TATE OF CALIFORNIA-THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

# DEPARTMENT OF BOATING AND WATERWAYS

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December 17, 2007

Department of Homeland Security Docket Management Facility 1200 New Jersey Avenue, S.E. West Building, Ground Floor Room W12-140 Washington D.C., 20590-0001

Re: Docket Number USCG-2007-0008

I am responding to the request for comments regarding the Collection of Information Under Review by Office of Management and Budget: PMB Control Number: 1625-0003.

The state of California does not actively use this form, as we distribute our own Boating Accident Report form (BAR-1) that vessel operators involved in accidents complete and submit. However, in some circumstances, a boat operator does submit the United States Coast Guard's form, CG-3865, to our Department.

In the interest of improving accident data collection, I am forwarding comments regarding the proposed contents and layout of CG-3865.

In several cases, I refer to two California Boating Accident report forms. One, mentioned above, the BAR-1, is designed to be used by operators involved in boating accidents. The other, VAR-1, is used by law enforcement. Both forms are included for reference.

These forms are by no means perfect and need to be updated not only to comply with 33 CFR 173, but also to better refine other accident factors. That being said, I do believe that our comments may be helpful in the further refinement of CG-3865.

# 1. POSSIBLE MISSING INFORMATION AS REQUIRED BY 33 CFR 173

Regarding the required elements that must appear on CG-3865, 33 CFR 173(p) states:

(p) The type and amount of each fire extinguisher used

The section on page 2 asked # of fire extinguishers on board and Type of fire extinguishers (eg. ABC), but this appeared to address what equipment was on board, not what was actually used. There did not appear to be a section that specifically asked if the extinguishers were actually used, and if used, how many were used. Perhaps this is too literal an interpretation of section (p), but I wanted to address it in case that information needs to be refined.

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#### 2. LENGTH

At 6 pages, form CG-3865 is very long. In comparison, the California BAR-1 form is 2 pages, which can be contained in a single sheet printed on both sides. After reviewing 33 CFR 173, the CA form is missing a few required elements. However, we should be able to incorporate these elements into the existing space without a need to expand to 3 pages.

If we were using this form, it would be a great concern to us that the length may affect compliance on the part of boat operators to complete the report.

Therefore, my suggestion would be to shorten the form considerably. When comparing CG-3865 and BAR-1, there are a number of areas that ask the same questions, but CG-3865 takes up significantly more space. For instance:

- The section, Accident Details—Other Key People (page 4) could be combined with the sections, Serious Injuries and Deaths. In California, we found that these three sections could be condensed into a single section without significant loss of data. (See BAR-1, bottom of page 1) The area on our form is not as comprehensive as the areas on the CG-3865 form. However, in most fatalities, there is a law enforcement report to refer to, so it is an area that could be potentially condensed.
- The area allotted to several areas, (some examples would be the area allotted to the operator and owner on page 6 of CG-3865, and the area allotted to weather/water conditions on page 2 of the CG-3865) take up significantly more space than the same area on the CA form.
- We would never use the section called For State Agency Use Only. If the states that use this form have a need for it, then that would explain its existence. If not, it would be another area to delete.
- The Report Submitted By section appears two times—once on page 1 and once on page
   I would suggest condensing these sections into a single section.

#### 3. LAYOUT

The layout of CG-3865 was confusing. Layouts that have worked well for us in California involve separating the areas that apply first to the accident itself (date, time, location, weather conditions, type of accident, cause of accident, etc.) and then to the areas that apply to the operator and the vessel itself and the people on board those vessels. Several problems were noted on CG-3865, which are detailed below.

The form commenced by asking a mix of questions—some that related to all people in the accident (injuries, fatalities) and some that only related to a single vessel (such as damage). It was followed by a section called Accident Summary that contained sections that asked the

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date, time and location of the accident, and sections, such as *People On Board YOUR Boat*, and *Damage to Your Boat*, both of which asked questions pertaining to a single vessel.

Then, on page 2, it asked for information contained in section, *Your Boat*, specific to just the reporting operator's vessel, followed by a section about weather and water conditions, pertaining to the overall accident. This flow seems convoluted.

Further, why would the information collected in the section *People on Board Your Boat* (page 1) not be included in the same section with information collected in the section *Your Boat* (page 2?)

This sort of inconsistency happened throughout the form. Another example was Accident Details—Your Boat Operator, (page 4). This section asked a number of questions about the vessel operator. (Education, instruction, life jacket and alcohol use) Then, on page 6, more questions were asked about the vessel operator. (Name, address, age, gender) The reason for this separation of data is unclear, but combining all of the information regarding the operator in a single spot would be helpful to both submitters and reviewers of the information.

