CHALLENGES FACING THE COAST GUARD'S MARINE SAFETY PROGRAM

(110–65)

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

AUGUST 2, 2007

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July 27, 2007

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 Challenges Facing the Coast Guard's Marine Safety Program.

PURPOSE OF THE HEARING

On Thursday, August 2, 2007, at 2:00 p.m., in 2167 Rayburn House Building, the Subcommittee on Coast Guard and Maritime Transportation will meet to examine the "Challenges Facing the Coast Guard's Marine Safety Program." The Subcommittee is interested in hearing from the Coast Guard and the maritime industry about the current state of this important governmental function that is: "Protecting Life and Property at Sea."

BACKGROUND

Evolution of the Marine Safety Laws

The Marine Safety Program originated in the 19th Century with the adoption of a statute in empowering the District Courts to appoint "inspectors" of "hulls" and "boilers" to ensure the seaworthiness of vessels propelled by steam and the Steamboat Inspection Service was created by an act of July 7, 1838.

The Steamboat Inspection Service was reorganized in 1852 and 1871 to strengthen the government's regulation of safety on steam vessels.

In 1884, Congress created in the Treasury Department the Bureau of Navigation to oversee all navigation and shipping laws.

In 1903, both the Steamboat Inspection Service and the Bureau of Navigation were transferred to the newly established Department of Commerce and Labor.

In 1904, 957 people lost their lives when the excursion steamer *General Slocum* burned in the East River of New York. Congress enacted a series of amendments to the laws governing steamboat inspection. In 1910, Congress adopted the "Motor Boat Act" to provide protection for recreational boaters.

While it did not involve a U.S. flag vessel, the *Titanic* disaster resulted in the loss of many Americans and led to several efforts both international and national to improve maritime safety. The first Safety of Life at Sea (SOLAS) Convention was held in London in 1914. Because of World War I, much of these first international efforts were not immediately adopted. The U.S. did adopt provisions regarding lifesaving devices, in legislation passed in 1915 giving the Supervising Inspectors authority to govern the number of lifesaving appliances, and local inspectors the authority to issue certificates to able seamen and lifeboatmen.

In 1932, the Secretary of Commerce (Commerce and Labor were now separate Departments) was authorized to consolidate the Bureau of Navigation and the Steamboat Inspection Service, into the Bureau of Navigation and Steamboat Inspection.

In 1934, the passenger vessel *Morro Castle* was returning from a cruise to Havana, Cuba, when it caught fire off the coast of New Jersey and burned. Eight-nine passengers and 35 crewmembers died. In 1935, the steam vessel *Mohawk* collided with the Norwegian motorship *Talisman*, sinking the *Mohawk* with the loss of 14 passengers and 31 crewmembers. These two disasters resulted in a thorough Congressional investigation, the publishing of Senate Report No. 184, ("Morro Castle" and "Mohawk" Investigations) in 1937, and the adoption of legislation addressing: the structure, equipment and material used on vessels; officers, crew and seagoing personnel; and Federal supervision over the merchant marine.

In 1936, the Senate ratified the Convention for the Safety of Life at Sea, and Congress extended "inspection" to ocean-going motor vessels over 300 tons and to all "tank vessels" carrying dangerous cargo. In 1936, the "Personnel Bill" was adopted requiring a three-watch system on seagoing vessels, establishing 8 hours per day as the normal standard, and requiring monthly inspections of crews quarters on vessels over 100 tons. Lifeboatman and able seaman certificates were cancelled and reissued. The Act also required that 75 percent of the crew be American citizens, with vessels receiving government assistance required to have 80 percent American citizens increasing to 90 percent.

Also in 1936, the Bureau of Navigation and Steamboat Inspection was reorganized and renamed the Bureau of Marine Inspection and Navigation (BMIN). The number of inspection districts and supervising inspectors was reduced from eleven to seven. Ten principal traveling inspectors were appointed to observe conditions onboard ships at sea to assure that vessels were properly operated; crews well trained and discipline maintained; that passengers were instructed regarding lifeboat, fire and abandon-ship procedures; and crew morale was maintained.

The reorganization also established "marine boards" to investigate marine casualties. "A" boards, which investigated loss of life, consisted of a representative of the Department of Justice, the Coast Guard and the Department of Commerce. These boards were required to investigate the fundamental causes of a casualty and fix responsibility. Other casualties were investigated by "boards" of one or two BMIN personnel depending on the severity of the casualty.

The Act reorganizing BMIN had an important provision requiring that members of the newly established "technical division" be "selected for their knowledge, skill, and practical experience in designing and supervising the construction and operation of vessels propelled by machinery, and shall be competent judged of the character, sttength, stability and safety qualities of such vessels and their equipment."

In 1939, Congress adopted legislation to carry out the provisions of the "Officers' Competency Certificates Convention of 1936" and adopted the "Motor Boat Act of 1940" to provide for the better protection of recreational boats.

In early in 1942, the functions relating to safety of life at sea, marine inspection, seamen's welfare and certain other maritime activities carried out by the Bureau of Marine Inspection and Navigation (BMIN) were temporarily transferred from the Department of Commerce to the U.S. Coast Guard (by executive order) for the duration of the war and until six months after the end of hostilities. [1]

During the war years, the Coast Guard was responsible for those safety matters that had been regulated by BMIN: approval of plans for merchant ships and their equipment; inspection of vessels to check stability, fire control or fireproofing, life-saving and fire-fighting equipment; administration of load line requirements; administration and enforcement of the laws pertaining to the numbering of motor-boats and the issuance of certificates of inspection; examination, licensing and certification of Merchant Marine personnel – masters, pilots, engineers, staff officers; investigation of marine casualties; preparation and publication of rules and regulations to protect passengers, officers, and crews of American ships; Merchant Marine Council activities; and the training of merchant mariners.

BMIN becomes part of the Coast Guard

In 1946, Congress considered three executive branch Reorganization Plans, submitted by the President pursuant to the Reorganization Act of 1945. Each plan had to be rejected without change by both Houses – similar to the way that base closing plans are approved or rejected today. Reorganization Plan No. 3 called for the permanent transfer of the BMIN to the Coast Guard.

With the exception of the Coast Guard, most who testified – including many of the same organizations represented today – did not support the proposal to permanently transfer the Bureau of Marine Inspection and Navigation (BMIN) to the Coast Guard. Most urged Congress to reject the plan and return the BMIN to the Department of Commerce.

> "Under the administration of the Department of Commerce, the Bureau was not only efficiently but was economically administered. The local inspectors in the various departments were all men with extended service in the navigation and operation of our merchant marine. Investigation of marine casualties were thorough and painstaking." " .... under the Coast Guard the Bureau has been loaded up with a lot of inexperienced personnel, many of them graduates of the United States Coast

[1] The above is summarized from a paper by Captain H. C. Shepheard, U.S.C.G.R., Chief of Merchant Marine Inspection, United States Coast Guard, published in "Historical Transactions 1893-1943" of the Society of Naval Architects and Marine Engineers, 1945.

Guard Academy, who had no experience whatsoever on merchant marine vessels." [From letter submitted for the record by the Vessel Owners' and Captains' Association of Philadelphia.]

"The railroads bear the same relationship to the U.S. Army that the merchant marine does to the Coast Guard and the Navy. For purposed of supply the Army must have the railroads at its disposal. But if the Army operated as the Coast Guard did during the war, and has since, and will perpetually if the reorganization plan goes through, railroad men would be examined for fitness to serve by a board of Army officers." [Testimony by John Hawk, Vice President Seafarers International Union of North America, before the Senate Judiciary Committee, June 21, 1946]

The Senate Judiciary Committee reported the plan unfavorably, but it ultimately passed the Senate on a 37-30 vote. The House rejected the Plan No. 3 on a voice vote. Reorganization Plan No. 3 became effective on July 16, 1946.

Many experienced inspectors, naval architect and marine engineers who served in the BMIN during the war and had accepted commissions in the Coast Guard Reserve continued to serve in the Coast Guard. Captain Shepheard – who held a unlimited master's license and joined the Steamboat Inspection Service in the 1920s – headed the Merchant Marine Inspection program before and during the war and went on to serve as the Chief of the Office of Merchant Marine Safety (the "M" program) for 10 years, retiring as a Rear Admiral.

In the post war years the Coast Guard's Merchant Marine Inspection program was augmented by merchant marine officers who joined the marine safety program through the "219 Program" (named for the Section of the statute that established it). These officers brought at-sea experience to a highly complex and technical program. The former members of the BMIN and the "219ers" trained the next generation of marine inspectors, all of whom have now retired.

Much of the post war effort on maritime safety was at the international level with updates of SOLAS in 1948, 1960, and 1974 and the establishment of Inter-Governmental Maritime Consultative Organization now the International Maritime Organization (IMO).

In the domestic arena, there were major initiatives regarding recreational vessel and passenger vessel safety. After a number of tragic casualties – including the *Jack* and the *Pelican* both in 1951, resulting in the loss of 56 lives – Congress adopted the "Small Passenger Vessel Act" in 1958.

In 1975, the sinking of the SS *Edmund Fitzgerald* in Lake Superior focused attention on several critical issues involving bulk carriers and lifesaving equipment. The recommendations of the Marine Board were, for the most part, implemented by the Commandant, including improvement in training requirements, launching arrangements for lifeboats and liferafts, and carriage of immersion suits – an issue of great concern to Great Lakes maritime personnel.

In 1988, to address the comparatively high loss of life in the U.S. commercial fishing industry, Congress adopted the "Commercial Fishing Industry Vessel Safety Act of 1988". (Note: The Committee adopted amendments to this Act in the Coast Guard Authorization Bill H.R. 2830 last month.)

The 1980s ended with the grounding of the *Exxon Valdez*, which led to the adoption of the Oil Pollution Act of 1990 (OPA-90), the most sweeping maritime safety legislation adopted by Congress since the 1930s. The Coast Guard's Marine Safety Program was invigorated by the passage of OPA-90 as the public focused its attention on preserving clean water and beaches.[2]

ISSUES

Today, the Committee seeks to find out: Can or should the Coast Guard, a "military, maritime, multi-mission service" be expected – in an increasing technical world – to prevent marine casualties from occurring, minimize the effect of a casualty after it occurs, and maximize lives saved?[3] Can Coast Guard personnel, who rotate through multiple missions during their career, understand the complexities of marine safety, adequately investigate marine casualties, inspect vessels for compliance with highly technical regulations, and judge the qualifications of the mariners who operate these vessels? Has the Coast Guard's reorganization that merged Marine Safety Offices with operational Groups affected marine safety in areas because the officers in charge of some sectors may not have a background in commercial vessel safety?

To accomplish these goals, a marine safety program requires robust but flexible vessel safety and personnel standards that are based on "best marine practice" and the lessons learned from thorough casualty investigations. This requires technically competent personnel that can examine vessels and personnel to ensure that they meet the high standards, and they must treat the mariner with respect. Further, continuity of service and knowledge of a wide variety of vessels – tank vessels, passenger vessels, bulk carriers, towing vessels and barges, and the operation of such vessels – is required. A large volume of technical materials must not only be reviewed but understood – the Code of Federal Regulations (CFRs), policy letters, Navigation and Vessel Inspection Circulars (NVICs) and the Marine Safety Manual – amounting to thousands of pages of highly technical specifications and information regarding vessel and equipment design, construction, maintenance, operation; and personnel training and qualifications.

Coast Guard and NTSB casualty investigations as well as Congressional oversight hearings since 1981 on the Coast Guard's Marine Safety Program highlight programmatic deficiencies are of concern to the Committee.

Technical expertise

Marine inspectors – the personnel who visit the shipyards and attend periodic 'inspections' of most commercial vessels – must be technically competent and should have an understanding of vessel operations as well.

The following are four examples of casualties that could have been prevented had the Coast Guard's marine safety program had the technical expertise and professional continuity necessary to "inspect" the vessels with an eye to preventing the casualty from occurring.

---

[2] See paper by William A. Cleary, Jr., "Regulation", published in "A Half Century of Marine Technology 1943 - 1993", by the Society of Naval Architects and Marine Engineers.

[3] See *A Study of Cost, Benefits, Effectiveness of the Merchant Marine Safety Program*, May 1, 1968, U.S. Coast Guard."

MARINE ELECTRIC – in February 1983, the S.S. *Marine Electric*, a 40-year old modified T-2 tanker capsized and sank while carrying coal from Norfolk, Virginia to Brayton Point, Massachusetts. Thirty-one members of the crew died.

The Chief Mate, the Third Mate and an AB survived. The U.S. Coast Guard Marine Board, a panel of Coast Guard officers, concluded that both the Coast Guard and the American Bureau of Shipping failed to properly inspect the vessel and that their failure to exercise diligence resulted in the loss of the vessel and loss of life. The Marine Board made two significant recommendations:

> That the examination of U.S. Merchant vessels to assure their compliance with the applicable Federal safety statutes and regulations be conducted and determined by knowledgeable members of a U.S. government agency. The responsibility for these functions should not be delegated or entrusted to the private sector.
>
> That the Commandant empanel a commission to "conduct an indepth [sic] review of the entire Coast Guard Commercial Vessel Safety Program and make recommendations … (regarding) the Program's overall structure and the Coast Guard's ability to continue with such a program ... the present and projected expertise level of the program administrators, program and project managers, Officers in Charge Marine Inspection, and field inspectors, and the distribution of such expertise within the program … present and projected procurement and training programs, and identification of the requirements and qualifications of a marine inspector.[4]

The Commandant rejected these recommendations, stating that efforts, "including the reorganization of the marine safety training program, the additional guidance in the Marine Safety Manual, the establishment of a toll free number for reporting safety discrepancies, the initiation of the old vessel examination program, the examination of field inspection records and development of oversight guidance," were already underway in the Coast Guard.

MISS MAJESTIC – On May 1, 1999, the WWII vintage amphibious vehicle (DUKW) the *Miss Majestic* operating as a "small passenger vessel" sank in Lake Hamilton near Hot Springs, Arkansas, due to flooding through the aft drive shaft housing after the boot seal had dislodged. Thirteen passengers, including 3 children, died.

The Coast Guard investigation of the casualty states, "The Coast Guard has no national inspection, maintenance and operation standards for DUKW passenger vessels …". The Coast Guard inspector "did not notice the missing hinge assembly for the aft shaft housing partly due to lack of awareness of the importance of DUKW components." The Coast Guard inspector had not inspected a DUKW in 5 years, and had only conducted a total of four DUKW inspections during a previous tour.

The NTSB investigation found that "The Coast Guard's inspection programs for the *Miss Majestic* was inadequate and cursory," and that "The lack of Coast Guard guidance and training for the inspection of DUKWs contributed to the inadequate inspections of the *Miss Majestic*."

---

[4] See, U.S. Coast Guard Marine Board Report, SS *Marine Electric*.

LADY D – In March 2004 the small passenger vessel *LADY D* capsized in the Baltimore inner harbor. Five passengers died, 4 were seriously injured and 12 suffered minor injuries.

The NTSB conducted a thorough investigation of the casualty and found that lack of intact stability was the probable cause of the casualty. The lack of intact stability was caused by overloading that resulted from the following:

- "The *Lady D* was erroneously granted sister status by the U.S. Coast Guard to a pontoon vessel with different design characteristics;
- "The Coast Guard certified the *Lady D* to carry too many people as a result of an inappropriate stability test on the vessel to which it was granted sister status; and
- "The Coast Guard's regulatory stability test standards on which the *Lady D's* passenger allowance was based on an out-of-date average passenger weight."

In a December 2004 letter to the Coast Guard Commandant the NTSB recommended that the Coast Guard "revise your guidance to determine the maximum occupant capacity of small passenger pontoon vessels" and in a later letter advised the Coast Guard to "revise regulations to require that passenger capacity for domestic passenger vessels be calculated based on a statistically representative average passenger weight standard that is periodically undated."

Based on the results of an investigation of an airline crash in January 2003, the FAA revised its weight and balance guidance in August 2004.

In October 2005, the Coast Guard announced its intention to contract for a "study on of the potential impacts that would result from increasing the passenger weight and size regulatory standards used when calculating the intact stability of domestic passenger vessels."

In April 2006 the Coast Guard published in the Federal Register "Voluntary Interim Measures" for "Domestic Vessel Passenger Weights" and stated that "it is committed to a **high priority rulemaking** to develop new regulations and interim measures to address increased passenger weight problems…".

The Coast Guard has yet to publish the results of the study announced in October 2005 or a Notice of Proposed Rulemaking.

Almost 50 people died in these three casualties.

Casualty investigations

In 1995, the Coast Guard issued a "Report of the Quality Action Team on Marine Safety Investigations" recommending that, "To improve the overall quality of the information derived from investigations, an investigations career path should be developed. This would enable the Coast Guard to raise the overall level of expertise in investigations. This is necessary to have personnel who can thoroughly and efficiently investigate major casualties and who can properly address the very complex human factors aspects of casualties."

At the request of the Committee, the Inspector General of the Department of Homeland Security is currently conducting a thorough evaluation of the Coast Guard's marine casualty investigation program. While the results of that study were due by the end of June, the Committee expects to receive the report soon.

The Coast Guard has conduct only two Marine Board investigations in the decade between 1998 and 2007. During the same period, the NTSB issued 29 reports. The most recent Coast Guard Marine Board report on the loss of the F/V *Arctic Rose* took three years to produce and failed to account for a critical 20,000 pounds of weight that had been added to the vessel after the stability booklet was prepared.

The Coast Guard is required to post marine casualties on the Internet, but a review finds a lack of information on the causes of most casualties that would be useful to owners and operators for the prevention of future incidents.

Issuance of Licenses and Merchant Mariner Documents

The Coast Guard is responsible for ensuring the quality and validity of the training programs that assist mariners in obtaining licenses as deck and engineering officers, and documents as seaman or members of the engine-room department; the administration and implementation of the program that issues licenses and merchant mariner documents; and, the legal system adjudicates 'suspension and revocation' proceedings of alleged misdeeds and infractions of the law.

Last year, the Subcommittee held an oversight hearing on the back-log and delay in issuing licenses and merchant mariner documents. Witnesses testified that they experience delays that cost them: time, jobs and money.

Oversight of Lifesaving Equipment:

There are two types of lifesaving equipment facilities: the manufactures that make the equipment, and the service facilities that service lifesaving equipment such as life-boats and inflatable liferafts. In the past, Coast Guard personnel conducted on-site inspections at manufacturing plants to ensure that equipment was made and tested correctly, and at service facilities when equipment such as – lifeboats and inflatable liferafts – from an 'inspected' vessels was being serviced.

Today Coast Guard inspectors do not regularly visit manufacturing facilities and rarely visit servicing facilities where inflatable lifesaving equipment is serviced. Companies that manufacture and service lifesaving equipment – the last line of defense in the event of a vessel casualty – are concerned about the Coast Guard's lack of oversight of the manufacture and service of this important equipment.

Marine safety regulations

In 1981, the House Merchant Marine and Fisheries Committee conducted a series of oversight hearing on the Coast Guard mission and noted that –

> In recent years, the role of the Coast Guard has increasingly become that of a regulatory agency. However, we do not believe that the regulatory function is compatible with the nature of a military service. The best example of this incompatibility lies in the Coast Guard personnel rotation policy, which is not unlike that of our other military services. While the practice of regularly transferring Coast Guard personnel to different geographic locations and delegating new responsibilities may be sound from a military perspective, it severely hampers the agency's ability to successfully fulfill its regulatory functions because it limits the development of expertise in any given geographic or technical area. It should go without saying that the development of just this kind of expertise is critical to the promotion of a safe merchant fleet and the promulgation of regulations which are not economically debilitating.

The Committee recommended, "The Coast Guard should be relieved of any responsibilities which can be fulfilled with equal or greater competence and efficiency by other federal agencies, by state or local government, or by the private sector. Particularly strong consideration should be given to the transfer of some duties in the areas of Bridge Administration, **Commercial Vessel Safety**, towing and salvage operations, and icebreaking." [5]

The emphasis on 'operational' missions such as Search and Rescue (SAR) and drug interdiction (Law Enforcement) continued along with efforts to 'delegate' marine safety responsibilities to 'third parties' despite that fact that Congress continues to adopt legislation that require the Coast Guard to undertake complex regulatory initiatives that require in-house expertise. For example, after the grounding of the tank vessel *Argo Merchant,* Congress adopted the Port and Tanker Safety Act giving the Coast Guard more regulatory responsibility. And in response to the grounding of the tanker *Exxon Valdez,* Congress adopted the Oil Pollution Act of 1990 (OPA-90), which required a staff of 75 to write the regulations, and a continuing staff to administer the Oil Spill Liability Trust Fund.

In December 1993, the charter-fishing vessel *El Toro II* sank in Chesapeake Bay with 23 people on board. The vessel did not have survival craft that provided protection from hypothermia. Two passengers and one crewmember died from the effects of hypothermia. The Coast Guard investigator recommended that consideration be given to revising primary lifesaving equipment requirements for small passenger vessels to minimize the effects of hypothermia. The NTSB recommended that the Coast Guard "require that **out-of-the-water survival craft** for **all** passengers and crew be provided on board small passenger vessels on **ALL** routes." Four years prior to the sinking of *El Toro,* the Coast Guard published a Notice of Proposed Rulemaking (NPRM) that would have required most small passenger vessels to carry inflatable survival craft capable of keeping the occupants completely out of the water. In 1997, the Coast Guard published a Final Rule that allows a vessel such as *El Toro* – a wood vessel with no watertight subdivision – to operate on Chesapeake Bay in December (when water temperature hover around 45°F) with survival craft that would not provide out-of-the-water protection.

The Committee understands that the Coast Guard is working on over 90 marine safety regulatory projects including:

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[5] See "Semi-Paratus: The Unites States Coast Guard 1981" Oversight report of the Subcommittee on Coast Guard and Navigation.

- Towing vessel inspection regulations authorized in 2004. The Coast Guard is seeking guidance from industry to develop regulations. No estimate of when final rules might be published is available.
- Fishing vessel safety regulations regarding stability on smaller vessels and other issues.
- Hours of service limits for towing vessels.
- Automatic Identification System (transponders).
- Electronic charts (mandated by law on vessels beginning January 1, 2007).
- Alternate tonnage measurement.
- Potable drinking water on inspected vessels.

For many of these projects even a preliminary notice of rulemaking has not been published.

In 2004, as a result of their investigation of the *Lady D* casualty, NTSB recommended that the Coast Guard revise the passenger weight standard used to calculate stability on passenger vessels. As noted above, the Coast Guard announced in April 2006 that "it is committed to a **high priority** rulemaking to develop new regulations … to address increased passenger weight problems".

"Almost without exception there is no accepted career path to regulatory program leadership at the highest levels for newly assigned personnel, or for warrant officers, or for those that don civilian clothes in retirement," a former Coast Guard marine inspector wrote in a trade journal, going on to say, "There is every reason to reinvigorate a comprehensive marine modal administration in the Department of Transportation even if it comes in part at the expense of the multi-mission Coast Guard."

Today, the Committee is examining the challenges that the Coast Guard faces "to reinvigorate a comprehensive" marine safety program that is dedicated to preventing marine casualties, minimizing the effect of the casualty, and maximizing lives saved.

WITNESSES

PANEL I

Admiral Thad Allen, USCG
Commandant, United States Coast Guard Coast Guard

PANEL II

Richard A. Block
Gulf Coast Mariners Association

Tim Brown
President, International Organization of Masters Mates & Pilots

William Doyle
Director of Government Affairs and Deputy General Counsel
Marine Engineers Beneficial Association

Panel III

Thomas Allegretti
President, American Waterways Operators

Joseph Cox
President, U.S. Chamber of Shipping

Peter Lauridsen
Passenger Vessel Association

B.W. "Tom" Thompson
Executive Director
U.S. Marine Safety Association

Jim Weakley
President, Lake Carriers Association

Ken Wells
President, Offshore Marine Services Association

HEARING ON CHALLENGES FACING THE COAST GUARD'S MARINE SAFETY PROGRAM

Thursday, August 2, 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 2:00 p.m., in Room 2167, Rayburn House Office Building, the Honorable Elijah E. Cummings [Chairman of the Subcommittee] presiding.

Mr. CUMMINGS. Good afternoon.

Earlier this week, the Subcommittee examined the management of the Coast Guard's administrative law system which adjudicates allegations of misconduct or negligence brought against mariners by Coast Guard investigating officers. We heard testimony that was, frankly, deeply concerning and disturbing. Two former administrative law judges suggested that during their tenure they worked in an atmosphere that did not support the exercise of judicial independence in the consideration of cases.

The Subcommittee's examination of the allegations raised in that hearing is not finished. However, any administrative law system must not only ensure that there is no impropriety in the conduct of administrative proceedings but that there is not even the appearance of unfairness in the system.

What we learned during our hearing on Tuesday has led me and I believe Ranking Member LaTourette to conclude that the administrative law system that examines allegations made against mariners should be separated from the Coast Guard as a safeguard against the appearance of unfairness.

Our hearing today builds on Tuesday's hearing by giving the Subcommittee the opportunity to take a comprehensive look at the Coast Guard's entire marine safety program to assess whether the Coast Guard has the experience, the expertise and the resources it needs to effectively and efficiently implement this crucial program. In addition to investigating allegations of misconduct raised against mariners, the marine safety program is responsible for investigating accidents, inspecting vessels and issuing credentials to mariners.

In short, the marine safety program is intended to ensure that all aspects of marine transportation are as safe as they can be and that our natural resources are protected against risks associated with the movement of goods and people on the water.

I want to thank Chairman Oberstar for his extraordinary leadership in the area of marine safety, and I thank him for urging us to hold this hearing today.

I also thank Ranking Member Mica and the Ranking Member of our Subcommittee, Mr. LaTourette, for their leadership on this Committee and for their cooperation.

Congress has been involved with maritime safety since the first Congress created the lighthouse service on August 7th, 1789. Congress has repeatedly expanded maritime safety programs over the past 200 years as ships and shipping practices have evolved.

Unfortunately, over the years, Congress' actions to enhance marine safety have usually been spurred by major catastrophes such as the grounding of Exxon Valdez which led to the enactment of the Oil Pollution Act of 1990.

Our goal is to examine the state of the marine safety program to assess whether action needs to be taken now to strengthen this program and to ensure it is prepared to effectively and efficiently regulate the 21st Century maritime industry before any new catastrophe takes place.

Since I became Chairman of the Subcommittee, I have heard repeatedly from ship owners and operators, port authorities including the Port of Baltimore and mariners regarding their concerns with the Coast Guard's marine safety program. Mariners are concerned about the delays they encounter in obtaining the documents they need to work while ship owners have expressed serious concerns about the ability of Coast Guard personnel to maintain their expertise in technical aspects of vessel safety, given their increasing focus on implementing security measures.

The suggestion that the Coast Guard's lack of technical expertise may have contributed to fatal accidents is extremely troubling. We will examine the issue in depth as we examine the Coast Guard's response to several recent accidents including the capsizing of the Lady D pontoon boat in Baltimore's Inner Harbor in March, 2004, that resulted in the deaths of five passengers.

During its investigation of this very tragic accident, the National Transportation Safety Board found that the Lady D was "erroneously granted sister status by the United States Coast Guard to a pontoon vessel with different design characteristics."

The NTSB then recommended that the Coast Guard promulgate revised passenger weight standards for passenger vessels. Unlike the FAA, which quickly adopted new weight standards in less than a year after a commuter aircraft casualty in January, 2003, the Coast Guard has now issued interim weight guidelines and revised operating standards, but some three years later after the Lady D tragedy has not yet finalized new weight standards for all passenger vessels.

The testimony submitted by Admiral Allen today indicates that, in fact, the Coast Guard has 85 rulemaking processes including some mandated by Congress that have not yet been concluded including those involving ballast water, dry cargo residue, salvage, towing vessel inspections, the use of automatic identification systems, transponders, and the use of electronic charts that were required by law to be in vessels by January 1st of this year.

In advance of today's hearing, we asked the Coast Guard, mariner representatives, vessel operators, lifesaving equipment manufacturers and related service facilities to tell us how the marine safety program is working. The industry witnesses, we will hear from today, have all expressed concern about the Coast Guard's appropriate posture towards mariners and the industry, the Coast Guard's level of technical expertise, the oversight of lifesaving equipment and the rotation of personnel in the marine safety program.

While I look forward to the testimony of all who are joining us today, I also want to note for the record that there were many in the maritime industry who expressed concerns to this Subcommittee but who were frankly, and this alarms me greatly and it should alarm all 435 Members of this Congress and all 100 Senators and certainly to the Admiral.

Let me say that again. They were concerned and basically afraid to testify for fear of retribution from the Coast Guard, and that is very, very troubling. Such a situation is simply intolerable, and I hope that Admiral Allen will take away from today's hearing an understanding of what the Service needs to do to improve its relationship to our Nation's maritime industry.

The American public believes the Coast Guard is keeping vessels safe and protecting the marine environment. Today, we will determine whether these expectations are indeed being met, and I look forward to working with Chairman Oberstar, Ranking Member Mica and Ranking Member LaTourette as we explore the future of this important program.

With that, I am very pleased to again yield to my good friend and one who, as I said to him the other day, we are just so proud of what we were able to do with regard to Deepwater to be able to get a unanimous vote, 424 to nothing, but we could not have done it without the cooperation of my distinguished colleague, the Ranking Member, Mr. LaTourette.

I yield to you.

Mr. LATOURETTE. Thank you very much, Mr. Chairman, for those words, our continued excellent partnership and for conducting today's hearing.

The Coast Guard is a multi-mission agency with technical program expertise, extensive law enforcement authority and the operational assets needed to carry out that authority. However, none of these missions are as important as its marine safety function. The Coast Guard's marine safety function includes the inspection of vehicles and credentialing of seaman. These jobs carry out the Service's primary duties under Title 14 to enforce and administer Federal laws and promulgate regulations for the promotion of safety of life and property at sea.

Internationally, the U.S. is party to the International Maritime Organization Convention on the Safety of Life at Sea. The Coast Guard is the head of the U.S. delegation to IMO. The Coast Guard implements its marine safety authorities by setting and enforcing standards for the construction and operation of U.S. vessels and the competence and reliability of the U.S. seamen.

It also exerts U.S. port control by examining foreign vessels and seamen to ensure that those vessels and seamen meet international

standards. The Service has broad powers to enforce its marine safety mandates including the ability to prevent a ship from entering or leaving a port and the suspension and revocation of the merchant mariners' credentials.

Public concern and current events have always dictated which of the Service's missions receive additional attention and emphasis in the form of increased mission personnel, operating hours and resources. In fact, over the Coast Guard's history, the Service's missions have changed many times to meet the pressing needs of the Nation.

In the early days of the Republic, the need for fiscal stability led to the establishment of the revenue cutter service, the earliest precursor of today's Coast Guard in the 18th Century. The spectacular loss of steamboats, their passengers, crew and cargos during the 19th Century led to the establishment of the Steamboat Inspection Service.

In the last two decades of the 20th Century, drug interdiction was the focus in the late 1980s. Marine safety and environmental protection were prominent after the Exxon Valdez accident in 1990, and migrant interdiction captured the public's attention after the Mariel Boatlift. Clearly, in the 21st Century, increased attention has been paid to the Coast Guard's homeland security missions.

These shifting priorities have shown that having a single maritime law enforcement response agency with broad subject matter expertise, comprehensive enforcement authorities and operational assets works well and provides the necessary flexibility to meet changing needs. Of course, the recent surge in homeland security missions has led some to express concerns that marine safety is getting shortchanged.

I look forward to the witnesses' testimony today about how we can assure that marine safety gets the attention it deserves within a multi-mission Coast Guard. I am particularly interested in hearing about the ways to create and preserve sufficient technical expertise within the Service to carry out ship inspections and mariner credential reviews efficiently and effectively.

Again, Mr. Chairman, my personal thanks to you for calling today's hearing.

Mr. CUMMINGS. Thank you very much.

Mr. Bishop, who, just so the world will know, was just named the Vice Chairman of this Subcommittee, I yield to you.

Mr. BISHOP. Thank you very much, Mr. Chairman, and I am honored to have the opportunity to work with you in this Committee.

Let me start by commending all of the first responders and the volunteers who are now working tirelessly to help those affected by the collapse of the bridge at Interstate 35W.

Mr. Chairman, let me thank you for holding this hearing and inviting these witnesses to participate in this important discussion. This discussion between the Congress and the Coast Guard and the representatives of the maritime transportation sector is both necessary and important given the requirements of protecting America in a post-9/11 world.

Once again, I must commend the United States 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.

However, the issues and concerns which occasion this hearing are real and require careful scrutiny. The Coast Guard has a tremendous array of responsibilities requiring a wide range of expertise. These responsibilities include coastal and waterway security, drug interdiction, migrant interdiction, defense readiness, maritime safety, search and rescue, marine resource protection, environmental protection, maintaining navigation aids and ICE operations. This is, to say the least, a tremendous undertaking.

In my own district, I remain very concerned about the additional burdens that will be placed on the Coast Guard to protect and secure a proposed LNG facility. The Captain of the Port has outlined the manpower and equipment resources that will be required, but there has been no determination as to how these resources will be acquired or funded.

The situation is my district is but a fraction of a much larger national problem as more than 40 LNG facilities are proposed for construction, and the Coast Guard will have responsibilities for all of them.

The United States Coast Guard is a first-rate organization and does outstanding work. It is my hope that through an open process and full debate, we can determine what the needs are and what the Coast Guard's responsibilities should be to protect America and preserve our waterways.

I look forward to the perspectives of our panelists, and I yield back. Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you.

Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman, for conducting this hearing, you and the gentleman from Ohio.

Each of us, I believe, Mr. Chairman, holds the Coast Guard and its distinguished service to our Nation in the highest regard. I will admit I am somewhat subjective. As a former member of the Coast Guard and the Coast Guard Reserve, I am very proud of America's oldest continuous seagoing service.

For this reason, I appreciate the Chairman calling this hearing because despite each of our best efforts, there is always room for improvement.

It is my opinion, Mr. Chairman, that the Coast Guard is unique, among other reasons, because of its structure and flexibility. On a daily basis, Coast Guard men and women focus upon drug interdiction, environmental protection, migrant interdiction, port security, search and rescue, homeland security and maritime safety.

In fact, we would be remiss if we did not recognize that this coming Saturday, the Coast Guard's birthday, by the way, there will be a ceremony held to recognize that the Coast Guard has been involved in rescuing more than one million persons since its inception in 1790.

Because of this tradition and storied history, I believe it is important that we tread lightly with regards to today's hearing topic. If the result of this hearing is an effort to compromise the multi-

faceted nature of the Coast Guard, Mr. Chairman, this causes me some concern.

Instead, I hope it will provide an opportunity for all stakeholders to voice their respective concerns, provide constructive feedback and work together to improve the marine safety aspect of the Coast Guard.

It is my firm belief, Mr. Chairman, that we are blessed with the world's best Coast Guard. I don't believe a good purpose would be served in attempting to create or invent a second Coast Guard.

With that, I yield back the balance of my time.

Mr. CUMMINGS. Mr. Coble, before I call on Mr. Young, let me just say this, that there is nothing that you just said that I disagree with. I think that any person or any entity that is not constantly self-examining is bound to run into trouble.

We just want to make sure we take a look at what we are doing and take a look at how effectively and how efficiently we are doing it so that we can continue, so that when you and I are dancing with the angels, we will still have the great organization that we have in the Coast Guard.

With that, Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman, and I do appreciate your comments as well as those of the gentleman who spoke before me.

A little history about the Coast Guard in the sense of new history: We created the Department of Homeland Security, and I was Chairman of this Committee. We were down at the President's office with all the other cabinet members and Members of the body.

I spoke then and I said I prefer the Service remain with the Department of Transportation. Then they showed me the flow chart and they had the Coast Guard under Border Patrol.

Very frankly, with the help of Mr. Oberstar, the Chairman now, we said you won't have a bill if you try to dismantle the Coast Guard.

I am interested in this hearing. I do think the one problem the Coast Guard may be having in this marine safety regulatory arena is the lack of resources. I have had the privilege of serving in this House for 35 years, and I have watched us put additional burdens on the Coast Guard without really funding them as they should be funded.

I think it is our responsibility if we find that the marine safety regulatory functions are not adequately done, let us find out why and let us fix that problem because you don't fix a problem by transferring the problem into another agency.

To weaken this agency, the Coast Guard, by dismantling it or attempting to dismantle it would discredit what we did when we created Homeland Security because if you look at that flow chart now, right straight across, Secretary, Coast Guard. The Admiral is right next to it, and that gives them the ability to fulfill their missions.

If I sound a little bit interested in this, as Mr. Coble has mentioned, we have the most active Coast Guard unit, I believe, in the United States in Alaska. We deeply relish your participation, Admiral, search and rescue primarily and all the other things you do for the State of Alaska.

And so, I am here today to hear and to hope if there is a problem that we address it and solve it within the House which we represent.

With that, I yield back the balance.

Mr. CUMMINGS. Thank you very much, Congressman Young.

Admiral Allen, welcome.

Mr. Baird, did you have an opening statement? Thank you.

Admiral Allen, it is good to see you back. You have been very busy. It is good to have you back, and we will now hear from you.

TESTIMONY OF ADMIRAL THAD ALLEN, COMMANDANT, UNITED STATES COAST GUARD

Admiral ALLEN. Thank you, Mr. Chairman, Representative LaTourette, Members of the Committee. I want to thank you for the opportunity to testify here today, and I am pleased to discuss the Coast Guard's marine safety programs and responsibilities.

Mr. Chairman, this is the right hearing at the right time. Let me compliment your staff on the detailed background paper prepared for this hearing. The paper raises important issues, and with your permission I will provide detailed responses for the record.

Let me acknowledge up-front that catastrophic events such as the Marine Electric, El Toro II, Miss Majestic and the Lady D have identified key points of system, organizational and personnel failures in both industry and in government, and we need to learn from that.

We should also acknowledge that there has been a significant increase in the overall safety performance of the maritime transportation system in the last two decades, many of it due to legislation passed by this Congress such as the Oil Pollution Act of 1990.

While maritime safety is the focus of today's hearing, resource has been mentioned repeatedly, and this is a program area that highlights an enduring challenge for the Coast Guard. The challenge is the ability for the Coast Guard, or any Federal agency for that matter, to adapt statutory authorities accumulated over a long period of time to a changing external environment that changes agency governance structures, operating procedures and human resource development.

Moreover, this adaptation is taking place in the context of globalization, rapid changes in technology and maritime transportation—LNG would be an example of that—and increasing public transparency and accountability. This hearing is intended to do that today, and I congratulate you on it.

My testimony for the record contains a more detailed discussion of our maritime safety program, its history and current issues, and I ask that it be submitted for the record.

Mr. CUMMINGS. It is ordered.

Admiral ALLEN. I will address a few key points and will be happy to answer any questions you have for me.

Let me start by saying I believe there is a general agreement on the current issues facing the Coast Guard. I have talked to my industry counterparts. Mr. Chairman, we have discussed this and have proposed that developing a consensus on a way forward should be our mutual goal.

The Coast Guard is addressing a number of challenges in executing our marine safety mission, but the most important in my view are the capacity and the competency of our workforce at a time when demand for our maritime safety services has never been higher.

As Commandant, I am most concerned about the following: marine inspector training, qualification and staffing; merchant mariner licensing and documentation; and Coast Guard rulemaking. Before discussing these challenges, let me just take a moment to provide some context.

The Coast Guard's maritime safety program has been informed by more than two centuries of maritime experience. The Coast Guard formally assumed maritime safety duties in 1946.

Since then, we have conducted more than 1.7 million domestic vessel inspections and credentialed more than 7.5 million merchant marines. We have also conducted more than 280,000 examinations on foreign vessels since the start of our Port State Control Program in 1994.

Because of this, we benefit from the largest, safest and most efficient maritime transportation system in the world, one that has grown by some 18 percent over the last 10 years and will only continue to grow. We are committed more than ever to meeting our obligations and responsibilities to the maritime industry.

Our services at the port level are primarily focused on our marine inspection program. However, we do have centralized vessel documentation and plan review and are in the process of centralizing merchant mariner licensing and documentation. We also maintain a cadre of highly experienced traveling inspectors who perform specialized inspection duties worldwide and serve as a center of excellence for our inspection program.

Rulemaking is a headquarters function.

We recently unified all port operations into sector commands. As the Coast Guard senior officer at the port level within their respective geographics areas, sector commanders are charged by statute and regulation as the Captain of the Port, officer in charge of marine inspection, Federal on-scene coordinator for oil and hazardous material spill response, Federal maritime security coordinator and search and rescue mission coordinator.

This unification of command and control at the port level was driven primarily by industry needs. Our sector commanders provide a single voice to address all matters of interest to the maritime industry, a one-stop shop. They also play a vital role in coordinating and integrating maritime activities and interests among the Federal, State and local partners.

The Coast Guard listened to our stakeholders, and we responded. Sectors unify all Coast Guard competencies under one roof and one leader. This operational model allows the most rapid and effective response to maritime incidents and facilitates the closest coordination among preparedness, prevention and response activities.

Let me talk about inspections. In my first year as Commandant, I visited every district in the Coast Guard. I spoke with thousands of Coast Guard personnel. The single most recurring theme at the port level was concern for the level of staffing, qualifications and

tour length for our marine inspectors, and I have taken this for action.

In the last year, I have directed significant changes and improvements in the training and qualifications of our inspectors to keep pace with the technological advancements and growth in maritime industry. We have made changes to our warrant officer selection system to bring more talented and experienced enlisted personnel into the maritime safety specialty.

We have learned valuable lessons from joint military and civilian staffing of our sector command centers and our vessel traffic services. These are areas where we used to have Coast Guard personnel only staffing. We now have brought civilian personnel in to provide continuity, corporate memory and way to bridge during the transfer season, so we get the best of training for our people in uniform by maintaining continuity of services.

I am committed to the establishment of more civilian positions in the marine inspection field. We need people with critical job skills. We need to maintain continuity while providing our military members access to this type of experience. We must leverage and expand this dual staffing model.

Getting the inspection program right in terms of training, qualifications and staffing is my highest maritime safety priority.

Let me discuss rulemaking very quickly. The Coast Guard currently has sufficient legal authority, subject matter experts, legal staff and extensive experience with the Administrative Procedures Act to develop and issue necessary regulations. We lack capacity.

Legislative mandates have increased our rulemaking backlog substantially since 9/11. Additionally, many of our rulemakings require extensive economic, environmental and policy analysis to meet current legal and administrative requirements. The result has been a backlog that is unacceptable to me, our stakeholders and our overseers.

This is purely a resource issue, and I have directed my staff to do an analysis of the resources required and any policy changes needed to significantly improve our throughput.

Let me discuss merchant mariner licensing and documentation. The Coast Guard has taken aggressive steps to improve merchant mariner licensing and documentation. Centralization of application processing will provide greater opportunity to focus on our efforts and gain economies of scale while reducing backlogs, ensuring credentials are only issued to qualified persons and ensuring uniformity in interpretation of the regulations.

Transferring these functions from the field regional exam centers throughout the Country will take place over the next two years. The implementation of the Transportation Worker Identification Credential and continued growth and demand for merchant mariner credentials presents a challenge to the program.

The timing of the National Maritime Center restructuring, however, introduces opportunities to ensure that the TWIC and MLD programs work in concert with each other. We are working very closely with our partners in the Transportation Security Agency to assure that end is met.

What we must improve is our customer service at the port. Automation will improve efficiencies, but mariners must have a respon-

sive face to deal with when needed especially during the transition period.

Let me discuss leadership and industry relations. I have always believed that unit performance starts and ends with leadership. Leadership at the port level, at the district level and at headquarters necessarily includes communication with stakeholders and the development of shared goals that further the safety and security of the maritime transportation system. This enhances mission performance and facilitates commerce.

Near-term demands of maritime security issues have appropriately dominated national and port level agendas since the attacks of 9/11. I believe now is the time to reassess our performance to ensure we remain focused on maritime safety as well. I have communicated this intent directly to my field commanders.

I have consulted with numerous former Coast Guard maritime safety experts and industry leaders. I believe their experiences and perspectives will be critical to guiding us as we move forward. The Committee's leadership has been helpful as well.

To better serve me and the maritime industry, I am establishing an Assistant Commandant for Marine Safety, Security and Stewardship at Coast Guard Headquarters, who will serve as my direct contact with industry. That individual will be Rear Admiral Brian Salerno, a well known expert in maritime safety in the Coast Guard.

One of his first duties will be to take a holistic look at our maritime safety program, specifically those challenges we are discussing here today. He will ensure that the Service will provide the maritime industry effective, consistent, professional service.

Whether it was by strategic intent, foresight or reaction to catastrophic events, the Coast Guard was created and evolved to integrate Federal roles at the port level. We have the right operational model. There is not a better one in the world. But we must become more adaptable to the needs of the Nation and our maritime commerce.

As I said earlier, I believe we agree on the major issues. I roger the message the Committee and industry are sending, and we are on task.

In closing, I would caution: Changes in functional responsibilities do not solve shortfalls in resources and more likely create greater needs.

The issues to be discussed here today as they relate to the Coast Guard tasking and performance evolved in the Departments of Treasury, Transportation and now Homeland Security over time and under the oversight of Congress.

The time is right to affirm the Coast Guard critical role in maritime safety with an honest assessment of the resources required. I look forward to that dialogue, and I would be happy to take your questions.

Mr. CUMMINGS. I thank you, Admiral, very much for your statements. As you were talking, I just could not help but think about something that Mr. Young said. I want to make it very clear, and I think Mr. Coble alluded to it also.

First of all, let me thank you for agreeing that we need to hold this hearing, but I want to make sure that we understand that

what we are doing is just trying to look at what we have. It is like looking in the mirror.

I remember when my 26 year old was 3, she would say, daddy, let us play hide and go seek. Then she would stand in front of me, Admiral, and she would put her hand up in front of her face and say, you can't find me.

That is okay for a three year old but not for us. We have got to look ourselves in the mirror and figure out exactly what it is and be honest with ourselves to do what we need to do.

This is not an attack on anybody. This is trying to figure out where we are. I think you know me well enough to know that.

Admiral ALLEN. It is not interpreted as that, Mr. Chairman. We are aligned.

Mr. CUMMINGS. Now let me ask you this. I listened to what you just said, and I agree with you. You have heard me say this many times. Particularly after 9/11, we saw the Coast Guard's responsibilities and duties get stretched, stretched, stretched, but we didn't see the money and the resources getting stretched.

I often use the idea of the rubber band. You can stretch, stretch, stretch and at some point you are going to break.

I want you to just help us succinctly. I know you just gave your presentation. You made some decisions, as you just went through, to address various issues.

As I look at this group of books here, and these are the volumes of the Marine Safety Manual and the code of federal regulations dealing with marine safety, I am just wondering taking into account what you just talked about and I want to see how it fits in.

How can the Coast Guard personnel who rotate into and out of marine safety have the same level of expertise as an FAA inspector who spends his whole career inspecting aircraft? Help me with how you will plan to deal with that and if there are resources that are necessary, what would you need?

Are you following what I am saying?

Admiral ALLEN. Yes, sir, I am. Yes, sir, good question.

If I could divide it up into what I call capacity and the makeup of the workforce, in other words, the human resources part of this. Until we get a civilian Commandant, you are always going to need people in blue suits that have knowledge of these issues, that have worked in them, can deal in policy rulemaking, budgetary requests and testify like I am here today.

So we need a blend of workforce that has the right competency, the right experience and continuity to provide predictability in the service we provide to the maritime community, but we also need to be able to bring officers in and give them that experience. In my view, that takes a blended workforce, and I alluded to it in my statement.

But the components of that right now are we have enlisted people that gain technical skills over their careers, that access to warrant officer that make very excellent inspectors. They are the ones that are down there, who spend years doing this as their enlisted ratings, and then we access these warrant officers to lieutenants and lieutenant commanders. That is a very, very core bench strength that we have.

We also need to take a look at where we need to civilianize billets. As you know, and the statements allude to this, following the merger or movement of the Bureau of Marine Inspection and Navigation, we actually had these guys called 219ers that we brought actually out of the merchant mariner community, brought them into the Coast Guard and brought their skills.

They then trained a generation of inspectors who are now retiring. I have actually presided at their retirements. We need a way to replace that continuity, that corporate memory, that skill that retains at the unit while we back that up with the warrant officers who have an enlisted background and then officers we access from the merchant marine academies and the Coast Guard Academy.

It is a matter of how you blend that to achieve both the competency you have to build in your workforce but maintain that continuity of service and that corporate memory and the ability to deal with that body of knowledge, sir.

Mr. CUMMINGS. I am going to just use this Empress of the North example to try to get to some of the bottom line issues and how you see. It sounds like you have looked at this pretty carefully, and I guess you are self-examining every day almost, trying to figure out exactly how to be more effective and efficient.

But I want to use this just to kind of see how your plans would work with us, okay. So just bear with me.

On May 14th, the passenger vessel, Empress of the North grounded near Juneau, Alaska. As you know, over 200 passengers were safely evacuated. However, the NTSB reported that the Empress of the North was equipped with 22 inflatable life rafts and 2 inflatable slides.

Safety Board investigators were informed that about half the launching mechanisms in the life rafts did not operate properly. Investigators also learned that while the crew attempted to launch the vessel's evacuation slides, they inflated upside-down. This resulted in the slides having to be manually turned over by crew members.

So either the Coast Guard did not adequately supervise the servicing of these rafts or it didn't adequately oversee the installation of the rafts when they were returned to the vessel.

This is what I want to get to: Admiral, was it a lack of oversight by the Coast Guard at the service facility that serviced the rafts or the lack of knowledge by the Coast Guard inspector who inspected the vessel in February of this year that caused the lifesaving equipment on the Empress of the North to malfunction?

Do Coast Guard inspectors have the training and expertise to determine if an evacuation slide is installed upside-down on a vessel?

Admiral ALLEN. Yes, sir. Let me give you the basic structure by which this equipment is inspected, and there was a change in this. I believe it was in 1997. We issued a Federal Notice Register that changed our program somewhat.

What we do is we actually go to the manufacturers and we inspect first in class or we do type examinations. So if there is going to be a production line of a life raft or something like that, our inspector would go make sure the production line is producing the articles that meet the required safety specifications.

After that, we do spot checks and we also use third party, like underwriter labs or third party verification for the actual production.

The one exception to that are life boats. A life boat is a constructed boat not a raft, and we do inspect those at the manufacturer facilities ourselves.

As part of the periodic inspections of these vessels, our boarding teams, our inspectors take a look at the various safety apparatuses and so forth.

Regarding the specific slides that are in question, I would be happy to answer for the record whether or not that was actually checked in the process of that inspection, but we normally inspect safety equipment and we have a standard checklist that we go through.

[Information follows:]

Page 35 following line number 725

The Coast Guard conducted a vessel inspection for certification of the Empress of the North in February 2007. During the inspection, we confirmed the evacuation slides were recently serviced by a Coast Guard-approved, professional servicing facility.

Admiral ALLEN. So the way the rafts were packed, installed and inverted, a couple of issues there, one related to the servicing of the equipment themselves, whether or not that might have been found in an inspection, and I would be glad to give you a detailed answer for the record on the inspection.

[Information follows:]

Page 35 following line number 731

The inflatable evacuation slides on the EMPRESS OF THE NORTH were packed by a certified professional in accordance with manufacturer's instructions. Moreover, the slides were inspected and found to be properly stored and serviced by Coast Guard marine inspectors in February 2007 during the vessel's certification inspection.

In the case of EMPRESS OF THE NORTH, the slides inflated in an inverted position, requiring crew members to detach, flip and reposition them for use. As a result, a Coast Guard inspection team visited the facility that serviced the slides, Marine Safety Services (MSS), to assess potential deficiencies. We ultimately concluded there were no deficiencies in servicing by MSS.

At the time of the casualty, the valises were labeled with only "inboard" and "outboard" markings to indicate orientation. The manufacturer has since added additional markings to ensure the "up" and "down" sides are also clearly labeled.

Mr. CUMMINGS. That is fine, but what I am trying to get to is I assume we learned something from that. The Coast Guard learned?

Admiral ALLEN. We did.

Mr. CUMMINGS. I guess what I am trying to get to is that taking into account all of what you said in your opening, fit that problem into making sure that, say, lifesaving equipment is correctly serviced and installed.

What I am trying to get to is how does what you just said help to address this and do you think it would adequately address it? I guess that is what it is.

We will go on to Mr. LaTourette.

Admiral ALLEN. Let me give you an overview of what has been done in the last six months, then offer to give you some detailed information for the record.

Mr. CUMMINGS. That will be fine.

Admiral ALLEN. Following the establishment of sectors, we thought it was important to make sure that the subject matter expertise related to marine inspection, port security and environmental response were maintained because we were integrating different commands into a single command that is the right operational model, as I told you.

We established a work group last year to take a look at all the different jobs that are in a sector and validate training and qualifications related to that.

As a result of that, we have changed the curriculum and the syllabus for training our marine inspectors as it relates to hull inspection, safety equipment and so forth. We have changed the content of the training and the qualifications that our inspectors are using based on the technologies they are encountering out there at the time.

I can provide a detailed review of before and after on how the safety inspections are being conducted and how that training is provided, sir.

[Information follows:]

Page 37 following line number 765

The Coast Guard's marine safety training and qualification system is being aggressively updated to align with the new Sector construct, incorporate emerging technologies, and integrate lessons-learned from marine casualties. While the Coast Guard's marine inspection program did not significantly change with our transition from Marine Safety Offices to integrated Sector Commands, the establishment of Sectors triggered a thorough analysis of support and training required for assigned personnel. A working group surveyed more than 120 personnel assigned to approximately 20 Sectors to inform the coordinated development of new policy, training, and job aids.

As a result of this working group, we updated five marine inspection and investigation courses at our training center in Yorktown, Virginia. The pilot program for the new courses is coming to an end and student critiques indicate the curriculum changes are better meeting the needs of our marine inspectors and investigators. Moreover, at the Sector level we updated 10 marine safety on-the-job Performance Qualification Standards (PQSs). The new PQS books provide a consistent qualification standard for a wide range of marine safety missions.

The last 10 years have been a period of transition for the Coast Guard's Marine Safety Program. Our ability to train and retain a qualified ship inspection workforce is influenced by a variety of factors, both internal and external. In 1996, the Coast Guard was granted authority to delegate the majority of U.S. Flag deep draft ship inspection duties to private classification societies such as the American Bureau of Shipping (ABS). The delegation of deep draft inspection work limited many of the traditional, detailed, hands-on training opportunities for Coast Guard marine inspectors.

In order to retain the technical expertise needed to provide proper oversight of classification society inspections, we revised our training and qualification system and more fully leveraged our cadre of traveling senior marine inspectors to supplement the field inspection workforce. These highly qualified senior marine inspectors possess more advanced skills than the majority of our field inspection workforce and are available to deploy and assist the field with complex inspection matters whenever needed. Additionally we have evolved our training program into a tiered qualification system targeted to the specific inspection workload of each port.

The Coast Guard's ability to retain a central core of senior marine inspectors is pivotal to the long-term sustainability of the marine inspection program. These experienced inspectors are important not just for their institutional memory and expertise, but also for their roles as mentors and trainers of new inspectors.

To this end, we are leveraging the use of civilians and geographically stabilizing some of our commissioned warrant officers. Concurrently, we are revising our training and qualification focus to be more vessel and system specific. This targets the qualification process and prioritizes learning objectives for new inspectors.

Retention of experienced senior marine inspectors, combined with evolving training and qualification processes for junior inspectors is positioning the Coast Guard's marine inspection program to succeed as we transform to meet future needs of industry and government.

Mr. CUMMINGS. Finally, tell us specifically. Mr. Young was very kind to talk about resources, and I was glad he did. I think that what you have here is a bipartisan group of Congresspersons who want to help.

Tell us, in order for you to carry out the mission that you want to carry out and for safety, for this whole program to be all that you want it to be, what do you need from us?

Admiral ALLEN. Well, I think it is a two-part question, sir.

First of all, I need to give you a staffing model and a qualification model. Only we can do that. We are the ones that have to look at the task and what do we have now, what needs to be changed. We have done that over the last six to twelve months and can provide that to you.

[Information follows:]

Page 37 following line number 779
This report will be provided separately to the Committee no later than 1 October, 2007.

Admiral ALLEN. The second thing is if you have a higher level of training and qualifications that you need, then you have to have the ability to take time to do that. That starts moving into the resource area.

So there are two drivers on capacity. One of them is increased training requirements to make our people competent in the new technologies they have to deal with, and the second one is workload associated with the changing technology.

Sir, as you and I have talked before, the vast growth in LNG tankers coming to this Country, we have over 40 permits that are pending. With the pending towing vessel regulations that are coming out, the potential adds 7,000 more vessels to our inspection program.

There is a qualitative aspect to this in how you train and maintain the competencies. Then it is how many people you have to do it, sir.

The former, we can do. The latter is a resource discussion, sir.

Mr. CUMMINGS. We received testimony from lifesaving manufacturers that some factories haven't seen a Coast Guard inspector in over a decade. Do you think that is accurate?

Admiral ALLEN. I don't know, sir. If you give me the information, we will follow up and answer for the record.

[Information follows:]

Page 38 following line number 803

Owing to life raft regulations published in 1997 (i.e., 46 CFR 160.151) delegating oversight of production inspections to qualified third parties, it is possible a manufacturer may not have seen a Coast Guard inspector during the last 10 years. Since publication of these regulations, the Coast Guard does not attend routine production inspections at life raft manufacturing facilities. I would be happy to look into circumstances about Coast Guard or third party involvement at a specific facility if you would like to provide additional background information.

As I stated above, the regulations published in 1997 delegated oversight of routine production inspections of life raft manufacturing facilities to qualified third parties (such as independent laboratories and classification societies). These third parties visit manufacturers at least quarterly, when life rafts are in production, to witness required tests and inspections. Third parties also carry out a detailed "design audit" of typical products annually. For new products, the Coast Guard administers a stringent approval process consisting of plan review and supervision of required approval tests and inspections at the facility.

With respect to life raft servicing, the regulations require the local Sector Commander be notified when a Coast Guard-approved servicing facility, any where in the world, takes in a Coast Guard-approved life raft for servicing. Information about the life raft and its servicing history is required by the Coast Guard to evaluate whether or not witnessing of service is required. Qualified third parties can also be used to witness servicing on the Coast Guard's behalf which can be necessary due to geographic separation and/or other complicating factors.

In the event of a marine casualty or feedback from a third party indicating a performance or product deficiency, the Coast Guard visits the associated life raft servicing and manufacturing facilities.

Mr. CUMMINGS. All right. That should be happening, though, shouldn't it?

Admiral ALLEN. It depends on what the article is. Again, the procedure is that we would inspect the first article and then after that, if there is an underwriter lab or some certification of a third party, that would happen and we would do spot checks.

To the extent there should have been a spot check and it was not happening in a particular manufacturer, I would be anxious to know that.

Mr. CUMMINGS. We will get that information to you.

Mr. LaTourette, thank you.

Mr. LATOURETTE. Thank you very much, Admiral. It is good to see you again.

I see that Admiral Salerno drew the short straw and he is here two days in the same week.

Admiral ALLEN. We rewarded him with a promotion

[Laughter.]

Mr. LATOURETTE. In your opening remarks, you talked about tour length. One of the observations being made by some folks is that perhaps the marine safety mission is not seen within the Coast Guard as a good career path for promotion and other things, not where the action is. Do you have an observation whether that is accurate or not?

Admiral ALLEN. I get questioned at all-hands meetings about where we are going with a program, and any time there is a program in transition, if you work in that program, you are going to wonder what is the impact on me.

I have been very clear in my communication to the field. In fact, I have sent messages to all commands and I actually sent a global e-mail to everybody in the Coast Guard, reinforcing the value of this mission, where it stands with me and the value of this mission inside the Coast Guard mission set. So I don't think there is any doubt about what I have communicated.

Now I am not the only one that sends signals. The greatest impact on the morale of our marine inspectors right now is the fact this hearing is being held.

Mr. LATOURETTE. Do you or does the Service have the ability to offer special skill pay or incentive pay for billets in certain missions and do you?

Admiral ALLEN. We do. Some of it requires legislative authorities. Right now, in the officer ranks, it would be aviation pay and things like that. At the enlisted level, we have the authority to offer incentive pay for special ratings and bonuses for re-enlistment, but there is a structure there where it can be used.

Mr. LATOURETTE. In particular, if there is a weakness in the marine safety end of things, do you have the authority or did you just say you need statutory authority to do it to attract more people on the marine safety side?

Admiral ALLEN. I believe there are some things we can do to incentivize that, but I think actual pay itself may require a legislative authority, but I will check and answer for the record if that is okay. That is a good question.

[Information follows:]

Page 40 following line number 858

The Coast Guard is considering alternatives for recruitment and retention incentives for marine safety personnel, such as Critical Skills Retention Bonuses. In order to use such incentives for marine safety, legislative authority is required. We are providing additional comments on the need for new authorities in our upcoming letter to the Committee on our plans for comprehensive Marine Safety program improvements.

Mr. LATOURETTE. Thank you.

There are some folks who are proposing that there be the creation of a new Marine Safety Administration, that the marine safety mission be removed from the Coast Guard and transferred to the Department of Transportation. I think I know your answer, but for the record, would you sort of comment on your view of a proposal like that?

Admiral ALLEN. Well, as I alluded to in my opening statement, the evolution of the Coast Guard for over two centuries has been one of increasing responsibilities. So the people who have the capacity and capacity to operate imports and on the water are doing that for the Nation rather than different agencies doing it.

By extension, offshore, NOAA and the National Marine Fishery Service do not operate cutters offshore. We do that for them and enforce those regulations. It creates a great value to the Country.

But I will tell you beyond that, having been a former Captain of the Port in Long Island Sound, the ability to bring together response forces, to be able to take control under a captain of port authority and direct vessels to anchorage or movement of vessels, to be able to bring in technical assistance in the form of inspecting officers and marine inspectors to inform issues like stability of grounded ships and what you should do with a damaged ship, to bring that together in one unified command to optimize response for this Federal Government, priceless.

Mr. LATOURETTE. In both this hearing and the hearing that we had on Tuesday on the ALJ business, the Chairman in his opening remarks has talked about some information that has come to his attention that people are afraid. They are afraid of the ALJ system. They are apparently afraid of the marine safety.

I don't know if I know who those people are, but it concerns me to hear the Chairman say that. Could you just comment for a moment about what cooperation and/or participation level the Coast Guard has with the mariner community and do you think there is a reason that people should be afraid of the service.

Admiral ALLEN. Well, I am not going to attribute a motive to somebody else's behavior when I don't sit inside their head.

I can tell you this and I think it should be apparent to the Committee and anybody that has ever known me. I live by a couple of rules in my life. One is transparency of information breeds self-correcting behavior and anybody that works for me has to be able to speak truth to power.

I will meet with anybody, anywhere and talk about any issue. I don't think anybody that has ever known me doesn't think that I am approachable as a senior leader, and I have directed my field commanders to reach out to the industry.

We have area maritime security committees that help us execute our security duties. We have area committees who help us do oil spill response planning. We exercise that. We just completed a spill of national significance exercise in the Memphis area as a result of the Oil Pollution Act of 1990 requirements. We are all over the ports, working every day with these stakeholders.

If there is a problem or they feel they can't talk to the Coast Guard, then somebody needs to stand up their own height to walk in and tell the Captain of the Port that.

Mr. LATOURETTE. Thank you very much.

Thank you, Mr. Chairman.

Mr. CUMMINGS. What about telling you? Let me be real clear.

Admiral ALLEN. I get e-mails from industry from time to time.

Mr. CUMMINGS. Let me be very clear. Let me be very clear. I didn't raise that as something light.

Admiral ALLEN. I understand, sir.

Mr. CUMMINGS. There are probably very few Members of Congress that spend as much time making sure that witnesses are treated properly. I have said it in the last hearing, and I will say it again. I have actually apologized for Members of Congress for the way they treated witnesses, so that is very, very significant to me because I think it goes to the very essence of what we do here.

Now I understand the question, but I can tell you that there were people who were concerned about coming to testify, and there may be some in the audience, who were worried that if they testified that there might be some type of retaliation at some point, not from you—not from you—but I am just telling you that. We can act like it doesn't exist, but when I see it I am going to raise it.

Admiral ALLEN. Yes, sir. I roger the signal. We will look into it, sir.

Mr. CUMMINGS. I am sorry.

Admiral ALLEN. I roger the signal. We will look into it, sir.

Mr. CUMMINGS. Yes, I know you will back me up on that.

Admiral ALLEN. Yes, sir.

Mr. CUMMINGS. That was not directed towards you. I want to make that clear. As you have heard me say many, many times, I have the utmost confidence. But I just wanted to make that clear because I think it gets in the way of us doing what we are supposed to do up here, and so that is all.

Mr. Larsen.

Mr. LARSEN. Thank you, Mr. Chairman.

Admiral Allen, good to see you again.

I have some questions about the Pacific Northwest. There are examples cited in our memo, prep memo about the situation with our four Steel Electrics and the Washington State ferry system.

I think in fairness the story, if you will, told in the prep memo is not a full story of all the issues. It focuses strictly on the Coast Guard, but there are many issues around the problems that we have with the four Steel Electric ferries and the Washington State ferry system: 80 years old, our inability to site a new dock, the inadequacy of the current terminals in Keystone and Port Townsend to accommodate larger ferries and, again, the subsequent inability to site terminals in a different place for a variety of reasons, none of which have to do with the Coast Guard, I might add.

I think as far as that goes, there is a bigger story to tell. I want to be clear about that. I have talked to your local folks on this issue because there has been some press around it, not with regards to the Coast Guard but with regards to our own State Department of Transportation and what we are doing.

Also, the legislature has a piece of the story. Our own legislature has a piece of the story. It is a much bigger story than I think what is conveyed herein our prep memo. I want to be clear about that.

With regards to the Coast Guard role, there are I think some good questions to ask and are asked in the prep memo. In conversations with your folks, they have done a good job of being open and clear and transparent about what their role has been, but I do have a couple good questions here to ask.

I do have some questions about how the COI is issued, the certificate of inspection, that says this thing is safe to go, send her out in the water. A good question is that each of the Steel Electrics have received a certificate of inspection within the last eight months, and yet there have been some cracks in some hulls.

In fact, the Illahee just came out of dry dock two day ago. It was in the water yesterday and got a six inch crack in it again, so now it is back in dry dock. I personally think that was probably more a function of it being 80 years old as opposed to anything else, but can you help me understand that process, how a COI gets issued in this kind of circumstance?

It is important that we have these ferries. We are a little ways from replacing them, but they need to be safe as well.

Admiral ALLEN. Yes, sir. The issue with the ferries in Puget Sound is a real interesting one because it kind of highlights some built-in tensions that operate in ports and they are natural tensions. There is not a good or a bad. There are competing issues, as you noted yourself.

One of the things that the Coast Guard sees itself as doing is being an honest broker in resolving those tensions of which there is not a clear black or white answer. It is usually gray or plaid or something.

Now, in this case, these ferries which have been operating since about 1927 are getting old. Our inspectors detected a real problem with being able to examine the hulls, as you know, because they had put cement ballast to make the ferries ride better. It got to the point where we didn't feel from the Coast Guard standpoint that we could issue a certificate of inspection without properly being able to assess the hull and could not do that with the concrete in place.

That resulted in the order being given that the concrete ballast had to be removed. That caused several other issues related to the timing of the dry docks and then the other issues with the damage that was done to the one ferry as a result of the dry docks.

This is one of those things where sometimes it becomes as much an art as it is a science. You know what the structural issues are with the ship. We know what the needs of the community are. We know that when it went down to a one ferry service, there was going to be significant impact on the community.

This is one of those cases where you sit down and you communicate openly with the Coast Guard. We lay out what the requirements are.

I don't normally quote the press, given the last year or so, but I would just like to quote this from the Peninsula Daily News: "Coast Guard safety inspectors in June ordered all concrete ballast removed from the Nisqually and three other Steel Electric ferry hulls to allow for closer inspections. The Coast Guard's Inspection Division Chief ... "

This is not the sector commander. This is the guy that is empowered, the subject matter expert at that command.

" ... John D. Dwyer, had originally set a deadline of today to pull the Nisqually if state ferries had not yet removed the concrete ballast. However, considering the extenuating circumstances, Dwyer allowed the extension.

" 'We just wanted to make sure we had two boats to serve the community,' said Marta Coursey, State Ferries Director of Communications. 'It was a matter of contacting Coast Guard officials and saying this is going to put our communities in stress.' "

These are the day to day issues that we work at the port level, and that is the reason it is so important they were able to have inspection capability, their issues with traffic management, their issues with land management, of the movement of vehicles and the queueing of vehicles.

Sometimes you have to sit down and take a look at what the regs say, what is the best safety decision you can make, understanding the need to facilitate commerce, and they are always the same, sir.

Mr. LARSEN. Can I just have a follow-up, Mr. Chairman?

To get at one of the concerns that are being brought up, in this case, it seems to me, and I don't want to put words in your mouth, but this is not a function of whether or not the Coast Guard has the capacity to do an appropriate and effective marine safety inspection regime.

Admiral ALLEN. No. This is a competency issue.

Mr. LARSEN. It is a much more complex issue.

Admiral ALLEN. The judgement and competency issue, yes.

Mr. LARSEN. Thank you.

Mr. CUMMINGS. Thank you very much.

Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman.

Admiral, my concern is this interest of moving the safety part into another agency. In your opinion, how would that improve safety, number one, and, number two, wouldn't it be better to have the maritime safety regulatories in the same service, knowing what one another are doing?

I have been in this business long enough to know that a lot of times agencies don't even talk to one another. That is why we created the Homeland Security Bill.

So if we go back and create a new agency, who will know better than this Committee?

By the way, Mr. Chairman, if that was to happen, it would go to the Armed Services or, no, it would stay in Transportation and be okay, but it would be a little bit different.

I don't see the improvement here. Again, I like what you have said about what you are doing now, and I think that is what we have to start pursuing.

Admiral ALLEN. Let me give you a microcosm for an answer, sir. When I was the Captain of the Port of Long Island Sound from 1993 to 1996, I had Captain of the Port authority. I was not the officer in charge of marine inspection which is the marine safety function. I was covered by an area that was basically serviced out of New York.

I had a tank barge ground off New Haven and two to three million gallons of oil in the barge. I had to make decisions about controlling the waterway, responding to a potential spill, managing the issues associated with that, had to compete with another command to have them release an inspector to come up and give me technical support.

Long Island is now a sector and has its own marine inspectors assigned to it. If that barge grounds again today, the organic capability exists to simultaneously manage the waterway, manage a potential spill and how you would manage that, and have an inspector there to consult with on structural issues related to the disposition of the barge as part of a unified command.

If you can expand that to an agency to agency setting, it will become more difficult, sir.

Mr. YOUNG. You mentioned something about civilian employees. One of the things I am interested in is have you a cadre of retired inspectors or people who have gone to other careers available to you to fulfill the job of inspections?

Admiral ALLEN. We don't now, but as part of my earlier answer, we have found in other areas, specifically search and rescue, search planning at our operations centers and our vessel traffic systems, similar to the ones in Valdez and Seattle, where we have had issues with turnover and continuity especially in summer transfer seasons, that we have taken former military and, in most cases, former Coast Guard folks and hired them back as civilians.

So we have a blended workforce of civilians who have corporate memory and the young folks that are coming in that are getting needed training on how these systems work and gaining their competencies. Moving forward, we are going to have to take a look at that blended workforce and the number of civilians and how we access civilians, but there is no doubt in my mind we need additional civilians for the continuity that you all have mentioned.

Mr. YOUNG. The industry itself—and I should know this answer—do they have their own inspectors for vessels also and, if so, who trains them?

Admiral ALLEN. That is a good question, sir.

Right now, a large portion of those inspections are done by classification societies. The largest one in the United States would be the American Bureau of Shipping. Quite frankly, they access their engineers and inspectors the same way we do.

I am affiliated, by my status as the Commandant of the Coast Guard, with the American Bureau of Shipping. I can tell you all the marine industries in this Country right now are challenged accessing inspectors, engineers, and people of that type of background. With the growing needs we have in the Country, the workforce out there that we are competing for is small, sir.

Mr. YOUNG. I have read most of the testimony from the future witnesses. I won't be here. But I have not found any testimony to say they want to transfer the regulatory safety issues to another agency.

I have seen where some of them are testifying that they think there could be more civilian involvement in inspections and enforcement of under the jurisdiction of the Coast Guard. I guess it has been done before, and it probably could be addressed again.

My interest here, as again I think it is the Chairman's interest, is to make sure we have the safest and how do we best achieve that. I still think it should stay within the agency that has the most knowledge and the most control.

Thank you, Mr. Chairman. I yield back the balance of my time.

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

Just one real quick question before we go to Mr. Oberstar, how do you suggest we put folk in the pipeline?

It sounds like we need some folk in the pipeline, getting to eventually become a part of that program. I guess you have given that some thought.

Admiral ALLEN. Yes, sir. We have done that two ways right now. One of them is restructuring how we access enlisted folks to warrants and warrants into marine safety field. These are really folks that have a lot of experience, and they are terrific for us.

The second is a revised curriculum and syllabus on how we are actually training the people who are going to our ports right now. It took over the last year, we have developed, and that is going into effect. That is the information I offered to provide you for the record.

Admiral ALLEN. We also access folks into the program from other maritime universities, Merchant Marine Academy, New York Maritime, Cal Maritime and so forth.

Then the big question before us is if we are going to create a civilian cadre to ensure some of the continuity we have been talking about here, how do you describe those positions? At what level do you do that? Then how do you access them in?

My sense is, as we found out with search and rescue and vessel traffic systems, there are plenty of folks out there that are ready for a second career that could do that, and I think there is an applicant pool waiting, sir.

Mr. CUMMINGS. Mr. Oberstar.

Mr. OBERSTAR. I thank you for chairing the hearing, Mr. Cummings.

I had intended to be here and support this hearing right from the very outset, but a matter of a bridge tragedy in Minnesota has derailed my day as did the markup that was very long and following which I had a news conference. I apologize to Members for not being here, but we have an ongoing problem, as does the Coast Guard have an ongoing problem.

Admiral Allen, thank you for your candor, for your responsiveness to the proposal that I have offered. If nothing else, it has sure mobilized you. You have covered the Country from one end to the other. Homeland Security has been in high gear ever since this proposal got out on the waterways.

You have, to a very large degree, intimidated all these witnesses who are coming before us today.

Mr. Young said, well, he said he read the testimony and people are not saying establish a separate entity. That is because they are damn scared of saying it.

Let us be candid about it. They don't want to be at sword's point with you and those who do the vessel inspections and who do the certification of seafarers. Of course, not.

You know Mr. Young and I were the contrary voices over at the White House. The President called the Chairs and Ranking Members of the House and Senate Committees to discuss his proposal for a Department of Homeland Security.

I will remember as long as I live Mr. Young saying, don't mess with my Coast Guard, a very possessive spirit about it, and I backed him up on it. Leave it in the Department of Transportation. Don't mess with it.

Well, it has been co-opted just like FEMA has and with the result that one of the witnesses says the face that the industry sees on the waterfront is now a distinctly military one: guns, boots, an aura of martial law.

Prior to September 11th, the Coast Guard's proud military heritage was softened on the waterfront because it was seen first as an organization of seasoned marine safety professionals. That is how we have all thought of the Coast Guard.

Today's Coast Guard is a stranger on the working waterfront. That is the real spirit of those who are concerned about what has happened to the Coast Guard in this era of homeland security.

What I have been concerned about increasingly is that the certifications functions, that the expertise of personnel, the pool of human resources that are committed to the marine safety functions have been diverted. It has been diverted just as FEMA was. They sliced off the top 250 personnel, shifting them around the Department of Homeland Security, cut of $500 million of their budget, shifted it elsewhere within the Department of Homeland Security, and then they weren't ready for Katrina.

Thank God, the Coast Guard was. Thank God, the Coast Guard was out there with its helicopters and its surface vessels and its skills and expertise in rescuing people.

Thank God, the President had the good judgment to send you down there to the Gulf and set things aright. You did it. It is a great tribute to you and a great tribute to the Coast Guard.

But it is no denigration to the Coast Guard to say that the marine safety programs are not necessarily a military function. I would like you to describe for me what homeland security responsibility is involved in certification of vessels and certification of seafarers.

Admiral ALLEN. Well, sir, it is not directly a homeland security mission, but it is a mission that the Coast Guard has accomplished for a number of years. In accordance with Section 888 of the Homeland Security Act, we were transferred intact with all of our missions intact.

My challenge as the Commandant, my responsibility as the Commandant is to execute the missions assigned. That is the reason I said in advance of your arrival, Mr. Chairman, that I am glad this hearing is being held. It is the right hearing at the right time. We are not talking about the competency.

Mr. OBERSTAR. You haven't described, you haven't provided a link to homeland security and certification of a vessel, homeland security and certification of seafarers and relicensing of seafarers. There really isn't a direct linkage, is there?

Admiral ALLEN. Well, sir, I think you could say that the safety and the viability of the maritime transportation system in this

Country is endemic to the infrastructure that the Department is responsible for protecting, sir.

Mr. OBERSTAR. In a secondary way, yes, but the primary function of certification of vessels and the annual safety inspection of vessels is not a security function. It is a safety function which the Coast Guard is skilled at doing, right?

Admiral ALLEN. Sir, search and rescue is a safety function. I don't see any proposal that that be moved out of the Coast Guard, sir. Safety is a broad range of activities.

Mr. OBERSTAR. If I had my way, I would move the whole Coast Guard right back to Department of Transportation.

Admiral ALLEN. I understand that is your position, sir.

Mr. OBERSTAR. That is no secret around this town.

Admiral ALLEN. Yes, sir. I would say that safety and security, as I said many times, are two sides of the same coin. You get a benefit for security when you improve safety, and you get a benefit to safety when you improve security. Having them together does create a synergy, sir.

Mr. OBERSTAR. We have seen that same side by side in aviation. That is why we created a whole new category of personnel to do the security function at airports and not leave it up to the airlines who were doing a very bad job of it, contracting it out to the lowest bidder.

Had we continued with that practice, then in the Transportation Security Act, we might have moved the FAA over to Homeland Security because the airport screeners are performing a security function. Well, in fact, that is done, but the safety side of FAA stayed. I really don't think that bifurcating safety and security was reasonable, but the safety side stayed with FAA in the Department of Transportation.

Another witness says, "The recently issued documented entitled U.S. Coast Guard Strategy for Maritime Safety, Security and Stewardship is disappointing in its brevity, characterization and direction. Only a single page of the 54 page charter is devoted to marine safety."

That is a powerful statement, isn't it?

Admiral ALLEN. Are you looking for a response, sir? I am sorry.

Mr. OBERSTAR. Yes.

Admiral ALLEN. The Maritime Strategy for Safety, Security and Stewardship is a top level document that came out of something called the Evergreen Process in the Coast Guard that was intended to encompass all of our missions. We have missions that are in being out there. We have mission that are emerging. The security mission is emerging more than the other missions right now.

The actual amount of ink in that strategy which is a top level document is not indicative of the base resources in the Coast Guard that are applied to these things in our day to day operations. It is intended to guide strategy, sir.

Mr. OBERSTAR. Well, another example is the longstanding inability of the Coast Guard to timely issue licenses and merchant mariner documents as required by law. They are required by law to have those documents.

The witness does go on to say that problem predates September 11, but it has been exacerbated by post-September 11 as the Coast

Guard in an earlier reference has been committed to a more specific law enforcement role rather than a marine safety role.

Admiral ALLEN. Sir, our merchant mariner documentation has been a problem for a long time. I had issues with this when I was the Seventh District Commander back in 1999 when we had a significant fraud case at our regional exam center in San Juan.

I have always been in favor of overhauling this process, and we are right now. We are automating and centralizing the document process. We are going to go to online payments, online status of documentation. We are in a two year transition period right now.

I mentioned before you arrived that it is incumbent on me, the Coast Guard and the folks that are working out there in the port that we sustain the service level and if it is not being sustained right now, we have to get it right, sir.

Mr. OBERSTAR. Before I arrived, you announced, Admiral, if I have it right, that you are proposing the establishment of an Assistant Commandant for Maritime Safety and Security.

Admiral ALLEN. And Stewardship, sir.

Mr. OBERSTAR. And Stewardship.

Admiral ALLEN. Yes, sir.

Mr. OBERSTAR. Why does security have to be in that? That is exactly what all those folks sitting behind you are worried about.

Admiral ALLEN. Again, sir, if you are operating in a port, it is very difficult to disassociate safety and security activities because they combine together to provide the assurance of the maritime transportation system there, sir.

Our focus is to have a senior maritime security authority in the Coast Guard accessible by industry for all matters related to the port, but they will be the individual responsible for safety. There is another Coast Guard flag officer assigned the responsibility for prevention activities who will work for that flag officer. We have a senior executive service person that is responsible for standards. At the last flag board, we selected two marine safety officers for flag, sir

Mr. OBERSTAR. But listen to what has happened in FEMA which you took charge of and, in effect, ran and put it aright. Volunteer fire departments are required in their submission of grant applications for firefighting apparatus, for clothing, for fire resistant clothing, for pumper trucks to show a connection to homeland security.

Look, the terror on the border in Minnesota is fire. If you put security into this safety function, you are just compounding the problem. What we need is what we have in the FAA, skilled personnel who have years of seasoning, who aren't shifted year after year from one post to another with only three years on staff.

Take the example of the Corps of Engineers. They do have a military commander. They have a district engineer and the division engineers and in each of the districts, there is usually a major or lieutenant colonel, and he is there for three years and then goes to something else, but the civilian personnel stay in place. Why couldn't you do that in the Coast Guard?

Why do you have to have security in marine safety? I think that would be a separate function.

Admiral ALLEN. Yes, sir. First of all, I am not sure I am qualified to comment on homeland security as it relates to fire trucks in Minnesota, but I do understand your point, sir.

Mr. OBERSTAR. Well, I don't ask you to do that and for your own good, you probably shouldn't.

Admiral ALLEN. Yes, sir.

Mr. OBERSTAR. You will get the Secretary hopping mad. If he is mad at me, that is okay, but I don't want him to be mad at you.

Admiral ALLEN. Yes, sir. Here is what I would propose, Mr. Chairman. I roger what you are saying. I roger what the industry is saying.

What I propose is you tell me what is wrong and let me tell you the plan to fix it before we go to the more drastic step of reorganization and changes because I feel we are competent to do this mission. I think there are resources involved. I think we can do what you and the Country expect of us, sir.

Mr. OBERSTAR. My logic behind this proposition is that we will take this function, move it into where it had been until World War II, into a civilian department, and then fill those spaces with the necessary Coast Guard uniformed personnel that you need to carry out all these functions that the Congress has given you over the 32 years I have served in Congress and have not provided sufficient personnel although we do increase the number in the current Coast Guard Authorization Bill which will come to the floor right after the August recess.

We will give you, the Coast Guard, the uniformed personnel you need to carry out those functions, do the homeland security role and put the civilian function in the Department of Transportation where you can have longtime career professionals doing that job and keep the enforcement side with the Coast Guard.

Admiral ALLEN. Yes, sir. I understand your point completely, and I am not trying to be argumentative. I would just tell you I think we are up to the task.

Mr. OBERSTAR. You should be. That is your role. That is your responsibility. You are advocating for the Coast Guard. You defended yourself well in that document you gave me. I understand. That is the purpose of hearings is to have exchange of views. I want to hear your views.

Admiral ALLEN. Yes, sir. We are ready to be responsive to the issues raised by the Committee and industry regarding issues on staffing qualification and continuity of marine inspectors. We have a plan to move out on that and with a blended hybrid workforce that includes more civilians. We are competent to do this. We can do it, but it is probably going to require some resources.

Mr. OBERSTAR. Mr. Chairman, I see we have votes in progress here. I thank you for the time.

Mr. CUMMINGS. Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman. I will be brief.

Admiral, you have been pretty thoroughly examined today. I don't think you have been asked this question. We continually hear from the Coast Guard regarding safety and security. Is there anything to be gained or lost by separating regulators from an enforcement agency?

Admiral ALLEN. Well, right now, we can pretty much develop a single package for a ship that is entering port regarding inspections and boardings that have to be accomplished. What you run the risk for when you separate the functions of sequential boardings and inspections that we are subjecting the ships and vessels that are coming into port to increased burden on them and increased time on processing.

What we ultimately need to do is to unify all of our actions in regard to a vessel, both safety and security.

Now if there is a customer interface issue where people are wearing blue uniforms and we need to communicate better with industry what we are doing and there is a dockside manner issue, we can work with that. I would just say in response to an earlier comment, those people that pulled 33,000 people out in New Orleans were all wearing blue uniforms.

Mr. COBLE. I thank you, Admiral, and one more question, Mr. Chairman.

I just don't believe we can remove the marine safety mission in a smooth, harmonious way. I think it would be difficult. Am I right or wrong, Admiral?

Admiral ALLEN. I think it would be disruptive, and it is already causing morale issues, the fact the hearing is being held.

Mr. COBLE. I thank you, Admiral.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. I too will be brief.

Admiral Allen, nice to see you again. I want to go back to this issue that Mr. LaTourette was raising of the rotation issue. It seems to be a sore point. I think I can understand multiple rotations from the Coast Guard point of view, developing breadth of experience and so on, but it also seems that the down side of that is that we are constantly putting people in frontline positions where they are on a pretty steep learning curve.

And so, my question to you is do you foresee changing the rotations for marine safety inspectors and, if you do, do you have the capacity to undertake that on your own or do you need greater authority?

Admiral ALLEN. No. We can look at the rotation policies, and that is within my authority to manage. Whether or not it is a three, four or five year tour, those are things that I can manage.

I think the real issue is getting what I would call the structure of the workforce right, and I mentioned that earlier.

Mr. BISHOP. Do you agree, though, with the assessment of some that frequent rotations tend to drive down the level of expertise that ought to be present on the frontline?

Admiral ALLEN. I think that is true.

Here is the quandary we are faced with. Sooner or later, as you get promoted in the Coast Guard, you become a commanding officer. If you get selected for flag, you become a district commander and maybe even a Commandant. When you get to there, you become a general. You are representing the entire organization.

We have an issue of needing specialists, subject matter experts, but at some point we need to generalize these folks and give them other experiences if they are going to be promotable and move up

to become executives in the organization. In corporate America, for example, if you are a vice president, everybody needs to understand corporate finance.

What we have developed inside the Coast Guard is the notion of what we call a broadened specialist. What we need to look at is maintaining the subject matter expertise that is critical to mission execution and then how we can broaden these people at a later date and still make them promotable. They want to be able to move up in the organization as well.

Mr. BISHOP. Thank you.

I have other questions, Mr. Chairman, but I will yield to Mr. Taylor.

Mr. CUMMINGS. Mr. Taylor.

Mr. TAYLOR. I thank the gentleman. Thank you, Mr. Bishop.

Commandant, number one, I empathize with your situation, and I want you to know that. I very much appreciate what the Coast Guard did after Katrina.

And, you get thrown a monkey wrench called the 123s. Deepwater didn't help. So you have got a lot of challenges, and I would not want to be in your shoes right now, although they are still pretty good shoes to have.

Admiral ALLEN. I am proud to be in them.

Mr. TAYLOR. There is only one Commandant of the Coast Guard.

My point, I heard you mention trying to bring in other groups to help out to fill this billet, and I heard you mention the Merchant Marine Academy and the other marine academies. Hardly a conversation goes by between me and an alumnus of the Merchant Marine Academy where they don't worry about the future of it.

In fact, just the other night, I had a senior at the Merchant Marine Academy who is getting ready, whose goal upon graduation is to be an Army Ranger. Number one, I thought, gee, what a great kid to go after that very, very tough task. On the flip side, I am thinking, geez, the taxpayers have invested a heck of a lot of money to teach this guy to be a maritime officer, and he is going to go be an Army Ranger. That doesn't seem to make sense.

Given that MARAD, and I have great respect for Sean Connaughton, often strikes me as an agency in search of a mission and given the maritime academies that seem to be on a roller coaster where all their graduates have work, none of their graduates have work, all of their graduates have work, I really do think there is a natural opportunity for the Coast Guard to work with those academies like you said.

But what I think is missing, what I sense is missing, given some conversations I have had with senior officials at the Merchant Marine Academy is I am not so sure it has ever been clearly articulated that we need X number of graduates a year and we can fill this billet.

I will flip that around with a conversation I had with one of the senior officers of the academy just last weekend where they are now in negotiations with the Chief of the Guard Bureau where he has actually articulated a number—I think the number is between 40 and 50—of people that he wants to bring over to the Guard Bureau to make them more aware of the maritime situation in the homeland defense mode.

So my question to you is how specific have you gotten, either with Secretary Connaughton or with Admiral Stewart or any of the other academies?

How specific have you gotten in saying I have got this many billets that I am going to need for X number of years and can you work on your curriculum to help me fill those billets?

Admiral ALLEN. I can be very specific, sir.

First of all, I agree Sean Connaughton is a great partner and a former Coast Guard officer. His undergraduate institution, I will leave to another day. We play Merchant Marine our first football game this year.

We actually have a plan every year for accessing maritime academy graduates into the Coast Guard, and I can give you.

Mr. TAYLOR. No. Towards this goal, towards this need right here.

Admiral ALLEN. Oh, sure, they are a great choice. They are a great source, yes.

Mr. TAYLOR. But again, to what point are you going to Admiral Stewart or Sean Connaughton and say: I have got a vacancy. I have got billets that I need to fill in my maritime safety offices. Can you adjust your curriculum to help me fill that?

Again, just given my limited experience with the Coast Guard, I do think that it was frowned upon, the short side billets, and that guys who wanted to have as much gold on their sleeves as you have thought that the only way they were going to get there was to go to sea. Whether you say it or not, I do think that there was a reluctance on the part of many of your officer corps to take a job like this.

Admiral ALLEN. I don't believe that is correct. We take graduates right now and, if we had positions, I would be more than happy to get together with Sean and the other folks and pull those folks over. What you have to have is the authorized position. That takes us back to resources. In other words, we access those people right now.

Mr. TAYLOR. Okay. So to what extent?

Admiral ALLEN. Given an increase in billets, they are a perfect source, sir. I absolutely agree with you.

Mr. TAYLOR. Admiral Allen, none of us are mind readers. So to what extent are you articulating that to Sean Connaughton? To what extent are you saying I need this many people to Admiral Stewart, and above all to what extent are you sending a letter to the Chairman here, saying I need X number of dollars to fill this need?

Again, none of us are mind readers.

Admiral ALLEN. I understand.

Mr. TAYLOR. So has the Chairman gotten a letter towards that end?

Admiral ALLEN. What I would propose is as part of the assessment that I talked about earlier in the testimony about this blended workforce, I think what we owe you is an organizational construct on how that comes together between the three components. Those are accessed through enlisted and warrant officers we bring in from either our academy or the Merchant Marine Academy and what we propose to do as far as creating a civilian cadre.

Mr. CUMMINGS. How soon can we get that?

Would the gentleman yield?

Mr. TAYLOR. Certainly.

Mr. CUMMINGS. How soon can we get that, Admiral?

Admiral ALLEN. Sixty days.

Mr. CUMMINGS. We will hold you to it.

The Chairman said a month.

Mr. OBERSTAR. Mr. Chairman, I have just one comment, briefly. We have to break for the vote.

I just have to say, Admiral, that creating a new structure within which you have uniformed Coast Guard and just a couple of civilian personnel who would be career people who can absorb all that documentation and be able to handle it like an aircraft mechanic does is not sufficient. That is not a sufficient answer to the need.

Admiral ALLEN. I think we need to make the case then to you, sir.

Mr. OBERSTAR. Thank you.

Mr. CUMMINGS. Thank you very much, Admiral. We are finished with you.

[Laughter.]

Admiral ALLEN. Mr. Chairman, it is always a pleasure. These questions are good for both of us, and it has been my pleasure to testify.

Mr. CUMMINGS. Thank you very much.

We will resume the hearing. We have, as we understand it, one vote that might get stretched, so we will see. We will be back as soon as the vote is over. Thank you.

[Recess.]

Mr. CUMMINGS. We will call the hearing back into order.

We now have Richard Block of the Gulf Coast Mariners Association; Mr. Tim Brown, President of the International Organization of Masters, Mates and Pilots; and Mr. Richard Doyle, Director of Government Affairs and Deputy General Counsel with the Marine Engineers' Beneficial Association.

I am sorry Mr. Quick is substituting for Mr. Brown. I apologize.

I would remind our witnesses that we have, after you, six others to come. I know that you all have great things to say, and we want to hear them, but we just ask you to be as brief as you possibly can be. We will give each one of you five minutes.

Keep in mind, we have your written statements, and so basically what we would like for you to do is summarize.

Mr. Block.

TESTIMONY OF RICHARD BLOCK, SECRETARY GULF COAST MARINERS ASSOCIATION; GEORGE QUICK, VICE PRESIDENT, INTERNATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS; WILLIAM DOYLE, DIRECTOR OF GOVERNMENT AFFAIRS AND DEPUTY GENERAL COUNSEL, MARINE ENGINEERS' BENEFICIAL ASSOCIATION

Mr. BLOCK. Mr. Chairman, distinguished Members of the Subcommittee, it is my honor to be invited to appear before you today to testify on the challenges facing the Coast Guard marine safety program.

My name is Richard Block. I am the Secretary of the Gulf Coast Mariners Association. I have given a brief bio in my original statement here.

In our attempts to improve safety and working conditions for our mariners, we always presented our problems to the Coast Guard first, often bringing them up in correspondence or advisory committee meetings.

However, whenever the Coast Guard proved to be either unable or unwilling to move on these issues, we reached an impasse. This happened a number of times in the past eight years. When this happened, we would send a report to your Subcommittee, and we have sent a total of 14 reports in on an irregular basis.

Our association speaks for lower level mariners. By lower level mariners, I am speaking of mariners who serve on vessels of under 1,600 gross tons. We are a majority of all merchant mariners. The Coast Guard lists 204,000 licensed and documented mariners.

Out of the 204,000, we speak for 126,000 plus a large number of people the Coast Guard appears to have been forgotten about that don't hold licenses or documents and they work on the inland rivers, inland waters and offshore on vessels under 100 gross tons. So we probably represent almost 200,000 people.

We try to do it as well as we can with extremely limited funding. One of our greatest challenges we face is that a branch of military superintends our civilian mariners. Now as a former Army officer, I understand and respect the military lifestyle. However, most of our mariners have never served in the Armed Forces. They do not understand the military lifestyle. They do not understand Coast Guard rank. They don't understand how the military operates.

I have spent 10 years in dealing with the military. I have some limited understanding of how the military works, and it just hasn't worked too well in looking after our mariners.

One of the first areas that I would like to touch on, I have five that I may be able to cover here. We reported this February on the substandard Coast Guard merchant marine personnel services. I am talking about licensing, documentation, examinations conducted by the National Maritime Center, by regional exam centers.

The report dealt with 50 individual mariners. Each of these mariners came to me with a problem, and we tried to solve it through the National Maritime Center. We asked the people at the top. We found them very helpful. However, the answers that we received and the time it took them to give us the answers was not acceptable. I turn you to that particular report.

Also, we would recommend that civilians replace the Coast Guard officers at the National Maritime Center.

We have other problems with Coast Guard investigations. We have probably on record over 600 accidents that we have studied. We have asked the Coast Guard to analyze some of the data that they have given us. Unfortunately, this hasn't been done. I think that this part of the Agency needs to be civilianized.

The two-watch system, this is an area where we are in desperate need of a new law which would apply not only to masters, pilots and so forth but also to the unlicensed people.

I think my time is up.

Mr. CUMMINGS. Thank you very much.

Mr. Quick.

Mr. QUICK. Well, good afternoon, Mr. Chairman and Members of the Subcommittee.

Captain Timothy Brown, the President of our organization, who was scheduled to speak today has a minor medical problem, and he has asked me to appear on his behalf.

My name is George Quick, and I have served as Vice President of the International Organization of Masters, Mates and Pilots since 1982. I have been involved in the maritime industry since graduation from the United States Merchant Marine Academy. For the past 50 years, I have earned my livelihood in an industry that has been regulated by the Coast Guard.

For many of those years, I have been in positions where I have had to interact with the Coast Guard on national and international regulatory issues. I have made many friends within the Coast Guard over those years. I have come to appreciate what the Coast Guard does very well, and I have also come to realize where there are problems within the system and why friction sometimes exists between the Coast Guard and the regulated industry and mariners.

One of the frictions between the Coast Guard and professional mariners is often inadequate communications and the lack of understanding and trust that runs in both directions. A large part of the cause is the differing cultures of the Coast Guard and the merchant marine. The Coast Guard sees accomplishing their self-defined mission as of paramount importance while we see moving passengers and cargo safely and efficiently as our reason for existence.

The Coast Guard is trained in military and law enforcement mold that expects unquestioned respect for authority. They are involved in drug interdiction, law enforcement activities and security operations where you don't consult with the suspects.

Shifting to regulating a civilian workforce with sensitivity and concern for their opinions must require a gear-stripping change in attitudes. There is a need to realize that the merchant marine has its own tradition and customs, or mission, which is every bit as old as the Coast Guard and that is also deserving of respect.

There is a need to bring more merchant vessel operating experience into the regulation of the maritime industry both for their technical competency and their ability to interact with the industry on the basis of shared experiences. This could be accomplished in a number of ways.

There is also a need to review the Coast Guard accident investigation procedures to ensure that both U.S. and foreign mariners that are involved in marine accidents are treated fairly in accordance with standards accepted within the international maritime community.

There is not enough time to go in any detail in an opening statement, but I look forward to answering questions from the Subcommittee and providing more details in a follow-up statement. I am also hopeful of establishing a productive dialogue with the Coast Guard on the subjects of concern to us sometime in the future.

Thank you.

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

Mr. Doyle.

Mr. DOYLE. Thank you, Chairman Cummings, Ranking Member LaTourette and the rest of the Committee, for allowing me to speak today. MEBA President Ron Davis is unavailable due to a scheduling conflict.

The challenges facing the Coast Guard marine safety program represent challenges for the entire maritime industry, both labor and management. This hearing is a good step toward overcoming them.

My name is William Doyle, and I am the Director of Government Affairs and Deputy General Counsel of the Marine Engineers' Beneficial Association and a U.S. Coast Guard licensed officer in the merchant marine.

For 132 years, MEBA has represented Coast Guard licensed deck and engineering officers serving in all aspects of the merchant marine. We have long been partnered with the Coast Guard in ensuring the safe and secure movement of water-borne commerce throughout our Country and the world.

The Coast Guard has earned its reputation by accepting mission and mission even when they aren't given additional resources. Their record of achieving much with little is commendable.

However, the constant addition of new missions has resulted in less public attention for the Coast Guard's core missions like marine safety. This has made solving the challenges that we currently face within the marine safety program all the more difficult. I am confident, however, that through the public-private partnership model that we in maritime have successfully implemented since the founding days of our Republic, we can work to solve these challenges together.

The issues that we face in the marine safety program are both internal structural challenges that arise out of the Coast Guard's founding as a military organization and the external challenges that arise out of the needs to balance safety and security with maintaining the steady flow of commerce.

The Coast Guard is fundamentally military, yet they also are responsible for the majority of safety and security-related regulatory functions in regards to the merchant marine. This is the only branch of the Armed Forces that has such a role.

As such, there are situations where the adoption of military style systems has not been effective. For example, the current tour of duty system does not allow a sufficient amount of time for uniformed personnel to learn their way around a commercial vessel's engine room before they move on to a new assignment.

Further, the Coast Guard's law enforcement function often complicates their regulatory function and creates an adversarial relationship where one does not need to exist. Vessel inspection teams often seem more like police than inspectors.

We feel that an increased number of civilian employees in the areas such as safety inspections, merchant mariner credentialing and investigatory positions would ensure the needed consistency and level of experience to overcome the challenges in this area. In addition, to recruiting from the maritime academies, MEBA and most of the labor organizations here today have access to a pool of

retired but still working age mariners, not Coast Guard retirees, mariners who could easily fill such positions.

Consistency is another challenge that must be addressed. Our companies make many decisions including decisions regarding hiring, flagging of vessels, construction of vessels, wages and benefits based on Coast Guard's interpretation of rulings and various regulatory questions. Any decision made by the Coast Guard has a wide impact on the maritime industry, and it is critical that the Coast Guard be fair and consistent in their interpretation of regulatory opinions.

The external challenges that are present in the maritime safety program are fundamental and far-reaching. The prime ongoing challenge is balancing safety and security with ensuring the flow of commerce. Quite often in the zeal to make the U.S. flag and the U.S. maritime industry the world's safest and most secure, they make it extremely difficult for the industry to compete internationally.

While the United States is a large part of the global maritime community and has been a member of the International Maritime Organization since 1950, you quite often find U.S. Coast Guard standards that are much higher than those adopted by IMO and used throughout the rest of the world. By holding ourselves to a higher standard than the rest of the world, we are handicapped when competing internationally.

This issue is highlighted most clearly in the debate over the Transportation Worker Identification Credential. The TWIC was designed to increase security in our ports, yet the TWIC only applies to American mariners who move less than 2 percent of the cargo entering and leaving the United States. Further, the card is not compatible with the international standard for seafarers' identity documents established by the International Labor Organization.

We are concerned the TWIC will become just another example of over-regulation without any increase in security.

There were several questions and comments that were raised at the earlier panel regarding the civilian sector certificates of inspection, fear of the Coast Guard, oily water separators and oil pollution. I am a mariner. If you have any questions on that, I can answer many of those questions.

Thank you.

Mr. CUMMINGS. I want to thank you all for staying within the time limits.

We are going to go straight to Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman, and thank you. I am sorry I walked in at the tail end of the testimony.

Mr. Doyle, I had asked this question of Admiral Allen, but the question grew out of your testimony which has to do with the rotation of Coast Guard inspectors.

It seems to me as if we are constantly replacing semi-experienced people with inexperienced people who then become semi-experienced and then they move on to their next assignment. How real a problem is this and what do you see as the fix?

Mr. DOYLE. Thank you, Congressman.

Congressman Bishop, let me just break it down to what happens on a ship. I will take it from an officer's perspective coming out of a maritime academy, like I did.

You go through four years of school. You get your license through the United States Coast Guard. It takes a minimum of two years to move up from third, then to second, then to first, then to chief engineer. You are looking at 16 years of schooling in order to get schooling and training in order to get your chief engineer's license. You are the person responsible for the engine room and all the machinery on board that ship.

What is very difficult for a chief engineer and a captain from that perspective is somebody who comes in, who came from a different rotation, does a Coast Guard inspection and there are problems or communication breakdowns because they are not a merchant mariner. They may not be a merchant mariner although the Coast Guard does recruit from the academies and there are merchant mariners that go into the Coast Guard.

