

2140-0015
September 2020
Expires 9/30/2020

**SUPPORTING STATEMENT
FOR REQUEST OF OMB APPROVAL
UNDER THE PAPERWORK REDUCTION ACT AND 5 C.F.R. § 1320**

The Surface Transportation Board (STB or Board) requests a modification and a three-year extension of approval of the regulations governing the collection of the **Waybill Sample**.

A. Justification.

1. Why the collection is necessary. The Surface Transportation Board is, by statute, responsible for the economic regulation of common carrier freight railroads and certain other carriers operating in the United States. In this capacity, the Board often uses the information in rail-carload waybills to carry out its responsibilities. A carload waybill is a “document or instrument prepared from the bill of lading contract or shipper’s instructions as to the disposition of the freight, and [is] used by the railroad(s) involved as the authority to move the shipment and as the basis for determining the freight charges and interline settlements.” 49 C.F.R. § 1244.1(c). From these carload waybills, the Board creates an aggregate compilation of the sampled waybills of all reporting carriers, referred to as the Waybill Sample. The Waybill Sample is the Board’s principal source of data about freight rail shipments. It has broad application in, among other things, rate cases, the development of costing systems, productivity studies, exemption decisions, and analyses of industry trends. The Board has authority to collect this information under 49 U.S.C. §§ 11144, 11145.

The information in the Waybill Sample is used by the Board, other federal agencies (the Department of Transportation, the Department of Energy, and the Department of Agriculture, for example), and industry stakeholders to monitor traffic flows and rate trends in the industry, and to develop evidence in Board proceedings. The Waybill Sample is also a major source of information for states developing state transportation plans. In addition, non-government groups seek access to Waybill Sample data for such uses as market surveys, forecasts of rail-equipment requirements, economic analyses and forecasts, and academic research.

2. Why the modification is necessary. This modification request stems from the Board’s proposed rules to amend its regulations with respect to the Waybill Sample data that railroads are required to submit to the Board. Waybill Sample Reporting, EP 385 (Sub-No. 8) (84 Fed. Reg. 65768 (Nov. 29, 2019)) (NPRM). In the NPRM, the Board proposed to simplify the sampling rates of non-intermodal carload shipments and to specify separate sampling strata and rates for intermodal shipments. In the final rule, Waybill Sample Reporting, EP 385 (Sub-No. 8) (85 Fed. Reg. 54936) (published September 3, 2020) (Final Rule), the Board issued new rules adjusting the waybill sampling rate for carriers using a computerized system of reporting and provided a more comprehensive sampling of waybills that would improve the utility of the Waybill Sample for both the Board and other users of waybill data in a variety of contexts (e.g., increasing the reliability of parties’ evidentiary presentations in certain rate reasonableness proceedings), which

will further the rail transportation policy goals of 49 U.S.C. § 10101. See 49 U.S.C. § 10101(2), (4), (6), (13).

3. Extent of automated information collection. Respondents report electronically. Currently, filers submit flat text files to the Board through an STB contractor, using the FTP or MQ protocol. The instructions for the Waybill Sample, “Procedure for Sampling Waybill Records by Computer,” are available on the Board’s website at <https://prod.stb.gov/wp-content/uploads/Waybill-Sample-Directions-Statement-81-exp-9-30-2020.pdf>, and general information about the waybill may be found at <https://prod.stb.gov/reports-data/waybill/>. Respondents may also contact Pedro Ramirez by phone at (202) 245-0333 or email at Pedro.Ramirez@stb.gov to get instructions for submitting the Waybill Sample electronically or in paper hard copy.

4. Identification of duplication. This information is not duplicated by any other agency. The Board is the only source of waybill information.

5. Effects on small business. The Board requires a railroad to file carload waybill data for all line-haul revenue waybills terminated on its lines if: (a) it terminated at least 4,500 revenue carloads in any of the three preceding years; or (b) it terminated at least 5% of the revenue carloads terminating in any state in any of the three preceding years. 49 C.F.R. § 1244.2. In addition, a carrier need only report quarterly (rather than monthly) if it submits computerized (rather than paper) Waybill Samples or it submits less than 1,000 waybills per year.

6. Impact of less frequent collections. The Waybill Sample may be submitted monthly, quarterly, or annually, depending on the size of the rail carrier required to submit waybill data. Less frequent collection would impede the access by government regulators and private stakeholders to timely information about the industry.

7. Special circumstances. No special circumstances apply to this collection. (Note: Although 49 C.F.R. § 1244.6 states that railroads submitting computerized Waybill Samples are required to retain copies of the underlying waybills for four years, that retention period conflicts with the one-year retention period for waybills provided in § 1220.6. The agency has treated § 1220.6 as controlling in this matter.)

8. Compliance with 5 C.F.R. § 1320.8. As required, the Board published its proposed rule change in the NPRM (84 Fed. Reg. 65768 (Nov. 29, 2019)), which provided for a 60-day comment period (and an additional 30-day period for reply comments through Feb. 27, 2020) regarding this collection, with specific reference to concerns detailed in the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3521 and Office of Management and Budget (OMB) regulations at 5 C.F.R. § 1320.8(d)(3).

In response to the NPRM, the Board received six comments pertaining to the Board’s burden analysis under the PRA. One comment from CSX Transportation, Inc. (CSXT) offered estimates for the one-time hourly burden of actual time and costs of collection of Waybill Sample data. The Board received five other comments that generally pertained to the Board’s burden analysis under the PRA. The Board addressed all of these comments in the Final Rule

(85 Fed. Reg. 54936 (September 3, 2020)), finding CSXT's estimates reasonable, as adjusted in the Final Rule.

