COMMERCIAL FISHING VESSEL SAFETY

(110–33)

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

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April 20, 2007

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SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Coast Guard and Maritime Transportation

FROM: Subcommittee on Coast Guard and Maritime Transportation Staff

SUBJECT: Hearing on Commercial Fishing Vessel Safety

PURPOSE OF THE HEARING

On Wednesday, April 25, 2007 at 10:00 a.m. in 2167 Rayburn House Building, the Subcommittee on Coast Guard and Maritime Transportation will meet to examine the safety of U.S. commercial fishing vessels and the extent to which the statutes adopted in 1988 have led to improved safety and to explore strategies that permit the industry and the Coast Guard to implement changes that **prevent** casualties on commercial fishing vessels from occurring; second that **minimize** the effect of the casualty, given that it has occurred; and third **maximize** lives saved, given that the vessel must be abandoned.

BACKGROUND

A Most Hazardous Industry

Commercial Fishing is the most hazardous occupation in the United States according to the Department of Labor's Bureau of Labor Statistics. Commercial fishermen die at a rate – 118 per 100,000 workers – that is almost 30 times the rate for the rest of the American labor force. By comparison deaths on towing vessels, which are also 'uninspected', were 17 per 100,000 workers for the same period. In documents submitted in support of its Fiscal Year 2008 legislative proposal for a "Pilot Program for Dockside Survivability Exams for Uninspected Commercial Fishing Vessels," the Coast Guard states, "These figures clearly demonstrate that (the) death rate for uninspected commercial fishing vessel industry is unacceptable in comparison to other segments of the maritime industry and the American workforce in general" (Note: In 2004 Congress directed the Coast Guard to "inspect" towing vessels, but regulations implementing this mandate have not been adopted.)

Recent Tragedies

Tragedy struck both the east and west coasts in recent months, as vessels sank and lives were lost. Twenty-two fishermen died in that short period.

In October the 36-foot lobster boat *APRIL LEE* capsized off of Cape Elizabeth, Maine. Two crewmembers were able to swim ashore in 59 degree water; the owner is missing and presumed dead.

Also in October three crewmen died and one survived the capsizing of the 49-foot F/V *OCEAN CHALLENGER* off the Alaska Peninsula.

In November the F/V *LUCKY JACK* a 45-foot fishing vessel capsized in the Gulf of Mexico with the loss of one fisherman.

Also in November the 48-foot F/V *TAYLOR & EMILY* capsized off the coast of Maine. One crewmember survived the other is missing and presumed dead.

In December the 43-foot F/V *ASH* capsized and sank off Port Orford, Oregon with the loss of four fishermen.

In January the F/V *STARRIGAVAN* a 58-foot steel-hulled crabber was rolled three times as it entered Tillamook Bay on the coast of Oregon. One crewmember was killed; three others were rescued by a rescue swimmer deployed from at Coast Guard helicopter.

A day later the F/V *LADY OF GRACE*, a 75-foot steel dragger from New Bedford, Massachusetts sank in Nantucket Sound with the loss of four fishermen.

In February tragedy struck again in New England, when the 52-foot Newburyport based F/V *LADY LUCK* sank off the Maine coast with the loss of two young crewmembers.

During the same period three fishermen died when they fell overboard; one fisherman died in a diving accident, and two others died as a result of injuries sustained while fishing – one as a result of a traumatic head injury due to a mechanical failure, and one as a result of carbon monoxide poising.

Added to the terrible loss of life is the risk to Coast Guard men and women, and the enormous cost – estimated at $18 million for FY 2000 – for Search and Rescue (SAR) involving commercial fishing vessels.

PAST STUDIES

National Research Council:

In 1991 the National Research Council – Marine Board, published a report, *Fishing Vessel Safety – Blueprint for a National Program*, in which it "concluded that the commercial fishing industry can be made safer by mandating systematic, industry wide attention to: professional qualifications; suitability and physical condition of vessels and equipment; and safe operational and occupational practices." The Board made the following specific recommendations: "basic safety and survival

training for fishermen; skills development for vessel operators; some form of certificate or license to validate that essential skills have been acquired and to motivate attention to safety; and an inspection program for vessels to ensure that they are fit for service."

Fishing Vessel Safety Task Force:

A series of casualties involving East Coast commercial fishing vessels in the winter of 1998-99 prompted the Coast Guard to convene a Fishing Vessel Safety Task Force to examine the state of fishing vessel safety in the U.S. The Task Force concluded that, "Common conditions in many recent casualties are poor vessel or equipment condition, inadequate training to respond to emergencies and use of survival gear, and lack or awareness of or ignoring stability issues." It noted that, "commercial fishing vessel safety standards are lower than standards for other domestic commercial vessels, and lower than international standards for fishing vessels." The Task Force stated that, "The solutions are basic and straightforward: seaworthy boats, competent crews, adequate survival equipment, and safety conscious resource and industry management regimes." Its recommendations included such things as: "Establish Operator and Crew Standards; Ensure Vessels Comply with Standards; and Establish Safety and Stability Standards."

Coast Guard

In 2006 the Coast Guard completed a retrospective, *Analysis of Fishing Vessel Casualties – A Review of Lost Fishing Vessels and Crew Fatalities, 1994 – 2004*. During the study period, 1,398 vessels were lost resulting in 641 deaths. These losses and deaths occurred during a period of decreased fishing effort. The highlights of the study are outlined below:

Annual average for period 1994 – 2004

Vessels lost	127 / year	71% during transit not while fishing	55% flooding or fire
Lives lost	58 / year	51% from flooding, sinking, or capsize	24% fall overboard

Fishing vessel casualties usually involve the loss of one or two crewmembers, but during this period the United States suffered its worst casualty in 50-years when the F/V *ARCTIC ROSE* sank with the loss of all 15 crewmembers.

Current law:

Unlike other commercial vessels, commercial fishing vessels are not required to be designed and built to standards established by the Coast Guard. The "Commercial Fishing Industry Vessel Safety Act of 1988" (P.L. 100-424) requires fishing vessels to carry equipment designed to help save lives once the vessel is in distress. The regulations prescribed under the 1988 Act have resulted in fewer deaths, but the number of vessels lost continues at the same pace, according to a Coast Guard study entitled, *Analysis of Fishing Vessel Casualties – A Review of Lost Fishing Vessels and Crew Fatalities, 1994 – 2004*.

The 1988 Act addresses **maximizing** lives saved by increasing survivability in the event of a vessel loss. With the exception of 'fish processors' the act does little regarding **prevention** of

casualties to commercial fishing vessels, e.g. design, construction, and maintenance standards for commercial fishing vessels. Below are highlights of the Act.

For **all vessels** the Act requires visual distress signals (VDS), 'buoyant apparatus' (a kind of 'survival' craft), and Emergency Position Indicating Radio Beacons (EPIRBS) for vessels operating beyond 3-miles of the coast.

There are additional requirements for **documented fishing vessels operating outside the Boundary Line**, including, liferafts or lifeboats (out of the water survival craft) sufficient for all persons on board, Immersion (survival / exposure) suit for each person on board, radio communication equipment, navigation equipment, and first aid equipment.

Training in the use of the equipment and frequent drill are required by regulation, but even the Coast Guard admits that compliance is not universal.

For some new and 'substantially altered' vessels additional requirements may apply, and for new or 'substantially altered' vessels a stability analysis is required.

The Act establishes the "Commercial Fishing Industry Vessel Safety Advisory Committee (CFIVSAC) to advise the Coast Guard regarding the implementation of the act, review proposed regulations, and provide Congress with information and recommendations.

All other types of commercial vessels must meet Coast Guard standards for structural integrity, electrical systems, hulls, fittings, propulsion machinery, accommodations for crew, and lifesaving and fire prevention.

Implementation and Enforcement

The Coast Guard established a 'voluntary dockside exam' program to, "encourage compliance and discourage unsafe operations". Vessels that are in compliance with the all applicable federal regulations are issued a decal that is good for two years. Less than 10% of the fleet of over 83,000 commercial fishing vessels takes advantage of the 'voluntary dockside' examination program.

But, information collected by the Coast Guard and submitted in documents in support of its '08 legislative proposal, the Coast Guard states, "show(s) conclusively that increased survivability of an uninspected fishing vessel's crew (and vessel) during a casualty or loss at sea is directly proportional to the availability and maintenance of the safety and survivability systems on the vessel, particularly when crew has been properly trained to the these systems effectively in emergency response scenarios."

The Coast Guard also conducts 'at sea' safety checks of fishing vessels in conjunction with fisheries boardings.

Summary

The hearing can help the Subcommittee understand the current state of commercial fishing safety in the U.S., what can be done to prevent casualties from occurring in the first place, what can be done to minimize the impact of a casualty when it does occur, and what steps can be taken to maximize lives saved in the event the vessel must be abandoned.

The Subcommittee will examine the extent to which design, construction and maintenance standards for commercial fishing vessels exist and how training has enhanced safety of commercial fishing. Finally the Subcommittee may learn what steps can be taken to ensure that the same safety standards apply to commercial fishing vessels that operate in the same hazardous areas regardless of whether they are numbered in a State or documented by the Coast Guard.

WITNESSES

MEMBER PANEL

The Honorable Barney Frank
Congressman
Massachusetts, District 4

PANEL I

Rear Admiral Craig Bone, USCG
Assistant Commandant for Prevention

Jennifer M. Lincoln, PhD
Injury Epidemiologist
Commercial Fishing Research Project Officer
CDC/NIOSH/Alaska Field Station

Jerry Dzugan
Chairman, Commercial Fishing Industry Vessel Safety Advisory Committee
Executive Director, Alaska Marine Safety Education Association (AMSEA)

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Director of Outreach
Department of Environmental Health
Harvard School of Public Health

Robert Baines
Fisherman and Chairman, Maine Commercial Fishing Safety Council

Leslie Hughes
Executive Director
North Pacific Fishing Owners Association
Former member of Commercial Fishing Industry Vessel Safety Advisory Committee

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New Bedford, Mass.

HEARING ON COMMERCIAL FISHING VESSEL SAFETY

Wednesday, April 25, 2007

HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 2167, Rayburn House Office Building, the Honorable Elijah E. Cummings [Chairman of the Subcommittee] presiding.

Mr. CUMMINGS. This hearing will come to order.

Today, the Subcommittee on the Coast Guard and Maritime Transportation convenes a hearing to examine fishing vessel safety in the United States. Commercial fishing is, according to the Bureau of Labor Statistics, the most hazardous occupation in the Country, so it is important that the Subcommittee examine the role the Federal Government should play in enhancing safety for those who spend their lives at sea harvesting fish and seafood for both the American and world markets.

Tragically, fatal injuries among fishermen and women increased 50 percent during the period from 2002 to 2005, while fatal injuries among all U.S. workers increased by only 3 percent during that same period.

The fatal occupational injury rate was 140 fatalities per 100,000 fishers, more than 28 times the average rate for all industries. Further, according to a recent Coast Guard analysis, an average of 127 fishing boats were lost and 58 fishers were killed each year during the period of 1994 to 2004.

Fishermen and women have been an important part of the American economy since the first settlers landed on the shores of Virginia and Massachusetts, and commercial fishing still sustains thousands of families and contributes billions of dollars to our economy.

But when commercial fishing turns deadly—and, tragically, it often does—families are torn apart by the loss of husbands, wives, sons, and daughters. Six years ago, 15 families experienced such terrible losses when the fishing vessel "Arctic Rose" sank in the Bering Sea in what was the worst fishing vessel casualty since 1951.

For years, Congress required that fishing vessels be equipped with life jackets, but little else, which is a bit like asking airline passengers to make sure to pack their parachutes before boarding,

but not requiring seat belts or emergency exits or fire suppression systems on the planes.

In 1988, Congress passed the Commercial Fishing Industry Vessel Safety Act, which required that commercial fishing vessels carry more modern life saving equipment. Today, however, there are still no design construction maintenance or operating standards for commercial fishing vessels.

Therefore, we will hear the testimony of witnesses who will share with us their experiences under the existing statutes and, most importantly, help point us in the directions that can prevent casualties from occurring on fishing vessels and hopefully enable crews on fishing vessels to respond quickly and appropriately to onboard emergencies and maximize lives saved in the event an accident does occur.

It is my hope that the Subcommittee will gain a greater appreciation of this most hazardous occupation and will identify specific actions that can be taken to protect the lives of those who make a living from the sea.

I also want to thank Congressman Barney Frank for his leadership on this issue that is of critical concern to his district. Congressman Frank will join us shortly, after convening a hearing in the Financial Services Committee, and we look forward to hearing from him.

Mr. LaTourette.

Mr. LATOURETTE. Thank you very much, Mr. Chairman. Mr. Chairman, most of the attention focused on the Coast Guard in the last few years has been on the service's responsibility to provide for the service and security of the maritime transportation sector. However, the Coast Guard's traditional missions like maritime safety are still equally important, and I want to commend you, Chairman Cummings, for convening this hearing today.

Just as a side note, with the convening of this hearing today, I have now officially spent more time with you than I have with my wife over the last two weeks, so I thank you for that.

[Laughter.]

Mr. LATOURETTE. Unlike virtually all other commercial vessels in the United States, fishing vessels are not required to be inspected by the Coast Guard. Legislation was passed in 2004 to bring towing vessels, the other significant remaining classes of uninspected vehicles, under a Coast Guard inspection regime. Regulations to carry out that provision are currently being drafted.

A separate authority and regulatory regime exists to assure the safety of recreational fishing vessels that are found in the Great Lakes, where I hale from, and, therefore, I don't believe this hearing will look into those vessels.

The rate of death in the fishing industry remains significantly higher than in other industrial occupations. I look forward to hearing discussions from the witnesses today about whether this higher death rate could be significantly reduced by increased attention to the condition of the vessels and safety equipment, in other words, items subject to inspect, or whether the higher death rate is due to weather conditions, the remote locations, or the work and the dangers inherent in the process of fishing.

I am also curious to hear whether there are ways in which fishery managers can improve industry safety by crafting fishery management plans that allow fishermen flexibility on when they can fish.

Again, Chairman Cummings, I want to thank you for holding this hearing today, and I look forward very much to the testimony of our witnesses.

Mr. CUMMINGS. Thank you very much, Mr. LaTourette.

We will call our first panel: Rear Admiral Craig Bone, Dr. Jennifer Lincoln, and Jerry Dzugan.

Rear Admiral Craig Bone, Assistant Commandant for Prevention, of the Coast Guard. Welcome. We will hear from you first.

TESTIMONY OF REAR ADMIRAL CRAIG BONE, USCG, ASSISTANT COMMANDANT FOR PREVENTION; JENNIFER M. LINCOLN, PHD, INJURY EPIDEMIOLOGIST, COMMERCIAL FISHING RESEARCH PROJECT OFFICER, CDC/NIOSH/ALASKA FIELD STATION; JERRY DZUGAN, CHAIRMAN, COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ADVISORY COMMITTEE, EXECUTIVE DIRECTOR, ALASKA MARINE SAFETY EDUCATION ASSOCIATION

Admiral BONE. Good morning, Mr. Chairman and distinguished Members of the Subcommittee. I am Rear Admiral Craig Bone, Assistant Commandant for Prevention, United States Coast Guard. I am pleased to have this opportunity to appear before you today to discuss the Coast Guard's Commercial Fishing Vessel Safety Program and its initiatives.

Before I begin, I would like to take a moment, on behalf of the Commandant, to express our sincere condolences on the loss of your Committee Member, Representative Millender-McDonald.

The Coast Guard's Commercial Fishing Vessel Safety Program is aimed at improving safety in the commercial fishing industry, reducing the number of vessels lost, and reducing the loss of lives. The thrust of the existing Commercial Fishing Vessel Safety Program is to gain compliance with the commercial fishing regulations through educational, voluntary, no-fault, dockside safety exams and through other outreach efforts. Regulatory enforcement is accomplished through at-sea boardings which complement the Commercial Fishing Vessel Safety Program. We must balance our prevention efforts with our response capabilities to minimize the consequences of casualties when they do occur.

Commercial fishing is historically one of the most hazardous occupations, if not the most hazardous occupation, in the United States. In 2005, the Bureau of Labor Statistics found that commercial fishermen and workers aboard uninspected fishing vessels died at a rate of 118 per 100,000 workers. For comparison, the fatality rate for the towing industry, another uninspected segment of the marine industry, was only 17 per 100,000 workers, while the American workplace as a whole, as stated by the Chairman, was only 4 deaths per 100,000 workers.

Commercial fishing vessel safety has long been a matter of concern of the Coast Guard, but limitations on regulating the safety of commercial fishing vessels have been encountered because they are classified as uninspected vessels. From the 1930s to the 1980s,

there were various legislative proposals to increase safety standards for commercial fishing vessels, such as requirements for periodic safety inspections, watertight compartments, and licensing of vessel operators. None of those proposals came to fruition.

In 1971, the Coast Guard completed a study and cost-benefit analysis of alternative safety programs for commercial fishing vessels. The report documented the fishing industry's poor safety record and concluded that one of the primary causes was that fishing vessels, with few exceptions, have traditionally been exempted from safety regulations required of other commercial vessels.

The study recommended licensing of masters, mandatory safety standards including full inspection and certification of new vessels, and mandatory and voluntary standards combined with inspection and certification of existing vessels. The report also compared fishing vessels with small passenger vessels, noting the 80 percent reduction in passenger deaths after the Small Passenger Vessel Safety Act of 1956 required structural and loading standards on inspections on those vessels.

Several fishing vessel tragedies in the early 1980s, as well as the fishermen's concerns over rising insurance costs, resulted in renewed interest in fishing vessel safety. The Coast Guard formed a Fishing Vessel Initiative Task Force in August 1984 to study how fishing vessel safety could be promoted. Task Force recommendations resulted in voluntary safety standards for commercial fishing vessels.

The Commercial Fishing Vessel Industry Safety Act of 1988 was signed into law by the president on September 9th, 1988. This Act gave the Coast Guard authority to prescribe safety regulations. The impact of the safety legislation and regulations and subsequent safety initiatives was seen in a reduction of our fatality averages.

Despite market improvement in safety within the commercial fishing vessel industry, the Coast Guard is troubled by our inability to prevent vessel losses. Half of all casualties result from vessel losses predominantly from material failures in the hulls and the crew's inability to either prevent the casualties or respond to the emergencies. These very issues were addressed in the requirements for training and competency of fishing vessel crews in 1992.

We believe if the Coast Guard had the additional authorities requested in those recommendations, significant improvements in safety could result. The additional authorities of safety within the commercial fishing industry would be consistent with the authorities of other developed countries where standards have been put in place.

In summary, Congress, the commercial fishing industry, and the Coast Guard have all worked to improve commercial fishing vessel safety, but there is still much work that can be done. We believe there are large gains that can be made through increased authority for crew competency measures, licensing requirements, and mandatory fishing examinations and inspections. We are continuously improving our posture to minimize the consequences of vessel casualties when they occur, and I am pleased to be here with the other professional national experts that are committed, the same as the Coast Guard, to protect the fishermen's lives and prevent the loss of vessels.

Thank you, Mr. Chairman. I will answer any questions that you have.

Mr. CUMMINGS. Thank you very much, Rear Admiral.

Dr. Jennifer Lincoln, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, United States Department of Health and Human Services. Welcome.

Ms. LINCOLN. Thank you.

Mr. Chairman and Members of the Subcommittee, my name is Dr. Jennifer Lincoln. I thank you for the opportunity to speak to you today. I am a U.S. public health service officer working for the National Institute for Occupational Safety and Health. NIOSH is the Federal agency responsible for conducting research and making recommendations to identify and prevent work-related illness and injury. I lead our commercial fishing safety research program in Alaska, and I am pleased to share our work with you today regarding how safety improvements implemented in the Alaskan fishing fleet could benefit other regions of the United States.

From 1990 through 2006, there was significant decline in the number of commercial fishing fatalities in Alaska. We know that this decline is not solely a function of the reduction of the workforce because we observed a 51 percent decline in the fatality rate among commercial fishermen. The decline in fatalities is a result of improvements in safety. Commercial fishermen, the industry, the U.S. Coast Guard, marine safety organizations, and NIOSH have collaborated to improve safety of the Alaskan fleet.

I will now briefly review four areas of opportunity for improving fishing vessel safety: preventing vessel loss, preventing fatalities due to falls overboard, preventing severe injuries due to deck machinery, and establishing marine safety training for all commercial fishermen. First I will discuss the prevention of vessel loss.

Fifty-four percent of all fatalities in the fishing industry are due to the loss of a fishing vessel. NIOSH has recommended that a focus be placed on the prevention of vessel loss. The U.S. Coast Guard responded in Alaska by implementing the Dockside Enforcement Program in 1999. The program identifies and corrects safety and stability hazards known to exist on vessels, participating in the Bering Sea and Aleutian Island crab fisheries, historically the most dangerous fisheries.

NIOSH evaluated the effectiveness of the Dockside Enforcement Program and found that the fatalities significantly decreased after implementation of the program. Similar dockside programs could be implemented in other hazardous fisheries across the Country.

Next, the prevention of fatalities from falls overboard. Thirty percent of all fatalities among fishermen are due to falls overboard. NIOSH has found that although the overall fishing fatality rate has decline in Alaska, the rate for fatal falls overboard has not changed. Tailored prevention strategies are required to prevent falls overboard from occurring in the first place. These prevention strategies should be specific to each fishing gear type and each hazard, such as an entanglement or weather.

NIOSH has made additional recommendations to prevent drowning after a person falls overboard. We have recommended that all fishermen wear personnel flotation devices, or PFDs, when on the deck of any vessel. There are more types and styles of PFDs avail-

able now than ever before. NIOSH is planning a field study with commercial fishermen to identify available PFDs having features that fishermen like and will use.

Next, the prevention of severe injuries. NIOSH has found that, in Alaska, a fisherman was hospitalized for an injury once every 10 days. Many of these injuries were attributed to being entangled or struck by gear or being trapped in deck equipment. Furthermore, efforts are required to prevent injuries on deck, including the redesign of machinery or the retrofitting of safety features on existing fishing equipment.

NIOSH has worked with fishermen to identify better equipment design and safer work practices. We continue to identify other deck hazards with the intention of engineering safer designs.

Lastly, I will discuss marine safety training. Research suggests that individuals involved in a disaster are more likely to respond appropriately to save their lives if the have had emergency training. NIOSH has found that those people who died in commercial fishing vessel sinkings were less likely to use survival gear and less likely to have had safety training when compared to survivors of these events.

NIOSH has previously recommended that basic fishing safety training be completed before crew license or fishing permits are issued.

In summary, substantial progress in improving safety has been made in Alaska's most hazardous industry. The activities that have occurred in Alaska provide a blueprint to improve safety elsewhere in the United States. The written testimony we submitted contains many more details regarding this.

NIOSH plans to continue to support the safety of the commercial fishing industry by assisting in research and evaluation of interventions across the Country to prevent vessel loss, to prevent fatalities due to falls overboard, to prevent severe injuries due to deck machinery, and to establish marine safety training programs for all commercial fishermen.

NIOSH recognizes that our efforts are most effective through collaboration, and we look forward to continuing our partnerships with fishermen, the industry, the U.S. Coast Guard, and marine safety organizations.

Thank you for the opportunity to testify to you today. I am pleased to answer any questions that you may have.

Mr. CUMMINGS. Thank you very much, Dr. Lincoln.

Jerry Dzugan, Executive Director, Alaska Marine Safety Education Association. Welcome.

Mr. DZUGAN. Thank you. Good morning, Mr. Chairman and Members of the Subcommittee. Thank you for this opportunity to speak.

I fish commercially in Alaska both as a vessel owner and a crew member. I have been personally involved with bringing or facilitating over 1,000 safety workshops around Alaska and other coasts of the U.S., in my work with the Alaska Marine Safety Education Association, or AMSEA. I was a member of the original Coast Guard Fishing Vessel Safety Advisory Committee and am now its chairman. Since the Commercial Fishing Safety Act of 1988 was implemented, there have been 306 fishing fatalities in Alaskan wa-

ters. Some of these fishermen I counted among my friends and neighbors, so fishing vessel safety is a personal, not an abstract, issue with me, as it is for many other fishing families.

But there has been a real change in the safety culture in some parts of the Nation. Before the Act was implemented, an average of 43 fishermen died every year in the first five years, from the late 1980s to the early 1990s. However, the most recent five-year average saw an average of just 10 fishermen dying every year. That is not to minimize that there were just 10 fishermen, but that rate has gone down 77 percent if you compare those two five-year periods. NIOSH has calculated that 250 deaths have been prevented in Alaska alone as a result of the Safety Act.

I believe that there are several reasons for this progress in Alaska. One, there has been an effort in Alaska to enforce the regulations equally and systematically. Coast Guard personnel have been reasonable but firm regarding how these regulations have applied. In addition, alternative compliance to regulations has been negotiated with some fleets that has actually increased the overall level of safety, and this has been actually welcomed by the fleet. But regulations have not been enforced equally throughout the U.S., and this is the main reason why the training infrastructure, which started in the early 1990s, no longer exists in some regions of the Country.

Secondly, studies conducted by NIOSH and others have documented again the positive effects of safety training that has had on survivability after a sinking. Training organizations such as AMSEA, North Pacific Fishing Vessel Owners Association, Sea Grant, and other private trainers maximize survivability in the event of a casualty, but also prevent casualties by raising risk awareness among fishermen. AMSEA's grassroots training infrastructure would not have been possible without the support of the Alaska congressional delegation. But, again, this training infrastructure does not exist to this degree outside of Alaska and the Pacific Northwest.

The experience gained in the last 20 years of this education effort will be invaluable if training is expanded. An emphasis on skills proficiency and competency should be a higher priority, however, than passing a written licensing exam and will be much better accepted by fishermen.

Thirdly, the NIOSH field office in Anchorage started a surveillance system in the early 1990s. This office tracks fatalities and injuries and supports quality hands-on safety training. This surveillance method does not exist in the rest of the Nation.

The two other issues the Safety Act sought to address are vessel inspections and licensing. Recommendations were made on vessel inspections and crew qualifications, but the Coast Guard was not given any additional authority in these two areas.

As in the Chairman's analogy to issuing parachutes to airline passengers, the Safety Act focuses on survivability after a vessel loss. This is a reactive, not a proactive, way toward safety and preventing casualties. It is also extremely inefficient and costs the taxpayers millions of dollars—just one search can cost over $1 million—plus, high-risk operations to helicopter crews trying to make rescues.

The Safety Act also "requires the Secretary to compile statistics concerning marine casualties ... from insurers of fishing vessels." These statistics don't exist in a format that anyone can use to make recommendations from.

Currently, there is a rulemaking working its way through the Coast Guard. It will attempt to make emergency drills training more enforceable and address stability on some fishing vessels. Given that a fishing vessel is lost at sea almost once every three days, it is hoped that this proposed rulemaking can be expedited in a timely manner, but with enough time for comments by industry.

One final point. The present regulations need two basic simple changes to give fishermen a level playing field. One, there is no reason why a 36-foot State registered vessel fishing next to a 36-foot federally registered vessel should follow a different set of regulations and be exempt from safety training, as now exists. Secondly, the so-called Boundary Line is a totally arbitrary line for fishing vessel safety requirements that bears no relationship to the risks found inside or outside its boundaries.

Finally, fishing vessel safety has gone through a revolutionary process of improvement in the last 25 years, but not equally across the Nation. Many regions lack good statistics, equal enforcement, and training infrastructure. Until these discrepancies are addressed, we will continue to lose lives unnecessarily in commercial fishing.

Until you feel comfortable with your son or daughter going commercial fishing, as you feel comfortable with them getting on a commercial airliner, we still have room for improvement in commercial fishing.

Thank you for this opportunity to comment, and I would be happy to take any questions.

Mr. CUMMINGS. Thank you very much.

It is my understanding that Congressman Frank will be here in any moment. When he does get here, we will have him provide his testimony, but, in the meantime, we will go forward with our questions.

Admiral Bone, the regulations applicable to commercial fishing vessels have been on the books for over 15 years, and still less than 10 percent of the fleet take advantage of the voluntary dockside exam program the Coast Guard adopted in 1991. Do you think this needs to be mandatory?

Admiral BONE. Yes, Mr. Chairman. Our data and the testimony that was just given reflects that if there is a mandatory or an enforceable program in place, it does reduce the casualties. It has been proven over and over again.

Mr. CUMMINGS. So are you in any way surprised by that 10 percent figure? In other words, do you see anything other than mandatory enforcement? So often, what happens around here, you know, folks don't like mandatory.

Admiral BONE. Mr. Chairman, I will just tell you 30 years in the Coast Guard, any program that is purely voluntary, you are going to have the same 10 percent that are on the high end, willing and coming forward to have themselves examined, inspected, and they are probably going to exceed the standard, quite often, than just

meet it. It is the ones that need it that will try to get away from the standard and/or avoid it. Unfortunately, our only mechanism, as was stated, was to enforce it at sea and terminate someone. That is an ineffective response.

I can tell you that just a voluntary program alone doesn't result in statistics. I think an example where it has been successful here with Alaska has been an example where the State has been directly involved, other organizations and agencies have been involved, and the industries themselves have basically stepped up, and it is a very close-knit group. Not all of the fishing industry is that way around the United States. In Alaska there is a lot of centralization where there is an ability to do that, so that is a community effort. In places like Alaska and Maine we have seen some of that, but I don't think that it could be accomplished nationwide, based on our experience.

Mr. CUMMINGS. Congressman Frank, I said that as soon as you arrived we would hear from you. You can come forward, please. We look forward to hearing your statement. We want to thank you for requesting this hearing. I want to thank you for your interest and we want to know what it is that you want us to do to help address the issues that you are bringing to our attention.

TESTIMONY OF HON. BARNEY FRANK, A REPRESENTATIVE FROM THE STATE OF MASSACHUSETTS

Mr. FRANK. Thank you, Mr. Chairman. One of the things I want to talk about is the VMS, the Vehicle Monitoring System, which helps locate people. And I apologize for the fact that I was not wearing one today, because, if I was, I would have been here five minutes ago, instead of going to a different room and getting lost. I am sorry for that.

Mr. CUMMINGS. We will see if we can find you one.

Mr. FRANK. Thank you.

[Laughter.]

Mr. FRANK. I really appreciate your responsiveness when I spoke with you. Last year, when the Congress rewrote the Magnuson Act, which governs fishing, I was pursuing some safety concerns, but there were jurisdictional issues, and I am sure you are pleased to know that your colleagues on the Resources Committee last year respected the jurisdiction of this Committee and noted that some of the things that we were talking about were Coast Guard related and, therefore, they were more appropriately done here.

There was one major pro safety thing that was put into the Magnuson Act, namely, a requirement that when they do the fishing regulations—the National Marine Fisheries Service does the fishing regulations—they take safety into account. But for that fully to be done, there needs to be—and this is one of the key points—a role for the Coast Guard, and I hope that one of the things that we will see out of this is a mandate with this Committee and the Resources Committee go guarantee that there is significant ongoing Coast Guard input into the safety issues. I hope that we will see the National Marine Fisheries Service and the Coast Guard mandated fully to cooperate. They do cooperate some now, but particularly when there are crises.

One of the leaders on fishing issues in my District, Deb Shrader, will be testifying later, and I did note in reading her testimony, her understandable, profound expression of gratitude to the Coast Guard for the degree to which members of the Coast Guard risk their lives to try to help deal with these terrible fishing accidents. We have had a couple of tragedies with fishing boats lost. They are fairly small boats out in pretty deep water in pretty bad weather, and that is inevitable to some extent. The fishermen are not complaining, they have voluntarily taken on one of the most dangerous jobs in America, but we can do better.

Here are some specifics that I hope you will be able to address. One is a matter of safety training that ought to be axiomatic. We can do better. We have had some good volunteer efforts in safety training. I represent the City of New Bedford, which, along with the adjacent town of Fairhaven, brings in more dollars in fish caught, seafood caught, than any other port; scallops, but they do other deep sea fishing. The safety training has been helpful and the City of New Bedford has put some money in; they got some NOAA money and they got some of their own money. But one of the things we can do is to fund safety. We are not talking about even tens of millions of dollars, but a couple million dollars put into safety training.

You know, there is a question about mandatory versus voluntary. I guess if some people feel if you physically force someone to take safety training, it is probably not going to do a lot of good, but the fishermen are smart and they understand the dangers, and they are ready to do this. So fully funding a volunteer training is important.

