

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSIONS
UNDER 5 CFR PART 1320
Information Collection: 2133-0545

Introduction: Request renewal of Information Collection, OMB # 2133-0545, Jones Act Vessel Availability Determinations. Expiration Date: 2/28/2013.

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 collection of information.**

Pursuant to 46 U.S.C. § 501(b), the Maritime Administrator is required to make determinations of the availability of qualified United States flag capacity to carry coastwise cargo in connection with all requests for waivers of the Jones Act (46 U.S.C. § 55102). Based upon determinations made by the Maritime Administrator, and in consultation with the Maritime Administrator, the head of the Department of Homeland Security acting through Customs and Border Protection can waive compliance with the Jones Act.

Excerpt of applicable law:

46 U.S.C. § 501(b) When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual, following a determination by the Maritime Administrator, acting in the Administrator's capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity to meet national defense requirements, may waive compliance with those laws to the extent, in the manner, and on the terms the individual, in consultation with the Administrator, acting in that capacity, prescribes.

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.**

Availability determinations. The information will be used by the Maritime Administration (MarAd) to fulfill its statutory obligation in determining availability of Jones Act (i.e., coastwise-qualified vessels) in all applicable circumstances. The information collected ensures that the Maritime Administrator has sufficient information regarding the capacities and schedules of qualified vessels in order to make determinations required by 46 U.S.C. § 501(b).

Availability determination planning. In certain instances, information collection may occur incident to scenario planning, which is essential to refinement of the process, and

will also familiarize the respondent community with the information collection.

- 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. Also, describe any consideration of using information technology to reduce burden.**

The information is to be collected electronically via email, though direct phone contact may be employed for scenario planning purposes or to confirm technical information. E-mails are to be sent in a systematic fashion to allow respondents an equal opportunity—that is, no initial e-mail to a respondent is contingent upon the response of another respondent—to respond to the collection. MarAd is to contact respondents without e-mail via telephone. To the extent necessary, MarAd is to follow-up with respondents via telephone or electronically via e-mail. MarAd does not anticipate requiring the use of a form to collect this information. MarAd will not request different information across different modes of collection. MarAd will employ direct phone contact in a manner that is systematic and solicits substantially the same information reflected in the e-mail format. Direct phone contact with respondents during scenario planning will permit MarAd to clarify the planning nature of the inquiry and respond to any questions respondents may have. MarAd will accept and evaluate responses from all qualified vessel owners.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

Duplication of this effort is unlikely because it is only to be collected by MarAd, and then only in anticipation or response to a request for waiver of the Jones Act, or for related scenario planning purposes. There are no national or international publications collecting or publishing this material.

- 5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

Although the collection of information may impact small businesses, the methods to be used are the least onerous possible and information developed through collection may result in business opportunities for such entities. Of the approximately 85 business entities which might be queried incident to an availability determination, approximately 10 are small businesses.

- 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.**

If the collection is not conducted, the Maritime Administrator would not have sufficiently

accurate, timely, or complete information regarding the availability of coastwise-qualified vessels to discharge his/her statutory duties, to make coastwise-qualified vessel availability determinations, or for related scenario planning. Without this information, the Maritime Administrator might overlook a qualified vessel for use in the coastwise trade, resulting in the use of a non-qualified vessel at the expense of a US-flag Jones Act vessel.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

- **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;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, 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.**

Information collection will be undertaken in anticipation or response to requests for waiver of Jones Act requirements, or for related scenario planning purposes, which may or may not occur in any cyclical pattern. Otherwise, there are no special circumstances that require the collection of information to be conducted in the manner described above.

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 by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record-keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The Maritime Administration published a 60-day notice and request for comments on this information collection in the Federal Register, Vol. 77 on page 71871 on December 4, 2012, indicating comments should be submitted on or before February 4, 2013. No comments were received.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The information requested is not of a confidential nature. Consequently, no assurance of confidentiality need be given.

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 the agency 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.

Not applicable. There will be 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, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in**

activity, size, or complexity, show the range of estimated burden and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in item 13.**

Currently there are approximately 85 respondents from whom the desired information could be collected on an ad hoc basis. The specific number of respondents contacted may vary depending upon the circumstances giving rise to the need for vessel availability information.

