

requirements for fluids for use in hydraulic brake systems of motor vehicle, containers for these fluids, and labeling of the containers. The purpose of this standard is to reduce failures, which may occur because of the manufacture or use of improper or contaminated fluid, in the hydraulic braking systems of motor vehicles. This standard applies to all fluid for use in hydraulic brake systems of motor vehicles.

### The NPRM

On February 3, 2010, NHTSA published a Notice of Proposed Rulemaking (NPRM) proposing to amend FMVSS No. 116 to include tests to measure the impact of brake fluid on ethylene, propylene, and diene terpolymer (EPDM) rubber, update references to industry standards, and correct minor errors in the standard.<sup>1</sup> The supporting rationale for the proposed EPDM testing amendment was that the motor vehicle industry had shifted over the last two decades from using styrene-butadiene rubber (SBR), which is currently covered by FMVSS No. 116, to EPDM rubber. The proposed rule informed the public about the agency's proposal to amend the standard by: (1) Adding the testing of a terpolymer of ethylene, propylene, and diene (EPDM) rubber to the corrosion test and the temperature sensitivity test; (2) updating the Society of Automotive Engineers International (SAE) and American Society for Testing and Materials (ASTM) references; and (3) correcting minor errors.

### Comments Received

NHTSA received comments on the 2010 NPRM from three manufacturers of brake fluid/components, an international standards organization, and an individual. Two of the manufacturers mentioned that the Compatibility Fluid, RM-66-05, was no longer available, and had been replaced by RM-66-06 or ISO 4926 fluid. All three manufacturers suggested changes to a performance test that was unmentioned in the agency's proposal. The international standards organization suggested changes that reflected more recent SAE standards. The individual opposed the incorporation of industry standards into Federal regulations and suggested additional performance tests.

### Reason for Withdrawal

Although the agency proposal in 2010 provided amendments to add EPDM rubber to the standard and update the

references to industry standards, further research and studies are necessary to develop a proposed upgrade to FMVSS No. 116 that would effectively provide minimum performance requirements for the type of EPDM rubber currently available. The rubber formulations included in recent updates to industry standards have changed, and the blends referenced in the NPRM include ingredients that are no longer available.

In addition to changes to the SBR and EPDM rubber formulations, the agency determined other corrections are necessary that were not included in the NPRM. One such correction brought up by commenters is the reference to the Compatibility Fluid, RM-66-05, which had been replaced by the RM-66-06 fluid. Another correction needed is the hardness test procedure for the EPDM rubber, which had been inadvertently omitted from the proposed performance tests in the NPRM. Finally, NHTSA notes SAE International and the ASTM have updated several of the industry standards and tests referenced in the NPRM since the publication of the notice in 2010.

Since publication of the NPRM and after review of the comments, the agency has determined that updates and corrections outside the scope of the notice are necessary in order to publish a final rule, and additional research and data analyses are needed. Accordingly, NHTSA has determined that the proposed updates in the 2010 NPRM to FMVSS No. 116 should not be adopted at this time and is withdrawing the NPRM.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

**Heidi Renate King**,  
Deputy Administrator.

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**BILLING CODE 4910-59-P**

## SURFACE TRANSPORTATION BOARD

### 49 CFR Parts 1002 and 1312

[Docket No. EP 743]

### Water Carrier Tariff Filing Procedures

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Surface Transportation Board (STB or Board) proposes a new procedure for water carriers operating in the noncontiguous domestic trade to electronically publish, file, and keep tariffs available for public inspection. As explained in this notice of proposed rulemaking (NPRM), the Board proposes to update its water carrier tariff filing

regulations to reflect current business practices.

**DATES:** Comments are due by January 25, 2019. Reply comments are due by February 25, 2019.

**ADDRESSES:** Comments may be submitted either via the Board's e-filing format or in paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's website at [www.stb.gov](http://www.stb.gov) at the E-FILING link. Any person submitting a filing in paper format should send an original and 10 paper copies of the filing to: Surface Transportation Board, Attn: Docket No. EP 743, 395 E Street SW, Washington, DC 20423-0001. Written comments and replies will be posted on the Board's website and can also be obtained by contacting the Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) at [RCPA@stb.gov](mailto:RCPA@stb.gov) or (202) 245-0238.