It is difficult from a commercial sector as a chief engineer or captain on the communication level on how a ship should run. It is their ship. They feel that way, a chief engineer and a captain. So it is very difficult if somebody comes in for two years, does an inspection and then leaves and a new person comes in. Merchant mariners are career people.

Mr. BISHOP. You believe that the retired merchant mariner can be a part of the solution here, correct?

Mr. DOYLE. Absolutely.

Mr. BISHOP. Now, the Coast Guard, Admiral Allen testified a little while ago that he is committed to increased civilian presence in this issue. Have you had discussions with him or anyone in the Coast Guard with respect to the utilization of retired mariners?

Mr. DOYLE. Not on this specific instance, no.

Mr. BISHOP. Do you think that a retired mariner would have sufficient objectivity?

I mean he might find himself inspecting ships operated by former colleagues. Do you see that as any problem at all?

Mr. DOYLE. No, I do not.

Mr. BISHOP. Tell me why.

Mr. DOYLE. The reason why is because in my organization we have what is called port engineers, and those port engineers are union. What they do is they are responsible for the shoreside part of the ship, making it safe. It is sort of like a safety function. They outfit the ship. They make sure that the machinery is running well.

Well, they are supervising officers on board the ship, a supervisory role over them. There is no ifs, ands or buts about it. It is safety first. They have a job to do, and they are the company's representative onshore that interacts with the shipboard personnel, and they hold them accountable.

I do not think that somebody retired at 50 years old and wants to start another career, 55 years old, would have a problem with objectivity of going over the ship. At the end of the day, it is the safety and the lives of the people onboard that ship that everybody is looking out for.

Mr. BISHOP. Thank you very much.

Mr. Chairman, I yield back.

Mr. CUMMINGS. Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman, and thank you all for your testimony.

Mr. Block, you used a phrase that I am not familiar with. I think I know what it gets at, the two-watch system. Is that the preferred hours of service, 12 hour shifts basically?

Mr. BLOCK. It is six hours on, six hours off. The problem with the two-watch system is that human beings require seven to eight hours of sleep, and you are constantly running a sleep deficit starting from the first day.

Now, you may be fortunate and if the vessel is tied up alongside the dock for a while, you may be able to get a little more sleep. But on vessels that run 24 hours around the clock, eventually this deficit is going to catch up with you.

Mr. LATOURETTE. I understand. We just had a pretty good negotiation in the Rail Safety Bill on limbo time and circadian rhythms and things like that, and so I am pretty up on that.

But the question would be is that subject to collective bargaining negotiations or is it set in statute for regulation?

Mr. BLOCK. The problem that our mariners have is that most of them do not belong to a union. They are not allowed to belong to a union. There have been battles waged in the past 13 or 14 years in which the unions have always lost.

Mr. LATOURETTE. This two-watch system is set in regulation under the Hours of Service?

Mr. BLOCK. It is set in regulation.

Mr. LATOURETTE. Thank you.

I had understood all of you to advocate increased civilian participation in the marine safety. I didn't hear, and Chairman Young isn't here, but I think I will ask the question he would have asked were he here. I didn't hear anyone advocate necessarily that that needed to be accomplished only by transferring the marine safety responsibility out of the Coast Guard and placing it with the Department of Transportation.

Does anybody have an opinion?

Mr. Block?

Mr. BLOCK. I think it could probably be done within the Coast Guard system. I think we need to get more civilian mariners involved.

If I could bring something else up, the fear of retribution by the Coast Guard. I don't feel any fear myself. However, my mariners do feel this fear. If you go against the Coast Guard, somehow they are going to get you.

Well, let me put it this way. The Members of the Subcommittee here, if you pull all of these functions away from the Coast Guard, all of a sudden 14, 15 Members here are going to have to run all of these functions. The Coast Guard may not cooperate very fully with you.

I notice in many ways that the Coast Guard doesn't always explain everything to you gentlemen the way we think they should, and I am kind of afraid that you might end up running the whole system yourself.

Mr. LATOURETTE. I hope that doesn't happen.

Mr. Quick or Mr. Doyle, do you have an observation about the proposal to perhaps create a new Marine Safety Administration within DOT?

Mr. QUICK. Our goal would be to have a civilian interface between the industry and the regulatory body. Whether that is accomplished by reorganizing every section in the Coast Guard or by transfer to another agency is academic to us.

Mr. LATOURETTE. You don't care.

Mr. QUICK. I would prefer or let me say I would believe that reorganization within the Coast Guard should be the first step, and if it doesn't prove successful, then the ultimate step might be a separate agency.

Mr. LATOURETTE. That sounds reasonable just from my view around here.

If you take FEMA, for instance, when FEMA was taken away from the jurisdiction of this Committee and then thrust into Homeland Security, I made the observation—a lot of different people made the observation—that you are going to get an agency that did a great job on natural disasters and you are going to have two parts, emergency response and homeland security, and we are not going to fund either one of them properly.

I think we have seen that and paid the price for that.

Mr. Doyle, what about you on this issue of a separate agency or maintaining it? I heard what you said about increased civilian presence, but what do you think?

Mr. DOYLE. I think that this oversight hearing is fantastic. Admiral Thad Allen sat here and said that he was going to provide information within 60 days. I believe in giving people a chance to get back on their feet. They should have an opportunity to get back up on their feet, but if it fails, I think all avenues need to be explored, including that.

Mr. LATOURETTE. I appreciate that.

Then the last thing is, Mr. Doyle, you talked about TWIC. The Chairman had a great hearing, I think, on TWIC a little while ago, and I couldn't quite understand why the Department of Homeland Security had not gone with the international biometric standards and some of those things.

They said it is because we are going to be ahead of the curve and have the greatest thing since sliced bread. But the fact of the matter is it is over budget, it is over deadline, and it is not compatible with what everybody else in the world is doing.

So I appreciate your bringing that up, and I appreciate your yielding me time, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. Taylor.

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

I want to thank all of you gentlemen for being here.

For the two graduates of the maritime academies, I am curious. I don't know if you were, Mr. Block. I heard the other two gentlemen mention it.

I am convinced that there isn't the proper utilization by the Coast Guard of that or of MARAD. I am just curious if you could be more specific in your recommendations how they could be better employed in filling this need.

The second thing—and Mr. Chairman, I would encourage you to consider—is that on the Armed Services Committee, it has been a tradition to approach each of the Joint Chiefs when they come before the Committee and ask them formally for an unfunded requirement list.

If you think about it, looking back at what happened to General Shinseki, looking back at what happened to Mike Parker, they are under tremendous pressure to toe the company line even if the company line is wrong, and anyone who speaks out of line is either canned like Mike Parker or General Shinseki.

But with the unfunded requirement list, each year, we basically give the generals and the admirals an opportunity to say, but if I was given some more money, I would ask for this ship or I would ask for this vehicle. It is a way of forcing them to tell us what they are thinking even if the Administration doesn't want them to say it.

I would encourage us to ask the Commandant for an unfunded requirement list.

Mr. CUMMINGS. If the gentleman will yield, that is an outstanding suggestion, and we will jump on that immediately.

Mr. TAYLOR. Thank you.

To you gentleman, if the Commandant had an unfunded requirement list and you happened to have been the Commandant trying to address this problem, what would you ask for specifically?

Mr. QUICK. I would ask for bringing in retired officers that still had 15 or 20 years of service ahead of them, that had the experience to have an informed judgment when they do a ship inspection.

Mr. TAYLOR. How many of them, Mr. Quick.

Mr. QUICK. Oh, I don't know.

Mr. TAYLOR. Give me a realistic guess.

Mr. QUICK. I would think you would probably need several hundred officers in the civilian section of the Coast Guard.

Mr. TAYLOR. Is this to get you over a temporary problem or is that a sustained level?

Mr. QUICK. No, no. As a permanent basis, I think the Coast Guard needs to have a civilian inspection force that covers port state control, ship inspection, licensing, safety inspections.

In foreign countries outside the United States, you go to the Netherlands or Germany or Norway, that is a civilian force that comes on. They are all retired masters or chief engineers, and they become the inspection service for that country.

When they go aboard a ship, they are interfacing with chief engineers and masters that have a shared experience. There is a great deal of respect for the inspectors, and the inspectors have a great deal of respect for the officers on the ship.

It is an effective system. You have expertise. You have competence, and you have motivation. They obviously love the maritime industry because that is their choice. It is not something they have been assigned to as part of their tour of duty and attaining a generalized background in the Coast Guard. I think that is the way to go.

I would be reluctant to bring in recent graduates of the maritime academy into this role because they have no more experience than recent graduates of the Coast Guard Academy. Until they have

four or five years at sea at a minimum and at least reach something like chief officer, a senior management position, they don't have the experience they need to be an effective inspector.

Mr. TAYLOR. All right. Thank you.

Mr. Doyle?

Mr. DOYLE. Several hundred probably would be the number. I don't know. I can't pinpoint it, somewhere between 500 and 1,000, because you are really looking at 2 things. You are looking at the inspection side, and you are looking at the investigatory side.

Even on the investigatory side, it is fearful because all somebody has to do, a disgruntled crew member or somebody that has a beef against a company, is make a phone call to the Coast Guard and say that ship is coming into port and it was pumping oil over the side. The problem is that if you pump oil over the side, you are going to pay a heavy price. There are no exceptions to polluting our waterways.

But what we have seen time and time again in the last three years is that there is somebody that drops a dime on a ship. What happens then is the Coast Guard and some local officials, law enforcement officials come down on the ship.

They immediately separate the chief engineer, the first engineer and the captain. They pull them aside. Everybody is on basically a lockdown.

All the inspectors know how to do is run to the engine room and find the oily water separator. Once they find the oily water separator, they will trace the discharge line to the skin of the ship, break the flange, wipe the inside of the pipe with a rag, take a sample and then it goes into interrogation mode.

Now every discharge pump or line out there has some kind of residue in there. You are not going to be able to find out immediately right then and there whether or not it is oil, but it is a very scary situation when you are an officer. You have a family and this is your livelihood. When they come on, your license and livelihood are in jeopardy, that moment right there.

As the Deputy Counsel for my union, I have had to deal with this many, many times. Saturdays, Sundays, late at night, the call comes in, and we have to get somebody there.

So I think that you need these civilian people who have sailed in the maritime industry to do the inspections, licensing and the investigation. They should be there because they have lived it and worked it, and it makes it a lot more compatible between the two.

Whether or not we have to go into another agency right now or whether or not it becomes completely civilian, I can't answer that. I think that the Coast Guard needs an opportunity to look at this.

Mr. TAYLOR. It is at the Chairman's discretion at this point.

Mr. Block?

Mr. BLOCK. I can't answer or really speak to the question on the academies because the mariners that I speak for, we are lucky if we have them as high school graduates. We have, if I had to guess, I would say some place around maybe the ninth or tenth grade level on the average.

When I went to teach in Louisiana back in 1970, I came down from New York. We had 2,000 people that signed up for marine courses. The average was between grade seven and eight. I used

to teach grade nine, so I have a pretty good idea of what I can expect from ninth grade students.

We have the same problem today. It may not be quite as acute as it was then. However, back in 1970, 1971, Captain Newman was sent down to look at the situation on the Gulf Coast, and his report I think is still pertinent today. We have it on our web site. It would have to be brought up to date, but really the Coast Guard has not paid an awful lot of attention to the offshore industry since then.

I was told in 1980 that, oh, those education problems, they have all been taken care of. That was a district commander that said that. Well, maybe the Coast Guard believes that they have been taken care of, but I have to deal with people who write on the seventh, eighth, ninth grade level.

I am the only one at GCMA that writes. I edit their letters. I don't edit their thinking. I can read what they write. But they have had no way to express themselves, and everybody is below college level. I am talking the majority of the merchant mariners.

This is something that has gone over the Coast Guard's head for years. It has affected examinations. People can't read the questions.

Thank you.

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

I was just thinking. I want all of this to result in some effectiveness and efficiency. Other than that, five years from now, we will be talking about the same problems and things will be worse.

You all heard the Commandant. Were you here when the Commandant spoke?

Mr. QUICK. Yes, sir.

Mr. DOYLE. Yes, sir.

Mr. CUMMINGS. And you know he said that he appointing Admiral Salerno to be basically over this whole mariner safety. Am I right, Admiral?

That was one of the things, and I thought that was major. The fact is that the guy who he is appointing is sitting right behind you.

Raise your hand, Admiral, so they will know. Don't worry, I got your back. I am watching it.

[Laughter.]

Mr. CUMMINGS. As I listen to you all, I just want you to comment on what you heard from the Commandant with the issues that you all are trying to address. That is number one.

Number two, Admiral Allen has told us that he is going to get his plan to us in 60 days. We are going to hold him to that.

There are two lines of thought. One, you take it out and do this marine safety under the Department of Transportation or you leave it in under the Coast Guard. Of course, whatever the Commandant comes back with, of course, is going to be under the Coast Guard.

Let us assume that you are trying to get into the head of the Commandant. What would you want to see in that plan?

Do you follow what I am saying? Do you get both questions?

Yes, Mr. Quick.

Mr. QUICK. I would like to see a plan that would phase in over maybe a five or ten year period a new system of the old 219 officers where they brought merchant marine officers into the Coast Guard

as general line officers but with a maritime specialty so that you had a uniformed force that had experience in the industry and still had the capability of being flexibly used within the Coast Guard.

I would like to see retired officers that had at least five or ten years of experience. Some of our officers can retire in their forties under the contracts we have. That is early enough. There are enough good years left that they would become specialists.

They wouldn't be able to be promoted up in the Coast Guard, but they would be civilian specialists. They wouldn't become captains and admirals. When a fellow retires after a career at sea and he is 45, 50 years old, he might not be looking for a future career advancement as Coast Guard officer. You make him a civilian inspector, and he would fill the same role that they fill in Germany and most maritime countries.

Most maritime countries do not have a uniform Coast Guard acting as the maritime inspection service. They use maritime professionals from the industry to fill that role.

I don't think you could change instantly. You couldn't have a cadre of a couple hundred people come in and do it all at once. It would have to be phased in.

Admiral Allen is talking about a blended workforce. I was heartened by that statement. I think that is the right approach. But a blended workforce should be the first step in eventually becoming an all-civilian maritime professional inspection service, and it would probably take five or ten years to reach that.

In the interim, a blended workforce where you are using some Coast Guard officers, some enlisted personnel and some newly retained merchant marine officers who are maritime professionals would have to be phased in.

One thing that disturbed me with Admiral Allen's proposal, he still intends to have a blended workforce using enlisted personnel who have never been to see in the merchant marine even though they may be chief warrant officers and maybe even though they have two years of training at Yorktown. Using them as marine inspectors and interfacing at the professional level with masters and chief engineers, that is in many of our viewpoints an insult to the masters and chief engineers.

That they send a second class petty officer down to make a determination of whether he is doing things right or wrong or investigating his actions, that is not acceptable to us. It is the way they do it, but most of us rankle at it.

When they send a petty officer down to represent the United States' interest in enforcing international conventions on foreign flag ships as a port state control officer, the foreign masters, the Germans and the British, take offense that the Coast Guard hasn't sent an officer down or a civilian personnel with a maritime background.

Mr. CUMMINGS. I want to get to you two, but let me just interject this. You heard the Admiral say, and I am glad, Rear Admiral, that you are still around to hear some of this. I see you back there, taking notes, and I appreciate that.

Admiral Allen talked about the relationship , how important it is that the mariner and the shipping community and ports have a good relationship with the Coast Guard.

I have said this to many people. Since I became Chairman of this Subcommittee, when I think about all of the players that I have come in contact with, and I have come in contact with every aspect of this whole Coast Guard-maritime community, I have ever seen how just about every single person is trying to reach for the very best, in other words, although there may be some disagreements on some things.

We saw it in fishing safety. We see it in port security. We see it with the TWIC. I mean everybody trying. It is not like people just fighting. I am hoping we can maintain that, and the Admiral talked about that.

So that is one of the reasons why I wanted, if we are going to have that, it is important that we shouldn't be the only ones to hear it. The Admiral and the Coast Guard need to hear it too.

That is why I was so glad, Mr. Block, you said what you said and why I was glad the Chairman said what he said with regard to this feeling, particularly since 9/11, that we have got the policemen, as in the Coast Guard, as opposed to before it seemed like more of a working kind of relationship.

I am going to invite you all, and I am sure Admiral Salerno will hopefully agree with me. I say this to this panel and the next panel. I don't think it is a bad idea to let them know some of the things that you would suggest because we cannot legislate everything. I can tell you, we can't.

All of us know that if you can get a cooperative spirit amongst folks or even bring it back, that would be helpful. We may have to legislate some things, but all of us, we have to work. This community is too important.

Now, going back to my question, Mr. Block and then Mr. Doyle and then we will be finished with this panel unless someone else has a question.

Mr. Block?

Mr. BLOCK. To look at one item that lies ahead of us, we have 5,200 towing vessels that are going to have to be inspected. The question is who is going to inspect those vessels? We will probably need new inspectors that are trained on how to inspect and why can't these be civilians with experience doing it?

The Coast Guard inspection program has gone on for 50 years. I have always encouraged that program. I have lived with it on Subchapter T regulations. Certainly, civilians are perfectly capable of doing it. You have to find the right civilians, and I am sure that is not an impossibility.

Mr. CUMMINGS. Mr. Doyle?

Mr. DOYLE. Thank you, Chairman Cummings.

The maritime industry operates off of government, commercial and labor. Executive, congressional and the agency levels work with the industry and labor. Nothing really gets done or can get done unless we are all on the same page, and that is the history of the maritime industry.

We all pull in the same direction, whether it is you as a Congressman, whether it is the agency. It doesn't matter who is the President. It is the agency level. That is how we get things done for the maritime security program, the U.S. Coast Guard author-

ization bills, whether it is LNG and the priority for LNG tankers coming in.

To comment on Admiral Allen's statements that he said earlier, I thought that they were very encouraging, and I think he needs that opportunity.

As Chairman Oberstar said, when this first came on the map and came on the radar screen, he has been all over the Country, rallying the troops.

As far as the new position that he stated today, I have worked with Rear Admiral Brian Salerno. I have worked with people that have been under him when he was coming up, and I think that the man is competent. Provided that they can come up with a solution, we can help them with that solution. They should have that opportunity to try it.

Mr. CUMMINGS. Thank you very much.

Mr. LaTourette, did you have something else?

Mr. LATOURETTE. I did just to make a comment on Mr. Taylor's excellent suggestion.

Counsel informs me that we have already statutorily given the Coast Guard this unfunded needs list, but unfortunately one former Commandant Collins took us up on it and submitted such a list. Talk about intimidation. I am told that the appropriators told him that if ever did it again, he would be defunded completely.

So there is intimidation and then there is intimidation, but we apparently already have the authority. I would be happy to work with the Chairman.

Mr. CUMMINGS. We will do that.

Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

Gentlemen, I do appreciate your being here.

Mr. Quick, I would like to follow up on something you said because when you said they needed hundreds of retired mariners, I am trying to put a price tag on that. Later on, you said something like you don't need some petty officers doing this.

I would have to disagree with you on that. I think the real solution, and I hope you would think about this, is going to be a mix of the two. I don't think you need someone with 20 years sea experience to count life preservers or the condition of them or to check the running lights out or a lot of the simple things that are part of a Coast Guard inspection.

That is overkill. That would be like me hiring Ph.D.s to help me with my mail. A typical congressional office has everything from kids straight out of college to an old geezer like myself, and it works pretty well.

I have got to believe that the Coast Guard organization also envisions that not every task is as difficult as the next. Obviously, to inspect a steam plant or turbine, a water separator, something that is technical, you are certainly going to need some technical expertise.

I hope I didn't mishear you on that, that the only people capable of doing that are people that have had 10, 20 years of sea experience.

Mr. QUICK. I wouldn't disagree that they are probably capable of doing it, but I think it is a question of perception with the people they are working with.

A ship has a hierarchy almost like the military. It is quasi-military. Masters, they have a certain perception of what the junior officer's status in the world is and what the rating status in the world is, and they do take offense at having a Coast Guard petty officer, whether he is competent or not, coming aboard and exercising governmental authority over his operations.

I don't think it is a question of competency. I think it is a question of interpersonal relationship based upon perceptions and rank.

Mr. TAYLOR. If you were to draw up an organizational chart of what needs to be done above and beyond what the Coast Guard is doing now, give me an idea of what it looks like.

I am not in total disagreement with you because the Army Corps of Engineers, for example. The vast majority of people I deal with at the Army Corps of Engineers are civilians. At the end of the day, though, they answer to the district commander who is a colonel or a general. If something goes wrong, that is who is ultimately responsible and whom everyone knows is their boss, whether that guy is civilian or in uniform.

The concept that you are talking is not unique in government. With the exception of Hurricane Katrina in New Orleans, this works pretty well for the Corps.

Mr. QUICK. Well, if I were doing it, I would re-establish the 219 program and bring younger maritime officers into the Coast Guard at lieutenant, lieutenant commander ranks and put them on a career path where they did marine inspections but they also did general line duty in the Coast Guard and looked upon them when they became captains or admirals to be the policymakers for the marine inspection service.

Then I would fill the ranks where they really interface and do the work with civilian maritime professionals. They might be assisted by Coast Guard petty officers, but I really don't look upon that as a good solution.

It might be a possible solution, but if it were my preference I would have 40 or 50 year old experienced professionals that could interface with the people in the industry on an equal basis and have them fulfill the role that doesn't look for promotion. They become the specialists rather than the generalists, not the policymakers but the implementation of policy.

Mr. TAYLOR. Let me ask you the million dollar question. One of the new House rules is pay as you go. It is pay as you go. If a new program comes along, if the increase in the size of a cost of a program comes along, we have to pay for it.

To what extent, if any, would the private sector be willing to pay more to get their inspections done in a more timely manner, to get their background checks done in a more timely manner?

This is really million dollar question. What is the cost-benefit ratio to the private sector?

Mr. QUICK. Oh, I can answer that question very easily except I represent a labor organization.

Mr. TAYLOR. Okay, let us start with the members of your organization, who would be paying for these licenses.

Mr. QUICK. Well, we are doing it now. Our license is paid for. The licensing program is paid for by the people who receive the licenses.

Mr. TAYLOR. But you are apparently concerned about the delays. What would they be willing to pay extra to cut down on the delays?

Mr. QUICK. I think it would depend upon what grade of license. The masters and officers on the large commercial ships probably wouldn't object to a fairly substantial increase in the fee if they got their license on the or were treated with courtesy and respect. But if you are dealing with the unlicensed or the lower level licensed people who are working at non-union companies at something close to minimum wages, they would have a different perspective on it.

Mr. TAYLOR. If you would be willing to put those thoughts in writing, I would appreciate it.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

I want to thank the panel very much. Your testimony has been very helpful.

We will now call our next panel. As the next panel comes forward, we are going to be taking a vote soon.

Come on up. Come on up. Please come up.

What we want to do is we want to finish this hearing before we take the vote so that you all can go home. So we don't want you to be here like we will be until 10:00 or 11:00 tonight.

We just ask you to say what needs to be said. Keep in mind, we have your written testimony, and we do thank you all for being so patient.

One of the things I would ask in the spirit of efficiency and effectiveness is that those who feel like you could, I would really like to hear your reactions to what you heard from the Commandant.

We will first hear from Thomas Allegretti, President of the American Waterways Operators. Then we will hear from Joseph Cox, President of the U.S. Chamber of Shipping; then Peter Lauridsen with the Passenger Vessel Association; and then B.W. Tom Thompson, Executive Director of the U.S. Marine Safety Association; Jim Weakley, President of the Lake Carriers Association; and Ken Wells, President of the Offshore Marine Services Association.

I want to be clear. I don't want you to say what you have got to say, but I am also trying to be considerate of your time too. Okay. If you all want to come, we will come back.

TESTIMONY OF THOMAS ALLEGRETTI, PRESIDENT, AMERICAN WATERWAYS OPERATORS; JOSEPH COX, PRESIDENT, U.S. CHAMBER OF SHIPPING; PETER LAURIDSEN, PASSENGER VESSEL ASSOCIATION; B.W. TOM THOMPSON, EXECUTIVE DIRECTOR, U.S. MARINE SAFETY ASSOCIATION; JIM WEAKLEY, PRESIDENT, LAKE CARRIERS ASSOCIATION; KEN WELLS, PRESIDENT, OFFSHORE MARINE SERVICES ASSOCIATION

Mr. ALLEGRETTI. Good afternoon, Mr. Chairman, Mr. LaTourette, Mr. Taylor, Members of the Subcommittee. Thanks for the opportunity to appear before you today. Thanks for your leadership in raising this very important public policy and safety issue.

Our members care deeply about this matter because of who we are, because of what we do and how we try to do it. Our industry

is a critical segment of the U.S. transportation system, and we depend heavily on the Coast Guard's marine safety mission to facilitate the safe and efficient movement of vessels and cargo on our Nation's waterways.

We also care about the Coast Guard's execution of its marine safety mission because our top priorities are the lives and health of our crew members, the safety of our vessels, the integrity of our customers' cargos and the protection of the natural environment. In today's market, safety is quite simply our franchise to operate.

Mr. Chairman, this is an important opportunity for all of us to step back and consider whether the Coast Guard marine safety program is functioning at the level that Congress, the public and our industry both need and expect. We understand we share the concerns that have given rise to today's hearing.

I would like to describe for you our vision of an effective and well run marine safety program and describe what our industry sees as its baseline needs with respect to how government handles the marine safety portfolio.

I would start by saying we believe that Congress, the Coast Guard, the public and the maritime industry all have the same core expectations of what an effective government safety program should look like, and we think it has four critical elements.

First, safety of life, the life and health of the men and women who work aboard our vessels is protected and preserved. Two, safety of property, vessels arrive safely at their ports of call. Three, protection of the environment, discharges of harmful substances into the marine environment are minimized with the goal of eliminating them altogether and, finally, facilitation of maritime commerce, maritime commerce flows freely and impediments are either prevented or they are cleared away quickly. That is our vision of an effective marine safety program.

We think that for any Federal agency to attain all four of those goals is going to need to do some things differently than we are doing them today. I will tell you that our industry sees these as baseline needs of any future marine safety program.

The Agency needs to make marine safety a clear priority. Making marine safety a priority does not necessarily mean that safety must be the only thing that the Agency does, but it does mean that ensuring that there are necessary resources that are allocated to the marine safety mission and that there is an internal structure that supports that mission.

The Agency's personnel must have a deep understanding of the maritime industry. Our industry sorely needs regulators who understand the way our business is and our vessels work and who know that the Nation's economy quite literally depends on goods moving on time and on budget.

The Agency must have respectful dealings with vessel crew members. A guiding principle of the Coast Guard's Prevention Through People Program was Honor the Mariner. American mariners need and deserve such respect. They are the hardworking professionals without whom our economy would be in deep trouble.

We need a Federal agency that deals with us efficiently with a customer focus. We need consistency, and we need continuity. We

need regulators who know what the policy is and how have the expertise to apply it properly.

The Agency must make the timely development of needed regulations a real priority. When a clear regulatory need is identified, it is in the interest of both government and industry that we get it done and we get it done right as soon as possible. In our view, if it is not worth doing expeditiously, it is probably not worth doing at all.

Finally, the Agency must deploy its enforcement resources based on risk. The Coast Guard Marine Safety Manual correctly states that a balanced marine safety program helps companies that are trying to comply with the law, punishes companies who disregard the law and rewards those who go above and beyond the law.

We think that is exactly right. Governmental enforcement attention should clearly be tied to risk.

Thank you, Mr. Chairman, for calling the hearing today. These are serious questions, and we thank you for getting us started in trying to answer them.

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

Mr. Cox.

Mr. COX. Thank you, Mr. Chairman.

I appreciate that Tom was able to hit it almost within two seconds of the five minutes. I will try and do the same.

Mr. LaTourette, Mr. Taylor, thank you for being with us.

Mr. Chairman, there is one thing I think that I haven't heard today, but I think it is important to put into the record, and that is that the American maritime community has an outstanding safety and environmental protection record. It is because of the people on our vessels and it is because of the people in our companies who are operating those vessels.

The Chamber operates two award programs a year, one, the safety award program. In June, we were able to hand over 800 vessels awards for safety, and they operated over 4,000 years in a safe mode.

In September, and I certainly would invite Members to join with us. I will be getting invitations out to you. We have an environmental achievement award that is given out. Last year, we gave that award out to over 380 vessels that had operated 4,400 years in environmental achievement. I think that is an outstanding record that the American public does not appreciate.

Mr. Chairman, as we went out to our members with the substance of this Subcommittee's hearing, we got a lot of stories back and a lot of anecdotal information. We tried to characterize those under some items that could be identified. The first one was what we call 24-7 which is that our industry operates in a 24 hours a day, 7 days a week mode on behalf of our customers who are cargo owners and we have to move that cargo on behalf of the American public.

We recognize that there can be problems with the government agencies that have to interact with us, but some of those anecdotes refer to the fact that we are 24-7, and we think that there ought to be an appreciation of that on behalf of those who have to service our needs, and that includes government inspections.

The second area is uniformity of Coast Guard actions and activities and decisions. This is a perennial problem, Mr. Chairman. It has been around for a long time. If I had a answer, I think I would offer to sell it to Admiral Allen.

However, one Coast Guard office making a decision that is at variance with another Coast Guard office or at variance with an earlier decision that is made in the same office creates a problem for the industry in that they are then unable to operate in a mode around the Country with some feeling that they are not going to be stopped for a different interpretation of the same circumstance.

The third area, Mr. Chairman and Members, is redundancy. A few years ago, we were very much complaining as an industry about the fact that we were receiving inspections by our class society and the very next day we were receiving inspections from the Coast Guard. They were covering the very same issues, and therefore our staff time aboard the ship and our staff time from shore was not being utilized in the most expeditious manner.

We got a very good receiving of our allegations by the Coast Guard. We engaged in a program that took us a year to develop, but it evolved into the compliance program, the alternate compliance program, which we think is operating very effectively to reduce examinations. We think that there are still some redundancies in the system of inspection, and we feel that could be addressed.

The fourth area, Mr. Chairman, is professional expertise. You have heard a lot about that today. We heard a lot of testimony with respect to how that could be addressed.

We only say it from the Chamber of Shipping of America's viewpoint. Yes, it is a problem. There is a major concern. It exists now. Looking down the road five to ten years, we think that those concerns are going to be valid, and we have to do something about it now.

The fifth area, Mr. Chairman, is resources. Our comments there I think are echo that you have heard previously today which is this is probably the key area. As you go up into all the other areas that I pointed out, you probably go back to resources and how do we do it. If I had an answer to that, once again, I would make it available to you for a particular consultant's fee.

There is not going to be an easy answer. It is not going to be simple. But, Mr. Chairman and Members, this is the United States. We are Americans, and we can solve these issues. We have solved much more thorny issues in the past, and I expect that we can attack and make sure that we do the right thing in this particular area.

Mr. Chairman, thank you very much.

We are proud of our safety and environmental record in this industry. We are not critical of anyone in this industry at any level. We are seeking improvements so that we continue to get better and do our jobs.

Thank you very much, and I will respond to questions.

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

Mr. Lauridsen.

Mr. LAURIDSEN. Mr. Chairman, Members of the Subcommittee, I am Peter Lauridsen, Regulatory Affairs Consultant for the Pas-

senger Vessel Association. Previously, I served the Coast Guard 29 years, retiring as Deputy Chief of the Office of Marine Safety, Security and Environmental Protection.

The Passenger Vessel Association is a national trade association for U.S.-flagged passenger vessels of all types.

PVA is deeply concerned that as a result of changes after September 11th, 2001, the Coast Guard no longer recognizes the U.S. mariner and the U.S. vessel operator as an ally and partner but instead views our industry segment as a hindrance and afterthought and even a threat. This is an unfortunate and dramatic change in philosophy from that exhibited previously in the Prevention Through People Program and its guiding principle of Honor the Mariner.

PVA members rely on the Coast Guard for inspection of their vessels, issuance of licenses and documents to their employees, and review and approval for plans for construction of new vessels. PVA members need Coast Guard personnel to be knowledgeable about the regulations that apply to U.S. passenger vessels.

When the Coast Guard fails to meet these expectations, the effect is to impose economic roadblocks that harm PVA members' ability to conduct their legitimate businesses. This is an important component of the Coast Guard marine safety efforts. They facilitate marine commerce including the transportation of passengers.

Too often in recent years the Coast Guard's performance in its legacy marine safety functions has fallen short. The telling symptom is the recently issued document entitled U.S. Coast Guard Strategy for Maritime Safety, Security and Stewardship.

Its discussion of the legacy marine safety program is disappointing in its brevity, characterization and direction. Only a single page of the 54 page charter is devoted to marine safety. This, in a nutshell, unwittingly illustrates that marine safety functions have been shouldered to the side by security emphasis.

Another example is the longstanding inability of the Coast Guard to timely issue licenses and merchant mariner documents to U.S. citizens, an issue that this Subcommittee examined last year.

Even if we see eventual improvements in the licensing and seaman documentation arena, the U.S. passenger vessel industry needs a similar enhancement of the program of annual safety inspection of vessels. The cadre of Coast Guard vessel inspectors seems to have more work than they can perform in a commercially reasonable time frame.

The Coast Guard has always been able to adapt itself to the needs of the Country. It moved to the new Department of Transportation, aided in Vietnam, geared up to implement the Oil Pollution Act, interdicted Cuban migrants, emphasized the war on drugs and upgraded maritime defense. Many of these phases drew on the marine safety programs for the expertise of its personnel and its pool of human resources. The marine safety programs would adapt and over time would be restored.

PVA worries that without prompt remedial action, the unprecedented emphasis on homeland security will cause long-lasting and perhaps irreversible degradation of the marine safety functions.

The trauma of September 11th was so dramatic that it changed the very character of the Coast Guard and continues to do so. The

marine safety programs furnished much of the expertise and personnel needed to ramp up maritime security. This time, there is less restorative capability to bring back and maintain the legacy maritime safety capabilities.

A fundamental problem is that the new organizational structure of the Coast Guard, the sector concept, has effectively capped the traditional marine safety career specialist in the field at about the lieutenant commander or commander level. Thus, the relatively more junior marine safety officers report to more senior officers who increasingly are drawn from other mission areas of the Coast Guard.

Marine safety functions are not enhanced or facilitated by a single, all-encompassing Coast Guard area commander concept.

The face that we see on the waterfront now is distinctly a military one: guns, boots and the aura of martial law. Prior to September 11th, the Coast Guard's proud military heritage was softened because it was seen first as an organization of seasoned marine safety professionals. Today's Coast Guard, in many ways, is a stranger on the working waterfront.

The restoration of the vital marine safety program requires an identifiable career progression. In Coast Guard Headquarters, areas and districts, each unit needs a leadership position held by a professional marine safety officer identifiable as such. This will enable more junior Coast Guard marine safety people to aspire to the position and to see a clear career path to it.

The men and women of the Coast Guard are intelligent, motivated and deliver a great service to the Country. The members of PVA are proud of them.

That service, however, is not being fulfilled consistently in the safety regulation role. By pointing out our concerns about the current overshadowing of the marine safety program, PVA is hoping that this Subcommittee will work with Coast Guard leaders to remedy the situation.

Thank you very much, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. Thompson.

Mr. THOMPSON. Good afternoon, Chairman Cummings, Ranking Member LaTourette and Members of the Subcommittee. Thank you for this opportunity to speak. I will be brief in my oral statements but request that my full written statement be entered in the record.

Mr. CUMMINGS. So ordered.

Mr. THOMPSON. The United States Marine Safety Association is a professional organization comprised of more than 150 companies and individuals. Members are involved in the design, manufacturing, sale or service of lifesaving equipment or its components, provide training in the use of such equipment and systems or are career professionals in maritime safety.

Personally, I have worked in the maritime safety field for over 20 years. I chaired the ISO Subcommittee on Marine Lifesaving and Fire Prevention and served on the U.S. delegation to IMO.

Lifesaving appliances are the last line of defense in assuring safety of life at sea. Survival craft and personal lifesaving appliances are the only protection passengers and crew have from

drowning and hypothermia in the event of a commercial or recreational vessel casualty and therefore must meet the highest standard of reliability.

In the past, Coast Guard helped assure this reliability and oversaw the manufacture of lifesaving equipment, witnessed the servicing of primary lifesaving equipment, specifically lifeboats and inflatable life rafts. But over the past 10 years and even more notably since September 11th, 2001, participation and oversight has been significantly diminished.

The current Coast Guard specifications for approval of inflatable life rafts were issued to incorporate technical revisions from IMO SOLAS. As part of those revisions, changes were made to Coast Guard requirements for inspection of life raft manufacturing plants and servicing facilities.

After the initial approval of the raft, the servicing facilities were no longer required to have a Coast Guard inspector during life raft servicing. Therefore, attendance of the Coast Guard inspector is now solely at the discretion of the local marine inspection unit. The service facility is still required to inform the local Coast Guard when servicing an approved raft.

Since this change, Coast Guard attendance at life raft servicing has all but disappeared. In some cases, it has been more than 10 years since some of the service facilities have seen a Coast Guard inspector. This change was driven by resource availability and the assessment of associated risk.

In general, Coast Guard-approved rafts are being serviced in the U.S. in a proper and correct manner. Although we are aware that there are some problems, in all probability, these would have been quickly resolved had there been active Coast Guard involvement. The industry is essentially now self-policing.

When a servicing facility finds a problem in a life raft, the facility is required to notify the local Coast Guard and the manufacturer. The facilities do indeed notify the Coast Guard locally, but this is seen as one problem, a single entity. Because of this, little priority is given by the local Coast Guard to reports that appear to be single occurrence issues as no one is in a position to perceive their extent or the significance of the problem.

Therefore, U.S. MSA recommends that in addition to reporting to local Coast Guard offices, problems and deficiencies be reported also to the appropriate personnel at Coast Guard Headquarters, who are responsible for the approval of this critical lifesaving equipment.

Our members have made the following statements concerning Coast Guard involvement and Coast Guard inspection and life raft servicing:

Service facilities do notify the Coast Guard and marine inspection office when Coast Guard-approved life rafts are being serviced. Coast Guard has not visited some of the facilities for a number of years, in some cases, up to 10 years.

Coast Guard often does send a representative when rafts from Coast Guard cutters are being serviced. This is often, however, an auxiliarist who is not familiar with life raft servicing.

One facility noted that they trained Coast Guard inspectors who were conducting onboard vessel inspections to show them what to

look for, to show them how rafts should be properly installed and stowed on board.

There is common agreement that rafts are being properly serviced, although from time to time there are deficiencies found from previous servicing. Raising the level of oversight would reduce the opportunity for improper servicing.

Often, inspectors have little familiarity or training in the servicing of lifesaving equipment. Some inspectors have checked lifesaving equipment calibration and facility cleanliness and not have looked at a single raft being serviced while they visited the facility.

The Coast Guard provides a unique perspective that extends across manufacturers, service facilities and wherever U.S.-flagged vessels' equipment is being manufactured, repaired or serviced. They are the only authority in a position to provide early identification of concerns or issues.

We believe the issues in general are reflective of circumstances across the Coast Guard's marine safety program. We urge Congress to support and restore this crucial and longstanding mission of the Coast Guard and make suitable resources available.

Specifically, we recommend that the Coast Guard establish a program to assure quality manufacture and servicing through periodic audit inspections, verify that life raft servicing facilities have the correct information and technical bulletins, and the Coast Guard has the personnel performing these facility inspections and audits be properly trained and have sufficient expertise to do the job.

Since we are now running over time, I will direct you to the written part of the testimony which gives much more detail and examples of what I have said.

Thank you for the opportunity.

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

Mr. Weakley.

Mr. WEAKLEY. Thank you, Mr. Chairman.

Since 1880, Lake Carriers Association has represented U.S.-flagged commercial vessels. We represent 18 American corporations that operate 63 U.S.-flagged lakers. The cargoes that we carry drive the U.S. economy: iron ore for the steel industry, coal for power generation, limestone and cement for construction.

Our members could not meet the needs of commerce without the dedicated men and women of the United States Coast Guard. They open shipping lanes and maintain aids to navigation. Coast Guard crews set out in the harshest conditions to free an icebound vessel or to med-evac a sick crew member. No one questions the dedication of the Coast Guard personnel stationed on the Great Lakes.

I would like to describe my vision for the ideal marine safety system, discuss some of the challenges posed by the current system and make general recommendations.

Only through mutual understanding and cooperation between government and the public it serves can the national security interests of our Nation be met. This is a national security issue: protect the economic interest of our citizens, facilitate the commerce with our trading partners and guard the physical security of our ports and waterways.

The marine safety program should ensure the availability of qualified mariners and safe vessels. It must provide a level playing

field between U.S.-flagged and foreign-flagged vessels calling on our ports. We need consistent application of the law.

The ideal program also requires a learning organization, one that builds on its experience and expertise and recognizes that processes can be improved and that mistakes are possible.

We need an appeals process that results in a fair and objective review of the facts and lays a foundation for better decisions in the future. Marine safety decision-makers must have the appropriate knowledge and experience to make judgments regarding the seaworthiness of a vessel or a mariner.

An understanding of the general principles must be augmented by specific expertise in the application of the regulations and the vessel service. There is no substitute for experience, particularly seagoing experience. You can read all the theory you want, but until you have navigated a vessel in congested waters, completed light-offs on a cold engine room or traced out the fuel oil system, you cannot fully grasp the complexity or the simplicity of the situation.

There is an additional element needed. I call it appropriate posture.

Consider the vastly different jobs of a city building inspector and a local police officer. Both are law enforcement officers. Each approach their jobs differently, have different training and take on a different posture depending on the circumstances.

There are times when a law enforcement agency must take an aggressive approach including a show or a use of force. In other instances, a less aggressive or collaborative approach is appropriate and better serves the public interest. No mayor would send a building inspector to respond to a traffic accident nor would he or she send a police officer to look at a plumbing installation.

There are many challenges facing the marine safety program. I worry about the program's ability to compete for money and people as the Coast Guard continues to take on additional and fundamentally different responsibilities.

Industry is often frustrated by inconsistent interpretations. These may vary between sector commands or may change with the rotation of a single individual. The program needs institutional memory and coordinated enforcement to ensure a level playing field and to reduce the cost of unnecessary requirements.

When difference of opinions between Coast Guard offices or Coast Guard officers takes place, industry pays the price. The rotation of Coast Guard personnel after a few years denies both industry and the Coast Guard the expertise that comes only with experience.

On the Great Lakes, we operate in fresh water. This means a properly maintained hull can last almost indefinitely. We operate a cement carrier built in 1906. These vessels are well maintained. They are like vintage muscle cars designed and built in a different time but more than capable of getting the job done.

The Great Lakes are truly unique. An inspector may see a steam plant or a riveted hull for the first time when she steps on board to conduct an inspection. He may not be familiar with the regulations that apply to the vessel and may not even have access to a copy of the applicable regulations.

We often have inspectors enforce OCEAN regulations on the Great Lakes.

The Coast Guard must consider longer tours of duty. Another option is civilian inspectors with specific geographic and industry expertise. The Army Corps of engineers successfully uses this model.

The marine safety program would benefit from an influx of industry-specific expertise and experience.

An appeals process that results in a fair, objective and timely review could improve the credibility of the marine safety program and transform it to more of a learning operation.

We have deep respect and hope to improve the marine safety program. If done properly, active duty sailors can be free to pursue other Coast Guard missions, our limited government resources can be used effectively, and commerce can move more safely and with greater efficiency.

The national security interests of the United States of America demand that we remain vigilant and efficient.

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

Mr. Wells.

Mr. WELLS. Thank you, Mr. Chairman, Members of the Committee. Thank you for allowing OMSA to testify today.

Ever since September 11th, the Coast Guard has struggled to find the balance between its traditional missions like marine safety and its new mission of homeland security.

Our association, which represents the U.S.-flagged vessels that work in the offshore oil and gas sector, wants to make sure that the Coast Guard's safety functions are not allowed to degrade or shunted off to some corner of the Agency, out of sight, out of mind. If that were to be allowed to happen, we are concerned that safety will suffer, the maritime industry will suffer and the institution of the Coast Guard will suffer.

By way of example, because our association and most of our members are located just outside New Orleans, we had box seats for the response to both Hurricanes Katrina and Rita. To put it simply, as you know, it was the Coast Guard's finest hour. There was no master plan for responding to that incident, those incidents. The old rules didn't apply, and agencies that were too rigid or unwilling to take chances failed miserably.

So why was the Coast Guard so successful? Here is our take.

Their officers in the field were experienced. On the Gulf Coast, we have been fortunate to have a number of captain, commander and lieutenant commander level officers who have stayed in our area for long enough to become experts and to have developed the experience in the field. They know our area. They know the right people. They know how to get things done quickly.

Second, they were problem-solvers. They didn't get overwhelmed by the enormity of the destruction. They treated it as a series of problems to be solved. They got the right people in the room, and they went to work.

And, third, they weren't afraid to innovate. They were flexible. They were open to finding new solutions.

Those qualities are, in our mind, a part of the culture of the traditional marine safety program. If the Coast Guard loses that cul-

ture, the stakes are very high for our Nation. For our industry, what may be at stake is our continued progress on safety.

In the past, our industry and the Coast Guard have had a close partnership, and the results have been spectacular. It has been one of the most remarkable industry-Coast Guard agency partnerships in general.

We have just completed our latest internal safety survey, and the results of our members' safety statistics show that offshore work boats have a reportable incident rate that is about one-tenth of the OSHA reportable incident rate for all U.S. businesses. So what I am telling you is that our industry, working on our boats is safer than working in a bank or in a store or in a restaurant or just about any U.S. workplace.

We got there because we worked as partners with the Coast Guard marine safety professionals. They were experts. They were willing to approach safety as a problem to be solved. Finally, they weren't afraid to be flexible to innovate and to trust us to do what was right for our vessels.

We don't want to lose that because that is what has worked for us. But, in truth, today we see that relationship as being at some risk.

Our written testimony outlines the specific concerns, but a theme that runs through all of our concerns is whether the Coast Guard today is still putting the proper internal focus on marine safety, whether they still emphasize marine safety as much as we do.

Since September 11th, the Coast Guard has gone through a number of reorganizations and restructurings. It is getting harder and harder to know where marine safety sits on the organizational chart.

From top to bottom, we are concerned. We want to make sure that from the highest levels down to the field level, the Coast Guard doesn't become isolated from the concerns of the maritime industry and the Commandant doesn't become isolated from the voices of his marine safety professionals.

Finally, we don't have a minute to lose because thousands of Coast Guard personnel have come onboard since September 11th. Looking at it, about half the lieutenants, all the JGs, ensigns, junior petty officers, all started since September 11th, and so this is the only culture they know. If the ship does not turn around soon, the culture of the marine safety professional may be lost.

Thank you.

Mr. CUMMINGS. Thank you very much, Mr. Wells. I want to thank all of you.

We have got about 15 minutes, so we are going to first go to the Chairman, Mr. Oberstar, and then we are going to go to Mr. LaTourette.

Mr. Oberstar.

Mr. OBERSTAR. Thank you, Mr. Chairman. I am very grateful to you for spending all this afternoon on this hearing.

Mr. LaTourette, the Ranking Member, thank you very much for your ever thoughtful and incisive questions and presence and contribution to this hearing.

It is something I initiated. I felt an obligation to be here. Unfortunately, I have been diverted with other matters that have taken

attention: the collapse of the bridge in Minnesota and, more recently, a meeting with the Governor of Virginia and the Virginia congressional delegation and the Federal Transit Administration on the route to Dulles. All of these are under our Committee jurisdiction. I stayed up some time last night, reading testimony, and I was struck by the common themes running through all of it.

Mr. Lauridsen, I quoted from you extensively to Admiral Allen.

Mr. Allegretti, Mr. Cox, Mr. Thompson, Mr. Weakley and Mr. Wells, all of you have common concerns, common themes that we need to address, and that common theme is the Coast Guard is being diverted from its marine safety mission to a security mission.

I had I think a rather spirited exchange with Admiral Allen about this matter. I see no homeland security connection between the regulatory role that the Coast Guard fills with respect to your industry, your respective segments of the industry, and homeland security and marine safety. In fact, the marine safety, as each of you has designated, is being converted in one or another way.

Mr. Lauridsen, your theme of Prevention Through People, Honor the Mariner, that really struck home with me. That has been the relation ship of the Coast Guard with the maritime community.

Mr. LAURIDSEN. Yes, sir. That is the recent, well, pre-9/11, the Prevention Through People and the Honor the Mariner was where we were at. We were transitioning from the 20th Century reaction-oriented Coast Guard to a Coast Guard that realized that industry was an equal partner, industry had certainly much of the professional capability, that they couldn't do the job alone, and so I think that partnership was very strong.

With the advent of 9/11, there was an influx of people, as Ken points out. There was a lot of people that came in without the background, without the historic feeling, the interaction of having been brought up in the program and didn't see the industry as partners, didn't see the industry as equally professional and that sort of thing.

Mr. OBERSTAR. We want to restore that relationship. That is the purpose of my legislation. It has stimulated a very wide dialogue. It has spurred the Coast Guard, certainly Admiral Allen, into, as I described it earlier, homeland security protect the Coast Guard mode if not the homeland.

I posed for him the Corps of Engineers model where you have a uniformed officer in charge of a very large seasoned, stable civilian staff.

Now there are two models. One is take this function out of the Coast Guard, establish it in the Department of Transportation in the mode that it was prior to World War II as a completely civilianized operation.

Another is to establish a sort of Corps of Engineers model where you have an entirely civilian staff of seasoned, experienced professionals who can digest those documents, apply them, know the industry, work with the industry in the Prevention Through People and honoring the mariners. You put it so well.

Have a uniformed officer in charge who is there for more than two years but with a civilian staff, would that work? Would that work within the Coast Guard?

Would the other model work better outside of the Coast Guard?

Mr. LAURIDSEN. Mr. Chairman.

Mr. OBERSTAR. All of you have skirted that issue.

[Laughter.]

Mr. OBERSTAR. I don't think I understated the issue one bit when I said to Admiral Allen that he scared the living daylights out of you.

Mr. LAURIDSEN. Mr. Chairman, I am a product of the blended workforce. Some of the civilians I worked with are behind me. Military and civilian mix can work and can work very well. I think there are certain capabilities, responsibilities that civilians possess that augment or enhance or are synergistic couplings with the Coast Guard.

You point to those books up there, sir, and I can tell you that people can memorize those word for word for word and will still not be marine inspectors. Marine inspectors have not only an understanding of the regulations, but they have an experience base so that when it says the OCMI has a choice, that they can make those sorts of decisions.

Mr. OBERSTAR. There is an instinctive quality to that service, you are saying.

Mr. LAURIDSEN. Yes, sir. There is a maturing. There is a progressive maturing. There is a mentoring. There is an exchange of experiences and ideas, yes, sir.

I guess I didn't answer which Corps of Engineers or whatever.

Mr. OBERSTAR. You are not picking a model for me.

Let me ask Mr. LaTourette if one or the other model is more appealing.

[Laughter.]

Mr. LATOURETTE. Well, Mr. Chairman.

Mr. OBERSTAR. Not to be definitive but just to get your thoughts about it.

Mr. LATOURETTE. I kind of like the Corps of Engineers model. As a result of this hearing, I like what the Admiral, the Commandant had to say about coming back to us with a plan in 60 days and beefing up the civilian side. At least, that is what I understood him to say.

Mr. OBERSTAR. But he doesn't need 60 days. He has had 30 years experience in this.

I asked him to give me a response to our bill. He said, I will come back in a month. I said, you can do it in a week, and he did.

Mr. LATOURETTE. Right. Well, if the Chairman would yield, the Coast Guard can be intimidating and so can you. I will withhold my other observations.

[Laughter.]

Mr. OBERSTAR. Not at all. Thank you.

Mr. WELLS. Mr. Chairman.

Mr. CUMMINGS. Yes.

Mr. WELLS. We like the idea of a blended workforce. The great thing about civilians is their longevity. The wrong thing with civilians is if you have the wrong civilian, he never leaves. And so, the only cautionary is it didn't work well with the RECs where you had an officer in charge and civilians who never left.

We like a blend.

Part of the answer to I think what you are driving at is in the old days when the inspection force was really humming, there were these veterans who were in supervisory roles. When the guy in the field had a question, he could go to someone over him who knew the answer. That model is disappearing.

That is critical that we get back to that model where the people who are in charge understand the topic and understand the ins and outs of it.

Mr. OBERSTAR. Reflect on that thought is what I ask each of you to do and give us a succinct response, just a couple of paragraphs, in the next week or so because, frankly, I intend to withhold action on the Coast Guard authorization until we get this issue resolved.

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

Mr. LaTourette.

Mr. LATOURETTE. Mr. Chairman, given the pending votes on the floor, I want to thank our witnesses very much for coming and withhold my questions.

I would like permission to perhaps submit a couple questions in writing to them for follow-up later. In particular, Mr. Cox, I was concerned about your observation about having some uniformity of inspection procedures between districts and even between offices, and those are the types of questions I would like to propound.

But given the lateness of the hour and I respect these gentlemen's time, I don't want you to wait another hour for us to come back and ask you 10 minutes of questions. So you go with our thanks and if I, with your permission, can follow up with a couple questions.

Mr. CUMMINGS. Yes, that is fine, and what I will be doing is doing the same.

Gentlemen, first of all, I want to thank you for your testimony. It has been extremely helpful. I have a few questions, but I will submit them in writing.

Thank you very much to all of you. This has been extremely important to us.

As you can see, our Chairman is a can-do kind of guy, and he has set just an awesome agenda for us. I told him the other day, I have never been busier in my life.

What we are trying to do, and I give him a lot of credit for it, is take on these problems. Some of them are very, very complex and very difficult, but he has made it clear that he wants us to tackle every single problem so that the maritime industry and our Coast Guard can have the best environment to work in possible and so, of course, the Coast Guard can do its job. Commerce can move along and we can, at the same time, protect our environment and make sure that the environment is safe for our mariners.

Mr. Chairman, did you have a last word?

Thank you all very much, and this hearing comes to an end.

[Whereupon, at 6:02 p.m., the Subcommittee was adjourned.]

Harry E. Mitchell

Statement of Rep. Harry Mitchell
House Transportation and Infrastructure Committee
Full Committee Markup
8/2/07

--Thank you Mr. Chairman.

--Before I begin, I want to first extend sympathies, on behalf of my district, to the good people of your home state who this morning are awaking to find themselves in a state of grief.

--Please know, Mr. Chairman, that we stand with them at this difficult time.

--In a way, I think it is somewhat fitting that one of the bills we will be marking up today deals with repairing and maintaining vital infrastructure.

--The Dam Recovery and Repair Act of 2007, H.R. 3224, is of particular importance to Arizona.

--A large majority of Arizona's more than 500 dams are located around heavily populated areas. If these dams stopped working, or were damaged, large populations

would be threatened by floods or dangerous disruptions of vital water resources.

--This committee has an obligation to ensure that these dams remain safe. That means making critical investments in maintenance and rehabilitation…and that's what H.R. 3224 will help us do.

--Make no mistake, dam safety is expensive business. In my state, the cost of rehabilitating existing dams is estimated between $97 million and $242 million.

--But when it comes to safety, it is an investment we must make. This morning our nation is acutely aware of the kind of catastrophic damage that can occur from the failure critical infrastructure.

--We must act now to secure our future.

--I look forward to today's markup, and yield back the balance of my time.

Statement of

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Before the
Subcommittee on Coast Guard and Maritime Transportation
Committee on Transportation and Infrastructure
United States House of Representatives
Washington, DC

August 2, 2007

Good afternoon, Mr. Chairman. I am Tom Allegretti, President and CEO of the American Waterways Operators (AWO). On behalf of AWO's 400 member companies, I want to thank you and Chairman Oberstar for your leadership in raising the important safety and public policy issue before us today: the need to ensure that the Coast Guard's execution of its marine safety mission truly serves the needs of the American public and the maritime industry.

AWO members care deeply about this topic because of who we are, what we do, and how we try to do it. As you know, AWO is the national trade association for the tugboat, towboat, and barge industry. Our industry is the largest segment of the U.S.-flag domestic fleet, operating nearly 4,000 tugboats and towboats and over 27,000 dry and liquid cargo barges on the inland rivers, on the Atlantic, Pacific, and Gulf coasts, on the Great Lakes, and in ports and harbors around the country. We employ more than 30,000 American mariners, providing family-wage jobs and a progressively responsible career path for crewmembers on our vessels. Each year, barges and towing vessels move more than 800 million tons of cargo in the domestic commerce of the United States – vital, building block commodities on which American farmers, factories, and consumers depend. Our industry is a critical segment of the U.S. transportation system, and we depend on the Coast Guard's marine safety mission to facilitate the safe and efficient movement of people, vessels, and cargo on our nation's waterways.

The Coast Guard's marine safety mission is also important to AWO because our members have made a real commitment to conducting their businesses not only as responsible corporate citizens, but as proactive leaders in marine safety and environmental stewardship. Since 1998, all AWO members have been required to comply with a third-party-audited safety management system, the AWO Responsible Carrier Program, as a condition of membership in the association. Since 1995, we have maintained a formal Safety Partnership with the Coast Guard in which industry and government come together to tackle safety challenges facing our industry and strive for continuous improvement in our safety and environmental performance. We are proud of the successes that our partnership has achieved, but we realize there is much more to be done. For the past five years, AWO has worked with Congress and the Coast Guard to take safety in our industry to the next level, actively supporting congressional legislation and Coast Guard regulation to establish an inspection regime for towing vessels. The Coast Guard's handling of its marine safety mission is important to us because our top priorities are the lives and health of

our crewmembers, the safety of our vessels, the integrity of our customers' cargoes, and the protection of our natural environment. Safety is, quite simply, our franchise to operate.

Mr. Chairman, AWO very much appreciates your leadership, and that of Chairman Oberstar, in providing this opportunity for all of us to step back and consider whether the Coast Guard's marine safety program is functioning at the level that Congress, the public, and our industry both need and expect. We understand – and we share – the concerns that have given rise to this hearing today. What we would like to do with the opportunity that you have provided us today is to sketch out our vision of an effective and well-run marine safety program, and, in the process, articulate the needs of our industry with respect to government's handling of its marine safety responsibility. Combined with the testimony of other witnesses, we hope that our thoughts will provide some useful metrics for assessing how well the current system is working, and suggest constructive directions for how to improve upon it.

What Is an Effective Marine Safety Program?

From AWO's perspective, Congress, the Coast Guard, the public, and the maritime industry have the same core needs and expectations of an effective governmental marine safety program:

1. Safety of life;
2. Safety of property;
3. Protection of the environment; and,
4. Facilitation of maritime commerce.

Under an effective marine safety program, the life and health of the men and women who work aboard our vessels are protected and preserved. The risks to crewmembers inherent in the maritime workplace are minimized and effectively managed. The life and health of members of the public are not placed at risk by the operation of vessels. Vessels arrive safely at their ports of call. Discharges of oil, hazardous substances, and harmful debris into the marine environment are minimized, with the goal of eliminating them altogether. Maritime commerce flows freely, and interruptions and impediments to the efficient and economical movement of commerce by water are prevented or promptly cleared away. This is our vision of an effective marine safety program.

A review of the Commandant's "U.S. Coast Guard Strategy for Safety, Security, and Stewardship" suggests that the Coast Guard would agree with this characterization of the four elements of an effective marine safety program. However, we are concerned that, as security has come to dominate the agency's agenda since September 11, 2001, an imbalance has developed in which the objective of facilitating commerce – one of the core elements of an effective marine safety program – has been progressively devalued. Ironically and unfortunately, this imbalance has not optimized security. Instead of building on the solid foundation of industry/Coast Guard partnership, the recent emphasis on security has promoted a sometimes adversarial relationship, especially at the deckplate level. Like marine safety, maritime security can best be achieved through familiarity, mutual understanding, and cooperation – the elements of effective maritime domain awareness. If the Coast Guard were to rediscover and re-emphasize the essential safety marine mission of facilitating commerce, we believe that not only safety, but security on our nation's waterways would be enhanced as well.

Industry Needs from a Governmental Marine Safety Program

Both the American public and the maritime industry would be well served by a marine safety program that constantly strove to attain all four of these fundamental goals. From AWO's perspective, achieving these goals – or making consistent progress toward their achievement – requires several things:

- **Making marine safety a clear priority** of the federal agency vested with its responsibility. In a multi-mission agency like the Coast Guard, safety is one of several key agency missions. (This is not necessarily problematic, and can even be advantageous in some respects as resources expended in one mission area -- for example, safety -- yield complementary benefits in another, such as security.) Making marine safety a priority does not necessarily mean that safety must be the only thing an agency does, but it does mean ensuring that the necessary resources are allocated to the marine safety mission, that internal agency structure and operating procedures clearly support that mission, and that marine safety is a respected and attractive career path within the organization. Where agency structure (for example, the continual rotation of field personnel) or procedures (such as those concerning the retention and promotion of junior officers) have

the potential to undermine the effective execution of the marine safety mission, they should be changed.

- **A deep understanding of the maritime industry in its many facets.** Mr. Chairman, you spoke eloquently at last month's TWIC hearing about the chasm that can exist between the government that produces laws and regulations and the industry that must comply with them. Clearly, you appreciate that our industry sorely needs regulators and enforcers of regulation who understand the way our businesses, and our vessels, work – who not only know the blunt end from the pointy end, but understand how a towing vessel is different from a tanker is different from a small passenger vessel, and know that our nation's economy quite literally depends on goods moving on time and on budget. The combined imperatives of protection of life and property and the facilitation of commerce mean that we must be able to count on a regulatory agency that understands the practical and commercial impact of its decisions. This is a concern shared by all AWO members, but it is especially acute among our inland companies, who often feel that the distinct differences of operating in the "brown water" river environment are not sufficiently appreciated by our regulators. Let us be clear: we are not looking for less rigor or less safety. We are seeking deeper understanding of the real risks and needs of vessels operating throughout the diverse U.S. maritime industry.

- **Respectful dealings with vessel crewmembers.** Retired Vice Admiral Jim Card, former Vice Commandant and before that, Assistant Commandant for Marine Safety and Environmental Protection, inaugurated the "Prevention Through People" program which had as a guiding principle, "Honor the mariner." The mariner needs and deserves such respect. Mariners deserve an efficient, timely, and even pleasant experience when renewing the licenses and documents that enable them to make their livelihoods. They need a licensing system that both promotes safety and preserves the time-honored "hawsepipe" as a viable model of career advancement. They deserve to be treated as partners in safety and security when the Coast Guard comes aboard their vessels to conduct a security verification inspection or to check that all required safety equipment is in place. Mariners are not the bad guys – they are hard-working professionals without whom our economy would be in deep trouble. Our industry works very hard to treat them as such. Our regulators need to do the same.

- **Efficient and customer-focused dealings with vessel owners.** AWO members are American companies who strive every day to serve the needs of their internal and external customers, their shareholders, and the American public. They do important work, and they deserve to have their work respected by the regulators who govern the commercial marketplace. AWO members need the same efficiency from government that we deliver to our customers. They need consistency. They need continuity. As you discussed at last month's TWIC hearing, Mr. Chairman, they need to know what the rules are and they need for the rules to be consistently applied, both over time (from one field commander to his or her successor) and across the expanse of the waterways transportation system. A tow traveling from New York to Florida, or from St. Paul to St. Louis, needs consistency and continuity from origin to destination. Let us be clear: applying regulations and policy "consistently" does not mean rigidly and blindly, without regard to prevailing circumstances. From industry's perspective, the optimal situation is regulators and enforcers with a clear grasp of agency policy, consistently applied, who also have the depth of expertise to recognize when particular circumstances warrant a judgment call. We need regulators who know what policy is, and who have the expertise to apply it properly.

- **Timely development of needed regulations.** It may be news to some, but industry does not seek to avoid or delay all regulation for as long as possible. Indeed, the opposite is often true: when the clear need for a regulation is identified, industry's interest – as well as the public's – is usually best served by getting it done, and getting it done right, as soon as possible. We need a regulatory agency that makes marine safety a priority and that has the resources needed to get important regulatory projects through the pipeline in a timely way. If it's not worth doing expeditiously, it's probably not worth doing. If it is, then let's devote the resources needed to get the job done, and assign the right people – knowledgeable experts – to carry out the task.

- **Risk-based enforcement.** The Coast Guard Marine Safety Manual pretty much says it right: a balanced marine safety program should help those companies that are trying to comply with the operative laws and regulations, punish those who disregard the law, and reward those companies that go above and beyond governmental standards and

expectations. That's hard to argue with, but it can be difficult to execute in the real world. Too often, companies or vessels with an exemplary safety record receive a higher level of governmental scrutiny than less-safe operators who "fly below the radar." The message that this sends to quality operators is that being a good corporate citizen – being known and "available" to the Captain of the Port – has its disadvantages. It's not going to change quality companies' behavior; they're doing the right thing **because** it's the right thing, not only from a regulatory standpoint but from a commercial and ethical one. But, it's not an effective way to run a marine safety program. Substandard operators get away with substandard operations, and limited governmental resources are expended in ways that are clearly suboptimal. In a well-functioning marine safety program, governmental attention should be clearly and directly tied to risk.

Conclusion

Mr. Chairman, we thank you again for exercising the subcommittee's important oversight function and for holding this hearing today. We thank you for the opportunity to present our views. We hope that our perspective will be useful as all of us – Congress, the Coast Guard, and the maritime industry – grapple with the challenge of ensuring a marine safety program that truly serves the needs of the American public and the maritime industry. The challenges facing the Coast Guard – and the questions that you have raised – are not simple ones. They are serious and substantive, and they're going to require all of our best, careful thinking. But, you have clearly done all of us a great service by challenging us to focus on the considerable task at hand. You can count on AWO and its members to be constructive participants in the search for effective and practical solutions, and to work collaboratively with the Coast Guard in achieving that end. Thank you again, and we would be pleased to try to answer any questions you might have.

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DEPARTMENT OF HOMELAND SECURITY

U. S. COAST GUARD

STATEMENT OF

ADMIRAL THAD W. ALLEN
COMMANDANT

ON THE

CHALLENGES FACING THE
COAST GUARD'S MARINE SAFETY PROGRAM

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U. S. HOUSE OF REPRESENTATIVES

2 AUGUST 2007

INTRODUCTION

Good afternoon Chairman Oberstar, Chairman Cummings, Ranking Member LaTourette, and distinguished members of the subcommittee. I am pleased to appear before the Subcommittee today to discuss the challenges facing the Coast Guard's Marine Safety Program.

The Coast Guard is the principal federal service charged with marine safety, security, and stewardship. We protect the Nation's vital interests - the safety and security of the Nation's citizenry, its natural and economic resources, and the territorial integrity of its maritime borders - wherever those interests may be at risk. The Coast Guard has accrued these roles and missions over two centuries of service because they serve a collective good and are most efficiently and effectively accomplished by a single federal maritime force.

The Coast Guard relies on the interconnected and complementary nature of its marine safety and security authorities. These authorities:

- Support the nation's standing as the world's premier provider of maritime oversight and services;
- Ensure unity of effort by aligning the Federal government's capacity to act in a national disaster;
- Empower the Coast Guard to fulfill all of its statutory responsibilities, and optimize the effectiveness of our service to the maritime public;
- Enhance industry's interface with government.

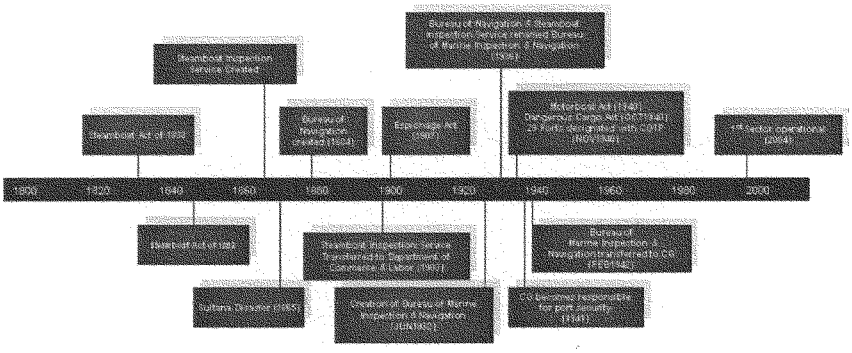
The Maritime Transportation System is the engine that drives our nation's economy, and Coast Guard decisions and actions have direct impacts on the efficiency of the system and the nation's economic security. Throughout our history, the maritime industry has benefited from the Coast Guard's multi-mission nature and our ability to strike a balance between maintaining both the safety and security of our nation's ports.

One of the Coast Guard's greatest strengths is our multi-mission character, which allows us to provide the best service value to the American public. We must leverage our multi-mission structure and ethos through proper allocation of our own resources, while also partnering with industry, labor and other maritime stakeholders to ensure the safety and security of our waterways. The Coast Guard is ***committed to providing efficient, consistent, high quality services*** to mariners and maritime organizations in all of our mission areas.

The attacks of September 11th, 2001, necessarily focused greater attention on security. ***Both*** commerce ***and*** security requirements have grown since then, placing greater challenges on both industry and the Coast Guard. The Coast Guard acknowledges the concerns of industry and others that our operations in the wake of these events have placed greater emphasis on our security missions, sometimes at the expense of marine safety activities. We recognize the need to identify and address conditions that have contributed to these concerns. The Coast Guard is open to critiques of the services we

provide to the nation and the public. We welcome stakeholder input as we strive to strike a proper balance between marine safety, security, and stewardship and improve our service delivery to the maritime community and the American public.

HISTORY OF THE COAST GUARD'S MARINE SAFETY PROGRAM



The marine safety mission remains the bedrock of the Coast Guard's value to the nation, and it underpins our security and environmental missions. History has shown that safety and security are truly two sides of the same coin.

The safety inspection of merchant vessels documented under the flag of the United States has been authorized in varying degrees by Congress and required by law since 1838. In July of 1838, Congress passed a law to *"provide better security of the lives of passengers on board of vessels propelled in whole or in part by steam"*. The law was passed after several steamboat fires and boiler explosions highlighted the need for maritime safety laws.

The 1838 law proved inadequate as steamboat disasters increased in volume and severity. The 1847 to 1852 era was marked by an unusual series of disasters primarily caused by boiler explosions. These disasters resulted in the passage of the *Steamboat Act of May 30, 1852*. Under this law, the organization and form of a federal maritime inspection service began to emerge.

The Steamboat Act required testing of boilers and steam safety valves. The law further required that both pilots and engineers be licensed by the local inspectors. However, the law exempted freight boats, ferries, and tugboats, which continued to operate under the superficial inspection requirements of the law of 1838. Again, disasters and high loss of life prompted congressional action through the passage of the *Act of February 28, 1871*.

This act retained the useful function of the prior acts and added new requirements which provided a comprehensive Marine Safety Code, on which our present marine safety code has been built. The organization created by the *Act of 1871* became known as the

Steamboat Inspection Service. This new law sought to protect the crew as well as the passengers and applied to all steam vessels. Furthermore, it established a Supervisory Inspector General directly responsible to the Secretary of the Treasury, extended licensing requirements to all masters and chief mates, provided for the revocation of licenses, authorized periodic inspection and gave the Board of Supervisory Inspectors the authority to prescribe nautical *Rules of the Road.*

In June of 1932, the Steamboat Inspection Service was merged with the Bureau of Navigation, itself created in 1884 to oversee the regulation of merchant seamen, on June 30, 1932.

In 1934, the passenger vessel MORRO CASTLE suffered a serious fire off the coast of New Jersey, which ultimately claimed the lives of 124 passenger and crew. The casualty prompted new fire protection standards for vessels and paved the way for the Act of May 27, 1936, which reorganized and changed the name of the Bureau of Navigation and Steamboat Inspection Service to the Bureau of Marine Inspection and Navigation.

Marine inspection and navigation duties under the Bureau of Marine Inspection and Navigation were temporarily transferred to the Coast Guard by executive order on February 28, 1942. This transfer of duties fit well with the Coast Guard's port safety and security missions, and was made permanent in 1946. The consolidation of duties marked the first time in the nation's history that all functions of marine safety fell under the jurisdiction of one agency. These functions make up the main body of authorities held today by Coast Guard Officers in Charge, Marine Inspection (OCMIs). Accrual of these new authorities allowed the Coast Guard to take a holistic approach to marine safety while overseeing almost all regulatory aspects of merchant marine personnel and ship safety, and began our long-lasting commitment to, and unique expertise, in that field.

Prior to taking over marine safety duties, the Coast Guard was primarily involved with port safety and security. During World War I, the Coast Guard served under the Navy and enforced rules and regulations that governed the anchorage and movements of vessels in American harbors. The Espionage Act, passed in June 1917, gave the Coast Guard increased power to protect merchant shipping from sabotage. This Act vested the Coast Guard with a wide range of responsibilities, including the safeguarding of waterfront property, supervision of vessel movements, establishment of anchorages and restricted areas, and the right to control and remove people aboard ships. In order to be successful in all of these missions, the Coast Guard worked directly with local shipping companies and pilots' associations to ensure that our nation's ports remained safe and secure, but also afforded appropriate avenues for commerce. These waterfront partnerships have continued for 90 years, and remain the foundation of our effort to balance marine safety and security.

The tremendous increase in munitions shipments during World War I, particularly in New York, required an increase in personnel to oversee this activity. The term "Captain of the Port (COTP)" was first used in New York. This officer was charged with supervising the safe loading of explosives. During the war similar posts were established in other U.S. ports.

After World War I, the COTP officers were retained to regulate peacetime port activities, and the position continued to be known as the COTP. In the 20 years following the war, the Coast Guard's responsibilities concerning anchorage regulations and vessel movements in American harbors grew. In April 1939, with the outbreak of World War II imminent, the Coast Guard once again was called to enforce new marine safety regulations in the form of anchorage regulations.

During World War II, the port-security mission grew through various laws and agreements to give the service broad wartime responsibilities. In June 1940, President Franklin Roosevelt proclaimed that the Coast Guard would assume the functions that other government agencies had previously overseen because the increased traffic in American ports had blurred the authority of the various federal, state, and local agencies responsible for port security and safety. The Coast Guard developed these new waterways management regulations and enforcement strategies through leveraging our partnerships with local pilots' associations and the shipping industry.

The Dangerous Cargo Act of October 1940 and the restructuring of anchorage regulations during that same month clearly laid out and expanded previous regulations and provisions. The responsibilities of each COTP increased and in November of 1940, 29 ports were designated to have Coast Guard Captain of the Port offices. This created a regime for enforcing the laws and regulations which governed the movement of vessels, the loading of dangerous cargoes, and the protection and regulation of anchorages. This also provided a central Coast Guard office for the local shipping industry to interface with the Coast Guard to address local concerns.

Early in 1942, those responsible for port safety realized that the peacetime regulations that governed the movement of explosives would have to be amended to sufficiently handle wartime conditions. One of the more visible duties of the Coast Guard was the protection of piers and docks. The service began this job with the understanding that it could not be solely a Coast Guard operation. To perform this tremendous task, COTPs had to coordinate operations, and their personnel supplemented municipal and private personnel. The protection of waterfront property and facilities was accomplished using military, naval, and Department of Justice intelligence personnel; private organizations and companies; municipal and state police forces; and commercial organizations such as underwriter associations.

To protect vessels and important installations within each port facility, the Coast Guard created security zones around the dock areas. Within these areas the COTPs assigned roving guards and enforced the integrity of the zones with Coast Guard personnel and barricaded streets. The men watching the waterfront generally performed their service on foot but used vehicles in isolated spots.

While pier and facility guards were important, harbor patrols were just as significant as those from shore and consumed much of the manpower of the COTP offices. This particular task used various patrol craft to watch the multitude of vessels and harbors full of vessels. These small harbor craft worked in tandem with offshore patrols and the Coast Guard Beach Patrol to watch the vast shore lines.

Balancing both harbor safety and port security, harbor-patrol craft watched for fires, detected unauthorized persons and pleasure craft with improper papers, reported accidents, removed menaces to navigation, rendered assistance, patrolled anchorages and restricted areas, and escorted ammunition and dangerous cargo ships out of the harbor. Most of this duty consisted of identifying and checking personnel aboard vessels. Coast Guard harbor patrols often questioned the occupants of small craft and checked cargoes for proper documentation. Parties of Coast Guard Personnel also inspected ships' equipment for safety and made recommendations for replacing firefighting equipment or called fire hazards to the attention of owners.

By the end of the war, nearly 200 COTP and assistant COTP offices had been established in the United States and overseas. The COTPs' valuable service to ensure the steady movement of supplies was of inestimable value, and was built upon the ability to address both safety and security requirements in the complex port environment.

After World War II, the Coast Guard continued to grow and improve our multi-mission capability, while striving to balance the safety and security of our ports. The U.S. Coast Guard became a model marine safety agency for the world, playing a major role in the development of international standards that improve the safety and security of the world's maritime transportation system. In the 1970s, the Coast Guard, through its leadership at the International Maritime Organization (IMO), began an effort that led to significant improvements to the international safety and environmental protection standards for shipping. In addition, the Coast Guard also took action to improve international compliance with these standards since not all Flag States were fulfilling their responsibility to ensure their ships met the international standards. IMO standards had improved, enforcement had not. Indeed, by the late 1980s, the number of substandard ships entering our ports posed increased threats to maritime commerce and environment. In response, the Coast Guard began a concerted "port state control" effort in 1994 to ensure ships calling in U.S. ports met international standards for safety and operations. Largely due to the success of what came to be known as the Coast Guard's Port State Control (PSC) program, the IMO adopted new standards to expand the authority of port states when conducting safety inspections onboard foreign vessels.

These inspections were originally intended to supplement Flag State exam programs, but experience taught that port state inspections were essential to ensuring the safety of vessels engaged in worldwide commerce, especially if these exams were organized on a regional basis. Since ships move cargo from port to port and country to country, it was found to be to every nation's advantage if inspections could be closely coordinated. To facilitate information exchange, the Coast Guard developed the Maritime Information Exchange and Port State Information Exchange systems to share vital safety information with fellow port states and shipping companies. The results of safety inspections and ship specific information are still recorded and made public in these systems. This transparency of information helps to ensure that as many ships as possible are inspected while at the same time prevents ships from being delayed by unnecessary, redundant inspections. These information systems were developed jointly with the maritime industry to facilitate safe commerce.

To make best use of both Coast Guard and industry time and resources, and to further enhance marine safety, the Coast Guard developed a boarding priority matrix in the 1990s. This matrix is still used today to prioritize ships for port state control inspections based on their relative risk. The matrix was constructed around the past performance of each ship's Flag State, classification society, operating company, ship type, and the ship's prior compliance history. Whenever a substandard ship is detained, the Coast Guard reports the action via an internet based system to alert shippers to potential risks associated with shipping on the substandard vessel. To ensure global alignment against substandard vessels, detailed information on detentions is also reported to an international database shared by PSC regimes around the world

When our nation found itself at war again after 9/11, the PSC program was immediately expanded to address emerging security concerns for our nation's ports. The pre-arrival boarding matrix integrated both safety and security background checks. High risk vessels were boarded at-sea and pre-arrival notice requirements were expanded to ensure the Coast Guard could complete adequate safety and security screening prior to a vessel's arrival. The validation of mariners' documents became an integrated security check conducted jointly with U.S. Customs and Border Protection agents. The PSC exam was quickly expanded to validate vessels for compliance with the requirements of both the Maritime Transportation Security Act (MTSA) of 2002 and the International Ship & Port Facility Security Code (ISPS), which was negotiated through the IMO and serves as the international counterpart to the MTSA.

Implementation of the MTSA and ISPS Code was achieved by working closely with our industry and agency partners. The Coast Guard has a long history, spanning over 70 years, of regulating various aspects of the commercial shipping industry, including marine safety, security, and environmental pollution. The Coast Guard accomplishes this through the promulgation of federal regulations in Titles 33, 46, and 49 of the Code of Federal Regulations (CFR) and follows the Administrative Procedure Act (APA) in the processes and methods that it uses in rulemaking projects.

The Coast Guard firmly believes in the principle of "notice and comment" in the APA, and the transparency of rulemaking processes. As such, the Coast Guard engages in public meetings and hearings, supports Federal Advisory Committees (convened under the Federal Advisory Committee Act (FACA)), and reaches out to stakeholders from all segments of the private and public sector, including industry, federal, state, and local agencies and tribal governments.

Today, as never before, the Coast Guard relies on the interconnected and complementary nature of its marine safety and security authorities to ensure our nation's waterways remain both safe and secure. The following table illustrates the impact that losing these particular authorities could have on maritime safety, security and environmental stewardship:

Potential Impacts of Loss of Authorities

Authority	Security	Safety and Environmental Stewardship
Lead U.S. agency at the International Maritime Organization (United Nations)	International Ship and Port Facility Security Code (ISPS). Security issues at IMO have been addressed by the Maritime Safety Committee. Should a new agency become lead for safety, would introduce 2 U.S. agencies with leadership roles at MSC meetings.	International Convention for the Safety of Life at Sea (SOLAS). U.S. If a new agency were designated as head of delegation for the IMO Maritime Safety Committee, U.S. influence at IMO on these critical issues could be significantly degraded. Additionally, several IMO sub-committees report to both the Marine Environment Protection Committee and the Maritime Safety Committee. The U.S. could lose a very strong international influence without continuity of leadership through all of the IMO's bodies.
Officer in Charge of Marine Inspection (OCMI)	Security relationships have understandably evolved from historical safety relationships. Separating safety and security functions would unavoidably harm security because these relationships would be severed, or at the least significantly degraded. Day-to-day exposure of port activities, from both a safety and security perspective, would be lost, and mariners and facilities would be subject to regulation from multiple agencies with adjacent, sometimes overlapping jurisdictions. Shore facilities could be subject to a security inspection from one agency, and a safety inspection from another agency, both in the same day.	Separating the authority to detain a vessel a safety or environmental hazard from the authority to control that vessel's movement introduces delays, opportunities for miscommunication, increases the risk for a safety or environmental incident and adds a new and overlapping bureaucracy with oversight of the marine industry. Mariners could be subject to multiple boardings from different federal agencies for purposes now typically served by only one.
Captain of the Port (COTP)	If the COTP authority to direct the movement of vessels were transferred it would degrade security by removing a critical function from both intelligence and response capabilities. This would decrease the timeliness of response, and increase the risk of a transportation security incident. It could also create a disconnect between primacy over domestic port facility inspections (new agency) and foreign port facility visits (Coast Guard).	If the COTP authority to direct the movement of vessels were transferred it would increase the risk posed by safety or environmental incidents, as that authority would be segregated from the capability to respond. In the event of overlapping jurisdiction, mariners could be subject to multiple boardings from different federal agencies for purposes now typically served by only one.

MARINE SAFETY MISSIONS TODAY

Domestic Marine Safety

At the core of the Coast Guard's marine safety mission is the domestic inspection and certification of U.S. flag vessels. The inspected fleet currently numbers over 11,700 vessels and includes a wide range of service types as indicated in the table below:

Coast Guard Inspected Vessels	
Vessel Type	Number Inspected
Passenger (Inspected)	6,020
Tank Barge	3,691
Offshore Supply Vessel	872
Freight Ship	317
Freight Barge	193
Industrial Vessel	131
Tank Ship	117
Oil recovery	77
Mobile Offshore Drilling Unit	68
Passenger barge (Inspected)	50
Other	246
All vessel Services	11,782

The Coast Guard is also actively involved with ensuring safety on a large population of fishing and towing vessels. Coast Guard marine safety personnel conduct examinations of these vessels for lifesaving, firefighting, navigation and pollution prevention equipment. The Coast Guard leverages Reserve and Auxiliary marine safety personnel to assist with these examinations. In CY2006, over 16,200 examinations were conducted on fishing vessels and 4,400 were completed on towboats.

Improving towing vessel safety is a high priority for the Coast Guard and we are working closely with maritime stakeholders to pursue rulemaking that will mandate inspection and certification. Once the regulations are in place, the Coast Guard will be responsible for inspection and certification of the 7,200 towboats that operate and move critical cargoes on our inland and coastal waterways.

The Coast Guard also conducts annual safety inspections on over 3,200 regulated facilities. Facility inspectors also conduct random security spot checks, which provide additional opportunities for inspectors to identify safety concerns. Ensuring the safety of facilities is increasing in complexity and scope as the energy industry looks to add port infrastructure to receive cargoes like Liquefied Natural Gas (LNG).

The Coast Guard is also responsible for the investigation of reportable commercial vessel casualties. Coast Guard marine safety personnel investigate about 4,100 marine casualties and 5,200 pollution incidents per year, focusing on finding the root causes and preventing future occurrences. Safety recommendations from past investigations often lead to new regulations (both domestic and international) and marine safety policies. Coast Guard investigators can issue tickets or civil penalties for safety related violations.

Administrative actions can also be taken against a merchant mariner's credential if a Coast Guard investigation reveals evidence of negligence, misconduct, incompetence, or illegal drug use. The Coast Guard also works closely with the National Transportation Safety Board to investigate major marine casualties that require additional expertise or an independent investigator.

The Coast Guard also issues licenses and documents to over 200,000 U.S. merchant mariners. The overall industry demand for these services is increasing due in part to the recent addition of U.S. flagged cruise ships, which serve the Hawaiian Islands.

The Coast Guard partners with industry to develop appropriate standards and guidance for the construction, maintenance, and repair of commercial ships. In order to ease the burden on small businesses, several industry standards, such as standards from the American Standards for Testing Materials (ASTM), National Electric Code (NEC), National Fire Protection Association, and American Bureau of Shipping have been incorporated by reference directly into Coast Guard regulations. All lifesaving equipment used onboard inspected vessels must be type approved by the Coast Guard to ensure it meets rigorous safety standards. However, for small businesses developing novel technologies, the Coast Guard will approve equipment on a limited case-by-case business, ensuring the equipment is safe and allowing emerging technologies to be put to appropriate use.

In 2003, the Coast Guard began to consolidate field activities for its Commercial Vessel Safety, Port and Environmental Safety, Marine Environmental Response, Port Security, Waterways Management, Bridge Administration, Search and Rescue (SAR), Recreational Boating Safety missions under one local Sector Command. Sector Commanders serve as the Captain of the Port (COTP), Federal Maritime Security Coordinator (FMSC) and unless otherwise delegated, the Officer in Charge Marine Inspections (OCMI), SAR Mission Coordinator (SMC), and Federal On-Scene Coordinator (FOSC). This organizational change eliminates the historical segregation of prevention and response activities at the local level.

Through the merger of Marine Safety Offices, Coast Guard Groups, and Activities, the Coast Guard has created an organization that brings together field activities, authorities, and resources in order to provide the most effective organization and the best value to the public. The Sector Command combines responsibilities and authorities previously shared by two or more commands into a single operational unit with a command and senior staff of highly competent experts. The Coast Guard Sector provides for rapid, coordinated response to emergencies, whether natural (such as Hurricane Katrina) or man-made, along with integrated daily operations to enforce regulations governing marine safety, security, and environmental protection. The Coast Guard is vigorously shepherding this new construct of sectors through a constant review and improvement cycle. Factors under review include the delicate balance of assigning the proper mix of specialties.

Coast Guard Sectors serve as one-stop-shops for marine safety, security, and environmental protection for major seaports and regions. They bring multi-mission capabilities to life on the front lines of the maritime environment, where Sector Commanders are actually allocated some authority equal to District Commanders. This

decentralized construct is the key to our operational success and serves as our model for the future. The Coast Guard Sector's ability to provide an ***immediate*** safety and security assessment at the onset of any maritime event, disaster, or casualty affords critical synergy to operations essential to marine safety, security, and environmental protection.

For example, OCMI authority gives the Coast Guard jurisdiction over the construction, certification, operation, and maintenance of nearly all U.S. Flag vessels operating on U.S. navigable waters. As such, Coast Guard personnel can directly act to deem a vessel unsafe to operate. They do this regularly as military professionals – at any hour of the day-in an orderly, courteous, and deliberate manner.

International Marine Safety

The Coast Guard's OCMI authority also allows for the examination of certain foreign flagged vessels (which make up the majority of deep draft vessels calling in U.S. ports). The Coast Guard places a large emphasis on foreign vessels and now averages over 10,000 PSC safety and environmental compliance exams each year. Statistics indicate that the PSC program's goal of eliminating substandard shipping is working. In CY2006, only 1.35% of the foreign vessels examined in the U.S. were detained by the Coast Guard for serious safety or environmental deficiencies. That detention level was an all-time low and well below the 7.12% level recorded just 10-years ago.

The Coast Guard's COTP authority allows for the operational control of all vessels (and the facilities that receive them) in U.S. navigable waters. Thus, the COTP can initiate PSC detentions for safety violations discovered under the OCMI authority and take actions to control a vessel's movement until safety violations have been corrected. Together, these authorities create a powerful synergy. Our maritime law enforcement authorities and capabilities go hand-in-glove with the regulatory and investigative functions of the Coast Guard's marine safety and environmental protection authorities.

Coast Guard personnel are recognized as international experts in marine safety, security, and environmental protection. The Coast Guard represents the U.S. at the International Maritime Organization (IMO) and is viewed as the U.S. expert and lead agency on all maritime matters while serving as the point of entry for the U.S. maritime community into the United Nations. In fact, many nations model their maritime organizations after the U.S. Coast Guard.

In February 2004, the Coast Guard entered into a Mutual Recognition Agreement (MRA) with the European Community (EC) to promote uniform regulations for the certification of marine equipment. The MRA's twin objectives are to facilitate US-EC trade in marine equipment and to promote bilateral cooperation on international marine equipment regulations. The MRA allows a manufacturer to reach multiple markets on the basis of compliance with one set of regulations, instead of multiple. This leads to a direct cost reduction in terms of testing and certification.

MARINE SAFETY AREAS OF EMPHASIS

Recognizing that Coast Guard decisions and actions have direct impacts on the efficiency of the Maritime Transportation System and the nation's economic, we partner with the maritime industry to strike a balance between safety and security. Sector commanders and Coast Guard Headquarters personnel routinely engage local industry and participate in local contingency planning and exchange information to facilitate safe and secure commerce. Through our partnership action teams, our Federal Advisory Committees (Appendix A), and our daily operations, we have heard the maritime industry's concerns about our post-September 11, 2001 mission balance. The most prominent concerns include reduced access to senior Coast Guard leadership, delays in the issuance of merchant mariner licenses, a perceived reduction in Coast Guard marine inspector experience, and confusion over the Coast Guard rulemaking process. We are taking aggressive action to address these concerns.

Senior Leadership Accessibility

Coast Guard marine safety personnel interact with industry regularly through their daily operations and partnership activities. Sector leadership is heavily involved in local safety-focused partnerships including Area Committees, Harbor Safety Committees, Federal Advisory Com mittees, Coast Guard Industry Days, Industry Training Programs, and Partnership Action Teams. Such involvement ensures that the Coast Guard continues to strike a balance between safety, security, environmental protection, and the facilitation of commerce, while meeting our statutory requirements.

The Coast Guard has a defined process to address conflicts that arise in the regulatory and enforcement arena. Whenever there is a disagreement, the first step is for industry to talk to the local Coast Guard marine inspector or boarding officer. If resolution is not feasible at that level, an informal discussion with the local Sector Commander or the appropriate Sector Department Head is encouraged. For any matter that cannot be resolved through informal discussions, the regulations afford the maritime industry and all mariners the right to appeal a Coast Guard decision. The process for filing an appeal is a formal process which follows clear incremental steps established in the regulations. The path and time to complete the appeal process is dependent on the circumstances and nature of the situation. However, throughout the entire appeal process, Coast Guard guidance stresses the importance of working with industry to strike a proper balance between safety, security, and facilitation of commerce.

In order to emphasize the criticality of working with industry, I sent a message to the entire Coast Guard in May 2007 emphasizing the importance of responsiveness to the maritime industry. I will continue my practice of visiting with industry representatives across the country to reinforce this commitment, and ensure that local Coast Guard units are engaged with their maritime stakeholders and responsive to industry concerns.

Merchant Mariner Licensing and Documentation Program

The Coast Guard is taking aggressive steps to improve the Merchant Mariner Licensing and Documentation (MLD) Program. Centralization of application processing will provide a greater opportunity to focus our efforts and gain economies of scale while reducing backlogs, ensuring credentials are only issued to qualified persons, and ensuring uniformity in interpretation of the regulations. Centralization started with the movement of certain licensing evaluation and issuance functions from Regional Examination Center (REC) New Orleans to the new home of the National Maritime Center (NMC) in West Virginia. Transferring these functions from the rest of the RECs throughout the country will continue over the next two years. The implementation of the Transportation Worker Identification Credential (TWIC) and continued growth in demand for merchant mariner credentials present challenges to the program. The timing of the NMC restructuring, however introduces opportunities to ensure that the TWIC and MLD programs work in concert with each other, and we are working very closely with our partners in the Transportation Security Agency (TSA) to that end.

The restructuring and relocation of the NMC from Arlington, Virginia, to a new 60,000 square-foot facility in Martinsburg, West Virginia, should be completed by the end of 2007. The new NMC will house approximately 250 government and contractor employees. In September 2006, NMC began issuing credentials to merchant mariners from its temporary offices in West Virginia. One hundred employees are currently working at this site while 50 employees remain in Arlington. Applications from mariners in the New Orleans region of the Gulf Coast, and other areas of the country as dictated by workload, are being processed by the NMC in West Virginia. In June of 2007, the NMC assumed responsibility for REC Anchorage and Juneau applications and REC Baltimore will transition in September. Technology enhancements are being implemented as part of this restructuring. Some of the many advancements:

- Applicants can now pay their user fees online;
- Mariners will soon have the capacity to obtain the status of their applications via the internet;
- Applications are being accepted in electronic format;
- A mariner help desk and toll-free phone and an email center has been established to assist the marine industry with their inquiries;
- Electronic fingerprinting technology for processing 10-print Integrated Automated Fingerprint Identification System criminal records checks has been employed by all of the Coast Guard's RECs since early 2005.

Growing demand for merchant mariner credentials will continue to challenge the MLD Program's ability to improve efficiency and provide timely service to industry, thus minimizing backlogs. We anticipate improvements at all service levels as the NMC restructuring progresses, similar to service improvements we experienced with the centralization of the vessel documentation program into the National Vessel Documentation Center (NVDC). Issuance of TWICs will require close coordination with the Transportation Security Administration (TSA) to ensure that backlogs and the time required for the Coast Guard to process a merchant mariner application does not increase. Present plans envision an electronic data transfer from TSA to the Coast Guard that will allow parallel processing by both agencies. The Coast Guard will also work with small business, and all port stakeholders to develop safe and reasonable requirements for TWIC readers to minimize the impact of these security requirements on industry and commerce.

Marine Inspector Training, Qualification, and Staffing

Increased mission requirements in the aftermath of the events of September 11, 2001, led to new challenges to our field units. This has also highlighted the need to identify whether there were any gaps in the expertise of Coast Guard Marine Inspectors. A comprehensive performance analysis was completed in October 2006 that enabled us to identify and document job performance requirements and the performance support necessary to equip our people to perform the associated jobs and tasks, including marine inspection. In direct response to requests from Coast Guard field units for revised training and qualification tools, a 2 two year, contractor-supported, collaborative effort was started among Coast Guard Headquarters, the Coast Guard Training Center Yorktown, and various field units. This project has thus far resulted in new and revised advanced training courses, launched in Fiscal Year 2007, and new Performance Qualification Standard (PQS) workbooks

New or revised domestic vessel inspection and foreign vessel examination training workbooks will be completed during the summer of 2007. Generally, qualification in new inspector competencies is based on a progressive path comprised of knowledge-based correspondence courses; job exposure; formal training (C schools); additional, specialized formal training (qualification-specific); and finally, structured on the job training, managed through revised training manuals. While Chief Warrant Officers will continue to serve as the "backbone" of the marine inspection program, this training and qualification process is designed to serve the qualification needs of all levels of personnel at a Sector (i.e., enlisted, warrant, officer, civilian, active duty, Reserve). Specialized courses taught by contractors are also under review with revisions anticipated in Fiscal Year 2008.

In order to keep pace with industry trends and technological advances, I have placed a renewed emphasis on the Coast Guard's Industry Training Program. Industry training allows marine safety professionals in various specialties to serve for extended periods with maritime companies that are leaders in their respective fields. The partnership helps the Coast Guard to stay current on new issues, understand the challenges facing the marine industry, and foster close working relationships with our key stakeholders.

Coast Guard Rulemaking Process

The Coast Guard currently has 85 active rulemaking projects. The priority of each project is set through a scoring protocol that considers such elements as executive branch interest, legal and legislative requirements, impact on Coast Guard resources, and stage of development. The primary list receives final approval at the annual meeting of the Marine Safety and Security Council (MSSC), which is comprised of Coast Guard Flag Officer from the marine safety, security, legal, and response operations disciplines.

Examples of high priority marine safety-related rulemaking projects that involve significant outreach and public involvement include ballast water discharge standards, dry cargo residues, and the development of an inspection program for towing vessels. For each of these projects, we have held numerous public meetings, worked with the affected industry, and sought input from affected states, local governments, and other stakeholders through public notices and regional meetings.

The Coast Guard has recently instituted a successful Quality Standards System in order to standardize and identify improvements to our regulatory development process. We will continue to seek improvement to our processes. Every month, the Coast Guard reviews the status of all rule making projects and takes action as necessary to ensure projects remain on schedule. The Coast Guard works closely with our Federal Advisory Committees to seek input on regulations.

CONCLUSION

We are aware of the concerns of Congress and the industry, as they echo ongoing internal efforts to improve our mission balance. The Coast Guard is taking aggressive steps to face the challenges of balancing maritime safety and security. We have revitalized our partnership efforts with the maritime industry, improved our marine inspector training programs, streamlined our merchant mariner licensing program and rulemaking processes, and sent a consistent and clear message throughout the Coast Guard that we must be vigilant in partnering with our stakeholders to reach the desired balance of safety and security. We acknowledge much work remains to be done. The Coast Guard and the Department of Homeland Security (DHS) will work with the Executive Branch, Congress, and other federal, state, local, private, and international partners to identify and address service gaps in our marine safety, security, and stewardship missions. We will do so thoroughly and decisively.

Throughout history, the Coast Guard has always answered the call to duty. The character of Coast Guard men and women has been tested from the rooftops of New Orleans to the Bearing Sea one thing remains constant: The Coast Guard's enduring value to the Nation resides in its multi-mission authorities, resources, and capabilities; and our unique ability to balance the two sides of the safety-security coin. The importance of this ability in mission execution cannot be overstated.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.

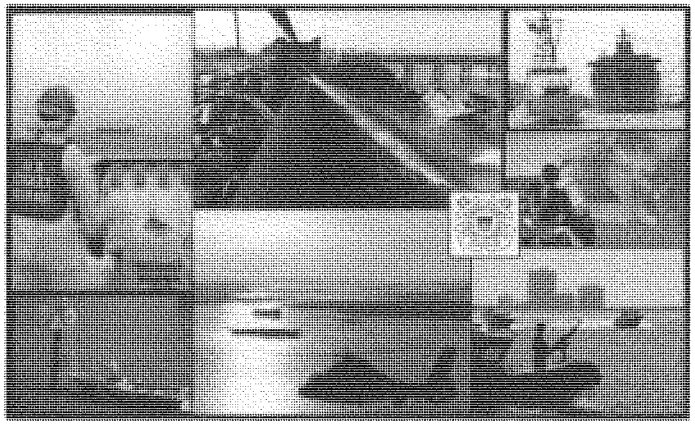
Appendix A: Marine Safety Advisory Committees and Partnerships

FEDERAL ADVISORY COMMITTEES	
Committee/Partnership Name	**Description**
Commercial Fishing Industry Vessel Advisory Committee (CFIVAC)	Advises on matters and actions relating to the safe operation of vessels to which Chapter 45 of Title 46 U.S.C. applies, including navigational safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualification and training.
Chemical Transportation Advisory Committee (CTAC)	Advises with respect to the water transportation of hazardous materials in bulk.
Great Lakes Pilotage Advisory Committee (GLPAC)	Advises on matters relating to Great Lakes pilotage. The Committee is composed of seven members who must have at least 5 years practical experience in maritime operations.
Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC)	Advises on such matters as communications, surveillance, traffic management, anchorages, and other related topics dealing with navigation safety in the Houston/Galveston area. It also provides advice on the development and operation of the Houston/Galveston Vessel Traffic Service.
Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC)	Advises on such matters as communications, surveillance, traffic management, anchorages, and other related topics dealing with navigation safety on the Lower Mississippi River. It provides advice on the development and operation of the New Orleans Vessel Traffic Service.
Merchant Marine Personnel Advisory Committee (MERPAC)	Advises on matters concerning personnel in the U.S. merchant marine, including, but not limited to training, qualifications, certification, documentation, and fitness standards. The committee consists of not more than 19 members.
National Boating Safety Advisory Council (NBSAC)	Advises on major boat safety matters related to the Federal Board Safety Act of 1971, including all new regulations and standards issued under the Act and the need for formulating and prescribing regulations establishing minimum safety standards for recreational boats and associated equipment.
Navigation Safety Advisory Council (NAVSAC)	Advises on matters relating to the prevention of collisions, rammings, and groundings, including but not limited to: Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems.
National Offshore Safety Advisory Committee (NOSAC)	Advises on safety matters and other concerns relating to the Outer Continental Shelf activities.
Towing Safety Advisory Committee (TSAC)	Advises on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.
National Maritime Security Advisory Committee (NMSAC)	Advises on matters relating to national maritime security.
INDUSTRY PARTNERSHIPS	
Passenger Vessel Association (PVA)	To improve the communication and working relationship between the Coast Guard and the domestic passenger vessel industry. Its objectives, for both parties, are to promote passenger, personnel and property safety within the domestic passenger vessel industry and the protection of the environment within our nation's waterways.
American Petroleum Institute (API) & Chamber of Shipping of America (CSA)	To formalize a commitment to use Prevention Through People (PTP) principles to address the human element in tanker operations in US waters. Its objectives are to improve vessel and personnel safety within the tanker industry and enhance the protection of the environment within our nation's coastlines.
American Waterways Operators (AWO)	To strengthen the communication and working relationship between the Coast Guard and the barge and towing industry. Its objectives, for both parties, are to improve vessel and personnel safety within the barge and towing industry and enhance the protection of the environment along our nation's waterways

Cruise Line International Association (CLIA)	To strengthen the communication and working relationship between the international passenger vessel industry and the CG and to establish a program of cooperative meetings between the industry and the CG. The objectives for both parties, is to provide a mechanism for cooperative ICCL/USCG activities which support the two organizations common goals of promoting passenger and crew safety, security and environmental protection.
INTERTANKO	To strengthen the communication and working relationship between the CG and the tank ship industry. The objectives are to promote vessel safety and to prevent damage to the environment from tank vessel incidents.
Baltic and International Maritime Council (BIMCO)	To strengthen the communication and working relationship between the CG and the cargo shipping industry. The objectives are to promote vessel safety and to prevent damage to the environment from cargo vessel incidents
American Pilots Association (APA)	To strengthen the communication and working relationship between the CG and the APA, its member state pilot associations and state pilots throughout the US. The objectives are to promote vessel safety and to prevent damage to the environment from commercial vessel incidents.
Chamber of Shipping of America (CSA)	To further efforts to prevent maritime and personnel casualties and pollution incidents resulting from mariner fatigue and loss of alertness.
Lake Carriers Association (LCA)	To promote the common interests of U.S. Flag Vessel Operators on the Great Lakes
American Association of Port Authorities (AAPA)	Advocates governmental policies that strengthen and expand opportunities for member ports, advances professionalism in all facets of port management and operations, promotes information sharing and relationship building among members, achieve greater understanding of the essential role and economic value of ports.
Small Business Council of America (SBCA)	To enact favorable federal tax and employee benefits laws for small businesses and their owners.
Offshore Marine Service Association (OMSA)	To strengthen the communication and working relationship between the CG and offshore marine transportation companies.

