



NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

To Whom It May Concern:

We appreciate the extension of the comment period regarding information collection request #1625-0003, Coast Guard Boating Accident Report Form (CG-3865). The U.S. states and territories are key stakeholders in all matters relating to boating accident data collection and reporting, and the National Association of State Boating Law Administrators represents the forum through which they interact with the U.S. Coast Guard on a national level. The Boating Accident Investigation, Reporting, and Analysis Committee (BAIRAC) of NASBLA met this past weekend, and our discussion related to the proposed changes to CG-3865 was a focal point of the meeting.

As the Chairman of BAIRAC, I feel it is important to clarify the role of this committee and its relationship to the National Association of State Boating Law Administrators (NASBLA). BAIRAC is a committee comprised of state agency representatives with specific interest and expertise in boating accident investigation, data collection, and data analysis. This committee serves the NASBLA body through careful consideration of a variety of issues pertaining to boating accidents and makes recommendations to the NASBLA body and the Executive Board. The committee does not intend for these comments to be considered to be a complete representation of the views and concerns of each member state or the Association, but we have done our best to be thorough given the short timeframe for comment submission.

The contents of CG-3865 have probably never been as important to the states and territories as with this latest draft. Last week, the U.S. Coast Guard's Office of Boating Safety released a draft document titled "Standard Method of Reporting (Boating Accidents), CG-449 – Working Draft." Under "Mandate for Reporting," Section 2, d (3), this document states, in part, "...Coast Guard Form CG-3865 is (1) based on the information required by 33 CFR 173.57 (a) – (z) and (2) provides the minimum amount and type of information that must be collected, if available, by the reporting authority from each operator/owner involved in a boating accident."

The previous version of CG-449, dated 20 September 1973, states in Section 3, b (2), "Where the state is the reporting authority, the form that is used must contain the information required by Coast Guard regulations prescribing the Vessel Casualty Reporting System requirements."

The "Mandate for Reporting" in the new draft of CG-449 proposes that the states must capture the data requested by CG-3865, instead of merely requiring that the information meet the requirements of the regulations. Such a change is not necessarily a negative one, but it does broaden the impact to the states and territories. There are approximately eleven states and/or territories which exclusively use the CG-3865 form for boating accident data collection. The majority of states and territories use specialized state/territorial report forms which often result in much more extensive, meaningful and accurate data collection than that obtained by CG-3865. With the new requirement as stated in the draft "Mandate for Reporting," the states would be required to change their data collection processes each time the CG-3865 form is changed. This change means that each state and territory would be directly affected by modifications to CG-3865.



NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

In the case of the latest proposed revision to CG-3865, the impact to the states and territories would be significant. Many data fields on the revised form have been substantially modified while others have been added or modified slightly. To ensure that states capture the data required by the revised CG-3865, the various state and territorial databases along with their forms and other data collection media would all need to be modified. In addition, all state and local investigating officers would require some form of training on the new requirements and would need to learn how to consistently apply each new requirement during an investigation.

The recommendation of BAIRAC is that the U.S. Coast Guard continue using the current version of CG-3865 and that a through revision of the form is accomplished through the use of subject matter experts in form development and key stakeholders such as the states, territories, and NASBLA. It is our understanding that consideration has been given to completing such a task within a year. Implementing this revised form CG-3865 now seems to be an inefficient use of valuable resources for such a short time period. In addition to form revision, it became obvious during our meeting that several changes and updates to regulation are warranted to ensure consistency, uniformity, and the ultimate value of the data collected. We recommend that such revisions to regulation be initiated. We further recommend that the language in the previous version of CG-449 be the guiding language for the information required by the state reporting authority until the review and revision process is completed.

An issue was discussed about three data elements required by 33 CFR 173.57 which are not reflected on the current form.

- “Weather forecasts/reports available to and used by the operator before and during use of the vessel.”
- “Vessel beam at widest point (feet and inches).”
- “Depth at transom (stern) to keel (bottommost point) of vessel.”

The information in these three fields is required by regulation, but these fields have not been included in the report form for many years. The value of the data obtained from these three fields was questioned many years ago, resulting in the fields being removed from the form. Apparently, the intention was to request rule change when those fields were omitted, but that task was never completed. We have also been advised that the U.S. Coast Guard has now requested rule change to eliminate those requirements from the regulations. Continued use of the current form would mean these three data fields would not be collected, but that data appears to have questionable relevance and has not been captured for many years. It seems reasonable to continue without that data until revision to the regulations is completed.

Should the draft CG-449 be adopted and the U.S. Coast Guard be approved to implement the revised CG-3865 form, then we have identified several specific concerns to the state reporting authorities and have briefly described them as follows:



NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

New fields that may require substantial changes to state reporting systems

- “Operator wearing a USCG approved life jacket at the time of the accident.”
- “Operator wearing a safety lanyard (engine shut off device) at the time of the accident.”
- “Number of persons disappeared”
- “Number of vessel occupants (operator and passengers) wearing life jackets at the time of the accident.”
- In the box titled “Type of vessel,” a new field has been created that reads “Inflatable.”
- In the “Type of hull material” box, “rigid hull inflatable” has been removed.
- In the “Type of accident” box, a new field has been created that reads “Collision with commercial vessel.”
- In the “Contributing factors” box, “No proper lookout” and “Sudden medical condition (heart attack, stroke, seizure)” were added.
- In the injury section under “Injury caused by” there has been a modification that replaced “propulsion system” with “propeller.”
- A new field was created in the injury section that reads “Drug use apparent by the injured victim.”
- A large new section was added to the injury section that requires the “Body region” which was injured to be identified.
- In the “Nature of injury” box, there were several modifications/additions made.
- In the deceased section, there are new additions such as “Type IV personal flotation device (throwable) used,” “Heart attack” as a cause of death, and “Was victim struck by the propeller” was changed from “propulsion system.”

Field(s) in need of clarification:

- “Location on the water” field on the first page is unclear as to the intended information to be submitted.

It is important to note that CFR requires CG-3865 to be completed and submitted by the owner/operator of a vessel involved in an accident. It is well understood that the consistency, accuracy and overall value of the data received by operator-generated reports is poor, as is the compliance level by operators to submit the required completed reports. It is for this reason that our committee discussion revolved around the poor value of an operator-generated form. During the regulatory review process, it is imperative that the U.S. Coast Guard work with the states, territories, NASBLA and other stakeholders to create a primary reporting system that is **not** operator-generated, but rather a system that primarily relies on information gathered by an investigator. That type of reporting system is the only one that can provide consistent, quality recreational boating accident data to further the goals of the Recreational Boating Safety Program. With respect to that, it is helpful to point out that no other element of the transportation policy arena, to our knowledge, utilizes operator-generated reports as the basis for official statistics. The vast majority of the data captured in the U.S. Coast Guard’s BARD system comes from investigator-generated reports.

It should be noted that some type of additional operator-generated report may still be necessary for situations where damage/injury is minimal, so that the operator can self report for those types of minor boating accidents when agencies or officers determine that its usage is appropriate.



NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

On behalf of BAIRAC membership of the National Association of State Boating Law Administrators, I am pleased to have the opportunity to comment on a project of such great potential impact on the states and territories. The members of NASBLA take a lead role and have primary responsibility in the implementation of the Recreational Boating Safety Program at the grass roots level, and we take that responsibility very seriously. We look forward to our continued partnership with the U.S. Coast Guard's Office of Boating Safety as we collectively strive to make our nation's waterways safe and enjoyable for everyone.

If you have questions relating to these comments or need additional information, please feel free to contact me.

Sincerely,

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