The second issue that I wanted to stress is the one I just mentioned, namely, that working together, the two Committees make sure that the Coast Guard is given full opportunity to participate in the entity known as the Commercial Fishing Industry Vessel Safety Advisory Committee. It does seem that the Coast Guard ought to be very much involved with that.

We would also like to be able to expand the dockside inspection. Right now, the Coast Guard mandates dockside inspection for those fishing vessels which carry observers. We have a program that NMFS does whereby people go out to observe to make sure that the rules are being addressed. These are kind of neutral people out on the fishing boats. It seems a little odd. What we do is we mandate safety when the observers are there, but not when the observers aren't there. The inference would be, I guess, that we are really only worried about people drowning if they are observers, not so much if they are fishermen, and that really is a kind of unintended invidious discrimination that we ought to get rid of. So it does seem to me that, in recognition of the importance of what the Coast Guard does, that the dockside inspections should be for all of the boats, not just those that have observers.

Next, I mentioned the vessel monitoring system. I said vehicle because I am not by nature a fisherman; I have learned. You learn by your district. We are talking about vessels, not vehicles. These have a great potential. There was some resistance on the part of the fishermen originally because they were kind of like they told

the Coast Guard where the fishermen were when they shouldn't be. But we think they have a greater potential for safety.

There needs to be a development of the technology so they can be used fully for safety. For example, one of the things we want to do is this. You are given a limited number of days when you can fish. You are out there fishing and the weather turns bad. A prudent captain decides to go back to port, but a couple years ago, if you did that, you would lose those days. The day you spent steaming back to port would be taken away from you, so that you had people saying, well, I will take the chance, because this is their livelihood. We want to make sure that if you break off a trip for reasons of safety or maybe because someone has developed appendicitis on the crew, that you are not charged with that as a fishing day. But to be able to do that, we need to be have complete monitoring of where the vessel is, and we think that you can improve the quality of the VMS. If you can improve the quality of the VMS and have total confidence in it, then you can make sure that no incentive is given for the captain to be fishing when safety says get out of there.

We would also like to see a national safety research program to deal with people, including in academia. The University of Massachusetts branch in Dartmouth, Massachusetts, does wonderful work on fishing, and this is an area where our universities could significantly improve things.

Two more. One, right now, fishing vessels above 79 feet in length have to meet stability and watertight integrity standards. In that sense, I suppose we are trying to emulate them. I haven't seen, in the various ethics proposals, any requirement that we be stable, but watertight integrity does appear to be one of the obligations we will be undertaking. I don't know if the Coast Guard will be inspecting Members of Congress to make sure we have watertight integrity, but we do have a question about fishing vessels below 79 feet. Now, I understand the Coast Guard is working on proposals to work in that direction. We strongly urge that this be done.

I will say I have spoken to some Members, including, for instance, our colleague from Alaska, Mr. Young, who is a man of considerable fishing experience and interest. He is more skeptical of the smaller boats being done. One of the things that it seems to me we could do, what we talked about last year, is let there be regional variations. We have regional variations in fishing, we have the various fishing councils. In the region I represent, a very important fishing region in the Northeast, we think it is very important to extend the inspection downward, and it may be based on anybody whose permit goes a certain way. But cutting it off at 79 feet, not inspecting the boats below 79 feet doesn't make sense. I know the Coast Guard is working on this, and I hope they will be able to resolve that. Obviously, if they needed any legislative authority, I would hope you would give it to them. They tell me they don't.

Finally, the fishing vessels now have to conduct monthly safety drills, but there is no requirement that those be logged. I think that would be very helpful, to require that they be logged.

That is it. I appreciate your hearing later from—I don't think she has arrived yet—Deb Shrader, who has been very active in fishing

and is the wife of a fishing captain. This is an area obviously that is not ideological, it is not partisan. I think there is a universal commitment here. I do want to acknowledge the very good work the Coast Guard has done, and we say this not in criticism, but building on the work they have done where we think we can go further.

I thank you for listening.

Mr. CUMMINGS. Thank you very much, Congressman.

Any questions, Mr. LaTourette?

[No response.]

Mr. CUMMINGS. Any questions of any member of Congressman Frank?

[No response.]

Mr. CUMMINGS. With that, thank you.

Mr. FRANK. Thank you. I do notice that Deb Shrader, who has accommodated us by coming down here and who is a great resource for the fishing industry, has joined us. I did want to acknowledge her presence. She is a very thoughtful and intelligent source of information here, and I urge the Committee to pay very serious attention to what she says, and I thank you.

Mr. CUMMINGS. We anxiously look forward to hearing from her. Thank you again.

I want to resume my questions of you, Admiral Bone. We understand that there is a package of regulations on a variety of subjects, and I have made it clear to Admiral Allen that we are concerned about quite a few regulations. But in those are included stability for vessels of less than 79 feet; training requirements for emergency suits. We understand that is working its way through the agency, but still must clear the Department and the Office of Management and Budget before a notice of proposed rulemaking can be published.

Some of these regulations, as you well know, have been pending since 1992. That is a long time. What is the situation there, can you tell us about that?

Admiral BONE. Yes, sir. I can tell you, Mr. Chairman, that the regs, just as you said, are going through their final review. They will incorporate the issues that Congressman Frank mentioned, many of the issues that he mentioned, including the training, the record keeping, as well as the stability issues. We believe strongly that vessels between 50 and 79 feet, looking at the data and now over time, being able to verify that those vessels in fact are the ones at highest risk because they are going out into the deeper waters. Basically, they are going further offshore, and they have significant stability issues, as well as construction and maintenance issues that apply to it.

I can't make any excuses with regard to not having the regulations to you earlier other than this is an industry that we needed to actually develop an understanding of. As you said earlier in your opening statement, is it an issue of the vessel itself or is it the operating area, or is it a combination thereof? We wanted to make sure that, again, due diligence in this process, that we only bring forward regulations where they are really required. We have worked closely with the Commercial Fishing Vessel Industry Safety Committee in order to establish where those thresholds lie. Those

regs, where the law allows, will be put forward to you. Obviously, we are still constrained by the law in order to address some of the other issues that we think could in fact improve the safety as well.

Mr. CUMMINGS. Well, let's go back to that for a moment. Do you have any idea when we will move this? Let me tell you why I am saying that. I tell my kids that life is like a basketball game, with a clock up in the corner, and we are on the court. At some point the clock is going to run out, and while you are on the court, you better play the best game you have got.

We have a limited amount of time to occupy these positions and you have a limited amount of time to occupy yours, so, before the clock runs out on us, I need to have an idea of when we are going to get this done, because I have been looking at the regulations that have been pending, and I have got to tell you it is not satisfactory. It just isn't. We can do better and we need some timetables.

Admiral BONE. Mr. Chairman, we expect the notice of proposal to go going forward and be presented to the public in late summer, early fall.

Mr. CUMMINGS. Late summer or early fall. Well, why don't we do this. Why don't we try to bring you back in September, sometime in September, and see where we have gotten with regard to the regulations? It might be a short hearing or it may be a long one.

Admiral BONE. I understand.

Mr. CUMMINGS. But I would love to have that because this clock is ticking and I want to make sure we get that done.

The Coast Guard authorization bill that passed the House last year, including a provision establishing design, construction, and maintenance standards for the American Fisheries Act replacement vessels, do you believe that the establishment of such standards increases the safety of these vessels?

Admiral BONE. Yes, sir. Again, vessels that meet at least established standards with regard to both construction and stability requirements will in fact provide for increased safety.

Now, I just want to add one thing. It is not just building it that way; you have got to maintain it that way as well. And then you have to operate within the constraints of your stability requirements.

Mr. CUMMINGS. I am going to ask just one more question, then I want to let my colleagues get their questions in.

Dr. Lincoln, it appears that the Coast Guard's aggressive comprehensive dockside enforcement program has been effective in reducing vessel casualties in some Alaska fisheries, specifically the crab fishery. Is there any reason that you are aware of that explains why the Coast Guard has not instituted the same kind of comprehensive dockside enforcement program in other regions of the Country?

Admiral BONE. Yes, Mr. Chairman. First, one of the ways that this has been extremely helpful is that——

Mr. CUMMINGS. I had asked Dr. Lincoln.

Admiral BONE. Oh, I am sorry.

Mr. CUMMINGS. But, since you are so anxious and excited, we wouldn't want to deny you this opportunity. You are pumped up. Must have been that clock ticking, huh?

[Laughter.]

Admiral BONE. I apologize, Mr. Chairman.

Mr. CUMMINGS. That is all right. Go ahead.

Admiral BONE. My only observation in particular for the Coast Guard, since it was how the Coast Guard has been effective in there, I think the issue is, again, the State has basically put in place a mandate that before they get underway in that particular fishery, for their fishing permit—I will be corrected, Doctor—is they have this examination conducted, which in fact makes it mandatory, versus voluntary, in order to get their fishing permit. So that is one of the major factors, in addition to the efforts by my colleagues to my left in actually engaging in the training program and providing professionals to do it.

Mr. CUMMINGS. Doctor, another question to that one, are there any other measures that should be taken to prevent vessel loss?

Ms. LINCOLN. Now, that is a big question. Regarding the preseason activities that the Coast Guard implemented in Dutch Harbor prior to the Bering Sea and the Aleutian Island crab fisheries, when that was started, it was October of 1999, and this was an initiative that the Coast Guard started there and was not a requirement of the State at that time. NIOSH had shown that the Bering Sea crab fleet had the highest fatality rate of any fleet in the State, and the Coast Guard accompanied the State biologists when they were doing their crab check, the tanks, to see if the tanks were full. To see if the tanks were empty, actually. When they boarded the vessels, they would ask the skippers to see their stability information and issue a captain-of-the-port order if the vessels were either loaded incorrectly or if their survival equipment was not well maintained or present.

To answer the question of whether or not—I can't remember if it was whether or not other fisheries should be involved or if——

Mr. CUMMINGS. Other measures that should be taken to prevent vessel loss.

Ms. LINCOLN. To prevent vessel loss, NIOSH has recommended previously that more stability requirements be explored, and certainly I think that expanding the preseason enforcement programs of other identified fisheries that have high fatality rates, to check their safety and stability prior to them going to sea, also would be helpful.

Mr. CUMMINGS. Mr. LaTourette.

Mr. LATOURETTE. Thank you very much, Mr. Chairman.

Thank you all for your testimony.

Just to follow up on the Chairman's last question getting into structural matters and design, either Admiral or Dr. Lincoln or Mr. Dzugan, would requirement of load lines on fishing vessels assist in this endeavor?

Admiral BONE. A load line alone won't solve the problem. I think the issue is people just being aware of the stability and the load that they are actually placing on their vessel. Sitting on a vessel, if the vessel is large enough, a load line is helpful. But, again, you have got to understand the basic stability issues and the sea state that you are in and your loaded condition—that can vary over time—as well as these vessels that operate in the north, how quickly they can ice up and take preventive measures to get out of that region or to understand when they are in harm's way and they

need to take corrective action. The problem predominantly is these vessels are almost instantaneously rolling over because they haven't done anything leading up to it and they don't really understand the design of their vessels, and then they also haven't practiced what to do in the event of these situations if they become aware of them. That is what the real issue is here, having the capacity and capability to intervene and having satisfactory interventions. The load line, again, is helpful, but on smaller vessels—we are talking about some of these vessels that are 50 feet, not real large vessels, so a load line in and by itself is not that significant.

Mr. LATOURETTE. I think Chairman Frank always makes excellent points, and of his excellent points in his remarks I think this whole notion of the tension between the number of days you are permitted to fish versus safety. That should really never be a consideration, I think. I assume you would echo, that his notion if somebody has to abort a fishing trip because it is not safe, that that shouldn't be counted against their time at sea.

Admiral BONE. Congressman, if I had it my way, it would never count against their time at sea. Safety of the crew, safety of the environment—you know, some of these vessels are fairly large and spill oil, etc., in the environment. But safety has to be the paramount issue here.

I can tell you that the National Marine Fisheries Service has made adjustments to what were derby days, so to speak, and extended periods of time in various fisheries that have had a market improvement in people making those determinations. The Coast Guard is working with the fishing councils to basically look to improve those same opportunities, and where we are engaged is just on that issue of safety and trying to make sure that safety is put forward as paramount.

Mr. LATOURETTE. Mr. Dzugan?

Mr. DZUGAN. If I may, would it be so easy as to make a simple black and white determination about what is a safe sea condition. A safe sea condition for a 36 foot vessel and a 79 foot vessel are quite different. So, realistically, it is kind of a hard thing to implement.

I just wanted to make that comment.

Mr. LATOURETTE. Okay. I appreciate that.

Admiral, my last question has to do with some regulations that have already been put into place. Pursuant to 46 U.S.C. 4502 and 4503, certain fishing vessels that have entered into operation and were substantially altered after September the 15th, 1991 were required to have additional safety requirements and stability requirements. Does the Coast Guard keep statistics of what percentage of the U.S. fishing fleet now falls into that post-September 15th, 1991 category?

Admiral BONE. I am not aware of any specific statistics. I am not sure that we boarded the 80,000 vessels or all the vessels that are applicable to that. What we will do is we will look and see what is available and provide an answer for the record, sir, if that is acceptable.

Mr. LATOURETTE. Sure it is, and I appreciate that. In my opening statement I mentioned the 2004 changes that the Coast Guard is now working on regulations for towing vessels, and just ask if

you have some information on how the loss rates compare between fishing vessels, towing vessels, and those commercial vessels that are currently inspected.

Admiral BONE. We will provide that as well, sir.

Mr. LATOURETTE. Thank you.

[Information follows:]

Insert on Page 41, Following Line Number 876

This category applies solely to federally-documented fishing vessels. There are approximately 3,550 vessels that have been built after the 1991 date, which is some 14 percent of the current documented fleet.

Additionally, there are approximately 5,850 vessels that have been substantially altered or undergone major conversions since 1991 that fall into this category. This estimate is based on industry surveyors and marine experts reporting that approximately 1.5 percent of the "existing" fleet is altered or converted annually.

It should also be noted that vessels do not have to report to the Coast Guard when they are built, altered or converted, and we do not find out about the change unless they are examined (voluntarily) and we note or are told about the change.

Mr. LATOURETTE. Thank you, Chairman.

Mr. CUMMINGS. Thank you very much, Mr. LaTourette.

Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

I want to thank our participants.

Admiral, when you work up these recommendations, the only thing that I would ask is that the Coast Guard clearly distinguish in these requirements the difference between double digit waves off of Alaska in the middle of the winter and the bath-like water of the Coast of Louisiana and Mississippi during the summer, and the requirements that you are going to have for almost certain death if you are in the water for a few minutes in Alaska in the winter versus literally days to be recovered in the Gulf. My fear is if the Coast Guard overreacts, puts too many requirements on the industry, that what you will see is the sort of shift we saw in Congress in 1994, where it went from too many regulations to a period of 12 years where there were almost none. I would sure hate to see that happen. I do think there were some problems that you and Dr. Lincoln have pointed out that need to be addressed, but I know the response to too much regulation, and that is a period of backsliding where there is none. So I would just hope you would take those factors into account.

Admiral BONE. We will, Congressman.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. CUMMINGS. Mr. LoBiondo.

Mr. LOBIONDO. Thank you, Mr. Chairman. Once again, a very good hearing.

Appreciate the participation of our panelists today.

For those of you who may not know or realize, I represent New Jersey's 2nd Congressional District, which includes Cape May, New Jersey, which is the second largest fishing port by value of landings on the East Coast and the fifth largest nationwide. On the East Coast, only Congressman Frank's district, New Bedford, outranks us.

The industry employs thousands of fishermen who risk their lives to provide for their families, and I wholeheartedly agree that we should be taking steps to improve the crew safety and strongly encourage the Coast Guard to work with the industry to do just that.

I just have a couple of questions on the crew survivability pilot program that is included in the legislative program for fiscal year 2008. That is, according to Coast Guard statistics, I believe something like 146 fishermen have lost their lives in District 17 from 1994 to 2004, I think by far the largest number of fatalities than anywhere else in the Country.

Since this is the case, Admiral, can you explain or talk to us about why you are proposing to implement this program in Coast Guard Districts 1 and 8, ignoring District 17, where I think, according to your statistics, most of the fatalities are occurring?

Admiral BONE. Yes, Congressman. As you said, it is a pilot program. The reason it is targeted at the areas that I will call the Northeast and the Gulf is our statistics, as we are looking at them, actually the trend in Alaska is significantly downward, to the point of very few casualties, actually, and loss of lives in that arena. The

1st District, as well as the 8th District, however, are either stable or increasing. The Northeast Region is actually increasing; in fact, I think we have had seven deaths just this year in the region. So we know that that is an area, one, where we have limited and, as you said, it is a very broad fishing community, and we believe that without a mandatory program being in place in those regions, and because of how spread out and diverse they are, versus having a collective way to address them, that they will be most effective in those particular regions where they are needed.

Again, this is a pilot program. It has got a sunset clause that is put forward in it. It is not a permanent program. But we intend to also prove whether or not what we have experienced in the 17th and in the State of Maine, where they have a similar type program as Alaska—not exactly, but similar—where we can be effective, and that is why we have chosen those areas.

Mr. LOBIONDO. Well, I certainly hope it is successful, and I hope you are talking to the industry. One of the concerns is that while the Coast Guard is extremely well intentioned, as was discussed by some of the panel earlier about the limited number of fishing days available, if the Coast Guard comes in 48, 72 hours before the time that the vessel is to go out and then, you know, they have to stay tied up at dock while they are missing fishing days. If they have got enough notice, I think the industry certainly wants to cooperate, but I really hope that we can make sure that we are understanding the realities of life for these folks.

Admiral BONE. Yes, sir. And we re also working closely with the Commercial Fishing Vessel Industry Safety Advisory Committee as we go forward and develop those standards.

Mr. LOBIONDO. Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you.

Mr. Larsen.

Mr. LARSEN. Thank you, Mr. Chairman. Thank you this hearing and an opportunity to ask some questions. Coming from Washington State's 2nd District, we have got a few small towns with fishermen memorials with names on them, so it is clearly an important topic for people in my district, but also important too because Northwest Washington is the base for a lot of the North Pacific fishing fleet as well, between Seattle, north into Alaska. There are a few folks who make a living from commercial fishing in the North Pacific, so it is a pretty important hearing for folks back home as well.

So I have a few questions, first for Dr. Lincoln. Your report covers commercial fishing vessel safety looks like to be in the aggregate, as opposed to breaking it out by industry. Is that right or not? By fishery as opposed to all fisheries.

Ms. LINCOLN. Well, we have looked at all fisheries in Alaska, but I think, in order so that we are not trying to make a one-size-fits-all approach for fishermen in the Gulf of Mexico versus Bering Sea crab fishermen, it is important to look at hazards specific to fisheries.

Mr. LARSEN. This gets to my next question, then. Does your data indicate a different level of hazard by fishery in the North Pacific?

Ms. LINCOLN. Yes.

Mr. LARSEN. It does.

Ms. LINCOLN. Yes, it does.

Mr. LARSEN. So can you give me a rating based on a standard of the per 100,000?

Ms. LINCOLN. Certainly. Depending on which fishery we are looking at, in 1997 we published a report breaking it down by shellfish versus salmon versus herring, if I can find these numbers——

Mr. LARSEN. We will take that for the record.

Ms. LINCOLN. Okay.

Mr. LARSEN. That would be great.

Ms. LINCOLN. I would be happy to provide the most recent information that we have.

Mr. LARSEN. Could you do that?

Ms. LINCOLN. Yes.

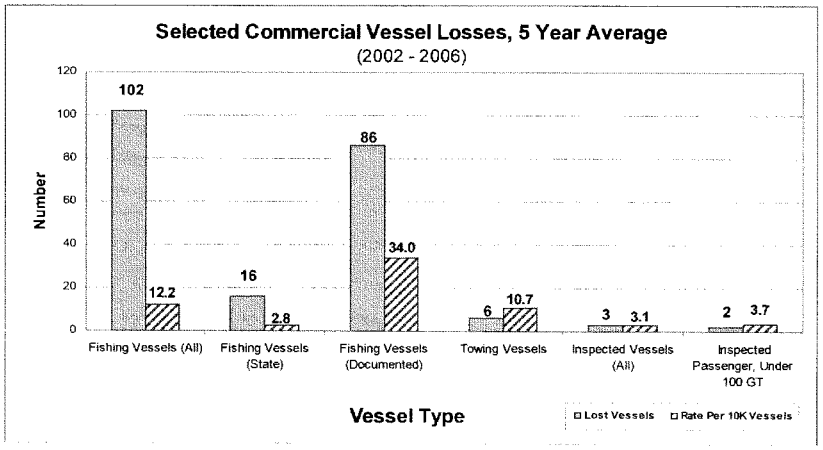
Mr. LARSEN. We would appreciate that. So we will take that for the record.[Information follows:]

Insert on Page 41, Following Line Number 883

From 2002–2006, an average of 102 uninspected commercial fishing vessels, 6 uninspected towing vessels, and 3 inspected vessels were lost annually. Of the fishing vessel losses, an average of 86 per year were documented vessels. Based on vessel category populations, the loss rate per 1,000 vessels was 3.4 for documented fishing vessels, 1.0 for towing vessels, and 0.3 for inspected vessels.

Selected Commercial Vessels, Losses 2002-2006						
Year	**All Fishing Vessels**	**State Numbered Fishing Vessels**	**Federally Documented Fishing Vessels**	**Towing Vessels**	**All Inspected Vessels**	**Inspected Passenger Vessels <100 GT**
2002	123	22	101	5	2	1
2003	107	19	88	7	3	2
2004	112	14	98	6	5	4
2005	94	16	78	4	5	1
2006	74	10	64	10	1	0
5 Yr Avg	102	16.2	85.6	6.4	3.2	1.6
(Rounded)	102	16	86	6	3	2
Population	83,556	58,300	25,256	5,961	10,333	4,353
Loss Rate/ 10K Vessels	12.2	2.8	34.0	10.7	3.1	3.7

Note: Inspected vessels include 3,637 tank barges and 4,836 passenger vessels.



Mr. LARSEN. Mr. Dzugan, with regards to this question about different fisheries and so on, how many fisheries have you fished in in your life?

Mr. DZUGAN. Two.

Mr. LARSEN. Which ones?

Mr. DZUGAN. Halibut long-lining and salmon trolling.

Mr. LARSEN. Okay. Representative Frank, earlier in his testimony, indicated his conversation with Mr. Young regarding the less than 79 foot regulation, the 50 foot to 79 foot regulation, and whether or not there is a full applicability to apply to stability rules. I think that is what he said. So there might be some need for variation. Do you have a thought on that?

Mr. DZUGAN. From the stability courses I have done, including the National Cargo Bureau's course, and working with larger ships, the rule is the smaller the vessel, the tighter the stability constraints become. So, as a general rule, if you are talking about vessels under 79 feet, it is more difficult to achieve the same stability standards.

Mr. LARSEN. And why is that?

Mr. DZUGAN. Less free board is one big thing. Basically, you have got the same kind of fishing operation crammed into a smaller and smaller space, so you have perhaps smaller freeing ports onboard.

Mr. LARSEN. Let me ask you this. Would you have a variation in size of ship in any one fishery, say the crab fishery or the halibut? Would you have a variety of sizes involved?

Mr. DZUGAN. Yes.

Mr. LARSEN. Doing the same activity?

Mr. DZUGAN. Absolutely.

Mr. LARSEN. As opposed to the catcher boats who are supplying larger processing ships or onshore processing facilities?

Mr. DZUGAN. In some fisheries you would have a big difference between the size of the vessel. In other fisheries they would be more consistent in size.

Mr. LARSEN. More consistent in size.

Mr. DZUGAN. So it depends on the fishery.

Mr. LARSEN. So it does depend on the fishery.

Admiral Bone, do you have a thought along this line of questioning?

Admiral BONE. Yes, I do. I think the issue is actually is the vessel built with stability in mind. And then when you get a stability letter, it gives you the constraints on how you load that vessel.

Mr. LARSEN. Right.

Admiral BONE. Then you have to basically adhere to that. But we have got to be careful that——

Mr. LARSEN. And this is the issue that all of the popular books written about capsized crab boats have been written about, this very issue, how you load these.

Admiral BONE. Yes, sir. Where you place the weight and how you move the weight. What I want to offer, though, is too much attention is placed on just the length. The reason why we are looking at those is because of the casualty data. That is reactive. The reality is if we get ourselves into this length criteria too closely, we have already seen vessels that are 36 foot long and then they make themselves 36 foot wide just so they can be under the regulation

and not have to meet different standards, or make themselves almost round so that they can carry more in the same area in order to avoid certain regulations. So we are working very closely with, again, the fishing advisory council, to make sure that, as we approach this, we approach it in a sound way. We are working with the industry leaders as well so that we don't have this reaction to it. Again, we are targeting based on historical data.

Mr. LARSEN. Right.

Admiral BONE. If everybody started making their ships different ways and we had stability problems with them, we would be pursuing it even to a lower level, and we don't want to encourage that.

Mr. LARSEN. Right. Good. Good.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Just a few more questions.

Dr. Lincoln, the testimony with regard to safety training and the effect of that training, it is interesting that it has a significant effect, from what you all have seen, is that right? Why do you think that is?

Ms. LINCOLN. Because people are trained to react to an emergency. Survival experts have documented that people who have training and know what to do will react in a manner to save their lives. So it is the effect of hands-on training that is available to Alaskan fishermen that actually puts them in survival suits, puts them in life rafts, enables them to I guess develop the muscle memory of knowing and being able to effectively save their lives and abandon their ship when they need to.

Mr. CUMMINGS. Mr. Dzugan, in your written testimony you commented on this extensively. The natural inclination is to try to save yourself. A lot of people don't know how to save themselves, so this gives them a way to carry out that which would be a natural self-survival kind of way. Is that a fair statement, Mr. Dzugan?

Mr. DZUGAN. Thanks for asking me that. It is a subject really close to my heart. People tend to react in an emergency the way they are trained, and if they haven't been trained in how to react to an emergency, most people, according to statistics, about 75 percent of them become the dumb sheep; they don't know what to do. In the Oklahoma City bombing, one person was found under a desk putting on their makeup because that is what you do. Somebody else was sorting their desk because that is what you do when you leave the office.

So I believe the survival training does two things: like Dr. Lincoln said, it gives people that automatic reaction of: this is what I do in a sinking; I grab my suit or the life raft; I am not overwhelmed with choices here, I have only got two of them. The second thing the training does that is very important is it makes somebody realize that this could happen to them. Right now, in this building, we are on the first floor. I think I can find my way out. But if we were to go on a second or third floor, if I were just to come to this hearing room and not had thought about how I would exit here, in an emergency I probably wouldn't know which way to go.

Mr. CUMMINGS. You know, when they had this unfortunate incident happen in Virginia, the shooting incident—I am sure you may have seen this—they said one young man was pretty much bleed-

ing to death, but he had the wherewithal to take the shirt or something and tie it around his leg or wherever he was bleeding, and he basically saved his own life. I guess that is the same kind of concept you are talking about.

Mr. DZUGAN. Yes, exactly. And I would bet that he had seen a lot of that on TV. He learned that from someplace, he didn't just create that on the spot.

Mr. CUMMINGS. That leads me to my last question. Maybe it is a whole different kind of phenomena going on here, but should training in such things as seamanship, stability, collision prevention, navigation, firefighting, damage control, personal survival, emergency medical care, and weather be required for operators of commercial fishing vessels that operate more than three nautical miles from shore?

Mr. DZUGAN. Yes. I think you could make a very good argument from statistics and from studying NTSB and Coast Guard reports and doing interviews with survivors that anyone who goes to sea should have some minimal amount of survival training and should be able to demonstrate proficiency in that.

Mr. CUMMINGS. Dr. Lincoln, what is your opinion on that?

Ms. LINCOLN. NIOSH has found that people who have had survival training are more likely to survive a vessel sinking.

Mr. CUMMINGS. All right, any other questions?

[No response.]

Mr. CUMMINGS. Thank you all very much. This has been extremely helpful. We may be following up with a few questions in writing. Thanks again.

Would our next panel come forward? Ann Backus, Robert Baines, Leslie Hughes, Captain Blaine Collins, and Deb Shrader.

Thank all of you for being with us this morning. We will first hear from Director Ann Backus, Director of Outreach, Department of Environmental Health, Harvard School of Public Health. Thank you for being with us.

TESTIMONY OF ANN BACKUS, DIRECTOR OF OUTREACH, DEPARTMENT OF ENVIRONMENTAL HEALTH, HARVARD SCHOOL OF PUBLIC HEALTH; ROBERT BAINES, FISHERMAN AND CHAIRMAN, MAINE COMMERCIAL FISHING SAFETY COUNCIL; LESLIE HUGHES, EXECUTIVE DIRECTOR, NORTH PACIFIC FISHING OWNERS ASSOCIATION, FORMER MEMBER OF COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ADVISORY COMMITTEE; CAPTAIN BLAINE E. COLLINS, VICE PRESIDENT AND REGIONAL MANAGER N/S AMERICA, DET NORSKE VERITAS; AND DEB SHRADER, SHORE SUPPORT, INC., NEW BEDFORD, MASSACHUSETTS

Ms. BACKUS. Thank you. Good morning, Chairman Cummings, Ranking Member Mr. LaTourette, distinguished Members of the Committee. Thank you for your interest in this important topic and for this opportunity to provide testimony on commercial fishing safety. My name is Ann Backus. I am instructor of occupational safety and Director of Outreach for the Harvard-NIOSH Education and Research Center at the Harvard School of Public Health. I serve on the Maine Commercial Fishing Safety Council.

Memorial monuments to fishermen along the East Coast attest to the hazards of fishing. They speak not only of the individual fishermen, but of the families and the communities of fishermen deeply affected by those lost at sea. Statistics also tell us of the hazards. In 2004, the fatality rate for fishermen was 20 times that of the United States national fatality rate for all workers. During the nearly 20 years since the passage of the Commercial Fishing Industry Vessel Safety Act of 1988, there has been a reduction in fishing fatalities. But we have more work to do to make fishing safer, to save lives, and to save vessels.

I would like to speak to two of the many concerns associated with commercial fishing: first, the need for regulatory parity between federally documented fishing vessels and State numbered vessels; second, the need for training and certification of competency in various fisheries.

First, parity. Fishermen on State numbered vessels are at greater risk than those on federally documented vessels when fishing beyond the Boundary Line. Whereas, federally documented vessels fishing beyond the Boundary Line are required to have basic equipment such as anchors and VHF radios, State numbered vessels do not. Whereas, documented vessels are required to have a variety of safeguards, including bilge alarms, bilge systems, a high water alarm for vessels over 36 feet, and monthly safety drills, State numbered vessels are not.

Without these requirements, the crews of the State numbered vessels are at greater risks in all types of emergencies: flooding, medical, capsize, man overboard, fire, etc. They will probably not have donned immersion suits, set off flares, or practiced abandoning ship. Moreover, their capacity for self rescue is limited; they rely on the Coast Guard for their rescue and survival. The risk to both the fishing crew and the Coast Guard could be reduced if the requirements for State numbered vessels matched those of documented vessels fishing right beside them.

Recently, the Maine Commercial Fishing Safety Council under Chairman Bob Baines designed a fishing safety matrix based on the Fishing Safety Vessel Act and a consensus of what constitutes best practice. Initially, we replaced the Boundary Line with three zones, working seaward from the three mile line. Currently, our discussions are centered around using only the three mile line, which, when coupled with removing the distinction between documented and numbered vessels, simplifies the regulations dramatically and increases safety.

Secondly, training and competency. When I participated with the Coast Guard and the Maine Marine Patrol in the harbor visits and dockside exam in South Hartwell last June, we helped an elderly fisherman and his wife into their Harpswell immersion suits and into the water for the first time in their long fishing careers. On the same day, another fisherman told me he realized he should have completed the dockside exam years ago. These responses are typical. Clearly, dockside exams and training and practice are needed.

The Maine Commercial Fishing Safety Council has stepped up safety training. As of February 1, 2007, all fishermen in the lobster apprentice program must complete the U.S. Coast Guard-approved

drill conductor course. This is an industry-driven initiative that lays the groundwork for a culture of safety in Maine.

The public health perspective emphasizes prevention. We need to make prevention a priority in the fishing industry and educate fishermen to take steps early to arrest the cascade of events that lead to injury and loss. The occupational safety perspective focuses on the work environment, work practices, and human factors. Fishery-specific education and training can address these concerns. Maine mandated a fishery-specific course for urchin divers in 1994 after eight divers died in the prior five years. There have been no diving deaths since 1994.

