Control Number: 2140–0015.

STB Form Number: None.

Type of Review: Modification of approved collection.

Respondents: Any railroad that did one of the following: (a) Terminated at least 4,500 revenue carloads in any of the 3 preceding years; or (b) terminated at least 5% of the revenue carloads terminating in any state in any of the 3 preceding years.

1 See US Magnesium, L.L.C. v. Union Pacific Railroad Company, STB Docket No. 42114, at 5–12 (STB served Jan. 28, 2010); Simplified Standards for Rail Rate Cases, STB Docket No. 640 (Sub-Nos. 1), at 82–84 (STB served Sept. 5, 2007), aff’d sub nom. CSX Transp., Inc. v. STB, 568 F.3d 236 (D.C. Cir. 2009), and vacated in part on reh’g, CSX Transp., Inc. v. STB, 584 F.3d 1076 (D.C. Cir. 2009).
revenue carloads terminating in any state in any of the 3 preceding years.

Number of Respondents: 50.

Estimated Time per Response: 75 minutes.

Frequency: 7 respondents report monthly;
43 report quarterly.

Total Burden Hours (annually including all respondents): 320 hours.

Total "Non-hour Burden" Cost: No "non-
hour cost" burdens associated with this

collection have been identified.

Needs and Uses: The Surface
Transportation Board is, by statute,
responsible for the economic regulation of
common carrier rail transportation in the
United States and it is authorized to collect
information about rail costs and revenues
under 49 U.S.C. 11144 and 11145. Under 49
CFR 1224, a railroad is required to file
Waybill Sample information for all line-haul
revenue waybills terminating on its lines if
it did one of the following: (a) Terminated at
least 4,500 revenue carloads in any of the 3
preceding years; or (b) terminated at least 5%
of the revenue carloads terminating in any
state in any of the 3 preceding years. The
information in the Waybill Sample is used by
the Board, other Federal and state agencies,
and industry stakeholders to monitor traffic
flows and rate trends in the industry, and
develop evidence in Board proceedings.
The expanded information gathered from
this proposed rule would permit the Board to
assess more accurately THI traffic within the
United States, and specifically would be
beneficial in Three-Benchmark rail rate cases
involving THI traffic. In those cases, the
parties would have more data to draw upon
when forming their comparison groups;
therefore, the parties could construct
comparison groups that would be more
comparable to the issue traffic. The
additional information would also assist the
Board in quantifying the magnitude of THI
traffic, and would help the Board more
accurately measure the associated costs of
handling such traffic.

Retention Period: Information in this report
will be maintained on the Board’s Web site
for a minimum of 1 year and will be
otherwise maintained permanently.

[FR Doc. 2010–2150 Filed 2–1–10; 8:45 am]
BILLING CODE 4915–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

0000–C6]

RIN 1018—AW07

Endangered and Threatened Wildlife
and Plants; Proposed Reclassification
of the Okaloosa Darter From
Endangered to Threatened and
Proposed Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and
Wildlife Service (Service), propose to
reclassify the Okaloosa darter
(Etheostoma okaloosae) from
endangered to threatened under the
authority of the Endangered Species Act
of 1973, as amended (Act). The
endangered designation no longer
correctly reflects the current status of
this fish due to a substantial
improvement in the species’ status. This
proposed action is based on a thorough
review of the best available scientific
and commercial data, which indicates a
substantial reduction in threats to the
species, significant habitat restoration in
most of the species’ range, and a stable
or increasing trend of darters in all
darter stream systems. We also propose
change the section 4(d) of the Act. This special rule would allow Eglin
Air Force Base to continue activities,
with a reduced regulatory burden, and
would provide a net benefit to the
Okaloosa darter. We are seeking
information, data and comments from
the public on this proposal.

DATES: To ensure that we are able to
take your comments into consideration,
we will take into consideration all comments and any additional information we receive. Such
information may lead to a final rule that
differs from this proposal. All comments
and recommendations, including names
and addresses, will become part of the
administrative record.

You may submit your comments and
materials concerning this proposed rule by one of the methods listed in the

ADDRESSES section. If you submit a
comment via http://www.regulations.gov, your entire
comment—including any personal
identifying information—will be posted
on the Web site. Please note that
comments posted to this Web site are