

# **SUPPORTING STATEMENT FOR OMB FORM 1625-0003 Lifesaving, Report of Recreational-Boating Accident**

## **A. Justification**

- 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.**

Title 46 USC 6102(a) requires a uniform marine casualty reporting system, with regulations prescribing casualties to be reported and the manner of reporting. The statute requires a State to compile and submit to the Secretary (delegated to the Coast Guard) reports, information, and statistics on casualties reported to the State. Implementing regulations are contained in Title 33, Code of Federal Regulations, SUBCHAPTER S - BOATING SAFETY, PART 173 - VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING, Subpart C - Casualty and Accident Reporting and PART 174 - STATE NUMBERING AND CASUALTY REPORTING SYSTEMS, Subpart C - Casualty Reporting System Requirements, and Subpart D - State reports.

The Federal regulations (33 CFR 173.55) require the operator of any vessel that is numbered or used for recreational purposes to submit an accident report to the State authority where the accident occurred when:

- (1) A person dies; or
- (2) A person is injured and requires medical treatment beyond first aid; or
- (3) Damage to the vessel and other property totals \$2,000 or more, or there is a complete loss of the vessel; or
- (4) A person disappears from the vessel under circumstances that indicate death or injury.

The Coast Guard Boating Accident Report form (CG-3865, OMB control number 1625-0003) is the data collection instrument that ensures compliance with the implementing regulations and Title 46 USC 6102(b) that requires the Secretary to collect, analyze and publish reports, information, and statistics on marine casualties.

States are required to forward copies of the reports or electronically transmit accident report data to the Coast Guard within 30 days of their receipt of the report as prescribed by 33 CFR § 174.121 (Forwarding of casualty or accident reports). The accident report data and statistical information obtained from the reports submitted by the State reporting authorities are used by the Coast Guard in the compilation of national recreational boating accident statistics.

- 2. Indicate how, by whom, and for what purpose the information is to be used.**

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Accident data and statistical information received from the current collection are used by the Coast Guard to: establish National Recreational Boating Safety (RBS) Program goals, objectives, strategies and performance measures; report RBS Program performance to Congress in the USCG FY Performance Report and Budget in Brief; identify possible manufacturer defects in boats or equipment; develop boat manufacturing standards; develop safe boating education and accident prevention programs; and to publish accident statistics in accordance with Title 46 USC 6102. Non-receipt of the data and information from the public would require unnecessary additional investigation by the Coast Guard and communications with the persons who are required to file accident reports in compliance with Title 33 CFR 173.55. Further, many accidents would remain unreported with potential safety hazards going undetected. This would not be in the best interest of the public, State boating authorities or the Coast Guard.

- 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.**

The Boating Accident Report Database (BARD-Web) System supports the Coast Guard's implementation of a uniform vessel accident reporting system as required under Title 46 U.S.C, § 6102. Fully implementing BARD-Web reflects the Coast Guard's commitment to data sharing by enabling local / State / Territory law enforcement officers to collect and electronically transfer accident report data to one central location via an Internet connection and a Web browser. BARD-Web is located at <https://bard.cns-inc.com/> and enables: (1) State / local personnel to input casualty data at the accident scene; and (2) casualty data to be transformed into statistical information that is used to enhance the safety and security of the public using our nation's waterways.

- 4. Describe efforts to identify duplication.**

There is no duplication at the Federal level. Under the authority of Title 46 U.S.C, the U.S. Coast Guard is the only federal agency that has been delegated the responsibility to collect, analyze, and annually publish statistical information obtained from recreational boat numbering and casualty reporting systems. The accident report data and information captured by accident report forms are electronically submitted from State Boating Law Administrators in the fifty (50) States, five (5) U.S. Territories and the District of Columbia to the U.S. Coast Guard.

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5. **If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

There are no small businesses or other small entities involved in the collection of Federal Boating Accident Report forms. Form CG-3865 has been structured to require the minimum amount of information needed to accomplish statutory obligations and is filled out by individuals and/or State and local law enforcement officers.

