

## § 4.01-1

- 4.09-5 Powers of Marine Board of Investigation.
- 4.09-10 Witnesses, payment of.
- 4.09-15 Time and place of investigation, notice of; rights of witnesses, etc.
- 4.09-17 Sessions to be public.
- 4.09-20 Record of proceedings.
- 4.09-25 U.S. Attorney to be notified.
- 4.09-30 Action on report.
- 4.09-35 Preferment of charges.

### Subpart 4.11—Witnesses and Witness Fees

- 4.11-1 Employees of vessels controlled by Army or Navy as witnesses.
- 4.11-5 Coercion of witnesses.
- 4.11-10 Witness fees and allowances.

### Subpart 4.12—Testimony by Interrogatories and Depositions

- 4.12-1 Application, procedure, and admissibility.

### Subpart 4.13—Availability of Records

- 4.13-1 Public availability of records.

### Subpart 4.19—Construction of Regulations and Rules of Evidence

- 4.19-1 Construction of regulations.
- 4.19-5 Adherence to rules of evidence.

### Subpart 4.21—Computation of Time

- 4.21-1 Computation of time.

### Subpart 4.23—Evidence of Criminal Liability

- 4.23-1 Evidence of criminal liability.

### Subpart 4.40—Coast Guard—National Transportation Safety Board Marine Casualty Investigations

- 4.40-1 Purpose.
- 4.40-3 Relationship to Coast Guard marine investigation regulations and procedures.
- 4.40-5 Definitions.
- 4.40-10 Preliminary investigation by the Coast Guard.
- 4.40-15 Marine casualty investigation by the Board.
- 4.40-20 Cause or probable cause determinations from Board investigation.
- 4.40-25 Coast Guard marine casualty investigation for the Board.
- 4.40-30 Procedures for Coast Guard investigation.
- 4.40-35 Records of the Coast Guard and the Board.

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

## 46 CFR Ch. I (10-1-04 Edition)

SOURCE: CGD 74-119, 39 FR 33317, Sept. 17, 1974, unless otherwise noted.

### Subpart 4.01—Authority and Scope of Regulations

#### § 4.01-1 Scope of regulation.

The regulations in this part govern the reporting of marine casualties, the investigation of marine casualties and the submittal of reports designed to increase the likelihood of timely assistance to vessels in distress.

[CGD 85-015, 51 FR 19341, May 29, 1986]

#### § 4.01-3 Reporting exclusion.

(a) Vessels subject to 33 CFR 173.51 are excluded from the requirements of subpart 4.05.

(b) Vessels which report diving accidents under 46 CFR 197.484 regarding deaths, or injuries which cause incapacitation for greater than 72 hours, are not required to give notice under § 4.05-1(a)(5) or § 4.05-1(a)(6).

(c) Vessels are excluded from the requirements of § 4.05-1(a)(5) and (a)(6) with respect to the death or injury of shipyard or harbor workers when such accidents are not the result of either a vessel casualty (e.g., collision) or a vessel equipment casualty (e.g., cargo boom failure) and are subject to the reporting requirements of Occupational Safety and Health Administration (OSHA) under 29 CFR 1904.

(d) Except as provided in subpart 4.40, public vessels are excluded from the requirements of this part.

[CGD 76-170, 45 FR 77441, Nov. 24, 1980; 46 FR 19235, Mar. 30, 1981, as amended by CGD 76-170, 47 FR 39684, Sept. 9, 1982; CGD 95-028, 62 FR 51195, Sept. 30, 1997; USCG-2000-7790, 65 FR 58458, Sept. 29, 2000]

### Subpart 4.03—Definitions

#### § 4.03-1 Marine casualty or accident.

(a) The term *marine casualty or accident* shall mean any casualty or accident involving any vessel other than public vessels if such casualty or accident occurs upon the navigable waters of the United States, its territories or possessions or any casualty or accident wherever such casualty or accident may occur involving any United

States' vessel which is not a public vessel. (See § 4.03-40 for definition of *Public Vessel*.)

(b) The term *marine casualty or accident* includes any accidental grounding, or any occurrence involving a vessel which results in damage by or to the vessel, its apparel, gear, or cargo, or injury or loss of life of any person; and includes among other things, collisions, strandings, groundings, foundering, heavy weather damage, fires, explosions, failure of gear and equipment and any other damage which might affect or impair the seaworthiness of the vessel.

(c) The term *marine casualty or accident* also includes occurrences of loss of life or injury to any person while diving from a vessel and using underwater breathing apparatus.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by CGD 76-170, 45 FR 77441, Nov. 24, 1980]

#### § 4.03-2 Serious marine incident.

The term *serious marine incident* includes the following events involving a vessel in commercial service:

(a) Any marine casualty or accident as defined in § 4.03-1 which is required by § 4.05-1 to be reported to the Coast Guard and which results in any of the following:

- (1) One or more deaths;
- (2) An injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid, and, in the case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties;
- (3) Damage to property, as defined in § 4.05-1(a)(7) of this part, in excess of \$100,000;
- (4) Actual or constructive total loss of any vessel subject to inspection under 46 U.S.C. 3301; or
- (5) Actual or constructive total loss of any self-propelled vessel, not subject to inspection under 46 U.S.C. 3301, of 100 gross tons or more.

(b) A discharge of oil of 10,000 gallons or more into the navigable waters of the United States, as defined in 33 U.S.C. 1321, whether or not resulting from a marine casualty.

(c) A discharge of a reportable quantity of a hazardous substance into the navigable waters of the United States, or a release of a reportable quantity of a hazardous substance into the environment of the United States, whether or not resulting from a marine casualty.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988, as amended by CGD 97-057, 62 FR 51041, Sept. 30, 1997]

#### § 4.03-4 Individual directly involved in a serious marine incident.

The term *individual directly involved in a serious marine incident* is an individual whose order, action or failure to act is determined to be, or cannot be ruled out as, a causative factor in the events leading to or causing a serious marine incident.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988]

#### § 4.03-5 Medical facility.

The term *medical facility* means an American hospital, clinic, physician's office, or laboratory, where blood and urine specimens can be collected according to recognized professional standards.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988]

#### § 4.03-6 Qualified medical personnel.

The term *qualified medical personnel* means a physician, physician's assistant, nurse, emergency medical technician, or other person authorized under State or Federal law or regulation to collect blood and urine specimens.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988]

#### § 4.03-7 Chemical test.

The term *chemical test* means a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use.

[CGD 86-067, 53 FR 47077, Nov. 21, 1988]

#### § 4.03-10 Party in interest.

The term *party in interest* shall mean any person whom the Marine Board of Investigation or the investigating officer shall find to have a direct interest in the investigation conducted by it and shall include an owner, a