



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 4

[Docket No. USCG-2016-0748]

RIN 1625-AC33

Marine Casualty Reporting Property Damage Thresholds

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the monetary property damage threshold amounts for reporting a marine casualty and for reporting a type of marine casualty called a “serious marine incident.” The original regulations that set these dollar threshold amounts were written in the 1980s and have not been updated since that time. Because the monetary thresholds for reporting have not kept pace with inflation, vessel owners and operators have been required to report relatively minor casualties. Additionally, the original regulations require mandatory drug and alcohol testing following a serious marine incident. As a result, vessel owners and operators are conducting testing for casualties that are less significant than those intended to be captured by the original regulations. Updating the original regulations will reduce the burden on vessel owners and operators, and will also reduce the amount of Coast Guard resources expended to investigate these incidents.

DATES: This final rule is effective [**INSERT DATE 30 DAYS AFTER DATE OF**

PUBLICATION IN THE FEDERAL REGISTER].

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I. Abbreviations

BLS	Bureau of Labor Statistics
CFR	Code of Federal Regulations

COI	Collection of Information
CPI-U	Consumer Price Index for All Urban Consumers
DHS	Department of Homeland Security
MISLE	Marine Information for Safety and Law Enforcement
NPRM	Notice of Proposed Rulemaking
OCMI	Officer in Charge, Marine Inspection
OCS	Outer Continental Shelf
OMB	Office of Management and Budget
PVA	Passenger Vessel Association
RA	Regulatory analysis
SMI	Serious marine incident
SNPRM	Supplemental notice of proposed rulemaking.
U.S.C.	United States Code
§	Section symbol

II. Background, Basis, and Purpose

Pursuant to 46 U.S.C. 6101, the Coast Guard is required to prescribe regulations on marine casualty reporting and the manner of reporting. Based on this authority, we developed regulations in part 4 of title 46 of the Code of Federal Regulations (CFR) that included, among other criteria, monetary property damage threshold amounts for reporting a “serious marine incident”¹ (SMI) and for reporting a marine casualty.² The original regulations setting these property damage threshold amounts were developed in the 1980s, and they have not been updated since that time. With this final rule, we update the dollar threshold amounts for property damage in 46 CFR 4.03-2(a)(3) and 4.05-1(a)(7) to account for inflation.

As described in greater detail in the notice of proposed rulemaking (NPRM), there is Coast Guard and stakeholder consensus that the 1980s property damage monetary threshold amounts listed in 46 CFR 4.03-2 and 4.05-1 have not kept pace with inflation.³ Over time, this has resulted in the reporting of a greater number of casualties involving

¹ 46 CFR 4.03-2.

² 46 CFR 4.05-1.

³ 82 FR 7755, page 7756.

relatively minor property damage. It was never our intent to require owners or operators to notify us of casualties involving relatively minor property damage. Consequently, we are amending the property damage monetary threshold amounts to eliminate the reporting of insignificant property damage incidents.

Additionally, because the regulations require mandatory drug and alcohol testing following an SMI, current regulations require chemical testing of crewmembers for casualties that reach a minimum threshold of \$100,000 in property damage. Because of cost increases caused by inflation, however, casualties that result in property damage between \$100,000 and \$200,000 are no longer representative of a “serious” incident. The lack of inflation updates to our marine casualty regulations has resulted in an additional administrative and financial burden on vessel owners and operators, as well as on Coast Guard resources used to investigate these incidents.

III. Regulatory History

On January 23, 2017, the Coast Guard published an NPRM with request for comments. No public meeting was requested, and none was held.

IV. Discussion of Final Rule

This final rule changes the reportable marine casualty property damage threshold amount in 46 CFR 4.05-1(a)(7) from \$25,000 to \$75,000. In the NPRM, we proposed to make this threshold \$72,000, but chose \$75,000 for reasons explained in the next section of this preamble. This final rule also changes the SMI property damage threshold in 46 CFR 4.03-2(a)(3) from \$100,000 to \$200,000. This change is the same as that proposed in the NPRM.

With the dollar amount thresholds updated to account for inflation, we expect there will be a decrease in the number of commercial vessel casualties reported to the Coast Guard. The updates in this final rule will also likely decrease the number of casualties that fall within the definition of an SMI, and thereby reduce the number of chemical tests administered following an SMI that results in \$100,000.01 to \$200,000 worth of property damage. However, mandatory chemical testing will still be required if the property damage meets the updated dollar threshold amount (in excess of \$200,000) established in this final rule. Our intent in setting a dollar amount threshold in our marine casualty reporting regulation and within the definition of “serious marine incident” was, and remains, to ensure that the Coast Guard is aware of those incidents that could be indicative of more serious problems that may be averted in the future with timely intervention.

We expect that this final rule will result in an estimated annual cost savings to industry of \$40,809 due to a reduction in the hourly burden of reporting and recordkeeping for both marine casualties and SMIs, and an estimated annual cost savings of \$4,751 for chemical testing for marine casualties designated as SMIs. This final rule will also result in cost savings to the Coast Guard by reducing the hourly burden costs to investigate marine casualties, as well as the costs associated with processing marine casualty forms. As a result, the maritime industry and Coast Guard resources will be able to focus their efforts on higher consequence incidents.

Finally, this final rule makes several nonsubstantive changes throughout 46 CFR part 4 to account for Office of Management and Budget (OMB)-approved updates to forms that the maritime industry uses to report on marine casualties and SMIs. The Coast

Guard provides further detail of these non-substantive changes below in Part V.G, Discussion of Comments and Changes.

V. Discussion of Comments and Changes

We received 45 public comments. The comments were from individuals representing 25 private companies and 6 trade associations, and 1 anonymous source. Two of these private companies had two individuals submit comments on their behalf, and 11 individuals representing one of the other private companies submitted separate letters. Additionally, one of the trade associations submitted two identical letters from the same individual. We reviewed and took into consideration all 45 comments. The majority of commenters agreed with the NPRM that the current dollar thresholds for reporting marine casualties and SMIs are outdated and should be increased. Some commenters agreed with each of the increased dollar threshold amounts proposed in the NPRM. Other commenters recommended increasing the proposed dollar threshold amount for reporting a marine casualty; of this group, most also recommended increasing the proposed dollar threshold amount for reporting an SMI. Still others recommended including a means to periodically adjust or revise the dollar threshold amounts to make sure they continue to stay current. One commenter recommended that the Coast Guard include within the docket “examples of the casualties which will no longer be reported” as a result of the increase in the dollar threshold amount for property damage. Another commenter suggested that the proposal to increase the dollar threshold amounts for reporting casualties and SMIs be extended to the Outer Continental Shelf (OCS) regulations in 33 CFR part 146, so that the reporting threshold amounts in both CFR titles will be “standardized.” Finally, one commenter suggested that our method of calculating

the inflationary adjustment using the Consumer Price Index for All Urban Consumers (CPI-U) yielded outdated figures, and that there may be other reference indices that would produce more accurate results.

We have grouped these comments into the following categories:

- Dollar Threshold Amounts for Reporting Marine Casualties;
- Dollar Threshold Amounts for Reporting SMIs;
- Periodic Adjustments of the Threshold Amounts for Reporting Marine Casualties and SMIs;
- Loss of Marine Casualty Data;
- Amending the Dollar Amount Thresholds for Outer Continental Shelf Casualty Reporting in Title 33 of the CFR; and
- Use of the CPI-U to Determine Reporting Threshold Amounts.

A detailed discussion of these comments and our responses follows.

A. Dollar Threshold Amounts for Reporting Marine Casualties

Four commenters agreed with the increased dollar threshold amounts exactly as proposed in the NPRM. Of the four commenters, three had additional comments unrelated to the specific dollar threshold amounts. Those comments are addressed in the following discussions and responses.