The sections Contributing Factors and Machinery/Equipment Failure are not adjacent to one another and should be. Please see Section 3, of this letter titled Refine Choices, immediately following, for further details.

# 4. REFINE CHOICES

Some of the choices in the section, Contributing Factors, on page 3, need to be better defined. In meetings of the former BAIRAC committee, members have talked extensively about confusion surrounding the differences between "operator inattention" and "improper lookout" as well as "force of wave or wake" and "hazardous waters." It would be beneficial to offer some sort of brief clarification for some of these terms, as was done for several of the terms pertaining to various types of collisions in the preceding section, Accident Events.

Additionally, "Machinery Failure" and "Equipment Failure" are missing from the Contributing Factors section. I realize that these elements are asked elsewhere. However, if a vessel has either a machinery or an equipment failure, what box does the person completing the form choose to make it clear that one of these was a contributing factor? I am assuming, he or she chooses, "Other" and then has to write this in. This is not efficient either for the person completing the form or for the data entry person/analyst interpreting it. I would rather see space allotted to include these two choices in this area.

The Contributing Factors section should be <u>immediately</u> followed by the section Machinery/Equipment Failure. This would allow someone choosing one of these failures in the Contributing Factors section to follow up immediately in the Machinery/Equipment Failure section by specifically telling what type of failure occurred. These sections currently

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are not only separated by other categories on the form, but the Machinery/Equipment Failure section precedes the Contributing Factors section which does not allow for a smooth flow of information.

The section, Operator/Passenger Activities (page 3) contains a choice called Drifting. This choice should be deleted as it does not add any amplifying information to this section. The section, Boat Operations, also contains a choice called Drifting, where is the correct location for this choice.

Other choices for consideration in the Operator/Passenger Activities section (page 3) would kite boarding, windsurfing, parasailing and racing. As the United States Coast Guard is now having states and territories report all racing activities on numbered vessels, as required by federal regulation, the racing choice seems appropriate and helpful to properly distinguish these types of accidents.

One additional note—in California, we are adding a section to our form called "location launched from" for each operator. This is especially important in places on the coastline or locations with multiple entry points, both of which are an issue in our state. Knowing the entry points of boaters involved in accidents will help better concentrate our safety efforts—such as better signage in these areas.

#### 5. LACK OF DETAIL REGARDING OTHER OPERATORS

This issue may not matter to states with excellent law enforcement patrols that are on the scene of most accidents. However, states lacking this type of presence may be the very ones who are depending upon this form as one of their primary means of data collection.

In California, since we do not have centralized law enforcement, we do rely to some extent on operator self reporting. As stated earlier, we have our own form in place for operators to complete. Our form used to be very similar to the USCG form in the respect that much information was collected about the operator completing the form but very little was collected about any other operator involved in the accident. (only names, addresses, and sometimes registration numbers)

Our thought process at that time was that we, the state authority, would be able to contact the second operator using either the name or the CF number and have that person submit a report.

The reality, however, was somewhat different. We found that it was not easy to contact the second operator. Even though our state law has penalties for refusing to report accidents, it is very difficult to enforce this law.

Some reasons that made it difficult to get the second (or third, fourth, etc) operator to report:

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- The operator completing the form did not know or did not have the correct name/address/registration # for the second operator.
- The other operator simply refused to submit the form
- A number of people in our state are involved in accidents with people they know, often relatives. These people typically were only completing and submitting a single form between them.
- A single owner owned both vessels involved and completed one form.

Therefore, we expanded the information fields that appeared on the form for the second operator. The vast majority of accidents in CA involve either one or two vessels (98% of 2007 accidents).

Allowing space for the operator submitting the report to enter information about the second vessel and/or operator improved our data collection immensely.

It can be argued that the operator submitting the report may not always have accurate information regarding the other operator(s). However, in most cases, operators know what type of second vessel was involved (PWC, open motorboat,

etc.) They also knew the activity taking place aboard other vessels (water skiing, fishing, etc.) Other factors such as cause as it relates to another operators ability/wrongdoing obviously have to be carefully evaluated—which is also true of the operator submitting the form. However, in many cases we were still able to get a better idea of what happened than if we did not include any information at all.

This expansion was done on our form without adding a third page. Additionally, the form that CA law enforcement agencies use contains a layout where information is collected simultaneously about both vessels. (See attached form VAR-1). While these suggestions may not meet all of the goals of the United State Coast Guard with respect to accuracy in every area, they do improve accuracy in some areas.

Thank you for the opportunity to provide comments regarding this matter. If you have any questions regarding any of these comments, please contact me at the number below.