U.S. Department of Homeland Security
United States Coast Guard

U. S. Coast Guard Sector



Explosive Handling Team Supervisor

Performance Qualification Standard

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Sector Training Guide

Explosive Handling Team Supervisor
Performance Qualification Standard

Qualification Code: EB

This booklet is one section of your personal 'on the job training' (OJT) manual. It is your OJT guide to qualification as an Explosive Handling Team Supervisor. It is your responsibility to document completed unit training items.

Verifying Officers shall be experienced and qualified personnel who have demonstrated the ability to evaluate, instruct, and observe other personnel in the performance task criteria. Verifying Officers must be certified in the competencies for which they are to verify and must be command designated. Verifying Officers must enter their title, name, and initials in the Record of Verifying Officers section before making entries in your workbook.

A Verifying Officer shall observe your successful performance of each task and document such with date and initials in the appropriate space provided in this booklet. It may be necessary to perform a task several times. The Verifying Officer will not give credit for any task that is not performed satisfactory.

When you have completed all of the items required for this qualification, your command will issue a Letter of Designation and your Unit Training Coordinator will record and certify the your qualification in Training Management Tool (TMT).

Explosive Team Handling Supervisor

RECORD OF VERIFYING OFFICERS		
Title	**Verifying Officer's Name**	**Initials**

RECORD OF MAJOR TASKS COMPLETED		
Task Number	**Major Tasks**	**Date Completed**
1.0	Coast Guard Jurisdiction/Authority	
2.0	Application and Permit to Handle Hazardous Material	
3.0	Issue or Deny Permit	
4.0	Pre-Handling Inspection of Vessel	
5.0	Pre-Handling Inspection of Facility/Cargo	
6.0	Supervision of Explosive Handling Operations	
7.0	Safety and Occupational Health	

RECORD OF COMPLETION		
Training Prerequisites	**Date**	**Training Coordinator's Signature**
A. Completion of resident training course:		
1. Waterfront Facilities Inspection ***or*** Marine Science Technician (MST) "A" School		
2. Explosive Handling Supervisor Course		
B. Completion of PQS Workbook.		
C. Successful completion of unit level oral board.		
D. Designation Letter submitted for approval.		
E. Once Designation Letter is signed, enter certification in TMT.		

All qualification requirements have been satisfactory completed by _____.

Explosive Team Handling Supervisor

References

The following references will aid you in completing the majority of tasking in this PQS.

- Department of Defense's (DOD) 6055.9-STD Ammunition and Explosive Safety Standards (Contains Quantity Distance Tables for calculating explosive arcs from the total NEW)
- Safety of Life At Seas (SOLAS) 1974/78 Consolidated Edition, 1997
- Title 33 Code of Federal Regulations, Parts 6 and 125-199
- Title 46 Code of Federal Regulations, Parts 41-69
- Title 46 Code of Federal Regulations, Parts 90-139
- Title 49 Code of Federal Regulations, Parts 100-185
- U. S. Army Defense Ammunition School, Hazard Classification of United States Military Explosives and Munitions (Rev 9/Oct 94)
- U. S. Coast Guard Guidance and Procedures for Conducting Containerized Hazardous Material Inspections, COMDTINST M16616.11 (series)
- U.S. Coast Guard Marine Safety Manual Volumes I, II & VI, 7, and 11, COMDTINST M16000.6 (series)
- U. S. Coast Guard Navigation and Vessel Inspection Circular (NVIC) 02-96, Inspection of Cargo Handling Prior to Explosive Handling Operations
- U. S. Coast Guard Ordnance Manual, COMDTINST M8000.2 (series)
- U. S. Coast Guard Preparation and Publication of Field Regulations, COMDTINST M16704.2 (series)
- Units instruction/policy on Explosive Handling Supervisory Details

Explosive Team Handling Supervisor Tasks

Task Number	*EB Task*	*Date Completed*	*Verifying Officer's Initials*
1.0	**Coast Guard Jurisdiction/Authority**		
1.1	**Describe** the Captain of the Port (COTP) authority to direct and control the handling of explosives aboard most vessels and waterfront facilities.	_____	_____
1.2	**Describe** the authority that a qualified EHSD has over the loading, handling and unloading of Class 1 (explosive) materials.	_____	_____
1.3	**Identify** the EHSD primary responsibilities on board a vessel.	_____	_____
1.4	**Identify** the applicable provisions (33 CFR) that each carrier, master, agent, and charterer of a vessel and all persons engaged in handling HAZMAT on board vessels must comply with.	_____	_____
1.5	**Identify** the four locations where Division 1.1 and 1.2 materials can be loaded on and unloaded from vessels.	_____	_____
1.6	**Demonstrate** proficiency in the application and understanding of 49 CFR in the following areas: • 49 CFR 172.101 Hazardous Materials Table and Appendix A & B to 172.101, and 172.102 Special Provisions • 49 CFR 172 Subpart C - Shipping Papers, Subpart D - Marking, Subpart E - Labeling, Subpart F – Placarding • 49 CFR 172 Subpart H – Training • 49 CFR 173 Subpart C - Definitions, Classifications, and Packaging for Class 1 Explosives • 49 CFR 176 Subpart A - General, Subpart B - General Operating Requirements, Subpart C - General Handling & Stowage, Subpart D - General Segregation Requirements, Subpart G Detailed Requirements for Class 1 (explosive) Materials.	_____	_____
1.7	**Describe** applicability of exemptions/waivers that apply to explosives.	_____	_____

Explosive Team Handling Supervisor Tasks

Task Number	*EB Task*	*Date Completed*	*Verifying Officer's Initials*
1.8	**Explain** COTP authority to enlist aid from other local and government agencies.	_____	_____
1.9	**Describe** the purpose and elements of a Safety/Security Zone to restrict vessel movement in the vicinity of an explosive transfer.	_____	_____
1.10	**Describe** the purpose of a COTP Order.	_____	_____
1.11	**Demonstrate** knowledge of unit Explosive Handling Standard Operating Procedures (SOP).	_____	_____
2.0	**Issue or Deny Permit**		
2.1	**Determine** if a permit is required.	_____	_____
2.2	**Examine** an Application and Permit to Handle Hazardous Materials (CG-4260) for discrepancies.	_____	_____
2.3	**Determine** if facility is authorized to handle Division 1.1 and 1.2 materials.	_____	_____
2.4	**Verify** required information on DCM and Stowage Plan for the following: • Name and official number of vessel • Nationality of vessel • Emergency response phone number listed for each HAZMAT being shipped • Proper shipping name and ID number for each commodity • Number and description of packages for each commodity, plus gross weight for each Hazard class for each commodity • Proposed stowage plan, showing stowage location for each commodity • Confirm DCM information matches shipping papers • Verify signature of master or his authorized representative	_____	_____
2.5	**Verify** that Emergency Response Information is on board the vessel.	_____	_____

Explosive Team Handling Supervisor Tasks

Task Number	*EB Task*	*Date Completed*	*Verifying Officer's Initials*
3.0	**Application and Permit to Handle Hazardous Material Review**		
3.1	**Describe** the requirements for authorizing alternate stowage, segregation and handling.	_____	_____
3.2	**Calculate** Explosive Arcs (Separation Distances) using the total NEW (Net Explosive Weight) and approved Quantity Distance Tables in accordance with USCG policy.	_____	_____
3.3	**Identify** and **define** the following acronyms found in enclosure (6-1) of MSM Vol. VI: • PES • ES • IBD • PTR • NEW	_____	_____
3.4	**Recommend** issuance or denial of Application and Permit to Handle Hazardous Materials (CG-4260) based upon thorough review of the application and related documentation.	_____	_____
3.5	**Arrange** for a pre-load/discharge inspection of facility/vessel.	_____	_____
4.0	**Pre-Handling Inspection of Vessel**		
4.1	**Identify** and **state** the purpose of the following required vessel documents and logs: • Certificate of Inspection • SOLAS Cargo Ship Safety Construction Certificate • SOLAS Cargo Ship Safety Equipment Certificate • SOLAS Cargo Ship Safety Radiotelegraphy Certificate • SOLAS Safety Radiotelephony Certificate • Loadline Certificate • Vessel Equipment Maintenance Logs	_____	_____

Explosive Team Handling Supervisor Tasks

Task Number	*EB Task*	*Date Completed*	*Verifying Officer's Initials*
4.2	**Evaluate** vessel safety precautions, **perform** on-deck pre-handling inspection, and **report** findings to EHSD for the following: • Adequate security/limited access to vessel • Verify no hot work in progress • Smoking requirements in force • Proper protection, type, and condition of electrical equipment/lighting • No transfer of oil, bunker, or fueling operations • No vessels alongside conducting transfers or hotwork • Power secured to transmitting equipment • No blowing of vessel stacks • Enforce permit restrictions imposed by COTP • Determine if vessel is prepared for explosive handling • Towing wires properly set • Mooring lines adequate • Visual day/night signals properly displayed • Adequate number and lengths of fire hoses • Power secured in cargo holds • Cargo hold in acceptable condition • Smoke and/or fire detection system installed and operating • Fixed fire extinguishing system adequate • Electrical bonding/lightning protection adequate • Adequate weather protection measures available to prevent cargo from becoming wet • Sufficient crew on board to maintain proper watch and operate propulsion and fire fighting equipment in the event of emergency • Conditions for handling on board ship are satisfied • Determine methods of communication to be used.	_____	_____

Explosive Team Handling Supervisor Tasks

Task Number	*EB Task*	*Date Completed*	*Verifying Officer's Initials*
4.3	**Conduct** pre-handling inspection of cargo handling gear for the following: • **Ensure** cargo handling gear test records are current • **Inspect** and **assess** condition of cargo handling gear • **Access** adequacy of handling procedures and gear to be used • **Supervise** load test of cargo handling gear IAW NVIC 2-96	_____	_____
4.4	**Commence** explosive handling operations for the following: • **Inform** master/responsible party and the facility person in charge in the presence of the EHSD of all discrepancies and determine what corrective action and/or operational controls (if any) are required • **Verify** the identified discrepancies are corrected • **Authorize** explosive handling operations to commence.	_____	_____
5.0	**Pre-Handling Inspection of Facility/Cargo**		
5.1	**Meet** with facility person in charge and **verify** compliance with facility regulatory requirements.	_____	_____
5.2	**Ensure** quantities of dangerous cargo on board facility do not exceed authorized quantities and are in compliance.	_____	_____
5.3	**Identify** proper equipment to be used to transfer cargo.	_____	_____
5.4	**Conduct** inspections of freight containers for acceptability.	_____	_____
5.5	**Inspect** transport vehicles for adequacy.	_____	_____

Explosive Team Handling Supervisor Tasks

Task Number	*EB Task*	*Date Completed*	*Verifying Officer's Initials*
5.6	**Inspect** forklifts for proper type/designation and use.	_____	_____
5.7	**Inform** facility person in charge of any discrepancies and determine what corrective action and/or operational controls (if any) are required.	_____	_____
5.8	**Verify** that identified discrepancies are corrected and/or operational controls are in place.	_____	_____
6.0	**Supervision of Explosive Handling Operations**		
6.1	**Maintain** watch logs.	_____	_____
6.2	**Verify** labeling and placard requirements for cargo properly applied.	_____	_____
6.3	**Ensure** Cargo is stowed and segregated in each hold IAW the approved permit/stowage plan.	_____	_____
6.4	**Ensure** cargo is properly dunnaged, blocked, and braced.	_____	_____
6.5	**Observe** ongoing cargo movement/placement to ensure continuous proper stowage and handling procedures.	_____	_____
6.6	**Monitor** adherence to established pre-load conditions for the following: • Engine room requirements • On-deck requirements • Cargo hold requirements • Condition of cargo handling equipment.	_____	_____
6.7	**Respond** to discrepancies noted for the following: • **Notify** responsible party. • **Ensure** adequate corrective actions occur, if necessary. (Describe possible situations requiring action) • Stop transfer/exercise operational control if necessary. (Describe possible situations and controls)	_____	_____

Explosive Team Handling Supervisor Tasks

Task Number	*EB Task*	*Date Completed*	*Verifying Officer's Initials*
6.8	**Ensure** familiarity with regulatory/local policy for stopping explosive handling operations during lightning, heavy weather or rain.	_____	_____
6.9	**Ensure** Dangerous Cargo Manifest (DCM) is properly completed prior to vessel sailing.	_____	_____
6.10	**Ensure** each cargo hold and or container is properly secured for shipment.	_____	_____
6.11	**Draft** and **review** proposed local regulations.	_____	_____
7.0	**Review Safety and Occupational Health Standards**		
7.1	**Determine** Personal Protective Equipment (PPE) requirements.	_____	_____
7.2	**Explain** in adequate detail the procedures described in the following Safe Work Practices (SWP: • SWP 150 - Confined Spaces; Entry Aboard Vessels at Dockside. • SWP 160 (series)-Intermodal Container Inspection Ashore. • SWP 300 - Above Deck and Underway Boarding Activities. • SWP 310 - Above Deck Activities during Cargo Transfer. • SWP 400 - Facility Inspection (Waterfront).	_____	_____
7.3	**Properly** supervise EHSD personnel to ensure their safety.	_____	_____
7.4	**Determine** who has authority to halt and resume operations.	_____	_____

NOTES

NOTES

SAMPLE LETTER OF DESIGNATION

U.S. Department of Homeland Security

United States Coast Guard

Command's Name

Street Address
City, State Zip Code
Staff Symbol:
Phone:
Email:

1601
DATE

MEMORANDUM

From: I. M. Frank, CAPT
Unit's Name

Reply to
Attn of:

To: ENS M. O. Ore, USCG

Subj: DESIGNATION AS EXPLOSIVE HANDLING TEAM SUPERVISOR

Ref: Explosive Team Handling Supervisor Performance Qualification Standard Workbook

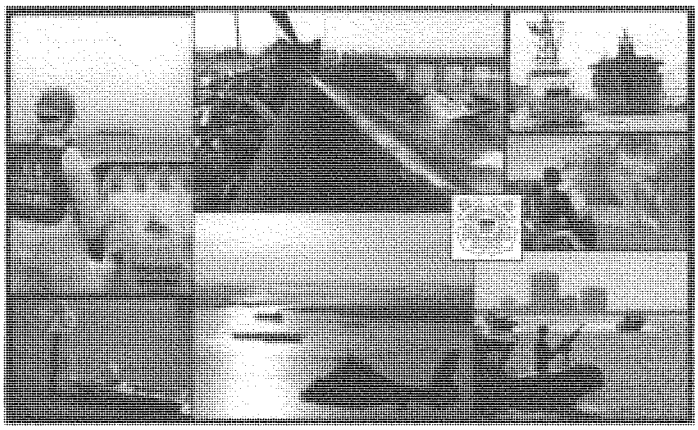
1. Congratulations! You have completed all requirements necessary to perform the duties of an Explosive Team Handling Supervisor. You are authorized to carry out the responsibilities of an Explosive Team Handling Supervisor within the scope of your qualifications. This is a significant milestone in your professional development and I commend your accomplishments.

2. This Letter of Designation should be retained as part of your personal Training Record and you will be assigned the Explosive Team Handling Supervisor's Qualification Code "EB".

#

U.S. Department of Homeland Security
United States Coast Guard

U. S. Coast Guard Sector



Commercial Fishing Vessel Safety Examiner (CFVE)

Performance Qualification Standard

Sector Training Guide

Commercial Fishing Vessel Safety Examiner
Performance Qualification Standard

Qualification Code: CFVE

This booklet is one section of your personal 'on the job training' (OJT) manual. It is your OJT guide to qualification as a Commercial Fishing Vessel Safety Examiner. It is your responsibility to document completed unit training items. This guide is for use by Active Duty, Reserve, Auxiliary, and Civilian personnel to qualify as a Commercial Fishing Vessel Safety Examiner. It is your responsibility to document unit training items as you complete them.

Verifying Officers shall be experienced and qualified personnel who have demonstrated the ability to evaluate, instruct, and observe other personnel in the performance task criteria. Verifying Officers must be certified in the competencies for which they are to verify and must be command designated. Verifying Officers must enter their title, name, and initials in the Record of Verifying Officers section before making entries in your workbook. A qualified Commercial Fishing Vessel Safety Examiner can serve as a Verifying Officer.

A Verifying Officer shall observe your successful performance of each task and document such with date and initials in the appropriate space provided in this booklet. It may be necessary to perform a task several times. The Verifying Officer will not give credit for any task that is not performed satisfactory.

When you have completed all of the items required for this qualification, your command will issue a Letter of Designation and your Unit Training Coordinator will record and certify the your qualification in Training Management Tool (TMT).

Your command may issue a Letter of Designation without completion of all the listed requirements in this guide. Some of the tasks contained in this guide may not be applicable in your area of responsibility. In such instances, a note of explanation shall be entered in this guide and any limitations on the type(s) of vessels you will be qualified to examine must be stated in your Letter of Designation.

The District Commercial Fishing Vessel Safety Coordinator must be notified and provided a copy of an individual's Letter of Designation after completing all PQS requirements and being qualified as a Commercial Fishing Vessel Safety Examiner.

Sectors and Auxiliary Examiners should also reference Program's (CG-3PCV) Policy Letter 06-04, dated July 19, 2006, for additional guidance and responsibilities associated with Auxiliary augmentation in the Commercial Fishing Vessel Safety Examiner Program.

Revision Date: 3 August 2007

Commercial Fishing Vessel Safety Examiner

RECORD OF VERIFYING OFFICERS		
Title	**Verifying Officer's Name**	**Initials**

RECORD OF MAJOR TASKS COMPLETED		
Task Number	**Major Tasks**	**Date Completed**
1.0	Understand Regulations and Policy	
2.0	Understand Fishing Vessel Fundamentals	
3.0	Identify Requirements for All Vessels	
4.0	Identify Requirements for Documented Vessels Operating Beyond the Boundary Lines or With More Than 16 Individuals On Board, or for Fish Tender Vessels Engaged in the Aleutian Trade	
5.0	Identify Requirements for New or Converted Vessels and That Operate With More Than 16 Individuals On Board	
6.0	Identify Requirements for Fish Processing Vessels and Aleutian Trade Act Vessels	
7.0	Identify Other Requirements That May Be Applicable to Certain Types or Size of Commercial Fishing Industry Vessels	
8.0	Complete Dockside Examinations	

Commercial Fishing Vessel Safety Examiner

RECORD OF COMPLETION		
Training Prerequisites	**Date**	**Training Coordinator's Signature**
A. Completion of resident training courses:		
1. Commercial Fishing Vessel Safety Examiner Course; ***or*** District/Unit Developed CFVS Training ***and***		
2. Fishing Vessel Drill Conductor Training Course (strand training)		
B. Completion of PQS Workbook. (All sections applicable to the vessels you will examine in your Sector's AOR)		
C. Successful completion of unit level oral board.		
D. Designation Letter submitted for approval.		
E. Once Designation Letter is signed, enter certification in TMT.		

Notes:

1. It is recommended that the prospective examiner assist in, or perform under supervision, at least five examinations prior to going before the oral board and being recommended for qualification as an Commercial Fishing Vessel Safety Examiner. However, the minimum number of supervised or accompanied dockside safety examinations conducted will be determined by the Sector.

2. A Letter of Designation may be issued without completion of all the tasks based on applicability for the area of responsibility. A note of explanation shall be entered in this guide and examination limitations must be stated in the Letter of Designation.

Commercial Fishing Vessel Safety Examiner

References

The following references will aid you in completing the majority of tasking in this PQS.

- International Maritime Organization (IMO) Resolution A.658(16) on Retroreflective Tape
- Title 33 Code of Federal Regulations (CFR)
- Title 46 Code of Federal Regulations (CFR)
- Title 46 United States Code (USC) Subtitle II – Vessels and Seamen
- U. S. Coast Guard Commercial Fishing Vessel Safety Examination Booklet (CG-5587)
- U. S. Coast Guard Commercial Fishing Vessel Safety Program Commandant Instruction 16711.13 (series)
- U. S. Coast Guard Marine Safety Manual, Volume II, Section B, Chapter 4, COMDTINST M16000.7 (series)
- U. S. Coast Guard Navigation and Vessel Inspection Circulars (NVIC):

NVIC 2-63	Guide for Inspection and Repair of Lifesaving Equipment
NVIC 6-70	Fixed Fire Extinguishing Systems for Use in Galley Ventilating Equipment
NVIC 7-70	Marine Type Portable Fire Extinguishers
NVIC 6-72	Guide to Fixed Fire Fighting Equipment, and CH-1
NVIC 9-82	MSD Certification, and CH-1
NVIC 9-83	Requirements for Charts and Publications
NVIC 5-86	Voluntary Standards for Fishing Vessels
NVIC 7-86	Information on Adequacy & Currency of Charts
NVIC 13-86	Use of Underwriters Laboratories (UL) Listed Fire Extinguishers
NVIC 7-91	Determination of Cold Water Areas
NVIC 13-91	Third Party Examinations & Accepted Organizations, and CH-1
NVIC 1-92	Implementation of Lifesaving Equipment Requirements, and CH-1 and CH-2
NVIC 2-92	Survival Equipment for Lifeboats and Liferafts
NVIC 14-92	Suitability of Extended Size & Certain Adult PFDs
NVIC 7-93	Guidelines for Fishing Vessel Safety Instructors
NVIC 7-95	Guidance on Inspection, Repair and Maintenance of Wooden Hulls
NVIC 3-99	Global Maritime Distress and Safety System (GMDSS) and Emergency Position Indicating Radiobeacon (EPIRB) Equipment for Commercial Vessels.
NVIC 6-01	Protective Equipment Required for Firefighter's Outfits

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Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
1.0	**Understand Regulations and Policy**		
1.1	**State** what subjects applicable to the CFVS Program are covered in the following: • 46 USC Chapter 45 • 46 CFR Parts 4, 7, 25, 26, 28, 42, 67, 105 and 160-162 • 33 CFR Parts 80-82, 84-90, 138, 151, 155, 159, and 173 • 47 CFR Part 80	_____	_____
1.2	**Explain** the relationship between the US Code and the CFRs and the Federal Register.	_____	_____
1.3	**Explain** "incorporation by reference".	_____	_____
1.4	**Explain** applicability and progressive applicability.	_____	_____
1.5	**Explain** the purpose of Navigation and Vessel Inspection Circulars (NVICs) and Policy Letters.	_____	_____
1.6	**Define** the following terms: • Accepted organization • Approved (equipment) • Berthing Space • Coastal Waters and State Waters • Coastline and Baseline • Cold Water • Documented Vessel and State-registered vessel • Downflooding • Especially Hazardous Condition • Fish • Fishing Vessel • Galley • Major Conversion • Operating Station • Similarly qualified organization • Territorial Seas and Contiguous Zone • Substantially Altered • Watertight and Weathertight	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
1.7	**Explain** why it is important to record all of the vessel and master information in the Commercial Fishing Vessel Safety Examination Booklet (CG-5587).	_____	_____
1.8	**State** the importance of recording the number and type of safety equipment onboard in the Commercial Fishing Vessel Safety Examiner Booklet (CG-5587).	_____	_____
1.9	**State** the purpose of the CFVS Exam Booklet worklist and **draft** an example.	_____	_____
1.10	**Complete** a Commercial Fishing Vessel Safety Examination Booklet (CG-5587) during a supervised dockside examination.	_____	_____
1.11	**Explain** the Privacy Act and related requirements in regards to a dockside examination.	_____	_____
1.12	**Explain** the purpose of the Dockside Safety Examination Decal and **state** what requirements must be met by the vessel to receive a decal.	_____	_____
1.13	**Explain** why re-examinations are often required prior to issuing a decal.	_____	_____
1.14	**State** the disposition procedures of a decal when one is affixed to a vessel that changes ownership.	_____	_____
1.15	**Complete/witness** a Marine Information for Safety and Law Enforcement (MISLE) system activity and data entry for a vessel that has been issued a decal.	_____	_____
1.16	**State** the hazardous conditions which may lead to the termination of a vessel's voyage.	_____	_____
1.17	**State** other options for correcting safety deficiencies in lieu of voyage termination.	_____	_____
1.18	**Explain** when a vessel may continue to operate after its voyage has been terminated.	_____	_____
1.19	**Explain** the Chain of Command procedures to authorize a termination.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
1.20	**Describe** the following forms and requirements for their completion and submission: • Report of Marine Accident, Injury or Death (CG-2692) • Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident (CG-2692B).	_____	_____
1.21	**Discuss** the specific regulatory requirements pertaining to a Serious Marine Incident (SMI).	_____	_____
1.22	**State** the citizenship requirements for individuals employed on commercial fishing vessels fishing in the navigable waters of the U.S. or the Exclusive Economic Zone (EEZ).	_____	_____
1.23	**Explain** the "75/25" rule and how a vessel owner can request a waiver.	_____	_____
1.24	**State** the exemption regarding crew citizenship requirements on vessels fishing for highly migratory species.	_____	_____
1.25	**State** the requirements for various positions to be filled by licensed personnel on commercial fishing vessels.	_____	_____
1.26	**Explain** the purpose of a crew contract by discussing the following: • Vessels that require a crew contract • Information that must be included • When a contract must be carried onboard	_____	_____
1.27	**Explain** the importance of good public relations with commercial fishermen and industry associations and promoting the dockside examination program.	_____	_____
1.28	**Explain** how networking for and advertising of safety and survival programs is beneficial to the Coast Guard and the Commercial Fishing Industry.	_____	_____
1.29	**Explain** exemption letters, how to submit a request for an exemption, and who can approve an exemption.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
2.0	**Understand Fishing Vessel Fundamentals**		
2.1	**Describe** the following types of vessels, if operated in your AOR, and the fishing gear associated with them: • Bandit Rig • Catcher-Processor • Clammer • Crabber • Eastern Rig • Factory Trawler • Fish Pot • Gillnetter • Kelp Processor • Ketch • Lobster • Longliner • Mid-water Trawler • Processor • Purse Seiner • Scalloper • Seiner • Shrimper • Skiff • Skimmer/Butterfly Net • Snapper/Grouper • Stern Trawler/Dragger • Tender • Troller • Tuna • Urchin • Western Rig	_____	_____
2.2	**Describe** the fisheries that are conducted in your District in terms of the following: • General location of the fishery • Normal seasons • Size and number of vessels operating • Description of the fish/shellfish • Type of gear or methods used to harvest • Method the product is processed/shipped	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
2.3	**Explain** the environmental factors that affect the fisheries conducted in your District.	_____	_____
2.4	**Explain** how conservation efforts, including quotas, affect specific fisheries and fishing operations	_____	_____
2.5	**State** the Federal and State law enforcement activity for fisheries in your District or Sector's AOR.	_____	_____
2.6	**State** the difference between gross tonnage and net tonnage.	_____	_____
2.7	**State** the tonnage requirement for a vessel to be documented.	_____	_____
2.8	**Describe** the relationship between tonnage and volume.	_____	_____
2.9	**Explain** why a vessel may be re-admeasured to reduce its tonnage.	_____	_____
2.10	**State** the difference between "registered length" and "overall length."	_____	_____
2.11	**Explain** why it is important to know the tonnage and length of a vessel with respect to the regulations.	_____	_____

3.0 Identify Requirements for All Vessels

Personal Flotation Devices

3.1	**Describe** the following type personal flotation devices (PFDs) and **explain** why size must be considered: • Type I • Type II • Type III • Type IV • Type V • Immersion Suites	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
3.2	**Explain** PFD requirements in terms of the following: • Batteries • Flotation • Inflatable collars • Inflation mechanisms, compressed gas, auto/manual • Inflation tubes • Lights • Markings • Retroreflective tape • Seams • Straps and buckles • Valves • Zippers	_____	_____
3.3	**Demonstrate** how to inspect a PFD and an immersion suit with respect to the items in task 3.2 and determine if the device is serviceable.	_____	_____
3.4	**Demonstrate** the proper donning of a PFD and an immersion suit.	_____	_____
3.5	**Explain** what is meant by "readily accessible" in regards to stowage of PFDs.	_____	_____
3.6	**State** who is authorized to conduct repairs on PFDs and immersion suits.	_____	_____
3.7	**State** PFD carriage requirements in Cold Water areas.	_____	_____
3.8	**Explain** why it is recommended that work vests be worn when working on deck.	_____	_____
	Ring Life Buoys		
3.9	**State** the carriage requirements and line characteristics for a throwable flotation device or ring life buoy for the following classes of vessels: • Less than 16 feet • 16 feet or more, but less than 26 feet • 26 feet or more, but less than 65 feet • 65 feet or more	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
3.10	**Explain** the requirements for ring life buoys in terms of the following: • Size • Color • Marking • Retroreflective tape • Stowage and accessibility	_____	_____
3.11	**Demonstrate** how to inspect a ring life buoy and **determine** if it is serviceable.	_____	_____
3.12	**State** the "grandfather" clause for ring life buoys.	_____	_____
3.13	**Describe** a "Life Sling" in terms of acceptability and serviceability.	_____	_____
	Survival Craft		
3.14	Using your District's or Sector's Job Aid, or other suitable reference, **state** the carriage requirements for the various types of survival craft for each of the following criteria: • Distance from shore • Length of vessel • Number of individuals on board • Geographic location (cold and warm waters) • Documented and undocumented vessels	_____	_____
3.15	**Explain** the characteristics and applications for the following types of survival craft: • Buoyant apparatus • Inflatable buoyant apparatus • Life float • Inflatable liferaft	_____	_____
3.16	**Inspect** a survival craft and **interpret** the inspection plate or decal.	_____	_____
3.17	**Explain** the inspection frequencies for survival craft.	_____	_____
3.18	**Observe** an inflatable liferaft inspection at a Coast Guard approved servicing facility.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
3.19	**Explain** the difference between a SOLAS A and a SOLAS B equipment pack.	_____	_____
3.20	**Explain** when a lifeboat or an auxiliary craft may be used as a survival craft.	_____	_____
3.21	**Explain** under what circumstances a vessel with positive flotation is exempt from survival craft carriage requirements.	_____	_____
3.22	**Explain** float-free installation and automatic inflation of survival craft.	_____	_____
3.23	**Explain** the operation of a hydrostatic release and **demonstrate** the proper installation of one.	_____	_____
	Equipment Markings		
3.24	**State** the letter marking requirements and the type and amount of retroreflective material required on the following lifesaving equipment: • Wearable PFDs • Immersion suits • Ring life buoys • Life floats • Buoyant apparatus • Inflatable buoyant apparatus • Inflatable liferaft • Auxiliary craft • EPIRBs	_____	_____
3.25	**Explain** the difference between Type I and Type II retroreflective material for lifesaving equipment.	_____	_____
	Operational Readiness, Maintenance, and Inspection		
3.26	**State** where scheduled maintenance and inspection intervals for lifesaving equipment can be referenced.	_____	_____
3.27	**State** the initial inspection interval for a new inflatable liferaft or inflatable buoyant apparatus.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
3.28	**Explain** the meaning of the following terms in reference to lifesaving equipment: • In good working order • Ready for immediate use • Readily accessible	_____	_____
3.29	**Explain** the advantages of logging safety and lifesaving equipment inspections even though it is not required.	_____	_____
3.30	**Explain** how to determine if escape routes are obstructed and **state** when they are required to be kept clear.	_____	_____
	Distress Signals		
3.31	**Identify** the types of distress signals required for fishing vessels operating the following areas: • Ocean, more than 50 miles from the coast • Ocean, 3-50 miles from the coast • Coastal waters	_____	_____
3.32	**Demonstrate** how to use and **inspect** the following types of visual distress signals, including how to determine whether or not they are expired: • Parachute flares • Hand flares • Smoke signals	_____	_____
3.33	**Explain** proper stowage of distress signals to reduce condensation and ensure they are accessible and ready for use.	_____	_____
3.34	**Explain** the proper disposal methods for expired flares.	_____	_____
	Emergency Position Indicating Radio Beacons (EPIRBs)		
3.35	**Explain** the carriage requirements for an EPIRB and **state** what vessels are exempt from the carriage requirement.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
3.36	**Explain** the characteristics of the following EPIRBs and **state** their frequency: • Category 1 • Category 2 • Class A • Class B • PLBs	_____	_____
3.37	**State** the requirements for EPIRBs with respect to the following: • Registration • Testing and servicing • Hydrostatic release • Bracket mounting and location • Marking • FCC licensing	_____	_____
3.38	**State** your District's policy on testing EPIRBs during dockside examinations.	_____	_____
3.39	**Explain** the procedures for registering an EPIRB and why it is important.	_____	_____
	Fire Extinguishers		
3.40	**State** the carriage requirements for portable fire extinguishers on the following size vessels: • Less than 26 feet with an outboard motor, portable tanks, and open construction. • Less than 26 feet with permanently installed fuel tanks. • 26 feet or more but less than 40 feet • 40 feet or more but less than 65 feet • 65 feet or more	_____	_____
3.41	**Explain** the meaning of "type" and "class" for portable fire extinguishers.	_____	_____
3.42	**Explain** what constitutes an approved fire extinguisher for use on a fishing vessel.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
3.43	**Explain** servicing requirements for fire extinguishers.	_____	_____
3.44	**Explain** or **demonstrate** the inspection of portable fire extinguishers for the following requirements: • Location • Mounting • Servicing tags	_____	_____
	Miscellaneous Requirements		
3.45	**State** the carriage requirements and size requirements for the following placards: • Injury placard • Garbage placard • Pollution placard	_____	_____
3.46	**State** what garbage can not be disposed at the following locations: • U.S. Lakes, Rivers, Bays, Sounds, and within 3 miles of shore • Ocean waters 3-12 miles from shore • Ocean waters 12-25 miles from shore • Ocean waters beyond 25 miles	_____	_____
3.47	**State** what size vessels are required to have a waste management plan and maintain a garbage log. **Explain** what information must be included in each.	_____	_____
3.48	**Define** the three types of Marine Sanitation Devices (MSDs) and **explain** which type(s) must be certified and display an approval number.	_____	_____
3.49	**Explain** what vessels are required to have an MSD.	_____	_____
3.50	**State** the acceptable methods for securing an MSD to prevent the discharge of treated or untreated sewage and when it is required.	_____	_____
3.51	**Define** the following terms as related to Rules of the Road: • Demarcation line • Inland waters • International waters	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
3.52	**State** the proper light configurations and day shapes for the following: • Vessel engaged in trawling making way • Vessel engaged in trawling not making way • Vessel engaged in fishing other than trawling	_____	_____
3.53	**State** what sound producing devices are required and their dimensions for the following: • Vessels less than 12 meters • Vessels 12 meters to less than 20 meters • Vessels 20 meters to less than 100 meters • Vessels 100 meters or more	_____	_____
3.54	**Explain** the application and renewal procedures for the Federal Communications Commission (FCC) ship radio station license, and when it is required.	_____	_____
3.55	**Explain** the difference between a motorboat and motor vessel.	_____	_____
3.56	**Define** backfire flame arresters and air induction systems; **state** their purpose and when required.	_____	_____
3.57	**Explain** what is meant by the term "open boat."	_____	_____
3.58	**State** the ventilation requirements for tanks and engine spaces.	_____	_____
3.59	**Explain** the requirements and procedures for obtaining a state certificate of number.	_____	_____
3.60	**State** the requirements and methods for displaying numbers on a state-registered vessel.	_____	_____
3.61	**Explain** the requirements and procedures for obtaining a Certificate of Documentation (COD), and its period of validity.	_____	_____
3.62	**State** how the official number must be affixed to a documented vessel.	_____	_____
3.63	**Explain** "endorsements" on a COD and the type(s) that may be applicable for a fishing vessel.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
4.0	**Identify Requirements for Documented Vessels Operating Beyond the Boundary Lines or With More Than 16 Individuals On Board, or For Fish Tender Vessels Engaged in the Aleutian Trade**		
	Fireman's Outfits and Self-Contained Breathing Apparatus (SCBA)		
4.1	**State** the carriage requirements and stowage for fireman's outfits and **list** the items required for an outfit.	_____	_____
4.2	**State** the carriage requirements for SCBAs.	_____	_____
4.3	**Demonstrate** the procedures for inspecting an SBCA.	_____	_____
	First Aid Equipment and Training		
4.4	**Explain** what constitutes a suitable first aid manual and medicine chest for a vessel.	_____	_____
4.5	**State** the requirements for individuals on board a vessel to be certified in first aid and CPR.	_____	_____
4.6	**State** the courses that are approved by the Coast Guard for certification of individuals in first aid and CPR.	_____	_____
	Guards for Exposed Hazards		
4.7	**State** the types of machinery, equipment, or systems that must have covers, guards, railing, or insulation installed to protect individuals from the hazard posed.	_____	_____
	Navigation Information and Compasses		
4.8	**State** the agencies that are approved publishers of marine charts.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
4.9	**Explain** the meaning of "currently corrected" for marine charts and how that is attained.	_____	_____
4.10	**State** the contents and primary use of the following: • U.S. Coast Pilot • Coast Guard Light List • Tide tables • Tidal Current Tables	_____	_____
4.11	**Explain** when extracts of the publications listed in task 4.10 may be substituted for the entire document.	_____	_____
4.12	**State** the carriage requirements for a copy of the Navigation Rules.	_____	_____
4.13	**State** the carriage requirements for a compass and a compass deviation table.	_____	_____
4.14	**Explain** the use of a compass deviation table and how one is developed.	_____	_____
	Anchors and Radar Deflectors		
4.15	**State** the carriage requirements for anchors and equipment.	_____	_____
4.16	**Demonstrate** the ability to determine the appropriate size anchor and equipment for a fishing vessel.	_____	_____
4.17	**State** the carriage requirement for a radar reflector, and **explain** to what vessels it is applicable and why.	_____	_____
	General Alarm System		
4.18	**State** which spaces must have an audible general alarm system and where the contact-maker must be installed.	_____	_____
4.19	**Explain** when a flashing red light must also be installed in a space with the general alarm system.	_____	_____
4.20	**State** the notice requirements where a general alarm system is installed.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
4.21	**State** the testing requirements for a general alarm system.	_____	_____
4.22	**Explain** the requirements if a public address system is used in lieu of a general alarm system.	_____	_____
	Communication Equipment		
4.23	**State** the communication equipment requirements for the following: • Documented vessels operating beyond the boundary line. • Documented vessels operating more than 20 miles from the coastline. • Documented vessels operating more than 100 miles from the coastline. • Documented vessels operating in waters contiguous to Alaska.	_____	_____
4.24	**Explain** when satellite communications capability is an acceptable alternative to required equipment.	_____	_____
4.25	**Explain** when a cellular telephone is an acceptable alternative to required equipment.	_____	_____
4.26	**State** the installation and location requirements for communication equipment.	_____	_____
4.27	**State** the requirements for an emergency source of power for communication equipment for vessels less than 79 feet in length, and greater than 79 feet in length.	_____	_____
	High Water Alarms and Dewatering Systems		
4.28	**State** the size vessels that are required to have high water alarms.	_____	_____
4.29	**State** the location where the high water alarm must be audible and visible.	_____	_____
4.30	**State** the spaces that must be fitted with a high water sensor that will activate the alarm.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
4.31	**State** the requirements for bilge pumps and bilge piping, and the specific requirement for vessels 79 feet or more in length.	_____	_____
4.32	**Explain** the requirements for the bilge pump if it is portable.	_____	_____
4.33	**State** the requirements for strainers and valves on bilge suction lines.	_____	_____
4.34	**State** the requirements for dewatering systems installed in fish sorting or processing spaces.	_____	_____
4.35	**Explain** the pollution prevention requirements in regards to bilge pump and dewatering systems.	_____	_____
	Electronic Position Fixing Devices		
4.36	**State** what size vessels are required to be equipped with an electronic position fixing device.	_____	_____
4.37	**Explain** the advantages and disadvantages of the various types of electronic position fixing devices that may be found on a fishing vessel.	_____	_____
	Emergency Instructions, Drills, and Safety Orientation		
4.38	**Explain** what must be identified in the following required emergency instructions and procedures: • Survival craft embarkation stations, assignments, and launching • Emergency signals and alarms • Immersion suit locations and donning instructions • Making a distress call • Essential action by individuals in an emergency • Rough weather and hazardous bar crossing • Anchoring the vessel • Man overboard • Fighting a fire • Mustering the crew • Prevention of flooding, response to flooding	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
4.39	**State** which emergency instructions listed in task 4.38 may be kept readily available as an alternative to posting, and **explain** the alternative on vessels with less than 4 individuals on board.	_____	_____
4.40	**Explain** the requirements for the following: • Drills and the contingencies they must address • Who must participate in drills • Frequency that drills must be conducted • Verifying drills per your District's policy	_____	_____
4.41	**Explain** the difference between a Fishing Vessel Drill Conductor and a Fishing Vessel Safety Instructor.	_____	_____
4.42	**State** the requirements for individuals on board to receive safety orientation and who is responsible for providing the orientation.	_____	_____
5.0	**Identify Requirements for New or Converted Vessels and That Operate With More Than 16 Individuals On Board**		
5.1	**Explain** what constitutes a new vessel.	_____	_____
5.2	**State** the requirements associated with launching a survival craft and its stowage location if the craft weighs over 110 pounds.	_____	_____
5.3	**Identify** the size vessels that must be equipped with a self-priming, power driven fire pump connected to a fixed piping system.	_____	_____
5.4	**State** the requirements for fire hydrants, fire hoses, and nozzles.	_____	_____
5.5	**State** the size vessels and spaces required to be fitted with a fixed gas fire extinguishing system.	_____	_____
5.6	**State** the requirements for smoke detectors or fire detecting equipment.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
5.7	**State** the requirements for grease extraction hoods.	_____	_____
5.8	**State** the requirements for fire axes.	_____	_____
5.9	**State** the requirements for venting of integral fuel tanks.	_____	_____
5.10	**State** the requirements for fuel lines.	_____	_____
5.11	**State** the requirements for ventilation of spaces containing gasoline.	_____	_____
5.12	**State** the general requirements for electrical systems.	_____	_____
5.13	**State** the requirements for having two electrical generators.	_____	_____
5.14	**State** the requirements for an emergency source of electrical power.	_____	_____
5.15	**Explain** the requirements for general structural fire protection, and specific requirements for vessels operating with more than 49 individuals on board.	_____	_____
5.16	**Explain** the requirements for a means of escape.	_____	_____
5.17	**State** the requirements for embarkation stations.	_____	_____
5.18	**State** the requirements for radar and depth sounding devices.	_____	_____
5.19	**State** the requirements for location of hydraulic equipment controls	_____	_____
5.20	**State** the applicability of stability requirements on commercial fishing industry vessels.	_____	_____
5.21	**Explain** the purpose and content of stability instructions for a fishing vessel.	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
5.22	**Explain** the purpose of and requirements for: • Submergence test • Inclining test • Deadweight survey	_____	_____
5.23	**State** the requirements for freeing ports.	_____	_____
6.0	**Identify Requirements for Fish Processing Vessels and Aleutian Trade Act Vessels**		
6.1	**Explain** the requirements for examination and certification of compliance (COC).	_____	_____
6.2	**State** the requirements for submitting a copy of the COC to the Coast Guard.	_____	_____
6.3	**State** the requirements for survey and classification of fish processing vessels.	_____	_____
6.4	**Explain** what is meant by an Aleutian Trade Act vessel.	_____	_____
7.0	**Identify Other Requirements That May Be Applicable to Certain Types or Size of Commercial Fishing Industry Vessels**		
7.1	**State** the requirements for fishing vessels to be issued a loadline.	_____	_____
7.2	**State** the requirement for carriage of a loadline certificate.	_____	_____
7.3	**State** which vessels must comply with Global Maritime Distress and Safety System (GMDSS) requirements.	_____	_____
7.4	**Explain** the difference between the Automatic Identification System (AIS) and the Vessel Monitoring System (VMS).	_____	_____

Commercial Fishing Vessel Safety Examiner Tasks

Task Number	*CFVE Task*	*Date Completed*	*Verifying Officer's Initials*
7.5	**State** the applicability and general equipment requirements for vessels which transfer oil.	_____	_____
7.6	**State** the requirements for oil transfer procedures and **describe** what information must be included in the procedures.	_____	_____
7.7	**State** the requirements for possessing a Certificate of Financial Responsibility (COFR) and **explain** its purpose.	_____	_____
7.8	**State** which vessels are required to have a Vessel Response Plan (VRP) and **explain** its purpose.	_____	_____
7.9	**State** which vessels are required to carry an International Oil Pollution Prevention (IOPP) Certificate and **explain** its purpose.	_____	_____
7.10	**State** which vessels are required to carry a Shipboard Oil Pollution Emergency Plan (SOPEP) and **explain** its purpose.	_____	_____
7.11	**State** the periods of validity of IOPPs and SOPEPs.	_____	_____
7.12	**Explain** the requirements for Commercial Fishing Vessels dispensing petroleum products.	_____	_____
7.13	**State** the inspection and letter of compliance (LOC) issuance requirements for Commercial Fishing Vessels dispensing petroleum products.	_____	_____
8.0	**Complete Dockside Safety Examinations**		
8.1	**Demonstrate** the ability to recruit a vessel for a dockside safety examination.	_____	_____
8.2	**Demonstrate** the ability to assist on dockside safety examination. (Record in examination log.)	_____	_____
8.3	**Demonstrate** the ability to perform a dockside safety examination. (Record in examination log.)	_____	_____

Commercial Fishing Vessel Safety Examiner

EXAMINATION LOG				
Date	**Type of Examination**	**Vessel Name, Length, and Document/State Number**	**MISLE Activity Number**	**Verifying Officer's Initials**

NOTES

NOTES

SAMPLE DESIGNATION LETTER

U.S. Department of Homeland Security

United States Coast Guard

Command's Name

Street Address
City, State Zip Code
Staff Symbol
Phone:
Email:

1601
DATE

MEMORANDUM

From: I. M. Frank, CAPT
Unit's Name

Reply to
Attn of:

To: ENS M. O. Ore, USCG

Subj: DESIGNATION AS COMMERCIAL FISHING VESSEL SAFETY EXAMINER

Ref: Commercial Fishing Vessel Safety Examiner Performance Qualification Standard Workbook

1. Congratulations! You have completed the requirements necessary to perform the duties of a Commercial Fishing Vessel Safety Examiner. This is a significant milestone in your professional development and I commend your accomplishments.

2. You are authorized to carry out the responsibilities of a Commercial Fishing Vessel Safety Examiner within the scope of your qualifications as follows:

Conducting examinations is limited to (identify types and/or size of vessels).

or

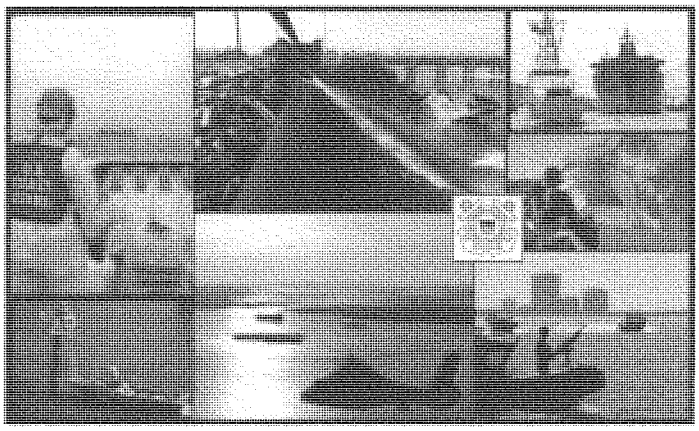
There are no restrictions on the types or size of vessels that can be examined.

3. This Letter of Designation should be retained as part of your personal Training Record and you will be assigned the Commercial Fishing Vessel Safety Examiner Code "CFVE".

#

U.S. Department of Homeland Security
United States Coast Guard

U. S. Coast Guard Sector



Container Inspector

Performance Qualification Standard

Sector Training Guide

Container Inspector
Performance Qualification Standard

Qualification Code: EC

This booklet is one section of your personal 'on the job training' (OJT) manual. It is your on-the-job guide to qualification as a Container Inspector. It is your responsibility to document completed unit training items.

Verifying Officers shall be experienced and qualified personnel who have demonstrated the ability to evaluate, instruct, and observe other personnel in the performance task criteria. Verifying Officers must be certified in the competencies for which they are to verify and must be command designated. Verifying Officers must enter their title, name, and initials in the Record of Verifying Officers section before making entries in your workbook.

A Verifying Officer shall observe your successful performance of each task and document such with date and initials in the appropriate space provided in this booklet. It may be necessary to perform a task several times. The Verifying Officer will not give credit for any task that is not performed satisfactory.

When you have completed all of the items required for this qualification, your command will issue a Letter of Designation and your Unit Training Coordinator will record and certify the your qualification in Training Management Tool (TMT).

Container Inspector

RECORD OF VERIFYING OFFICERS			
Date	**Title**	**Verifying Officer's Name**	**Initials**

RECORD OF MAJOR TASKS COMPLETED		
Task Number	**Major Tasks**	**Date Completed**
1.0	Coast Guard Authority and Jurisdiction	
2.0	Industry Standards	
3.0	Responsibilities for the Transportation of Packaged Hazardous Materials	
4.0	Regulatory Differences in Shipment of Packaged Hazardous Materials via Rail, Water, and Highway Mode	
5.0	Hazardous Materials and Dangerous Goods Classification	
6.0	Hazardous Material Table and Dangerous Goods List	
7.0	Documentation Requirements	
8.0	Marking Requirements	
9.0	Labeling Requirements	
10.0	Placarding Requirements	
11.0	Hazardous Materials Requirements	
12.0	Container Structural Standards	
13.0	Occupational Safety and Health	
14.0	Container Inspection Skills	
15.0	Law Enforcement Actions	
16.0	Marine Information for Safety and Law Enforcement (MISLE) Data Entry	

Container Inspector

RECORD OF COMPLETION		
Training Prerequisites	**Date**	**Verifying Officer's Signature**
A. Completion of resident training course:		
1. Waterfront Facilities Inspections Course ***or***		
Marine Science Technician (MST) "A" School		
B. Completion of PQS Workbook.		
C. Successful completion of unit level oral board.		
D. Designation Letter submitted for approval.		
E. Once Designation Letter is signed, enter certification in TMT		

Note: At a minimum, member must inspect at least four freight containers and two portable tanks.

All qualification requirements have been satisfactory completed by _____.

Container Inspector

References

The following references will aid you in completing the tasks in this PQS.

- Department of Defense Military Handbook 138A "Container Inspection Handbook for Commercial and Military Intermodal Containers"
- Executive Order 10173: Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States
- Federal Hazardous Materials Transportation Law (FHMTL) 49 U.S.C. 5101 et seq.
- Institute of International Container Lessors, Ltd. (IICL): "Repair Manual for Steel Containers"
- International Maritime Dangerous Goods (IMDG) Code 5.4
- International Maritime Organization (IMO) Convention for Safe Containers (CSC) Circular 134
- International Safe Container Act (ISCA) 46 U.S.C. 1503 et seq.
- International Standards Organization Handbook, "Freight Containers"
- Institute of International Container Lessors, Ltd. (IICL) Repair Guide
- Magnuson Act
- Memorandum of Understanding between U. S. Customs Service and U. S. Coast Guard
- Ports and Waterway Safety Act (PWSA) 33 U.S.C. 1221 et seq.
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- The Hazardous Material Transportation Authorization Act (HMTAA)
- The International Convention for the Prevention of Pollution from Ships (MARPOL) 73/78, Annex III Convention
- Title 33 Code of Federal Regulations, Part 126
- Title 33 Code of Federal Regulations, Part 160
- Title 49 Code of Federal Regulations, Subtitle B, Chapter I
- Title 49 Code of Federal Regulations, Subtitle B, Chapter IV
- Title 49 U. S. Code § 1901 – 1909
- U.S. Coast Guard Chemical Hazards Response Information System (CHRIS), COMDTINST M16465.12C (series)
- U. S. Coast Guard Guidance and Procedures for Conducting Containerized Hazardous Material Inspections COMDTINST 16616.11(series)
- U. S. Coast Guard Marine Safety Manual, Volume I, Chapter 10, COMDTINST M16000.6 (series)
- U. S. Coast Guard Marine Safety Manual, Volume VI, Ports and Waterways Activities, COMDTINST M16000.11 (series)

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
1.0	**Coast Guard Authority and Jurisdiction**		
1.1	**Define** the Coast Guard jurisdictional scope for conducting container inspections under the following statutes and conventions: • The Hazardous Materials Transportation Authorization Act (HMTAA) and its codified regulations • International Safe Container Act and its codified regulations • Ports and Waterway Safety Act as amended, and its codified waterfront facility regulations • MARPOL 73/78, Annex III Convention and its codified regulations • Executive order 10173 and its codified regulations (*Note*: Member must be able to describe the range and limits for the above authority.)	_____	_____
1.2	**Define** the container inspection and search jurisdictional limitations for conducting the following: • Consensual search of general cargo containers • Search based upon reasonable suspicion • Random inspection of general cargo containers	_____	_____
1.3	**Define** the consequences of an illegal search.	_____	_____
2.0	**Industry Standards**		
2.1	**Define** how the 'person who offers or offeror' uses the following industry standards: • International Standards Organization Handbook, "Freight Containers" • 49 CFR 171-180, 450-453 • Institute of International Container Lessors, Ltd. (IICL): "Repair Manual for Steel Containers" • IMO CSC circ. 134	_____	_____

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
3.0	**Responsibilities for the Transportation of Packaged Hazardous Materials**		
3.1	**Define** the following positions under the HMTAA and **define** their responsibilities: • Person • HAZMAT employer • HAZMAT employee • Terminal operator • Person who offers or offeror • Vessel carrier	_____	_____
3.2	**Define** the conditions under which International Maritime Dangerous Goods (IMDG) Code shipments may be offered or accepted for transportation within the U.S.	_____	_____
3.3	**Define** the exceptions that are authorized by 49 CFR 171.12.	_____	_____
4.0	**Regulatory Differences in Shipment of Packaged Hazardous Materials via Rail, Water, and Highway Modes**		
4.1	**Define** modal differences in: • Segregation • Placarding exception for commodities less than 454kg/1001 lbs	_____	_____
4.2	**Define** what Marine Pollutant information is required for the different modes of transportation.	_____	_____

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
5.0	**Hazardous Materials and Dangerous Goods Classification**		
5.1	**Demonstrate** proficiency in the following: • Identify definitions of each hazard class and division • Identify hazards associated with each hazard class and division. • Identify forbidden materials and packages • Define primary and subsidiary hazards	_____	_____
5.2	**Define** differences in hazard classifications described in 49 CFR and the IMDG Code.	_____	_____
6.0	**Hazardous Material Table and Dangerous Goods List**		
6.1	**Demonstrate** proficiency in the application and understanding of the following areas of 49 CFR: • Hazardous Material (HAZMAT) Table • Hazardous Substance Tables • Marine Pollutant List	_____	_____
6.2	**Demonstrate** proficiency in the application of the following areas of the IMDG List: • Dangerous Goods Lists • Index	_____	_____
7.0	**Documentation Requirements**		
7.1	**Define** the following shipping papers requirements utilizing 49 CFR 171-180: • Shipping paper general entries (*Note*: Member must be able to correctly describe the general information required to be on shipping papers. For example, continuation pages, legibility, and distinction of general goods from dangerous cargo) • Proper basic description of hazardous materials		

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
7.1 (Cont.)	• Additional description requirements (*Note*: Member must be able to correctly describe each additional description requirement found in 49 CFR 172.203.) • Information listed on a Shipper's Certification • The applicability and requirements of a Hazardous Waste Manifest • Emergency response information requirements • Information required on the Container Packing Certificate • Retention and accessibility of Shipping Papers	_____	_____
7.2	**Define** the following documentation requirements utilizing the IMDG Code: • Dangerous Goods Transport document general entries (*Note*: Member must be able to correctly describe the general information required to be on the Dangerous Goods Transport documents. For example, continuation pages, legibility, and distinction of general goods from dangerous cargo.) • Proper dangerous good description and sequence • Additional requirements on the documentation (*Note*: Member must be able to correctly describe all of the additional information found in IMDG 5.4.1.4.3 to 5.4.1.5.12.) • Information listed on a Shipper's Certification • Emergency response information requirements • Information required on the Container Packing Certificate	_____	_____
7.3	**Identify** documentation differences between 49 CFR and IMDG Code.	_____	_____

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
8.0	**Marking Requirements**		
8.1	**Define** the following marking requirements utilizing 49 CFR 172: • General marking requirements for non-bulk packaging • General marking requirements for bulk packaging • Prohibited marking • Authorized abbreviations	_____	_____
8.2	**Identify** the requirements for the following cargoes and conditions: • Radioactive materials • Liquid hazardous material in non-bulk combination packages • Poisonous hazardous material • Limited quantity and Other Regulated Materials-Consumer Commodity (ORM-D) • Explosive hazardous material • Marine pollutants • Hazardous substances in non-bulk packages • Elevated temperature materials • Portable tanks or cargo tanks • Identification number prohibited display, special provisions and replacement	_____	_____
8.3	**Define** the following marking requirements utilizing IMDG: • General markings of packages including IBC's • Radioactive materials • Marine Pollutants • Cargo Transport Units • Display of UN Numbers • Elevated Temperature materials • Limited Quantities and dangerous goods for personal or household use that are packaged and distributed in a form intended or suitable for sale through retail agencies. • Fumigated Units	_____	_____

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
8.4	**Identify** differences in marking requirements between 49 CFR 172 Subpart D and the IMDG Code.	_____	_____
9.0	**Labeling Requirements**		
9.1	**Define** the following labeling requirements utilizing 49 CFR 172: • General labeling requirements for transporting hazardous materials • Exceptions from labeling • Prohibited labeling • Additional labeling requirements • Radioactive materials • Mixed and consolidated packaging • Placement of labels • Exceptions for limited quantities or ORM-D	_____	_____
9.2	**Define** authorized label modifications authorized under 49 CFR 172.	_____	_____
9.3	**Define** the following labeling requirements utilizing IMDG: • General labeling provisions for packages including IBC's • Radioactive material • Orientation label • Provisions for labels • Exceptions for limited quantities	_____	_____
9.4	**Identify** differences in labeling requirements between 49 CFR 172 Subpart E and the IMDG Code.	_____	_____
10.0	**Placarding Requirements**		
10.1	**Define** the following placarding requirements utilizing 49 CFR Subpart F: • Applicability and exceptions • Prohibited placarding • Display of identification number on placards		

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
10.1 (Cont.)	• General requirements (*Note:* Member must demonstrate an understanding of tables, any additional exceptions, and placard modifications listed under 49 CFR 172.504.) • Subsidiary hazards • Bulk packaging • General specifications for placards	_____	_____
10.2	**Define** the following placarding requirements utilizing IMDG: • General Provisions • Radioactive materials	_____	_____
10.3	**Define** numbers/locations and visibility requirements of placarding utilizing both IMDG and 49 CFR.	_____	_____
10.4	**Identify** differences in placarding requirements between 49 CFR 172 Subpart F and the IMDG Code.	_____	_____
11.0	**Hazardous Materials Requirements**		
11.1	**Define** the following general packaging requirements: • General exceptions (*Note*: Member must be able to identify the requirements listed in 49 CFR 173.3 and IMDG 4.1) • Exceptions for small quantities for 49 CFR • Exceptions for limited quantities for 49 CFR and IMDG • Consumer Commodity and personal exceptions for 49 CFR and IMDG	_____	_____
11.2	**Define** how DOT Special Permits are obtained and procedures for checking compliance.	_____	_____
11.3	**Define** competent authority and **verify** the designated national competent authorities.	_____	_____

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
11.4	**Define** the following utilizing both 49 CFR and IMDG: • Requirements for non-bulk packaging • Requirements for bulk packaging • Requirements for authorized packages and overpacks • Packaging group assignments, and exceptions for hazardous materials • Correct packaging for non-bulk hazardous materials other than Class 7 • Correct packaging for bulk hazardous materials other than Class 7 • Requirements for preparation and packaging for Class 7 materials	_____	_____
11.5	**Identify** differences in packaging requirements between 49 CFR and the IMDG Code.	_____	_____
11.6	**Identify** the process for contacting PHMSA to report suspected frequent package failures.	_____	_____
12.0	**Container Structural Standards**		
12.1	**Identify** container components and main structural members.	_____	_____
12.2	**Identify** structural standards for freight containers. *(Note*: Member must be able to identify damage criteria for placing a container out of service using IMO CSC Circ. 134.)	_____	_____
12.3	**Identify** structural serviceability requirements for containers containing Class 1 (explosive) materials.	_____	_____
12.4	**Define** the following container markings: • Container ID number • Gross weight • Tare weight • Racking test load • Stacking Test	_____	_____

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
12.5	**Identify** the required information found on a CSC plate.	_____	_____
12.6	**Define** the differences between the Approved Continuous Examination Program (ACEP) and periodic examination programs.	_____	_____
13.0	**Occupational Safety and Health**		
13.1	**Define** the health hazards associated with container inspections.	_____	_____
13.2	**Demonstrate** proper utilization of hazardous material information, including the following sources: • Manufacturer's Material Safety Data Sheet • CHRIS Manual • DOT Emergency Response Guidebook • NIOSH guide	_____	_____
13.3	**Define** the following hazards and first-aid treatment: • Oxygen deprivation • Toxic exposure through inhalation, ingestion, or dermal routes	_____	_____
13.4	**Identify** the appropriate personal protection equipment (PPE).	_____	_____
13.5	**Demonstrate** proper use of atmospheric measuring devices and other meters used at the unit.	_____	_____
14.0	**Container Inspection Skills**		
14.1	**Identify** local Customs and Border Protection (CBP) representative and define relationship between the CG and CBP regarding container inspections at the local level.	_____	_____

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
14.2	**Define** CBP's Automated Commercial System (ACS) program and how the Coast Guard utilizes it.	_____	_____
14.3	**Identify** containers for inspection using targeting criteria from COMDINST 16616.11 (series).	_____	_____
14.4	**Evaluate** hazards and apply safe work practices based on identification of hazardous materials/dangerous goods. (*Note:* Member must determine the hazards associated with the hazardous material(s) and determine the appropriate SWP's to be used prior to conducting the inspection.)	_____	_____
14.5	**Perform** the following for an inspection of an intermodal freight container: • **Obtain** shipping papers and determine compliance with regulations. • **Inspect** an intermodal freight container for structural integrity. • **Determine** if freight container meets the structural serviceability requirements transporting Class 1 Materials. • **Check** CSC Plate for compliance (i.e. weights, and ACEP) • **Demonstrate** the proper safety procedures that must be followed when opening an intermodal freight container for inspection. • **Verify** packaged hazardous materials have been properly loaded and dunnaged. (*Note*: Member must be able to identify critical errors in loading that may cause damage to packaging during transit IAW 49 CFR 176.69, 49 CFR 176.76 and IMDG Code 7.5.2.) • **Verify** hazard communication requirements are met for shipments of bulk and non-bulk hazardous materials/dangerous goods. • **Verify** the labeling and placarding requirements (i.e. durability, visibility, numbering) utilizing both 49 CFR and IMDG. • **Determine** if proper packaging types are used and examine packages for damage.		

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
14.5 (Cont.)	• **Verify** shipping documents describe contents of the intermodal freight container. • **Verify** stowage and segregation requirements within an intermodal freight container shipped by vessel. • **Verify** a container has been properly resealed upon completion of an inspection.	_____	_____
14.6	**Define** tailgate and devanning inspection searches. (*Note:* Member must be able to distinguish between the searches and identify actions to be taken.)	_____	_____
14.7	**Perform** the following for an inspection of an intermodal tank container: • **Verify** shipping papers. • **Check** tank markings and placarding for compliance. • **Inspect** the container frame for damage. • **Inspect** tank shell and cladding for damage and deterioration. • **Check** manhole covers and inspection ports. • **Inspect** valves and closures for operation. • **Inspect** data plate and determine if tank type is adequate for material. • **Check** test dates for compliance. • **Compare** data plate with special provisions and packaging codes for compliance. • **Check** CSC Plate for compliance (i.e. weights and ACEP)	_____	_____

15.0 Law Enforcement Actions

15.1	**Define** enforcement applicability and legal limitations of the following federal laws relating to hazardous material containers: • 49 U.S.C. 5101 (FHMTL) and implementing regulations, 49 CFR 171-173, and 176 • 46 USC 1503 (ISCA) and implementing regulations 49 CFR 450-453		

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
15.1 (Cont.)	• 33 U.S.C. 1221 (PWSA) and implementing regulations, 33 CFR 126 and 160 • Executive Order 10173 and implementing regulations, 33 CFR 6	_____	_____
15.2	**Define** the difference between a discrepancy and a violation.	_____	_____
15.3	**Identify** the following law enforcement options available and **define** their appropriate use to resolve HMTAA deficiencies: • Corrective actions • USCG operational controls • Civil Penalty Actions • Criminal violations • Applicability of COTP Letter of Warning	_____	_____
15.4	**Determine** law enforcement options available for IMDG Code discrepancies for situations where: • Identical/similar federal regulations exist • No comparable federal regulations exist	_____	_____
15.5	**Identify** appropriate actions for the re-inspection of a container. (*Note:* Member must identify when a container requires a re-inspection under the continuous examination program or ACEP program.)	_____	_____
15.6	**Demonstrate** the following operational controls: • **Place** a shipment on hold. • **Detain** a container. • **Issue** a COTP Order.	_____	_____
15.7	**Demonstrate** procedures necessary to formally notify shipper/carrier of a discrepancy and implement corrective actions/operational controls.	_____	_____

Container Inspector Tasks

Task Number	*EC Task*	*Date Completed*	*Verifying Officer's Initials*
15.8	**Determine** the elements that must be proven to constitute a civil penalty violation for each of the following: • 49 U.S.C. 5101 (FHMTL) and implementing regulations, 49 CFR 171-173, and 176 • 46 USC 1503 (ISCA) and implementing • 33 U.S.C. 1221 (PWSA) and implementing regulations, 33 CFR 126 and 160	_____	_____
15.9	**Define** the following terms and **provide** examples of criminal Violations of 49 U.S.C. 5101 (FHMTL) et seq. (*Note:* Member must be able to use the SAFETEA-LU to determine the definitions of the terms, identify associated penalties and provide an example for each term under the FHMTL) • Willful violation • Reckless violation	_____	_____
16.0	**Marine Information for Safety and Law Enforcement (MISLE) Data Entry**		
16.1	**Demonstrate** the ability to enter container inspection data into MISLE.	_____	_____
16.2	**Demonstrate** the ability to prepare a violation report in MISLE.	_____	_____

Container Inspector

RECORD OF CONTAINER INSPECTIONS			
Date	**Container Number**	**Facility's Name**	**MISLE Activity Number**

NOTES

NOTES

SAMPLE LETTER OF DESIGNATION

U.S. Department of Homeland Security

United States Coast Guard

Command's Name

Street Address
City, State Zip Code
Staff Symbol:
Phone:
Email:

1601
DATE

MEMORANDUM

From: I. M. Frank, CAPT
Unit's Name

Reply to
Attn of:

To: ENS M. O. Ore, USCG

Subj: DESIGNATION AS CONTAINER INSPECTOR

Ref: Container Inspector Performance Qualification Standard Workbook

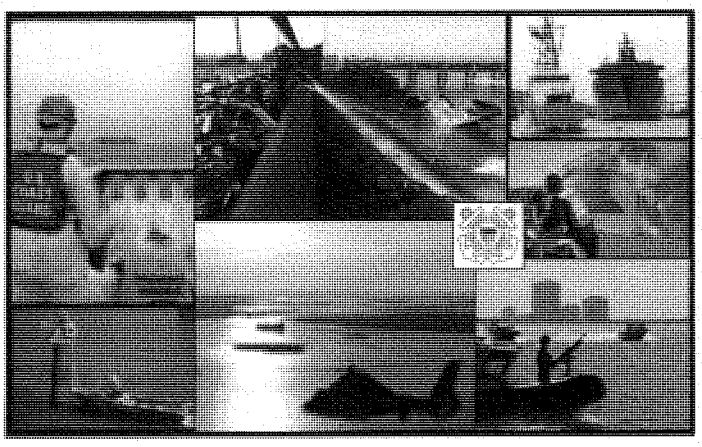
1. Congratulations! You have completed all requirements necessary to perform the duties of a Container Inspector. You are authorized to carry out the responsibilities of a Container Inspector within the scope of your qualifications. This is a significant milestone in your professional development and I commend your accomplishments.

2. This Letter of Designation should be retained as part of your personal Training Record and you will be assigned the Container Inspector's Qualification Code "EC".

#

U.S. Department of Homeland Security
United States Coast Guard

U. S. Coast Guard Sector



Federal On Scene Coordinator Representative

Performance Qualification Standard

Sector Training Guide

Federal On Scene Coordinator Representative (FOSCR) PQS

Qualification Code: ET

This booklet is one section of your personal 'on the job training' (OJT) manual. It is your on-the-job guide to qualification as a Federal On Scene Coordinator Representative. It is your responsibility to document completed unit training items.

Verifying Officers shall be experienced and qualified personnel who have demonstrated the ability to evaluate, instruct, and observe other personnel in the performance task criteria. Verifying Officers must be certified in the competencies for which they are to verify and must be command designated. Verifying Officers must enter their title, name, and initials in the Record of Verifying Officers section before making entries in your workbook.

A Verifying Officer shall observe your successful performance of each task and document such with date and initials in the appropriate space provided in this booklet. It may be necessary to perform a task several times. The Verifying Officer will not give credit for any task that is not performed satisfactory.

Certain tasks may require participation in an actual incident response, but the unit's response activity may preclude you from accomplishing these tasks. Therefore, with the approval of the Command and Verifying Officer, you may utilize exercises and/or training as a means of accomplishing the requisite participation in order to fulfill the task requirements.

When you have completed all of the items required for this qualification, your command will issue a Letter of Designation and your Unit Training Coordinator will record and certify the your qualification in Training Management Tool (TMT).

Federal On Scene Coordinator Representative

RECORD OF VERIFYING OFFICERS		
Title	**Verifying Officer's Name**	**Initials**

RECORD OF MAJOR TASKS COMPLETED		
Task Number	**Major Tasks**	**Date Completed**
1.0	Identify Coast Guard Jurisdiction/Authority	
2.0	Conduct Preliminary Assessment and Actions	
3.0	Coordinate Response Resources and Funding	
4.0	Identify Oil Spill Control	
5.0	Coordinate Oil Removal	
6.0	Identify Safety and Occupational Health	

RECORD OF COMPLETION		
Training Prerequisites	**Date**	**Verifying Officer's Signature**
A. Completion of resident training course:		
1. Pollution Incident Response Course ***or*** Marine Science Technician (MST) "A" School		
B. Completion of Pollution Investigator (ED) qualification (*legacy or revised*).		
C. Completion of 24-hour HAZWOPER training.		
D. Completion of PQS Workbook.		
E. Successful completion of unit level oral board.		
F. Designation Letter submitted for approval.		
G. Once Designation Letter is signed, enter certification in TMT.		

All qualification requirements have been satisfactory completed by _____.

Revision Date: 3 August 2007

Federal On Scene Coordinator Representative

References

The following references will aid you in completing the majority of tasking in this PQS.

- "Response to Marine Oil Spills," International Tanker Owners Pollution Federation
- "The World Catalog of Oil Spill Response Products"
- "Training Reference for Oil Spill Response," DOT/EPA/DOI.
- American Conference of Governmental Industrial Hygienists (ACGIH), Threshold Limit Values for Chemical Substances, 7th Edition
- American Conference on Governmental Industrial Hygienists (ACGIH) Threshold Limit Values and Biological Exposure Indices
- Department of Transportation (DOT) "Emergency Response Guidebook"
- National Institute for Occupational Safety and Health (NIOSH) Pocket Guide to Chemical Hazards
- National Oceanic and Atmospheric Administration (NOAA):
    - "Shoreline Countermeasures Manual"
    - "Shoreline Assessment Manual"
    - "Mechanical Protection Guidelines"
- National Response Plan: http://www.dhs.gov/xprepresp/committees/editorial_0566.shtm
    - ESF 3, Public Works and Engineering Annex
    - ESF 10, Oil and Hazardous Material Response Annex
- Oil Spill Liability Trust Fund (STLF) Disbursements, Internal Controls and Audits
- Spill Tactics for Alaska Responders (www.dec.state.ak.us/spar/perp/star/index.htm)
- The International Convention for Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78)
- Title 14 Code of Federal Regulations, Parts 91 (Federal Aviation Administration)
- Title 29 Code of Federal Regulations, Parts 1910.120
- Title 33 Code of Federal Regulations, Parts 2, 6, 88, 130, 135, 153, 154, 155, 156, and 160
- Title 49 Code of Federal Regulations, Parts 172.101 App., 173, 172.6, and 172.7
- Title 33 U. S. Code § 407, Refuse Act
- Title 33 U. S. Code § 1251-1387, Federal Water Pollution Control Act (FWPCA), as amended
- Title 33 U. S. Code § 2701-2761, Oil Pollution Act of 1990
- Title 40 Code of Federal Regulations, Parts 260-265, 279, 300, 300 App., 302, 310, and 355
- Title 42 U. S. Code § 1801-1812, Resource Conservation and Recovery Act (RCRA) of 1976
- Title 42 U.S. Code § 9601-9675, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended
- U. S. Coast Guard Alignment with the National Incident Management System and National Response Plan, COMDTINST 16000.27 (series)
- U. S. Coast Guard Chemical Hazards Response Information System (CHRIS), COMDTINST M16465.12C (series)

Federal On Scene Coordinator Representative

- U. S. Coast Guard Federal On Scene Coordinator (FOSC) Finance and Resource Management Guide (FFARM)
- U. S. Coast Guard Financial Resource Management Manual, COMDTINST M7100.3C (series)
- U. S. Coast Guard Incident Management Handbook, COMDTPUB P3120.17A (series)
- U. S. Coast Guard Marine Safety Manuals, COMDTINST M16000 (series)
- U. S. Coast Guard National Pollution Funds Center's Website: http://www.uscg.mil/NPFC/RESPONSE/
- Unit's Area Contingency Plan (ACP)

Federal On Scene Coordinator Representative Tasks

Task Number	*ET Task*	*Date Completed*	*Verifying Officer's Initials*
1.0	**Identify Coast Guard Jurisdiction/Authority**		
1.1	**Identify** the purpose and the four (4) general priorities of the National Contingency Plan (NCP).	_____	_____
1.2	**Describe** the authority a qualified FOSCR has under the NCP.	_____	_____
1.3	**Identify** the On-Scene Coordinators primary responsibilities.	_____	_____
1.4	**Identify** the notification requirements outlined in the NCP.	_____	_____
1.5	**Identify** the four phases of an oil spill incident.	_____	_____
1.6	**Identify** the phases of a hazardous substance incident.	_____	_____
1.7	**Define** the jurisdiction that the following agencies have: • U.S. Coast Guard • U.S. Environmental Protection Agency • U.S. Department of Defense • U.S. Department of Energy	_____	_____
1.8	**Identify** the source of FOSC authority.	_____	_____
1.9	**Identify** the source of COTP authority.	_____	_____
1.10	**Explain** FOSC and COTP authority to prevent access of personnel to vessels or waterfront facilities.	_____	_____
1.11	**Explain** FOSC and COTP authority to control vessel and facility operations.	_____	_____
1.12	**Explain** FOSC and COTP authority to control vessel movement.	_____	_____
1.13	**Explain** FOSC and COTP authority to enlist aid from other local and government agencies.	_____	_____

Federal On Scene Coordinator Representative Tasks

Task Number	*ET Task*	*Date Completed*	*Verifying Officer's Initials*
1.14	**Explain** how a Safety Zone may be used to manage a pollution incident.	_____	_____
1.15	**Describe** procedures for obtaining a Flight Restriction Zone.	_____	_____
1.16	**Draft** a COTP Order.	_____	_____
1.17	**Draft** an Administrative Order as outlined in the Oil Pollution Act (OPA) of 1990.	_____	_____
2.0	**Conduct Preliminary Assessment and Actions**		
2.1	**Plot** an oil spill trajectory based on a recent pollution response.	_____	_____
2.3	**Create** an air plume model for a Hazardous Substance in your AOR using current technology.	_____	_____
2.4	**Identify** the agency or agencies that may assist in determining the fate of an oil spill/hazardous substance release in your AOR. • NOAA	_____	_____
2.5	**Demonstrate** the ability to obtain the following: • Federal Project Number. • CERCLA Number.	_____	_____
2.6	**Draft** appropriate message on CGMS for the following: • Pollution or hazardous substance incident • Request to open Oil Spill Liability Trust Fund (OSTLF) Federal Project Number • Request ceiling increase	_____	_____
3.0	**Coordinate Response Resources and Planning**		
3.1	**Describe** each of the following special teams available to assist the FOSC (include the type of services they provide, the equipment and/or personnel they may		

Federal On Scene Coordinator Representative Tasks

Task Number	*ET Task*	*Date Completed*	*Verifying Officer's Initials*
3.1 (Cont.)	bring to a response, and how they are accessed when needed): • National Strike Force (NSF) 1. National Strike Force Coordination Center a. Strike Teams 2. Public Information Assist Team (PIAT) • Scientific Support Coordinator (SSC) • Environmental Response Team (ERT) • Navy Supervisor of Salvage (SUPSALV) • National Response Center (NRC)	_____	_____
3.2	**Describe** the roles and responsibilities of the following agencies during an oil spill/hazardous substance release: • Department of Health and Human Services (HHS) • Agency for Toxic Substances and Disease Registry (ATSDR) • NOAA Sanctuary Manager • Mineral Management Service (MMS) • Army Corps of Engineers (USACE) • Environmental Protection Agency (EPA) • State on Scene Coordinator (SOSC)	_____	_____
3.3	**Assign** ICS positions to the players involved in an oil and hazardous substance response. • **Assign** Command (Unified-state, federal, and RP) • **Assign** Planning, Operations, Logistics and Finance/Administration	_____	_____
3.4	**Define** trustees and **identify** trustees that require notification in your AOR.	_____	_____
3.5	**List** the federal and state agencies involved with pollution response in your AOR.	_____	_____
3.6	**Identify** the responsibilities and authorities of the Regional Response Team (RRT).	_____	_____

Federal On Scene Coordinator Representative Tasks

Task Number	*ET Task*	*Date Completed*	*Verifying Officer's Initials*
3.7	**Describe** the FOSC's public information responsibilities during a pollution response and **summarize** the Commandant's Public Affairs Policy.	_____	_____
3.8	**Describe** the requirements and contents of a Facility Response Plan.	_____	_____
3.9	**Describe** the requirements and contents of a Vessel Response Plan (VRP). • Minimum portions of the VRP required to be readily available on each type of vessel in both coastal and inland trade. • Maximum Most Probable Discharge (MMPD) • Worst Case Discharge (WCD)	_____	_____
3.10	**Describe** the requirements and contents of a Shipboard Oil Pollution Emergency Plan (SOPEP): • Steps to control a discharge • National and local coordination • Appendices • Non-mandatory provisions	_____	_____
3.11	**Describe** the authority and role of a Qualified Individual.	_____	_____
4.0	**Coordinate Response Funding**		
4.1	**Describe** the purpose of the Oil Spill Liability Trust Fund (OSTLF) and the criteria for using the fund.	_____	_____
4.2	**Describe** how the state may access the OSLTF.	_____	_____
4.3	**Issue** a Notice of Federal Assumption.	_____	_____
4.4	**Describe** the claim procedures and time limits.	_____	_____
4.5	**Describe** Order of Presentment for a claim.	_____	_____
4.6	**Describe** the types of damage claims: • Removal costs • Natural resources • Real/personal property		

Federal On Scene Coordinator Representative Tasks

Task Number	*ET Task*	*Date Completed*	*Verifying Officer's Initials*
4.6 (Cont.)	• Subsistence use • Government revenue • Profits and earning capacity • Government public services	_____	_____
4.7	**Describe** the process for making insurance claims.	_____	_____
4.8	**Describe** the purpose of designation of source.	_____	_____
4.9	**Describe** the requirements concerning designation of source and advertisement and **identify** the agency/individual responsible for making such a designation.	_____	_____
4.10	**Describe** the types and contents of advertisements.	_____	_____
4.11	**Assess** the eligibility of the state(s) in your AOR for OSTLF funds and CERLA funds.	_____	_____
4.12	**Describe** the state's responsibilities for the following: • Removal Actions • Record keeping • Record retention • Investigation to determine the source and responsible party	_____	_____
4.13	**Describe** the purpose of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Fund and the criteria for using the fund.	_____	_____
4.14	**Identify** the differences between obtaining an OSLTF number and a CERCLA number.	_____	_____
4.15	**Describe** the CERCLA funding limitations, procedures, and requirements involved in the following: • Discovery and Notification • Removal site evaluation • Removal action • Remedial site evaluation • Establishing remedial priorities		

Federal On Scene Coordinator Representative Tasks

Task Number	*ET Task*	*Date Completed*	*Verifying Officer's Initials*
4.15 (Cont.)	• Remedial investigation feasibility studies and the selection of remedy • Off-site response actions • State involvement	_____	_____
4.16	**Identify** U. S. Coast Guard jurisdiction and US Environmental Protection Agency jurisdiction in task 4.15.	_____	_____
4.17	**Communicate** with the RP about cost documentation information.	_____	_____
4.18	**Demonstrate** effective communication skills with the contractor about tracking costs (ceiling amount). • Obtain daily written updates on expended costs. • Give the contractor requirements for time/material costs.	_____	_____
4.19	**Complete** the following paperwork and reports: • Final Financial Summary for spills with no Responsible Party (RP) and less than $25,000 • Final Financial Summary for Spills with an RP • Field ATP (LANTAREA) ***or*** • Procurement Request and Delivery Order (PACAREA) • Pollution Incident Daily Resource Report (CG-5136)	_____	_____
4.20	**Explain** the contents and use: • Basic Ordering Agreements (BOA) • Pollution Removal Funding Authorization (PRFA) • Military Interdepartmental Procurement Request (MIPR)	_____	_____
4.21	**Issue** and **submit** a Pollution Removal Funding Authorization (PRFA).	_____	_____
4.22	**Explain** the procedures and limitations for hiring a BOA contractor.	_____	_____

Federal On Scene Coordinator Representative Tasks

Task Number	*ET Task*	*Date Completed*	*Verifying Officer's Initials*
4.23	**Explain** the procedures and limitation for hiring a non-BOA contractor.	_____	_____
4.24	**Describe** the limitations on subcontracting.	_____	_____
5.0	**Coordinate Oil Removal**		
5.1	**Participate** in a Shoreline Cleanup Assessment Team (SCAT) survey.	_____	_____
5.2	**Direct** Phase III removal actions.	_____	_____
5.3	**Describe** the advantages and disadvantages of pressure washing shoreline oil contamination using high and low pressures and high and low temperatures.	_____	_____
5.4	**Explain** the conditions and criteria necessary for implementing the following removal methods: • In-situ burning • Bioremediation • Dispersion	_____	_____
5.5	**Explain** when the following removal methods should be used: • In-situ burning • Bioremediation • Dispersion	_____	_____
5.6	**Contact** the appropriate agencies when the following the removal methods are used: • In-situ burning • Bioremediation • Dispersion	_____	_____
5.7	**Identify** involvement of RRT in removal methods.	_____	_____
5.8	**Describe** the purpose of the District Response Group.	_____	_____
5.9	**Define** DRAT.	_____	_____
5.10	**Define** OSRO.	_____	_____

Federal On Scene Coordinator Representative Tasks

Task Number	*ET Task*	*Date Completed*	*Verifying Officer's Initials*
5.11	**Describe** the different types of temporary storage.	_____	_____
5.12	**Explain** on-site decanting procedures and regulations.	_____	_____
6.0	**Identify Safety and Occupational Health**		
6.1	**Define** emergency response and **state** when a spill does not have to meet the requirements of 29 CFR 1910.	_____	_____
6.2	**Explain** the contents of a Site Safety Plan.	_____	_____
6.3	**Explain** the applicability of a Site Safety Plan during a spill.	_____	_____
6.4	**Draft** a Site Safety Plan.	_____	_____
6.5	**Explain** the OSC's responsibility for the safety of personnel at a spill site.	_____	_____
6.6	**Identify** the training requirements for personnel responding to an oil spill (on site & off site).	_____	_____
6.7	**Identify** the training requirements for personnel responding to an unknown hazardous substance release.	_____	_____
6.8	**Identify** the potential roles of volunteers in an oil response.	_____	_____
6.9	**Identify** the training requirements for volunteers at an oil response.	_____	_____
6.10	**Describe** the purpose and content of a Disposal Plan.	_____	_____
6.11	**Describe** the purpose and content of a Decontamination Plan.	_____	_____
6.12	**Explain** and **review** the safety information that is located in the revised Pollution Investigator PQS.	_____	_____

Federal On Scene Coordinator Representative

INCIDENT LOG					
Date	**Incident Description**	**Position Filled**	**MISLE Case Number**	**FPN/ CERCLA Number**	**Verifying Officer's Initials**

NOTES

NOTES

SAMPLE LETTER OF DESIGNATION

U.S. Department of Homeland Security

United States Coast Guard

Command's Name

Street Address
City, State Zip Code
Staff Symbol:
Phone:
Email:

1601
DATE

MEMORANDUM

From: I. M. Frank, CAPT
Unit's Name

Reply to
Attn of:

To: ENS M. O. Ore, USCG

Subj: DESIGNATION AS FEDERAL ON SCENE COORDINATOR REPRESENTATIVE

Ref: Federal On Scene Coordinator Representative Performance Qualification Standard Workbook

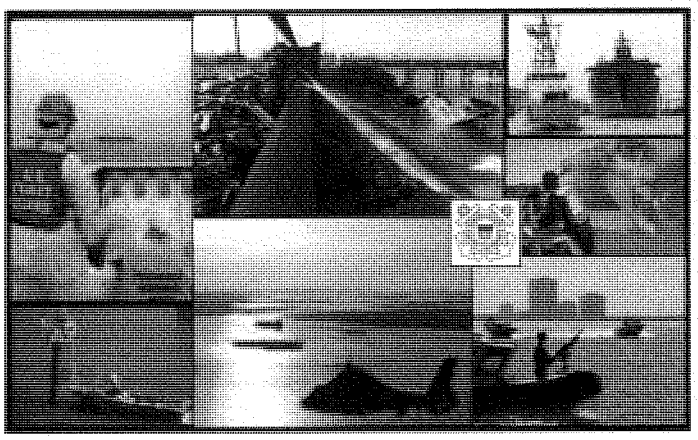
1. Congratulations! You have completed all requirements necessary to perform the duties of a Federal On Scene Coordinator Representative. You are authorized to carry out the responsibilities of a Federal On Scene Coordinator Representative within the scope of your qualifications. This is a significant milestone in your professional development and I commend your accomplishments.

2. This Letter of Designation should be retained as part of your personal Training Record and you will be assigned the Federal On Scene Coordinator Representative's Qualification Code "ET".

#

U.S. Department of Homeland Security
United States Coast Guard

U. S. Coast Guard Sector



Maritime Enforcement Investigator

Performance Qualification Standard

Sector Training Guide

Maritime Enforcement Investigator
Performance Qualification Standard

Qualification Code: EO

This booklet is one section of your personal 'on the job training' (OJT) manual. It is your OJT guide to qualification as a Maritime Enforcement Investigator. It is your responsibility to document completed unit training items.

Verifying Officers shall be experienced and qualified personnel who have demonstrated the ability to evaluate, instruct, and observe other personnel in the performance task criteria. Verifying Officers must be certified in the competencies for which they are to verify and must be command designated. Verifying Officers must enter their title, name, and initials in the Record of Verifying Officers section before making entries in your workbook.

A Verifying Officer shall observe your successful performance of each task and document such with date and initials in the appropriate space provided in this booklet. It may be necessary to perform a task several times. The Verifying Officer will not give credit for any task that is not performed satisfactory.

When you have completed all of the items required for this qualification, your command will issue a Letter of Designation and your Unit Training Coordinator will record and certify the your qualification in Training Management Tool (TMT).

Maritime Enforcement Investigator

RECORD OF VERIFYING OFFICERS		
Title	**Verifying Officer's Name**	**Initials**

RECORD OF MAJOR TASKS COMPLETED		
Task Number	**Major Tasks**	**Date Completed**
1.0	Demonstrate Knowledge of Coast Guard Enforcement Authorities	
2.0	Prepare for Maritime Enforcement Investigation	
3.0	Conduct Maritime Enforcement Investigation	
4.0	Determine Possible Enforcement Actions	

RECORD OF COMPLETION		
Training Prerequisites	**Date**	**Training Coordinator's Signature**
A. Completion of any of the following resident training courses:		
1. Investigating Officer Course ***or***		
2. Port State Control Officer Course ***or***		
3. Container Inspections Course ***or***		
4. Marine Inspector Course ***or***		
5. Waterfront Facilities Inspections Course ***or***		
6. Waterways Management Course		
B. Completion of PQS Workbook.		
C. Successful completion of unit level oral board.		
D. Designation Letter submitted for approval.		
E. Once Designation Letter is signed, enter certification in TMT.		

All qualification requirements have been satisfactory completed by _____.

Revision Date: 3 August 2007

Maritime Enforcement Investigator

References

The following references will aid you in completing the tasks in this PQS.

- Act to Prevent Pollution from Ships (33 USC 1901, et seq)
- Carriage of Liquid Bulk Dangerous Cargoes (46 USCA Chapter 37)
- Clean Water Act (33 USC 1321, et seq)
- Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9601, et seq)
- Deepwater Ports Act (33 USC 1501-1524)
- Federal Hazardous Materials Transportation Law (49 USC 5101-5127)
- Inland Navigation Rules Act (33 USC 2071)
- Load Line Act (46 USCA Chapter 51)
- Magnuson Act (50 USC 191, et seq)
- Marine Plastic Pollution Research and Control Act (33 USC 1901, et seq)
- Marine Protection, Research, and Sanctuaries Act (33 USC 1401, et seq)
- Maritime Transportation Security Act (46 USC 75557, et seq)
- National Invasive Species Act of 1996 (16 USC 4711)
- Outer Continental Shelf Lands Act (43 USC 1801)
- Ports and Waterways Safety Act (33 USC 1221, et seq)
- Title 33 Code of Federal Regulations (various) Navigation and Navigable Waters
- Title 46 Code of Federal Regulations (various) Shipping
- U. S. Coast Guard Civil Penalty Hearing Officer Procedures, COMDTINST M16200.5 (series)
- U. S. Coast Guard Civil Penalty Procedures and Administration, COMDTINST 16200.3 (series)
- U. S. Coast Guard Freedom of Information (FOIA) and Privacy Acts Manual, COMDTINST M5260.3 (series)
- U. S. Coast Guard Marine Information for Safety and Law Enforcement (MISLE) Process and User's Guides
- U. S. Coast Guard Marine Safety Manual, Volume I, Administration and Management, COMDTINST M16000.6 (series)
- U. S. Coast Guard Marine Safety Manual, Volume II, Material Inspection, COMDTINST M16000.6 (series)
- U. S. Coast Guard Marine Safety Manual, Volume III, Marine Industry Personnel, COMDTINST M16000.8 (series)
- U. S. Coast Guard Marine Safety Manual, Volume V, Investigations, COMDTINST M16000.10 (series)
- U. S. Coast Guard Notice of Violation (NOV) User's Guide, COMDTINST M5582.1 (series)
- U. S. Coast Guard Program Managers' Policy Letters (various)
- Vessel Bridge-to-Bridge Radiotelephone Act (33 USC 1201)

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
1.0	**Demonstrate Knowledge of Coast Guard Enforcement Authorities**		
1.1	**Demonstrate** a basic knowledge of Port Security Laws by discussing the regulations (CFR cites) which implement the following: • Magnuson Act (50 U.S.C. 191, et seq) • Maritime Transportation Security Act (46 U.S.C. 75557, et seq)	_____	_____
1.2	**Demonstrate** a basic knowledge of Port Safety Laws by discussing the regulations (CFR cites) which implement the following: • Ports and Waterways Safety Act (33 U.S.C. 1221, et seq) • Federal Hazardous Materials Transportation Law (49 U.S.C. 5101-5127)	_____	_____
1.3	**Demonstrate** a basic knowledge of Pollution Prevention Laws by discussing the regulations (CFR cites) which implement the following: • Act to Prevent Pollution from Ships (33 U.S.C. 1901, et seq) • Clean Water Act (33 U.S.C. 1321, et seq) • Deepwater Ports Act (33 U.S.C. 1501-1524) • Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601, et seq) • Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1401, et seq) • Marine Plastic Pollution Research and Control Act (33 U.S.C. 1901, et seq) • Outer Continental Shelf Lands Act (43 U.S.C. 1801)	_____	_____
1.4	**Demonstrate** a basic knowledge of Vessel Operating Laws by discussing the regulations (CFR cites) which implement the following: • Inland Navigation Rules Act (33 U.S.C. 2071) • Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201)		

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
1.4 (Cont.)	• Load Line Act (46 U.S.C.A. Chapter 51) • Carriage of Liquid Bulk Dangerous Cargoes (46 U.S.C.A. Chapter 37) • National Invasive Species Act of 1996 (16 U.S.C. 4711)	_____	_____
1.5	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to interfering with aids to navigation violations.	_____	_____
1.6	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to vessel certification and inspection violations.	_____	_____
1.7	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to vessel documentation violations.	_____	_____
1.8	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to violations of the maritime personnel credentialing and manning requirements.	_____	_____
1.9	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to negligent operations of vessels.	_____	_____
1.10	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to Oil and Hazardous Substance discharges.	_____	_____
1.11	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to Rules of the Road violations.	_____	_____
1.12	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to violations of the marine casualty reporting requirements.	_____	_____
1.13	**Determine** the U.S. Code section, CFR part, and the maximum penalty that applies to violations of the chemical testing requirements.	_____	_____

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
2.0	**Prepare for Maritime Enforcement Investigation**		
2.1	**Discuss** and **explain** the purpose or use of the following official documents found aboard U.S. and foreign commercial vessels: • Certificate of Inspection (COI) • Certificate of Documentation (COD) • Declaration of Inspection (DOI) • Load Line Certificate • International Oil Pollution Prevention Certificate (IOPP) • Shipboard oil Pollution Prevention Emergency Plan (SOPEP) • Safe Manning Document • Oil Record Book (ORB) • Certificate of Financial Responsibility (COFR) • Official Log Book • Certificate of Compliance • SOLAS Documents • International Safety Management System (Safety Management Certificate & Document of Compliance) • International Safety Security Certificate • Vessel Response Plan	_____	_____
2.2	**Define** the following terms: • Exclusive Economic Zone (EEZ) • Territorial Sea • Contiguous Zone • Inland Waters • Coastal Waters • Navigable Waters • COLREGS Demarcation Lines • Safety Zone • Security Zone • Regulated Navigation Area	_____	_____

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
2.3	**Discuss** various methods for notification of apparent violation(s).	_____	_____
2.4	**Process** notification in Marine Information for Safety and Law Enforcement (MISLE).	_____	_____
2.5	**Gather/review** information by completing following subtasks: • Evaluate site safety/risk assessment • Determine responsible party/involved parties/parties in interest • Consult with other CG personnel (Inspectors, IO's, Legal, SME, etc.).	_____	_____
2.6	**Conduct** MISLE review by completing following subtasks: • Review violation history of involved parties • Review violation/inspection history of involved subjects • Determine whether mariner holds a CG issued credential. • Demonstrate how to access the Merchant Mariner Licensing and Documentation System (MMLD) to determine if a mariner has valid credentials • Demonstrate how to retrieve and use the Wanted List	_____	_____
2.7	**Describe** policy and use of NCIC.	_____	_____
2.8	**Describe** purpose and use of CGIS wanted list.	_____	_____
2.9	**Discuss** the Health Insurance Portability and Accountability Act (HIPAA) as it pertains to Maritime Enforcement Investigations.	_____	_____
2.10	**Brief** Command, as appropriate.	_____	_____
2.11	**Complete** notifications, as appropriate.	_____	_____

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
3.0	**Conduct Maritime Enforcement Investigation**		
3.1	**Explain** the meaning of "prima facie" evidence.	_____	_____
3.2	**Demonstrate** the ability to identify and interview witnesses, summarizing their observations in a signed summary statement.	_____	_____
3.3	**Demonstrate** the ability to gather documentary evidence.	_____	_____
3.4	**Demonstrate** the ability to properly photograph evidence and complete a photo log.	_____	_____
3.5	**Demonstrate** the ability to identify and obtain evidence of aggravating and mitigating factors concerning the suspected violator.	_____	_____
3.6	**Demonstrate** the ability to identify and obtain evidence for cases involving chemical testing of individuals.	_____	_____
3.7	**Demonstrate** the ability to identify and obtain evidence for cases involving maritime personnel work/rest schedules.	_____	_____
3.8	**Demonstrate** the ability to gather physical evidence.	_____	_____
3.9	**Demonstrate** the ability to identify and obtain evidence for cases involving oil and/or hazardous substance discharges including the use of the Marine Safety Lab report.	_____	_____
3.10	**Classify** factual information based on the following subtasks: • Identify events • Identify actions • Identify conditions.	_____	_____

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
3.11	**Determine** sequence of actions, events, and conditions.	_____	_____
3.12	**Demonstrate** the ability to analyze the information available to determine what is involved and what is necessary to complete an investigation.	_____	_____
3.13	**Demonstrate** proper documentation of violations/deficiencies in a MISLE detection activity (i.e. incident investigation, vessel inspection, facility inspection, boarding, etc.).	_____	_____
4.0	**Determine Possible Enforcement Actions**		
4.1	**Determine** if evidence of criminal violation(s) exists by reviewing evidence and facts from detection activity.	_____	_____
4.2	**Explain** types of violations which require Commandant's approval prior to referral to U.S. Attorney.	_____	_____
4.3	**Prepare** an outline of the jurisdictional and factual elements pertinent to the type of investigation involved.	_____	_____
4.4	**Identify** involved party(s) and **discuss** policy concerning identification of responsible party.	_____	_____
4.5	**Determine** if jurisdiction exists over the involved party/organization.	_____	_____
4.6	**Determine** if jurisdiction exists over the subject matter.	_____	_____
4.7	**Determine** if jurisdiction exists over the geographical location.	_____	_____
4.8	**Explain** the evidence that proves each element pertinent to the type of investigation involved.	_____	_____

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
4.9	**Discuss** policy and use of Letters of Warnings (in lieu of Civil Penalty) and provide the circumstances in which it might be an appropriate enforcement action.	_____	_____
4.10	**Discuss** policy and use of Notices of Violations (NOVs) and **provide** the circumstances in which it might be an appropriate enforcement action.	_____	_____
4.11	**Explain** policy regarding use of proposed penalty amounts and maximum penalty per NOV under the NOV program.	_____	_____
4.12	**Discuss** policy and use of Class I Administrative Civil Penalties and **provide** the circumstances in which it might be an appropriate enforcement action.	_____	_____
4.13	**Explain** policy regarding recommended penalty amounts Class I Administrative Civil Penalty cases.	_____	_____
4.14	**Discuss** Judicial Civil Penalties (referral to DOJ) and **provide** the circumstances in which it might be an appropriate enforcement action.	_____	_____
4.15	**Discuss** Class II Administrative Civil Penalties and **provide** the circumstances in which it might be an appropriate enforcement action.	_____	_____
4.16	**Explain** policy and use of Surety Bonds/Letters of Undertaking for foreign vessels.	_____	_____
4.17	**Demonstrate** knowledge of the Coast Guard's Suspension and Revocation (S&R) authority over Merchant Mariner Credentials (MMC's) for the following: o Acting under the authority of MMC offenses • Holder of MMC offenses.	_____	_____
4.18	**Determine** the Statute of Limitations for the following offenses: • Misconduct • Use of Dangerous Drugs • Conviction of Dangerous Drug Law		

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
4.18 (Cont.)	• Offenses listed in 46 CFR 5.59 and 5.61 • National Driver Register Act (NDRA) Convictions • Other offenses	_____	_____
4.19	**Explain** the use of the following items in support of personnel enforcement action. o Laws and regulations o Memorandum of Understanding (MOU)/Memorandum of Agreement (MOA) o Commandant Decisions on Appeal/Review (CDOAs/CDORs) o Administrative Law Judge (ALJ) Suspension and Revocation (S&R) Decisions & Orders o Policy letters o S&R Program Manager o District Legal o Senior Investigating Officer o Peers	_____	_____
4.20	**Describe** policy to conduct review of vessel's official log book and types of offenses which might be logged.	_____	_____
4.21	**Discuss** policy and use of Letters of Warnings (in lieu of S&R) and provide the circumstances in which it might be an appropriate personnel enforcement action.	_____	_____
4.22	**Discuss** policy and use of Good Faith Deposits and **provide** the circumstances in which it might be appropriate to pursue.	_____	_____
4.23	**Explain** policy and use of Voluntary Deposits and **provide** the circumstances in which it is and is not appropriate to accept.	_____	_____
4.24	**Explain** policy and use of Voluntary Surrenders and **provide** the circumstances in which it is and is not appropriate to accept.	_____	_____
4.25	**Draft** enforcement recommendations to present to the Command to determine any further action.	_____	_____

Maritime Enforcement Investigator Tasks

Task Number	*EO Task*	*Date Completed*	*Verifying Officer's Initials*
4.26	**Discuss** required MISLE detection activity data entry requirements, based on the type of detection activity involved, necessary to complete referral for enforcement.	_____	_____
4.27	**Generate** a MISLE enforcement activity by completing a referral for enforcement from a detection activity.	_____	_____
4.28	**Discuss** required MISLE enforcement activity data entry requirements, based on the type of enforcement action involved, necessary to complete the enforcement activity.	_____	_____
4.29	**Demonstrate** ability to update and complete a MISLE enforcement activity based on the type of enforcement action involved.	_____	_____
4.30	**Route** a completed case for unit validation and forwarding.	_____	_____
4.31	**Demonstrate** ability to prepare Class I Administrative Civil Penalty case folder for submission to Coast Guard Hearing Office.	_____	_____
4.32	**Explain** the Freedom of Information Act (FOIA). • The procedure a public citizen must follow to obtain information under the FOIA. • What information cannot be released under FOIA? • Who can deny the release of information under FOIA? • Who has the authority to release information on S&R actions?	_____	_____
4.33	**Explain** the Privacy Act. • The purpose of the Privacy Act. • What information is protected? • Who is subject to the Privacy Act?	_____	_____

Maritime Enforcement Investigator

RECORD OF MISLE ENTRIES		
Type of MISLE Activity	**MISLE Activity Number**	**Task Number(s) Applicability**

NOTES

NOTES

SAMPLE LETTER OF DESIGNATION

U.S. Department of Homeland Security

United States Coast Guard

Command's Name

Street Address
City, State Zip Code
Staff Symbol:
Phone:
Email:

1601
DATE

MEMORANDUM

From: I. M. Frank, CAPT
Unit's Name

Reply to
Attn of:

To: ENS M. O. Ore, USCG

Subj: DESIGNATION AS MARITIME ENFORCMENT INVESTIGATOR

Ref: Maritime Enforcement Investigator Performance Qualification Standard Workbook

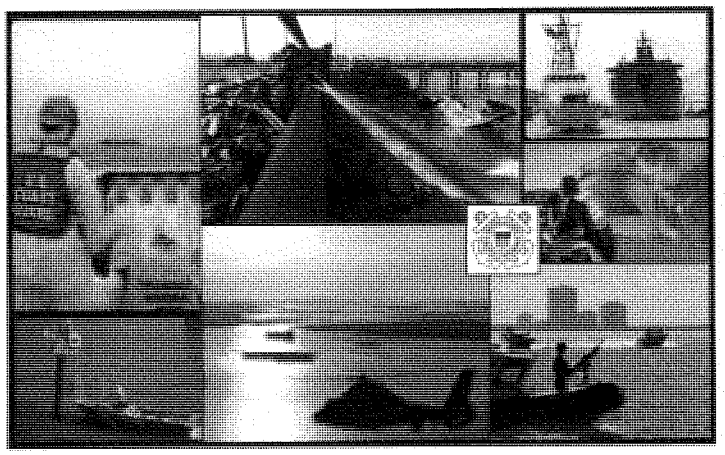
1. Congratulations! You have completed all requirements necessary to perform the duties of a Maritime Enforcement Investigator. You are authorized to carry out the responsibilities of a Maritime Enforcement Investigator within the scope of your qualifications. This is a significant milestone in your professional development and I commend your accomplishments.

