

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

OMB No.: 1625-0045

COLLECTION INSTRUMENTS: CG-5401, CG-5401A, CG-5401B, CG-5401C, CG-5401D & Instruction

A. Justification

1) Circumstances that make the collection of information necessary.

This collection addresses a) Adequacy Certification, b) Advance Notice of Arrival, and c) Inadequacy Reports.

a) The Act to Prevent Pollution from Ship implements the discharge prohibitions of MARPOL 73/78 and Annex I (Oil), Annex II (NLS), Annex V (Garbage) and Annex VI (Air). 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. 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 (COA).

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.

c) To comply with MARPOL 73/78, a Port State must have provisions to receive a voluntary inadequacy report made by a vessel upon encountering problems in discharging waste to a port reception facility. The procedures for submitting a report are in Navigation and Inspection Circular (NVIC) 04-87, CH-1.

The statutory authority is 33 U.S. Code 1903 and 1905.

2) Purposes of the information collection.

CFR, Subject and Affected Population

33 CFR	Subject and Affected Population
33 CFR 158.140	Application for a COA. A person in charge of port or terminal must apply to the Coast Guard for a certificate.

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

33 CFR 158.150	Waiver. A person in charge of port or terminal submits a request for a waiver to the Captain of The Port (COTP).
33 CFR 158.165	Notification of Change. A person in charge of port or terminal notifies in writing the COTP of any changes in the information required for a COA.
33 CFR 158.190	Appeal. A person in charge of port or terminal that is 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 person in charge of port, terminal or vessel.
NVIC 04-87, CH-1	Inadequacy Report. A vessel upon encountering problems in discharging waste to a port reception facility.

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 COAs.

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 COTP. 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 COA. 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) Advance Notice: 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-hour 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.

c) Inadequacy Reports: A vessel upon encountering problems in discharging waste to a port reception facility may voluntarily submit an inadequacy report.

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 COTP at the local CG Sector Office. Applications are posted at this [LINK](#). Contact info for COTPs can be found at: <https://www.uscg.mil/Units/Organization/>. 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.

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

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.

This collection cannot be conducted less frequently. The COA is effective for a 5-year period. The information necessary for waiver and appeals is only submitted 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. To be effective, the advance notice of need for reception facilities must be given each time there is need. To be effective, an inadequacy report must be made at each instance that a vessel encounters a problem in discharging waste to a port reception facility.

7) Special collection circumstances.

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-2021-0624]; August 16, 2021, 86 FR 45745) and 30-Day Notice (November 10, 2021, 86 FR 62556) were published in the Federal Register to obtain public comment on this collection. The Coast Guard has not received any comments on this information collection.

9) Provide any payments or gifts 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. This information collection request is covered by the Marine Information for Safety and Law Enforcement (MISLE) Privacy Impact Assessment (PIA) and System of Records Notice (SORN). Links to the MISLE PIA and SORN are provided below:

- https://www.dhs.gov/sites/default/files/publications/privacy_pia_uscg_misle.pdf
- <https://www.gpo.gov/fdsys/pkg/FR-2009-06-25/html/E9-14906.htm>

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

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.

There are no questions of a sensitive nature.

12) Estimate of annual hour and cost burdens to respondents.

- The estimated number of annual respondents³ is 1,004.
- The estimated number of annual responses is 12,591.
- The estimated hour burden is 4,167 hours.
- The estimated cost burden is \$352,131.

The burden to respondents is provided in Appendix A.

a) Adequacy Certification:

i) Applications: We estimate that it will take a Technical Specialist about 3 hours to prepare a COA application for port reception facility that receives waste for Annex I (Oil) or Annex II (NLS). Additionally, estimate that it will take a Technical Specialist about .75 hours to prepare a COA application for port reception facility that received waste for Annex V (Garbage). Also, we estimate that it will take a Technical Specialist about .5 hours to prepare a COA application for port reception facility that received waste for Annex VI waste. Since COAs are issues for a period of 5 years, we estimate that 20% of these certificates will be renewed each year.⁴ For the wage rate, we used the Bureau of Labor Statistics (BLS) wage rate for Industrial Engineers (17-2112) [May 2020, mean hourly wage, loaded 50%, and rounded].⁵

ii) Waivers: We estimate that it will take a Technical Specialist about 2 hours to prepare a COA waiver request. Additionally, we estimate that about 16% of all port reception facilities will apply for a waiver each year.

iii) Notice of Change: We estimate that it will take a Technical Specialist about 1 hour to prepare a COA notice of change. Additionally, we estimate that about 5% of all port reception facilities will apply for a waiver each year.

iv) Appeals: We estimate that it will take a Technical Specialist about 10 hours to prepare a COA notice of change. Additionally, we estimate that about 1% of all port reception facilities will apply for a waiver each year.

b) Advance Notice: We estimate that it will take a Person in Charge of a port or terminal about 0.25 hours to ensure that the port reception facility is capable of receiving a ship carrying regulated waste, no later than 24 hours after notice. Additionally, we estimate that about each port reception facility will receive 1 Advanced Notice per month or 12 per year. For the wage rate, we used the BLS wage rate for General and Operations Managers (11-1021) [May 2020, mean hourly wage, loaded 50%, and rounded].⁶

c) Inadequacy Reports: We estimate that it will take a vessel's 3rd Mate about 0.75 hours to complete and submit a port reception facility inadequacy report. For the wage rate, we used the BLS, wage rate for Captains, Mates, and Pilots of Water Vessels (53-5021) [May 2020, mean hourly wage, loaded 50%, and rounded].⁷

13) Total annualized capital and start-up costs.

³ Respondents are the total number of facilities that submit an Annex V COA application plus the number of vessels that submit Inadequacy Reports.

⁴ While each port or terminal that receives oceangoing vessels must have an Annex V COA, not all ports/terminals must have an Annex I or II COA. For calculation purposes, we estimate that 10% of ports/terminals with an Annex V COA will also request an Annex VI COA.

⁵ <https://www.bls.gov/oes/2020/may/oes172112.htm>

⁶ <https://www.bls.gov/oes/2020/may/oes111021.htm>

⁷ <https://www.bls.gov/oes/2020/may/oes535021.htm>

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

14) Estimates of annualized Federal Government costs.

The estimated annual Federal Government cost is \$162,702 (see Appendix B). It takes the Coast Guard an average of 4 hours to process and complete each COA Application, Waiver request, Appeal request, or Inadequacy Report, and 1 hour to process and complete each Notice of Change. Each of these tasks is typically performed by a GS-12. For the wage rate, we used Office of Personnel Management (OPM) data [2021-RUS Salary Table, GS-12-Step 5, hourly basic rate, loaded 65%, and rounded].⁸

15) Reasons for the change in burden.

The change in burden is an ADJUSTMENT due to a change (i.e., decrease) in the estimated annual number of respondents. 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) Plans for tabulation, statistical analysis, and publication.

This information collection will not be published for statistical purposes.

17) Approval for not explaining the expiration date for OMB approval.

The OMB expiration date will be displayed on the 4 COA applications, forms CG-5401A, CG-5401B, CG-5401C and CG-5401D, 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.

⁸ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS_h.pdf