

**SUPPORTING STATEMENT FOR
FEDERAL MARITIME COMMISSION
INFORMATION REQUEST
Intake Forms for Ombuds Assistance**

1. Explain the circumstances that make the collection of information necessary.

The Shipping Act of 1984 (Shipping Act), as amended by the Ocean Shipping Reform Act of 1998, authorizes private individuals to file a claim for reparations before the Federal Maritime Commission (Commission or FMC) against any regulated entities which violate the Shipping Act. The Commission regulates passenger vessel operators pursuant to Pub. L. No. 89-777, 46 U.S.C. ch. 441. The Administrative Dispute Resolution Act, 5 U.S.C. § 571 et. seq. (ADRA), requires agencies to explore the use of alternative dispute resolution (*e.g.* use of *ombuds*, mediation, facilitation, etc.) to resolve disputes. As such, the agency created the Office of Consumer Affairs and Dispute Resolution Services (CADRS) to provide alternative dispute resolution services to agency stakeholders and the shipping public to resolve ongoing regulatory and commercial international ocean shipping disputes, as well as disputes between passenger vessel operators and their customers. Parties may use CADRS on a voluntary basis either prior to or after filing a formal action before the Commission or other fora. In addition, as a public-facing office, CADRS briefs senior agency staff with respect to emergent shipping issues and industry trends. The provision of these services requires the collection of information from members of the shipping public as follows:

CADRS-provided ombuds, mediation, facilitation, and arbitration services require a basic review of the facts and issues in controversy. Upon request for assistance, CADRS staff will issue an Intake Form that requests the party(ies) seeking its services to provide contact information, basic information regarding the issue(s) in dispute, as well as documents that will help CADRS staff facilitate successful party-driven negotiated resolution. Provision of information is voluntary; however, information is required to receive services.

2. Indicate how, by whom, and for what purpose the information is to be used.

The Intake Form is designed to provide consumers and regulated entities with a simple mechanism for submitting requests for alternative dispute resolution services. The data collected will be used to render assistance to requesters in exploring resolution of ocean transportation related disputes.

The Intake Form will be provided to interested parties upon request and will be sent to them via email, facsimile, or postal mail. The Intake Form will prompt requesters for a description of key facts regarding the dispute, the desired resolution, the amount in controversy, party contact information, and supporting documentation. Responses to these questions will help CADRS staff understand the issues and facts in dispute, the requester's desired outcome of the dispute, and the appropriate contact information for the parties to the dispute resolution proceeding.

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, 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 agency will provide the form as a fillable electronic form to those requesting it via email and will explore whether automated applications may be incorporated to streamline the process for requesting assistance. In addition, requesters will have the option of requesting a non-fillable PDF or hardcopy of the form for emailing, mailing, or faxing to the Commission.

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 Question 2.

No duplication of effort is involved because similar information is not available from outside sources or elsewhere in the Commission.

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

The data collection is not anticipated to burden small entities significantly. Small entities may wish to request alternative dispute resolution services or may otherwise be a party to an alternative dispute resolution proceeding. It is anticipated that the use of information for the purpose of providing alternative dispute resolution services may create cost savings for parties by avoiding costly administrative or court-based litigation.

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.

The Shipping Act charges the Commission with regulating passenger vessel operators as common carriers and their financial responsibility requirements under P.L. 89-777, as well as adjudicating ocean shipping disputes. ADRA requires agencies to explore means of resolving disputes related to agency programs through the use of alternative dispute resolution to avoid or mitigate the costs of administrative or court-based litigation.

The proposed collection is voluntary. Without the proposed data collection, the Commission would be unable to provide efficient alternative dispute resolution services.

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

- **Requiring requesters to report information to the agency more than quarterly;**
- **Requiring requesters to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring requesters to submit more than an original and two copies of any document;**
- **Requiring requesters to retain records, other than health, medical, government contract, grant-in-aid, to 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**
- **Requiring requesters to submit proprietary trade secrets, or other confidential information unless that 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.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register or 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, to clarify of instructions and recordkeeping, disclosure, or reporting form (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 information is the same as in prior years. There may be circumstances that may preclude consultation in a specific situation. These circumstances should not be explained.

The 60-day *Federal Register* notice regarding this information collection was published May 16, 2019, at 84 FR 22122. Respondents had 60 days to respond with their views regarding collection of information; no comments were received.

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

Not applicable. This information collection does not provide any payment or gift to the requesters.

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

All information collection activities will be conducted in full compliance with the requirements of the Privacy Act, 5 U.S.C. § 552a. At the point of information collection, requesters will receive a Privacy Act statement, explaining that personally identifiable information will be kept confidential, to the extent permitted by law and Commission rules, and in accordance with the relevant System of Records Notice.