2. This Letter of Designation should be retained as part of your personal Training Record and you will be assigned the Maritime Enforcement Investigator's Qualification Code "EO".

#

U.S. Department of Homeland Security
United States Coast Guard

U. S. Coast Guard Sector



Pollution Investigator

Performance Qualification Standard

Sector Training Guide

Pollution Investigator
Performance Qualification Standard

Qualification Code: ED

This booklet is one section of your personal 'on the job training' (OJT) manual. It is your on-the-job guide to qualification as a Pollution Investigator (ED). It is your responsibility to document completed unit training items.

Verifying Officers shall be experienced and qualified personnel who have demonstrated the ability to evaluate, instruct, and observe other personnel in the performance task criteria. Verifying Officers must be certified in the competencies for which they are to verify and must be command designated. Verifying Officers must enter their title, name, and initials in the Record of Verifying Officers section before making entries in your workbook.

A Verifying Officer shall observe your successful performance of each task and document such with date and initials in the appropriate space provided in this booklet. It may be necessary to perform a task several times. The Verifying Officer will not give credit for any task that is not performed satisfactory.

Certain tasks may require participation in an actual incident response, but the unit's response activity may preclude you from accomplishing these tasks. Therefore, with the approval of the Command and Verifying Officer, you may utilize exercises and/or training as a means of accomplishing the requisite participation in order to fulfill the task requirements.

When you have completed all of the items required for this qualification, your command will issue a Letter of Designation and your Unit Training Coordinator will record and certify the your qualification in Training Management Tool (TMT).

Pollution Investigator

RECORD OF VERIFYING OFFICERS		
Title	**Verifying Officer's Name**	**Initials**

RECORD OF MAJOR TASKS COMPLETED		
Task Number	**Major Tasks**	**Date Completed**
1.0	Legal Basis for Pollution Response	
2.0	Phase I: Discovery of Notification	
3.0	Phase II: Preliminary Assessment and Initiation of Action	
4.0	Phase III: Containment, Countermeasures, Cleanup, and Disposal	
5.0	Phase IV: Documentation and Enforcement Actions	

RECORD OF COMPLETION		
Training Prerequisites	**Date**	**Training Coordinator's Signature**
A. Completion of resident training course:		
1. Pollution Incident Response *or*		
Marine Science Technician (MST) "A" School		
B. Completion of PQS Workbook.		
C. Successful completion of unit level oral board.		
D. Designation Letter submitted for approval.		
E. Once Designation Letter is signed, enter certification in TMT.		

All qualification requirements have been satisfactory completed by _____.

Pollution Investigator

References

The following references will aid you in completing the majority of tasking in this PQS.

- "Response to Marine Oil Spills," International Tanker Owners Pollution Federation
- "The World Catalog of Oil Spill Response Products"
- "Training Reference for Oil Spill Response," DOT/EPA/DOI.
- American Conference of Governmental Industrial Hygienists (ACGIH), Threshold Limit Values and Biological Exposure Indices
- American Conference of Governmental Industrial Hygienists (ACGIH), Threshold Limit Values for Chemical Substances, 7th Edition
- Department of Transportation (DOT) "Emergency Response Guidebook" http://hazmat.dot.gov/pubs/erg/gydebook.htm
- Environmental Protection Agency's (EPA) Website: http:www.epa.gov
- International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended
- Local unit's Area Contingency Plan (ACP)
- National Institute for Occupational Safety and Health (NIOSH) Pocket Guide to Chemical Hazards
- National Oceanic and Atmospheric Administration (NOAA):
    - "Shoreline Countermeasures Manual"
    - "Shoreline Assessment Manual"
    - "Mechanical Protection Guidelines"
- Response to Marine Oil Spills," International Tanker Owners Pollution Federation.
- Spill Tactics for Alaska Responders (www.dec.state.ak.us/spar/perp/star/index.htm)
- The International Convention for Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78)
- Title 29 Code of Federal Regulations, Part 1910.120
- Title 33 Code of Federal Regulations, Parts 1, 2, 6, 88, 104-105, 126-127, 130, 135, 153-156, and 160
- Title 40 Code of Federal Regulations, Parts 116, 117, 261, and 300
- Title 46 Code of Federal Regulations, Part s 4 and16
- Title 49 Code of Federal Regulations, Parts 172
- Title 5 U. S. Code § 552, Freedom of Information Act
- Title 5 U. S. Code § 552A, Privacy Act
- Title 33 U. S. Code § 407, Refuse Act
- Title 33 U. S. Code § 1251-1387, Federal Water Pollution Control Act (FWPCA), as amended
- Title 33 U. S. Code § 2701-2761, Oil Pollution Act of 1990
- Title 42 U. S. Code § 1801-1812, Resource Conservation and Recovery Act (RCRA) of 1976
- Title 42 U. S. Code § 9601-9675, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended
- Title 46 U. S. Code § 701, Maritime Transportation Security Act
- Title 46 U. S. Code § 6100 and 7704, Shipping
- U. S. Coast Guard CERCLA Response Authority, COMDTINST 16465.29 (series)

Pollution Investigator

- U. S. Coast Guard Chemical Hazards Response Information System (CHRIS), COMDTINST M16465.12C (series)
- U. S. Coast Guard Civil Penalty Hearing Officer Procedures, COMDTINST 16200.5 (series)
- U. S. Coast Guard Civil Penalty Procedures and Administration, COMDTINST 16200.3 (series)
- U. S. Coast Guard Confined Space Entry, COMDTINST 5100.48A (series)
- U. S. Coast Guard Criminal Enforcement of Environmental Laws, COMDTINST M16201.1 (series)
- U. S. Coast Guard Critical Incident Communications, COMDTINST 3100.8A (series)
- U. S. Coast Guard Freedom of Information and Privacy Acts Manual, COMDTINST M5260.3 (series)
- U. S. Coast Guard Guidance and Procedures for Administering and Enforcing the Oily Waste Reception Facility Program, COMDTINST M16450.27 (series)
- U. S. Coast Guard Incident Command System, COMDTINST 3120.14 (series)
- U. S. Coast Guard Incident Management Handbook, COMDTPUB P3120.17A (series)
- U. S. Coast Guard Legal Authorities, COMDTPUB 5850.2 (series)
- U. S. Coast Guard Marine Safety Laboratory Sample Handling and Transmittal Guide, http://www.rdc.uscg.gov/msl/Documents/tabid/221/Default.aspx
- U. S. Coast Guard Marine Safety Manuals, COMDTINST M16000 (series)
- U. S. Coast Guard Notice of Violation User's Guide, COMDTINST 5582.1 (series)
- U. S. Coast Guard Office of Vessel Activities (CG-3PCV) Policy Letter 06-01: Guidance for the Enforcement of MARPOL Annex I During Port State Control Examinations
- U. S. Coast Guard Oil Pollution Response Planning Guide for Extreme Weather, COMDINST 16466.2 (series)
- U. S. Coast Guard Public Affairs Manual, COMDTINST 5728.2 (series)
- U. S. Coast Guard Special Teams Handbook: http://www.uscg.mil/hq/g-m/HAZMAT%20Response%20Special%20Teams%20Handbook.pdf
- U. S. Coast Guard Vessel Response Plans and Shipboard Oil Pollution Emergency Plans info: http://www.uscg.mil/vrp/default.htm
- U. S. Geological Survey's Website for definitions of PAH: Http://toxics.usgs.gov/definitions/pah.html

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
1.0	**Legal Basis for Pollution Response**		
1.1	**List** the laws applicable to conducting pollution (i.e. oil and hazardous substance) investigations.	_____	_____
1.2	**State** and **define** the applicability, jurisdiction, and intent: • Federal Water Pollution Control Act of 1972 (FWPCA) • Clean Water Act (CWA) • Oil Pollution Act of 1990 (OPA 90) • Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or SuperFund) • Refuse Act • Privacy Act • Resource and Conservation Recovery Act (RCRA)	_____	_____
1.3	**Define** "harmful quantity" and "reportable quantity" as they apply to oil and hazardous materials under the FWPCA and CERCLA.	_____	_____
1.4	**State** what parties may be considered "responsible parties" under FWPCA and CERCLA. • **Define** a responsible party.	_____	_____
1.5	**Define** "Navigable Waterway" as the term applies to the FWPCA.	_____	_____
1.6	**Describe** the occasions and policies for entry onto private property. • Secured (locked gate) • Unsecured (open gate)	_____	_____
1.7	**Describe** a Captain of the Port Order with regards to the following: • Authority • Regulation • Circumstances to use the COTP (i.e. When can an order be issued?)	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
1.8	**Describe** the purpose and use of a Letter of Undertaking (LOU), including: • When to use the LOU • Form of surety required • Applicable authority for issuance	_____	_____
1.9	**Describe** the purpose and use of an Administrative Order including: • Authority • Circumstances to use this order	_____	_____
1.10	**Describe** a transfer suspension order including: • Authority • Circumstances to use this order	_____	_____
1.11	**Describe** the purpose, use, and meaning of a Notice of Federal Interest: • **Explain** the meaning of limits of liability.	_____	_____
1.12	**List** the factors for determining the size of a spill (include inland and coastal) for the following: • Minor • Medium • Major	_____	_____
1.13	**Describe** the applicability and purpose of the following pollution prevention regulations: • 33 CFR Part 154 (Facilities) • 33 CFR Part 155 (Vessels) • 33 CFR Part 156 (Transfer Operations)	_____	_____
1.14	**Explain** the purpose and applicability of a Certificate of Financial Responsibility (COFR).	_____	_____
1.15	**Explain** the legal authority: • Notice of Violation. • Report of Violation	_____	_____
1.16	**Describe** the applicability, scope, and purpose of MARPOL regulations.	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
2.0	**Phase I: Discovery or Notification**		
2.1	**Describe** the types of pollution incidents requiring reports and identify the applicable laws/regulations.	_____	_____
2.2	**Describe** what the RP and/or witness must report for the incidents identified in Task 2.1 and how they may be reported.	_____	_____
2.3	**List** possible sources of pollution reports and means of reporting, including: • National Response Center • Sector Command Center • Telephone • Walk-ins • Report of a Marine Casualty (CG-2692)	_____	_____
2.4	**State** the information to be gathered during an initial report of the discovery of an oil spill or hazardous substance release.	_____	_____
2.5	**Link** a NRC report to generate a MISLE Notification.	_____	_____
2.6	**Receive** and **explain** the MISLE notification process of pollution report. • **Demonstrate** MISLE notification entry (use referential parties). • **Review** involved party's history. • **Review** involved vessel's history. • **Review** involved facility's history.	_____	_____
2.7	**List** the possible courses of action upon receipt of an initial report of pollution.	_____	_____
2.8	**Define** a reportable and non-reportable marine casualty.	_____	_____
2.9	**Take** two initial reports of pollution incidents and **choose** the proper courses of action (**Enter** each activity in the log at the back of this PQS.)	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
2.10	**Summarize** the Commandant's Public Affairs Policy.	_____	_____
3.0	**Phase II: Preliminary Assessment and Initiation of Action**		
3.1	**Describe** the importance of the following factors for the initial response actions: • Health and safety concerns • Suspected substance type and characteristics • Physical location • Weather conditions • Weathering effects of pollutant • Credibility of reporting source (RP or 3rd party; validate reporting source by contacting other agencies near the spill)	_____	_____
3.2	**Develop** a response strategy for a medium or major pollution incident.	_____	_____
3.3	**Forecast** the trajectory of a floating pollutant in your AOR using current technology.	_____	_____
3.4	**Obtain** on-scene data, both current and forecast (for your AOR) including: • Wind conditions • Tides and Currents • Temperature	_____	_____
3.5	**Communicate** with the media regarding a pollution incident.	_____	_____
3.6	**Describe** Coast Guard responsibility and authority concerning public safety and responder safety during a pollution incident.	_____	_____
3.7	**Describe** the safety training requirements (i.e. HAZWOPER) for persons responding to oil and hazardous materials incidents.	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
3.8	**Identify** the most common oil and hazardous materials transported in your zone and their associated safety hazards.	_____	_____
3.9	**Define** confined spaces. • **Describe** the hazards associated with confined spaces. • **Define** Coast Guard policy concerning confined space entry.	_____	_____
3.10	**Describe** the safe work practices and other measures needed to provide an acceptable level of safety during pollution investigation and response activities, including any Commandant and unit instructions.	_____	_____

3.11	**Conduct** preliminary investigation including the following:
	• **Identify** reporting exclusions and data entry exceptions.
	• **Determine** jurisdiction and authority.
	• **Define** a marine casualty and the relationship to a pollution spill.
	• **Determine** casualty type (i.e. reportable/non-reportable).
	• **Determine** product classification, grade, and category.
	• **Review** Responsible Party history.
	• **Review** vessel and/or facility history.
	  o Outstanding deficiencies?
	• **Determine** appropriate actions based on spill classification from Task 1.12 (i.e. minor, medium, or major).
	• **Identify** pollution elements (i.e. list all five).
	• **Determine** coastal or inland waters.
	• **Determine** substance (i.e. CERCLA)
	  o Harmful quantity?
	  o Reportable quantity?
		_____	_____

3.12	**Define** a serious marine incident.	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
3.13	**Identify** and **explain** the differences for the following terms: • Hazardous Waste • Hazardous Substance • Hazardous Material • Oil • Release and discharge	_____	_____
3.14	**Identify** Lead Investigative State/Substantially Interested State(s).	_____	_____
3.15	**Explain** all levels of investigative effort including: • Data collection • Informal • Formal • Marine Board	_____	_____
3.16	**Gather** and **review** information for the following: • **Evaluate** site safety and risk assessment. • **Determine** responsible party, involved parties, and parties in interest. • **Explain** when you would consult with other CG personnel such as Inspectors, Investigators, District legal, and/or other subject matter experts. • **List** examples for acquiring consultation, (i.e. sinking of an inspected vessel, gross negligence of a Tankerman during an oil transfer operation, and leaking of fuel oil from a crack in the side of a commercial ship's hull plating).	_____	_____
3.17	**Identify** the minimum Personal Protective Equipment required for personnel responding to oils/hazardous substances handled in your AOR.	_____	_____
3.18	**Validate** the pollution report and **brief** Command; including the following: • **Provide** recommended course of action. • **Provide** spill size and source (if known).	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
3.19	**Define** the following characteristics which may be considered prior to and during a spill response: • Hazard Class • Reactivity • Physical State • Specific Gravity • Vapor Density • Paths (or Routes) of Entry • Threshold Limit Values (TLV)/Recommended Exposure Limits (REL)/Permissible Exposure Limits (PEL) • Short Term Exposure Limits (STEL) • Immediately Dangerous to Life and Health Concentrations (IDLH) • Lethal Concentration 50% (LCD50)/Lethal Dose 50% (LD50) • Bioaccumulation • Bio-oxygen Demand • Lower Explosive Limit (LEL)/Upper Explosive Limit (UEL) and Lower Flammable Limit(LFL)/Upper Flammable Limit (UFL) • Flash Point • Vapor Pressure • Boiling Point	_____	_____
3.20	**Identify** potential sources and the hazards associated with the following: • Benzene • Carbon dioxide • Hydrogen disulfide (H2S) • Polycyclic aromatic hydrocarbon (PAH) • Lack of oxygen	_____	_____
4.0	**Phase III: Containment, Countermeasures, Cleanup, and Disposal.**		
4.1	**Issue** a Notice of Federal Interest.	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
4.2	**Identify** Evidence Types including the following: • **Demonstrate** evidence process procedures • **State** the difference between handling and processing civil and criminal evidence. • **Make** proper notifications for criminal case (i.e. CGIS and IOs). • **Collect** witness statements. • **Review** physical evidence. • **Review** photographs and/or video. • **Review** diagrams and charts. • **Review** vessel and/or facility logs • **Evaluate** written operating procedures for vessels or facilities	_____	_____
4.3	**Explain** the terms "direct evidence" and "circumstantial evidence".	_____	_____
4.4	**Demonstrate** the procedures necessary to take valid samples of oil for an analysis (both sheen and heavy concentration).	_____	_____
4.5	**List** the types of samples necessary to provide the Marine Safety Laboratory with sufficient physical evidence to perform 'fingerprint' identification.	_____	_____
4.6	**Describe** the procedures for maintaining the chain of custody and properly forwarding samples to the Marine Safety Laboratory.	_____	_____
4.7	**Describe** the procedures for proper storage of oil samples.	_____	_____
4.8	**Describe** the proper shipping method of oil samples to the Marine Safety Laboratory.	_____	_____
4.9	**Illustrate** and **state** the advantages and disadvantages of the following physical containment methods: • Physical barriers (non-boom) • Diking/berming		

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
4.9 (Cont.)	• Trenching • Overflow and underflow dams	_____	_____
4.10	**Identify** and **explain** the mode of operation of the following common skimmer types: • Weir • Suction • Submersion • Vortex/Centrifugal	_____	_____
4.11	**Identify** the support items necessary to conduct skimming operations. • Open water • River	_____	_____
4.12	**Identify** the skimmer types and sources that are available in your AOR.	_____	_____
4.13	**Explain** the effects the following factors will have on skimmer performance: • Sea state • Water depth • Debris • Oil thickness • Oil viscosity	_____	_____
4.14	**Define** adsorbent and absorbent and **explain** the difference between the two terms.	_____	_____
4.15	**Define** and **identify** the following sorbent types: • Organic • Inorganic • synthetic	_____	_____
4.16	**Identify** common dimensions and appropriate uses for the following forms of sorbents: • Pad, roll, and blanket • Sock, pillow and sweep • Snare/pom-pom • Particulate	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
4.17	**Interview** witnesses and Parties of Interest including the following: • **Explain** the warnings and notices of rights given to witnesses. • **List** the elements that comprise an acceptable witness statement.	_____	_____
4.18	**Demonstrate** analytical ability for assessing the cause of spill and recommendations for future actions: • **Explain** who secures source and why. • **Explain** cause of spill. • **Identify** causal factor (i.e. human or mechanical error, lack of preventive maintenance).	_____	_____
4.19	**Explain** why CG personnel shall not operate non-CG owned equipment (i.e. vessel's or facility's shut-off valves, hose nozzle, etc.).	_____	_____
4.20	**Explain** the contents of a Site Safety Plan.	_____	_____
4.21	**Explain** the applicability of a Site Safety Plan during a spill.	_____	_____
4.22	**Conduct** a shoreline cleanup assessment.	_____	_____
4.23	**Complete** the Blue Book (CG-3639A).	_____	_____
4.24	**Complete** an ICS Form 201 (Incident Briefing Form).	_____	_____
5.0	**Phase IV: Documentation and Enforcement Actions**		
5.1	**Participate** in a 201 briefing to the Command.	_____	_____
5.2	**Document** a Report of Investigation in MISLE: • **Analyze** the findings of fact. • **Present** analysis. • **Formulate** conclusion.	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
5.3	**Identify** enforcement actions and document in MISLE.	_____	_____
5.4	**Describe** the elements of the following: • Civil Penalty violation under FWPCA and CERCLA • Failure to notify violation • Class II civil penalty • Criminal violation • Refuse Act violation • MARPOL • Notice of Violation (ticket) • Report of Violation • Human error (i.e. Tankerman forgets to gauge the tank barge's cargo tank causing the tank to overflow)	_____	_____
5.5	**Review** two pollution activities and **determine** the course of action (i.e. demonstrate the review of RP's history in MISLE): • Letter of Warning • Notice of Violation • Report of Violation • Civil Penalty • Criminal	_____	_____
5.6	**Explain** why you chose the course of action for Task 5.5.	_____	_____
5.7	**Prepare** and **issue** the following: • Letter of Warning • Notice of Violation	_____	_____
5.8	**Prepare** and **process** a Report of Violation (Class 1 Civil Penalty).	_____	_____
5.9	**Draft** safety recommendations and document in MISLE.	_____	_____
5.10	**Draft** safety alert and document in MISLE.	_____	_____

Pollution Investigator Tasks

Task Number	*ED Task*	*Date Completed*	*Verifying Officer's Initials*
5.11	**Draft** appropriate message traffic on CGMS for a pollution or hazardous substance incident.	_____	_____
5.12	**Describe** the purpose and use of a Letter of Undertaking: • When is a LOU used? • What form of surety would be required? • Issuance authority?	_____	_____

Pollution Investigator

INCIDENT LOG					
Date	**Incident Description**	**Position Filled**	**MISLE Case Number**	**FPN/ CERCLA Number**	**Verifying Officer's Initials**

NOTES

NOTES

SAMPLE LETTER OF DESIGNATION

U.S. Department of Homeland Security

United States Coast Guard

Command's Name

Street Address
City, State Zip Code
Staff Symbol:
Phone:
Email:

1601
DATE

MEMORANDUM

From: I. M. Frank, CAPT
Unit's Name

Reply to
Attn of:

To: ENS M. O. Ore, USCG

Subj: DESIGNATION AS POLLUTION INVESTIGATOR

Ref: Pollution Investigator Performance Qualification Standard Workbook

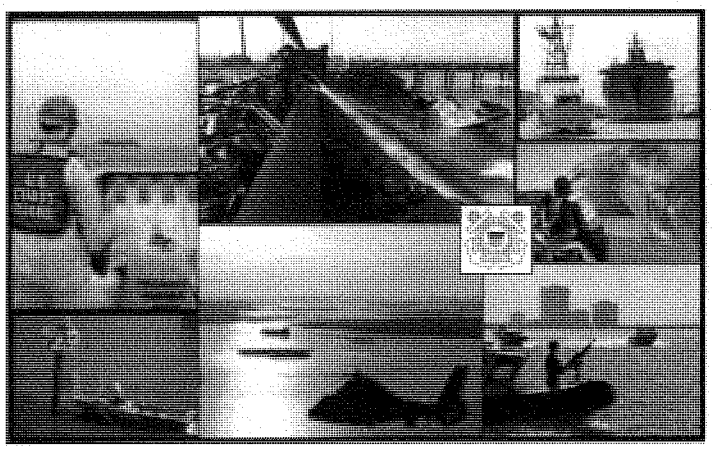
1. Congratulations! You have completed all requirements necessary to perform the duties of a Pollution Investigator. You are authorized to carry out the responsibilities of a Pollution Investigator within the scope of your qualifications. This is a significant milestone in your professional development and I commend your accomplishments.

2. This Letter of Designation should be retained as part of your personal Training Record and you will be assigned the Pollution Investigator's Qualification Code "ED".

#

U.S. Department of Homeland Security
United States Coast Guard

U. S. Coast Guard Sector



Suspension and Revocation Investigator

Performance Qualification Standard

Sector Training Guide

Suspension and Revocation Investigator
Performance Qualification Standard

Qualification Code: FN

This booklet is one section of your personal 'on the job training' (OJT) manual. It is your OJT guide to qualification as a Suspension and Revocation Investigator. It is your responsibility to document completed unit training items.

Verifying Officers shall be experienced and qualified personnel who have demonstrated the ability to evaluate, instruct, and observe other personnel in the performance task criteria. Verifying Officers must be certified in the competencies for which they are to verify and must be command designated. Verifying Officers must enter their title, name, and initials in the Record of Verifying Officers section before making entries in your workbook.

A Verifying Officer shall observe your successful performance of each task and document such with date and initials in the appropriate space provided in this booklet. It may be necessary to perform a task several times. The Verifying Officer will not give credit for any task that is not performed satisfactory.

When you have completed all of the items required for this qualification, your command will issue a Letter of Designation and your Unit Training Coordinator will record and certify the your qualification in Training Management Tool (TMT).

Suspension and Revocation Investigator

RECORD OF VERIFYING OFFICERS		
Title	**Verifying Officer's Name**	**Initials**

RECORD OF MAJOR TASKS COMPLETED		
Task Number	**Major Tasks**	**Date Completed**
1.0	Demonstrate Knowledge of Suspension & Revocation (S&R) Preliminary Process	
2.0	Demonstrate Knowledge of Complaint Process	
3.0	Demonstrate Knowledge of Answer Process	
4.0	Demonstrate Knowledge of Temporary Suspension Process	
5.0	Demonstrate Knowledge of Summary Decision Process	
6.0	Demonstrate Knowledge of Default Process	
7.0	Demonstrate Knowledge of Settlement Agreement Process	

RECORD OF COMPLETION		
Training Prerequisites	**Date**	**Training Coordinator's Signature**
A. Completion of resident training courses:		
1. Investigating Officer Course ***and***		
2. Suspension and Revocation Course		
B. Completion of PQS Workbook.		
C. Successful completion of unit level oral board.		
D. Designation Letter submitted for approval.		
E. Once Designation Letter is signed, enter certification in TMT.		

All qualification requirements have been satisfactory completed by _____.

Revision Date: 3 August 2007

Suspension and Revocation Investigator

References

The following references will aid you in completing the tasks in this PQS.

- National Transportation Safety Board (NTSB) Decisions on Appeal
- Title 33 Code of Federal Regulations (various), Navigation and Navigable Waters
- Title 33 United States Code Annotated (various), Navigation and Navigable Waters
- Title 46 Code of Federal Regulations (various), Shipping
- Title 46 United States Code Annotated. (various), Shipping
- Title 49 Code of Federal Regulations (various), Transportation
- U. S. Coast Guard Commandant's Decisions on Appeal (CDOA's)
- U. S. Coast Guard Commandant's Decisions on Review (CDOR's)
- U. S. Coast Guard Freedom of Information (FOIA) and Privacy Acts Manual, COMDTINST M5260.3 (series)
- U. S. Coast Guard Headquarters Program Managers' Policy Letters (various)
- U. S. Coast Guard Marine Information for Safety and Law Enforcement (MISLE) Process and User's Guides
- U. S. Coast Guard Marine Safety Manual, Volume I, Administration and Management, COMDTINST M16000.6 (series)
- U. S. Coast Guard Marine Safety Manual, Volume III, Marine Industry Personnel, COMDTINST M16000.8 (series)
- U. S. Coast Guard Marine Safety Manual, Volume V, Investigations, COMDTINST M16000.10 (series)
- U. S. Coast Guard Public Affairs Manual, COMDTINST M5728.2 (series)

Suspension and Revocation Investigator Tasks

Task Number	*FN Task*	*Date Completed*	*Verifying Officer's Initials*
1.0	**Demonstrate Knowledge of Suspension & Revocation (S&R) Preliminary Process**		
1.1	**Determine** alleged offense(s) from review of detection activity.	_____	_____
1.2	**Determine** the elements of alleged offense(s).	_____	_____
1.3	**Evaluate** and verify the evidence obtained in a personnel action investigation to identify evidence that proves each element of alleged offense(s).	_____	_____
1.4	**Discuss** an IO's authority to issue a subpoena to secure attendance of witnesses or the production of books, papers or other evidence.	_____	_____
1.5	**Explain** the limits on the enforcement of a subpoena, including applicability to foreign nationals, geographical limits and remedial action if a party fails to comply with a properly served subpoena.	_____	_____
1.6	**Discuss** the Health Insurance Portability and Accountability Act (HIPAA) as it pertains to obtaining evidence in personnel action investigations.	_____	_____
1.7	**Demonstrate** knowledge of the Coast Guard's Suspension and Revocation authority over Merchant Mariner Credentials (MMC's) for the following: • Acting under the authority of MMC offenses • Holder of MMC offenses	_____	_____
1.8	**Discuss** the jurisdictional differences between a State Licensed and a Federally Licensed Pilot.	_____	_____

Suspension and Revocation Investigator Tasks

Task Number	*FN Task*	*Date Completed*	*Verifying Officer's Initials*
1.9	**Determine** the Statute of Limitations for the following offenses: • Misconduct • Use of Dangerous Drugs • Conviction of Dangerous Drug Law • Offenses listed in 46 CFR 5.59 and 5.61 • National Driver Register Act (NDRA) Convictions • Other offenses	_____	_____
2.0	**Demonstrate Knowledge of Complaint Process**		
2.1	**Discuss** the information contained in the caption of the Complaint.	_____	_____
2.2	**Determine** the Statutory and Regulatory Authority for the following offenses: • Use of Dangerous Drugs • Conviction of Dangerous Drug Law • Misconduct • Incompetence • Conviction that would preclude the issuance of MMC • NDR Act Conviction • Security Risk • Violation of Law or Regulation • Negligence	_____	_____
2.3	**Discuss** the format of the Jurisdictional allegations section of the Complaint in regards to the following: • Holder of MMC offenses • Acting under the authority of MMC offenses	_____	_____
2.4	**Discuss** the format for the Factual allegations section of the Complaint.	_____	_____

Suspension and Revocation Investigator Tasks

Task Number	*FN Task*	*Date Completed*	*Verifying Officer's Initials*
2.5	**Determine** the essential elements to be included in the Factual allegations for the following: • Misconduct • Negligence • Negligence – Allision • Negligence – Grounding • Violation of Marine Safety Law or Regulation • Use of Dangerous Drugs • Conviction of Dangerous Drug Law • Conviction that would preclude the issuance of MMC • NDRA Convictions • Incompetence • Security Risk	_____	_____
2.6	**Discuss** the guidance available to assist in determining the appropriate proposed sanction.	_____	_____
2.7	**Prepare** a request for information concerning mariner's prior disciplinary and commendatory record from the National Maritime Center.	_____	_____
2.8	**Conduct** MISLE review of mariner's violation history.	_____	_____
2.9	**Discuss** the proposed hearing dates and location section of the Complaint.	_____	_____
2.10	**Discuss** what request for a change of venue means and what is the proper method for requesting.	_____	_____
2.11	**Discuss** what information has to be given to the Respondent and the rights of the Respondent.	_____	_____
2.12	**Explain** the data entry requirements of a MISLE S&R enforcement activity required for generation of the Complaint to include: • Entry location of mariner's MMC(s) • Selection of regulatory cite of offense • Proposed date & location of Hearing	_____	_____

Suspension and Revocation Investigator Tasks

Task Number	*FN Task*	*Date Completed*	*Verifying Officer's Initials*
2.13	**Complete** the data entry requirements of a MISLE S&R enforcement activity required for generation of the Complaint.	_____	_____
2.14	**Generate** a Complaint in MISLE.	_____	_____
2.15	**Discuss** the process for filing a Complaint.	_____	_____
2.16	**Discuss** the methods for service of a Complaint.	_____	_____
2.17	**Serve** a Complaint.	_____	_____
2.18	**Explain** the purpose of a Certificate of Service.	_____	_____
2.19	**Describe** the significance of obtaining proof of service of a Complaint.	_____	_____
2.20	**File** a Complaint with a Certificate of Service.	_____	_____
2.21	**Explain** the Freedom of Information Act (FOIA): • The procedure a public citizen must follow to obtain information under the FOIA. • What information cannot be released under FOIA? • Who can deny the release of information under FOIA? • Who has the authority to release information on enforcement actions?	_____	_____
2.22	**Explain** the Privacy Act: • The purpose of the Privacy Act. • What information is protected? • Who is subject to the Privacy Act?	_____	_____
3.0	**Demonstrate Knowledge of Answer Process**		
3.1	**Determine** the deadline for the Respondent's Answer to the Complaint.	_____	_____

Suspension and Revocation Investigator Tasks

Task Number	*FN Task*	*Date Completed*	*Verifying Officer's Initials*
3.2	**Discuss** the next step in the S&R process if the Respondent admits to all the allegations of the Complaint.	_____	_____
3.3	**Discuss** the next step in the S&R process if the Respondent denies any of the allegations of the Complaint.	_____	_____
3.4	**Discuss** the next step in the S&R process if the Respondent admits to the allegations of the Complaint but does not agree with the proposed sanction.	_____	_____
3.5	**Discuss** the next step in the S&R process if the Respondent admits to the allegations of the Complaint and request settlement discussions.	_____	_____
3.6	**Explain** what matters are appropriate for discussion/agreement at a pre-hearing conference.	_____	_____
3.7	**Explain** what happens if the Respondent fails to file an answer and the CG fails to seek a Default Order.	_____	_____
4.0	**Demonstrate Knowledge of Temporary Suspension Process**		
4.1	**Discuss** the Coast Guard's Authority to temporarily suspend a mariner's MMC, to include the types of offenses that a Temporary Suspension is allowed.	_____	_____
4.2	**Discuss** the requirements for an expedited hearing for temporarily suspended MMC.	_____	_____
4.3	**Discuss** the differences between a Temporary Suspension Complaint and a normal Complaint.	_____	_____
4.4	**Draft** a Temporary Suspension Complaint.	_____	_____

Suspension and Revocation Investigator Tasks

Task Number	*FN Task*	*Date Completed*	*Verifying Officer's Initials*
5.0	**Demonstrate Knowledge of Summary Decision Process**		
5.1	**Discuss** what a Summary Decision is and the regulations covering Summary Decisions.	_____	_____
5.2	**Discuss** the types of cases where it would be appropriate to request a Summary Decision.	_____	_____
5.3	**Discuss** the method for requesting a Summary Decision.	_____	_____
5.4	**Discuss** the Respondent's rights in responding to a request for a Summary Decision.	_____	_____
5.5	**Draft** a Motion for Summary Decision	_____	_____
6.0	**Demonstrate Knowledge of Default Process**		
6.1	**Discuss** under what circumstances the Coast Guard may file or make a Motion for Default.	_____	_____
6.2	**Request** a certificate of Answer from the Administrative Law Judge (ALJ) Docketing Center.	_____	_____
6.3	**Discuss** the methods for service of a Motion for Default.	_____	_____
6.4	**Explain** the process for filing a Motion for Default to include the requirement to show proof of service of the Complaint.	_____	_____
6.5	**Describe** the significance of obtaining proof of service of a Motion for Default.	_____	_____
6.6	**Draft** a Motion for Default.	_____	_____
6.7	**Serve** a Motion for Default on a Respondent.	_____	_____

Suspension and Revocation Investigator Tasks

Task Number	*FN Task*	*Date Completed*	*Verifying Officer's Initials*
6.8	**Describe** the Respondent's options for responding to a Motion for Default.	_____	_____
6.9	**Describe** the possible actions of the ALJ on the Motion for Default.	_____	_____
6.10	**Discuss** when a Default Order may be set aside by the ALJ.	_____	_____
7.0	**Demonstrate Knowledge of Settlement Agreement Process**		
7.1	**Discuss** the types of cases where it would be appropriate and not appropriate to offer the Respondent a Settlement.	_____	_____
7.2	**Draft** a Settlement Agreement that contains a mitigated sanction.	_____	_____
7.3	**Draft** a Settlement Agreement that contains a mitigated sanction and places conditions on the Respondent.	_____	_____
7.4	**Draft** a Settlement Agreement for a case that involves use of a dangerous drug that conforms to Commandant policy.	_____	_____
7.5	**Describe** the conditions that must be included in a drug use Settlement Agreement to ensure the Respondent demonstrates cure.	_____	_____
7.6	**Discuss** the process for filing a Settlement Agreement.	_____	_____
7.7	**Discuss** the method for requesting an extension of the time to comply with a Settlement Agreement to include the use of a "Notice of Extension of Settlement Agreement".	_____	_____
7.8	**Discuss** the use of a "Notice of Completion of Settlement Agreement".	_____	_____

Suspension and Revocation Investigator Tasks

Task Number	*FN Task*	*Date Completed*	*Verifying Officer's Initials*
7.9	**Discuss** the use of a "Notice of Failure to Complete Settlement Agreement" to include the Respondent's options for responding to the notice.	_____	_____
7.10	**Complete** the data entry requirements in a MISLE S&R enforcement activity to document the terms of a Settlement Agreement.	_____	_____

NOTES

NOTES

SAMPLE LETTER OF DESIGNATION

U.S. Department of Homeland Security

United States Coast Guard

Command's Name

Street Address
City, State Zip Code
Staff Symbol:
Phone:
Email:

1601
DATE

MEMORANDUM

From: I. M. Frank, CAPT
Unit's Name

Reply to
Attn of:

To: ENS M. O. Ore, USCG

Subj: DESIGNATION AS SUSPENSION AND REVOCATION INVESTIGATOR

Ref: Suspension and Revocation Investigator Performance Qualification Standard Workbook

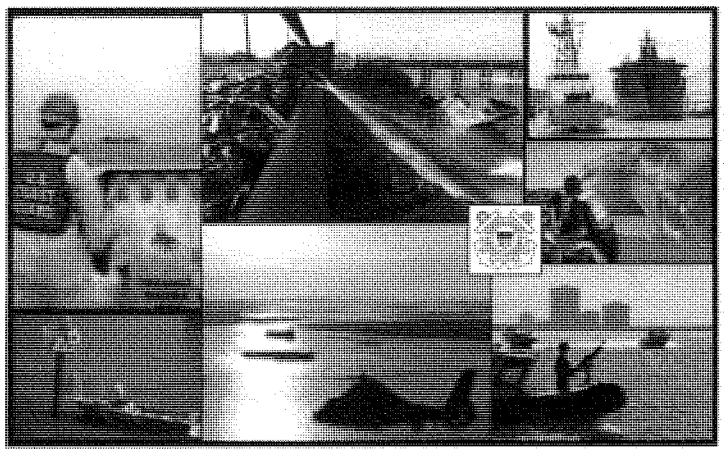
1. Congratulations! You have completed all requirements necessary to perform the duties of a Suspension and Revocation Investigator r. You are authorized to carry out the responsibilities of a Suspension and Revocation Investigator within the scope of your qualifications. This is a significant milestone in your professional development and I commend your accomplishments.

2. This Letter of Designation should be retained as part of your personal Training Record and you will be assigned the Suspension and Revocation Investigator's Qualification Code "FN".

#

U.S. Department of Homeland Security
United States Coast Guard

U. S. Coast Guard Sector



Waterways Management Representative

Performance Qualification Standard

Sector Training Guide

Waterways Management Representative
Performance Qualification Standard

Qualification Code: WM

This booklet is one section of your personal 'on the job training' (OJT) manual. It is your OJT guide to qualification as a Waterways Management Representative. It is your responsibility to document completed unit training items.

Verifying Officers shall be experienced and qualified personnel who have demonstrated the ability to evaluate, instruct, and observe other personnel in the performance task criteria. Verifying Officers must be certified in the competencies for which they are to verify and must be command designated. Verifying Officers must enter their title, name, and initials in the Record of Verifying Officers section before making entries in your workbook.

A Verifying Officer shall observe your successful performance of each task and document such with date and initials in the appropriate space provided in this booklet. It may be necessary to perform a task several times. The Verifying Officer will not give credit for any task that is not performed satisfactory.

When you have completed all of the items required for this qualification, your command will issue a Letter of Designation and your Unit Training Coordinator will record and certify the your qualification in Training Management Tool (TMT).

Waterways Management Representative

RECORD OF VERIFYING OFFICERS		
Title	**Verifying Officer's Name**	**Initials**

RECORD OF MAJOR TASKS COMPLETED		
Task Number	**Major Task**	**Date Completed**
1.0	Ports and Waterways Management	
2.0	Aids to Navigation System Administration	
3.0	Vessel Movement Information	
4.0	Limited Access Areas	
5.0	Captain of the Port Permits	
6.0	Marine Event Patrols	
7.0	Harbor Patrols	
8.0	Coast Guard Auxiliary's Role and Responsibilities	

RECORD OF COMPLETION		
Training Prerequisites	**Date**	**Training Coordinator's Signature**
A. Completion of resident training course:		
1. Waterways Management Course.		
B. Completion of PQS Workbook.		
C. Successful completion of unit level oral board.		
D. Designation Letter submitted for approval.		
E. Once Designation Letter is signed, enter certification in TMT.		

All qualification requirements have been satisfactory completed by _____.

Waterways Management Representative

References

The following references will aid you in completing the tasks in this PQS.

- District/ Unit Standard Operating Procedures
- Dutton's Navigation and Piloting
- Integrated Aids to Navigation Information System (ATONIS)
- International Regulations for Prevention of Collisions at Sea (COLREGS)
- Maritime Transportation Security Act of 2002 (Public Law 107-295)
- Navigational Charts
- Ports and Waterways Safety Act (PWSA) of 1972
- The American Practical Navigator (Bowditch)
- Title 33 Code of Federal Regulations, Part 6; Part 64, Part 100, Part109; Part 125, 161, 164, 165, and Subchapter P
- U. S. Coast Guard Aids to Navigation Manual – Administration, COMDTINST M16500.7 (series)
- U. S. Coast Guard Aids to Navigation Manual – Positioning, COMDTINST M16500.1 (series)
- U. S. Coast Guard Aids to Navigation Manual – Seamanship, COMDTINST M16500.21 (series)
- U. S. Coast Guard Aids to Navigation Manual – Technical, COMDTINST M16500.3 (series)
- U.S. Coast Guard Auxiliary Air Operations Training Text, COMDTINST M16798.5 (series)
- U. S. Coast Guard Auxiliary Boat Crew Qualification Guide, Volume III: PWC Operator, COMDTINST M16794.54 (series)
- U. S. Coast Guard Auxiliary Boat Crew Training Manual, COMDTINST M16794.51 (series)
- U. S. Coast Guard Auxiliary Manual, COMDTINST M16790.1 (series)
- U. S. Coast Guard Auxiliary Operations Policy Manual, COMDTINST M16798.3 (series)
- U. S. Coast Guard Marine Safety Manual, Volume I, Administration and Management, COMDTINST M16000.6 (series)
- U. S. Coast Guard Marine Safety Manual, Volume VI, Ports and Waterways Activities, COMDTINST M16000.11 (series)
- U. S. Coast Guard Marine Safety Manual, Volume VII, Port Security, COMDTINST M16000.12 (series)
- U. S. Coast Guard Maritime Law Enforcement Manual, Chapter 10, COMDT M16247.1D (series)
- U. S. Coast Guard Navigation Center's website http://www.navcen.uscg.gov/
- U. S. Coast Guard Regattas and Marine Parades, COMDTINST 16751.3 (series)
- U. S. Coast Guard Regulations 1992, COMDTINST M5000.3 (series)
- U. S. Coast Guard Telecommunications Manual, COMDTINST M2000.3 (series)
- Unit's Area Contingency Plan

Waterways Management Representative Tasks

Task Number	*WM Task*	*Date Completed*	*Verifying Officer's Initials*
1.0	**Ports and Waterways Management**		
1.1	**Explain** the function of the decision support system (i.e. Ports and Waterways Safety System (PAWSS), Vessel Traffic System) in managing vessel traffic.	_____	_____
1.2	**Describe** the Ports and Waterways Safety Assessment (PAWSA) process.	_____	_____
1.3	Using a completed PAWSA final reports for your AOR, **identify** existing and potential risk factors and corresponding mitigation measures.	_____	_____
1.4	**Describe** the ports and waterways user base for AOR.	_____	_____
1.5	**Assess** proposed port construction and dredging projects' impact on a waterway.	_____	_____
1.6	**Explain** how the Automatic Identification System (AIS) works, and its potential uses and benefits to waterways safety.	_____	_____
1.7	**Explain** the mission, authority, and resources provided by a Vessel Traffic Service.	_____	_____
1.8	**Stand** a watch as an observer, with a qualified watchstander, in a Vessel Traffic Center (VTC), if available.	_____	_____
1.9	**Discuss** the requirement for weekly and/or daily ice operations reporting in your AOR if applicable.	_____	_____
1.10	**Recite** the location and status of Coast Guard ice operations in your AOR if applicable.	_____	_____
1.11	**Identify** commercial ice operations in your AOR if applicable	_____	_____

Waterways Management Representative Tasks

Task Number	*WM Task*	*Date Completed*	*Verifying Officer's Initials*
2.0	**Aids to Navigation System Administration**		
2.1	**Explain** the Waterways Analysis and Management System (WAMS), and its systematic analysis of critical and non-critical waterways.	_____	_____
2.2	**Describe** how aids to navigation are positioned.	_____	_____
2.3	**Discuss** the cautions that must be exercised in using buoys as a sole navigation aid for positioning purposes.	_____	_____
2.4	**Describe** how ranges are used as aids to navigation.	_____	_____
2.5	**Describe** low visibility signals found on aids to navigation.	_____	_____
2.6	**Explain** how radar beacons (RACON) are used as aids to navigation.	_____	_____
2.7	**Discuss** in general terms the information found in the following publications, and how to update the information based on changes within the port(s) and waterway(s): • Light Lists • List of Lights (international) • Radionavigational Aids • Coast Pilot • Sailing Directions	_____	_____
2.8	**Discuss** the method(s) used to determine if unit's charts/publications are up-to-date.	_____	_____
2.9	**Explain** what an aids to navigation discrepancy is.	_____	_____
2.10	**Describe** the procedures to follow when the unit receives an aids to navigation discrepancy report: • **Identify** the primary and secondary response units for ATON discrepancies using the ATON Assignment List.		

Waterways Management Representative Tasks

Task Number	*WM Task*	*Date Completed*	*Verifying Officer's Initials*
2.10 (Cont.)	• **Complete** a Discrepancy Response factor sheet and discuss its purpose in regards to discrepant aids to navigation. • **Draft** an ATON Discrepancy message. • **Draft** and transmit a Broadcast Notice to Mariners.	_____	_____
2.11	**Discuss** what actions may be taken with regards to aids to navigation in the vicinity of a marine incident.	_____	_____
2.12	**Describe** the purposes and sources of the following: • Marine Broadcast Notice to Mariners • Weekly Notice to Mariners • Local Notice to Mariners	_____	_____
2.13	**Ride** a local ATON asset or **spend** the day shadowing an Aids to Navigation Team (ANT) member.	_____	_____
3.0	**Vessel Movement Information**		
3.1	**Explain** the importance of managing vessel movement information in relation to ports and waterways safety.	_____	_____
3.2	Using the Ship Arrival Notification System (SANS) and local sources to collect vessel movement and advance notice of arrival information, **prepare** the daily list of anticipated vessel arrivals/movements	_____	_____
3.3	**Enter** vessel arrival/movement information in Marine Information System Law Enforcement (MISLE).	_____	_____
3.4	**Describe** a Captain of the Port (COTP) order and authority for issuance.	_____	_____
3.5	**Draft** a COTP order.	_____	_____

Waterways Management Representative Tasks

Task Number	*WM Task*	*Date Completed*	*Verifying Officer's Initials*
3.6	**Describe** the means of enforcing a COTP order.	_____	_____
3.7	**Explain** VTS Measures and Directions and who has the authority to issue a measure or directive.	_____	_____
3.8	For anchorages in your AOR. • **Determine** arrival and departure notification requirements. • **Identify** specific use (i.e. lightering, draft limits, time limits). • **Identify** physical constraints (i.e. depth, current, bottom type). • **Identify** contingency planning elements (i.e. weather, dragging anchor, dredging). • **Identify** local special use (moorings, barge fleeting). • **Review** any local COTP policies regarding anchorages.	_____	_____
3.9	**Maintain** a listing of vessels in anchorage areas.	_____	_____
3.10	**Describe** and **direct** abandoned vessel operations (if applicable).	_____	_____
3.11	**Describe** and **direct** dead ship tows and towing vessel requirements/limitations (if applicable).	_____	_____
3.12	**Explain** the reasons for and methods of monitoring vessels at anchor in an anchorage.	_____	_____
4.0	**Limited Access Areas**		
4.1	**Describe** the six types of Limited Access Areas (LAAs) and authority for issuance. • Safety Zone • Outer Continental Shelf (OCS) Safety Zone • Deepwater Port Safety Zone • Security Zone • Restricted Waterfront Area • Regulated Navigation Area	_____	_____

Waterways Management Representative Tasks

Task Number	*WM Task*	*Date Completed*	*Verifying Officer's Initials*
4.2	**Identify** the limits and terms of any limited access areas in the port.	_____	_____
4.3	**Describe** circumstances which might present a need for a limited access area in the port.	_____	_____
4.4	**Describe** the process of establishing and communicating a limited access area.	_____	_____
4.5	**Describe** the process of disestablishing or canceling a limited access area.	_____	_____
4.6	**Describe** the means of monitoring and enforcing a limited access area.	_____	_____
4.7	**Describe** control action for noncompliance with requirements of a limited access area.	_____	_____
4.8	**Draft** safety/security zone and regulated navigation area documents.	_____	_____
5.0	**Captain of the Port Permits**		
5.1	**Cite** the authority for the following types of permits issued by the Captain of the Port: • Marine Event Permit • Explosives Handling Permit • Permit to Proceed • Fireworks permit • Ocean Dumping Permit	_____	_____
5.2	**Process** a COTP permit. • **Receive** permit application. • **Ensure** completeness of permit application. • **Evaluate** risk factors, safety considerations, and environmental impacts. • **Review** and **forward** permit application to division chief. • **Forward** the Sector's response to permit applicant.		

Waterways Management Representative Tasks

Task Number	*WM Task*	*Date Completed*	*Verifying Officer's Initials*
5.2 (Cont.)	• **Provide** notice to commercial interests on any special local regulations developed for the permit. • **Consult/notify** federal, state and local agencies. • **Determine** the need for and implementation of any special local regulations, LAAs, and temporary aids to navigation.	_____	_____
5.3	**Distribute** information on any special local regulations, LAAs, and temporary aids to navigation to maritime community.	_____	_____
5.4	**Explain** the relationship between the District Commander and the COTP with respect to promulgating special local regulations or establishing temporary aids to navigation for a marine event.	_____	_____
6.0	**Marine Event Patrols**		
6.1	**Describe** the planning and coordination of a marine event. • **Determine** availability and appropriate mix of active duty and Auxiliary resources. • **Assign** Patrol Commander or Auxiliary Facility Commander. • **Generate** Operation Plan (OPLAN). • **Generate** messages. • **Generate** other required event documentation. • **Notify** all concerned parties. • **Update** schedules/calendars. • **Track** the event.	_____	_____
7.0	**Harbor Patrols**		
7.1	**Describe** the two primary types of patrols (landside and waterborne).	_____	_____
7.2	**Describe** which type of patrol to use under specific port conditions based on unit and Commandant policy.	_____	_____

Waterways Management Representative Tasks

Task Number	*WM Task*	*Date Completed*	*Verifying Officer's Initials*
7.3	**Select** and **conduct** appropriate patrol.	_____	_____
7.4	**List** equipment available for communications while conducting patrols.	_____	_____
7.5	**Describe** which communications equipment is most appropriate and available to use for the circumstances of a given patrol.	_____	_____
7.6	**Demonstrate** proper communications procedures while conducting a patrol.	_____	_____
7.7	**Describe** the occupational safety and health equipment and precautions required to conduct a patrol and demonstrate appropriate use.	_____	_____
7.8	**List** areas or activities of interest in the port to observe during patrols.	_____	_____
7.9	**Identify** high-risk vessel/facilities operations (i.e., LNG, Passenger Terminals/Vessels, and Bulk Liquid.)	_____	_____
7.10	**Identify** and **locate** high density traffic/activities.	_____	_____
7.11	**Identify** and **locate** environmentally sensitive areas in the port.	_____	_____
7.12	**Determine** the status of continuing situations or conditions since previous reports of port harbor conditions.	_____	_____
7.13	**Verify** presence of known obstructions to navigation within the port.	_____	_____
7.14	**Identify** the requirements for bunkering/lightering ops within the harbor.	_____	_____
7.15	**Identify** any barge fleeting area(s) within the port.	_____	_____
7.16	**Complete** MISLE entry case to document harbor patrol	_____	_____

Waterways Management Representative Tasks

Task Number	*WM Task*	*Date Completed*	*Verifying Officer's Initials*
8.0	**Coast Guard Auxiliary's Role and Responsibilities**		
8.1	**Describe** the Coast Guard Auxiliary's capabilities, resources, and organization in the AOR.	_____	_____
8.2	**Describe** the Coast Guard Auxiliary's capability to assist in the following Coast Guard mission areas: • Marine Events • ATON • Port Safety and Maritime Domain Awareness • Vessel inspections • Facility inspections • Harbor Patrols • Overflights	_____	_____
8.3	**Describe** the requirements for an Auxiliary member to offer their vessel as an operational facility and who sets the operational limitations for the facility.	_____	_____
8.4	**Describe** liability issues that affect an Auxiliary member (and/or facility) under orders.	_____	_____
8.5	**Attend** a Flotilla meeting and/or Division meeting in AOR.	_____	_____

NOTES

NOTES

SAMPLE LETTER OF DESIGNATION

U.S. Department of Homeland Security

United States Coast Guard

Command's Name

Street Address
City, State Zip Code
Staff Symbol:
Phone:
Email:

1601
DATE

MEMORANDUM

From: I. M. Frank, CAPT
Unit's Name

Reply to
Attn of:

To: ENS M. O. Ore, USCG

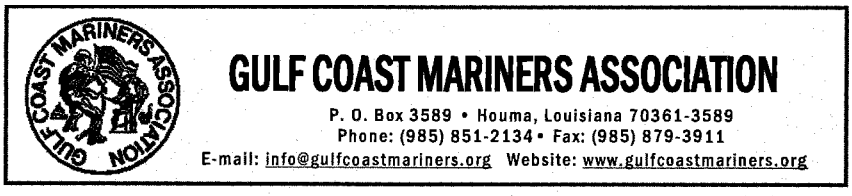
Subj: DESIGNATION AS WATERWAYS MANAGEMENT REPRESENTATIVE

Ref: Waterways Management Representative Performance Qualification Standard Workbook

1. Congratulations! You have completed all requirements necessary to perform the duties of a Waterways Management Representative. You are authorized to carry out the responsibilities of a Waterways Management Representative within the scope of your qualifications. This is a significant milestone in your professional development and I commend your accomplishments.

2. This Letter of Designation should be retained as part of your personal Training Record and you will be assigned the Waterways Management Representative's Qualification Code "WM".

#



STATEMENT OF RICHARD A. BLOCK
Submitted to the Subcommittee on Coast Guard and Maritime Transportation
Thursday, August 2, 2007

Mr. Chairman and distinguished members of the Subcommittee on Coast Guard and Maritime Transportation, it is my honor to be invited to appear before you today to testify on the Challenges Facing the Coast Guard Marine Safety Program.

My name is Richard A. Block, and I am the Secretary of the Gulf Coast Mariners Association. As a word regarding my background, I am a secondary school teacher by profession with a dozen years of classroom experience in academic and vocational settings in New York, Louisiana, and Alaska. For 17 years, I was editor of the National Association of Maritime Educators' newsletter. I have held a Coast Guard license for 52 years as a "lower-level" Master – with emphasis on "lower-level" defined as applying to vessels of less than 1,600 tons. I served on small vessels including launches, passenger and car ferries, freight boats, tugboats, and offshore supply vessels on the east coast, Gulf of Mexico and overseas. During these years, I either owned or managed three small boat companies. I edit and publish a series of textbooks for "lower-level" mariners including masters, mates, operators, able seamen, tankermen, and workboat engineers and have done so continuously since 1970.

The Gulf Coast Mariners Association (GCMA) is a voluntary membership association of licensed and unlicensed mariners who serve on commercial vessels like tugs, towboats, oilfield vessels, and small passenger vessels of up to 1,600 gross register tons. We were founded in 1999 with the help of four major maritime unions as an independent mariner Association. The unions taught us to stand on our own two feet. However, we are not now and never have been a labor union. We are independent and have no financial ties to any union although we are grateful for their past help and guidance.

We are an independent source of information that reports on conditions that exist in the field and affect our "lower-level" mariners. We built upon the work done by predecessor organizations and currently post about 140 GCMA research reports on our Internet website. Three of our Directors, Captain Roland Rodney, Captain Joseph Dady, and Chief Engineer Glenn Pigott received appointments by the Secretary of Homeland Security to memberships on various Coast Guard advisory committees.

In our attempts to improve safety and working conditions for our mariners, we always presented our problems to the Coast Guard first, often bringing them up in correspondence or at advisory committee meetings. However, whenever the Coast Guard proved to be either unable or unwilling to move on a number of issues, we reached an impasse. This happened a number of times in the past eight years. When it was clear to us that a law had to be changed, then and only then, did we address a report summarizing that issue to members of this Subcommittee.

Our mariners face a number of challenges from the Coast Guard's marine safety program. In the broadest sense, this program involves vessels and people. Our "lower-level" merchant mariners represent a clear majority of all merchant mariners, at least 126,000 of slightly over 200,000 that the Coast Guard issues credentials to. This does ***not*** include thousands who work on inland waters and on vessels up to 100 tons offshore that the Coast Guard has no record of.

One of the greatest challenges we face is that a branch of the military superintends our civilian mariners, who are employed by companies that are in the business of making a profit. Men and women who join the Coast Guard have chosen to live a military lifestyle. As a former Army officer, I understand and respect that lifestyle. However, it has many shortcomings when it is left to control civilian enterprises and our civilian mariners who did not choose and are not familiar with that lifestyle. The Coast Guard gained control over the merchant marine during World War II at a time of national emergency as a temporary expedient. However, after the end of the war, a postwar reorganization act did not return it to civilian control. We believe the time has come to consider controlling a

number of merchant marine functions to merchant marine officers. After all, one federal and six state maritime academies continue to turn out hundreds of new merchant marine officers each year. These officers all have college degrees. In the company of other experienced "hawsepipers" who have come up through the ranks, these mariners are able to guide, direct, and nurture the U.S. Merchant marine.

Specific Challenges

On July 5, 2007 GCMA mailed each Subcommittee member a letter and a copy of GCMA Report #R-429-J dealing with the Coast Guard Abuses of the Administrative Law System. This report summarized for the Subcommittee a matter already discussed in a hearing set for July 31st.

I want to concentrate and reiterate these points made at that time in my cover letter:

- The Coast Guard marginalized "lower-level" mariners over the years by exclusively relying on the advice of "management" without adequate consideration of working mariners.
- Although represented on "Advisory Committees" mariners were effectively shut out for a number of reasons.
- The Coast Guard created an atmosphere of intimidation and an impenetrable bureaucratic regulatory maze that discourages our mariners from seeking employment on inland, river, and coastwise vessels of less than 1,600 tons. The most obvious result is the current "personnel shortage" that grips the industry. Their personnel practices artificially-created a set of "jobs Americans will no longer perform." We believe that Americans will gladly perform these jobs if they are offered adequate pay, job security, medical care, a safe working environment and freedom of association in the work place!
- The Coast Guard is a military organization with little or no practical experience in civilian merchant marine affairs. Consequently, we will show beyond a doubt that most of the legitimate issues our "lower-level" mariners present to the Coast Guard are sidetracked and never resolved.

The record we offer below will show that GCMA did its utmost to keep Members of Congress informed about the problems and conditions our mariners face in the maritime industry. Consequently, we encourage the introduction of legislation that specifies the transfer of the following "marine safety duties" to civilian control including:

- Merchant marine personnel management including credentialing and training.
- Investigations of accidents and especially personal injuries, including hearings before Administrative Law Judges.
- Vessel inspection.

We covered these three areas that directly affect our mariners in a number of reports that we distributed to Members of the House and Senate oversight committees. Unfortunately, our limited funds never enabled us to ***effectively*** lobby for these changes. We also published each of the following reports (and many others) and posted them on our Internet website in the public domain for the past four years. They speak for themselves.

Accompanying this statement is GCMA Report #R-350. This is the third revision first issued in 2003 titled Mariners Seek Help From Congress on Safety-Related Problems. Our mariners must approach Congress after Coast Guard officials are ***unable or unwilling*** to resolve individual issues. This report summarizes many issues that indicate that a transfer of merchant marine functions to a more attentive civilian agency would directly benefit the mariners we speak for. Part 1 contains a number of issues where we ask for help from this Subcommittee while Part 2 presents our views on some other issues that may explain a little more about our mariners.

We list below ***other reports*** previously mailed to members of this Subcommittee. Each report is currently available on our website shown in our letterhead.

- GCMA Report #R-428-D. Feb. 13, 2007. Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services. *[**Comment:** This report tells the subcommittee exactly how the Coast Guard deals with our merchant mariners. We pulled no punches but never heard a peep from the Coast Guard about it. We believe it is credible.]*

- GCMA Report #R-354, Rev.1. Nov. 19, 2006. A Direct Appeal to Congress on Lifesaving Issues Affecting Lower-Level Mariners. *[**Comment:** In 1986, the NTSB asked the Coast Guard to eliminate survival craft that were not designed to keep survivors from entering the water. We ask that Congress not postpone this requirement to 2013 to mollify manufacturers because these basic lifesaving issues need immediate Congressional oversight to overcome years of Coast Guard's procrastination.]*

- GCMA Report #R-429, Aug. 29, 2006. GCMA Report to Congress: How Coast Guard Investigations Adversely Affect Lower Level Mariners. *[**Comment:** The Department of Homeland Security Inspector General's office is*

scheduled to provide a comprehensive and authoritative report to Congress later this year. This is a view of the Coast Guard's performance of investigations from our mariners' perspective.]

- GCMA Report #R-429-G, Rev. 2. Feb. 24, 2007. **(Series).** Report to Congress: Sharpening Accident Investigation Tools by Establishing Logbook Standards for Lower-Level Mariners. *[**Comment:** We thank Congress for including this in the recent Authorization Bill. However, we ask whether you can count on the Coast Guard to enforce it if it becomes law? The Coast Guard has been unable to successfully distribute the official logbooks and oil record books that Congress already provides.]*

- GCMA Report #R-395, Rev.2, Nov. 22, 2006. Safe Potable Water and Food Service for Commercial Vessels of Less than 1600 Gross Register Tons: An Appeal To Congress. *[**Comment:** Our mariners appreciate the Congressional action taken in 2004, but ask the Coast Guard why they have done nothing tangible with this issue in the last 3 years.]*

- GCMA Report #R-370-A (Series), Rev. 2. May 19, 2007. Report to Congress: Fifth Anniversary of the Webbers Falls I-40 Fatal Bridge Accident: Unresolved Issues Revisited. *[**Comment:** The Coast Guard and NTSB together sidetracked and skillfully avoided "fatigue" and "hours-of-work" issues in this towboat accident with multiple fatalities. It's a big problem — please don't duck it!]*

- GCMA Report #R-279, Rev 6, Sept. 14, 2006. Report to Congress on the Need to Review and Set Safe Manning Standards for Offshore Supply and Towing Vessels. *[**Comment:** Undermanning has been a problem our mariners must endure but are never invited to discuss! The Coast Guard officers who make critical decisions about manning seldom "ride the boats" to assess the conditions they establish!]*

- GCMA Report #R-401, Rev. 1,.Mar. 8, 2005. Crew Endurance and the Towing Vessel Engineer – A Direct Appeal to Congress. *[**Comment:** The Coast Guard's record on training our lower-level engineers has been absolutely deplorable. We think they have their head in the sand or worse!]*

- GCMA Report #R-428, Rev.1. Oct. 23, 2006. Report to Congress: The Forgotten Mariners. Maritime Education and Training for Entry-Level Deck & Engine Personnel. *[**Comment:** Entry-level refers to new people entering the system. There are few "regulations" and only limited guidance available to new entrants; and the Coast Guard completely overlooked training of engineers for the past 30 years. It is especially important for reasons of safety to train entry level personnel.]*

- GCMA Report #R-341, Rev. 3, Jun. 30, 2006. Smoking and Merchant Mariner Health & Welfare Issues: A Petition to Congress. *[**Comment:** Most mariners seek a healthy place to work. Why did the Coast Guard control "smoking" on their cutters and shore stations yet ignore the health of our mariners?]*

- GCMA Report #R-413. Rev. 1, Feb. 11, 2006. A Direct Appeal to Congress to Reform the Two-Watch System. *[**Comment:** This was the main thrust of our Legislative Agenda in GCMA Report #R-332, Rev. 3 but appears to have been overlooked in the draft Authorization Bill.]*

- GCMA Report #R-411, Rev. 4, May 30, 2006. Congressional Oversight is Necessary to Prevent Continuing Overhead Clearance Accidents. *[**Comment:** The Coast Guard has been as ineffective as the Keystone Cops in "connecting the dots" and initiating rulemaking on these preventable accidents.]*

- GCMA Report #R-417, Rev. 1, Feb. 25, 2007. Report to the 110th Congress: Request for Congressional Oversight on the Towing Safety Advisory Committee. (TSAC). *[**Comment:** At present, the towing industry's trade association – under the guise of a TSAC working group – is writing its own towing vessel inspection regulations using a Coast Guard draft document without presenting that document as a Notice of Proposed Rulemaking in the Federal Register. Three years have passed and there still is no Notice of Proposed Rulemaking.]*

For additional information, please review the GCMA Report #R-350, Rev. 3, July 21, 2007. Mariners Seek Congressional Help on Maritime Safety, Health, and Work-Related Problems ***attached*** as part of this testimony.

Gulf Coast Mariners Association

GCMA REPORT #R-350, Revision 3
Compiled & Edited by Richard A. Block
DATE: July 21, 2007

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MARINERS SEEK CONGRESSIONAL HELP ON MARITIME SAFETY, HEALTH AND WORK-RELATED PROBLEMS

*[**Publication History:** This report revises and updates two earlier editions published in Feb. 2003. **Editorial Notes:** All GCMA reports mentioned here are available on our website. You can review every "docket #" mentioned here at: http://www.dms.dot.gov]*

EXECUTIVE SUMMARY: WHY OUR MARINERS REPORT TO CONGRESS

The Gulf Coast Mariners Association (GCMA) is a voluntary membership association of "lower-level" mariners founded in April 1999. From the beginning, our Association's primary goal was to bring our mariners' safety-related problems to the attention of the appropriate Coast Guard officials for resolution. Unfortunately, we discovered they were not up to the task of resolving them!

After reviewing earlier editions of this report, we realized that most of the problems our mariners currently experience had their roots long before the terrorist acts of Sept. 11, 2001. We believe Coast Guard officials could and should have addressed these issues when first brought to their attention. Instead, they procrastinated, attempted to smother us with their bureaucracy, and avoided remedial action while our problems grew in size and complexity. Having reached this point, we seriously doubt whether the Coast Guard either intends to or is even capable of resolving our issues.

Only because these problems were ignored and grew so sizeable do we ask the 110th. Congress to favorably consider our ***Requests for Congressional Action*** presented in **Part 1** of this report (i.e., Issues 1 through 22). On the other hand, **Part 2** of this report expresses the views of lower-level mariners on a number of issues for information purposes.

For the past eight years GCMA attempted to work through the Coast Guard since the Secretary of Homeland Security "...has general superintendence over the merchant marine of the United States and of merchant marine personnel..."[1]. This report highlights the fact that we did bring our mariners' problems before U.S. Coast Guard officials at local, district, and national levels. We often found these officials were unwilling or unable to resolve them for a variety of reasons. Periodically, for the past six years, as we reached a dead end on a particular problem, we submitted individual reports to members of the Congressional oversight committees as Coast Guard officials proved to be unresponsive to our Association. *[[1]46 U.S. Code §§2103 and 2104.]*

Several years ago, the National Maritime Center's "Proceedings" magazine provided us with an authoritative census figure of approximately 204,835 merchant mariners.[1] Of this number, we identified 126,362 credentials that belong to "lower-level" mariners who, by definition, work on vessels of less than 1,600 gross register tons (GRT). *[[1]Refer to GCMA Report #R-353, Rev.2, Lower-level Mariners are a Majority of All U.S. Merchant Mariners].*

The 126,362 figure does ***not*** include unlicensed and undocumented mariners who serve offshore on commercial vessels of less than 100 GRT or on inland waters on all vessels up to 1,600 GRT as deckhands, unlicensed engineers, "deckineers," cooks etc. Until after 9/11, the Coast Guard largely ignored this additional population of full time, part-time, and seasonal employees.

We limited the scope of this report to problems facing licensed and unlicensed ***lower-level mariners*** who work on "boats" up to 1,600 GRT. This report (and our Association) do not purport to speak for mariners working on larger "ships" as these mariners are well represented by maritime labor unions. We defined and delineated the problems as well as the views of our lower-level mariners to our elected representatives on the legislative committees that deal with maritime transportation issues.

From 1999 to 2007, the Coast Guard's failure to address legitimate mariner complaints hurt the towing and offshore oil sectors of the marine industry as witnessed by steadily declining mariner retention rates and crew shortages as reported at several high-level national conferences. We document the reasons for our mariners' frustration in this report and in the other in-depth GCMA reports we reference here.

This report explains why our mariners find it necessary to look beyond the Coast Guard to Congress for redress of grievances and relief for a growing number of unresolved problems. These problems, although they may appear to be minor in the context of national priorities, threaten to undermine important sectors of the maritime industry if not addressed in a timely manner. This report signifies that we no longer have the confidence that the Coast Guard is up to this task!

[Request for Congressional Action. Consider transferring Coast Guard authority over all merchant marine personnel to a suitable civilian agency within the government.]

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ISSUE #1 – SUBSTANDARD MERCHANT MARINE PERSONNEL SERVICES

[Request for Congressional Action: We request that Congress end the Coast Guard's mismanagement of lower-level merchant marine personnel by assigning credentialing, training, and vocational certification to an appropriate civilian agency within the government.]

[Request for Congressional Action: Consider funding a student loan or grant program to finance required mariner education and training.]

Additional documents available on the GCMA website:

- GCMA Report #R-428-D, Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services. (55 pages).
- GCMA Report #R-415, Rev. 2. Coast Guard Mis-management of Lower Level Merchant Marine Personnel: Training and Licensing Problems for Towing Vessel Officers

Discussion: In a 2007 special edition of Maritime Executive magazine, the former chief of the Boston Regional Examination Center (REC) pointed out that two previous attempts to overhaul the credentialing process for mariners were, "poorly planned and designed (and that) Coast Guard senior leadership declined to fund them." Nevertheless, our mariners had to live through these and countless other inept blunders since the establishment of the National Maritime Center (NMC) in 1995 in Arlington, VA.

In spite of the fact that the NMC controls the credentials of over 200,000 merchant mariners, its functions were of such low priority that the Coast Guard did not even place it under the control of a flag officer. The credentialing program was perpetually understaffed, fails to meet mariners' needs for prompt service, and now depends upon contract workers to perform many functions. After twelve years, the NMC still does not even exercise full control of its seventeen Regional Examination Centers (REC).

The entire credentialing process is considered a promotion backwater within the Coast Guard and rarely attracts any real talent. Few if any "lower-level" mariners have ever participated in management positions within the system.

ISSUE #2 – COAST GUARD INVESTIGATIONS

[Request for Congressional Action: We encourage Members of Congress to carefully examine Coast Guard's investigative activities in line with the forthcoming Department of Homeland Security's Inspector General (DHS OIG) assessment.]

Discussion: GCMA was pleased to be invited to contribute to the forthcoming DHS OIG assessment.

We observed on many occasions that Coast Guard officials are reluctant to investigate problems reported by our mariners. Furthermore, after reviewing several landmark reports,[1] we believe the quality of Coast Guard investigations has deteriorated markedly.

We believe the relatively new requirements in §442 of the Maritime Transportation Security Act of 2002 requiring the Coast Guard to electronically publish all major marine casualty reports is a step forward as long as it is accomplished thoroughly and properly. Another step forward is the new two-year limit on preparing accident reports. Although this law should have provided the public with meaningful accident reports from which we can draw important lessons in a timely manner, there are even more problems that must be uncovered. We outlined a number of these problems in GCMA Report #R-429[2] and are pleased that Congressional oversight committees have asked the DHS OIG to examine this matter in greater depth.

Additional documents available on the GCMA website:

- [1]GCMA Report #R-429-A, Rev 1. (Series), U.S. Coast Guard Marine Casualty Investigations and Reporting: Analysis and Recommendations for Improvement By James G. Byers, Susan G. Hill, & Anita Rothblum. Interim Report, August 1994. and GCMA Report #R-429-B, Rev. 1. (Series) Report of the USCG Quality Action Team on Marine Safety Investigations (July 26, 1996).
- [2]Refer to GCMA Report #R-429, How Coast Guard Investigations Adversely Affect Lower Level Mariners.]

ISSUE #3 – FORMAL SAFETY TRAINING FOR ENTRY-LEVEL & ENGINEERING PERSONNEL

[Request for Congressional Action: Acknowledge the critical role of trained engineers in maintaining machinery on vessels of less than 1600 GRT and the fact that these engineers require formal safety training before being allowed to work in machinery spaces. Provide for vocational training to improve their skills.]

Discussion: Although the Coast Guard was not granted the authority to license engineers on most small vessels, it conveniently forgot that most commercial vessels that do not require a licensed engineer[1] use an unlicensed engineer, "deckineer", or deckhand to monitor the engineroom, perform maintenance, and pump the bilges because, even on small boats, the master of the vessel cannot be in two places at the same time. *[[1]Licensed engineers are only required on inspected vessels greater than 200/300 GRT in coastwise or ocean service.]*

Since the Coast Guard superintends the merchant marine and is responsible for occupational safety and health afloat, they should be made to explain why they allow untrained mariners without any formal safety training to serve as "unlicensed engineers" or "deckineers" aboard vessels where they may be called upon to work with rotating machinery, electrical, pneumatic, and hydraulic equipment without suitable indoctrination.

In a 12-year period, raw data provided by the Coast Guard showed that 2,611 towing vessels lost electrical power, sank flooded, capsized, burned, exploded, were abandoned or suffered stability problems. This does not include events like groundings, allisions or collisions which might be considered navigational errors and blamed on deck officers. These figures reflect poorly upon the training and performance of individuals assigned to watch or maintain the engineroom and other machinery on towing vessels. Since towing vessels were not classed as "inspected" vessels, apparently the Coast Guard never bothered to analyze the details of this raw data in greater detail.

Additional documents available on the GCMA website:

- GCMA Report #R-428, Rev. 1, Report to Congress: The Forgotten Mariners. Maritime Education & Training for Entry-Level Deck & Engine Personnel. (30 pages).
- GCMA Report #R-401-A., Uninspected Towing Vessels: An Analysis of the Historical and Contemporary Issue of Their Regulation. July 1980
- GCMA Report #R-412, Towboat Engineer's Death Points to Need for Changes in the Law.

ISSUE #4: REGULATING TOWING VESSELS

[Request for Congressional Action: Promulgating new towing vessel inspection regulations should be finalized as a much higher priority item. Request that significant written suggestions by our mariners be incorporated in the new regulations.[1]

[Request for Congressional Action: Since the Coast Guard claims to be short of inspectors, take the first step in removing merchant vessel inspection from Coast Guard control by authorizing and training suitable civilian inspectors with strong maritime backgrounds to inspect the nation's towing vessels.]

Discussion: Since 2000, our Association actively worked for Coast Guard inspection of uninspected towing vessels to protect the health, safety, and welfare the mariners who serve on these vessels. To start, we petitioned the Coast Guard who assigned our request to the Towing Safety Advisory Committee (TSAC) but found that TSAC preferred to kill the idea.

After learning that a change in the law would be required to inspect towing vessels, we requested[1] the Coast Guard to submit a Legislative Change Proposal to do so. We were told "...you may also seek legislative action on this issue on your own."[2] – which we did. *[[1]Letter to Admiral Thomas Collins, Oct. 28, 2002. [2] Reply by VADM T.J. Barrett, Nov. 13, 2002]*

GCMA requested a straightforward statutory change to amend existing 46 U.S. Code §3301 to add "towing vessels" to the existing list of vessels that require Coast Guard inspection to adequately protect our mariners as well as the general public from substandard vessel operating companies. Congress provided that change in September 2004.

Starting in 2000, our Association carefully examined existing regulations and over the years developed GCMA Report #R-276, Towing Vessels Must Be Regulated Like Every Other Inspected Vessel. This report went through nine (9) revisions.

Our report emphasized that mariners working on uninspected towing vessels never received the same basic consideration and regulatory protection from the Coast Guard as mariners working on inspected vessels of comparable size such as small passenger vessels or offshore supply vessels. The report is comprehensive and covers approximately many specific areas by comparing the lack of regulations on towing vessels to existing Small Passenger Vessel and Offshore Supply Vessel regulations.

The workforce. As determined from data published by the Coast Guard on May 12, 1994 following the Bayou Canot accident, approximately 32,000 lower-level mariners, both licensed and unlicensed, are engaged in commercial towing enterprises.

A majority of lower-level tug and towboat personnel serve as "employees at will" for an estimated 1,100 towing companies. The majority of these workers are not unionized and their continued employment is not protected by negotiated labor contracts and may be terminated "...for good cause, for no cause, or even for cause morally wrong..." to quote from a judicial opinion. Consequently, without union representation, the lower-level mariners serving on uninspected towing vessels for the last 35 years lacked sufficient leverage to press for legislative

changes to provide them with the same protections that are routinely available to mariners serving on inspected vessels of comparable size and horsepower. For example, in many cases, our mariners clearly lack protections available to workers in general industry under the Occupational Safety and Health Act of 1970 as pointed out in the Chao v. Mallard Bay Drilling, Inc. case.

Thirty-five years ago, Congress had the opportunity to 1) license towing vessel operators and/or 2) to inspect towing vessels. The legislative history of this period is related in detail in a report prepared by the Transportation Institute.[2] We found this report a definitive contemporary study of the issues through its publication date of 1980. At that time, the Coast Guard supported both the licensing and vessel inspection proposals. Unfortunately for our mariners, Congress acted on the towing-vessel operator-licensing proposal alone but left towing vessels as uninspected vessels and did not require trained or licensed engineers on towboats at that time.

In the past, many mariner complaints fell on deaf ears because the Coast Guard lacked specific statutory authority to regulate the towing industry and curb admittedly unsafe conditions. Yet the Coast Guard failed to seek such authority.

In TSAC subcommittee discussions, GCMA expressed a general approval of the American Waterways Operators (AWO) Responsible Carrier Program (RCP) and its flexibility in dealing with changing situations. However, we pointed out that the RCP only paralleled the present level of Coast Guard regulation of uninspected towing vessels and argued that much more comprehensive regulatory coverage was necessary to protect our mariners. GCMA Report #R-276 pointed out these specific RCP shortcomings that only a comprehensive regulatory package could overcome:

- The RCP only applies to AWO members. Hundreds of smaller towing companies employing thousands of mariners choose not to belong to AWO.
- AWO is a trade association and has no enforcement powers.
- The RCP does not have any provision for appeal.
- Both AWO and GCMA expressed similar complaints in TSAC meetings about substandard vessel operators and Coast Guard's failure to enforce existing laws.
- Current standards for uninspected towing vessels already are contained in the Coast Guard's voluntary Cooperative Towing Vessel Examination Program (CTVEP).
- CTVEP, presented with considerable fanfare in the wake of the Bayou Cannot accident, never received adequate funding to become an effective national program and was not enforced over wide geographic areas. This is especially true in the Gulf Coast area.[3]
- The current Responsible Carrier Program standards only mirror existing Coast Guard standards. In March 2002, GCMA completed a study (book) comparing Coast Guard regulations and RCP coverage on pages 11-26. Unfortunately, many areas of workplace safety fell outside these coverage areas.

Additional documents available on the GCMA website:

- [1]GCMA Report #R-276, Rev. 9, Towing Vessels Must Be Regulated Like Every Other Inspected Vessel.
- [1]GCMA Report #R-276-A., Towing Vessel Inspection. Mariner Suggestions & Initiatives Submitted to the TSAC Towing Vessel Inspection & Licensing Work Groups.
- [1]GCMA Report #R-276-B, Availability of the Draft Towing Vessel Inspection Regulations.
- [2]GCMA Report #R-401-A, Uninspected Towing Vessels: An Analysis of the Historical and Contemporary Issue of Their Regulation. July 1980.
- [3] GCMA Report #R-282, Survey of USCG Boardings of Uninspected Towing Vessel, 2000.

[GCMA Comment: We support the Coast Guard's towing vessel inspection rulemaking project only to the extent that they use the same inspection standards as other vessels and do not cut "special deals" with industry that would create less thorough inspection standards.]

ISSUE #5 – WIDESPREAD HOURS OF SERVICE ABUSES

[Request for Congressional Action: We ask Congress to investigate why Coast Guard officials at all levels were unwilling to enforce existing work-hour statutes to the great detriment of our mariners.]

Discussion: In May 2000, in response to complaints from many lower-level mariners, GCMA collected documentary evidence of numerous violations by marine employers of the existing work-hour statutes that are supposed to protect mariners. These were violations of 46 U.S. Code §8104 and regulations based on those statutes the Coast Guard is empowered to enforce. Remarkably, there are ***gaps in existing laws*** and regulations that allow employers to exploit unlicensed crewmembers without regard to the number of hours they work each day. For example, the American Waterways Operators (AWO), an industry trade association suggests in its Responsible Carrier Program (RCP) that 15 hours is a reasonable work day. We respectfully disagree.

In June 2000, GCMA prepared a book containing 57 letters from our mariners citing actual 12-hour rule violations to illustrate rampant work-hour abuse. We sent the book to Eighth District Commander Rear Admiral

Paul Pluta. We redacted the names of each mariner because we had no way to protect our mariners from being fired by their employers or to prevent these employers from "blacklisting" them and destroying their careers. Unfortunately, Admiral Pluta showed absolutely no concern with our allegations and took no effective action whatsoever while serving as district commander or later as assistant commandant in Washington.

Later that year, GCMA distributed copies of our book to every member of three Coast Guard Advisory Committees, namely MERPAC, TSAC, and NOSAC. Even though our mariner complaints deal with the exploitation of the largest sector of active personnel in the U.S. Merchant Marine working both in inland and offshore waters, the Coast Guard assigned the "task" of evaluating our work-hour complaints to the National Offshore Safety Advisory Committee (NOSAC) instead of handling the issue directly.

NOSAC eventually concluded that they lacked the authority to resolve the matter or the means to properly investigate our complaints after they fumbled awkwardly with the problem for a year and a half. The problem did not vanish nor could the Coast Guard cover it up. This did not stop them from trying, however.

During this time, the Coast Guard furnished NOSAC members with a number of "studies" that eventually focused on "crew endurance." However, the subcommittee refused to grasp that industry's exploitation of work-hours could not be covered up by Coast Guard's Crew Endurance Management project.

At the April 2002 meeting at Coast Guard Headquarters in Washington, the NOSAC Subcommittee Chairman attempted to "wash out" our mariners' complaints. The meeting turned out to be an ugly confrontation between GCMA and the members of the subcommittee at Coast Guard Headquarters. The final subcommittee meeting led to a revised final report, resignation of its chairman, and a face-to-face public confrontation with RADM Pluta who GCMA accused of "dereliction of duty" for failing to investigate and resolve the 57 mariner complaints presented to him two years earlier.

As a result of the confrontation, RADM Pluta did agree to look into the matter – a temporary but meaningless concession. In a letter dated Dec. 4, 2002, Captain M. W. Brown of RADM Pluta's staff brushed us off by stating in part: "As promised by RADM Pluta, members of my staff examined methods of investigating reported violations in the Gulf Coast Mariners Association's "Yellow Book." Due to the age of the reports and lack of attribution, we were unable to resolve any of the allegations. The Coast Guard is interested in pursuing violations; however, we need timely, complete, and credible information to do so. We have developed this guide to assist mariners in future instances where work-hour violations are suspected. A copy of the guide is enclosed. "This guide is intended to help mariners understand work-hour and watchstanding limitations on vessels that utilize a two-watch system. A check list is also included that should help mariners record information that is essential to the Coast Guard and assist in violation case processing"

Our book was circulated with over 300 copies distributed to Members of Congress, the Department of Transportation, Department of Labor, Coast Guard, all maritime unions, the International Maritime Organization, and the International Transport Workers Federation and finally posted it on the internet.[1]

Status: In March 2007, GCMA asked Congress[2] to Amend 46 U.S. Code §8104 to limit the hours of work for all licensed and unlicensed mariners serving on any U.S.-flag commercial vessel to 12 hours in any 24-hour period and to address other specific problems with this statute that primarily affect lower-level merchant mariners.

Additional documents available on the GCMA website:

- [1]GCMA Report #R-201, Mariners Speak Out on Violation of the 12-Hour Work Day.
- [2]Refer to GCMA Report #R-332, Rev. 3, GCMA Legislative and Regulatory Agenda – 2007.

ISSUE #6 – UNSATISFACTORY COAST GUARD RESPONSE TO OUR PETITIONS FOR RULE CHANGES

[Request for Congressional Action: We ask Congress to direct the Coast Guard or successor agency to provide as fair and equal consideration to the views of working mariners (i.e., "maritime labor") as they give to the views of management.]

Discussion: Most conscientious mariners, especially those with a limited educational background who try to "play by the rules" discover that the maritime industry has a tapestry of laws and regulations that are difficult to understand. Mariners come to our Association when they face existing rules and policies that are flawed and need to be revised or updated or in cases where no rules apply to a particular situation.

We do not believe that all changes must originate in Washington since our nation's capitol is distant in both miles and outlook from most of the functions our mariners perform. We believe the knowledge, insight, and opinions of working mariners who make up the "grass roots" of a very large segment of our nation's maritime industry should count for something because of their unique practical knowledge of the industry. Although GCMA did its best to participate in the deliberations of the three federal advisory committees, we were not able to do so effectively.

As members of the public, an organization like GCMA is supposed to be able to participate in the rulemaking process by directly petitioning the Coast Guard to make regulatory changes. We also believe it is a legitimate function of our Association to ask the Coast Guard to submit reasonable legislative change proposals to Congress

on behalf of the mariners it superintends. We asked them to do so but sadly find that they have their own agenda that can find little room for our concerns.

In spite of our efforts, we believe the Coast Guard allowed both processes to break down so they no longer serve lower-level mariners, as they should. If the Coast Guard agenda before Sept. 11, 2001 appeared to display little interest in protecting the safety, health, and welfare of our mariners, their current agenda completely marginalizes the concerns of our mariners. ***This reinforces our determination to see merchant marine functions transferred to another agency that has the time and knowledge necessary to provide a workable administration.***

The process of making regulatory changes is clearly outlined in the Code of Federal Regulations (CFR) at 33 CFR §1.05-20. Unfortunately, it took our Association more than a year of waiting for the Coast Guard to respond to a simple FOIA request to learn more about the procedure for making statutory changes by means of a Legislative Change Proposal (LCP). Finally, we were told, in effect to "ask Congress" directly.

Using the Petition Procedure and Legislative Change Proposals

Minor functionaries at the Coast Guard's Marine Safety Council turned the "petition" procedure a wild goose chase for our Association. We attempted to use this process on five (5) separate occasions starting in April 2000. For all practical purposes the process worked very poorly until we finally reached the point of frustration and filed a formal complaint with Admiral Thomas H. Collins, on June 7, 2002. At that point, that part of the game ended and the process moved off top dead center when we were allowed to introduce a number of new "docket" items. However, the Coast Guard again marginalizes us by dumping and then ignoring most items we introduced into a docket that never was acted upon.

A "Docket" is a collection of papers, opinions, or reports on a single subject and is the "public file open for inspection" mentioned in the regulations. Unfortunately, most of our mariners are not familiar with the term or even how to access the USCG docket on the internet at **http://dms.gov/search**.

The games continued when the Marine Safety Council, composed of some of the highest ranking flag-officers in the Coast Guard, apparently did not give the docket management facility most of the supporting material we furnished them on each docket item. We corrected that problem by providing a fresh copy directly to the docket management facility and visiting the docket office in person where we found the DOT employees very helpful in posting the supporting material required by 33 CFR §1.05-20(a). The material that follows summarizes each docket and records the responses the Coast Guard made on each docket to the date of this report.

After mastering the basic procedure, we faced the most daunting challenge of all – and one we suspected would be there all along, namely the negative response given to almost every request we made. This **"NO"** clearly conveyed the message to us that the Coast Guard intended to do **NOTHING** to resolve any of the problems we reported to them. In several responses, we were told that we could approach Congress directly – and we did.

We also asked the Coast Guard to make several Legislative Change Proposals on behalf of our mariners. This procedure was even less rewarding and convinces us that the Coast Guard will not allow our government to work on behalf of our mariners.

Issues #7 through 11 (below) all represent docketed items.

ISSUE #7 – WORK-HOUR LIMITS FOR UNLICENSED CREWMEMBERS
[DOCKET #USCG-2002-12579]

[Request for Congressional Action: Since the Coast Guard lacks the authority to establish reasonable work-hour limits for unlicensed mariners, we ask Congress to investigate the matter.]

[Request for Congressional Action: We ask Congress to consider applying similar wage and overtime laws that apply to shoreside workers to our lower-level mariners who work on domestic waters.]

Discussion: In reviewing existing regulations, GCMA learned that the Coast Guard does not prescribe any work-hour limits for unlicensed individuals such as deckhands, tankermen, and unlicensed engineers on inland towing vessels.[1] We also determined that the Department of Labor had no work-hour limitation regulations that governed unlicensed personnel on uninspected towing vessels. The same situation also exists on other commercial vessels manned by lower-level unlicensed or undocumented mariners. Consequently, we petitioned the Coast Guard to protect our mariners by prescribing reasonable work-hours and cited a number of pressing reasons in our petition (in the docket) to do so.

Coast Guard Response: We received a letter from CAPT J.D. Sarubbi, Chief, Office of Compliance dated October 18, 2001 that stated in part:

"As you note in your letter, the Coast Guard does not prescribe regulations governing work hour limitations for unlicensed crewmembers aboard an uninspected towing vessel operating on inland waters and western rivers. While the Coast Guard frequently promulgates policies to interpret existing regulations, to establish new policy in the absence of a law would be prohibited by the Administrative Procedures Act. Where pertinent regulations are not in place, we rely on numerous non-regulatory solutions such as the recent fatigue alertness campaign we have embarked on with the American Waterway Operators, and the AWO Responsible Carrier Program..."

On Dec. 2, 2002, Captain M.W. Brown, on Admiral Pluta's staff, stated in part: "Research conducted by Coast Guard Headquarters legal staff revealed that the Coast Guard lacks the requisite statutory authority to generate regulations addressing work-hours for unlicensed mariners working aboard uninspected towing vessels. Based on this, the Coast Guard cannot initiate a rulemaking project."

[GCMA Comment: After more than 61 years superintending merchant mariners, it is pathetic to find that the Coast Guard NOW admits that it lacks statutory authority to regulate mariners' work-hours. Did they ever seek such authority? The Coast Guard is "asleep at the switch." Although they know about the exploitation of our unlicensed crewmembers, they never raised a finger to stop it! Congress also discovered Coast Guard officers have unrealistic expectations of their own enlisted personnel in search and rescue units and allowed them to work excessive hours and, in violation of agency policy, adversely affected the retention rate of their own enlisted personnel.[2]]

Coast Guard response (continued): "Understanding that the Coast Guard lacks specific authority to carry out this rulemaking petition, you have requested that we seek a Legislative Change Proposal (LCP) to provide for work-hour restrictions for unlicensed crewmembers serving aboard uninspected towing vessels. During the course of our normal LCP evaluation cycle, we will consider whether or not to include your particular request. However, it must be mentioned that we need to be extremely sclective in choosing LCPs (to) go forward. We must consider the resource implications as well as other stakeholders and agencies and, frankly, the likelihood that our request will succeed. Please keep in mind that you may pursue such requests on your own also."

[GCMA Comment: The Coast Guard knows that unlicensed vessel crewmembers work virtually unlimited hours without offering any concrete support or encouragement to overcome this injustice. "Other stakeholders" includes employers who, in other industries, normally pay "overtime" wages for work beyond eight (8) hours but are exempt from doing so in the maritime industry.]

GCMA considers unacceptable the AWO recommendation as part of its Responsible Carrier Program (RCP) to limit unlicensed crew members to 15 hours of work per day in reality a 105-hour workweek and has repeatedly called them to task. Although RCP has much to recommend it, it does not have the force of law and its recommendations only apply to AWO members. An AWO membership count of about 220 companies fails to consider Coast Guard figures showing more than 1,100 towing companies operate in the United States. It does not take a rocket scientist to understand why there is now and will continue to be a shortage of deckhands, unlicensed engineers, cooks, etc. willing to work on towing vessels and endure such work hours.

These additional documents are available on the GCMA website:

- [1]GCMA Report #R-370-G (Series), Crew Endurance: The Call Watch Cover-up
- [2]GCMA Report #R-304, Rev.1, Small Boat Station Search and Rescue Program. *[A DOT Audit.]*
- GCMA Report #R-305. Rev.1. Betrayed – A Call for Increased Congressional Oversight of the United States Coast Guard.

ISSUE #8 – GCMA REQUESTS UNIFORM LOGBOOK ENTRY PROCEDURES
[DOCKET #USCG-2002-12581]

[Request for Congressional Action: Since the Coast Guard does not have the authority to require small commercial vessels on domestic voyages to maintain uniform and meaningful logbooks, we ask that Congress require logbooks on all commercial vessels and require that mariners record specific and meaningful information useful for accident investigations, enforcement of work-hour regulations, and other lawful purposes in those logbooks; also, grant the Coast Guard or successor agency the authority to subpoena logbooks when investigating marine violation cases.]

[Comment on Congressional Proposal: Section 312 of the proposed Coast Guard Authorization Act of 2007 effectively captures our request. We urge Congress to adopt these proposed changes.]

[Request for Congressional Action: We also can attest to the Coast Guard's inadequate distribution practices for Official Logbooks, Oil Record Books, and Certificate of Discharge for Merchant Seamen (CG-718A) that are supposed to be provided at government expense. We ask that the burden of printing and distributing Official Logbooks and Oil Record Books be transferred to the private sector at no further expense to the government.]

Discussion: In April 2000, GCMA petitioned the Coast Guard to require logbook entries on uninspected towing vessels that reflect the true hours that all crewmembers were on duty or on watch. We later amended our formal

written request to include all vessels crewed by lower-level mariners including all inspected offshore supply vessels and small passenger vessels. Our request parallels the logbook information requirements of the AWO Responsible Carrier Program. Apparently the Marine Safety Council misplaced our entire file for more than a year.

Coast Guard response: In a letter dated Dec. 2, 2002, the Coast Guard responded in part: "Specifically, your petition asked that 'Masters, mates, pilots, operators, and lower-level mariners serving on any vessel accurately and fully log the working hours of all crewmembers at the end of a watch in a suitable vessel logbook containing consecutively numbered pages and that such accumulated logbooks be kept on board at all times to fully disclose compliance with all applicable work-hour and manning regulations for the past 90 days."

"Research conducted by Coast Guard legal staff indicated that ***the Coast Guard lacks the requisite statutory authority*** to generate regulations requiring log books on vessels not already required to have logbooks by 46 U.S. Code §11301(a). For vessels required to have logbooks, the additional entry requirements requested by the GCMA's petition are outside the scope of 46 U.S. Code §11301(b). Based on this and the general lack of statutory authority, the Coast Guard will not initiate a rulemaking project.

Requiring accurate logbook entries would provide both the Coast Guard and NTSB with a necessary investigative tool that could help them determine the root cause of many maritime accidents. A number of Coast Guard investigators applauded this proposal. We cannot understand why the Coast Guard did not request this authority from Congress years ago. Sadly, the quality of Coast Guard investigations deteriorated in recent years according to a report prepared by outside contractors for the Coast Guard in 1994.[1]

We assert that violation of work-hour regulations should have been considered as a significant factor in the I-40 bridge disaster at Webber Falls, OK, on May 28, 2002 that took 14 lives.[2] However, we were informed by an experienced Coast Guard Investigating Officer and attorney that the Coast Guard does not have the statutory authority to subpoena existing logbooks in "marine violation" cases that involve violations of the 12-hour statute. Violating this statute clearly leads to fatigue and accidents. We assert that the Coast Guard trashes many legitimate complaints of violations of existing work-hour statutes because they cannot properly investigate them without full access to these records.

These additional documents are available on the GCMA website:

- [1]GCMA Report # R-429-A, Rev 1 (Series), U.S. Coast Guard Marine Casualty Investigations and Reporting: Analysis and Recommendations for Improvement By James G. Byers, Susan G. Hill, & Anita Rothblum. Interim Report, August 1994.
- [2]GCMA Report # R-370-A (Series), Rev. 2, Report to Congress: Fifth Anniversary of the Webbers Falls I-40 Fatal Bridge Accident: Unresolved Issues Revisited.
- GCMA Report # R-429-G. Rev. 2. Feb. 24, 2007. (Series). Report To Congress: Sharpening Accident Investigation Tools By Establishing Logbook Standards for Lower-Level Mariners.
- GCMA Report #R-332, Rev.3, GCMA Regulatory and Legislative Agenda – 2007, Item #2.

ISSUE #9 – ENFORCE REGULATIONS FOR FILING PERSONAL INJURY REPORTS
[DOCKET #USCG-2002-12580]

[Request for Congressional Action: We ask Congress to require the Coast Guard or successor agency to adequately protect mariners and offshore workers by enforcing the Congressional intent of the Occupational Safety and Health Act of 1970. Remove the data collection responsibility for health and safety issues from the Coast Guard and place it with the Department of Labor (e.g., replace forms CG-2692 with OSHA 300 series). Impose steep civil penalties for failing to report and track every "accident, injury, illness, and death" to a seaman, passenger, or other person on a vessel. Permanently separate personal injury and illness reporting from vessel and equipment casualty reporting.]

Discussion: GCMA attorney Mark Ross, Esq. presented evidence to the Federal District Court in Lafayette, LA, to the Department of Transportation Inspector General, and to Coast Guard Headquarters describing how one major maritime employer failed to report 44 serious mariner injuries as required by 46 CFR §4.05-1(a)(6) to the Coast Guard in writing within five days as required by 46 CFR §4.05-10(a). He obtained this evidence by searching local court records where injured marine workers subsequently sued this employer. In addition to this case, GCMA determined that there were many other instances where employers failed to notify the Coast Guard in a timely manner of reportable personal injuries suffered by mariners.

In one example, ENSCO, a major offshore drilling company that operated many offshore supply vessels, failed to report more than 44 such injuries in an eight-year period. The Coast Guard never punished them for failing to do so. Other companies are equally lax in their reporting practices to the detriment of our mariners.

Using Coast Guard accident statistics supplied during the course of an advisory committee meeting, the omission of these accident reports by this single large employer skewed the Coast Guard personal injury statistics submitted by the entire offshore boat industry during an eight-year period by approximately 25%. Nevertheless, the local Coast Guard Marine Safety Office expressed complete indifference about enforcing requirements to report personal injuries.

Many mariners learn the hard way that after they are injured and are unable to work, they are quickly fired or forgotten and often left without health or disability insurance coverage.[(1)(2)] This practice plays a large role in dissuading people from seeking employment as a mariner.

There are many instances where vessel Masters filed personal injury reports with their employers but these reports were never forwarded to the Coast Guard within the five-day period as required by existing regulations. There are additional cases where accident reports were fabricated months after the accident occurred and then filed with and accepted without question by the Coast Guard. We believe our mariners inevitably suffer when an accident report involving their injury is thrown together months later and is accepted without question.

Consequently, GCMA petitioned the Coast Guard to allow an injured party to submit his own report to the Coast Guard if he/she believes the "owner, agent, master, operator, or person in charge" (i.e., those persons currently authorized to submit such a report) either have not made or submitted the required personal injury report on form CG-2692 within the required five working days. In addition to our original petition filed on Sept. 7, 2001, we filed an additional petition on Aug. 8, 2002 with the U.S. Department of Labor seeking "Improved Record Keeping and Accident Reporting for Lower-Level Mariners." We assert that the OSHA personal injury recording and reporting system is far superior to the Coast Guard's system and has clear benefits for our mariners.

Coast Guard Response: In a letter dated June 30, 2005, W.D. Rabe, Chief of the Coast Guard's Investigation Division, stated in part: "We have opted to add a section to (the Marine Safety Manual), rather than draft a new policy letter, to ensure investigating officers understand the policy that all incidents reported to the Coast Guard are investigated."

We deem this response unsatisfactory. Hiding comments in relatively inaccessible internal agency documents like policy letters or even the Marine Safety Manual does not provide the unambiguous regulatory protection our mariners need. Consequently, it is of little value in protecting our mariners and requiring employers to properly document their employees' on-the-job injuries.

Additional documents available on the GCMA website:

- GCMA Report R-429-I, Investigations: Enforcement of Existing Personal Injury Reporting Requirements.
- [(1)]GCMA Report #R-333, Rev .3, Don't Count On Corporate Compassion or Coast Guard Concern – True Stories of Our Lost, Injured, and Cheated Mariners
- [(2)]GCMA Report #. R-370, (Series). 12 Hour Rule Violation: The Verret Case.

