

**Supporting Statement
for
Adequacy Certification for Reception Facilities
and Advance Notice - 33 CFR Part 158**

A. Justification.

1) Circumstances that make the collection of information necessary.

This collection addresses **a)** Adequacy Certification, and **b)** Advance Notice of Arrival.

a) The Act to Prevent Pollution from Ship implements the discharge prohibitions of MARPOL 73/78 and Annex I (Oil), Annex II (NLS) and Annex V (Garbage). It also directs the Secretary of the Department in which the Coast Guard is operating to establish regulations for determining the adequacy of reception facilities. Ports and terminals may request the Secretary to certify the adequacy of those facilities (33 U.S.C. 1905(a)). These responsibilities were delegated to the Coast Guard in 49 CFR 1.46. Reception facilities are needed to receive wastes which ships may not discharge at sea. The information collections described in this supporting statement are necessary to implement the requirements described in 33 CFR 158.140, 158.150, 158.165, and 158.190. The discharge limitations are contained in 33 CFR 151.10 for oil and oily wastes, 151.42 for noxious liquid substances (NLS) and 151.65 for plastics and other garbage. In order to certify the adequacy of reception facilities, the Coast Guard must collect certain information from operators of ports and terminals. This collection addresses the information that is collected for administrative procedures in conjunction with Certificates of Adequacy.

b) It would be extremely burdensome to require terminal operators to have reception facilities immediately available at all times, whether they were needed by the ships or not. Even where fixed reception facilities are available, it would be burdensome to require operating personnel to be present at all times. To avoid this burden, reception facilities are required only to be available within 24 hours of notice of need by a ship (33 CFR 158.200(a) for oil, 158.310(a) for NLS and 158.410(a) for APHIS¹ regulated garbage). If no definite response time were required, ships would be delayed by the need to wait for reception service.

A response time criteria cannot legally be imposed on reception facilities without a corresponding requirement being placed on oceangoing ships to give notice of need.

This information collection supports the following strategic goals:

Department of Homeland Security

- Protection

Coast Guard

- Protection of Natural Resources

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

- Human and Natural Environment: Eliminate environmental damage associated with maritime transportation and operations on and

¹ U.S. Department of Agriculture's Animal and Plant Health Inspection Service.

around the nation's waterways.

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

CFR, Subject and Affected Population

33 CFR	Subject and Affected Population
33 CFR 158.140	Application for a Certificate of Adequacy. The persons in charge of ports and terminals must apply to the Coast Guard for a certificate.
33 CFR 158.150	Waivers. The persons in charge of ports and terminals submit a request for a waiver to the Captain of The Port.
33 CFR 158.165	Notification of Change. Persons in charge of ports and terminals notify in writing the Captain of the Port of any changes in the information required for a Certificate of Adequacy.
33 CFR 158.190	Appeals. The persons in charge of ports and terminals that are affected by a Coast Guard action.
33 CFR 158.200(a) for oil, 158.310(a) for NLS, and 158.410(a) for APHIS regulated garbage	Advance Notice The persons in charge of ports, terminals and vessels.

The following items of information are contained in the regulations as follows:

a) Adequacy Certification

i) Application for a Certificate of Adequacy (33 CFR 158.140). There must be a requirement that persons in charge of ports and terminals submit the information necessary for the Coast Guard to determine whether reception facilities are adequate. If this information were not collected, the Coast Guard would have no rational basis for issuing Certificates of Adequacy (COA).

ii) Waivers (33 CFR 158.150). The criteria for adequacy are contained in 33 CFR 158.200, 158.310 and 158.410. Due to particular circumstances, it may be impractical for a port or terminal to comply with particular criteria. Title 33 CFR 158.150 provides a procedure whereby a waiver of individual criteria may be granted by the Coast Guard Captain of the Port. If this information were not collected, ports and terminals would have to comply with the criteria that may be in excess of their actual needs.

iii) Notification of Change (33 CFR 158.165). The statute (33 U.S.C. 1905(d) requires the Coast Guard to publish a list of ports and terminals holding valid Certificates of Adequacy in the Federal Register. If this information were not collected, the Coast Guard would not be able to publish an accurate list.

iv) Appeals (33 CFR 158.190). A procedure must be available whereby the person affected by a Coast Guard action may submit information necessary to evaluate an appeal from that action. If this information were not collected, the Coast Guard would not have the information necessary to evaluate an appeal.

b) Part of the criteria of adequacy is a response criteria of 24 hours whenever a notice of arrival is received (33 CFR 158.200(a), 158.310(a) and 158.410(a)). For this criteria to be effective, there must be a requirement that ships give 24 hours notice of their need for reception facilities. If this information were not collected, the cost of providing waste reception facilities would be excessive either because reception facilities would have to be constantly available whether they were needed or not, or because ships would be delayed while waiting for reception services.

