

**Supporting Statement
for
Report of Oil or Hazardous Substance Discharge; and
Report of Suspicious Maritime Activity**

A. Justification.

1) Circumstances that make the collection of information necessary.

This collection consists of two elements—

- (a) Report of Oil or Hazardous Substance Discharge, and
- (b) Report of Suspicious Maritime Activity.

- (a) Prior to the Federal Water Pollution Control Act numerous spills were occurring and not being reported or cleaned up. This was deteriorating the environment and creating potential health risks to the public. The public did not have a central place to report pollution spills that had the resources or authority to take responsible action. Immediate reports to the National Response Center (NRC) of pollution discharges were mandated by section 311(b)(5) of the Federal Water Pollution Control Act¹, section 306(a) of the Outer Continental Shelf Lands Act Amendments² of 1978, section 18(b) of the Deepwater Port Act³ of 1974, and by section 103 (a) of the Comprehensive Environmental Response, Compensation, and Liability Act⁴ of 1980 (CERCLA). This mandatory report has been further promulgated in—

- 33 CFR 153.203 for oil or hazardous substances,
- 40 CFR 263.30 and 264.56 for hazardous wastes, and
- 49 CFR 171.15 for hazardous materials.

Failure to report a discharge in any of the foregoing instances may result in a fine and/or imprisonment (see 33 CFR 153.205).

- (b) In this post-9/11 environment, a mechanism for collection reports of suspicious maritime activities is necessary. A national program, branded America's Waterway Watch (AWW), encourages the voluntary reporting of all suspicious activity. Additionally, an owner or operator of a vessel or facility required to have MTSA⁵ security plan must report activities that may result in a transportation security incident and breaches of security to the NRC (see 33 CFR 101.305).

This information collection supports the following strategic goals:

Department of Homeland Security

- Awareness

¹ See 33 U.S.C. 1321, (all U.S. Code cites available via GPO Web site at -- <http://www.gpoaccess.gov/uscode/index.html>).

² See 43 U.S.C. 1801

³ See 33 U.S.C. 1504

⁴ See 42 U.S.C. 9601

⁵ MTSA -- Maritime Transportation Security Act of 2002

- Prevention
- Protection
- Response
- Recovery

Coast Guard

- Maritime Safety
- Maritime Security
- Maritime Stewardship

Marine Safety, Security and Stewardship Directorate (CG-5)

- Maritime Safety
- Maritime Security
- Human and Natural Environment
- Economic Growth and Trade/Mobility

2) By whom, how, and for what purpose the information is to be used.

- (a) The information concerning the pollution discharge is reported to the NRC by calling a toll-free telephone number or by submitting a request electronically via the NRC Web site. The discharge report is passed from the NRC to the pre-designated federal on-scene coordinator for the area in which the discharge occurred. This report ensures quick response to the pollution incident from Federal, State, and local governments and the private sector to minimize the hazard to lives, property, and the environment.
- (b) With the AWW program, the NRC also serves as the centralized reporting point for suspicious activity as well as actual events in the maritime domain concerning threats, attacks, vulnerabilities and anomalies. In both emergency situations and when receiving reports of suspicious activity in a non-emergency situation, the NRC takes the report from the caller, and logs and forwards the information to the Homeland Security Operations Center and to other agencies as appropriate.

3) Consideration of the use of improved information technology.

- (a) An on-line capability for the public to submit notifications of oil and hazardous substance discharge was initiated in 2001. The NRC Web site is – www.nrc.uscg.mil/report.html. Since its inception, approximately 2% of all notifications have been collected electronically. NRC expects this number to increase as more people become familiar with this reporting option.
- (b) An on-line capability for the public to submit notifications of suspicious maritime activity is not currently available and there are no plans to make such a feature available in the future.

4) Efforts to identify duplication. Why similar information cannot be used.

- (a) The Coast Guard monitors State and local regulatory activity in this field. To date

there are no similar State or local programs that have been identified that require equivalent information. Furthermore, no other Federal agencies have similar or equivalent regulatory requirements.