One commenter recommended increasing the proposed dollar threshold amount of \$72,000 for a marine casualty to a “more memorable figure of \$75,000 or \$100,000.”

Coast Guard Response: We agree with the commenters that \$75,000 and \$100,000 represent figures that are easier to remember than \$72,000. However, we do not agree with changing the property damage threshold to \$100,000. As we explained in the NPRM, the Coast Guard, in arriving at the proposed threshold amount of \$72,000,

calculated the inflation adjustment factor using the CPI-U. Changing the threshold amount to \$100,000 would not be consistent with our intent to update the reporting threshold based on the rate of inflation experienced since implementation of the original rule. Changing the dollar threshold to \$75,000, however, is consistent with that intent and, as the commenter noted, is an easier dollar figure to remember. Additionally, based on our casualty data, we believe that the difference in reporting data between \$72,000 and \$75,000 will be negligible and, for the reasons explained in the Regulatory Analysis (RA) section of this final rule (Section VI), the affected population of this rule remains unchanged from the NPRM. In this final rule, therefore, we have changed the marine casualty reporting threshold for property damage to \$75,000.

B. Dollar Threshold Amounts for Reporting SMIs

Thirty-six commenters recommended increasing the proposed dollar threshold amount for reporting an SMI to \$400,000, citing suggestions from the Passenger Vessel Association (PVA). In support of its recommendation for the Coast Guard to change the dollar amount of an SMI from the proposed \$200,000 to \$400,000, the PVA explains that the 1:4 ratio between the existing dollar amount threshold for marine casualty reporting (\$25,000) and the existing dollar amount threshold for a “serious marine incident” (\$100,000) should be maintained under the final rule.

Coast Guard Response: We do not agree with the 1:4 ratio suggested by the PVA and their members. While the original thresholds did have a 1:4 ratio, this relationship was not by design, nor was it our intention to tie the threshold numbers together in this manner or to suggest that a 1:4 ratio is optimal and should be maintained. Changing the property damage threshold amount to \$400,000 for an SMI, as recommended by the

commenters and the PVA, would not be consistent with our intent to update the threshold amount based on the rate of inflation experienced since implementation of the original rule.

C. Periodic Adjustments of the Threshold Amounts for Reporting Marine Casualties and SMIs

Thirty-seven commenters recommended including in the final rule a provision for periodically adjusting both threshold amounts to account for inflation, so that the Coast Guard will not be required to initiate future rulemakings to update the threshold amounts. Of these, one commenter pointed out that the Coast Guard was “using the same CPI-U numbers to calculate and revise the damage thresholds that they currently employ for their civil penalty adjustments.” Therefore, the commenter suggested, we should include in the final rule a provision to “revise [the dollar threshold amounts for both a marine casualty and an SMI] using the same rate increase schedule as those for civil penalty updates.”

Coast Guard Response: We do not plan to establish automatic, periodic inflation adjustments to these property damage threshold amounts because the cost increase due to annual inflation may be too insignificant to warrant an adjustment every year. Frequent adjustments could also lead to confusion in what is to be reported. Additionally, the maritime industry may also be burdened with updating training and operational materials. We recognize, however, that these dollar amount thresholds should be reviewed more frequently than in the past to account for annual inflation. To that end, we will incorporate a 5-year evaluation period in our internal Mission Management System audits

to ensure that the Coast Guard reviews the appropriateness of these dollar threshold amounts on a regular, recurring basis.

D. Loss of Marine Casualty Data

One anonymous commenter did not express support for or opposition to the NPRM, but was concerned that an increase in the dollar threshold amounts would mean a loss of data for those casualties whose property damage amounts fall below the proposed thresholds. For those casualties, the commenter believed the Coast Guard would not have the necessary information to identify problems that may need attention. The commenter recommended that the Coast Guard “provide supplemental information to the docket which provides examples of the casualties which will no longer be reported,” and stated that this information should be available to the public “because it was the data the Coast Guard used to determine that the current thresholds are not adequate and would clearly convey what type of data would no longer need to be reported.”

Coast Guard Response: We understand and appreciate the commenter’s concerns. However, we are changing the reporting thresholds only as they relate to property damage. We feel that the various types of reportable casualties detailed in 46 CFR 4.05-1 ensure we are made aware of those incidents that could indicate more serious problems and that may be averted in the future with timely intervention. These include groundings, bridge allisions, loss of propulsion or steering, certain equipment failures, incidents resulting in significant harm to the environment, fire or flooding that adversely affects the vessel’s seaworthiness or fitness for service, injuries beyond first aid, and loss of life—regardless of property damage cost. Nevertheless, we understand that, under this final rule, there will be casualties that involve property damage alone that will no longer

be reported to the Coast Guard. An example of such a casualty would be if a vessel allides with a pier, and the resulting initial estimated property damage to the vessel and pier structure is any amount between \$25,000.01 and \$75,000. Assuming no pollution, deaths, injuries, or other reportable criteria is met, this casualty would no longer be a reportable marine casualty under this final rule. In reviewing historical data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database, we are confident that the casualties reported that involve only property damage under \$75,000 are relatively minor in nature when compared to all other reportable marine casualties. A specific example that epitomizes this occurred aboard a moored foreign containership. In this reportable marine casualty, a container being loaded by a longshoreman using a shore-side crane struck the forward mast of the vessel, resulting in over \$66,000 in damage. Under this final rule, a relatively minor incident like this will no longer be reported to the Coast Guard.

E. Amending the Dollar Amount Thresholds for Outer Continental Shelf Casualty Reporting in Title 33 of the CFR

One commenter, speaking on behalf of the International Association of Drilling Contractors, recommended that the increased dollar threshold amount for reporting a marine casualty, as proposed in the NPRM, also be applied to OCS facilities under 33 CFR part 146. If the Coast Guard makes the proposed changes only in 46 CFR part 4, and not also in 33 CFR part 146, the commenter stated that the Coast Guard would “appear to be penalizing” OCS facilities, which would continue to be required to report under the original dollar threshold amount of \$25,000. The commenter referred to a “second related rulemaking (USCG-2013-1057) in progress that proposes to broaden the

regulatory requirements for reporting marine casualties on the U.S. OCS,” and suggested that the Coast Guard review the marine casualty dollar threshold amounts in both 33 and 46 CFR “with a view towards standardization.”

Coast Guard Response: The commenter is correct that, because this final rule is limited to vessels (see 46 CFR 4.03-1 and 4.05-1), it does not affect the reporting threshold for OCS facilities. Changing the \$25,000 casualty damage threshold amount applicable to OCS facilities is not within the scope of the rule we proposed, and we think it is important to finalize the changes for vessels rather than delay them in order to propose changes for OCS facilities. However, we acknowledge the validity of the commenter’s concern, and we will consider amending the threshold reporting amount applicable to OCS facilities in a future rulemaking.

F. Use of the CPI-U to Determine Reporting Threshold Amounts

One commenter who was generally supportive of the NPRM stated that the method we used to calculate inflationary adjustment by comparing the average CPI-U for the base years with the average CPI-U for 2015 yielded outdated information. The commenter pointed out that the U.S. Bureau of Labor Statistics (BLS) inflation calculator, available online at the BLS website, allows users to compare base year values to values for 2017. Therefore, the commenter contends, the threshold amount for reporting a marine casualty as proposed in the NPRM is “already outdated by two years.” The commenter recommended raising the threshold amounts for a marine casualty and an SMI to \$100,000 and \$400,000, respectively.