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.**

If the accident data and statistical information is not collected using Coast Guard form CG-3865, the mandated statutory requirement and implementing Federal regulations will not be met; resulting in an unacceptable level of risk to the boating public. Thus, national RBS Program effectiveness would be significantly diminished in our ability to mitigate the risks associated with recreational boating activity.

7. **Explain any special circumstances that would cause an information collection to be conducted in a manner:**

The Coast Guard Boating Accident Report form is only filed upon the occurrence of a recreational boating accident that satisfies the Federal reporting requirements contained in Title 33 CFR 173.55.

8. **If applicable, provide a copy and identify the data 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.**

A request for comment was published in the Federal Register on March 10, 2006, Volume 71, Number 47, page 12378. That notice elicited comments from a firm that provides services in the analysis and design of automotive and marine products ("industry"), and from a state environmental protection agency ("State agency"). These comments requested a substantive revision to the CG-3865 report form.

The comments made recommendations to enhance the quality, utility and clarity of the information that is subject to the collection. Comments concerned the terminology used in the current Coast Guard Boating Accident Report Form (CG-3865) lacks clarity to

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such an extent, it likely makes it difficult for a vessel operator/owner to complete the form as required by 33 CFR 173.55. As currently designed for use by "the operator/owner of a vessel," some terminology used in the report form could be unclear or unknown by the reporting individual. Additionally, it was stated that designing the accident report form for an operator/owner while at the same time taking into consideration the use of the form by law enforcement officials means the report form has evolved into an instrument that does not adequately address the distinct needs and knowledge level of law enforcement or the operator/owner. We concur that some revisions are needed to improve the CG-3865 report form for accuracy and thoroughness of the information subject to the collection as prescribed by Federal regulations, but we did not agree with all of the suggested changes.

Two issues related to potential rulemaking arose during our review of comments. First, the industry commenter has recommended that we amend the reporting provisions of 33 CFR 173.55(a) and (c) as soon as possible to include law enforcement officers, instead of just vessel operators or owners, as persons who may complete accident reports. We have treated this portion of industry's comment as a petition for rulemaking and have forwarded it to the Executive Secretary of the Marine Safety and Security Committee in accordance with 33 CFR 1.05-20, Petitions for rulemaking. We only note here that Sec. 173.55 identifies who must submit--not who must complete--the report.

Second, while examining the form in response to comments, we noted a requirement in paragraph (w) of 33 CFR 173.57 (Contents of Report). Specifically, paragraph (w) requires the collection of vessel beam width at widest point and depth from transom to keel. This information is not solicited by the current form. Because it is required by paragraph (w), we have added this item to the revised form. We plan to re-examine this paragraph, particularly in light of requirements for the display of capacity information and a standard for safe loading in 33 CFR part 183, subparts B and C, respectively, to see if a revision in this regulation is warranted. The omission of this beam and transom solicitation in the current form may reflect that it has become impractical to collect this information from vessel operators/owners. After re-examining the usefulness of this information, we may decide a rulemaking is warranted to change the underlying requirement in Sec. 173.57, but we can not eliminate the place to enter this information on the CG-3865 report form while this information is still required.

In response to submitted comments, the CG-3865 report form has been revised to eliminate terms and data elements where: (1) The practicality of collecting the information from vessel operators/owners is unrealistic and (2) the information is of limited value in supporting the strategies and objectives of the national Recreational Boating Safety (RBS) Program. The following is a summary of comments submitted

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within the scope of the solicitation that pertain specifically to the information collection request published in the Federal Register (71 FR 12378) on March 10, 2006.

