

**NARRATIVE SUPPORTING STATEMENT
FOR 46 CFR PART 565**

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the information collection.

The Commission is required by section 9 of the Shipping Act of 1984 (46 U.S.C. 40701-40706) to ensure that controlled carriers (i.e., carriers owned or controlled by a government) publish and use rates, charges, classifications, rules, and regulations that are just and reasonable. Carriers are required to notify the Commission of certain events, including certain changes in ownership or control and their entry into the U.S. trade when they meet certain ownership or control conditions, so that that the Commission can determine whether they are controlled carriers under the Act. 46 CFR 565.4. This information allows the Commission to identify controlled carriers and to monitor their activities to ensure that they do not engage in the acts prohibited by section 9 of the Act (46 U.S.C. 40701-40706), i.e., to charge or assess rates below a just and reasonable level or to reduce effective tariff rates sooner than the 30th day after the date of publication.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information under 46 CFR 565.4 is collected by the Secretary and by the General Counsel of the Commission. The General Counsel has been delegated the authority to classify ocean common carriers as controlled carriers under 46 CFR 501.23. If the Commission were not able to collect this information, it would not be able to administer section 9 of the Shipping Act (46 U.S.C. 40701-40706).

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Commission generally allows e-mail filing of documents, including notifications required by 46 CFR 565.4, though paper copies must also be filed. *See* 46 CFR 502.2.

4. Describe efforts to identify duplication.

The information requested is not available from any other source.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This collection of information involves only ocean common carriers, which have been determined to be all large businesses. As such, this collection of information has no impact on small businesses or small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Requests for information regarding an ocean common carrier's classification as controlled and notifications of change in ownership or control are not done on a routine basis, rather only as needed. Potential controlled carriers are required to notify the Commission of their possible status as a controlled carrier so the General Counsel can timely classify the carrier as such and initiate monitoring of that carrier's activities under section 9 of the Shipping Act (46 U.S.C. 40701-40706). Likewise, there is no regular frequency for the filings of special permission requests.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines. (a) requiring respondents to report information to the agency more often than quarterly; (b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; (c) requiring respondents to submit more than an original and two copies of any document; (d) requiring respondents to retain records, other than health, medical government contract, grant-in-aid, or tax records, for more than three years; (e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study; (f) requiring the use of statistical data classification that has not been reviewed and approved by OMB; (g) that includes a pledge of confidentiality that is not supported by authority established in statute of regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; (h) requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

This information collection does not (1) require respondents to report information to the agency more often than quarterly; (2) require respondents to retain records for more than three years; (3) include confidentiality pledges that are not supported by established statutory authority; or (4) require respondents to submit proprietary information without protecting such information to the full extent of the law. The collection requires the filing of an original (which can be submitted by e-mail) and 5 paper copies. The additional paper copies are necessary for distribution to various Commission offices.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken in response to the comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside FMC to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or report.

The 60-day Federal Register notice regarding this extension was published August 2, 2017, at 82 FR 35946. No comments were received. Upon notification that a new carrier is entering the U.S.-foreign trades, the Commission generally solicits the opinion of other U.S. government agencies with regard to the ownership or control of the carrier. The Commission may also consult with the U.S. State Department (and U.S. consular missions), the Maritime Administration of the U.S. Department of Transportation, and Customs and Border Protection of the U.S. Department of Homeland Security. Additionally, the Commission gathers information from publicly available sources.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

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

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No assurance of confidentiality is provided.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why FMC considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, FMC should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample fewer than 10 potential respondents is desirable.

The Commission estimates that the potential respondent universe for this information collection is 22.¹ On average, the Commission's receives one response annually and estimates the total annual burden to be 2 hours.² The total estimated cost to the respondents, including overhead, is \$363.33. The estimated time for compliance is based upon staff familiarity with carrier practices and includes consideration of, among other things, time for preparing the notifications and mailing. (See Attachment 1 for details.)