Coast Guard Response: As stated previously, we agree that since the NPRM was published, more recent CPI-U data is available. However, we disagree with using the

CPI-U BLS calculator to update to 2017. When using the BLS calculator to update to 2017, the calculator updates to the last available month of 2017 data. The CPI-U could have an unusual increase or decrease in 1 month that is not representative of the overall trend in the CPI-U over the full year. We take an average of the 12 months of CPI-U data for the latest full year of data to better represent the overall trend in CPI-U. We disagree with using 2017 data because it would provide an incomplete year of data. The last full year of CPI-U data available at the time of analysis was 2016. We have updated this final rule in a way that encompasses the 2016 CPI-U data.

Thirty-six commenters, citing suggestions from the PVA, recommended increasing the threshold for reporting marine casualties to \$100,000, stating that the proposed figure of \$72,000 “is already outdated because the (Coast Guard’s) calculation used 2015 as the year inputted into the CPI-U BLS calculator.” The PVA and many of these commenters also expressed the belief that the CPI-U may not be the right index to use and that the \$100,000 threshold reflects real, but non-CPI cost, “inflation” because of overtime and seasonality of repairs.

Coast Guard Response: While we agree that more recent CPI-U data is available since the publication of the NPRM, we decline to use 2017 data when computing the inflation adjustment factor using the BLS CPI-U calculator because doing so would provide an incomplete year of data. The last full year of CPI-U data is 2016, and using 2016 data instead of 2015 data does not result in an inflation-adjusted amount larger than the \$75,000 figure already discussed. Specifically, if we calculate the inflation adjustment by comparing the average CPI-U for the base year 1980 (82.408) with the average CPI-U for 2016 (240.007), we find a resultant inflation adjustment factor of

1.912.⁴ This inflation adjustment factor represents how much inflation has occurred since 1980. We multiply this inflation adjustment factor of 1.912 by the current threshold of \$25,000 to calculate the raw inflation increment of \$47,800. We then add this raw inflation to the original penalty of \$25,000, which results in a threshold of \$72,800. When rounding to the nearest thousand, this results in a revised threshold of \$73,000. Accordingly, for the reasons mentioned above and in response to public comment, we are rounding to the nearest \$5,000 to attain a more memorable dollar amount of \$75,000.

The PVA states in its comment that it was not able to identify a single index that best fits the maritime industry. We agree that there is not a source that best fits the maritime industry. Because of this, we use the CPI-U to adjust the monetary property thresholds. The CPI is the most widely used and accepted index produced by the BLS to measure the average change over time in prices paid by urban consumers for a market basket of goods and services. Among other uses, the CPI serves as an economic indicator of the effectiveness of government economic policy, as a means of adjusting income payments, such as Social Security and military benefits, and automatic wage increases in the private sector, and as a means of adjusting Federal income tax brackets.⁵ The specific CPI the Coast Guard uses is the unadjusted All Items CPI-U. The CPI-U is the “broadest and most comprehensive CPI” and, using unadjusted data, is more appropriate for this purpose because seasonally adjusted CPI data is subject to revision for up to 5 years after their original release, making such data difficult to use for adjustment purposes.⁶ The CPI-U represents about 89 percent of the total U.S. population and is based on the

⁴ CPI Detailed Report, Data for December 2016, Table 24. <http://www.bls.gov/cpi/cpid1512.pdf>

⁵ BLS, Chapter 17: The Consumer Price Index, page 5, <https://www.bls.gov/opub/hom/pdf/homch17.pdf>.

⁶ BLS, Consumer Price Index Frequently Asked Questions, https://www.bls.gov/cpi/questions-and-answers.htm#Question_13

expenditures of all families in urban areas,⁷ which includes almost all residents of urban or metropolitan areas, such as professionals, the self-employed, the poor, the unemployed, and retired persons, as well as urban wage earners and clerical workers.

G. Nonsubstantive Changes to Reflect Updated CG-2692, Report of Marine Casualty, Commercial Diving Casualty, or OCS-related Casualty

Finally, after publication of the NPRM, we realized that we failed to include within the NPRM's proposed changes updates to the CG-2692 forms that OMB approved on September 29, 2016. OMB's approval was preceded by two **Federal Register** notices in which the Coast Guard sought public comment to these changes.⁸ The changes to Form CG-2692 involved revising its title and moving certain sections to two new addendum forms. In this final rule, therefore, we are making nonsubstantive changes throughout 46 CFR part 4 to reflect the recently approved updates to the CG-2692 forms.⁹ Because the changes to the CG-2692 forms are non-substantive, and a separate opportunity to comment on the forms was provided through the OMB approval process that is now complete, the Coast Guard finds that good cause exists under 5 U.S.C. 553(b)(B) to bypass prior notice and comment on the nonsubstantive changes to 46 CFR part 4 in this final rule.

VI. Regulatory Analyses

We developed this final rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes

⁷ BLS, *How To Use the Consumer Price Index for Escalation*, <https://www.bls.gov/cpi/factsheets/escalation.htm>.

⁸ 80 FR 64430 and 81 FR 5774.

⁹ This final rule makes nonsubstantive changes to sections 4.05-10, 4.05-12, 4.06-3, 4.06-5, 4.06-30, and 4.06-60.

or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”), directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. OMB considers this rule to be an Executive Order 13771 deregulatory action. See OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017). An RA follows.

In the NPRM, we proposed to revise the dollar threshold amount for reporting a marine casualty from \$25,000 to \$72,000. After considering public comments, we decided to increase the dollar threshold amount to \$75,000. This RA incorporates the

new threshold amount. We reviewed the incident investigation data from the Coast Guard’s MISLE database used to estimate the affected population, and found from 2012 through 2014, there were a total of four marine casualty reports where the only outcome was property damage of \$72,000.01 through \$75,000. After accounting for rounding, these four additional marine casualty reports over the three year period were not substantial enough to change the approximately 5.3 percent of the 5,967 (or 316) fewer marine casualty reports we expect will be required per year after implementation of this final rule. Therefore, the affected population of this final rule remains unchanged from that of the NPRM.

We also updated the wage rates using BLS 2016 data. Table 1 summarizes the changes from the NPRM to this final rule, and the resultant impact on the RA.

Table 1: Summary of Changes from NPRM to Final Rule

Element of the Analysis	NPRM	Final Rule	Resulting Impact on RA
Replace reportable marine casualty threshold	Replaced \$25,000 with \$72,000	Replaced \$25,000 with \$75,000	No impact
Water transportation worker wage rate	\$47.60, using May 2015 and 2016 1 st quarter BLS data	\$50.84, using May 2016 and 2016 4 th quarter BLS data	Increased industry costs and resulting industry benefits

This RA provides an evaluation of the economic impacts associated with this final rule. Under this final rule, the Coast Guard is updating the reportable marine casualty dollar threshold in § 4.05-1(a)(7) of 46 CFR from \$25,000 to \$75,000, and the reportable SMI dollar threshold in § 4.03-2(a)(3) of 46 CFR from \$100,000 to \$200,000, to account for inflation, as discussed in Section IV of this final rule. Table 2 provides a summary of the affected population, costs, and benefits after implementation of this final rule.

Table 2: Summary of the Impacts of the Final Rule

Category	Summary
Applicability	Replace the reportable marine casualty dollar threshold of \$25,000 with \$75,000. Replace the SMI dollar threshold of \$100,000 with \$200,000.
Affected Population	Owners, agents, masters, operators, or persons in charge involved in a marine casualty and crewmembers who are required to undergo chemical testing. Annual average of 316 vessel owners, operators, or their representatives reporting a marine casualty, 21 marine employers reporting an SMI and submitting chemical testing results to the Coast Guard, and an average of 32 vessel crewmembers will no longer be required to complete chemical testing.
Costs	No quantitative costs.
Benefits (Cost Savings)	\$45,560 annualized and \$319,994 10-year present value monetized industry benefits (cost savings) (7% discount rate). \$637,688 annualized and \$4,478,854 10-year present value monetized government benefits (cost savings) (7% discount rate). Total of industry and government benefits: \$683,248 annualized and \$4,798,848 10-year present value monetized combined benefits (cost savings) (7% discount rate).