- (b) The Coast Guard will monitor State and local regulatory activity in this field. As a national oversight program, the AWW will support area, district and local commanders. In order to disseminate information to the appropriate agencies and provide security, information provided in the suspicious maritime activity reports is shared with the appropriate party. To date there are no similar State or local programs that have been identified that require equivalent information. Furthermore, no other Federal agencies have similar or equivalent regulatory requirements.
- 5) Methods to minimize the burden to small businesses if involved.
- (a) Owing to the nature of the industry, reporting requirements for small entities are generally proportionately less because of the smaller number of discharges. These reports are in narrative form and no particular format is specified.
 - (b) Due to the random nature of suspicious maritime activity, the reporting requirement is not expected to pose a disproportionately large burden on small businesses. These reports are in narrative form and no particular format is specified.
- 6) Consequences to the Federal program if collection were conducted less frequently.
- (a) This information is reported whenever there is an oil or hazardous substance discharge. If it were reported less frequently, the federal on-scene coordinator might not learn of the discharge in time to clean up or mitigate its effects. Large spills of oil or hazardous substances could negatively impact the environment and pose serious health threats. This report ensures quick response to the pollution incident from Federal, State, and local governments, and the private sector the ability to further minimize the hazard to lives, property, and the environment.
 - (b) This information is reported whenever there is a suspicious activity or actual events in the maritime domain concerning threats, attacks, vulnerabilities and anomalies. It is collected to prevent acts of terrorism and other illegal activity that jeopardizes maritime homeland security. The ability to collect this type of information on a 24-hour/day basis is necessary to protect homeland security.
- 7) Explain any special circumstances that would cause the information collection to be conducted in a manner inconsistent with guidelines.

Information is collected in a manner that is consistent with the guidelines.

8) Consultation.

A 60-day notice was posted in the *Federal Register* on January 2, 2008 (73 FR 201) to obtain public comments on this collection. That notice elicited no comments. A 30-day notice was posted in the *Federal Register* on May 21, 2008 (73 FR 29526) to obtain public comments on this collection. That notice elicited 1 comment.

Summary of General Comments:

- 33 CFR § 153.203 – No mention of online or electronic notification.
- 40 CFR § 263.30c)(1) – There is no mention of the electronic notification option.
- 40 CFR §264.56(d)(2) – There is no mention of an online or electronic notification option.
- 49 CFR § 171.15(a) – There is nothing to indicate the acceptability of electronic notification.

USCG Response to Comments:

The commenter's assessment is correct in reference to those CFRs concerning only telephonic notifications to the NRC. This is certainly a concept worth looking into. However, this may require an amendment or addition to the existing regulations stating the validity of the Internet communiqué. We have referred this section to the legal experts for further consultation. It is also important to note two salient points: first, the legality of the Internet communiqué is now an acceptable mode of communication for legal needs, and, second, when those regulations were originally promulgated, the Internet means of communication were not yet conceived. However, due to the nature of rulemaking, this may preclude us from including electronic notifications in a timely fashion. We do agree that such technologies have received their legal acceptance and standing today and it has become a very valuable tool for quick response needs—especially in terms of both saving time and money.

Comments on the burden estimates that appear pages 4-6 of the ICR supporting statement:

- does not provide an estimate for the online approach.
- burden estimate appears to be inaccurate/incomplete due to its omission of the time estimates for the online notifications.

USCG Response to Comments:

The commenter's assessment is correct concerning the omission of online notifications and that no estimates were provided. We do not agree, however, that the estimates provided were inaccurate/incomplete. While we do agree that an online notification is warranted, at the time of the renewal, the online notification was not in place or even conceived. Hence, the online notification estimates were not considered. Furthermore, the commenter's 2% estimated calculation is not a significant number in the overall calculation of the burden hours. After all, it still involves the man-power to review those email reports. Therefore, we have concluded that it is a small fraction compared to the total number of notifications that are made to NRC—especially compared to high volume of total calls that NRC receives every year to generate NRC reports.

