

Supporting Statement for NSF's Rule on
Non-Governmental Antarctic Expeditions (45 CFR Part 673)
OMB No. 3145-0180

A. Justification

1. Circumstances that Make the Collection of Information Necessary

Under the Antarctic Conservation Act (16 U.S.C. 2401 et seq.), the National Science Foundation (NSF) is responsible for regulating certain activities in Antarctica. On October 2, 1996, the Antarctic Conservation Act was amended by the Antarctic Science, Tourism, and Conservation Act of 1996 (Public Law 104-227) to implement the Protocol on Environmental Protection to the Antarctic Treaty ("the Protocol"). Article 15 of the Protocol, "Emergency Response Action," requires that each Party provide for prompt and effective response action to such emergencies as might arise from activities in the Antarctic, including tourism and other non-governmental activities. On April 14, 1997, the Coast Guard issued regulations to implement Article 15 of the Protocol with respect to U.S.-flagged vessels operating in the Antarctic. The Coast Guard regulations are found at 33 CFR Part 151 (attached). Because some U.S. non-governmental operators may also charter non-U.S. flagged vessels for their Antarctic expeditions, this regulation (45 CFR 673; attached) has been issued which ensures that non-U.S. flagged vessels used by U.S. non-governmental operators have emergency response plans that are consistent with Article 15. Section 6(a)(4) of the Act, as amended (16 U.S.C. Section 2405)(a)(4)), directs the Director of NSF to issue such regulations as are necessary and appropriate to implement the Protocol and the Act.

The ASTCA also amends the ACA to require non-governmental operators to notify their passengers and crew on Antarctic expeditions of their obligations under the Antarctic Conservation Act. Section 4(a)(6) of the Act (16 U.S.C. Section 2403(a)(6)) makes it unlawful for any person who organizes a nongovernmental expedition in Antarctica and who does business in the United States to fail to notify all expedition members of the environmental obligations of the ACA.

NSF added a new Part 673 to its regulations (66 FR 42450, August 13, 2001) to encompass the new notification and Article 15 requirements for U.S. non-governmental expeditions. U.S. operators using non-U.S. flagged vessels for Antarctic expeditions are required to ensure that the vessel owner or operator has an emergency response plan for such emergencies as might arise in the performance of the vessel's activities in Antarctica. This provision is needed to ensure that the U.S. fulfills its obligation to implement Article 15 of the Protocol. Since the vessels currently being used by U.S. tour operators already have a shipboard oil pollution emergency plan (SOPEP), this rule simply requires that the existing SOPEP be amended to include a plan for prompt and effective response action to emergencies arising in the performance of the vessel's activities. The Coast Guard's regulations implementing Article 15 for U.S. flagged vessels contain the identical requirement and any plan which satisfies the requirements contained in 33 CFR 151.26 of the Coast Guard regulations will also satisfy the requirements of this rule. This regulatory approach is designed to minimize the burden on operators, avoid duplication, and provide flexibility to accommodate varying approaches to response plans.

Part 673 also requires operators doing business in the United States to notify their passengers and crew of the environmental protection obligations of the ACA. Since 1994, it has been the practice of the U.S. tourist industry to provide expedition members with a copy of the Guidance for Visitors to the Antarctic, a document prepared and adopted at the Eighteenth Antarctic Treaty Consultative Meeting as Recommendation XVIII-1. Because this Antarctic Treaty System document satisfies the environmental protection information requirements of the proposed rule, this regulatory provision does not impose any additional paperwork burden.

2. Use of Information

The information in the required emergency response plan will be used by the ship owner or operator in the event of an emergency that necessitates implementing the plan. The information also will be used by the organizer of the non-governmental expedition to ensure that the vessel owner or operator has the necessary plan in place and is prepared to take all reasonable measures to implement the plan in the event of an emergency.

The environmental protection information distributed to passengers and crew will be used to educate them about the requirements of the ACA and the conduct required of them in the Antarctic.