Affected Population

This final rule affects the owners, agents, masters, operators, or persons in charge of a commercial vessel who, pursuant to 46 CFR 4.05-1, are required to notify the Coast Guard whenever a vessel is involved in a marine casualty and whenever crewmembers, pursuant to 46 CFR 4.06-3, are required to complete chemical testing following an SMI. Specifically, the regulations in this final rule affect those individuals who would have completed the necessary forms (CG-2692 series) to report a marine casualty where the only outcome was property damage of \$25,000.01 through \$75,000, or an SMI with property damage of \$100,000.01 through \$200,000 (CG-2692 series, supplemented with an appended SMI written report (CG-2692B)).¹⁰

We used incident investigation data from the Coast Guard’s MISLE database

¹⁰ “Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident.” See, 46 CFR 4.05-10.

from 2012 through 2014¹¹ to estimate the average number of vessel crewmembers affected by this final rule. From 2012 through 2014, we found there was an average of 5,967 reports of a marine casualty per year, with one individual per vessel, who we assume to be a vessel crewmember, completing each report. An average of 271, or 4.5 percent of the annual 5,967 marine casualty reports, involved an SMI.

Of the 5,967 marine casualty reports, 5.3 percent were for a reportable marine casualty where the only outcome was property damage of \$25,000.01 through \$75,000. Therefore, we expect that an average of 316 fewer reports of marine casualties will be required per year (5,967 reports x 5.3 percent, rounded). Vessel owners and operators benefit from a reduction in the time burden associated with a crewmember no longer having to prepare and submit the required marine casualty reporting paperwork.

Of the 271 casualty reports that involved an SMI, 7.9 percent were cases in which the sole outcome of the SMI was property damage of \$100,000.01 through \$200,000. Based on that annual average, the revisions in this final rule will result in a reduction of 21 SMI written reports (CG-2692B) per year due to the change to the monetary threshold amount for an SMI involving property damage (271 reports x 7.9 percent, rounded). Because property damage of \$100,000.01 through \$200,000 exceeds the threshold for a reportable marine casualty, the forms for a marine casualty report (CG-2692 series) will still need to be completed under this final rule. However, marine employers will no longer be required to complete the additional paperwork required for an SMI written report (CG-2692B). Consequently, marine employers benefit from a

¹¹ This 3-year time period was used to be consistent with the existing Collection of Information, entitled "Report of Marine Casualty & Chemical Testing of Commercial Vessel Personnel," which has OMB Control Number 1625-0001. Furthermore, as it often takes years to close the cases, 2014 is the most recent complete year of closed cases.

reduction in the time burden associated with an SMI written report (CG-2692B), as well as cost savings associated with chemical testing.

Benefit or Cost Savings to Industry

The benefit or cost savings to industry is the difference between the current baseline cost to industry and the cost to industry after implementation of this final rule.

Current Reporting Cost to Industry for CG-2692 and CG-2692B

To estimate the benefit to industry, we first estimate the current cost to industry. The cost to industry includes costs for reporting and recordkeeping for a reportable marine casualty and the costs for chemical testing for marine casualties designated as SMIs. The reporting and recordkeeping costs for marine casualties include the time to complete the forms (CG-2692 series) for a marine casualty, the time for 10 percent of the forms to be internally reviewed before submission, and the time to complete the additional SMI written report (CG-2692B) pursuant to 46 CFR 4.06-60(a) when a marine casualty is designated as an SMI. The time estimates and wage rates for reporting and recordkeeping are taken from the existing Collection of Information (COI), entitled “Marine Casualty Information & Periodic Chemical Drug and Alcohol Testing of Commercial Vessel Personnel,” which has OMB Control Number 1625-0001.¹² We use the same time estimates and wage rates in this analysis to maintain consistency and to capture the changes resulting from this final rule.

An average of 5,967 marine casualty reports are submitted annually by vessel owners or operators. For each reportable marine casualty, we estimated in the existing

¹² Existing Collection of Information, “Marine Casualty Information & Periodic Chemical Drug and Alcohol Testing of Commercial Vessel Personnel”, OMB Control Number 1625-0001, Docket Number USCG-2015-0910, can be found at <https://www.federalregister.gov/documents/2015/10/23/2015-27019/information-collection-request-to-office-of-management-and-budget-omb-control-number-1625-0001>.

COI that it takes 1 hour for a vessel crewmember to complete the necessary forms (CG-2692 series). We estimated in the existing COI that the position of vessel crewmember is analogous to a government employee at the grade level of a GS-03. The fully loaded wage rate for a GS-03 is \$26 per hour, according to Commandant Instruction 7310.1P, "Reimbursable Standard Rates."¹³ We use this version to maintain consistency with the existing COI 1625-0001. The annual baseline cost to complete the current 5,967 CG-2692 series forms is \$155,142 (5,967 marine casualty reports x \$26).

We estimate that it takes, on average, 1 hour to complete the CG-2692 series of forms. However, we received public comments in 2011 on the existing COI number 1625-0001 that stated that completing Form CG-2692 takes more than 1 hour, and one commenter stated that it can take up to 8 to 12 hours to complete the form.¹⁴ The reason for this difference is that some entities choose to have the forms reviewed by shoreside personnel, such as an attorney, prior to submission to the Coast Guard. We adjusted our burden estimate to account for this additional layer of review. To account for this additional time, 10 percent of the forms submitted have 10 hours of additional burden. The additional time reflects internal review by individuals employed by the vessel owner or operator in addition to the vessel crewmember who completes the form. The additional reviewers may be shoreside representatives, port engineers, and attorneys, among others. We estimate that the wage rate for this added review is done by personnel analogous to a government employee at the grade level of a GS-14. The fully loaded wage rate for a GS-14 is \$101 per hour, per Commandant Instruction 7310.1P. The total

¹³ Out of Government Rate for GS-03. Hourly Rates for Personnel (\$), Enclosure (2) to Commandant Instruction 7310.1P.

¹⁴ Docket ID: USCG-2011-0710. Comments can be found at <https://www.regulations.gov/docket?D=USCG-2011-0710>.

annual cost of this additional time is \$602,970 (597 marine casualty reports x 10 additional burden hours x \$101).

When a marine casualty is designated as an SMI, the marine employer must also complete a “Report of Mandatory Chemical Testing Following A Serious Marine Incident Involving Vessels in Commercial Service” (Form CG-2692B). (See 46 CFR 4.06-60.) We estimate that it takes 0.5 hours for a marine employer analogous to a government employee at the grade level of a GS-03 to complete this form. The annual cost to complete CG-2692B is \$3,523 (271 SMI reports x 0.5 hours x \$26 per hour wage rate).

Table 3 shows a summary of the current industry costs for reporting and recordkeeping.

