



NMA REPORT #R-429-C, Revision 1 (Series)

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Asserting our right "...to petition the Government for redress of grievances."

Amendment 1, U.S. Constitution, Dec. 15, 1791

[Publication History: This report was originally issued on July 15, 2005.]

## COAST GUARD MARINE CASUALTY INVESTIGATIONS

On May 12, 2005, our Association prepared a FOIA request to what is now the Office of Investigations and Casualty Analysis (CG-545),<sup>(1)</sup> at U.S. Coast Guard Headquarters. In that request, we asked the Coast Guard to furnish the policy letter or other document that described the various types of investigations that are conducted on vessel casualties and personal injuries including the definitions of terms like "formal investigation", "informal investigation" and "data collection activity." [<sup>(1)</sup> Phone 202-372-1029]

W.D. Rabe, Chief, Investigations Division answered our FOIA (#05-1620) with a copy of G-MOA Policy Letter #2-02 dated Sept. 4, 2002. The policy letter claimed to implement some of the 1996 Quality Action Team's (QAT) suggestions made in a 1996 report<sup>(1)</sup>, which, in turn was prompted by an earlier 1994 internal study of investigations.<sup>(2)</sup> [<sup>(1)</sup> Refer to our Report #R-429-B, Rev. 1. <sup>(2)</sup> Refer to our Report #R-429-A as posted on our web site]

On April 24, 2008 the Coast Guard cancelled and consolidated this and most other policy letters into Marine Safety Manual, Volume V, Investigations and Enforcement, consisting of approximately 630 pages that fully describes the entire Coast Guard investigations program in great detail far beyond the scope of our original FOIA. We extracted Pages A5-1 through A5-10 of the new manual to update the information we originally provided. The entire Volume 5 is available on the Coast Guard's website for your reference.

### NMA Reports in the #R-429 Series

**R-429 (Series) Coast Guard Investigations and Administrative Law.** [Also see Report #R-204, Rev.1 ]

- ★ □ R-429, Rev. 1. Aug. 30, 2010. NMA Report to Congress: Shortcomings in Marine Safety Investigations. How Coast Guard Investigations Adversely Affect Lower Level Mariners. 50p. \$11.00.
- ★ □ R-429-A, Rev 1. (Series) Mar. 20, 2007. U.S. Coast Guard Marine Casualty Investigations and Reporting: Analysis and Recommendations for Improvement By James G. Byers, Susan G. Hill, & Anita Rothblum. Interim Report, August 1994. [Reprint of the 1994 Coast Guard R&D Report.] 66p. \$14.20.
- ★ □ R-429-B, Rev. 1. (Series) July 26, 1996. Report of the USCG Quality Action Team on Marine Safety Investigations 78p. \$16.60.
- ★ □ R-429-C. (Series) August 30, 2010. Coast Guard Marine Casualty Investigations. 12p. \$3.40.
- ★ □ R-429-D. (Series) Oct. 8, 2006. Coast Guard Investigations: Buzzard's Bay Tank Barge Grounding and Oil Spill, April 27, 2003. 12p. \$3.40.
- ★ □ R-429-E. (Series) Nov. 20, 2006. Accident Investigations: If You Are Involved in an Accident, Don't Expect to be Read Your Rights. [Formerly #R-374.] 2p. \$1.40
- R-429-F. (Series) July 26, 1996. Report of the Coast Guard-AWO Quality Action Team on Towing Vessel Crew Fatalities.
- ★ □ R-429-G, Rev. 2. (Series) Feb. 24, 2007.. Report to Congress: Sharpening Accident Investigation Tools By Establishing Logbook Standards for Lower-Level Mariners. (Replaces Report #R-291, Rev. 1). 11p. \$3.20.
- ★ □ R-429-I. Rev.2. (Series) Mar. 24, 2007. Investigations: Enforcement of Existing Personal Injury Reporting Requirements. (Replaces report #R-291, Rev. 1) 7p. \$2.40.
- ★ □ R-429-J. (Series) July 4, 2007. Investigations: Report to Congress of Coast Guard Abuses of the Administrative Law System. 28p. \$6.00
- ★ □ R-429-K. (Series). Aug. 8, 2007. Congressional Subcommittee Hears About Coast Guard Abuse of the Administrative Law System. [Report on Congressional Hearing held July 31, 2007] 52p. \$11.40.
- ★ □ R-429-L. Rev. 2. (Series). July 9, 2008. The Coast Guard Hates Whistleblowers: The Eric Shine Story. 16p. \$4.20. [Also see