In its comments, CSXT provided two estimates for its one-time hourly burden based on certain assumptions. First, CSXT estimated a base one-time hourly burden of 200 hours, assuming (i) the introduction of two new strata, (ii) no changes to the Kth interval and random starts for the existing strata, and (iii) the use of existing Kth interval and random start tables for the two new strata. Second, CSXT estimated an additional one-time hourly burden of 50 hours if new Kth intervals and random start tables were necessary and suggested that other procedural changes were likely to have a similarly additive effect.

In the Final Rule, the Board addressed CSXT's estimates, finding them helpful but adjusting CSXT's first estimate based on CSXT's assumptions that were not applicable in the final rules. The Board found that CSXT's first assumption—that there will be two new intermodal strata—was not accurate because the final rule created only one new stratum. The Board accepted CSXT's base estimate adjusted for its faulty assumption. Thus, the Board reduced CSXT's base estimate of 200 one-time burden hours by half, to 100 one-time burden hours.

CSXT's second assumption was for an additional one-time burden of 50 hours for each time the Board added a new table/interval for the new sampling rates. In the Final Rule, the Board used this assumption and estimate because the Final Rule created one new sampling rate requiring a new Kth interval and random starts table. Based on this addition, the Board added 50 one-time hours to the adjusted base estimate of 100 hours for a total of 150 one-time burden hours (for each railroad providing its own waybills), as incorporated in section 12 below.

In the Final Rule, the Board also addressed the other five comments received. Those comments were general in nature and provided no data estimates or assumptions upon which to further adjust the burdens under the PRA. Rather, they related to the PRA burdens in two ways. First, the U.S. Department of Agriculture and RSI Logistics Inc. proposed general rule changes that would impact the burdens here. These comments were addressed by the Board in the Final Rule, but they were not adopted. Second, the American Fuel & Petrochemical Manufacturers, Association of American Railroads and National Grain and Feed Association point to the Board's estimated total one-time hour burden in the NPRM (80 hours per respondent) as supporting the limited cost of the changes to the proposed rules. The Board's estimates were increased in the Final Rule based on CSXT's comments, as discussed above, but these comments remain valid.

9. Payments or gifts to respondents. The Board does not provide any payment or gift to respondents.

10. Assurance of confidentiality. 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 C.F.R. § 1244.9.

11. Justification for collection of sensitive information. No sensitive information of a personal nature is requested.

12. Estimation of burden hours for respondents.

(1) Number of respondents: 53. The Board categorizes railroads required to report Waybill Sample data as either quarterly or monthly and as either sampling their own waybills or having a third party conduct their sampling. The number of respondents for each category is set forth in Table 1 below.

Table 1 – Respondents

Categories of Respondents*	Number of Respondents
Railroads that conduct their own sampling and report monthly	5
Railroads that conduct their own sampling and report quarterly	3
Railroads that have a third party sample their waybills and report monthly	2
Railroads that have a third party sample their waybills and report quarterly	43
Total Respondents	53

* Respondents that are identified as reporting monthly actually report monthly, quarterly, and annually (or 17 times per year). All other respondents report quarterly and annually (five times a year).

(2) Frequency of response: Eight (8) respondents report monthly, quarterly, and annually; 45 report quarterly and annually

(3) Annual hour burden for all respondents: 861.3 hours. This estimated total burden hours is shown in Table 2 below.

Table 2 – Total Burden Hours

Categories of Respondents	Number of Respondents	Estimated Annual Hours for Samples Submitted (unchanged)	Estimated Annual One-Time Hour Burden (Amortized over 3 Years)	Total Annual Hour Burden
Railroads that conduct their own sampling and report monthly	5	212.5	150	362.5
Railroads that conduct their own sampling and report quarterly	3	37.5	150	187.5
Railroads that have a third party sample their waybills and report monthly	2	42.5	0**	42.5
Railroads that have a third party sample their waybills and report quarterly	43	268.8	0**	268.8
Totals	53	561.3	300	861.3

** The Board pays for the third-party contractor to prepare samples. There is no one-time hourly or non-hourly burden to these railroads due to the proposed changes.

13. Other costs to respondents. No “non-hour cost” burdens associated with this collection have been identified. Waybills are created by rail carriers in the normal course of business. Thus, this collection does not require additional record keeping.

14. Estimated costs to the Board. The Board contracts out the collection of the Waybill Sample. The annual cost of the contract is \$179,599 (based on a three-year average cost). Board staff also spends time gathering, processing, and evaluating the collection of waybills for the Waybill Sample. The estimated cost to the Board is approximately 0.1 FTEs, in addition to the Board’s collection contract.

15. Changes in burden hours. Based on staff’s estimates, the change in reporting procedures only applies to the eight railroads conducting their own sampling and results in an estimated one-time burden of approximately 300 hours per railroad providing their own waybills. Otherwise, the burdens would remain the same.

16. Plans for tabulation and publication. Waybill-Sample data, aggregated at the industry level to protect commercially sensitive information (and referred to as the Public Use Waybill Sample), is available on the Board’s website, www.stb.gov (under Industry Data/Economic Data/Waybill).

17. Display of expiration date for OMB approval. The expiration date appears on the instruction document for the collection, which is posted on the Board's website.

18. Exceptions to Certification Statement. Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.