**FOR FURTHER INFORMATION CONTACT:** Michael Higgins at 202-245-0284. Assistance for the hearing impaired is available through Federal Information Relay Service (FIRS) at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** In April 2017, the Board established its Regulatory Reform Task Force (RRTF), with the primary objective of identifying 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 CFR part 1312 as imposing significant 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).<sup>1</sup> Accordingly, the proposed rules would update the Board's regulations to allow water carriers<sup>2</sup> to electronically publish, file, and keep tariffs available for public inspection. The Board anticipates that the new procedures would significantly reduce costs and burdens that water carriers incur in complying with tariff-related statutory requirements.

*Background.* Water carriers operating in the noncontiguous domestic trade<sup>3</sup>

<sup>1</sup> These status reports can both be accessed on the Board's website at <https://www.stb.gov/stb/about/RRTF.html>.

<sup>2</sup> Many water carriers use third-party service providers to manage and maintain their tariffs on the internet.

<sup>3</sup> Noncontiguous domestic trade means "transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States." 49 U.S.C. 13102(17).

<sup>1</sup> 75 FR 5553 (Feb. 3, 2010).

are subject to the jurisdiction of the Board under 49 U.S.C. 13521. For their common carrier services, water carriers are required 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).<sup>4</sup> Water carriers are required to charge and receive compensation for their services in accordance with the rates set forth in their tariffs and are prohibited from rebating or granting special privileges or accommodations to shippers that affect the value of the transportation or service provided. 49 U.S.C. 13702(a).<sup>5</sup> Under 49 U.S.C. 13702(b), the Board is required to prescribe the form and manner of publishing, filing, and keeping tariffs available for public inspection.

The current regulations for filing water carrier tariffs, which are set forth in Part 1312 and were last substantively updated in April 1997,<sup>6</sup> contemplate the filing of tariffs with the Board in paper format and require the rates, rules, and practices for any transportation or service provided by the carrier to be contained in a published tariff that is on file with the Board. 49 CFR 1312.2; 1312.4(b). Between 1996 and 1999, the Board granted Special Tariff Authority to water carriers that allowed them to file tariffs electronically through the Automated Tariff Filing and Information (ATFI) system, a web-based portal hosted and maintained by the Federal Maritime Commission (FMC). See *Electronic Filing of Noncontiguous Domestic Trade Tariffs*, 1 S.T.B. 635 (1996). The FMC developed the ATFI system to allow ocean carriers operating in the U.S. foreign trade subject to its jurisdiction to file tariffs electronically. The FMC shared the ATFI system with the STB, thereby facilitating electronic tariff filing for water carriers subject to the Board's jurisdiction. 1997 *Regulations for Publ'n*, 2 S.T.B. at 191.

After the Ocean Shipping Reform Act of 1998, Public Law 105–258, 112 Stat. 1902 (1998), which eliminated tariff filing for ocean carriers operating in the U.S. foreign trade, the FMC terminated the ATFI system, and the Board

<sup>4</sup> Section 13702(a)(1) includes an exception from the tariff filing requirement for bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste.

<sup>5</sup> Water carriers, however, are permitted to enter into private contracts with shippers to provide transportation services subject to privately-negotiated rates and terms. 49 U.S.C. 14101(b). In these contracts, water carriers and shippers may mutually agree to waive rights and remedies that would otherwise be available. *Id.*

<sup>6</sup> See *Regulations for the Publ'n, Posting & Filing of Tariffs for the Transp. of Prop. by or with a Water Carrier in the Noncontiguous Domestic Trade (1997 Regulations for Publ'n)*, 2 S.T.B. 188, *recon. granted in part*, 2 S.T.B. 301 (1997).

declined to assume control over it or develop a new electronic system. However, the Board permitted individual water carriers to continue to apply for Special Tariff Authority, under 49 CFR 1312.2(e), to file their tariffs in alternative electronic formats. See *Regulations for the Publ'n, Posting & Filing of Tariffs for Transp. of Prop. by or with a Water Carrier in Noncontiguous Domestic Trade (1999 Regulations for Publ'n)*, 4 S.T.B. 1 (1999). Special Tariff Authority applications are handled by the Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC). See 49 CFR 1011.7(b)(3).