Training and regulation need to go hand-in-hand. Training provides, in large part, the incentive for regulatory compliance and instills a prevention mind-set.

Going forward, there may be a role for State legislation to support fishing safety, and certainly there is a role for industry-driven initiatives such as the Maine Commercial Fishing Safety Council. Partnerships and collaborations with the Coast Guard should be fostered because the safety of the fleet and the vitality of the industry depend on our ability to work together.

Thank you for your attention. I would be pleased to respond to your questions.

Mr. CUMMINGS. Thank you very much.

Robert Baines, who is a fisherman and Chairman of the Maine Commercial Fishing Safety Council. Thank you for being with us.

Mr. BAINES. Congressman Cummings, distinguished Members of the Committee, I would like to thank you for the opportunity to speak with you today on a subject that I live with as a regular course of doing my job. My name is Bob Baines, and I am a lobster fisherman from mid coast Maine. I am Chairman of Maine's Commercial Fishing Safety Council, a board member of the Maine Lobstermen's Association, and president of the Spruce Head Fishermen's Co-op.

I have commercially fished my entire adult life, owning and operating my own boats for over 25 years. I am primarily an inshore lobsterman, but I have extensive history as a scallop fisherman, as well as experience working on groundfish boats throughout the Gulf of Maine.

As we all know, commercial fishing is a dangerous occupation that threatens fishermen's lives and property on a daily basis. As a fisherman, I have personal knowledge of the danger and subsequent consequences of operating a fishing vessel and the inherent risks challenging Mother Nature.

I had the unfortunate experience of participating in a search and rescue for two local teenage boys. These aspiring young fishermen, lacking in experience, were in a boat that was inadequate for the weather conditions. Their boat capsized and both drowned in cold April waters. We found one of the boys washed ashore on an island and I found the other boy the next day still in the water. I will never forget that unnecessary tragedy.

I realize that not all risk can be removed from commercial fishing, but there are some things that can still be done that would increase the safety of commercial fishermen without burdensome and expensive regulations.

Maine's Commercial Fishing Safety Council recently recommended and spearheaded the implementation of safety training as a component of Maine's lobster apprentice program. Beginning in January of this year, all fishermen enrolled in the apprentice program, over 1,000, are required to complete the U.S. Coast Guard-approved drill conductor course before they can get a commercial lobster license. If the two young boys I mentioned earlier had participated in safety training, their lack of judgment and dire consequences might have been different. Commercial fishing safety training by all commercial fishermen is a goal of Maine's Commercial Fishing Safety Council, and I encourage this Committee to help make that goal a reality.

As Maine's near-shore fishing fleet, which numbers in the thousands, has grown and upgraded, the issue of parity between State registered vessels and federally documented vessels is a concern. It makes no sense to have two sets of rules, one for State registered boats and a second for federally documented boats. If a vessel is required to have specific safety equipment, then common sense would tell you that all vessels of the same size and operating the same distance from shore should require the same safety equipment. Current Federal law prohibits States from enacting commercial fishing safety requirements. The danger is the same whether you are State registered or documented.

When the Commercial Fishing Industry Vessel Safety Act of 1988 was passed, the Maine Lobstermen's Association was opposed to any kind of safety requirements for State registered boats. Times have changed and the Maine Lobstermen's Association and other industry organizations recognize that the Commercial Fishing Safety Act of 1988 has saved lives and further recognizes the importance of safety regulations for all commercial fishermen.

Federal preemption prohibits States from enacting and enforcing fishing vessel safety regulations. Why shouldn't States have the ability to protect their citizens as the Federal Government does? States should be given the option and authority to enforce safety regulations in State and Federal waters. Sensible and easily understood safety regulations would promote compliance.

Maine wants to adopt commercial fishing safety regulations. Maine's fishing industry supports this objective.

The second issue I would like to bring to your attention today is the Boundary Line. The Boundary Line is an arbitrary line that has no rationale in determining risk to commercial fishermen. The Boundary Line does not appear on charts, and its inconsistency should disqualify it from any logical use in fishing vessel safety regulations.

The three mile line exists on all charts; it is consistent. Distance from shore is a true measure of risk that makes sense. The substitution of the three mile line for the Boundary Line would go a long way toward making Federal fishing safety regulations more practical and user-friendly.

Thirdly, there has been of late a surge of interest and support for safety training in the commercial fishing industry throughout the Country. Fishermen are recognizing the advantage that safety training provides them. Safety training provides fishermen with

the necessary tools to handle difficult situations with emergency response skills.

Current Federal regulation requires all federally permitted vessels to have on board a person who has successfully passed the drill conductor course and conduct drills on a monthly basis, or have a qualified drill conductor perform monthly drills dockside.

This regulation is very difficult to enforce. Maine's Commercial Fishing Safety Council would like to propose a simple method to enhance safety: require all fishermen holding National Marine Fisheries Service Commercial Vessel Operator's Permits to successfully complete the Drill Conductors Course. The captain of the vessel is responsible for the safety of his or her crew. The captain should be required to complete this course. This suggestion is easily enforceable; possession of an Operator's Permit proves completion of the course. The structure for issuing the Operator's Permit is already in place, as is the Coast Guard-approved Drill Conductors Course.

Parity, preemption, the Boundary, and training. These issues need to be dealt with at the Federal level to enhance safety for all commercial fishermen.

I would like to thank the Committee for your time and attention. I would be happy to answer any of your questions.

Mr. CUMMINGS. Thank you very much.

Ms. Hughes?

Ms. HUGHES. Thank you. Good morning, Mr. Chairman and distinguished Members of the Subcommittee. I thank you for the opportunity to testify today on fishing vessel safety. It is a subject that I have been very involved in for 22 years.

My oral statement will be brief, but I request that my full written statement be entered in the record.

Mr. CUMMINGS. Without objection, so ordered.

Ms. HUGHES. Thank you.

I am the Executive Director of the North Pacific Fishing Vessel Owners' Association, known as NPFVOA, Vessel Safety Program. It is a non-profit organization totally dedicated to safety, training, and education of commercial fishermen. Our facility is located in Seattle. In the Seattle area, vessels are significant; they represent a very diverse fleet and they account for about 85 percent of the catch in Alaska, which equates to approximately 50 percent of the Nation's seafood harvest.

I have worked in the fishing industry for 32 years, 22 of which have been with the NPFVOA since its inception. I served 9 years on the Coast Guard's Fishing Vessel Safety Advisory Committee and I was recently reappointed to a 3-year term.

The NPFVOA Vessel Safety Program was developed in 1985 in cooperation with the U.S. Coast Guard as a voluntary effort to improve the poor safety record of the commercial fishing industry in the North Pacific. The reason, as you heard from Admiral Bone, was that the Coast Guard was unable to get regulations in place at that time.

I would like to just describe briefly a few of the key concepts on which our program has been built that could possibly provide lessons for the future, safety, and the industry.

A successful program has to have several elements: it has to be highly professional, but it does not need to be large in scope or expensive to operate; it needs to have a regional focus and have the direct participation with fishermen and support of the Coast Guard.

The success of NPFVOA's program is evidenced by the attendance in our safety courses, which now exceeds 33,000, of which 70 percent of that has been voluntary. A safety culture has evolved in the Pacific Northwest. Training levels are active in this region, which has been a big factor in reducing fatalities. Safety training is key to improving how casualties can prevent it and how people respond if faced with an emergency.

NPFVOA's program was established to address particular problems as we know them in our region. Similar programs could be established in any region where the fishing industry itself is willing to adopt a real safety culture to take action themselves.

While there are many common denominators of going to sea anywhere that apply to all regions, casualty information for each region clearly indicates that peculiarities to fishing—techniques, vessel loading, or environmental conditions in each region—should be addressed separately and specifically.

The Commercial Fishing Industry Vessel Safety Act of 1988 was extremely important, I believe, as a first step that provided a springboard to national standards for improving safety aboard fishing vessels, but that Act has not generated a program of casualty prevention. Coast Guard enforcement of the regulations has been inconsistent from region to region. I believe that Coast Guard oversight and enforcement is absolutely critical to improving safety in the fishing industry.

My written testimony illustrates how innovative Coast Guard actions that were recently taken in Alaska have been extremely effective and supported by the industry, in fact, embraced by the industry.

To conclude, I believe that the 51 percent decline in fatality rates among commercial fishermen in Alaska from 1990 to 2006 that NIOSH has substantiated are largely due to three things: the safety training infrastructure in the Pacific Northwest and Alaska; the emphasis on oversight of the industry and proactive initiatives by the Coast Guard in Alaska; and the safety culture that has evolved, with many fishermen treating safety as a priority and going way beyond the minimum requirements.

Thank you very much for the opportunity to share my observations.

Mr. CUMMINGS. Thank you very much.

Captain Collins?

Mr. COLLINS. Thank you. Good morning, Mr. Chairman and Members of the Subcommittee. I am Blaine Collins, Vice President and Regional Manager of Det Norske Veritas. I am honored to have this opportunity to discuss fishing vessel safety with you today.

DNV is one of the world's leading classification societies and has worked to improve safety at sea since 1864. Indeed, our corporate objective is safeguarding life, property, and the environment by managing risk.

In my testimony today, I will describe ship classification and the classification process; discuss key conventions of the International Maritime Organization, a United Nations Body; brief the Subcommittee on the Torremolinos International Convention for the Safety of Fishing Vessels; and share our views to improve fishing vessel safety.

In general terms, classification societies develop rules and standards for the construction of ships. Classification rules primarily cover the structural strength and integrity of a ship's hull, the reliability of the propulsion and steering systems, power generation, and other auxiliary ship systems for the safe operation of the ship. DNV's rules are based on the accumulated experience from DNV's large classed fleet, which today is more than 16 percent of world's fleet; our research and development programs; and more than 140 years of experience.

Classification societies may also act as recognized organizations for flag states, verifying the vessel's compliance with international regulations. DNV has been authorized to perform these statutory surveys and issue certificates on behalf of more than 130 flag administrations, including the United States. Today, there are 63 U.S. flag vessels classified by DNV, including fishing vessels.

The IMO Safety of Life at Sea SOLAS Convention is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The first version was adopted in 1914 in response to the Titanic disaster, with successive updates through today reflecting technical advances and the demands and expectations of society for safety.

The main objective of the SOLAS Convention is to specify minimum safety standards for the construction, equipment, and operation of ships. Flag states are responsible for ensuring that ships under their flag comply with these requirements, and a number of certificates are prescribed in the Convention as proof that this has been done. Surveys in issuance of these certificates are typically delegates to recognized classification societies by the flag state.

Curiously, SOLAS does not apply to fishing vessels, and this is probably a major reason why fishing remains a high-risk occupation. In the absence of common international regulations, national regulations have, unfortunately, become unavoidable. A consequence of national versus international regulations, however, is that two fishing vessels operating in international waters may be subject to very different national regulations.

While it is encouraging that the existing U.S. requirements for life saving and safety equipment have led to a decline in the number of deaths, there has not been a corresponding decrease in the number of actual fishing vessel casualties. Clearly, this indicates that the technical aspects of the vessel, particularly the strength of the hull, the stability of the vessel, watertight integrity, and the reliability of the propulsion and machinery equipment, all of which are fully considered in the classification system, are important to further improve fishing vessel safety. Simply stated, the safety and life saving equipment regulations are helpful, but the safety of fishermen can be greatly improved if we take steps to minimize the loss of the vessel, propulsion and machinery failures, and we address the safe operation of equipment. Classification is the inter-

nationally accepted, well-established and effective system that achieves these goals for the world's large cargo passenger vessels. It should be mandatory for all fishing vessels greater than 24 meters in length.

Globally, the safety of fishing vessels has been a concern for many years. The IMO convened a convention for fishing vessel safety in Torremolinos, Spain in 1977. The convention was not widely ratified, but the protocol has been included in a European Union Council directive. This directive is intended to fill the gap created because SOLAS requirements do not apply to fishing vessels and, in fact, it is often regarded as "SOLAS for fishing vessels." Most coastal nations in Europe have made this directive part of their national regulations. Fishing vessels that comply with this EU directive are issued a Fishing Vessel Safety Certificate. DNV is authorized to issue these certificates on behalf of European Flag Administrations.

Most of the requirements in the Torremolinos protocol are covered by the DNV classification rules. Also, most European flags now require fishing vessels to be built according to the rules of recognized classification societies, especially for structural strength; classification societies to ensure that stability requirements are met; safety training and certification of t he crew; specific safety equipment to be on board and certification requirements for life saving, fire fighting, navigation, and other equipment.

In conclusion, DNV strongly encourages the United States to require classification of fishing vessels greater than 24 meters in length and, two, to adopt the requirements of the Torremolinos Convention.

Finally, in implementing these two recommendations, DNV urges the United States to seek international solutions and regulations to the maximum extent possible, rather than Federal or State regulations. This will provide a uniform standard throughout the world in a transparent and predictable regulatory regime. DNV pledges to do its part to assist the United States and to work with the rest of the world to achieve real and measurable improvements in fishing vessel safety.

I thank the Committee for its interest in our views and for this opportunity to share some of our thinking with you. I would be happy to respond to your questions.

Mr. CUMMINGS. Thank you very much, Captain.

Deb Shrader, please. Welcome.

Ms. SHRADER. Thank you, Mr. Chairman, and thank you for the time that you have allowed us to discuss this difficult subject.

By way of introduction, as noted, I am the Executive Director of an organization called Shore Support, Incorporated, which has been working in the interest of commercial fishermen in the Port of New Bedford for the last 10 years. I am also the wife of Captain Ronnie Shrader, who runs two commercial scallopers out of the Port of New Bedford, so you can see why I have both a personal and professional interest in what happens with these regulations.

Shore Support is a committee within our corporation called the Fishermen's Emergency Relief Fund. It was started after the tragic loss of the Fishing Vessel Northern Edge in December of 2004. Since that time, we have been able to help fishermen in need, some

because of regulatory pressures and, in most cases, because of tragedy at sea, loss of life, with the major wage earner of the family being taken away in most cases.

Recently, I have spent some of each day for the last four months with the family members of the Fishing Vessel Lady of Grace, and also with one of the families from the vessel Lady Luck of Newbury Port. I can tell you that that experience, and also my personal ties to the sea through my husband, makes the realities of the ocean a sure reality in my life and in my work.

I also would like to address you primarily as a fisherman's wife, because that is who I am. I started this organization because of my love for my husband and because I wanted him to be represented by his family. I want you to realize that I and other women like me know that there is only so much that we can do to keep our men safe at sea. There are things—Mother Nature, the boat being small, the ocean being large—we realize that we can't stop everything from happening. We realize that it is a job that our husbands have chosen to do and we, as their wives, have chosen to stand behind them and do everything we can to help them. We know that Congress can't stop all of the deaths, but we do ask for your partnership in the following items that I have chosen to discuss with you.

First of all, safety training. Shore Support has been involved with the School for Marine and Science Technologies since 2003 in socioeconomic study. In 2005, we visited with 94 percent of our ground fish fleet, and by visiting I mean we went boat to boat and spoke with the crew members on each of these vessels. I can tell you that 90 percent of the men that we spoke with—so 90 percent of 94 percent of the fleet—have voluntarily taken use of the safety classes that were put together in New Bedford by the Massachusetts Department of Employment and Training, NOAA, the city's mayor, and also the Coast Guard. Many of the men also took the conductors classes, allowing them to teach their crew members and review on a monthly basis, as required by law, what the crew has learned.

This has had a huge impact not just on the practices of our men, but on their perspective of safety at sea, and that perspective is the most important thing. When I surveyed the boats in an early study in 2003, when I asked the guys where their survival suits were, they were like in the fore peak behind the fuel filters and gallons of water. Since then, last year when we interviewed our men, they were either in the mud room, which is right near the back door, in the wheelhouse, or at the foot of their bunks. Now, none of those situations is perfect because you never know, when a situation happens at sea, where you will physically be on that boat, but at least they are very much aware of where their suits are.

Another thing that the safety courses have taught our men is that many of the guys bought suits years ago and just put them on the boat, and we found that during the experience of putting the suits on and physically jumping into the water, then jumping into the raft in the suits, they found out not just the confidence in going from talking about a principle to actually putting it into action that they are now going to sea with a lot more confidence. But we also found that a lot of the guys had not only gotten older, but they had

gotten larger, so there were many suits that didn't fit. So through the course of the safety classes, we now have well fitted, very well suited safety equipment on our boats.

Let me now go to voluntary dockside inspection. Kevin Coyle is a Coast Guard officer in the City of New Bedford that does these voluntary inspections in our city. We consider him very, very important to our operations in our fishing industry. We hope that you will continue to fund the inspections, but they should be done on a voluntary basis. Every fisherman that I talked to—and I have more than 150 signed members of Shore Support, and I can walk down any dock in New Bedford and some in Gloucester that I know, so I have talked to a lot of people—they feel that they want to come home. No fisherman leaves port without the sense that he is going to come home. If they didn't have that feeling, they wouldn't fish. So I think that our guys are so over-regulated with the ground fish and scallop industry regulations that they themselves want to be kept safe, so they will take advantage of the voluntary inspections.

Stability inspections of vessels 50 to 79 feet, I totally agree with it being mandatory, mostly because of the general category scallop licenses that have been added to the multi-species ground fish licenses that are under such pressures. They have taken on the general category scallop license, which allows them to put a 10-foot scallop dredge onto their boat and allow them to haul back a scallop dredge, which is completely off balance from what their boat was originally designed for. Our boats are going much further and further offshore in order to pursue that day at sea being economically viable, so we totally support the mandatory inspection for stability of vessels from 50 to 79 feet.

Certification and licensing of captains. I do not feel that licensing of the current captains and mates of our vessels would be an advantage. In 2003, when I did the study with SMAST with the School for Marine and Science Technologies, we found that we have a very aging fleet. People are not coming into the fishing industry anymore because, between regulations and closed areas, and also the fear of life and limb, why deal with it? So what we have in our fleet, I can show you by numbers that we have an aging fleet with the median age for scallopers is 40 and the median age for ground fishermen is 46; and their years at sea balance between 23 and 26 years at sea experience. So I would say that if you are going to make licensing mandatory, that you need to find a way to grandfather in these men. That would be like me driving my car for 25 years and then you ask me to go and get a license, or you, as Congressmen, sitting there and then someone saying you need more qualifications, because even though you brought your community billions and billions of dollars of seafood and commerce. So that would be a stipulation.

Also, I think one thing that I am very afraid of—because—Shore Support represents the rank and file fishermen—I am very afraid that you will transfer the responsibility of accident liability from the boat owner to the captain and their mate. Now, fishermen are supposed to be self-employed individuals; however, they are not allowed to claim—my husband spent $170,000 on fuel last year. He wasn't able to claim that expense. So they are quasi-self-employed

people. So I am very afraid that when this legislation is drafted, that because of the power of the boat owners, that the responsibility for safety at sea will go to the captain.

Now, what you must understand—and some people say that by being captain you are the master of that vessel. I have to disagree with you, because I believe that with the communications that are now available and with the fleet ownership that is taking place in our port, when more and more single people are owning more and more vessels, it is called consolidation, which I also am not for—my husband does not make an individual decision when it comes to whether or not it is safe to come home if he wants to keep his job. The boat owners are now getting more and more power, where my husband has lost some of his power being captain, the personal goal that he had. And they are in constant universal communication with the boat owner, so you can lose your job.

In closing, if I might, I just wanted to mention something that you mentioned in the beginning, and that was the expedience of implementation of regulation. Since 1976, it has been required that social and economic impact has been to taken into effect when looking at regulations regarding fisheries. Since 1976, that law has been ignored, and I hope that when you talk about making safety part of the regulatory process, that it is at the beginning of the process of building these laws, and not like they are doing to me, making me study socioeconomics after the dinosaur has already walked through the footprint.

Thank you, gentlemen.

Mr. CUMMINGS. Thank you very much.

Ms. SHRADER. Oh, pardon me, sir. May I just make one more comment?

I just wanted to make the comment that the Coast Guard people that are working out of our port, the Coast Guard people that worked with the people that I have been working for from the Fishing Vessel Lady of Grace, showed more compassion and more understanding than I have ever seen from any bureaucratic organization or agency, and I would really just like to let you know that they do a fine job in New Bedford and we definitely depend on them greatly. I am very grateful to them and I would like that to be known. Thank you, sir.

Mr. CUMMINGS. Thank you very much. You will find that this Committee are probably some of the strongest advocates of the Coast Guard in the Congress, because they come under our jurisdiction, for one thing, and one of the things that we are trying to do is to make sure that there is a synchronization between the Coast Guard increasing responsibilities and the resources that they need to carry out those responsibilities and personnel.

So we agree with you, we think they do a great job, but we want to make sure they maintain that.

Ms. SHRADER. Yes, sir.

Mr. CUMMINGS. One of the things that I find very interesting—and I think all of you have just about touched on this—seems to be the whole issue of safety, and I will start with you, Mr. Baines. It seems folks have really gotten it, I mean the people in the industry. Is that because, in large part, you have seen so much tragedy, do you think? You know, sometimes people, when they think about

safety, they think, oh, later. It is sort of like when you are sitting on the airplane and the assistant—what do you call them?

Ms. SHRADER. Stewardess.

Mr. CUMMINGS. Flight attendant. They used to call them stewardess, and I didn't know whether that was politically correct.

But the flight attendant goes through all the things and shows you, and some people fall asleep, others read a magazine. It seems, though, that in this industry folks have said this light has come on and they say, wait a minute, we have got to make sure we deal with this.

Since you are a fisherman, Mr. Baines, would you comment on that for me, please?

Mr. BAINES. I think it is more awareness from the industry's perspective. You know, there always has been losses of fishermen and vessels, but there seems to be more awareness by the fishermen today. I don't know if the fishermen are a little bit more educated or just what it is. There are more publications now of "Commercial Fisheries News," the "National Fisherman," those type of things. There are a lot of articles on it through the Internet. There is more information out there, so fishermen are more aware of the need for training and doing what they need to do to make sure they get home to their families.

Mr. CUMMINGS. And the Maine Commercial Fishing Safety Council, can you tell us about how that came about and what they do?

Mr. BAINES. It was formed about two and a half years ago, after a bad year in the State of Maine. We lost I believe it was either 11 or 12 fishermen in the previous year. Then Governor Angus King put together a task force to see what could be done about enhancing safety for the fishermen, and through the recommendations of the task force the Safety Council was formed, and we have been working for a little over two years now. You know how these things go, it takes quite a bit of time to get them up and running, but we have been working for about two years now on a number of different issues, some more successful than others, one that you heard of. What we have run into, though, is a stone wall as far as preemption and parity is concerned with the Federal Government, and what we are looking for from Congress and the Coast Guard is to allow the States to enact commercial fishing regulations and be a partner with the Coast Guard in safety regulations.

They all weave together. I mean, a three mile line, guys don't pay attention to where the three mile line is; they fish inside, they fish outside. It is very important to distinguish a certain line distance from shore for different types of regulations, but that is why the States need to partner with the Coast Guard, to have the same regulations for the same vessels fishing in the same areas.

Mr. CUMMINGS. Anyone else want to comment on that?

Ms. Shrader?

Ms. SHRADER. I feel that the partnership with NOAA and National Marine Fisheries has brought awareness, and working with Kevin, with the rest of the Coast Guard representation in New Bedford, and also because the fishing community I think, at least in the Northeast Region that I can speak of, it has become just more cohesive, where just awareness and a lot of different things have come together, including working together for regulatory pur-

pose, and part of that was bringing about the awareness of safety. Once NOAA and National Marine Fisheries began to give us funding and help us to put together curriculum, it has been happening and people are just being very receptive to it. Every man wants to come home.

Then, just recently, Massachusetts Fishermen's Partnership did another program in New Bedford that was like a continuation, where they went on to first aid information and also stability, because we feel that that was a big issue in our loss of the fishing vessel "Lady of Grace." So we are building on the curriculum, so I would hope that Congress would help us to fund NOAA to work with the community so that we can spread what has worked so well in New Bedford and in other places in Alaska, from the last testimony, to make these trainings available to people. Fishermen will go. It is like build it and they will come. You know, give them the opportunity to learn these things, fund them for them, because so much has been put on their backs with the regulations, and they will go and make use of what you give them.

Mr. CUMMINGS. How long does that training take?

Ms. SHRADER. The training takes two days on a weekend, and what they do is they do everything from study electrical fires, fires on the boat, they jump in their survival suits, they get in the suits and get in a raft in the water. My husband, with 20 years of experience, did come home and tell me that he was very much impressed, that he did learn things from the classes, such as electrical fires, that he hadn't experienced, and was glad to have that additional information.

Mr. CUMMINGS. Ms. Backus, you have provided us with quite a bit of information about the provision in the current statute that creates a significant disparity in regard to required safety equipment between fishing vessels that are numbered by the State and those that are documented by the Coast Guard. Describe the major difference in required safety equipment for documented versus State numbered fishing vessels. Can you break that down for us?

Ms. BACKUS. Yes, sir. The Commercial Fishing Industry Vessel Safety Act has requirements that are in common for the documented and State numbered vessels, and then when the vessels are beyond the Boundary Line, the documented vessels have very specific requirements and the State numbered vessels do not. For example, first aid equipment and training is required for a document vessels, but first aid equipment and training are not required for those State numbered vessel. So a State numbered vessel can be beyond the Boundary Line and not have to have a first aid kit and not have to have anyone on board who knows how to respond to a medical emergency.

The same goes for guards of exposed hazards, for instance winches for trawlers. There don't need to be any guards on the trawlers, or at least it is not required, for State numbered vessels, but those guards are required for documented vessels.

Navigation information is the same situation: compass; anchors; radar reflectors; communication equipment; high water alarms in some cases; bilge systems; electronic position fixing devices; emergency instruction; and then also monthly drills and safety orientation. All those that I just named are required by law to be on docu-

mented vessels, not required by law to be on State numbered vessels. However, some of those items are, of course, on State numbered vessels because vessels go out with anchors and they do go out with compass, but they are not required.

The most important thing here is that there is no safety training or drill conductor course required for those State numbered vessels that go beyond the Boundary Line.

Mr. CUMMINGS. Ms. Hughes, you state that while the Act made improvements to the industry's response capabilities, the current need is to improve the prevention of casualties. Other than the strategies for improving safety that have been implemented for Bering Sea crab fleet, what other measures do you feel should be taken to prevent vessel losses?

Ms. HUGHES. Thank you, Mr. Chairman. One of the things that has been done in Alaska that has been enormously effective and it is something that is done on passenger vessels is going beyond having this new requirement, there has been a lot of discussion about requiring that when crews conduct drills, that that be logged. But the Coast Guard in the Seattle area and Alaska have started to require that crews demonstrate that they can conduct effective drills, and it was very interesting to see how that was responded to by the industry.

This is a very interesting industry, and I think this applies nationally, that it is very competitive. So, immediately, the first several crews that were asked to demonstrate their proficiencies were not entirely satisfied with their performance and they wanted the Coast Guard to come back. Then it ended up that they actually wanted to be graded, and then the word started spreading that people were going to have to show that they knew what they were doing, and it was immediately apparent. If the crews had not been conducting monthly drills, there was no question that you could tell. So it reinforced a sense of importance about it, that the Coast Guard cared if they were doing them well.

I would just like to add one other element of why this enforcement is so critical. The drills, even in our area, had not been enforced before the "Galaxy" fire. So when the Coast Guard held their investigation of that emergency situation—three people had died in it; the rest of the crew survived, but it was quite incredible that they weren't all lost—the captain and the chief engineer were sitting in a separate position during the investigation because they were potentially criminally liable and they had no idea that by not conducting monthly drills they had that sort of exposure. So I think you can also make the additional case that if the regulations are written and then not enforced, and we have this conversation that I question about authority, if it is written in the regulations, do they not have the authority? It is hard to understand.

From our perspective of being a training entity, it is awkward to be telling people that, yes, you absolutely need to do this, it is written here, and then some people could argue that, well, do we stand to gain by that. So it is a problem that I think the enforcement, if there is a question of authority, then hopefully you can help the Coast Guard get whatever authority they need, but it is really time to get on with getting these things that are written in the regs enforced.

Mr. CUMMINGS. Thank you very much.

Mr. LaTourette?

Mr. LATOURETTE. Thank you, Mr. Chairman.

Thank all of you for your testimony. I appreciate it.

Ms. Shrader, yours struck home in particular in that I have a whole closet full of suits that I don't think I am going to be able to get into in the near future, so I know the experience.

Ms. Hughes, in your testimony you have the number 33,000. Is that the number of classes conducted or is that the number of participants that have shown up for your training?

Ms. HUGHES. That would be the participants. Some of them choose to repeat, so I can't say it is individuals.

Mr. LATOURETTE. I am more than impressed with the work that your organization has done. My question is 33,000 is a lot, but what sort of buy-in do you think you have from the fishing community in your region, is it 70 percent, 80 percent?

Ms. HUGHES. Well, it does vary by the fleets, so the smaller boats, we have fewer of the smaller boats—and I think some of that might be economics—that belong. We have a membership base. No one is excluded, but the membership base allows us to have constant communication with the industry. It is a word of mouth industry in a lot of ways, like what I described with competition. There is a lot of peer pressure. So as people come in for classes, they tend to talk about, say, that they did that, they will say that there was value in it, and then somebody else thinks, well, he did that, I should do it too. It continues to build momentum, and I think that is how you create the safety culture.

Mr. LATOURETTE. To Ms. Backus and Mr. Baines, one of the great tensions between the United States Congress and State legislatures is this whole notion of preemption. It even divides the parties sometimes. The Republican party is often identified with States' rights, but on certain issues we become the biggest federalists you ever saw. Likewise, the Democratic party is most associated with the Federal form of Government, but on some issues they become the biggest States' rights guys you ever saw. So this whole issue of parity is of interest to me, and we deal with it in financial services, we deal with it in safety regulations. We just had it with the Class 1 railroads, for instance. So I want to be clear on what it is you think—I understand the problem you are describing, but I guess I would like to hear from you how you propose we fix it.

But just before I ask you that sort of general question, you are not saying, Mr. Baines, that the current law prohibits the State of Maine from establishing and implementing safety regulations for State registered vessels operating wholly within State waters, are you? That is not what you are saying?

Mr. BAINES. The way I understand it is Federal law prohibits the State of Maine from adopting any commercial fishing safety regulations for their State registered boats, and the ability to enforce those regulations.

Mr. LATOURETTE. And it is your understanding that that is true for vessels that operate wholly within State waters?

Mr. BAINES. Yes, that is true. The Coast Guard can enforce Federal regulations both in and out, but common sense would dictate that you have the same regulations in State waters as you do out-

side State waters, and the ability to enforce those regulations, right now the State of Maine can only have recreational standards apply to their boats.

Mr. LATOURETTE. We are going to check that out, because I agree with you that common sense dictates the other. I am not so sure that the State of Maine or any State can't make safety regulations on commercial fishing vessels that operate wholly within State waters, but I would like to correspond with you on that.

Let's go to the issue of parity. How do you think we fix it? Is it that we should butt out and let each State act or should we propose and propound a national standard and preempt the States from acting as long as our regulations are decent? Ms. Backus?

Ms. BACKUS. Thank you. There may be a variety of options here. One option is to have the Coast Guard Safety Act cover all vessels equally so that the documented and the State numbered vessels are covered within the State waters and beyond the three mile line, for example. Another one would be for the Coast Guard to do what it can do and then to allow the States to make some adjustments based on local conditions. For example, the State of Maine, by and large, we are a cold water State, as is Alaska, so for virtually 12 months of the year our fishermen are in cold water. That is very different, as the Representative mentioned, than——

Mr. LATOURETTE. The Gulf Coast.

Ms. BACKUS.—the Gulf Coast, exactly. So there may be a chance for States that have special conditions to address those conditions if they are not able to be addressed at the Federal level.

So I think that it will take some collaboration among all of us to find the right place where we can promote safety and promote parity at the same time.

Mr. LATOURETTE. Okay.

Mr. Baines, does your answer differ significantly from that?

Mr. BAINES. I would just like to add to that, which would—because along with it is the issue of the Boundary Line. In the State of Maine it comes to shore in places; it is 20 miles off shore in other places To truly address the whole issue of parity, the Boundary Line also I think plays a very important role in truly illuminating the Boundary Line.

Mr. LATOURETTE. Okay. One of the difficulties sometimes when we get into this preemption fight is that you have a national standard, and if it is sufficient, you recognize a national standard is needed because sometimes States do stuff that just don't make sense. I mean, the Federal Government does stuff that doesn't make sense from time to time, too.