Comment on a statement on Page 2, Section 4(a) of the Supporting Statement:

- the supporting statement is incorrect as the EPA has regulations (40 CFR § 110.6, 117.21, and 302.6) that are essentially identical to the Coast Guard's regulatory notification.

USCG Response to Comment:

The commenter's statement regarding page 2 section 4(a), which addresses the duplication issue of the reporting requirements, is valid. It is also true that EPA has regulations (40CFR sections 110.6, 117.21 and 302.6) that require notifications to be made to the NRC in case of any listed hazardous material releases or oil spills in the navigable waters of U.S. and its territories. However, we do not agree that the Coast Guard's and EPA's notifications are exactly the same. The underlying difference between the two is that the Coast Guard has provisions for security, terrorism, and suspicious activities.

9) Explain any decision to provide any payment or gift to respondents.

No payments or gifts of any kind are provided to the respondents.

10) Describe any assurance of confidentiality provided to respondents.

- (a) On occasion, a caller reports a discharge that his or her employer has failed to report. These persons often request that their identities be kept in confidence for fear of losing their jobs or being otherwise threatened. This information collection complies with the Privacy Act of 1974 and OMB Circular A-130 (8 February 1996).
- (b) The caller is provided the option to make an anonymous report. If the caller reports his or her name, then the caller's name, phone number, and any other personal information is only released to other agencies and is not posted on the web site or provided to anyone making a Freedom of Information Act (FOIA) request.

11) Additional justification for any questions of a sensitive nature.

- (a) As described above, the name of the person reporting the discharge is required in the information collection. The individual's name is sometimes sensitive, but it is necessary to verify the remaining information for Federal response.
- (b) As described above, the caller may remain anonymous or provide his or her name, phone number, or other personal information. The caller's name or personal information is sometimes sensitive, and is not posted on the web site or provided to anyone making a FOIA request.

12) Estimates of reporting and recordkeeping hour and cost burdens of the collection of information.

- The estimated annual number of respondents is – 156,188 (146,992 + 9,196)
 - The estimated annual number of responses is – 156,188 (146,992+ 9,196)
 - The estimated annual hour burden is -- 13,017 (12,250 + 767)
- (a) In 2006, NRC records indicate that 146,992 telephone calls were received and they expect an annual average increase of approximately 10-15% for the next few years. The annual burden hour estimate is based on 146,992 calls per year at approximately 5 minutes per call (1/12 hour). The industry cost estimate is based on an average hourly wage of \$63.⁶ Since it is impossible to know exactly who is notifying the NRC the hourly wage is calculated by averaging between clerk and management wage estimates.

Annual Burden Hour Estimate

146,992 phone calls x 1/12 hour per call = **12,250 annual burden hours.**

Annual Cost Estimate

12,250 burden hours x \$63/hour = **\$771,750**

- (b) In 2006, the AWW program filed 2,299 reports in regard to suspicious maritime activity. It is estimated that only one in four calls result in a report. Therefore, the AWW receives approximately 9,196 (2,299 x 4) incoming telephone calls per year regarding suspicious maritime activity. The annual burden hour estimate is based on 9,196 calls per year at approximately 5 minutes per call (1/12 hour). The industry cost estimate is based on an average hourly wage of \$63.⁷ Since it is impossible to know exactly who is notifying the NRC the hourly wage is calculated by averaging between clerk and management wage estimates.

⁶ Hourly wages estimated by averaging the salaries of a GS-7 (clerk) and a GS-13 (management) ("out-of-government" wages), using COMDTINST 7310.1K on Standard Rates.

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Annual Burden Hour Estimate

9,196 phone calls x 1/12 hour per call = **767 annual burden hours.**

Annual Cost Estimate

767 burden hours x \$63/hour = **\$48,321**

Table 1. Total Annual Burden Hours and Cost

| NRC Program | Respondents | Responses | Annual Burden Hours | Wage | Annual Cost |
|---|--------------------|------------------|----------------------------|-------------|--------------------|
| (a) Oil & Hazardous Substance Discharge | 146,992 | 146,992 | 12,250 | 63 | \$771,750 |
| (b) AWW | 9,196 | 9,196 | 767 | 63 | \$48,321 |
| Total | 156,188 | 156,188 | 13,017 | - | \$820,071 |

13) Estimates of annualized capital and start-up costs.