Special Tariff Authority applications have been addressed on a case-by-case basis. For example, in April 1999, the Board granted the application of D.X.I. Incorporated (DXI), a third-party tariff publisher, to file tariffs electronically.<sup>7</sup> *Electronic Filing of Noncontiguous Domestic Trade Tariffs (Electronic Filing Decision)*, 4 S.T.B. 43 (1999). In that decision, the Board allowed DXI to maintain tariffs in an online system that Board staff and the public would be able to access via “dial up” to DXI's system from the Board's offices. DXI was required to submit an electronic transmittal letter of all tariff changes made on a given day as well as a machine-readable copy of tariff changes. While some subsequent Special Tariff Authority applications have been similar to the one in the *Electronic Filing Decision*, other applications have contemplated that water carriers would convert their paper tariffs into PDF documents and file PDF updates with the Board via email or compact disk. See, e.g., *Filing of Printed Noncontiguous Domestic Trade Tariffs by Email*, STA 8 (STB served Dec. 4, 2000.)

Although few formal cases relating to water carrier rates and services have been filed with the agency,<sup>8</sup> the Board believes it is important to ensure that its water carrier tariff rules are updated to reflect current business practices and reduce unnecessary burdens.

*Proposed Rules.* The RRTF has reviewed the water carrier tariff regulations, including grants of Special Tariff Authority and filing requirements, and has recommended that the Board

<sup>7</sup> At the time, DXI represented several water carriers operating in the noncontiguous domestic trade.

<sup>8</sup> The Board's last water carrier case was decided in October 2010, *West Point Relocation, Inc. & Eli Cohen-Petition for Declaratory Order*, FD 35290 (STB served Oct. 29, 2010), and the last rate case involving a water carrier was dismissed at the request of the complainant in October 2007, *Government of the Territory of Guam v. Sea-Land Service, Inc.*, WCC 101, (STB served Oct. 12, 2007).

update these regulations to allow for more convenient electronic filing procedures. The Board finds that it is appropriate to modify the regulations at 49 CFR part 1312. Specifically, the Board proposes to allow water carriers to publish, file, and keep their tariffs electronically, but would also continue to allow water carriers the option of filing their tariffs in paper format.

Under the proposal, water carriers would be permitted to comply with the filing requirement in 49 U.S.C. 13702 by: (1) Maintaining a publicly available version of its current and historical tariffs on the internet, and (2) electronically filing (e-filing) with the Board an annual certification made by a duly authorized corporate officer of the carrier that (a) contains an active link<sup>9</sup> to the internet location and access information for its tariffs and (b) affirms the water carrier's continuing compliance with the relevant sections of Part 1312. The proposed rule provides sample language to be used in the certification. To utilize e-filing, a filer would first pay the required fee<sup>10</sup> via electronic payment through *Pay.gov*.<sup>11</sup> Once the payment has been submitted, a confirmation email from *Pay.gov* would be sent containing a unique transaction number. The filer would then go to the Board's e-filing website and, through a registered account, submit the transaction number received from *Pay.gov* and attach the annual certification. See *Payment, Filing, and Service Procedures*, EP 747, slip op. at 5–6. OPAGAC would acknowledge receipt of each carrier's annual certification in writing.

The Board would create a specific page on its website for water carriers that electronically file their tariffs. The page would provide links to the location of a water carrier's current tariff, links to the most recent annual certification, and links to prior certifications. Access to water carrier tariffs filed in paper format would continue to be available to the public via requests to OPAGAC.

<sup>9</sup> If the water carrier's internet address changes during the 12-month period following the filing of its annual certification, the water carrier should provide the Board an updated certification with an active link as soon as possible.

<sup>10</sup> The Board proposes an expansion of fee item 78 at 49 CFR 1002.2(f), to reflect the filing fee associated with the annual certification.