Sincerely

Raynor Tsuneyoshi

Director

(916) 263-4326

# LIFORNIA BOATING ACCIDENT REPORT

CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS he operator of every recreational vessel is required by Section 656 of the Harbors and Navigation Code to file a written report whenever a boating accident occurs which asults in death, disappearance, injury that requires medical attention beyond first aid, total property damage in excess of \$500, or complete loss of a vessel. Reports must be ubmitted within 48 hours in case of death occurring within 24 hours of an accident, disappearance, or injury beyond first aid. All other reports must be submitted within 10 days of the accident. Reports are to be submitted to the California Department of Boating and Waterways at 2000 Evergreen Street, Suite 100, Sacramento, California 95815-3888, 916) 263-8189. Failure to submit this report as required is a misdemeanor and is punishable by a fine not to exceed \$1000 or imprisonment not to exceed 6 months or both. TE OF ACCIDENT (M/D/Y) TIME OF ACCIDENT COUNTY BODY DEWATER LOCATION ON WATER ☐ PM NJURED TOTAL SS LAW ENFORCEMENT ON ACCIDENT SCENE? AGENCY NAME # DEAD YES INO EATHER ICHECK ALL THAT APPLY): WATER CONDITIONS WIND CONDITIONS TEMPERATURE NONE CALM (waves less than 6") WATER CLEAR TRAIN LIGHT (0-6 mph) VISIBILITY **STRONG CURRENT** CHOPPY (waves 6"-2") ☐ GOOD CLOUDY SNOW MODERATE (7-14 mph) ROUGH (waves 2'-6') TYES INO STRONG (15-25 mph) ☐ FAIR ☐ FOG HAZY ☐ VERY ROUGH (waves >6') STORM (over 25 mph) □ POOR TYPE OF ACCIDENT (CHECK ALL THAT APPLY): CAUSE OF ACCIDENT (CHECK ALL THAT APPLY): FIRE / EXPLOSION (fuel) ☐ IMPROPER LOOKOUT / INATTENTION ☐ HAZARDOUS WEATHER / WATER CAPSIZING COLLISION WITH VESSEL FIRE / EXPLOSION (other than fuel) OPERATOR INEXPERIENCE RESTRICTED VISION ☐ FLOODING / SWAMPING ☐ EXCESSIVE SPEED ☐ IGNITION OF SPILLED FUEL / VAPOR COLLISION WITH FIXED OBJECT ☐ COLLISION WITH FLOATING OBJECT ☐ SINKING ☐ IMPROPER ANCHORING MACHINERY FAILURE ☐ FALL OVERBOARD ☐ STRUCK BY BOAT / PROPELLER ☐ EQUIPMENT FAILURE ☐ OFF-THROTTLE STEERING INABILITY SKIER MISHAP ☐ IMPROPER LOADING ☐ FAILURE TO VENT ☐ FALL IN BOAT ☐ OVERLOADING ☐ OTHER OTHER DESCRIBE WHAT HAPPENED AND WHAT YOU COULD HAVE DONE TO PREVENT THIS ACCIDENT (Explain the cause of death or injury, medical treatment, etc. Use sketch if helpful. If needed, continue description on additional paper.) VICTIM OR WITNESS INFORMATION COULD LIFE JACKET VICTIM / WITNESS RIDING IN VICTIM / WITNESS CAUSE OF DEATH AGE INJURY DESCRIPTION VICTIM SWIM? WORN? STATUS VESSEL # NAME & ADDRESS ☐ INJURED □ DROWNING ☐ YES ☐ YES ☐ TRAUMA ☐ DEAD ☐ NO ☐ NO ☐ WITNESS ONLY ☐ OTHER INJURED ☐ DROWNING ☐ YES YES DEAD ☐ TRAUMA □ NO □ № ☐ WITNESS ONLY OTHER ☐ INJURED ☐ DROWNING YES YES TRAUMA ☐ DEAD □ NO □ NO OTHER ☐ WITNESS ONLY ☐ INJURED ☐ DROWNING YES YES

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# LIFORNIA BOATING ACCIDENT REPORT CALIFORNIA DEPARTMENT OF BOATING AND WATERWAYS

