

low, medium, high, or contributed to a crash or HM incident. If the violation caused a crash or an HM incident, the highest points will be assigned. If the violation caused an HM incident which resulted in a fatality, serious injury, illness or destruction of property, a maximum fine of \$175,000 may be assessed, overriding all other aspects of the UFA model. Interested parties may review this information at [www.fmcsa.dot.gov/penaltyassessments](http://www.fmcsa.dot.gov/penaltyassessments).

#### Violator Factors

1. "Culpability" is considered by evaluating the violator's conduct or actions and knowledge of the violations, conditions, or practices that led to the discovered violations. It is an assessment of the violator, not the individual violation, and takes into account the fault level of the violator. For UFA, it is broken into 3 categories:

- a. Should have known of any of the discovered violation(s);
- b. Knew of any of the violation(s); and
- c. Intentional for any discovered violation(s).

Intentional violations of the regulations are assigned the highest number or points. Points are automatically assigned by UFA based on the selection of knowledge level relative to the conduct of the violator. When available, see [www.fmcsa.dot.gov/penaltyassessments](http://www.fmcsa.dot.gov/penaltyassessments).

2. "History" is considered by evaluating the violator's enforcement history with any U.S. Department of Transportation modal administration. Enforcement history is a major factor since it provides an indication of both the carrier's or individual's awareness of its safety obligations and its willingness to comply with the regulations. The history criteria relates to the violator (not the individual violation) and is determined by looking at the violator's closed cases (cases where there has been a finding of liability for the violations or where the violator has admitted the violations) in the previous six years and selecting one of the following levels:

- a. No enforcement history;
- b. Penalized for violation(s) in any other part(s);
- c. Penalized for violation(s) in the same part(s); and,
- d. Penalized for two or more prior cases or a prior case for violation of an Order.

In enforcement cases including HHG violations, UFA 4.0 will consider enforcement history, pursuant to 49 U.S.C. 14901(c), only if the past violations are similar in nature to the HHG violations in the current enforcement case. UFA automatically assigns points based on the history level

indicated. See [www.fmcsa.dot.gov/penaltyassessments](http://www.fmcsa.dot.gov/penaltyassessments).

3. "Effect on ability to continue to do business" and "ability to pay" are considered by capping the proposed penalty at 2 percent of the violator's gross revenue. UFA refers to this limitation on a total penalty as the "Gross Revenue Cap." FMCSA has determined that capping most penalties at 2 percent of the violator's gross revenue will allow most carriers to remain in business while inducing compliance with the regulations. Assessments will be lowered by the UFA 4.0 software to an amount equal to or below the Gross Revenue Cap, if needed. UFA 4.0 will assess a penalty below an administrative minimum if necessary to keep the total penalty below the Gross Revenue Cap. In some cases, such as when a minimum statutory penalty exceeds the Gross Revenue Cap, or where FMCSA asserts a maximum civil penalty pursuant to Section 222 of MCSIA, the penalties will not be reduced to an amount equal or below the Gross Revenue Cap.

4. "Such other matters," as justice, fairness, and public safety may require, are considered by taking into account those factors that are not otherwise specified in the statute, but that nevertheless, have some bearing on the proposal of a civil penalty in the interests of justice and public safety in order to achieve the purposes of compliance. For purposes of calculating the amount of civil penalties, FMCSA has determined that corrective actions taken by the violator and the timing of those corrective actions are matters that are included within this category and may result in a reduction in the penalty. See [www.fmcsa.dot.gov/penaltyassessments](http://www.fmcsa.dot.gov/penaltyassessments).

#### Violation Calculations

All calculations are made internally within the UFA 4.0 software based on the entries made by the user and the points assigned. UFA will reduce penalties for small businesses by 20 percent to comply with the Small Business Regulatory Enforcement Fairness Act, Public Law 104-121 (Mar. 29, 1996), codified in 5 U.S.C. 801, et seq. (SBREFA) when such reductions are applicable. FMCSA uses the Table of Small Business Size Standards, published periodically by the Small Business Administration, to identify small businesses.

FMCSA believes that a 20 percent difference in penalties between large and small businesses of similar circumstances is a reasonable exercise of the Agency's discretion and balances the principles of SBREFA with the

requirement of 49 U.S.C. 521 to calculate penalties that are designed to induce further compliance with federal laws and regulations. Section 223 of SBREFA permits agencies to refrain from reducing penalties for small businesses in certain circumstances, such as when a small business has been subject to multiple enforcement actions by the agency, when the small business has engaged in willful or criminal conduct, or when the violations pose serious health, safety or environmental threats.