3) Considerations of the use of improved information technology.

This information may be sent by mail, fax or electronically submitted via e-mail to the Captain of the Port (COTP) at the local CG Sector Office. Applications are posted at <http://www.uscg.mil/forms>. Contact info for CG COTPs can be found at: <http://www.uscg.mil/top/units/>.

We estimate that 100% of the reporting requirements can be done electronically. At this time, we estimate that 98%² of the reporting requirements are done this way.

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

a) The Coast Guard monitors state and local regulatory activity in the field. To date no equivalent state and local programs have been identified that require equivalent information, and no other Federal agencies have similar or equivalent regulatory requirements.

b) The Coast Guard monitors state and local regulatory activity in this field. To date no equivalent state and local programs have been identified that require equivalent information and no other Federal agencies have similar or equivalent regulatory requirements. The Coast Guard has active regulations requiring advance notice of arrival from ships (33 CFR Part 160) similar to 33 CFR 151.10, 151.43 and 151.65, but these regulations would not satisfy the present need for the following reasons: 1) They provide notice to the Coast Guard, not ports and terminals, 2) They do not indicate whether reception facilities are required, and 3) They do not cover all of the ships that would require reception facilities.

5) Methods to minimize the burdens to small business if involved.

This information collection does not have an impact on small businesses or other small entities.

6) Consequences to the Federal program if collection were not done or conducted less frequently.

² While not all COA applications are sent electronically, we assume that all advance notice of arrivals are sent electronically from ships at sea. Thus nearly 100% of the reporting requirements are done electronically.

a) This collection cannot be conducted less frequently. The Certificate of Adequacy is effective until suspended or revoked; there is no need for periodic reapplication. The information necessary for waiver and appeals need be submitted only if the individuals affected wish to avail themselves of these administrative remedies. The notification of change need only be made when there is a change affecting the accuracy of the published list of reception facilities.

b) This collection cannot be conducted less frequently. To be effective, the advance notice of need for reception facilities must be given each time there is need.

7) Explain any special circumstances that would cause the information collection to be conducted in a manner inconsistent with the guidelines.

This information collection is conducted in manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8) Consultation

A 60-day Notice was published in the *Federal Register* to obtain public comment on this collection (see [USCG-2011-0854]; September 16, 2011; 76 FR 57748). Additionally, a 30-day Notice was published in the *Federal Register* to obtain public comment on this collection (November 21, 2011; 76 FR 71987). The Coast Guard has not received any comments on this information collection.

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

There is no offer of monetary or material value for this information collection.

10) Describe any assurances of confidentiality provided to respondents.

There are no assurances of confidentiality provided to the respondents for this information collection.

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

There are no questions of sensitive language.

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

The reporting burden and recordkeeping burden includes the following information:

Annual Burden of Collection of Information

Requirement	Respondents	Responses	Burden (Hours)	Burden (Dollars)
Certificate of Adequacy Application ¹	86	100	183	\$10,309
Waivers ²	14	14	28	\$1,764
Notice of Change ³	5	5	5	\$315

Appeals ⁴	0	0	0	0
Advance Notice ⁵	427	5,124	1,281	\$106,323
Total Annual Respondents, Responses and Burden	532	5,243	1,497	\$118,711

NOTES-

1 - We estimate about 1.2 response per respondent, and 3 hours per Oil/NLS COA response and .75 hours (45 minutes) per Garbage COA response.

2 - We estimate 1 response per respondent, and 2 hours per response.

3 - We estimate 1 response per respondent, and 1 hour per response.

4 - We estimate 1 response per respondent, and 10 hours per response (8 hours mgmt and 2 hours clerical).

5 - We estimate 12 responses per respondent, and .25 hours (15 minutes) per response.

a) Certificate of Adequacy

The Coast Guard estimates there are 427 active terminals³ with Certificates of Adequacy. Since COAs are issued for a period of 5 years, we estimate that 20% of these terminals will reapply for a COA each year. Based on this estimate, there are 86 respondents for COAs per year. Each terminal applies for a Certificate of Adequacy for Annex I (Oil), Annex II (NLS) and Annex V (Garbage) certificates (Annex III and IV also). The total number of certificates [Annex I (Oil), Annex II (NLS) and Annex V (Garbage) certificates] for all active facilities is 499 (200 for oil waste, 38 for NLS and 261 for garbage). Since COAs are issues for a period of 5 years, we estimate that 20% of these certificates will be renewed each year. This results in estimates for oily waste, NLS and garbage of 40 applications, 8 applications and 52 applications, respectively, for a total of 100 per year.

The Coast Guard estimates wages for management personnel and clerical personnel who prepare applications for the Certificates of Adequacy at \$83 per hour and \$43 per hour respectively.⁴

Certificate of Adequacy Application**Oil and NLS terminals:**

We estimate that management and clerical personnel will spend one hour and two hours respectively in order to prepare the application for the Certificate of Adequacy.

