

**NARRATIVE SUPPORTING STATEMENT FOR
46 CFR PART 520 – CARRIER AUTOMATED TARIFF SYSTEMS
AND RELATED FORM FMC-1**

A. Justification

1. Section 8(a) of the Shipping Act of 1984 (1984 Act), as amended by the Ocean Shipping Reform Act of 1998 (OSRA), 46 U.S.C. 40501(a)-(c), requires common carriers and conferences of such common carriers to publish and keep open to public inspection in automated tariff systems, tariffs showing all rates, charges, classifications, rules and practices between all points or ports on their own routes for transportation of cargo between the U.S. and foreign ports, and on any through transportation route that has been established. These tariffs are made available electronically to any person through appropriate access from remote locations, and a reasonable charge may be assessed for such access, except for Federal agencies. Prior to the implementation of OSRA on May 1, 1999, common carriers and conferences had to file their tariffs with the Commission in its Automated Tariff Filing and Information System (ATFI). The ATFI system was discontinued on April 30, 1999, at OSRA's implementation. 46 CFR 520 established the requirements of the Commission's current rules pertaining to the publishing of common carriers' and conferences' tariffs in private automated systems under OSRA.

Each common carrier and conference is required to notify the Bureau of Trade Analysis, prior to the commencement of common carrier service pursuant to a published tariff, of its organization name, organization number, home office address, name and telephone number of firm's representative, the location of its tariffs, and the publisher, if any, used to maintain its tariffs, by electronically submitting Form FMC-1 via the Commission's website.

The purpose of these regulations is to permit shippers and other members of the public to obtain reliable and accurate information concerning the rates and charges that will be assessed by common carriers and conferences for their transportation services and to help carriers and conferences meet their publication requirements under section 8(a) of the 1984 Act.

2. The Commission's Bureau of Trade Analysis uses the information published in tariffs of common carriers and conferences to monitor their activities and to ensure the accessibility and accuracy of automated tariff systems as required by section 8(g) of the 1984 Act. In order to effectively carry out its duties, the Commission will use the information to protect the public from violations by carriers of section 10 of the 1984 Act. It also will allow the Commission to review and monitor the activities of controlled carriers pursuant to section 9 of the 1984 Act. If such information were not collected, the Commission would be precluded from carrying out its statutory and regulatory responsibilities.

3. When the Commission's ATFI system was discontinued on April 30, 1999, carriers and conferences began publishing tariff data in private automated systems. It is intended that the shipping industry will continue to have access to accurate tariff information. Form FMC-1 is filed electronically with the agency.

4. Carriers and conferences, as part of their business practice, are required to keep tariff information available in their private publications. Since this information is no longer collected

by the Commission, their systems are the only public repository where a complete copy of each carrier's and conference's tariff containing historical rates may be found.

5. This collection of information does not have a significant impact on small businesses or other small entities.

6. The publishing of tariffs is assigned a specific time frame by the agency; they are published on a continuing basis. If this information were not published as specified, the Commission would not be able to determine compliance with the statute and the Commission's regulations, and the shipping public using the data would not have reliable data.

7. This information collection does not (1) require respondents to report information to the agency more often than quarterly; (2) require written responses in fewer than 30 days; (3) require respondents to submit more than an original and two copies of any document; (4) include confidentiality pledges that are not supported by established statutory authority; or (5) require respondents to submit proprietary information without protecting such information to the full extent of the law. There is a five-year recordkeeping requirement that is consistent with the statute of limitation provisions in section 13(f) of the Shipping Act of 1984, 46 U.S.C. 41109.

8. The 60-day Federal Register Notice regarding this extension was published May 3, 2011, at 76 FR 24881. Respondents had 60 days to respond with their views regarding the collection of information; no comments were received.