I think I like your answer a lot, Ms. Backus, in that if we had a Federal standard and empowered the Coast Guard to have something—I mean, some of this stuff is no brainer; I mean, first aid training and how to put out fires and how to get in your survival suits. So if we had a national standard that covered all, the entire Country, do you think it would be acceptable if we permitted the States to continue to act, but only in those areas that were unique to Maine, Alaska, or Mr. Taylor's concern, the Gulf Coast? Would that be a reasonable way to get at this, do you think?

Ms. BACKUS. Well, I am not able to speak for all the other States, I guess, but I think having the States have the option to collabo-

rate with the Coast Guard around certain special conditions that may exist, either by the type of fishery—because some fisheries are more hazardous than others—or by the conditions in which those fisheries do their work, that that would be a reasonable approach to this, yes.

Mr. LATOURETTE. I do too.

Listen, I want to thank all of you for coming. I have learned something today, so thank you very much for your testimony.

Thank you, Mr. Chairman.

Mr. CUMMINGS. I want to thank you too.

Just a few more questions for Captain Collins. Captain, you have told us about classification, and the things that you have told us have been very helpful. I guess you recommend that the U.S. require classification of all fishing vessels greater than 24 meters in length by a recognized classification society. Are you suggesting this requirement for all vessels or just new construction?

Mr. COLLINS. Thank you for that question, Mr. Chairman. That is a very complicated question to answer. My first response would be that absolutely it should be required for all new vessels. But I think that the regulation would have to have some sort of phase-in period, because clearly the vessels that have not been built to classification society requirements and are operating today would probably require substantial upgrades in order to meet those requirements.

Mr. CUMMINGS. And probably pretty expensive.

Mr. COLLINS. I believe so.

Mr. CUMMINGS. In many instances, I would take it.

Mr. COLLINS. Yes, I believe so.

Mr. CUMMINGS. So that would be a substantial burden on those——

Mr. COLLINS. On the existing fishing vessel owners.

Mr. CUMMINGS. And I guess some kind of grandfather clause would help. Well, it doesn't help. You have got so many out there.

Mr. COLLINS. Yes.

Mr. CUMMINGS. So it is going to take a long time for them to be no longer used. I guess you are talking about 20 or 30 years before you can have, say, 95 percent of your vessels be subject to the new rules.

Mr. COLLINS. I think it is easy to make it effective for all new construction vessels. For the existing vessels, I think that perhaps the decision-making process should consider a study that looks at the average age of the fishing vessel fleet. Let's say that the average age of the fishing vessel fleet is 15 years. Then perhaps there might be a tenure time period after which those vessels would have to meet the classification requirements or they should be replaced with new vessels built to classification rules.

Mr. CUMMINGS. As we close the hearing, I want to thank all of our witnesses today for being part of this hearing. What we try to do here is gather as much information as we possibly can, and as I am sure you are well aware, the hearing only is a small part of what we do to try to come up with solutions to problems. The thing that I hope that you will always keep in mind is that this process is one that allows you to touch people that you don't even know

and will never meet, and perhaps even touch generations yet unborn.

A lot of people come to these hearings and they say, well, you know, I had to fly down and I had to get up early and whatever, and then I had to testify and then I had to hear these questions from these folks and be a little nervous at times, although you all were very cool. But it is all for a purpose. It is all about us trying to create a better world, and in this instance create a safer world, going back to what you were saying, Ms. Shrader, so that husbands and wives and others that go out to sea will come back.

And it is very refreshing—and I know Mr. LaTourette agrees with me—to hear, Mr. Baines, that fishermen and women and others in the industry realize how significant this whole thing of safety is and the fact that there is a connection between training and saving of lives. I mean, that is so significant and sort of hard to figure out how many lives you save. I know we can look at the stats, but just the idea that we have seen a reduction when there was this training, that says a whole lot.

So we are going to do the best we can. Again, I say this not only to this panel, but the other panel. There will probably be some things that we will be sending to you, questions just to follow up on what we have done here today, but we are going to try to do everything in our power—I am sure you all heard my little thing about the clock ticking—to do all that we can while the clock is still ticking to make things better.

Anything else, Mr. LaTourette?

[No response.]

Mr. CUMMINGS. Thank you all very much. This hearing is coming to an end.

[Whereupon, at 12:08 p.m., the Subcommittee was adjourned.]

Congressman Tim Bishop (NY-01)
Statement for the Record
Subcommittee on Coast Guard and Maritime Transportation
Committee on Transportation and Infrastructure
April 25, 2007

Mr. Chairman, I wanted to thank you for holding this hearing and inviting these witnesses to participate in this discussion. The fishing industry is tremendously important to the economy of Long Island and the livelihood of many residents of the First Congressional District of New York.

As one of the most hazardous occupations, it is imperative that State and Federal governments provide specific standards that provide fisherman and crew the guidance necessary to ensure safety while maintaining prosperity and protecting property. After reading about several recent tragedies, I am left feeling that we, as regulators, can do more to curb the circumstances that lead to unnecessary loss of life.

It is at this point that I must commend the U.S. Coast Guard for their hard work and constant vigilance in the waters off our shores. At every opportunity I want to make sure that the men and women who serve in this top-notch institution receive the gratitude and recognition they deserve. Whether it is through Search and Rescue or policing of our waters, they do a great job. I often here of their efforts in and around the Long Island Sound and off the Atlantic Coast, and I thank them for their service.

However, even with the watchful eye of the Coast Guard, and the protections set forth in the Commercial Fishing Industry Vessel Safety Act, more must be done to improve the discouraging statistics I have read in preparing for this hearing. Losing an *average* of 58 men and women a year to this industry is unacceptable, especially when I believe more can be done to prevent these occurrences.

I look forward to you perspectives on what can be done to improve the safety of our fishermen, and how to protect this vital industry. Thank you.

Statement of
Chairman Elijah E. Cummings
Hearing on
Commercial Fishing Vessel Safety
April 25, 2007

The Subcommittee will come to order [Gavel].

Good morning everyone.

Today, the Subcommittee on Coast Guard and Maritime Transportation convenes to examine fishing vessel safety in the United States. Commercial fishing is – according to the Bureau of Labor Statistics – the most hazardous occupation in the country, so it is important that the Subcommittee examine the role the federal government should play in enhancing safety for those who spend their lives at sea harvesting fish and seafood for both the American and world markets.

Tragically, fatal injuries among fishermen and women increased 50% during the period from 2002 to 2005 while fatal injuries among all U.S. workers increased by only 3% during that same period.

The fatal occupational injury rate was 140 fatalities per 100,000 fishers, more than 28 times the average rate for all industries. Further, according to a recent Coast Guard analysis, an average of 127 fishing vessels were lost, and 58 fishers were killed each year during the period 1994 to 2004.

Fishermen and women have been an important part of the American economy since the first settlers landed on the shores of Virginia and Massachusetts

– and commercial fishing still sustains thousands of families and contributes billions of dollars to our economy.

But, when commercial fishing turns deadly and, tragically, it often does, families are torn apart by the loss of husbands, wives, sons, and daughters. Six years ago, fifteen families experienced such terrible losses when the fishing vessel *ARCTIC ROSE* sank in the Bearing Sea in what was the worst fishing vessel casualty since 1951.

For years, Congress required that fishing vessels be equipped with life-jackets but little else -- which is a bit like asking airline passengers to make sure to pack their parachutes before boarding but not requiring seat belts or emergency exits or fire suppression systems on the planes.

In 1988, Congress passed the Commercial Fishing Industry Vessel Safety Act, which required that commercial fishing vessels carry more modern life-saving equipment. Today, however, there are still no design, construction, maintenance or operating standards for commercial fishing vessels.

Therefore, we will hear the testimony of witnesses who will share with us their experiences under existing statutes, and, most importantly, help point us in directions that can **prevent** casualties from occurring on fishing vessels, enable crews on fishing vessels to respond quickly and appropriately to on-board emergencies, and **maximize** lives saved in the event an accident does occur.

It is my hope that the Subcommittee will gain a greater appreciation of this most hazardous occupation and will identify specific actions that can be taken to protect the lives of those who make a living from the sea.

I also want to thank Congressman Barney Frank for his leadership on this issue that is of critical concern to his district. Congressman Frank will join us shortly after convening a hearing in the Financial Services Committee and we look forward to his insightful testimony.

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Congress of the United States
House of Representatives
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TESTIMONY OF CONGRESSMAN BARNEY FRANK

APRIL 24, 2007

SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

COMMERCIAL FISHING VESSEL SAFETY

Thank you, Mr. Chairman, for scheduling this important hearing, and for giving me the opportunity to testify. As the Representative in Congress of the Greater New Bedford, Massachusetts area, which has been the top earning fishing port in American for the last six years, I am very aware of the concerns within the industry. In the coastal region I represent, and indeed in much of the New England commercial fishing industry, improving safety is a very high priority. I am delighted to be joined at this hearing by an important representative of that industry, Ms. Deb Shrader, the Director of Shore Support, Inc, a New Bedford based organization that focuses on shoreside aspects of fishing, with a particular focus on fishing families.

Fishermen and their families have of course never had any doubts about the dangers involved in commercial fishing, but the point was driven home for many other people in New England, following the 2004 sinking of the fishing vessel Northern Edge, and the more recent losses of the Lady of Grace and Lady Luck. We can't change the fact that fishing is an inherently dangerous way of making a living, but it is incumbent upon us, as policy makers, to do all we can to try to reduce the dangers.

We took an important step in that direction with the enactment in last year's Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of a provision (Section 104(a)(5)) requiring safety to be more explicitly considered as fishery management measures are developed. This new provision should help reduce the incidence of fishery regulations that inadvertently compromise safety. The responsibility for developing the fishery regulations will continue to lie with the Regional Fishery Management Councils and the National Marine Fisheries Service NMFS). However, it will be important for the Coast Guard to work more closely with the Councils and NMFS in order to ensure that safety is given the maximum consideration in the early stages of development of fishery regulations.

In addition, there are a number of safety enhancements that the Coast Guard can adopt on its own, along with others that require cooperation with NMFS and the Councils, and I have described those that I believe are the most important below. I recently hosted a public forum on fishing safety in New Bedford, where participants offered a number of useful suggestions

for inclusion in the Coast Guard Authorization bill that the subcommittee will soon begin shaping. The concepts described below emerged in part from the ideas presented at the forum.

Safety Training. I strongly believe the Coast Guard should on an ongoing basis establish a fully funded voluntary program aimed at conducting safety training in fishing ports around the country. The City of New Bedford, with $100,000 in funding through a NOAA grant supplemented by $50,000 of the city's own funds, recently sponsored several safety training days, in association with the Coast Guard and local non-profits. This initiative was enthusiastically supported by the industry, and participation rates were very high. However, this effort was conducted on an ad hoc basis, and, rather than providing this type of training in the future by means of individual grant funding, I would like to see a national program, funded at $3 million annually, perhaps with a required local match along the lines of the contribution from the City of New Bedford. A key part of this initiative would involve the creation of an on-line registry of those who participate and receive a certificate of participation, with a requirement that they periodically – on the order of every 3 – 5 years -- take the training again. This approach would encourage the hiring of those who have received appropriate safety training, and, even though it would be voluntary, if the recent New Bedford experience is a guide, it would be likely to cover most of those active in the industry.. It would also be vital to ensure that the training is offered in languages other than English, appropriate to each port.

Coast Guard Input on Fishery Management Measures

As described above, it is crucial that the Coast Guard offer its safety expertise early in the process of developing fishery management regulations. It is my understanding that it is common for the Coast Guard to offer its comments on safety when regulations are under consideration by the full Fishery Management Councils, at which point it is highly unlikely that major changes can be made. I believe it would be preferable for the Coast Guard to consult on an active basis with the Council committees that have the prime responsibility for initial development of management measures, in order to ensure that safety input can actually inform the regulations or facilitate the development of alternatives that are less likely to lead to safety problems. In addition, it may make sense to expand the role of the Commercial Fishing Industry Vessel Safcty Advisory Committee (CFIVSAC) so that it can provide guidance that is more regionally oriented and thus more useful in development of specific regulations by the Councils. An expanded role in this context for either the Coast Guard or CFIVSAC will require more funds, and I urge the committee to include funding for this purpose in the authorization bill.

Expansion of Dockside Inspection Drills.

The Coast Guard currently provides, on a mandatory basis, dockside inspection for all vessels operating in fisheries that require observers. The inspections are provided free of charge, and are valid for two years. I believe that this program should be expanded to cover all federally permitted vessels, regardless of whether they are active in observer fisheries, and that additional funding, if necessary, should be provided to accomplish this goal. Other than a possible lack of financial resources, I don't believe there is any justification for requiring this inspection for vessels that may carry observers, and not for others.

Vessel Monitoring Systems.
Vessel Monitoring Systems (VMS), publicized originally as both enforcement and safety mechanisms, have proven to be inadequate for the latter, primarily because the technology does not allow for consistent real time data. In particular, several participants in the New Bedford safety forum explained that delays in transmission and false negatives currently made the system impractical for safety use. However, I believe it is clear that VMS has potential value as a supplement to other safety features. Accordingly, I recommend the establishment of a working group composed of Coast Guard and NMFS representatives, as well as outside entities that are knowledgeable about the industry and the technology, to determine how VMS can be modernized so that it can play a useful safety role.

Research.
I urge the establishment of a national safety research program to provide grants to academia, the private sector and fishing non-profit organizations in order to develop new or improved emergency equipment, boat designs, icing and weather detection technology and the like. I believe a robust research program could be created at a level of $2 million annually, and I urge the committee to strongly consider including this idea in the reauthorization bill.

Safety Standards for Smaller Vessels.
Fishing vessels above 79 feet in length are required to meet stability and watertight integrity standards. Smaller vessels have no such requirement, yet, at least in New England, they are now often going further from shore in part because of the more restrictive fishery management measures that have been imposed. I believe that similar stability and watertight requirements should apply to vessels in the 50 – 79 foot range. I understand that the Coast Guard is working on proposals that would move in this direction, and I urge the adoption of regulations to carry this out as soon as practicable. I would add that such regulations should allow for some variation regionally, to reflect the regional differences in the kinds of fishing, types of gear, weather and other factors that apply.

Logging of Monthly Drills.
Fishing vessels are currently required to conduct monthly safety drills, but the drills are not required to be logged. I believe it would be appropriate to require that these drills be logged and that the log be preserved for an appropriate period of time.

Thank you again, Mr. Chairman, for the opportunity to testify. I look forward to working closely with you and the other members of the panel to improve safety in the commercial fishing industry as the Coast Guard legislation moves forward. I would be pleased to answer any questions about my testimony or fishing safety in general.

REP. RICK LARSEN OPENING STATEMENT –
COAST GUARD SUBCOMMITTEE HEARING
COMMERCIAL FISHING VESSEL SAFETY
APRIL 25, 2007

WA-02

Thank you, Mr. Chairman, for holding this hearing today.

Commercial fishing is a dangerous way to make a living. The Bureau of Labor Statistics confirms this by rating it as the nation's most hazardous occupation. According to the National Research Council, the West Coast, where my district is located, and Alaskan fisheries sustain the greatest rate of vessel loss and fatality in the country.

While much of the hazards involved with commercial fishing are to be expected – rough seas, unpredictable weather – it is important that we evaluate what steps can be taken by industry and the government, if necessary, to protect the lives of our nation's commercial fisherman.

Commercial fishing is an important part of our economy and we owe it to our constituents to ensure it's as safe an industry as possible.

I look forward to our witness' testimony today.

Thank you.

Testimony to Sub-Committee on
Coast Guard and Maritime Transportation

of the U.S. House Transportation and Infrastructure Committee

April 25, 2007

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Good morning. Thank you, Honorable Elijah Cummings (D-MD), Chair, Subcommittee on Coast Guard and Maritime Transportation of the House Committee on Transportation and Infrastructure, for this opportunity to provide testimony on Commercial Fishing Vessel Safety. I extend my appreciation also to Ranking Member, Steven C. LaTourette (R-OH), the other 14 members of the subcommittee, and to Admiral Thad Allen and Rear Admiral Bone of the U.S. Coast Guard. Thank you all for your interest in this important topic.

My name is Ann Backus. I am employed at the Harvard School of Public Health as an instructor of occupational safety and the Director of Outreach for our Harvard-NIOSH Education and Research Center. I currently serve as a member of the Maine Commercial Fishing Safety Council, having been appointed by Governor Baldacci shortly after its inception on April 25, 2003. Prior to that, I served with fishermen, Coast Guard members, and the Maine Marine Patrol on the Council's precursor task force. Since February 2000 I have written monthly and more recently bimonthly articles under the by-line FISH SAFE for *Commercial Fisheries News*, a monthly trade journal for the fishing industry published in Stonington Maine. Late in 2006, Mike Crowe, editor of the Fishermen's Voice, another monthly journal for the fishing industry in the northeast, invited me to provide copy for a new byline titled "The Voice of Safety."

I. Background

By way of testimony on commercial fishing safety I begin by pointing out that The Congressional Record already contains testimony on how very hazardous commercial fishing is – most recently Senator Susan Collins (R-ME) speaking for herself and Senator Kennedy (D-MA) highlighted these hazards while introducing a new bill, S.687, the Commercial Fishermen Safety Act of 2007[1] which is designed to allow a tax credit to offset the cost of purchasing fishing safety equipment.

In the mid 1980's, Congressional testimony lead to the crafting and passage of The Commercial Fishing Industry Vessel Safety Act (CFIVSA) of 1988 - a much-needed and very important milestone in the annals of fishing safety. Where do we stand in the 21st century? What progress have we made? Have we reduced the loss of lives in the fishing community? And/or the loss of vessels? Have we reduced the risks and hazards of commercial fishing and/or increased fishing safety since the enactment and enforcement of the CFIVSA of 1988?

Overall, yes, the CFIVSA number of fatalities has decreased since the early 1990s. However, we still have a long way to go. The following table provides the most recent, available statistics from the Bureau of Labor Statistics for the four years 2002-2005. While the percent of total fatal injures increased 3% during the period 2002-2005, the percent of fatal fishing injuries increased 50% during the same period. The total of US fatalities was essentially constant from 2004-2005, however the fishing industry showed a 23% increase from 2004-2005. Within the years 2002-2005 there is a steady upward trend in fatalities, in a saw-tooth fashion.

Table 1. Comparison of Total US Fatal Work Injuries by Year with Fatal Work Injuries for Commercial Fishing Industry Source: BLS Census of Fatal Occupational Injuries (CFOI)[2]		
Year	Total Fatal Work Injuries	Fatal Work Injuries in Commercial Fishing Industry
2002	5534	31 (revised)
2003	5575	43
2004	5703	38
2005	5702 (preliminary)	47

Every loss of life is tragic; while the absolute numbers of fatalities for commercial fishing are low (relative other industries), the rate of fatalities (incidence) for the commercial fishing industry is extremely high. The following table compares the number of fatalities and incidence rates respectively for the six occupations with the highest fatalities rates.

Table 2. Comparison of the Incidence Rate of Fatal Work Injuries Among Selected Occupations with High Fatality Rates, 2004. Source: BLS CFOI, 2004[3]		
Occupation	Number of Fatalities	Incidence Rate (fatalities per 100,000 employed)
Compare to national incidence rate for all workers, 2004		4.1
Logging workers	85	92.4
Aircraft pilots and flight engineers	109	92.4
Fishers and related fishing workers	38	86.4
Structural iron and steel workers	31	47.0
Refuse and recyclable material collectors	35	43.2
Farmers and ranchers	307	37.5

Data available at the state level also demonstrate the hazardous nature of fishing. According to a Massachusetts report of fatal injuries at work covering the years 1991-1999, "...57 Massachusetts fishers were fatally injured on the job. All victims were men, 24 were self- employed, 43 were white, and 15 were foreign born."[4] At that time Massachusetts was unable to determine an incidence rate but the Massachusetts report drawing on an earlier report by D. Drudi[5] cited that, "Nationally between 1992-1996, an average of 76 fishers were fatally injured on the job each year, and the fatal occupational injury rate was 140 fatalities per 100,000 fishers, more than 28 times the average rate for all industries. During the same period, Massachusetts was second only to Alaska in the number of fishers fatally injured at work."[6]

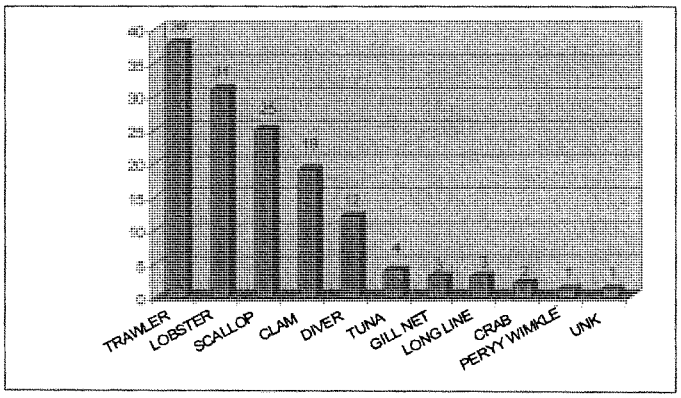
In a report covering the two year period 2003-2004, the Massachusetts Health Surveillance Program of the Massachusetts Department of Public Health reported 150

fatal injures at work. The Agriculture, Farming, and Fishing industrial sector had 13% of the fatalities (19). All but two of those fatalities were fishers. The incidence rate for this industrial sector for the two–year period 2003-2004 was calculated at 81.7 deaths per 100,000 workers.[7] This figure (81.7) is comparable to the 2004 incidence rate of 86.4 (see Table 2) for the national incidence of fishing fatalities, but is 35 times higher than the state incidence rate (2.3/100,000 workers) for fatal injuries at work for Massachusetts.

The U.S. Coast Guard recently provided data to the Maine Department of Marine Resources that cites 138 fishing deaths for the 13 year period from 1993 through 2005 for District I (Northeast).[8] For Maine only for the period 1989 to 2003 there were 48 deaths of which 11 were man overboard, 10 due to sinking, 9 deaths while diving, and 6 each from capsize and unknown causes.[9] Most sinkings are preventable; they result from poor maintenance of equipment; failure to replace tired equipment, and inadequate attention to the integrity and stability of the vessel. Loss of life associated with capsize is often related to safety gear such as EPIRBs, life rafts and survival suits that are poorly maintained, improperly installed or stored, and lack of knowledge as to how to deploy the safety equipment.

With respect to individual fisheries, Coast Guard data for District I from 1993 through 2005 show the trawler and lobster fisheries leading with 38 and 31 fatalities in the 13 year period followed by scallopers, clam diggers, and divers (urchins/lobsters).

Figure 1. Fatalities by Fishery, 1993-2005 for USCG District 1 (NE)



Within each fishery there are hazards that are fishery-specific/gear-specific. In the lobster fishery, for example, a large number of casualties are the result of entanglement of fishermen in trap line, the line or rope, attached to the lobster pots. Entangled lobstermen can be pulled overboard as the lobster pots are thrown back into the water; pinned under and wash rail or at the transom (stern) of the boat and eventually may end up overboard; or, in a less serious accident, could lose a glove or a boot. A study of 103 lobstermen that I conducted through the Harvard School of Public Health, NIOSH-funded Education and

Research Center, in collaboration with others including Dr. Jennifer Lincoln and Dr. George Conway of the NIOSH Alaska Field Station, found that 70% of lobstermen interviewed reported that they had been entangled to the extent that they had been pulled overboard, pinned at the transom, or lost an article of clothing.[10] A subsequent publication of the study results entitled "Dangers of Entanglement during Lobstering" appeared in the "Workplace Solutions" series published by the Department of Health and Human Services in August 2005.[11]

As in most industries there are also near-misses and many injuries that are not fatal. A young New Hampshire lobsterman, fishing on October 31, 2006, was pinned to his transom by trap line that was wrapped around his thumb and forefinger; he was pulled into the water while trying to extricate himself and spent over an hour in 45 degree F water before being rescued by a near-by boat. He was fortunate to be alive and was eager to share his accident at the 2007 Maine Fishermen's Forum in Rockland Maine, so that other fishermen could benefit from his "lessons learned" and would see the importance of carrying a knife and wearing a personal floatation device (PFD).[12]

In addition to entanglement injuries fishermen can sustain other work-practice injuries they can be caught in line, wire, winches, rotating shafts; can be struck by dredges and booms, can be thrown or fall overboard during gear-setting work. Safe-practice and regulations need to address both vessel integrity and human factors. They need to focus on prevention of injury, fatality and vessel loss as much as on being able to survive until rescued.

II. Lack of Parity/Need for Parity

The Commercial Fishing Industry Vessel Safety Act of 1988 (CFIVSA) was a major step forward nearly 20 years ago in terms of providing a regulatory framework in which many safety issues could be and were addressed. However, as with all regulations, the ideal set of regulations is often compromised in favor of requirements that multiple parties can support. Legislators and their constituencies settle for gaps, inconsistencies, and lack of parity in order to take the first steps to put something on the books. In the process of enforcing new regulations, limitations may surface which necessitate revision of the regulations. The CFIVSA is no exception.

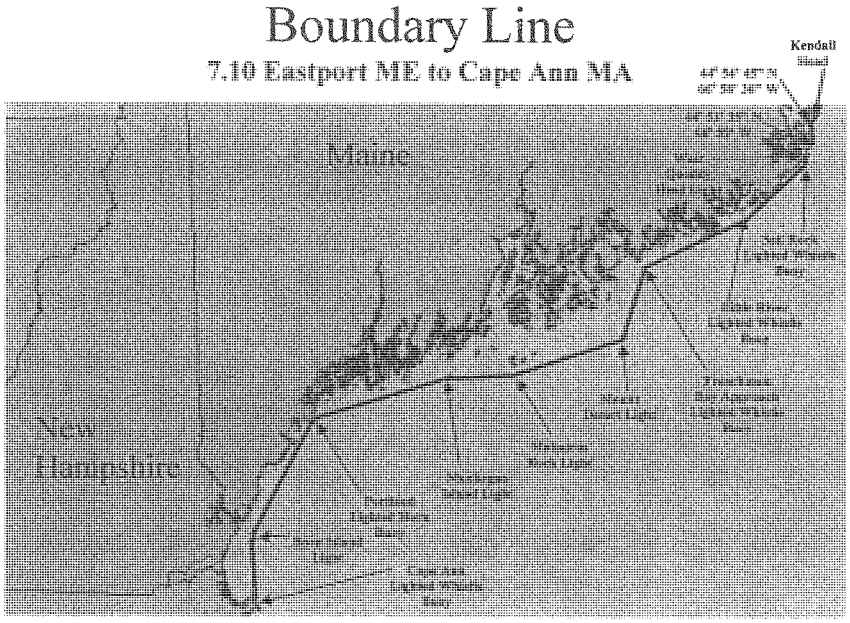
One of the major limitations that has surfaced within the safety and enforcement community in the last ten to fifteen years is the lack of parity in the CFIVSA regulations between documented vessels and state numbered vessels. In order to be documented a vessel must measure over five net tons (which is a measure of volume not weight), and it must be "wholly owned" by a U.S. citizen. Under certain conditions corporations, partnerships and other entities can be deemed a citizen for this purpose. The U.S. Coast Guard National Vessel Documentation Center provides this text to explain vessel documentation. "Vessel documentation is a national form of registration. It is one of the oldest functions of Government, dating back to the 11th Act of the First Congress. Documentation provides conclusive evidence of nationality for international purposes, provides for unhindered commerce between the states, and admits vessels to certain

restricted trades such as coastwise trade and the fisheries."[13] Some vessels will be exempt from documentation, but for our purposes, every vessel measuring over five net tons, American owned, and engaged in fishing the navigable waters of the U.S. must be documented. The markings for documented vessels do not include numbers on the port and starboard hull, but vessel name and homeport marked as specified and a numeric marking inside the hull preceded by "No."

Vessels with numbers on the bow are "state numbered" vessels and are registered with the state. However some states require that documented vessels be registered with the state; in this case, they are marked as documented vessels (do not have state numbers on the bow).

The lack of parity between federally documented and state numbered vessels can be seen in Table 3. Listed are only those items in the CFIVSA in which there is a difference between what is required of documented vessels and of state number vessels.

The Boundary Line, as my colleague Robert Baines, a fisherman from Maine, will point out, is an arbitrary line that zigzags around the U.S. basically from light house to light house. It was originally for customs demarcation. In Maine, with its peninsular-studded coast line, the Boundary Line is sometimes close to shore and in other places it is miles out to sea.



Documented and state numbered vessels can be fishing side by side beyond the Boundary Line and the state numbered vessels will not have to have first aid equipment and training; guards for exposed hazards such as trawler winches; navigation information such as charts, tide tables; a compass; anchors and radar reflectors; a general alarm or loud speaker system; communication equipment such as a VHF radio; a high water alarm; a bilge system such as a bilge pump and hoses; an electronic position fixing device such as a SAT, NAV, GPS, LORAN, OEMGA, or RDF; emergency instructions consisting of distress call directions, roles, emergency signals and special procedures etc.; or instructions, drills, and safety orientation. Table 3, summarizes those requirements of the CFIVSA where there is no parity between documented and state numbered vessels.

Table 3. Comparison of CFIVSA Requirements for Documented and State Numbered Vessels - 46 CFR (unless otherwise mentioned)
Only items where parity is lacking are mentioned

	Documented Vessels	State Numbered Vessels
Personal Flotation Devices and Immersion Suits 28.105 General Requirements 28.110 Number and Stowage 28.135 Markings 28.140 Maintenance	Immersion suits in cold waters, and beyond the Boundary Line.	Immersion suits in cold waters BUT immersion suits not required beyond the Boundary Line.
Survival Craft 28.120 General Requirements 28.125 Stowage 28.130 Equipment 28.135 Markings 28.140 Maintenance		Lesser requirement than documented if have 16 people or fewer on board.
Additional Requirements for Documented Vessels Operating Beyond the Boundary Line		
	Documented	State Numbered
Fireman's Outfits and Self-Contained Breathing Apparatus 28.205	Required if more the 49 people on board	Not likely to be more that 49 people on board
First Aid Equipment and Training 28.210	Required	Not required
Guards for Exposed Hazard 28.215	Required	Not required
Navigation Information 28.225	Required	Not required

	Documented	State Numbered
Compass 28.230	Required	Not required
Anchors and Radar Reflectors 28.235	Required	Not required
General Alarm System 28.240	Required	Not required
Communication Equipment 28.245, 28.375 33 CFR 26.03 47 CFR 80	Required	Not required
High Water Alarms 28.250	Required	Not required
	Documented	State Numbered
Bilge Systems 28.255	Required	Not required
Electronic Position Fixing Devices 28.260	Required for vessels 79 feet or longer	Not required
Emergency Instructions 28.265	Required	Not required
Instructions, Drills and Safety Orientation 28.270	Required	Not required
End of chart		

The financial impact to an owner of a state numbered vessel who upgrades his vessel to match the requirements associated with the federally documented vessel would be on the order of $3200-$4000 assuming he had on board the usual items such as a compass and an anchor, a fixed mount VHF, radar reflector, electronic position fixing devices, Nav information, and winch guards. Although there is some expense to matching the requirements of the documented vessels, the amount is manageable. The largest single purchase in this calculation was an inflatable buoyant apparatus at $2400.

The lack of parity has significant safety and rescue implications in the fishing community. The documented vessel owners have to invest more money in their safety equipment, but in so doing they increase their ability to 1) prevent accidents; 2) respond to incidents such as a flooded bilge, ruptured hull or hoses, injury, illness; and 3) to call for help and survive until rescued. In Maine only one third of the 6,455 commercial license holders use documented vessels (2101 in the year 2007); thus two-thirds of the commercial license holders are fishing in state-numbered vessels beside the documented vessels; the state numbered vessels without a full complement of required devices have less than optimal prevention, response and survival equipment;[14] and they are at much greater risk in terms of loss of life, vessel, future earning capacity, and financial assets.

The Maine Commercial Fishing Safety Council has debated how to address the parity issue. The members of the Council have developed a Maine Fishing Safety Requirements Matrix using the CFIVSA as a foundation and augmenting the requirements where needed in order to reflect what the Council believes is "safe practice" and common sense especially given that the fishing environment in Maine is basically a "cold water" (59° F/15 °C) environment year round. The Maine Fishing Safety Requirements Matrix (hereafter, Maine Safety Matrix) has dispensed with the Boundary Line and built safety requirements based on, a) length of vessel (less than 16', 16'-26', and 26' and over), and b) miles from shore (inside 3 miles, between 3 and 12 miles, beyond 12 miles). The Council would support further simplifying these requirements by making the 3 mile line the only line used to determine what safety equipment is required.

