

Department of Transportation

SUPPORTING STATEMENT

Seamen's Claims; Administrative Action and Litigation

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) three-year approval clearance for the information collection entitled, Seamen's Claims; Administrative Action and Litigation, OMB Control No. 2133-0522, which is currently due to expire on May 31, 2018.

Part A. Justification

1. **Circumstances that make collection of information necessary.** **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.**

Applicable statutes are found in the Suits in Admiralty Act, 46 U.S.C. 30901-30918 and the Public Vessels Act, 46 U.S.C. 31101-31113. The combined effect of these statutes is to permit non-jury proceedings in admiralty to be brought against the United States by persons who suffer death, injury or illness while serving as masters or members of a crew on board a vessel owned or operated by the United States. Title 46 Code of Federal Regulations Part 327 establishes a Maritime Administration (MARAD) administrative procedure to respond to claims for damage recovery allowed under these statutes. The administrative process allows claimants to submit information at their own initiative to seek recovery in their own self-interest for alleged damages. In order to accomplish this, the rule instructs the initiator of the claim to provide certain appropriate information so that MARAD can evaluate the issues of agency and vessel liability and the reasonableness of the recovery demand. This information collection enhances DOT's National Security goal.

2. **How, by whom, and for what purpose is the information used.** **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.**

The information about the alleged damage claim is evaluated by MARAD to determine if the claim is fair and reasonable. If MARAD allows the claim, and it is settled, the agency will make appropriate payments to the claimant. This administrative process impacts upon Federal programs of the U.S. Admiralty Courts, U.S. Department of Justice and the U.S. Treasury.

3. **Extent of automated information collection.** **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, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

The Maritime Administration provides a total electronic option for this information collection.

4. Efforts to identify duplication. 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.

Requested information is not available through other means or sources. The claimant must establish the claim.

5. Efforts to minimize the burden on small businesses. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Not applicable. Only individuals may be claimants.

6. Impact of less frequent collection of information. 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.

Claim information is provided only when the claimant decides to submit a claim. Without this information, a claim could not be processed.

7. Special circumstances. 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 of 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.**

There are no special circumstances that require the collection of information to be conducted in a manner described above.

8. Compliance with 5 CFR 1320.8: Provide an electronic copy and identify the date, volume number and page number of the publication in the Federal Register of the agency's notice (for a 60-day and a 30-day 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 those 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 3 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. 82, No. 248, at 61660, copy attached) on December 28, 2017, indicating comments should be submitted before February 26, 2018. No comments were received. In addition, a 30-day notice was published in the Federal Register (Vol. 83, No. 53, at 12073, copy attached) on March 19, 2018, indicating comments should be submitted on or before April 18, 2018.

9. Payments or gifts to respondents. Explain any decision to provide a payment or gift to respondents, other than enumeration of contractors or grantees.

No payments or gifts are provided to respondents.

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

MARAD staff provides assurance of confidentiality to the extent information is protected under the Privacy Act and FOIA.

11. Justification for collection of sensitive information: **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 are no questions of a sensitive nature.

12. Estimate of burden hours for information requested: **Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of responses, calculation for the individual burdens and for the total 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 hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hour 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 items 13 of OMB form 83-I.**
- **Provide estimates of annualized cost to respondents for the hourly 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 14.**

Number of <u>Respondents</u>	Responses Per <u>Respondent</u>	Total Responses <u>Annually</u>	Hours Per <u>Response</u>	Total Hours <u>Annually</u>
15	x 1	= 15	x 12.5	= 188

Cost to Respondent = 12½ hours at \$86.37 per hour x 1.4 (benefits) x 15 (# of respondents) = \$22,672.12.

The 12.5 hours time burden is in reference to the amount of time that either the claimant (seafarer) is spending/and or their representative. In order to submit a claim, the seafarer has the option to represent themselves, or to obtain an attorney. In the case that a seafarer represents himself/herself, the 12.5 hours would apply to them, in the case that the seafarer hires a representative, the 12.5 hours applies to the attorney. In the vast majority

of the claims we receive the seafarer has obtained an attorney to help him/her submit the claim on their behalf.

Furthermore, the amount of documentation provided varies with the complexity of individual events. It will depend upon the extent of damage occurring and length of recovery period which requires extensive medical reports. Larger claims require extensive investigation and documentation. Merchant mariners would probably spend less time making a claim than would their representative. Therefore, twelve and a half hours are allowed as an average estimate of time it would take the respondent to conclude the administrative claim process, this includes an estimate for typing the claim.

Hourly wage for an Attorney was taken from the May 2016 National Industry-Specific Occupational Employment and Wage Estimates table under Lawyers for Management of Companies and Enterprises, <https://www.bls.gov/oes/current/oes231011.htm>.

13. Estimate of total annual costs to respondents. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the costs of any hour burden shown in items 12 and 14).

- **Include a breakdown for total capital/start-up costs and operation/maintenance. The cost estimates 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 costs 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 operation and maintenance costs associated with this information collection.

14. Estimate of cost to the Federal government. Provide estimates of annualized cost to the federal government. Also, provide a description of the method used to estimate costs, 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 cost to the Federal Government for processing the collection is estimated as follows:

One-time Costs: None

Annual Costs: \$ 10,575.39

- a) Time of specialists and reviewers (GS-14, Step 3) involved in evaluating claim information:
(Est.) 8 hrs per claim at \$58.57 x 15 claims annually = \$ 7,028.40
- b) Clerical Assistance (GS-9 step 10) and miscellaneous
1 hr per claim x \$35.03/hr. (Average) x 15 est. claims annually = \$ 525.45
Sub Total: \$ 7,553.85

Total: \$7,553.85 x 1.4 (benefits) = \$10,575.39

*The hourly wages for the GS-14 and GS-9 are from the 2018 GS Salary Table.
(<http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2018/locality-pay-area-definitions/>)

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

There were no reported changes or adjustments in items 13 or 14 of the OMB form 83-I.

16. Publication of results of data collection. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. 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 intended for internal use only. There are no plans to publish the results of the information collection for statistical purposes.

17. Approval for not displaying the expiration date of OMB approval. If seeking approval to

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

Not applicable. We are not seeking approval not to display the expiration date.

18. Exceptions to certification statement. Explain each exception to the certification statement identified in item 19, "certification for paperwork reduction act submissions," of OMB form 83-I.

Not applicable. There are no exceptions to the certificate statement.