

# Supporting Statement for Paperwork Reduction Act Submission

OMB Control No. 2140-0026  
Expires March 30, 2020

## Modification in Docket No. EP 743, Water Carrier Tariff Filing Procedures

### **A. Justification**

The Surface Transportation Board (STB or Board) requests a three-year extension of approval of the regulations governing the filing of tariffs by regulated water carriers, the collection of which is being modified, so that regulated water carriers may file, as an option, annual certificates of tariffs filings rather than each tariff itself, thereby reducing their filing burden.

#### 1. a. Need for Information

Congress has directed the Board to regulate water carriers engaged in transportation of freight in the noncontiguous domestic trade—i.e., domestic (as opposed to international) shipments moving to or from Alaska, Hawaii, or U.S. territories or possessions (Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands). 49 U.S.C. § 13102(17). Such water carriers providing common carriage service are required to publish their rates in tariffs and file them at the STB. 49 U.S.C. § 13702(b); 49 C.F.R. § 1312. A tariff provides a list of prices and fees that the carrier charges to the shipping public.

#### b. Need for Modification

In 2017, the Board established its Regulatory Reform Task Force (RRTF) to comply with the spirit of Executive Order 13,777. The primary objective of the RRTF was to identify Board rules and practices that are burdensome, unnecessary, or outdated and to recommend how they should be addressed. See Regulatory Reform Task Force, EP 738 (STB served June 20, 2017). The RRTF identified the current water carrier tariff regulations at 49 C.F.R. part 1312 as imposing unnecessary costs on the carriers as well as the Board. See RRTF 90-Day Status Report (issued May 25, 2017); RRTF Status Report (issued Nov. 21, 2017). Those regulations require water carriers operating in the noncontiguous domestic trade to publish, file, and keep available for public inspection tariffs setting forth their rates, charges, rules, and classifications. 49 U.S.C. § 13702(a)-(b). Although the regulations contemplate the filings of tariffs in paper format, the Board grants relief on a case-by-case basis, under what is known as Special Tariff Authority, that permits tariff filings in alternative electronic formats, typically email. 49 C.F.R. § 1312.2(e). For many carriers, these email submissions are a daily occurrence.

To modernize this filing system and reduce the burden on carriers, the Board issued a notice of proposed rulemaking that proposed to update the regulations to allow water carriers to

electronically publish, file, and keep tariffs available for public inspection. Water Carrier Tariff Filing Procedures, EP 743 (STB served Dec. 21, 2018) (83 Fed. Reg. 66,229). In a decision served on May 9, 2019, the Board established final rules allowing water carriers to significantly reduce their submission to the Board by managing and maintaining their tariffs on the Internet as part of their usual business practices. Water Carrier Tariff Filing Procedures (Final Rule), EP 743 (STB served May 9, 2019) (84 Fed. Reg. 20,292).

All other parts of the currently approved collection are without change from their approval, which expires on March 30, 2020.

2. Use of Data Collected. Information in this collection is used by the public to learn about prices and fees charged by water carriers that provide freight transportation in noncontiguous domestic trade.

3. Reduction through Improved Technology. This collection may be submitted electronically and, based on the new rule, will be referenced on external websites.

4. Identification of Duplication. The Board is required by statute to administer this collection. No other Federal agency collects the information reported in water carrier tariffs.

5. Minimizing Burden for Small Businesses. The Board concludes that this information collection will not have a significant economic effect on a substantial number of small entities. Approximately 18 of the estimated 31 potential respondents are small businesses, but the proposed rule would substantially reduce their existing burdens by giving them the option of making a single annual electronic filing containing the internet location of their current and historical tariffs, rather than having to file paper tariffs every time they change a rate or term of service. Based on the Final Rule, the Board contemplates that the number of filings directly with the Board will be significantly reduced.

6. Consequences if Collection not Conducted or Less Frequent. Failure of non-contiguous domestic water carriers to file or electronically post these tariffs would violate the statute and negatively impact (1) public access to information about water carrier tariffs and (2) the ability of the Board to fulfill its statutory mandate.

7. Special Circumstances. No special circumstances apply to this collection.

8. Consultation with Outside Agency. The Board is the only agency with jurisdiction over these water carrier tariffs. The Board received three comments in response to its NPRM served on December 21, 2018 (83 Fed. Reg. 66,229), all from private parties. Each of the comments supported the proposed rule, and none of them addressed the PRA notice or cost burden estimated therein. Further, no comments or filings have been received by the Board since the Final Rule was published.

9. Payments or Gifts. The Board does not provide any payment or gift for this collection.
10. Assurance of Confidentiality. All information collected through this collection is available to the public.
11. Sensitive information. This collection contains no information of a sensitive nature.
12. Estimated Burden Hours. The following information pertains to the estimate of burden hours associated with this collection:
- (1) Number of respondents: Approximately 31.
  - (2) Frequency of response: Annual. In lieu of filing their tariffs with the Board, respondents may file an annual certificate that they are posting their tariffs on the internet. Water carriers are required to make an additional filing with the Board only to reflect certain changes (i.e., change of agent or carrier). Therefore, it is estimated that water carriers will have to post an average of 2-3 certificates annually during each of the next 3 years, or a total of 77.5 certificates annually.
  - (3) Annual hour burden per respondent: 58.13 hours (77.5 filings X .75 hour estimated time per filing).
13. Estimated Total Annual Cost to Respondents: No non-hour costs have been identified for this collection. All collections may be submitted to the agency electronically.
14. Annualized Cost to the Federal Government: The Board performs periodic cost studies to determine the cost to the Board of various Board functions. Based on the costs to the Board in connection with these water carrier tariff filings in the past, the total annual cost to the Board for this collection should be \$2,049.10 (77.5 filings X \$26.44 cost per filing).
15. Explanation of Program Changes or Adjustments. This is an existing collection, which is being adjusted to update the burdens and costs based on the quantities experienced by the Board for the collection of water carrier tariffs since the last approval of this collection by OMB in 2017. Under the Final Rule, the number of filings submitted to the Board will decrease significantly, and the cost to the federal government will decrease due to the new rules promulgated in the Final Rule and related technology improvements.
16. Publication of Data and/or Results: There are no plans to tabulate or publish this collection. The Board will post the annual certificates on its website, located at <https://www.stb.gov/recordations.nsf>.
17. Display of expiration date for OMB approval. No exception is sought. The required content for a water carrier tariff is specified in the relevant statutory and regulatory provisions.

See 49 U.S.C. § 13702(b); 49 C.F.R. § 1312. There is no form or other applicable instructions. The control number and expiration date for this collection will be published in the Federal Register as provided in 5 C.F.R. § 1320.3(f)(3).

18. Exceptions to Certification Statement. Not applicable

**B. Collections of Information Employing Statistical Methods:**

Not applicable