

adverse economic effect on the producers.

Paperwork Reduction Act

This proposed rulemaking involves no new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. Collection activities are currently approved by the Office of Management and Budget under control numbers 0625-0040 and 0625-0134 and the amendments will not increase the information burden on the public.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

E.O. 12866.

It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and record keeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, The Departments propose to amend 15 CFR Part 303 as follows:

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAM

1. The authority citation for 15 CFR Part 303 reads as follows:

Authority: Pub. L. 97-446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103-465, 108 Stat. 4991; Pub. L. 94-241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106-36, 113 Stat. 127, 167.

2. Section 303.2(a)(5) is revised to read as follows:

§ 303.2 Definitions and forms.

(a) *Definitions.* Unless the context indicates otherwise:

* * * * *

(5) *New firm* is a watch firm which may not be affiliated through ownership or control with any other watch duty-refund recipient. In assessing whether persons or parties are affiliated, the Secretaries will consider the following factors, among others: stock ownership; corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier

relationships. The Secretaries may not find that control exists on the basis of these factors unless the relationship has the potential to affect decisions concerning production, pricing, or cost. Also, no watch duty-refund recipient may own or control more than one jewelry duty-refund recipient. A *new entrant* is a new watch firm which has received an allocation.

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3. The first sentence of § 303.2(a)(13) is amended by removing “up to the amount per person shown in § 303.14(a)(1)(i)” and adding “up to an amount equal to 65% of the contribution and benefit base for Social Security as defined in the Social Security Act for the year in which the wages were earned” in its place.

§ 303.14 [Amended]

4. Section 303.14(a)(1)(i) is amended by removing “, up to a maximum of \$38,650 per person,” and adding “, up to an amount equal to 65% of the contribution and benefit base for Social Security as defined in the Social Security Act for the year in which the wages were earned,” in its place.

5. Section 303.14(e) is amended by removing “2,240,000” and adding “1,866,000” in its place.

§ 303.16 [Amended]

6. The first sentence of § 303.16(a)(9) is amended by removing “up to the amount per person of \$38,650” and adding “up to an amount equal to 65% of the contribution and benefit base for Social Security as defined in the Social Security Act for the year in which the wages were earned” in its place.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration, Department of Commerce.

Sandra King,

Acting Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 00-287 Filed 1-5-00; 8:45 am]

BILLING CODE 3510-DS-P; 4310-93-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-172-0205A; FRL-6519-2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision South Coast Air Quality Management District; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published December 17, 1999 (64 FR 70652). On December 17, 1999, EPA proposed a disapproval of revisions to the California State Implementation Plan concerning federal recognition of variances in the South Coast Air Quality Management District. In response to requests from the South Coast Air Quality Management District, the San Diego Air Pollution Control District, and the Regulatory Flexibility Group, EPA is extending the comment period for 14 days.

DATES: The comment period is extended until January 17, 2000.

ADDRESSES: Comments should be submitted to: Ginger Vagenas, Permits Office (AIR-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas at (415) 744-1252.

Dated: December 21, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 00-272 Filed 1-5-00; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1244

[STB Ex Parte No. 385 (Sub-No. 4)]

Modification of the Carload Waybill Sample and Public Use File Regulations

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: Modifications to the existing regulations are proposed that would require all railroads to identify contract movements in the annual carload waybill sample. A 30-year limit on the confidentiality of the “Waybill Sample” is also proposed.

DATES: Comments are due February 21, 2000.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 385 (Sub-No. 4) to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, NW, Washington, D.C. 20423-0001.

FOR FURTHER INFORMATION CONTACT: Paul A. Aguiar, (202) 565-1527 or H. Jeff

Warren, (202) 525-1533. [Assistance for the hearing impaired is available through TDD services (202) 565-1695.]

SUPPLEMENTARY INFORMATION: Railroads that annually terminate 4,500 or more carloads (or 5 percent of the carloads in any State) are required to report data, including revenues, on individual movements drawn from a sampling of their traffic. This "Waybill Sample" is used for a variety of purposes by the Board, by parties appearing before the agency, by other Federal and State agencies, and by the public in general. Because of the current widespread use of confidential transportation contracts in the railroad industry,¹ the Waybill Sample reporting requirements must be revised to ensure that accurate and representative data on contract movements are reported.² At the same time, confidentiality must be maintained and the reporting burden held to a minimum.

In an Advance Notice of Proposed Rulemaking (ANPR), served May 17, 1999, we solicited comments on modifications to the existing regulations at 49 CFR Part 1244 to enhance the usefulness of the Waybill Sample and to conform to requirements of the National Archives and Records Administration (Archives) for storing historical records. We specifically requested comments on requiring all railroads to identify (flag) those shipments in the Waybill Sample that are governed by transportation contracts and to report the actual revenues for each such contract shipment. We explained that, to maintain the confidentiality of the contract rate information, we would substitute an average revenue value for the actual revenues in the version of the Waybill Sample that is made publicly available. We suggested that these changes would fulfill our need for more complete contract data, while protecting sensitive commercial contract rate information, and would allow others to conduct accurate, broad-based economic studies. Finally, we requested comments on limiting the confidentiality of the Waybill Sample records to 20 years.

We received comments from AAR, the U.S. Department of Transportation (DOT), the Western Coal Traffic League

(WCTL), David L. Hall (Hall), and Escalation Consultants, Inc (EC).

1. Identification of Contract Shipments

AAR objects to mandatory flagging and suggests that the decision to identify contract movements should be left to the carriers. AAR questions the need to identify contract movements and argues that the flagging requirement would impose added administrative and cost burdens on the railroads.