3. Improved Information Technology

Materials for passenger and crews are provided in a variety of formats, including written materials and are available on a website maintained by IAATO (the International Association of Antarctica Tour Operators) – <http://www.iaato.org>. The format for the response plans is not dictated by the regulation. Typically, response plans are available in hard copy but they can be maintained in an electronic format as well.

4. Duplication

The rule does not duplicate existing Federal regulations because the U.S. Coast Guard regulation does not cover non-governmental operators who use non-U.S. flagged vessels for their Antarctic voyages. The rule avoids duplication of effort by providing for the amendment of existing SOPEPs rather than creating a new document.

Duplication of environmental information materials will be avoided by allowing use of existing written materials that were developed by the Antarctic Treaty System and are currently being used by operators.

5. Impact on Small Business

The information collection will not have a significant impact on small businesses.

6. Frequency

The practice in the Antarctic tourist industry has been to charter with the same vessels for multiple seasons. Consequently, it is anticipated that the rule will require a one-time preparation of an emergency response plan for such vessels.

The educational information has already been prepared and is currently being distributed to all passengers and crew. The rule does not change the current practice of the industry.

7. Special Circumstances

There are no special circumstances associated with the collection of information.

8. Notice Soliciting Comments on Information Collection

When NSF published the proposed rule on June 4, 1998, NSF stated that the rule was not subject to the Paperwork Reduction Act due to the fact that less than ten operators would be subject to the rule. Because our estimate of the number of tour operators subject to the rule has risen above ten, NSF fulfilled the Paperwork Reduction Act requirements for the rule prior to publication of the final rule. In anticipation of this extension, NSF published a Notice of Information Collection Request in the Federal Register on April 12, 2010 [75 FR 18551] and no comments were received.

9. Payment

Not applicable.

10. Assurance of Confidentiality

The collection of information does not involve any assurances of confidentiality.

11. Sensitive Questions

There are no sensitive questions on the proposed form.

12. Estimation of Respondent Reporting Burden

Estimated number of respondents	12
Frequency of response	Typically once, unless operator chooses to charter a new vessel which does not already have a compliant plan.
Total hours	If a SOPEP already exists for the vessel (which is currently the case for all vessels being chartered by U.S. tour operators), the response plan should take 40 hours or less to prepare.

13. Annualized Cost

In issuing its rule, the Coast Guard conducted an industry cost analysis for preparation of an emergency response plan. 62 FR 18043, 18044 (April 14, 1997). The Coast Guard estimated the total cost for incorporating the new SOPEP amendments to range from \$500 to \$1400 per plan. The analysis indicated that the amendments needed to be incorporated into a vessel's current SOPEP would be approximately 5 to 10 pages and that they would take no more than five days to draft. The Coast Guard estimated that the cost per page of additions to the SOPEP is approximately \$100 to \$140 (\$35/hr x 40hr./(week)/10). The Coast Guard also estimated the cost for creating a new plan, should one be required, would range from \$1500 to \$4200 per plan. Since the requirements under the Coast Guard rule are the same as the requirements under this rule, the estimates from this Coast Guard analysis are applicable to this rule.

Because the Guidance for Visitors to the Antarctic, a document prepared and adopted at the Eighteenth Antarctic Treaty Consultative Meeting as Recommendation XVIII-1, satisfies the environmental protection information requirements of the proposed rule, there are no additional costs for preparation of educational materials. There is also no additional cost for distribution of these materials because the industry is already doing so.

14. Annualized Cost to the Federal Government

The cost to the Federal Government is subsumed in the general administrative costs of the U.S. Antarctic Program. The National Science Foundation anticipates that it will, on occasion, review records of the U.S. operator for the purpose of determining whether the U.S. operator is in compliance with the regulation.

15. Changes in Burden

Not applicable.

16. Publication

Not applicable.

17. Request not to Display Expiration Date

Not applicable.

18. Exceptions to Certification

None.

B. Statistical Use

The information collection is not to be published for statistical use and NSF does not plan to publish the response plans.

Attachments:

45 CFR 673

33 CFR 151