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SINKING SAILJOACK SAILJOACK SINKING SAILJOACK SAILJO	,	•	fuel)			1	_					) <del>-</del>		_				USCG AUXILIARY					
STRUCK BY BOAT / PROPELLER  SKIER MISHAP  OTHER  OTHER  OPEN MOTORBOAT  ALUMINUM  OPENSONAL FLOTATION DEVICES  THOUSEBOAT  OTHER OPENSONAL WATER CRAFT  OHOUSEBOAT  SAILBOAT (sux. engine)  SAILBOAT (sux. engine)  SAILBOAT (sux. engine)  ALUMINUM  OTHER (specify)  OTHER (specify)  ALUMINUM  OTHER (specify)  SAILBOAT (sux. engine)  SAILBOAT (sux. engine)  OTHER (specify)  Were they accessible?  Were they accessible?  Were they accessible?  Were they accessible?  OTHER (specify)  Were they accessible?  OTHER (specify)  OTHER (specify)  OTHER (specify)  Were they accessible?  OTHER (specify)  OTHER (specify)  OTHER (specify)  Were they accessible?  OTHER (specify)	NG / SWAMPII	PING				1	_}				_	1 1		•				US POWER SQUADRON STATE COURSE					
STRUCK BY BOAT / PROPELLER    SKIER MISHAP	3				_	1					1	1-1	1										
CTHER   COTHER   CO	K BY BOAT / P	PROPELLE	ER			1	_			UNG .	ļ.	1 - 1		-		1=	1 - 1	l					
OTHER OTHER OTHER OTHER OTHER OTHER (specify)	MISHAP				_	1	_					1 1		LEAVING DOCK			7						
VESSEL TYPE  HULL MATERIAL  PROPULSION  PRESONAL FLOTATION DEVICES  VESSEL #1  VESSEL #1  VESSEL #1  VESSEL #1  Was vessel adequately equipped with Coast Guard approved PFDs?  Were they accessible?  VESSEL #1  Was the approved PFDs?  VESSEL #1  Were they used?  VESSEL #1  VESSEL #1  Were they used?  VESSEL #1  VESSEL #1  Were they used?  VESSEL #2  VESSEL #1  VESSE						1		OVE	NT		_	} - }						10 TO 100 HOURS					
## #2  ##					Ш	Ľ	OTHER .		<del></del> }				OTHER (specify)					OVER 100 HOURS					
OPEN MOTORBOAT CABIN MOTORBOAT	PE		1	IULL	MA	ΛŢΕ	RIAL	P	ROP	LSION	10-3	***	PERSONAL	FLOTATION DEVI	CE8 4447	<b>I</b>		FIRE EXTINGUISHERS TO 415					
CABIN MOTORBOAT  CABIN				1	1			•					VESSEL #1	)									
CASH MOTORAD  PERSONAL WATER CRAFT  HOUSEBOAT  SAIL BOAT (aux. engine)  SAIL BOAT (aux. engine)  SAIL BOAT (aux. engine)  CANCE / KAYAK  RAFT  ROWBOAT  OTHER (specify)  OTHER (specify)  OTHER (specify)  INBOARD / OUTBOARD  Were they accessible?  Were they used?			10	=	1 4	MO	OD	}_	OUTBOARD				Was vessel : with Coast C	adequately equipped Guerd approved PFDe?			0	Was the approved type of line fighting equipment on board?					
HOUSEBOAT			,   🗆		1 4	ALUMINUM			□ □ INBOARD									YES NO					
SAIL BOAT (aux. engine)  SAIL BOAT (aux. engin				C	1   F	FIBERGLASS			INBOARD / OUTBO				-		_	_	i	Were they used? ☐ YES ☐ NO					
SAIL BOAT (sail only)  CANDE / KAYAK  COTHER (specify)	SAILBOAT (aux. engine)					PLASTIC			□ □ JET							_							
CARCE / RAFT  OTHER (specify)  OTHER (specify)  OTHER (specify)  OTHER (specify)  OTHER (specify)  Were they used?  OTHER (specify)  Were they used?	•	• •			RUBBER / VINYL					SAIL ONLY		-		adequately equipmed		_		Was the approved type of fire fighting					
OTHER (specify) Were they used? YES OND Was they used?						OTHER (specify)			D D PADDLE / OARS						Oe7 YES		O	equipment on board?					
CTHER (specify) Were they used?	1 1 1 1								OTHER (specify)				Were they a	ocessible?	☐ YES		0	U YES U NO Wore they used?					
ACCIDENT NARRATIVE	.1											- 1	Were they u	sed?	TYES		10	☐ YES ☐ NO					
	RATIVE				_	_				L	_							<u> </u>					
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REPORT HUMBER INVESTIGATED BY (NAME, RANK) ID NUMBER REVIEWED BY	ir					-	INVESTIGATE	D RV "	NAUE	PANKI				ED NUMBER	DEVIEWEN I	ay.							
Manual Ma							vsorioale	·- •• (I	. = <mle;< td=""><td></td><td></td><td></td><td></td><td></td><td colspan="5"></td></mle;<>														