Table 3: Current Annual Industry Costs for Reporting and Recordkeeping

Requirement	Crewmembers/ Responses	Burden Hours per Response	Annual Hour Burden	Wage Rate	Annual Cost Burden
Written report of marine casualty	5,967	1.0	5,967	\$26	\$155,142
Additional Burden for 10% of Respondents	597	10.0	5,970	\$101	\$602,970
SMI written report	271	0.5	136	\$26	\$3,523
Totals		-	12,073	-	\$761,635

As mentioned earlier in this final rule, when a marine casualty is designated as an SMI, the crewmembers involved are required to take a chemical test pursuant to 46 CFR 4.06-3. The marine employer incurs costs for the actual costs of the chemical test and the time it takes for a crewmember to take the chemical test. The actual cost of the chemical test includes the costs of the chemical test collection kits, collector fees, Coast Guard

alcohol-testing swabs, and overnight mailing. These costs can vary, but on average, the actual chemical test costs approximately \$100 per test.¹⁵ The number of vessel crewmembers required to take a chemical test can vary depending on the circumstances of the SMI. We analyzed the casualty reports that involved an SMI from MISLE data and found an average of 1.5 crewmembers per SMI were required to take a chemical test. We used an estimate of 1.5 crewmembers to estimate the costs of chemical testing to account for the variation in crewmembers involved in SMIs. With an average of 271 SMIs per year, the current annual cost for the actual chemical tests is \$40,650 (271 SMIs x average of 1.5 crewmembers x \$100 per test).

In addition to the cost of the chemical tests, there is a cost associated with the time it takes a vessel crewmember to complete the chemical test. We estimate that it takes 1 hour for a crewmember to complete the chemical test.¹⁶ We obtained the wage rate of the crewmember from BLS, using Occupational Series 53-5000, Water Transportation Workers (May 2016). The BLS reports that the mean hourly wage rate for a water transportation worker is \$33.45.¹⁷ To account for employee benefits, we use a load factor of 1.52, which we calculated from 2016 4th quarter BLS data.¹⁸ The loaded

¹⁵ Most marine employers use a consortium that simplifies and reduces the costs per test and also assists in managing a company's drug-testing program. There are variables associated with the cost of testing, as costs can vary depending on the number of personnel included in a plan and the type of testing plan adopted by a particular company. Based on discussions with industry and Coast Guard medical testing, contract data that are not publically available, we estimated testing costs of \$79 and \$114. We are, therefore, using an average cost of \$100 for this analysis [(\$79+\$114)/2, rounded].

¹⁶ Hourly estimate is from Coast Guard subject matter experts, and takes into account that these are not planned tests, but instead are emergent tests--required as a result of accidents--that must be taken no later than 32 hours after the incident.

¹⁷ Mean wage, https://www.bls.gov/oes/2016/may/naics3_483000.htm. Because the crewmembers taking the chemical testing could be anyone from a junior deck officer up to a Master/Captain/Chief Engineer, we use the broader Water Transportation Worker (53-5000).

¹⁸ Employer Costs for Employee Compensation provides information on the employer compensation and can be found in Table 9 at https://www.bls.gov/news.release/archives/ecec_03172017.pdf <http://data.bls.gov/data/>. The loaded wage factor is equal to the total compensation of \$28.15 divided by

wage for a crewmember is estimated at \$50.84 ($\$33.45 \text{ wage rate} \times 1.52 \text{ load factor}$).

The cost of the time for a crewmember to take the chemical test is \$20,666 ($271 \text{ SMIs} \times \text{average of } 1.5 \text{ crewmembers} \times 1 \text{ hour burden} \times \50.84 wage rate). Therefore, the current annual cost to industry for chemical testing is \$61,316 (see table 4). Adding the costs for chemical testing of \$61,316 to the cost for reporting and recordkeeping of \$761,635 (see table 3), brings the current total annual cost to industry to \$822,951.

the wages and salary of \$18.53. Values for the total compensation, wages, and salary are for all private industry workers in the transportation and material moving occupations, 2016 4th quarter.

Table 4: Current Annual Industry Costs for Chemical Testing

SMIs per year	Average crewmembers tested per SMI	Cost of testing procedures	Hours to take test	Wage rate	Total cost of testing procedures
271	1.5	\$100	1	\$50.84	\$61,316

Total Reporting Costs to Industry After Implementation of the Final Rule

Increasing the dollar threshold amount for a reportable marine casualty involving property damage, as well as the dollar threshold amount for property damage within the definition of a “serious marine incident,” reduces the number of marine casualty responses by 5.3 percent, and the number of SMIs by 7.9 percent, annually. The burden hours per response remain the same, but we estimate that the total number of responses decreases to 5,651 for marine casualties and 250 for SMIs, resulting in 316 fewer reported marine casualties and 21 fewer SMIs. The following sections replicate the calculation of marine casualty reporting and chemical testing, but reflect the reduced number of reports and testing under the revised thresholds.

For each reportable marine casualty, we estimate that it takes 1 hour for a vessel crewmember to complete all parts of the necessary forms at a wage rate of \$26. We estimate that the cost to complete the reduced number of marine casualty forms is \$146,926 (5,651 marine casualty reports x \$26).

In addition to the time needed to complete the marine casualty forms, some of the forms require additional processing time. The additional processing time reflects internal review by individuals employed by the vessel owner or operator, in addition to the time needed by the vessel crewmember who completes the form. The additional reviewers may be shoreside representatives, port engineers, or attorneys, among others. To account

for this time, 10 percent¹⁹ of the forms submitted (565 forms) have 10 hours of additional burden, and the wage rate for this added review will be done by personnel analogous to a government employee at the grade level of a GS-14. We estimate that the total cost of this additional time after the implementation of this final rule is \$570,650 (565 marine casualty reports x 10 additional burden hours x \$101).

As mentioned earlier in this final rule, when a marine casualty is designated as an SMI, the marine employer must complete an SMI written report (CG-2692B). We estimate that it takes 0.5 hours for a marine employer analogous to a government employee at a grade level of a GS-03 to complete this form.²⁰ We estimate that the cost to complete the additional forms for an SMI after implementation of this final rule is \$3,250 (250 SMI reports x 0.5 hours x \$26 per hour wage rate).

Table 5 shows a summary of the industry costs after implementation of this final rule.

Table 5: Annual Industry Costs for Reporting and Recordkeeping with Revised Reporting Thresholds

Requirement	Crewmembers /Responses	Burden Hours per Response	Annual Hour Burden	Wage Rate	Annual Cost Burden
Written report of marine casualty	5,651	1.0	5,651	\$26	\$146,926
Additional Burden for 10% of Respondents	565	10.0	5,650	\$101	\$570,650
SMI written report	250	0.5	125	\$26	\$3,250
Totals		-	11,426	-	\$720,826

¹⁹ Docket ID: USCG-2011-0710, <https://www.regulations.gov/docket?D=USCG-2011-0710>.

²⁰ The wage rate for a marine employer to complete Form CG-2692B and to report chemical test results to the OCMI is taken from existing COI number 1625-0001.

The marine employer incurs the actual costs of the chemical test and the wage burden it takes for a crewmember to complete the chemical test. On average, each chemical test costs approximately \$100. We use an estimate of 1.5 crewmembers to estimate the costs of chemical testing to account for the variation in crewmembers involved in SMIs. With an average of 250 SMIs per year, the annual cost after implementation of this final rule for the actual chemical tests is \$37,500 (250 SMIs x average of 1.5 crewmembers x \$100 per test).

In addition to the cost of the chemical tests, there is a cost associated with the time it takes a vessel crewmember to complete the chemical test. We estimate that it takes 1 hour for a crewmember to complete the chemical test at a loaded wage rate of \$50.84 per hour. We estimate that the cost of the time for a crewmember to take the chemical test under this final rule is \$19,065 (250 SMIs x average of 1.5 crewmembers x 1 hour burden x \$50.84 wage rate). Therefore, the annual cost to industry for chemical testing after implementation of this final rule is \$56,565 (see table 6). Adding the costs for chemical testing of \$56,565 to the cost for reporting and recordkeeping of \$720,826 (see table 5) brings the estimated total annual cost to industry to \$777,391.