*our reports # R-204;Rev. 1, and #R-429-Q.]*

- ★ □ R-429-M. May 9, 2008. United States Coast Guard's Management of the Marine Casualty Investigations Program. [Contains reprint of Department of Homeland Security Report #OIG-08-51] 48p. \$10.60.
- ★ □ R-429-N. July 28, 2008. Report to the 110<sup>th</sup> Congress: Maritime Towing Accidents Involving Apprentice Mates/Steersmen. 24p. \$5.80.
- R-429-O. Aug. 11, 2008...NMA Petitions the Coast Guard to Change the ALJ System. 10p. \$3.00
- ★ □ R-429-P. Rev. 1. Jan. 1, 2010. Mariners Drown When Justice Capsizes The Murray Rogers Case. 9p. \$2.80.
- ★ □ R-429-Q. Mar. 21, 2009. U.S. Coast Guard versus Lt. Eric N. Shine. 34p. \$7.80. [Also see our reports # R-204;Rev. 1, and #R-429-L]
- R-429-R. [Replaced by R-429-P, Rev. 1]
- R-429-S. June 26, 2009 NMA Letter to Congressional Requesters on the Government Accountability Office (GAO) Report #09-498 on the Coast Guard's Administrative Law System
- R-429-T. Apr. 30, 2010. Geneva Conventions Re-defined by Eric N. Shine. 12p. \$3.40. [Also see our reports # R-204;Rev. 1, R-429-L and R-429-Q.]
- R-429-U. May 6, 2010. Review of NOAA Fisheries Enforcement Program and Operations. By Mariner #143. 12p. \$3.40.

### **Other NMA Accident Reports**

- R-293-A. Rev.3. June 1, 2008. Towboats and Bridges, A Dangerous Mix., 28p. \$6.60.
- ★ □ R-293-B. Rev. 6. Dec. 7, 2008. We Urge Congress to Look Into Overhead Clearance Accidents. 13p. \$3.60 [Previously numbered #R-411, Rev. 4, June 1, 2008]
- R-293-C. Apr. 25, 2005. Allision Involving the M/V Brownwater V and the Queen Isabella Causeway Bridge, Port Isabel, Texas Sept. 15, 2001. 37p. \$8.40 [USCG Report Reprint]
- R-299. Rev.1, Apr. 30, 2002. M/V Seabulk Georgia Accident. 11p. \$3.20.
- R-311. Rev.2. May 26, 2003. The Loss of the OSV CHERAMIE BOTRUC 26 With Two Fatalities. 13p. \$3.60.
- R-328. Oct. 2002. Two Offshore Supply Vessels Collide One OSV Sinks; 3 Men Die, 1 Man Injured. [M/V Bass River & C/Captain Collision. 11p. \$3.20.
- R-340-A. Apr. 5, 2007, Oversize and Overloaded Tow Accident: The Elizabeth Mø Case. 7p. \$2.40.
- R-370-M. Aug. 12, 2010. The Miss Amanda Incident: Overworked, Undermanned and Violating the 12-Hour Rule. 2p. \$1.40
- R-390. Feb. 14, 2004. Loss of the Tug Thomas Hebert off the New Jersey Coast Fails to Bring Needed Changes. ["Tripping"] 7p. \$2.40.
- ★ □ R-399. Jun. 14, 2004. Danger on the Illinois Waterway: Towboat Pilot Loses License After He Accepts High Risk Assignment. 10p. \$3.00.
- ★ □ R-432. Aug. 15, 2006. Coast Guard Inspection SNAFU Leaves Four Dead and Many Injured and Hundreds of Boat Owners Affected. [Lady D Accident in Baltimore Harbor.] 47p. \$10.40.
- R-433-A. Mar. 22, 2010. Another ACL Deckhand Falls Overboard and is Crushed to Death.. 3p. \$1.60. [Death of Brian E. Messinger.]