There are no annualized capital and start-up costs.

14) Estimates of annualized Federal Government costs.

- (a) In 2006, NRC records indicate that approximately 146,992 telephone calls were received regarding oil or hazardous substance discharge. These calls resulted in the preparation of 36,748 incident reports and the generation of 377,041 outgoing notifications to the appropriate officials in the field. The average wage for a contractor working in the NRC is \$49.⁸ It is important to note the following:

- Every telephone call does not result in an incident report; approx. 1 in 4 phone calls results in an incident report.
- Incident reports generate notifications. There may be more than one notification made for the same event to inform the various Federal agencies and other interested officials per incident report.

On average, it takes the NRC approximately 12 minutes (1/5 hour) to receive, complete and disseminate a verbal notification to the Federal on-scene coordinator.

On average, it takes the NRC approximately 1 minute (1/60 hour) to receive, complete, and disseminate a non-verbal notification to the Federal on-scene

⁸ Hourly wages estimated for a GS-9 ("out-of-government" wages), using COMDTINST 7310.1K on Standard Rates.

coordinator.

Annual Government Burden Hour Estimate

36,748 incident reports x 1/5 hour per report = 7,350 burden hours
146,992 incoming calls x 1/12 hour per call = 12,250 burden hours
54,387 verbal notifications x 1/12 hour per report = 4,533 burden hours
322,654 non-verbal notifications x 1/60 hour per report = 5,378 burden hours
Total Burden Hours = 29,511 hours

Annual Government Cost Estimate

29,511 burden hours x \$49 = \$1,446,039
(This excludes operating, coordination, and equipment costs.)
Total Cost = \$1,446,039

(b) In 2006, NRC estimates that 9,196 telephone calls were received in regards to suspicious maritime activity. These calls resulted in the preparation of 2,299 incident reports and the generation of 37,513 outgoing notifications to the appropriate agencies. The average wage for a contractor working in the NRC is \$49.⁹ It is important to note the following:

- Every telephone call does not result in an incident report; approx. 1 in 4 phone calls result in a Suspicious Activity (SA) report.
- SA reports generate notifications. There may be more than one notification made for the same event to inform the various Federal agencies and other interested officials per incident report.

On average, it takes the NRC approximately 12 minutes (1/5 of an hour) to receive, complete and disseminate a verbal report.

On average, it takes the NRC approximately 1 minute (1/60 of an hour) to receive, complete and disseminate a non-verbal report.

Annual Government Burden Hour Estimate

2,299 incident reports x 1/5 hour per report = 460 burden hours.
9,196 incoming reports x 1/5 hour per call = 1,840 burden hours
6,069 verbal notifications x 1/5 hour per call = 1,214 burden hours
31,444 non-verbal notifications x 1/60 hour per call = 525 burden hours
Total Burden Hours = 4,039 hours

Annual Government Cost Estimate

4,039 burden hours x \$49 = \$197,911
(This excludes operating, coordination, and equipment costs.)
Total Cost = \$197,911

Fed. Govt. Cost Summary

⁹ Ibid.

Total Burden Hours -- 33,550 = 29,511 + 4,039
Total Cost -- \$1,643,950 = \$1,446,039 + \$197,911

- 15) Explain the reasons for the change in burden.

The change (i.e., increase) in hour burden is an ADJUSTMENT that is strictly due to a change in the number of NRC reports received by the Coast Guard. The regulations regarding reporting of oil or hazardous substance discharges have not changed, nor the methodology on how the hour burden is estimated.

- 16) For collections of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis and publication.

There is no plan to use statistical analysis or to publish this information.

- 17) Explain the reasons for seeking not to display the expiration date for OMB approval of the information of collection.

We are not seeking such approval. The OMB Number will appear on appropriate PRA disclosure information.

- 18) Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods.

This information collection does not employ statistical methods.