<sup>11</sup> In a separate rulemaking, the Board is proposing to update its regulations to, among other things, add an electronic payment option at 49 CFR 1002.2(a). See *Payment, Filing, and Service Procedures*, EP 747 (STB served Aug. 24, 2018). As described further in that rulemaking, the Board would implement electronic payment through *Pay.gov*, which would accept bank accounts, credit cards, debit cards with a MasterCard or Visa logo, and digital wallet for the payment of fees.

By adding an e-filing option to the regulations, the Board believes it is appropriate to eliminate the option for obtaining tariff filing relief under the existing Special Tariff Authority applications process. See 49 CFR 1312.2(e). Accordingly, this proposal would also eliminate prior grants of Special Tariff Authority, meaning that all water carriers must either file their tariffs in paper format or electronically under the proposal outlined here. Currently under grants of Special Tariff Authority, some water carriers send notifications to the Board by email each time a tariff changes, which for many carriers is a daily occurrence. Discontinuing this practice, as well as the use of compact discs and floppy disks, as a means to submit and keep tariffs is anticipated to reduce the overall costs and burdens incurred by water carriers in complying with tariff-related statutory requirements.

Under the new framework, Board staff would be able to access and review water carrier tariffs for purposes of maintaining regulatory oversight. In addition, stakeholders would have access to current and historical tariffs without requesting them from the Board. Tariffs kept on the internet would need to comply with the content requirements of 49 CFR 1312.3, in addition to the new requirement that water carriers provide the date on which tariffs first appear on the internet and the date on which they are expected to become effective. The proposed rule would not prescribe the specific information technology resources (programming, applications or software, etc.) that carriers must use to house this information. As proposed, whatever information technology platform that a water carrier chooses would need to allow the Board and the public to retrieve historical versions of the tariff, including all rates and applicable rules, for a period of not less than five years. The requirement for electronically archiving five years of existing historical data would begin when a carrier first electronically files its tariffs.

The Board expects that water carrier tariffs would be available to the Board and the public 24 hours a day, seven days a week, year-round. If a water carrier anticipates an outage for routine electronic maintenance, it would be required to provide the Board with at least two days' advance notice of the start and duration of the outage. If a tariff were to become unavailable for reasons beyond the carrier's control (such as a software malfunction), the carrier would be required to notify the Board promptly via email at [tariffs@stb.gov](mailto:tariffs@stb.gov). In the event of any outage,

carriers would be required to make alternative arrangements with the agency to ensure that the Board and public have access to the tariffs in effect during the outage. In turn, the Board would provide that information on its website so that the public would be made aware of the particular outage as soon as reasonably possible.

The proposed rule would allow water carriers to establish registration requirements on their own portal for tariff access over the internet. However, any registration process would be required to allow access to the tariff free of charge by anyone who requests it. For example, registration features that require a showing of "need" or "relevance," or proof that a person or entity is a customer or potential customer as a prerequisite to accessing tariff information would be prohibited. Registration requirements would be permitted to require basic information, such as a person's name and email address. See *Publ'n Requirements for Ag. Products*, EP 528 et al., slip op. at 6 (STB served June 30, 2017).

*Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities, (2) analyze effective alternatives that may minimize a regulation's impact, and (3) make the analysis available for public comment. Sections 601–604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, section 603(a), or certify that the proposed rule would not have a "significant impact on a substantial number of small entities," section 605(b). The impact must be a direct impact on small entities "whose conduct is circumscribed or mandated" by the proposed rule. *White Eagle Coop. v. Conner*, 553 F.3d 467, 480 (7th Cir. 2009).