STATUS: GCMA raised this matter with the Department of Homeland Security Inspector General's Office looks forward to coverage in their report on "Investigations" due out later this year.

ISSUE #10 – CLARIFY THE DEFINITION OF "ON DUTY" TIME
[DOCKET #USCG-2002-13594]

[Request for Congressional Action: After 5 years, the Coast Guard has not yet determined whether there was a violation of work-hour statutes (specifically 46 U.S. Code § 8104(a)) on the part of Magnolia Marine and the Master of the M/V Robert Y. Love in the hours before the Webbers Falls, OK, Interstate 40 bridge allision that caused 14 fatalities and at least $30,000,000 damage on May 28, 2002.[(1)] This issue covers up serious flaws in an existing Coast Guard policy document (G-MOC #4-00) brought to the Coast Guard's attention a decade ago. It also highlights a failure within the government to require science-based hours of service in various transportation modal administrations. While this connection was clear when the Coast Guard was part of the Department of Transportation, it remains clouded as the merchant marine remains under Department of Homeland Security control.]

[GCMA Comment: Travel time en route to a vessel should be considered "on duty" time. Furthermore, the law (46 U.S. Code §8104(a)) should be expanded to apply to all mariners who occupy "safety-sensitive" shipboard positions.]

Discussion: On Apr. 18, 2002 we petitioned the Coast Guard (below).

"The lower-level" mariners we represent are distressed with the definition of "travel time" that appears in paragraph 2.d of Coast Guard Policy letter (G-MOC #4-00) as follows:

"Travel time to a vessel is considered to be neutral time as it is normally not considered to be rest, off duty, or work time, but all relevant circumstances should be considered in evaluating whether a mariner complies with the applicable rest required by STCW or off-duty requirements specified in 46 U.S.C. 8104(a)."

We note that neutral time is not defined anywhere in this Coast Guard policy letter. This leaves a mariner and his employer with the possibility of a misunderstanding as to evaluating whether a mariner is expected to go on watch immediately upon arriving at the vessel or to wait until he has received the required rest. Lacking a clear Coast Guard policy statement, the mariner may feel justified in delaying departure until he is rested and, as a result, be fired or forced by threat of being fired into committing an unsafe act. This in turn could lead to a fatigue-related

accident, suspension or revocation of the mariner's license, and/or lawsuits and liability depending upon the nature and extent of the damage resulting from fatigued operation.

Our licensed mariners reported being forced to drive (or being driven) for hours and then having to take over a watch immediately upon arrival at the vessel. We reported these matters to both the Coast Guard and the National Transportation Safety Board on a number of occasions in writing.

After a third follow-up to our original letter, we received a reply dated Oct. 11, 2002 that the Coast Guard had finally ***established a docket to file our petition in – as opposed to acting upon it***.

Proposed solution: "On page 40 (Table 1-1) of (an) NTSB study[1]...the Federal Railroad Administration (FRA) regulations at 49 CFR 228.7(a)(4) consider "on-duty" time to include "Time spent in deadhead transportation en route to a duty assignment. It is followed by this statement: "Time spent in deadhead transportation by an employee returning from duty to his point of final release may not be counted in computing time off duty or time on duty." We note that this deadhead transportation takes place mostly on land both for railway employees and for their mariner counterparts. *[[1]Evaluation of U.S. Department of Transportation Efforts in the 1990s to Address Operator Fatigue, NTSB/SR-99/01]*

"We note that this FRA passage cites a Federal Regulation while G-MOC #4-00 is a lesser internal "policy letter" that never passed through administrative rulemaking procedures. Consequently, under provisions of 33 CFR §1.05-20, we formally filed a Petition for Rulemaking and requested that the wording in the FRA regulation at 49 CFR 228.7(a)(4) be adopted by the Coast Guard for the protection and welfare of our mariners. A copy of our request was sent to the Chairman of the National Transportation Safety Board."

Status: The Coast Guard assigned our Petition for Rulemaking to the Towing Safety Advisory Committee. ***TSAC allowed the issue to languish for four years without making a decision***. Finally, after a number of follow-up letters, the TSAC meeting in April 2007 decided that ***in the future*** individual companies should include statements describing crew-change arrangements in their "Safety Management System" that would address this issue. Of course, this ***assumes*** that Congress will require that every towing company to operate under a safety management system. At present, only the American Waterways Operators has its "Responsible Carrier Program" which ***may*** be upgraded to an acceptable Safety Management System in the future.

By assigning the matter to TSAC rather than making a firm command decision, the Coast Guard failed to address the same crew change issue prevalent on offshore supply vessels and other vessels under 1,600 GRT.

Additional documents available on the GCMA website:

- GCMA Report #R-370-D.,(Series) Work-Hour Abuse, Whistleblower Protection and "Deadhead Transportation."
- [1]GCMA Report #R-370-A (Series), Rev. 2, Report to Congress: Fifth Anniversary of the Webbers Falls I-40 Fatal Bridge Accident: Unresolved Issues Revisited.
- GCMA Report # R-258, Rev.2, Watchkeeping and Work-Hour Limitations on Towing Vessels, Offshore Supply Vessels (OSV) and Crewboats Utilizing a Two Watch System

ISSUE #11 – ENSURE SAFE AND ADEQUATE POTABLE WATER FOR MARINERS
[DOCKET #USCG-2003-14325]

[Request for Congressional Action: Three years after passing §416 of the Coast Guard and Maritime Transportation Act of 2004, we ask Congress to assign the Coast Guard or successor agency a deadline to promulgate effective potable water regulations to ensure that potable water systems on ALL vessels of less than 1,600 gross are properly constructed and regularly tested to ensure clean and sanitary fresh water for drinking, cooking and bathing purposes.]

Discussion: On Dec. 27, 2002, GCMA petitioned the Coast Guard for rulemaking to ensure that boat operating companies provide safe and sanitary potable water to inspected and uninspected vessels of less than 1,600 gross register tons.

Our petition pointed out that we speak on behalf of thousands of mariners that serve on these vessels in the Gulf of Mexico, on western rivers, and inland waters. Many of our mariners regularly express concern about the poor quality of the drinking water found aboard the vessels they work on. While some employers provide bottled water for drinking purposes, others do not because of the additional cost.

Especially noteworthy are complaints from mariners serving on uninspected towing vessels. Few if any employers regularly test the potable water in the tanks on their vessels for waterborne diseases to certify it is safe for human consumption, nor do existing regulations require them to do so. Since most of our mariners do not belong to a union and cannot engage in collective bargaining, they have no protection other than that gained through appropriate regulations and regulatory enforcement.

In reviewing Coast Guard regulations governing all classes of vessels that our mariners serve on, there appear to be no regulations that govern the materials of construction, installation, filtration, or maintenance of a vessel's potable water system. Nor are there any Coast Guard regulations that require periodic testing of vessels' potable

water systems for waterborne contamination and diseases. A review of Coast Guard Navigation and Vessel Inspection Circulars shows there is no active guidance published on this matter whatsoever. Nor is there any mention of potable water systems in Marine Safety Manual Volume II Materiel Inspection. Nor is there any mention in any Coast Guard vessel inspection regulations (including regulations governing uninspected towing vessels) that would even direct readers to regulations enforced by any other government agency – such as DHHS. There are, however, a total of only three (3) deck license exam questions out of approximately 12,000 in the USCG deck exam database dealing with this subject. Aside from that, this topic draws a complete blank.

Our Association is actively concerned with the matter of seamen's welfare. Since humans cannot live without water, we expect our potable water to be clean, pure, and free of disease causing organisms and dangerous impurities.

The health problem: Workboats such as tugs, towboats, ferries, and offshore supply vessels take on water from a number of different sources including hoses on docks, water barges, and from other vessels, etc. Many of the tanks used to store potable water are steel tanks with or without appropriate coatings that are of undetermined age and may be in poor condition. Rust is often a serious and visible problem as are deteriorating coatings and the lack of basic filtration of solids. Rust also causes the tops and sides of potable water tanks to deteriorate and allow contaminants to enter the damaged tanks. Water treatment consists almost exclusively of pouring undetermined and unregulated quantities of Clorox bleach into the storage tanks at unspecified periods.

Almost all of the nation's 5,200 towing vessels currently are "uninspected" vessels and are not subject to even the most rudimentary Coast Guard examination either at the time of their construction or on any regular basis thereafter. Some potable water tanks may be constructed on a common bulkhead with fuel or ballast tanks or with polluted bilge water. Few hose spigots are equipped with vacuum breakers that could prevent contaminated water from flowing back to potable water tanks. Some vessels do not have dedicated water hoses that are used for no other purpose than to transfer drinking water. Tanks and associated plumbing often leak while homemade repairs may compromise the integrity of the system.

The Coast Guard knows of this health problem. In October 1999, the Commandant promulgated COMDTINST M6240.5 titled "Water Supply and Wastewater Disposal Manual" to "provide standards and public health information for Coast Guard personnel responsible for producing, storing, monitoring, and using potable water and wastewater systems at afloat and ashore units."...This Manual applies to all active and reserve units afloat and ashore commands." The document's Table of Contents clearly shows the broad extent of the agency's knowledge. This book also provides clear evidence that the Coast Guard has an active concern for ***its own*** regular and reserve personnel without one iota of concern to lower-level merchant mariners it superintends.

[GCMA Comment: As mariners, we cannot understand why cognizant Coast Guard officials do not show as much concern for providing pure water for drinking and bathing for the merchant mariners it superintends as for their own military and civilian personnel.]

We note recent declarations in an NTSB accident report that ferries carry more than 20,000,000 passengers each year. Many of these ferries are small passenger vessels crewed by lower-level mariners. Both passengers and crewmembers may drink water from the vessel tanks. The same is true about oilfield workers transported by boat to inland and offshore oil rigs and platforms.

Additional documents available on the GCMA website:

- GCMA Report #R-395, Rev.2., Safe Potable Water and Food Service for Commercial Vessels of Less than 1600 Gross Register Tons: An Appeal To Congress

These publications should be available from the Library of Congress:

International Organization on Standardization (ISO) publications pertinent to providing safe potable water.

- ISO 14726-2:2002 Ships and Marine Technology- Potable Water Supply on Ships and Marine Structures; Part 1– Planning and Design.
- ISO 15748-2:2002 Ships and Marine Technology–Potable Water Supply on Ships and Marine Structures; Part 2- Method of Calculation.

Status: In Section416 of the Coast Guard and Maritime Transportation Act of 2004, Congress assigned the task of determining the adequacy of the supply of potable water on all vessels to the Coast Guard. Adequacy is to be determined by considering the size and type of the vessel, the number of passengers or crew on board, the duration and routing of the voyage, and guidelines for potable water recommended by the Centers for disease control and Prevention and the Public Health Service. ***Three years after the Act was passed and signed by the President, we can see no evidence of meaningful action that the Coast Guard has taken to date.***

ISSUE #12 – GIVE MARINERS A VOICE IN SETTING AND REVIEWING SAFE VESSEL MANNING STANDARDS

[Request for Congressional Action: Lower-level mariners provide 100% of the workforce on vessels less than 1,600 gross tons in the towing, small passenger vessel, and offshore oil sectors of the maritime industry. We ask Congress to require the Coast Guard or successor agency to establish regulations that effectively and adequately consider mariners concerns in setting and reviewing realistic safe manning levels on ALL inspected and uninspected commercial vessels less than 1,600 gross tons.]

Discussion: Existing manning requirements for inspected vessels are contained and explained in 46 CFR Part 15 and in Coast Guard policy established in the Marine Safety Manual, Vol. 3. 46 CFR Part 15 outlines in a very confusing manner the manning requirements for uninspected towing vessels. Since "uninspected" towing vessels were reclassified as "inspected vessels," significant differences between the two sets of existing rules must be resolved for vessels of comparable size and horsepower. However, after three years, the Coast Guard has taken no concrete steps to resolve these differences.

Unfortunately, the Coast Guard has very little first-hand information about manning certain types of commercial vessels and must depend on others to provide them with information to make judgments about crew size. The Coast Guard neither rides on nor works these commercial vessels. ***Invariably outside manning information comes from vessel management and vessel trade associations whose concern center around reducing crew costs.*** Regrettably, mariners are ***never*** consulted about manning levels on the vessels they serve on. For example, a 185-foot offshore supply vessel in 24-hour service in the Gulf of Mexico can get underway with a four-man crew.

There are significant differences in crewing practices for inspected vessels and for uninspected towing vessels. We noted significant problems in manning vessels less than 1,600 gross tons that we discuss in detail in GCMA Report #R-279.[1]

Unfortunately, the process the Coast Guard traditionally uses to determine vessel manning virtually excludes any input from the mariners who work on these vessels. The undermanning that results leads to work-hour abuse since many of the unlicensed crew members are not limited in the number of hours they may be called upon to work. Since a great majority of our mariners are not represented by a union, they cannot engage in collective bargaining with their employers to obtain additional crewmembers to share the workload. There is no meaningful and effective appeal route a mariner can follow to have the Coast Guard increase the crew size on his vessel. In addition, even attempting to appeal would probably result in the mariner losing his or her job.

Additional documents available on the GCMA website:

- [1]GCMA Report #R-279, Rev. 6, Review and Set Safe Manning Standards for Offshore Supply Vessels and Uninspected Towing Vessels.

ISSUE #13 – PROTECTING OUR MARINERS' HEALTH– HEARING CONSERVATION

[Request for Congressional Action: We ask that Congress' provide lower-level mariners with the same hearing protection afforded American industrial workers under the OSHA Regulations at 29 CFR 1910.95.]

Discussion: A mariner has little to offer an employer if he does not have his health. One major aspect of a mariner's health and his quality of life depends on his ability to hear. A mariner whose hearing is impaired by workplace conditions will experience a significantly reduced quality of life and considerable future medical expenses to remediate the condition including hearing aids whose cost is not covered by Medicare. A mariner may even face rejection for further service in the merchant marine if he/she cannot pass the hearing portion of a required physical exam.

The Occupational Safety and Health Act effectively protects the safety and health of workers in other occupations and has done so since 1970. Unfortunately, the task of developing comparable regulations for mariners and enforcing them was left to the Coast Guard. They failed to protect our mariners and, in doing so, probably were applauded by employers who were spared considerable compliance expenses. As early as 1974, ***OSHA developed Occupational Noise Exposure regulations*** at 29 CFR §1910.95. Unlike the regulations the Coast Guard now proposes for the Outer Continental Shelf, these regulations call for more than simply an "administrative control" of posting signs in high noise areas. They also include a continuing and effective hearing conservation program for the benefit of employees under 29 CFR §1910.95(c). This program includes monitoring, employee hazard notification, and observation of monitoring by worker representatives, an audiometric testing program, training, record keeping, and provision for record transfers to follow employees from job to job. Such coverage is particularly important in an industry with a high turnover rate that treats many of its employees as expendable – a position we disagree with

While workers in workplaces ashore were protected by OSHA regulations for all these years, ***the Coast Guard did little to protect the hearing of our lower-level mariners***. What's more, the limited measures they propose in Docket #USCG 1998-3868 apply only to workers on the outer continental shelf. Even these proposed regulations only apply to an ill-defined segment of mariners whose employers cry about the expense with nary a thought for the mariners they deafen and otherwise injure in other unreported ways.

Our complaint extends far beyond the mariners who work on the Outer Continental Shelf to ***all*** lower-level

mariners under Coast Guard regulatory supervision. We believe that the Coast Guard completely and utterly failed to provide any effective hearing protection for an estimated 200,000 lower-level mariners. This provides another reason why Coast Guard officers should no longer superintend the merchant marine.

History. On June 2, 1982 the Coast Guard published Navigation and Vessel Inspection Circular #12-82 titled Recommendations on Control of Excessive Noise. This circular contained the Coast Guard's recommended "***guidelines***" to the American maritime industry for addressing conditions of high noise. This document shows that the Coast Guard was fully aware of the noise problem, all the scientific literature, testing standards, and international significance of this matter twenty-five years ago. During the same time period, the International Maritime Organization published IMO Resolution A.468(XII) titled Code on Noise Levels On Board Ships. The Coast Guard not only participated in the development of this code but also endorsed its recommendations. Portions of that document currently are cited in NVIC 12-82 that is still an active NVIC.

Unfortunately, the IMO resolution applied only to ships of more than 1,600 gross tons whereas ***our concern is for mariners*** on vessels of less than 1,600 gross tons regardless of the type of vessel they serve on or the waters where the vessel operates. This is clearly a human problem the Coast Guard failed to address with enforceable regulations. In stark contrast, OSHA addressed the same subject for shoreside industrial occupations with enforceable regulations as early as 1974.

The NVIC[1] states in pertinent part: "The Coast Guard realizes that reducing noise levels generally becomes increasingly more difficult on smaller vessels...On many existing vessels of less than 500 gross tons,[2] the incorporation of effective structural and engineering alterations to attenuate structure-borne noise may be economically prohibitive. However, through the use of hearing protective devices, administrative controls and selective engineering changes, the recommended 24-hour exposure limit...should still be attainable." That passage was written twenty-five years ago! *[[1]NVIC 12-82, paragraph 4.b.5. [2]At the time the NVIC was written, all offshore supply vessels were less than 500 gross tons as are most towing vessels and small passenger vessels crewed by our "lower-level" mariners today.]*

NVIC 12-82 further stated that: "The Coast Guard believes therefore, that the recommendations in this circular are a satisfactory implementation of the IMO Code." We pointedly disagree with this statement. We believe that what was called for at the time was nothing short of a federal rulemaking project – a regulatory product similar to the one adopted by the Occupational Safety and Health Administration in 1974 that appears in updated form as 29 CFR §1910.95.

The Coast Guard's failure to write or adopt comparable regulations adversely affected the hearing of an entire generation of lower-level mariners during the period 1982-2007 and continues to affect them. The number includes those who are considered permanent employees as well as countless other part-time workers and casual laborers who contribute to the industry's high turnover rate. Fundamental changes are long overdue.

The Marine Safety Manual, Vol. 2, paragraph 9.p.9.a. states: "The problem of excessive noise on commercial vessels and offshore drilling and production units has been the focus of an ongoing Coast Guard-sponsored study." Under the Freedom of Information Act (FOIA), GCMA requested a copy of that study as well as a statement of when that study was initiated, the contributors to the study, and its current status. We never received the requested material.

The Marine Safety Manual, Vol. 2, paragraphs 9.p.9.b. states: "Previously, the Coast Guard dealt with maritime noise problems through existing regulations in a general way or on a case-by-case basis. For example, 46 CFR §72.20-5 for passenger ships and §92.20-5 for cargo ships required accommodations aboard vessels to be insulated from undue noise. Similarly, 46 CFR §32.40-15 requires tank ships and manned tank barges to have crew's quarters suitable for the accommodation and protection of the crew..." However, none of these regulations currently survive in the Code of Federal Regulations.

We further note that there are currently no regulations listed under "noise" or "hearing protection" in any of the regulations that protect our "lower-level" mariners. This includes offshore supply vessels, small passenger vessels, or uninspected towing vessels.

The Marine Safety Manual, Vol. 2, paragraph 9.p.9.c. states: "Its two major recommendations are a 24-hour noise exposure limit of 82 dB(A) for all personnel, and a periodic audiometric examination of all personnel exposed to noise levels above a certain low exposure level of 77 dB(A)..." We asked the Coast Guard for a cogent explanation of why an audiometric examination is contained in current OSHA rules while it is not contained in the proposed rules for the Outer Continental Shelf, specifically in proposed 33 CFR §142.235 and §142.240. If failing to include these provisions in the proposed regulation for vessels working on the Outer Continental Shelf was an oversight, we asked the Coast Guard Project Officer to add it to the rulemaking package OR undertake a new rulemaking project to protect our mariners' hearing in line with the current OSHA rules. Eight years after the project started – and over 20 years late – revisions to 33 CFR Subchapter N remain mired in red tape and have not been published.

The Marine Safety Manual, Vol. 2, paragraph 9.p.9.d. states: "The policy in NVIC 12-82 is based on the expectation that the maritime industry will ***voluntarily implement and maintain an effective noise control program***, without direct Coast Guard involvement. The policy was developed with the assistance of industry and the Commandant anticipates its wide implementation." As a result of this statement we asked for a copy of all documents from June 2, 1982 (the date of publication of NVIC #12-82) to the present date that show the history of this "voluntary implementation" by industry and oversight by the Coast Guard and any conclusions concerning its

success or failure. We received none of the requested documents.

We note that Marine Safety Manual, Vol. 2, paragraph 9.p.9.f calls for a "Program Review" containing feedback from field units relating noteworthy experiences and observations of noise conditions and actions. Such reports and questions concerning NVIC 12-82 should be directed to Commandant (G-MVI-2)." GCMA requested copies of all such feedback under FOIA and received nothing.

The Marine Safety Manual, Vol. 2, paragraph 9.p.9.d. stated in a note that: "Complaints alleging that crewmembers have suffered hearing loss from long-term exposure to excessive noise ***shall not be considered as reportable marine casualties involving personal injury.***" We believe that this comment (with its emphasis on the word "**not**") is not only unnecessary but serves to diminish the importance of hearing loss in the eyes of Coast Guard inspectors and management – the two groups most likely to have access to the Marine Safety Manual. The following paragraph only exacerbates the matter.

The Marine Safety Manual, Vol. 2, paragraph 9.p.9.e. "Handling Complaints" states that: "If a crew member files a ***written complaint*** to eliminate a specific noise hazard, the situation should be evaluated and all discrepancies corrected. However, these measures should be taken only by the vessel owner, upon request by the OCMI. Only when the OCMI has reason to question the owner's evaluations should inspection personnel become involved in noise measurement".

In the real world inhabited by our "lower-level" mariners if a crewmember has the temerity to file a "***written complaint***" with the Coast Guard he would probably be fired. After all, most of our mariners are "at will" employees and can be terminated at any time for any reason. This policy effectively removes Coast Guard inspectors, those in closest contact to mariners on visits to inspected vessels and those most likely to hear a verbal complaint from further investigating problems of excessive noise on any inspected vessel. However, even a Coast Guard inspector only visits a vessel briefly and does not have to live with excessive noise on a 24-hour a day basis. If he did, most deckhouses and crew accommodations on towboats would probably have to be mounted on springs to attenuate the vibrations and engine noise.

The foregoing is very poor policy on the part of the Coast Guard, and one that clearly reflects only the wishes of management to reduce costs without considering the health of mariners who work on the vessel and are those most impacted by noise pollution.

This explains why GCMA sought to ascertain who, if anyone, stood up and represented the position on lower-level mariners on this issue since it was ***our mariners' hearing and quality of life*** that were at stake. We assumed that any such representation took place at a Federal advisory committee meeting and asked for copies of minutes taken from pertinent meetings and comments of those directly representing the interests of lower-level mariners at these meetings. We received none of the requested documentation.

We also asked for information on noise attenuation requirements on Coast Guard vessels of between 100 feet and 200 feet in length that are presently under construction and copies of any "hearing conservation programs" currently in effect for enlisted mariners serving on these new vessels. We received a copy of COMDTINST M5100.47 containing a well-developed hearing conservation program ***that the Coast Guard developed for its own personnel.*** This program is comparable to the OSHA hearing protection regulations adopted in 1985.

Why don't our mariners have comparable protection? Judging by the following editorial comment in the Mar. 31, 1982 copy of the Offshore Marine Service Association's Newsletter, it may have been because of industry opposition to the costs involved and their ability to influence the Coast Guard without anyone standing up to present the mariners' point of view: "Don't let the word "Recommendation" or the fact that these recommended standards are not published as regulations fool you. The Association (OMSA) believes that these so-called guidelines may have the most serious impact on this industry than any other recent event."

Outer Continental Shelf Proposed Regulations (33 CFR Subchapter N): In Coast Guard Docket #1998-3868, the Coast Guard included in a proposed regulation governing activities on the Outer Continental Shelf at 33 CFR §142.235 and §142.240 a "noise survey" in accordance with ANSI Standard S1.13-1995 and S1.36-1990 or with IMO Resolution A.468(XII) and also proposed to require posting signs warning of noise hazards.

Proposed 33 CFR §142.200 indicates that sections 142.234 and 142.240 relate to the general working conditions on "OCS units" that include "vessels." However, the proposed list of vessels (in §§33 CFR 140.5 and 33 CFR §146.1) omits the uninspected towing vessels working on the outer continental shelf. GCMA asked the Commandant (G-MSO-2) to clarify this matter in writing in 2000 yet this has not been done to date.

We believe these points are significant:

- The Coast Guard is supposed to be the lead Federal agency for workplace safety and health on facilities and vessels engaged in exploration for, or development or production of mineral resources on the OCS.
- This regulation was proposed in 1999 and has generated 115 comments and is the first major revision of OCS regulations in 20 years – and became stalled in the Coast Guard's rulemaking process.
- The proposed regulation affects only vessels working on the Outer Continental Shelf (OCS) and nowhere else. The problem is much broader and covers all vessels of less than 1,600 GRT.
- Significant hearing standards were proposed by IMO over 20 years ago. An entire generation of mariners has not been afforded hearing protection by Coast Guard regulations during this period.
- The Coast Guard never clarified whether any of its health and safety improvements in the proposed regulations will apply to mariners working on uninspected towing vessels on the OCS. This is an emerging example where

mariners working on towing vessels suffer from ongoing regulatory discrimination.

- If the proposed rule does apply to both inspected AND uninspected vessels on the OCS, and if it is properly enforced, the Coast Guard still has not proposed any hearing protection regulations to protect our mariners serving on other waters.
- Even the proposed regulations provide far less workplace protections for our mariners than in workplaces ashore that are protected by OSHA regulations

Additional documents available on the GCMA website:

- GCMA Report #R-349 – Protecting Mariners Hearing.

Status: GCMA submitted our petition to the Coast Guard Docket on Feb. 1, 2003. On Sept. 27, 2004, 1½ years later, we received a letter from the Chief, Office of Design and Engineering Standards (G-MSE-1) that stated in part: "At this time, the Coast Guard does not plan to initiate an isolated rulemaking on Protecting Mariner Hearing. Hearing conservation and noise abatement methods are closely tied to other aspects of a vessel's design, construction and operation. A more effective way to deal with this issue is a comprehensive rulemaking that considers the entire vessel as a system. In the case of towing vessels, recent legislation has created just such an opportunity."

The "recent legislation" refers to §415 of the Coast Guard and Maritime Transportation Act of 2004 that provides for the inspection of towing vessels. After three years, the only sign of "noise abatement" appears in proposed 46 CFR §145.260, Crew Spaces, that states: "Condition of the crew accommodations should consider the importance of crew rest. Factors to consider include: vibrations, ambient light, noise levels, and general comfort. Every effort should be made to ensure that quarters help provide a suitable environment for off-duty rest." This is a sad excuse for an enforceable regulation that the Coast Guard could cite to protect mariner hearing on a towing vessel both on and off duty.

ISSUE #14 – PROTECTING OUR MARINERS' HEALTH – SECOND-HAND SMOKE

[Request for Congressional Action: We ask Congress to protect our mariners from the harmful effects of second-hand smoke in their workplace that also serves as their living, eating, and recreational space aboard ship.]

Discussion: Many mariners serving on small commercial vessels report deep concerns about their health because they are surrounded by an atmosphere of second-hand cigarette smoke 24-hours per day, lasting sometimes for weeks on end. Although most mariners on larger vessels may have their own staterooms, central air conditioning systems re-circulate the smoke-laden air throughout the boat. Consequently, second-hand tobacco smoke from the pilothouse and galley pervades the entire boat.

The Coast Guard, in regulating their own personnel, enforce this policy: "Smoking in any Coast Guard floating unit, aircraft, or vehicle is prohibited except on weather decks of Coast Guard vessels (small boats and cutters)." In response to our inquiry they also stated that: "The Coast Guard does not currently regulate health-related smoking in the commercial industry and there are no plans to do so. The Coast Guard regulations regarding smoking on commercial vessels are generally for fire prevention purposes…"

Our mariners live and work in confined and enclosed spaces 24-hours per day. They are well-informed about the dangers of second-hand smoke and the Surgeon General's reports on smoking.[1] The policy the Coast Guard enforces on its own vessels contributes to the health and safety of their crewmembers and is a reasonable policy that accommodates both smokers and non-smokers.

Some employers have smoking policies that parallel the Coast Guard's policy although our mariners report that enforcement is spotty. Since most of our mariners do not belong to a union, they have little power to effect change within the company they work for. Since the Coast Guard recognizes both the health and safety issues of smoking and since local anti-smoking ordinances offer no protection to our mariners on navigable waters, we urge Congress to require employers to protect the health of their workers in the maritime workplace that also serves as their living quarters by using the Coast Guard's own policy as an example.

Additional documents available on the GCMA website:

- GCMA Report #R-341, Rev. 3. Smoking and Merchant Mariner Health & Welfare Issues: A Petition to Congress.
- GCMA Report #R-341-A. The Health Consequences of Involuntary Exposure to Tobacco Smoke. Executive Summary of 2006 Surgeon General's Report.

ISSUE #15 – PROTECTING OUR MARINERS' HEALTH FROM ASBESTOS

[Request for Congressional Action: Require the Coast Guard or successor agency to prepare asbestos protection regulations or "incorporate by reference" in the Code of Federal Regulations those regulations created by OSHA.]

Discussion: While OSHA prepared extensive asbestos regulations in the early 1980s, the Coast Guard only prepared a "guidance" document (i.e. NVIC 6-87) for merchant vessels. Nevertheless, the Coast Guard prepared an exhaustive Asbestos Control Manual (COMDTINST M6260.16A) ***to protect crewmembers on their own vessels and shore stations*** and updated it several times.

In 1983, the Coast Guard signed a Memorandum of Understanding with the U.S. Department of Labor delineating the authority of each agency to enforce Occupational Safety and Health Standards. Our experience shows lax enforcement of OSH standards on inspected vessels by the Coast Guard. Nor are we aware of any reported activity by OSHA in dealing with asbestos hazards on uninspected towing vessels.

Regulations can be enforced but "guidance" document like NVICs, no matter how well meaning and informative they may be, cannot be enforced without promulgating enforceable regulations. Our mariners on inspected vessels never were afforded protection by Coast Guard regulations and were left at risk for the past 25 years. In fact, one of our GCMA Directors was forced to bring suit against his employer in Federal District Court after a local Coast Guard unit failed to follow up his report of egregious health asbestos safety violations. *[File #GCM-102]*

ISSUE #16 – REPORTING DRUG PROGRAM VIOLATIONS

[Congressional Action Request: Stiffen penalties for employers who violate drug and alcohol testing requirements.]

Drug Program – Cooperation with authorities. The drug abuse regulations (46 CFR Part 16 & 49 CFR Part 40) represent a partnership between the Federal government and employers to stamp out drug abuse in the transportation industry. GCMA supports the intent of these regulations to stamp out illegal drug use in the workplace.

On Jan. 30, 2002 we provided convincing evidence that certain employers who pay collectors to perform random drug tests are able to receive "pre-screening" reports on whether any of their employees test "positive" for drugs.

As a result of their business relationship with local specimen collectors, some employers have an unintended opportunity to direct some urine specimens to an approved SAMSHA drug lab while withholding results from other specimens. Since a SAMSHA-listed lab would report any "positive" drug tests directly to the Coast Guard, the employer would lose control of any employees who test "positive" for drug use. In most cases, a positive test leads to suspension and revocation proceedings or an administrative settlement agreement that must be approved by an Administrative Law Judge. This can keep a licensed mariner off the water for a period of no less than 14 to 18 months and in some cases as long as six years. Not reporting some test results diverts control of the drug problem from the authorities to the individual employer who can continue to use a known drug abuser in his business. In days of chronic crew shortages, this is a risk some employers are more than willing to take.

Local ***"pre-screening" is illegal***. Bending the law gives an unethical employer the opportunity to hide a "positive" drug or alcohol test by simply quashing the screening report and not notifying the Coast Guard. The employer can then hold a "pre-screened" drug abuser hostage to his job, take advantage of him, and place all sorts of loyalty or employment demands upon him. In addition, employers can and do warn some specific vessels in advance that their crews will be subjected to "random" drug tests. By doing so, employers can circumvent a growing shortage of available personnel to man their vessels. They can keep their vessels manned and continue to conduct business as usual.

GCMA provided the Coast Guard detailed testimony on how this is done not only on the Gulf Coast but also on the western rivers system. We reported our findings to the Federal official in charge of the SAMSHA laboratory program who immediately put us in touch with the Coast Guard's "Drug Czar" at Coast Guard Headquarters. We also contacted several Members of Congress and at least two Marine Safety Offices. Receipt of one of our letters was acknowledged by a copy of a memo from that office forwarding our correspondence and stating in part: "This letter is being forwarded to you because of the national impact of the issues in question".

Our mariners report drug abuse all around them and protest that they often must risk their licenses and their jobs in an environment of drugs and corruption. Although the Coast Guard may handle hundreds of drug cases administratively each year, the problem persists. In May 2007, serious problems involving a number of local employers came to light in the New Orleans area. The matter is currently "under investigation" – which, in the past, meant we never learned its outcome.

Additional documents available on the GCMA website:

- GCMA Report #R-315, Rev. 1, Drug Testing: Urine Specimen Collection.
- GCMA Report #R-315-A, Drug Testing Regulations: The Role of the Medical Review Officer (MRO)
- GCMA Report #R-315-B, Drug Testing: Refusal to Test.
- GCMA Report #R-315-C, Mariner Drug Cases.
- GCMA Report #R-315-D, Changes in Alcohol and Drug Testing Effective June 20, 2006.
- GCMA Report #R-315-E, Drug, Alcohol & Other Convictions and How They Affect Your License and MMD.

ISSUE #17 – "WHISTLEBLOWER PROTECTION" FOR MARINERS

[Request for Congressional Action. GCMA appreciates the work of the 107th Congress in addressing whistleblower protection. However, the $1,000 limit provided in the existing statute is not sufficient ensure a working mariner will have adequate legal representation by an attorney experienced in administrative and/or maritime law.

[Comment on Congressional Action: GCMA supports §316 "Protection Against Discrimination" that appears in the draft Coast Guard Authorization Act of 2007 as an extremely important provision that will protect our mariners.]

Additional documents available on the GCMA website:
- GCMA Report #R-370-D (Series), Work-Hour Abuse, Whistleblower Protection and "Deadhead Transportation.

ISSUE #18 – A RESOLUTION TO PROTECT OUR MARINERS FROM OBSOLETE LIFESAVING EQUIPMENT

[Request for Congressional Action: We ask Congress to direct the Coast Guard or successor agency to respect the National Transportation Safety Board recommendations from the 1985 PILGRIM BELLE accident and mandate out-of-water survival craft on all small passenger vessels, offshore supply vessels, and towing vessels to protect the lives of the crew and other persons on these vessels.]

[Comment on Congressional Intent: GCMA supports §314 of the proposed Coast Guard Authorization Act of 2007 but respectfully request a shortened deadline.]

Discussion: The appeal that life floats and buoyant apparatus hold for many commercial boat owners is that they are simple to use, simple to maintain, and, above all they are relatively cheap.

In August 1999, GCMA pointed out significant problems with existing "approved" lifesaving appliances to high-level Coast Guard officials to no avail since existing regulations accept "life floats" and "buoyant apparatus" on many commercial vessels including small passenger vessels, offshore supply vessels, and other work boats. Nevertheless, for our mariners and passengers the real "bottom line" should be to adequately protect human life. We cite a number of clear disadvantages to allowing the continued use of life floats and buoyant apparatus:

- Life floats are designed to hang onto not to climb on or into. To use a life float, you must first enter and remain in the water. As your body is immersed in the water, body heat loss is up to 25 times as great as if you remained out of water but in air of the same temperature. Survival time is reduced correspondingly.
- Survivors are expected to hang onto ⅜" polypro "lifelines" attached to straps sewn around the body of the life float. These "lifelines" are of very small diameter and do not even have loops to hold onto. Your ability to hold onto these lifelines depends on your grip that, in turn, depends on your time in the water, the water temperature, your physical condition, and the onset of hypothermia.
- In calm weather, one or two people may possibly be able to balance themselves on top of a life float's body with their feet inside the shark net. However, the "capacity" of any approved life float ranges from 6 to 25 persons. This barely allows enough space to hang onto around the float's periphery.
- In heavy weather a solid life float that can weigh up to several hundred pounds and will batter survivors in the water making it difficult if not impossible to survive for any length of time.
- A person begins to lose body heat the moment he/she is immersed in the water. Water temperatures in the Gulf of Mexico during the coldest winter months are regularly reported as 60°F but often dip as low as 55°F. On other bodies of water the water temperatures may be considerably colder because of colder surrounding land temperatures in more northern latitudes than on the Gulf Coast.
- Although it is painted a bright international orange with retro-reflective tape on it, a "Coast Guard Approved" life float is not a state-of-the-art piece of survival equipment. While it may give a bright illusion of safety, there are other survival craft such as "***inflatable life rafts***" and "***inflatable buoyant apparatus***" (IBA) that offer any person a much greater chance of survival.
- Hypothermia has a record as a killer from the loss of the TITANIC in 1912, through two World Wars, to the PELICAN disaster in 1951 with a loss of 45 lives off Montauk Point, NY, to the present. Many people lost their lives from cold water immersion and hypothermia because they were unable to pull their bodies clear of the water.
- Life floats and buoyant apparatus are better suited for people swimming in a lake or bay in the summer months than they are for lifesaving purposes. However, do not confuse the terminology "buoyant apparatus" with "inflatable buoyant apparatus" (IBA), which does provide survivors with a reasonable chance to get out of the water.
- Regulations in the SOLAS convention do not even list life floats and buoyant apparatus as "survival craft." So, why are they still permitted in domestic Coast Guard regulations?

GCMA condemns the practice of allowing many of the vessels our mariners work on to carry lifesaving equipment that jeopardize mariners' lives and the lives of others that we are responsible for.

The Coast Guard ignored formal recommendations made by the National Transportation Safety Board in the 1985 PILGRIM BELLE accident to ban the use of life floats on commercial vessels. The problem with this type of lifesaving gear is that it requires survivors of marine casualties (including infirm and elderly people and small children) to await rescue for unknown periods of time clinging to inadequate equipment while in the water – sometimes in very cold water and for extended periods. To do so, possible survivors of all ages, injured or uninjured, are immersed in the water, threatened by hypothermia, fear, possible drowning, and various sea creatures.

It is obvious to us that the Coast Guard's principal concern in this matter is NOT with the safety of our mariners or other persons but lies with their close relationship with vessel owners, their trade associations, and lifesaving equipment manufacturers. A number of our mariners with extensive service-related lifesaving experience believe that the Coast Guard has lost its expertise in this area through lack of experience demonstrated by Headquarters personnel.

GCMA RESOLUTION TO PROTECT OUR MARINERS

WHEREAS our Association's membership is composed of licensed, documented, and undocumented mariners who work in the marine transportation sector of the offshore oil industry operating every type of offshore supply vessel and towing vessel...

WHEREAS our Association's overriding concern is for the safety and protection of all "crew members", "persons in addition to the crew", "passengers", "oilfield workers", or other individuals aboard oilfield and uninspected towing vessels...

WHEREAS these vessels operate not only in the Gulf of Mexico but also in other areas of our nation and the world, in fair weather and foul, in all seasons of the year, and under all sea and weather conditions ranging from benign to dangerous, on waters from inland to oceans, and in areas near rescue and in remote areas.

WHEREAS the National Transportation Safety Board in Safety Recommendations M-86-61 and M-94-26 recommended as early as 1986 that the U.S. Coast Guard require out-of-the-water survival craft for all passengers and crew on board small passenger vessels to prevent immersion in the water for all passengers and crew...

WHEREAS "life floats" fail to meet the National Transportation Safety Board's criteria of lifesaving equipment that prevents immersion in the water and virtually assures that survivors will be immersed in the water until the time of their rescue or death from hypothermia or other causes...

WHEREAS the Coast Guard has repeatedly failed to take action acceptable to the National Transportation Safety Board or to our Association in this regard...

WHEREAS members of our Association assert that all "crewmembers", "persons in addition to the crew", "passengers", "oilfield workers", and other individuals aboard oilfield vessels and uninspected towing vessels deserve the same degree of safety, care and consideration as crew members and paying passengers on small passenger vessels...

WHEREAS statistical research presented by the Coast Guard for regulatory purposes shows that American society is willing to pay $2,700,000 to save even just one life...

WHEREAS 46 CFR 160.027 describes Coast Guard approved life floats for merchant vessels; 46 CFR 199.30 classifies "life floats" and "buoyant apparatus" as survival craft and continues to allow their use on certain small U.S.-flag vessels; 46 CFR 131.870 continues to allow their use on oilfield vessels; 46 CFR 117.137 and 180.137 continues to allow their use on small passenger vessels; and existing Coast Guard regulations fail to require an uninspected towing vessel to carry any lifesaving equipment capable of preventing immersion in the water...

THEREFORE BE IT RESOLVED that the Gulf Coast Mariners Association petition the United States Congress to require suitable lifesaving equipment by statute for all oilfield and uninspected towing vessels that prevents immersion in the water of all persons on board the vessel that satisfies the National Transportation Safety Board's safety recommendations.

Additional documents available on the GCMA website:

- GCMA Report #R-354, Rev. 1, A Direct Appeal to Congress on Lifesaving Issues Affecting Lower-Level Mariners.

ISSUE #19 – HYPOTHERMIA PROTECTION FOR INLAND DECK CREWS

[Request for Congressional Action: We ask Congress to direct the Coast Guard or successor agency to ensure that all maritime personnel required to work on deck in winter including those on inland waters including rivers be provided adequate safety equipment including hypothermia protective clothing comparable to that required for Coast Guard personnel on search and rescue missions.]

[Request for Congressional Action: We ask that Congress request the Coast Guard or successor agency to conduct studies to identify places and dates where ambient surface water temperatures on principal rivers and waterways fall below the 59°F benchmark during any month of the year and to update their guidance (i.e., NVIC 7-91) and regulations to include this data for inland and river routes.]

Discussion: A 1996 joint Coast Guard/Industry Quality Action Team report stated in part: "...nearly 71% of all inland sector towing vessel fatalities resulted from falls overboard; that these falls occurred from both barges and towing vessels in roughly equal numbers; and that significantly higher fatality rates were found in the younger, less experienced population of workers."

The Coast Guard is well aware of the hypothermia problem that exists in cold water areas as shown in their Navigation and Vessel Inspection Circular NVIC 7-91. Unfortunately, the guidelines in the NVIC do not take into account water temperatures that are found in various rivers and inland waters – only those found along the coasts. A letter to Admiral James Card identified this significant shortcoming a decade ago – although the Coast Guard subsequently ignored the matter.

The Coast Guard went on record in NVIC 7-91 that temperatures falling below 59°F are significant for regulatory purposes. However, the same thinking behind the guidance in NVIC 7-91 should apply upon rivers and other inland waters just as it does in coastal areas. After all, cold water is cold water regardless of geography. In rivers, it may be swiftly flowing cold water and, therefore, even more dangerous.

GCMA provided 1998 river water temperatures for Coast Guard consideration. These temperatures were recorded on the first and 15th of each month. The list included these river Mississippi River water temperatures: January 1, 48°F at New Orleans; January 15, 50°F at St. Francisville, LA; February 1, 45°F at New Orleans; February 15, 46°F at Baton Rouge, LA; March 1, 46°F at New Orleans; March 15, 46°F at Natchez, MS; April 1, 52°F at Memphis, TN. In mid-April temperatures rose above the 59°F level and remained there until mid-October when they reached 56°F at Dubuque, IA. November readings at St. Francisville, LA, remained above the 59°F mark, but on December 1 dropped to 56°F. The reading was the same at New Orleans on December 15. Readings taken in 1999, January through March 15, were all in the 40s at Natchez, New Orleans, and Baton Rouge. Although this information was well publicized in trade journals, the Coast Guard ignored it.

GCMA pointed out that even in south Louisiana during the winter, the Coast Guard outfits its small-boat crews with effective cold weather insulated flotation gear similar to Coast Guard-approved anti-exposure coveralls. This requirement was codified in §410 of the Maritime Transportation Security Act of 2002 for Coast Guard personnel. GCMA asked the Coast Guard and the TSAC advisory committee to consider our mariners' needs but our request was repeatedly ignored. We now make the same request to Congress.

GCMA is concerned that Coast Guard inspection officials routinely waiver cold-water lifesaving equipment carriage regulations for some large passenger carrying vessels. The onset of hypothermia does not depend upon the size of the vessel that you are riding on as seen in the M/S ESTONIA disaster in the Baltic Sea..

A PERSONAL LETTER

[This is a reprint of a personal letter from Captain John R. Sutton to Captain Richard A. Block dated January 8, 1997, written at work on the Illinois River at 2100 hours.]

Dear Richard,

I nearly lost a man today. My Mate fell in the river at Hennepin, Illinois at Illinois River Mile 207. It was 0700. There was a heavy frost on the barges from a heavy fog last night. He was in the water approximately 10 minutes. It was 10°F this morning and the water had to be at least 34°F.

My Mate was walking down the side of the tow in the process of turning the tow loose from the fleet. He slipped and fell between the barges. I was preparing the daily log and catching up my personal log at this time. There were several boats working in the harbor this morning. At approximately the same time both the fleet boat and I heard a microphone key up with garbled sounds. Nothing understandable. I believe this was my Mate's radio shorting out when he fell in the water.

A few minutes later my deckhand came running down the barges waving his arms signaling me by waving his own life jacket. He yelled that he heard the Mate screaming for help but could not find him.

I immediately called the tug to assist. I then called my watch to go to the tow and assist. By this time my deckhand had found the Mate located between the tow and fleet of barges. He was approximately 300 feet ahead of the boat. I shifted my engines in a full throttle twin screw to open up the space between the tow and the fleet. I did not know whether the man had been crushed between the barges.

The deckhand on watch that came to his rescue was the Mate's brother-in-law. The deckhand later told me, that the Mate pleaded with him not to let him go and that he had been under once and was scared. The Mate had managed to wedge himself between the barges by placing his hands on one barge and his back to the other and pushing out. The Mate's hands immediately froze to the steel on the barge in the 10°F cold. The deckhand pried his hands loose, along with a couple layers of skin, and pulled him up to where he was able to put his forearms up on deck of the barge. His forearms froze to the deck.

By this time several more minutes had passed. The tugs arrived just as the barges were starting to close up again. The Chief Engineer arrived at almost the same time, realized the barges were closing, and made the decision

to try and retrieve the Mate without the help of others.

The Mate is approximately six feet and weighs 265 pounds. With his winter garb and radio this man was easily over 300 pounds soaking wet and, by this time, was in no shape to help himself. Somehow by God's helping hand, they managed to pull the Mate to the gunwale of the barge.

Somehow, while standing witness to this happening before me, I had the forethought to call the fleet dispatcher for Emergency Medical Technicians. This was in between pleading for the tugs to hurry to my deckhand's assistance.

My Mate walked to the boat on his own power, while I sent the tug to retrieve the waiting EMTs that were only three blocks away from the fleet's office.

I met the Mate at his room and helped him strip out of his icy clothes. While I was pulling his coverall arms down and unlacing his boots, he was apologizing for getting the radio wet. As soon as he stripped, I put him in a warm shower. Approximately five minutes later the EMTs arrived to check him out.

When the Mate dried off, he was red as a beet from the cold and still shivering to the bone. He dressed in sweat pants and shirt. The EMTs covered him with four blankets and applied chemical warm packs under his arms. After a brief observation, they opted to take him to the hospital.

When I woke up early this afternoon, I had a bad dream. It was about an outcome that was not as bright as this event had been. He is shaken up and wants to go home for a few days. His wife is 8½ months pregnant and understandably concerned.

She has called six times today. He is going home tomorrow; but for the mean time I'm not letting him do anything but sleep.

This event has hit home for me. I've seen other people in the water during warmer weather; but I nearly lost this man today. Somehow, I am going to bring this to the attention of Admiral Card, the Towing Safety Advisory Committee, and industry. The error chain in this event had too many links. The major ones were:

- Lack of communications because each man on a tow should carry a watertight radio.
- Lack of manpower because I only had two men on tow, and
- Lack of proper gear (i.e., a float coat or float coveralls). He was not capable of flotation dressed as he was.

This is a dangerous industry. Some of us tend to forget it when we are isolated three decks above the real action. There has already been one man lost on this river this winter at Beardston, Illinois, after falling off a tug.

Be careful my friend, and please exercise caution around the water this winter.

Best wishes, your friend, John.

ISSUE #20 – HOMELAND SECURITY

[Request for Congressional Action: We ask that Congress require ALL merchant mariners serving on commercial vessels regardless of tonnage to carry a Coast Guard identity document after undergoing a suitable and relevant background clearance check.]

Security Considerations. Existing Coast Guard regulations do not require merchant mariner documents for crewmembers on vessels of less than 100 gross tons working offshore or on vessels working on inland waters. Consequently, thousands of deckhands, unlicensed engineers, "deckineers" and cooks not only do not require training or qualifications but also do not require any form of Coast Guard identification. The "***100-ton***" figure may have been a convenient benchmark in the past for regulatory purposes, but its lower limit excludes thousands of merchant mariners who work on smaller commercial vessels. Furthermore, many unlicensed and "entry-level" individuals are temporary, part-time, seasonal employees and some have an alarmingly high turnover rate in the industry. However, all of these individuals are merchant mariners.

Unless the Coast Guard has a meaningful credential to take away from a mariner, they have no leverage in controlling drug use or other criminal activities. For this reason, we believe that the interest of national security would be well served by requiring ***all*** mariners to carry a federal identity credential (such as a merchant mariner document) that requires an appropriate background check. However, there needs to be a greater effort than the Coast Guard has demonstrated to avoid discouraging individuals who have been in trouble in the past and who seek this type of work in an honest effort to "turn their lives around."

ISSUE #21 – APPEALING COAST GUARD DECISIONS

[Request for Congressional Action: Remove civilian merchant marine personnel from military control and institute a simplified appeal process.]

The Coast Guard considers itself as an efficient, well-run organization patterned after the U.S. Navy. They have evolved a personnel management system that maximizes the career development of individuals within their organization.

Military systems require rank-and-file loyalty both up and down the chain of command. How this all works out in an

organization that is charged with regulating civilian endeavors seems to be less than desirable at least from the prospective of being among the "regulated public." Regulated public applies to both individuals and corporate entities.

The appeal process is a system within law and regulation that allows an individual or organization that believes that the Coast Guard has wrongfully interpreted the law or regulation to seek reversal or modification of some requirement from an individual superior to the aggrieving party and in the direct chain of command. The idea is for the offended individual appeal to the superior officer who ***in theory takes a completely impartial position and researches afresh all issues before him/her and rules with no bias, prejudice, or prejudgment***.

This process no longer works in maritime matters that are before the U.S. Coast Guard.

The Coast Guard allowed the appeal process to become a shadow of what it once was. This is the result of a number of factors, not least of which is the Coast Guard military rank and file system wherein everyone within the chain of command supports both those above and those below. It often takes something very unusual or untoward to get a superior to overturn a ruling of a subordinate. This is, of course, despite ***the ideal that any appeal should be treated fairly and judged only on its own merit***.

In today's Coast Guard, promotion as well as system and personal loyalty mean everything. Officer OERs (i.e., "fitness reports") are generally submitted semi-annually. Within the system, each individual is counseled by his or her superior. This is done with the core belief that an average performer can be turned into an outstanding performer if he or she is simply advised how to do so by his or her superior. To not support one's subordinates would be a breach of faith. It could also reflect back on the superior officer as a failure by the superior to effectively lead or motivate the subordinate.

In general terms the Coast Guard is very unlikely to ever acknowledge that one of their own erred because that would be potentially career ending and would have to be reflected somehow in his/her fitness report. Certainly it would at minimum be a black mark. The Coast Guard did not invent this system; it is used by military organizations around the world and clearly leads to a more cohesive and focused military force.

The problem with this is that it does not work well within the civilian regulatory environment. While this is true of many things military, in this case we are only addressing the appeal process.

Since the Coast Guard views itself as charged to protect U.S. waters and citizens from vessels and maritime operators, it is quite easy for them to rationalize that they are simply doing their job and protecting their constituency (the general public and ***not*** the maritime or regulated public) anytime they deny an appeal. Unfortunately, the Coast Guard does not seem to acknowledge they have any duty to the maritime public that they regulate.

In today's environment many within the business community strongly recommend against appealing any Coast Guard decision. Business executives from trade associations, to corporate presidents can revisit appealable decisions by schmoozing with superior officers in public or private meetings or politic up and down the line. However, most recognize that formal appeals simply do not work and affirmations of appeals are statistically inconsequential.

Of course, individual mariners and most mom-and-pop boat owners simply do not have these opportunities to influence Coast Guard policy. Senior Coast Guard officers have become so self-important that they shunt all the "small fry" to their subordinates. For example, how many individual mariners ever successfully appealed the manning on a Certificate of Inspection on a vessel by whose crew is forced to work beyond the limit of endurance by appealing directly to the local Officer-in-Charge Marine Inspection? Then there are thousands of towing vessels that were never issued a Certificate of Inspection so that their manning level even could be appealed.

It would seem that anytime a strong well organized military organization regulates civilians, the most likely outcome is some form of tyranny. Is that what we have today? Certainly, as regards our mariners, we say, "yes, it is!"

Additional documents available on the GCMA website:

- GCMA Report #R-436, Rev.1, The Coast Guard Appeals Process.

ISSUE #22 – BLACK LISTING

[Request for Congressional Action: We ask that Congress amend the Fair Credit Reporting Act to protect our mariners from vindictive employers.]

Discussion: 15 U.S. Code §1681b indicates that one of the permissible purposes of a consumer report is for "employment purposes." The Federal Trade Commission further defines these "permissible purposes" relating to employment to include reports used for evaluating a consumer "for employment, promotion, reassignment or retention as an employee." There is frequent abuse of this provision in a significant, non-unionized portion of the maritime industry for employment purposes.

Good employees try to maintain a good work record. The fact that such a record really exists and may follow him in the workplace provides a positive and sobering influence upon his or her conduct and stability. Nevertheless, there is one feature that stands out and detracts from the value of this type of "consumer report." That point deals with the answer to the question, "Would you rehire this employee?" or, restated, "Is this former employee eligible for rehire by your company?"

We receive widespread reports from our mariners that this single point is used to evaluate and subsequently to "***blacklist***" many of our mariners. It is a "quick and dirty" test of suitability for employment. Our complaint lies with the law and not with the Consumer Reporting Agency that only appears to be doing what the law and/or the Federal Trade Commission allow. We make the following arguments for change.

- "Would not rehire" is not based upon any uniform set of employment guidelines. It is a subjective opinion of some person working for a former employer who is under no obligation to reveal his/her identity or even position within the company. It could represent the opinion of a President, a Personnel Director, or even a clerk-typist with access to the company's computer. In some cases, employees are not even given a "pink slip" stating the reason for their termination.
- A mariner does not know which person "blacklisted" him or when it was done. However, "would not rehire" now can appear on a computer screen at a job seeker's next job interview. Or, it may appear as part of the "reinvestigation" the present law allows. In one case that we followed, the job applicant found out about it three years later – much of that time spent unemployed but constantly seeking work. Although he made written inquiry to both his former employer and to the Credit Reporting Agency, he was never told why his former employer would not rehire him. The information the mariner chose to add to his consumer report to counteract the "blacklisting" was nothing more than a shot in the dark since he had no access to solid facts he could refute. Even worse, his statement now stands out like a sore thumb on his work report.
- Most job applications require job seekers to list their previous employers. In the transportation industry, 49 CFR §40.25 even requires prospective employers to verify a job seeker's drug records for the past two years. If the prospective employer made such a call he would have a greater opportunity to speak with a responsible person in authority and ask legally permissible questions about the job seeker. A "would not rehire" computer entry short circuits the entire process and is manifestly unfair to job seeker.
- Accepting "would not rehire" notations without identifying them by name coupled with the limitation of liability in 15 USC §1681h make it very extremely for an injured employee to prove in court that he was disqualified from employment by "...false information furnished with malice or willful intent to injure such (a) consumer" if this is the case. Our experience shows that most mariners, especially those who are unemployed, do not have the means, the ability, and the knowledge to deal with the administrative procedures of the Credit Reporting Agencies – even when those agencies scrupulously follow the law.

It is for these reasons and in the interest of fairness to our mariners that we seek to amend the Fair Credit Reporting Act to exclude the solicitation of the information by Credit Reporting Agencies that allows notations such as "would not rehire" or "not eligible for rehire" to appear on a work report furnished by such an agency.

ISSUE #23- END OBJECTIONABLE EMPLOYMENT PRACTICES TARGETING MARINERS

[Request for Congressional Action: We ask that Congress review the applicable statutes listed below and the ILO convention and require more adequate enforcement of the statutes.]

Discussion: We believe that all expenses incurred for recruiting and hiring individuals to serve as "lower-level" mariners (i.e., to work on vessels of less than 1,600 GRT), whether for licensed or unlicensed positions must be borne by the employer and not the mariner.

Mariners should not be required to enter into agreements where a significant portion of their pay check – as much as the first two weeks pay – must be returned to an employment agency for the "privilege" of employment. We received reports that this practice exists and are prepared to refer any cases to our attorneys. We do not offer legal advice that remains in the province of our attorneys.

The fact that most mariners may not complain about the problem to the Coast Guard does not mean that the problem does not exist. Many of them complain to us – and we listen to their complaints. Employment in the maritime industry is often little more than a dangerous adventure that often does not end well. In this day and age, and with our experience in dealing with mariner issues, employment in this industry is certainly NOT a "privilege" worth paying for.

We believe that these practices are in violation of 46 U.S. Code §10505(a)(1)(C), 46 U.S. Code §10505(a)(2), 46 U.S. Code §10314(a)(1)(C), and 46 U.S. Code §10314(a)(2) as well as Article 4(a) of the Recruitment and Placement of Seamen Convention, 1920 (ILO no. 9). In our correspondence with Coast Guard officials, they deny that such conditions exist.

Additional documents available on the GCMA website:

- GCMA Report #R-415-A, Objectionable Employment Practices: Headhunting.

LOWER-LEVEL MARINER VIEWPOINTS

Introduction. Lower-level mariners who work aboard boats in the maritime industry have their own views of

how the maritime industry operates. These views seldom find their way to the nation's capitol because so few lower-level mariners have occasion to visit Washington and seek out their elected representatives. We take the opportunity in this report to share this view with our elected representatives to provide an insight into these issues – ***without seeking direct Congressional intervention.***

ISSUE #24- THE MEDICAL NVIC – A THREAT TO MARINERS' CAREERS

Discussion: We believe the Coast Guard went overboard in carrying out NTSB recommendations that seeks to manage all merchant mariners' health records. Since 1980, our mariners have become accustomed to dealing with their own physicians and must meet the physical standards of their employers without outside interference by the Coast Guard. The Coast Guard's record in promoting the health of our mariners is poor, and this recent intrusion is not necessary. To prevent our mariners from working when they are able to meet existing physical requirements will further aggravate the existing persomel shortage. Worse still, it will mean that many older mariners will never be able to finish their working years in the marine industry.

With this "Medical NVIC," the Coast Guard introduced a document with a "***military mindset***" in dealing with important health issues that have the potential to end the career of many civilian merchant mariners by age 50. This means that for many mariners there will be ***no viable career path*** in the maritime industry that would allow them to continue to work in this industry until they reach retirement age – currently age 65. This may not be evident to those just entering the industry at a relatively young age. However, it will have an immediate effect on many older trained and experienced mariners already in the marine industry. One of the most serious problems facing the boat owners who employ our lower-level mariners is the impending retirement of a large number of skilled and experienced mariners. The introduction of this NVIC and its potential for expanding the "red tape" and bureaucratic harassment already prevalent in the licensing system could not possibly have come at a worse time for our mariners and the industry as a whole.

We hate to disillusion the Coast Guard officials in Washington who are so completely out of touch with our working mariners already, but most mariners remain in the industry work well beyond age 40 to 50. While this proposal may be sound for military health administrators, it is controversial and creates far more problems than it solves for our civilian merchant mariners.

It appears that the Coast Guard has a ***distorted view that their duty*** is to protect our waters from licensed American mariners who may become more hearing impaired or unable to pass a stress test as they advance in age. Coast Guard administrators seem to recognize no duty to serve the trained and experienced mariner who is on an advanced issue of his license. It appears through this proposed NVIC that the Coast Guard wants to eliminate older personnel from the maritime work force as if they were part of a military organization with military type duties. In doing so, it appears that Coast Guard officers plan to turn the merchant marine into the only type organization they are familiar with – a military organization. In such an organization, everyone should be under 40 so they can always put out unlimited exertion for whatever purpose they are engaged. We respectfully disagree.

Most physical requirements for Coast Guard credentials have been in place for many years and most mariners understand them. However, through this arbitrary system of adding health and physical requirements whenever they feel like it in "guidance" documents like this NVIC, the Coast Guard imposes a significant change upon the maritime industry in general and significant expenses upon our mariners in particular without any form of due process or direction from the Congress. These abuses of their authority are all rationalized, and in the Coast Guard's view, perfectly legal. We respectfully disagree.

It appears that the Coast Guard is making this up as they go along. Apparently, the Coast Guard believes it can change the requirements for a license arbitrarily at any time that they so choose. According to this rationale, making the licensee sign a *Conditional Medical Waiver* (as happened recently to one of our mariners) means that the Coast Guard can institute Suspension and Revocation Proceedings if the mariner does not fully comply with the terms and conditions of any waiver he is granted. We object to this type of threat.

A great deal of the medical NVIC appears to be poorly concealed age discrimination although we are certain that the Coast Guard can provide persuasive rationalization indicating it is not. Many of our mariners have called our office and expressed this belief.

We profoundly regret that the Coast Guard also seems to believe that their superintendence of the Merchant Marine includes no duty to protect the health of our mariners, especially older mariners. However, our Association takes a contrary position. We hereby state that ***these are the duties we believe the Coast Guard has to protect the health and welfare of our lower-level mariners.*** The Coast Guard needs to concentrate on these preventive measures rather than arbitrarily endanger the careers of our mariners.

- **A duty** to ease the unreasonable work-hour burden placed on our mariners. The Coast Guard permits 15-hour workdays for unlicensed crewmembers.
- **A duty** to address the work-hour abuse faced by licensed officers under the existing two-watch system as well as many working on 24-hour tugboats on a "one-watch" system.
- **A duty** to support Public Health policy by requiring boat owners to institute no-smoking policies in public and sleeping areas of the boat to protect mariners against the hazards of second-hand smoke as discussed in the 2006

Surgeon General's report on smoking. Since the Coast Guard can do it on their own cutters and bases, they must seek comparable authority from Congress to do so on commercial vessels to protect the health of our mariners who serve on these vessels.

- **A duty** to encourage boat owners to take positive and, verifiable steps to reduce the workload on older mariners instead of trying to "run-off" older mariners.
- **A duty** to require audio surveys on all commercial vessels as a first step to protect our mariners' hearing from excessive noise.
- **A duty** to require a survey on all vessels over 25 years old to determine the presence of asbestos and determine the threat it poses to our mariners.
- **A duty** to require a standard entry-level physical exam of all mariners to determine from the outset whether they are suitable for service in the merchant marine. This should include not only those sitting for a license or a merchant mariner document (MMD) to work on a vessel of more than 100 GRT but also those who work on smaller commercial vessels. There are thousands of mariners working on vessels of less than 100 tons that the Coast Guard never even counted as merchant mariners and does not have a any information on.
- **A duty** to recognize that the towing industry and the offshore oil industry are dangerous industries for mariners. Since there is no longer medical coverage for mariners at Public Health Service facilities, the Coast Guard should require employers to provide full medical, disability, and death benefit coverage for merchant mariners that would include coverage for any and all medical tests the Coast Guard may order during their credential renewal process.
- **A duty** to recommend to Congress authorization for disability coverage (SSI) for merchant mariners who are disabled on the job or whose health problems develop after an initial physical examination does not allow them to return to a job afloat.
- **A duty** to eliminate the ineffective CG-2692 as an instrument for reporting personal injuries and to replace it with a reporting form similar to the OSHA-300 series of reports where employers must keep track of their employees' injuries.
- **A duty** to assign a higher priority to creating new regulations to provide for safe potable water to commercial vessels (as mandated by Congress in 2004) as well as providing sanitation training for all those who carry out food preparation for others on vessels in 24-hour operation to prevent the spread of food borne illnesses.
- **A duty** to recommend Crew Endurance Management (CEMS) training (only) for all mariners and disallow CEMS as a method that allows companies to under man their vessels.
- **A duty** to require training in CPR, First Aid, and stress avoidance for all mariners on every commercial vessel. CPR and First Aid training is necessary because some vessels are manned by as few as two mariners.

Additional documents available on the GCMA website:

- GCMA Report #R-415-B, Rev. 1 (Series) Medical & Physical Evaluation Guidelines for Merchant Mariner Credentials
- GCMA Report #R-403, Stress and the Licensed Mariner.
- GCMA Report #R-351, Rev. 1, How Safe Is The Towing Industry?

ISSUE #25 – MARINERS PROBLEMS WITH THE ADMINISTRATIVE LAW SYSTEM

Discussion: Mariners have no clear concept of what the Coast Guard's "Administrative Law" system is all about because little is written about it in layman's terms and no time is spent explaining it in approved courses leading to lower-level licenses.

Many mariners who face administrative proceedings incorrectly believe they are being court-martialed and will sign or do almost anything to avoid it. Mariners see the administrative law system used by some Coast Guard officers as a tool to terrorize and subjugate our mariners[1] while it does next to nothing to investigate, restrain, or reprimand corporate executives that may have ordered or allowed violations of statutes or regulations. It takes fewer resources to bring a mariner before an Administrative Law Judge (ALJ) than to bring a civil penalty action against a company, which makes our mariners a much easier target. Many lawyers find the system unfair and necessary to use their full courtroom skills to defend mariners before an Administrative Law Judge (ALJ).

We urge our mariners to engage effective legal counsel knowledgeable in administrative and admiralty law before they sign away any rights they may have in "settlement agreements" even though those agreements must be validated by an ALJ. We urge our licensed mariners to purchase license insurance[3] to cope with protecting their credentials without which they cannot work. Unfortunately, only a few mariners followed our advice. Recent revelations about abuses of the ALJ system[2] raise serious questions about the ethics of senior Coast Guard officials.

Additional documents available on the GCMA website:

- [1]GCMA Report # R-315-C. Mariner Drug Cases
- [2]GCMA Report #R-429-J, Investigations: Report to Congress – Coast Guard Abuses of the Administrative Law System.
- [3]GCMA Report #R-342, Rev. 5, License Defense Insurance; Income Protection Insurance and Civil Legal Defense

ISSUE #26 – THE COAST GUARD DOES NOT UNDERSTAND THE WORKBOAT INDUSTRY

Discussion: Coast Guard officers have little first-hand knowledge of the work our mariners perform, the schedules we keep, the hardships and conflicts we face. Very few Coast Guard officers ever had first-hand experience in working on commercial vessels of less than 1,600 tons in the merchant marine service. Very few Coast Guard projects ever require Coast Guard officers to "ride our boats" for any length of time to get a first-hand sense of what our mariners do for a living. When they occasionally do ride with us, the trip has a management "spin" since it can only take place with management approval. Although the Coast Guard as an institution lacks first-hand experience with the industry, they rarely go out of their way to solicit the unique views of our mariners.

ISSUE #27 – MARINERS' LIMITED RESPECT FOR THE COAST GUARD

Discussion: Our mariners respect and admire the Coast Guardsmen assigned to Search and Rescue missions who put their lives at risk on our behalf. We also respect those who work on Coast Guard cutters and buoy tenders that we depend on. Consequently, our mariners bond with those Coast Guardsmen when they learn that they also are overworked and overburdened with duties as Congress discovered following the MORNING DEW accident on December 29, 1997.[1] The officers that were responsible apparently are of the same ilk as those who ignore our lower-level mariner work-hour violations. These officers conveniently overlook the fact that there are no work-hour limits set for many lower-level mariners, including many who are not required to hold merchant mariner documents. They should have moved to correct these injustices by submitting legislative change proposals years ago

Additional documents available on the GCMA website:

- GCMA Report #R-370-G. (Series), Crew Endurance: The Call Watch Cover-up
- GCMA Report #R-279, Rev 6, Report to Congress on the Need to Review and Set Safe Manning Standards for Offshore Supply and Towing Vessels.
- [1]GCMA Report #R-305, Betrayed – A Call for Increased Congressional Oversight of the United States Coast Guard.
- [1]GCMA Report #R-304, Rev. 1, Small Boat Station Search and Rescue Program.

ISSUE #28 – LIMITED COAST GUARD RESOURCES

Discussion: Over the years it was evident that some Coast Guard resources were stretched very thin. Until recently, the Coast Guard publicly boasted of its ability to do more with less. While others may have been impressed, our mariners saw this as little more than false pride, arrogance, or a downright lie as many programs deteriorated or fell by the wayside. For example, at one time marine inspectors did not have gasoline to reach vessel inspection assignments. For over a year, the Coast Guard did not have the funds to monitor the quality of NMC "approved" training courses offered to the public.

The recent revelations of high-level Coast Guard ineptness in managing expensive programs in which they were expected to demonstrate their expertise bears out our contention. GCMA will not "go to bat" for the Coast Guard because we are not convinced that they have shown genuine interest in our mariners' welfare.

Many mariners, especially during the 1998 Pilots Agree strike, believed the Coast Guard betrayed them by allowing the industry to operate their towboats in 24-hour service with only one licensed officer on board. This feeling persists today in the treatment our mariners receive.

ISSUE #29 – COAST GUARD PARTNERSHIP WITH INDUSTRY

Discussion: Our mariners view "partnerships" between the marine industry and the Coast Guard with suspicion because it advances the interests of both parties without considering a third and very important party – maritime labor. The partnerships are often touted in trade publications but seldom work to benefit our mariners who believe they are highly overrated. These partnerships involve large corporations and industry trade associations that often have the power to set the agendas to benefit their member companies without considering the interests of the mariners these companies employ. This is particularly worrisome where an association clearly does not represent a majority of the participants in an industry or where it provides information that may be misleading or inaccurate.[1]

Additional documents available on the GCMA website:

- [1]GCMA Report #R-351, How Safe Is The Towing Industry?

ISSUE #30 – THE REVOLVING DOOR OF GOVERNMENT SERVICE

Discussion: While in their closing years of Coast Guard service, many senior commissioned officers develop cozy relationships with industry management or trade associations in anticipation of landing a prestige job upon retirement. During these years, few find any need to go out of their way to stand up for our lower-level mariners. Since most Coast Guard officers are college graduates, they are more comfortable in dealing with management personnel at a comparable level and expect these managers to exercise firm control their employees – as in the military. It is this arrogance and their obvious attempts to ingratiate themselves within the industry before leaving the service that mariners most clearly resent. Management in private industry can offer very attractive and lucrative jobs to cooperative and malleable Coast Guard officers on leaving the service. Equally attractive are post-retirement jobs with the Coast Guard.

One Eighth District Commander, allowed his staff to betray many western river pilots by turning the pilotage endorsements they had worked, studied, and paid for over many years into worthless paper. This destroyed the pride of some of the most professional and experienced mariners on the river. When the Admiral retired, he appeared in London at a meeting of the International Maritime Organization as a private citizen representing a "flag-of-convenience" registry. While this may be perfectly "legal" it discredits the Coast Guard officer corps in the eyes of our mariners and should raise eyebrows in Congress.

Mariners also observe that very few Coast Guard officers show any interest in working at sea especially if they must qualify for a merchant marine officer's license.

ISSUE #31 – WHEN EMPLOYERS SPEAK FOR MARINERS

Discussion: Employers don't always speak on behalf of the mariners who work for them. Just because employers hire lower-level mariners to crew their boats, many believe that entitles them to speak on behalf of their workers on every matter. While there is usually no reason to challenge employers on most business issues, there are some very distinctive issues where mariners need to make their own voices heard. That is the purpose of our Association and of labor unions as well.

ISSUE #32 – COAST GUARD STATISTICS AND SECURITY GAPS.

Discussion: We question the accuracy of many Coast Guard statistics we have seen. For example, we believe the Coast Guard personal injury statistics are a cruel farce. Also, from 1992 until 2005 the Coast Guard was unable to provide an accurate count of the total number of licensed and documented mariners and ignored repeated FOIA requests for this basic information even those that were finally directed to the Commandant's personal attention.

At the national level, we believe the Coast Guard does not know how many merchant mariners there really are – aside from those with licenses and merchant mariner documents – who they are, where they reside or where they may be contacted. They have no records of most unlicensed and undocumented mariners who serve on inland waters[1] or mariners working on vessels of less than 100 gross tons working "offshore."

The Coast Guard rarely check to see which small commercial vessels enter and leave our ports or who are the mariners that crew these vessels, and until recently, whether they are properly licensed or documented. These huge gaps have existed for years. We saw little effort expended to close these gaps after the terrorist attack of Sept. 11, 2001 although, following Hurricanes Katrina and Rita, there is an effort to consolidate and centralize some of this information at a new facility under construction in Martinsburg, WV.

ISSUE #33 – VOLUNTARY GUIDELINES ARE MONUMENTAL WASTES OF TIME AND EFFORT

Discussion: Although the Coast Guard prefers to use persuasion rather than "enforcement" powers, many of their efforts at voluntary compliance left the agency spinning its wheels or accomplished little for the time and effort expended.

Fishing vessels. Trying to improve commercial fishing vessel safety using voluntary means throughout the 1980s involved considerable wasted effort until Congress finally stepped in and demanded action by passing the 1988 Commercial Fishing Industry Vessel Safety Act.

Streamlined Inspection: The Streamlined Inspection Program[1] gobbled up a great deal of administrative resources but a decade later has very few takers. Today, most boat owners now opt for a straight inspection. *[[1] 46 CFR Part 8, Subpart E.]*

Towing Industry. The towing industry has been out of control since 1993 as demonstrated by the Bayou Canot, Webbers Falls I-40, Lake Washington, and South Padre Island bridge allision disasters[2] that killed scores of

people and cost taxpayers millions of dollars. Spectacular tank barge groundings off Rhode Island, Puerto Rico, and Massachusetts caused regional ecological disasters. Although these and thousands of lesser accidents resulted from a plethora of causes, the simple fact remains that the towing industry still operates with such an inferior set of regulatory standards that it cried out for Congressional attention in 1994 – and a call to inspect all towing vessels.

In the following decade, the Coast Guard allowed the towing industry to regulate itself under AWO's Responsible Carrier Program. Although industry fashioned its commendable "Responsible Carrier Program," it had no enforcement "teeth" and demonstrated clearly that towing vessels needed to be brought under a formal inspection program applicable to all vessels. The Coast Guard leadership took the easy route in 1994 and 1995 and but should have recommended a formal inspection program to Congress at the time.

Commercial Towing Vessel Examination Program. This program, that obviously took a great deal of time, effort, and resources to create, might have had a lasting impact and succeeded in at least ensuring that towing vessels met the limited existing standards if the Coast Guard properly funded it as a national program. However, this was not done.[3]

Additional documents available on the GCMA website:

- [2]GCMA Report #R-293, Towboats and Bridges, A Dangerous Mix
- GCMA Report # R-411, Rev. 4, Congressional Oversight is Necessary to Prevent Continuing Overhead Clearance Accidents.
- [3]GCMA Report #R-282. Cooperative Towing Examination Program (CTVEP). Survey of USCG Boardings of Uninspected Towing Vessels.

ISSUE #34 – SPORADIC RELIANCE ON NTSB RECOMMENDATIONS

Discussion: While the Coast Guard apparently disagrees with many NTSB recommendations, it goes overboard on pushing many others. For example, in 1995, the NTSB listed 55 Small Passenger Vessel safety recommendations that were still "open"[1] and had not been resolved. *[[1]Refer to Report #NTSB/MAR-95/03, Appendix F. Some recommendations were 10 years old and some of NTSB's "Most Wanted" regulations that would protect our mariners showed no signs of Coast Guard acceptance.*

Hours of Service. The NTSB called for the implementation of "science-based hours of work" regulations in all transportation modes. This recommendation has languished since 1989 and was virtually rejected by the Coast Guard Chief of Staff a decade later.

Although the Coast Guard research and development laboratory performed commendable "scientific" work on their "crew endurance management" (CEMS) project, our mariners have little confidence in the way that the towing industry in particular plans to manipulate that science to maintain an illusion of legitimacy of the existing but incompatible "two-watch" system. The Coast Guard did little to investigate and confirm the abuses of the 12-hour statutes we reported to them and never demonstrated any real interest in curbing unlimited work-hours used to exploit many unlicensed mariners.

Independence. The NTSB is supposed to be an independent agency. We are alarmed to see the migration of former Coast Guard personnel into the National Transportation Safety Board to investigate accidents involving commercial vessels. We believe the NTSB must remain an independent of the Coast Guard and its inadequate accident investigation system. We further object to the Memorandum of Understanding that restricts NTSB investigations to accidents with six or more fatalities. Many of the vessels manned by our mariners regularly operate with fewer than six crew members. We have little confidence in the quality of Coast Guard accident investigations.[2]

Preventive Maintenance. We believe the Safety Board was correct in urging the Coast Guard to reconsider requiring operators of inspected small passenger vessels to develop and implement preventive maintenance programs for safety-critical vessel systems, including the hull and the mechanical and electrical systems as stated in Safety Recommendation M-02-5. We further believe that ***preventive maintenance programs are necessary*** on all vessels manned by our mariners.[3]

Additional documents available on the GCMA website:

- [2]GCMA Report # R-429, GCMA Report to Congress: How Coast Guard Investigations Adversely Affect Lower Level Mariners.]
- [3]GCMA Report #R-441, Coast Guard Obstructs Preventive Maintenance – NTSB.

ISSUE #35 – MARINER PARTICIPATION IN FEDERAL ADVISORY COMMITTEES

Discussion: GCMA monitors and participates in three Federal advisory committees, the Towing Safety Advisory Committee (TSAC), the Merchant Marine Personnel Advisory Committee (MERPAC) and the National Offshore Safety Advisory Committee (NOSAC). We encourage our mariners to attend and participate in these

meetings whenever possible.[1]

Although we are impressed with the knowledge, background and diversity of the members selected for these committees, the Coast Guard should devote more attention to addressing mariner issues in these committees instead of loading meeting agendas to serve its own purposes.

It is hard to justify the cost of attending meetings in Washington or other distant cities when mariner issues are shunted aside and seldom resolved. Lower-level mariners are a majority of all U.S. merchant mariners, and without our labor, there would be very little waterborne commerce.

International agreements recognize maritime labor as an equal participant with management and government. This is hard to ascertain on several of the advisory committees which appear to be little more than management forums. Our complaints about the Towing Safety Advisory Committee reached the point where we petitioned Congress for changes.[2]

We should point out that some mariner representatives appointed to federal advisory committees cannot attend every meeting because they serve aboard ship, are out of the country, or are unable to make arrangements for a timely relief. We believe the Coast Guard needs to make special arrangements for working mariners to allow alternate delegates to represent them at all advisory committee meetings and to contribute to the work of those committees.

We further note that travel and per diem considerations are not uniform among Coast Guard advisory committees with some advisory committees having no arrangements for member travel and per diem. This is true in NOSAC and TSAC where the absence of travel and per diem discriminates against mariner representation especially when meetings are held in distant cities.

Additional documents available on the GCMA website:

- [1]GCMA Report #R-384, Rev. 1, GCMA Encourages Mariners to Attend and Participate in Federal Advisory Committee Meetings.
- [2]GCMA Report #R-417, Rev. 1, Report to the 110th Congress: Request for Congressional Oversight on the Towing Safety Advisory Committee.

ISSUE #36 – MISSED OPPORTUNITIES TO ENSURE LABOR PEACE

Discussion: There remains a ground swell of dissatisfaction among towboatmen on the western rivers and Gulf Intracoastal Waterway following the 1998 "Pilots Agree" strike. Pilots Agree was a "grass roots" organization formed by the river pilots that was sought to make specific changes in the industry. In that strike, an estimated 1,400 licensed Masters and Pilots joined the work stoppage for a number of reasons detailed below. Management of 100 affected towing companies refused to negotiate with the striking workers and used their superior financial resources and "union busting" tactics[1] to break the strike

Although GCMA did not exist in 1998, river and inland mariners still carry much of the resentment about how they were treated both by management and the Coast Guard at that time. We receive reports that "blackballing" dissident mariners by some major towing companies continues today.

These remain as some of the unresolved "employment" issues." Since GCMA is not a union, we cannot bargain on behalf of our mariners – but we can identify issues.

- better pay.
- an opportunity to chose a labor union to represent mariners without employer interference.
- collective bargaining of wages.
- overtime pay for legal overtime work.
- unsafe crew cutbacks outside of federal manning regulations
- comprehensive and portable health and benefit plans for mariners and their family members.
- pension, benefits, vacation pay, sick pay, leave of absence and retirement issues.
- preserve seniority and prevent changes of benefit programs resulting from corporate mergers.
- restore the cooks replaced by microwave ovens on long haul tows.
- consider proper meal planning and the effect of proper nutrition on crew health.
- provide for reasonable grocery budgets on every vessel.
- ending the widespread practice of blackballing (i.e., blacklisting) employees throughout the industry.
- provide sufficient engineroom manning; if only one engineer is on board, he is on call 24 hours per day.
- correct sources of excessive vibration and noise that deprive crew members of their sleep.
- job protection under a contract that prevents unjust firing for refusing to perform unsafe and/or illegal operations.
- eliminate vessel undermanning and "call watches" that interrupt sleep.
- testing drinking water on a regular basis.
- truthful marketing of a vessel's horsepower to customers will eliminate one source of underpowered tows.
- operating vessels with a safe horsepower to tow tonnage (or barge) ratio reduces stress on pilots and promotes safety.

- recognize that pilots suffer fatigue, stress, strain and a shortened lifespan estimated at only 57 years.
- door to door transportation and travel pay to and from the boat wherever it may be located.
- safe, insured transportation to and from the job site when furnished by the employer.
- tell the truth about the towing industry accident rate statistics.
- companies should fund industry training programs as new equipment and practices are introduced.
- guarantee security of seniority in promotions, lay-offs, rehiring and filling vacancies.
- fixed and written grievance and arbitration procedures.
- reasonable published work rules agreeable to both labor and management.
- stop practices identified as unfair labor practices by the NLRB
- the choice of day-for-day time off.

Following the 1998 work stoppage, management retaliated against many mariners with terminations, demotions, etc. Some of the practices resulted in unfair labor practices that were brought before the National Labor Relations Board by the International Organization of Masters, Mates and Pilots with more than $414,000 recovered for proven violations against individual mariners.

Mariners widely criticized the Coast Guard for not strictly enforcing existing manning statutes for licensed personnel and allowing towing vessels to operate 24-hour days with only one licensed person on board.

The proposed Employee Free Choice Act, if passed, will be a big step in bringing our mariners the freedom of association in the workplace they should have.

ISSUE #37 – HARD WORK, LONG HOURS, LITTLE APPRECIATION, AND NO RESPECT

Discussion: With the exception of those lower-level mariners who work on ferries and small passenger vessels, the jobs that most lower-level mariners perform have little exposure to the general public. Mariners on the rivers usually work "on the other side" of a levee, often in urban areas. Many mariners working on OSVs work offshore from bases in isolated oil ports served by inadequate public transportation.

Few print or television journalists accurately convey to the public the importance of the work our mariners perform because they are a small and generally unseen part of society. Only a few of our mariners make the headlines and then only if they are blamed for a disaster that affects the public.

Our mariners refuse to take the blame for incidents they have no control over, especially when they are pushed beyond their endurance limits or must cope with the limitations imposed by the equipment they are operating.[2] Statements like this one regarding bridge allisions[1] are particularly inflammatory: "Work group members (i.e., "management") were therefore forced to rely on their own operational experience, judgment, and knowledge of a particular waterway in interpreting the limited information in the Coast Guard casualty reports and classifying (bridge) allisions and mishaps by type and causal factor. With this admittedly significant caveat, the group concluded that 90% of the cases were related to human performance (78% to pilot error and 12% to other operational errors." *[[1]Report of the U.S. Coast Guard – American Waterways Operators Bridge Allision Working Group, May 21, 2003]*

The Coast Guard has a formidable public information apparatus that releases news of their own exploits to the media.

Additional documents available on the GCMA website:

- GCMA Report #R-340, Rev. 8, Oversize and Overloaded Tows Cause Safety Problems

ISSUE #38 –THE COAST GUARD STILL OVERLOOKS THE "NEWMAN REPORT[1]

Discussion: Thirty-five years ago, the offshore oil industry experienced serious problems when the Eighth Coast Guard District attempted to license mariners working in the offshore oil industry. The Coast Guard ***assumed*** that it could administer the same license examinations it used in other parts of the country to mariners in Louisiana. Although this ***appeared*** to be reasonable, the Coast Guard's "one-size fits all" strategy did not fit these mariners. They failed to license enough "Ocean Operators" (now known as 100-ton Masters) to run the offshore industry's crew boats. Licensing the industry's supply boat Captains and the numerous tug and towboat operators would prove to be another challenge.

The boat owners, facing an interruption of their operations, called upon Louisiana Senator Russell Long to assist them. As a result of political pressure, the Coast Guard dispatched one of its most senior Captains to "study" the situation and make recommendations. Captain C.T. Newman spent a year studying the industry personnel and preparing the report he delivered to the Commandant in 1973. He reported that the mariners that were preparing for the license exam were good seamen but had very little formal education. As a result, he recommended and the Coast Guard adopted special examinations for "mineral and oil" licenses.

While that "fix" settled things for a number of years, Coast Guard Headquarters conveniently "lost" the 1973 Newman Report and eventually reverted to its "one size fits all" strategy. By 1980, a new Eighth District Commander went on record stating that the educational problems Captain Newman observed were in the past and

that the Coast Guard would move forward. Although he was wrong, the Coast Guard forgot many of the lessons they learned from the Newman Report and continued to make the same mistakes over and over again.

In the 1980s, when the oil boom turned to bust, those with licenses and jobs held on to them. The educational situation remained static through the next ten years of recession but was pushed into the background.

However, then as now, very few mariners who seek lower-level licenses ever attend college. While there may be more high school graduates available today, many license applicants today enter the marine industry without graduating from high school. They come to work and earn a day's pay, and few entertain dreams of attending or graduating from college – in spite of what many educators would like to believe.

Many of our mariners have serious gaps in their formal education and have difficulty reading and comprehending technical or regulatory reading material. Reading tests show that most government regulations are written at the twelfth-grade level. While little can be done about that, it helps to explain why so much that the Coast Guard writes sails over our mariners' heads and why the Coast Guard has never been able to effectively communicate with our mariners.[2] This partly explains why so many mariners have trouble completing documents such as a formal license application – a problem that plagued Regional Exam Centers for years. Yet, year after year, Coast Guard officials at Regional Exam Centers deal with the same people and try to extract exactly the same information that they should have computerized long ago. It is aggravating and frustrating for all concerned – and largely a waste of time and energy.

Additional documents available on the GCMA website:

- [1]GCMA Report #R-428-A, Maritime Education & Training for Lower-Level Mariners. The Newman Report.
- [2]GCMA Report # R-382, Why Our Mariners Don't Get The Message. *[Note: This report is based on a letter we wrote to Coast Guard Headquarters on Dec. 15, 1997.]*

ISSUE #39 – INDUSTRY'S TARDY INVESTMENT IN TRAINING ITS MARINERS

Discussion: Until the mid-1990s, most companies that hired licensed or documented lower-level mariners required their mariners to pay for their own training. This was reasonable as long as the cost of training was relatively low – generally under $1,000. Some companies loaned mariners the cost of tuition and extracted guarantees of repayment that took several forms. However, with the sudden introduction of STCW in 1995, the cost of training sky-rocketed to the point where a $1,000 lower-level license now costs upwards of $20,000. In addition, the complexity of license training and assessment grew exponentially and to the point where the red tape involved in obtaining a license dissuaded many applicants. Yet, the Coast Guard never raised a finger to assist our mariners while they continued to crank out endless qualifications for our mariners to meet.

While there were enough credentialed mariners in 1995, any surplus of licensed or documented personnel has vanished today. Only within the past several years have some of the larger companies invested the thousands of dollars it takes to train and license a mariner to the degree the Coast Guard now requires. While some of these "requirements" are driven by international treaty obligations the United States must meet, they also affect the domestic market for which these requirements are overkill and for which there will probably not be enough qualified candidates. Smaller companies simply cannot afford to lay out $20,000 or more to train a mate or pilot who may or may not stay with them after gaining a license. The Coast Guard placed this burden on both the mariners and their employers without really understanding the industry in which our mariners work. It was one of their more spectacular but inexcusable blunders – and one more reason why they should lose their authority over mariner education, training, and licensing.

Additional documents available on the GCMA website:

- GCMA Report #R-415, Rev. 2, Coast Guard Mis-management of Lower Level Merchant Marine Personnel: Training and Licensing Problems for Towing Vessel Officers.

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International Secretary-Treasurer

STATEMENT OF CAPTAIN TIMOTHY A. BROWN
PRESIDENT
INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS
to the
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION
regarding the
UNITED STATES COAST GUARD MARINE SAFETY PROGRAM
AUGUST 2, 2007

Good afternoon Mr. Chairman and Members of the Subcommittee:

I am Captain Timothy A. Brown. I have served as President of the International Organization of Masters, Mates & Pilots (MM&P) since 1991. I am a graduate of the United States Merchant Marine Academy at Kings Point, class of 1965. I earned my Master's license in 1970.

MM&P represents ship Masters, licensed deck officers and unlicensed mariners working aboard U.S.-flag commercial vessels operating in the foreign and domestic trades and on the inland waterways. We represent the licensed deck officers employed aboard vessels in the Maritime Administration's Ready Reserve Force as well as licensed deck officers employed aboard vessels operated by Military Sealift Command. MM&P also represents harbor pilots who guide ships in and out of ports throughout the United States.

In partnership with our contracted employers, MM&P operates the Maritime Institute of Technology and Graduate Studies (MITAGS) and the Pacific Maritime Institute (PMI). MITAGS is a recognized world leader in maritime training and education. MITAGS provides training for: MM&P members, other American mariners, U.S. Coast Guard Vessel Traffic System operators and seafarers from countries around the world.

Thank you for the opportunity to present the views of my organization on this very important issue: the role of mariners and the U.S. Coast Guard in protecting life and property at sea.

MM&P is proud of our members' professionalism and their commitment to safety. Mariner safety and welfare are at the heart of our mission as a labor organization. To accomplish our mission, MM&P sends representatives to a number of national and international forums to offer our expertise and to learn from the experience and wisdom of others.

At home, MM&P participates in the Merchant Marine Personnel Advisory Committee (MERPAC), the National Maritime Security Advisory Committee (NMSAC), the Towing Safety Advisory Committee (TSAC) and the Ship Operations Cooperative Program (SOCP), to name a few.

MM&P representatives participate as delegates to international organizations including the International Maritime Organization (IMO), the International Labor Organization (ILO) and the International Association of Lighthouse Authorities (IALA).

MM&P is frequently invited to participate in industry working groups.

MM&P is an active contributor to the discussion on maritime safety at home and abroad. We would, therefore, like to share our perspective on this important issue.

My purpose here today is to outline MM&P's areas of concern regarding the state of the administration by the Coast Guard of maritime safety functions and to offer suggestions about how we might work together to make improvements.

I would like to start by underlining the fact that America's mariners are an important national asset.

American mariners serve with our armed forces. One in 26 mariners died in the line of duty during World War II – a greater percentage than all other services except for the U.S. Marine Corps. During the Korean War, merchant mariners carried supplies and evacuated refugees. They did the same during the war in Viet Nam. American merchant mariners serve today in the Middle East.

Mariners operating in New York immediately mobilized to evacuate thousands from Lower Manhattan following the attack on the World Trade Center. They also provided relief to victims of the Gulf hurricanes in 2005 and to the tsunami victims in Banda Ache in 2005.

As Naval Reserve officers, many licensed mariners and pilots have served and are serving on active duty assignments at sea and ashore in the Middle East and elsewhere around the world.

As is the case with all of our nation's resources and assets, the programs and policies affecting our mariners must be managed properly with a view toward preserving the seafaring profession and ensuring safe and efficient commerce.

I offer my comments in this context.

Training and Education

The training and education of Coast Guard personnel run along a different track than the training and education of merchant mariners. For this reason, when Coast Guard investigators are sent to inspect or investigate, they view a mariner's work from a perspective that is totally different from that of the mariner.

MM&P members inform me that, very often, the Coast Guard inspectors they see aboard their vessels are inexperienced and lack technical knowledge about how merchant ships operate.

Organizational Structure and Culture

The culture of a military organization with a law enforcement mission is out of step with a maritime industry that has its own traditions, its own professional culture and that must live and function under commercial pressures.

As a military organization, the Coast Guard has a system for career advancement that values an individual's performance in a range of billets. Investigators may have

served for only a short time at sea. They may be looking forward to their next assignment – one which could better position them for a promotion. They may have served in drug interdiction or similar functions which, understandably, require a range of skills which do not properly prepare them for contact with civilian merchant mariners.

Listening to the Industry

As I mentioned earlier in my remarks, MM&P participates in a number of advisory committees domestically and worldwide. The Coast Guard participates in many of the same forums. We, along with others, are becoming increasingly frustrated with the Coast Guard's apparent unwillingness to listen to the industry.

I offer some recent examples:

1. The Coast Guard played an aggressive role at IMO toward the adoption of the *International Ship and Port Facility Security Code* (ISPS). A very important provision in the code affirmed the right of all seafarers to shore leave. In the regulations that implement ISPS, the Coast Guard watered down the shore leave language – over the objections of many in the industry. The result has been mariners being denied access to shore leave and services at many ports around the country.

2. Over the past year, the Coast Guard has been working on a Navigation and Vessel Inspection Circular (NVIC) that would impose expensive and unnecessary requirements for mariners to document their medical histories when they renew or upgrade their documents. The Coast Guard has declined to show that these far-reaching requirements will actually improve maritime safety or that they are necessary at all. Management and labor have both spoken out against this proposal.

Licensing and Documentation

I favor moving the mariner licensing and documentation function out of the Coast Guard. Mariners would be better served by an organization that is dedicated to licensing and documentation rather than a military organization with law enforcement and security missions that take precedence over these core commercial and maritime safety functions.

Some MM&P members report that they have waited months for their documents to be renewed. Often the result has been lost employment and missed opportunities for promotion. One member had his license renewal held up because he failed to report on his application a 50-year old misdemeanor offence.

This kind of overzealousness and the Coast Guard's lack of focus in this area are detrimental to the industry and to our nation's mariners—and adversely affect our ability to recruit and retain American mariners in sufficient numbers to meet the economic and national security requirements of our nation.

RECOMMENDATIONS

Mr. Chairman, in the spirit of improving our industry, I offer the following recommendations and MM&P's full support toward future efforts in this regard.

1. Shift accident investigations to a civilian organization.

The Coast Guard did not always have responsibility for marine accident investigations. Until World War II, accident investigations were carried out by the Bureau of Navigation and Steamboat Inspection. In fact, around the world, many countries have civilian agencies investigating marine casualties.

Maritime accident investigations require seasoned professionals and should be carried out by experienced civilian merchant mariners.

The present system, which enables the Coast Guard to investigate accidents and then prosecute mariners, is unfair and runs counter to what should be the purpose of accident investigations: preventing accidents from happening in the future.

2. Shift safety inspections to a civilian organization.

Vessel inspection skills and, most importantly, experience, exist in the private sector.

Today, private companies and individuals inspect vessels to determine their fitness for charters. When companies buy and sell vessels, experienced mariners inspect them to determine their value.

These inspections have a safety purpose because the public demands that the industry operate safely and in such a way as to minimize pollution. Charterers demand quality vessels and operators to ensure the safety of their cargoes. In addition, shipping companies are becoming more and more aware of their public image.

Great Britain and Germany are just two examples of countries that employ experienced civilian mariners to conduct port state control inspections.

3. Encourage U.S. Support for International Resolutions and Conventions.

The member states of the IMO have among them an abundance of collective wisdom relating to safety and the preservation of lives at sea. Through the IMO, there are guidelines and codes for the conduct and safety of maritime commerce. The IMO strives for consensus and, therefore, the widest possible adoption of its conventions and principles by the member states.

Recently, the Flag State Implementation Subcommittee agreed to recommend, to the full Maritime Safety Committee, adoption of *International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Accident.* This recommended code of practice is set to become part of the Safety of Life at Sea Convention (SOLAS) and so become binding on the flag states that have signed the SOLAS convention. The United States is a signatory to SOLAS.

These recommended practices assert that:

1. Investigations should be carried out with an eye toward determining the causes of accidents and preventing future accidents,
2. Seafarers' rights, including the right to legal advice and to avoid self-incrimination, should be protected during accident investigations,

3. Seafarers should be informed of protections available to them to prevent evidence that they give being used against them by the investigating authorities.

We believe these principles to be in accordance with the basic rights of citizens of the United States. However, I regret that the U.S. delegation spoke against these practices. Indeed, the Coast Guard now, as a matter of practice, declines to inform mariners of their rights and otherwise pressures mariners into giving statements or other evidence during accident investigations.

I believe this practice is in violation of 46 USC 6303, Rights of Parties in Interest and 46 CFR 4.07.7, Opening Statement.

4.Consider modifying 46 USC 6301.

The statute that governs investigation of marine casualties is 46 USC 6301. The statute itself is punitive and in opposition to the international principles I mentioned earlier.

Specifically, 6301 directs the Secretary of the department under which the Coast Guard is operating to:

> *"... prescribe regulations for the immediate investigation of marine casualties ... to decide ...*
>
> *(2) whether an act of misconduct, incompetence, negligence, unskillfulness or willful violation of law ... contributed to the cause of the casualty ... so that appropriate remedial action under Chapter 77 may be taken; ...*
>
> *(4) whether there is evidence that an act subjecting the* ***offender*** *[emphasis added] to a civil penalty ... ;*
>
> *(5) whether there is evidence that a criminal act ... has been committed, so that the matter may be referred ... for prosecution ..."*

It is plain to me that 6301 encourages the Coast Guard or any other agency that would be tasked with accident investigation to be overly aggressive toward mariners. The statute presupposes misconduct.

To attract young people into our industry, we must stop holding merchant mariners criminally liable. A key element to doing this is to change 46 CFR 6301 by bringing the statute more in line with the principles and to move licensing and revocation proceedings to a civilian agency.

CONCLUSION

Merchant mariners have a deep sense of professionalism and responsibility for the safety of life and the protection of the environment within the context of economic competition at home and abroad. They perform their work away from their families, in all weather, 24 hours each day, every day of the year.

Officers learn the fundamentals of command like leadership, courage, and commitment to professionalism in the academies and at the training schools. These principles are part of the culture of merchant marine officers.

In my view, we all need to recognize that our mariners are truly a national asset to be supported, trusted and respected.

MM&P is looking forward to continuing our commitment to a safe and economically efficient merchant marine. We offer our best efforts to the Congress, the Coast Guard and all interested parties into the future.

Thank you, Mr. Chairman. That concludes my statement. I look forward to your questions.

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CHAMBER OF SHIPPING
OF AMERICA

STATEMENT FOR SUBCOMMITTEE ON COAST GUARD

AND MARITIME TRANSPORTATION

ON

THURSDAY, AUGUST 2, 2007

AT

2:00 P.M.

IN ROOM 2167 RHOB

PREPARED BY

MR. JOSEPH J. COX
PRESIDENT & CEO

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Thank you, Mr. Chairman. Good morning to you and the other Members of the subcommittee. I am Joseph J. Cox, President and CEO of the Chamber of Shipping of America (CSA). We appreciate the opportunity to testify on the important topic of marine safety. CSA is an association of companies that own, operate or charter vessels engaged in the domestic and international trades of the United States and companies that are in closely allied businesses. There are currently thirty-one members of the association. Before discussing the issue of marine safety, we would like to make several points.

The entire maritime industry, including domestic and international operators, is very much involved in maintaining this industry's high level of safety and environmental protection. Mr. Chairman, it is a high level of safety and it is unfortunate that this achievement is not widely appreciated by the American public. We seem to get media and public attention only when a problem develops which, due to the diligence of our seagoing and shore staffs, occurs infrequently. While the entire industry is concerned with maritime safety and security, the Coast Guard's marine safety program has a predominant impact on US vessels.

We would also like to point out that since 9/11, we have been concerned with the security of our industry. Congress passed the Maritime Transportation Security Act (MTSA) and the Administration developed regulations under MTSA. CSA and many others were directly involved in the development of security measures. In fact, safety and security have become intertwined of necessity; the International Ship and Port Facility Security Code (ISPS) is a part of the Safety of Life at Sea Convention (SOLAS) and inspections for conformance to safety requirements under SOLAS may include conformance to ISPS. In conducting inspections, we think it would be beneficial for the vessel personnel to be fully aware of the reason for a boarding by the Coast Guard and in some cases other government personnel. At times, it could be a safety inspection or a security compliance inspection, or both, or it could be a law enforcement boarding. In any case, we believe the vessel personnel should be aware of the type of boarding taking place.

We have long known that the seafarers are the backbone of safety within the industry. We will discuss below a few negative impacts on the seafarers that have a genesis in security although the impact on their safety status is similar; we cannot regard them in one way for security and in another for safety. The seafarers that we have a high regard for in making sure that our operations are at the highest safety levels are the same seafarers that we rely on to maintain the security posture of our vessels and therefore have a large role in the vulnerability status of our industry. When the MTSA was passed and steps were taken at the International Maritime Organization to develop ISPS, seafarers were identified as partners in maritime security. We should honor that status.

Our members have reviewed the request to testify at this hearing and have identified a number of issues that we believe should be positively reviewed and adjustments considered. We will address these under the titles of: 24/7 Operations; Uniformity; Redundancy; Professional Expertise; and, Resources.

24/7 OPERATION

The maritime industry operates, as any service industry does, responding to the needs of its customers, in our case the cargo owner. Since cargo is expected to move in the most efficient, cost effective way, our operations are designed to meet a 24/7 need. We carefully schedule provisioning, crew changes, bunkering, class inspections, and a myriad of other operations around the needs of our 24/7 operation. The entire industry, seagoing and shoreside recognize that scheduling is paramount to successful operation of vessels. The response of the marine safety program should recognize our operational needs. While we recognize that an owner should not expect an immediate response to a call for an inspection on a Friday evening, he should nevertheless expect a response that recognizes the operational necessity for the call.