## A. DISCRETION

### A.1. DISCRETION IN DETERMINING THE APPROPRIATE INVESTIGATIVE LEVEL OF EFFORT

All incidents reported to the Coast Guard, regardless of the source, *will* be investigated, however, the OCMI/COTP must determine on a case-by-case basis what investigative actions are appropriate for a specific case based on the likely value to marine safety, available resources, and risks in a given port. This policy does not limit or change OCMI/COTP authority or responsibility to determine appropriate actions. For example, a minor collision (damage less than \$25,000) of a towboat and a moored casino vessel may highlight significant safety concerns that would demand a formal investigation, or the OCMI/COTP may decide to conduct an informal investigation of three deaths from a fishing vessel sinking if the added cost and complexity of a formal investigation would not bring appreciable benefit. In such cases, the usual process of investigating, determining causal factors, reporting, entering information into MISLE, and record keeping must be followed.

## B. DEFINITIONS

### B.1. CASUALTIES 46 U.S.C. 6101

#### B.1.a Major Marine Casualty

An incident that meets any of the following criteria:

- Resulted in the loss of six or more lives.
- Resulted in the loss of mechanically propelled vessel of 100 or more gross tons.
- Resulted in property damage initially estimated at \$500,000 or more.
- Resulted in serious threat, as determined by the Commandant and concurred in by the NTSB Chairman, to life, property, or the environment by hazardous materials.

#### B.1.b Public/Non-public Vessel Casualty

A casualty involving a public vessel and a non-public vessel that meets any of the following criteria:

- Resulted in at least one fatality.
- Resulted in property damage initially estimated at \$75,000 or more.

A public vessel is a vessel owned by the United States and includes a U.S. Coast Guard Vessel.

#### B.1.c Significant Marine Casualty

A casualty that is not a Major Marine Casualty but causes serious safety or environmental concerns, involves important safety issues, or causes substantial media interest. Significant marine casualties generally involve the following:

- Multiple deaths or a single death caused by unusual circumstances.
- Hazard to life, property, or the marine environment (e.g. sinking of a chlorine barge).
- Loss of any inspected vessel.



#### **B.1.d Routine Incident**

Any marine Casualty reportable under 46 CFR 4.05-1 but of lesser severity than a Significant Marine Casualty.

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#### **B.1.e Loss of Life**

When determining when an incident is to be classified as a major marine casualty, public/non-public vessel casualty, or a significant marine casualty a life shall be considered lost when:

- A person is known to be dead (e.g. the body has been recovered).
- A person has been categorized as “presumed lost/dead” by agencies leading the search and rescue efforts.
- The circumstances of the incident make recovery of a person alive unlikely.

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#### **B.1.f Loss of a Vessel**

When determining when an incident is to be classified as a major marine casualty, public/non-public vessel casualty, or a significant marine casualty a vessel shall be considered lost when:

- The vessel is known or presumed to have been destroyed.
- The vessel is presumed to have sunk and its location is unknown.
- The vessel has sunk and its location is known, but it is unrecoverable.
- The vessel is a constructive total loss, i.e. the vessel is so severely damaged that it is not financially worth recovering and/or repairing.

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#### **B.1.g Initially Estimated Property Damage**

When determining when an incident is to be classified as a major marine casualty, public/non-public vessel casualty, or a significant marine casualty initially estimated property damage only includes the cost of labor and materials to restore the vessel, facility or other properties involved to their conditions before the incident, but not include the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage.

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### **C. GENERAL INFORMATION REGARDING LEVELS OF INVESTIGATIVE EFFORT**

#### **C.1. INTRODUCTION**

All reports of incidents must be investigated to the extent provided for under 46 U.S.C. 6301. The 1995 Quality Action Team on Marine Safety Investigations suggested that three levels of investigation beyond preliminary investigation are necessary: Data Collection, Informal, and Formal. MISLE data entry requirements for all levels of investigation shall be in accordance with the Investigations and Enforcement Process Guide.

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#### **C.2. PRELIMINARY**

Preliminary Investigations are initial investigative efforts undertaken to ascertain



**INVESTIGATIONS**

whether a report is genuine, how severe the incident is or will become, whether the Coast Guard has jurisdiction, whether other agencies or offices must be notified, and what level of Coast Guard investigative effort is necessary. As such, preliminary investigations have no jurisdictional boundaries until they are complete. Once a preliminary investigation verifies the above information, the cognizant investigative authority assigns the case for investigation as a data collection activity, informal investigation, or formal investigation, depending on severity and value to marine safety.

