

U.S. Department of
Homeland Security

United States
Coast Guard



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December 9, 2011

Lake Carriers' Association
Attn: Mr. James Weakley, President
20325 Center Ridge Rd., Ste. 720
Rocky River, OH 44116

Dear Sir:

This letter is a consolidated response to the comments you and several others submitted with respect to the Information Collection Request (ICR) renewal process for Coast Guard (CG) form(s) 2692, CG-2692A and CG-2692B. The Coast Guard published a thirty-day notice in the *Federal Register* requesting comments on 76 FR 62424, October 7, 2011. The comment period ended November 7, 2011. The following outlines our position:

1. As background, the CG-2692 form is required to be submitted to the Coast Guard by the vessel owner, agent, master, operator, or person in charge (reporting party) within five days following a casualty that is reportable per Notice of Marine Casualty, Title 46, Code of Federal Regulations (CFR), Section 4.05-1. The CG-2692A applies *only* to reportable marine casualties involving multiple tow/barge vessel arrangements which allows for easier documentation of vessels in concert with the CG-2692 form. The CG-2692B form is submitted *if* a reportable marine casualty is also a Serious Marine Incident as described in 46 CFR 4.03-2, to document chemical testing results.
2. The information contained on the forms is utilized to gather factual information and determine appropriate Coast Guard's investigative posture per 46 CFR 4.07-1. The data obtained serves as the foundation for annual submissions to Congress per Title 46, United States Code (U.S.C.), 6307(c) and is made available to the public in accordance with 46 U.S.C. 6305. The data is not intended to fix civil or criminal liability and is excluded from legal proceedings per 46 U.S.C. 6308. Additionally, the information provided serves as the basis for promoting safety of life and property at sea through resultant lessons-learned and provides an accurate data capture mechanism from which new/revised regulatory decisions may be determined.
3. Each commenter contested the accuracy of the one hour estimate for filling out the forms, specifically the CG-2692 form. For the vast majority of incidents, one hour is adequate to complete the applicable blocks on the form. Approximately one-third of the information blocks are readily available to a reporting party such as general vessel and company information. The remaining blocks contain factual information outlining the specific

circumstances surrounding the reportable marine casualty. Most of the blocks are either check boxes or brief one word/sentence descriptions. There is one free-form narrative block that provides the reporting party the ability to describe how the accident occurred and any potential corrective actions. There is no evidence that more than one hour is required to complete any of the forms.

4. These forms have historically proven to be very effective in identifying factual and circumstantial information received from a very wide spectrum of industry submitters. Vessel operations covered by this form range from small commercial vessel operations to complex, deep-draft vessel operations. The form is intended to be concise, while providing the submitter with the appropriate latitude to articulate more detailed incident circumstances.
5. Each commenter took issue with the actual number of forms submitted to the Coast Guard. The ICR process identified 4,792 reportable marine casualties as the number of forms submitted. In early December 2011, a comprehensive, in-depth program analysis suggests this information is accurate based upon the latest four year average. However, there are other incidents that have been reported via the CG-2692 form(s), but are not included in the national investigative summary data for the following reasons;
 - a. Incidents that are by definition reportable, yet determined by Coast Guard policy to not warrant inclusion in the agency's investigative data. The rationale for this course of action is that incidents of a minor nature (i.e. bump and go groundings, broken fingers/toes) should not be utilized in the annual report to Congress or to determine safety trends necessitating new or revised regulatory scheme decisions. This assists in ensuring data integrity.
 - b. Forms are received from industry that are unsolicited by Coast Guard personnel that are technically outside of the Coast Guard's authority/jurisdiction to investigate. For example, many large foreign-flagged cruise ships that regularly operate to and from domestic ports will submit incidents outside Coast Guard jurisdiction.
 - c. There have also been anecdotal incidents whereby local Command Center personnel (vice qualified Investigating Officers) have asked for submission of a CG-2692 as a part of their Quick Response Checklist (QRC) procedures. These may or may not have been reportable casualties; however, there is currently no mechanism to differentiate between these numbers within the data. To alleviate potential for these unnecessary submissions, the Coast Guard is currently finalizing policy guidance that will encourage local units to discourage this practice and ensure local QRC's are revised so as to not require or suggest CG-2692 submission without consult of a qualified Coast Guard Investigating Officer.
6. Current Coast Guard investigative policy is to not proceed with any further action for the incidents cited in paragraph five (a through c). Because the information is not utilized for data purposes, there is currently no mechanism to ascertain the actual number of forms submitted for the reasons provided above. An update to the Marine Information for

Safety and Law Enforcement (MISLE) data base scheduled for release in 2013 will include this functionality for future analysis.

7. Each commenter raised concerns regarding the submission of CG-2692's that fail to meet the regulatory criteria. While these circumstances may have occurred, they are the exception and not the rule. However, as noted above, forthcoming Coast Guard policy guidance will be promulgated that will assist industry personnel with regulatory definitions of what constitutes a reportable marine casualty. It will also assist Coast Guard personnel in ensuring reportable marine casualties are defined consistently throughout the nation.
8. Two commenter's cited concerns related to the necessary inclusion of legal counsel (which in their opinion would incur greater financial impacts than identified in the ICR) prior to the submission of forms. As noted above, these forms are available at public request; however, they are prohibited in civil legal proceedings external to the Coast Guard per 46 U.S.C. 6308. Any enforcement actions taken by the Coast Guard itself are initiated as a result of a full and thorough investigation of the all the facts and circumstances following a reportable marine casualty, not based solely upon submission of any one of the forms. Any enforcement actions not agreed to by the cited party is fairly adjudicated by all of the facts by either a Hearing Officer or an Administrative Law Judge.
9. Two commenter's noted "auditing" concerns and/or resultant post casualty vessel operating restrictions issued by the Officer in Charge Marine Inspection (OCMI) or Captain of the Port (COTP) as inappropriate. This is outside the scope of the ICR process. However, the pending aforementioned Coast Guard guidance will also reiterate current policy to OCMI's and COTPs. Submission of a marine casualty report form in and of itself should not automatically lead to vessel operating restrictions unless the vessel is determined to need such operational controls by a qualified marine inspector.

A copy of this letter will be placed into Docket No. USCG-2011-0710, and also sent to OMB/OIRA for inclusion in the Coast Guard's periodic renewal submission request for ICR 1625-0001.

Sincerely,

A handwritten signature in blue ink that reads "D. S. Fish, for".

D. S. FISH
Chief, Office of Investigations and Analysis
Captain, U.S. Coast Guard