UNIFORMITY

We experience frustration when a Captain of the Port (COTP) issues a ruling that is contradictory to a previous ruling or that of another COTP. This creates varied interpretations and uneven application of SOLAS, MARPOL and MOU's such as the Alternate Compliance Program. The industry routinely supports the federal government's primacy in maritime matters when we see encroachment by individual states. The reason we object to the disparate rules is the chaos it causes the industry which must call into various ports. We understand the need for flexibility in interpreting rules and regulations; here we refer to uniformity at a basic level that does not involve a judgment on a specific condition on board a particular vessel, i.e. in making a judgment, one person may have a differing evaluation of a condition than another person. That difference is understandable; less understandable is an office refusing to accept a decision of another office on the acceptability of a piece of equipment, e.g. a type of liferaft.

REDUNDANCY

Several years ago, CSA initiated an industry request to the Coast Guard to reduce redundant inspections. We were experiencing duplicate inspections by class society and the Coast Guard on any specific U.S. vessel. This was placing a burden on our seafarers who had to respond to the inspection and on the shore staff overseeing the operations as the shoreside is routinely directly involved in inspections. There was a very welcome positive reception of our suggestion by senior level officials and a somewhat muted acceptance by the lower ranks. Over several months, we observed the process where Coast Guard and class society personnel performed a side-by-side comparison of the regulations of the Coast Guard and the rules of class. It was interesting to watch as each participant began to recognize that each party's regulations or rules, as the case may be, covered the particular subject in an equal manner. This effort resulted in the Alternate Compliance Program which has operated to the benefit of many companies. In this program, Coast Guard recognizes the inspection by class societies as meeting the vast majority of the regulations (with the exception of regulations covering personnel safety, life saving/firefighting and documentation). The Coast Guard also was to maintain an oversight by using a statistically valid review of class society work. This program should be fully embraced and all redundancy eliminated.

PROFESSIONAL EXPERTISE

We have an ongoing concern with the expertise of persons conducting marine inspections on our vessels. A common complaint is that a field-level inspector has the knowledge and understanding of a particular regulation but lacks the experience to apply the regulation to specific situations where judgment is required. This is not a condemnation of the inspector rather an acknowledgement that the current system may be placing the inspector in an untenable situation. In such circumstances, the easy answer to a complicated issue may be an incorrect one that results in delay, inefficiency and frustration on the part of our operating/shoreside personnel. There is an appeals process although it is time consuming in itself. With regard to the ongoing aspects of this issue, several years ago, CSA developed a draft program that would create an opportunity for Coast Guard inspectors who had finished initial training/education to be placed with companies or shipyards for a period to become acquainted with the industry and the 24/7 culture of operation. Unfortunately, the problem was one we will address below under resources, i.e. the inspectors were needed in the field and further training was not acceptable as it would prevent assigning the inspector to fill a current need. We recognize that in the above section, we have called for using fewer inspectors and in this section, we are saying to increase the opportunity to develop professional knowledge. A balance can be struck; expertise can be attained in a number of ways that do not include a direct responsibility for a particular inspection.

RESOURCES

We feel that the issues we identify can be traced in origin to the need for resources. More training, keeping personnel in place longer, placing more personnel to begin with and other changes have a cost in resources. We recognize that the Coast Guard was down-sized in the late 1990s and they have recently been adding personnel. While the additions are welcome, we have also seen a major increase in Coast Guard responsibility for security. Security is a major subject and resources must be assigned to those duties although the needs of safety are also important and must be accommodated if improvements are expected.

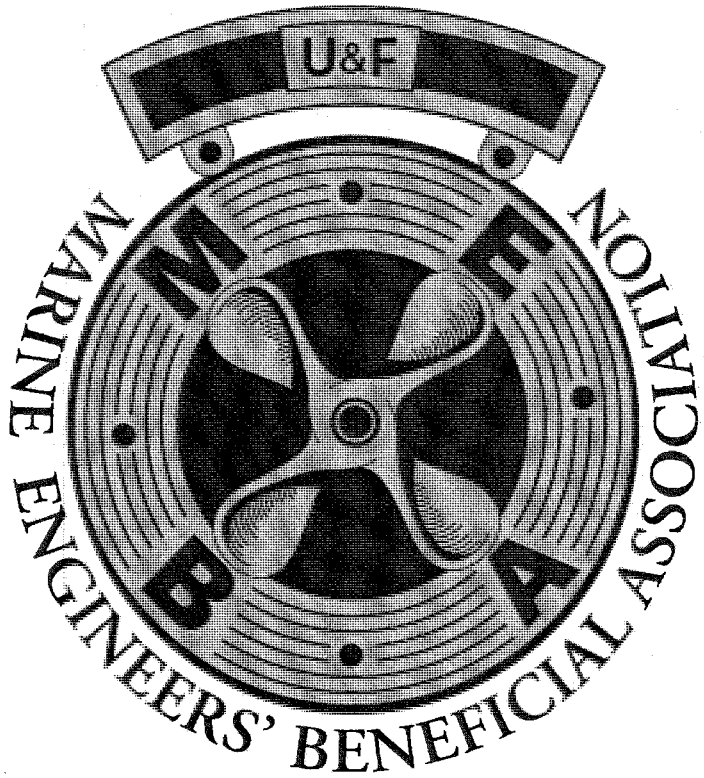
Mr. Chairman, at the beginning of this testimony we referred to the seafarers manning our vessels and the impacts on them. We recognize that there is another panel today that will address personnel matters in more detail although we want to make our views known. Seafarers are the key to our operational safety both on the vessels and in movement of the vessels. They are also a key to security. At a vessel level, they perform the functions of security officers and security watches and give form to the security requirements. In the larger maritime operational sense, they are in a position to recognize before most when a situation is not normal. Today, we believe they do not see themselves as a key in security rather they see themselves targeted. We certainly understand the need for security in the industry but we are concerned that seafarers are becoming disgruntled with their circumstances. Safety and security are closely entwined at the vessel level and we believe that the seafarers must be recognized as important persons in our security which will naturally spill over into safety and vice versa. Inspections performed for security purposes should recognize the status of the seafarer as a key participant in security of the vessel.

In conclusion Mr. Chairman and Members, the above is offered in a positive sense. In a recent presentation, Secretary Chertoff noted that the first measure of security is that we have a partnership. Safety is also a partnership and we offer our views accordingly. We are not suggesting that current operations are not safe or that Coast Guard or other government personnel are not concerned with safety; rather as a partner in safety and security, we believe that continuous review of safety responsibilities is necessary and improvement by all participants, including all levels of the Coast Guard, is a constant obligation. The industry is very proud of its on-going positive improvements in safety and security and we are dedicated to ensuring that these improvements continue. Our imperative is to find ways to enhance the synergy between effective safety and security programs, to further promote the use of Class to oversee and monitor safety and security in the marine industry and to find ways to enhance the professional development of the Coast Guard's Marine Inspectors and others involved in the program.

Thank you and I will be pleased to respond to your questions.

HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

HEARING ON CHALLENGES FACING THE COAST GUARD'S MARINE SAFETY PROGRAMS



TESTIMONY OF WILLIAM P. DOYLE
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AUGUST 2, 2007

TESTIMONY OF WILLIAM P. DOYLE
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MARINE ENGINEERS' BENEFICIAL ASSOCIATION

HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
COAST GUARD AND MARITIME TRANSPORTATON SUBCOMMITTEE

HEARING ON CHALLENGES FACING THE COAST GUARD'S MARINE SAFETY PROGRAMS

AUGUST 2, 2007

Thank you, Mr. Chairman and the members of the Subcommittee, for allowing me the opportunity to testify before you today. The challenges facing the Coast Guard's Marine Safety programs are challenges that affect the entire maritime industry, and I am pleased to see the committee focusing its attention on this key portion of our regulatory regime.

My name is William Doyle, and I am testifying today on behalf of the Marine Engineers' Beneficial Association. I am the Director of Government Affairs and Deputy General Counsel for the Union, and I am a Coast Guard licensed officer with over a decade of experience on a variety of vessels in our merchant marine. Founded in 1875, MEBA is the nation's oldest maritime labor Union, representing Coast Guard licensed deck and engineering officers in nearly every sector of the maritime industry, both international and domestic. In our 132 years of advocating for our members, we have worked side by side with all of the previous incarnations of the Coast Guard: the Steamboat Inspection Service and the Bureau of Navigation, the merged Bureau of Marine Inspection and Navigation, and finally the United States Coast Guard to provide for the safety of our mariners as they operate their vessels across the oceans and inland seas and rivers of the world.

The United States Coast Guard has been, and continues to be, one of the most effective agencies of the Federal Government. Its search and rescue capabilities, its law enforcement efforts, from drug interdiction to patrolling our maritime borders, its response to domestic natural disasters like Hurricanes Katrina and Rita and its efforts supporting our military around the globe demonstrate the Coast Guard's professionalism and excellence. Every day they demonstrate that their motto, Always Prepared, is not just a motto – it is their mission.

Perennially understaffed and underfunded, since September 11th the Coast Guard has been spread even further. With increased focus on their law enforcement and terrorism prevention missions, new requirements for vessel security and port security plans both at home and abroad, and with major programs like the Transportation Worker Identification Credential and the Deepwater program on their plate, it is understandable that traditional missions, like marine safety, may not be receiving the attention that they once commanded.

The economic and national security of our country is founded upon our ability to move commerce quickly and efficiently and to be able to project our power across the globe. Both of

those areas demand a strong, safe and secure merchant marine. The challenges that face our merchant marine are numerous and far too complex to get into at this hearing. But the Coast Guard's marine safety programs do play a major part in the efficiency of the merchant marine and its long-term viability.

There are a number of issues that currently face the Coast Guard in the successful application of their responsibilities in regards to marine safety. Some of these are internal, structural challenges, and some of them are external. None are easy to remedy, and will require a willingness to change entrenched ideas that may be difficult to accept and implement. I am confident, however, that none of these challenges are insurmountable, and the entire maritime industry, both labor and management, are ready and willing to assist in this process.

In terms of structural challenges, these challenges come from the Coast Guard's establishment as a military service. 14 United States Code Section 1 states that "The Coast Guard as established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times." As such, the Coast Guard adopts many of the norms associated with the military. While these norms are useful in a variety of situations, particularly in their security and law enforcement postures, they can often be more stifling than supportive when it comes to marine safety.

For example, the current tour of duty system ensures a constant rotation of personnel among the various sectors and offices within the Coast Guard. This is common in the other uniformed services. However, this does not allow for uniformed personnel to obtain the necessary on-the-job expertise that they need to effectively fulfill the mission. Many of the actual vessel inspection teams are led by younger Coast Guard officers, many of whom have spent little time at sea and have little experience with commercial vessels. Yet they are often responsible for ensuring the safety and regulatory compliance of hundreds of vessels within their sectors. And, by the time they become comfortable with their responsibilities, they are rotated out to their next duty assignments. We feel that extending these tours of duty will ensure stability and consistency across sectors and allow for greater expertise and experience for the Coast Guard officers assigned to those billets.

Another is the reliance upon uniformed personnel in many of the technical aspects of the marine safety program. This, coupled with the tour of duty system, often places individuals with differing levels of expertise in the same position and impairs consistency. We would recommend that the Coast Guard increase the number of civilian positions within the marine safety program, particularly in areas dealing directly with mariners, such as merchant mariner documentation and vessel inspection. Maritime labor has thousands of retired but still working-age mariners with decades worth of experience who would be eager to return to sea in this capacity. Experienced mariners would be able to provide better customer service and require less training.

A number of the issues that the Coast Guard faces are a result of external pressures, primarily arising from new missions given to them since 9/11. We remain concerned about the implementation of the Transportation Worker Identification Credential, but as that program is jointly administered between the Coast Guard and the Transportation Security Administration, the solutions to those issues are not completely within the Coast Guard's jurisdiction. However,

in the areas they do control, the Coast Guard has made great strides. This is particularly apparently in their work on improving the merchant mariner credentialing process, and their proposal for creating a new merchant mariner credential, which is moving in the right direction.

In an agency where the focus of the past few years has been on the relatively new mission of terrorism prevention, it is all too easy to short-change core functions that have been fundamentally part of the Coast Guard since its inception, and part of the federal government's responsibilities for over 150 years. The Marine Safety area must be given the attention that it deserves. As one of the oldest core functions of the Coast Guard, it has the largest impact of any of their core functions when one looks at the economic impact of the maritime industry domestically. This attention should come both in terms of its budget, but also in terms of personnel, and the rank given to those personnel. And while neither the Coast Guard nor Congress can make this decision, MEBA would welcome a Coast Guard Commandant that came from the ranks of the Marine Safety area.

Consistency is another major challenge. The decisions the Coast Guard makes, especially in terms of shipbuilding and other areas that require significant capital investment, can have far ranging influence over business practices and financial planning for ship owners, ship operators and ship managers. It is critical that the Coast Guard's decision making process take these factors into account and be as consistent as possible. Our industry is extremely competitive, and a Coast Guard ruling that changes a long standing policy or provides a new interpretation of what had been considered settled policy can have a wide impact on our industry. It is imperative that the Coast Guard be as consistent and transparent as possible when it makes decisions that will impact the industry's competitiveness.

The industry's competitiveness is basis for the most often cited challenge facing the Coast Guard's marine safety programs. This is the ongoing challenge of balancing safety and security with economic efficiency and ensuring the timely flow of commerce. The Coast Guard has a duel role as both regulator and law enforcement officer for the merchant marine. This often creates an adversarial climate that is unfortunate. Quite often, the Coast Guard, in their zeal to make the U.S.-Flag and U.S. maritime industry the world's safest and most secure, make it extremely difficult for that industry to compete internationally. While the United States is part of the global maritime community, and a charter member of the International Maritime Organization, quite often you will find U.S. Coast Guard standards that are much higher than those adopted by IMO and in use throughout the rest of the maritime world. By holding ourselves to a higher standard than the rest of the world, we often find ourselves handicapped when competing against those global competitors.

This issue is highlighted most clearly in the debate over the aforementioned Transportation Worker Identification Credential. The TWIC requirements will only apply to American mariners, not foreign mariners. Considering the fact that less than 2% of the cargo entering and leaving American ports is carried on U.S.-Flag vessels with U.S.-citizen crews, the TWIC seems to be just another layer of bureaucracy imposed for security's sake on the already heavily vetted American merchant marine. Both the TSA and the Coast Guard have stated that they do not intend to make the TWIC card compliant and compatible with the international standard for

seafarer's identity documents as well. These kinds of decisions are hard to understand, but highlight the difficulties that we face as an industry when trying to compete internationally.

It is critical that our government not create barriers to our effective competition internationally. This is by far the biggest challenge confronting the Coast Guard's marine safety programs.

There are no easy answers to any of these challenges, and many of these same challenges have been expressed by those of us in the industry for decades. It is critical that the Coast Guard work with, not against, the maritime industry in implementing common sense and practical solutions to these issues.

As a Coast Guard licensed marine engineer, I must thank the Coast Guard for everything that they do every day to keep my fellow mariners safe, and to protect our homeland. I am confident that all of us working together – the Coast Guard, Congress, maritime labor and industry – can come up with the solutions that will overcome these and any future challenges that we face together.

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SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

HEARING ON
CHALLENGES FACING THE COAST GUARD'S MARINE SAFETY PROGRAM

August 2, 2007

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Mr. Chairman and Members of the Subcommittee:

I am Peter Lauridsen, Regulatory Affairs Consultant for the Passenger Vessel Association (PVA). I have filled this role for the past 19 years. Prior to my association with the PVA, I served the Coast Guard for twenty-nine years, retiring as Deputy Chief of the Office of Marine Safety, Security, and Environmental Protection at Coast Guard Headquarters. During my career in the Coast Guard, most of my assignments were in the marine safety specialty.

The Passenger Vessel Association is the national trade association for U.S.-flagged passenger vessels of all types. It represents the interests of owners and operators of dinner cruise vessels, sightseeing and excursion vessels, passenger and vehicular ferries, private charter vessels, whalewatching and eco-tour operators, windjammers, gaming vessels, amphibious vessels, water taxis, and overnight cruise ships. PVA has been in operation for 36 years. It currently represents about 600 vessel and associate members. Its vessel-operating members range from small family businesses with a single boat to companies with several large vessels in different locations to governmental agencies operating ferries. Its associate members are key suppliers to the passenger vessel industry, including marine architects, vessel builders and decorators, insurance companies, publishers, food supply companies, computer software vendors, marine equipment suppliers, engine manufacturers, and others.

The Passenger Vessel Association is deeply concerned that changes in the Coast Guard after September 11, 2001, have severely damaged the service's ability to work cooperatively with the U.S.-flag marine industry, particularly the U.S. passenger vessel industry. PVA believes that all too frequently, the Coast Guard does not recognize the U.S. mariner and the U.S. vessel operator as an ally and partner but instead views our industry segment as a hindrance, an afterthought, and even a threat. Our industry and the Coast Guard traditionally have benefited from an excellent working relationship that grew from many years of mutual respect and cooperation. This positive atmosphere is quickly falling by the wayside in favor of a law enforcement and security mentality that results in negative feelings and punitive relationships.

This is an unfortunate and dramatic change in the philosophy exhibited just a few years ago in the "Prevention through People" program and its guiding principle of "Honor the Mariner." This previous program established a level of mutual respect between the industry and the Coast Guard that is being eroded daily.

The simple fact is that the vessel-operating members of the Passenger Vessel Association and their thousands of employees depend totally upon the Coast Guard for the successful operation of their businesses. As a result of the scheduled frequencies of Coast Guard inspection of U.S. passenger vessels and because most of our vessels operate only on Coast Guard-patrolled domestic waters, the U.S. passenger vessel industry arguably comes into contact more frequently with the Coast Guard than any other segment of the commercial maritime industry. Our members rely on the various

safety activities of the Coast Guard for inspection of their vessels (as required by law), issuance of legally-mandated licenses and documents to their employees in a timely fashion, and review and approval of the plans for construction of their new vessels. PVA members need Coast Guard personnel to be knowledgeable about the regulations that apply to U.S. passenger vessels, and generally interact with them on a day-to-day basis in a respectful, not confrontational, fashion.

When the Coast Guard fails to meet these expectations, the effect is to impose economic roadblocks that harm PVA members' ability to conduct their legitimate businesses, hire fellow Americans as employees, and contribute to the economies of their localities. This is an important (but often unstated) component of the Coast Guard's marine safety efforts: they facilitate maritime commerce, including the transportation of passengers.

All too often in recent years, the Coast Guard's performance in these functions (which one can generally characterize as part of its legacy "marine safety" mission) has fallen short.

A telling example is the recently issued document entitled *U.S. Coast Guard Strategy for Maritime Safety, Security, and Stewardship.* Its discussion of the legacy marine safety program is disappointing in its brevity, characterization, and direction. Only a single page of this 54-page "charter" is devoted to marine safety! This in a nutshell (unwittingly) illustrates that marine safety functions have been shouldered to the side by the security emphasis of recent years.

Another example is the longstanding inability of the Coast Guard to timely issue licenses and merchant mariner documents to U.S. citizens required by law to obtain them to work on vessels. This problem predates the September 11 terrorist attacks, but the emphasis on security has exacerbated the problem. Your subcommittee's hearing last year focused light on the issue, and even the Coast Guard has acknowledged the deficiencies. However, the major overhaul of the program now underway will not solve the problem unless sufficient budget assets and staff are committed to it over the long run.

Even if we see eventual improvements in the licensing and seaman documentation arena, the U.S. passenger vessel industry needs a similar enhancement of the program of annual safety inspection of vessels. Without competent and timely inspection of U.S. passenger vessels, they do not operate, and mariners with and without credentials have no jobs. All too frequently in recent years, the cadre of Coast Guard vessel inspectors seems to have more work than they can perform in a commercially reasonable time frame. The ensuing delays in Coast Guard processes damage the private vessel operators who must have these inspections in order to continue to do business.

The Coast Guard's organizational strength and value has always been the ability to adapt its considerable personnel expertise and array of legal authorities to the needs of the country. These assets have served it well when the service moved to the new

of Transportation, aided in Viet Nam, responded to the *Exxon Valdez* spill with enhanced environmental response, interdicted Cuban migrants, emphasized the war on drugs, and upgraded maritime defense. Each new emphasis has required a ramp-up and redistribution of resources. Many of these phases drew on the marine safety programs for the expertise of its personnel and its pool of human resources. The marine safety programs would adapt and over time would be restored under the direction of strong programmatic leadership.

PVA is not so confident that the marine safety programs of the Coast Guard can withstand a continued unprecedented emphasis on homeland security. Without prompt remedial action, PVA fears that the Coast Guard's marine safety functions will suffer long-lasting and perhaps irreversible degradation.

The trauma of September 11 was so dramatic that it changed the very character of the Coast Guard – and continues to do so. The marine safety programs furnished much of the expertise and personnel needed to ramp-up maritime security. This time there is less restorative capability to bring back and maintain the legacy marine safety capabilities that support the very existence of the U.S. passenger vessel industry.

For several years, the marine safety program has suffered from a "brain drain" of experienced and talented personnel. The emphasis on security prompted the exit of many experienced Coast Guard marine safety personnel for the private sector. Other Coast Guard marine safety personnel were turned into security experts and assigned to homeland security functions within the service.

A fundamental problem is that the new organizational structure of the Coast Guard (the "sector" concept) has "capped" the traditional marine safety career specialist in the field at about the Lieutenant Commander/Commander level. Thus, the relatively more junior marine safety officers report to more senior officers who increasingly are drawn from other mission areas of the Coast Guard. Sectors seem to exist principally for the facilitation of response to natural and man-made disasters. Marine safety functions (the inspection of vessels, the investigation of incidents, vessel plan approval, and other similar legacy services) are not enhanced or facilitated by the single all-encompassing Coast Guard area commander concept.

The face that industry sees on the waterfront is now a distinctly military one – guns, boots, and an aura of martial law. Prior to September 11, the Coast Guard's proud military heritage was softened on the waterfront because it was seen first as an organization of seasoned marine safety professionals. Regulation of private industry is not an inherently military function. Today's Coast Guard in many ways is a stranger on the working waterfront.

With the advent of the Maritime Transportation Security Act of 2002 and the ensuing change in Coast Guard attitudes and emphasis, the U.S. passenger vessel industry has experienced increased punitive measures, such as notices of violations, potential instant shutdown of operations, exercise of severe remedies delegated to the lowest levels

of command, and a no-questions-asked philosophy by Coast Guard personnel. Even worse, this confrontational attitude has bled over to legacy safety programs and plays havoc with safety regulation.

The restoration of this vital marine safety program requires an identifiable career progression that preserves a professional corps with program expertise that can lead to the highest levels of policymaking. In Coast Guard headquarters, areas, and districts, each unit needs a leadership position held by a professional marine safety officer identifiable as such. This will enable more junior Coast Guard marine safety personnel to aspire to the position and to see a clear career path to it. It will enable the U.S. maritime industry to know there is a single person at the top of the chain of command who speaks with full knowledge of the industry's capabilities and needs.

For the sake of the passenger vessel industry, the Coast Guard must once again embrace and practice the concepts and principles of Prevention through People. There is a sense of urgency. The pool of Coast Guard mentors for new marine safety personnel is shallow, and the martial law mentality is strong. In the near future, the ability to recover may disappear.

The men and women of the Coast Guard are intelligent, motivated, and deliver a great service to the country. They have every right to be proud of their service, and the members of PVA are proud of them. That service, however, is not being fulfilled consistently in the safety regulation role. As a result, their clients--the owners and operators of the domestic passenger vessel industry--are paying the price in unnecessary compliance costs, delays, lost income, loss of customer good will, and a loss of confidence that this part of the Coast Guard will right itself before the situation becomes unsalvageable.

By pointing out our concerns about the current overshadowing of the marine safety program, PVA is hoping that this subcommittee will work with Coast Guard leaders to remedy the situation. Furthermore, we respectfully suggest that a revived marine safety program will actually be helpful for the new security missions. A marine safety program that embraces Prevention through People will once again emphasize a strong relationship between the Coast Guard and the maritime industry. Whenever such a relationship exists, the watchfulness of the professionals in the U.S. marine sector can be employed to complement the Coast Guard in its security responsibilities, as well as in the promotion of marine safety and the facilitation of commerce on the water.

Written Testimony
of

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Subcommittee on Coast Guard and Maritime Transportation

Challenges Facing the Coast Guard Marine Safety Program

Thursday, August 2, 2007
2:00 PM

Rayburn House Office Building, Room 2167

Submitted July 30, 2007

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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.

The United States Marine Safety Association is a professional organization comprised of more than 150 companies and individuals, including international membership. Members are involved in the design, manufacture, sale or service of lifesaving equipment or its components; provide training in the use of such equipment and systems; or are career professionals in maritime safety.

I have worked in the marine safety field for over 20 years. I served as chairman of the ISO Subcommittee on Marine Lifesaving and Fire Protection and still represent US interests on a number of ISO subcommittees dealing with maritime safety issues. I am a member of the US Delegation to the IMO (International Maritime Organization) and participate on the Fire, Protection and Design and Equipment subcommittees, Lifesaving Appliances working group and correspondence groups. I hold a US Merchant Mariner's Deck License and have trained mariners in emergency drills, deck safety and sea survival.

Lifesaving Appliances are the last line of defense in assuring the safety of life at sea. Survival craft and personal lifesaving appliances are the only protection passengers and crew have from drowning and hypothermia in the event of a commercial or recreational vessel casualty and therefore must meet a very high standard of reliability. In the past, the Coast Guard helped assure this reliability and oversaw the manufacture of lifesaving equipment, and witnessed the servicing of primary lifesaving equipment – lifeboats and inflatable liferafts in particular. Over the past ten years however, Coast Guard participation and oversight has been significantly diminished.

Current USCG specifications for approval of inflatable liferafts were issued to incorporate the technical revisions of SOLAS (IMO's International Convention for Safety of Life at Sea) liferaft requirements. A change was made to USCG requirements for inspection of raft manufacturing plants and raft servicing facilities. This change was that after the initial approval of the raft, the manufacturing plant and servicing facilities were no longer required to have a USCG inspector present during liferaft servicing. Therefore, attendance of the USCG inspector is not at the discretion of the local USCG. However, the service facility is still required to inform the local Coast Guard when servicing of a liferaft is being conducted. Since this change, Coast Guard attendance at liferaft servicing has all but

disappeared. In some cases, it has been more than ten years since some service facilities have seen a USCG inspector.

This change was driven by resource availability and the assessment of the associated risk. This resource constraint was a real problem from more than just USCG perspective. Rafts are often brought from ships for servicing on short notice and at odd hours (evenings, weekends, and holidays). Usually USCG inspector attendance could not be scheduled in a timely manner because of this or because of the inspector's assignment to other duties. While this was a problem for the facility, it had a greater impact on the ship that needed the raft back in time to sail.

Mandatory CG oversight of CG approved lifesaving equipment, as was done in the past, places a significant burden on CG inspection resources and places the vessel in-port time table in the hands of the Coast Guard. Delay of CG inspectors arriving at the service facility would, and did in the past, hold vessel in port and delay the sailing at a cost of thousands of dollars for merchant vessels. Port turnaround times are often significantly shorter now than in the past.

In general, USCG approved rafts are being serviced in the US in a proper and correct manner. Although we are aware there have been problems that in all probability would have been quickly resolved had there been active Coast Guard involvement. We note that when a servicing facility finds a problem with a raft when it is opened for servicing, the facility is required to notify the local USCG and the manufacturer. The facilities do notify the local USCG but usually this is seen by the local USCG as one problem, even though it may be happening at several locations and reported to other local USCG offices. Because of this, usually little priority is given by the local USCG as they appear to be "single occurrence" issues and no one is in a position to perceive the extent or significance of the problem.

Therefore, the USMSA recommends that in addition to reporting to local Coast Guard offices, problems and deficiencies be reported also to the Lifesaving and Fire Safety Standards Division in USCG Headquarters, who is responsible for approval of this critical lifesaving equipment.

USMSA member service facilities made the following points:

- Service facilities notify the local USCG MIO when USCG approved rafts are being serviced.
- USCG had not made visit for a number of years, in some cases up to 10 years.
- USCG does send a rep when rafts from USCG cutters are being serviced (often an auxiliary member who is not familiar with raft servicing.
- One facility noted that they train USCG inspectors that are doing vessel on board inspections to show them what to look for and how rafts should be properly "stowed" on board.
- There was common agreement that rafts are being properly serviced, although from time to time defects are found from a previous servicing.
- Raising the level of oversight would reduce opportunity for improper servicing.

- Often, inspectors have little familiarity or training in servicing of lifesaving equipment.
- Several inspectors have checked servicing equipment calibration and facility cleanliness but have not looked at any rafts being serviced.

The Coast Guard provides the only perspective and commonality that extends across manufacturers and service facilities, across the United States, and around the globe, wherever equipment for US flag vessels is manufactured, repaired or serviced. They are the only authority in a position to provide early identification of concerns or issues. Several years ago, a problem was encountered with an inflation valve used on several manufacturers' liferafts. These problems were reported to the OCMIs as required. These problems were not reported to Coast Guard Headquarters, so each OCMI looked at the incidents as isolated events until there was a significant number of problems in each zone or coming into each service facility or reported to each manufacturer. Had the problems been reported to HQ, there would have been the opportunity for much earlier identification of the problem.

Compounding this issue was the fact that the manufacturer of the defective valve components (not a USMSA member) continued to deny that there was a problem and further threatened manufacturers using this valve with lawsuits if they publicly stated that there was a problem. When contacted, USCG headquarters personnel told the industry that they did not have sufficient data to know how to address the issue. Unfortunately the information submitted by the industry to the OCMIs never made its way to the appropriate offices or people in HQ. The issue was rectified in time as the manufacturers substituted other approved valves and submitted the design change for CG approval. The Lifesaving Appliances personnel were very responsive in facilitating approval of the design change.

If Coast Guard had been directly involved, this situation would have been rectified much more quickly. It should be noted that most of these points are system and procedural rather than personnel issues.

RECOMMENDATIONS

These issues in general are reflective of circumstances across the Marine Safety program. We urge Congress to support and restore this crucial and long-standing mission of the Coast Guard and make suitable resources available.

More specifically, we recommend the following:

- USCG establish a periodic audit program of the manufacturing and service facilities to assure proper servicing and to assure that raft servicing facilities have correct information, technical bulletins and service materials and authorized parts from manufacturers

- USCG assure the personnel performing these inspection and audit duties be properly trained

- USCG amend deficiency reporting requirements such that reports are made directly to the Lifesaving and Fire Safety Standards Division in USCG Headquarters in addition to the local MIOs

- Congress provide appropriate resources to assure Coast Guard capabilities to adequately carry out these functions

Thank you very much for your kind attention, your concern and your continued support for marine safety.

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CHALLENGES FACING THE COAST GUARD MARINE SAFETY PROGRAM

House Subcommittee on Coast Guard and Maritime Transportation
House Committee on Transportation and Infrastructure
Room 2167 Rayburn House Office Building
Washington, DC

August 2, 2007 • 2:00 p.m.

Thank you, Mr. Chairman, for the opportunity to appear before this Subcommittee. My name is James H.I. Weakley, and I am President of Lake Carriers' Association. Since 1880, Lake Carriers' Association has represented U.S.-Flag commercial vessel operators on the Great Lakes. Today, we represent 18 American corporations that operate 63 U.S.-Flag Lakers. The cargos our members carry drive the U.S. economy: iron ore for the steel industry, coal for power generation, limestone and cement for the construction industry, to mention a few. When high water levels offset the lack of adequate dredging at Great Lakes ports and waterways, our members can carry as much as 120 million tons of cargo per year.

I want to make abundantly clear that our members could not meet the needs of commerce without the dedicated men and women of the Ninth District Coast Guard working with them. When the season begins in mid-March, it is U.S. Coast Guard icebreakers that open and maintain the shipping lanes. As the ice weakens, the U.S. Coast Guard turns its attention to placement and maintenance of Aids to Navigation. During the season, the U.S. Coast Guard issues *Local Notices to Mariners* to keep the ships' crews apprised of a buoy off station and other developments, establishes safety zones so commercial and recreational navigation do not conflict, and performs many other activities. Then as the season closes, it's back to icebreaking.

Time and time again, we have seen U.S. Coast Guard crews set out in the harshest conditions to free an icebound vessel or med-evac a sick crewmember. No one questions the dedication of the United States Coast Guard personnel stationed on the Great Lakes.

Is the system perfect? Of course not. That is why we must hold hearings such as this one. Our purpose today is not to criticize or condemn, but to carefully examine the workings of the United States Coast Guard and determine how to best achieve our nation's goal of safe and efficient commercial navigation on its waters.

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Today, I would like to describe my vision for the ideal system, discuss some of the challenges posed by the current system, and make general recommendations to meet those challenges. Only through mutual understanding and cooperation between Government and the public it serves can the national security needs of our nation be met. This is a national security issue in its purest sense — protecting the economic interests of our citizens, facilitating commerce with our trading partners, and guarding the physical security of our ports and waterways.

The Marine Safety Program should ensure the availability of qualified mariners, and ensure all vessels operating in the United States are well maintained and safely operated. It must provide a level playing field between U.S.-Flag and foreign-flag vessels calling on our ports. In order to accomplish these fundamental goals, the Program must be adequately resourced. We need consistent application of laws and regulations – both with regard to differences in time and location. The ideal Program also requires a "learning organization" – one that builds on its experience and expertise and can recognize that all processes can be improved and that mistakes are possible. We need an appeals process that results in a fair and objective review of the facts and decision. Not only to review the current situation, but to lay the foundation for better decisions in the future.

Obviously, the amount of people and equipment must be sufficient for the task at hand, but much more is needed. Marine Safety decision makers, at all levels of the process, must have the appropriate knowledge and experience to make judgments regarding the seaworthiness of the vessel or mariner. An understanding of the general principles must be augmented by specific expertise in the application of the regulations and the service for which the vessel is intended. That understanding and expertise must be tempered and sharpened in the crucible of experience. There is no substitute for experience, particularly seagoing experience. You can read all of the theory you want, but until you have navigated a vessel in congested waters, completed "light-offs" on a cold engine room, or traced out the fuel oil system, you cannot fully grasp the complexity or simplicity of the situation.

In addition to knowledge and experience, there is an additional element needed to best serve our national security interests via the Marine Safety Program. It is an intangible I call "appropriate posture." Think for a minute of the vastly different jobs a City building inspector and a Local police officer have. Both are law enforcement officers, and each approach their jobs differently, have different training, and take on a different "posture" depending on the situation they are dealing with. There are times when it is necessary and appropriate for a law enforcement agency to take an aggressive approach, including a show or use of force.

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This is as true for individuals as it is for organizations. In other instances, a less aggressive, more collaborative approach is more appropriate and better serves the public's interests. I know of no Mayor in America who would send a building inspector to respond to a traffic accident, nor would he or she send a police officer to look at a plumbing installation. It is not just a matter of training and experience; it is also a matter of appropriate law enforcement posture. The ideal Marine Safety Program would use a law enforcement posture appropriate for the mission. This is true when conducting an inspection, executing a boarding, issuing a requirement, or reviewing an appeal.

There are many challenges facing the Marine Safety Program. I worry about the Program's ability to compete for money and people as the U.S. Coast Guard continues to take on additional and fundamentally different responsibilities. The backlog of licenses and documents for Merchant Mariners is unacceptable and may become worse with the TWIC (Transportation Worker Identification Credential) card implementation.

Industry is often frustrated by inconsistent interpretations and requirements. These may vary between Sector Commands or may change with the rotation of a single individual stationed at a Sector. The Program needs institutional memory and coordinated enforcement to ensure a level playing field and to reduce the cost of unnecessary requirements. When a difference of opinion between U.S. Coast Guard Offices or Officers takes place, industry often pays the price, with no guarantee the next encounter will not result in yet different interpretations and additional requirements.

The rotation of U.S. Coast Guard personnel after only two or three years in a position or location contributes to the problem. This constant shuffling of personnel denies both industry and the U.S. Coast Guard the expertise that comes only with experience. All ships and barges float, but that is where the similarity ends. On the Great Lakes, we operate in fresh water. This means a properly-maintained hull can last almost indefinitely. We operate a cement carrier, the ST. MARYS CHALLENGER, which was built in 1906. Two other vessels still operating were christened in 1929 — the year of the Stock Market Crash. Fourteen U.S.-Flag Lakers in operation this year were launched when Harry S. Truman or Dwight D. Eisenhower was President of the United States. I want to emphasize that these are well maintained vessels, and a great deal of pride goes into their operation. They are like vintage muscle cars, designed and built at a different time, but more than capable of getting the job done. They are beautiful ships, unmatched in their elegance and utility.

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Such long, safe, and productive careers are unattainable in the corrosive salt water environment. A major operator of U.S.-Flag containerships is hoping to extend the life of its deep-sea vessels to 35 years through careful maintenance.

The Great Lakes are truly unique, so a U.S. Coast Guard officer who has been inspecting trailerships that trade between Washington State and Alaska has much to learn when assigned to the Great Lakes. There is no crash course. And just about the time an inspector has his "Lakes legs," it's off to the East Coast or the Inland River System. In many cases, an inspector may be seeing a steam plant or a riveted hull for the first time when he or she steps aboard to conduct an inspection. The inspector may not be familiar with the regulations that apply to this vessel because of its type of service and age. He or she may not even have access to a copy of the written regulations that apply, due to regulatory "grandfathering" and the unique operating environment. We often have inspectors try to enforce SOLAS (Safety of Life at Sea) regulations, which do not apply to the Great Lakes, or misapply other regulations or Navigation Circulars. These are the most inspected vessels in history. The ships' crews, classification societies, and government inspectors annually inspect these ships and have been doing so for decades.

The U.S. Coast Guard must consider longer tours of duty in positions that require knowledge that can only be gained by experience. Rotation among U.S. Coast Guard Sectors within the same District could also result in more experienced decision makers. Another option would be to use more civilian employees with specific geographic and industry expertise. The U.S. Army Corps of Engineers successfully uses this model at its District Offices. Although the military commanders rotate and remain in charge, they have an experienced group of civilian employees providing expertise and continuity.

Many of the functions I've discussed came under the U.S. Coast Guard's jurisdiction during World War II. Previously, the Bureau of Marine Inspection and Navigation performed these tasks, apparently quite well. When hearings were held in 1946 to restore the Bureau of Marine Inspection and Navigation, many comments were in favor, especially because the Bureau was largely staffed with individuals who had worked on commercial vessels and brought real-world experience to the job. Procedural issues blocked the move. The last person to enter the U.S. Coast Guard via the "219" Program retired several years ago, and with him went the last vestige of the Program designed to attract licensed, experienced Merchant Mariners to the Marine Safety Program. The Marine Safety Program would benefit from an influx of industry-specific expertise and experience.

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We need a better process for the U.S. Coast Guard to learn from decisions made by field inspectors and Sector Commanders. An appeal process which results in a fair, objective, and timely review could improve the credibility of the Marine Safety Program and transform it to more of a learning organization. Any military organization's instinct is to support its field commanders; however, unless there is a process to review decisions and processes, learning and improvement are opportunities often missed.

On the shoulders of Lake Carriers' Association's members rests the great responsibility to deliver a major portion of the nation's raw materials requirements. Approximately 70 percent of America's steel is made in the Great Lakes Basin. 70 percent of our automobiles roll off production lines in the Great Lakes region. Efficient movement of raw materials on the Great Lakes makes all that and more possible. We hope the U.S. Coast Guard and the U.S. maritime industry will roll up their sleeves, sharpen their pencils, and craft new procedures that meet the needs of the 21st Century.

Lake Carriers' Association's has deep respect for the United States Coast Guard and the men and women who serve in blue. We believe there is an opportunity to improve the Marine Safety Program. If done properly, active duty sailors can be freed up to pursue other U.S. Coast Guard missions, our limited government resources can be used in a more effective manner, and commerce can move more safely and with greater efficiency. The national security interests of the United States of America demand we remain vigilant and efficient.

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Subcommittee on Coast Guard and Maritime Transportation Of The U.S. House Committee on Transportation and Infrastructure

Hearing on Challenges Facing the Coast Guard's Marine Safety Program

August 2, 2007

Testimony by:
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Good morning Mr. Chairman and members of the Committee. Thank you for giving us the opportunity to testify this morning.

My name is Ken Wells and I am President of the Offshore Marine Service Association. We are the national trade association representing the owners and operators of U.S. flag vessels that support America's offshore oil and gas industry. Our members' vessels move all of the equipment and many of the workers needed to discover, develop and produce our nation's offshore energy. We have called ourselves the lifeline to our country's offshore resources and there have been occasions when we were quite literally the lifeline to the oil and gas facilities, working with the Coast Guard to carry offshore workers to safety under threatening seas. Our culture of safety is something we take great pride in and is an important part of the way we do business.

By way of a beginning, I would like to go back a couple of years to the Coast Guard's performance during Hurricanes Katrina and Rita. There is no question but that the Coast Guard stood out as the most capable government entity – state, local or federal – during that trying period. It can also be said that it was the finest hour in the Coast Guard's long history. Our members spent the ensuing weeks after the storm trying to simultaneously put their businesses back together and repair the offshore damage that knocked out roughly a third of our nation's oil and gas production. From our perspective, three factors stood out:

- Experience in the field – We were lucky on the Gulf Coast to have very experienced Coast Guard officers in the field, especially at the Captain,

Commander and Lieutenant Commander level. They knew the right people to talk to, they knew the area and they knew how to get things done quickly.

- Problem Solvers – They didn't throw up their hands at the enormity of the damage or allow themselves to be overwhelmed by the challenge. They looked at the event as a series of problems and looked for solutions to each one individually.
- Innovation – When the normal rules didn't apply, they weren't afraid to innovate and improvise.

Why am I bringing all of this up at a hearing on Marine Safety? Because those three qualities - Experience in the field, problem-solving skills and openness to innovation - have been hallmarks of the Coast Guard's Marine Safety program. Our concern is that those skills have suffered in the past few years and we would not want to see the Coast Guard diminish or degrade the value that it places on these strengths.

The achievements in Marine Safety in the last several years have been remarkable and the change hasn't come about because the Coast Guard levied high fines on industry or beat us over the head with a stick. It came about because the Coast Guard and industry worked as partners and attacked safety as a problem to be solved.

Let me point to our own industry as an example. We are building some of the most innovative and advanced vessels in the U.S. fleet. We are hiring Americans straight out of school, training them to run these vessels and, in the words of one of OMSA's Board members, to be the CEO of his or her own $15-million floating corporation.

And we are doing it in a work environment that becomes safer and safer with each passing year. You have to go back to the early 1980s to find a period where our industry was as busy as it is right now. Then we were struggling to meet the demands offshore with a safety culture and an incident rate that was not acceptable. Today we face a similar demand, but we are doing it with much greater emphasis on safety. We recently surveyed our members on their safety records for the year 2006. Our reportable injury rate on offshore vessels, including offshore supply vessels, crewboats, liftboats and tugboats, is .46 per 200,000 work hours. That is one tenth the OSHA rate for all American workplaces. Even factoring in a margin of error, it means that working on one of our member vessels is safer than working in a restaurant, in a store or in a bank.

This tells us that the partnership we have had in the past has worked and that it would be a terrible mistake to lose that progress.

Since September 11th, the Coast Guard has struggled to find the balance between security and its historic core functions. You have seen it in Washington. We have seen it in the field. We don't diminish the importance of security. We live in a new age and the need to defend our country from an international terrorist threat is a given. However, in the effort to address the need for security, we cannot afford to give short shrift to safety. Unfortunately, we are seeing evidence of the diminished priority given to safety within

the Coast Guard and within the Department of Homeland Security. Our organization would like to cite some specific concerns:

Organizational Changes - The Coast Guard has launched a series of restructurings in the past few years. They have combined safety and operations units into Sectors. Then they changed functional offices from old titles like Marine Safety and Operations to cross-functional teams like Prevention and Response. Lately they have adopted military identifiers in place of titles. Now the Coast Guard is finalizing a new structure that further removes the top level of the Coast Guard from Marine Safety. With each change in the organizational chart, it has been harder and harder to figure out where Marine Safety stands in the pecking order. Until recently, there was an Admiral in charge of Marine Safety and that Admiral reported directly to the Commandant. Now it is much harder to determine how the priorities of the Marine Safety mission will be communicated to the highest levels of the Coast Guard hierarchy. These changes raise some tough questions for the Coast Guard. As Marine Safety drops further and further down the organizational chart, when do we conclude that the leadership is too isolated from the realities of the Marine Safety mission? When will there be too many filters between the maritime industry and the highest levels of Coast Guard command?

Experience Levels – What is the impact of the changed status of Marine Safety for Coast Guard personnel? Understandably, the Coast Guard wants its personnel to be more well-rounded and have greater understanding of the full scope of its missions. But under the current approach, the Coast Guard runs the risk of becoming an agency of generalists and losing the expertise in specific areas like Marine Safety. Experience, expertise and judgment are interrelated. The Coast Guard has traditionally had some of the world's experts on specific areas, such as vessel design, offshore safety or transportation of hazardous chemicals. If the Coast Guard system is set up to encourage officers to know a little bit about everything, how will it develop the world class expertise that has served it so well for so long?

The Coast Guard has always placed a lot of responsibility on the shoulders of some very young personnel. That's OK. Our industry does too. But when you do that, you need a support system that gives them the tools they need to grow and protects them from their own inexperience. In the past, when a young Coastie was sent into the field, their superiors had the experience they lacked. They learned from their bosses and if they made a mistake or were overeager, their bosses were there to fix it. That is less certain today. A newly assigned junior officer may report to a superior who came from another field and may lack the hands-on expertise to guide that new officer. That is unfair to the personnel, it is unfair to the regulated industry and ultimately, it harms the Coast Guard.

Let me stress that there is no time to lose on addressing this concern. Since September 11th, several thousand new recruits have entered the Coast Guard. For roughly half of the Lieutenants and all of the LT JGs, ensigns and junior petty officers, the Post 9/11 Coast Guard is the only one they have ever known.

Partnership - This question of experience and expertise can create problems that go to the very heart of the relationship between the Coast Guard and industry. As I have said, our industry has a safety record that we can be proud of and we can say without question that the give-and-take of our partnership with the Coast Guard has help us achieve that record.

A successful partnership is like a business negotiation. Both sides have to bring a considerable amount of expertise to the table. What happens with the Coast Guard representatives lack expertise? On the one side, they may be too rigid and uncompromising. Industry walks away feeling that the Coast Guard is unreasonable. On the other side, if the Coast Guard representatives don't understand the issue at hand, they may be too willing to compromise. Maybe industry gets a short-term victory but in the long-term, the Coast Guard concludes that industry is taking advantage of its trust or, to put it simply, getting away with murder. Again, I stress a true partnership in which both sides bring their considerable expertise to the table benefits everyone.

Inspections – The Coast Guard needs to address concerns over vessel inspections, including shortages and experience. In the last 18 months, on parts of the Gulf Coast we have experienced delays in inspections of 30 days and more. At the least, planning around those sorts of delays represents a roadblock to commerce. At its most extreme, it may take vessels out of operation at a time when we have experienced nearly 100 percent utilization.

Recently that backlog has dropped substantially, but it is not where it should be. The inspectors in the field are understaffed, overworked and overwhelmed. The problem may get worse before it gets better. We do not anticipate that the offshore business will slow down to any great degree for the next few years. Add to that an increased need for LNG inspections and requirements for towing vessel inspections and we could easily find ourselves in a crisis. Our understanding is that this area of Marine Safety which had frankly languished is getting fresh attention from the Coast Guard. We support that new focus and we would suggest that the Coast Guard look at four distinct parts of the inspection problem:

1. The Coast Guard needs to move aggressively to meet the staffing needs for their inspection departments.
2. The training pipeline is broken and needs to be fixed. It takes time to train inspectors.
3. The Coast Guard needs to find a way to keep people in the inspection program. Expertise in inspections is a cornerstone of safety enforcement. The success of a marine inspection program is how many second and third tour inspectors are still out walking steel. It should not be just another ticket to punch or another career stepping stone.
4. The Coast Guard has been slow to look at alternatives. The Alternate Compliance Program allows approved third parties to perform inspections on vessels that work internationally. The law allows the Coast Guard to expand the program to vessels that are loadlined and classed. That would provided a much needed relief valve for many of the vessels our members operate without compromising safety. It is

also conceivable that the Coast Guard could hire outside inspectors (what they refer to as tiger teams) to meet periods of peak demand. These suggestions are not new, but the Coast Guard has been reluctant to consider them.

Mariner Licensing and Documentation – Much has been said about this area. It was the topic of a hearing in this Committee during the last Congress. The Coast Guard is in the middle of a re-structuring of the program that it says will address many of our concerns. We are told that it has already reduced delay times and resulted in a number of other improvements. Our association believes that we need to give that restructuring a chance to succeed.

However, it is important that we set the right goals for licensing and documentation. The measure of success should be the mariner's needs, not what makes the Coast Guard's job easier. We also need to recognize that the problems with licensing may go far beyond the limited scope of the current reorganization. The way we license and document our mariners in this country is overly and needlessly complex and that is the problem we need to attack. For example:

- We are told that 80 percent of the applications for a license or document at the Regional Examination Center are rejected because they weren't filled out right. Do we blame the mariners or do we re-think application forms and processes that are too complicated and are nearly impossible to follow correctly?
- The Coast Guard will tell an Able-Bodied Seaman serving on an offshore tug within U.S. waters that he is unqualified to serve on the exact same tug when it leaves U.S. waters because his sea service time on the domestic operations doesn't count towards international service.
- There are seven different ways for a mariner to become the master of a 200-ton vessel, but there is no practical way for the veteran master of a crewboat to upgrade his license to operate the same vessel when it leaves the Gulf of Mexico and goes to work overseas.

Now these kinds of complexities didn't just happen overnight. It took a long time for the process to get so fouled up and the maritime industry deserves its share of the blame. But we need to address it now. If McDonald's handled its business the way we handle mariner licensing, the menu would be 25 pages long and it would take a week to order your food.

Again, as we find with inspections, pushing the Coast Guard to look at alternatives or ways to streamline the process has been slow and difficult work. More than a year ago, our industry went to the Coast Guard asking to take a novel program, a streamlined evaluation process that was created by the Coast Guard exam center in Houston, and make it a national program. The Coast Guard has indicated its support for doing that, it still has not been implemented. The maritime industry needs to address some very serious personnel shortages but we need to do it in a way that attracts mariners who can meet our increasing demand for safety and professionalism. We need for the Coast Guard to be our partner and not an obstacle in finding innovative solutions.

Coast Guard Policymaking – The Commandant has said that the Coast Guard is way behind on its regulatory projects. As has been his hallmark, the Commandant's honesty and willingness to confront the problem is to be applauded. We are glad policymaking is getting a renewed focus. However, the test should not just be the quantity of the regulations that are put out. There needs to be more of a focus on regulations that help industry do its job with minimal disruptions to commerce. There needs to be an emphasis on avoiding putting out bad regulations.

The Coast Guard's approach to regulations, policy letters and Navigation and Vessel Inspection Circulars (NVIC) is frustrating and problematic. Yes, the process is painfully slow, but we could accept some delay if the time was spent gathering public input and incorporating it into commonsense regulations. However, that is not what we are finding.

We believe that we have lost a level of openness and accountability that existed before September 11th. Prior to that, the Coast Guard exhibited a real willingness to use the public rulemaking process to produce workable, practical regulations. Instead, we find more and more often that when something is released as a Proposed Rule, it is practically cast in stone and won't change unless there is fierce public opposition. Then if it turns out that the Final Rule is hopelessly flawed and unworkable, a NVIC is required to fix it.

The TWIC rules are a perfect example. Industry and members of Congress warned the Coast Guard and TSA that the deadline for the Proposed Rule on TWIC was inadequate and they needed to give the public more time to comment and propose alternatives. However, the agencies ignored that advice and plunged on ahead. The Final Rule, issued at the beginning of this year, was hardly changed from the Proposed Rule and failed to fix any of the problems that industry warned them about. Now the Coast Guard has released a NVIC that hopefully will mitigate the failings of the TWIC regulations. Make no mistake, we appreciate the Coast Guard's efforts to address problems through this NVIC, but that is not the way the process is supposed to work.

As a part of the Commandants' efforts to improve the policy-making capacity of the Coast Guard, we hope he will take a look at whether the people writing the rules have the real-world experience to write regulations that make sense and do not cause more problems than they solve. Take a look at whether they have the proper level of oversight by their superiors to keep bad regulations from hitting the streets. Take a look at whether the agency is truly accountable to the public as envisioned by the Administrative Procedures Act. Finally, and most importantly, take a look at how long it takes for different types of regulations and policies to gain clearance within the Coast Guard and from the Department of Homeland Security. It is worth asking the question whether the Coast Guard and DHS consider a regulatory project involving Marine Safety to be as significant and valuable as a security regulation.

Jones Act - Let me turn for a moment to a different topic, the Jones Act. This is a critically important law to our members and to the entire domestic fleet and U.S. shipbuilding industry. The Coast Guard has two very important roles to play on the Jones Act. It controls vessel documentation, meaning that if Al Qaeda were to try to secretly

take ownership of a U.S. flag vessel, it would be the Coast Guard's responsibility to uncover it. The Coast Guard also plays a supporting role in keeping foreign vessels from the transportation of cargo that is restricted to U.S. flag vessels under the Jones Act. By Memorandum of Understanding, the Coast Guard is tasked with supporting Customs and Border Protection's enforcement of the Jones Act.

Both roles are important. Neither one is being handled as a priority. This is an area in which we would welcome a discussion of how this fits into the Coast Guard's overall mission. If these functions are important to the Coast Guard, we think they should be funded to adequate levels. If they are not important to the Coast Guard, Congress should assign those functions to another agency to handle.

Our view on Marine Safety is simple. When it has been approached as a true and cooperative partnership with industry we have accomplished great things together. The role of Marine Safety should not be allowed to become diluted or diminished within the Coasts Guard.

To take that argument a step further, we believe that the lessons learned on Marine Safety should be applied to Maritime Security. All of the DHS security experts talk about managing risk and doing more with limited resources. Do they think they invented risk-management or maximizing resources? We and the Marine Safety experts in the Coast Guard have grappled with those issues on the safety side for years. We addressed them through cooperation, developing trust and through an approach to our vessel personnel that has come to be known as "honor the mariner." Yet today, we seem to have forgotten many of those lessons. In the current environment, mariners may feel they are being treated like the enemy. Industry may feel that security is running roughshod over commerce. We believe that the U.S. flag vessel and the U.S. mariner should be a force multiplier for the Coast Guard's maritime security efforts, not the focus of most cost and the majority of the scrutiny.

Let me conclude by saying that over the years, the compass of the Coast Guard has swung to adapt to new courses and new challenges, whether it was drug interdiction, environmental stewardship or now security. But the safety of people who work on the water and operate recreational boats on the water has always been its true bearing. Eventually the compass needle has always swung back to safety. The Coast Guard has addressed the new challenges, but has kept safety as its lodestone.

Frankly, there are concerns today that the Coast Guard won't swing back – that the focus will not return to Marine Safety or when it does, it will look more like the current approach to security: prescriptive and overly rigid. That would be a loss for industry, for the Coast Guard and for the public.

A Mariner Response to the August 2, 2007 Subcommittee on Coast Guard and Maritime Transportation Hearing. By: Captain Murray R. Rogers, USMM

Greetings Mr. Chairman and Honorable Members:

As an interested person in the 'web' audience to the Proceedings, I wish to personally commend Chairman Oberstar for his Proposal, and his unprejudiced view of Marine Safety. I further commend Chairman Cummings for his spoken resolve to achieve a lasting solution to the problems recognized concerning the marine trade.

The insufficiencies experienced currently in maritime safety are very serious and equitable problems. The points raised are not merely from complaints, but factual and substantive losses. The reluctance of persons to speak against the Coast Guard in person is in blatant contrast to the addressed consistent problems. That is no small point. The fear of retribution identified by the Members decries attention. Even the persons present for testimony in the Hearing were hesitant to speak up when directly asked. The Coast Guard's answers seem to be "we will fix it", just as it has been, once, once again, and again.

People want to believe in the Coast Guard for the jobs they do well. They do after all answer calls for help. But, the Coast Guard is a military organization, also charged with law enforcement of citizens. This is a very necessary, but heavy responsibility to carry. Careful application of such a broad and unique power and authority is a great concern. Terrorism Security is a further added expansion to these powers.

For example, the Coast Guard is granted authority for warrant-less searches--- this is from before the creation of Homeland Security. This and other enforcement powers must be closely guarded, and applied with supervised and specific precision to remain powers not abused. Formal independent review and oversight of the Coast Guard's Law Enforcement powers should be beyond reproach, transparent, and continual.

Complete separation of some powers as now structured is the only remedy to the appearances of impropriety. This will result in productive improvement for industry and labor interests overall, including safety and efficiency. Keeping enough merchant mariners sufficiently trained, functional, and fit for their duties also aids security. Keeping all commercial vessels properly fitted, in condition, and equipped is also desirable to all parties, and in the interest of the public trust. Comparison with other modes of commercial transport and transit are appropriate.

The merchant marine has a military-based structure. This is rooted in the military history of shipping. The hierarchical, military-like structures remain--- because they remain necessary and effective. But today's Merchant Marine is not military. The military perspective of how persons should structure, perform, and progress is often inapplicable and ineffective to private ventures. The military is not required to show profitability to remain. The 'perceived'- "make an example" of persons method of administration is an

extremist view to citizens, and seems to show (to mariners at least) a lack of professional maturity and wisdom by the Coast Guard. Merchant Marine Officers are after all professional, administrative, and management-level company officials.

The Coast Guard is also charged with regulation, controlling navigation, and search and rescue. These are all inter-related with their law enforcement, environmental, and security duties. They must remain involved the regulatory process for all these tasks to include safety. The conflict begins, however, with the vessel inspection program. The lines begin to muddle with the application of 'rules : to waivers' system.

Further problematic is the Coast Guard personnel advancement system. The officers need to show some 'productivity' to their bosses in enforcement activities right up to prosecution. Many of the safety positions held by Coast Guard members need to be held by permanent professional persons: period. Persons who- have only that job, and will later- still have only that job. Neither safety nor civil enforcement jobs should be military career spring-boards. Those matters are too important to make only 'Qualification Codes' to add to an advancement record or a resume'.

With mariner licensing, the problems seem to be less local, and more administration. Over the course of some years, with each deficiency acknowledged, a solution has been proposed and enacted--- yet has many times made the matter worse. Many problems seem to be perpetually neglected by those with the authority to alleviate those problems. Licensing has been most recently made worse with the 'centralization' of documentation. Now, apparently, each application is more or less 'evaluated' multiple times, rather than once. Unfortunately, through all the changes in recent years, it was not considered needful to make digital copies of mariner files just a mere couple of years ago. This was even after being suggested by employees of at least one REC (New Orleans) for security and other reasons (no later than early 2003). Then Hurricane Katrina hit New Orleans (in 2005), where roughly 20% of all the Merchant Mariner files in the United States were located. The New Orleans REC was flooded, destroying many mariner files. Expensive attempts have been made to 'restore' many, many damaged documents. How much did this cost the People of the United States? The trouble it caused both mariners and local REC workers has been a huge and incalculable burden, and will remain memorable to both of them. Nevertheless, the unexpected 'hoops' a mariner is required to jump through to become or remain able to work, are ever changing, increasing, and frustrating. THIS CONTINUALLY COSTS MARINERS COUNTLESS DOLLARS! At the same time, other 'improvement' promises or attempts in many other safety areas: including TWIC, safe potable water, towing vessel inspection, 8-hour day consideration, and electronic charting for towing vessels, cannot seem to even get off the ground. So, must you leave them again with the programs and the money to "fix it" yet again?

Inspections: This will not be a simpler task in the future. This is about more than just counting 'life rings'. As technology progresses, commercial vessels will continually evolve into more and more complex equipment systems. There are, and will be, more and more types of vessels, designs, construction materials, propulsion, specific usages, and

technological requirements. Persons required in the future to perform at an acceptable level to determine requirements, applicability, and compliance will need to honed and tenured personnel.

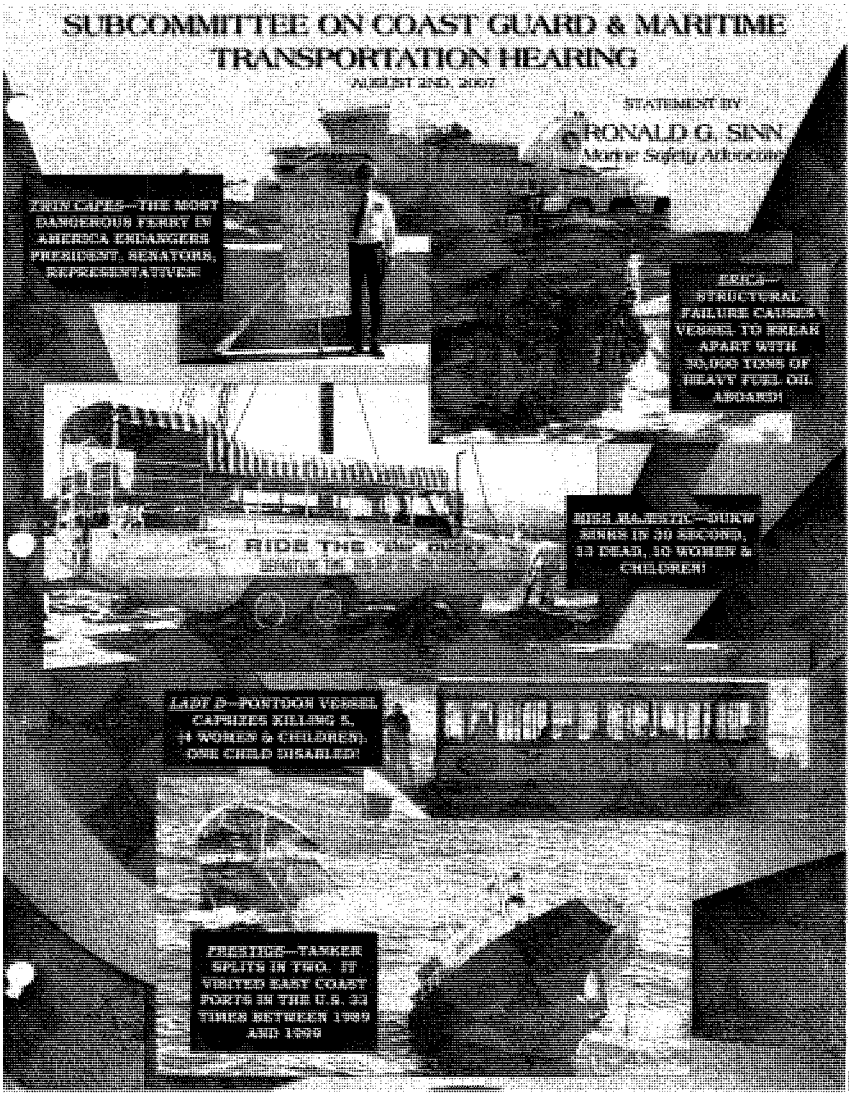
Accident investigators should be just that: Accident investigators. Not the same persons who approved plans, constructed any navigation aids referenced (if applicable or at issue), or persons who perform the inspections. Prosecutors should be a separate group from those citing or investigating. This would require experienced personnel specific to these designations, who would be required to make their case to the professional charged with carrying the matter to adjudication. This separation alone is an accepted model nationwide, and requires a logical, thorough, complete, and reasonable determination--- prior to searches, possible complaints, citations, charges, and adjudication.

How would our system now work if D.A.'s worked for the Police Chief? What if arresting officers (or citing officers) were also then the Prosecutors? What if Judges then also worked for the same Police Chief? What if--- even further--- the Judge's Rulings were then Appealed back to that same Police Chief?

The Adjudicators must be in an agency independent from the arresting or complainant officials. When the prosecutor is not 'pressured' to forward charges to a judge from within the same law enforcement agency, all orders by the court will appear more impartial. At present, the entire agency system seems to those affected, much too comfortable a relationship to some parties' needs, and completely inaccessible to some others. **For autonomy, Judges must be separate from any law enforcing Agency. Appeals of those Judges' Orders should certainly no longer go back to the Agency. These are Constitutional Issues.**

If this relationship is not severed, even the inappropriate appearances of it will not be fixed. That point alone is reason to act. This matter will be revisited again, after some future circumstances show an awkward, suspicious, and too friendly a fraternity once again. This will result in the expense of more time, effort, and money required on some other future date--- over the same issues. These same issues would then be revisited with all the current acknowledgements already in the record. Moreover and meanwhile, the fear of arbitrary enforcement will persist, chasing many **more** good mariners away from the trade.

Congressman Oberstar is correct. Marine Safety functions should be handled by the Department of Transportation. The Corps of Engineers model will not suffice. The *Corps* does not regulate the business of an entire industry. And again, the functioning of this industry is critical to the national interest. Relieve the Coast Guard to focus their higher priority work, by removing these cumbersome and conflicting 'permit', administrative, and adjudicative duties.


SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION HEARING
AUGUST 2ND, 2007
STATEMENT BY
RONALD G. SINN
Marine Safety Advocate
TWIN CAPES—THE MOST DANGEROUS FERRY IN AMERICA ENDANGERS PRESIDENT, SENATORS, REPRESENTATIVES!
ERICA—STRUCTURAL FAILURE CAUSES VESSEL TO BREAK APART WITH 30,000 TONS OF HEAVY FUEL OIL ABOARD!
RIDE THE
MISS MAJESTIC—DURW SINKS IN 30 SECONDS, 33 DEAD, 10 WOMEN & CHILDREN!
LADY D—PONTOON VESSEL CAPSIZES KILLING 5, (4 WOMEN & CHILDREN), ONE CHILD DISABLED!
PRESTIGE—TANKER SPLITS IN TWO. IT VISITED EAST COAST PORTS IN THE U.S. 33 TIMES BETWEEN 1999 AND 1999

"Examinations of U.S. Merchant vessels to assure their compliance with the applicable Federal safety statutes and regulations be conducted and determined by knowledgeable members of a U.S. Government agency. The responsibilities for these functions should not be delegated or entrusted to the private sector."

Marine Casualty Report *SS Marine Electric* dated July 25, 1984 (page 122, Recommendations, #1)

STATEMENT BY

RONALD SINN
Marine Safety Advocate

Subcommittee on Coast Guard & Maritime Transportation Hearing

August 2nd, 2007

				01 / 09 / 03 HEARING ON THE PHASE OUT OF SINGLE HULL TANK VESSELS	06 / 29 / 99 HEARING ON REQUIREMENT FOR DBL HULLS UNDER OIL POLLUTION ACT OF 1990	LADY D --------- MISS MAJESTIC ---------- TWIN CAPE	PRESTIGE & ERICA

PRESTIGE & ERICA

During the oversight hearings in Congress about the requirements for double hull tank vessels (Coast Guard Sub-Committee Chaired by Wayne T. Gilchrest on June 29, 1999 and the Senate Commerce Committee hearing about phasing out of single hull tank vessels Chaired by John McCain on January 9, 2003), United States Coast Guard (USCG) Admirals Pluta and North deceived the Representatives and Senators by covering up information that unsafe tankers with gross safety violations were entering U.S. ports and navigating along our coasts.

Senators on the Senate Commerce Committee were:

John McCain, Chairman	Ted Stevens
Daniel K. Inowye	Bill Nelson
John Sununu	Ron Wyden

Reference to transcript *Hearing on the Phase-out of Single-Hull Tank Vessels* dated January 9, 2003.

House Coast Guard Sub-Committee were:

Wayne T. Gilchrest, Chairman	Howard Coble
Peter A. De Fazio	Brian Baird
	Gene Taylor

Reference to transcript *Oversight Hearing on the Requirement for Double Hulls under the Oil Pollution Act of 1990* dated June 29, 1999

Admirals Kremek and Card issued NAVIC–2.97 (*attached*) directing inspectors not to do civil penalty actions against single hull tankers, which made the inspectors unable to do their jobs to protect the environment and public safety. Unsafe tankers like the *Prestige* and *Erica* operated with gross safety violations along the east coast from Maine to Texas including the ports of Baltimore, Philadelphia, and New York.

PRESTIGE CASUALTY - According to the San Francisco Chronicle dated November 24, 2002, the *Prestige* visited these ports at least 33 times from 1989 to 1999. In an 18-month period between January 6, 1998 and June 25, 1999 *Lloyds List* shows the *Prestige* visited the following ports:

New York	-	January 6, 1998	Northville	-	February 20, 1999
Philadelphia	-	January 9, 1998	New York	-	February 28, 1999
New York	-	September 8, 1998	Northville	-	April 18, 1999
New York	-	October 10, 1998	New York	-	April 20, 1999
Philadelphia	-	October 20, 1998	Baltimore	-	June 25, 1999
Northville	-	January 8, 1999			

The last inspection done by the USCG was on June 25, 1999 in Baltimore, Maryland. "No detentions, no deficiencies" were found according to the USCG Port State Control Inspection. The American Bureau of Shipping's (ABS) "Special Survey No. 5" on the *Prestige* conducted in Guangzhou, China in May 2001 (*attached*) shows major repairs were done on transverse, bulkheads and frames, repair of shell (ship's plating) and longitudinal bulkhead longitudinals. The total steal replaced was estimated at 362

tonnes. On November 20, 2002 the *Prestige* split in two with 20 million gallons of fuel oil aboard. The USCG Port State Control Inspections of the *Prestige* were grossly inadequate failing to identify major structural problems that could have spawned an environmental catastrophe in the United States.

SINKING OF THE ERICA aka Chinsei Maru (1975), Interman Properity (1977), South Engery (1984), Jahre Engery (1985), Prime Nobel (1990), Nobless (1994)

In an article from www.corrosion-doctor.org, the USCG inspection of the *Erica* was conducted in Portland, Maine in July 1994. According to their inspection, holes were discovered in main deck coamings. Holes were also found in both portside and starboard inert gas system risers, which could increase vulnerability to explosions. The fire fighting equipment was also in poor shape. In 1997 (3 years after the problem was first recognized) an inspection conducted in New Orleans, Louisiana finally addressed permanent repairs of the inert gas system. The *Erica* had seven "sister ships" that were also built with 10% less scantlings (steel) in their construction. Three of these ships had major structural hull failure problems. If the *Erica* had not sunk on December 12, 1999 it still could have called at U.S. ports until January 1, 2000. *See attached article.*

The USCG Admirals did not want the Senators or Representatives to know that the American Bureau of Shipping (ABS) had done the inspections on the *Prestige* and that Admiral Kremek (former Commandant 1994 to 1998) was the President and Chief Operating Officer (COO) of ABS until 2006 and is now the President of the Society of Naval Architects and Marine Engineers (SNAME). Rear Admiral Card (formerly Chief of the Office on Marine Safety, Security and Environmental Protection) was Senior Vice President of Technology of ABS. Both men were being paid millions of dollars in their new civilian positions. (*See attached Biographies*) Admiral Pluta never mentioned ABS in his testimony to the Committee to protect his fellow Admirals from scrutiny. The Spanish government was suing the American Bureau of Shipping for $2.3 billion for liability for the cleanup due to improper inspection. It is obvious that Coast Guard Admirals don't abide by the Academy honor concept:

"We revere honor—we neither lie, cheat, steal, nor attempt to deceive."

It has been said in the past by the *Marine Board of Investigation* in the sinking of the *Marine Electric* (attached) that ABS represents the interests of the vessel owners and doesn't represent the interest and safety of the public.

> **"Examinations of U.S. Merchant vessels to assure their compliance with the applicable Federal safety statutes and regulations be conducted and determined by knowledgeable members of a U.S. Government agency. The responsibilities for these functions should not be delegated or entrusted to the private sector."**
>
> Marine Casualty Report *SS Marine Electric* dated July 25, 1984 (page 122, Recommendations, #1)

The private sector in this case being an organization like ABS. A U.S. Government organization would be a civilian, non-military organization like the former Bureau of Marine Inspection and Navigation. This would be best served under the Department of Transportation.

U.S. Department of Transportation
United States Coast Guard

Department of Transportation
United States Coast Guard

COMDTPUB P16700.4

NVIC 2-97

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 2-97

Subj: IMPLEMENTATION OF OPERATIONAL MEASURES FOR EXISTING TANK VESSELS WITHOUT DOUBLE HULLS UNTIL 2015

1. PURPOSE. This Navigation and Vessel Inspection Circular (NVIC) provides guidance on the implementation and enforcement of operational measures required in 33 CFR 157, subpart G. These operational measures apply to single-hull tank vessels and tank barges (i.e., those not meeting the double hull requirements of 33 CFR 157.10d) until they are phased out of service as cited in 46 U.S.C. 3703a(b)(3) and (c)(3).
2. ACTION.
    1. Coast Guard marine inspectors and boarding officers will refer to the enclosed guidance when conducting inspections, examinations, or port state control boardings on U.S. and foreign tank vessels without double hulls to assess compliance with these regulations. Requirements giving tank barge owners the responsibility for providing certain guidance or ensuring that certain measures are completed by towing vessels hired to tow tank barges of 5,000 gross tons (GT) or more will also be checked during random Coast Guard inspections. Enclosure (1) contains a checklist that Coast Guard inspectors can use as an addendum to tank vessel examination books. The checklist is designed to provide further assistance with enforcement of these regulations.
    2. Because of the subjective nature of these requirements, Coast Guard inspectors must use discretion when considering enforcement action. A vessel should not be delayed and civil penalty action should not be initiated unless gross violations exist. Inspectors will ensure that vessel personnel are provided copies of this NVIC and should offer additional guidance as needed or requested. Deficiency reports should offer adequate time to allow for full compliance. This enforcement policy will remain in effect until 01 February 1997, after which standard Coast Guard inspection policy will apply.
    3. Officers in Charge, Marine Inspection (OCMI) shall bring the enclosed guidance to the attention of appropriate individuals in the marine industry within their zones.
    4. Owners and operators of tank vessels without double hulls are encouraged to review the guidance contained in this NVIC to ensure proper compliance with operational measures.
3. DIRECTIVES AFFECTED. None.
4. BACKGROUND.
    1. On July 30, 1996, the U.S. Coast Guard published a final rule establishing operational measures to reduce oil spills from existing tank vessels without double hulls. These regulations for operational measures are based upon the authority founding in the implementation of section 4115(b) of the Oil Pollution Act of 1990 (OPA 90). These regulations are designed to provide substantial protection to the environment with minimal economic or technological burden to the single-hull tank vessel industry.
    2. Operational measures apply to all vessels carrying oil, animal fat, vegetable oil, and other non-petroleum oil in bulk as cargo or cargo residue, and include those vessels engaged in lightering operations or off-loading oil at deepwater ports in the U.S. territorial sea or the Exclusive Economic Zone (EEZ). However, foreign flag vessels merely transiting the EEZ or in innocent passage on the territorial sea of the United

to complete this requirement

2. Guidance.
   - The calculations required to be completed by the master include calculating the vessel's deepest navigational draft and the anticipated controlling depth. The deepest navigational draft calculation is straight forward and should not be different from current calculations, with the exception of squat characteristics consideration.
   - The anticipated controlling depth calculation should be completed after consulting with local pilot agencies. The charted depth of the channel, any regulated navigation areas, as published by each Captain of the Port (COTP) in 33 CFR 165, and the information from publications required to be on board the vessel in 33 CFR 164 act as a foundation for this calculation. In addition, the local knowledge of the pilot, port authorities, and the facility should be referenced to get the closest estimate of the anticipated under-keel clearance for the vessel's time of transit.
   - After the master has completed the anticipated under-keel clearance calculation, it should be reviewed with the pilot. This review should include a discussion between the master and pilot concerning any shoaling or weather conditions that may influence the vessel's clearance and the most challenging areas along the transit.

6. **Delay of Effective Date.** The effective date for paragraphs (a)(5) and (a)(6) of 33 CFR 157.455 has been delayed until further notice. This will allow additional time for the tank vessel industry to comment on the issue of port-specific under-keel clearance guidance. In anticipation of promulgation of these paragraphs, the policy guidance provided in enclosure (4) will assist tankship owners and operators with development of this guidance.

1. Emergency Steering Capability.
   1. Background. Beginning November 27, 1997, tank barges of 5,000 GT or more without double hulls must be towed by towing vessels that have a steering gear system as described in 33 CFR 157.460.
   2. Guidance.
      - This system is only meant to be required on the towing vessel that takes the barge through its port-to-port transit. Towing vessels such as fleeting tugs or assistant tugs that help maneuver a barge are not required to have this steering system duplication.
      - Towing vessels fitted with twin screws meet this requirement provided they have separate control systems for each propeller.
2. Fendering System.
   1. Background. Beginning November 27, 1996, tank barges of 5,000 GT or more without double hulls must be towed and maneuvered with towing vessels that have fendering systems substantial enough to prevent metal to metal contact between the towing vessel and the barge.
   2. Guidance. This system is required for any towing vessel that takes the barge through its port-to-port transit and those towing vessels, such as fleeting tugs or assistant tugs, that help maneuver a barge.

Ss RADM CARD

Encl: (1) Checklist for Compliance with Operational Measures for Existing Tank Vessels Without Double Hulls

1. IMO Resolution A.744(18), Annex B; Guidelines on the Enhanced Programme of Inspections During Surveys of Oil Tankers
2. Sample Maneuvering Performance Test Result Poster for Wheelhouse Examples of Written Under-Keel Clearance Guidance

ABS Press Releases

Prestige Casualty - Information Update No. 3
Prestige Fact Sheet

November 20, 2002

Prestige Casualty Information

General Information, M/T Prestige

IMO Number:	7372141
Built:	1976 at Hitachi Shipbuilding & Engineering Co. Japan
Owner:	Mare Shipping Inc., Registered in Liberia
Manager:	Universe Maritime Ltd., Greece
Class:	ABS - Built and maintained to ABS class
Flag:	Bahamas
Marpol 13G Phase out Date:	11 March 2005
Design Deadweight:	81,589 tonnes
Gross Tonnage:	42,820
Sister Vessels:	None in service
Statutory Certification:	ABS on behalf of Bahamas with exception of ISM certification, issued by Bureau Veritas.
P&I Coverage:	London Steamship Owners Association
Pollution Liability Coverage:	The operators state that Mare Shipping is fully covered for shipowner's pollution liability within the International Oil Pollution Compensation Fund.
Notes:	The vessel was constructed of mild steel. The vessel was subject to the IACS Enhanced Survey Program (ESP) The vessel was a Category 1 vessel under MARPOL 13G requirements, approved for either Hydrostatic Balanced Loading (HBL), as a crude oil tanker, or CBT with 30 percent side or bottom protection, as a product tanker. Information provided by the operator shows the vessel was loaded in conformance with the CBT requirements at the time of the casualty. Also Note: Under the US Oil Pollution Act of 1990, single hull tankers without either double sides or double bottoms of 30,000 gross tons and larger are not permitted to trade in US ports after 1 January 2000. However, the Prestige would have been permitted to carry cargo to the US until 1 January 2015 provided it was offloaded either at a licensed deepwater port (LOOP), or at any one of four established offshore lightering zones. These are located more than 60 miles offshore (Southtex, Gulfmex No 2, Offshore Pascagoula No 2 and South Sabine Point).

General Information, World Tanker Fleet
(Source Clarksons)

World Tanker Fleet (including chemical carriers) 8/2002

< 10,000 dwt	2,404
> 10,000 dwt	4,916
Total	7,320

World Single Hull Tanker Fleet (including chemical carriers) 8/2002

< 10,000 dwt	1,829
> 10,000 dwt	3,414
Total	5,243

World Double Hull Tanker Fleet (including chemical carriers) 8/2002

< 10,000 dwt	575
> 10,000 dwt	1,502
Total	2,077

ABS Classed Tanker Fleet (Total)	920
ABS Classed Single Hull Tanker Fleet	601
ABS Classed Double Hull Tanker Fleet	319

Class Survey History

Special Survey No. 5: Conducted in Guangzhou China, May 2001.

Class: Drydocking Survey, Tailshaft Survey, Annual and Special Periodic Survey of Hull, Automation & Inert Gas System, Annual Survey of Machinery, Special Continuous Survey Machinery, Boiler Surveys, Damage/Repair Survey, Gauging Survey and Review;

Statutory: Annual Load Line Inspection, Load Line Renewal, Safety Radio (SLR), Safety Equipment (SLE), Safety Construction (SLC) and International Oil Pollution (IOPP) Renewal Surveys, Survey for Compliance with Safety of Life at Sea (SOLAS) Reg II-1/3.3 and II-2/59 and Cargo Gear Re-Testing Surveys.

Two ABS surveyors with appropriate qualifications attended. The gauging firm used was Dimitros Thomas Marine Limited, whose certification was issued 12 October 1998 with a validity of three years.

The vessel was first visited on 2nd April, 2001. The overall inspection, close-up survey, thickness measurements were carried out together with the hydrostatic testing of the tank boundaries as required by the rule requirements afloat at anchorage in Guangzhou, PRC between 2nd and 10th April 2001. Thickness measurements were taken in accordance with the rule requirements during the close-up survey and witnessed by the surveyors. The certificate for the gauging technician and the calibration records were reviewed and found in order, the equipment was also verified to be in order before the thickness measurements commenced.

Upon completion of the above examinations, the vessel moved to Guangzhou Cosco Shipyard for repairs on 10th April 2001. Before commencement of the repair, the material for repair was verified against mill certificate, the material was also selected for confirmatory testing and all shown in order. The welding procedures and the welders' qualification records, the NDT (Non Destructive Testing) equipment records and the operators' qualifications were verified. The welding sequence, gouging process were also discussed with the shipyards quality control department and the ship

owner representative.

The major repairs were undertaken in the side ballast/cargo tanks No.3 (P&S) and concentrated mostly on the transverse bulkheads and the frames at the upper levels within the tank. Accordingly, the above-mentioned tanks were fully staged at Frames 61 & 71 and between Frs.65 - 70 respectively. Staging was also extended to various areas for the repair of shell and longitudinal bulkhead longitudinals.

In particular, in way of the side ballast/cargo tank Nos.2(aft) & 3, the shell plates were close-up surveyed internally and externally examined. There was no area of concern noted on the shell plate. Thickness measurement results showed that the average wastage on the shell plate was less than 10 percent. No repair was considered necessary on the shell plate at the time. The starboard shell longitudinals were found below 10 percent wastage in side ballast/cargo tank No.2 (S) aft and the starboard shell longitudinals were found mostly between 10-15 percent wastage in side ballast/cargo tank No.3(S) at time of survey.

The repair works onboard were divided into three stages : fit-up, gouging and final examination. They were carried out under supervision of the attending surveyors and found satisfactory.

Upon completion of the repair, confirmatory non-destructive testing by radiographic & ultrasonic method was selectively carried out, confirmatory hydro-test and air-tests were also carried out and all found satisfactory. The repair / testing was completed on 19 May 2001.

Total steel replaced is estimated at 362 tonnes. The repairs that were required were in accordance with those that could reasonably be expected on a vessel of this type at Fifth Special Survey.

Annual Survey: Conducted in Dubai, UAE.

The vessel's last Annual Class Survey and Statutory Surveys were carried out by the Dubai office of ABS while the vessel was in the Fujairah anchorage, UAE, in May 2002. The survey was commenced on May 15. All repairs were completed to surveyor's satisfaction and the appropriate certificates were issued on 25 May 2002.

Class Surveys:	Annual surveys of Hull, Machinery, Automation and Inert Gas System. Damage/Repair Survey.
Statutory Surveys:	Annual Load Line Inspection; SLR - Periodical; SLE - Annual; SLC - Annual; IOPP Annual; Annual Cargo Gear.

Port State Control Inspections:
Interrogation of the Equasis database indicates the following PSC inspections were undertaken:

1 Sept 1999, Rotterdam	No detentions; 2 Life saving related deficiencies, 1 General deficiency
25 June 1999, Baltimore	No detentions, no deficiencies
19 May 1999, Long Island (US)	No detentions, no deficiencies
19 April 1999, New York	No detentions, one navigational related deficiency
15 April 1999, Long Island (US)	No detentions, no deficiencies
28 Nov 1998, Port Hawksbury	No detentions, no deficiencies

Lloyd's Seasearcher database reports one previous casualty, in 1991, involving a fouled propeller.

The Cargo

The operators of the vessel state it was carrying a cargo of 76,972 metric tonnes of heavy fuel oil (cst 600, Specific Gravity 0.99), typically used as bunker fuel.

The cargo was distributed as per the loading plan (Diagram 1) by which the No 2 aft (P&S) and No 3 (P&S) wing tanks were left empty.

According to the loading configuration provided to ABS by the owner, the vessel appeared to have been loaded properly, in conformance with the loading manual and with a maximum bending moment of 43 percent of the maximum allowable still water bending moment on departure Latvia.

The Casualty

At around 1510 LT on Wednesday 13th November, the vessel developed a reported 24 degree starboard list while on passage in heavy seas and high winds (said to be storm force 8) in the region of Cape Finisterre, between 25-30 nautical miles off the coast of Galicia in northwest Spain.

The Bahamas Maritime Authority reports the vessel experienced a sudden vibration prior to listing.

A stability analysis of the vessel indicated that both No2 starboard aft and No3 starboard wing tanks would have had to be flooded to create such a condition.

A preliminary strength analysis of the hull girder with these two compartments flooded and the hull in an intact condition indicated that the maximum still water bending moment had increased to 125 percent or 25 percent in excess of the maximum allowable value in calm seas.

The analysis indicated that the vessel retained a positive righting arm granting sufficient stability for the conditions.

In this condition the vessel's hull structure should have been able to, and in fact appeared able to cope with the increased loading.

24 of the 27-man crew (Filipino and Romanian) were reported airlifted off the vessel. The Master, Chief Officer and Chief Engineer were reported to have remained on board.

Crew members, interviewed by the media on reaching shore, claimed the vessel had struck a submerged object occasioning a severe shudder of the hull structure.

To date, no conclusive evidence of the initiating cause of the damage that led to the apparent flooding of the empty Number 2 Aft starboard and No 3 starboard wing tanks has been identified.

The Spanish government refused to offer the vessel or the salvors a sheltered location for the vessel and ordered it to be held more than 60 nautical miles off the coast.

Subsequent Action

The Bahamas Maritime Authority states that the Master ordered the righting of the vessel by intentionally flooding the No 2 port aft wing tank and the No 3 port wing tank, both of which were empty and intact.

This action reportedly brought the vessel back to an estimated 3-5 degree starboard list.

An analysis of the hull girder strength in this condition, again based on data provided by the operator, indicates that the maximum still water bending moment increased to 154 percent, or 54 percent in excess of the allowable level in calm seas, assuming the vessel's structure had remained intact.

Any damage to the structure would imply a further increase in the bending stress.

In this condition the vessel's hull structure was subject to severe overloading. Unless the vessel could be quickly brought into calm waters, the additional dynamic wave loads to which the hull structure would be subject in open waters would lead to a progressive deterioration in the hull structure until ultimate failure as subsequently occurred.

Given the excessive loads to which the vessel was subjected, its ability to remain afloat until 19 November, six days after sustaining the initial damage, is remarkable.

Cause of the Casualty

The initiating cause of the casualty is as yet unknown.

The flag state, Bahamas, has launched a thorough investigation to determine, if possible, the fundamental cause of the casualty. ABS has made all class records and requested technical information available to the Bahamas Maritime Authority and has offered any and all technical assistance needed as part of this investigation.

ABS is also conducting further detailed dynamic wave load analysis of the stresses to which the hull structure would have been subject in the damaged condition, and is simulating the reported flooding sequence as part of its investigation.

Further updates will be posted as information becomes available.

For more information, contact:
Stewart Wade (swade@eagle.org)
1-281-877-5850

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Environmental catastrophe, sinking of the Erika

On 12 December 1999 the Maltese registered tanker Erika broke in two off the coast of Brittany, France, whilst carrying approximately 30 000 tons of heavy fuel oil. Some 19 800 tons were spilled. The sunken bow section contained 6 400 tons of cargo and the stern a further 4 700 tons. The bow section sank within 24 hours.

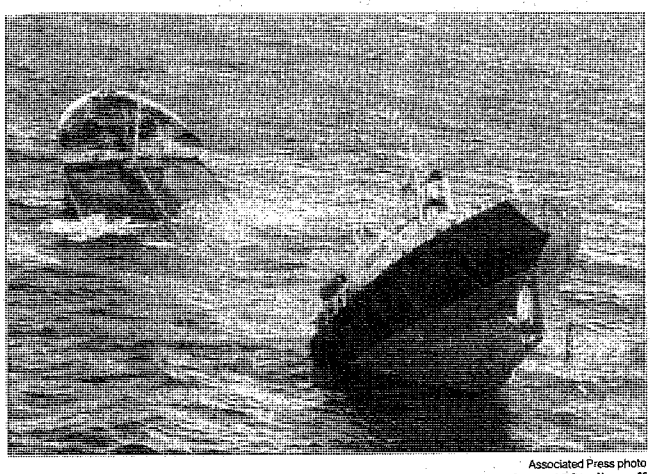
The stern section sank on December 13 while under tow. It is estimated that when the Erika broke up, 10,000 tons of the cargo was in the bow section, 10,000 tons in the stern section, and that 10,000 tons were spilled. The Erika broke up in storms 70 kilometers from the French coast spilling 10,000 of the 30,000 tons of Totalfina heavy fuel oil it was carrying. This is equal to the total amount of oil spilled worldwide in 1998. The economic consequences of the incident have been felt across the region, a drop in the income from tourism, loss of income from fishing and, a more recent development, a ban on the trade of sea products including oysters and crabs, have added to the discomfort of local populations.

Corrosion problems had been apparent on the Erika since at least 1994, with details readily available to port state control authorities and potential charterers, US Coast Guard records show. In addition, there were numerous deficiencies in her firefighting and inert gas systems, pointing to a potential explosion risk on the tanker which broke up off the French coast last month. On Wednesday, Lloyd's List reported that severe corrosion had been discovered by class just weeks before the incident. However, no immediate remedial action had been taken. These revelations addrd to the growing concern in France that the subsequent spill of heavy crude oil would not have occurred had notice been taken of obvious and ample signals that there were problems with the 37,283 dwt ship. According to publicly available US Coast Guard records obtained by Lloyd's List, Erika had been inspected in a variety of US ports on several occasions since 1994.

Her certificate of financial responsibility, a document legally required by tankers wishing to trade in US waters, had expired in March 1999, and had not been renewed as of November 30. In an inspection in Portland in July 1994, holes were discovered in the main deck coaming, indicating that signs of corrosion were already in place more than five years ago. It was also found that there were holes in both the portside and starboard inert gas system risers, which are critical items of safety equipment. Malfunctions would tend to increase vulnerability to explosions. Firefighting equipment was also in poor shape.

Many of Erika's problems had simply been patched up, rather than properly repaired. In an inspection in 1997 in New Orleans, the US Coast Guard ordered that no cargo operations requiring the use of inert gas systems should be conducted until permanent repairs had been effected. Pinhole leaks remained in the firemain, contrary to Safety of Life at Sea convention regulations. There was yet more evidence of corrosion, with the ship's watertight doors not sealing properly and wasting on the door coamings. Erika switched from Bureau Veritas to Registro Italiano Navale in 1998, which authorized her to continue operations despite the French society's order for a full inspection.

11/20/



Associated Press photo

The Bahamas-registered 'Prestige' oil tanker is seen broken in two about 150 miles off Spain's coast in the Atlantic ocean on Tuesday. The stricken tanker carrying 20 million gallons of oil split in two Tuesday and its back sank threatening an environmental disaster off the northwest coast of Spain and Portugal.

Oil tanker sinks off Spain increasing disaster potential

■ The toxic load is nearly twice the 10.92 million gallons dumped off Alaska by the Exxon Valdez in 1989.

Associated Press

MADRID, Spain — An oil tanker carrying 20 million gallons of fuel oil broke in two and sank Tuesday in the Atlantic Ocean, threatening a spill nearly twice as big as the Exxon Valdez's and an environmental catastrophe along a scenic Spanish coastline.

The hope was that the oil would sink and harden in waters more than two miles deep before it could inflict disaster and engulf the area's rich fishing grounds. But it already has soiled 125 miles of Spanish coastline, and its highly viscous and toxic load is far bigger than the 10.92 million gallons dumped off Alaska by the Exxon Valdez in 1989.

As the Bahamas-flagged tanker Prestige sank, it leaked some oil but it was not clear how much — SMIT, the Dutch salvage company hired to keep the ship afloat estimated 13 percent of its load. Nor was it clear how much oil might reach land, or where. Portugal said it was monitoring a slick 22 miles by one-third of a mile.

Shut out of Spanish and Portuguese ports after its hull split in a storm six days ago, the tanker was towed about 150 miles out to sea off the coast of Spain's Galicia region. When it finally capsized and sank crews already were cleaning up Galicia's coast, where an estimated 800,000 gallons of oil has contaminated fisheries, blackened beaches and killed wildlife.

The calamity has highlighted concerns about older, single-hull ships like the 26-year-old Prestige that are due to be phased out by 2015 — and about what Europe should do to keep them safe and inspected in the meantime.

The European Union charged Tuesday that single-hull ships skirt European ports to avoid tough new E.U.-mandated inspection rules. It urged national governments to work harder to enforce them.

Spain said the ship had not been inspected since 1999, but the ship's Greece-based management company, Universe Maritime Ltd., claimed the vessel underwent an inspection last May.

At stake in Spain's misty, green, northwest corner is a fishing and seafood industry that feeds much of the country and does more than $330 million in annual business. It employs tens of thousands of people who catch, process or sell everything from monkfish to mussels.

Fuel oil, used to power ship engines and electricity plants, is harder to clean up than the crude spilled by the Exxon Valdez. Crude disperses in seawater but fuel oil turns to sticky lumps.

"It's a big, sticky, gooey mess — a bit like molten asphalt," said Unni Einemo, senior editor at a London-based news service.

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Coast Guard has new leaders

ADM Robert E. Kramek

is commandant

Former Coast Guard Chief of Staff RADM Robert E. Kramek became the 20th commandant on June 1, 1994. As the senior officer, under the direction of the secretary of the Department of Transportation, ADM Kramek oversees the Coast Guard in carrying out assigned missions, programs and functions.

During 33 years of Coast Guard service, ADM Kramek has specialized in both surface operations and naval engineering. He has served in many capacities in all Coast Guard regions, including the Atlantic, Pacific, Caribbean and Alaska.

His assignments include the command of the 13th Coast Guard District in the Pacific Northwest and the 7th District in the Southeast and Caribbean. He was in charge of the Haitian Migration Task Force, leading to the interdiction and rescue of 37,000 Haitians. At the same time, he coordinated the war on drugs in the Southeast United States and Caribbean.

A native of New York City and currently a resident of California, ADM Kramek graduated with honors from the Coast Guard Academy in New London, Connecticut, with a bachelor of science degree in engineering in 1961.

He later received master of science degrees in naval architecture and marine engineering, mechanical engineering and engineering management. He attended post graduate schools at the University of Michigan, Johns Hopkins University and the University of Alaska. He graduated with highest distinction from the Naval War College in Newport, Rhode Island.

After his selection for flag rank in 1986, ADM Kramek completed the Capstone Program at the National Defense University Institute of Higher Defense Studies.

His awards include the Distinguished Service Medal, two Legion of Merits, the Meritorious Service Medal, four Coast Guard Commendation Medals, the Coast Guard Achievement Medal, Coast Guard Unit Commendations and Meritorious Unit Commendation.

ADM Kramek is a physical fitness enthusiast. He participates in road races, biathlons and triathlons, and is an avid tennis player, golfer and skier.

He is married to the former Patricia Harvard of Washington, D.C. They have four children: Tracy, Joseph, Suzanne and Nancy.

Continued on page 2

A familiar face returns to Coast Guard headquarters

The commandant selected RADM James C. Card to relieve RADM A. E. "Gene" Henn as the next chief of the Office of Marine Safety, Security and Environmental Protection. RADM Card has extensive experience in the marine safety and environmental protection programs, including three assignments at headquarters.

For the last two years, RADM Card was commanding officer, Eighth Coast Guard District, New Orleans, Louisiana. A native of Melrose Park, Illinois, he is a 1964 graduate of the Coast Guard Academy.

Following sea tours aboard cutters Winona, Dexter and Barataria, RADM Card attended the Massachusetts Institute of Technology, earning two masters' degrees, one in naval architecture and the other in mechanical engineering. He graduated from MIT in 1970.

From 1970 to 1985, RADM Card was a naval architect at Coast Guard headquarters; marine inspector at MSO Baltimore, Maryland; chief of the Ship Design Branch of the Marine Technical and Hazardous Materials Division; and commanding officer of MSO St. Louis, Missouri.

A 1986 graduate of the Industrial College of the Armed Forces, RADM Card was chief of the Merchant Vessel Inspection and Documentation Division from 1986 to 1988. He was commanding officer of MSO/Group Los Angeles/Long Beach, California, from 1988 to 1990. He then became chief of operations for the Eleventh Coast Guard District. The following year he served as chief of staff at the Thirteenth Coast Guard District in Seattle, Washington. He was selected for promotion to rear admiral in August 1991.

His awards include the Legion of Merit, Meritorious Service Medal with three gold stars. Coast Guard Commendation Medal, and Coast Guard Commandant's Letter of Commendation Ribbon with one gold star.

U.S. Department of Transportation
United States Coast Guard

MARINE CASUALTY REPORT

SS MARINE ELECTRIC, O.N. 245675,

CAPSIZING AND SINKING IN THE ATLANTIC OCEAN ON 12 FEBRUARY 1983 WITH MULTIPLE LOSS OF LIFE

U.S. COAST GUARD

MARINE BOARD OF INVESTIGATION REPORT

AND

COMMANDANT'S ACTION

REPORT NO. 16732/0001 HQS 83

TECHNICAL REPORT STANDARD TITLE PAGE

1. Report No. 16732/0001 HQS 83	2. Government Accession No.	3. Recipient's Catalog No.
4. Title and Subtitle Marine Casualty Report SS MARINE ELECTRIC, O.N. 245675, Capsizing and Sinking in the Atlantic Ocean, on 12 February 1983, with multiple loss of life		5. Report Date
		6. Performing Organization Code G-MMI-1/14
7. Author(s)		8. Performing Organization Report No. 16732/0001 HQS 83
9. Performing Organization Name and Address U. S. Coast Guard Washington, DC 20593		10. Work Unit No.
		11. Contract or Grant No.
12. Sponsoring Agency Name and Address Commandant (G-MMI-1/14) U. S. Coast Guard Washington, DC 20593		13. Type of Report and Period Covered Marine Casualty Report 25 July 1984
		14. Sponsoring Agency Code
15. Supplementary Notes		

16. Abstract

At 0251, 12 February 1983 (all times are EST, +5 zone time), the coal collier MARINE ELECTRIC, while enroute from Norfolk, Virginia to Brayton Point, Massachusetts with a full load of steam coal, reported to the Coast Guard that she was taking on water and going down by the head. Gale force weather conditions existed at the time. At 0415, 12 February 1983, as the vessel's crew was preparing to abandon ship, the MARINE ELECTRIC capsized, throwing most of the 34 crewmen into the water. Rescue efforts by U. S. Coast Guard and U. S. Navy aircraft and surface vessels, and merchant vessels resulted in the recovery of 3 survivors and 24 bodies. 7 persons remain missing and are presumed dead. The overturned stern of the vessel remained visible until approximately 1130, 12 February 1983. At that time the vessel sank in about 120 feet of water, approximately 30 nautical miles east of Chincoteague, Virginia. The Commandant has determined that the actual cause of the casualty is unknown. The most probable cause was determined to be the wasted top plating of the dry cargo hatch and wasted main deck plating which permitted boarding seas to flood the vessel's forward spaces.

This report contains the U. S. Coast Guard Marine Board of Investigation Report and the action taken by the Commandant to determine the proximate cause of the casualty and to provide a response to the recommendations to prevent recurrence.

17. Key Words Hatch covers, Coast Guard inspections, ABS surveys, flooding, lifeboats, liferafts, bilge wells, diving operations, stability, coal trade		18. Distribution Statement This document is available to the public through the National Technical Information Service, Springfield, Virginia 22151	
19. Security Classif. (of this report) Unclassified	20. Security Classif. (of this page) Unclassified	21. No. of Pages	22. Price

Form DOT F 1700.7 (8-69)

with reports of watertight integrity during times of rough weather when no one can be sent forward to check conditions or sound tanks.

50. Had the Master found a favorable heading, and ordered periodic examination of the foredeck and hatch covers, as well as sounding bilge wells of the forward spaces and cargo holds, the ingress of water would then have been discovered at an early stage.

51. In the case of the MARINE ELECTRIC, the observation in NVIC 7-68 that where doublers are permitted they tend to "proliferate as randomly-placed patches" proved woefully true. The guidance permitting doublers is overly broad and does not specifically provide for periodic re-evaluation of the efficiency of the doubler or the conditions of the defect the doubler was intended to remedy.

RECOMMENDATIONS

1. That the examination of U. S. merchant vessels to assure their compliance with the applicable Federal safety statutes and regulations be conducted and determined by knowledgable members of a U.S. Government agency. The responsibilities for these functions should not be delegated or entrusted to the private sector.

2. That the Commandant commission a panel to conduct an indepth review of the entire Coast Guard Commercial Vessel Safety Program and make recommendations to him. The panel should consist of no less than fifty percent retired Officers in Charge, Marine Inspection recognized for their vessel inspection expertise, and recognized for their Merchant Marine background. The Program's overall structure and the Coast Guard's ability to continue with such a program should be studied, with emphasis placed on:

a. The present and projected experience level of the program administrators, program and project managers, Officers in Charge, Marine Inspection, and field inspectors, and the distribution of such expertise within the program.

b. The present and projected procurement and training programs, and identification of the requirements and qualifications needed of a marine inspector.

c. The review of all Headquarters, District, and field office policies and practices to detect any variation from statute or regulation.

THEY DIDN'T HAVE TO DIE!
- *LADY D* ACCIDENT -
AN AMERICAN MARINE TRAGEDY

On March 6, 2004 the *Lady D*—a thirty-six foot pontoon water taxi—capsized during a storm in Baltimore Harbor leaving Sarah Bentrem (age 8) in a wheelchair unable to move or speak and her brother Daniel Bentrem (age 6) dead along with Lisa Pierce (age 30), Joanne Pierce (age 60), and engaged couple Corrine Schillings and Andrew Rocella (age 26).

At the time of the accident the *Lady D* was only safe for twelve persons, not the twenty-five persons it was certified for. According to a stability test performed after the accident by the Coast Guard on March 18, 2004 (Activity ID 2023457), the vessel would have capsized at the dock if all persons aboard had moved to one side. The test was stopped when one of the pontoons started to submerge even though two of the weights used for the test had not yet been moved to the outside edge of the vessel.

