

SUPPORTING STATEMENT

FEDERAL MARITIME COMMISSION 46 CFR PART 530 – SERVICE CONTRACTS AND RELATED FORM FMC-83 (OMB No. 3072-0065)

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 40502 of Title 46 of the United States Code requires ocean common carriers and agreements among such carriers to file their service contracts confidentially with the Commission. 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.

To reduce unnecessary regulatory burdens, the rule allows up to 30 days to file original service contracts with the Commission, consistent with the filing requirements for amendments to existing service contracts.

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 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. The Commission monitors service contract filings to ensure compliance with 46 U.S.C. subtitle IV.

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 regulations at Part 530 include procedures for filing service contracts using 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. 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 the only source of accurate information is the filing party to the service contract (respondent).

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

As the filing obligation rests upon the ocean common carrier, 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 filing of service contracts is not assigned a set, periodic filing date by the Commission; service contracts are filed as they are entered into by the parties. If records of service contracts were not produced as requested within the time period specified, (within thirty (30) days of the effective date) the Commission would not have the information it requires to perform its statutory responsibilities.

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.

With the exception of a records retention requirement (section (d) above), this information collection does not require the collection to be conducted in a manner inconsistent with OMB guidelines. There is a five-year recordkeeping requirement for this information collection that is consistent with the statute of limitation provisions in 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 regarding this extension was published November 20, 2024, at 89 FR 91749. 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.

All service contracts and their amendments filed with the Commission are confidential, 46 U.S.C. § 40502(b)

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.

The regulation and forms do not ask information 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.

There are 129 active VOCCs. According to the most recent data as of the drafting of this document, 84 annually file service contracts and amendments in the Commission's SERVCON

system. The Commission therefore estimates the actual respondent universe to be 84. The Commission estimates the total hour burden for the filing of service contracts, amendments, and notices to be 34,285.48 hours (see below).

The Service Contract Registration, Form FMC-83, is required before filing of service contracts may be made. The Commission's estimates for annualized cost to respondents for the information collection presently takes into account that 74% of filers utilize electronic web services to upload and file original service contracts or amendments, an integrated contract maintenance and filing format which takes just seconds to file. The remaining 26% of filers manually key in minimal identifying data on the SERVCON filing screen and attach a copy of the service contract or amendment for uploading. This allocation of time in the table below more accurately reflects the actual time it takes filers to upload or file contracts or amendments. The Commission estimates an annualized cost to respondents for information collection as **\$ 4,929,608.22**. This includes overhead and benefits. (See Attachment 1.)

| Requirement | Annual Respondents | Annual Instances | Average Hours Per Response | Total Hours |
|---|---------------------------|-------------------------|-----------------------------------|--------------------|
| Service contracts/formats 46 CFR part 530 | 84 | 370,918 | .0166 | 6,157.24 |
| Service Contract Rules & Notices (46 CFR 530.12) | 84 | 84 | 1 | 84 |
| Notification/Filing Requirements (46 CFR 530.9) | 84 | 84 | 0.1 | 8.4 |
| Form FMC-83 (46 CFR 530.5(c)) | 84 | 13 | 0.1 | 1.3 |
| Disclosure/Third Party (46 CFR 530.12) | 84 | 5 | 0.1 | 0.5 |
| Audit Requirements (46 CFR 530.12(a)) | 4 | 1 | 119 | 476 |
| Recordkeeping (46 CFR 530.12(c)) | 129 | 835,092 | .033 | 27,558.04 |
| TOTALS | | 1,206,200 | 120.3496 | 34,285.48 |

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

Service Contracts/Formats: Under 46 CFR § 530.8(a), vessel-operating common carriers (VOCCs) must file a complete copy of each service contract before any cargo moves under that contract. Amendments must also be filed, but can be submitted up to 30 days after the effective date of the agreement between the VOCC and the shipper. Of the “total” respondent universe of 129 active VOCCs, only 84 annually file service contracts and amendments in the Commission’s SERVCON system. During 2024, carriers filed 370,918 original service contracts.

Service Contract Rules & Notices: VOCCs are optionally permitted to publish rules and notices which apply to all, or a specified subset, of service contracts where that method would be more convenient to the carrier. The publication of a rule or notice typically is accomplished in one instance, and is rarely amended once initially published. The Commission estimates one hour to publish a rule or notice, in those instances where the carrier elects to do so. The estimate is predicated on each carrier publishing one such rule or notice annually, although because it is optional, this burden may be overstated.

Notification/Filing Requirements: Since ocean service contracts are subject to contract law as well as FMC statutes and regulations, virtually all contracts are settled and amended prior to the expiration date to comport with the requirements. The Commission estimated 2.5 instances for each of the 84 filers.

Form FMC-83: The universe of filers is 84; however, only new VOCCs intending to file service contracts and existing VOCCs who want to amend their registration form are required to do so. On average, only 5 new and 8 existing filers, for a total of 13 instances, utilized the form annually. It is not an annual requirement, so the number of annual instances is based on the average number of filings in FYs 2022, 2023, and 2024.

