



MARINE CASUALTY REPORTING

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This article briefly describes the reporting requirements for marine casualties involving commercial vessels and discusses the important elements of violations of the reporting requirements.

What is a marine casualty? A marine casualty is defined in Title 46 Code of Federal Regulations (CFR), Part 4.03-1. Essentially it is casualty or accident involving a vessel (other than a public vessel), that occurs upon the navigable waters of the United States, its territories or possessions. 46 CFR 4.03-1(b) indicates the term “marine casualty” applies to events caused by or involving a vessel, and it goes on to list specific occurrences or incidents that constitute a marine casualty. Some examples include loss of life, collisions, groundings, loss of propulsion, and incidents involving significant harm to the environment.

Reportable Marine Casualties

46 CFR 4.05-1 contains the requirement for immediate notice to the Coast Guard of certain marine casualties involving vessels. Paragraph (a) of this subpart states:

Immediately after addressing the resultant safety concerns, the owner, agent, master, operator, or persons in charge, shall notify the nearest Sector Office, Marine Inspection Office, or Coast Guard Group Office whenever a vessel is involved in a marine casualty consisting in...” and then it goes on to list the specific casualties for which an immediate notice is required.

Often mariners violate the immediate notice requirement but just as often there are legitimate reasons for a delay in reporting a marine

casualty. It is necessary to know and document the facts and circumstances surrounding what at first might appear as a failure to provide immediate notification. Details that should be known and analyzed might include the type of casualty and why pursuant to regulation it qualifies as a marine casualty requiring reporting, the date and time of occurrence, and how it was discovered. If there is a substantial delay in notification, it would be important to know and document when the party was aware of the casualty, and how the party had the opportunity to make timely notification but failed to do so. Was there a reason given for the delay or failure to provide notification altogether? For cases of untimely notifications, careful consideration should be given to any actions that were required of the party to address any safety concerns as a result of the casualty. And in cases of lack of any reporting, perhaps what first appeared as a marine casualty requiring reporting was instead some event that did not require reporting. Only after analyzing the details can a fair assessment be made as to whether there was failure to immediately report a marine casualty.

Written Notification Requirements

In addition to the immediate notice requirement above, a written report is required. According to the 46 CFR 4.05-10(a) the owner, agent, master, operator, or person in charge, shall within five days, file a written report of any marine casualty required to be reported under 4.05-1. The written report must be submitted on Form CG-2692 (Report of Marine Accident Injury, or Death). It is important to note that in accordance with 4.05-10(b), if the 2692 is filed without delay after a marine casualty, then it serves to satisfy the immediate notice required by subpart 4.05-1 discussed above.

New language was added to the regulations in 2005 to include “any occurrence involving a vessel that involves significant harm to the environment” as a reportable marine casualty which requires the submission of a 2692. 46 CFR 4.03-65 defines “Significant harm to the environment”, and includes the following: a of discharge of oil into the navigable waters of the United States as set forth in 40 CFR 110.3 – which causes a film, sheen, or discoloration of the surface of the water and a discharge of a hazardous substance in quantities

equal to or exceeding in any 24 hour period, the reportable quantity determined in 40 CFR 117.

It should also be noted that if a marine casualty exclusively involves an occurrence involving significant harm to the environment, a report made pursuant to 33 CFR 153.203, 40 CFR 117.21, or 40 CFR 302.6 satisfies the immediate notification requirement of 46 CFR 4.05-1. For example, if a commercial tug operator experiences a discharge of oil from his vessel and he/she makes an immediate notification to the National Response Center in accordance with 33 CFR 153.203, the immediate notice requirement of 46 CFR 4.05-1 is satisfied. A written report is still necessary.

Reporting exclusion

Recreational vessels are excluded from the requirements of 46 CFR 4.05, and fall under the reporting requirements of 33 CFR 173.51.