### Industry Comments

Comments submitted by industry focused on the practical utility of the collection as well as ways to enhance the quality and clarity of the information subjected to collection. The firm noted the current CG-3865 form lacks not only clarity, but a definition of terms which could make it difficult for a vessel operator/owner to complete. The firm also commented that we should consult with their stakeholders to correct the structural and content deficiencies of the report form. We concur with these comments and have recently evaluated information captured by the CG-3865 report form in consultation with the National Association of State Boating Law Administrators (NASBLA). NASBLA is comprised of Boating Law Administrators (BLAs) representing the fifty States, five U.S. Territories, and the District of Columbia, who by regulation, serve as the reporting authorities for their respective jurisdiction.

We do not concur with the comment that the CG-3865 report form is not in compliance with 33 CFR 173.55 (a) and (c). While appropriate State reporting authorities may assist appropriate individuals in the proper filing of the report, the report form and manner of reporting is in compliance with Federal regulations.

We concur that the CG-3865 report form includes technical information that lacks clarity and definition of terms that a lay person may not be able to respond to in a manner as prescribed by regulations. In response, we have made substantive revisions to the CG-3865 report form in an attempt to capture accurate information from individuals who are required to file the report. For example, the following terms have been eliminated: “Inherently buoyant,” “Tertiary,” “Whitewater boating,” “Off-throttle steering,” and “Runaway boat.” And explanatory text has been provided for the following abbreviations: VSC [vessel safety check], BUI [boating under the influence], and PFD [personal floatation device].

In response to the comment for providing instructions for the vessel operator/owner to describe information for the overall accident as well as information for the specific vessel they were operating, we have included explanatory text in the headings of each section of the report form. Additionally, the structure of the boating accident report database file has been modified to reflect the manner of reporting for the overall accident as well as for the specific vessel(s) involved in the accident.

We appreciate the recommendations submitted by industry for improving the quality of data captured by the accident report form. By revising the report form as

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recommended, we believe accident data is more accurately reported and subsequently captured in our boating accident report database file at the proper levels of causality and description. We believe the data and associated statistical information generated by the revised form will better show the factors--environmental, operator, and vessel--associated with boating accidents.

### State Agency Comments

Comments submitted by the State agency focused on modifying the CG-3865 report form to clarify certain information. In response to these State agency comments:

1. We have modified the form to make it evident the information is required by the Coast Guard as prescribed by current federal regulations. We include in our explanatory text that State reporting authorities may require reports involving only damage to vessels and other property that is less than \$2,000.
2. We concur that the most important information to collect regarding a VSC is when the vessel has been involved in an accident. The form has been modified to capture whether the respective vessels involved in accidents had current VSC decals.
3. We have clarified that information requested for a BUI arrest is specifically for the vessel operator involvement in the accident that is subject to the report, and not in reference to any prior BUI arrests.
4. Due to the limited practicality of collecting accurate engine serial number information from vessel operators/owners, serial number information has been eliminated from the revised CG-3865 report form.
5. The term ``cruising" remains in the list of values associated with the operation of the vessel at the time of the accident.
6. The term ``sudden medical condition" (heart attack, stroke, etc.) has been added to the list of contributing factors for an accident.
7. "Auxiliary equipment failure" now provides an example of such an occurrence (e.g., generator failure).
8. The entire "Accident Descriptors" section has been eliminated. However, "collision with a commercial vessel" has been added to the list for "Types of Accidents."

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9. The section requesting the “estimated number of days the vessel was used this year,” the “typical number of hours the vessel was used each day this year,” and the “typical number of persons on board the vessel used each day this year” has been eliminated from the report form.

10. In regard to the section of the report entitled, “Other People on Board this Vessel,” we concur with the removal of the last question asking for information on whether operators of the other vessels involved in the accident completed their reports. Individuals completing the form for their respective vessel typically would not know that same type of information for other vessels involved in the accident. In response, the “Other People on Board this Vessel” section has been eliminated.

11. In the section entitled “Witnesses not on this Vessel,” we have modified the title to include witnesses for the overall accident. We have also corrected the spelling of the word “separate.”

12. In the section entitled “For Agency Use Only,” we have modified the form to capture the primary and secondary causes of the accident in the opinion of the reviewing official.