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

*** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

*** If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

*** Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

There are no additional cost burdens to respondents or record-keepers other than those reported in item 12.

14. Provide estimates of annualized cost to the Federal government.

¹ While the potential respondent universe consists of 24 ocean common carriers, only 2 are identified and classified as controlled carriers. The other 20 ocean common carriers are not owned or controlled by a foreign government, but could become so at any time.

² As explained below in response to question 15, the information collection is limited to notifications required by 46 CFR 565.4. The burden hour estimates are likewise limited to these notifications.

Total estimated costs to the Federal Government to review and analyze the estimated 1 filing per year is 2.25 hours per year per filing or an estimated total of 2.25 hours per year, at an estimated cost of \$252.54. (See Attachment 2 for details.)

15. Explain the reasons for any program changes or adjustments reported in Items 13 (or 14) of OMB Form 83-I.

The Commission previously included in this collection information submitted by carriers under other sections of Part 565, including rebuttals to Commission designation of a carrier as a controlled carrier (§ 565.3), statements of justification submitted in response to Commission requests for information on specific rates, charges, classifications, rules, or regulations (§ 565.9), and supporting letters submitted to the Commission in conjunction with replacement rates, charges, classifications, rules or regulations published in response to Commission suspension of a carrier's rates, charges, classifications, rules or regulations (§ 565.10). As part of our review of this collection, we have determined that these information submissions are collected during the conduct of administrative actions and investigations by the Commission directed against specific carriers and are therefore exempt from the requirements of the Paperwork Reduction Act. *See* 44 U.S.C. 3518(c)(1)(B)(ii); 5 CFR 1320.4(a)(2). These submissions have therefore been removed from this collection of information. The burden hour estimates and total estimated cost have likewise been limited to the notifications required by 46 CFR 565.4.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The Commission notifies the public on its website and by Federal Register notice when carriers are added to or removed from the list of controlled carriers. The Commission does not otherwise intend to publish any information collected under this regulation.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

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

18. Explain each exception to the certification statement identified in Item 19 of OMB Form 83-I.

The Commission proposes no exception to the certification statement identified on OMB form 83-I.

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.

ATTACHMENT 1

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

The following estimates are based upon “one submission per year.” The total hours for filing and collection of background material is estimated to be 2 hours annually per respondent.

The annual salary calculations have been formulated using the Department of Labor’s May 2016 National Industry-Specific Occupational Employment and Wages Estimates for Water Transportation. We have also added to the basic salary overhead of 114.89%.

Formula: Annual salary/2087 + overhead rate = adjusted annual salary

$\$223,260/2087 = \$106.97 + 114.89\% = \$229.86 = \text{CEO adjusted hourly salary}$

$\$36,040/2087 = \$17.26 + 114.89\% = \$37.09 = \text{Clerk adjusted hourly salary}$

| Requirement | Possible Annual Respondents | Annual Filings/ Responses (Based on prev. 3 years) | Average Hours per Respondent | Total Hours |
|-------------------|-----------------------------|--|------------------------------|-------------|
| Change operations | 22 | 1 | 2 | 2 |

Burden and Cost Per Respondent:

Per 2 hour filing:

CEO: 1.5 hours x \$229.86 = \$344.79

Clerk: .5 hours x \$ 37.09 = \$ 18.54

Total: \$363.33 X 1 filing per year = \$363.33

ATTACHMENT 2

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

The annual salary calculations have been formulated using the Federal Government's January 2017 salary table (overhead of 114.89% has been added to the basic salary).

Attorney GS 14/1

$\$112,021/2087 = \$53.67 + 114.89\% = \$115.33$ adjusted hourly salary

Program Support Specialist GS 12/3

$\$85,035/2087 = \$40.74 + 114.89\% = \$87.54$ adjusted hourly salary

Estimated cost to the Federal Government:

Attorney: 2 hours per filing x 1 filing = \$230.66

Program Assistant: 0.25 hours per filing x 1 filing = \$21.88

Total per year \$252.54