The proposed rules would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.<sup>12</sup> The proposed regulations provide for new procedures for water carriers operating in the noncontiguous domestic trade to

<sup>12</sup> The Small Business Administration's Office of Size Standards has established a size standard for water transportation, pursuant to which deep sea freight transportation is considered small if its number of employees is 500 or less, and coastal and Great Lakes freight transportation is considered small if its number of employees is 750 or less. 13 CFR 121.201 (industry subsector 483).

electronically publish, file, and keep tariffs available for public inspection. When a carrier chooses to utilize these e-filing procedures, the requirements contained in these proposed regulations would not have a significant impact on participants, including small entities. They are intended as an option to eliminate the burdens associated with the current tariff filing requirements. Therefore, the Board certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities as defined by the RFA. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

*Paperwork Reduction Act.* Pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3), and the Appendix, the Board seeks comments about the revisions in the proposed rules to the currently approved collection of Water Carrier Tariffs (OMB Control No. 2140–0026) regarding: (1) Whether the collection of information, as modified in the proposed rule below, 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.

Because water carriers may make annual certifications and post their tariffs on their websites, rather than submitting each tariff directly to the Board, the Board estimates the proposed rules would reduce the total annual hourly burden by 583.75 hours under the PRA. The Board welcomes comment on the estimates of actual time and costs of compliance with the proposed rules, as detailed below and in the Appendix. Information pertinent to these issues is included in the Appendix. The proposed rules will be submitted to OMB for review as required under 44 U.S.C. 3507(d) and 5 CFR 1320.11(b). Comments received by the Board regarding the information collection will also be forwarded to OMB for its review when the final rule is published.

*It is ordered:*

1. Comments are due by January 25, 2019. Reply comments are due by February 25, 2019.

2. Notice of this decision will be published in the **Federal Register**.

3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

4. This decision is effective on its service date.

Decided: December 18, 2018.

By the Board, Board Members Begeman and Miller.

BOARD MEMBER MILLER, commenting:

I write separately to remind parties that have an interest in this proceeding that the Board adopted new regulations in *Ex Parte Communications in Informal Rulemaking Proceedings*, EP 739 (STB served Feb. 28, 2018) that removed the prohibition on ex parte communications in informal rulemakings, such as the one here. Under these newly adopted regulations, 49 CFR 1102.2(g), parties may schedule ex parte meetings with Board Members by February 4, 2019. As the regulations specify, parties wishing

to schedule ex parte meetings should contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance (202-245-0238) or the Board Member's office with whom the meeting is requested. Parties are not, however, required to schedule such meetings if they instead wish to participate solely by filing written comments.

**List of Subjects**

*49 CFR Part 1002*

Administrative practice and procedure, Common carriers, Freedom of information.

*49 CFR Part 1312*

Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads, Reporting and recordkeeping requirements.

**Brendetta Jones,**  
*Clearance Clerk.*

For the reasons set forth in the preamble, the Surface Transportation

Board proposes to amend parts 1002 and 1312 of title 49, chapter X, of the Code of Federal Regulations as follows:

**PART 1002—FEES**

■ 1. The authority citation for part 1002 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a)(4)(A), (a)(6)(B), and 553; 31 U.S.C. 9701; and 49 U.S.C. 1321. Section 1002.1(f)(11) is also issued under 5 U.S.C. 5514 and 31 U.S.C. 3717.

■ 2. Amend § 1002.2 by, re-designating the introductory text of paragraph (f)(78) as paragraph (f)(78)(i) and adding paragraph (f)(78)(ii) to read as follows:

**§ 1002.2 Filing fees.**

\* \* \* \* \*  
(f) \* \* \*

Type of proceeding	Fee
PART VI: Informal Proceedings:	
(78) (i) The filing of tariffs, including supplements, or contract summaries .....	\$1 per page. (\$29 min charge.)
(ii) The filing of water carrier electronic annual certifications .....	\$29.

\* \* \* \* \*

**PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS FOR THE TRANSPORTATION OF PROPERTY BY OR WITH A WATER CARRIER IN NONCONTIGUOUS DOMESTIC TRADE**

■ 3. The authority citation for part 1312 continues to read as follows:

**Authority:** 49 U.S.C. 1321(a), 13702(a), 13702(b) and 13702(d).

■ 4. The heading of part 1312 is revised to read as set forth above.

■ 5. Amend § 1312.1(c) by revising the definition of publication to read as follows:

**§ 1312.1 Scope; definitions.**

\* \* \* \* \*

(c) \* \* \*

*Publication* means a bound tariff, a tariff supplement, a looseleaf tariff page, or an electronically published tariff.

