

SUPPORTING STATEMENT
0710-0005

A. Justification

1. The Corps of Engineers uses ENG Form 3926 or an automated equivalent, Record of Arrivals and Departures, as a quality control instrument by comparing the data collected on the Corps' Vessel Operation Report (OMB Approval Number 0710-0006) with that collected on the 3926. The information is voluntarily submitted by the respondents to assist the Waterborne Commerce Statistics Center (WCSC) in the identification of vessel operators who fail to report significant vessel moves and tonnage. This information is invaluable in documenting the movement of petroleum products out of Valdez, Alaska. Without the information furnished on the ENG Form 3926 at least 50,000,000 tons of petroleum products would go unreported each year. This situation exists because there are many vessel operating companies moving crude petroleum from Valdez to points south. Unless we know who is moving the crude oil, we cannot enforce the law that requires them to report to WCSC.

The authority for the U.S. Army Corps of Engineers to collect data on vessel operations and cargo movements is given by Section 11 of 42nd Stat 1043; Rivers and Harbors Appropriation Act of 1922 as amended by PL 99-662.

SEC. 11. That owners, agents, masters, and clerks of vessels and other craft plying upon the navigable waters of the United States, and all individual and corporations engaged in transporting their own goods upon the navigable waters of the United States, shall furnish such statements relative to vessels, passengers, freight, and tonnage as may be required by the Secretary of War: Provided, That this provision shall not apply to those rafting logs except upon a direct request upon the owner to furnish specific information.

That every person or persons offending against the provisions of this section, shall, for each and every offense, be liable to a fine of not more than \$5,000 or imprisonment not exceeding two months, to be enforced in any district court in the United States within whose territorial jurisdiction such offense may have been committed. In addition the Secretary may access a civil penalty of up to \$2,500, per violation, against any person or entity that fails to provide timely, accurate statements required to be submitted pursuant to this section by the Secretary.

2. The information collected on ENG Form 3926 or an authorized automated equivalent enables WCSC to identify significant movements or vessels and tonnage.

The example of Valdez, Alaska mentioned in 1. above represents the largest and most critical tonnage in domestic waterborne trade. The information also enables WCSC to monitor the cargo movements at several east coast ports as well as Great Lakes ports. It also enables WCSC to monitor the continuity (i.e., port to port movements) of deep draft vessels engaged in general cargo trade.

3. Terminal operators with adequate computer resources are encouraged to consider submission of their reports in electronic media because this represents a significant reduction in burden hours for the respondent. We are currently receiving approximately 12% of these reports on computer printouts or diskettes rather than manual coding. WCSC will work with terminal operators to assist in the conversion from manual to automated reporting procedures.

4. The WCSC is the sole authorized collector of data on domestic waterborne commerce and provides same to Maritime Administration (MARAD), Department of Energy (DOE), Tennessee Valley Authority (TVA), Interstate Commerce Commission (ICC), the Coast Guard, State taxing agencies, U. S. Customs and Border Protection, and the Internal Revenue Service.

The information collected on ENG Form 3926 is used as a quality control instrument for verification of data collected on ENG Forms 3925, 3925B, and 3925P. There is no other source for the origin, destination, commodity, and tonnage data collected on ENG Forms 3925, 3925B, and 3925P.

5. This data collection program might involve small businesses or other small entities. However, ENG Form 3926 is most likely to be used at busy ports. WCSC requests that approximately 2% of the terminal operators submit the information requested on ENG Form 3926. Since submission is voluntary, it is incumbent upon the Corps of Engineers that we establish a good voluntary relationship with each entity. Consequently, we encourage electronic submission on diskette or computer printout, both of which reduce the burden on the respondent.

For manual data entry there are no further simplifications of procedures that are feasible. The small business organization always has the option to submit the reports on diskette or an approved equivalent such as a computer printout. We always encourage automation to reduce burden.

6. If the data collection program being conducted voluntarily on ENG Form 3926 or an automated equivalent were discontinued, then the accuracy of the statistics collected on ENG Forms 3925, 3925B, and

3925P would be negatively impacted. The most significant impact would be on the movement of crude oil at Valdez, Alaska. Millions of tons of crude oil would go unreported because we would have no way to identify the vessels moving the crude oil.