The commercial fishing safety requirements listed in the Maine Safety Matrix are more stringent than those in the CFIVSA, and in spite of the fact that they would apply to state numbered vessels, the Council has learned that because the U.S. Coast Guard authority pre-empts the states from making regulations for the commercial fishing industry, Maine cannot go forward with regulations for its state-numbered vessels. Discussions between Maine's Attorney General and legal counsel for the U.S. Coast Guard have taken place. Some options for changing the commercial fishing safety regulations in order to improve safety requirements and address the lack of parity are 1) to pass federal legislation that allows the U.S. Coast Guard to grant to states that want to establish state commercial fishing safety requirements (applicable to state numbered vessels) the authority to develop, enact, and enforce safety legislation in consultation with the U.S. Coast Guard; 2) to amend the CFIVSA to include requirements for state numbered vessels that currently only apply to documented vessels beyond the Boundary Line; or 3) to undertake a wholesale revision of the CFIVSA and, in the interest of parity, prevention of accidents, preservation of life, and promotion of safe practice, dispense with the Boundary Line as a qualifier and use a simpler framework such as the 3 mile line that is easily understood and readily enforceable.

Examples follow showing how regulations based on the Maine Safety Matrix would change current requirements for state numbered vessels:

1. In addition to the requirements specified in the CFIVSA, vessels 16 feet and over fishing inside the 3 mile line would have to have compass, anchor, radar reflector, USCG-approved First Aid Kit, and a dewatering device (if 16-26 feet in length, or a bilge pump (if over 26 feet in length).

2. In addition to the requirements specified in the CFIVSA, all vessels, regardless of length fishing between the 3 mile line and the 12 mile line would be required to have compass, anchor, radar reflector, USCG-approved First Aid Kit, high water alarm, bilge pump, immersion suits with USCG-approved light and tape marking, VHF with separate power source and an electronic position fixing device.

3) In addition to requirements specified in the CFIVSA, all vessels fishing outside the 12 mile line would be required to have all of the items in #2 plus an inflatable buoyant apparatus.

In the proposed regulations specified in the Maine Safety Matrix, a high water alarm is required for all state numbered vessels fishing beyond 3 miles and for vessels over 25 feet fishing inside 3 miles. This requirement exceeds the current requirement for documented vessels; the CFIVSA only requires a high water alarm in vessels 35 feet or more fishing beyond the Boundary Line. This high water alarm is such an important early warning device, that it should be present in all documented vessels regardless of where they are fishing. Early warning may help reduce the large number of vessel losses due to sinking. However, a revision to the CFIVSA would have to be made to accommodate this requirement.

In summary, many lives have been saved since the institution of the CFIVSA in 1988. Now the lack of parity must be addressed and with regulations that reduce risk and save lives and vessels; new regulations need to be comprehensive as well as easy to understand and enforce.

There may be attendant issues regarding enforcement that should be considered at the same time as new regulations are being developed. For example, in some states and certainly in Maine, because the marine patrol infrastructure and expertise are well developed, new roles for the patrol could be possible. Compliance and enforcement are vital to the effectiveness of fishing safety regulations; although it will require revision of some authorities and initiation of new memoranda of understanding such as the memorandum between OSHA and the Coast Guard, partnerships and collaborations between marine patrol and the Coast Guard could extend manpower resources for compliance and enforcement activities.

III. Need for Training and Certification of Competency

As noted in Table 3, the CFIVSA stipulates that documented vessels fishing beyond the Boundary Line must engage in instructions, drills, and safety orientations monthly. There are presently no requirements for training and drills for crews of state registered boats. This is a major gap and a major parity issue from the stand point of the safety community and more recently the fishermen.

Various vendors around the country provide the Drill Conductor Training which enables vessel owners and/or crew of documented vessels to comply with the CFIVSA requirement. To mention a few:

AMSEA, the Alaska Marine Safety Education Association, developed a Drill Conductor Training Course in 1991 to help reduce the loss of life in Alaska which was running at roughly 38 lives a year and to address the training requirements of CFIVSA. AMSEA instructors have trained over 7,000 fishermen through 700 Drill Conductor courses, according to their website at www.amsea.org.[15] Jerry Dzugan, Director of AMSEA, who

is advocating for marine safety with us today, has developed curricula, trained fishermen, and currently serves as Chair of the Commercial Fishing Industry Vessel Safety Advisory Council (CFIVSAC).

Dating back to the 1970s, John McMillan of McMillan Offshore Survival Training, with homeport in Belfast Maine, has provided training in the East, and on the Gulf Coast as well as in other locations around the world. Mr. McMillan has offered U.S. Coast Guard-approved Drill Conductor Training since 1994.

Fred Mattera of North East Safety Training Company (NESTCo) of Narragansett, RI and Thomas Dameron of Shipboard Emergency Action Company (SEACO) of Bridgeport NJ are also approved by the Coast Guard to train drill conductors.

The designated drill conductor for each documented vessel (need not be master or crew of the vessel) as specified by 46 CFR 28.270 must provide drills and instructions monthly for "abandoning the vessel; fighting a fire; recovering a person who has gone overboard; stabilizing the vessel after unintentional flooding; launching survival craft and recovery of lifeboats and rescue boats; donning immersion suits, PFDs, fireman's outfit and SCBA; making a radio distress call and use of visual distress signals; activating the general alarm; reporting all inoperative alarms and fire detection systems."[16]

In line with addressing the parity issues cited above, state numbered vessels should have the same requirement for instructions, drills, and safety orientation as documented vessels.

The Maine Commercial Fishing Safety Council believes strongly that there should be parity with respect to safety training and that all that all fishermen should have the knowledge and skills represented by 46 CFR 28.270. Under its mandate to make recommendations to the Maine Department of Marine Resources (DMR) that improve safety in the fishing industry, the Council asked the Department to require safety training for lobster apprentices under 12 M.R.S.A. Section 6422 which authorizes the DMR to require education in addition to practical training for lobster apprentices. While the states are pre-empted by federal law from legislating fishing safety regulations, educational requirements for a fishing license can fall under the purview of the states, providing their statutes permit such rule-making.

After a number of public hearings on the rule, held in the fall of 2006, the Lobster Apprentice Program, Safety Education Course requirement became effective February 1, 2007 in Maine. The course that fulfills this requirement is the U.S. Coast Guard-approved drill conductor course.

However, this is as far as Maine can go because federal law pre-empts the states from adopting and/or enforcing federal regulations as state law. The state of Maine seeks a partnership and collaboration with the U.S. Coast Guard in order to make changes in federal law "that would allow Maine to adopt rules similar to the federal U.S. Coast Guard rules."[17]

In addition to safety training that addresses vessel safety, we need to make available training that addresses the human factors and work practices of fishing. In New England we have multiple fisheries and associated fishery-specific/gear specific risks. For example in the lobster fishery, entanglement in trap rope is a major risk, whereas in the scallop industry struck by-struck against and capsizing are major risks. Urchin divers are at risk for decompression sickness, arterial embolism, and drowning.[18] In the mobile gear fisheries where the use of nets, long lines and draggers are characteristic of the fisheries, the risks are winches and wires, struck-by/struck against, lifting heavy equipment, deck flooding, slips and falls, and man overboard. Fishery-specific risks are also related to the fishing season, for example, scallopers and others who fish in the winter in New England are at risk for icing conditions leading to capsize.

Maine's experience with fishery-specific training is well-illustrated by the urchin fishery. This fishery experienced 8 deaths between 1989 and 1993.[19] The report of Maine's response to this loss of life was provided by Major John Fettermen of the Maine Department of Marine Resources to the Alaska Diving Safety Workshop held July 25, 1997. The NIOSH Current Intelligence Bulletin 58 reported on Maine's response to these deaths stating that Maine passed "emergency regulations to require (1) persons to be a resident of Maine to participate in the fishery, (2) divers must show proof that they are certified in basic open water diving from any recognized national association, (3) both divers and tenders must attend a competency class, and (4) tenders must be licenced [licensed, sic] by attending a competency class. Since the implementation of this program in 1994, only one diver has been killed."[20]

The success of this training project in the urchin fishery is well-supported by the fact that we can still report in 2007 that not since 1994 has there been a death in the urchin fishery.

The lobster fishermen and those fishing on draggers and trawlers could also benefit from fishery-specific training in New England. A few steps have been taken in that direction. At the conclusion of the lobstermen entanglement study 2000,[21] the Harvard NIOSH Education and Research Center funded a risk communication flyer/poster "Lobstering Safety Secrets Revealed" that describes entanglement in trap rope and offers suggestions from lobstermen for reducing the risk of entanglement. While not a course, this communication has been widely distributed in Maine, provided to the U.S. Coast Guard to distribute during voluntary dockside exams, and discussed at the annual Maine Fishermen's Forum in Rockport, Maine. A similar risk communication notice was developed by Dr. Jennifer Lincoln and others and published in the Workplace Solutions series as noted previously.

The FISH SAFE column in Commercial Fisheries News has become a vehicle for fishery-specific education as well. The realization of a "culture of safety" in the northeast fishing industry is growing thanks to awareness and advocacy efforts of groups such as the Maine Commercial Fishing Safety Council, the Maine Fishermen's Forum, the Island Fishermen's Wives, the Maine Lobstermen's Association, the Downeast Lobstermen's Association, the Massachusetts Hook Fishermen's Association, the Massachusetts

Fishermen's Partnership, the Gloucester Fishermen's Wives Association, the MIT Sea Grant Program, FISH SAFE – Commercial Fisheries News, SAFE BOAT – Commercial Fisheries News, The Voice of Safety – The Fishermen's Voice, Consequences – National Fishermen and National Fishermen.com, Boat Expositions, and others.

The Northeast could benefit tremendously from the availability of grant money for accident research and injury surveillance, as well as for fishery-specific research in the Northeast such as that undertaken by the Harvard-NIOSH Education and Research Center in 1999-2000. Grant money that could be used in partnership with fishing safety advocates would support the development of best practices curricula for the northeast fishing community, improve risk communication, and increase safety competency. It is vital to the support of infrastructure for the "culture of safety" we are working to promote.

Although not the only available avenue for fiscal support of fishery-specific research, the NIOSH National Occupational Research Agenda (NORA) could be very helpful in laying the fiscal foundation for future research in this area.

The U.S. Coast Guard has been very helpful in working with us researchers and advocates to provide data to support our work. We very much hope that this partnership with researchers safety professionals, and curriculum developers can continue, and we welcome opportunities to collaborate to continue to improve the quality of data and therefore of research about and risk communication to the fishing community.

IV. The Maine Commercial Fishing Safety Council

The Maine Commercial Fishing Safety Council was duly constituted on April 25, 2003. It is a unique organization; no other state has a formal organization based on an industry-driven initiative. The majority of 15 council members are fishermen, and they represent the range of fisheries in Maine from clams to urchins. The other members of the Council are a spouse, a member of the public, a marine surveyor, a safety equipment expert, an occupational health and safety instructor, and a community-based adult educator.

The strength of the Council today is grounded in the fact that the members of the task force that established the purpose of the Council required consensus on all principles of organization. The principles that guide the Council are: parity for all vessels, safety and fishery-specific training, and the cornerstone principle that fishing safety is an industry-driven initiative. Accomplishments to date include development of the Maine Fishing Safety Requirements Matrix; Harbor Visits, a program that provides dockside exams and dockside education as a collaboration between the U.S. Coast Guard Marine Safety Office in Portland, ME and the Maine Marine Patrol; the establishment of a new Lobster Apprentice Program Safety Education Course effective February 1, 2007; and three open meetings at the annual Maine Fishermen's Forum.

This Council is laying the ground-work for the establishment of an infrastructure to improve fishing safety in Maine. In the document transmitted to Governor Angus King

in September 2002, recommending the establishment of the Council, the members stated that, "There was universal agreement that the spirit and intent of this initiative must be to inculcate a culture of safety in the commercial fishing fleet...." [22] That it seems is our job in Maine and throughout the United States.

V. Summary and Recommendations

1) The CFIVSA is working; the number of fishing fatalities has decreased over the past 20 years. However, the incidence of work-related fatalities in the fishing industry is still unacceptable at 86.4 per 100,000 full time workers. The pain and economic disruption to families resulting from these losses is often devastating. We want our fishermen to come home at the end of the day. We want to prevent fatalities, injuries, and vessel losses.

2) Parity in the fishing regulations between federally documented and state numbered vessels is vital to the safety of the fleet. It makes safety-sense.

3) Legislation that permits states to promulgate safety regulations or other mechanisms that allow states to address local fishing safety concerns are much needed. Partnerships and collaborations with the Coast Guard to promote the safety of the fleet and the vitality of the fishing industry should be fostered.

4) Education and training are the backbone of a safe fleet. Training for competency should be based on reliable surveillance data, incorporate the traditional topics, address safety issues that surface from reports of contemporary casualties, and be fishery-specific. It must be responsive to the concerns and realities the fishermen and the individual fisheries.

Thank you for this opportunity to testify and join with you to promote commercial fishing safety.

END NOTES

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Robert S. Baines, Chairman
Maine Commercial Fishing Safety Council

Testimony to the Subcommittee on Coast Guard
and Maritime Transportation
of the
House Committee on Transportation and Infrastructure

April 25, 2007

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Representative Cummings, distinguished members of the committee. I would like to thank you for the opportunity to speak with you today on a subject that I live with as a regular course of doing my job.

My name is Bob Baines and I am a lobster fisherman from mid coast Maine. I am chairman of Maine's Commercial Fishing Safety Council, a board member of the Maine Lobstermen's Association, and president of the Spruce Head Fishermen's Co-op.

I have commercially fished my entire adult life, owning and operating my own boats for over 25 years. I am primarily an inshore lobsterman, but I have extensive history as a scallop fisherman, as well as experience working on groundfish boats throughout the Gulf of Maine.

As we all know, commercial fishing is a dangerous occupation that threatens fishermen's lives and property on a daily basis. As a fisherman, I have personal knowledge of the danger and the subsequent consequences of operating a fishing vessel and the inherent risks challenging Mother Nature.

I rescued my brother and his crew from the cold December waters after his boat sank from underneath him 20 years ago. Survival suits, a brief radio call, and knowing his last location made for a happy ending for my brother and his crew. By the time I found them, his boat was long gone.

I also had the unfortunate experience of participating in a search and rescue for two local teenage boys. These aspiring young fishermen, lacking in experience, were in a boat that was inadequate for the weather conditions. Their boat capsized, and both drowned in cold April waters. We found one of the boys washed ashore on an island, and I found the other boy the next day, still in the water. I will never forget that unnecessary tragedy.

I realize that not all risk can be removed from commercial fishing, but there are some things that can still be done that would increase the safety of commercial fishermen without burdensome and expensive regulations.

Maine has a one-of-a-kind Commercial Fishing Safety Council. The Council is comprised of commercial fishermen, safety experts, marine industry members, educators, members of the public, and advisors from the U.S. Coast Guard and Maine's Marine Patrol. Our mission is to create and enhance a culture of safety in Maine's commercial fishing industry.

The Safety Council recently recommended and spearheaded the implementation of safety training as a component of Maine's Lobster Apprentice Program. Beginning in January of this year, all fishermen enrolled in the apprentice program, over 1,000, are required to complete the U.S. Coast Guard approved Drill Conductor Course before they can get a commercial lobster license. If the two young boys I mentioned earlier had participated in a safety training program, their lack of judgment, and dire consequences, might have been different. Commercial fishing safety training by all commercial fishermen is a goal of Maine's Commercial Fishing Safety Council and I encourage this committee to help make that goal a reality.

As Maine's near-shore fishing fleet, which numbers in the thousands, has grown and upgraded, the issue of parity between state registered vessels and federally documented vessels is a concern. It makes no sense to have two sets of rules, one for state registered boats, and a second for federally documented boats. If a vessel is required to have specific safety equipment, then common sense would tell you that all vessels of the same size, and operating the same distance from shore, should require the same safety equipment. Current federal law prohibits states from enacting commercial fishing safety requirements. The danger is the same whether you are state registered or documented.

When the Commercial Fishing Industry Vessel Safety Act of 1988 was passed, the Maine Lobstermen's Association was opposed to any kind of safety requirements for state registered boats. Times have changed, and the Maine Lobstermen's Association and other industry organizations recognize that the Commercial Fishing Act of 1988 has saved lives and further recognizes the importance of safety regulations for all commercial fishermen.

Federal pre-emption prohibits states from enacting and enforcing fishing vessel safety regulations. Why shouldn't states have the ability to protect their citizens as the federal government does? States should be given the option and authority to enforce safety regulations in state and federal waters. Sensible and easily understood safety regulations would promote compliance.

Maine wants to adopt commercial fishing safety regulations. Maine's fishing industry supports this objective.

The second issue I would like to bring to your attention today is the Boundary Line. The Boundary Line is an arbitrary line that has no rationale in determining

risk to commercial fishermen. Where I fish, the Boundary Line is over 20 miles from my harbor, in other areas of the state it runs to the shore. The Boundary Line does not appear on charts and its inconsistency should disqualify it from any logical use in fishing vessel safety regulations. It does not make sense to use the Boundary Line for safety regulations; and it makes the existing regulations complicated and very difficult for the average fisherman to grasp.

The three mile line exists on all charts. It is consistent. Distance from shore is a true measure of risk that makes sense. The substitution of the three mile line for the Boundary Line would go a long way towards making federal fishing safety regulations more practical and user friendly.

Thirdly, there has been of late a surge of interest and support for safety training in the commercial fishing industry throughout the country. Fishermen are recognizing the advantage that safety training provides them. Safety training provides fishermen with the necessary tools to handle difficult situations with emergency response skills.

Current federal regulation requires all federally permitted vessels to have on board a person who has successfully passed the Drill Conductor Course and conduct drills on a monthly basis, or have a qualified Drill Conductor perform monthly drills dockside.

This regulation is very difficult to enforce. Maine's Commercial Fishing Safety Council would like to propose a simple method to enhance safety: Require all fishermen holding National Marine Fisheries Service (NMFS) Commercial Vessel Operator's Permits to successfully complete the Drill Conductors Course. The captain of a vessel is responsible for the safety of his or her crew. The captain should be required to complete this course. This suggestion is easily enforceable; possession of an Operator's Permit proves completion of the course. The structure for issuing the Operator's Permit is already in place, as is the Coast Guard approved Drill Conductors Course.

I would like to thank the committee for your time and attention. I will be happy to answer any questions you have for me.

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DEPARTMENT OF HOMELAND SECURITY

U. S. COAST GUARD

STATEMENT OF

REAR ADMIRAL CRAIG BONE

ON

COMMERCIAL FISHING VESSEL SAFETY

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

APRIL 25, 2007

Good morning Mr. Chairman and distinguished members of the Subcommittee. I am Rear Admiral Craig Bone, Assistant Commandant for Prevention, United States Coast Guard. I am pleased to have this opportunity to appear before you today to discuss Commercial Fishing Vessel Safety and the Coast Guard's safety program and initiatives.

The Coast Guard's Commercial Fishing Vessel Safety (CFVS) Program is aimed at improving safety in the commercial fishing industry, reducing the number of vessels lost, and reducing the number of fishing-related fatalities. The thrust of the existing CFVS Program is to gain compliance with the CFVS regulations through educational, voluntary, no-fault, dockside safety examinations and other outreach efforts. Regulatory enforcement is accomplished through at-sea boardings, which complement the CFVS Program. We also balance our prevention efforts with our response capabilities to minimize the consequences of the inevitable casualties that do occur.

Historically, commercial fishing has been one of the most, if not the most, hazardous occupations, in the United States. In 2005, the Bureau of Labor Statistics found that commercial fishermen and workers aboard uninspected fishing vessels died at a rate of 118 per 100,000. For comparison, the fatality rate for the towing industry, another uninspected segment of the marine industry, was only 17 per 100,000 workers, and in the American workplace as a whole, the rate was only four deaths per 100,000 workers.

CFVS has long been a matter of concern to the Coast Guard, but limitations on regulating the safety of commercial fishing vessels have been encountered because they are classified as "uninspected vessels." From the 1930s to the 1980s, various legislative proposals were introduced to increase safety standards for commercial fishing vessels, such as requirements for periodic safety inspections, watertight compartments, and licensing of vessel operators, but none of these proposals came to fruition.

In 1971, the Coast Guard conducted a study and cost-benefit analysis of alternative safety programs for commercial fishing vessels. The report documented the fishing industry's poor safety record and attributed it to the fact that fishing vessels, with few exceptions, have traditionally been exempted from the safety regulations required of other commercial vessels. The study recommended licensing of masters, mandatory safety standards including full inspection and certification of new vessels, and mandatory and voluntary standards combined with inspection and certification of existing vessels. The report also drew parallel comparisons to the Small Passenger Vessels Safety Act of 1956, which required structural and loading standards and inspections on those vessels and led to an 80% reduction in passenger deaths.

Fishing vessel safety legislation based on the 1971 study was prepared by the Coast Guard and forwarded to the Office of Management and Budget (OMB). The National Marine Fisheries Service (NMFS) of the Department of Commerce (DOC) recommended that action to require inspection of fishing vessels be deferred until they could complete a study on commercial fishing vessel insurance. In 1975, DOC recommended an alternative proposal to OMB for a voluntary safety program for fishing vessels. The Department of Transportation (DOT) then advised OMB that the Coast Guard proposal would be held back while a study of the DOC proposal was conducted. In July 1976, the Secretary of Transportation forwarded copies of the Coast Guard's 1971 study to the Senate Committee on Commerce and the House Committee on Merchant Marine and Fisheries, but the Secretary did not recommend the Coast Guard's legislative program, citing the inflationary impact to the economy and an increased interest in a voluntary program by the commercial fishing industry. This effectively stopped this initiative for fishing vessel safety legislation.

In 1978, the Coast Guard initiated a voluntary dockside uninspected vessel examination program. The purpose of the program was to improve safety throughout the uninspected fleet, including commercial fishing vessels. A project to develop a triennial dockside educational examination program was initiated, but a budget reduction in 1981 eliminated the program.

The 1980s saw a renewed awareness of fishing vessel safety, several tragedies, and finally safety standards legislation. Three Coast Guard personnel co-authored and presented a paper entitled "Life Safety Approach to Fishing Vessel Design and Operation" to a symposium of the Society of Naval Architects and Marine Engineers. The authors suggested that training and dockside examinations would reduce casualties. Further, they recommended specific training in fire safety and personnel safety, and requirements for lifesaving equipment. They also noted that if casualties continued to increase, there would be significant pressure for the government to intervene into fishing vessel design and operation.

Several fishing vessel tragedies in the early 1980s, along with fishermen's concern over rising insurance costs, renewed interest in fishing vessel safety. The Coast Guard formed a Fishing Vessel Safety Initiative Task Force in August 1984 to study how fishing vessel safety could be improved, and the Task Force recommended a two-pronged approach. One part of the program promoted vessel safety through voluntary standards written in five Coast Guard Navigation and Vessel Inspection Circulars (NVIC). These voluntary standards were revised and consolidated into a single NVIC published in 1986. The standards were written primarily for fishing vessel designers, builders, outfitters, and marine surveys, and they are still referenced today. The second part of the program promoted crew safety through a safety guide developed by the Coast Guard and the North Pacific Fishing Vessel Owners' Association (NPFVOA), and both were permanently adopted by the Coast Guard Marine Safety Program in January 1987.

The House Merchant Marine and Fisheries Committee's Subcommittee on Coast Guard and Navigation held a series of hearings on marine safety in 1984, which resulted in statutory amendments defining fishing industry vessels and clarifying inspection, licensing and manning requirements for fish processing vessels. During this same time period, hearings were held on the availability and cost of insurance for commercial fishing vessels. As a result, legislative proposals were introduced to address liability and insurance issues, but action on these issues was interrupted by another event that heightened the vessel safety debate.

In August 1985, the WESTERN SEA, a seventy-year-old purse-seiner with a crew of six, disappeared in the Bering Sea. Another vessel recovering the body of crewmember Peter Barry was the first indication of any trouble, and an intensive search by the Coast Guard failed to locate any survivors or the vessel. After the death of their son, Ambassador Robert Barry and his wife Peggy Barry worked to galvanize safety advocates, government officials, lawmakers, and survivors and loved ones of other commercial fishermen lost at sea to renew the campaign for congressionally mandated safety standards.

By 1987, bills were introduced to address fishing vessel safety and insurance liability. One bill supported by the Barrys specifically addressed vessel inspections, on-board equipment requirements, licensing and training of masters and crew, casualty reporting, and the establishment of a Fishing Vessel Safety Advisory Committee. A September 1987 National Transportation Safety Board (NTSB) study on "Uninspected Commercial Fishing Vessels" added support for the safety legislation being considered. The NTSB testified at hearings on their recommendations, to include minimum standards for: safety training, basic lifesaving equipment

to include exposure suits, approved life rafts, emergency radios, Emergency Position Indicating Radiobeacons (EPIRB), flooding detection and dewatering systems, fire detection, fixed firefighting systems, periodic inspection, prohibition of the use of alcohol or drugs when engaged in commercial fishing operations, education regarding the dangers of toxic gases in unventilated spaces, and the need for research on vessel stability.

The "Commercial Fishing Industry Vessel Safety Act of 1988 (P.L. 100-424) was signed into law by the President on September 9, 1988. The determined efforts by the Barrys and many others resulted in the first safety legislation enacted in the United States applying specifically to commercial fishing vessels, and the Act gave the Coast Guard authority to prescribe safety regulations. The Commercial Fishing Industry Vessel Safety Advisory Committee (CFIVSAC) was formed, and in 1989, it began aiding the Coast Guard in the development of these safety regulations. They were published as 46 CFR Part 28, Requirements for Commercial Fishing Industry Vessels and became effective on September 15, 1991. In 1996, some requirements for safety equipment and vessel operating procedures were modified, but actions related to immersion suit and extended stability requirements were deferred. Those pending proposals were terminated in 1998.

Pursuant to the Act, the Coast Guard began developing a plan for licensing operators of federally documented fishing industry vessels. The CFIVSAC prepared a detailed report for the Coast Guard and recommended "certification" of operators including "competency" requirements. In January 1992, "A Plan for Licensing Operators of Uninspected Federally Documented Commercial Fishing Industry Vessels" was submitted to Congress. In May 1993, a revised plan was submitted. In 1996, a request was made for authority to license operators of commercial fishing industry vessels. Despite these efforts, to date no such authority has been granted.

As mandated by the Act, the National Research Council (NRC) conducted a study on fishing vessel safety and the need for vessel inspections. Their report "Fishing Vessel Safety – Blueprint for a National Program" was published in 1991. It was reviewed by the Coast Guard and the CFIVSAC. Several of the recommendations were endorsed including the establishment of an inspection program for commercial fishing industry vessels. In November 1992, the Coast Guard submitted a report to Congress for the inspection of commercial fishing industry vessels.

Within the November 1992 report, the authority was requested to carry out inspections under a three-tiered approach: 1) Allow for self-inspection of new and existing vessels less than 50 feet in length, 2) Allow for third party examination of new and existing vessels greater than or equal to 50 feet but less than 79 feet in length, and 3) Require more extensive Coast Guard inspection and load line assignment on vessels 79 feet or greater in length. In addition, the inspection plan would have required new vessels 79 feet or more in length to be designed and built to class standards, and existing vessels of that length could have additional hull and machinery standards imposed if authority was granted. As with the licensing plan, no additional authority has been granted.

In the absence of authority to inspect commercial fishing industry vessels, the Coast Guard embarked on an outreach and education program. The most noteworthy of these efforts is our voluntary dockside examination. During these voluntary examinations, a Coast Guard examiner works with vessel owners, operators and crew to explain requirements, check compliance with all federal regulations, and when possible, assist the crew in correcting deficiencies. Any discrepancy discovered is brought to the crew's attention, but no penalties result.

In carrying out the CFVS Program, the Coast Guard established 61 new positions that were distributed across Coast Guard Headquarters, each District Office, and all Marine Safety Offices (now Sectors) throughout the country. Several additional positions were established in the program in 1996 to assist in training Boarding Officers. To provide essential training and encourage fishermen's participation in the CFVS Program, the Coast Guard placed damage control training trailers, damage stability trainers, intact stability trainers, and EPIRB test kits throughout the country.

Aggressive safety outreach initiatives are complemented by compliance boardings at sea. Enforcement of certain critical safety and survival equipment carriage requirements deter non-compliance. Vessels found to be lacking critical equipment, being operated in an unsafe manner, or otherwise characterized as having especially hazardous conditions on board, have their voyages terminated. In addition, vessels identified as high risk, as determined by regional enforcement or safety personnel, may be targeted for boardings when sighted underway. Table 1 below contains statistics on fishing vessel safety activities.

Despite the progress the Act represents, the Coast Guard believes further significant risks remain. For example, in a three-week period during January 1999, four clam-fishing vessels (ADRIATIC, BETH DEE BOB, CAPE FEAR, and ELLIE-B), one conch-fishing vessel (PREDATOR), and eleven fishermen were lost. As a result of this surge of casualties, the Coast Guard convened a Fishing Vessel Casualty Task Force on January 27, 1999, that was comprised of representatives from the Coast Guard, NOAA, NMFS, NTSB and OSHA, along with industry advisors. The Task Force was charged with evaluating the circumstances of the recent accidents, examining the incidents in context of historical data for loss of life and property, providing quick feedback to the industry on the safety issues, reviewing the current CFVS Program and past recommendations that have potential for reducing loss, recommending the most significant measures that would have great potential for reducing loss of life and property, and developing direction and an action plan to be pursued by the CFIVSAC, the Coast Guard, and industry.

The Task Force issued their report in March 1999. For this report, the Task Force examined two five-year periods – one period prior to passage of the Commercial Fishing Industry Vessel Safety Act (CFIVSA) of 1988, and the second period after the safety regulations became effective in 1991. From 1984 – 1988, 519 lives and 1,177 vessels were lost during commercial fishing operations. From 1994 – 1998, 351 lives and 699 vessels were lost in the industry. This represents approximately 37% fewer lives and vessels lost.

The results of this Task Force indicated that the Coast Guard's CFVS Program coincided with a reduction in fishing vessel casualties. Several other factors are also believed to have contributed to the reduction in fatalities, in addition to the imposition of safety requirements. First is the reduction in the number of vessels and commercial fishing effort due to the distressed nature of the industry. Secondly, many fisheries management practices overseen by the National Marine Fisheries Service (NMFS) have changed to give increased emphasis on safety. The third factor contributing to reduced fatalities is partnerships with those organizations that are also concerned with safety within the commercial fishing industry. Most prominent among these partners is the National Institute for Occupational Safety and Health (NIOSH.). NIOSH opened a field station in Anchorage, Alaska shortly after passage of the Act to focus on improved safety within the industry. Working with the Alaska Department of Fish and Game has resulted in a significant improvement in some Alaskan fisheries as well.

The Task Force also concluded that most casualties could be prevented and that the continued high loss rates and risk to fishermen was not acceptable. The Task Force believed it was time to go beyond the minimal standards and strive for breakthrough levels of loss reduction in the fishing industry. The report, "Living to Fish Dying to Fish," contained 59 safety recommendations divided into seven categories: Coordinate Fishery Management with Safety; Establish Operator and Crew Standards; Ensure Vessels Comply with Standards; Establish Safety and Stability Standards; Improve Program Management; Conduct Research and Development; and Inform Fishermen.

Subsequent to the Task Force findings, the CFIVSAC met at Coast Guard Headquarters to review and evaluate the Task Force recommendations. At the same time, CFVS Coordinators from each Coast Guard District, the CFVS Program Manager, and fisheries law enforcement representatives met to discuss the Task Force report. Both groups provided recommendations for implementing the immediate and short term initiatives to improve safety in the fishing industry. Many of those actions were taken, others have been initiated over the following years, and others are still being pursued. The following are key actions that have been taken since 2000.