Table 6: Annual Industry Costs for Chemical Testing After Implementation of the Final Rule

SMIs per Year	Average Crewmembers Tested per SMI	Cost of Testing Procedures	Hours to Take Test	Wage Rate	Total Cost of Testing Procedures
250	1.5	\$100	1	\$50.84	\$56,565

The annual burden of reporting marine casualties and SMIs under the current dollar amount thresholds is \$822,951. The annual burden of reporting under the new thresholds is \$777,391. Therefore, we estimate that the annual cost savings or benefit to

industry after implementation of this final rule is \$45,560. Table 7 shows a summary of the annual current industry cost burden, the annual industry cost burden after implementation of the final rule, and the annual cost savings resulting from implementation of this final rule.

Table 7: Total Annual Cost Savings to Industry by Requirement After Implementation of the Final Rule

Requirement	Current Annual Industry Cost Burden	Annual Industry Cost Burden After Implementation of Final Rule	Annual Industry Cost Savings After Implementation of Final Rule
Written report of marine casualty	\$155,142	\$146,926	\$8,216
Additional burden for 10% of respondents	\$602,970	\$570,650	\$32,320
SMI written report	\$3,523	\$3,250	\$273
Testing procedures	\$61,316	\$56,565	\$4,751
Total	\$822,951	\$777,391	\$45,560

The total 10-year undiscounted industry cost savings of this final rule is \$455,600.

Table 8 shows the 10-year estimated discounted cost savings to industry to be \$319,994, with an annualized cost savings of \$45,560, using a 7-percent discount rate.

Table 8: Total Estimated Cost Savings or Industry Benefits of the Final Rule over a 10-year Period of Analysis (Discounted Costs at 7 and 3 Percent)

Year	Total Undiscounted Costs	Total, Discounted	
		7%	3%
1	\$45,560	\$42,579	\$44,233
2	\$45,560	\$39,794	\$42,945
3	\$45,560	\$37,191	\$41,694
4	\$45,560	\$34,758	\$40,479
5	\$45,560	\$32,484	\$39,300
6	\$45,560	\$30,359	\$38,156
7	\$45,560	\$28,372	\$37,044
8	\$45,560	\$26,516	\$35,965
9	\$45,560	\$24,782	\$34,918
10	\$45,560	\$23,160	\$33,901
Total	\$455,600	\$319,994	\$388,636

Annualized		\$45,560	\$45,560
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Benefits or Cost Savings to Government

The benefit to the Federal Government is the difference between the baseline current cost to the Coast Guard and the cost to the Coast Guard after implementation of this final rule.

Current Costs to Government

We first estimated the current costs to the Coast Guard, which include the cost to investigate a marine casualty and the cost of processing marine casualty forms. Because an SMI is a type of marine casualty, the estimate for the cost of the investigation and the processing of the casualty forms includes those incidents that constitute an SMI.

Reportable marine casualties are investigated by the Coast Guard. Some investigations may be more complex than others, depending on the incident. The Coast Guard reviewed the CG-741 (Coast Guard Office of Shore Forces) Sector Staffing Model to estimate the average number of hours per investigation across all incident types. The Sector Staffing Model assigns a total hourly effort for the type of incident (e.g., allision, grounding, collision) that is matched against MISLE data, which then provides the resource needs for each Coast Guard Sector. We estimate that, across all types of incidents, these investigations take an average of 25 hours for a Lieutenant (LT; O-3) to complete. There is an average of 5,967 marine casualty cases per year. The fully loaded wage rate for an O-3 is \$78 per hour, per Commandant Instruction 7310.1P. Table 9 shows the current annual cost of investigations to be \$11,635,650 (5,967 reportable marine casualties x 25 burden hours x \$78 wage rate).

The Coast Guard must process the forms submitted for each reportable marine

casualty, and currently processes an average of 5,967 marine casualty reports per year. To maintain consistency and capture the changes due to this final rule, the time estimates and wage rates for processing the forms are taken from the existing COI 1625-0001. For each reportable marine casualty, we estimate that it takes 1 hour by a Lieutenant Junior Grade (LTJG; O-2) to process the forms (CG-2692 series), including auditing at a local field investigation office and the entry of pertinent information into Coast Guard’s MISLE system. The fully loaded wage rate for an O-2 is \$68 per hour, per Commandant Instruction 7310.1P. Table 9 shows the current annual cost for the Coast Guard to process reportable marine casualties to be \$405,756 (5,967 reportable marine casualties x 1 burden hour x \$68 wage rate). We estimate that the total current annual cost to the Federal Government is \$12,041,406.

Table 9: Current Annual Government Costs

Cost Category	Reportable Marine Casualties	Burden Hours per Response	Annual Hours	Wage Rate	Annual Cost
Investigation	5,967	25	149,175	\$78	\$11,635,650
Processing marine casualty reports	5,967	1	5,967	\$68	\$405,756
Total					\$12,041,406

Under this final rule, increasing the dollar amount threshold for property damage reduces the number of reportable marine casualties by 5.3 percent, resulting in 316 fewer reportable marine casualties. The burden hours per response for investigations and processing marine casualty reports remains the same, but the average number of reportable marine casualties decreases to 5,651 per year. We estimate that it takes an average of 25 hours for an O-3 to complete and investigate and 1 hour for an O-2 to process the forms for each reportable marine casualty. Table 10 shows the annual cost for the Coast Guard to complete investigations under this final rule to be \$11,019,450

(5,651 reportable marine casualties x 25 hour burden x \$78). The annual cost to process reportable marine casualties after implementation of this final rule is \$384,268 (5,651 reportable marine casualties x 1 hour burden x \$68). We estimate that the total annual cost to the Federal Government is \$11,403,718 after implementation of this final rule.

Table 10: Estimated Annual Government Costs After Implementation of the Final Rule

Cost Category	Reportable Marine Casualties	Burden Hours per Response	Annual Hours	Wage Rate	Annual Cost
Investigation	5,651	25	141,275	\$78	\$11,019,450
Processing marine casualty report	5,651	1	5,651	\$68	\$384,268
Total					\$11,403,718

The current annual cost to the Coast Guard to process marine casualty reports is \$12,041,406. The annual cost to the Coast Guard after implementation of this final rule is \$11,403,718. Therefore, the annual Federal Government benefit of reducing those reportable marine casualties that involve property damage alone is \$637,688. This reduction, however, does not result in a need for fewer Coast Guard investigators, as the existing investigators will be able to focus efforts on higher consequence incidents. We estimate the total undiscounted cost savings or benefit of this final rule to the Federal Government to be \$6,376,880 over the 10-year period of analysis. Table 11 shows the total estimated 10-year discounted cost savings to the Federal Government to be \$4,478,854, with an annualized cost savings of \$637,688, using a 7-percent discount rate.

Table 11: Total Estimated Cost Savings or Government Benefits of the Final Rule over a 10-year Period of Analysis (Discounted Costs at 7 and 3 Percent)

Year	Total Undiscounted Costs	Total Discounted Costs	
		7%	3%
1	\$637,688	\$595,970	\$619,115
2	\$637,688	\$556,981	\$601,082
3	\$637,688	\$520,543	\$583,575
4	\$637,688	\$486,489	\$566,578

5	\$637,688	\$454,663	\$550,075
6	\$637,688	\$424,918	\$534,054
7	\$637,688	\$397,120	\$518,499
8	\$637,688	\$371,140	\$503,397
9	\$637,688	\$346,860	\$488,735
10	\$637,688	\$324,168	\$474,500
Total	\$6,376,880	\$4,478,854	\$5,439,608
Annualized		\$637,688	\$637,688

Total Cost Savings or Benefits of the Final Rule

Table 12 presents the total estimated benefits or cost savings of the final rule using 7- and 3-percent discount rates. We estimate the total 10-year (industry and Federal Government) undiscounted cost savings of this final rule to be \$6,832,480. We estimate the total 10-year discounted cost savings of this final rule to be \$4,798,848, and the annualized cost savings to be \$683,248, using a 7-percent discount rate. Using a perpetual period of analysis, we estimate the total annualized cost savings of the final rule is \$596,775 in 2016 dollars, using a 7 percent discount rate.

