

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

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.

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.

Each common carrier and conference is required to notify the Commission's 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 Shipping Act, 46 U.S.C. 40501(g).

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 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 Shipping Act. In order to effectively carry out its duties, the Commission uses the information to protect the public from violations by carriers of section 10 of the Shipping Act, 46 U.S.C. 41102-41105. It also allows the Commission to review and monitor the activities of controlled carriers pursuant to section 9 of the Shipping Act, 46 U.S.C. 40701-40706. If such information were not collected, the Commission would be precluded from carrying out its statutory and regulatory responsibilities.

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.

Carriers and conferences publish tariff data in private automated systems or on carrier websites. It is intended that the shipping public will continue to have access to accurate tariff information. Form FMC-1 is filed electronically with the agency.

4. Describe efforts to identify duplication.

Carriers and conferences, as part of their business practice, are required to keep tariff information available in their private publications. Since this information is not filed with 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. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

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

The Commission ensures that tariffs are published, and the location of those tariffs are made public, within a specific time frame assigned by the agency. 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 would not have reliable information on carrier rates, charges, classifications, rules and practices.

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 or 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 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. Additionally, the information collection is not used in connection with a statistical survey, nor does it require the use of statistical data classification. There is a five-year recordkeeping requirement that is consistent with the statute of limitation provisions in section 13(f) of the Shipping Act, 46 U.S.C. 41109.

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.

In accordance with the Paperwork Reduction Act and OMB's regulations, notice was published in the Federal Register on May 10, 2022, at 87 FR 27971, requesting public comments. Respondents have 30 days to respond with their views regarding the collection of information.

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.

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

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 the total respondent universe to be 6,331 and the total hour burden for the publication of tariffs, notification/filing requirements, and recordkeeping requirements to be 2,148 hours (see below). The Form FMC-1 is required before tariffs may be published (361 hours). This results in an annual hour burden of 2,509 hours. The Commission estimates an annualized cost to respondents for information collection as \$181,892. This includes overhead and benefits. (See Attachment 1.)

TARIFF CONTENT REQUIREMENTS

Requirement	Annual Respondents	Annual Instances	Average Hour Per Response	Total Hours
Publish tariffs & keep open for public inspection ¹	1,665	722	0.1	72

[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)	722	722	0.5	361
Inform FMC in writing of certain occurrences, e.g., cancellations, new publishers, etc.	1,341	1,341	0.25	335
File documents with FMC & certifications	1	1	0.5	0.5

[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	6,331	103,450	0.0167	1,728
Provide reasonable access to FMC	6,331	5	2	10

¹ 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.

Maintain shipper notices & shipment records for time/volume	1	1	2	2
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TOTALS FOR ALL REQUIREMENTS **105,520** **2,509**

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 146 Vessel Operating Common Carriers (VOCCs) and 6,185 Non-Vessel Operating Common Carriers (NVOCCs) for an approximate total of 6,331 common carriers required by statute to publish tariffs. Of these, an average of 1,655 annual respondents submit changes to information on their existing Form FMC-1. On average, there are 633 annual instances of new common carriers (NVOCCs and VOCCs) who are required to publish a tariff prior to offering common carriage service. There are an additional 89 new tariffs published due to carrier mergers or other organizational changes, for a total of 722.

Related Forms (Form FMC-1): On average there are 633 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. Form FMC-1 provides the Commission with organizational and contact information for the common carrier, as well as the location of its publicly available tariff. There are an additional 89 new FMC-1 forms completed due to the merger or other organizational changes of existing common carriers, for a total of 722.

Inform FMC in writing of certain occurrences, e.g., cancellations, new publishers, etc.: FMC receives written notice on approximately 341 tariff cancellations during the fiscal year. This information collection also encompasses Special Permission applications (SP) received from common carriers. SP applications are typically very infrequent, and the number of filings varies from year to year, as their filing is dependent on a common carrier making an error in its tariff and seeking to correct it through the SP process. On average, we estimate 1 SP per year which takes the common carrier approximately 0.25 hours to gather the pertinent documentation and file with the FMC. We estimate that another 1,000 existing common carriers, who are changing their business operation/information will advise the Commission during the fiscal year.

File documents with FMC & certifications: There were no instances to report for the past fiscal year. Therefore, we input the minimum of 1 annual instance. Historically, certification of a tariff was occasionally requested in connection with litigation regarding movement(s) of cargo, however, such requests have become infrequent in recent years.

