



SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent to Seek Extension of Approval of Collection: Demurrage Liability Disclosure Requirements

ACTION: Notice and request for comments.

AGENCY: Surface Transportation Board.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of the collection of Demurrage Liability Disclosure Requirements, as described below.

DATES: Comments on this information collection should be submitted by November 21, 2023.

ADDRESSES: Direct all comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001, or to PRA@stb.gov. When submitting comments, please refer to “Paperwork Reduction Act Comments, Demurrage Liability Disclosure Requirements.” For further information regarding this collection, contact Pedro Ramirez at (202) 245-0333 or pedro.ramirez@stb.gov. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245.

SUPPLEMENTARY INFORMATION: Comments are requested concerning each collection as to (1) whether the particular collection of information 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. Submitted comments will be included and summarized in the Board’s request for OMB approval.

DESCRIPTION OF COLLECTION

Title: Demurrage Liability Disclosure Requirements

OMB Control Number: 2140-0021

Form Number: None

Type of Review: Extension without change

Respondents: Freight railroads subject to the Board's jurisdiction

Number of Respondents: Approximately 620 (including six Class I carriers)

Estimated Time per Response: One hour for each disclosure.

Frequency: On occasion. The existing demurrage liability disclosure requirement is triggered in two circumstances: (1) when a shipper initially arranges with a railroad for transportation of freight pursuant to the rail carrier's tariff; or (2) when a rail carrier changes the terms of its demurrage tariff.

Total Burden Hours (annually including all respondents): 1,330.7 hours. Consistent with the existing, approved information collection, Board staff estimates that: (1) six Class I carriers would each take on 18 new customers each year (108 hours); (2) each of the six Class I carriers would update its demurrage tariffs annually (6 hours); (3) 620 non-Class I carriers (which are already subject to the existing collection requirements, but which will not be subject to the new requirements) would each take on one new customer a year (620 hours); and (4) each of the non-Class I carriers would update its demurrage tariffs every three years (206.7 hours annualized). For the requirement that Class I carriers must directly bill the shipper for demurrage when the shipper and warehouseman agree to the arrangement and so notify the rail carrier, Board staff estimates that annually six Class I carriers would each receive 65 direct-billing agreements per year at one hour per agreement (390 hours).

The total hourly burdens are also set forth in the table below.

Table – Total Burden Hours (per year)

Respondents	New Customer Burden	Tariff Update Burden	Burden for Invoicing Agreement	Total Annual Burden Hours
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6 Class I Carriers	108 hours	6 hours	390 hours	504 hours
620 Non-Class I Carriers	620 hours	206.7 hours	---	826.7 hours
Totals	728 hours	212.7 hours	390 hours	1,330.7 hours

Total “Non-hour Burden” Cost: There are no other costs identified. Any submissions may be submitted electronically.

Needs and Uses: Demurrage is subject to Board regulation under 49 U.S.C. 10702, which requires railroads to establish reasonable rates and transportation-related rules and practices, and under 49 U.S.C. 10746, which requires railroads to compute demurrage charges, and establish rules related to those charges, in a way that will fulfill the national needs related to freight car use and distribution and maintenance of an adequate car supply. Demurrage is a charge that serves principally as an incentive to prevent undue car detention and thereby encourage the efficient use of rail cars in the rail network, while also providing compensation to rail carriers for the expense incurred when rail cars are unduly detained beyond a specified period of time (i.e., “free time”) for loading and unloading. See Pa. R.R. v. Kittaning Iron & Steel Mfg. Co., 253 U.S. 319, 323 (1920) (“The purpose of demurrage charges is to promote car efficiency by penalizing undue detention of cars.”); 49 CFR 1333.1; see also 49 CFR part 1201, category 106.

Under 49 CFR 1333.3, a railroad’s ability to charge demurrage pursuant to its tariff is conditional on its having given, prior to rail car placement, actual notice of the demurrage tariff to the person receiving rail cars for loading and unloading. Once a shipper receives a notice as to a particular tariff, additional notices are required only when the tariff changes materially. The parties rely on the information in the demurrage tariffs to avoid demurrage disputes, and the Board uses the tariffs to adjudicate demurrage disputes that come before it. Class I carriers are

required to include certain minimum information on or with demurrage invoices, take appropriate action to ensure that demurrage charges are accurate and warranted, and directly bill the shipper for demurrage when the shipper and warehouseman agree to that arrangement and so notify the rail carrier. This collection and use of this information by the Board enable the Board to meet its statutory duties.

The Board makes this submission because, under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: September 19, 2023.

Kenyatta Clay,

Clearance Clerk.

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