DOT supports requiring the railroads to identify contract shipments. DOT states that this change will bring greater consistency to the Waybill Sample and improve the Board's capacity to monitor and analyze the rail industry. WCTL and Hall also support requiring railroads to identify contract shipments in the Waybill Sample, suggesting that it will increase the accuracy of the data and the sample's usefulness.

We agree that we need accurate information on the rail industry for monitoring and regulating that industry. Inaccurate information on the amount and nature of traffic moving under contract (and thus beyond our regulatory control) could affect our assessment of the potential impact of our decisions on rail transportation issues.

The collection of this contract data should place little additional burden on the industry. The proposed rule will have no impact on those carriers already flagging contract movements and, judging from the willingness of many railroads to do so voluntarily, should place only a relatively minor burden on those not currently flagging contracts.

2. Masking of Contract Revenues

Under current procedures each carrier that flags contract shipments is permitted to encrypt (mask) the revenues associated with such shipments so long as it provides us with the necessary information to develop the actual contract revenues. In an attempt to provide a more useful method of masking all revenue information in the Waybill Sample, we suggested developing an average revenue per ton-mile by Standard Transportation Commodity Code within broad geographic areas that we would substitute for actual revenues in the publicly available Waybill Sample. The commenting parties uniformly oppose this proposal. AAR is concerned that the submission of unmasked contract revenues (even though the revenues would be masked prior to any public release) would increase the risk of inadvertent release of confidential information. DOT, EC, WCTL and Hall are concerned that the use of broad

geographic aggregations would result in worse, rather than better, information being available. Given the parties' universal opposition to this proposal, we will not pursue it further.

Under the proposed regulations, railroads will be allowed to continue to develop their own procedures to mask contract revenues, provided that those procedures are disclosed to us. However, if carriers do not want to develop their own masking procedures, we will, upon request, mask the revenues once the waybill information is submitted or provide a masking procedure for the carriers to apply.

3. Waybill Confidentiality Time Limit

Finally, to conform to requirements for storage of the Waybill Sample by the Archives, the ANPR requested comment on limiting the confidential treatment of contract revenue information contained in the Waybill Sample to a 20-year period. We selected 20 years because most rail contracts do not exceed a 20-year term. Thus, we believed this period would be adequate to protect commercially sensitive shipper and railroad data.

AAR argues that the confidential information should never be made public and should be destroyed at the end of the period for which the Board normally maintains these records. WCTL and Hall support the proposed 20-year confidentiality limit, while EC regards the 20-year period as excessive and suggests a time limit of no more than 5 to 7 years.

The Archives, however, has concluded that the Waybill Sample is a permanent Board record and, as such, must be retained.³ Therefore, our task here is not to determine whether the Waybill Sample should be kept, but rather how long it should remain confidential. We are concerned about the premature release of information that continues to have proprietary commercial value. For that reason, we now propose a confidentiality period of 30 years, a period significantly longer than the term of any rail contract of which we are aware. We also propose that the Waybill Sample be sent to the Archives as we maintain it—the contract flags will be included, but the contract revenue will remain masked.

¹ The Association of American Railroads (AAR) recently advised the General Accounting Office that 70% of rail traffic moves under contract. *Railroad Regulation: Changes in Railroad Rates and Service Quality Since 1990* (GAO/RCED-99-93, Apr. 1999), p.23.

² Most class I railroads identify contract movements in the Waybill Sample. Some carriers, however, do not, and as a result, the accuracy and representativeness of Waybill Sample suffers.

³ In accordance with the National Archives and Records Administrations Act of 1984, Pub. L. 98-497, 44 U.S.C. 101 note, the Waybill Sample was appraised by the Archives and determined to be a permanent record of the Board (Request to Transfer, Approval, and Receipt of Records to National Archives of the United States Job Number NN3-134-094-001). Permanent records must be transferred to the Archives under 44 U.S.C. 2107.

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude preliminarily that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 1244

Railroads, Reporting and recordkeeping requirements.

Authority: 49 U.S.C. 11145.

Decided: December 27, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, title 49, part 1244 of the Code

of Federal Regulations is proposed to be amended as follows:

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

Authority: 49 U.S.C. 721, 10707, 11144, 11145.

2. Redesignate §§ 1244.3 through 1244.8 as §§ 1244.4 through 1244.9.

3. Add new § 1244.3 to read as follows:

§ 1244.3 Reporting contract shipment waybills.

(a) All railroads shall identify (flag) contract shipment waybills.

(b) The revenue associated with contract shipments may be encrypted (masked) to safeguard the confidentiality of the contract rates.

(1) Upon written request, the Board will provide a masking procedure for a railroad's use or will mask the contract revenues when the waybill sample is filed with the Board.

(2) When a railroad intends to use its own proprietary masking procedure, those procedures, and any changes in those procedures, must be approved by the Board thirty (30) days prior to their use.

(3) All railroads that use a proprietary masking procedure, and intend to continue to use the same procedure, must certify, by letter to the Board, prior to January 31 each year, that the contract revenue masking procedures are unchanged.

(4) All correspondence and certifications concerning masking procedures should be addressed to: Director, Office of Economics, Environmental Analysis, and Administration, Surface Transportation Board, Washington, D.C. 20423-0001, ATTN: Waybill Coordinator.

[FR Doc. 00-209 Filed 1-5-00; 8:45 am]

BILLING CODE 4915-00-P