

**NARRATIVE SUPPORTING STATEMENT FOR  
46 CFR PART 530 – SERVICE CONTRACTS AND RELATED FORM FMC-83**

**A. Justification**

1. Section 8(c) of the Shipping Act of 1984 (1984 Act) (46 U.S.C. 40502), as amended by the Ocean Shipping Reform Act of 1998 (OSRA), requires ocean common carriers and agreements among such carriers to file their service contracts confidentially with the Commission and to publish certain essential terms of those service contracts. Service contracts are written contracts between one or more shippers or a shippers' association and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule as well as defined service level, such as assured space, transit time, port rotation, etc. Authority to file or delegate the authority to file must be requested by a responsible official of the service contract carrier in writing by submitting the Form FMC-83, Service Contract Registration.

2. The Commission uses the filed service contract data for monitoring and investigatory purposes and, in its proceedings, to adjudicate related statutory issues raised by private parties. For Commission proceedings, as well as in any court case, the service contract on file at the Commission and in effect is official evidence of the applicable rate, charge or rule, when so certified by the Commission. The collection of such information by the Commission is mandated by law.

3. The regulation created an electronic Internet-based system, SERVCON, to allow carriers and conferences to file their service contracts confidentially with the Commission. All carriers and conferences use the SERVCON system to file their service contracts electronically with the Commission. Before filing in SERVCON, each registrant must file a Form FMC-83, Service Contract Registration. Although the Commission anticipates electronic filing of Form FMC-83, it is not yet technically possible.

4. No duplication of effort is involved since similar information is not available from outside sources nor elsewhere in the Commission, and the only source of accurate information is the filing party to the service contract (respondent).

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

6. The filing of service contracts is not assigned a specific time by the Commission; service contracts are filed as they are entered into by the parties. The 1984 Act, as amended by OSRA, requires the filing of service contracts. If records of service contracts were not produced as requested within the time period specified, the Commission would not have the information it requires to perform its statutory responsibilities.

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. While certain essential terms of service contracts must be made available to the public in tariff format (section 8(c)(3) of the 1984 Act as revised by OSRA), all service contracts and their amendments filed with the Commission are to be confidential (section 8(c)(2)).

11. There are no questions of a sensitive nature.

12. The Commission estimates the actual respondent universe to be 141 and the total hour burden for the filing of service contracts, amendments, and notices to be 92,210 (see below). The Service Contract Registration, Form FMC-83, is required before filing of service contracts may be made. The Commission estimates an annualized cost to respondents for information collection as \$5,275,767. This includes overhead and benefits. (See Attachment 1.)

<b>Requirement</b>	<b>Annual Respondents</b>	<b>Annual Instances</b>	<b>Average Hours Per Response<sup>1</sup></b>	<b>Total Hours</b>
Service contracts/formats	141	395,652 <sup>2</sup>	.1	39,565
Essential Terms Publication	141	395,652	.1	39,565
Notification/Filing Requirements	141	141	.1	14
Form FMC-83	141	82	.1	8
Disclosure/Third Party	141	8	.1	1
Recordkeeping/Audit Requirements	141	395,652	.033	13,057
<b>TOTALS</b>		<b>1,187,187</b>		<b>92,210</b>

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

**Service Contracts/Formats:** All vessel-operating common carriers (VOCCs) are required by statute to file a true and complete copy of every service contract or amendment before any cargo moves pursuant to that service contract or amendment. There are essential terms as required by law that every service contract must contain. There are five exempt commodities whereby the VOCC is given a statutory exemption from filing those exempt contracts with the FMC. Of the “total” respondent universe of approximately 300 active VOCCs, only 141 annually file service contracts and amendments. There were 395,652 new contracts or amendments filed on average in the past three fiscal years in the service contract filing system known as SERVCON. VOCCs are only required to fill out 4 fields (Organization Number, Contract Number, Amendment Number, Effective Date) when uploading their contracts or amendments into the system. Most contracts are MS Word Doc, MS Excel files or Pdf format. VOCCs can submit service contracts individually or in batches. Several filers submit electronically so their computer system handles the processing instead of being handled on a manual basis.

**Essential Terms Publication:** All VOCCs are required by statute to file a publication of specific essential terms for each service contract or amendment. Therefore the number of annual instances, 395,652, will be the same as the number of new contracts or amendments. Most

<sup>1</sup> The “Average Hours Per Response” has been reduced from previously reported time frames due to the advancements in technology. It should take less time to prepare/perform the necessary stated requirements.

<sup>2</sup> This number represents the average volume of service contracts (initial and amendments) filed with the Commission during the past three years.

VOCCs have systems that link their filing into SERVCON with the update of the Essential Terms publication. We conservatively allow for 6 minutes (.1 hour) for a manual process; however, it probably takes the majority of VOCCs only 1 minute or less for their internal contracting system to electronically sync up with their Essential Terms Publication.