- The Coast Guard expanded training of NMFS agents and observers on the dockside examination program and fishing vessel safety matters and now sends representatives to Regional Fisheries Management Council meetings to promote safety concerns.
- The Coast Guard increased promotional activities on safety and survival and included fishing vessel safety programs in industry day-type activities.
- The Coast Guard expanded the role of the Auxiliary in the CFVS Program. In some areas, Auxiliary examiners account for approximately one third of examinations conducted.
- The Coast Guard established 24 new positions in the CFVS Program and a Fishing Vessel Safety Division at the Headquarters level. The positions added CFVS personnel at each of the Regional Fisheries Training Centers, the CFVS Program staff, and numerous Marine Safety Offices (now Sectors) throughout the country.
- The Coast Guard improved casualty investigation and data analysis to support risk based decision making and examines casualties for "lessons learned" to provide feedback to the industry to improve safety. We send monthly articles on consequences to a national industry magazine.
- The Coast Guard has developed better lines of communication with the commercial fishing industry and established a web site (www.fishsafe.info) dedicated to fishing vessel safety-related information.
- The Coast Guard publishes safety information fliers, quick reference cards, and equipment requirement pamphlets for distribution to the fishermen during dockside contacts and other outreach programs. These items are being translated into Spanish and Vietnamese.
- Coast Guard examiners now emphasize emergency preparedness drills as part of the voluntary dockside vessel safety examinations.
- The Coast Guard initiated "Safe Catch" programs in several regions where certain types of fisheries are known to be high risk, such as Alaska, the Pacific Northwest, and the Northeast. Under these programs, several examiners visit those port areas prior to the season opening offering safety examinations and drill training to ensure the fishermen and their vessels are ready to get underway. Vessels that do not participate can expect to be boarded during the fishery and checked for full safety and survival equipment compliance.
- The Coast Guard has submitted proposals to conduct a pilot project for mandatory dockside safety examinations in at least two regions of the country where data shows fatality rates are the highest.

- The Coast Guard is considering options for developing appropriate fishing vessel operator and crew competency standards that directly addresses casualty risk.
- The Coast Guard is considering options for developing appropriate fishing vessel safety and stability standards that directly address casualty risk. We are currently working on a regulatory project to extend stability and watertight integrity standards to new fishing vessels 50 feet or greater in length.

These improvements to the Coast Guard's CFVS Program have increased safety and have contributed to lower fatality and vessel loss rates in the commercial fishing industry. Through increased Coast Guard presence on the docks, risk-based and regionally focused compliance boardings, and other agencies' requirements for safety examinations, fishing vessel safety and awareness have improved.

In 2000, the number of fatalities dropped to 37, over 50% from the 77 fatalities in 1999. We believe this was a direct result of the findings, recommendations, and safety awareness generated by the Task Force subsequent to the multiple deadly sinkings in January of 1999. In 2001, fatalities spiked to 58. Much of this, however, can be attributed to one incident, the sinking of the ARCTIC ROSE which claimed 15 lives.

The terrorist attacks in September 2001 prompted the Coast Guard to reallocate personnel and resources to security initiatives. As a result, the number of dockside safety examinations dropped in 2002 and 2003. As resources were gradually returned to the CFVS Program, examinations returned to their prior levels and then began to increase due to safety requirements initiated by the NMFS on vessels carrying observers. The number of compliance boardings began to increase significantly after 2003. With the exception of 2001, the number of fatalities and vessel losses held fairly steady at rates lower than before the Task Force recommendations were implemented. Again, we believe this is a result of increased awareness, greater emphasis on safety, and the CFVS Program initiatives, but it does not necessarily account for dynamic variables that can affect safety, such as the number of fishermen, number of fishing vessels, fisheries management decisions, weather conditions, and level of fishing activity.

Table 1 Commercial Fishing Vessel Safety (CFVS) Statistics 1992-1999

	1992	1993	1994	1995	1996	1997	1998	1999
Voluntary Dockside Exams	3,662	7,162	7,212	7,808	6,843	6,351	5,652	7,225
Safety Decals issued	1,661	3,432	3,545	3,929	3,719	3,451	3,485	3,992
CFV Fatalities (Operational)	95	90	75	62	82	61	71	77
Vessel Losses (Operational)	172	161	153	117	166	138	125	123

Commercial Fishing Vessel Safety (CFVS) Program Measures 2000-2006

	2000	2001	2002	2003	2004	2005	2006
Voluntary Dockside Exams	7,193	6,527	5,817	5,619	7,011	7,383	7,799
Safety Decals issued	3,286	3,683	1,849	1,872	2,513	2,486	3,137
Compliance Boardings	3,883	3,610	3,845	4,650	5,984	6,157	7,163
CFV Fatalities (Operational)	37	58	37	43	37	42	42
Vessel Losses (Operational)	85	133	127	114	117	118	81

The impact of the safety legislation and regulations, and subsequent safety initiatives can be seen in the reduction of fatality averages but are not as significant for vessel losses. Prior to the Act passage in 1991, fatalities averaged around 120 per year. After the Act and until the Task Force in 1999, the fatality average dropped to about 76 per year. Following the Task Force to present, the fatality average has been approximately 42 per year. For the same time periods, the averages for vessel losses fell from approximately 225 to 144 to 110.

The Coast Guard is considering a proposed rule for Commercial Fishing Vessel Safety. The Notice of Proposed Rulemaking (NPRM) would be a significant rulemaking that includes numerous new requirements including, but not limited to, stability on vessels 50-79 feet; maintenance and self-examination; safety and other training; drill conductors on board; survival suits in seasonally cold waters, and documentation of maintenance, testing, and training performed.

In summary, the Congress, Commercial Fishing Industry Vessel Safety Advisory Committee, commercial fishing industry, and the Coast Guard have all worked to improve safety on commercial fishing vessels, but there is still much work that can be done. We are continuously improving our response posture and capabilities so as to minimize the consequences when vessel casualties do occur.

Thank you for this opportunity to discuss commercial fishing vessel safety. I will be pleased to address any questions that you may have.

Testimony of

of

Blaine E. Collins
Vice President and Regional Manager, Americas
Det Norske Veritas Classification (Americas), Inc.

Before the

United States House of Representatives

SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION

HEARING

on

Commercial Fishing Vessel Safety

Wednesday, April 25, 2007
2167 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

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Good morning, Mr. Chairman, and members of the subcommittee. I am Blaine Collins, Vice President and Regional Manager of Det Norske Veritas Americas. I am honored to have this opportunity to discuss the issues of fishing vessel safety with particular emphasis on how we can make the fishing industry safer.

Det Norske Veritas (DNV) is one of the world's leading classification societies and has worked to improve safety at sea since 1864. Indeed, our corporate objective is safeguarding life, properly and environment by managing risk.

In my testimony today, I will describe the classification process and why it is a logical and necessary step for improving the safety of fishing vessels. Indeed, classification is a well-recognized and key element of the maritime safety regime. In addition, I will briefly discuss other key elements of the maritime safety regime, specifically; the International Maritime Organization (IMO), a United Nations organization, Safety of Life at Sea (SOLAS) convention and our views on the corresponding national regulations for the inspection and regulation of fishing vessels. Finally, I will brief the committee on the Torremolinos International Convention for the Safety of Fishing Vessels, an IMO Convention, and the benefits of requiring classification for fishing vessels as well as a Fishing Vessel Safety Certificate, issued by a classification society on behalf of the Flag Administration.

DNV currently classifies more than 5,000 ships totaling more than 110 million grt. This constitutes more than 16 percent of the world's fleet in tonnage terms. 720 of the vessels classified by DNV are fishing vessels and there are approximately 20 fishing vessels under construction to DNV classification rules.

Ship Classification is a system for safeguarding life, property and the environment at sea. It entails regular and periodic verification against a set of requirements during design, construction and operation of ships and offshore units. These requirements are based on

the accumulated experience from DNV's large classed fleet, research and development and more than 140 years of experience and are published as classification rules. Our highly trained and professional surveyors stationed around the world work with customers to ensure compliance throughout the lifetime of the classified vessel or object.

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Classification rules are developed to contribute to the structural strength and integrity of the essential parts of the ship's hull and its appendages, and the reliability and the function of the propulsion and steering systems, power generation and those other features and auxiliary systems which have been built into the ship in order to maintain essential services on board for the purpose of safe operation of the ship. In establishing its rules, a class society may also draw upon the advice of leading members of the industry who are considered expert in their field.

Classification has proven benefits for maritime safety. However, I would be less than thorough if I did not also list some of the things that classification societies can not do. Classification societies are not guarantors of safety of life or property at sea or the seaworthiness of a vessel because the classification society has no control over how a vessel is operated and maintained in between the periodic surveys which it conducts. The owner has a clear obligation to properly maintain and safely operate the vessel. Classification can, however, assist the owner in meeting these responsibilities. The owner of a ship that has been designed, built and tested in accordance with the appropriate rules of a class society may receive a certificate of classification from that society after the society has verified, upon completion of relevant plan approval and surveys, that the ship complies with the rules.

All classification surveys are carried out by highly trained and qualified surveyors using mainly visual inspection and sampling techniques.

Should any defects that may affect class become apparent, or damage be sustained, in between the periodical surveys, the owner of the ship is required to inform the classification society without delay.

A ship is maintained in class provided that, in the opinion of the class society:

- The ship has been presented for surveys in accordance with the classification rules;
- The surveys confirm that the condition of the hull, machinery, equipment and certain appliances remain in compliance with the applicable rules at the time of the survey.

Classification societies may also act as Recognized Organizations for Flag States, verifying the vessel's compliance with international and/or national statutory regulations. DNV has been authorized to perform these statutory surveys and issue certificates on behalf of more than 130 Flag Administrations, including the United States. Today, there are 63 US flag vessels classified by DNV, including fishing vessels.

Exhibit 1 shows the distribution of the DNV classed fishing vessels by length. As you will note, the majority of the fishing vessels are greater than 24 meters (79 feet), which is also the minimum vessel length for a number of technical and safety requirements, such as the International Load Line Convention.

Exhibit 1 (DNV Fishing Vessels by Length)

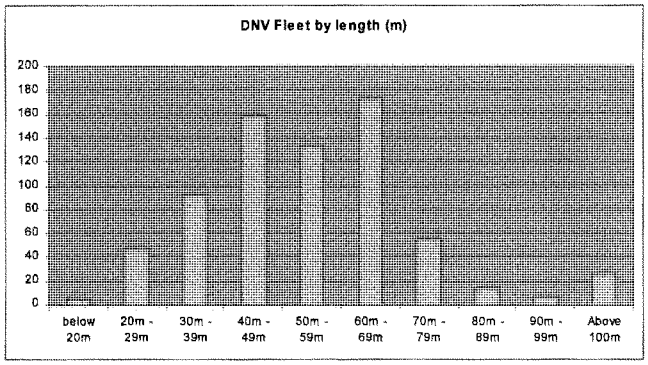


Exhibit 2 shows the distribution of DNV classed fishing vessels by flag, clearly showing the leading fishing nations of the world, including the United States.

Exhibit 2 (DNV Fishing Vessels by Flag)

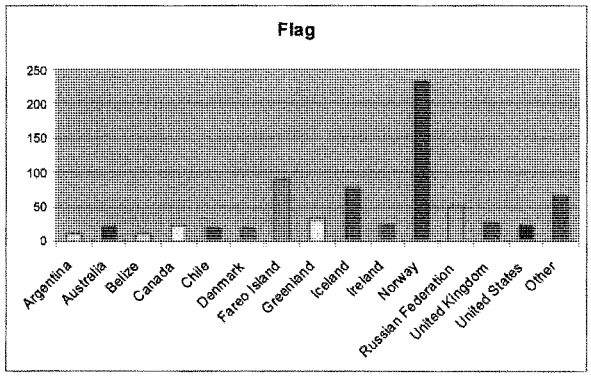
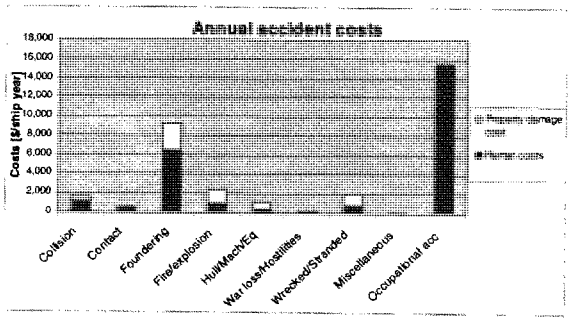


Exhibit 3 is graphical evidence of the need for further actions to enhance fishing vessel safety, specifically including classification as a requirement for all fishing vessels over 24 meters (79 feet) in length. Please note that foundering, which includes capsizing and other stability related causes, is the second highest category of human and property damage costs, with a combined total of more than $9,500 per ship per year.

Exhibit 3 (Costs of Human and Property Damage Accidents)
(Formal Safety Assessment 2003)

MANAGING RISK



Ship classification is a key element in the maritime safety regime and it has served the entire maritime industry, including flag administrations, well for over 140 years and it has lead a number of technical, safety and operational initiatives that have improved maritime safety. Classification has demonstrated its ability to adapt and respond to new technologies and new safety and environmental challenges.

The SOLAS Convention in its successive forms is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The first version was adopted in 1914, in response to the Titanic disaster, with successive updates

through today, reflecting technical advances and societal requirements and expectations for safety.

The main objective of the SOLAS Convention is to specify minimum safety standards for the construction, equipment and operation of ships. Flag States are responsible for ensuring that ships under their flag comply with its requirements, and a number of certificates are prescribed in the Convention as proof that this has been done. Surveys and issuance of these certificates are typically delegated to recognized classification societies by the Flag State.

Curiously, SOLAS does not apply to fishing vessels and this is probably a major reason why fishing remains a high risk occupation. In the absence of common international regulations, national regulations have, unfortunately, become unavoidable. A consequence of national versus international regulations, however, is that two fishing vessels operating in the same waters may be subject to very different national regulations.

Title 46, United States Code, Chapter 45 focuses on fire safety, life saving, navigation and radio equipment. Although the present regulations are fairly vague with regard to the quantity, size, location, type of equipment, minimum standards and certification requirements, they have greatly improved fishing vessel safety by prescribing the safety and lifesaving equipment that must be on board a fishing vessel. While it is encouraging that this has lead to a decline in the number of deaths, there has not been a corresponding decrease in the number of actual fishing vessel casualties. Clearly, this indicates that the technical aspects of the vessel, particularly the strength of the hull structure, the stability of the vessel, watertight integrity and the reliability of propulsion and machinery equipment, all of which are fully considered in the classification system, are necessary to further improve fishing vessel safety. In fact, the present regulations do not contain any requirements for the hull structure and reliability of the machinery and propulsion equipment. Indeed, accident statistics show that the major reasons for accidents onboard

fishing vessels are related to water ingress and personnel injuries while operating equipment. Simply stated, the safety and lifesaving equipment regulations are helpful, but the safety of fisherman can be greatly improved if we take steps to minimize the loss of the vessel due to foundering, collisions and propulsion or machinery failures and operation of equipment. Classification is the internationally accepted, well-established and effective system that achieves these goals for the world's large cargo and passenger vessels. It should be mandatory for all fishing vessels greater than 24 meters in length.

Globally, the safety of fishing vessels has been a concern for many years. In 1977, the United Nations International Maritime Organization convened a convention for fishing vessel safety in Torremolinos, Spain. The convention was never ratified, but the protocol has been included in the European Union Council Directive 97/70/EC. This directive is intended to fill the gap created because SOLAS requirements do not apply to fishing vessels and it is often regarded as "SOLAS for fishing vessels". Most coastal nations in Europe have made this directive part of their national regulations. Fishing vessels that comply with this EU directive are issued a Fishing Vessel Safety Certificate. DNV is authorized to issue these certificates on behalf of European Flag Administrations.

Most of the requirements in the Torremolinos protocol are covered by the DNV classification notation +1A1 FISHING VESSEL E0. In general, this classification ensures safety of fishing vessels greater than 24 meters (79 feet) by:

- Applying similar structural strength and equipment integrity as for cargo ships
- Includes vessel stability requirements
- Includes requirements specific to fishing vessels, such as the safe arrangement of equipment on deck , drainage and shifting of cargo in vessel holds

Similarly, most European flags now require:

- Fishing vessels to be built according to the rules of recognized classification societies, especially for structural strength
- Classification societies to ensure that stability requirements are met
- Safety training and certification of the crew
- Specific safety equipment to be on board, such as type, number, location, standards and certification requirements for life saving, fire fighting, navigation and other equipment

DNV also notes than many fishing vessel owners and operators are interested in classification for their vessels to obtain the following benefits:

- Internationally recognized rules and standards for construction, maintenance and operation
- Lower insurance premiums
- Increased safety for crew, both survivability and equipment operation
- Better resale value of vessel

In conclusion, DNV strongly encourages the United States:

1. Require classification of all fishing vessels greater than 24 meters in length by a recognized classification society
2. Adopt the requirements of the Torremolinos Convention

Finally, in implementing these two recommendations, DNV urges the United States to seek international solutions and regulations to the maximum extent possible, rather than Federal or State regulations. This will provide a uniform standard throughout the world, where many fishing vessels trade regardless of their flag, in a transparent and predictable regulatory regime. DNV pledges to do its part to assist the United States and to work

with the rest of world to achieve real and measurable improvements in fishing vessel safety. Together, and in this fashion, I am confident that we can greatly improve the safety of fishing vessels and the fishing industry for the all countries, including the United States.

I thank the subcommittee for its interest in our views and for this opportunity to share some of our thinking with you. I will be happy to respond to your questions.

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Good morning Mr, Chairman and members of the subcommittee and thank you for this opportunity to speak. I will be brief in my oral statement but request that my full written statement be entered in the record. I have fished commercially for parts of eight seasons in Alaska, both as a vessel owner and crewmember. I've been an educator for over 35 years and been involved in bringing well over 1,000 safety training workshops to over 60 Alaska ports as well as in ports along every coastline in the U.S. in my work for the Alaska Marine Safety Education Association (AMSEA). I was a member of the original Coast Guard Fishing Vessel Safety Advisory Committee and after an absence I am now it's chairman. Since the Commercial Fishing Safety Act of 1988, was implemented (1990 – 2006) there have been 306 fishing fatalities in Alaska waters. Some of those fishermen I counted among my friends and neighbors. Fishing vessel safety is a personal, not abstract, issue for me as well as for many other fishing families.

Commercial fishing is one of the oldest occupations in this land. Fishing is the largest private sector of the Alaska economy, providing jobs to 20% of the Alaska workforce. It is also important to numerous communities around the nation. The U.S. is the fourth largest harvester of wild fish in the world. In terms of volume, we export more fish product than we import. Commercial fishing is still a vibrant part of the economy and landscape in many of our coastal communities. It is an industry worth billions of dollars and one that has sustained several hundred thousands of families, some for generations.

Unfortunately, fishing still leads all other industries by its high fatality rate in most years. The only major regulatory change in fishing vessel safety has been the Commercial Fishing Industry Vessel Safety Act (CFIVSA) signed into law by President Reagan in 1988 and implemented over the next 6 years. This law affects fishing safety by requiring survival equipment such as immersion suits and liferafts. This has been accompanied by real change in the safety culture in some parts of the nation. The sight and sounds of a safety drill being conducted in an Alaska harbor, is no longer rare. The five years from 1988 to 1992 saw an average of 43 fishermen die every year in Alaska. However, in the last five years from 2001 to 2006 an average of 10 fishermen have died. That represents a steady 77% decline in the number of fatalities. Unprecedented progress has been made in safety in Alaska fisheries. The National Institute of Occupational Safety & Health (NIOSH) has calculated that 250 deaths have been prevented in Alaska alone as a result of the Safety Act. But in other regions of the nation, little change has taken place.

I believe there are several reasons that have accounted for the progress in fishing vessel safety on Alaska waters since the enactment of the 1988 Act.

First, in Alaska and the Pacific Northwest there is an effort to enforce the regulations equally and systematically. There have been dedicated fishing vessel safety examiners and leaders in the Coast Guard such as Glenn Sicks, Sue Jorgensen, Chris Woodley, Charlie Medlicott and currently Ken Lawrenson who have lead this effort. These personnel have been reasonable but firm regarding how these regulations have been applied, and they have been accepted by the vast majority of the fleet in Alaska. In addition, alternative compliance to regulations has been negotiated with some fleets and has actually increased safety. These alternatives have been welcomed by the fleet. But safety training and other aspects of the regulations have not been enforced equally throughout the U.S. Emergency drills training has not been enforced in many of the nation's fleets. This has killed the regional training infrastructure the industry needs.

Second, studies conducted by NIOSH and others (Perkins 1995, Lincoln 2006) have documented the positive effects safety training has had on survivability after a sinking. The safety training infrastructure is extensive in Alaska and the Pacific Northwest, with scores of marine safety instructors imbedded in a number of fishing ports. Training organizations such as the Alaska Marine Safety Education Association (AMSEA), North Pacific Fishing Vessel Owners Association (NPFVOA), Sea Grant and other private trainers who work year around ensure that fishermen have access to a variety of safety courses, when and where they need it. This training both maximizes survivability in the event of a casualty, but it also prevents casualties by raising risk awareness. Numerous fishermen have documented the improvements they have made in safety as a result of this training. The accessibility of this training in Alaska has been no small feat, with its lack of roads and coastline twice that of the continental U.S. The safety training infrastructure and outreach effort in Alaska would not have been possible without the support of the Alaska Congressional delegation. The training is hands on, proficiency based and has been overwhelmingly accepted. This training infrastructure does not exist throughout the rest of the nation.

The training has been very well received by fishermen. Comments on evaluations have been overwhelmingly positive. The experience gained in the last 20 plus years of this education effort in the Northwest, will be invaluable if training is expanded. Fishermen respond very well to training if it is practical, hands-on, and taught by credible instructors, many of whom have been fishermen themselves. An emphasis on skills proficiency and competency, should be a higher priority however, than passing a written licensing examination, and will be better accepted by fishermen.

Third, the NIOSH field office in Anchorage started a surveillance system in the early 1990's. This office tracked fatalities and injuries in the workplace. From NOISH we have obtained reliable data and can focus on training and education interventions in our safety workshops. Also, NIOSH has also supported quality hands-on safety training and evaluated progress in safety in the fleet. This does not exist in the rest of the nation.

Fourth, fisheries management both at the state and federal level has been managing for both sustainability and safety for some time. The Individual Fishing Quota (IFQ) system

in the Alaska halibut industry has helped change it from one of the most high risk fisheries to one of low risk. Crab rationalization has led the state's most dangerous fishery to fishing seasons with no losses at all. Good management has also led to healthier fish stocks and this has led to wealthier fisheries, enabling fishermen to upgrade their vessels and safety gear. This has not happened enough in the rest of the nation.

The two other issues the Safety Act sought to address are vessel inspections and licensing, in other words, standards for the vessel and qualifications for the person running the vessel. Recommendations were made on qualifications and inspection by the Advisory Committee but the Coast Guard was not given additional authority in these two areas.

If we had regulated airline safety the same way we have regulated fishing vessel safety, all passengers on an aircraft would be issued a parachute and be trained in how to use it. The fishing vessel safety act focuses on survivability after a vessel loss. By anyone's definition, this is a reactive, rather than a proactive approach to casualties. It is also inefficient. Some searches for lost vessels have cost taxpayers over one million dollars per search and are high risk operations. However, the Advisory Committee is reluctant to make recommendations on materials standards for vessels because neither the Coast Guard nor the Advisory Committee has useable information from insurance underwriters or other sources upon which to base recommendations. This is despite the fact that section 46 USC 6104 of the Safety Act "requires the Secretary to compile statistics concerning marine casualties from data compiled from insurers of fishing vessels...." These statistics are collected, but they do not exist in a format that anyone can use to draw any useful conclusions from.

Currently there is a rulemaking working its way through the Coast Guard, then on to the Department of Homeland Security and the Office of Management and Budget. It will attempt to make emergency drills training more enforceable. Casualties show that 51% of vessels flood, capsize and sink. Thus, the proposed rule making will also address stability on some fishing vessels. Given that a fishing vessel is lost at sea almost once every three days, it is hoped that this proposed rulemaking can be expedited in a timely manner.

One final point: The present fishing vessel regulations need two basic simple changes to give fishermen a level playing field. One, there is no reason why a 36 foot state registered vessel, fishing right next to a 36 foot federally documented vessel, should follow a different sets of safety regulations and be exempt from safety training. Secondly, the so called Boundary Line, which generally runs point to point from the most seaward points of land, is an arbitrary line for safety requirements that bears no relationship to the risks found inside or outside its boundaries. There are times when the Line runs right into the beach and times where it goes so far out to sea that the whole of Cook Inlet with its 35 foot tidal range, ice and strong currents, is inside the Line. A better delineation for safety regulations that would be more relevant and consistent would be three miles from shore, otherwise known as the High Seas.

Fishing vessel safety has gone through an evolutionary process of improvement in the last 25 years but not equally across the nation. Many regions lack good statistics and epidemiological data, equal enforcement and a training infrastructure. Until these discrepancies are addressed, we will continue to lose lives unnecessarily in commercial fishing in the U.S.

Thank you for this opportunity to comment.

SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES
ON
COMMERCIAL FISHING VESSEL SAFETY
APRIL 25, 2007

TESTIMONY OF
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Good morning, Mr. Chairman and distinguished members of the Subcommittee. Thank you for the opportunity to testify today on commercial fishing vessel safety. My oral statement will be brief, but I request that my full written statement be entered on the record.

I am Leslie Hughes, Executive Director of the North Pacific Fishing Vessel Owners' Association (NPFVOA) Vessel Safety Program, a non-profit organization totally dedicated to safety training and education of commercial fishermen. Our facility is located in Seattle. I have worked for NPFVOA since the Vessel Safety Program's inception 22 years ago and prior to that I worked for a leading Northwest naval architect and maritime law firm. During my career I have worked closely with many government agencies and served nine years on the Coast Guard Commercial Fishing Industry Vessel Safety Advisory Committee (CFIVSAC). I was recently re-appointed to that committee for a three-year term.

The NPFVOA Vessel Safety Program was developed in 1985 in cooperation with U. S. Coast Guard as a voluntary effort to improve the poor safety record of the commercial fishing industry in the North Pacific. There are several key concepts upon which this program is built that can provide lessons for the future of safety in the industry. The success of the program is evidenced by attendance in NPFVOA's courses, which now exceeds 33,000, of which 70% is voluntary and not required by the Coast Guard.

It is extremely important that a program like this is built upon a cooperative effort between industry and Coast Guard. Such a program must have a local or regional focus, be part of a community, and be integrated into the fishing industry. We maintain that our program is "by fishermen, for fishermen". We raise funds to support NPFVOA mostly by vessel dues for membership, by

class fees and by charging for educational materials that we have developed. Having a vessel membership is important as it further builds community involvement, and helps to create a "safety culture".

A successful program must be highly professional, but need not be large in scope or expensive to operate. We built this program through education and training with a small staff of three professionals and many experts hired on a contract basis to teach classes and provide special instruction. Training must be of high quality and taught by experts in their fields. This program's instructors, as well as its staff, remain in solid contact with local fleets and fishing organizations and are "hands on." We offer 14 Coast Guard-approved safety classes and numerous workshops on topics needing to be addressed. Training must be versatile, specific to types of vessels and their operating conditions. This program has a working classroom in addition to providing training dockside and onboard vessels.

Although NPFVOA's courses are portable, our program has been and remains focused on a very diverse fleet that home ports in the Seattle area and operates primarily in Alaska. (Seattle-area vessels account for about 85% of the catch in Alaska, which equates to approximately 55% of the nation's entire seafood harvest.) From a training perspective, the diversity of our fleet has positives and negatives. The fleet ranges from 32 ft gill net vessels operated by crews of one or two people to 350 ft factory trawlers with crews of more that 120 people with diverse jobs and skills. I think the fact that 70% of our training attendance is voluntary is evidence that a "safety culture" has evolved in the Pacific Northwest. Training levels are active in this region, and the strong infrastructure of quality training entities in the Pacific Northwest and Alaska in addition to NPFVOA, such as the Alaska Marine Safety Association (AMSEA), has been a big factor in reducing fatalities. Safety training is key to improving how casualties can be prevented, and how people respond if faced with an emergency.

As a final key concept, the Commercial Fishing Industry Vessel Safety Act of 1988 (ACT) definitely provided a springboard to national standards for improving safety aboard fishing vessels, but this act has been most effective when enforced and when supported by pro-active industry organizations. For the future, there should be more local programs developed by industry and supported on a cooperative basis by the Coast Guard. A cooperative relationship does not preclude the Coast Guard from taking enforcement actions when necessary. Industry-government partnerships are good partnerships that help establish a strong "safety culture".

At this point I would like to provide my observations on the extent to which the statutes in 1988 have led to improved safety or resulted in shortcomings.

- The Act focused on requirements for carriage of survival equipment designed to improve survival rates in the event of an incident, along with some minimal training requirements. This was an

extremely important first step, but has not generated a program of accident prevention.

- Coast Guard enforcement of the regulations has been inconsistent from region to region. Those regions where enforcement is weak have experienced reduced safety improvements.
- Coast Guard oversight and enforcement is vital to improving fishing vessel safety. Future enforcement efforts should be conducted at the dock, instead of at sea, before the vessel leaves port.
- Stability standards for vessels less than 79 ft have not been published by the Coast Guard and are long overdue.
- The Act's call for a plan to require that operators be certified and vessel inspections be conducted has never been resolved.
- After nearly 20 years, the vessel casualty statistic compilations required by 46 USC 6104 have not been activated and there has been no real substitute offered. It is extremely difficult to track casualty rates over time and measure success without reliable and complete casualty information, which is critical for determining where additional enforcement action is needed. Regionally, the statistical information provided by the National Institute of Safety and Health (NIOSH) has been extremely useful and has developed several intervention strategies. NIOSH's work should be considered to be a model for a national program.
- I would like to see the Coast Guard's outreach increased by the timely sharing of lessons learned.

While the Act made improvements to the industry's *response* capabilities, the current need is to improve the *prevention* of casualties. Some changes to how certain fisheries are managed have contributed to prevention of casualties. Some Coast Guard actions taken in Alaska demonstrate how Coast Guard oversight can be effective. Specific examples are:

- Based on continuing losses, the Bering Sea crab fleet was identified as "high risk". From 1999 to present a program of dockside preseason compliance examinations was initiated to check vessel loading, and resulted in a 75% reduction of fatalities.
- Beginning in 2004 several "high risk" fleets were required to actually *demonstrate proficiency* in conducting drills.
- To reconcile regulatory definitions and material requirements for a group of processing vessels, an Alternative Compliance Program was developed. This program has resulted in substantial vessel improvements and increased training for the crews.

All of these programs, in spite of monetary impacts, have received very strong support including active involvement with detail from the affected segments of the industry. The Coast Guard's initiatives in Alaska are clear examples of results achievable on a regional basis through clear identification of specific "high risk" activities and applying specific action to mitigate hazards.

There are several simple additional changes to the Act that I think would improve fishing vessel safety:

- Eliminate the disparity between documented and state numbered vessels by requiring both to comply with the regulations. There is no reason that state numbered fishing vessels should not be required to meet the same requirements and be exempt from safety training. This change can be easily achieved by modifying 46 USC 4502 (b) and striking the word "documented", and replacing the reference to "Boundary Line" with "3 miles."
- Require that monthly drills be logged.

To conclude, speaking for the Pacific Northwest and Alaska, there is no doubt that significant improvements to safety have occurred since the early 1990's. NIOSH reports there has been a 51% decline in fatality rates among commercial fishermen in Alaska from 1990 to 2006. I believe such statistics are largely due to the safety training infrastructure that exists in this region, with organizations like NPFVOA, AMSEA and other private trainers; the emphasis on oversight of the industry and proactive initiatives by the Coast Guard in this region; and the "safety culture" that has evolved, with many fishermen treating safety as a priority and going way beyond the minimum requirements.

Thank you for the opportunity to share my observations.

Testimony
Committee on Transportation and Infrastructure
Subcommittee on Coast Guard and Maritime Transportation
United States House of Representatives

Commercial Fishing Vessel Safety

Statement of
Jennifer Lincoln, Ph.D.
National Institute for Occupational Safety and Health
Centers for Disease Control and Prevention
U.S. Department of Health and Human Services

CDC
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For Release on Delivery
Expected at 10:00 a.m.
Wednesday, April 25, 2007

Mr. Chairman and members of the Subcommittee, my name is Jennifer Lincoln, and I am an occupational safety specialist at the National Institute for Occupational Safety and Health (NIOSH), part of the Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS). NIOSH is the federal agency responsible for conducting research and making recommendations to identify and prevent work-related illness and injury. I work in NIOSH's Alaska Field Station, where I lead the "Applying Safety Research and Design to the Fishing Industry" research program. I am pleased to appear before you today to testify about NIOSH's efforts to improve the safety of commercial fishing vessels in Alaska and how improvements implemented there could benefit other fishing regions of the United States.