The information provided by the 3926 is not only a useful instrument to assess the accuracy of the data collected on ENG Form 3925, 3925B, and 3925P but can also lead to the identification of new vessels or previously unreported vessels. Unreported vessels seriously erode the usefulness of published waterborne commerce statistics.

7a. This data collection program does request that respondents submit ENG Form 3926 or an authorized automated equivalent each month. The information is used as a quality control instrument for data collected on ENG Form 3925, 3925B, and 3925P which requires a monthly submission by respondents. Monthly submission of these data critically affect the timeliness of waterborne commerce statistics.

7b. The WCSC does not require respondents to prepare ENG Form 3926 or an authorized equivalent within a given time frame because the submission is voluntary. We do request that they submit ENG Form 3926 in the same frequency as the data received on ENG Forms 3925, 3925B, and 3925P. This is defined in Attachment 3, page 3, as within 30 days after the close of the month in which the vessel movement takes place. For vessels berthing in June the reports are requested by the last working day of July. This facilitates the use of the data received on ENG 3926 or an authorized automated equivalent as a verification instrument.

7c. This data collection program does not require multiple copies of the vessel operation report.

7d. This data collection program does not require that respondents maintain records for more than three years.

7e. The arrival and departure data obtained by this data collection program cannot be generalized from any source.

7f. All classifications and procedures have been reviewed by OMB.

7g. & 7h. The Corps of Engineers Policy on the release of commercial statistics is given in 33 CFR 209.320 which are given in its entirety below:

209.320 Policy on release of commercial statistics.

The collection of commercial statistics pertaining to rivers, harbors and waterways, and annual reports thereof to Congress, required by the

River and Harbor Act of June 23, 1866 (14 Stat. 70), the act of February 21, 1891 (26 Stat. 766), the River and Harbor Act of June 13, 1902 (32 Stat. 376), The River and Harbor Act of July 25, 1912 (37 Stat. 201), The River and Harbor Act of September 22, 1922 (42 Stat. 1043), and Pub. L. No.16, February 10, 1932 (47 Stat. 42). It is the policy of the Department to hold in strict confidence any data or information that has been furnished by shippers and others upon the understanding that it will not be disclosed and will only be used in the compilation of port or waterway statistics. In case Federal or State agencies or local interests request other than general information made permissible hereunder, their attention will be called to the policy indicated in this section.

On the reverse side of the cover each pad of ENG Forms 3925/3925B/3925P the following passage is printed:

“Data specific to individual reporting companies are considered confidential and protected from unauthorized disclosure under the Trade Secrets Act (18 U.S.C. Chapter 93, Section 1905) unless otherwise authorized by law. In order to minimize the reporting burden on vessel operating companies, the Corps of Engineers will furnish data to other Federal agencies in accordance with the Paperwork Reduction Act (44 U.S.C. 3510(a)).”

Title 18, U.S. Code Chapter 93 Sec. 1905 – Disclosure of Confidential Information Generally.

“Whoever, being an officer or employee of the United States or of any department or agency thereof, published, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firms, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by a person excepts as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment. June 25, 1948, c. 645, 62 Stat. 791.”

On the reverse side of each (ENG Form 3925/3925P) the following passage is printed.

“PRIVACY ACT STATEMENT: Submission of an Internal Revenue Service Number or a Social Security Number is mandatory for cargo moves subject to the harbor maintenance fee. These identification numbers are solicited under the authority of Executive Order 9397 and Public Law 99-662 (Attachment 2). The identification number provides unique identification of the party liable for payment of the Harbor Maintenance Tax. The number will be given to the U.S. Customs Service to compare the information provided on the ENG Form 3925/3925P with information submitted on summary sheets accompanying the payment of the fee. Failure to submit the appropriate identification number can result in a fine of not more than \$5,000.00 or imprisonment not to exceed 2 months and/or an assessment of a civil penalty up to \$2,500.00 per violation. (Section 11 of the Rivers and Harbors Appropriation Act of 1922 as amended by PL 99-662, 33 USC 555).”

PL 99-662, The 1986 Water Resources Development Act, Section 919 requires that the Corps of Engineers release petroleum product movement data to the State taxing agencies upon request.

Since the Navigation Data Center is the sole source for domestic waterborne commerce, it is obligated to share the data as given in question 4. The statistics are released to the general public in aggregated form. All other released are screened on a need-to-know basis.