**C.3. DATA COLLECTION ACTIVITIES**

Data Collection Activities do not require any significant investigative effort, and usually consist only of collecting basic factual information and entering it into MISLE for future reference and analysis. Only minimum follow-up to verify accuracy and completeness would be conducted if necessary.

**C.4. INFORMAL INVESTIGATIONS**

Informal Investigations are less exhaustive than formal investigations, but include the determination and reporting of the causal factors of a casualty. Generally, speaking, only incident investigations that include a marine casualty ever reach the level of informal investigation.

**C.5. FORMAL INVESTIGATIONS**

Formal Investigations are reserved for the more serious incidents investigated under 46 USC Chapter 63 from which the most value can be gained. Marine Boards convened by the Commandant and other formal investigations convened by the District Commander or OCMI/CO TP fit into this category. Only incident investigations that include a marine casualty ever reach the level of formal investigation.

**D. PRELIMINARY INVESTIGATIONS**

**D.1. ACTION ON VERIFIED INCIDENTS**

**D.1.a. General**

A preliminary investigation shall be conducted for any report of evidence of a reportable marine casualty as defined in 46 CFR 4.05-1 involving a US or foreign flag commercial vessel. This includes reports of casualties by state numbered commercial vessels (e.g.: state numbered unsuspected towing vessels and fishing vessels) that report casualties under 33 CFR 173.55. A preliminary investigation begins when the Coast Guard is informed of a specific incident or situation, usually via a notification from the public. Oftentimes, a preliminary investigation is conducted solely over the telephone. When the preliminary investigation has gathered and verified sufficient factual information to determine the next course of action, the preliminary investigation is considered completed. The next course of action will be either nothing or the IO will recommend and/or execute, as appropriate, an upgrade in the level of investigation with possible additional notifications.

**D.1.b. External Investigative Resources**

When a local Memorandum of Understanding is in place, the OCMI/CO TP may rely



upon other agencies to perform some or all of the investigative work. When the Coast Guard will take no further action, there is no further data entry beyond a notification within MISLE.

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**D.1.c. Identifying Major Marine Casualties, Significant Marine Casualties and Public/Non-public Vessel Casualties**

Identifying when an incident is a major marine casualty, significant marine casualty or a public/non-public vessel casualty shall be done as early as possible during the preliminary investigation, based on the information available at the time, even when that information may be incomplete or of questionable accuracy. In particular, when determining whether or not the property damage associated with an incident meets or exceeds the cost threshold in the criteria for each incident type the initial estimate should:

- Focus on identifying whether the cost is above or below the threshold and not try to identify a specific cost.
- Not be delayed to wait for the result of a formal assessment unless it can be obtained quickly (i.e. during the preliminary investigation).
- Be assumed to be in excess of the threshold if it initially appears close to the threshold and it is believed a formal assessment may later indicate property damage in excess of the threshold.

**D.2. REQUIRED NOTIFICATIONS**

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**D.2.a. General**

One of the most critical roles the IO fills is properly notifying the chain of command. Based upon post-incident notification, senior leaders in the Coast Guard are briefed, and CG-545 can fulfill its responsibilities such as notifying the NTSB, other Flag Administrations, DOJ, and the IMO.

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**D.2.b. When CG-545 Shall Be Notified**

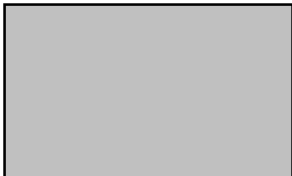
CG-545 shall be notified (directly or via the Commandant Command Center) for the following:

- Major Marine Casualties
- Significant Marine Casualties
- Public/Non-Public Vessel Casualties
- Criminal Referrals

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**D.2.c. When and How the National Response Center shall be Notified**

Under various regulations, the responsible party is required to notify the National Response Center (NRC) of any discharge or release. In some cases the responsible party is not known, possibly because they have deliberately discharged or released, and no report to the NRC has been made. When Coast Guard personnel discover unknown-source discharges or releases, they shall report each such discharge or





release to the NRC so there are accurate tallies. Additionally, they shall remind the responsible party of their obligation to report the discharge or release to the NRC. The NRC shall be notified using their toll-free number: 1-800-424-8802.