9. Not applicable – The Commission does not provide any payments or gifts to respondents.

10. Tariff information is available to anyone who requests it, and there are no provisions for confidentiality.

11. There are no questions of a sensitive nature.

12. The Commission estimates the total respondent universe to be 1,300 and the total hour burden for the publication of tariffs, notification/filing requirements, and recordkeeping requirements to be 2,384 hours (see below). The Form FMC-1 is required before tariffs may be published (650 hours). This results in an annual hour burden of 3,034 hours. The Commission estimates an annualized cost to respondents for information collection as \$173,582. This includes overhead and benefits. (See Attachment 1.)

TARIFF CONTENT REQUIREMENTS

Requirement	Annual Respondents¹	Annual Instances²	Average Hour Per Response	Total Hours
Publish tariffs & keep open for public inspection ³	1,300	250 ⁴	.1	25

[Disclosure/Third-party Requirements (included in above calculations)]

NOTIFICATION/FILING REQUIREMENTS

Requirement	Annual Respondents	Annual Instances	Average Hour Per Response	Total Hours
Related Forms (Form FMC-1)	1,300	1,300	.5	650
Inform FMC in writing of certain occurrences, e.g., cancellations, new publishers, etc.	1,300	600	.5	300
File documents with FMC & certifications	1	1 ⁵	.5	.5

[Disclosure/Third-party Requirements (included in above calculations)]

RECORDKEEPING REQUIREMENTS

Requirement	Annual Respondents	Annual Instances	Average Hour Per Response	Total Hours
Maintain data in tariff publication systems	4,900	122,500	.0167	2,046
Provide reasonable access to FMC	4,900	5	2	10
Maintain shipper notices & shipment records for time/volume	1	1 ⁶	2	2

TOTALS FOR ALL REQUIREMENTS

124,657

3,034

¹ Annual respondents category has decreased significantly due to the fact that FMC is using the “actual” number of respondents for each requirement during FY 2010. Previous estimates were based on the “total” respondent universe. Whereas the “total” universe of common carriers (VOCC and NVOCC) is approximately 4,900 carriers, the “actual” respondent universe differs significantly. For instance, most of these requirements are not annual requirements. Form FMC-1 is required to be filed prior to the commencement of common carriage service, which accounts for approximately 250 new carriers. Additionally, any corrections or revisions to the Form FMC-1 for organization name, organization number, home office address, name and telephone number of the firm’s representative, the location of its tariffs and the publisher, if any, used to maintain its tariffs are required to be updated by amending the FMC-1. Approximately 1,050 of the 4,900 carriers amended their Form FMC-1 during the fiscal year. The “annual” respondents consist of the combination of new entrants (250) and amended filings (1,050) for a total of 1,300. To list the entire “total” universe of carriers (VOCC and NVOCC) of approximately 4,900 would overstate the number of respondents.

² Annual instances have been revised to represent the actual occurrences during FY 2010.

³ A tariff publication occurs prior to the commencement of common carriage service by a VOCC or NVOCC pursuant to a published tariff. The common carrier is required to submit a Form FMC-1 indicating where the link is to their published tariff(s) governing rules and rates.

⁴ This figure has been revised to represent the number of new CATS systems since last OMB Clearance, plus an estimate of the number of occurrences for the republishing of existing CATS systems based on FY 2010 statistics.

⁵ There were actually zero filings under this requirement in FY 2010. This is due to changes in the industry.

⁶ There were actually zero filings under this requirement in FY 2010. This is due to changes in the industry.

The FMC offers the following descriptions of the information collection requirements shown in the above table:

Publish tariffs & keep open for public inspection: There are approximately 300 Vessel Operating Common Carriers (VOCCs) and 4,600 Non-Vessel Operating Common Carriers (NVOCCs) for an approximate total of 4,900 common carriers required by statute to publish tariffs. On average there are 250 new common carriers (NVOCCs and VOCCs) each fiscal year who are required to complete a Form FMC-1 prior to offering common carriage service.

Related Forms (Form FMC-1): On average there are 250 new common carriers (NVOCCs and VOCCs) each fiscal year who are required to complete a Form FMC-1 for the first time prior to offering common carriage service. On average, another 1,050 existing common carriers, who are changing their business operation/information, will update their Form FMC-1 during the fiscal year.