\* \* \* \* \*

■ 6. Amend § 1312.2 by revising paragraph (b), removing paragraph (e)

and re-designating paragraph (f) as paragraph (e) to read as follows:

**§ 1312.2 Requirement to publish and file a tariff.**

\* \* \* \* \*

(b) *Adherence to tariff.* The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

\* \* \* \* \*

■ 7. Amend § 1312.3 by revising paragraph(a) to read as follows:

**§ 1312.3 Tariff contents and standards; Essential criteria.**

(a) *Contents.* Tariffs filed with the Board, including tariffs published, filed, and kept electronically in accordance with § 1312.4(c) of this part, must be filed in English; must include an accurate description of the services offered to the public; must provide the

specific applicable rates explicitly stated in U.S. dollars and cents (or the basis for calculating the specific applicable rates) and service terms; and must be arranged in a way that allows for the determination of the exact rate(s) and service terms applicable to any given shipment (or to any given group of shipments). Tariffs that are electronically kept on the internet must also provide the date on which a new tariff or any change in a tariff matter first appears on the internet and the date on which it becomes effective.

\* \* \* \* \*

■ 8. Amend § 1312.4 by revising paragraphs (a) and (b) to read as follows:

**§ 1312.4 Filing of tariffs.**

(a) *Paper filing requirements.* (1) Two copies of each tariff publication shall be filed with the Board. Packages containing tariff filings should be prominently marked "TARIFF FILING" and addressed to: Office of Public Assistance, Governmental Affairs and Compliance, Surface Transportation Board, Washington, DC 20423-0001.

Tariffs shall be printed on paper not larger than 8½ x 11 inches.

(2) A paper tariff filing must be accompanied by an authorized document of transmittal identifying each publication filed, and by the appropriate filing fee (see 49 CFR part 1002). Acknowledgement of Board receipt of a paper tariff filing can be obtained by enclosing a duplicate transmittal letter and a postage-paid, self-addressed return envelope. Each transmittal letter shall clearly indicate in the upper left-hand corner thereof:

- (i) The assigned alpha code of the issuing carrier or agent;
- (ii) The number of pages transmitted;
- (iii) The filing fee enclosed (pursuant to 49 CFR 1002.2(a)); and
- (iv) The transmittal number if the filer utilizes transmittal numbers.

(b) *Electronic filing requirements.* As an alternative to the paper tariff filing procedures set forth in paragraph (a) of this section, a water carrier may file its tariff(s) electronically in accordance with the procedures and requirements of this section. Tariffs published, filed, and kept electronically in accordance with the requirements of this section shall be deemed to be on file with the Board for purposes of 49 U.S.C. 13702(b).

(1) *Annual certification.* A water carrier that seeks to file its tariff electronically must electronically file an annual certification with the Board, made by the water carrier's duly authorized corporate officer. The annual certification must be submitted to the Board on the first business day in February each year. The Director of the Office of Public Assistance, Governmental Affairs, and Compliance or a designee will acknowledge receipt of each carrier's certification in writing. The annual certification shall include the following:

- (i) Certification that it is a water carrier operating in the noncontiguous domestic trade subject to the Board's jurisdiction;
- (ii) Certification that it is in compliance with the regulations of this section for purposes of publishing, filing, and keeping its tariff electronically;
- (iii) Certification that it is in compliance with all other regulations at part 1312, except those specifically applicable to tariffs maintained in paper format;
- (iv) An active link to the internet address of tariffs;
- (v) The assigned alpha code of the issuing carrier or agent; and
- (vi) The filing fee (pursuant to 49 CFR 1002.2(a)).

(vii) The annual certification must be submitted to the Board on the first business day in February each year. The Director of the Office of Public Assistance, Governmental Affairs, and Compliance or a designee will acknowledge receipt of each carrier's certification in writing.

(2) Sample text for the annual certification.

[Name of Director, Office of Public Assistance, Governmental Affairs, and Compliance], Office of Public Assistance, Governmental Affairs and Compliance, Surface Transportation Board, Washington, DC.