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**D.2.d. How to notify CG-545**

During regular business hours, when required, the OCMI shall immediately notify CG-545 via their appropriate chain of command in the most rapid means available in one or more of the following methods:

Phone: (202) 372-1029

Fax: (202) 372-1907

After regular business hours, when required, the OCMI shall immediately notify the Commandant Command Center (who will notify CG-545 if and when appropriate) via their appropriate chain of command in the following method:

Place the call to the Commandant Command Center Duty Officer at 800-DAD-SAFE.

Note: All Major Marine Casualties are required to be reported to the Command Center IAW COMDINST 3100.8A, Critical Incident Reporting. This notification satisfies CG-545's reporting requirement to HQ.

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**D.2.e. Contents of the Notification**

The notifications should contain essential information, including the names of the vessels involved, their official numbers, nationality, the location, known and possible deaths and serious injuries, the nature of the casualty, potential criminal issues, and the MISLE incident investigation activity and case number. The OCMI shall also indicate the type of investigation they intend to conduct (formal/informal) and any recommendations to convene a Marine Board of Investigation or other formal investigation. The notification should also contain any requests made for assistance from the unit to the District Commander, Area Commander, or Commandant.

When the case raises issues related to the performance Coast Guard safety functions, the nature of these issues must be explained. Coast Guard safety functions of particular note include:

- Search and Rescue Activities;
- Marine Inspection Activities;
- Maintenance of Aids to Navigation; and
- Vessel Traffic Services

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**E. DATA COLLECTION ACTIVITIES**



**E.1. PURPOSE**

Data collection activities are initiated when an upgrade in the level of investigation is required beyond the preliminary investigation. A data collection activity shall be conducted for all reportable marine casualties as defined in 46 CFR 4.05-1 not assigned to Informal or Formal Investigations. Data collection is the minimum level of investigation required when there will be no analysis, conclusions, or recommendations stemming from an investigation. They are intended to document the facts surrounding an incident for the public record and must meet the investigative obligations outlined in 46 U.S.C 6301. Enforcement referrals may be made from a data collection activity with the exception of an enforcement referral based upon information from a marine casualty (this must be informal at a minimum).

**E.2. PARTIES IN INTEREST**

IOs will not normally designate Parties in Interest for data collection activities resulting from a marine casualty investigation without a formal request for status. However, IOs should solicit all involved parties for evidence and/or witnesses. The IO should evaluate and respond to all requests for party in interest status. Whether or not Parties in Interest are designated, if a party meets the criteria of a party in interest, they can not be prohibited from participating in the investigation

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**F. INFORMAL INVESTIGATIONS**

**F.1. PURPOSE**

Informal investigations are initiated when an upgrade in the level of investigation is required beyond the preliminary investigation and data collection activity but not to the level of a formal investigation. The purpose of the informal investigation is to expand upon information gathered during the preliminary investigation, discover and document the facts of the incident, conduct analysis, draw conclusions about the causes of the incident, draw conclusions as to whether there is evidence of offenses on the part of any person or organization, and recommend measures to prevent similar incidents from occurring. Accordingly, the scope of the investigation is limited to those topics and pieces of evidence that explain the cause and/or demonstrate evidence of an offense.

**F.2. WHEN TO CONDUCT AN INFORMAL INVESTIGATION**

An informal investigation should be conducted for any casualty involving a U.S. or foreign flag commercial vessel, including state numbered commercial vessels, and meeting any of the below criteria:

**Death:** One death. Death cases may be downgraded to Data Collection after credible evidence, such as a death certificate, indicates death from natural causes (including pre-existing medical condition) or suicide.

**Injury:** One injury which results in fractured bones (other than fingers, toes or nose), loss of limbs, severe hemorrhaging, severe muscle, nerve tendon or internal organ damage, or in hospitalization for more than 48 hours within 5 days of the injury.

**Vessel loss:** Loss of an uninspected vessel of less than 500 GT, or loss of a barge of



more than 100 GT on inland waters (as defined in 33 USC 2003).