Inform FMC in writing of certain occurrences, e.g., cancellations, new publishers, etc.: FMC receives written notice on approximately 600 tariff cancellations during the fiscal year. This information collection also encompasses Special Permission Applications received from common carriers. Even though seven of these applications were filed in FY2010, that was very unusual. These are usually very infrequent, and the amount will vary from year to year as it is dependent on a common carrier making an error in its tariff. We only estimate 1 Special Permission per year which takes the common carrier approximately .5 hours to gather the pertinent documentation and file with the FMC.

File documents with FMC & certifications: There were no instances to report for the past fiscal year therefore we input the minimum of 1.

Maintain data in tariff publication systems: All 4,900 common carriers are required to publish and maintain current and historical data for 2 years electronically on-line and 5 years overall. As this is an ongoing process to comport with the regulations, it is dependent on the number of filings each carrier makes to their respective tariffs. The number of filings will vary from carrier to carrier; however, we estimate that each carrier will make 25 rate adjustments to their tariff in a fiscal year which should take about 1 minute per filing (4,900 carriers x 25 rate filings or adjustments x 1 minute = 2,046 hours)

Provide reasonable access to FMC: All 4,900 common carriers are required to provide reasonable access to FMC with any log-in or passwords that are necessary to access their tariff systems. All tariffs are on-line and the majority (4,650) are readily available to the FMC through the 14 major tariff publishers; therefore, there is no time frame involved. For those approximately 250 common carriers who self-publish, their tariff location is posted on their Form FMC-1. Every self-publisher who requires a log-in and password is required and has provided us with a log-in and password in writing which we post on our Intranet and update monthly. The FMC gets about 25 new self-publishers a year, and perhaps 5 of them will require a log-in and password.

Maintain shipper notices & shipment records for time/volume: For all intents and purposes time volume shipments are seldom if ever used in the shipping industry today. We input the minimum for this as we have no recent filings.

13. The total annual cost burden to respondents or recordkeepers resulting from this collection of information is estimated to be \$327,215, a decrease of \$574,385 from the current OMB inventory of \$901,600, as explained below.

Since the enactment of OSRA, many carriers have consolidated operations, and some have streamlined the number of tariffs published. The respondent universe is based on the actual number of respondents during FY 2010.

Of the previously estimated costs of \$901,600, \$359,800 was estimated as start-up costs, and \$541,800 was estimated as operation and maintenance (O&M). Per respondent, we derived \$514 start-up costs (700 new respondents) and \$129 O&M (4,200 respondents overall).

For current costs, we added 10% to reflect general increases in costs. Therefore, current start-up costs per respondent would be \$565 (\$514 + \$51), and O&M costs would be \$142 (\$129 + \$13).

Of the 1,300 respondents per year, we estimate 250 are new respondents. The 250 new respondents would be subject to start-up costs. The remaining 1,050 filers of the 1,300 are changing their business operation/information and, therefore, it is more of an administrative function to file an updated Form FMC-1. \$565 start-up costs were multiplied by 250 new respondents to arrive at \$141,250; \$142 O&M costs were multiplied by 1,300 total respondents to arrive at \$184,600.

When you add the start-up costs (\$141,250) to the O&M costs (\$184,600), you arrive at a total cost burden of \$325,850.

The difference in cost estimates for start-up/O&M costs from FMC's 2008 submission to its 2011 submission is substantial since only 250, as opposed to 700, new respondents are subject to start-up costs - usually the lion's share of IT costs. All 1,300 respondents are subject to O&M costs.

In addition to the start-up/O&M costs associated with this information collection, respondents incurred costs for required filing fees in FY 2010 of \$1,365 (7 filings of special permission applications at \$195 each). When these filing fees are added to the start-up/O&M costs, the result is an estimated total cost burden of \$327,215 per annum under the collection. (These filing fees were not reflected in past filings; recent OMB guidance requires that they be accounted for.)

