

**Department of Transportation
Office of the Secretary
Pricing and Multilateral Affairs Division**

SUPPORTING STATEMENT

Exemption from Passenger Tariff-filing Requirements
in Certain Instances and Mandatory Electronic
Filing of Residual Passenger Tariffs

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) renewed three-year approved clearance for the information collection entitled, "Exemption from Passenger Tariff-Filing Requirements in Certain Instances, and Mandatory Electronic Filing of Residual Passenger Tariffs" OMB Control No. 2106-0009, which is currently due to expire on December 31, 2008.

Part A. Justification.

1. Circumstances that make collection of information necessary.

Chapter 415 of Title 49 of the United States Code requires that every air carrier and foreign air carrier file with the Department of Transportation (DOT) publish and keep open (i.e. post) for public inspection, tariffs showing all "foreign," i.e., international, prices for air transportation between points served by it and between points served by it and points served by another air carrier or foreign air carrier with which through service and joint prices are established and showing. In addition to prices, tariffs contain classifications, rules and practices related to such air transportation.

CFR Part 221 of the Department's Economic Regulations sets forth specific technical and substantive requirements governing the filing of tariff material with the DOT Office of International Aviation's Pricing and Multilateral Affairs Division. This regulation was last approved under OMB No. 2106-0009 for use through December 31, 2008.

Because of exemptions granted to U.S. and foreign carriers from the statutory and regulatory duty to file tariffs in markets governed by "open skies" air service agreements, the requirement for filing tariffs has been substantially reduced.

The information collection enhances economic growth and trade within the airline industry while it also provides important reliable information to airline passengers about routes and fares.

2. How, by whom, and for what purpose is the information used.

Passenger tariffs filed pursuant to Part 221 are used by carriers, travel agents, computer reservation systems, DOT, other government agencies and the general public to determine the prices, rules and related charges for international passenger air transportation. In addition, DOT requires U.S. and foreign air carrier passenger tariff information to monitor international air commerce carry out carrier route selections and conduct international negotiations. If tariffs were not filed, the only way to obtain this information would be to contact each individual carrier respondent every day to determine what prices were being charged and what rules were being applied. The filings from carrier respondents include fare, rule, arbitrary and other types of filings. Each electronic filing is really an application by the carrier for approval of fares, rules or other changes and may contain thousands of individual fare changes.

3. Extent of automated information collection.

At the present time, the DOT Pricing and Multilateral Affairs Division receives, reviews and approves or disapproves tariffs in the Electronic Tariff System (ETS). Official electronic fares (prices only) filings began in 1989; official electronic filings of passenger rules began in 1996. With publication of a Final Rule in 1999, DOT eliminated the traditional paper format and filing procedures, and the system is capable of 100% electronic filing.

4. Efforts to identify duplication.

The information filed in tariffs is not filed elsewhere in the Federal Government nor in the private sector, with the exception that each air carrier, or its agent, maintains the information contained in its tariffs on fares and conditions in the Computer Reservations Systems (CRS's) so that each CRS quotes prices and conditions filed in tariffs in DOT's ETS.

Although each air carrier, either on its own or through its agent, maintains a complete record of the fares, charges and conditions it applies, the DOT Office of International Aviation's Pricing and Multilateral Affairs Division is the only place in the public or private sector where all officially approved international passenger fares, charges and conditions are maintained. In addition, the Division would be the only source of electronic tariffs should the current electronic filing agent discontinue electronic filing, an admittedly remote possibility.

The Airline Tariff Publishing Company (ATPCO), which is owned by many of the filing air carriers, is currently the only electronic filer.

At present, there are approximately 148 air carrier respondents filing electronic tariffs with DOT. While a small number may be expected to cancel their tariffs or otherwise drop out as tariff respondents, we expect additional respondents to file tariffs because

they are either newly certificated carriers or have received authority to serve new markets. Since we expect that the number of carriers discontinuing to file tariffs will be roughly offset by the number of new filers, we estimate that about 148 carriers will continue to file tariffs.

5. Efforts to minimize the burden on small businesses.

The tariff filing requirements in Part 221 apply to scheduled-service air carriers, the vast majority of whom are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs. In addition, the staff of the DOT Office of International Aviation's Pricing and Multilateral Affairs Division from time to time has waived certain aspects of Part 221 to facilitate the tariff filing process for both respondents and the Government.

The Department approved a waiver to allow a small carrier to file its tariff in paper format during a time when virtually all tariffs are filed electronically. Relieving this small business from filing electronically creates savings it can pass on to its passengers.

6. Impact of less frequent collection of information.

Part 221 does not establish specific filing deadlines; tariff filings are initiated by the carrier respondents when they desire to amend an existing tariff or file a new one.

7. Special circumstances.

There are no known special circumstances, but see 6 above on frequency.

8. Compliance with 5 CFR 1320.8:

The Department issued a notice in accordance with the Paperwork Reduction Act of 1995 (44 USC Chapter 35 as amended) announcing and requesting comments on the Department of Transportation's (DOT) intention to request extension of a currently approved collection, Federal Register Notice Vol. 73, No. 175 Tuesday, September 9, 2008, Pages 52445 and 52447. We have received one comment Airline Tariff Company (ATPCO) states that it files fares and rules data electronically with the Department of Transportation (DOT) through a single industry centralized tool, the ATPCO Government Filing System (GFS). If a decision is made to continue the current tariff-filing process, ATPCO believes that a single industry centralized tool is the best solution, and it will partner with DOT to explore additional efficiencies.