**Notification/Filing Requirements:** Since ocean service contracts are subject to contract law as well as statutes and regulations, virtually all contracts are settled and amended prior to the expiration date to comport with the requirements. For good order we allowed 1 instance for each of the 114 filers.

**Form FMC-83:** The universe of filers is 141; however, only new VOCCs intending to file service contracts and existing VOCCs who want to amend the form are required to do so. On average only 8 new and 74 existing filers, for a total of 82 instances, actually access the form. It is not an annual requirement, so the annual instances is based on the average filings over the past three years.

**Disclosure/Third Party:** Since every VOCC has to update their Essential Terms publication for each new contract and amendment this is redundant with Essential Terms Publication above. Only new filers who would be publishing their Essential Terms Publication for the first time would be affected by this. On average there are 8 first time filers and we estimate it takes them no more than 6 minutes per filer for a total of 1 hour (rounded up).

**Recordkeeping/Audit Requirements:** VOCCs create original service contracts and amendments which are kept primarily in MS Word Doc, MS Excel or Pdf formatted files and stored electronically in databases which are easily retrievable and produced. Most VOCCs keep hard copy files with signatures as we do not require contracts or amendments to be uploaded into SERVCON showing an actual signature. Many contracts and amendments today are handled by electronic or digital signature. The annual instances would be 395,652 and conservatively allowing for 2 minutes (.033 hrs) per new contract or amendment for recordkeeping/auditing purposes would encompass 13,057 hours. A VOCC is required to collect signatures prior to filing a contract or amendment; therefore some of this burden could be offset into the service contracts/formats section above.

13. Respondents also incurred costs for filing fees for this information collection. In FY 2010, one clerical correction to a service contract was filed, with the required filing fee of \$315. (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, including overhead and operational expenses, for this rule and form are 7,072 hours, at an estimated cost of \$528,631. Additionally, the Commission incurred approximately \$212,770 in maintenance costs for FY 2010 for its database systems. We have allocated 30 percent,<sup>3</sup> or \$63,831, to this information collection.

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<sup>3</sup> The database system maintenance costs are based upon contractor costs for the fiscal year. The contractor handles several databases. We are unable to calculate exactly how much of the contractor's costs are attributed to each

This brings the total estimated cost to the Federal Government of \$592,462. This cost is offset by the collection of \$315 in required filing fees. Therefore, the net estimated annual cost to the government of this collection of information is approximately \$592,147 (see Attachment 2).

15. The burden estimate for this information collection has been reduced significantly from the 2008 estimate of 617,015 hours, by 524,805 hours. The previous ICR submission vastly overstated the time required to complete all of the information collection requirements. For example, the Form FMC-83 is a very basic form, and the information to complete it should be readily available to the VOCC. We also revised the average response time for the other information collections because, in addition to being vastly overstated in 2008, due to the advancements in technology, it should take less time to perform/prepare the necessary statement requirements. Further, we arrived at our estimate by averaging the actual number of responses over the past three years. 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 92,210.

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.

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system. We can only estimate the approximate amount of time the contractor spends on each database. As databases are added or changes, the amount of time spent on each by the contractor changes. We have estimated that the contractor costs for this past fiscal year allocated to the Service Contract information collection would be approximately 30 percent of the total contractor costs.

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

92,202 hours (reporting and recordkeeping requirements) + 8 hours (Form FMC-83) = 92,210 total hours

33% Pricing Manager (30,429 hours)

67% Tariff Publisher (61,781 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

<b>Employee</b>	<b>Hourly Salary</b>	<b>Number of Hours</b>	<b>Total</b>
Pricing Manager	\$80.37	30,429	\$2,445,579
Tariff Publisher	\$45.81	61,781	\$2,830,188
<b>TOTALS</b>		<b>92,210</b>	<b>\$5,275,767</b>

**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 – 1,352 hours (approximately 65% 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 – 1,456 hours (approximately 70% 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 – 2,912 hours (approximately 70% 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 – 1,352 hours (approximately 65% of time)

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

<b>Employee</b>	<b>Hourly Salary</b>	<b>Number of Hours</b>	<b>Total</b>
Office Director	\$87.13	1,352	\$117,800
Sr. Transportation Specialist	\$80.37	1,456	\$117,019
Transportation Specialists (2)	\$76.74	2,912	\$223,467
Information Processing Assistant	\$52.03	1,352	\$ 70,345
<b>TOTALS</b>		<b>7,072</b>	<b>\$528,631</b>

**Estimated cost to the Federal Government:           \$528,631**

Total Salary, Benefits, Overhead                   \$528,631

Plus Cost of System Maintenance<sup>4</sup>               \$ 63,831

**\$592,462**

Offset by Respondent Filing Fees                         315

**Total Cost to Government                           \$592,147**

<sup>4</sup> Fiscal year 2010 costs for maintenance to FMC database systems were \$212,770; we have allocated 30 percent, or \$63,831, to this information collection.