13. In the section entitled “Person Completing the Report,” we have included a response for “Other” so the respondent is able to indicate who is submitting the report in case the operator and owner are unable to submit the report as required. In many of these cases, state reporting authority personnel (e.g., investigator) complete the CG-3865 report form to the best of their ability and submit the data to the Coast Guard.

14. The term “Bruise” has been placed in parentheses next to the term “ABRASION/CONTUSION.”

15. The term “Heart Attack” has been added to the list of types of injuries and the term “Other” has been added to the list of injury causes in the subsection entitled “Injury Caused By.”

16. “Victim Activity at the Time of the Accident” has been modified to be consistent in both the Non-Fatal Injury and Deceased sections of the report form. Since the term “Cruising” is appropriately designated as a vessel operation, it will remain listed as an “Operation at the Time of the accident.”

We appreciate the comments submitted by the State agency in clarifying the type of information to be submitted by vessel operators/owners using the CG-3865 report form.

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

There is no remuneration associated with the current information collection.

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

The data and information are part of an existing Privacy Act system of records and, as such, are maintained and managed accordingly. Further, under Title 46, U.S.C. § 6102 (b), if a State marine casualty reporting system provides that information derived from casualty reports (except statistical information) may not be publicly disclosed, or otherwise prohibits use by the State or any person in any action or proceeding against a person, the Secretary may use the information provided by the State only in the same way that the State may use the information.

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.**

There are no sensitive questions in the current information collection.

12. **Provide estimates of the hour burden of the collection of information.**

The estimated number of respondents is 5,000. There is an estimated 30-minute burden to a respondent for each report filed for an annual estimated burden of 2,500 hours for the estimated 5,000 reports.

5,000 reports X .5 hours = 2,500 hours

13. **Provide an estimate of 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 shown in Items 12 and 14).**

The cost to the general public to mail a Coast Guard CG-3865 form in 2006 is \$.39. On an annual basis, the approximate cost to the general public to mail 5,000 forms to the appropriate State reporting authority as prescribed in Title 33 CFR 173 is \$1,950 (5,000 x \$.39).

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**14. Provide estimates of annualized cost to the Federal government.**

The estimated annualized cost to the Federal government to administer and maintain the fully implemented electronic National Boating Accident Report Database (BARD) System for the fifty (50) States, five (5) U.S. Territories and the District of Columbia is approximately \$300,000. These costs include providing BARD System maintenance, help desk support, formal training, and implementing system enhancements in response to evolving/changing user requirements in the fifty (56) reporting jurisdictions.

**15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.**

An adjustment was made to form OMB 83-I, item number 13. The total annual hours requested has been adjusted from 3,250 to 2,500. The explanation for the adjustment is that the number of recreational boating accidents that satisfy federal reporting requirements continue along a downward trend. To illustrate, in CY 2002, 5,705 accidents satisfied federal reporting requirements and therefore required an information collection. In CY 2004, the number of accidents that required an information collection fell to approximately 5,000. We anticipate this recurring information collection to remain at or slightly below current levels. In regard to item number 14, the Coast Guard has fully deployed and implemented an electronic reporting system for the fifty (50) States, five (5) U.S. Territories and the District of Columbia to help these reporting authorities process reports as prescribed by 33 CFR 173 - 174. The cost burden to the Federal government is provided in item number 14 (b).

**16. For collections of information whose results will be published, outline plans for tabulation, and publication.**

Approximately six (6) months after the end of each calendar year, the Coast Guard's annual Boating Statistics report (COMDTPUB P16754) is published. The Boating Statistics publication is based on accident reports submitted to State reporting authorities that are entered into the national BARD System. COMDTPUB P16754 provides general descriptive statistics showing the number of accidents, the types and causes of accidents, and resulting fatality, injury, and property damage statistics satisfying federal reporting requirements as prescribed in Title 33 CFR 173.55.

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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.**

It is appropriate to display the expiration date for OMB approval for this recurring information collection.

18. **Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.**

No exceptions are requested