Pursuant to ADRA and the Department of Justice and Interagency ADR Working Group confidentiality guidance documents, dispute resolution communications and confidential information are afforded confidentiality protection. *See* “Confidentiality in Federal Alternative Dispute Resolution Programs,” Federal ADR Council/Department of Justice, 65 Fed. Reg. 83085 (December 29, 2000); “Protecting the Confidentiality of Dispute Resolution Proceedings. A Guide for Federal Workplace ADR Program Administrators” Interagency Alternative Dispute Resolution Working Group (April 2006) available at www.adr.gov. As such, a form submitted to CADRS that provides information for the purpose of initiating a dispute resolution proceeding, within the meaning of ADRA, would be considered a convening document and, therefore, afforded confidentiality under ADRA. Further, communications between the neutral and the parties to a dispute resolution proceeding would be afforded confidentiality under ADRA.

11. Provide additional justification for any questions of a sensitive nature such as sexual behavior or 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 information is requested, and any steps to be taken to obtain their consent.

Not applicable – no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of requesters, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

The number of requesters will vary from year to year based upon the number of individuals seeking to initiate a dispute resolution proceeding within CADRS. It is estimated that it will take no longer than 15 minutes for a requester to complete the guided form.

The total estimated hour burden for this information collection is 125 per-hours, as set for below:

Requests for Assistance Using Intake Form (Estimate)

Type if Intake	Estimated Number of Requesters	Estimated Number of Requests Per Requester	Average Burden Hours Per Intake	Estimated Total Annual Burden Hours Requested
Email	500	1	15 Minutes	125 Hours

The annual cost to requesters is estimated at \$1,671.25. The cost has been calculated in consideration of the time to gather information and furnish it to the Commission. (See Attachment 1.)

13. Provide estimates of the total annual cost burden to requesters or record-keepers resulting from the collection of information (do not include the cost of any burden shown in questions 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.

There will be no annualized start-up capital or start-up costs for the requesters to collect and submit this information.

14. Provide estimates of annualized costs to the federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

Total annual cost to the federal government is estimated to be approximately \$56,676. The cost to the federal government is based upon a calculation of office case load, staff salaries and overhead. (See Attachment 2.)

The estimate takes into account time spent by CADRS receiving, assigning, and reviewing consumer requests for *ombuds* assistance. It does not include the time spent by CADRS staff providing dispute resolution services.

The attached chart calculates the number of hours allocated per each employee by the calculated hourly salary to provide the total of \$56,676. There are no other expenses that would have been incurred with this collection of information.

Initial case intake is conducted by a GS-7 Information Processing Assistant. The Information Processing Assistant responds to inquiries via telephone, letter, fax, and email and performs a preliminary review of requests for assistance.

Provision of services includes the review of information submitted by requesters to CADRS staff in support of a request for alternative dispute resolution services, follow-up correspondence with parties to the dispute, conducting the dispute resolution proceeding, and a final matter closeout.

15. Explain the reasons for any program changes or adjustments.

The Commission is revising FMC Form-32, the form that passengers submit with requests for dispute resolution with passenger vessel operators (cruise operators)(PVO). The revision is being done (1) to more accurately reflect the fact that, with respect to the relevant financial responsibility requirements, the Commission only oversees cruises that embark in the United States, by removing a question inconsistent with this authority (“did your cruise end at a U.S. port?”); (2) to include the booking or ticket contract number (necessary to identify the cruise passenger to the PVO); (3) to simplify the form by reducing the choices for respondent regarding nature of the dispute to “casualty, non-performance, or other” and, finally, (4) to update the email address from complaints@fmc.gov to CADRS@fmc.gov.

Upon closer review, the estimated total annual burden hours requested has also been adjusted from 230 to 125 to more accurately reflect current estimated burden.

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

Generally, the Commission does not intend to publish information collected under this collection. However, the Commission may report statistical information taken from the information collected, such as the number of requests for assistance received in a given year, the types of cases received (e.g. cargo dispute, cruise dispute, etc.), and the collective financial impact of a potential problematic trend.

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.

Not applicable. The Commission is not requesting any exceptions to the certification statement.

Attachment 1

Estimated Burden and Costs, Including Overhead, to Respondents

The annual salary calculations have been formulated using the Bureau of Labor Statistics May 2018 National Occupational Employment and Wage Estimates (overhead of 114.89% has been added to the basic salary). The salary for all occupations was used for calculation purposes.

All occupations - 15 minutes (completing intake form)

Formula: Annual salary/2087 + overhead rate = adjusted hourly salary

$\$51,960/2087 + 114.89\% = \53.50 adjusted hourly salary

Employee	Hourly Salary	Number of Hours	Total
All Occupations	\$53.50	15 minutes	\$ 13.37

Estimated Total Burden Hours – 125

125 hours x \$13.37 adjusted hourly salary = \$1,671.25 total burden to respondents

Attachment 2

Estimated Burden and Costs, Including Overhead, to Federal Government

The annual salary calculations have been formulated using the federal government's 2019 salary table (overhead* of 114.89% has been added to the basic salary).

Information Processing Assistant 7/5 – 334.5 hours

$\$53,285/2087 = \$25.67 + 114.89\% = \$55.16$ adjusted hourly cost

Employee	Hourly Salary	Number of Hours	Total
Information Processing Assistant	\$55.16	344.5	\$ 56,676
TOTALS	\$55.16	344.5	\$ 56,676

Submitted: December 11, 2019