The *Lady D* was built in Willow Street, Pennsylvania on March 28, 1996. At the time of the vessel's stability approval on March 29, 1996, Captain John C. Veentjer was the Officer in Charge, Marine Inspection, Philadelphia (1995-1998). Commander David L. Scott was Chief Vessel Inspector, Inspection Department (1995-1999). He is now Commanding Officer, Sector Delaware Bay. Their duty under the law was to protect passengers from harm. They did not do their duty and are criminally responsible for the deaths and maiming of the passengers of the *Lady D*. In the United States we have laws, even for USCG officers, that you cannot kill women, children, the unborn, disabled, or senior citizens—the most vulnerable members of our society.

The stability letter for the sister ship to the *Lady D* is the *Misty Harbor II* (built May 7, 1996), dated August 6, 1996 issued by Marine Safety Office Philadelphia reads:

> *"... subject vessel Misty Harbor II, Susquehanna Santee Boat Works, Inc. as presently outfitted and equipped subject to the restriction below has satisfactory stability on a protected waters route under all probable loading conditions".*

Under CFR 33, Captain Veentjer and Captain Scott's duty reads as follows:

> *1.01-20—Officer in Charge Marine Inspection*
>
> *(a) Final authority is vested in the officer in charge marine inspection for performance, within the area of his jurisdiction, of the following functions; inspection of vessels in order to determine that they comply with the applicable laws, rules, and regulations relating to safe construction, equipment, manning, and operation and that they are in a sea-worthy condition for the service in which they are operated; ship yard and factory inspection. ...*

There should be a U.S. Government investigation regarding Captain Veentjer and Captain Scott under the following U.S. Code:

46 USC

> *Section 6301—Investigation of Marine Casualties*
>
> *(3) Whether an act of misconduct, incompetence, negligence, unskillfulness or willful violation of law committed by any person, including an officer, employee, or member of the Coast Guard, contributed to the cause of the casualty or to a death involved in the casualty; (5) Whether there is evidence that a criminal act under the laws of the United States has been committed, so that the matter may be referred to appropriate authorities for prosecution; ...*

18 USC

> *Section 1115*
> *Section 1018*

UCMJ (*Uniform Code of Military Justice*) – Punitive Articles

Article 81	*- Conspiracy*
Article 92	*- Failure to Obey and Order or Regulation*
Article 107	*- False Official Statements*
Article 119	*- Manslaughter*
Article 131	*- Perjury*
Article 133	*- Conduct Unbecoming an Officer and a Gentleman*

U.S. Department of Homeland Security
United States Coast Guard

Activity Summary Report

Title:	Stability Test
Activity ID:	2023457
Activity Start Time:	03/12/2004 1:25:00 PM
Originating Unit:	ACT Balt
Owner Unit:	ACT Balt
Controlling Unit:	ACT Balt
Activity Type:	Vessel Inspection/PSC
Team Lead:	Edwards, Matt .
Status:	Closed - Agency Action Complete
Status Date:	04/30/2004
Prompt Date:	
Subject POC:	Capt Ed Narizzano, (410) 675-2900
Vessel Name:	PATRICIA P
VIN:	MD7290AN

Operating Organization Name

SEAPORT TAXI	-	Unknown			
Address	**City**	**State**	**Zip**	**Country**	**Province**
802 SOUTH CAROLINE STREET	BALTIMORE	MD	21231		

Activities Conducted:

Type	Date	Unit
Administrative Inspection	03/12/04	ACT Balt
Simplified Stability Test	03/18/04	ACT Balt

Inspection Results

System	Date	Results
Stability	03/12/04	Deficiencies Found and Corrected

Inspection Results - Deficiencies

ITEM	COMPLIANCE DATE		DATE ISSUED	DATE RESOLVED
1	Prior to carrying passengers and/or by 03/26/2004		03/12/2004	04/14/2004
SYSTEM	**SUBSYSTEM**		**COMPONENT**	
Stability	<None Selected>		<None Selected>	

---Description---

Demonstrate vessel meets stability standards in 46 CFR 178.340.

Documents and Certificates:

(none)

Narrative Summary:

12Mar04 M/V PATRICIA P (ex. FELLS POINT PRINCESS), MD7290AN

Vsl is 1986, 36 ft aluminum pontoon boat used by Seaport Taxi as water taxi in Baltimore Inner Harbor. Vsl is powered by a 90 hp gasoline outboard. Vsl route is Rivers, not more than 500 feet from shore.

After review of vessel file, determined that incorrect procedure was used at vessel's initial simplified stability test in August 1992. An incorrect weight shift had been applied. Required simplified pontoon vessel stability test to be reconducted to verify carriage of 25 total persons. Issued CG 835 to demonstrate vessel meets stability standards in 46 CFR 178.340.

Matt Edwards, LT, USCG

18 MAR 2004

Attended vessel moored at Anchor Bay Marina East, Dundalk, MD, for the purpose of conducting a simplified stability test for pontoon vessel. In attendance were:

LCDR Mark Hammond: USCG Sector Baltimore
LT Joe DuFresne: USCG Sector Baltimore
LT George Borlase: USCG Marine Safety Center
LT Mike Ciaglo: USCG Marine Safety Center
LT Eric Couch: USCG Headquarters (G-MSE-2)
Mr. Tom Roth-Roffy: NTSB
Mr. Kevin Renze: NTSB
Capt Ed Narizzano: Seaport Taxi Director
Mr. Chuck Diorio: Seaport Taxi Legal Rep
Mr. Rik VanHemmen: Naval Architect, Seaport Taxi Rep

Heavy investigation and media interest in stability test due to recent capsizing casualty of Seaport Taxi LADY D on 06 MAR 04. LADY D stability letter was sistered to PATRICIA P (ex FELLS POINT PRINCESS).

Weather conditions were calm wind, overcast skies, calm water. Vessel moored portside-to, bow and stern lines on port side, stern line stbd side to piling. Conducted test iaw 46 CFR 178.340 using locally generated worksheet.

Vessel certificated to carry 25 total persons; initially conducted test for 25 total persons. Removed port/stbd benches to allow barrel movement to full extreme of breadth. Simulated weights of benches to be 150 pounds. Total weight: 3650 pounds. Total Test weight: 3760 pounds, simulated with 8-53 gallon barrels of salt water (470#/bl). Used exposed pontoon arc length to verify pass/fail cross-sectional area criteria. Barrels arranged to minimize heel and trim. Shifted weight to port side. After shifting all but 2 barrels to port side, stopped test due to port pontoon submergence.

Recalculated test for 19 total persons using 6 barrels distributed to minimize heel and trim. Shifted all barrels to port side; required minimum arc length: 27 inches; measured arc length: 25 inches.

Recalculated test for 17 total persons using 5-1/2 barrels. Shifted all barrels to port side. Required minimum arc length: 27.5 inches; measured arc length 25.5 inches.

Discussed options with vessel reps to either continue test with reduced passengers or have owner conduct full stability calcs to be submitted to the Marine Safety Center following a USCG witnessed inclining and deadweight survey. Vessel reps decided to conduct full stability test and submit calculations to the Marine Safety Center. Stability test to be scheduled within the next couple weeks. No-sail 835 remains outstanding.

As preliminary study, Marine Safety Center reps conducted informal inclining using two water tubes and one full barrel to create heeling moment. Informal test conducted with assistance from vessel rep naval architect. Results to be analyzed further for preliminary study of pontoon vessel stability by USCG Headquarters.

Departed vessel. Awaiting schedule for full stability test from vessel reps.

LT Joe DuFresne

14 April 2004

Owner decided to redo simplified stability test to see what passenger count the vessel will pass with. Owners contemplating deactivating COI based on results of test.

Attended vessel moored at Anchor Bay East Marina, Dundalk, MD, for the purpose of conducting simplified stability test and to conduct inclining test for the purposes of the LADY D investigation. In attendance were:
LT Joe DuFresne, USCG: Activities Baltimore
LT George Borlase: USCG Marine Safety Center
LT Mike Ciaglo: USCG Marine Safety Center
LT Tim Connors: USCG Marine Safety Center
Capt Ed Narizanno: Director, Seaport Taxi
Mr. Chuck Diorio: Living Classrooms Legal Rep
Mr. Rik VanHemmen: Naval architect, vessel rep
Mr. Tom Roth-Roffy: NTSB
Mr. Art Cox: Marina rep

Weather was light rain, calm winds, calm sea. Reps from Marine Safety Center conducted inclining test in support of USCG investigation of LADY D casualty. Results of inclining pending; further information may be found in investigation case.

Vessel moored port and starboard by bow and stern. Conducted test in accordance with local worksheet and 46 CFR 178.340. Test weighed used were 55 gallon barrels filled to the bung hole with fresh water from the river. One full barrel weighed at 501 pounds. Conducted test using 4.5 barrels for total test weight of 2255#, which corresponds to 15 total persons after deducting simulated weight of benches removed from vessel.

Removed outboard benches to allow full weight shift to outboard edge of passenger deck. Simulated weight of removed benches using barrels. Calculations required minimum pontoon arc above waterline after weight shift of 27.0 inches; measured

arc was 27.75 inches. Conducted longitudinal test with all 4.5 barrels moved to the forward extreme of the passenger deck (at gate to boarding platform); pontoons did not submerge, test Sat.

LT Joe DuFresne, USCG

Activity Action Log:

Eff. Date	Unit	Individual	Description
03/12/2004	ACT Balt	Edwards, Matt .	Activity Created. Status: "Open - In Progress"
04/30/2004	ACT Balt	DuFresne, Joseph S.	Status Changed to "Closed - Agency Action Complete"

USCG, DRBA, ABS ENDANGERS WOMEN AND CHILDREN PASSENGERS ON TWIN CAPES

Recent marine accidents have produced a fatality rate of 75 to 80% for women and children compared to men of 20%.

FATAL ACCIDENTS

1. "Lady D" water taxi in Baltimore Harbor on March 7, 2004: Out of five fatalities four were women and children and one was a man. Two of the women were from Cumberland County New Jersey.

2. "Miss Majestic" amphibious World War II DUKW (DUCK) type vessel in Hot Springs, Arkansas on May 1, 1999: The vessel sank in less than sixty seconds in sixty feet of water. Out of thirteen fatalities ten were women and children and three were men. A number of these vessels are operating in the Philadelphia, Pennsylvania area.

3. "Astonia" large passenger vehicle ferry in the Baltic Sea on September 27, 1994: The vessel capsized and sank in thirty minutes causing 852 fatalities—111 men and *only* 26 women survived. The vessel was equipped with Viking Inflatable Life Rafts similar to the ones installed on the Twin Capes.

In past marine accidents men, in panic, have killed women and children to save themselves. This is well documented in accident reports of the "Eastland" (1915), "General Slocum" (1904), and in one of the fatal Indonesian ferry accidents (1990's). These accidents indicate that on the Twin Capes the USCG, DRBA, and ABS have no regard for the safety of the most vulnerable passengers—women and children, the elderly, and disabled by allowing emergency stair tower widths one fifth of USCG Sub Chapter H regulations and to relying on a chute evacuation system that cannot be used in all emergency situations. The stairs that are currently three feet wide instead of fifteen feet wide risk being blocked by crowd crush in an emergency evacuation like the Station Nightclub fire in Rhode Island in 2002. In a terrorist attack or vehicle fire people would be trapped on the upper decks like they were on the upper floors above the plane impact of the Twin Towers on 9/11.

USCG has allowed the Twin Capes to operate with only nine crew members which is only one third required by USCG manning standards. These standards require eighteen more crewmembers to operate the Dunlap Beauford marine evacuation system (CFR-46 Part 199.100) again endangering the most vulnerable passengers. In certifying the Twin Capes the USCG allows big business and large authorities, which can afford to hire retired USCG Admirals like Ted Leland and one of the "largest navel architecture firms in the world" like *Knud E. Hansen A/S* to buy their USCG certificate.

The Commandant at the time, Robert E. Kremek, of the Coast Guard in 1995-96 during the time the Twin Capes was being converted, receives $116,423 a year pension from the Coast Guard and probably receives a million dollar salary as Chief Operating Officers at ABS. Rear Admiral James C. Card receives $98,060 a year pension from the Coast Guard and probably makes multi-

hundreds of thousand of dollars with ABS. Both men have advanced degrees in naval architecture from the University of Michigan and MIT respectively. Along with Knud E. Hansen, they are members of the Society Of Naval Architects And Marine Engineers. All three men have breached the code of ethics of SNAME:

Specific Canons

2. *The Society's professionals shall hold paramount the safety, health, and welfare of the public in performance of their professional duties. They will interest themselves in the public welfare, in behalf of which they will be ready to apply their special knowledge, skill, and training for the use and benefit of mankind.*

This sends a message that the integrity of the Coast Guard and honor concept are low priority when it comes to dealing with big business or authorities and the benefits it may reap after USCG Officers retire.

Ronald G. Sinn
Marine Safety Advocate

June 21, 2005

16732
September 29, 1999

SINKING OF THE M/V MISS MAJESTIC ON LAKE HAMILTON, HOT SPRINGS, ARKANSAS ON MAY 1, 1999 WITH MULTIPLE LOSS OF LIFE

Deceased (all passengers)	**Age**	**Home Address**	**Next of Kin**
James Leon Patton	48	221 West Circle Drive Russellville, AR 72801	James Patton Son
Floye Christine Patton	43	221 West Circle Drive Russellville, AR 72801	James Patton Son
Jennifer Diane Patton	20	221 West Circle Drive Russellville, AR 72801	James Patton Brother
Ronald Gene Todd	40	143 Cummings Drive Benton, LA 71006	Laura Todd Wife
Thomas Cornelius Todd	5	143 Cummings Drive Benton, LA 71006	Laura Todd Mother
Emily Anne Todd	4	143 Cummings Drive Benton, LA 71006	Laura Todd Mother
Andrea Marie Beasley	27	132 Pecan Grove Dyersburg, TN 38024	Mark Beasley Husband
Logan Reed Beasley	3	132 Pecan Grove Dyersburg, TN 38024	Mark Beasley Father
Melanie Lynn McGuirk	22	101 N. Fourth St. Apt #9 Arkadelphia, AR 71923	James McGuirk Husband
Danna Lynne Morse-Powers	32	1821 S. Broadway Little Rock, AR 72206	Robert Powers Husband
Mary Elaine McGee	39	1763 Oakwood Memphis, TN 38116	Isaac McIntyre Brother
Vernon Lee Johnson	42	1291 Rosecliff Memphis, TN 38116	Odessa Langston Sister
Lana Jo Berry	42	2410 Plantation Dyersburg, TN 38024	Collie Berry Husband

In support of this conclusion, the Coast Guard report cited the following features, among other items:

- Heavy metal chassis and heavy wheel drive systems, with minimal buoyancy;
- Multiple external appendages with moving parts that are part of the watertight envelope;
- Use of a single band clamp on the smooth sealing surface of shaft housings;
- Thin hull plating, susceptible to quicker holing through wastage and harder to repair; and
- Manufactured parts not readily available, largely due to the 54-years lapse in DUKW production.

The Safety Board agrees with the Coast Guard that these features make DUKWs inherently less safe than conventional commercial small passenger vessels, not only for the reasons cited in the Coast Guard report. In addition, DUKWs have hull penetrations for driveshafts that are made watertight by rubber boots and clamps, which are unconventional sealing methods by standards for traditional small passenger vessels. These boots require special attention for safety oversight. Similarly, the DUKW relies on a high capacity Higgins pump in the event the vehicle is flooded, which in turn requires that the pump be carefully maintained and inspected. However, neither the Subchapter T regulations nor other Coast Guard guidance documents for Coast Guard field inspectors mention how to inspect these vital items.

Before the *Miss Majestic* accident, the Coast Guard had not developed any nationwide guidance to field inspectors for inspecting DUKWs; the *Marine Safety Manual* only addressed radiator cooling of DUKW engines. Although a few Coast Guard MSOs had independently developed local policies for their inspectors, these policies did not address or emphasize several critical areas, such as inspecting the integrity of seals, clamps, or the need for operational testing of dewatering and bilge pumps. The local policies addressed different inspection issues that had arisen in each MSO. These policies were not disseminated to other MSOs.

DUKWs are old vehicles that have been certificated for service by various local Coast Guard officials over the years through waivers and equivalencies to Subchapter T regulations. The waivers and rulings of equivalencies were not granted based on uniform national criteria for DUKWs, but on various opinions and experiences of individual local officials. The supporting rationale for the waivers and equivalencies were not documented at MSO Memphis, the Coast Guard office with jurisdiction over the *Miss Majestic*, and were not available to individual inspectors. Consequently, inspectors assumed that any discrepancies from Subchapter T regulations, for example seat spacing and aisle widths, had been previously accepted and they did not need to revisit those issues. An inspection guidance document, coordinated and disseminated by Coast Guard Headquarters, would have made plan review for DUKWs consistent among MSOs and would have clarified the scope of work to field inspectors.

canopy appears sufficient for most installations. Overhead storage of lifejackets should not impede the egress of passengers.

Once again, however, the Coast Guard provides no basis to show that the minimum dimensions will not impede emergency egress. The Safety Board issued Safety Recommendation M-00-5 not only because of concern for the vulnerability of amphibious vehicles to rapid sinking but also in recognition of the extreme difficulty that passengers would have trying to escape such vehicles, as demonstrated by the *Miss Majestic's* sinking. Following this accident, almost all survivors stated that the canopy on the *Miss Majestic* was an impediment to escape.

In the Safety Board's opinion, canopies present major safety risks that need to be addressed, especially in light of the fact that amphibious passenger vehicles in service in this country carry more than 1 million passengers each year, including a great many children. This unique vehicle is often promoted to and used by school groups. Typically, such groups of children are accompanied by a limited number of adults. Each of the four children under age 15 on the *Miss Majestic* was accompanied by at least one adult. Of these children, three did not survive and the fourth survived by mere happenstance. Children are particularly vulnerable when traveling as passengers on amphibious passenger vehicles and, even if an adult accompanies them, their survival can be jeopardized. If children are permitted to board a DUKW without donning lifejackets, adults will probably have insufficient time to help the children don lifejackets in the event of an emergency. If the children don the lifejackets upon boarding and the canopy is retained, the adults traveling with the children likely will not have time to help the children egress the vehicle before it sinks. If the adults are not successful in placing the children or themselves outside the vehicle before it sinks, all could likely become trapped in the overhead canopy. The Safety Board is particularly concerned that both adults and children wearing lifejackets are at risk of being drowned if entrapped by the overhead canopy.

A more realistic approach to ensure passenger safety would be to afford passengers a reasonable opportunity to escape by removing the canopy. The Safety Board therefore concludes that, on amphibious passenger vehicles that cannot remain afloat when flooded, canopies can represent an unacceptable risk to passenger safety.

In looking at the operation of DUKWs, the Safety Board recognizes that the removal of the canopy, by itself, is not adequate to ensure survivability of passengers in the event of sinking. Even though passengers would not be trapped inside the vessel when it sank because the canopy was removed, they could still drown after they entered the water. As shown by the *Miss Majestic* accident, DUKWs without adequate reserve buoyancy will sink rapidly once water begins to flood into the hull, leaving little or no time for passengers to retrieve and don lifejackets or to assist children in donning lifejackets. Consequently the Safety Board concludes that wearing lifejackets before the vehicle enters the water would enhance the safety of passengers on board DUKWs without adequate reserve buoyancy where canopies have been removed. Therefore the Safety Board believes that, where canopies have been removed on amphibious passenger

Twin Capes – The Floating Coffin on the Delaware Bay

Accident Scenario 1—*Twin Capes* is attacked by high-speed explosive vessel in a U.S. warship *Cole* type of attack. A 30-foot hole is blown open on the side of the ferry between frames 57 and 99. The damage is 30 feet inboard from the side of the hull. The explosion ignites the 60 thousand pounds of flammables. The ferry, burning quickly, floods and capsizes like the *Herald of Free Enterprise* within two minutes. Ninety-nine percent of the passengers and crew are killed.

The only way this scenario can be avoided is to have armed Coast Guard escort vessels at all times.

Accident Scenario 2—June 15, 2004 - At 12:55 p.m. the Coast Guard at Group Atlantic City received a radio distress call that the ferry *Twin Capes* had suffered an explosion and caught fire and was drifting in the ship channel off the breakwater in the Delaware Bay. Repeated attempts to reach the vessel by radio have failed. A terrorist bombing is suspected. Ships in the area report the ferry *Twin Capes* on fire, listing heavily to port. The passenger cabin is on fire. Passengers are jumping from the passenger deck into the water.

On Board—There is complete panic. People are jumping into the water to escape the fire and toxic fumes inside the passenger cabins. Everyone is trying to escape the fire. They rush the long and narrow stairway to the vehicle deck. In their panic to hurry through and maneuver around vehicles partially blocking the exit at the foot of the emergency exit, the crowd crushes towards the bottom hopelessly blocking their way to safety—dying from suffocation. Toxic fumes overwhelm the people that remain inside the cabin. Those that jumped 30 feet over the side from the passenger deck with either killed by the impact or severely injured. Vessels in the area and Coast Guard Cutters race to the scene. Their efforts now hampered by a thunderstorm with 50 mile an hour winds.

This scenario begins with a lack of security at the ferry terminal. The x-ray machine to scan packages is unmanned as a passenger with a video camera with a bomb planted inside is able to get aboard the ferry. There are no visible security people on board making it easier to plant the device in the area where 227 flammable, vinyl, foam life preservers are stored under a canvas, creating the maximum amount of toxic fumes. It is also the area where passengers are directed to the chutes for the life rafts, narrow stairway to the vehicle deck below as well as the stairway to the decks above. Planting an explosive device in this area would kill the maximum number of passengers.

THESE ARE NOT TRUE STORIES
BUT EASILY COULD BE!

July 8, 2004—The Philadelphia Inquirer—Coast Guard Chief: Attack by small boats still possible
"The United States remains vulnerable to attacks by small, fast boats like the one that killed 17 sailors on the U.S. Warship *Cole* in 2000, despite tough new global security laws, the head of the Coast Guard said yesterday. Adm. Thomas Collins said the new U.N. International Ship and Port Facility Security Code and the related U.S. Maritime Transportation Security Act focused on large commercial ships not the roughly 60 million U.S. recreational vessels."

If the US Coast Guard (USCG) 46 CFR (Shipping), Part 70-89 (Sub-Chapter H) and National Fire Protection Association (NFPA) 301 and 550 marine regulations are strictly enforced this scenario is quite different. These regulations are considered minimum safety standards.

AREA DEFICIENT	STATUTE	MINIMUM REGULATIONS	CURRENT STATUS
Type 1, Enclosed Stairways—four stairways in total	CFR 72.05-20 (s)	For total passenger capacity of 1000, each stairway to service 250 passengers is 15 feet, .62 inches. Railings permitted to protrude a total of 6 inches.	*Twin Capes* has 36 inches from wall to wall—less railings measuring 6 inches total. The stairways have a clear opening of 30 inches—28 inches in some areas
Landing Area	CFR 72 05-20 (p) (2)	300 square feet	16 square feet
Storage of Life Preservers in an A-60 safety area		Not Permitted	327 Life Preservers in life boat embarkation safety area

If the vessel was built to these minimum specifications the scenario does not apply. Even though under these conditions the chute system could not be used due to the weather criteria, velocity of the wind, and listing of the vessel. The passengers could easily be evacuated through wide routes of escape from the stairways to the vehicle deck. With the life preservers being removed to the outside decks the source of the toxic fumes and fuel for fire would be eliminated.

After the fire in Chicago in April 2002 that killed 21 people when the crowd crush blocked the available stairway and in West Warwick Rhode Island a nightclub fire killed 100 people and injured 190 others, NFPA President, Jim Shannon stated in his interview with Scott Peiley on 60 Minutes II,

"Safety codes protect each and every one of us every day. Unfortunately, they can't if they are ignored".

Both accidents causes of death were lack of egress and toxic fumes in the case of the Rhode Island fire.

The USCG minimum safety standards on the *Twin Capes* have been ignored by the Coast Guard, USCG Marine Safety Center, the DRBA, ABS, and Congressman Frank LoBiondo. This lack of concern for the safety of the public has created the most dangerous large ferry in the United States with the potential for loss of life like on passenger vessels *Titanic* (1,517), *Empress of Ireland* (1,012), *General Slocum* (957—mostly women and children), *Eastland* (844), *Scandinavian Star* (158-most asphyxiated by toxic gases—cyanide and carbon monoxide), and *Moro Castle* (124). Loss of life on ferry vessels include: *Estonia* (852), *Herald of Free Enterprise* (193), *George Prince* (76), *Wahine* (53), *Staten Island Ferry* (11). Ferries claim the most loss of life worldwide each year. Because of these accidents, minimum safety standards have been adopted and should be strictly enforced—especially on ferries. In the case of the DRBA, Mr. Harkins used former Coast Guard Admiral Walter Ted Leland to lobby for the regulation cuts and to get safety waivers from minimum safety standards. The American Bureau of Shipping—independent from the Coast Guard—rubber-stamped these approved safety waivers.

Mr. Harkins bribed the United States Coast Guard (see US Code 18 §201 (b)(C) Bribery of Public Officials and Witnesses) with the help of their new Executive Director of the ferry division, retired Admiral Leland, by a proposed 30 million dollar terminal and visitor's center with its theme to glorify the Coast Guard with an exhibit, IMAX, and virtual reality USCG rescue helicopter attraction. Walter T. Leland, Admiral retired, Robert E. Kramek, Commandant (now working for American Bureau of Shipping), and James C. Card, Rear Admiral (now working for the American Bureau of Shipping) were all graduates from the academy together (within four years). At that time they were instrumental in the decision-making processes in any and all waivers presented to the Coast Guard. These waivers violated Federal Law US Code 18 §1018 (Punishment for Certifying Falsely), 46 §407 (Punishment for Improper Construction), 46 §372 (Administration of Inspection Laws)—all punishable by fines, imprisonment, or both.

The reason for the DRBA's pursuit of these waivers was their arrogance toward the law and their potential loss of revenue. To meet the regulations would mean the loss of their cruise-ship-like appearance, for which it was promoted, and the loss of four lanes of cars—reducing their capacity from 100 down to 50 vehicles.

All these concerns were brought to the attention of Congressman Lobiondo but he took no action. In the capacity as ***Chairman of the Coast Guard Sub-Committee*** he has a special responsibility to the public. By his non-action he has endangered and continues to endanger more than a million passengers cruising on the *Twin Capes*. He also rewarded the DRBA with 3 million dollars in ICE TEA federal funding even though they discriminated against African-Americans and was vehemently opposed against organized labor—all the way to the Supreme Court. The Congressman has betrayed the public's trust and congressional ethics and should ***immediately resign from Congress***.

Because of its cruise ship and ferry status, the vessel *Twin Capes* must be considered high-risk ferry (NFPA 550) and vulnerable to terrorist attack. It should immediately be taken out of service and modifications made in the best interest of public safety and trust.

Ronald G. Sinn
Marine Safety Advocate

Member U.S. Coast Guard 1964 to 1970
Holding Current U.S. Coast Guard Masters License #945501

Addition:

The *Twin Capes*, the most dangerous ferry in America, endangered the lives of the President, Vice President, Senators, Representatives, dignitaries, their families, and anyone else who had attended the 2000 republic convention in Philadelphia, Pennsylvania. The vessel was used to take them out on a river cruise.

OVERSIGHT HEARING ON THE REQUIREMENT FOR DOUBLE HULLS UNDER THE OIL POLLUTION ACT OF 1990

(106–24)

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

JUNE 29, 1999

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OVERSIGHT HEARING ON THE REQUIREMENT FOR DOUBLE HULLS UNDER THE OIL POLLUTION ACT OF 1990

Tuesday, June 29, 1999

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, WASHINGTON, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in room 2167, Rayburn House Office Building, Hon. Wayne Gilchrest [chairman of the subcommittee] presiding.

Mr. GILCHREST. The Subcommittee on Coast Guard and Maritime Administration will come to order.

The Subcommittee hearing today will hear testimony on the requirement for double hulls under the Oil Pollution Act of 1990. We will limit opening statements to the Chairman and Ranking Minority Member.

The hearing is a continuation of a hearing the Subcommittee held in March on the effectiveness of the Oil Pollution Act of 1990. At that hearing, the Subcommittee learned that the Oil Pollution Act has been very successful in reducing oil spills in U.S. waters. According to the Coast Guard, the average number of oil spills over 10,000 gallons has dropped about 50 percent from 1991 levels. Also, the average number of gallons spilled per million gallons of oil shipped in the U.S. has been reduced by 64 percent.

This success is due to the comprehensive system of oil spill prevention, response, liability, and compensation, as well as research and development programs established by the Oil Pollution Act. The phaseout of single hull oil tankers and barges is part of this environmental protection system.

If there is one thing I hope we can accomplish today, it is to put to rest the rumor that the single hull phaseout schedule under the Oil Pollution Act is under attack. Support for the phaseout of single hull tankers is strong in the United States Congress. I am aware of no organization or industry that is asking for an amendment to the phaseout schedule under the Oil Pollution Act.

Of course, the Oil Pollution Act does not require any company to build a new oil tanker. A tanker owner will base a decision on whether to build a new tanker on market conditions existing at the time when a decision must be made, including the price of oil and the price of a new oil tanker.

One of the main purposes of this Committee is to ensure that the marine ecosystem improves. And one of the main purposes for this hearing is to understand the success of the Oil Pollution Act of

19[illegible] and to ensure that what we do as members of Congress has a significant impact in the improvement of the environmental standards for shipping oil and other hazardous cargo across the ocean.

That isn't to say that we are going to be static in our understanding of minimal standards. We will continue to pursue based on our knowledge about how we can significantly improve those minimal standards. And so we look forward to the testimony of these expert witnesses to help us in that endeavor.

So at this point, I will yield to my colleague from Oregon,—I will get that probably by the end of the session—my good friend, who did not come under the weather in Amsterdam, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman. You are a trooper, Mr. Chairman. You maintain, despite not being well.

A number of reflections on this. You know, as a member of the Resources Committee I went to Alaska after the Exxon Valdez accident about five days later. That was an extraordinary tragedy, a real mess. And a number of us resolved that we would take all effective and practical steps to see that it never happened again.

I think we have made some progress with the OPA Act. And the question is: Are we making progress as quickly and in as determined a basis as possible?

We are going to review today the issue of double hull vessels. And there are those who believe there are other alternative technologies out there for my cursory review. Not being a new member of the committee, I don't believe there are other feasible technologies, but I will be interested to hear about them.

There are other issues that we need to deal with. I believe in revisiting OPA in terms of liability limits. There are things that go far beyond OPA that we were talking about in Amsterdam that go to the training and competency of crews and condition of ships. And then, finally, of course, very large cargo carriers and other new freighters carry enough bunker fuel to become basically major oil spills themselves. So I believe we are going to have to also look at those vessels and see how it might be possible to prevent significant spills from cargo carriers other than tankers. And we will hope that that can be subject of a future hearing.

So I look forward to the testimony, Mr. Chairman, and thank you, as always, for your leadership in these areas.

Mr. GILCHREST. Thank you, Mr. DeFazio.

Mr. Bateman, any opening comments?

Mr. BATEMAN. Thank you, Mr. Chairman.

I am an interested interloper this morning and here primarily to listen but certainly to indicate my continued support now for the double hull tanker provisions that we wrote into the law in 1990, when I was a member of the old Merchant Marine and Fisheries Committee.

I think what we sought to do then represented sound public policy, and I believe that public policy should be adhered to and the standards and requirements that were asserted then should be maintained.

Mr. GILCHREST. Thank you, Mr. Bateman.

You are never an interloper on this Committee. Your valued experience is always considered highly here, and we hope some day to revitalize the old Merchant Marine Fisheries Committee.

Mr. Rodney Frelinghuysen from the great State of New Jersey. Thank you for coming this morning, Rodney. We also value your expertise in this particular area of double hulls. And you may begin.

TESTIMONY OF HON. RODNEY FRELINGHUYSEN, A REPRESENTATIVE IN CONGRESS FROM NEW JERSEY

Mr. FRELINGHUYSEN. Thank you, Mr. Chairman. Good morning to you and to Ranking Member Mr. DeFazio and to Mr. Bateman.

Thank you for allowing me to testify on the importance of maintaining the double hull provision contained in the Oil Pollution Act of 1990.

I believe that it is important for Congress to continue its unequivocal support for double hull tankers, which Congress very correctly mandated when it enacted OPA 90.

Mr. Chairman, I support double hulls because they do and will do the most to protect the coastal environment of the United States and its thousands of miles of shoreline. I am sure this hearing will lead to the reaffirmation of the value of double hulls and result in the strict enforcement of the phaseout of aging single hull tankers in accordance with the law.

The scientific body of evidence that existed in 1990 clearly proved that the double hull technology would reduce the risk of a catastrophic oil spill. It would ensure that an environmental nightmare such as the one that occurred when the Exxon Valdez grounded would never happen again.

As all of us know, the Exxon Valdez spill was the worst spill in U.S. history, resulting in over 11 million gallons of oil being discharged into the ecosystem and ruining thousands of miles of Alaskan shoreline, some of which is still scarred today.

That same scientific evidence used when Congress developed the double hull standard has been validated over the last nine years by the fact that no grounding of a double hull tanker has ever resulted in a major oil spill. In fact, to the best of my knowledge, Mr. Chairman, these groundings resulted in no oil being spilled at all, I repeat, no oil spills.

Double hulls have a proven track record. To their credit, Mobil and ARCO have begun to make the commitment to double hulls. However, it is an issue of grave concern that not a single new double hull tanker has been introduced into the Alaskan domestic oil trade since the Exxon Valdez oil spill, more than ten years ago.

This seeming defiant indifference creates the potential for additional environmental catastrophes. This Subcommittee needs to keep in mind that the average age of the U.S. domestic tanker fleet today is older than it was when OPA 90 was enacted and is older than the average age of tankers that are scrapped in the international market. In short, each of the old single hull tankers that are approaching their mandatory phaseout dates to my mind is a potential disaster waiting to happen.

...ose potential disasters can and should be avoided. Congress must send a clear message that double hull tankers and only double hull tankers should be plying our waters.

As members of Congress, we have a responsibility to every American to protect, to preserve our environment. That is why I support the double hull requirement. And that is why I urge all of my colleagues in the Congress to do the same.

Just as freedom is a perishable commodity, so, too, are the tranquil and majestic shorelines and waters that frame the world we live in. We must do everything possible to protect those shorelines and our environment from another disastrous oil spill.

Scientifically validated double hulls will do just that. That is why it is incumbent upon Congress to demand that oil companies renew their sense of accountability for protecting the environment from catastrophic oil spills. We must insist that they act with urgency to ensure that the single hull tankers being used today are replaced with modern, state-of-the-art, environmentally safe double hulls.

Our message in Congress is short and simple, Mr. Chairman: Use double hull tankers, and don't look to Congress to modify the current phaseout schedule contained in OPA 90. Abide by the law. Don't circumvent it.

I thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Frelinghuysen.

Mr. Bateman?

Mr. BATEMAN. Mr. Chairman, I have no questions. I will offer the comment that I think we are all intended to Mr. Frelinghuysen for the interest that he has taken in this issue. His leadership on it I think is very important and bodes well for our continuing the sound public policy underlying the double hull requirement.

Mr. GILCHREST. Mr. Coble?

Mr. COBLE. I just came in at the very end of your comments. I concur with what Mr. Bateman said. I think some sort of balance, Mr. Chairman, is going to have to be struck emphasizing safety, on the one hand, and not turning a blind eye to what could be excessive cost, on the other. And I think we need to be aware of both of those features of the equation.

I thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Coble.

Mr. Frelinghuysen, just one quick question. Could you give us some idea of—you made a comment about defiance and indifference in the industry. Can you point your finger at a particular industry where there is defiance?

Mr. FRELINGHUYSEN. I don't need to name names, but I do know that some companies have made the financial investment and others have deliberately not made that financial investment. And, from my point of view, there has been I think an intention on some people's part to basically circumvent the law through a variety of means and mechanisms, sort of redesigning and recasting existing tankers.

But I think the Congress' mandate was clear. They ought to be obey the law. And I think the scientific basis in 1990 is just as strong today.

Mr. GILCHREST. Thank you very much.

Mr. FRELINGHUYSEN. Thank you very much.

Mr. GILCHREST. Have a good day, Rodney. See you up there.

Our next witness is I think I will say the honorable Rear Admiral, should be Admirable, Robert C. North of the great Eastern Shore of the State of Maryland, a globetrotter of the most high regard, bouncing around the world, leading the U.S. discussion on a variety of topics when it deals with the marine global environmental issues and international shipping issues.

So, Admiral North, we look forward to your testimony. Thank you for coming this morning.

TESTIMONY OF REAR ADMIRAL ROBERT C. NORTH, ASSISTANT COMMANDANT FOR MARINE SAFETY AND ENVIRONMENTAL PROTECTION, UNITED STATES COAST GUARD

Rear Admiral NORTH. Sir, good morning, Mr. Chairman and distinguished members of the Subcommittee. It is good to see you looking well, sir, today.

I am Rear Admiral Bob North, Assistant Commandant for Marine Safety and Environmental Protection for the United States Coast Guard. I am pleased to appear before you today to discuss the requirement for double hulls under the Oil Pollution Act of 1990.

The 1989 grounding of the tanker EXXON VALDEZ in Prince William Sound, which resulted in the largest oil spill in U.S. waters, led to the passage of the Oil Pollution Act of 1990.

A significant pollution prevention standard in the Oil Pollution Act of 1990 is the requirement for new tankers to be of double hull construction. OPA 90 also required that existing single hull tank vessels be retrofitted with a double hull or, beginning in 1995, be phased out of operation by the year 2015.

OPA 90 also required the Coast Guard to determine if other structural and operational tank vessel tank requirements would provide protection for the marine environment equal to or greater than a double hull design and to report those findings to Congress.

Accordingly, in a 1992 report to Congress, the Coast Guard evaluated various alternative concepts based on our interpretation of congressional intent as outlined in the Federal Water Pollution Control Act.

Our interpretation is that the double hull requirements were mandated to prevent, as far as practicable, any spills from occurring in U.S. waters. That was based on the Federal Water Pollution Control Act, which states, and I quote, "The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States."

Our 1992 report concluded that the double hull was unmatched in preventing the majority of oil spills when compared to the proposed alternatives at that time. None of these alternatives or the alternatives evaluated since can match the superior performance of the double hull regarding the key performance measurement of probability of zero oil outflow for both collisions and groundings.

Three studies were used as a basis for our 1992 report: one study by the Marine Board; a second by the International Maritime Orga-

nization; and a third study, for which the Coast Guard contracted with Herbert Engineering to evaluate several possible hull designs.

The Herbert Engineering report confirmed the results of the Marine Board and IMO studies. The double hull design was most effective in low-energy casualties, while the mid-deck design was most effective in high-energy casualties.

Double hull performance is borne out in casualty data. There have been 15 double hull tanker casualties in the U.S. since the enactment of OPA 90. Nine of those 15 were OPA 90 double hull tankers. The remaining six were built prior to passage of OPA 90. None of those casualties resulted in any oil spilled. And in some cases, the spills had they occurred would likely have been major spills.

Also, in the 1989–1990 time frame, at least four major spills that did occur from single hull vessels occurred that likely would not have occurred or would have been very, very much minimized had they been double hulls.

Presently, there are two studies examining the issue of double hulls. In 1998, Congress directed the Secretary of Transportation, in cooperation with the Marine Board, to initiate a new study of double hull alternatives so as to establish an equivalency evaluation procedure that maintains the high standard of environmental protection while encouraging innovative ship design.

The Marine Board has been given free rein to follow any course it sees fit. They are not limited by the Coast Guard's policy or interpretation of the law or any methodology or our understanding of the Federal Water Pollution Control Act. Specifically, the board is tasked with: first, developing a generalized spill cost database based on historical cost data; second, examining the latest available historical damage statistics and research on crash-worthiness to define damage extent scenarios for analyses; third, to developing an approach for calculating an environmental index to assess overall out-of-flow performance; and, fourth, to applying that index to the double hull and alternatives.

The Marine Board held a kickoff meeting for this study on June 17th of this year. And the Coast Guard fully endorses the Marine Board as a valuable, independent, and knowledgeable resource. And we eagerly await the results of their study.

Secondly, the Coast Guard, through the Coast Guard-chaired Ship Structure Committee and the Society of Naval Architects and Marine Engineers, has initiated a study regarding double hull design and oil outflow.

Double hulls have been used for many decades. We are going to evaluate their performance from a technical engineering standpoint to complement anecdotal evidence of their performance.

The study will focus on the safety of double hull tanker operations with regard to crash-worthiness, maintenance, inspection, and operations. Of particular interest is the issue of fire and explosion hazards within the double hull space.

The study will also determine the influence of structural design in oil tanker outflow and damage stability in collisions and groundings. Crash-worthiness of tankers is not considered in present regulations because it has not at this point been sufficiently understood.

Since the passage of OPA 90, questions have arisen about the phaseout schedule in section 4115 for vessels that carry oil and bulk as cargo. The three controlling parameters that are provided by the statute to determine a tank vessel's phaseout date are: the vessel's date of build; its gross tonnage; and its hull configuration, whether it is single hull, single hull with double sides, or a double bottom. The Coast Guard has not granted any waivers or exemptions to the OPA 90 phaseout schedule for existing single hull tank vessels operations in the United States.

The first questions received after the passage of OPA 90 concerned the specific phaseout date for every tank vessel operating in U.S. waters. The Coast Guard published policy to ensure consistency in the determination of those dates and documenting them on a U.S. vessel's certificate of inspection or a foreign vessel's tank vessel examination letter, a specific date when that specific vessel must be withdrawn from service so that there is no question.

A second question arose regarding a tank vessel's gross tonnage determination and whether a tanker owner could convert a cargo tank into a ballast tank to reduce the vessel's gross tonnage, altering the vessel's phaseout date based on that parameter. On July 30th, 1997, the law was amended to state that measurement could no longer affect a tank vessel's phaseout under OPA 90.

A third question arose regarding altering of a single hull tank vessel's hull configuration to include either a double side or a double bottom. The OPA 90 phaseout schedule allows a maximum of five additional years of service life for a single hull tank vessel with double sides or a double bottom. OPA 90 did not discuss the option of adding either of these features to a single hull.

After completing review of such a policy, the Coast Guard published a determination of policy on this issue in the Federal Register on the 22nd of April of 1999. The policy stated that the Coast Guard would only accept the service life extension for single hull tank vessels fitted with double sides or a double bottom as of the adoption of OPA 90. In other words, you could not add a double bottom or double sides at this point and get an additional five years.

The Coast Guard also initiated a study by the Marine Board and the National Research Council to assess the full impact of the double hull regulations and related requirements of OPA 90 on the marine environment and marine oil transportation industry.

The report was released to the public in late 1998. On March 1st of this year, the report was forwarded to Congress along with the Coast Guard's response to the recommendations by the Marine Board.

Regarding the double hull design, the Marine Board found that the probablistic outflow analysis of existing vessel designs indicates that the conversion to double hulls is expected to result in significantly improved protection of the marine environment. Reductions are anticipated in both the number of spills and the volume of oil spilled.

Also, according to the Marine Board, representatives of the tanker industry generally believe that double hull tankers can be operated safely, albeit with more resources and attention perhaps than needed for single hull tankers.

In summary, the Coast Guard has worked actively to improve maritime safety to protect the environment through the implementation of the double hull requirements and to seek alternatives that are equal to or greater than the double hull design and the zero probability of oil outflow characteristics.

There is still work to be done. We will continue to seek engineering improvements where appropriate. However, double hulls and their equivalents are really a secondary preventive measure that seeks to prevent or minimize a spill after something else has gone wrong, usually a human factor issue. Therefore, we see large gains to be made, primarily in pollution prevention, in the future through the human element and safety of navigation in marine operations.

Future initiatives to improve maritime safety and protect the environment will focus on using a formal, risk-based approach, considering probability as well as the consequences of accidents. Our efforts will center on minimizing the probability of an accident while continuing to maintain our response capability so as to be able to minimize the consequences when accidents occur. This balanced approach offers great potential for continuous improvement in pollution prevention and response.

Thank you, sir, for the opportunity to discuss this important topic with you this morning. I would be pleased to answer any questions that the panel may have.

Mr. GILCHREST. Thank you, Admiral North.

Admiral North, it has been almost ten years since OPA 90. And a number of things have been implemented to reduce hazardous spills and protect the environment. One was a series of measures for single hull tankers that were not part of the U.S. policy in the past and a part of the safety procedures on those tankers in the past. So that was a positive improvement.

The next one was the conversion from single hull to a number of ships that now have double hulls. So that was a positive improvement.

As we move along into one phase after another phase—I am not going to say there are three phases to protect the environment because each new generation faces new problems and tries to improve on the previous generation.

Taking a snapshot of the waterborne oil distribution system today, where should the next dollar of public or private investment go to maximize environmental protection: to double hull construction, electronic charting, vessel traffic systems, some other technology, or in some capacity all of the above?

Rear Admiral NORTH. I would say in some capacity all of the above. I think they are all very important issues depending on what part of the prevention spectrum you want to start at.

As I mentioned at the end of my comments, I will say primary preventive efforts are preventing the early causal factors in what ultimately becomes an oil spill, which might be a human element failure, or a loss of vessel control, to the degree that you have a collision or a grounding or an allision. And then when you get to that point, the double hull is another measure that, after having an accident, perhaps will prevent an oil spill from occurring or minimize it.

You really want to go back to the beginning of that chain of events and try to prevent the accident from occurring in the first place and then, accordingly, if they do, ensure that you have incorporated measures so that you again further minimize the likelihood of an oil spill.

You really need to require a spectrum of things that allow vessels to operate safely in the channel away from each other and do their business. And then if an accident does occur, there are systems and measures that will further act to prevent an oil spill.

Mr. GILCHREST. Admiral, do you see the double hull policy that we have as a prescriptive standard or a performance standard?

Rear Admiral NORTH. Well, certainly the statute as it is worded is a prescriptive standard in the sense that it mandates the double hull or allows us to look at equivalents. On the other hand, I think our approach using the probability of zero outflow as an important factor or the principal factor is, on the other hand, a performance standard in the sense that what we are really after in the long run is the probability of zero outflow.

Now, currently double hulls are prescribed to do that. And one of the issues is: Are there alternatives that may do the same thing?

Mr. GILCHREST. One of the witnesses will testify later today that double hulls should be a minimum performance standard while we continue to improve a whole range of other possibilities. What would your comment be to that?

Rear Admiral NORTH. Well, my comment would be that I would look back at the history of double hulls to this point and what they have shown their value to be, which from my perspective is very high in terms of creating the situation where you have a very high likelihood of zero outflow of oil.

I have been involved over my career in the field in a lot of oil spills involving vessel groundings and collisions and so forth. And my perspective is that the double hull has worked very well.

I would tell you that if you go back a number of years to when we started requiring double hulls on tank barges that carry chemicals in the Western river system and you had an accident at night some distance from our location, where we covered over about a 400-mile stretch of the river system, the first question that we asked was: What is the configuration of the hull? Is it a single hull or a double hull?

And if it was a double hull, we breathed a sigh of relief to start with because the experience generally was that with very, very few exceptions—and I can't even hardly think of one—there might have been some damage to the vessel, but there was no product in the water. If it was a single hull, almost invariably there was.

Mr. GILCHREST. I guess, then, following that line of thinking, your phase-in approach to improved environmental standards would be to continue the process of the phase-in of double hulls and the cost and the benefits that will be incurred from that. And then would you pursue vigorously electronic charting, integrative navigational systems along with VTS, which some have said would be—in fact, if I might use Dr. Hauke Kite-Powell's comment from his testimony, both the electronic charts and VTS systems appear clearly superior on this criteria based on benefit cost analysis to double hulls.

Rear Admiral NORTH. Well, I think we are pursuing both concurrently. It is not a question of doing double hulls first and then trying to make navigation safety improvements. As we move into the phase-in of double hulls, we will look at alternatives to double hulls through the Marine Board process.

We are at the same time developing transponder-based vessel traffic services. We are working with NOAA to further improve navigation safety, of which electronic charting is a part of that. We have a Navigation Safety Advisory Committee for the Coast Guard that is exploring today with NOAA the value and the improvements that can be made to navigation safety through electronic charting as well as some of the pitfalls that are out there today with some of the electronic charting systems that exist. There is great potential there to improve navigation safety, but if misused in terms of the wrong software or the wrong hardware, you can create more problems than you solve.

So there is a lot to be done at the same time that we are looking at the phase-in of double hulls and those kinds of measures. So you are looking at primary preventive measures in the sense of safe navigation, keeping vessels in the channel and away from each other, as well as looking at the secondary measures, such as double hulls or alternatives, so if there is an accident, you have another barrier, so to speak; in this case, a physical barrier between the oil and the water.

Mr. GILCHREST. Thank you very much, Admiral North.

Mr. DeFazio?

Mr. DEFAZIO. Thank you, Mr. Chairman.

Admiral North, do you happen to have the figures on how many tankers and/or tank barges have been phased out under OPA 90?

Rear Admiral NORTH. Not in my hand. I could tell you how many double hulls are coming in. I do have those figures. I could provide them to you, sir.

[Information follows:]

[The information follows:]

The following table, derived from the U.S. Coast Guard Marine Safety Management System, details the number of tank vessels "phased out" by 1999 under the Oil Pollution Act of 1990.

Foreign-flagged tank vessels	140
U.S.-flagged tank vessels	122

Mr. DEFAZIO. Sure. You mentioned something about waiver authority. I was a little puzzled by that because I am not sure that the law provides that.

Rear Admiral NORTH. It does not from our perspective.

Mr. DEFAZIO. OK. That was in your testimony. So I was a little uncertain.

I am wondering on some of the issues I raised during my opening statement. We are focusing on design, and that is good. Design can to some extent mitigate problems created by bad seamanship.

There are other issues, as you know,—you were at the Amsterdam conference, too—that are very important in terms of preventing accidents.

Rear Admiral NORTH. Yes, sir.

Mr. DEFAZIO. I am wondering if you think we need new authority in those areas, whether Congress needs to act. Are you satisfied that we are getting there or are going to get there real soon by dealing with the IMO?

Rear Admiral NORTH. Well, I would say in terms of the human factors issue, which you and I both mentioned, Standards of Training Certification and Watchkeeping (STCW) '95 amendments, which are in the process of implementation, and will be completed by the year 2002, have great potential to improve the human factors side of the equation. And we are heavily in the midst of implementing those standards in all sectors of the maritime industry.

We are also looking at working with the domestic industry, where those standards nominally are going to apply, at the human factors issue and issue of alertness of crew members and how to improve alertness and ensure that we deal with the human factors in that side as well.

I believe that given STCW, as it is called, with the '95 amendments and our existing authority in the work that we are doing with the industry to look at crew alertness and other factors in that area, that we have sufficient authority to deal with that part of the equation.

Mr. DEFAZIO. Yes. Again, I know more about aviation, where we have gone to strict mandates on crew duty time and those sorts of things. Fatigue, as we downsize the size of crews, is becoming a factor, particularly if ships are operating in difficult conditions or heavy weather and with the demands being placed upon the one or two people still on the ship. I am being a little bit facetious,——

Rear Admiral NORTH. Yes, sir.

Mr. DEFAZIO. —but it is not a lot better than that on some of these ships. And you think, then, that these are going to be effectively addressed by these international standards?

Rear Admiral NORTH. Yes, sir, I believe they are.

Mr. DEFAZIO. OK. Well, I am hopeful and will continue to monitor the undertaking there. I am particularly concerned about flags of convenience. In Amsterdam it was interesting to meet a person who was the new Liberia and a person who was Panama.

It just brought home to me the absurdity of this flag of convenience issue that these people essentially purchase lucrative franchises and then endeavor to market them. And to market them, obviously a lot of people don't want to have to meet these higher

standards. So I am hopeful that somehow we are going to deal effectively with that.

Obviously with the U.S. fleet, there are different issues.

Rear Admiral NORTH. That is right.

Mr. DEFAZIO. And that is primarily what we are looking at here.

Do you have any thoughts on the issue of bunker fuel. With freighters getting larger and larger and the potential for spills there, is this becoming somewhat catastrophic?

Rear Admiral NORTH. I will give you several thoughts. First, there is presently some work in IMO dealing with the liability issue in the Legal Committee, where there are some holes, so to speak, that need to be filled in the liability regime dealing with bunker fuel, no matter what type of vessel it comes from. So that is one avenue.

Second, if you look at the oil spill statistics, although one could say that bunker fuel, although statistically significant, is in the low end in terms of the source of spills, when you compare it to onshore pipelines, for example, or tank barges, as cargo ships grow and trade grows, we need to continue to look at what the risk is from that source.

And I think that as part of the larger spectrum of oil spill sources, as OPA 90 continues to move ahead and double hulls are implemented and the tank vessel spill rate hopefully continues to decline and the tank barge spill rate continues to decline as we work with the sources of those spills, what then becomes the principal source? And where is the risk? Where has the risk shifted? And what does that, then, tell us in terms of prevention measures?

So I think what is in order—and we are in the process of beginning that—is a risk assessment, as we look into the first quarter of the twenty-first century, of what do we see happening in terms of the sources of oil spills and the movement of the risk from one area to another, and what does that tell us in terms of prevention measures.

If we deem that bunker fuel, whether it is from a freight ship or a tanker, because tankers don't have protection to get on bunker fuel tanks either, if bunker fuel is now becoming a prominent source of spill or it looks to be, then one has to look at what preventive measures need to be developed and the cost-benefit of that and what response measures might be modified to deal with that as well.

So it is really a continuous effort to assess risk, to look at how it might be changing, and to adjust your strategy to deal with it accordingly, so as to stay ahead of the problem, rather than using reactive approaches, as we had to do with the EXXON VALDEZ.

So I see it as a risk. It may grow. All indications are that it probably will because of the growth in trade and the size of the ships. And we need to assess how much that risk is worth to us and deal with it in a way that is appropriate.

Mr. DEFAZIO. Thank you. Thank you, Admiral.

Mr. GILCHREST. Thank you, Mr. DeFazio.

Mr. Bateman?

Mr. BATEMAN. Thank you, Mr. Chairman.

Admiral North, if I have garnered your position correctly, it is substantially that you are pursuing and will continue to pursue

vigorously things which will prevent the kind of oil spills and damages to the environment that are the focus of our concern. And I commend you for that. And certainly I don't think there is anyone in the room who would suggest it should be otherwise.

Rear Admiral NORTH. Yes, sir.

Mr. BATEMAN. But at the end of the day, doing all that you can do there and assessing the risk, I also read you as saying that the Coast Guard will be more comfortable as more petroleum products are carried in double-hulled tankers, as opposed to continuance or extension of single hull tankers. Is that an accurate characterization?

Rear Admiral NORTH. Our assessment would be that that would reduce the risk to spillage. Yes, sir.

Mr. BATEMAN. Thank you.

Mr. GILCHREST. Thank you, Mr. Bateman.

Mr. Baird?

Mr. BAIRD. Thank you, Mr. Chairman.

I would like, Admiral, to return to the question of the bunker fuel.

Rear Admiral NORTH. Yes, sir.

Mr. BAIRD. Of course, with NEW CARISSA grounding off our coast, it is relevant to us.

Given the long—we have a long turnaround time, I guess, once we pass a law because we have got existing fleets. If a manufacturer is making a ship right now and is dealing with the issue of bunker fuel, are there any financial incentives for them to try to add to the safety of the bunker fuel protection?

Rear Admiral NORTH. I really couldn't answer that question, sir.

Mr. BAIRD. Do you envision that the Coast Guard will be undertaking some future study about the potential hazards of a bunker fuel spill and cost-benefits of that?

Rear Admiral NORTH. In looking at development of our business plan for the next five years, we are certainly considering the spectrum of sources of oil spills and what we need to do to deal with that. And certainly bunker fuel is a part of it.

If you make an assessment that there is a risk and you want to develop a risk abatement measure beyond what we have today, then in order to implement a new regulatory approach or otherwise, you would need to do a cost-benefit analysis and see what that tells you.

Mr. BAIRD. Let me go back, then, to a somewhat different subject. The Coast Guard, as I understand it, determined that a retrofit of an existing single hull tanker is not an acceptable alternative and that they need to be phased out. Is that accurate?

Rear Admiral NORTH. Retrofit of an existing single hull what?

Mr. BAIRD. Of an existing single hull tanker that you could put—as I understand it, it sounds like a retrofit to put an existing—retrofit it so it is effectively like a double hull.

Rear Admiral NORTH. Well, there is nothing to prohibit retrofitting a single hull tanker to a full double hull. And that would be acceptable so long as it met the double hull standard in terms of the spacing and the structural requirements, basically the regulatory standard and the IMO standard.

Mr. BAIRD. So that is an acceptable alternative?

Rear Admiral NORTH. That is what we had ruled out, adding a double side or a double bottom to get five more years at this point. We did not rule out a full double hull. That is in accordance with the regulation.

Mr. BAIRD. OK. That is the distinction I was after. Why did you rule out the double side or the double bottom?

Rear Admiral NORTH. Because we felt that it took a single-hulled vessel and extended its life beyond what the law had contemplated. And it was prudent to do it.

Mr. BAIRD. Was it deemed that that would provide inadequate protection or just that it was——

Rear Admiral NORTH. Well, the intent is to move ahead with the schedule for single hull replacement with double hulls, as provided for in OPA 90. And that would interfere with that placement schedule, as we saw the proposal. That is why we deemed that you were what you were as of the implementation of the law.

Mr. BAIRD. OK. Thank you very much.

Mr. GILCHREST. Thank you, Mr. Baird.

Mr. Coble?

Mr. COBLE. Thank you, Mr. Chairman. Admiral North, good to have you with us this morning.

Admiral North, one of your principal objections—strike that. It is my interpretation that one of your principal objections to double hull alternatives, such as the American under pressure system and the central ballast tanker, are that they are not passive systems; that is, that they require special operator actions to ensure safety. Now, am I correct so far?

Rear Admiral NORTH. That would be a concern of ours. Yes, sir.

Mr. COBLE. My follow-up question is: Does not the double hull fall into this same category in that special procedures would be required to safely load and off-load cargo from what would probably be a less stable design?

Rear Admiral NORTH. In the event of damage to the vessel?

Mr. COBLE. Sir?

Rear Admiral NORTH. In the event of damage to the vessel?

Mr. COBLE. Well, just generally.

Rear Admiral NORTH. The issue of stability for double hull vessels was addressed both by the Coast Guard and IMO some time ago. There were concerns early on about stability, and modifications were made to the structural requirements that we believe make stability of those vessels not a problem.

I also believe that when we take a look at the Ship Structure Committee study that we have chartered, that structural performance, including stability, will again be looked at.

So I would not agree, sir, with your statement in the sense that I don't see double hulls certainly in normal operations today taking any different care perhaps than many other tank vessel types.

The passivity comes into the fact that when your basic assumption is you are having an oil spill because a tanker is damaged and it is aground or it has been in a collision with another vessel or something of that sort, that if at that point one has to depend upon a power source were the crew to act when the crew might be trying to save their lives and that may be more important at that point

and you have a damaged vessel, the power source may not be operable and the crew may leave the ship.

So a passive approach, from our perspective, is preferred for that reason. We don't see other downsides to that in the process.

Mr. COBLE. Let me shift gears, Mr. Chairman.

Just for my information, Admiral, I have heard and read various reports, some inflated, some wildly inflated, some reflecting accuracy, I think, concerning the amount of oil that has been spilled since EXXON VALDEZ.

I am told that approximately 300 billion gallons of oil were consumed in the United States in 1997 and that the amount of oil spilled in United States waters from all sources was less than one percent. Can you refute or confirm that?

Rear Admiral NORTH. Well, if you took the oil spill compendium, which is a——

Mr. COBLE. Admiral, will you pull that—in my advancing age, I don't hear like I did years ago.

Rear Admiral NORTH. If you took the oil spill statistics since OPA 90 and you looked at the volume of all spills and you added it up, that would answer your question.

I believe that if you took a look at maritime sources, it is about 22. I think the answer is 22 million gallons, but I am not sure. I would have to do some arithmetic.

Mr. COBLE. Could you get that to me?

Rear Admiral NORTH. Yes, sir.

Mr. COBLE. I would like to know that.

Rear Admiral NORTH. Yes, sir.

Information received follows:]

> The data contained in the Coast Guard Headquarters Office of Marine Safety and Environmental Protection Business Plan from 1990 through 1998 indicates a total volume of 22 million gallons of oil spilled from regulated vessels and marine transportation related facilities. This figure excludes non-marine transport sources and non-regulated vessels (e.g., tank farms, pipelines, U.S. Navy vessels). There was one spill of more than 1 million gallons in 1990 (3.9 million gallons).

Mr. COBLE. Thank you, sir.

Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Coble.

Just one quick follow-up question, Admiral, that you may or may not be able to answer right now, but I thought I would ask it. Is there any way to predict the number of Jones Act vessels in this trade over the next 15 years that will still be in the trade?

Rear Admiral NORTH. Not by me.

Mr. GILCHREST. Thank you very much, Admiral. We enjoyed your testimony.

Rear Admiral NORTH. Thank you. I enjoyed being here, sir.

Mr. GILCHREST. Good to see you back in the States.

Rear Admiral NORTH. Likewise.

Mr. GILCHREST. Our next witness is Ms. Cynthia Brown, President, American Shipbuilding Association. Welcome, Ms. Brown.

Ms. BROWN. Thank you, Mr. Chairman. I am glad to see that you are well and back in the saddle, so to speak.

Mr. GILCHREST. Tiptop shape, thanks to Mr. DeFazio's recommendations.

It is good to have you here this morning, Ms. Brown, and we look forward to your testimony. You may begin.

TESTIMONY OF CYNTHIA L. BROWN, PRESIDENT, AMERICAN SHIPBUILDING ASSOCIATION

Ms. BROWN. Thank you very much for the opportunity to testify on the necessity of double hulls in preventing oil spills and the status of the replacement of the U.S. flag single hull fleet with double hull tankers.

The American Shipbuilding Association, or ASA for short, represents the six largest shipbuilders in the United States. They are: Bath Iron Works of Maine, Electric Boat of Connecticut, Newport News of Virginia, Ingalls Shipbuilding of Mississippi, Avondale Industries of Louisiana, and National Steel and Shipbuilding Company of California.

Just by way of description, these six shipbuilders, employ over 90 percent of all workers engaged in ship construction in the United States and they are the largest private employers in five states. We build large oceangoing double hull tankers amongst other commercial ships as well as all the Navy's capital ships.

In 1990, Congress mandated double hulls on all newly constructed oil tankers and specified a precise retirement date for all single-hulled tankers based on their age and weight at the time of enactment of the law.

American shipbuilders and environmentalists strongly supported the double hull mandate. This oil pollution prevention law is one example of where the interests of the environment and industry are joined. Although the shipbuilding industry benefits from the business of building double-hulled tankers, my industry is extremely proud of its record and commitment to protecting the environment.

We work closely with the Environmental Protection Agency. And we are the only major manufacturing industry in this country that has never sued EPA. Because of our commitment to building the safest ships and building them in a manner which is environmentally safe, ASA is registered as 'Partners in Pursuit of Pollution Prevention' under U.S. trademark law.

Double hulls have demonstrated time and again their effectiveness in preventing and minimizing oil spills. The technology is superior to any other, and it is proven.

In 1997, a barge collided with a double-hulled tanker in the Port of Lake Charles. Although the double-hulled tanker had a 400 square foot gash in its side, not one drop of her oil spilled.

In 1996, a double-hulled tanker off the coast of France ran aground. And although her outer hull was punctured in many places, none of her cargo was spilled.

Examples abound demonstrating the effectiveness of double hulls. And I have attached to my statement a list of various studies demonstrating the effectiveness of this technology.

It took the March 24th, 1989 catastrophic spill of the Exxon Valdez in Prince William Sound to move for new environmental law to be enacted in the transportation of our oil. In the aftermath of this tragedy, the late Congressman Dean Gallo from New Jersey and Congressman Bob Torricelli joined forces and sponsored an amendment on the floor mandating double hulls.

The day after the conferees were appointed on the oil pollution legislation, the single-hulled AMERICAN TRADER ran over her own anchor off the coast of Huntington Beach, California, spilling 400,000 gallons of oil. It was February 8th, 1990.

Later that year Congress acted to minimize and prevent future oil spills by mandating the phaseout of old single-hulled ships based on their age and weight and requiring that all ships have double hulls by 2015. Supporters of double hulls sought a 15-year phaseout. Opponents sought no phaseout or a very long phaseout.

Opponents argued that there was not enough shipbuilding capacity in the United States to replace the Jones Act fleet. U.S. shipbuilders responded with data showing that we could replace the entire Jones Act fleet at that time, which was 150 ships, within 8 years. A compromise was struck. It was a 25-year phaseout.

Almost immediately following enactment of OPA 90, some oil companies and tanker operators have sought to undermine the law. Some owners have creatively remeasured their ships by stating, for example, that the engine rooms or certain ballast tanks should not be measured to determine the weight of a tanker for its phaseout schedule since oil would not be carried in these spaces. Congress stopped this scheme in 1997 through the enactment of Congressman Frelinghuysen's amendment.

The latest effort to usurp the phaseout schedule involved a proposal by Exxon and others to segregate and not carry oil in their side ballast tanks under the premise that this would make that vessel a double-sided ship and it should then be granted an additional five years of operating life.

I would like to point out that these ships have already phased out under the OPA 90 schedule. In April, as the Coast Guard already mentioned, the Coast Guard ruled that this would be contrary to the letter and intent of OPA 90.

Certain companies, Mobil, Hvide Marine, American Heavy Lift, have demonstrated their commitment to the environment and to the law. Since OPA 90, these three companies have collectively taken delivery of ten double-hulled tankers built by ASA shipyards. And we are building three more today for ARCO.

These environmentally compliant companies are, however, being placed at a competitive disadvantage with other companies that are not replacing their fleets with new, safe, double-hulled tankers.

There are 66 U.S. flag tankers that will be phased out of service between now and 2015. The charts to my right and left—I don't know whether you can see them—show the phaseout schedule according to the best available data that we have.

The average age of the fleet is 25 years. Some of those tankers have reached 54 years of age. In comparison, the normal economic useful life of a tanker is 20 years. And these old tankers are the ones that pose the greatest risk to America's coastlines, marine environment, and wildlife, and should be replaced sooner, rather than later.

Since 1990, many of the shipyards that were building double-hulled tankers, or had the capability to build double-hulled tankers, have gone out of business or have been forced into ship repair only.

I would like to state, however, that there exists today more than sufficient shipbuilding capacity to replace the entire U.S. Jones Act fleet ahead of the OPA 90 phaseout schedule, but it is, as the Chairman mentioned in his opening remarks, up to the oil companies and tanker operators to place the orders for the double-hulled ships, and the clock is ticking.

As you can see by this chart, within the next two years if those orders are not placed, we are concerned that there may not be sufficient eligible tankers in the U.S. flag fleet to meet the U.S. oil transportation needs by the year 2005.

Some oil companies are purposely delaying replacing their ships, hoping that the shipbuilding industry will shrink even further. Their strategy includes waiting until the last minute to place an order, demanding an unachievable delivery date, and then using the shipbuilding industry's inability to meet that unrealistic schedule as an excuse for you, Congress, to give them relief from the law.

As the number of eligible tankers to meet our domestic oil transportation declines, Congress will come under increasing pressure to follow this strategy. Delay by the oil companies poses a greater risk to our environment.

The road to double hulls was long and overdue. In 1976, President Jimmy Carter then directed the Coast Guard to go before the IMO and make double hulls the international standard. It was Exxon then that led the campaign to defeat double hulls before the International Maritime Organization.

Ten years after the Exxon Valdez oil spill, Exxon has yet to introduce one double-hulled new tanker into the American fleet. Instead, it is seeking to bring back the single-hulled Valdez into Alaskan waters—this ship has been renamed the Mediterranean—and continues to seek waivers to the OPA 90 phaseout schedule.

Congress should not let them, or anyone, get away with it. There is no reason for any oil company to be allowed to usurp the most important pollution prevention measure of OPA 90.

You, Congress, can use your voice and your pen to publicly demand that these companies do what is right for America's environment and her citizens. I urge you to make these public calls today and every day until the entire fleet plying American waters is equipped with a double hull.

I also would recommend that the Coast Guard report to you on a regular basis the progress of tanker operators in replacing their single-hulled ships with double hulls.

Thank you very much, Mr. Chairman.

Mr. GILCHREST. Thank you, Ms. Brown.

I think you can be fairly assured that this Committee will follow the letter of the law in OPA 90, that anybody that wants to stretch that law or stretch the word of the law will not be successful.

We understand that smaller American shipyards are building double-hulled barges to replace product tankers phased out by OPA 90. Has your organization done any market analysis of the oil transportation industry that includes this development?

Ms. BROWN. Not specifically on that development. That has been a trend that has been underway for some years in certain trades. We have done a market analysis as far as what the replacement requirement for the single hull oceangoing fleet would be.

Of course, it would not be a one-for-one replacement. Our industry has anticipated that over the next 10 to 12 years, that a replacement of 40 40,000 deadweight ton equivalent tankers would replace the existing fleet that you see on this chart to my right and left.

Mr. GILCHREST. Has your organization—well, I guess you just explained your market analysis that focuses on the Jones Act tankers for the future. Now, you say you will probably replace about 44 of the 66 tankers. The 66 tankers that are single hull right now will be replaced by your market analysis by 44 double hull tankers?

Ms. BROWN. Forty.

Mr. GILCHREST. Forty?

Ms. BROWN. Forty, 40 tankers with equivalent of 40,000 deadweight tons. Yes, sir.

Mr. GILCHREST. Is there an estimate when that will be complete?

Ms. BROWN. That estimate is between now and ten years from now, so over the next ten-year period.

Mr. GILCHREST. Does your analysis show that there will continue to be a demand for those 40 double-hulled tankers?

Ms. BROWN. Yes, sir, it does because it takes into consideration the reduced demand for the transportation of oil in the coast-wise trade. For example, today there is equivalent, I believe, of about six million deadweight tons of tonnage to carry U.S. oil.

Now, all of those ships are not presently carrying oil, and there are market shifts and trends that will impact on demand. So the amount of tonnage that we would be talking about would be significantly less than the current existing amount of tonnage engaged in oil to take into consideration, reduced demand; for example, if there is reduced oil coming out of Alaska, et cetera.

Mr. GILCHREST. So are you assuming there will be reduced oil coming out of Alaska?

Ms. BROWN. There will be in the out-years if future oil exploration does not take place.

Mr. GILCHREST. So the number of U.S. tankers will go from 60-some to about 40. Will this have any impact on the marine transportation infrastructure as a whole, this reduction in U.S. tankers?

Ms. BROWN. Not any that I would know of, Mr. Chairman. No, sir.

Mr. GILCHREST. Will it have any impact on the defense readiness of the country or the delivery of oil to the Northeast or just the overall general infrastructure, going from 66 down to 44?

Ms. BROWN. Of course, in any market, you have trends to where one is flat at a time. All transportation today, for example, is not at its peak. It is low. It is depressed here in the United States.

There are other times depending on weather conditions, depending on the transportation of refined product and the trade routes, where there is greater demand for oil. So there are fluctuations.

We anticipate based on just the trend that we have seen over the last decade of reduction in the amount of oil demand on a regular, consistent, constant basis that there would not be a one-for-one replacement. That is not to say that there would not be the tonnage there to meet the U.S. transportation needs. It is a reflection of changes in the transportation patterns of our oil, the pipelines, other things.

Mr. GILCHREST. You say the reduction of oil demand?

Ms. BROWN. Well, there has been a drop in demand. There has also been a reduction in our tanker transportation of oil. This is in part due to the fact that we have had rather warm winters to date.

So there has been also a reduction in transportation of oil to the Northeast, yes.

Mr. GILCHREST. How many oil tankers have you—have many double-hulled tankers have you built up to this point?

Ms. BROWN. American shipbuilders, ASA shipbuilders, have built ten double-hulled tankers since OPA 90. And we are building three more today.

Mr. GILCHREST. Where are they being built?

Mr. GILCHREST. They are being built in Avondale Industries in Louisiana.

Mr. GILCHREST. I see. Well, my time is up. Thank you, Ms. Brown.

Mr. DeFazio?

Mr. DEFAZIO. Thank you, Mr. Chairman.

Ms. Brown, I was particularly concerned and interested in following the Chairman's line of questioning about capacity. I am trying to see when or if we hit the wall here, and that is not clear to me. Your statements about the oil companies purposely delaying replacement or significant reconstruction is in order to sort of force the issue and come to Congress and ask for some sort of an extension or delay I assume. What do you have to sort of document this?

Ms. BROWN. Let me also make it clear that it is not all.

Mr. DEFAZIO. Right. Well, I guess——

Ms. BROWN. We have those examples of very environmentally compliant and responsible companies and others. Primarily what we are doing, we get that from the pattern of behavior, so to speak, Congressman. If we look at—first of all, the efforts to have ships remeasured to have a different weight category deemed to those vessels to extend their phaseout, is one example of an effort, an intentional effort, to delay the phaseout of those ships.

The second is just the recent remeasuring or actually reconfiguration of old single hull tankers that had already indeed been phased out of schedule to try to bring them back if the Coast Guard would have granted such a waiver by segregating the side ballast tanks and thereby treating it as a double-sided ship.

So there are specific examples that make that assumption not just a mere assumption, but one could deduct a pattern of behavior. Also, there have been times to where companies put out on the street a solicitation to get bids on either doing a new forebody, which is quite acceptable,—it is the equivalent of new construction.

And then the company goes away, and you don't hear from them again for maybe several years, and then they go back on the street with the same proposal.

Yet, the date for those tankers to be phased out is rapidly approaching. And you do need lead time to build a new double-hulled ship in the United States, especially if it is based on a new design. If you are building a current design and you are just going to tack on additional ships onto that line, you don't need that much of a lead time. The companies know when those ships are going to be phased out, and some of them are waiting until the last minute.

Mr. DEFAZIO. Do you see those who are advocating alternative technology as being part of this same attempt?

Ms. BROWN. I think, Congressman, in all practicality, I think most people who are recommending other technologies do so really in a way to be complimentary to double hulls. I think that most of the community as a whole fully understands or appreciates that double hulls are far superior to any other technology available.

Mr. DEFAZIO. OK. Then you would see their efforts to be something that could be added to a double hull. Well, I think your concerns certainly should and have been heard by this Committee.

I just think back to one very bad precedent that was set. Actually, I think it was the Reagan administration on the subject of fleet fuel economy standards when Chrysler invested a whole lot of money in GM and Ford didn't. And then Chrysler was producing fuel-efficient cars at the time people didn't want to buy them. And GM and Ford didn't. Then they got to the deadline, and they got an extension. And so Chrysler was at that point put in a very difficult circumstance.

So just as one member of Congress I want to say that I stand by the deadlines that were set, and I really do not detect any, very few, members of Congress, maybe some in the far interior of the country but certainly none of the coastal members, who are willing to play Russian roulette with our national resources and extraordinary constituent concern and anger over spills by cutting them that kind of slack.

So I think if they are going down that path, they had better recalculate. And if they are going to be having a capacity problem because they are delaying, they had better get on the stick and start building or rebuilding. That is just a reflection on what you said.

Ms. BROWN. Thank you, Mr. DeFazio. We thank you for your leadership on this Committee and the Chairman for making sure that the environment and the law are abided by. Thank you.

Mr. DEFAZIO. Thank you.

Mr. GILCHREST. Thank you, Mr. DeFazio.

Mr. Bateman?

Mr. BATEMAN. Thank you, Mr. Chairman.

You mentioned, Ms. Brown, that a number of carriers had proposed remeasuring and various other devices as a means to avoid or evade the double hull requirements. They ultimately were rejected, were they not, these efforts?

Ms. BROWN. There were several remeasurements that took place before Congress took action to close that loophole.

Mr. BATEMAN. That one we had to close and did.

Ms. BROWN. Right.

Mr. BATEMAN. Others were tried which the Coast Guard has up until now ruled were unacceptable.

Ms. BROWN. Absolutely. The Coast Guard——

Mr. BATEMAN. Is there a problem with how long it takes to get a ruling on these efforts to avoid or evade the double hull requirements?

Ms. BROWN. I don't believe so. And I believe that what—quite frankly, with the Coast Guard's last ruling in April, I think the Coast Guard has made it very clear that exceptions such as these will not be approved.

Mr. BATEMAN. Well, you mentioned in your statement a number of companies that were doing a very good job of bringing themselves in position to be fully compliant. You make reference to the fact that some companies are not.

I think fair is fair, and maybe it would be fair and appropriate to identify some of the companies that appeared not to be putting themselves in a position to comply within the time that the law requires. Can you do that for the Committee, if not today, furnish it?

Ms. BROWN. And that is one of the reasons, Mr. Chairman, where I think that it would be helpful. We have put together our charts based on what we know, the owners of the tankers listed on this chart, and what their ages are and their phaseout dates.

We could do that. I think I would feel more comfortable with having the Coast Guard provide that specific data to make sure that our data, in fact, collaborates or is correct with the Coast Guard's assessment. And then certainly I would be happy to provide you with the names of companies that may be approaching their phaseout date and running very close.

Mr. BATEMAN. The object of my question is not to embarrass anyone. The object of my question is to make sure that we in the Congress have a feel for whether or not there is going to be the compliance that I think everyone that I know in the Congress feels like should be insisted upon.

Does the Coast Guard have the data by company and by the fleet of each company that participates in the trade?

Ms. BROWN. Yes, sir, Mr. Bateman. I have been advised by Admiral North that the Coast Guard does have that data, does know exactly the phaseout dates. I believe he mentioned that, and I am sure that the Coast Guard would be happy to provide that to you. And that would be a good track record.

Mr. BATEMAN. Mr. Chairman, I would suggest that we seek that information from the Coast Guard since apparently they have the data and it would be the official source that would give it the presumption of correctness that I think would be useful.

Mr. GILCHREST. Mr. Bateman, we will ask the Coast Guard for that information this afternoon.

Mr. BATEMAN. Thank you. That is all, Mr. Chairman. Thank you.

Mr. GILCHREST. Thank you, Mr. Bateman.

Mr. Baird?

Mr. BAIRD. Thank you, Mr. Chairman. Mr. Bateman actually asked the very question I was intending to ask. I, too, would be very interested in that.

Let me ask you a question. How long does it take, the time frame? Let us say I have got a ship that is coming up to its dead-

line and I am going to need to replace that. What is the time frame from inception to construction that I can reasonably expect?

Ms. BROWN. That is a very good question. If you are doing a new design and you are going to have as a shipbuilder to design that ship and get to detailed design, meaning that the design is at a mature stage to actually begin construction, you could be looking and, of course, then the size and the complexity of the ship, anywhere from two and a half to three years.

However, to give you another example, if you are currently building a tanker and you have used a design—and I will give the example of Newport News right now. The last double hull tanker that they delivered they built in less than a year.

So it is based on whether the individual shipbuilder has expertise in one design, has built several to tack them on, or how much time is spent in the detailed design area.

Mr. BAIRD. Now, let us say that there is a one-year—let us say somebody gets close to their deadline and they say, "All right. We don't have time to go with a new ship design. We are going to go with an old design." Would it be reasonable to expect a backlog? In other words, is there some point wherein those who have waited will just run into a waiting list and not be able to get replacement vessels?

Ms. BROWN. That could certainly be a potential problem. We hope it will not be, but it could be.

Mr. BAIRD. What in your experience and judgment do you think a company would do under those circumstances, a company that currently ships a fair bit of oil?

Ms. BROWN. Well, I believe if I were an oil company and I were shipping oil in my ships that I currently had or multiple vessel, was going to be phased out, and I had waited until the last minute, until the eleventh hour, to place an order and I couldn't get my ship delivered in the time before my other fleet went out, I would be back up here asking you for an extension.

Mr. BAIRD. I wouldn't be surprised to see that visit. You know, I——

Ms. BROWN. And I would blame it on that shipbuilder, too.

Mr. BAIRD. I was intrigued by the list of some of the companies you identified. And I am looking forward to the list Mr. Bateman requested and the Chairman assured us we will get.

As I drive by the gas pumps of these various companies, I don't see that much difference in price. Are the companies that have done the right thing under the law and are replacing on schedule just somehow eating that price?

You don't see the competitive advantage. What is behind that in your thoughts?

Ms. BROWN. Well, I am not in the oil-shipping business. So I am not an expert. But there are freight rates that are driven by what the market is. And that rate is what you as a tanker operator bring in on your daily hire.

The advantage for those who have not replaced their ships with new double-hulled tankers is the capital cost of their ships has already been amortized. So they have none of that cost versus the owner who has taken delivery of a new ship who has very high capital cost, which is normal. So that is the competitive advantage or

disadvantage that the environmental-compliant company is put under.

You do not see it in the reflection at the pump. And, actually, when the double hulls were debated, it was determined then by the industry that there is a variation of a 15 percent increase from single hull construction in cost over to double hull construction. And that would equate to less than a penny at the pump.

Mr. BAIRD. A penny a gallon?

Ms. BROWN. Right.

Mr. BAIRD. Thank you, Mr. Chairman.

Thank you, Ms. Brown.

Mr. GILCHREST. Thank you, Mr. Baird.

And thank you very much, Ms. Brown, for your——

Ms. BROWN. Thank you, Mr. Chairman.

Mr. GILCHREST. —for your testimony.

What we are going to do since the next panel will probably be an hour or more is to be somewhat—I mean, an hour from the time you get up here to the time you finish your testimony and have all of the questions, it will be about an hour. So we are going to have a humane ten-minute break so you can get a glass of water or use the restroom. We will be back in ten minutes.

[Recess.]

Mr. GILCHREST. The subcommittee will come to order.

Panel number four. We have Dr. Alan Brown, Professor of Aerospace and Ocean Engineering at Virginia Polytechnic Institute; Dr. Hauke D. Kite-Powell, Research Specialist, Marine Policy Center, Woods Hole Oceanographic Institute.

I hope I did not butcher your name too badly, sir.

And Steve Hillyard, Manager of Government and Public Affairs, Chevron Shipping Company, representing American Petroleum Institute.

Gentleman, it is a pleasure to have you here this afternoon. We look forward to your testimony.

And Dr. Brown, you may go first.

TESTIMONY OF DR. ALAN BROWN, PROFESSOR OF AEROSPACE AND OCEAN ENGINEERING, VIRGINIA POLYTECHNIC INSTITUTE; DR. HAUKE L. KITE-POWELL, RESEARCH SPECIALIST, MARINE POLICY CENTER, WOODS HOLE OCEANOGRAPHIC INSTITUTE; STEVEN HILLYARD, MANAGER OF GOVERNMENT AND PUBLIC AFFAIRS, CHEVRON SHIPPING CO., ON BEHALF OF THE AMERICAN PETROLEUM INSTITUTE

Mr. BROWN. Chairman Gilchrest, honorable members of the subcommittee, it is a pleasure and my first opportunity to speak, and I appreciate the invitation very much.

I would like to make a few brief points or a few comments. I would refer you to the written testimony for the technical details. I am going to try to avoid that a little bit, if I can.

First point, performance standards provide design flexibility necessary for the application of new technologies, innovation and cost effective optimization. But performance standards must be effective and complete without loopholes.

The development of performance standards really does give a ship designer the flexibility to do things that we cannot do under the constraint of specific, prescriptive standards.

As new technologies are generated, as the economics of shipbuilding changes and issues related to costs of operation and other things change, performance standards can give you the flexibility to adapt to that so that the industry sort of automatically finds the most cost effective types of alternatives and responses to changing economic and technology types of conditions.

The real difficulty with performance standards is that they do not just represent a threshold or a level of a requirement, but you have to include in a performance standards methodologies for evaluating performance of different alternatives, and then you compare that evaluated performance to the defined thresholds.

And that is the difficult part of the process that can have loopholes, can have limitations in scope if you are not able to sort of up front imagine the different possibilities that ultimately might need to be evaluated.

So there is a certain risk and a certain difficulty in putting together a performance standard that really does not exist when you are building a prescriptive rule-based standard, and you have to be careful about that.

Although there is probably a difference of opinion on this, but one of the real positive things that came out of the U.S.'s unilateral action requiring double hull was a performance standard that was generated at IMO in response to the U.S.'s position, IMO wanting to propose something that went beyond the position that was taken by the U.S.

As a result, they created these guidelines which were really the first methodology for evaluating outflow performance of tankers. Two significant issues with that methodology though remain. First, because we didn't have the technology at the time to evaluate it and still are developing it and do not, they just prescribed an extent of damage that is used in this analysis that is the same for all ships regardless of their structural design.

Same size hull is the bottom line. And then based on the size of this standard, probablistic hull, then we calculate oil outflow from that point on. What this fails to do—and the standard was based primarily on single hull data.

So what that fails to do is it fails to take into consideration the additional crashworthiness that a particular structural design might have. And in particular, double hulls are, among the different alternatives that we know of today, particularly crashworthy structural designs.

So when you make comparisons between different alternatives, the present regulation does not give any advantage or benefit to crashworthiness, and that is a very important weakness that exists because we still do not have a really good method to do that calculation.

The second thing in the existing performance standard from IMO is the metric for measuring performance. Because there were two alternatives that IMO sort of wanted to bless—one was an intermediate oil type deck and the other was double hull—they formulated an environmental index that basically made those two alternatives equal, but it has not had any real basis fundamentally in risk analysis.

So those are the two problems with what is a very good start in terms of having a performance standard. We have been doing analysis looking at crashworthiness for a number of years. And although not quite ready, certainly the double hull, as we get better at analysis, looks better and better.

When you consider the crashworthiness of the double hull and not just the subdivision of a double hull, it really is able to resist damage and reduce outflow from that point of the calculation.

So, the bottom line and the action that I would like to recommend and ask to Congress would be that we should continue to support the development of performance standards because they really are, in the final analysis, the way that we should evaluate alternatives—cost effective alternatives.

But until the time that we have that, I really feel that the double hull alternative, which we have unilaterally prescribed, is an excellent standard, prescriptive standard, and does provide protection which, as we become better at our analysis, that continues to look better and better relative to other alternatives.

And I think the double hull, as we define a performance standard, could become sort of the yardstick for setting the level of risk or safety within the definition of the performance standard as we develop it.

That is the end. I am happy to answer any questions.

Mr. GILCHREST. Thank you very much, Dr. Brown.

Next, Dr. Kite-Powell?

Mr. KITE-POWELL. Kite-Powell, yes.

Mr. GILCHREST. Kite-Powell.

Mr. KITE-POWELL. Thank you, Mr. Chairman,——

Mr. GILCHREST. Yes, sir.

Mr. KITE-POWELL. —for the opportunity to testify here today.

My name is Hauke Kite-Powell. I'm a researcher at the Marine Policy Center of the Woods Hole Oceanographic Institution. The Marine Policy Center applies economics and other scientific disciplines to policy problems involving the human use of the oceans.

With my colleagues at Woods Hole and elsewhere, I have worked for several years now on risk factors in maritime transport and on economically efficient means to reduce these risks. I will speak briefly today about some work we did on the economics of modern navigation systems and their potential to reduce environmental damage from ship accidents.

First, let me say that marine transportation system, in my view, and the accidents it produces are complex systems that we cannot model with complete accuracy. So in discussing policies to govern these systems, we always have to deal with uncertainty with what statisticians call random events and with probabilities.

It is not possible to predict exactly how these systems will respond to policy measures like double hulls, but it is possible to construct models that predict, with some accuracy, the probability of accidents and expected damage costs in the future.

In 1996, my colleagues and I developed one such model to compare the cost effectiveness of three technologies designed to prevent accidents or reduce their consequences: double hulls; vessel traffic

service, or VTS, systems; and computerized, onboard navigation systems, which I'll refer to simply as electronic charts.

Our model suggests that if accident rates remain roughly at constant levels from the 1980's, we can expect more than 10,000 groundings, collisions and rammings involving commercial vessels in U.S. waters over the next decade.

Most of these will be relatively minor incidents, of course, but many have the potential for serious consequences. The average expected economic losses associated with these casualties we estimate to be on the order of $2 billion dollars per year to the nation.

More than one-third of these casualties are what I call navigational in nature. That is, they result from a navigation failure and not from some structural or mechanical failure. And as such, they are potentially preventable with better navigation tools like electronic charts.

Even at a moderate—a conservative level of effectiveness, our model indicates that electronic charts could help avoid more than 2,000 accidents in U.S. waters over the next decade. And because of their relatively low cost, electronic charts produce benefit cost ratios that range from five to seven, and that compares quite favorably with, for example, the benefit cost ratios estimated for VTS systems, which run around four, and the benefit cost ratios—economic benefit cost ratios of double hulls, which have been estimated to be on the order of one for tankers in the Alaska trade and which are probably less than one for tankers in U.S. waters generally.

In conclusion, I want to emphasize that I do not think double hulls are a bad idea. I think though that they are probably not the most cost effective way to achieve our goal of safer marine transport.

In the interest of economic efficiency, I believe we should give greater priority than we have in the past to improving our navigation infrastructure, and particularly to providing the official databases needed for the complete use of electronic chart systems.

Responsible oil transport operators that I am aware of have been pushing for improved navigation systems for years, and I am sure they know better than any model I can build how to improve the safety of marine oil transport.

That concludes my prepared statement. Thank you again for the opportunity to testify.

Mr. GILCHREST. Thank you, Dr. Kite-Powell.

Mr. Hillyard.

Mr. HILLYARD. Thank you, Mr. Chairman and members.

My name is Steve Hillyard. I am Manager of Government and Public Affairs for Chevron Shipping Company. Chevron operates 36 oil tankers throughout the world, and we have a similar number of third party tankers under charter at any particular time moving Chevron oil.

Today I am testifying on behalf of the American Petroleum Institute. API is a national trade association representing 400 companies involved in the petroleum industry. Of course, OPA'90 has had a profound effect on API members.

This law, along with the Coast Guard's regulatory and enforcement activities and the industry's commitment to change, have produced an outstanding environmental record. There have been no large oil spills from tankers in the U.S. since 1990.

Moreover, since 1990, the total amount of oil spilled from tankers has decreased dramatically. My written testimony contains a chart showing this record.

But this hearing is about OPA'90's marine tanker requirements. The single hull phase out and double hull provisions of OPA'90 have significantly changed the industry both here and abroad. Following U.S. lead, the international community adopted similar requirements.

Industry is complying with the letter and the spirit of these laws and the fleet is converting to double hulls. According to the International Association of Independent Tanker Owners, 27% of the fleet has double hulls now, and over 50% will have double hulls by 2002.

Last week, Chevron christened another tanker, which brings to 13 the number of double hull tankers in our fleet. This new tanker is the third in a series of four very large crude carriers that will transport crude oil to Chevron's refineries in Mississippi and California.

Mobil, BP Amoco, Shell, Conoco, Texaco, Eviti, Keystone, Maritrends, OMI, Ocean Ship Holders are among the API members that now operate double hull vessels. In America, as you have heard, ARCO is constructing three new crude carriers in Avondale Shipyard in New Orleans.

These are specifically designed to carry Alaskan crude oil. These ships will be delivered in 2000, 2001 and 2002. ARCO, it has not been mentioned, but I believe also has options for two additional tankers in that series.

A fleet of 23 Jones Act tankers currently transports ANS crude oil to the lower 48 states and Hawaii. Three have double hulls. Three more double hulls will be added by the ARCO new buildings.

At the same time, according to the Alaska Department of Natural Resources, production of ANS crude oil is expected to decline. Assuming the Alaska forecast is accurate, the total number of Jones Act tankers dedicated to the ANS trade will likely decline.

Therefore, even with the single hull vessels phasing out, the capacity of the fleet should remain roughly in balance with requirements until the middle of next decade. At that time, additional new tankers may be needed.

This assumes continued current utilization of new and existing tankers and planned new oil production in Alaska. In the south, about 55 product tankers move oil from the Gulf of Mexico to the Atlantic coast.

Nineteen of these are double hulls. However, tankers have moved less Gulf production since 1980 due to the increased use of pipelines, product imports from the Caribbean, and the increased use of tank barges in the coastal trade.

This product tanker trade will remain under tremendous competitive pressure. When Congress enacted OPA'90, it recognized that double hull transition must occur in an orderly fashion and without a condemnation of substantial investments many ship owners had in the existing tanker fleet.

This was a risk-based decision that balanced economic and supply chain considerations with the oil spill risk reduction potential of double hulls. Two reports by the National Research Council reaffirmed that double hulls, when properly designed, can significantly reduce oil outflow after an incident.

However, hull design alone is not the entire answer. As Admiral North mentioned, more important than hull design are good fleet management, proper maintenance and correct navigational decisions. This fact is demonstrated by the dramatic reduction in oil spills during this period of a gradual transition to double hulls.

In conclusion, over the past ten years, the oil and tanker industries have demonstrated that they can safely supply America with petroleum. This oil fuels our transportation systems, heats our homes, powers our industry and contributes substantially to America's high standard of living.

By the year 2015, the tanker fleet colony in the United States will be double hulled and no additional action by Congress is necessary to ensure that conversion takes place.

Thank you.

Mr. GILCHREST. Thank you very much, Mr. Hillyard.

Dr. Brown,——

Mr. BROWN. Yes, sir.

Mr. GILCHREST. —your comments about performance standards and prescriptive standards were intriguing in that you had—or you mentioned you had two criticisms of the performance standards from IMO.

We are looking in this committee to determine the safest way to transport oil, and the conclusion up to this point basically is that vessels entering U.S. waters should have double hulls. By the year 2015, everybody should have double hulls.

And yet, there is—I do not think the U.S. has ever been a country that has never sought a strong sense of curiosity to assume new knowledge to make things relentlessly better. I am trying to understand your recommendation.

As far as the prescriptive standards of double hull, you are saying at this point is the best way to go in lieu of an alternative performance standard that might improve on double hulls. So, at some point in the future, I would guess that whether it be 2015—well, maybe I will put it this way.

I assume that you are recommending that we continue to look at alternatives to double hulls to improve maybe, in fact, on the double hulls after they are in effect, or at some point find some alternative to double hulls, in certain conditions use a single skin tanker?

Mr. BROWN. I think a very healthy thing has happened as a result of IMO following up on OPA'90. The U.S. has continued to be very much engaged in the process. The chairman of the working group, and I have been involved in it as well, are right in the middle of working on and improving IMO's performance standard for evaluating oil—probablistic oil outflow performance of different vessels.

At the same time, the U.S. has maintained that until we have the capability to do that well and fairly and with some confidence about the results of our performance analysis, that we feel that the double hull alternative is an excellent alternative that protects our interest, protects our waters until such time as we have the technological ability to evaluate fairly and accurately other alternatives.

So the U.S. is very much engaged in that, which is terrific. Even though we have taken exception to the regulation that is actually looking at that, we're very much engaged in improving it.

Mr. GILCHREST. Who is engaged in improving those performance standards?

Mr. BROWN. Keith Mitchel, who is Herbert Engineering Corporation, is the chairman of the working group at IMO that is attempting to harmonize and incorporate the probablistic methodology into the entirety of the IMO double hull regulation—oil outflow regulations.

And I have been participating on that working group as well for the last five meetings of that working group, too. So both of us are very much involved in that, supporting the Coast Guard and the United States.

Mr. GILCHREST. Well, I think there was some—depending on which side of the fence you sit, there was some concern, at least some academic concern, that there was no further research or development in improving oil transport because we had double hulls and there was no other alternative or addition to being considered.

So what you just described——

Mr. BROWN. There are a few things that are happening. The Ship Structures Committee, which Admiral North mentioned, Society of Naval Architects both have committees, working groups and a small amount of funding that are working on improving those performance standards.

And now the Marine Board has convened another study specifically to look at those deficiencies that I mentioned in terms of improving and going in the right direction relative to performance standards.

So there are some—definitely some good things happening in the area. Slowly. Can always use more research support.

Mr. GILCHREST. That is hardly news.

Mr. BROWN. But we are headed in the right direction, I believe.

Mr. GILCHREST. Dr. Powell, you mentioned in your—and I hope it was all right if I quoted you earlier to Admiral North. But you did mention in your testimony that based on your criteria of cost benefit analysis, that both EC, INS and VTS appear clearly superior on this criterion to double hulls.

And I guess you feel that way at this particular point. Would you agree with Dr. Brown's analysis that we ought to—that we should stick strongly with double hulls until there is some other newly performance standard where there is no loopholes?

It seems, at least in part, your testimony suggested that in the complex issue of transporting hazardous material on the many circumstances, the cost benefit analysis shows double hulls as not the—not always the right thing to do.

Mr. KITE-POWELL. I think it is not always the most cost effective thing to do. Double hulls buy you a different kind of insurance than the other technologies that I investigated. Electronic charts and VTS are designed to keep ships from having accidents in the first place.

They will not do anything for you if the accident happens anyway. So it is a fundamentally different target there, in a way, than there is in the double hull or the alternatives to double hulls that Professor Brown was talking about.

I would agree with his assessment for design issues, that double hulls, in the absence of a better performance standard, a better way of evaluating alternatives, that double hulls are the safest way to go at present.

But I think that from a larger perspective, we are missing an opportunity by not taking full advantage of some of the other ways we have available to us to keep ships from having the accidents in the first place.

Mr. GILCHREST. I see.

Last question. Dr. Brown, have you—or would it be helpful to take Dr. Powell's analysis into consideration?

Mr. BROWN. We were both at MIT together for a period of time. We are old friends and colleagues. And to some extent, I have worked a little bit in the area that he is working on.

The issue of risk is difficult because it is the product of the probability of occurrence of an accident and then the consequence of the two. And it is not always as simple when you are looking to take care of the public good just to really reduce risk.

Because sometimes for these low probability, high consequence events, I think the custom—the public's interest may be that that high consequence event cannot be of extremely high consequence.

And what the double hull does is it effectively reduces the consequence even though it may not be the most cost effective overall methodology for reducing risk. And I think that the Marine Board—and it is addressing this metric issue as one of the issues.

And one of the things they are going to have to grapple with is how do you measure risk. And then once you are able to quantify it, is that the best way to determine cost effectiveness? Should risk be your definition of effectiveness for which you trade off cost?

That is not a simple issue in the public arena, I do not think.

Mr. GILCHREST. Thank you very much.

Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Just, sir, following up on that, I have got to express some concerns about applying the cost effectiveness measure here. I have long had concerns about the application with the Federal Aviation Administration where they place a value on a life.

Well, of course, it is not their own life. And when we are talking about accidents and when I have asked the administrators, I say well, I understand your concerns about promulgating this rule because your standard for the value of a life, but what if it was your life?

And of course they have a different standard. And again, if we are looking at the public good or an external dichotomy, whatever we are going to call it, the fact is I think these two things are complementary, but I do not think we should, in any way, be looking at them as mutually exclusive.

That is really where I am headed. So in that spirit, I would like to know, Dr. Powell, if you have looked at what is being proposed by the Coast Guard for the transponder-based automated information system and how that would fit into some of the work you have done here. What benefits that might provide?

Mr. KITE-POWELL. I am aware of that work. At the time when we did this study which I spoke about here, we did not include that as one of the alternatives that we explicitly investigated.

My sense is that what that will do is improve the effectiveness of a hypothetical computer navigation system in helping ships avoid collisions as well as groundings because they will have a better sense of where they are and where they will be in relation to other vessels.

So I think it is a development in the right direction.

Mr. DEFAZIO. Great.

Again, this is a concern I raised in my opening remarks. I am curious about work that you might be aware of, or if there is any work being done particularly in the design side that goes to the concerns I raised about freighters and the potential magnitude of spills with freighters getting larger and larger as they carry more and more fuel as they become larger.

Mr. BROWN. A nice thing about—if we had a performance standard, the good thing about a performance standard is we could apply it also to alternatives that are not necessarily tankers and cargo ships to really quantify and assess the relative risk and hopefully require the same level of risk for bunker and fuel type carriage, as well as cargo type carriage.

So that is a nice thing about performance standards is it does allow you to apply those calculation methodologies to alternative applications, and from that gain insight possibly into how—what the relative risks of the two alternatives are and whether or not regulation in regard to bunker would be worthwhile.

And, to some extent, we could do that today as well. At least apply performance methodologies as we have them today to analyze that case. So there may be some connection between the performance standards and that alternative application.

Mr. DEFAZIO. OK.

Mr. BROWN. Might shed some light.

Mr. DEFAZIO. Great, OK.

I have no further questions, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. DeFazio.

I have just one quick follow up question to Mr. Hillyard. In your testimony, Mr. Hillyard, you said that, if I read it correctly, that a double hull—if the Exxon Valdez were a double hull, it would not have materially reduced the amount of oil that was spilled. Can you make a further comment on that?

Mr. HILLYARD. Yes, sir. I guess it—I will have to get technical where that is not my particular expertise. But it was such a high impact grounding that the stubble hull would, of course, been opened up and probably the internal hull would have been opened up as well.

But the—what happens is, is that in one of these kinds of heavy—or high impact groundings is that the buoyancy that is provided by the double hull is eliminated by the grounding, and therefore the vessel could sink down harder onto the ground making it more difficult to take it off.

Mr. GILCHREST. Can anybody on the panel suggest even if—let us say were a double hull, was there something else on the ship that could have reduced the spillage?

Mr. BROWN. Do you want to address the double hull question first?

Mr. GILCHREST. Yes, sure.

Mr. BROWN. If you apply today's performance methodology as we have it in IMO, for instance, it does not appear that a double hull would have made a difference.

But I think that—and as we go further with our development of a performance standard, if you can properly consider the additional crashworthiness, energy absorption of a double hull structure versus the single hull structure, that that very well may have made a difference in Exxon Valdez.

And I——

Mr. GILCHREST. So a double hull structure may have made a difference?

Mr. BROWN. I believe that a double hull structure may have made a different in Exxon Valdez. And we are getting very close now to being able to properly consider the additional crashworthiness that results from a double hull structure.

Mr. GILCHREST. So you are saying that there may have been less oil spilled if it were a double hull?

Mr. BROWN. All the analysis done today pretty much assumes that the damage penetrated to the same distance that it would in a single hull ship in the double hull ship. And then they evaluated what the outflow would be. And in that case, there does not seem to be a whole lot of improvement that you would have derived from a double hull.

But had the damage not been as extensive as a result of the additional energy absorption of the double hull structure, that could have substantially reduced the overall extent of outflow.

So double hull gives you sort of a two—it gives you an excellent barrier in the case of low energy damage. Where if you just break through that outer skin, you do not lose any oil. The probability of zero outflow is high.

But it also—and heretofore, we have not assigned this advantage. It gives a second advantage which is the energy absorption capability of a double hull which can also reduce that extent of damage, and therefore reduce the overall outflow as well.

So I am not quite prepared to make that statement about Exxon Valdez. And I think in a year or so that would be a—for everybody's illumination an excellent case study to do——

Mr. GILCHREST. Thank you very much.

Mr. BROWN. —is to evaluate that.

Mr. GILCHREST. Just a quick one now.