Disclosure/Third Party: Pursuant to 46 U.S.C. § 40502(e), the Shipping Act requires that an ocean common carrier that is a party to or is otherwise subject to a collective bargaining agreement with a labor organization shall, in response to a written request by the labor organization, state whether it is responsible for certain specific types of work at a dock area or within a port area in the United States with respect to cargo transportation under a service contract. As such requests are not required to be reported to the Commission, the FMC has no specific data regarding the frequency with which such requests occur, and the time required to respond. The Commission has made best-guess estimates based on information collected from the FMC’s SERVCON database.

Recordkeeping/Audit Requirements: VOCCs create original service contracts and amendments which are created 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, although many contracts and amendments today are agreed to by electronic or digital signature. The number of annual instances of new contracts and amendments is 835,092, and conservatively allowing for 2 minutes (.033 hours) per new contract or amendment for recordkeeping/auditing purposes would encompass 27,558.04 hours (equivalent to 328.07 hours on average per carrier utilizing service contracts on an annual basis). A VOCC is required to collect signatures prior to filing a contract or amendment or in addressing customer disputes relating thereto; therefore, some of this burden could be offset into the service

contracts/formats section above. In FY 2024, 4 audits were conducted, with response times of 7 days, 7 days, 45 days, and 60 days. The estimated time for gathering documents was 4 hour per day; with an average time estimated at 119 hours per audit.

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.

Total estimated costs to the Federal Government for this rule and form is 2,200 hours, at an estimated cost of **\$364,070.00** (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 estimated burden hours for the collection remain the same, but the Commission has updated the associated costs to respondents to reflect current salary information for the water transportation industry.

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

Not applicable – no information will be published.

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

Estimated Burden and Costs, Including Overhead, to Respondents

34,283.68 hours (reporting and recordkeeping requirements) + 1.8 hours (Form FMC-83) =
34,285.48 total hours

99.8% Pricing Manager/Operations Specialties Manager (34,216.91 hours)
0.2% Tariff Publisher/ Secretary and Administrative Assistant (68.57 hours)

The annual salary calculations have been formulated using the U.S. Department of Labor's U.S. Bureau of Labor Statistics' May 2024 National Industry-Specific Occupational Employment and Wages Estimates for Water Transportation (NAICS 48300) (overhead of 102.93% has been added to the basic salary).

Note: Occupation Codes "Operations Specialties Manager" and "Secretary and Administrative Assistant" are the closest analogous positions in the BLS tables to "Pricing Manager" and "Tariff Publisher).

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

Pricing Manager

$\$148,030/2087 = \70.93 (basic hourly rate) + $\$73.01$ (overhead) = $\$143.94$ (adjusted hourly salary)

Tariff Publisher

$\$66,390/2087 = \31.81 (basic hourly rate) + $\$32.74$ (overhead) = $\$64.55$ (adjusted hourly salary)

| Employee | Hourly Salary | Number of Hours | Total |
|------------------|---------------|------------------|-----------------------|
| Pricing Manager | \$143.94 | 34,216.91 | \$4,925,182.03 |
| Tariff Publisher | \$64.55 | 68.57 | \$ 4,426.19 |
| TOTALS | | 34,285.48 | \$4,929,608.22 |

Attachment 2

Estimated Burden and Costs, Including Overhead, to Federal Government

The annual salary calculations have been formulated using the Federal Government's January 2025 salary table for the Washington D.C. metropolitan area (overhead of 102.93% has been added to the basic salary).

Formula: Annual salary/2087 + overhead = adjusted hourly salary

Supervisory Program Analyst, Director of Maritime Analytics, Service Contracts and Tariffs (GS 15/5) – 900 hours

$\$189,950/2087 = \91.02 (basic hourly rate) + $\$93.68$ (overhead) = $\$184.70$ adjusted hourly salary

Transportation Specialist (GS 12/5) – 200 hours

$\$114,923/2087 = \55.07 (basic hourly rate) + $\$56.68$ (overhead) = $\$111.75$ adjusted hourly salary

Senior Transportation Analyst (GS 14/5) – 600 hours

$\$161,486/2087 = \77.38 (basic hourly rate) + $\$79.64$ (overhead) = $\$157.02$ adjusted hourly salary

Trial Attorney (GS 15/5) – 100 hours

$\$189,950/2087 = \91.02 (basic hourly rate) + $\$93.68$ (overhead) = $\$184.70$ adjusted hourly salary

Trial Attorney (GS 14/5) – 200 hours

$\$161,486/2087 = \77.38 (basic hourly rate) + $\$79.64$ (overhead) = $\$157.02$ adjusted hourly salary

Investigator (GS 14/5) – 200 hours

$\$161,486/2087 = \77.38 (basic hourly rate) + $\$79.64$ (overhead) = $\$157.02$ adjusted hourly salary

| Employee | Hourly Salary | Number of Hours | Total |
|-------------------------------|---------------|-----------------|---------------------|
| Supervisory Program Analyst | \$184.70 | 900 | \$166,230.00 |
| Transportation Specialist | \$111.75 | 200 | \$22,350.00 |
| Senior Transportation Analyst | \$157.02 | 600 | \$94,212.00 |
| Trial Attorney | \$184.70 | 100 | \$18,470.00 |
| Trial Attorney | \$157.02 | 200 | \$31,404.00 |
| Investigator | \$157.02 | 200 | \$31,404.00 |
| TOTALS | | 2,200 | \$364,070.00 |