9. Payments or gifts to respondents.

There are no payments or gifts to respondents.

10. Assurance of confidentiality:

Tariffs are public documents. No confidentiality is required.

11. Justification for collection of sensitive information:

No sensitive information is filed in tariffs.

12. Estimate of burden hours for information requested:

At the present, there are approximately 148 air carrier respondents filing electronic and paper tariffs with DOT.

At the same time, because of exemptions that have been granted to U.S. and foreign carriers from the statutory and regulatory duty to file international passenger tariffs for many markets, we estimate that we will receive annually 46,000 electronic tariff filings containing 8,079,560 records, amounting to 230,000 burden hours.

13. Estimate of total annual costs to respondents

Carriers have been required to file official tariffs since 1938. Until late 1989, all airline tariff filings were made in a paper medium under publication and filing requirements virtually unchanged since 1938. Any capital and start-up costs associated with the paper tariff regime were fully amortized decades ago.

In early 1989, the Department adopted an alternative rule permitting the carriers to file and post their passenger fare tariffs electronically, and formal electronic filing of fares with the Department began on December 18, 1989. Test filings of electronic passenger fare rules began in November 1991 under a Pilot Program designed to demonstrate the feasibility of the concept of electronic filing of large text files. On May 19, 1995, DOT issued a Notice of Proposed Rulemaking which would permit official electronic filing of passenger fare rules, than filed in paper form. This rulemaking was made final April 24, 1996. With its finalization, electronic filings were accepted from any air carrier which elected to do so, with the ultimate result that all carriers except one small carrier we exempted now file their international passenger tariffs electronically. The process continued with the publishing in the Federal Register on July 27, 1999 of a Final Rule to exempt U.S. and foreign air carriers filing international passenger tariffs with DOT in many markets and to eliminate traditional paper format and filing procedures in favor of electronic filing of tariffs.

Any capital and start-up costs associated with the electronic tariff regime were minimal. The electronic filing system's primary purpose, from an airline perspective, is to feed existing carrier computer reservations systems (CRS's) which form the backbone of the carriers' marketing and distribution systems. In that regard, carriers would still have to pay ATPCO for supporting their CRS's, even if they did not have to file fares with DOT. After a carrier's pricing staff prepares an electronic fare record it is entered in the

ATPCO database which the Department accesses over the internet. Unless disapproved by the Department, the electronic record automatically goes into the fare data-base that supplies tariff information for carrier CRS's worldwide.

The cost of producing a tariff record for Department review is virtually nothing; in the absence of the tariff-filing requirement, the carriers would still incur the same costs to generate identical data to support their CRS's.

14. Estimate of cost to the Federal government.

Two analysts and one manager in the DOT Office of International Aviation Pricing and Multilateral Affairs Division are assigned to airline tariff matters among other duties. The Division performs a variety of regulatory and negotiating functions. It formulates DOT regulatory and negotiating policy on international aviation pricing issues and often prepares and negotiates the pricing provisions in aviation agreements with other countries; it scrutinizes intercarrier fare and rate agreements to determine whether they should be approved and granted antitrust immunity; and it reviews international tariff filings to determine whether the proposed prices are consistent with public interest standards and DOT rules and policies, and treaty obligations. The DOT staff also uses electronic tariff filings and the ATPCO database to research airline pricing policies and trends in support of the Department's regulatory and negotiating functions.

With respect to the Paperwork Reduction Act, the reissue of Part 221 eliminated residual paper tariff formal and filing procedures and replaced them with more efficient electronic filing procedures. In addition, the new Part 293 exempted carriers from their statutory and regulatory duty to file international passenger tariffs in many specific markets, subject to reimposition of this duty when required by the public interest. Thus, this rule significantly reduces the paperwork and filing burden on government and industry, even though it does not totally eliminate information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act. While not estimated, the costs of government reviews, filing archiving of paper tariff filings have been eliminated.

15. Explanation of Program Changes or Adjustments

Due to the continued issuance of exemptions by a final rule in 1999 and notices issued in 2005, 2007, and 2008, which updated the list of countries in the exempted category due to a greater number of open skies agreements, tariff-filing requirements have been substantially reduced. The effects on the burden hours can not be determined at this time for the newest, updated list of tariff-filing exemptions. When the final rule was issued in July 1999, we estimated a total of 650,000 annual hours of burden. In 2007, the Department received about 46,000 electronic filings, with an estimated annual burden of 230,000 annual hours of burden. This reflected the fact that fewer markets were subject to filing requirements, but the reduction was tempered somewhat by higher frequency of

filings in markets still subject to filing. Considering these offsetting factors, we anticipate a modest further reduction of burden in the future.

16. Publication of results of data collection.

There is no publication of results of this data collection.

17. Approval for not displaying the expiration date of OMB approval.

There is no approval for not displaying the expiration date of OMB approval.

18. Exception to certification statement.

There is no exception to the certification statement.