14. Total estimated costs to the Federal Government for this rule and form is 830 hours, at an estimated cost of \$61,920 (see Attachment 2). This cost is offset by the collection of \$1,365 in required filing fees. The net estimated total annual cost to the government of this collection of information is \$60,555.

15. FMC has taken a close look at the burden estimates for this information collection. The burden estimate has been reduced significantly from the 2008 estimate by 433,466 hours. We arrived at the estimate by using the actual respondent numbers and annual instances for FY 2010. We also revised the average hours per response for two of the information collection requirements; these were greatly overestimated. We feel that this estimate is a much more accurate picture of the annual time burden for this information collection. Therefore, the total number of annual hours requested is 3,034.

16. Not applicable – no information will be published.

17. Not applicable – The Commission is not seeking approval to exclude the display of the expiration date for OMB approval of this information collection.

18. Not applicable -- The Commission proposes no exception to the certification statement on OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.

12. Estimated Burden and Costs, Including Overhead, to Respondents

2,384 hours (reporting and recordkeeping requirements) + 650 hours (Form FMC-1) = 3,034 total hours

33% Pricing Manager (1,001 hours)

67% Tariff Publisher (2,033 hours)

The annual salary calculations have been formulated using the Federal Government's March 2010 salary table (overhead of \$20.10 per hour and benefits of 24.23% per year have been added to the basic salary). The salary for the pricing manager was calculated using the salary of a GS 13/5 Senior Transportation Specialist, and the salary for the tariff publisher was calculated using the salary of a GS 6/5 Transportation Specialist.

Formula: Annual salary + (annual salary X benefits rate) = adjusted annual salary/2,080 + overhead = adjusted hourly salary

$\$100,904 + (100,904 \times 24.23\%) = \$125,353/2,080 = \$60.27 + \$20.10 = \$80.37 =$ Pricing Manager adjusted hourly salary

$\$43,046 + (43,046 \times 24.23\%) = \$53,476/2,080 = \$25.71 + \$20.10 = \$45.81 =$ Tariff Publisher adjusted hourly salary

Employee	Hourly Salary	Number of Hours	Total
Pricing Manager	\$80.37	1,001	\$ 80,450
Tariff Publisher	\$45.81	2,033	\$ 93,132
TOTALS		3,034	\$173,582

14. Estimated Burden and Costs, Including Overhead, to Federal Government

The annual salary calculations have been formulated using the Federal Government's March 2010 salary table (overhead of \$20.10 per hour and benefits of 24.23% per year have been added to the basic salary).

Office Director 14/3 – 166 hours (approximately 8% of time)

$\$112,224 + (112,224 \times 24.23\%) = \$139,416/2,080 = \$67.03 + \$20.10 = \$87.13$ adjusted hourly salary

Sr. Transportation Specialist 13/5 – 166 hours (approximately 8% of time)

$\$100,904 + (100,904 \times 24.23\%) = \$125,353/2,080 = \$60.27 + \$20.10 = \$80.37$ adjusted hourly salary

Transportation Specialists (2) 12/9 – 332 hours (approximately 8% of time)

$\$94,837 + (94,837 \times 24.23\%) = \$117,816/2,080 = \$56.64 + \$20.10 = \$76.74$ adjusted hourly salary

Information Processing Assistant 7/9 – 166 hours (approximately 8% of time)

$\$53,468 + (53,468 \times 24.23\%) = \$66,423/2,080 = \$31.93 + \$20.10 = \$52.03$ adjusted hourly salary

Employee	Hourly Salary	Number of Hours	Total
Office Director	\$87.13	166	\$14,464
Sr. Transportation Specialist	\$80.37	166	\$13,341
Transportation Specialists (2)	\$76.74	332	\$25,478
Information Processing Assistant	\$52.03	166	\$ 8,637
TOTALS		830	\$61,920

Estimated Burden Cost to the Federal Government:	\$61,920
Offset by Respondent Filing Fees	<u>1,365</u>
Total Cost to Government	\$60,555