The hour burden is calculated to be: 144 hours = 1 management hour/application x 48 applications + 2 clerical hours/application x 48 applications

The cost burden is calculated to be: \$8,112 = 48 management hours x \$83/hour + 96 clerical hours x \$43/hour.

Garbage terminals:

We estimate that management and clerical personnel will spend 0.25 hours and 0.50 hours respectively in order to prepare the application for the Certificate of Adequacy.

³ As of July 2011, per MISLE database.

⁴ These wages are based on COMDTINST 7310.1M industry wages for GS-13 (management) and GS-07 (clerical).

The hour burden is calculated to be: 39 hours = 0.25 management hours/application x 52 applications + 0.50 clerical hours/application x 52 applications.

The cost burden is calculated to be: \$2,197 = 13 management hours x \$83/hour + 26 clerical hours x \$43/hour.

Processing Waivers:

Coast Guard estimates that approximately 86 terminals apply for Certificate of Adequacy (COA) each year. It is estimated that approximately 16 percent of the applicants for a COA (14 applicants) will request a waiver.

We estimate that management and clerical personnel will each spend one hour in order to prepare the application for the Certificate of Adequacy.

The hour burden is calculated to be: 28 hours = 1 management hour/terminal x 14 terminals + 1 clerical hour/terminal x 14 terminals.

The cost burden is calculated to be: \$1,764 = 14 management hours x \$83/hour + 14 clerical hours x \$43/hour

Notification of Change

Coast Guard figures indicate that approximately 5 percent (5 terminals) of the 86 terminals each year, will be required to notify the Coast Guard of a material change to the information contained in the published list of reception facilities.

We estimate that management and clerical personnel will each spend 0.50 hours in order to prepare the application for the Certificate of Adequacy.

The hour burden is calculated to be: 5 hours = 0.50 management hours/terminal x 5 terminals + 0.50 clerical hours/terminal x 5 terminals.

The cost burden is calculated to be \$315 = 2.5 management hours x \$83/hour + 2.5 clerical hours x \$43/hour.

Appeals

Coast Guard estimates that approximately 1 percent of the terminals for a Certificate of Adequacy will appeal a denial of issuance of a COA. Since 1 percent of 85 terminals equals less than 1, we assume no burden related to appeals for this collection.

b) Advance Notice

We estimate that persons in charge of ports and terminals spend 0.25 hours to ensure that the reception facilities are capable of receiving ships carrying the regulated garbage, no later than 24 hours after notice.

Of the 427 active terminals, we estimate that each facility receives 1 Advanced Notice per month or 12 per year. By this calculation, there are 5,124 (427 X 12/year) Advanced Notices made per year.

The hour burden is calculated to be: 1,281 hours = 0.25 hour/terminal-visit x

5,124 terminal-visits.

The cost burden is calculated to be: \$106,323 = 1,269 hours x \$83/hour.

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

There are no capital, start-up or maintenance costs associated with this information collection.

14) Estimates of annualized Federal Government costs.

a) It is expected that, on average it will take a Coast Guard specialist (GS-12, at \$65/hour) 4.0 hours to review the submissions. Therefore, the annual hour burden is 476 (119 submissions x 4 hours/submission). The annual cost burden is estimated to be **\$30,940** (476 hours x \$65/hour).

b) There are no costs to the Federal Government for Advance Notice, since the reports are made between ships and port/terminals.

15) Explain the reasons for change in burden.

The change in burden is an ADJUSTMENT due to a decrease in the number of certificates of adequacy (COAs) issued to reception facilities. While the number of reception facilities has remained steady from the last ICR, the number of COAs issued to these facilities has decreased (600 to 499). A facility may have one or more COAs (i.e., oil, NLS, and/or garbage).

There is no proposed change to the reporting or recordkeeping requirements of this collection. The reporting and recordkeeping requirements, and the methodology for calculating burden, remain unchanged.

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

This information collection will not be published for statistical purposes.

17) Displaying the expiration date of OMB approval.

The OMB expiration date will be displayed on the 3 Certificate of Adequacy (COA) applications, forms CG-5401A, CG-5401B & CG-5401C, as well as the Instruction sheet related to the information collection request.

The COA (form CG-5401) associated with this collection is prescribed by an international treaty (MARPOL) that the U.S. Government is signatory to. This certificate has a five year expiration date related to requirements set out in MARPOL. The addition of a second expiration date to this certificate—that for OMB approval—may cause reception facility and vessel owner/operators to interact with the Coast Guard more frequently than required to reconcile the existence of 2 expirations dates on the certificate. It is for this reason that expiration date for OMB approval is not displayed on the form CG-5401.

18) Explain each exception to the certification statement.

The Coast Guard does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods.

This information collection does not employ statistical methods.