The Rule-of-Three is used to screen data when released to the general public. The rule states that it is required that at least three vessel operating companies carry a particular commodity from an area of origin to an area of destination in order to release it to the public. If there are less than three operators carrying the commodity then that commodity is grouped with some other commodity to form a more general commodity that satisfies the Rule-of-Three.

8. The 60-day notice published August 27, 2007 (72 FR 48996). No comments were received.

The U. S. Army Corps of Engineers has been working closely with the Water Transportation Industry. The Waterborne Commerce Statistics Center (WCSC) staff attended several industry meetings such as the Tennessee-Tombigbee Waterway Development Opportunities Conference (September, 2006), the Gulf Intracoastal Canal Association (August, 2007), and the Work Boat Show (November, 2006). The WCSC staff participated in these conferences with visual displays and various materials related to the waterborne commerce statistics program. The individuals in attendance at these meetings have access to WCSC staff to discuss any problems they might have had with their program. Every effort has been made to minimize the impact on private industry.

9. The WCSC has not offered any payment or gift to respondents.
10. Please reference the answer provided for question 7g. & 7h.
11. There are no sensitive data items on either form.
12. Estimated burden:
 - a. Manual data entry - There are 26 data lines on each form. In numerous discussions with respondents we have estimated that it takes approximately one-half hour to complete one form. The average respondent submits one form per month either partially or entirely completed.
 - b. Automated reporting procedure - We receive a computer printout with the same data that would be manually entered on the form. We also have a few respondents that submit their response on diskette; however, this does not change the burden on the respondent from that generated for a computer printout.

We have had several discussions with respondents that submit automated reports. Creating a report from existing data already collected for another purpose involves a considerable savings in burden. Considering that the manual response assumes one form per respondent per month, the estimate for the automated response should be for an average 26-line response also. Taking all these factors into consideration, our best estimate is a 5-minute burden per automated response.

ENG Form 3926

Annual Reporting or Disclosure Burden

	<u>ENG Form 3926 Manual Submission</u>	<u>ENG Form 3926 Automated Submission</u>
1. Number of respondents	420	50
2. Number of responses Per respondent	12	12
3. Total annual responses	5,040	600
4. Hours per response	0.50	0.0833 (five minutes)
5. Total hours	2,520	50

Total estimated burden hours = 2,570

Using the equivalent of a GS-06 step 5 for completing the forms, we estimates an hourly wage of \$17.98 per hour.

Thus 2,570 burden hours * \$17.98 = \$46,209 which is the annual cost to respondents.

13. This data collection program does not have these types of costs associated with the requirement.

14. Estimated Federal Cost:

- (1) The estimated Federal cost for processing ENG Form 3926 (manually submitted) is approximately \$105,025 annually.
- (2) The estimated Federal cost for processing the equivalent of ENG Form 3926 submitted in electronic media is approximately \$6,125 annually.

The total estimated Federal cost is \$111,150 annually.

The total estimate of annualized cost is given below:

Respondents -	\$ 46,209
Federal Government -	<u>\$111,150</u>
	\$157,359

15. The burden hours have decreased as it takes less time to complete the form electronically.

16. The information collected on ENG Form 3926 is not scheduled to be published.

17. The Corps of Engineers uses ENG Form 3926 or an authorized automated equivalent as a quality control instrument for data collected on ENG Form 3925, 3925B, and 3925P. The information is voluntarily submitted by respondents to assist WCSC in the identification of vessel operators who fail to report significant vessel moves and tonnage. If the forms have an expiration date, we must print new forms each time the data collection program is extended. We would then have to destroy reams of forms with the previous expiration date.

The inclusion of the expiration date causes a drastic logistics problem with the distribution of forms. The Corps works very hard to maintain a good working relationship with the respondents and the expiration date is an unnecessary cause of friction. Built-in obsolescence of government forms serves a useful purpose in some data collection programs; however, it is counterproductive in the

case of an existing ongoing data collection program such as this one in the Corps of Engineers.

On the basis of the foregoing considerations, we request the OMB's approval to suppress the printing of the expiration date on ENG Form 3926. Doing so will reduce burden on both government and private industry and will also save printing costs and some trees.

18. This data collection program does not have any exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

This collection will not use statistical methods.