**Property damage:** An event involving a vessel and resulting in property damage exceeding \$100,000 but less than \$1,000,000. The damage value comprises the cost of labor and material to restore the property (vessels, shoreline facilities, pipelines, OCS facilities, etc.) to its original condition before the occurrence, but does not include damage to natural resources of the cost of salvage, cleaning, gas-freeing, dry-docking, or demurrage. Damage values should be the best estimates available immediately following the accident.

**Collision/Allision:** Any collision or allision resulting in property damage exceeding \$25,000.

**Loss of propulsion or steering:** Any loss of propulsion or steering, or partial loss of propulsion or steering (e.g. loss of one engine), even if momentary, affecting an inspected U.S. vessel anywhere or affecting a foreign flag vessel or an uninspected U.S. vessel or 100 GT on U.S. navigable waters.

**Flooding or fire:** Flooding or fire that adversely affect a vessel's fitness for service on an inspected U.S. vessel anywhere, or affecting a foreign flag vessel or an uninspected U.S. vessel over 100 GT on U.S. navigable waters.

**Equipment failure:** Failure of Coast Guard approved primary lifesaving equipment or Coast Guard approved firefighting equipment.

**Discharge:** Medium discharge of oil or medium release of a hazardous substance (as defined in 40 CFR 300.5), or of hazardous cargoes regulated under 46 CFR Subchapter O, in which a vessel is the source or the cause of the discharge or release.

**Commercial Diving Casualty:** Death or injury of persons diving from a vessel for commercial purposes.

**Recreational Diving Casualty:** Death or injury of persons diving from a vessel in federal waters for recreational purposes.

**F.3. PARTIES IN INTEREST**

See 46 CFR 4.03-10

IOs will not normally designate Parties in Interest as a part of an informal investigation of a marine casualty without a formal request for such status. The IO should evaluate and respond to all requests for party in interest status. In some incidents, people and organizations that may be designated in a formal investigation may participate in an informal investigation. As an open proceeding, those parties may request to be present during the interviewing of certain witnesses, to present evidence, and/or request to have certain witnesses interviewed. Whether or not Parties in Interest are designated, if a party meets the criteria of a party in interest, they can not be prohibited from participating in the investigation

**F.4. OPEN PROCEEDINGS**

Informal investigative proceedings are open to the public. Accordingly, to the extent that such presence does not hinder the progress of the investigation, the press and public may be present while interviewing witnesses.

**F.5. OPENING THE INFORMAL**

No formal opening is required for informal investigations. Informal investigations are generally opened as directed by the standing orders of the OCMI/COTP. The



**PROCEEDINGS**

IO is not required to make a public notice regarding the opening of informal investigations, or any formal statement for the record of the investigation. Evidence and testimony are collected in as informal a setting as possible.

**G. FORMAL INVESTIGATIONS**

**G.1. TYPES OF FORMAL PROCEEDINGS**

Formal proceedings may be initiated by the OCMI (Unit Formal), the District Commander (District Formal), and by the Commandant (Marine Board of Investigation, also referred to as a Marine Board). The Unit and District Formal Investigations are composed of a single IO designated by the OCMI or District Commander to receive evidence and testimony under formal rules (an additional IO is recommended to act as recorder). The duties of this IO are detailed in 46 CFR Part 4.07. A Marine Board is the highest level of investigative effort and may be initiated via the Port and Waterways Safety Act (PWSA) or 46 USC Chapter 63 further detailed in 46 CFR 4.09-1 (for Marine Casualties). A Marine Board is composed of three or more officers designated by CG-545 to conduct the investigation under formal rules. Funding for formal proceedings is provided by the convening authority.

**G.2. WHEN TO CONDUCT A FORMAL INVESTIGATION**

A formal investigation should be conducted for any casualty involving a U.S. or foreign flag commercial vessel, including state numbered commercial vessels, and meeting any of the below criteria:

**Death:** 2 or more deaths.

**Injury:** 2 or more seriously disabling injuries or 6 or more injures which result in fractured bones (other than fingers, toes or nose), loss of limbs, severe hemorrhaging, severe muscle, nerve tendon or internal organ damage, or in hospitalization form more than 48 hours within 5 days of the injury.

**Vessel loss:** Loss of an inspected vessel, or loss of an uninspected vessel of 500 GT or more.

**Property damage:** An event involving a vessel and resulting in property damage exceeding \$1,000,000. The damage value comprises the cost of labor and material to restore the property (vessels, shoreline facilities, pipelines, OCS facilities, etc.) to its original condition before the occurrence, but does not include damage to natural resources of the cost of salvage, cleaning, gas-freeing, dry-docking, or demurrage. Damage values should be the best estimates available immediately following the accident.