Table 12: Total Estimated Cost Savings or Benefits of the Final Rule over a 10-year Period of Analysis (Discounted Benefits at 7 and 3 Percent)

Year	Total Undiscounted Costs	Total, Discounted	
		7%	3%
1	\$683,248	\$638,550	\$663,348
2	\$683,248	\$596,775	\$644,027
3	\$683,248	\$557,734	\$625,269
4	\$683,248	\$521,247	\$607,057
5	\$683,248	\$487,146	\$589,376
6	\$683,248	\$455,277	\$572,209
7	\$683,248	\$425,493	\$555,543
8	\$683,248	\$397,657	\$539,362
9	\$683,248	\$371,642	\$523,653
10	\$683,248	\$347,329	\$508,401
Total	\$6,832,480	\$4,798,848	\$5,828,244
Annualized		\$683,248	\$683,248

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601-612, we have considered whether this final rule has a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This final rule reduces the burden on industry by increasing the property damage dollar threshold amount within the definition of “SMI” and for reporting a marine casualty incident. There is no effect on any crewmember, owner, or operator of a vessel that does not have a reportable marine casualty or serious marine incident. There is no effect on any crewmember, owner, or operator of a vessel that has a marine casualty with property damage less than or equal to \$25,000, or an SMI with damage less than or equal to \$100,000, as these individuals currently do not have to report the casualty and will not have to do so under this final rule. There is no effect on any crewmember, owner, or operator of a vessel that has a marine casualty with property damage greater than \$75,000, or an SMI with property damage greater than \$200,000, as these individuals must currently report such casualties and perform chemical testing, and will continue to be required to do so under this final rule.

This final rule does not impose any direct costs on any specific industry. The only affected individuals are owners or operators of those vessels that would have been involved in a marine casualty where the only outcome is property damage of \$25,000.01 through \$75,000, or an SMI where the only outcome is property damage of \$100,000.01 through \$200,000. These entities, which would have incurred costs to report these casualties or conduct chemical testing, will be positively affected by this final rule

because of the increase in the monetized threshold amounts.

As discussed in Section VI.A, Regulatory Planning and Review, of this final rule, we expect that an average of approximately 316 fewer reports of marine casualties will be required per year, with one individual per vessel who we assume to be a vessel crewmember completing each report. We assume the 316 marine casualty reports occur on 316 separate vessels. It is possible a vessel could have multiple incidents in one year, resulting in multiple marine casualty reports, but for this analysis we assume the 316 fewer reports are ascribed to 316 separate vessels. We compared this affected population to the total population that could have a marine casualty and be required to prepare and submit marine casualty reporting paperwork. We used the MISLE Vessel Population data to estimate the total population that will be affected. We found that the current total population of vessels that could have a marine casualty and be required to submit paperwork is 209,475.²¹ Therefore, the 316 fewer vessels preparing marine casualty paperwork represents 0.15 percent of the total population.

The owners or operators of these 316 vessels benefit from a reduction in time burden associated with a crewmember no longer having to prepare and submit the required marine casualty reporting paperwork. Table 7 in Section VI summarizes the annual cost savings to industry by requirement. Table 13 shows these annual cost savings and the vessel population we estimated will benefit from each reduction in paperwork or testing requirement.

²¹ Population data were pulled from MISLE on 9/28/2016. The population is for commercial vessels that are active and in-service. The population includes commercial fishing vessels, fish processing vessels, freight barges, industrial vessels, mobile offshore drilling units, offshore supply vessels, oil recovery vessels, passenger (inspected and uninspected) vessels, passenger barges (inspected and uninspected), public freights, public tankships/barges, unclassified public vessels, research vessels, school ships, tank barges, tank ships, and towing vessels.

Table 13: Maximum Potential Cost Savings per Vessel per Incident

Requirement	Total Annual Cost Savings	Vessel Population	Maximum Potential Cost Savings per Vessel
Written report of marine casualty	\$8,216	316	\$26
Additional Burden for 10% of Respondents	\$32,320	32	\$1,010
SMI written report	\$273	21	\$13
Testing Procedures	\$4,751	21	\$226
Totals	\$45,560	--	\$1,275

The total cost savings per vessel for the population of 316 vessels benefiting from this final rule will vary depending on the requirements. For example, we estimate that 32 of the vessels (10 percent of population, rounded) will have savings due to a reduction in marine casualty reports (\$26), and an additional savings for the additional burden of reviewing the paperwork (\$1,010), in any given year. Therefore, a one-time savings will be \$1,036 for a vessel with only these two requirements. The minimum savings is \$26 for a vessel that has only the requirement of preparing and submitting the marine casualty report. If a vessel would have had to complete all the requirements in table 13, the maximum cost savings is \$1,275. This maximum cost savings will be for a vessel with a marine casualty designated as an SMI that completed additional paperwork and reported the chemical test results to the Officer in Charge, Marine Inspection (OCMI). Therefore, the owner or operator of the 316 vessels affected by this final rule would have to have maximum annual revenues of \$2,600 to \$127,500 for this final rule to have a positive impact greater than 1 percent.

Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small entities because the increase in the monetized

property damage threshold amounts reduces the reporting burden on crewmembers or vessel owners or operators who complete the marine casualty reports or perform the required chemical testing, as described above. This final rule reduces the hourly burden associated with marine casualty reporting and chemical testing and will not adversely affect small entities as defined by the Small Business Administration in 13 CFR 121.201.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

D. Collection of Information

This final rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the

total annual burden follow.

Under the provisions of the final rule, the Coast Guard will collect information from ship personnel who are involved in marine casualties resulting in more than \$75,000 in property damage, and serious marine incidents resulting in more than \$200,000 in property damage. This requirement amends an existing collection of information by effectively reducing the number of instances requiring information to be collected under OMB control number 1625-0001.

TITLE: Report of Marine Casualty & Chemical Testing of Commercial Vessel Personnel

OMB CONTROL NUMBER: 1625-0001.

SUMMARY OF THE COLLECTION OF INFORMATION: This final rule requires responses such as the preparation of written notification by completing Form CG-2692 (series), and the processing of records. We use this information to identify pertinent safety lessons and to initiate appropriate steps for reducing the likelihood of similar accidents in the future. The collection of information will aid the regulated public in assuring safe practices.

NEED FOR INFORMATION: These reporting requirements permit the Coast Guard to initiate the investigation of marine casualties as required by 46 U.S.C. 6301, in order to determine the causes of casualties and whether existing safety standards are adequate, or whether new laws or regulations need to be developed. Receipt of a marine casualty report is often the only way in which the Coast Guard becomes aware of a marine casualty. It is therefore a necessary first step that provides the Coast Guard with the opportunity to determine the extent to which a casualty will be investigated.

PROPOSED USE OF INFORMATION: In the short term, the information provided in the report may also trigger corrective safety actions addressing immediate hazards or defective conditions, further investigations of mariner conduct or professional competence, or civil or criminal enforcement actions by the Coast Guard, other Federal agencies, or state and local authorities. In the long term, information contained in the report becomes part of the MISLE marine casualty database at Coast Guard Headquarters. The Coast Guard uses the information in the MISLE database to identify safety problems and long term trends, publish casualty summaries and annual statistics for public use, establish whether additional safety oversight or regulation is needed, measure the effectiveness of existing regulatory programs, and better focus limited Coast Guard marine safety resources.