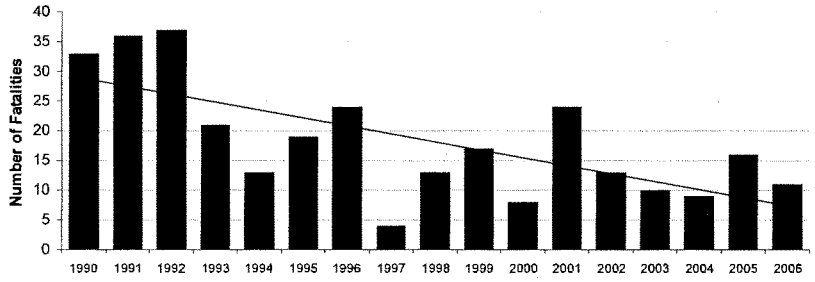
In the early 1990s, Alaska was identified as having the highest occupational fatality rate of any state: five times higher than the average for U.S. workers (34.8/100,000/year for 1980-1989 versus 7.0/100,000/year). In response, NIOSH initiated an injury and fatality prevention effort focused on high risk industries, which included the Alaska commercial fishing industry.

Since that time, safety among the Alaskan fishing fleet has improved (Figure I), with a decline in the number of fatalities and a 51% decline in rate of fatalities from 1990 to 2006. The declining rate indicates that the decrease in fatalities is not simply a function of fewer fishermen in the workforce. We believe that the decline in rate of fatalities is a result of improvements in safety made through NIOSH collaborations with the fishing industry and other stakeholders. The United States Coast Guard (USCG), the Alaska Marine Safety Education Association, the North Pacific Fishing Vessel Owners Association, and NIOSH have collaborated to:

1. track hazards and identify the most dangerous fisheries and situations;
2. understand the changing size of the commercial fishing workforce;
3. establish a solid training infrastructure for quality hands-on safety training;
4. more effectively implement and enforce current regulations;
5. develop unique and tailored interventions; and
6. evaluate progress.

We believe that we can build on past successes at reducing injuries and fatalities in Alaska's commercial fishing fleet and transfer these advances to other fishing regions of the United States.

FIGURE I. Commercial Fishing Fatalities by Year, Alaska, 1990 - 2006 (N=308)



Source: Alaska Occupational Injury Surveillance System. 2006 data provisional

Linear Trend
$X^2 = 17.4$
$p < .001$

NIOSH is encouraged by the progress that has been made in Alaska to improve commercial fishing safety, and we have recently expanded our program of prevention activities to assist in addressing hazards on a national level. I will discuss the work that NIOSH has accomplished in cooperation with our partners, which include commercial fishermen, and the opportunities for further progress in Alaska as well as in the rest of the United States.

I will concentrate on four areas of opportunity for improving fishing vessel safety in the United States:

1. developing tailored interventions to **prevent vessel loss**;
2. developing effective strategies to **prevent fatalities from falls overboard**;
3. developing effective strategies to **prevent severe injuries** resulting from being caught in or struck by deck machinery or fishing gear; and
4. establishing **marine safety training** and refresher training programs for all commercial fishermen.

Prevention of Vessel Loss

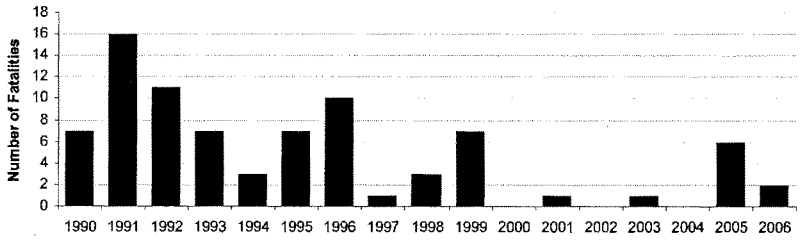
The leading cause of fatalities in the commercial fishing industry is drowning due to the loss of a fishing vessel. According to the 2006 USCG Office of Investigation and Analysis report, "Analysis of Fishing Vessel Casualties: A Review of Lost Fishing Vessels and Crew," from 1994 to 2004, 641 commercial fishermen died in the United States. Of these, 332 (54%) were due to the loss of a fishing vessel. In each of these years, an average of 127 vessels was lost.

NIOSH found that in Alaska, the number of vessels lost per year has stayed relatively constant, but the survival rate for those onboard increased from 73% in 1991 to 93% in 1998. These data suggest that the Commercial Fishing Industry Vessel Safety Act of 1988 has improved survivability and that further improvements in safety could be made through efforts to prevent vessel loss. NIOSH and other safety organizations have recommended that a focus be placed on the prevention of vessel loss, and in Alaska, the USCG responded by implementing the Dockside Enforcement Program in 1999. The program identifies and corrects safety and stability hazards known to exist on vessels

participating in the Bering Sea and Aleutian Island (BSAI) crab fisheries. These fisheries were selected based on NIOSH findings, which identified them as having the highest fatality rate of any fishery in the state.

NIOSH evaluated the effectiveness of the Dockside Enforcement Program to see if it resulted in a measurable decline in fatalities among BSAI crab fishermen. Prior to implementation of the program in 1999, there was an average of 7.2 fatalities per year in this fleet for each of the previous ten years. Since implementation of the program, there have been 10 fatalities in this fleet, an average of 1.4 per year (Figure II). Similar programs could be helpful for other hazardous fisheries across the country and could be expanded with more stability guidelines for certain vessels, such as those recommended in the 1997 NIOSH report, "Commercial Fishing Fatalities in Alaska – Risk Factors and Prevention Strategies." NIOSH is currently working with Jensen Maritime Consulting, Inc. to explore ways to make stability information more accessible and affordable to fishermen.

FIGURE II. Bering Sea/Aleutian Island Crab Fishing Fatalities, 1990 - 2006 (N=82)



Source: Alaska Occupational Injury Surveillance System. 2006 data provisional

In April 2001, during one of the worst fishing vessel disasters in U.S. history, a vessel lost 15 of its crew members when it sank while operating in the Bering Sea. After extensive investigation, the USCG determined that the vessel sank because a watertight door was left open. In response to this tragic incident, NIOSH is working to develop a hatch and door monitoring system for commercial fishing vessels that is inexpensive, easy to install, robust, and able to be retrofitted on existing vessels. We are in the process of installing such a system on a fishing vessel to evaluate it at sea. We expect to begin a year-long evaluation this summer.

Prevention of Fatalities from Falls Overboard

Falls overboard are a major cause of commercial fishing fatalities in the United States. Of the 641 deaths that occurred among fishermen in the United States from 1994 to 2004, 138 (30%) resulted from a fall overboard. In a NIOSH analysis of Alaska fishing fatalities from 1990 to 2005, the rate of fatal falls overboard did not decrease despite a significant decrease in the overall rate of commercial fishing fatalities.

To effectively prevent falls overboard, complete incident information is needed so that interventions can be tailored to specific operations. To better understand these events and to establish tailored prevention strategies, NIOSH identified the location of these fatal falls overboard, the type of fisheries and fishing gear most susceptible to falls overboard, and most importantly, the circumstances implicated in these incidents. With this approach, NIOSH observed that crab fishermen were most likely to be involved in a fatal fall overboard while working, but salmon gillnet fishermen experienced fatal falls overboard when they were alone on deck. Other researchers have shown that tailored strategies are also needed to prevent entanglements leading to falls overboard, such as

means to separate fishermen from lines (i.e., line bins/lockers) and means of freeing oneself from an entanglement (i.e., shut off switch, knives).

NIOSH has made additional recommendations to prevent drowning after a person falls overboard. In the 1994 report, "Preventing Drownings of Commercial Fishermen" as well as the 1997 report on commercial fishing fatalities, NIOSH recommended that all fishermen wear personal flotation devices (PFDs) when on the deck of any vessel. There are more types and styles of PFDs available now than ever before, with several styles to fit the needs of commercial fishermen, including several new slim, lightweight, inflatable PFDs that are worn like suspenders and PFDs that are integrated into raingear. NIOSH is planning a field study in Alaska with commercial fishermen to test the available PFDs to identify the PFDs with the features that fishermen like and will use. NIOSH has also recommended that man overboard alarms be thoroughly evaluated and widely deployed if such evaluations demonstrate that the devices are effective. Man overboard alarms are designed to alert crewmembers when a person falls overboard. Each crewmember wears a small transmitter that is activated when submerged in water. The receiver is installed in the pilot house. Man overboard alarms have recently become small, lightweight, and relatively inexpensive. NIOSH plans to test the wearability of these devices on commercial fishermen in conjunction with the previously mentioned PFD study.

Prevention of Severe Injuries

From 1994 to 2004, 51 (8%) of the 641 deaths in the U.S. fishing industry were attributed to injuries while working on deck, including 16 specifically coded as "caught in winch." NIOSH has shown that the most severe non-fatal injuries were caused by deck

machinery and fishing gear such as bait choppers and crab pots in Alaska. These types of injuries and fatalities can be gruesome. For example, the *Anchorage Daily News* reported on October 23, 2005, about an injury on a fish processor in which "a pregnant woman had both legs mangled so badly in a piece of equipment they had to be amputated." In another example, the NIOSH Fatality Assessment and Control Evaluation program in Alaska investigated a fatality in 1995 in which a skipper on a fishing vessel died after being pulled into a deck winch.

NIOSH reviewed data from the Alaska Trauma Registry to understand the nature of severe injuries sustained on commercial fishing vessels in Alaska. From 1991 to 2002, there were 798 fishermen hospitalized for severe injuries. This means that on average, a fisherman was hospitalized for an injury once every 10 days. Of these injuries, 23% were attributed to being entangled or struck by lines or gear, or being trapped in a winch, pulley, or other deck equipment. The most severe type of injury was amputation. Of the 41 amputations, 54% were attributed to machinery such as bait choppers.

These data show that further efforts are required to prevent injuries on deck, including the redesign of machinery or the retrofitting of safety features on existing fishing machinery and equipment. To meet this need, NIOSH started the Deck Safety Project to work with fishermen to identify practical improvements to deck safety such as better equipment design and safer work practices. These were collected in a "Deck Safety Handbook for Crab Fishermen." In addition, we are currently working with purse seine fishermen on the design of an emergency stop switch that will shut down the deck winch if someone becomes entangled. The fishermen are particularly interested in this intervention.

NIOSH continues to measure the magnitude of severe injuries and to identify emerging deck hazards with the intention of engineering safer designs.

Marine Safety Training

Knowing how to maintain and use survival equipment is vital to survival during an emergency at sea. NIOSH collaborates with two marine safety training organizations that focus primarily on training commercial fishermen—the Alaska Marine Safety Education Association (AMSEA) in Sitka, Alaska, and the North Pacific Fishing Vessel Owners Association (NPFVOA) in Seattle, Washington.

Supported by NIOSH funding, AMSEA has held over 1,000 classes training more than 15,000 fishermen since the early 1990s. NIOSH and AMSEA also have joined forces to organize fishing safety conferences and to address hazards such as those found in dive harvesting fisheries and deck machinery. In collaboration with NPFVOA, we have focused on deck safety and sponsored a training seminar on lock out/tag out procedures and applications in commercial fishing activities.

Research suggests that individuals involved in a disaster are more likely to respond appropriately to save their lives if they have had emergency training. Therefore, NIOSH evaluated whether training increases the likelihood of survival after vessel sinkings. In our analysis of Alaska fishing vessel sinkings from 1992 to 2004, the data showed that victims were 1.5 times less likely to have had safety training than survivors (95% Confidence Interval 0.9-2.4; p=.14). We also determined that victims were 7 times less likely to have worn an immersion suit than survivors and 15 times less likely to have

used a life raft. We are working closely with the USCG to gather more information on these cases so that we can update this analysis.

NIOSH has recommended that basic fishing safety training be completed before an Alaskan (state) crew license or a commercial fishing permit is issued. In addition to having the survival equipment, it is important to emphasize that the equipment must be maintained and everyone must know how to use it. Survival experts agree that initial training must be supplemented by periodic and relevant refresher training.

Summary

Substantial progress has been made in Alaska's most hazardous industry through the thoughtful application of the public health model. Surveillance, training, intervention, and evaluation of progress provide a useful blueprint for prevention of similar deaths elsewhere in the United States.

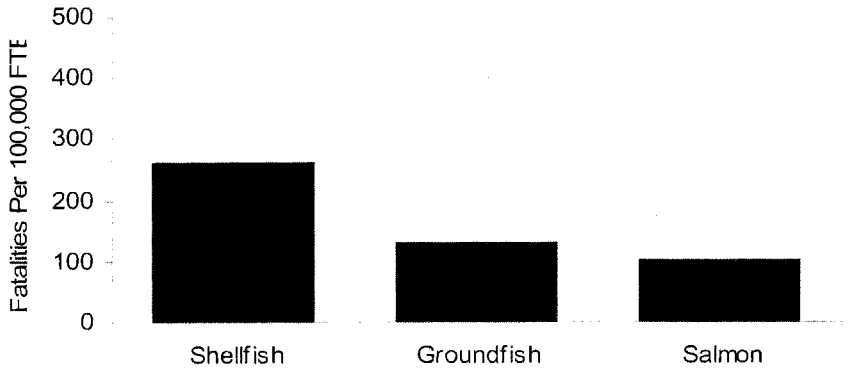
NIOSH plans to continue to support the safety of the commercial fishing industry by assisting with research and evaluation of interventions in the areas of preventing vessel losses, fatalities, and severe injuries. NIOSH will strive for strong surveillance and thorough data gathering so that we can better understand the issues, mitigate the worst problems, and identify emerging hazards. Our efforts are most effective through collaboration, and we look forward to continuing our partnerships with fishermen, industry, USCG, and marine safety organizations.

Commercial fishing continues to be one of the most dangerous occupations in our country; however, progress has been made in saving lives since the passage of the

Commercial Fishing Industry Vessel Safety Act of 1988. Fishermen and all stakeholders should be complimented for these efforts. NIOSH looks forward to continuing our work with stakeholders to improve safety for fishing vessel workers.

Thank you for the opportunity to testify today. It is an honor to share our research findings and recommendations with you. I am happy to respond to any questions that you might have.

Commercial Fishing Industry Fatality Rate by Fishery, Alaska, 2000-2006 (N = 92)



This chart represents rates, which are the number of fatalities in each fishery divided by the number of Full-Time Equivalent (FTE) fishermen working in each fishery. Full-Time Equivalents are a function of the number of actual fishermen working and how much they work in a year. This is an important measurement because many fishermen do not work year-round, but we need to be able to compare their risk at work with other industries in which workers do work full-time. Fatalities in the shellfish fishery are mostly crab, but also include shrimp, sea cucumber, and geoduck. The groundfish fishery includes cod, pollock, halibut, and rockfish. The salmon fishery includes all species of salmon. There were 92 fatalities in all fisheries in Alaska for the seven year period 2000-2006.

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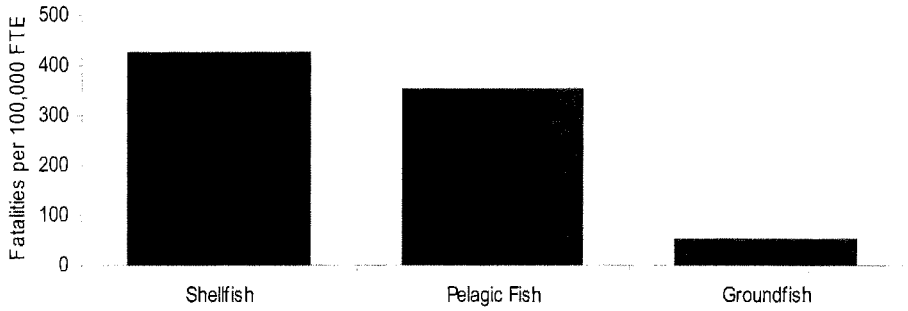
NIOSH

Commercial Fishing Industry Fatality Rate by Fishery, D13 (WA & OR), 2000-2006 (N = 38)



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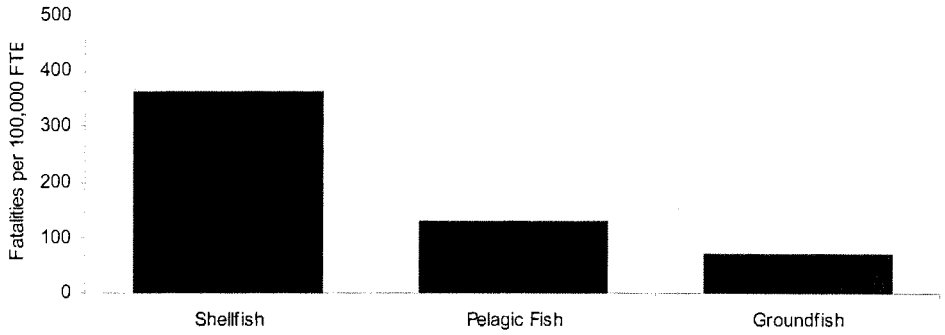
Commercial Fishing Industry Fatality Rate by Fishery, Westcoast, 2000-2006 (N = 58)



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Committee on Transportation and Infrastructure
Subcommittee on Coast Guard and Maritime Transportation
April 25, 2007

Commercial Fishing Vessel Safety

Testimony of Debra M. Shrader
Executive Director
Shore Support, Inc.
106 Co Op Wharf
New Bedford, MA 02740
508-951-2809

Good morning ladies and gentlemen. I would like to thank you for giving me the opportunity to share my thoughts with you on this very important subject: Fishing Vessel Safety.

By way of introduction, as noted, I am the Executive Director of Shore Support, Inc., which is a non-profit organization that has been working in the interest of commercial fishermen in our great Port of New Bedford, MA for the last ten years. I am also the wife of Captain Ronnie Shrader, a scallop boat captain. I am sure that it is easy for you to understand why these issues would be important to me, on both a professional and personal level.

Shore Support has a committee within our corporation called the Fishermen's Emergency Relief Fund which was started after the tragic loss of F/V Northern Edge. Through this fund we help fishermen in need, especially in the circumstances of a tragedy, or loss of life at sea. Recently, I have spent some of each day of the last four months assisting the family members of the F/V Lady of Grace, lost at sea on January 26, 2007, with four of our fishermen aboard; and also the F/V Lady Luck out of Newburyport. The results of the power of the sea are a reality to me.

First, I would like to address all of you from the perspective of a fishermen's wife, because, primarily, that is who I am. I want you to realize that I, and other women like me, know that there is only so much that we can do to keep our men safe at sea. The job itself is one in which my husband and I know each time we embrace each other for that last hug when we say goodbye, it could be the **VERY** last hug. There are some things about industrial fishing that they as fishermen, and we as their wives, know are matters of nature and man that we cannot impact, but we have seen some things that help, and I have outlined a few of those items for you here.

- **Safety Training**—Shore Support is currently in the process of wrapping up a study on the economic impacts of Amendment 13 on our groundfish fleet. We are partners in the study with Professor Daniel Georgianna of University of Massachusetts at Dartmouth's School for Marine Science and Technologies. During the survey process we spoke with the crewmembers of 94% of the groundfish boats with Multi-species licenses in our port. Easily, **90%** of the men we spoke with had taken the FREE safety classes given in New Bedford, which were sponsored jointly by NMFS, Massachusetts Department of Employment and Training, the US Coast Guard, and the City of New Bedford. Many of our

men also took the "Conductors" course, allowing them to teach new crewmembers, and review on a monthly basis, as required by law, what their crew has learned. This has had a huge impact, not just on practices of our men, but their **prospective of safety at sea**. When I had surveyed boats in an earlier study, just 1 ½ years before, when I asked where survival suits were, the men showed me the forepeak, or they were down in the engine room. Now they are either in the wheelhouse, mudroom, or bunkroom. None a perfect situation because we never know where/what will happen, but they are much more conscious of what to do when emergency arises. Many crews go over the material on a monthly basis, just as a general practice. Previously, suits and drills had been neglected, and one of the facts found in the classes was that many of our fishermen had not just grown older, but larger!! Many suits have been replaced for new and well fitting suits that will be easier to work with, and a correct fit to ensure the garment works to the best of its ability. Fishermen told me of learning about electrical fires, and how another spoke about the security he felt about their safety equipment now, because they actually used it, not just spoke of it. Recently, the Mass. Fishermens' Partnership did a follow-up course, including stability of the vessel and some very important first aid information. **In short, please help us to keep funding going for programs like this in all of our ports.** Fishermen **willingly** give of their time and energy when you make information like this available.

- **Voluntary Dockside Inspections by Coast Guard Safety Officer**---This is another **voluntary** program that our fishermen feel is invaluable. Kevin Coyle, New Bedford's Safety Officer, offers inspections of vessels for proper EPIRB, life raft, and survival suit placement. Again, a **voluntary** program that we can only hope continues to be funded, but that fishermen make use of repeatedly. Kevin Coyle is looked at as a huge asset to our fleet in our port. Again, it has been proven that funding to make this type of information available to fishermen is essential, with a long lasting benefit.

- **Stability Inspection of vessels 50 to 79 feet**---I am very much in favor of including smaller vessels in the **mandatory** stability tests. This is especially important with so many of our smaller boats venturing further and further offshore to make their Days At Sea as profitable as possible, modifying their vessels as best they can. There are small draggers hauling back 10' dredges, trying to take advantage of the General Category scallop permits, again trying to supplement their incomes any way they can. The variables in the different designs of these boats makes mandatory stability inspection by length the only viable way to include this growing number of boats, and the versatility they now require..

- **Certification/Licensing of Captain & Mates**—I do not feel that licensing of **EXISTING** Captains and Mates will be a positive step. In a previous study with Dr. Georgianna of SMAST, Economic Effects of Days on the Fleet of New Bedford,(2003) we showed that the medium age for a scalloper was 40 with 19 years experience, and 46 years old for a draggerman with an average of 23 years at sea. My husband, just for example, has been a Captain for 19 years. We found that few men had entered the industry in the last few years, due to regulations, fish prices, etc. So we are left with a very experienced rank and file. It is unfair that after being Captains in their companies for a number years, who should not endure the expense of time and money to prove they are a capable

captain. I also question how this transition would be made. I would think that it would only be fair to "grandfather" men with a certain level of experience, due to the fact that they have displayed their seamanship by their success over the years. **I believe that there is a commercial interest in making this requirement pass; businesses that are positioned, and marketed, ready to "help".** If licensing is made a requirement perhaps it should be NOAA and the Coast Guard who gives this education, free of charge since they have been so effective in working with fishermen (as in the Safety Classes), and develop an abbreviated qualification standard for fishermen already working in their jobs. My last, and most extreme concern with this portion of the safety bill, is that if Certification is written as part of this bill, that I would hope that the fishermen and Captains on the boats do not become responsible for accident and liability on the vessels. As semi-self employed men, fishermen are accepting the cost of huge fuel bills, shared costs of observer programs, etc. With the fleet ownership that is being created by the natural consolidation of our vessels as a result of our regulatory system, Captains have less and less authority over their vessels. Multi-vessel owners have a great deal of input in the decisions of the Captains. Though the Captain is the only one who directly makes decisions of life and death level while at sea, often whether to stay or go, or to return early from a trip, is one made by the universal and constant communication now possible between owners and captains. Often, cooperation with the owner in the situation could mean keeping or losing your job. With so fewer Captains positions available everyday, and a family to support, there is a direct loss of power. **Remember, the captain of the Oil Barge Valdez was licensed; it didn't seem to make a difference. It's a matter of seamanship, and dedication that has, to date, been passed down from generation to generation. Every fisherman leaves the dock with getting home safely his primary goal. That need not be taught.**

In closing, I would like to express my eternal gratitude to the Coast Guard. In our most recent crisis, they and the State Police divers, tried again and again to bring our fishermen home. They took the time to sit, eye to eye, with families suffering devastating loss of their loved ones, treating them with respect and compassion I have never witnessed before. They are truly officers, and gentlemen.

Thank you for again for this opportunity.

Howard E Candage, CPCU, CIC, CRM
H E Candage, Inc.
Risk Management Consultants
2 Portland Fish Pier, Suite 214
Portland, Maine 04101

Testimony of

Howard E. Candage, CPCU, CIC, CRM

President

H E Candage, Inc.

Risk Management Consultants

Before the House Committee on Transportation and Infrastructure

Subcommittee on Coast Guard and Maritime Transportation

Subject Matter

Commercial Fishing Vessel Safety

April 25, 2007

Chairman Cummings:

Thank you for the opportunity to submit the following information to the Subcommittee on Coast Guard and Maritime Transportation regarding Commercial Fishing Safety. Having been a self employed fisherman and commercial vessel owner for a number of years, followed by a 30 year career as a risk management consultant as well as a former member of CFIVSAC, I am particularly honored to submit testimony on behalf of an industry in which I have such a vested interest. Although my schedule precludes me from testifying at the actual hearing, I am pleased to submit the following comments to be entered as testimony.

If OSHA had jurisdiction on the Ocean,
"Deadliest Catch"
would not be a television program!

In commercial fishing vessel safety, compliance does not exist at the same level as in other industrial areas. While I am not necessarily in favor of mandated solutions and I am not in favor of expanding OSHA jurisdiction to fishing vessels, there is currently no compulsory program to create mandatory compliance to fishing vessel safety standards. Efforts are focused on POST LOSS INTERVENTION to save lives and property rather than pre-loss compliance to PREVENT ACCIDENTS. Commercial vessels of all sizes in all conditions and of all ages are in service today. These varying vessels serve as the platforms from which the men and women of the fishing industry, "fishers", work to access catch and make a living. We need to realize the best way to save lives and prevent injury is to keep the platform intact and floating, thus avoiding unfortunate events that create injuries and take lives. Currently we are forcing compliance only in areas that assume the platform is threatened with disappearance, leaving the crew exposed to the dangers of the ocean.

The commercial fishing industry and regulators of that industry need to take a serious look at pre-loss measures to reduce and eliminate risk rather than viewing risk management as post casualty intervention to save lives. Post loss intervention is very limited in scope and effectiveness, it is very costly, and may not realize any positive result. Let's look at the factors involved in risk and loss.

In the parlance of risk management, the ideal goal is not to have a loss at all. If the incident never occurs, it is easy to preserve lives and property and to prevent injuries. Risk management is the process of attempting to minimize risk and lower the cost of risk over the long run by pre-loss and post loss intervention. Pre-loss measures are difficult to implement and enforce as we all live in a state of denial regarding losses actually occurring.

"I am not going to have a loss, so what I do pre-loss does not matter."

This creates a resistance to pre-loss risk management measures as they are a drain on resources and may impede efficiency and productivity. This is the premise from which we all must work to create a safety culture on fishing vessels.

Pre-loss there are only a limited number of things we can do and a limited number of tools we have to deal with risk. Let me present the following five exclusive options:

- **Avoid Risk**
- **Retain Risk**
- **Share Risk**
- **Transfer Risk**
- **Reduce Risk**

- **Avoiding Risk**

Avoiding Risk requires the ability to choose what activities and efforts one engages in. In commercial fishing the economic and regulatory climate often provide limited options about the activities and fisheries in which a vessel and crew engage. Some fisheries are riskier than others. Fishing permits and efforts to conserve resources often put fishers in peril rather than reduce risk. Derby fisheries were a good example of increasing risk through fisheries regulation. Often, regulation limits options to impact risk. Dwindling economic resources in many fisheries cause fishers to cut corners and often the first corner to be cut is safety.

- **Retaining Risk**

Risk can be retained passively or actively. Many risks are undertaken passively as fishers do not realize their actions create additional risk for which they are unprepared. Active retention of risk occurs when a risk is undertaken with full understanding of the risk being undertaken. Many times risk is ignored as the economic necessity creates a situation where the fisher has to take advantage of what is available when it is available. Overloaded vessels due to abundant fish supplies, improperly re-rigging of vessels to enter fisheries for which the vessel was not designed, and many similar hazards exacerbate the risk.

- **Sharing Risk**

Risk can be shared through groupings of insured vessels. The Point Club and other fisheries organizations provide insurance coverage for fisheries groups and other types of groups. Different sharing arrangements provide ways to finance risk other than insurance.

There are situations where segregation and sharing of risk makes sense. Carrier or processor vessels make it possible for fishing vessels to catch more on longer trips without returning to port. This may reduce the risk of overloading and compromise of the fishing platform.

- **Transferring Risk**

Insurance coverage is the most common method of transferring the financial impact of loss exposures. Insurance falls short in that it only transfers the post loss financial impact of loss and does little to prevent losses or encourage safety. I feel the existence of insurance as a solution is a factor making it difficult for the industry to move away from post loss solutions and focus on pre-loss prevention.

- **Reducing Risk**

Reducing loss is the most common method of prevention of losses that has the most chance of avoiding losses altogether. We need to focus more in this area to prevent injury and death and to reduce the frequency of losses as well as the severity of losses.

These are the tools of risk management. At this time, few of these pre-loss tools are being used effectively in the fishing industry as they are not required. The safety record of the commercial fishing industry has amassed calls for safety. I feel the answer to these calls lies in increased pre-loss scrutiny and further regulation of safety on fishing vessels. This scrutiny is not going to be welcomed by fishers and will be unpopular with those who do not practice voluntary compliance with common sense safety measures.

Regulators will find there is a certain large segment of the industry currently in compliance with voluntary standards. They will have no objection to the new mandatory standards. They are already taking responsibility for safety and are not in denial that such events a) could happen to them, or that b) they, as individuals, can have an impact on the possibility of future occurrences. People can have an impact on the future and the future is largely shaped by the situations they put themselves in and management of the potential impact of future events on both frequency and severity.

Pre-loss, people are largely in denial of the potential for future events being negative and thus will only put potential solutions in place if they are compelled to by some outside influence. This is even true of the purchase of insurance. Were it not for financial institutions mandating that before one can obtain financing for a given business property that insurance be obtained, many individuals would avoid the purchase of insurance and risk losing the entire asset as they are in denial of a claim occurring.

The same principles apply to pre-loss safety initiatives. Such measures may create additional costs or limit the ability to function in some way so they are deemed unnecessary as no one is forcing compliance and the business owner is gambling on avoiding a claim altogether. It does not seem to matter that the very steps they are supposed to undertake from a safety standpoint are the very steps that would significantly reduce the gamble involved from the occurrence of the event.

Denial and Hazards:

The denial an event is going to happen is exacerbated by the hazardous nature of working on a commercial fishing platform both from an injury standpoint and from a catastrophic standpoint of the loss of the working platform. Deck work comes with an inherent collection of pinching, cutting, falling object, instability, drowning, fatigue and other hazards. These hazards make deck work in itself a hazardous occupation.

Compound these by adding the inherent vessel hazards due to sinking, stranding, wave action, instability and others, you have a situation where this denial of the possibility of a loss is an even more irrational human position. The "gamble" is exponentially increased due to the conditions. I feel the spirit of some of the individuals involved in this entrepreneurial occupation actually enhances the risk by allowing vessel owners to gamble and fail to prepare for the eventual outcome the risk may create.

Add to this fact that the geographic risk is extremely high to these vessels at certain times of the year due to adverse weather conditions. Many fisheries demand the vessels work the fishing grounds under extreme weather conditions. Extreme cold and wind are the nature of the fishing industry and the cause many accidents. Some of these accidents are preventable but fisheries' regulations sometimes force vessels to ignore the risks in favor of the rewards.

Steps necessary to improve vessel safety:

The steps I believe need to be taken to improve the situation include several pre-loss measures.

- Safety Regulations for pre-loss measures with consequences for non compliance;
    a. Deck Safety measures;
    b. Training of competent trainers and inspectors;
    c. Training of fishers;
    d. Vessel safety measures including:
        i. Machinery safety measures,
        ii. Hull integrity measures,
        iii. Stability measures,
        iv. Geographic controls,
        v. Seasonal controls,
        vi. Fisheries controls,
        vii. Economic improvement measures.
- Improved focus on these pre-loss measures for the enforcers;
- Improved focus on pre-loss measures by fishers.