Maintain data in tariff publication systems: An average of 6,331 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 also vary from carrier to carrier; however, we estimate that each carrier, other than NVOCCs

who opt to use Negotiated Rate Arrangements² (NRA), will make 25 rate adjustments to their tariff in a fiscal year which should take about 1 minute per filing. There are an average of 6,185 total NVOCCs, of which an average of 2,193 publish an NRA rule, which results in a remaining 3,992 NVOCCs that make rate adjustments in their tariffs. In addition, 146 VOCCs publish tariffs. The average of all carriers making rate adjustments to their tariffs (3,992 + 146 = 4,138) times 25 filings per carrier equals 103,450 annual instances. At 0.0167 hours per response, the total burden is estimated to be 1,728 hours.

Provide reasonable access to FMC: An average of 6,331 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 (6,078) are readily available to the FMC through the 13 major tariff publishers; therefore, there is minimal time involved to set up FMC access. For those 283 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 has provided FMC with a log-in and password in writing which FMC posts on its Intranet and updates monthly. The FMC gets about 5 new self-publishers a year, and typically all will require a log-in and password. An estimate of 2 hours per response is allocated to set up log-in and password procedures, for a total burden of 10 hours.

Maintain shipper notices & shipment records for time/volume: Time volume shipments are no longer common, and are seldom, if ever, used in the shipping industry today. Accordingly, the minimum number of annual instances for this item has been used, as we have observed no recent time volume tariff publications.

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**

² A Negotiate Rate Arrangement is not required to be filed in the NVOCC's tariff.

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 recordkeepers other than those reported in item 12.

The start-up costs and operations and maintenance costs previously reported under question 13 have been eliminated due to advances in technology associated with publishing and making tariffs available to the public. Notably, 96% of all tariffs are published by the 13 major tariff publishers, and those start-up costs were incurred long ago, in many cases, decades ago. The remaining 4% of tariffs are published using commercially available software.

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

Total estimated costs to the Federal Government for this collection of information is 664 hours, at an estimated cost of \$83,800 (see Attachment 2)

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

There have been no program changes or adjustments in Items 13 or 14.

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

The Commission publishes on its website a list of the locations of carrier tariffs.

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.

Not applicable – 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.

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.

Attachment 1

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

2,148 hours (reporting and recordkeeping requirements) + 361 hours (Form FMC-1) = 2,509 total hours

33% Pricing Manager (828 hours)
67% Tariff Publisher (1,681 hours)

The annual salary calculations have been formulated using the Federal Government's January 2022 salary table (overhead of 102.93% has 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/2087 + overhead rate = adjusted annual salary

$\$121,065/2087 = \$ 58.01$ (basic hourly rate) + $\$ 59.71$ (overhead) = $\$117.72$ = Pricing Manager adjusted hourly salary

$\$51,651/2087 = \$ 24.75$ (basic hourly rate) + $\$ 25.48$ (overhead) = $\$50.22$ = Tariff Publisher adjusted hourly salary

Employee	Hourly Salary	Number of Hours	Total
Pricing Manager	\$117.72	828	\$ 97,472
Tariff Publisher	\$50.22	1,681	\$ 84,420
TOTALS		2,509	\$ 181,892

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 2022 salary table (overhead of 102.93% has been added to the basic salary).

Senior Advisor, Service Contracts and Tariffs GS 15/5 – 201 hours

$\$168,282/2087 = \80.63 (basic hourly rate) + $\$82.99$ (overhead) = $\$163.62$ adjusted hourly salary

Transportation Specialist GS 12/5 – 401 hours

$\$101,813/2087 = \48.78 (basic hourly rate) + $\$50.21$ (overhead) = $\$98.99$ adjusted hourly salary

Information Processing Assistant GS 7/5 – 201 hours

$\$57,393/2087 = \27.50 (basic hourly rate) + $\$28.31$ (overhead) = $\$55.81$

Employee	Hourly Salary	Number of Hours	Total
Senior Advisor, Service Contracts and Tariffs	\$163.62	201	32,887
Transportation Specialist	\$98.99	401	39,695
Information Processing Assistant	\$55.81	201	\$11,218
TOTALS		803	\$83,800

Estimated Burden Cost to the Federal Government:

\$83,800