

Federal Maritime Commission

Title: 46 CFR Part 515

ICR Reference No.

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. § 40901(a) the Federal Maritime Commission is required to issue licenses to ocean transportation intermediaries and to collect information to determine a person to be qualified by experience and character to act as an ocean transportation intermediary.

Further, 46 U.S.C. § 40902(a) states that the Federal Maritime Commission is required to determine financial responsibility of ocean transportation intermediaries; and to collect information to ensure financial responsibility by requiring a person to furnish a bond, proof of insurance, and other surety.

This information collection is in support of those requirements.

The relevant portions of the sections of Title 46 with these requirements are as follows:

§ 40901. License requirement

(a) In General.—A person in the United States may not advertise, hold oneself out, or act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary's license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

§ 40902. Financial responsibility

(a) IN GENERAL.—A person may not advertise, hold oneself out, or act as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety—

- (1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and
- (2) issued by a surety company found acceptable by the Secretary of the Treasury.

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.

The information collected will be used by the Federal Maritime Commission staff to determine if an applicant for a license as an ocean transportation intermediary meets the necessary qualifications set forth in 46 CFR Part 515 to be eligible for such a license. After a license is granted, this information is also needed for the purpose of monitoring the activities and status of licensees to ensure they are in compliance with statutory requirements and Commission regulations. The information collected is also used to register foreign-based entities as ocean transportation intermediaries and to ensure financial responsibility by requiring ocean transportation intermediaries to furnish a bond, proof of insurance, and other surety.

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 collection of information involves primarily electronic submissions through the agency's electronic portals and email attachments. Links to the portals associated with the relevant forms are available at <https://www.fmc.gov/forms-and-applications/>.

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.

This collection does not duplicate any information that would normally be collected elsewhere.

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

This collection of information does not have significant economic impact on a substantial number of small entities. Most persons who complete these forms are not small entities.

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.

This information collection is required for the Commission to fulfill the requirements of the 46 U.S.C § 40901(a) and 46 U.S.C § 40902(a) regarding ocean transportation intermediaries.

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 of data with other agencies for compatible confidential use; or
- * requiring respondents to submit proprietary trade secrets, 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.

None of the above apply

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 recordkeeping, 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.

Requests for public comment on information collection by the Commission was published in the Federal Register on July 18, 2023, and can be found on pages 88 FR 45903-45904, <https://www.govinfo.gov/content/pkg/FR-2023-07-18/pdf/2023-15173.pdf>. No comments were received.

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

Not applicable.

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

The Commission will provide confidential treatment for identified confidential information to the extent allowed by law; and if the agency reasonably foresees that disclosure would harm an interest protected by an exemption as described in the Freedom of Information Act, 5 U.S.C. § 552; and protections under the Privacy Act of 1974, 5 U.S.C. § 552a.

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.

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 hour 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.

* 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 under 'Annual Cost to Federal Government'.

The previous renewal in 2020 stated that the number of respondents was 8,729. Due to an increase in the number of OTIs, the Commission estimates the new number of respondents as 10,130. The information is collected on an ad hoc basis. The average time per response to complete application Form FMC-18 is 2 hours and to complete the triennial renewal is 10 minutes. The time to complete a financial responsibility form (FMC-48, FMC-48A, FMC-67, FMC-68, FMC-69, or FMC-69A) averages 20 minutes. The time to complete Form FMC-65 to submit or renew a registration as a foreign-based, unlicensed NVOCC averages 15 minutes. The annual burden includes 1,500 person-hours (Form FMC-18) + 1,720 person-hours (Form FMC-48) + 4 person-hours (Form FMC-48A) + 17 person-hours (Form FMC-69) + 598 person-hours (Form FMC 65 New/Renewal) + 295 person-hours (License Renewal) = 4,134 total person-hours. Total burden equals 4,134 hours.

13. Provide an estimate for 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 already reflected on the burden worksheet).

* 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 collections 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.

The cost to the respondents to carry out this collection of information is estimated to be \$318,338.67. This includes overhead; and is based on a burden of 4,134 person-hours. FMC assumes the burden hours are split evenly between administrative support staff and transportation managers. Wage information is based on the 2022 Occupational Employment and Wage Statistics produced by the Bureau of Labor Statistics. Overhead is assumed to be 107.4%.

Occupational Title	SOC code	2022 OEWS hourly wage estimate	with overhead	hours	total cost
transportation manager	11-3071	\$52.36	\$108.59	2,067	\$224,455.53
office administrative support	43-0000	\$21.90	\$45.42	2,067	\$93,883.14
					\$318,338.67

14. Provide estimates of annualized costs 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 may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The cost to the Federal Government for the Commission to carry out this collection of information is estimated to be \$537,020. This includes overhead and benefits. It is based on a cost of 4,257 person-hours at the GS-13 step 5 level in the Washington, DC locality pay areas, with an hourly rate of \$60.83 in 2023. The overhead rate is assumed to be 107.4%.

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

The Commission revised its regulations to implement the Frank LoBiondo Coast Guard Authorization Act of 2018, P.L. 115-282, tit. VII, § 707 (2018). The revisions to implement the Act changed the approach in calculating the number of respondents required to be licensed and maintain a bond, insurance, or other surety.

The section of the Act follows:

SEC. 707. OCEAN TRANSPORTATION INTERMEDIARIES.

(a) LICENSE REQUIREMENT.—Section 40901(a) of title 46, United States Code, is amended by inserting “advertise, hold oneself out, or” after “may not”.

(b) APPLICABILITY.—Section 40901 of title 46, United States Code, is amended by adding at the end the following: “(c) APPLICABILITY.—Subsection (a) and section 40902 do not apply to a person that performs ocean transportation intermediary services on behalf of an ocean transportation intermediary for which it is a disclosed agent.”.

(c) FINANCIAL RESPONSIBILITY.—Section 40902(a) of title 46, United States Code, is amended by inserting “advertise, hold oneself out, or” after “may not”.

16. 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 Commission provides a list of OTIs in compliance with the licensing and proof of financial responsibility on its website.

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.

The Commission is not seeking approval to exclude the display of the expiration date for OMB approval of this information collection.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

The Commission proposes no exception to the certification statement identified on OMB Form 83-I.