- Safety Regulations for pre-loss measures with consequences for non compliance.

    a. Deck safety;

Trained inspection criteria need to be established and mandatory dockside inspections need to be conducted to assure at least a minimum level of compliance with vessel deck safety standards. This testimony does not delve into these areas, it only highlights the need for mandatory deck safety standards.

    b. Training of competent inspectors and trainers;

Compliance personnel need to be trained and experienced in safety issues on vessels. Both trainers and inspectors need to have experience and trainers must possess a high level of experience to train inspection personnel.

    c. Training of fishers;

Experienced trainers for fisheries personnel need to be developed and a program of training needs to be implemented to prevent fisheries accidents. These trainers need to have the experience and levels of competence and intelligence sufficient to institute fisheries safety regulations in the most expeditious and least offensive way possible.

    d. Vessel Safety Measures:

        i. Standards need to be improved and compliance implemented for machinery safety measures,

        ii. Standards need to be uniform and enforced in hull safety,

        iii. Stability standards and compliance standards must be implemented and enforced,

        iv. Geographic guidelines need to be developed to assure suitability of vessels for geographic locations,

        v. Seasonal guidelines need to be developed and implemented regulating the types and size of vessels that are allowed to enter certain fisheries in certain seasons,

vi. Guidelines need to be developed and implemented to control the types and suitability for certain vessels to enter certain fisheries,

vii. The economics of commercial fishing and regulation need to be coordinated to assure that vessels and crews have adequate resources to enter into certain fisheries. Accordingly economic incentives may well be appropriate in light of current regulations for fish stock recovery.

These standards need to be enforced for all commercial fishing vessels. It is irrelevant if a vessel is a documented vessel or is operating under state issued registration numbers, these safety standards must be uniformly drafted and must impact both classes of vessels. Proper standards and mandatory compliance are the only measures that will have a significant impact on prevention. One way to assure proper standards is through some type of "classification" system.

In short, as distasteful as it may seem to burden an already overburdened industry with additional regulations, compliance will not be achieved without some sort of basic mandatory compliance standards. It is known fact that an industry will not voluntarily bring itself into compliance due to lack of compulsion, denial of the possibility of losses, and lack of perceived available resources. Stronger regulation and compliance standards are the only steps that will significantly impact commercial vessel safety.

Respectfully Submitted,

Howard E. Candage

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President
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April 11, 2007

The Honorable Elijah E. Cummings
Chairman
Subcommittee on Coast Guard and Maritime Transportation
Committee on Transportation and Infrastructure
507 Ford House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I was encouraged to learn that your Subcommittee will be holding a Hearing on fishing vessel safety in late April. This is timely and much needed. There is still much to do to improve the safety of the Nation's fishermen.

I have enclosed a Statement that I hope can be made part of the record of your upcoming Hearing.

The Coast Guard's Fishing Vessel Safety Regulations, which basically prescribe what safety equipment to carry, have achieved great results in search and rescue efforts, but fall seriously short when addressing the root cause of fishing vessel casualties, especially during the winter months when fishing activity is at its peak.

The focus now needs to be on Prevention not Response. Emphasis must be placed on vessel condition and fishermen skills as fishermen and proper use of survival equipment. The following must be stressed.

- Vessel seaworthiness and operating equipment material condition must become a prerequisite for getting vessels underway, and records of verification of "readiness" needs to be required to enhance enforcement.
- Operator certification must be ensured at a minimum level equivalent to licensure for masters of 50 GRT operating fishing vessels over 65 ft.
- Crew training and drills need to be more structured and records need to be required to enhance enforcement. Training and drills need to address vessel operations, stability and vessel operational readiness, in additional to on board safety equipment and survival techniques.
- Workplace operational accidents from slips, falls and man overboard accidents need to be addressed.
- Drug and alcohol enforcement must be in place to ensure a safe working environment.

The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, while not formally adopted, clearly has standards that are applicable and useful for inclusion in USCG guidance documents. I urge that you review this Convention as part of your review of fishing vessel safety.

The United States should adopt this treaty now, but if there are reasons it can't, then amendments to the Fishing Vessel Safety Act should incorporate its technical provisions. The Mariner Training Schools in the U.S. are fully capable of delivering this training as they now are delivering USCG approved courses that address these same issues.

We understand the USCG is progressing on their notice of rulemaking, but it is disappointing that the date for publication is many months away. Any steps you can take to advance the publication date would be a very positive step toward improving fishing vessel safety.

Northeast Maritime Institutes look forward to working with you and you staff to improving fishing vessel safety.

I am available to discuss this important issue with you or you staff at your convenience.

Sincerely,

Eric R. Dawicki
President and CEO

Enclosure: Hearing Statement by Eric R. Dawicki

STATEMENT

of

Eric R. Dawicki
President and CEO
Northeast Maritime Institute

Before the

SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION

HEARING

on

"Commercial Fishing Vessel Safety"

Wednesday, April 25, 2007
2167 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

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I am Eric R. Dawicki, President, Northeast Maritime Institute (NMI) of Fairhaven, MA., and a long time advocate of improvement of commercial fishing vessel safety and the welfare of commercial fishermen and appreciate the opportunity to offer my views and recommendations to the Subcommittee on Coast Guard and Maritime Transportation.

I am encouraged that your Subcommittee is holding a Hearing on fishing vessel safety. This is timely and much needed. There is still much to do to improve the safety of the Nation's fishermen.

NMI has been providing training for fishermen for many years and the experience has been gratifying. This has afforded me an opportunity to see firsthand what is needed to improve their safety. This direct contact with working fishermen and hearing their views has resulted in a continuing commitment on the part of NMI and me personally to work to improve their understanding of the risks they face and how to improve their chance of survival in their chosen profession.

One interesting recurring observation is that even fishermen that have been active commercial fishermen for 30 or more years, when exposed to formal training, learn many skills and enhance their knowledge and come away with a very positive feeling from the experience. Often they come with view that they know all that is needed, but, almost with out exception they leave with a greater appreciation of the importance of vessel and personal safety.

The Coast Guard's Fishing Vessel Safety Regulations, which basically prescribe what safety equipment to carry, have achieved great results in the search and rescue efforts, but fall seriously short when addressing the root cause of fishing vessel casualties, especially during the winter months.

At the recent US Marine Safety Association Conference in Phoenix, the USCG spokesman stressed that while deaths have gone down the number of fishing vessels lost as well as serious injury through operational slips, falls and man overboard accidents are still high due to minimal knowledge of equipment and operational standards. The risk to fishermen continues at an unacceptable level.

Emergency Positioning Radio Beacons have significantly shortened the time to notify the U.S. Coast Guard of an emergency and for them to deploy search and rescue forces on scene. Life rafts and immersion suits have also served to improve the chance for survival. Yet, this is barely the tip of the iceberg in the realm of saving the lives of fishermen as it is often the case that fishermen have little to no time to deploy a raft or don and immersion suit as a result of the type of casualties occurring during the winter months.

The focus now needs to be on Prevention not Response. Emphasis must be placed on vessel condition and maritime skills for fishermen and proper use of safety and survival equipment. The following must be stressed.

- **Vessel seaworthiness and operating equipment material condition must become a prerequisite for getting vessels underway, and records of verification of "readiness" needs to be required to enhance enforcement.**

- **Operator certification must be ensured at a minimum level equivalent to licensure for masters of 50 GRT operating fishing vessels over 65 ft.**

- **Crew Training and drills need to be more structured and records need to be required to enhance enforcement. Training and drills need to address vessel operations, stability and vessel operational readiness, in additional to on board safety equipment and survival techniques.**

- **Workplace injury and operational accidents from slips, falls and man overboard accidents need to be addressed.**

- **Drug and alcohol enforcement must be in place to ensure a safe working environment.**

Worldwide, international seafarers adhere to strict standards of training and certification. The goal of the program is to ensure fishing vessel personnel can operate their ships safely and efficiently, have an in-depth knowledge of fishing vessel operations, life saving, fire safety and personal survival techniques as well as understand the laws and regulation by which their vessels must operate.

The Fishing Vessel Safety Act of 1988 does not directly mandate training and addresses vessel seaworthiness only slightly. Half measures avail us nothing!

And the Coast Guard's fishing vessel safety regulations do virtually nothing in the training arena. These regulations do prescribe that the crew be given safety "instruction" and that drills be conducted. There has been little monitoring or enforcement of this provision. But even so the dispirited regulations are not clear enough and leave considerable gaps for interpretation. The gaps are the resultant factor for the continual safety deficiencies and fishing vessel casualties that are still prevalent today.

Vessel construction and material and operational readiness, stability standards and fishing vessel personnel competency standards are key next steps. Vessels should be seaworthy before departure and crews should be fully trained and certified in their duties as mariners and in personal survival respective of their positions on board. These skills need to be learned and demonstrated to ensure competence is verifiable. No one should be hired on as crew who has not had this basic training and holds a certificate from a recognized training provider to certify satisfactory completion.

It is important for the US Fishing Industry, the Nation's 2nd most dangerous industry, to realize that in order to restore its professional culture a disciplined and planned course of action must be developed to drive and guide a results based initiative. To succeed, it must encompass all stakeholders; industry, both owners and crew, regulators, naval architects, maritime education and training experts and fishing families. The goal should be to craft a plan of action that will help achieve a cost effective, efficient and safe industry that results in profitability. Your Subcommittee on Coast Guard and Maritime Transportation can be catalyst for such a plan.

The fishing industry must address the multifaceted problems posed by depleted fish stock, fisherman casualties and injuries, faulty equipment and a regulatory regime that has been more reactive than proactive. The public process can provide a solid basis to assess and address each and every challenge currently facing the industry. It is important that the relationship between these issues be acknowledged.

The Fishing Industry has an opportunity to develop a comprehensive program integrating vessel operations, crew safety considerations and fisheries policy. This will eventually drive professionalism and safety to a point that profits are increased, casualties are decreased and fish stock will ultimately be regenerated for future generations to enjoy. In order to reach these goals however, the fishing industry as a whole must band together and participate in the public process to develop a balances and effective fishing vessel safety regime.

All should keep in mind the basic elements of a successful industry -- professionalism, safety, security and profitability. All laudable goals. By working to achieve these goals using a "systems approach", success in achieving one of these goals will be enhance success in achieving the others.

Once an approach to achieving solutions is developed then it will be important for the Government to step up to the plate and provide the tools for the industry to meet its objectives towards fostering long term growth, safety, security and profitability. Ways need to be developed that are all-inclusive and that will facilitate development and agreement of well thought out actions by the respective government agencies that regulate the fishing industry. The key issue to remember is to trust the process and recognize that putting a "band-aid" on long-term issues does not facilitate the goals and objectives of an industry that must look forward to sustaining long-term growth, safety, and profitability. However, the main objective would be to balance the system while saving the lives of hard working American men and woman.

Vessel construction and survey standards, life safety and fire safety standards, education and training standards, physical and drug screening standards, operational standards and fish stock management standards must be addressed collectively in order to achieve a successful fishing industry.

The Industry can address the vessel construction and survey standards, life safety and fire safety standards, education and training standards, physical and drug screening standards, operational standards these without detailed Federal regulations.

Inclusion of a provision into a legislative Act along the following lines to address fishing vessel safety is offered for discussion:

No one may operate an uninspected commercial fishing vessel unless:

- **the vessel has been surveyed by a competent marine surveyor and found to meet a recognized seaworthiness standard within one year prior to initiating the planned voyage;**

- **the vessel master, prior to getting underway, has conducted an examination of vessel and found it and its operational and safety equipment ready for service;**

- **the vessel master has an established communications plan that includes periodic reporting ,at least twice every 24 hours;**

- **the vessel master has a voyage plan, that takes into account projected weather conditions, that is deposited with a responsible shoreside party;**

- **the required life safety and fire safety equipment is on board and ready for service;**

- **the master has demonstrated completion of a formal training and certification standards of a qualified master of a commercial vessel for vessels 50 GRT and above, respective of the vessels gross registered tonnage;**

- **the crew has demonstrated completion of a formal training program meeting at least the standards of the IMO Fishing Vessel Operation Safety Support Level). This demonstration must be by an identification card with a signature, color photo, and finger print;**

- **the crew is certified to be physically fit for the intended service and meets drug screening standards; and**

- **the vessel operates in accordance with fish stock management requirements.**

This can be achieved by including text in an amendment to the 1988 Fishing Vessel Safety Act without requiring additional USCG regulations. This approach has considerable merit in light of how long it takes to develop and issue regulations by the Executive Branch. For any positive results in improved safety in the near term, this more direct approach needs to be taken, otherwise it will be many years before these much needed requirement will come into force.

Such an amendment should require that fishing vessel crews be fully trained and certified in their duties as mariners and in personal survival techniques. Further, the amendment should cause fishing vessels to meet seaworthiness standards and to be examined annually by a competent vessel examiner to certify that the vessel is seaworthy for the intended fishery.

The USCG would only need to issue guidelines in a Navigation and Vessel Inspection Circular, developed working with the Commercial Fishing Industry Vessel Safety Advisory Committee and the Industry, on vessel design and survey standards and setting out the skills and training course requirements. This would permit tailoring the guidelines to meet the problems faced by each fishery.

For training, most of this work is already accomplished and can be found in the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel of 1995. The Convention applied to crews of seagoing fishing vessels generally of 24 meters in length and above. This convention "piggy-backs" the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers of 1978.

The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, while not formally adopted, clearly has standards that are applicable and useful for inclusion in USCG guidance documents.

The United States should adopt this treaty now, but if there are reasons it can't, then amendments to the Fishing Vessel Safety Act should incorporate its technical provisions. The Mariner Training Schools in the U.S. are fully capable of delivering this training as they now are delivering USCG approved courses that address these same issues.

Fish stock management standards, while critical to the long term viability to any fishery, must be developed and enforced in a practical manner with safety as an overriding tenet. Adequate flexibility must be incorporated to assure the goal of protection fish stock with causing operators and crews to operate in an unsafe manner. Balancing these two goals will not be easy but it must be pursued and a regime developed that assures a proper balance.

Industry itself must take the practical steps to achieve professionalism, safety, security and profitability. But law and only law will cause these outcomes by setting the ground rules for industry action. The law should not be proscriptive in detail but rather performance based to provide the direction that the Industry needs to follow to operate responsibly and safely.

It is important to remember that the Coast Guard can only enforce laws that exist. It is the responsibility of our legislators to ensure that laws are developed to protect the fishermen and mariners working on the ocean.

We understand the USCG is progressing on their notice of rulemaking, but it is disappointing that the date for publication is many months away. Any steps you can take to advance the publication date would be a very positive step toward improving fishing vessel safety.

I and NMI look forward to working with you and you staff to improving fishing vessel safety. I am available to discuss this important issue with you or you staff at your convenience.

Thank you for your consideration.

Northeast Maritime Institute

NMI is the largest privately owned, for profit, merchant mariner training institute in the United States. It provides merchant mariner training to a large number of commercial mariners from many countries. It's courses are USCG approved and meet the UN IMO Standards for Training and Watchkeeping treaty requirements.

NMI has been a long time advocate of improvement in the commercial fishing vessel safety and the welfare of commercial fishermen.

In addition to its regular STCW and other mariner skill training programs, Northeast Maritime Institute provides ISPS Code training in the following areas: Ship Security Officer, Company Security Officer, Port Facility Security Officer, ISPS Code Governmental Administration and ISPS Assessor Orientation. The principles of risk management as applied to security, general security concepts, processes and procedures as applied to the maritime industry, and the relationships between the several ISPS Code players are emphasized.

Northeast Maritime Institute provides comprehensive consulting services for regulatory compliance programs to governments, shipping companies and flag state administrations. Training and support for ship security, port facility and shipping company security plan development as well as ship and facility compliance assessments. Northeast also provides Port Entry Assist support to facilitate port entries.

NMI team members are active in most of IMO's sub-committee and committee meetings and have a close working relationship with the IMO Secretariat, including the Secretary General.

It senior management team participates as government representatives to the IMO at all levels and has over 40 years experience in IMO activities, They participated in all the meetings in the development of the maritime security amendments to the SOLAS Treaty and it associated ISPS Code, including the recent IMO MSC meeting addressing Long Range Information and Tracking(LRIT). NMI has a program developed to assist shipping companies and governments in meeting these requirements.

NMI has extensive knowledge of commercial shipping activity that includes wide-ranging experience with maritime safety and security, government marine safety, security and pollution prevention administration, maritime education and training, commercial shipping operations, shore-based systems, oil tanker and LNG tanker operations, oil and LNG terminal operations, general cargo ship and shore operations and international ship registry and marine licensing operations. See www.northeastmaritime.com

National Research Council
Marine Board Study Report
Fishing Vessel Safety: Blueprint for a National Program
(1991)
A Summary and Observations

- Why did the Coast Guard Ignore this Report?
- How many lives have been lost as a result of shelving this study?
- Why has the Coast Guard not been held accountable?

For the Subcommittee on
Coast Guard & Maritime Transportation Hearing:
Commercial Fishing Vessel Safety

Alan R. Dujenski
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National Research Council

Marine Board Study Report

Fishing Vessel Safety: Blueprint for a National Program

(1991)

A Summary and Observations

My only comments, the REPORT SPEAKS FOR ITSELF:

- "I believe this report outlines the most practical and feasible approach to addressing safety in the fishing industry. Its concepts and recommended structure should be immediately be adopted by the Coast Guard and industry. Folks that think such a structure is in place are naive or ill informed. Failure to have this in place from the get-go has resulted in the overall ineffectiveness in promotion of fishing vessel safety.

- Had we implemented these recommendations 10 years ago many deaths could have been avoided

- I am presenting contents of the report; you draw your conclusion".

Alan Dujenski

THE REPORT...

It was a report which was reprinted in the book Fishing Vessel Safety: Blueprint for a National Program. This study by the National Research Council was commissioned by the Coast Guard in about 1989. The committee members compiling this report come with very impressive credentials and from all aspects of the industry and safety arena. I have taken the liberty of reproducing much of the Conclusions and Recommendations Chapter and only changing a few sections for brevity purposes. The report is online and can be viewed at http://www.nap.edu/books/0309043794/html/index.html.

The study has identified five (05) general areas for safety improvement in the industry:

1. **SAFETY ADMINISTRATION**
2. **VESSEL FITNESS**
3. **HUMAN FACTORS**
4. **SAFETY AND SURVIVAL EQUIPMENT**
5. **EXTERNAL INFLUENCES**

The study starts out in the CONCLUSIONS and RECOMMENDATIONS section discussing the need to take a look at a systematic approach to safety rather than the traditional approach of looking at problems individually. They say a "holistic" approach of ensuring the full nature of the problem is considered and appropriate range of alternatives for addressing the problem and balance is maintained with other elements of an overall safety-improvement strategy. They recommend a "total concept" integrated program which would include:

--goals and objectives set to achieve improvements in safety nationwide, but refined to take into account regional variations in exposure to hazards, operating and working conditions, safety performance and other relevant factors
--a database to identify problems, evaluate improvement alternatives, and monitor results

--standards of performance, for both vessels and personnel, established with the aim of meeting safety objectives while at the same time improving the quality and potential productivity of the various fleets

--means to achieve and maintain these standards (training programs and equipment research and development)
--means to monitor and enforce the standards and regulations (licensing and inspection)

--a deliberate methodology to evaluate program effectiveness and progressively introduce adjustments as needed

SAFETY LEADERSHIP: Both industry and individual leadership (or lack of) contributes to safety (or lack of) in the industry. There is an overall failure to sufficiently motivate universal attention on the subject. Recommendations are as follows:

--Establish Federal Leadership: Calls for Coast Guard to head a national effort to improve safety by coordinating the efforts of NOAA, OSHA, states, fisheries commissions, fishing and insurance industries, and other interested or affected parties on a national, regional, and local levels.

--Implement an Integrated Safety Strategy by Stages: Coast Guard should implement a comprehensive safety program that addresses, in stages,the full range of safety problems. Initial program elements should impose the least onerous burden on the fishing industry---insofar as possible---maximizing use of relatively low cost, least intrusive measures that can be implemented quickly using existing resources. The effectiveness needs to be measured as data are developed. If unsatisfactory or ineffective for some or all categories and sizes of vessels, more stringent measures should be considered and introduced in stages where needed until desired safety-performance objectives are achieved.

--Upgrade Safety Administration: The Coast Guard should upgrade the capability to administer an integrated safety program.

- identify the various agencies and groups and establish communications with each group in order to determine their respective capabilities and future potential to function as part of the nationwide safety infrastructure network to assist in the development and conduct of the program.
- evaluate its maritime law enforcement program, including boardings and other compliance activities, to determine whether to what extent, and how most effectively this program might be employed in implementing the fishing vessel safety program to motivate as much as

demand compliance with safety requirements

- consider, as part of initial goal setting, each proposed safety improvement alternative in terms of required manpower, costs (including to whom), anticipated effectiveness, and implementation timing.

--Upgrade Safety Data: Consolidate various CG and government data bases and make data entry more uniform. Coordinate information with OSHA and NOAA. Upgrade state and federal vessel registration program that will provide information such as vessel usage, details of vessel's physical characteristics, and the nature of its employment. Publish an annual report on fishing industry vessel safety, including information on vessel loss, fatality, and injury rates by region and fishery.

--Establish Vessel and Equipment Standards: Coast Guard should establish minimum standards for vessel design, construction, or conversion, arrangements, materials and stability and should or expand carriage and maintenance requirements for navigation, communication, firefighting, and lifesaving equipment. These requirements should be correlated with vessel physical characteristics and usage and operating areas.

--Utilize Regulatory Enforcement Activities: Coast Guard should continue with compliance examinations (boardings and decals) at an appropriate level to to motivate adherence to safety regulations, modifying scope and level of enforcement in consultation with the fishing industry as other alternatives are applied to the safety problems.

--Require Inspection: Coast Guard should establish and administer regulations requiring COMPULSORY SELF-INSPECTION PROGRAM to improve vessel fitness for intended service. The program should contain:

- develop a checklist or guideline for self inspection with appropriate requirements
- an audit process, such as dockside exams or underway boardings, other forms of compliance exams, or reporting regime through which self inspection can be validated or confirmed
- provisions for accepting more thorough examinations, such as a marine survey by a qualified third party, vessel classification, or maintenance in class in lieu of inspection
- provisions for imposing more-stringent inspections or sanctions on a vessel-by-vessel

basis on finding of excessive or unresolved discrepancies or if vessels are observed to not be properly maintained

- provisions for advancing to more-stringent inspection alternatives if self inspection proves unsatisfactory or ineffective in improving safety

--Remove Unfit Vessels from Service: Coast Guard and National Marine Fisheries Service should look at ways to remove vessels no longer fit from service from the fishing fleet.

--Improve Safety in the Workplace: The Coast Guard , in concert with OSHA, should research ways to improve occupational safety in the marine environment:

- increase awareness of safety as a fundamental responsibility of owners, operators and crewmen, not only in their own self interest but as an element of good business
- provide reasonable means for all fishermen and vessel operators to acquire the basic skills needed to successfully perform their respective roles
- ensure that basic qualifications needed for service as vessel operator, owner and crewmen are attained

--Expand Safety Awareness: The Coast Guard in conjunction with NOAA and OSHA should organize an intensive effort to improve safety awareness among members of the fishing industry. The program should be aimed at informing, educating, and motivating fishermen on matters of safety and its impact on their lives and livelihoods.

--Establish Basic Professional Qualification Standards: Coast Guard should identify with the fishing industry minimum basic qualification levels needed for all personnel engaged in the industry and the standard operating procedures. Coast Guard should publish and encourage the use of standard operating procedures insofar as practical in the fishing industry.

--Enhance the Education and Training Infrastructure: The Coast Guard in conjunction with NOAA should enhance the existing education and training infrastructure. This includes developing accreditation standards and establishment of sufficient national, regional, and local resource base, to ensure the means through which fishermen can obtain basic knowledge and practical skills as

crewmen, watchkeepers, and operators

--Require Professional Competency: The Coast Guard should establish and administer regulations regulations requiring that each fisherman, vessel owner, or individual in charge acquires the fundamental skills associated with his or her role aboard fishing industry vessels as follows:

- Coast Guard should establish a certification program to provide a means for each fisherman to establish his or her basic qualifications for employment in the industry by meeting criteria tailored for industry, such as time in service, attendance at training or educational courses, or demonstration of competence.
- Coast Guard should establish licensing requirement applicable to each operator or individual in charge of a fishing industry vessel. Implementation of the license requirement should emphasize development of the practical skills necessary to operate different categories of fishing industry vessels while also providing the means for holding operators accountable for safety. The operator license should be issued upon presentation of a certificate of competency attesting to satisfactory completion of required courses pertaining to vessel operation and safety.
- Coast Guard should establish an audit process such as verification through boardings or a professional registration program, employing automated data bases for effective information management, to ensure fishermen certification and operator licensing requirements are met.
- If performance objectives are not met through measures intended to facilitate skill development at the local level, the Coast Guard should establish provisions for advancing to more stringent licensing measures for fishermen and vessel operators such as requiring formal examinations and mandating manning and watchkeeping requirements.

--Improve Use and Maintenance Instructions for Survival Equipment: Coast Guard should require each item of Coast Guard approved, special-purpose survival equipment be accompanied by adequate instructional material, including audiovisual aids, demonstrating correct use and maintenance to assist fishermen in improving the readiness of survival equipment and their ability to effectively employ this equipment in survival settings.

--Improve Special-Purpose Survival Equipment: The Coast Guard should, in consultation with the commercial fishing industry, identify special-purpose equipment specifically designed for use aboard fishing vessels that is needed to increase the likelihood that fishermen will survive falls overboard or sudden loss of vessels. Develop standards for this equipment and develop prototype equipment if necessary to bring this equipment to market

--Increase Attention to Safety as an Element of Fisheries Management: Have Congress establish a Coast Guard flag officer (admiral) as a voting member on each of the fishery management councils and to add safety considerations to national standards stated in the Magnuson Fisheries Conservation and Management Act for the express purpose of establishing safety as an equal consideration with other factors in fisheries management decision making.

--Improve Weather Services: Weather advisory services are not implicated as direct causes of casualties in the fishing industry. However, weather conditions are clearly the proximate cause of some casualties and contribute to many more. The availability of timely, accurate, and complete weather information for the fishing grounds and fishing ports, particularly those that are remote or prone to rapidly changing weather conditions, potentially would improve the opportunity for timely decision making by vessel operators.

Report Recommendation Summary

The recommendations purpose for a single, integrated program for safety improvement under Department of Transportation (Coast Guard) leadership that would begin immediately by expanding existing measures and drawing on existing safety infrastructure and resources. In this way government , industry, and individual resources would not be unduly strained, nor further delay experienced, in establishing systematic attention to safety.

Treating safety as a total concept does not mean that all elements of the system have to be given the same priority or activated concurrently. It does mean however, seeking an effective balance among all program elements to maximize the effective contribution of incremental costs and cumulative impacts of each

Since it is not known how effective individual alternatives might prove to be in application, it makes sense to begin with basic measures to address each major problem area--safety performance monitoring, vessel related problems, personnel-related problems, survival issues, and external influences. Basic alternatives in each of these areas should be refined and given

appropriate emphasis as experience is gained during application.

Setting goals and objectives and measuring progress will be a challenge. At each stage the following questions must be asked:

- How much safety is enough?
- What costs is the industry able to bear?
- How many resources is government willing to devote to fishing vessel safety?

Ultimately the level of federal and industry resources that can be committed to improving safety will be a principal determinant of the configuration of the resulting programs.

REMEMBER: These are findings by industry experts!

AUTHOR'S BIOGRAPHY

- 1971 graduate of the Coast Guard Academy with a degree in engineering and later received a degree in naval architecture and marine engineering from the University of Michigan with a minor in metallurgy.

- While in the Coast Guard was a shipboard engineer, engaged in technical plan review on chemical and gas ships, tankers, barges, pressure vessels, and piping systems. Field experience includes inspections of tankers, freighters, drilling rigs and barges.

- Became involved the fishing vessel safety program in 1987 in Seattle and has continued working in fishing vessel safety area up until retirement in 1993 with continued involvement up to present.

- Since 1993-2005 a safety consultant for an insurance brokerage and acts as their Marine Loss Control Specialist. Assisted many clients with consultations, preparation of manuals, preparation of vessel and facility response plans, drill procedures, and monitoring of government regulations. Instigated programs for some which have at first demonstrated to underwriters the client's desire to address problems and which ultimately have resulted in dramatic improvement in loss records.

- Active in developing American Waterways Operator's Responsible Carrier Programs for the towing industry clients

- In June 1994 was called to testify before Congress regarding fishing vessel safety proposals involving licensing and inspection

- Wrote monthly safety articles for THE FISHERMEN'S NEWS (1993-2004)

- Developed the Integrated Safety Program

- See www.ardujenski.com for full Background

STATEMENT

of

Burt W. "Tom" Thompson
Executive Director
United States Marine Safety Association

Before the

SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION

HEARING

on

"Commercial Fishing Vessel Safety"

Wednesday, April 25, 2007
2167 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

United States Marine Safety Association
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I am Burt W. "Tom" Thompson, U. S. Marine Safety Association Executive Director. USMSA has had a long involvement in promoting commercial fishing vessel safety and the welfare of commercial fishermen. We appreciate the opportunity to offer our views and recommendations to the Subcommittee on Coast Guard and Maritime Transportation.

USMSA, while its focus is on life safety equipment and proper training in the use of this equipment, is fully convinced that more effort needs to be given to assuring that the vessels that fishermen go to sea on are seaworthy and that the vessels and the operating equipment is in full readiness and fit for duty.

USMSA and its members are proud of the very positive results that the safety equipment required to be carried on commercial fishing vessels has achieved. Clearly, lives are being saved and the enforcement emphasis needs to continue, indeed increase, on carriage, readiness and training in the use of this equipment.

But much more needs to be done to address root causes of the vessel losses! While lives lost has decreased, vessel loses have not. This continues to put commercial fishermen at an unacceptable risk. Your hearing on fishing vessel safety should serve to highlight where more attention needs to be directed.

The U. S. Marine Safety Association has just concluded its Annual Conference in Phoenix which addressed a number of marine safety issues.

This included

- Fishing Vessel Safety
- Small Passenger Vessel Safety
- Measures to Minimize Manoverboard Risk and Losses

The Conference attendees were pleased to learn of the scheduling hearing on fishing vessel safety and asked that I share some of the concerns about fishing vessel safety raised at the Conference.

With respect to fishing vessel safety specifically, there are a number of issues that need to be addressed and we hope this Hearing will serve to highlight their importance. These include:

- Training and drills need to be more structured. Drills must be recorded and record verified by participating crewmembers in order to enable effective enforcement. Training and drills should address vessel operations, stability and operational readiness of the vessel, as well as onboard safety equipment and survival techniques.

- Vessel seaworthiness and material condition of operating equipment must become a prerequisite for getting vessels underway, and records of verification of "readiness" must be required to enable effective enforcement

- Methods must be identified and implemented to address condition of immersion suits as these units are reaching 15-18 years, or older, on a

large number of vessels. Experience is showing that there can be problems with watertight integrity as they age. These suits have been a major factor in saving in lives over the past few years and it would be a shame to put this fine record at risk.

- Crew overboard risk and losses are still high and ways need to be found to reduce the incidence and the negative outcomes.

We were heartened to learn from the USCG that their fishing vessel safety notice of proposed rulemaking is in its final development stage. While we were pleased to see the USCG progressing on their notice of rulemaking, we were disappointed that the date for publication is many months away. Any steps you can take to advance the publication date would be a very positive step toward improving fishing vessel safety.

We also were pleased to learn that NIOSH has begun a study of measures to minimize man overboard risk and losses. Both the USCG and NIOSH stressed that that this is area where losses are still high and steps need to be taken to reduce the number of casualties. Your support of this Study - and even the need to expand it to include evaluation of additional mitigation means - is urged.

I have also included a short statement on USMSA to give some background on our organization and the expertise we would be pleased to make available to you and your staff.

The Association looks forward to working with you and you staff in the marine safety equipment and systems arena, especially in the areas of fishing vessel safety.

Thank You.

United States Marine Safety Association

Founded: 1987

The Association is comprised of more than 150 companies and individuals, including international membership. Members are involved in the design, manufacture, sale or service of commercial marine or recreational boating safety equipment or its components; provide training in the use of such equipment and systems; or are career professionals in commercial marine or recreational boating safety.

USMSA is dedicated to promoting the highest possible marine safety standards and creating widespread awareness in the use of marine safety equipment. To this end, we have established a series of technical committees representing various industry and equipment: Life Raft Design and Manufacturing, Equipment Servicing, Lifeboats, Pyrotechnics, Immersion Suits, Fire Protection, Photoluminescent Safety Signage, Training/Medical, Safety and Survival Electronics, and Recreational Boating.

Mission:

- To be a recognized world leader in marine safety and survival.
- To promote development and implementation of the highest possible standards of performance, manufacturing, maintenance, service and training for all lifesaving, survival, fire safety, and emergency rescue equipment.
- To be a centralized network for collection and dissemination of useful marine safety information.
- To serve and educate the membership, the marine community, the general public, and governing agencies in a manner which exhibits a commitment to the highest degree of quality and integrity.

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