DESCRIPTION OF THE RESPONDENTS: The respondents are those owners, agents, masters, operators, or persons in charge that notify the nearest Sector Office, Marine Inspection Office, or Coast Guard Group Office whenever a vessel is involved in a marine casualty. Specifically, this final rule affects those vessel crewmembers and marine employers who completed the necessary forms to report a marine casualty where the only outcome was property damage of \$25,000.01 through \$75,000, or an SMI with property damage of \$100,000.01 through \$200,000 (CG-2692 series).

NUMBER OF RESPONDENTS: We estimate that the number of respondents affected by this rule will be 5,651 per year. This is a decrease of 316 respondents from an OMB-approved number of respondents of 5,967 per year that complete the CG-2692 series forms (a subset of the total respondents in COI 1625-0001). We estimate that 250 of these marine casualty respondents fall under the category of SMI respondents and

would have been required to fill out an additional SMI written report (CG-2692B). This is a decrease of 21 respondents per year from 271 respondents.

FREQUENCY OF RESPONSE: The notification response is required only if a marine casualty occurs as defined in 46 CFR 4.03-2 and 46 CFR 4.05-1.

BURDEN OF RESPONSE: For each response, we estimate that it takes 1 hour for a vessel crewmember to complete all of the necessary forms (CG-2692 series). In addition, some marine casualty forms may undergo additional processing by the respondents. To account for this additional time, 10 percent of the forms submitted have 10 hours of additional burden.²² When a marine casualty is designated as an SMI, the marine employer must also complete an SMI written report (CG-2692B). We estimate that it takes 0.5 hours for a respondent to complete an SMI written report (CG-2692B)

ESTIMATE OF TOTAL ANNUAL BURDEN: We estimate that the number of responses will decrease by 316 per year. At 1 hour per response, the reduced burden for submitting the responses will be 316 hours. In addition, 10 percent of these responses would have required additional processing of 10 hours per response, for a reduction of an additional 320 burden hours.²³ We estimate that 21 of the responses would have been designated as an SMI. At 0.5 hours per SMI, the burden will be reduced by 11 hours

²² The Coast Guard estimates that it takes up to 1 hour to complete Form CG-2692 (series). However, we received public comments in 2013 on COI number 1625-0001 stating that some submitters take more time—up to 8 to 12 hours—to complete the form. Docket ID: USCG-2011-0710, <https://www.regulations.gov/docket?D=USCG-2011-0710>. The reason for this difference is that some entities have the form(s) reviewed by shore-side personnel, such as an attorney, prior to submission to the Coast Guard. The practice of having a form reviewed by an attorney is not required by Coast Guard regulation. While we believe that this does not typically occur, we adjusted our burden estimate to account for the added review.

²³ Due to rounding in the estimates, the current burden for the additional review is 5,970 hours. The burden under this final rule is 5,650 hours, which is a reduction of 320 hours.

(rounded). Therefore, this final rule decreases the total annual burden by 647 hours.²⁴

This action contains amendments to the existing information collection requirements previously approved under OMB Control Number 1625-0001. As required by 44 U.S.C. 3507(d), we will submit a copy of this final rule to OMB for its review of the collection of information.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (“Federalism”) if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it does not have implications for federalism. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel’s obligations, are within the field foreclosed from regulation by the States. (See the Supreme Court’s decision in *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000).) Because the States may

²⁴ The current annual burden in COI 1625-0001 for completing the marine casualty forms, the additional processing for some respondents, and the time to complete the SMI forms is 12,073 hours. The annual burden under this final rule is 11,426 hours, a reduction of 647 hours.

not regulate within this category, preemption under Executive Order 13132 is not an issue.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (“Governmental Actions and Interference with Constitutionally Protected Property Rights”).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, (“Civil Justice Reform”), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (“Consultation and Coordination with Indian Tribal Governments”), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management

Directive 023-01 and Commandant Instruction M16475.ID (COMDTINST M164751D), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under the “ADDRESSES” section of this preamble. This rule involves regulations concerning marine casualties and updates the monetary threshold amounts for a reportable marine casualty as well as the definition of an SMI relative to property damage. Thus, this action is categorically excluded under Section 2.b.2, figure 2-1, paragraph (34)(d) of COMDTINST M164751D.

List of Subjects in 46 CFR Part 4

Administrative practice and procedure, Drug testing, Investigations, Marine safety, National Transportation Safety Board, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 4 as follows:

PART 4—MARINE CASUALTIES AND INVESTIGATIONS

1. The authority citation for part 4 continues to read as follows:

Authority: 33 U.S.C. 1231; 43 U.S.C. 1333; 46 U.S.C. 2103, 2303a, 2306, 6101, 6301, and 6305; 50 U.S.C. 198; Department of Homeland Security Delegation No. 0170.1. Subpart 4.40 issued under 49 U.S.C. 1903(a)(1)(E).

§ 4.03-2 [Amended]

2. In § 4.03-2(a)(3), remove the text “\$100,000” and add, in its place, the text “\$200,000”.

§ 4.05-1 [Amended]

3. In § 4.05-1(a)(7), remove the text “\$25,000” and add, in its place, the text “\$75,000”.

4. In § 4.05-10, revise paragraph (a) to read as follows:

§ 4.05-10 Written report of marine casualty.

(a) The owner, agent, master, operator, or person in charge must, within 5 days, file a written report of any marine casualty required to be reported under §4.05-1. This written report is in addition to the immediate notice required by §4.05-1. This written report must be delivered to a Coast Guard Sector Office or Marine Inspection Office. It must be provided on Form CG-2692 (Report of Marine Casualty, Commercial Diving Casualty, or OCS-Related Casualty), and supplemented as necessary by appended Forms CG-2692A (Barge Addendum), CG-2692B (Report of Mandatory Chemical Testing Following a Serious Marine Incident Involving Vessels in Commercial Service), CG-2692C (Personnel Casualty Addendum), and/or CG-2692D (Involved Persons and Witnesses Addendum).

* * * * *

5. Revise § 4.05-12(b) introductory text and (d) to read as follows:

§ 4.05-12 Alcohol or drug use by individuals directly involved in casualties.

* * * * *

(b) In the written report (Forms CG-2692 and CG-2692B) submitted for the casualty, the marine employer must include information that—

* * * * *

(d) If an individual directly involved in a casualty refuses to submit to, or

cooperate in, the administration of a timely chemical test, when directed by a law enforcement officer or by the marine employer, this fact must be noted in the official log book, if carried, and in the written report (Forms CG-2692 and CG-2692B), and shall be admissible as evidence in any administrative proceeding.

§ 4.06-3 [Amended]

6. In § 4.06-3(a)(3) and (b)(2), remove the text “form CG-2692B” and add, in its place, the text “Forms CG-2692 and CG-2692B”.

§ 4.06-5 [Amended]

7. In § 4.06-5(b), remove the text “form CG-2692B” and add, in its place, the text “Forms CG-2692 and CG-2692B”.

§ 4.06-30 [Amended]

8. In § 4.06-30(b), remove the text “(Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident)” and add, in its place, the text “(Report of Mandatory Chemical Testing Following a Serious Marine Incident Involving Vessels in Commercial Service)”.

§ 4.06-60 [Amended]

9. Amend § 4.06-60 as follows:

a. In § 4.06-60(a), remove the text “(Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident)” and add, in its place, the text “(Report of Mandatory Chemical Testing Following a Serious Marine Incident Involving Vessels in Commercial Service)”; and

b. In § 4.06-60(b), remove the text “(Report of Marine Casualty, Injury or Death)” and add, in its place, the text “(Report of Marine Casualty, Commercial Diving Casualty, or OCS-Related Casualty)”.

Dated: March 8, 2018

Jennifer F. Williams,
Captain, U. S. Coast Guard
Director of Inspections and Compliance

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