

**NARRATIVE SUPPORTING STATEMENT FOR
46 CFR PART 525 - MARINE TERMINAL OPERATOR SCHEDULES
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(f) of the Shipping Act of 1984 (1984 Act) (46 U.S.C. 40501(f)), as amended by the Ocean Shipping Reform Act of 1998, provides marine terminal operators (MTOs) with the option of making their schedules of rates, regulations, and practices available to the public subject to section 10(d) of the 1984 Act. MTOs must maintain in their offices a complete set of all of their terminal schedules and shall promptly make them available to the Federal Maritime Commission (FMC or Commission) upon request. Each MTO is required to file Form FMC-1 with the Bureau of Trade Analysis advising of its organization name, organization number, home office address, name and telephone number of the firm's representative, the location of its terminal schedule(s), and the publisher, if any, used to maintain its terminal schedule. The Commission publishes a list on its website of the location of any terminal schedule made available to the public.

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 uses the information filed by these parties to maintain continuous surveillance over the activities of these entities and to meet its responsibilities with regard to identifying and preventing unreasonable preference or prejudice and unjust discrimination pursuant to section 10 of the 1984 Act.

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 provisions of 46 CFR 525.3(b) allow respondents to make the MTO schedules available through various automated electronic techniques. All MTOs that opt to publish their schedules do so in electronic form, which provides meaningful access to the public. Form FMC-1 is filed electronically with the agency.

4. Describe efforts to identify duplication.

No duplication of effort is involved since similar information is not available from outside sources nor elsewhere in the Commission, and recordkeeping requirements for this information

are necessary in order for the Commission to regulate MTOs in accordance with section 10 of the 1984 Act.

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.

Failure to collect this information or collection of the data less frequently would hinder continuous surveillance of MTOs.

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 product 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 stature 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 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. 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 was included in the Notice of Proposed Rulemaking (NPRM) published on September 22, 2021, at 86 FR 52627. Respondents had 60 days to respond with their views regarding the collection of information; no comments were received.

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.

Currently, the total number of MTOs registered with the FMC is 216. MTOs are initially required to register with the Commission by submitting Form FMC-1, thereafter MTOs only amend their FMC-1 when there are changes to their address, contact party, or location where their MTO schedule is published. Based upon the average number of initial registrations and amendments for FYs 2018, 2019 and 2020, the estimated reporting respondent universe is 20 per year. Of these 20 respondents, it is estimated that 10 respondents per year will opt to publish schedules and submit location addresses.

a. The time per response for completing Form FMC-1 (mandatory) averages 0.5 hours. With a reporting respondent universe of 20, this would amount to 10 hours.

b. Regarding the optional provisions of this rule, the estimated time to complete an MTO schedule page is 0.5 hours; the average schedule is 10 pages, for an average total of 5 hours

per schedule. If 10 respondents were to publish these schedules, the total hours would amount to 50.¹

Total hour burden for this collection is estimated to be 60 hours. There are no changes in the NPRM that would impact the burden.

The annual cost to respondents is estimated at \$3,580 (see Attachment 1). The cost has been calculated in consideration of the time to gather information and furnish it to the Commission, as well as comply with the requirements of 46 CFR 525. It also includes clerical time as well as overhead and operational expenses.

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 recordkeepers other than those reported in item 12.

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

¹ Some MTO schedules are less than 10 pages. Accordingly, this burden estimate also includes the occasional revision of a page in an existing MTO schedule.

Total estimated costs to the Federal Government for this rule and form is 14 hours, at an estimated cost of \$1,722 (see Attachment 2).

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

The burden estimate for this information collection has been increased from the 2017 estimate. The burden estimate has changed based on actual figures for MTOs that opted to file MTO schedules during FY2018 through FY2020 following a compliance audit by the Commission. The estimate was derived using actual respondent numbers for those years averaged over the 3-year period. Therefore, the total number of annual hours required is now 60.

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

To comply with 46 U.S.C. 40501 and 46 C.F.R. 525.3(f), the Commission publishes on its website a list of the location of any terminal schedule made available to the public.

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.

Estimated Burden and Costs, Including Overhead, to Respondents

The annual salary calculations have been formulated using the Federal Government’s January 2021 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

Pricing Manager

$\$117,516/2087 = \56.31 (basic hourly rate) + $\$57.96$ (overhead) = $\$114.27$ (adjusted hourly salary)

Tariff Publisher

$\$50,134/2087 = \24.02 (basic hourly rate) + $\$24.72$ (overhead) = $\$48.74$ (adjusted hourly salary)

Employee	Hourly Salary	Number of Hours	Total
Pricing Manager	\$114.27	10	\$1,143
Tariff Publisher	\$48.74	50	\$2,437
TOTALS		60	\$3,580

Estimated cost to Respondents: \$3,580

Estimated Burden and Costs, Including Overhead, to Federal Government

The annual salary calculations have been formulated using the Federal Government’s January 2021 salary table (overhead of 102.93% has been added to the basic salary).

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

Senior Advisor, Service Contracts and Tariffs GS-15/5 – 6 hours

$\$163,345/2087 = \78.27 (basic hourly rate) + $\$80.56$ (overhead) = $\$158.83$ (adjusted hourly salary)

Transportation Specialist GS-12/5 – 8 hours

$\$98,827/2087 = \47.35 (basic hourly rate) + $\$48.74$ (overhead) = $\$96.09$ (adjusted hourly salary)

Employee	Hourly Salary	Number of Hours	Total
Senior Advisor, Service Contracts and Tariffs	\$158.83	6	\$953
Transportation Specialist	\$96.09	8	\$769
TOTALS		14	\$ 1,722

Estimated cost to the Federal Government: \$1,722