Dear Director: I, [name of signor], certify that I am [title of office] of [name of water carrier], a water carrier operating in the noncontiguous domestic trade subject to STB jurisdiction, that [Name of water carrier] is in compliance with the regulations at part 1312 for purposes of publishing, filing, and keeping its tariff electronically, and that it is in compliance with all other regulations at part 1312, except those specifically applicable to tariffs maintained in paper format.

The internet address where [name of water carrier]'s tariffs can be located is:

This internet address is current as of [date].

I further declare (certify, verify or state) under penalty of perjury ("under the laws of the United States of America" if executed outside of the United States of America) that the foregoing is true and correct. Executed on (date).

Very truly yours,  
[signature of a duly authorized corporate officer of water carrier.]

(3) *Tariff Access Requirement.* (i) A water carrier must provide the Board with at least two business days advance notice of any planned outage when its tariff will not be available on the internet, and prompt notice on any occasion when the tariff becomes unavailable due to circumstances beyond the carrier's control. Notice shall be submitted by email to [tariffs@stb.gov](mailto:tariffs@stb.gov). In the event of any outage, carriers are required to make alternative arrangements with the agency to ensure that the Board receives the tariff(s) in effect during the outage.

(ii) A water carrier may establish reasonable registration requirements for purposes of public access to its current tariff and historical tariff information, such as requiring a user to provide his or her name and email address; however, such requirements may not limit tariff access to any particular group or class of users (such as shippers or potential shippers) or impose unreasonable burdens on the user, such as access fees or a showing of need.

(4) *Historical Tariff Information and Archiving.* Tariffs kept on the internet by a water carrier must allow the Board

and the public to retrieve historical versions, including all rates and applicable rules, for a period of not less than five years, beginning on the date when a carrier first electronically files its tariffs under these regulations.

\* \* \* \* \*

■ 9. In § 1312.6, add paragraph (e) to read as follows:

**§ 1312.6 Advance notice required.**

\* \* \* \* \*

(e) *Notice for purposes of electronically filed tariffs.* A water carrier that keeps its tariffs on the internet must comply with the notice requirements set forth in paragraph (b) of this section, provided however, that the relevant notice periods set forth in paragraphs (b)(1) and (2) of this section shall run from the date on which the tariff matter first appears in the water carrier's tariff on the internet.

■ 10. Amend § 1312.12 by adding paragraph (c) to read as follows:

**§ 1312.12 Posting requirements.**

\* \* \* \* \*

(c) *Exemption for electronically filed tariffs.* A water carrier that publishes, files, and keeps its tariffs electronically in accordance with § 1312.4(b) is exempt from the posting requirements of this section.

■ 11. Amend § 1312.13 by adding paragraph (g) to read as follows:

**§ 1312.13 Furnishing copies of tariff publications.**

\* \* \* \* \*

(g) *Exemption for electronically filed tariffs.* A water carrier that publishes, files, and keeps its tariffs electronically in accordance with § 1312.4(b) is exempt from this section.

■ 12. Amend § 1312.15 by adding a sentence at the end of paragraph (a) and a sentence at the end of paragraph (b) to read as follows:

**§ 1312.15 Change of carrier or agent.**

(a) \* \* \* A water carrier that publishes, files, and keeps its tariffs electronically in accordance with § 1312.4(b) shall promptly submit any such change by email to [tariffs@stb.gov](mailto:tariffs@stb.gov), but in no case later than 20 days after the effective date.

(b) \* \* \* A water carrier that publishes, files, and keeps its tariffs electronically in accordance with § 1312.4(b) shall promptly submit any such change of agent by email to [tariffs@stb.gov](mailto:tariffs@stb.gov), but in no case later than 20 days after the effective date.

**Note:** The following appendix will not appear in the Code of Federal Regulations.

## Appendix—Information Collection Under the Paperwork Reduction Act

*Title:* Water Carrier Tariffs.  
*OMB Control Number:* 2140–0026.  
*STB Form Number:* None.

*Type of Review:* Extension with change.