For example, in a catastrophic natural disaster situation in which all types of vessels (e.g., containerships, tankers, etc.) may be required to move urgent supplies from one U.S. port to another (similar to the situation in Hurricane Katrina), all 85 of the respondents may be contacted. If the requirement for vessels is more limited in scope (for instance, as in Hurricane Sandy where vessels capable of carrying liquid petroleum were needed), only the subset of respondents capable of transporting the specific cargo would be contacted.

MarAd compiles this list by utilizing its industry knowledge, obtained through other maritime-related programmatic duties and communications. The information collection procedure requires only that an indication be voluntarily provided on the availability of coastwise qualified vessels suitable for the cargo carriage or operation under any circumstance during which a waiver has been requested by a person who would otherwise employ a non-Jones Act-qualified/foreign-flag vessel, or for related scenario planning. All qualified vessel owners are encouraged to respond.

Frequency of reporting is irregular, perhaps only two or three times per year. It is estimated that the time required to provide the requested information is approximately one hour. Data is usually prepared by an operations specialist (annual salary \$66,000).

It is estimated that the total annual hours of burden for scenario planning are as follows:

(Note: “Responses Per Respondent” anticipates one response per respondent for an estimated three Jones Act waiver events per year.)

Number of Respondents	Responses Per Respondent	Total Responses Annually	Hours Per Response	Total Hours Annually
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$$85 \quad \times \quad 3 \quad = \quad 255 \quad \times \quad 0.5 \quad = \quad 127.5$$

Annual Burden Hr Costs: 127.5 Hrs x \$31.73 (Per Hr) = \$4,045.57.

It is estimated that the total annual hours of burden for waiver requests are as follows:

Number of Respondents		Responses Per Respondent	=	Total Responses Annually		Hours Per Response	=	Total Hours Annually
85	x	3	=	255	x	1	=	255

Annual Burden Hr Costs: 255 Hrs x \$31.73 (Per Hr) = \$8,091.15.

Total Annual Burden Hr Costs: \$4,045.57 + \$8,091.15 = \$12,136.72

13. Provide an estimate of 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 shown in items 12 and 14).

- **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 collection 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.

- (a) Total Capital and Start-Up Costs Estimate: There are no capital or start-up costs associated with this information collection.
- (b) Total Operation and Maintenance and Purchase of Services Estimate: There are no operational and maintenance or purchase of service costs associated with this information collection.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from items 12, 13, and 14 in a single table.

The total annual cost to the Federal Government for processing the collection is estimated as follows:

Estimated Annual Cost: \$25,568.85

It is estimated that 2-3 employees will call the respondents for scenario planning. Time required for this task is an estimated 30 minutes per phone call at an average hourly rate of \$34.00.

<u>Number of Employees</u>		<u>Hourly Wage</u>		<u>Project Time</u>		<u>Cost Per Phone call</u>
3	x	34.00	x	0.5 hours	=	\$ 51.00
		Overhead at 85%			=	\$ 43.35
						\$ 94.35
				Times 85 phone calls	=	\$ 8,019.75
				Times 3 scenario planning requests per year	=	\$ 24,059.25

It is estimated that 1 employee receives the reports, reviews the responses and develops an assessment of U.S.-flag vessel availability. Time required for these tasks is an estimated 4 hours per request at an hourly rate of \$34.00.

<u>Number of Employees</u>		<u>Hourly Wage</u>		<u>Project Time</u>		<u>Cost Per Waiver request</u>
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 1 & \times & 34.00 & \times & 4 \text{ hours} & = & \$ 136.00 \\
 & & \text{Overhead at 85\%} & & & = & \underline{\$ 115.60} \\
 & & & & & & \$ 251.60
 \end{array}$$

Times six requests per year = \$ 1,509.60

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

This is a relatively new information collection; therefore, no changes or adjustments are noted.

16. For collections of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis, and publication. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates and other actions.

The information collected is not to be published; however, the information collected may be shared with the head of the Department of Homeland Security to comply with MarAd's statutory responsibilities as set forth in Question 1, above. Although this information will not be published, MarAd will maintain records of the information collected, including responses received by e-mail or telephone.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

MarAd is not seeking such approval.

18. Explain each exception to the certification statement identified in Item 19. "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

There are no exceptions to the certification statement.