FMCSA will not apply the 20 percent reduction under SBREFA to a small business whose conduct corresponds to one of the exclusions listed in Section 223 of SBREFA. In addition to potential reductions for small businesses, reductions can occur to ensure that the total penalty does not exceed the Gross Revenue Cap. The UFA 4.0 methodology establishes a range of penalties for each violation, and when UFA reduces a penalty, it does so proportionally, based upon the ranges for each violation, rather than by a percentage of the total civil penalty assessment. Reductions must also take into consideration statutory and administrative minimum requirements. A detailed explanation of the algorithm used by UFA 4.0 to calculate penalties is included in the "Explanation of Calculations" document that will be published at [www.fmcsa.dot.gov/penaltyassessments](http://www.fmcsa.dot.gov/penaltyassessments). The User Manual that includes instructions for the use of UFA 4.0, a public version of the UFA software and FMCSA policies for the assessment of penalties, are available on the penalty assessment Web site at [www.fmcsa.dot.gov/penaltyassessments](http://www.fmcsa.dot.gov/penaltyassessments).

The public version of UFA 4.0 will be modified to prevent accidental submission of data to FMCSA production databases.

Issued on: August 27, 2013.

**Anne S. Ferro,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD 2013 0099]

#### Request for Comments of a Previously Approved Information Collection

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 3, 2013. No comments were received.

**DATES:** Comments must be submitted on or before October 3, 2013.

**FOR FURTHER INFORMATION CONTACT:** Bill Kurfehs, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202-366-2318 or EMAIL: [bill.kurfehs@dot.gov](mailto:bill.kurfehs@dot.gov). Copies of this collection also can be obtained from that office.

**SUPPLEMENTARY INFORMATION:** Maritime Administration (MARAD).

*Title:* Voluntary Tanker Agreement  
*OMB Control Number:* 2133-0505

*Type of Request:* Extension of currently approved collection.

*Affected Public:* U.S.-flag and U.S. citizen-owned vessels that are required to respond under current statute and regulation.

*Form(s):* MA-1060

*Abstract:* This collection of information is used to gather information on tanker operators who agree to contribute, either by direct charter to the Department of Defense or to other participants tanker capacity as requested by the Maritime Administrator at such times and such amounts as determined to be necessary to meet the essential needs of DOD for the transportation of petroleum and petroleum products in bulk by sea. The Voluntary Tanker Agreement is a voluntary emergency preparedness agreement in accordance with Section 708, Defense Production Act, 195, as amended (50 U.S.C. App. 2158).

*Annual Estimated Burden Hours:* 15 hours

*Addresses:* Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: MARAD Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs, Office of Management and Budget, at the following address: [oir.submissions@omb.eop.gov](mailto:oir.submissions@omb.eop.gov).

*Comments Are Invited On:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the

agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

**Authority:** 49 CFR 1.93.

Issued in Washington, DC, on August 27, 2013.

**Julie P. Agarwal,**

*Secretary, Maritime Administration.*

[FR Doc. 2013-21335 Filed 8-30-13; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD 2013 0099]

#### Information Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before November 4, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Patricia Ann Thomas, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202-366-2646 or EMAIL: [patricia.thomas@dot.gov](mailto:patricia.thomas@dot.gov). Copies of this collection also can be obtained from that office.

**SUPPLEMENTARY INFORMATION:** Maritime Administration (MARAD).

*Title of Collection:* Merchant Marine Medals and Awards.

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133-0506.

*Form Numbers:* None.

*Expiration Date of Approval:* Three years from date of approval by the Office of Management and Budget.

*Summary of Collection of Information:* This information collection of information provides a method of

awarding merchant marine medals and decorations to masters, officers, and crew members of U.S. ships in recognition of their service in areas of danger during the operations by the Armed Forces of the United States in World War II, Korea, Vietnam, and Operation Desert Storm.

*Need and Use of the Information:* This information is used by MARAD personnel to process and verify requests for service awards.

*Description of Respondents:* Master, officers and crew members of U.S. ships.

*Annual Responses:* 550 responses.

*Annual Burden:* 550 hours.

*Comments:* Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at <http://www.regulations.gov>. Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at <http://www.regulations.gov>.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.regulations.gov>.

**Authority:** 49 CFR 1.93.

By Order of the Maritime Administrator.

Dated: August 27, 2013.

**Julie P. Agarwal,**

*Secretary, Maritime Administration.*

[FR Doc. 2013-21334 Filed 8-30-13; 8:45 am]

**BILLING CODE 4910-81-P**