*Summary:* As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Surface Transportation Board (STB or Board) gives notice that it is requesting from the Office of Management and Budget (OMB) approval for the revision of the currently approved information collection, Water Carrier Tariffs, OMB Control No. 2140–0026, as further described below. The requested revision to the currently approved collection is necessitated by this NPRM.

*Respondents:* Water carriers that provide freight transportation in noncontiguous domestic trade.

*Number of Respondents:* Approximately 20.

*Frequency:* Annually.

*Total Burden Hours* (annually including all respondents): 80 hours (20 annual filings × 4 hours estimated time per certification).

*Total “Non-Hour Burden” Cost* (such as start-up costs and mailing costs): There are no non-hourly burden costs for this collection. The annual certifications will be submitted electronically.

*Needs and Uses:* Under 49 U.S.C. 13702(b) and 49 CFR part 1312, water carriers that provide freight transportation in noncontiguous domestic trade (*i.e.*, shipments moving to or from Alaska, Hawaii, or the U.S. territories or possessions (Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands) to or from the mainland U.S.) may file an annual certification with the Board that includes the internet address of a website containing a list of current and historical prices and fees that the water carrier charges to the shipping public, rather than submit individual tariffs to the Board.

The collection by the Board of these water carrier annual certifications with active website links will decrease the burden on carriers.

[FR Doc. 2018–27913 Filed 12–21–18; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 181010932–8999–01]

RIN 0648–XG562

### Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2019 Bluefish Specifications

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes specifications for the 2019 Atlantic bluefish fishery, as recommended by the Mid-Atlantic Fishery Management Council. This action is necessary to comply with the implementing regulations of the Bluefish Fishery Management Plan that require NMFS to publish specifications for the fishery after providing the opportunity for public comment. The proposed specifications are intended to establish allowable harvest levels for the stock that will prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Bluefish Fishery Management Plan. This action also informs the public of the proposed fishery specifications, and provides an opportunity for comment.

**DATES:** Comments must be received by January 10, 2019.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2018–0127, by either of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0127](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0127),

2. Click the “Comment Now!” icon, complete the required fields, and

3. Enter or attach your comments.

—OR—

*Mail:* Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on the Proposed Rule for Bluefish Specifications.”

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of the Supplemental Information Report (SIR) prepared for this action and other supporting documents for the proposed

specifications are available upon request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N State Street, Dover, DE 19901. These documents are also accessible via the internet at <http://www.mafmc.org>.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Ferrio, Fishery Management Specialist, (978) 281–9180.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission jointly manage the Atlantic Bluefish Fishery Management Plan (FMP). The FMP requires the specification of the acceptable biological catch (ABC), annual catch limit (ACL), annual catch targets (ACT), commercial quotas, recreational harvest limit, and other management measures, for up to three years at a time. This action proposes specifications for the bluefish fishery for the 2019 fishing year.

In 2015, the 60th Northeast Stock Assessment Workshop concluded that the Atlantic bluefish stock is not overfished, and overfishing is not occurring. The most recent data update (2018) showed slight declines in biomass after 2016, but no change in stock status from the 2015 benchmark assessment. Based on this best available scientific information, the Council’s Scientific and Statistical Committee (SSC) recommended that specifications for the 2019 bluefish fishery remain unchanged from the 2018 specifications provided in the August 4, 2016, final rule (81 FR 26267), as corrected in the September 27, 2016, final rule (81 FR 66197). The SSC found no compelling reason to change the overfishing limit, ABC, or subsequent catch limits and targets. The Council’s Bluefish Monitoring Committee (MC) also made status quo recommendations following their 2018 meeting, consistent with the SSC.

The Bluefish FMP has a prescriptive process for deriving specifications from the ABC. The FMP sets the ACL equal to the ABC, and there is historically no reduction due to management uncertainty because of persistent under-harvest of available catch limits. The ACL is then divided between the commercial and recreational sectors by allocating 17 percent to the commercial ACT and 83 percent to the recreational ACT. Discards are then subtracted from each sector to calculate each sector’s TAL. Commercial discards are assumed to be negligible and recreational discards are projected using a terminal