**Discharge:** Major discharge of oil or major release of a hazardous substance (as defined in 40 CFR 300.5), or of hazardous cargoes regulated under 46 CFR Subchapter O, in which a vessel is the source or the cause of the discharge or release.

**Foreign Flag Exception:** A formal investigation is not required for a casualty involving only a foreign flag vessel (e.g. no U.S. vessel involved, no damage to U.S. property, and no injury of U.S. citizens).



**Barge Exception:** A formal investigation is not required for the loss of a barge on inland waters as defined in 33 USC 2003.

**G.3. MARINE  
BOARD OF  
INVESTIGATION**

**G.3.a. Introduction**

The decision to convene a formal investigation is influenced primarily by the lessons to be derived from the incident. If the information to be derived has considerable national significance, or indicates vessel class problems or areas of technical importance, the Commandant may convene a Marine Board to assure that every aspect of the case is probed. Additionally, broad or intense public interest may warrant the formalities of a Marine Board. A Marine Board is usually composed of three or more members. The senior member shall be chairperson (also referred to as the Chair), the junior member the recorder. CG-545 may also designate specialists or technical experts to assist.

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**G.3.b. Designation**

Designation of Marine Board members will be initiated by message, and subsequently confirmed by precept from the convening authority. Designation of Marine Board members is based on the nature of the casualty and the availability of qualified personnel.

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**G.3.c. Precept**

The precept is a letter written to the prospective Chair designating the members of the Marine Board and providing specific guidance about the topics to be covered during the course of the investigation.

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**G.3.d. Duties of the Chair**

The presiding officer of the Marine Board is the Chair. All members of the Marine Board and all IOs assigned to the Marine Board shall, unless otherwise directed, report to the Chair. The Chair shall control and direct the course of the investigation, including:

- Leadership of investigative personnel;
- Delegating authority to investigative personnel;
- Assigning specific investigative duties;
- Liaison with the cognizant District Commander and OCMI;
- Liaison with CG-545;
- Developing the strategy for the investigation and specific lines of inquiry;
- Managing the ongoing preliminary investigation;
- Developing and formally designating Parties in Interest;
- Setting the rules of conduct for participation of Parties in Interest;
- Recruiting and using any needed Coast Guard or other investigative



resources;

- Conducting regular briefings; and
- Producing the Report of Investigation (ROI).

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#### **G.3.e. Duties of the Members**

Members of the Marine Board carry out the investigation of the incident under the control and direction of the Chair. While the Chair sets the strategy and assigns duties, the members assume the tactical control of the investigation and will normally oversee specific elements of the preliminary investigation, propose witnesses to interview and evidence to examine, conduct the questioning of specific witnesses, and so on.

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#### **G.3.f. Duties of the Recorder**

The recorder shall be governed by the instructions of the Chair in matters concerning the composition of the record, including exhibits and attachments, adjournment to other times and places, etc. As a member of the Marine Board, the recorder also acts as an independent contributor with regard to final conclusions and recommendations by the Marine Board. The recorder is responsible for the following:

- Custody of:
  - Copies of appropriate charts;
  - Most recent vessel inspection records;
  - Plans of vessel(s);
  - Record of previous casualties, possibly related;
  - Message traffic on casualty;
  - Copies of statements of persons interviewed;
  - List of physical evidence;
  - List of witnesses and status. (Will they be leaving the area and, therefore, need to be called early or have depositions taken?);
  - Course recorder tapes, automatic bell recorder record, charts, bell books, logs, and other vessel records. (These shall be taken into custody if still aboard the vessel.);
  - Photos of casualty; detailed photographs of significant areas that can assist witnesses in testifying; and
  - Photos of vital controls (e.g., engine-order telegraph settings in bridge and engine room, rudder angle indicator, position of rudder, sound powered phone selector settings, etc.).
- Following up on the recovery of victims (their identification, where and when located, and by whom); elements/materials that may help identify victims should be called to the attention of the coroner or local authorities.
- Notifying the cognizant U.S. Attorney via Coast Guard Legal in cases