Dr. Powell, if there had been electronic charting on the Exxon Valdez, given the human factor, and I know you cannot get inside—you know, wave your magic wand and see inside somebody's neurons. But given your discussion of electronic charting and integrated navigational systems and those kinds of things, if that had been present on the bridge, do you think that would have made a difference, the human factor, the fewer number of crew?

Mr. KITE-POWELL. I think it would have. And I think most people who have looked at electronic charts consider the Exxon Valdez grounding sort of a classic example of the kind of accident that can be avoided with a better navigation system.

There was a failure of the crew to recognize where the ship was and where it was heading. And this is the kind of thing that can be detected by a computerized navigation system and appropriate warnings issued and so on.

So I think the answer is very much yes.

Mr. GILCHREST. Thank you very much.

Gentlemen, we appreciate your testimony. It has been very helpful to us this afternoon. We have—I have—I think many of us have numerous follow up questions, and what we would like to do in the coming weeks is to either engage you by phone, fax, e-mail, letter, all those modern electronic things.

Gentlemen, thank you very much. Your testimony has been very helpful.

Our next panel, Panel V, is Captain Edward Roe, a Director of Marine Safety Systems, Inc., accompanied by Carr Chambliss, Vice President and Director, Marine Safety Systems, Inc.; and Mr. Mo Husain, President, MH Systems, Inc.

Gentlemen, thank you for coming this afternoon.

TESTIMONY OF CAPTAIN EDWARD K. ROE (USCG, ret.), DIRECTOR, MARINE SAFETY SYSTEMS, INC. ACCOMPANIED BY CARR CHAMBLISS, VICE PRESIDENT AND DIRECTOR, MARINE SAFETY SYSTEMS, INC.; MO HUSAIN, PRESIDENT, MH SYSTEMS, INC.

Capt. ROE. Mr. Chairman, committee members, thank you for the opportunity to come before the subcommittee today. Clearly, the Oil Pollution Act of 1990 requires that after a certain date, only tankers constructed with double hulls will be allowed to operate in U.S. waters.

Acceptance of any other design requires the approval of Congress. The double hull design is easily understood. It is popular for its simplicity. In principle, no argument can be posed that would be contrary to the very specific requirements of OPA'90.

Why? Because however faulty people may think that approach is, OPA'90 does provide, in principle, for bringing designs forward that would allow an equivalent or even superior degree of protection for the environment.

Until very recently, all work had stopped on consideration of any methodology for evaluating alternative designs. At IMO, guidelines were developed that were supposed to provide a probabilistic approach to comparing all alternate designs to the double hull.

Through the process of negotiation involving representatives of the 60 or more governments, the guidelines were skewed to allow one particular existing design to be acceptable. I suspect this agreement also was intended as a signal to the U.S. that our foreign colleagues were not to be bullied backlash.

The U.S., of course, could not accept the IMO guidelines even though members of the U.S. delegation to IMO participated in their development. Domestically, the U.S. Coast Guard, in good faith, took the meaning of OPA'90 literally.

Only vessels fitted with double hulls would be allowed to operate in U.S. waters. They often justify their approach by quoting the national goal stated in the Clean Water Act, "no discharge of oil into the waters of the United States."

For that reason, they established a zero discharge policy. The double hull reportedly satisfies that policy because the vast majority of spills caused by tankers in U.S. waters are minor in nature.

As you are no doubt aware by now, two alternative designs have been approved by IMO using the guidelines approved by that body. Marine Safety Systems also has an alternative that, in concept, meets the IMO criteria. It has an oil outflow index greater than one. However, a ship is unlikely to be built to any alternate standard because it cannot operate in U.S. waters, the largest tanker market in the world. Our conceptual design cannot be accepted because there is no mechanism in the U.S. for evaluating tanker designs, no mechanism for implementing the provisions of OPA'90.

As it stands now, Naval architects and other related disciplines have no incentive to put the time or effort into new, innovative designs. You no doubt will hear from builders today who are totally committed to selling only that design which is approved, the double hull design.

Predictably, they are interested in maintaining the status quo. Owners and operators of tankers must take the only path they know open to them. Government takes a position that there is nothing more needed until such time as the law is amended.

The path we have taken as a nation with the adoption of the double hull standard is not a bad one. After many years of trying to tighten the standards for the design and construction of tank vessels both internationally and domestically, we took the decision in 1990 to act alone in order to protect our vast marine resources.

After taking such a giant step forward, we stopped all forward progress. It is simply not logical that we should rest on the accomplishments of the 1990 Act and not show any progressive interest in newer, innovative designs.

Until very recently, that is exactly the posture we had adopted. We should constantly be looking for designs which might provide a greater level of protection than the one we have adopted as the standard.

Recently we were honored to be invited to make a presentation to the first meeting of the new National Academy of Science Marine Board Committee on Evaluating Alternate Tanker Designs. Need for such a committee was called for in the Coast Guard Authorization Act of 1998.

The stated purpose of the committee is to establish an equivalency evaluation procedure that maintains a high standard of environmental protection while encouraging innovative ship design. We were privileged to sit through the first day of presentations and deliberation of the committee.

Several things impressed us favorably. The makeup of the committee is remarkable. Well known and highly respected members from industry, classification societies, engineering firms, academia and other related disciplines have volunteered their valuable time over the next 18 months to participate in consideration of the problem before them.

They seem determined to develop a way forward. Not to get around the law as written, but to recommend a methodology by which all tanker designs can be measured. If what we heard is true, I believe a solution may be at hand for the U.S. that gets us around the dilemma of having no incentive to make further progress in designs that would minimize oil spills from tankers.

Certainly the opportunity we have been seeking is before us. We came away from the committee meeting with the positive impression that whatever they develop will be fair and based on good science.

We at Marine Safety Systems believe that we have developed a conceptual design that may be worthy of further consideration. We have every intention of continuing our work to prove its relative value. All we would ask is that a methodology be developed in the United States that would allow us to test our approach with the idea that ultimately it might be adopted both in the United States and internationally.

Finally, in the end, if we should agree that the National Academy of Science truly has developed a useful methodology for evaluating alternate designs in the U.S., then I believe we have an obligation in good faith to work with IMO for its final adoption.

In that respect, the U.S. would, once again, show its leadership in solving maritime problems that are global in nature.

Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Captain Roe.

Mr. Husain.

Mr. HUSAIN. Mr. Chairman and members of the subcommittee, I would like to thank you for inviting me to this hearing. I am Mo Husain, a Naval architect and President of MH Systems in San Diego, California.

I am the inventor of the American under pressure system, a system that can be retrofitted to selected, existing tankers to reduce or eliminate oil spills. The American under pressure system is a dynamic system which creates a slight vacuum, two to four pounds per square inch, in each cargo tank.

This vacuum, assisted by the outside hydrostatic pressure of the surrounding water, prevents or minimizes cargo loss in the event of hull rupture. In case of a bottom rupture caused by grounding, nearly all of the cargo can be protected.

In the case of side hull damage, cargo below the level of the damage will be lost, while cargo above the damage level will be protected. Using mean or average fractional cargo loss per incident as a figure of merit, the under pressure system is roughly equivalent in effectiveness to the double hull and to other arrangements that have been proposed.

It can be retrofitted to many existing tankers at a small fraction of the cost of new construction and requires only a small out of service time to install and test. In addition, this system might be profitably considered for use as an enhancements to double hull vessels or as a cargo loss prevention measure in tank vessels or barges operating in inland waterways.

The Oil Pollution Act of 1990 specifically provides for research, development and demonstration of new technologies which promise to protect the environment by preventing or reducing oil discharges

and refer specifically to entering measures for the protection of the current fleet.

MH Systems initiated the development of the American under pressure system in 1990, but has been unable to implement it because it requires additional rule making by the Coast Guard. Coast Guard has required that certain tests to be conducted to provide a basis for formulating appropriate regulations.

The test called for in the legislation represents the third attempt by the Congress to secure completion of the required test program so that the capabilities of the system can be properly evaluated and the necessary regulation can be drawn up.

In the most recent action, the Defense Appropriation Act, PL 105262 in September 1998, provided $2.4 million dollars, and I quote, "to complete testing of the potential interim solution to remediate potential damage resulting from oil spills from existing tank vessels such as the American under pressure system. The conferees believe that this system may have significant defense applications and may also provide environmental safeguards for tank vessels," end of quote.

We believe that the American under pressure system will significantly minimize pollution from the accidental spillage of oil from existing tankers until they are phased out under open deadline of 2015.

We are grateful for this opportunity provided by the recent legislation to complete the final phase of the test of the American under pressure system, and we welcome and seek the support of this committee in our endeavor.

Finally, in response to Chairman Gilchrest's opening statement about minimal safety standards and his desire to raise the bar, I would submit that our technology, combined with double hulls, will drastically increase the effectiveness of oil spill prevention.

Second, in response to concerns about bunker fuel, I want to point out that our technology could easily be adapted to bunker fuel tanks, thus providing oil spill prevention to vessels not required to double hulls.

Thank you, Mr. Chairman and members of the committee. I look forward to your questions.

Mr. GILCHREST. Thank you, Mr. Husain.

I guess my first question would be to both or all three of you. Dr. Brown made a comment in his earlier testimony about performance standards and that, in the IMO performance standards that exist at this moment, he showed two loopholes or two discrepancies in their performance standards that he felt needed to be improved.

I think I got the understanding that Dr. Brown preferred performance standards to prescriptive standards. But the loopholes he described in the IMO performance standards, can you comment on that in light of your alternatives or additions to double hulls?

Mr. HUSAIN. You're directing the question to me, sir?

Mr. GILCHREST. Whoever wants to answer it.

Mr. HUSAIN. OK, to start out with, I will make a generalized comment about the standards. If we think that the environmental damage is proportional to the oil spill, then I would say the fractional cargo loss of mean average is the best standard.

The probability of zero outflow—that means a vessel would not ever outflow—the probability of that is unrealistic. And although it does have a meaning in academic community, I understand that, but it also places the emphasis of a gallon of oil spill is equal to the same type of emphasis placed in the Exxon Valdez accident.

Mr. GILCHREST. I think what I—to clarify that a little bit, one of the loopholes he saw in the IMO performance standard was the model or methodology used as far as the type of crash that would be incurred and how much oil would be spilled using some of the alternative methods of double hulls.

So is there a comment on that specific loophole that Dr. Brown saw in the performance standards of IMO? You don't necessarily have to have an argument with that because maybe your method of preventing oil spills used a variety of scenarios.

Mr. HUSAIN. We have used IMO as well as the U.S. Coast Guard scenario. And we believe that—our result shows that we meet the performance criteria in either case.

Mr. GILCHREST.Mr. Husain, you said that your system would be used on selected tankers.

Mr. HUSAIN. That is correct.

Mr. GILCHREST. What does that mean, the larger tankers, midsized tankers?

Mr. HUSAIN. That means—I'm sorry, sir, for interrupting you. That means that tankers structurally falling apart is not a candidate for this type of system.

Mr. GILCHREST. So a new tanker——

Mr. HUSAIN. New tanker definitely, but the tankers who are structurally adequately could be repaired——

Mr. GILCHREST. I see.

Mr. HUSAIN. —could go onto there.

Mr. GILCHREST. A tanker that was structurally sound?

Mr. HUSAIN. Structurally sound.

Mr. GILCHREST. Now, are you looking at a tanker that is structurally sound with a single skin or a double skin or both?

Mr. HUSAIN. Both. Single skin interim measure is—yes, double skin as an enhancement.

Mr. GILCHREST. What would your system have done with the Exxon Valdez situation?

Mr. HUSAIN. I would believe that it would have saved about 95% of the oil that has been spilled out.

Mr. GILCHREST. Pretty significant.

Mr. HUSAIN. That is correct, sir.

Capt. ROE. Mr. Chairman, if I could comment on the refer to loopholes in the IMO guidelines. I think we at Marine Safety Systems would like to see a performance standard. I do not know as I would call it a loophole as it is one of many potential shortcomings in the IMO approach.

As I said, we have run our calculations and we come out superior to the double hull with the IMO criteria. That does us little good at this point. If, in fact, energy absorption was used as one of the criteria for developing a standard, then we would certainly be willing to live with whatever that standard was, as long as it was fair and as long as it is based on good science.

Mr. GILCHREST. Captain Roe, do you see your systems eventually being used on double hull vessels?

Capt. ROE. I would doubt if they would be used on double hull vessels. And the reason would be the cost. You would incur the cost of the construction of the double hull vessel and, additionally, the cost of installing the ballast tank on the center.

So when you put in more bulkheads, the cost goes up. And industry, I think, being competitive, would go with the means that is going to meet their needs in the most cost effective way.

Mr. GILCHREST. What would your system have done with the Exxon Valdez?

Capt. ROE. The calculations we have made show that it would save between two-thirds and three-fourths of the cargo lost.

Mr. GILCHREST. Do you see your system not being effective unless there is a change in the law for double hulls?

Capt. ROE. I see that our system—unless there is a method developed by which alternate standards can be considered and approved, then no one in industry or ship construction business, would be interested in pursuing an alternate,——

Mr. GILCHREST. So there is no——

Capt. ROE. —whether it is our alternate or anyone else's.

Mr. GILCHREST. There is no foreign investors looking at your—or either one of your systems, vessels that may not travel to the United States?

Capt. ROE. Because the tanker market is global in nature and although a tanker may be built for one trade, two years later it could be involved in a totally different trade. They are not going to build a tanker to a standard which would prohibit it trading with the largest market in the world.

Mr. GILCHREST. Thank you, gentlemen.

Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. Husain, I am just curious about it. The technology of dealing with the inert gas, at the same time creating a negative pressure, is this fully developed?

Mr. HUSAIN. Well, it is very—could I explain that?

Mr. DEFAZIO. I am curious.

Mr. HUSAIN. Nowadays, of course, the inert gases put under positive pressure. So what we do first, we load the tank with inert gas under positive pressure. Then we exhaust the inert—the same mixture of the inert gas exhausted out.

But this way, we reduce the pressure. At the same time, the inert gas under negative pressure remains the same. And then our control system—our sensors detect there is an oxygen inhalation. Then we add more inert gas and maintain the under pressure system.

So the inert gas ratio does not recognize whether it is under positive pressure or is under negative pressure. It sees simply a new ratio. So you make sure that inert gas is done to five percent or whatever have you, and then we exhaust it.

And that way we maintain that inert gas ratio at all times.

Mr. DEFAZIO. This whole system works off auxiliary power, I assume?

Mr. HUSAIN. No, it has its own power. It is a self contained system.

Mr. DEFAZIO. OK. And then Captain, your system, and whereas Mr. Husain's requires some monitoring—although I assume it is automated, but it is still something that requires some monitoring.

Yours is basically design based, is that correct?

Capt. ROE. Ours is design based, you know, by relocating the ballast tank to the center of the vessel and in providing with a means to gravity flow the oil from a damaged section into that ballast tank. The monitoring and control system is such that the system could either operate automatically by detection of ruptured metal or be operated manually from the bridge of the ship.

Mr. DEFAZIO. OK. All right, thank you.

No further questions, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. DeFazio.

The gentleman from Mississippi.

Mr. TAYLOR. Mr. Chairman, thank you for holding this hearing and apologize for running late as account of USAir having some problems out of New Orleans this morning.

I just want to commend you for having the hearing. I hope that the thrust of it has been that there will be no backsliding on the part of Congress as far as the double hull requirements. I think that what Congress did in 1990 was very, very long and overdue.

And again, I can only hope that whatever alternatives were offered were done in a constructive manner rather than trying to give people an opportunity to get around the law.

Again, I apologize for being late, but it certainly was not intentional.

Mr. GILCHREST. Thank you, Mr. Taylor.

Gentlemen, I guess we have pretty much exhausted the questions we have at this point and maybe people are ready to go to lunch. What we would like to do though is to continue to stay in touch with you, if that is possible, via the modern age of technology: phone, fax, e-mail, pony express, 33 cent stamp, things like that.

But we appreciate your time and your effort and your input as we move along to try to find better ways to improve the environment of transporting hazardous material across our precious oceans.

Gentlemen, thank you very much.

Capt. ROE. Thank you, Mr. Chairman.

Mr. GILCHREST. This subcommittee hearing is adjourned.

[Whereupon, at 12:47 p.m., the subcommittee was adjourned.]

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COMMITTEE ON
COMMERCE, SCIENCE AND TRANSPORTATION

UNITED STATES SENATE

HEARING ON THE PHASE-OUT OF
SINGLE-HULL TANK VESSELS

Thursday, January 9, 2003

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1 HEARING ON THE PHASE-OUT OF SINGLE-HULL TANK VESSELS

2

3 Thursday, January 9, 2003

4

5 U.S. Senate

6 Committee on Commerce, Science,

7 and Transportation

8 Washington, D.C.

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10 The committee met, pursuant to notice, at 2:30 p.m. in

11 Room SD-253, Russell Senate Office Building, Hon. John McCain,

12 presiding.

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1 OPENING STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM
2 ARIZONA
3 The Chairman: Good afternoon. The committee meets today
4 to consider issues relating to the required phase-out of
5 single-hull tanker vessels that carry oil in bulk, including
6 calls by some in the international community to accelerate the
7 deadlines for transition to double-hull tankers.
8 Since the break-up and sinking of the PRESTIGE on
9 November 19, 2002, Spain and France have taken unilateral
10 action against single-hull tankers and the European Commission
11 has adopted a new phase-out schedule for such tankers. As a
12 result of those actions, concerns have been raised about how
13 those actions could, if adopted by the European Union and the
14 International Maritime Organization, impact the international
15 and domestic transportation of oil.
16 The phase-out of single-hull tankers is not the sole
17 solution to oil spills. Based on experiences here in the
18 U.S., we know that oil spill prevention, response, and damage
19 mitigation efforts necessitate a combination of things,
20 including the phase-out of single-hull tankers, liability and
21 insurance requirements, response preparation and coordination,
22 and improved response technology. This combination is clearly
23 represented in the Oil Pollution Act of 1990, commonly
24 referred to as "OPA 90."
25 Since OPA 90 was enacted, there has been a significant

1 decline in cargo oil spills. In 1990, 152,000 barrels of oil,
2 the equivalent of 6.4 million gallons, were spilled in U.S.
3 waters. By 2000, the volume of oil spilled had fallen to
4 24,600 barrels.
5 About 60 percent of all oil worldwide moves by oil
6 tanker. The U.S. is currently responsible for one-quarter of
7 total oil consumption, and in 2001 we imported 55 percent of
8 our oil supply. Because so much oil and oil products move in
9 and out of the United States and we know from experience that
10 bad things can happen even to sound ships and barges, we must
11 remain vigilant.
12 It has been over 12 years since the enactment of OPA 90
13 and I hope that today's hearing will be helpful in shedding
14 light on what has been accomplished and whether there is a
15 need for any further action on our part to help prevent oil
16 spills or to change our existing policies along the lines of
17 the European Community.
18 Senator Inouye.
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1 STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM
2 HAWAII
3 Senator Inouye: Thank you very much, Mr. Chairman, and I
4 wish to commend you for holding this hearing on this very
5 important matter. Obviously, I am looking forward to assuming
6 my position as Ranking Member on the Merchant Marine
7 Subcommittee, at which time this issue and many others will be
8 considered in the coming years.
9 Thank you very much, sir.
10 The Chairman: Thank you, Senator Inouye.
11 Senator Stevens.
12 Senator Stevens: He was the first one.
13 The Chairman: Senator Sununu.
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1 STATEMENT OF HON. JOHN SUNUNU, U.S. SENATOR FROM NEW
2 HAMPSHIRE
3 Senator Sununu: Something is truly wrong with the
4 decorum in the Senate when I am asked to give a statement
5 ahead of Senator Stevens.
6 [Laughter.]
7 Senator Sununu: I am looking forward to the testimony
8 and learning a little bit more about this issue, and I have no
9 further statement, Mr. Chairman. Thank you.
10 The Chairman: Senator Stevens.
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1 STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

2 Senator Stevens: Thank you very much.

3 Mr. Chairman, I join Senator Inouye in congratulating you
4 for moving forward on this hearing as quickly as possible. It
5 is almost 13 years ago that Senator Breaux and I managed a
6 bill on the floor that would become the most significant
7 policy change, I think, in maritime transportation of oil.
8 That was the Oil Pollution Act of 1990 that you mentioned. It
9 was in response to the largest oil spill in U.S. history. 11
10 million gallons of crude oil poured out of the EXXON VALDEZ,
11 polluting one of the Nation's most sensitive ecosystems and
12 spreading over 350 miles of shoreline in the Prince William
13 Sound on the coast of Alaska.

14 I went up and flew over that. It was the most awesome
15 sight I think I have ever seen. Alaskans will never forget
16 the devastating effect of that spill and its effect on our
17 wildlife, fisheries, and our overall economy.

18 Without really being too specific, I think I was the one
19 that negotiated the specifics of the Oil Pollution Act to
20 phase out single-hull tankers. The proposal was criticized at
21 the time by the international community as being too stringent
22 and aggressive. Nonetheless, we proceeded. I remember at one
23 time Senator Magnusen sent me over to a meeting of that
24 international committee in London to talk about single-hull
25 tankers long before the EXXON VALDEZ disaster, and I wish they

1 had listened to us then. But we passed a law that provides
2 for safe maritime transportation of oil and the structure
3 necessary for preparedness and response in case of a spill in
4 the United States.
5 During the height of Alaskan oil production in 1988 to
6 '99, there were 70 tankers moving oil from VALDEZ to West
7 Coast ports. During this period the throughput of the Trans-
8 Alaska Pipeline was 2.1 million barrels a day, near full
9 capacity. Today the pipeline carries only 1 million barrels
10 of oil a day, which means the pipeline is only half full.
11 Because of this decline in production, there are now only 25
12 tankers presently transporting oil from Alaska.
13 The American Petroleum Institute, the American maritime
14 industry and trade unions reported last year that we would
15 need to construct 18 new double-hulled vessels to transport
16 oil if Congress opened the coastal plain of Alaska to oil
17 production. Maritime unions also tell us that each ship would
18 create 3,000 direct employment jobs during the period of
19 construction. Those are high-paying jobs, high-skilled and
20 labor-intensive jobs that we do need in the United States.
21 Last month, the State of Alaska extended the right of way
22 for the pipeline across our state lands. Just this week the
23 Secretary of the Interior signed a 30-year renewal for the
24 Federal right of way for the Alaska oil pipeline. The Federal
25 Government believes this pipeline needs to be on line for at

1 least another 30 years, but that means opening up enough lands
2 of Alaska for oil production, and ANWR is still the best
3 prospect.
4 I know I have come to be a little provincial here today,
5 Mr. Chairman, but I want to announce that this is my number
6 one goal for this Congress, to try to find a way to start to
7 find out if we do have additional prospects in the northern
8 part of Alaska.
9 The requirement for Oil Pollution Act compliance, that is
10 the 1980 Act, for single-hull tankers will be phased out by
11 2015, and this would be -- starting new production of tankers
12 for Alaskan oil would be a great opportunity for our
13 shipyards, but only if there is a demand for increased
14 domestic production.
15 I want to work with you and to try to extend the concept
16 of single-hull tankers for all the tankers that serve our
17 waters, and I think it would be in the best interest of the
18 whole world if we would find some way to not only utilize such
19 tankers, but find ways to limit the transportation of oil by
20 ship wherever it is possible.
21 Thank you very much.
22 The Chairman: Well, thank you, Senator Stevens. Again,
23 thank you for the job that you and Senator Breaux did on OPA
24 90. It certainly has stood the test of time and, as I
25 mentioned in my opening statement, the dramatic reduction in

1 oil spill over the years has been a direct result of that
2 effort. I think we will all learn a lot. Perhaps, since it
3 has been 12 years, over 12 years, since that law was passed,
4 maybe we will be updated today and our witnesses will be able
5 to give us a snapshot as to how things are today and how they
6 will look in the future.
7 So we welcome our witnesses. Thank you for being here.
8 We will start with you, Admiral Pluta, and then we will go to
9 Mr. Keeney and then Ms. Davies. Admiral.
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1 STATEMENT OF REAR ADMIRAL PAUL J. PLUTA, ASSISTANT
2 COMMANDANT FOR MARINE SAFETY, SECURITY, AND ENVIRONMENTAL
3 PROTECTION, UNITED STATES COAST GUARD
4 Admiral Pluta: Thank you, Mr. Chairman. Good afternoon,
5 and good afternoon to the distinguished members of the
6 committee.
7 I am Rear Admiral Paul J. Pluta, Assistant Commandant for
8 Marine Safety, Security, and Environmental Protection, and it
9 is a pleasure to appear before you today with my shipmates
10 from EPA and NOAA to discuss the Oil Pollution Act of --
11 The Chairman: Could you move the microphone over?
12 Admiral Pluta: Yes, sir.
13 It is a pleasure to appear before you today with my
14 shipmates from EPA and NOAA to discuss the Oil Pollution Act
15 of 1990 and the phase-out of single-hull tankers.
16 13 years ago, we faced what seemed an insurmountable
17 task, responding to a spill of 258,000 barrels or 11 million
18 gallons of crude oil into the pristine environment of Prince
19 William Sound, Alaska. Coincident with the massive clean-up
20 effort, the Congress, state legislatures, many countries, and
21 the international organizations began an intensive
22 investigation and exploration of the root causes of the
23 accident and deliberated on appropriate prevention and
24 response measures to reduce the likelihood of similar oil
25 pollution incidents.

1 Here in the United States, the 101st Congress unanimously
2 passed the Oil Pollution Act of 1990, or OPA 90, as Senator
3 Stevens rightly pointed out, and the President signed it into
4 law on August 18th, 1990. Since the passage of OPA 90, there
5 has been a dramatic reduction in the volume of oil spilled
6 into U.S. waters from tankers per million gallons shipped,
7 declining from 9.7 gallons spilled per million gallons shipped
8 in 1990 to 2.7 gallons spilled per million gallons shipped in
9 1999, a decrease of over 70 percent.
10 In broad terms, the public policy objectives of OPA 90
11 are the prevention of oil spills, the provision of a
12 comprehensive response regime when spills occur, and the
13 assessment of appropriate penalties and liabilities to ensure
14 that polluters pay for damages. As part of the prevention
15 objective, the Oil Pollution Act of 1990 established double-
16 hull requirements for newly constructed tank ships and tank
17 barges that operate in U.S. waters, and established a phase-
18 out schedule for existing tank vessels.
19 The OPA 90 phase-out schedule requires that existing
20 single-hull tank vessels be retrofitted with a double bottom,
21 or be phased out of operation by 2010 unless they are equipped
22 with a double bottom or double sides, in which case, some may
23 continue to trade in the United States through 2015 depending
24 on their age. The phase-out schedule is specified in section
25 4115 of OPA 90, and all tank vessels operating in U.S. waters

1 must have double hulls by January 1, 2015.

2 It is important to note that certain exemptions in OPA 90
3 allow single-hull tank vessels to continue to operate in the
4 U.S. through 2015. Any single-hull tank vessel unloading oil
5 in bulk at a deep water port licensed under the Deep Water
6 Port Act of 1974 as amended, or offloading oil in bulk within
7 a lightering zone more than 60 miles offshore may still
8 operate until 2015. Currently, the Louisiana Offshore Oil
9 Port is the only deep water port operating in the United
10 States, and three designated lightering zones are available in
11 the Gulf of Mexico. In addition, the double-hull requirements
12 do not apply to foreign vessels while engaged in innocent
13 passage through U.S. waters.

14 To provide clarification in applying the provisions of
15 OPA 90, the Coast Guard produced a circular which provides
16 guidance for determining phase-out dates for single-hull tank
17 vessels operating in waters subject to the jurisdiction of the
18 United States.

19 In 1991 the U.S. took the OPA 90 single-hull phase-out
20 proposal to the Maritime Environment Protection Committee, or
21 MEPC, of the International Maritime Organization. This
22 resulted in the adoption of amendments to the International
23 Convention for the Prevention of Pollution from Ships, or
24 MARPOL, in 1992. Regulations 13.F and 13.G of that convention
25 establish a 25 to 30-year life for single-hull tank vessels

1 and require double hulls or tank vessels with designs equal to
2 or exceeding the double hull's ability to reduce or stop oil
3 outflow due to a collision or grounding. While this
4 represented a significant step forward in the elimination of
5 single-hull tank vessels, these international amendments fell
6 short of the phase-out scheme established by OPA 90.
7 In December 1999, the tank ship ERIKA, containing 30,000
8 tons of heavy oil, broke up off the French coast. The
9 European Commission initiated a study which resulted in
10 numerous recommendations and proposals to prevent another such
11 occurrence. One of these proposals was an acceleration of the
12 MARPOL Regulation 13.G phase-out schedule for single-hull
13 tankers.
14 In June 2000 France, along with Belgium and Germany,
15 submitted a comprehensive paper to the 45th session of the
16 MEPC, proposing an amendment to Regulation 13.G of MARPOL that
17 accelerated the phase-out schedule for single-hull tankers.
18 The U.S. assisted France to ensure that the proposed dates
19 were aligned as closely as possible with the phase-out dates
20 in OPA 90.
21 At its 46th session, MEPC adopted the modified version of
22 that regulation. However, these dates were not consistent
23 with those in OPA 90, and the U.S. was unable to become a
24 party to these amendments.
25 In November of 2002, the tank ship PRESTIGE, carrying

1 approximately 20 million gallons of fuel oil, broke -- began
2 leaking after its hull split in a storm. The vessel
3 eventually sank 150 nautical miles off the northwest coast of
4 Spain, and the Coast Guard, along with the National Oceanic
5 and Atmospheric Administration, sent a delegation to assist
6 Spain with the massive clean-up effort. Under OPA 90, the
7 tank vessel PRESTIGE had reached its phase-out date on January
8 1, 2000, and could no longer operate carrying oil in a U.S.
9 port. In response to the sinking, the European Commission is
10 looking at accelerating the phase-out time line for single-
11 hull vessels to those originally proposed after the sinking of
12 the tank vessel ERIKA.
13 In conclusion, the success of OPA 90 can be measured by
14 the absence of significant oil spills from tankers in U.S.
15 waters since its passage. It establishes the cornerstones of
16 prevention, preparedness, and response that serve as a useful
17 model for the international maritime community. Nevertheless,
18 we will continue to work with the international maritime
19 community to ensure that shipping remains a safe, economical,
20 and environmentally friendly transport option.
21 Thank you for the opportunity to testify before you
22 today. I will be happy to answer any questions that you have,
23 Mr. Chairman. Thank you, sir.
24 [The prepared statement of Admiral Pluta follows:]
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1 The Chairman: Thank you, Admiral.
2 Mr. Keeney, welcome.
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1 STATEMENT OF TIMOTHY R.E. KEENEY, DEPUTY ASSISTANT
2 SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, U.S.
3 DEPARTMENT OF COMMERCE
4 Mr. Keeney: Good afternoon, Mr. Chairman and
5 distinguished members of the committee. I am Timothy Keeney,
6 Deputy Assistant Secretary of Commerce for Oceans and
7 Atmosphere. On behalf of NOAA Administrator Vice Admiral
8 Conrad Lautenbacher, thank you for inviting NOAA to testify
9 today.
10 Under several laws, NOAA has been distinguished as a
11 steward of the Nation's ocean and coastal -- excuse me -- as a
12 steward of the Nation's oceans and coasts and as a trustee of
13 marine resources. As such, NOAA has a strong interest in how
14 tanker accidents impact the ocean and coastal environment,
15 including habitat and living marine resources.
16 Two recent oil spill events off the coast of Europe
17 demonstrate the difficult issues presented by tanker spills.
18 Both tankers were old and broke apart during fierce storms.
19 The PRESTIGE tanker which sunk off the coast of Spain in
20 November of last year, was 26 years old; and the ERIKA tanker
21 which ruptured off the coast of France in 1999 was about 24
22 years old. Second, both vessels were single-hull tankers.
23 Both of these events have focused renewed attention on
24 phasing out single-hull tankers in favor of double-hull
25 tankers. NOAA supports the Coast Guard's efforts to implement

1 the Oil Pollution Act requirements for double-hull tankers.
2 Shifting to double-hull tankers, however, is not the silver
3 bullet solution to our problems. Other significant oil
4 pollution threats can or do result from aging infrastructure,
5 including pipelines, shoreside facilities, and non-tank
6 vessels, maritime acts of terror, and polluted runoff. In
7 addition, we must also plan for the day when new double-hull
8 tankers become older and decayed.
9 Mr. Chairman, my testimony will focus on NOAA's roles of
10 prevention, preparedness, and response, restoration, and will
11 conclude with four recommendations.
12 Under prevention, prevention of marine disasters is hard
13 to measure, but it must remain a priority. Prevention is
14 simply the best way to protect people, the economy, and the
15 marine environment. In addition to regulation, the Federal
16 Government assists prevention by providing information that
17 facilitates safe marine transportation. Today, NOAA is the
18 major provider of geographic, oceanographic, and
19 meteorological information in the form of nautical charts,
20 hydrographic and related surveys, tide and current
21 predictions, and weather forecasts.
22 New technologies are providing advanced services to meet
23 the needs of modern navigation, including electronic
24 navigational charts and the Physical Oceanographic Real-Time
25 System, or the acronym "PORTS." PORTS measures water levels,

1 currents, and other oceanographic and meteorological
2 conditions that directly support safe and efficient marine
3 trade.
4 A report by the Woods Hole Oceanographic Institute
5 concluded that the electronic navigational charts and other
6 new technologies could yield a higher cost-benefit ratio than
7 double-hull tankers, especially in high traffic areas.
8 Accidents such as the EXXON VALDEZ, for example, could be
9 avoided using modern navigational systems.
10 Under preparedness, despite prevention efforts, we know
11 that spills can and will occur. Without adequate preparation,
12 such as the periodic training and drilling exercises the Coast
13 Guard conducts with NOAA and others, a response will not be
14 effective. NOAA supports preparedness with several products,
15 including the environmental sensitivity indexes, which are
16 maps depicting the location of vital and sensitive natural
17 resources; the trajectory analysis planner, a computer program
18 that helps to predict spill movements so spill response action
19 can be planned even prior to a spill actually occurring; and
20 through regional representatives NOAA helps States,
21 communities, and industry develop contingency plans that are
22 location-specific.
23 Following the EXXON VALDEZ, many industry cooperatives
24 and companies specializing in spill preparedness and clean-up
25 were formed. Over time, many of these companies have gone out

1 and the restoration required to address those injuries.

2 In order to build upon improvements in prevention and

3 preparedness, response and restoration, NOAA offers the

4 following four recommendations: One, implement advanced

5 charting technologies and navigation information systems;

6 Two, institutionalize and improve coordination of oil

7 spill research and development between government, academia,

8 and industry;

9 Three, ensure adequate levels of funding for the oil

10 spill liability trust fund;

11 And four, finally, continue efforts to review potential

12 impacts from tankers and other vessels on the marine

13 environment. Such efforts should include working through the

14 International Maritime Organization.

15 Thank you, Senator. I look forward to your questions.

16 [The prepared statement of Mr. Keeney follows:]

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1 The Chairman: Thank you, sir.
2 Ms. Davies, welcome.
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1 of business or merged, reducing the national investment in
2 research and development.
3 Under response, NOAA serves as the primary scientific
4 support to the Coast Guard during oil spills. NOAA's
5 scientific expertise includes oceanographers, meteorologists,
6 chemists, biologists, and others. When an incident does
7 occur, NOAA first assesses the spill's behavior, focusing on
8 immediate health and safety issues. NOAA then provides
9 forecasts, predictions, models, and analysis of the spill.
10 Experts from NOAA try to determine the threat the spill poses
11 to living marine resources.
12 In late November, Spain accepted American assistance
13 following the PRESTIGE tanker disaster. Both NOAA and the
14 Coast Guard sent staff to Spain to assist. NOAA has provided
15 experts on beach clean-up techniques, methods to prioritize
16 sites, marine biology, seafood safety, and forecasting oil
17 spill movements. Currently, three NOAA staff are working in
18 different areas of Spain on PRESTIGE-related issues.
19 Finally under restoration, under the Oil Pollution Act of
20 1990 NOAA is responsible for assessing and restoring coastal
21 and marine resources injured by oil spills. When oil
22 threatens and injures coastal marine resources, NOAA provides
23 multidisciplinary teams of scientists, economists, and
24 attorneys that work collaboratively with other natural
25 resource trustees to determine the injury to coastal resources

1 STATEMENT OF ELAINE F. DAVIES, DEPUTY DIRECTOR, OFFICE
2 OF EMERGENCY AND REMEDIAL RESPONSE, U.S. ENVIRONMENTAL
3 PROTECTION AGENCY
4 Ms. Davies: Thank you. Thank you, Mr. Chairman. Good
5 afternoon. Thank you, members of the committee.
6 I am Elaine Davies, the Deputy Director of the Office of
7 Employee and Remedial Response. I am pleased to be here today
8 to discuss EPA's efforts to prevent, prepare for, and respond
9 to oil spills in our Nation's waters.
10 EPA's Office of Emergency and Remedial Response manages
11 the agency's oil program activities. We regulate preparedness
12 and prevention at such facilities as oil production and bulk
13 storage facilities and refineries. We share responsibility
14 for responding to oil spills with the U.S. Coast Guard. We
15 respond in the inland waters and Coast Guard responds along
16 the coast. We have a very good working relationship with the
17 Coast Guard as well as with NOAA and we are indeed, as Admiral
18 Pluta says, shipmates. In practice, EPA and Coast Guard often
19 provide each other technical assistance and support regardless
20 of where the spill occurs.
21 The Coast Guard, however, is principally responsible for
22 most marine transportation-related oil spill prevention
23 activities, including the subject of today's hearing, the
24 phase-out of single-hull tankers.
25 EPA strongly supports the Coast Guard's effort to

1 implement the Oil Pollution Act requirements for double-hull
2 tankers. We feel that the phase-out of single-hull tankers is
3 an important component of Federal efforts to protect our
4 Nation's environmental and natural resources from potentially
5 catastrophic oil spills.
6 Every year EPA evaluates approximately 13,000 reports of
7 oil spills to determine whether there is a need for the agency
8 to respond, and we do respond at approximately 300 of those,
9 where we manage the event or we provide oversight. The vast
10 majority of responses are done by the parties who cause the
11 spills. In conducting the response, we use the national
12 contingency plan, which provides the blueprint for all Federal
13 oil and chemical spill response.
14 We also chair the National Response Team, and Coast Guard
15 is our Vice Chair. This is a group composed of 16 Federal
16 agencies who meet regularly to deal with preparedness,
17 prevention, and response, planning and policy issues, and then
18 can provide valuable response and assistance during a spill.
19 In responding to a major spill, we would make use of incident
20 command, which is an excellent organizational tool for such an
21 event.
22 Since the EXXON VALDEZ spill, there has been significant
23 effort to improve readiness in the Nation. One element is
24 area contingency planning, which has gone on for the last 12
25 years since the passage of OPA. The plans are created and

1 updated by those who would actually respond, the Federal, the
2 State, the local, and industry, and they have made tremendous
3 progress.
4 In conclusion, I want to say preparedness and prevention
5 are the surest way to protect human health and the environment
6 from the harmful effects of an oil or chemical spill.
7 Mr. Chairman, I ask that my entire written statement be
8 submitted for the hearing record. I will be pleased to answer
9 any questions you may have.
10 [The prepared statement of Ms. Davies follows:]
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1 The Chairman: Without objection. Thank you, and thank
2 all the witnesses for coming today.
3 I guess that this issue has clearly been made
4 significantly more important because of the threat of acts of
5 terror. Would you agree, Admiral Pluta?
6 Admiral Pluta: Yes, sir.
7 The Chairman: Including the October 2002 explosion on
8 board the French liner LIMBERG, which was a new double-hulled
9 ship, which is of some interest, I think, in our discussion
10 here.
11 But what I found interesting in Mr. Keeney's - believe it
12 or not, we do read your statements from time to time.
13 [Laughter.]
14 The Chairman: Mr. Keeney, you mentioned in your
15 statement that the PRESTIGE was a Japanese-built ship, owned
16 by a company registered in Liberia, managed by a Greek firm,
17 registered in the Bahamas, certified by an American
18 organization, and chartered by a Swiss-based Russian trading
19 company.
20 Finally and very importantly here, PRESTIGE was traveling
21 neither to nor from a European Union port. In other words, a
22 huge amount of damage was done to a European country that this
23 tanker was never even intended to come very close to. I note
24 in OPA 90 that the double-hull requirements do not apply, the
25 phase-in of double-hulled requirements do not apply to foreign

1 vessels while engaged in innocent passage through U.S. waters.
2 Is that an issue, Admiral and Mr. Keeney and Ms. Davies?
3 Admiral Pluta: Mr. Chairman, yes, it is an issue. But
4 my response to you would be that double-hull is merely one
5 intervention in the package that OPA 90 presents to us, Mr.
6 Chairman. There are many other facets of OPA 90 that have
7 caused changes in the way that oil is shipped to and from the
8 United States, and since OPA 90, we have had other
9 interventions, both domestically and internationally, that
10 permit us to take even more action, port state control action.
11 There is a safety management system in place on these ships
12 now. We have upgraded the standards for training and
13 certification of all the people on watch.
14 The Chairman: That does not address my question, Mr.
15 Pluta. If a ship is sailing through, is cruising through
16 United States waters, through our waters -- and I do not know
17 exactly which -- to show you the level of my ignorance, I am
18 not sure which boundary we use in that connection.
19 Admiral Pluta: The 12-mile limit, Mr. Chairman.
20 The Chairman: The 12-mile limit. Some countries use as
21 much as a 200-mile limit, right?
22 Admiral Pluta: Yes, sir.
23 The Chairman: But if that ship is passing within 12
24 miles of the United States, but it is not going into port in
25 the United States, it can be forever a single-hulled ship; is

1 that correct?

2 Admiral Pluta: Mr. Chairman, under the limits, if it is

3 not a U.S. flag vessel it would have to comply with the limits

4 at IMO, and they would eventually be phased out anyway. But

5 you are quite right that these ships can be passing close to

6 the United States. There are Law of the Sea issues in what is

7 happening off of some countries in Europe that need to be

8 addressed at the UN as well, Mr. Chairman. But you are right

9 on target.

10 The Chairman: Mr. Keeney?

11 Mr. Keeney: I defer to the Coast Guard on this. This is

12 really not an area that NOAA has direct knowledge, with

13 regards to foreign vessels and the rules that apply to them in

14 U.S. waters.

15 The Chairman: Does it concern you if indeed a ship can

16 come within 12 miles of the United States, single-hull like

17 the PRESTIGE, and not be required to have a double hull at any

18 time, 2015, 2030, whatever it is?

19 Mr. Keeney: Certainly. Any kind of increased risk

20 concerns us at NOAA to potential damage to marine resources.

21 The Chairman: Ms. Davies?

22 Ms. Davies: We certainly are concerned about any oil

23 spill and we definitely would defer to the Coast Guard on any

24 of the guidelines of the work that they are doing on double-

25 hull, and we would support them in any way we could.

1 The Chairman: Admiral, do you believe the PRESTIGE would
2 have broken apart and sunk if it had had a double hull, given
3 your knowledge of the experience that that ship went through?
4 Admiral Pluta: Mr. Chairman, it is hard to say until the
5 accident investigation is complete, but my experts tell me
6 that just by virtue of the fact that you have a double hull
7 does not prevent that a vessel is not going to unzip and break
8 apart at sea in heavy weather like the motor vessel PRESTIGE
9 experienced.
10 The Chairman: And age is always a factor in the ability
11 of any ship to resist those kinds of things?
12 Admiral Pluta: Yes, Mr. Chairman, as well as many other
13 factors.
14 The Chairman: This ship was 26 years old, the PRESTIGE?
15 Admiral Pluta: Yes, sir. Age as well as how well the
16 vessel is being maintained and monitored in service.
17 The Chairman: And some of them are not, especially if
18 they may be a Japanese-built, owned, registered in Liberia,
19 managed by a Greek firm, registered -- the maintenance may not
20 be the best on that kind of ship?
21 Admiral Pluta: That is always a possibility, Mr.
22 Chairman.
23 The Chairman: It has been your experience of your many
24 years of observing these ships in the United States Coast
25 Guard?

1 Admiral Pluta: Yes, sir, that is a distinct possibility.
2 [Laughter.]
3 Admiral Pluta: You never can tell. There are some
4 countries and some companies take their responsibilities very
5 seriously, and I think the majority of them do, Mr. Chairman.
6 But there certainly are those that do not and those are the
7 ones that cause the problems.
8 The Chairman: Mr. Keeney, I believe it was in your
9 statement you recommend ratification of the Law of the Sea
10 Treaty; is that correct?
11 Mr. Keeney: That is correct.
12 The Chairman: Is that the administration's position?
13 Mr. Keeney: I have not checked. My testimony, I
14 believe, did get cleared.
15 [Laughter.]
16 Mr. Keeney: But I did not make any specific calls on that
17 one. We just at NOAA believe that it puts us, the United
18 States, in a stronger position in dealing with other countries
19 in relation to the taking advantage of the provisions of the
20 Law of the Sea Treaty.
21 The Chairman: Well, I may have additional questions, but
22 what I think we owe the American people -- and from your
23 testimony and everything I know, our agencies of government
24 are doing a fine job, and OPA 90 was not only an excellent
25 piece of legislation, it was eventually copied by other

1 nations. I think that the leadership of our Nation in that is
2 laudable.
3 I just think, given post-9-11, given the PRESTIGE
4 devastation to the Spanish coastline, that it is appropriate
5 for us to review what we are doing, how we are doing it, and
6 whether there needs to be changes in existing law, or
7 regulations or government policy. That is what I really would
8 like to have from all three witnesses.
9 Senator Inouye.
10 Senator Inouye: Thank you very much, Mr. Chairman.
11 Admiral Pluta, it is correct that the United States has
12 jurisdiction over foreign vessels entering U.S. waters to do
13 business in the United States?
14 Admiral Pluta: Yes, sir.
15 Senator Inouye: All safety practices?
16 Admiral Pluta: Yes, sir. We have port state control
17 provisions that permit us to enforce the international
18 standards.
19 Senator Inouye: However, I have been advised that,
20 because of the volume of foreign vessels entering American
21 ports, that you oftentimes have to limit your inspection to
22 just inspecting paperwork. Is that correct?
23 Admiral Pluta: Not exactly, Mr. Senator. But let me
24 explain it this way. There are too many volumes of vessels
25 coming towards the United States for us to board and inspect

1 every single one. But what we use is in our port state
2 control program is a targeting matrix, where we look at the
3 flag state, the owner, the classification society, and we are
4 looking at the charterers now as well. We rate even the
5 performance of the vessel as it has performed as it has
6 visited the United States before.
7 We will go through this targeting matrix to see whether
8 that vessel poses a high risk or a low risk to safety or
9 environmental protection in the United States, and that is how
10 we make our decisions on what to board. But when we board, we
11 always look at more than paper. We will look at the general
12 condition of the vessel and go through all the important parts
13 to see where -- and we have enough experience to know where to
14 look and what to look for. If we see anything that does not
15 look right, well, we will continue to go further. But if
16 everything looks in order, well, then we will move on.
17 Senator Inouye: That is provided you are in that matrix
18 group?
19 Admiral Pluta: Yes, sir.
20 Senator Inouye: Just as an aside, would Senator McCain's
21 PRESTIGE come within that matrix group?
22 Admiral Pluta: It would have been phased out January
23 1st, 2000, I think, Mr. Inouye.
24 Senator Inouye: I gather that the Coast Guard would like
25 to have a much more thorough inspection process. If that is

1 the case, how much more would you need?

2 Admiral Pluta: Senator, you have been very generous to

3 the Coast Guard, and I cannot answer your question

4 specifically, but I can tell you that we feel confident that,

5 given the laws that you have given us to enforce, we are using

6 our resources to the best. We are -- over a multi-year budget

7 strategy with maritime homeland security overlaid on top of

8 our safety and environmental protection responsibilities, with

9 your good graces, we ought to be able to catch up.

10 Senator Inouye: I thank you very much.

11 Secretary Keeney, you cited a study in your full

12 statement in which you concluded that if you implemented the

13 Advanced Charting and Navigation Information System, that

14 could be just as effective as double hulls, especially in busy

15 ports. What is the current navigation information available

16 for U.S. ports? Do we have data that is useful?

17 Mr. Keeney: Senator Inouye, we have a system which we

18 refer to as the PORTS system, which NOAA has tried to put in

19 place in some of -- many of the major ports in the United

20 States where there is heavy traffic. This is a system that is

21 a shared cost system. It is referred to as -- it stands for,

22 again, "Physical Oceanographic Real-Time System," which

23 supports safe and cost-effective navigation, providing ship

24 masters and pilots with accurate real-time information

25 required to avoid groundings and collisions.

1 The system includes centralized data acquisition and
2 dissemination systems that provide real-time water levels,
3 currents, and other oceanographic and meteorological data from
4 bays and harbors to the maritime user community.
5 We believe that this system along with the electronic
6 chart information are two excellent tools for reducing the
7 risk of collision or grounding.
8 Senator Inouye: Have you implemented this program?
9 Mr. Keeney: We have. We have implemented -- I can give
10 -- for the record, I can produce the record of which ports
11 have active programs. This has been a successful program and
12 in every port we have had it, I think we have had great
13 response and cooperation. In fact, the ports where it is
14 operating right now include Narragansett Bay, the New York-
15 New Jersey Harbor, the Delaware River, Chesapeake Bay, Tampa
16 Bay, Galveston, Houston ports, San Francisco Bay, and the Port
17 of Anchorage, which we just opened at the end of last year.
18 [The information referred to follows:]
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1 Senator Inouye: But this will not be an adequate
2 substitute for double hulls? You would like to have both,
3 would you not?
4 Mr. Keeney: No, I do not think we refer to it as a
5 substitute. We are basically saying that it is actually even
6 more cost-effective than investing in double hulls. The
7 implication was that we go both routes. I can also provide a
8 copy for the record of the study that was done at Woods Hole
9 that verifies my statement.
10 [The information referred to follows:]
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1 Senator Inouye: I thank you very much, Mr. Secretary.
2 Mr. Keeney: Thank you.
3 Senator Inouye: Thank you, Mr. Chairman.
4 The Chairman: Senator Sununu.
5 Senator Sununu: Thank you, Mr. Chairman.
6 The modern charting and navigation system, Mr. Keeney,
7 that you are speaking of, you referred to as a shared cost.
8 Shared by whom?
9 Mr. Keeney: It is shared by the local port facilities,
10 so that the local governments, I believe, contribute towards
11 the expense of installation and operation of the system. That
12 is an important part of, I think, trying to implement the
13 system, that it is accepted.
14 Senator Sununu: I consider that, generally speaking, one
15 entity, the local port authority.
16 Mr. Keeney: That is correct.
17 Senator Sununu: So, are they paying for it, or are they
18 sharing the cost with someone else?
19 Mr. Keeney: Just let me check on that for a minute.
20 [Pause.]
21 They are sharing the cost with many of the operators of
22 the port.
23 Senator Sununu: With the operators.
24 Mr. Keeney: Right.
25 Senator Sununu: But NOAA is not putting out any money

1 for this, or actually undertaking the implementation itself?

2 Mr. Keeney: I think NOAA does put out money for the

3 initial implementation of the program.

4 Senator Sununu: Can you give me an estimate of how much

5 money is put out?

6 Mr. Keeney: We will provide that for the record, Senator

7 Sununu.

8 [The information referred to follows:]

9 [COMMITTEE INSERT]

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1 Senator Sununu: Just to try to gauge a sense of how
2 cost-effective it is, at least relative to the burden that is
3 shared by I guess the taxpayers or by NOAA.
4 Mr. Keeney: We will provide that.
5 Senator Sununu: What locations -- that was a pretty
6 extensive list. I did not see Long Beach on there, knowing
7 Long Beach is a pretty significant port. Are there many ports
8 that have not been touched by the upgrades to navigation and
9 charts that you would like to see take on the new technology?
10 Mr. Keeney: We do. We have probably as many as an
11 additional 20 ports that are interested in this program.
12 Senator Sununu: How long has it been available?
13 Mr. Keeney: 3 years. I think only in the case of -- I
14 think San Francisco is the one area where I think they are
15 having difficulty meeting the requirements of maintaining the
16 system because of some of the financial constraints that they
17 have locally.
18 Senator Sununu: One of the most striking charts in the
19 package that I saw leading up to the hearing today showed the
20 amount of oil spilled per volume that is shipped in U.S.
21 waters. There really has been a dramatic fall-off in spillage
22 since 1990, obviously due in part to the success of the OPA
23 legislation. To what specific changes in the legislation or
24 required by the legislation do you attribute that to? This is
25 really one, I think, more for the Admiral.

1 Admiral Pluta: Thank you, Senator Sununu.

2 Senator Sununu: In fact, I should point out it is a
3 Coast Guard graph.

4 Admiral Pluta: I will be happy to respond, sir.
5 Obviously, the single-hull phase-out has had a major impact by
6 having vessels not be permitted to come back to the United
7 States to trade. Also there are operational measures that we
8 have imposed. We have gotten access to the National Drivers
9 Register and other criminal background kind of checks that we
10 can now make on mariners. We have more stringent civil and
11 criminal penalty procedures that we can go through. We have
12 response plans that are required. That is a very critical
13 issue because --

14 Senator Sununu: Those sound like excellent provisions.
15 But the nature of the drop-off is so sharp, I was just curious
16 whether there was any one provision that was found to be the
17 most effective. I mean, the threat of criminal provisions; I
18 do not imagine there was a huge majority of vessels that
19 suddenly were being used that were double-hulled in just a 1-
20 or a 2-year period, although that may well be. There may have
21 been a huge influx as soon as the legislation was passed,
22 knowing that a phase-in was coming.

23 Admiral Pluta: Senator Sununu, the best answer I could
24 give you is that in our opinion, it is the comprehensive
25 approach taken by OPA 90 which no one else has done. It is

1 the most comprehensive oil prevention package in existence
2 today, and it has been extremely effective because of all the
3 pieces working together. And we have even refined the process
4 further with other international provisions that we have
5 implemented since then.
6 So, I do not think it is any one thing. I think it is
7 the whole package together.
8 Senator Sununu: Are there any oceanographic conditions,
9 weather conditions, shoreline features, navigational
10 challenges, where the potential damage sustained and spillage
11 sustained by a double-hulled tanker is greater than that of a
12 single-hulled tanker, all other things such as age or
13 maintenance being equal?
14 Admiral Pluta: I do not think so, sir. I think I look
15 at it as an equal opportunity environment. You know, you are
16 managing your risk by having -- you know, we know through
17 either calculations or by the school of hard knocks when
18 vessels run aground how deep do they get penetrated and we
19 make ships designed, make the people design the ships to avoid
20 those sorts of limits. Of course, there are no guarantees.
21 But in response to your issue of geography, we have done
22 a study of all of the major ports of the United States, and
23 for those where congestion is an issue or maybe tight entry,
24 some sort of thing like that is an issue, we have vessel
25 traffic systems and traffic separation schemes to try to

1 prevent bad things from happening as well.

2 Senator Sununu: You may have answered my question, but I

3 was not talking so much about traffic. You said, well, when

4 vessels run aground. A vessel can run aground on rocks, on

5 sand. A vessel can break up because of the stresses involved

6 in waves during very heavy seas. A vessel can be struck by

7 another vessel. All of those accidents involve different sets

8 of strains and scenarios and damage to the vessel.

9 I guess my question was, is a double-hulled vessel less

10 prone to catastrophic damage in all cases? You believe so?

11 Admiral Pluta: My answer, to the best of my knowledge,

12 is yes, sir.

13 Senator Sununu: Thank you very much.

14 Thank you, Mr. Chairman.

15 The Chairman: Senator Nelson.

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1 STATEMENT OF HON. BILL NELSON, U.S. SENATOR FROM FLORIDA

2 Senator Nelson: Thank you, Mr. Chairman. This of course
3 is an exceptionally important subject to my State, which has
4 14 deep water ports, and such an enormous amount of coastline.

5 Admiral, should we consider not accepting the safety
6 certifications of certain classification societies who we
7 determine not to have the adequate and sufficient safety
8 programs?

9 Admiral Pluta: In essence, Senator Nelson, we take -- we
10 do grade and score classification societies, and for those
11 vessels that -- it is a part of our grading factor that we use
12 in our targeting matrix to decide whether to board a vessel.
13 So, if we have a class society that is suspect, it is probably
14 going to wind up being boarded, and we are probably going to
15 look closer, yes, sir.

16 But as far as not accepting their work, we take the
17 approach of overchecking their work.

18 Senator Nelson: What types of drills do we test to use
19 in order to test the readiness of private companies that are
20 involved in oil spill clean-up?

21 Admiral Pluta: Senator Nelson, we have -- and EPA might
22 even chime in on this one as well, Senator Nelson. But we
23 together work with the States and work with the stakeholders
24 and port committees to have drills on a very predictable,
25 routine basis. Plus we have the Spills of National

1 Significance, and it involves not only tabletop exercises,
2 where we get people together and go through scenarios, but
3 then, there is also large-scale exercises where we actually
4 will break out equipment and make sure that everything works.
5 So, the people are trained, the procedures are checked and
6 revised, and the equipment is run to make sure that it is
7 functional.
8 Senator Nelson: Does the producing of this report by the
9 GAO, which says as U.S. single-hull old vessels are
10 eliminated, few double-hull vessels may replace them, does
11 that, in essence, say that we are not moving to the double-
12 hull vessels and this is, in essence, an impediment to us
13 getting the double hulls?
14 Admiral Pluta: Senator Nelson, the maritime -- I cannot
15 speak specifically for the Maritime Administration, but we
16 have been through this exercise to see, are we going to run
17 into a carriage requirement based on our best predictions, and
18 I think what that report says is with the current bookings for
19 construction, that there may be a shortfall of double-hull
20 vessels to carry what we think our need is going to be.
21 Senator Nelson: Even with this most recent action of the
22 European Union wanting to speed up the double hulls as a
23 result of this tanker being sunk off of Spain?
24 Admiral Pluta: Senator, certainly if they change their
25 standards for Europe, it will have an effect on the carriage

1 capacity worldwide. But we do not know exactly what they are
2 going to do. One of our Coast Guard people who goes to MEPC
3 is in Brussels right now meeting with the European Commission
4 to find out exactly what they have in mind, and what their
5 time frame is, so that we can predict for you what potential
6 action the U.S. may consider as a result.
7 But we do not know, sir. But whatever they decide -- if
8 they are going to accelerate their phase-out schedule, it
9 clearly will have an impact, yes, sir.
10 Senator Nelson: Thank you, Mr. Chairman.
11 The Chairman: Thank you, Senator Nelson.
12 I want to thank you for coming today, and I appreciate
13 the information you have provided for the committee. Thank
14 you very much.
15 Admiral Pluta: Thank you, Mr. Chairman.
16 The Chairman: Our next panel will be: Mr. Thomas
17 Allegretti, President of the American Waterways Operators; Mr.
18 Joe Cox, President of the American Chamber of Shipping; Mr.
19 Tom Godfrey, the President of Colonna's Shipyard and Chairman
20 of the Shipbuilders Council of America; Mr. David Sandalow,
21 who is Executive Vice President of the World Wildlife Fund;
22 Mr. Dragos Rauta, the Technical Director of the International
23 Association of Independent Tanker Owners; and Mr. G. William
24 Frick, Vice President and General Counsel, American Petroleum
25 Institute; Mr. Robert Cowen, Senior Vice President and Chief

1 Operating Officer of the Overseas Shipbuilding Group.

2 I am sorry, I apologize for it being a little crowded at

3 the witness table. We will begin with Mr. Allegretti, who is

4 the President of the American Waterways Operators. Welcome,

5 Mr. Allegretti. Thank you for coming to the committee today.

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1 STATEMENT OF THOMAS A. ALLEGRETTI, PRESIDENT AND CEO,
2 THE AMERICAN WATERWAYS OPERATORS
3 Mr. Allegretti: Good afternoon, Mr. Chairman and members
4 of the committee. On behalf of the 375 --
5 The Chairman: Could you pull it a little closer there so
6 I can hear you. Thank you.
7 Mr. Allegretti: On behalf of the 375 member companies in
8 the American Waterways Operators, thank you for holding this
9 important hearing today.
10 Tank barges account for more of the domestic
11 transportation of petroleum in our country than any mode
12 except pipelines. In fact, more than 20 percent of the
13 fuel -- of the oil that fuels our economy, keeps our cars
14 running, keeps our homes comfortable, is moved each year by
15 barge.
16 The recent tanker spill off the coast of Spain is a
17 sobering reminder of the inherent risks of oil transportation
18 and the need for constant vigilance in minimizing those risks.
19 We are very fortunate in the United States that the marine
20 transportation of oil is governed by the Oil Pollution Act of
21 1990, a law that is working well. While I cannot tell you the
22 OPA 90 has eliminated all of the risks of oil transportation,
23 I can say that the passage of that law launched a process that
24 has worked to reduce spills and to reduce the risk of spills
25 significantly.

1 Today, the U.S. maritime industry is moving oil more
2 safely than ever before. Today, more than two-thirds of the
3 U.S. tank barge fleet is double-hulled, years in advance of
4 the OPA 90-mandated phase-out dates. The record over the last
5 decade is an encouraging one. Oil spills in the United States
6 are today at a historic low, and the trend line is pointing in
7 the right direction. Tank barge operators spilled 87 percent
8 less oil in 2000 than they did in 1990. Today, for every one
9 million gallons of oil moved by barge in the U.S. less than
10 two gallons are spilled.
11 Just as encouraging as those statistics is the story that
12 is behind the numbers. Tank barge companies have put in place
13 a comprehensive array of safety improvements and spill
14 prevention measures that have not only produced a safer oil
15 transportation system, but one that offers the promise of
16 continued progress in the years ahead, with the ultimate goal
17 of zero spills.
18 This array of safety improvements and spill prevention
19 measures is very broad. It begins with better-trained crews.
20 It also includes the establishment of comprehensive safety
21 management systems, like AWO's Responsible Carrier Program.
22 And all of this reflects a sea change in the way companies
23 operate their fleets and within AWO, it is now a condition of
24 membership within our association.
25 Adoption of these safety management systems reflects our

1 industry's understanding that oil spills are simply not
2 acceptable. They are not acceptable to Congress, they are not
3 acceptable to the American people, and they are not acceptable
4 to us.
5 The risk of oil transportation in the United States is
6 further reduced by the OPA-mandated retirement of single-hull
7 vessels. America's tank barge operators are leading the
8 transition to an all-double-hull fleet and have invested more
9 than a billion dollars in new vessels to serve the U.S. energy
10 transportation market. Indeed, single-hull retirements are
11 proceeding at a faster pace than OPA 90 requires, and that
12 represents an enormous commitment by tank barge companies in
13 the business of transporting petroleum by water. My written
14 testimony highlights several examples of these significant
15 company commitments.
16 Mr. Chairman, as a result of all of this the domestic
17 tank barge industry today is not only maintained and operated
18 more safely than ever before, but is rapidly transitioning to
19 the double-hull design that OPA 90 requires.
20 We know that globally and domestically, there is still
21 too much oil spilled into the world's oceans and rivers. In
22 the United States, our industry firmly believes that safety
23 management and spill prevention are never-ending imperatives.
24 The actions Congress took in 1990 are working just as you
25 designed, and as a result the risk of oil spills in the United

1 States today is dramatically lower.

2 However, our job is not done. Our goal and your

3 expectation is zero spills and a 100 percent double-hulled

4 fleet, and our industry is fully committed to achieving those

5 goals.

6 Thank you for the opportunity to testify today. I will

7 be happy to take any questions that you may have.

8 [The prepared statement of Mr. Allegretti follows:]

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1 The Chairman: Thank you very much.
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1 STATEMENT OF JOSEPH J. COX, PRESIDENT AND CEO, CHAMBER
2 OF SHIPPING OF AMERICA
3 Mr. Cox: Thank you, Mr. Chairman. I will submit my
4 statement for the record if I can and I will summarize here.
5 The Chairman: Without objection.
6 Mr. Cox: Thank you, sir.
7 On behalf of the members of the Chamber of Shipping of
8 America, which are owners, operators, and charterers of
9 vessels -- and I point out, Mr. Chairman, they do operate both
10 foreign-flag and U.S.-flag vessels. You have heard some of
11 the issues being discussed in the government panel. In my
12 testimony, I did go through a history of phase-out. The
13 phase-out concept does go back to 1978, and the original
14 changes to MARPOL that required tankers to outfit segregated
15 ballast tanks or dedicated clean ballasts, then OPA, then two
16 changes in MARPOL. Then I ended that history with the
17 PRESTIGE incident and the proposed EU actions.
18 Mr. Chairman, I am kind of a little bit questioning about
19 the EU activities. I certainly look at their press releases,
20 I talk to my colleagues in Europe, and I am not at all
21 convinced that we are getting straight answers from each
22 particular European participant. I think we have yet to see
23 what the final outcome of their deliberations is going to be.
24 However, after the PRESTIGE, Mr. Chairman, my testimony
25 gets into some what we feel are unacceptable actions taken by

1 individuals, or by the European Union itself. That included
2 the arrest of the master of the PRESTIGE after he had come
3 ashore from going through a quite harrowing experience where
4 he lost his vessel and, thankfully, did not lose any of his
5 crew.
6 They then, two nations, France and Spain, began escorting
7 tankers outside of their 200-mile limit, which we feel is in
8 violation of the Law of the Sea Treaty and also international
9 traditional law of the sea. There is a definite effect on
10 IMO. Mr. Chairman, it was kind of interesting to be at the
11 IMO, where they were talking to us about restrictions with
12 regard to U.S. actions relative to security measures and to
13 what extent we could go out into international waters to
14 inspect vessels for security measures, and at the same time be
15 escorting tankers outside of their waters for environmental
16 purposes.
17 There will be an effect on IMO, the very same
18 organization that was taking the U.S. to task in 1990 for OPA
19 90. Some of the same nations that were criticizing the United
20 States are now proposing some actions themselves along the
21 same lines of unilateralism.
22 Finally, Mr. Chairman, there is a ports of refuge issue
23 that I think is a very important one for the world to start to
24 talk about. That is, when a vessel is in distress, what do we
25 do with that vessel? Do we tell it to go out into some other

1 waters and handle it as best they can or do we have some type
2 of a safe haven available for those ships so that they can
3 come in and probably, maybe take care of their problem?
4 Mr. Chairman, we looked at the effect of the 23-year
5 issue, and this is where a little bit of the confusion about
6 the definitiveness of the EU actions comes into play. We
7 looked at vessels over 23 years old in our database. There
8 are some 630-some tankers in the world's fleet that are over
9 50,000 deadweight tons, therefore could trade in the
10 international market. 834 of those are currently double-
11 hull, and some 168 are over 23 years old, so those vessels
12 cannot come into our ports, although they can trade into LOOP
13 and the offshore lightering.
14 Now, how many will is a question for the marketplace to
15 determine, because certainly, if Europe says put a ship out of
16 Europe that is 23 years old, it could come into the U.S. It
17 could also trade to the Far East, it could also trade to the
18 Indian subcontinent, and it could also trade into South
19 America. Those determinations would be made by the
20 marketplace.
21 Mr. Chairman, I was talking to somebody in the audience
22 today who is a smart guy, and he reminded me about the 15-
23 year-old issue in crude oil tankers and how the Europeans may
24 be discussing not allowing crude oil carried on single-hull
25 tankers over 15 years old. That is a little bit of an

1 interesting issue because I discussed with some friends in
2 Europe yesterday and that would put out of business all their
3 North Sea shuttle tankers except for four of them. So I am
4 not quite sure that they would take that step, but if they do,
5 we would add to that 168 300-and-some-plus more vessels that
6 would be capable then of trading in other parts of the world
7 other than Europe.
8 Mr. Chairman, the commercial marketplace, at the end of
9 the day, is going to determine where those vessels go.
10 You have heard comments about OPA 90. We agree with all
11 those before us. It is a well-thought-out piece of
12 legislation. It is all-encompassing. We will have to review
13 the final EU action to see what vessels would be involved. We
14 certainly -- if the Congress feels necessary, if the Senate
15 feels it necessary, to begin a deliberation about those
16 vessels, it is certainly something we are willing to discuss.
17 But we have to address the ships that are affected therein,
18 and not the wholesale review of OPA 90.
19 You have heard a little bit of reaction from Senator --
20 "Senator Pluta" might be a little bit premature, to call him
21 that, Senator -- but Admiral Pluta has talked about
22 maintenance. I want to say that, in respect to double-hull,
23 certainly maintenance is as important as any other parameter,
24 including age, and we should put on the record that double-
25 hull is not a panacea. It does provide a great amount of

1 protection in low-energy collisions and groundings. However,
2 in catastrophic situations, it will not be the answer. We
3 have not seen catastrophic situations because mainly, quite
4 seriously or quite frankly, those vessels are relatively new
5 ships with all the newest --
6 The Chairman: Did you not see one with the French
7 tanker?
8 Mr. Cox: Well, the French tanker, sir, was --
9 The Chairman: You saw a catastrophic --
10 Mr. Cox: Well, that was a terrorist incident.
11 The Chairman: Is that not a catastrophic event?
12 Mr. Cox: I am sorry, I would determine catastrophic
13 event in the sense of a grounding, or a collision or some
14 internal problem with the vessel. I think a terrorist
15 incident I would not characterize as catastrophic. However,
16 the effect would be the same.
17 The Chairman: I think most --
18 Mr. Cox: The effect would be the same.
19 The Chairman: I do not want to quibble over words with
20 you, but I think it is a catastrophe, Mr. Cox. Go ahead.
21 Mr. Cox: On that issue, Senator, it does, the double
22 hull does provide a protection. You do have that extensive
23 void area between the outer hull and the inner hull that any
24 type of an action against the outer hull is going to have
25 somewhat of a protective measure against the inner hull being

1 breached.

2 We did include, Senator, two other issues which we took

3 the opportunity of responding in terms of your request for

4 comments. One was on terrorism insurance for vessels. It is

5 a very serious problem, particularly applicable to the

6 American operator and owner because his assets are all here in

7 the United States, and he cannot hide behind the registering

8 of a vessel in another locale.

9 We also discussed the confidentiality of our information

10 in the ship safety security plans.

11 Thank you very much, Senator. I will certainly be

12 available for questions.

13 [The prepared statement of Mr. Cox follows:]

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1 The Chairman: Thank you, Mr. Cox.
2 Mr. Godfrey.
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1 STATEMENT OF TOM GODFREY, PRESIDENT, COLONNA'S SHIPYARD,
2 INC., NORFOLK, VIRGINIA, AND CHAIRMAN, SHIPBUILDERS COUNCIL OF
3 AMERICA
4 Mr. Godfrey: Mr. Chairman, thank you.
5 My name is Tom Godfrey. I am President --
6 The Chairman: Would you move the microphone closer.
7 Thank you, Mr. Godfrey.
8 Mr. Godfrey: Thank you.
9 My name is Tom Godfrey. I am President of Colonna's
10 Shipyard in Norfolk, Virginia. I am also Chairman of the
11 Shipbuilders Council of America. The council is the oldest
12 and most broad-based trade association representing all
13 sectors of the commercial shipyard industry. Founded in 1920,
14 SCA represents 71 shipyards -- 71 companies that own and
15 operate 150 shipyards over 24 States, including about 35,000
16 employees. Our member companies are involved in building and
17 repairing America's commercial fleet, as well as the vessels
18 involved in the U.S. military, the U.S. Coast Guard, and other
19 mid-sized vessels included in the government operations. We
20 maintain these vessels, we repair these vessels, and we also
21 are active in maintaining vessels for the National Defense
22 Reserve Fleet.
23 Relative to OPA 90, the phase-out of single-hull tankers,
24 clearly, these catastrophic spills in Europe have raised new
25 issues. We are watching the EU very carefully right now, and

1 it appears that new regulations are coming up, and it is quite
2 possible that they are going to promulgate regulations that,
3 frankly, validate the leadership of the United States in the
4 action taken by this Congress 12 years ago in designing and
5 implementing OPA 90.
6 The EU proposal considers eliminating all single-hull
7 vessels in a certain trade immediately. It would ban all
8 single-hulls by 2010, and would impose very strict inspection
9 schemes on vessels older than 15 years old. In some regards,
10 the EU regulations that are under discussion may be more
11 aggressive than OPA 90.
12 This initiative by the EU, I think, raises several
13 questions for Congress and for industry to examine at this
14 point. We would ask, will the accelerated EU single-hull
15 retirement schedule create a shipping problem, a shortage of
16 hulls to supply the crude oil that we need to support our
17 needs here domestically?
18 The second question may be, what is the status of the
19 domestic energy transportation needs as OPA 90 deadlines
20 approach us? And should -- the third question being, should
21 OPA 90 be modified or adjusted relative to the action taken by
22 the EU?
23 This is our comments relative to those questions. As we
24 see it, in the global marketplace, there is sufficient ship
25 construction capacity to meet the deadlines that are under

1 discussion in the EU. The entire global fleet, about 1600
2 tankers, could be replaced in a time frame of only 7 years.
3 About half of that fleet is already in the double-hull
4 configuration.
5 So, while we see the market being impacted, and perhaps
6 the cost of transportation being impacted, we believe that the
7 ship industry, the ship construction capacity, is out there to
8 construct and deliver these new vessels.
9 Relative to the second question, in the domestic
10 petroleum markets, we see a mix of circumstances and we want
11 to point out a few of those to you. There has been a very
12 significant launching of new vessels in the market of tank
13 barges. Based on our statistics, we believe about 60, 65
14 percent of the large coastwise tank barge fleet is OPA-
15 compliant today. We believe, based on construction to date,
16 the progression of new double-hull tank barges going into
17 service is going to readily meet the OPA deadlines, and we
18 feel very confident that that aspect of the industry will be
19 ready.
20 In the ship community, there are more questions about the
21 availability of new double-hull vessels being available to
22 meet the OPA 90 deadlines. Very few new vessels have been
23 built. At this date, approximately 40 percent or so of the
24 active tonnage is double-hulled, and there are very few or no
25 contracts pending for new vessels at this time. I want

1 specifically to say that, with respect to new product tankers,
2 there have been no contracts signed since the mid-1990's.
3 There are factors that come to bear relative to these
4 circumstances. The oil majors are not offering long-term
5 charter and transportation agreements to the owner-operators
6 of ships. Economic profits are obviously very substantial for
7 those that choose to continue to use these single-hull vessels
8 until the bitter end.
9 The liability for environmental damage is focused on the
10 vessel owner and operator. Charterers, oil companies,
11 producers, brokers, other people involved in the distribution
12 of petroleum products, can limit their liabilities, and
13 perhaps the analogy of the Japanese-built ship that is now
14 registered in one country and managed by a company in another
15 country is a good analogy.
16 Charterers in most cases, being in business to make a
17 profit, will utilize the lowest-cost transportation and I
18 think the economic forces there are obvious.
19 It has also a fact that markets are changing. The
20 patterns of oil distribution are shifting. Supply and demand
21 is moving. Clearly, some of the markets that were
22 traditionally served by self-propelled tankers may be better-
23 served more economically with today's newest tank barge and
24 they are doing a marvelous job in many markets.
25 The question concludes with, can the U.S. shipbuilding

1 industry meet the need to build the projected tankers? Yes,
2 we believe absolutely that is possible. Assuming
3 conservatively that perhaps 15 tankers could be ordered, the
4 industry could easily supply those over the next 5 years or
5 so. The fact that the barge operators have ordered and
6 received 32 large barge units in the last 3 years is evidence
7 and affirmation of what our capabilities are. The same thing
8 can be done with the ships.
9 We believe that Congress must send a clear message to
10 everyone concerned that U.S.-built ships, U.S.-owned and U.S.-
11 crewed double-hull vessels will be used to move our oil and
12 our oil products along our coastlines and our river systems,
13 and that there will not be the possibility of extension, or
14 waiver, or modification of the OPA 90 deadlines. I know there
15 has been a lot of discussion in industry, maybe not recently,
16 but over the years since OPA was implemented, is there any
17 possibility that those dates might be stretched?
18 Congress may want to consider some additional measures to
19 ensure that vessel safety and compliance is encouraged to be
20 prompt and timely. For instance, we specifically would
21 suggest that Congress consider implementing more stringent
22 inspection requirements for vessels of a certain age, perhaps
23 15 years and older. That seems to be in step with what the EU
24 is considering.
25 We would also consider -- would offer that Congress may

1 need to revisit the structure of liability law to consider how
2 we can clarify where the liability runs if a vessel does
3 encounter a problem and spill oil. Charterers and other types
4 of entities that are involved in this process should all
5 equally share in whatever risk and liabilities there may
6 exist.
7 Further, we would maybe make a suggestion that Congress
8 go back and look at reenacting some assessments on cargo moved
9 in single-hull tonnage, and deposit those collections in the
10 oil spill liability trust fund. This would create a clear
11 economic incentive for owners to go ahead and make the
12 transition to double hulls as soon as possible.
13 Lastly, I would make one further comment, and that is
14 with respect to the fact that we are concerned that the U.S.
15 flag tanker fleet is not well-prepared to serve this country's
16 military needs that are upcoming. There are studies on the
17 record from the Military Sealift Command of the Navy and the
18 United States Maritime Administration that project a
19 significant shortage of double-hull tanker capacity in as
20 early as 2005. Our military sealift requirements are
21 critical, and failure to address those needs could have dire
22 implications for our security here at home.
23 In closing, the Shipbuilders Council appreciates the
24 opportunity to testify, Mr. Chairman, and I would be very
25 happy to answer any questions you may have.

1 [The prepared statement of Mr. Godfrey follows:]

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1 The Chairman: Thank you, sir.
2 Mr. Sandalow, welcome.
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1 STATEMENT OF DAVID SANDALOW, EXECUTIVE VICE PRESIDENT,
2 WORLD WILDLIFE FUND
3 Mr. Sandalow: Thank you, Senator. With your permission,
4 I will submit my written statement for the record.
5 The Chairman: Without objection.
6 Mr. Sandalow: I am pleased to be here today to testify
7 on behalf of the World Wildlife Fund, one of the largest
8 nature conservation organizations in the world. WWF currently
9 works in more than 80 countries, thanks to the support of 1.2
10 million members in the United States, and more than 5 million
11 members worldwide.
12 Mr. Chairman, I come here today with a simple message:
13 There are reasonable and prudent steps that we should take to
14 protect our oceans from major oil spills. In this oral
15 statement, I will recommend two such steps: first,
16 accelerating the phase-out of single-hull tankers; and second,
17 of critical importance, building a network of "no go" zones in
18 our oceans that are off limits to tanker traffic.
19 Mr. Chairman, the sinking of the tanker PRESTIGE off
20 Spain in November grabbed the attention of millions around the
21 world. But what is most striking about this accident is its
22 familiarity. Since the EXXON VALDEZ ran aground roughly 13
23 years ago, large spills have continued to take their toll on
24 coastal communities and fisheries around the world.
25 In 2001, for example, the Ecuadoran ship, JESSICA,

1 spilled diesel and bunker fuel into the sea off the Galapagos
2 Islands, imperiling one of the world's great ecological
3 treasures. In November 2000, a single-hull tanker dumped
4 550,000 gallons of Nigerian crude oil near Port Sulphur in the
5 Gulf of Mexico. In the past decade, eight tankers have
6 accidentally spilled at least 1 million gallons of oil into
7 the world's oceans.
8 The costs of these spills are enormous. Consider: 550
9 miles of coastline, the entire Atlantic coast of the Spanish
10 province of Galicia, have been closed to fishing and
11 shellfish-gathering since the PRESTIGE spill, affecting 90,000
12 people whose livelihoods depend directly on these activities.
13 The damages associated with the EXXON VALDEZ spill have been
14 estimated to exceed $2 billion. And although the United
15 States has taken important steps in the past to prevent
16 similar disasters, most notably by passing OPA, we must do
17 more.
18 I will speak very briefly today to two steps that we can
19 take. First, we must eliminate the riskiest vessels. Present
20 U.S. and international law calls for the phase-out of single-
21 hulled tank vessels by 2015. Yet incidents like the PRESTIGE
22 remind us that we are still at risk, and that 2015 remains a
23 long ways off. Today the majority of tankers carrying oil out
24 of VALDEZ are still not double-hulled. As late as this
25 summer, the average age of tankers in the Trans-Alaska

1 Pipeline trade between VALDEZ and the U.S. West Coast was 20.5
2 years.
3 Accelerating the elimination of single-hulled vessels is
4 a good idea whose time has come. Knowledgeable observers note
5 that a quicker timetable is realistic. An OECD report
6 suggested a phase-out in the next 7 to 9 years may be
7 possible. The United States should carefully consider such
8 advice and support the quickest possible removal of single-
9 hull tankers both in our home waters and abroad.
10 Second, Mr. Chairman, and very critically, we should
11 build a global network of "no go" zones in our world's oceans.
12 Even under an accelerated phase-out timetable and other
13 measures that have been discussed today in this hearing,
14 single-hulled and unsafe vessels will continue to pose a
15 threat to marine biodiversity and coastal commerce for years
16 to come.
17 Moreover, double-hulled tankers, although they do better
18 than single-hulls in preventing pollution, are by no means a
19 panacea, as Mr. Cox has said before me on this panel.
20 Accordingly, we urge the United States to play a leadership
21 role in establishing a global network of "no go" zones where
22 tanker traffic would be prohibited.
23 IMO rules provide an important mechanism for the
24 designation of such zones, known as Particularly Sensitive Sea
25 Areas, PSSA's. Our Nation should be active in promoting the

1 use of this important tool by the IMO. In our own waters, we
2 should seek "no go" zone status for areas that are critical to
3 the ocean web of life, or of special importance to commercial
4 and recreational fishermen and others who rely on the sea.
5 As a starting point, the United States should strongly
6 consider petitioning the IMO for special protection of:
7 first, areas of special importance to the economy of coastal
8 communities, including places designated as essential fish
9 habitat under the Magnusen-Stevens Fishery Conservation and
10 Management Act; and second, areas of special biological
11 importance, such as our national marine sanctuaries. These
12 "no go" zones can make a huge difference in protecting the
13 world's oceans.
14 Mr. Chairman, WWF thanks you and the members of the
15 committee for the opportunity to testify today. We stand
16 ready to assist the committee in shaping constructive
17 solutions to the serious continuing problem of major oil
18 spills in the world's oceans.
19 Thank you.
20 [The prepared statement of Sandalow follows:]
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1 The Chairman: Thank you very much.

2 Mr. Rauta, please help me with the pronunciation.

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1 STATEMENT OF DRAGOS RAUTA, TECHNICAL DIRECTOR,
2 INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS
3 [INTERTANKO]
4 Mr. Rauta: Thank you very much, Mr. Chairman. Good
5 afternoon, Mr. Chairman. My name is Dragos Rauta.
6 The Chairman: "ROU-tah," thank you.
7 Mr. Rauta: Yes. I am the Technical Director of
8 INTERTANKO and U.S. representative of INTERTANKO. INTERTANKO
9 is a trade association representing a majority of the world
10 tanker owners and operators. Our members control more than
11 2,000 tankers. This is more than 70 percent of the world's
12 independent fleet. INTERTANKO ships fly the flags of more
13 than 40 countries, including the United States, and transport
14 more than 60 percent of all the oil and petroleum products
15 imported into the United States each year.
16 INTERTANKO appreciates that this committee has taken an
17 interest in international maritime safety issues so early in
18 this Congress. We are pleased to be able to appear here this
19 afternoon. I have submitted for the record a more complete
20 statement. In this short oral presentation, I would only
21 highlight a few points, particularly in light of recent
22 European actions that follow the loss of vessel PRESTIGE.
23 First, the international nature of the marine
24 transportation system means that effective marine safety
25 measures must be developed and accepted globally. No one

1 nation or region can unilaterally decree new safety or
2 prevention measures without having impacts, many of them
3 potentially negative, in other nations or regions.
4 Second, while there is an understandable political
5 impulse to react immediately to issues raised by marine or
6 aviation casualties, this impulse must give way to the need
7 for accurate information about the cause of a casualty and to
8 efforts to gain international consensus on remedial measures.
9 Third, unilateral European bans on the carriage of
10 particular types of petroleum and proposals for accelerating
11 double-hull requirements undermine existing international
12 safety mechanisms and, more immediately, threaten to fragment
13 artificially the international oil transport markets. I f
14 there are remedial measures that are clearly suggested by the
15 causes of the PRESTIGE spill, they should be placed before the
16 International Maritime Organization and applied globally.
17 Arbitrary restrictions on cargoes, vessels' ages, and vessel
18 designs, for example, double hulls versus single hulls, bear
19 little connection to what is currently known about the cause
20 of this incident.
21 Fourth, although we all understand the desire of the
22 governments of coastal nations affected by the PRESTIGE
23 disaster to appear decisive, there is no justification for
24 interference by those nations with the right of freedom of
25 passage through their exclusive economic zones, a right

1 enshrined in the United Nations Convention of the Law of Sea
2 and established by international public law. The maritime
3 nations of the world, particularly the United States, must
4 speak forcefully against French and Spanish interference with
5 the lawful activities of vessels that conform to all
6 internationally accepted safety standards. Well-established
7 principles of freedom of passage must be defended for the
8 benefit of all nations, including the United States.
9 Fifth, maritime nations must give urgent attention to the
10 designation of ports of refuge. Never should a ship in
11 distress like the PRESTIGE be forced out to sea to break up
12 when there exists a chance of moving into sheltered areas
13 where damage can be contained. With regard to the PRESTIGE,
14 it should be noted that its cargo tanks were substantially
15 intact at the time the ship was warded out to sea. Had it not
16 been forced out by Spanish authorities, the resulting
17 pollution and areas impacted very likely would have been a
18 small fraction of what we experienced.
19 Sixth, before new measures are created we must inquire
20 whether existing flag and port state obligations are being
21 properly implemented. INTERTANKO has worked in partnership
22 with the United States Coast Guard to promote effective port
23 state control in the United States. We hope that this success
24 can be repeated in other nations' ports.
25 Finally, the inclination in the United States and abroad

1 to treat marine casualties as criminal matters is bad policy
2 and harmful to efforts to protect ships, crews, and the marine
3 environment. Absent gross negligence or willful misconduct,
4 no officer or crew member should be incarcerated because a
5 ship has been lost or damaged at sea. No response to a
6 casualty should be compromised by fear of fines or
7 imprisonment. No investigation should be complicated by
8 concerns that honest answers will land people who have done no
9 intentional harm in jail.
10 Shipowners in the United States and other nations have
11 incurred enormous expenses in modernizing their fleets and in
12 ensuring the safe operation of their vessels. The pace of
13 double-hull conversions worldwide is testimony to the immense
14 capital commitments that shipowners have borne to meet current
15 legal requirements, and to improve the quality of their
16 fleets. Safety has advanced considerably over the past 20
17 years. Continued progress depends on the diligent daily
18 efforts of shipowners and crews. National and regional
19 governments must act responsibly to protect the benefits of
20 these efforts.
21 Thank you for your interest in these important issues. I
22 will answer any questions you may have to the best of my
23 ability. I assure you that INTERTANKO will continue -- as it
24 has for many years -- to make its expertise available to the
25 Congress and the administration. We have made substantial

1 progress and look forward to continuing improvements in the
2 efficient maritime transportation of the commerce of the
3 United States.
4 [The prepared statement of Rauta follows:]
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1 The Chairman: Thank you, Mr. Rauta, and your complete
2 statement will be made a part of the record.
3 Mr. Godfrey, can you move over just a little bit. I want
4 to apologize to the witnesses that there is not sufficient
5 room at the table, and I apologize for that again.
6 Mr. Frick, welcome.
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1 STATEMENT OF G. WILLIAM FRICK, VICE PRESIDENT FOR
2 INDUSTRY OPERATIONS AND GENERAL COUNSEL, AMERICAN PETROLEUM
3 INSTITUTE
4 Mr. Frick: Thank you, Mr. Chairman, members of the
5 committee. I am Bill Frick, Vice President for Industry
6 Operations and General Counsel of the American Petroleum
7 Institute, a trade association representing over 400 companies
8 involved in all aspects of the petroleum industry. I am
9 pleased to be here today on behalf of the API members, member
10 companies who own, operate, and charter tanker fleets for the
11 transportation of crude oil and petroleum products.
12 With the chair's permission, I will proceed with a brief
13 oral statement, and submit a more detailed version for the
14 record.
15 The Chairman: Your complete statement will be made part
16 of the record, Mr. Frick. Thank you.
17 Mr. Frick: The committee is to be commended for calling
18 this hearing to consider issues arising from the breakup of
19 the MV PRESTIGE and the subsequent damage caused the
20 coastlines of France and Spain. It is distressing to all of
21 us to see the impacts this incident has caused and continues
22 to cause to such a beautiful and bountiful area of our world.
23 As members of this committee know, concern over the
24 effects of major tanker accidents was the impetus for
25 enactment of OPA 90. This act deserves a large measure of

1 credit for the dramatic improvement in spill prevention over
2 the last decade. In the average year from 1981 to 1990,
3 according to U.S. Coast Guard records, a total of 70,000
4 barrels of oil were released by tankers in U.S. waters. But
5 the rate dropped to just 4,000 barrels per year in the 10
6 years following enactment of OPA 90, a decrease of 95 percent.
7 A chart of this dramatic improvement is attached to our
8 written testimony.
9 Given that over 25 billion barrels were imported over
10 this period, it is an extraordinary success story.
11 Nevertheless, even with great progress, the industry
12 continuously seeks to improve its records, guided by the OPA
13 90 framework.
14 OPA 90 is an important bulwark against a catastrophe such
15 as the one caused by the PRESTIGE. It has many beneficial
16 features, from establishing financial accountability and
17 liability to limiting the hours a seaman can work. The most
18 discussed feature of the act, however, is the directive for an
19 orderly phase-out of single-hull tank vessels in favor of
20 double-hull or hull-within-a-hull designs.
21 Some have questioned whether the American tanker industry
22 still favors the conversion that will make single-hull tankers
23 a thing of the past in U.S. waters by the year 2015. To be
24 very clear, API and its member companies support the double-
25 hull conversion schedule in OPA 90. API members who own ships

1 are investing large sums in new double-hull tankers and are on
2 schedule to meet OPA's phase-out.
3 We do not, however, want the expected benefits of double
4 hulls to diminish the importance of other components in our
5 having safe marine transportation of oil. Effective
6 prevention relies on a system of measures that goes beyond
7 hull configuration, including regulatory and industry
8 oversight, a vessel's maintenance as well as the competency of
9 its crew, and port infrastructure. Each of these plays a
10 vital role in the system's success. Double hulls provide
11 protection from low-energy collision and grounding. They are
12 not a substitute for proper standards of management,
13 operation, maintenance, and corrosion control.
14 In the wake of the PRESTIGE incident, European
15 governments have under consideration unilateral acceleration
16 of the single-hull phase-out schedule along with certain other
17 restrictions on tankers that may enter EU ports. This has
18 raised issues of whether the EU requirements could affect
19 shipments to the United States. Certainly, to the extent that
20 phase-out schedules differ from one part of the world to
21 another and companies must redeploy tankers, the world
22 shipping system will not run as smoothly and efficiently as it
23 can.
24 It appears, however, that there is sufficient capacity
25 and flexibility in the worldwide shipping industry to adjust,

1 if the EU does adopt these new requirements, without
2 significant disruption to U.S. commerce. Were such measures
3 to spread to other regions, however, the situation could
4 change. Because shipping is a global activity, API believes
5 that the development of programs and standards relative to
6 these issues should generally be directed toward the entire
7 world fleet, via an international body such as the
8 International Marine Organization, IMO. They should not be
9 implemented just on a unilateral port-state-by-port-state
10 basis, which is why the United States pursued worldwide phase-
11 out of single hulls through IMO after passage of OPA 90.
12 As an industry, we are very pleased with the strong
13 record of improvement in preventing tanker spills. We remain
14 committed to full implementation of OPA 90 and believe that it
15 has all parties on the right track. More stringent measures
16 such as the EU is considering are not in our view warranted,
17 given the progress made here pursuant to OPA 90.
18 We look forward to continuing our work with the Coast
19 Guard, the other agencies, and the Congress to realize the
20 statute's goals. Mr. Chairman, I will be happy to respond to
21 questions.
22 [The prepared statement of Mr. Frick follows:]
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1 The Chairman: Thank you, Mr. Frick.
2 Mr. Cowen, welcome.
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1 STATEMENT OF ROBERT N. COWEN, SENIOR VICE PRESIDENT AND
2 CHIEF OPERATING OFFICER, OVERSEAS SHIPHOLDING GROUP, INC.
3 Mr. Cowen: Thank you, Mr. Chairman. My name is Robert
4 N. Cowen. I am Senior Vice President and Chief Operating
5 Officer of Overseas Shipholding Group. OSG, based in New York
6 and listed on the New York Stock Exchange, is the largest U.S.
7 independent owner and operator of oil tankers. Over the past
8 3 years, OSG has invested over $800 million in the renewal of
9 our fleet with modern double-hull vessels.
10 With your permission, Mr. Chairman, I would like to
11 submit my full remarks.
12 The Chairman: Without objection.
13 Mr. Cowen: Thank you.
14 When Congress enacted the Oil Pollution Act of 1990, the
15 U.S. took a bold leap forward, leading the world in requiring
16 double hulls and imposing new safety requirements for tankers
17 moving oil to our shores. The International Maritime
18 Organization followed our lead to require double hulls. But
19 recent spills involving older single-hull vessels off the
20 coast of Europe highlight the continuing dangers associated
21 with the older single-hull vessels and create a very real risk
22 that new stricter practices and rules imposed in other parts
23 of the world will force such vessels to trade to the U.S.
24 The point I want to stress to the committee today, Mr.
25 Chairman, is that in the highly competitive world of

1 international shipping, restrictions that bar older tonnage
2 from particular trades will necessarily drive substandard
3 tonnage to trades where regulations and practices are more lax
4 and permissive. The U.S. cannot allow our waters to become a
5 haven for older single-hull vessels that are no longer
6 permitted to trade to the EU, or to other major trading
7 nations like Japan and Korea. We must act to restrict these
8 vessels from trading to the U.S. or face an unacceptable risk
9 of our own PRESTIGE or ERIKA.
10 I would like to share with this committee some very
11 disturbing statistics. Shockingly, a disproportionately large
12 number of the world's remaining 25-year-old single-hull VLCC's
13 are trading to the U.S. Gulf every day. While the world fleet
14 continues to add modern double-hull vessels, the remaining
15 older vessels are still coming to the U.S. in large numbers.
16 In 2002, 56 single-hull VLCC's of 25 years of age or older
17 were fixed on voyages to the U.S. Gulf Coast. This represents
18 over 40 percent of all spot liftings worldwide on vessels of
19 this vintage. Only one vessel of over 25 years of age was
20 fixed to the EU in all of 2002. Not a single vessel of this
21 vintage discharged in Japan or in Korea.
22 Similarly, 50 percent of all spot liftings on VLCC's,
23 very large crude carriers, of between 21 and 25 years of age,
24 some 171 liftings, discharged in the U.S. Gulf. Not a single
25 vessel of this age vintage discharged in the EU or in Japan or

1 in Korea throughout 2002. Just looking at the first week of
2 this year alone, seven spot fixtures of VLCC's in excess of 20
3 years of age were reported moving oil from the Middle East to
4 the U.S. Gulf.
5 For many years, it has been known in the tanker business
6 that older single-hull vessels are not welcome in Japan or
7 Korea. Since the ERIKA incident in 1999, it is also the fact
8 that such vessels are effectively discouraged from calling to
9 the EU as well. With the recent oil pollution disaster
10 involving the 26-year-old single-hull tanker PRESTIGE off the
11 coast of Spain, the EU and in particular, Spain, France, and
12 Portugal have moved rapidly and forcefully to tighten the
13 restrictions on old single-hull tonnage trading to their ports
14 and moving along their coastlines.
15 The European Commission has recently adopted an outright
16 ban on any single-hull vessel carrying heavy fuel oil or heavy
17 crude from entering EU ports. France, Spain and Portugal have
18 already acted to exclude single-hull vessels carrying fuel oil
19 and heavy crude from passing within their 200-mile economic
20 exclusion zones.
21 Once the current EU proposals to ban single-hull vessels
22 from their ports and coastal waters are put into effect, these
23 vessels will be forced to seek employment in trades that still
24 accept them. When single-hull vessels are banned from trading
25 to the EU, where will these vessels trade? We cannot allow

1 our rules here to be more permissive, or these vessels will
2 surely trade here.
3 This is most eloquently illustrated by an article that
4 appeared in Lloyd's List, which is the shipping newspaper, on
5 January 8, 2003, a copy of which is appended to my testimony.
6 As stated in that article, a single-hull tanker carrying crude
7 oil, which had been scheduled to discharge in Spain, was
8 diverted to the U.S. because of the present sensitivity in
9 Spain to calls by single-hull tankers.
10 As an aside, I would like to point out to the committee
11 that if increasing numbers of older single-hull vessels call
12 at U.S. ports, we believe the Coast Guard will be faced with
13 an enormous additional burden to inspect all these vessels.
14 In this case, consideration would have to be given, we would
15 suggest respectfully, to providing the Coast Guard with the
16 necessary additional resources to carry out such a task.
17 We submit that it is wholly unacceptable to allow the
18 U.S. to become the world's port of last resort. As a matter
19 of law and public policy, the Congress declared in 1990 that
20 the U.S. would ban older substandard tonnage from its shores.
21 Congress concluded that these vessels represent an
22 unacceptable risk to our environment. Unfortunately, recent
23 incidents in Europe confirm that such vessels continue to
24 trade, and do in fact pose a grave risk to our oceans and
25 coastlines. The U.S. cannot stand by and permit others to

1 adopt trading rules which are more stringent than ours and
2 that drive such vessels to our shores. We must maintain our
3 vigilance, and ensure that our rules restrict such vessels
4 from trading to the U.S.
5 Thank you, Mr. Chairman. I will be pleased to answer any
6 questions.
7 [The prepared statement of Mr. Cowen follows:]
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1 The Chairman: Well, thank you, Mr. Cowen. In other
2 words, you believe that we should enact the same rules that
3 are now pending before the EU?
4 Mr. Cowen: Mr. Chairman, I believe that we have to be
5 very vigilant to make certain that if they do adopt those
6 rules that the vessels do not trade here in disproportionate
7 numbers.
8 The Chairman: But you do not go so far as -- I do not
9 know how you would do that except by adopting those same
10 rules. Do you?
11 Mr. Cowen: No, I think you are right, Mr. Chairman.
12 The Chairman: Well, let me start out here with something
13 that I think disturbs a lot of Americans and puzzles me, and I
14 do not know if there is anything to be done about it, but I
15 think it affects the confidence of Americans about the
16 security of their environment. I take it that PRESTIGE was
17 not an unusual ship in this respect: Japanese-built, owned by
18 a company registered in Liberia, managed by a Greek firm,
19 registered in the Bahamas, certified by an American
20 organization, chartered by a Swiss-based Russian trading
21 company.
22 Why do we have -- why can we not have a ship that is
23 built in a country and perhaps operated in another country? I
24 know one of the answers is labor, wages, standards, et cetera.
25 But does this build confidence in the American people, to know

1 that ships like that, in those conditions -- I mean, who would
2 we hold responsible if something like happened with the
3 PRESTIGE off of Spain happened in the United States of
4 America? The Bahamas? The Liberians? Greeks? Russians?
5 We will begin with you, Mr. Cox. You are an expert.
6 Mr. Cox: Thank you, Senator. I was hoping you would go
7 alphabetically by association.
8 [Laughter.]
9 Mr. Cox: I think your description of the circumstance
10 around the ownership and operation and crewing and that of
11 that vessel is certainly not strange in the maritime industry.
12 The IMO did look at an issue which we put on the table when we
13 began the security debate last year in February, and that was
14 beneficial ownership. The idea was that the beneficial owner
15 -- and there is no description of that term, Senator, but at
16 the same time, I would call beneficial owner that person who
17 ultimately receives the final profits from that vessel's
18 operation.
19 The IMO looked into that and, after much debate at the
20 Maritime Safety Committee, they kicked it over, not
21 uncharacteristically, but they kicked it over to the legal
22 committee, to say you take a look at it. What they came in
23 with was that the key aspect of a vessel is that person who
24 has control over the operations of that vessel.
25 The Chairman: Okay, but let me interrupt. Let me have a

1 dialogue with you. But if it is registered in one country,
2 the purpose of the registry is that that country would make
3 sure that any ship registered under its flag would meet
4 certain standards and criteria, right?
5 Mr. Cox: Correct, sir.
6 The Chairman: Then would not that country be
7 responsible? Would not Liberia or the Bahamas be responsible,
8 not the person or entity that is making the money, or both?
9 Mr. Cox: Yes, sir, in respect to your example, the
10 Liberians are the ones who would have their flag on that ship.
11 That would be the country we would look to as being
12 responsible for the conditions of the vessel in terms of it
13 meeting standards.
14 The Chairman: And as you know, Liberia would say: Fine,
15 we are responsible; so?
16 Mr. Cox: Well, we can get into a description of the
17 flags, of what are called the flags of convenience, and how
18 good or not good they are. But carrying on from that issue,
19 Liberia on the flag and in the state does not control the
20 movements of the vessel. Someone controls the movements of
21 that vessel.
22 The Chairman: But the fact that it is registered in that
23 country gives that country the responsibility for it.
24 Otherwise they should not register it under that flag. That
25 is why its country's flag is flying on the stern of the ship.

1 Mr. Cox: I am not disagreeing on that, Senator. I think
2 that you are getting to a very critical and pertinent piece of
3 information within the maritime community, and that is who can
4 we finger and hold responsible for the operation of the
5 vessel, and that person also has a conditional responsibility
6 for the vessel also. It is not just where it is going, but
7 what condition is that ship. That is the person we are trying
8 to get to.
9 The Chairman: Maybe that is why, maybe that is why, Mr.
10 Rauta, they throw the captain in jail, because they sure know
11 that they are not going to get any Liberians. Go ahead.
12 Mr. Rauta: Thank you, Mr. Chairman. If I may come back
13 to your first question, who is responsible, is it the operator
14 or the owner? It depends on the structure. It is no doubt,
15 and in this case the operator is known, the owner is known.
16 The all-factors, the class society who has classified the
17 ship, is known.
18 The Chairman: The country under which that ship is
19 flying the flag bears responsibility.
20 Mr. Rauta: Bears, shares --
21 The Chairman: Any interpretation of international law
22 will tell you that. Otherwise, it does not have the right to
23 fly its flag.
24 Mr. Rauta: I do not disagree. It also shares the
25 responsibility, and therefore the Bahamas flag, which by the

1 way is one of the best -- has one of the best records and
2 probably better than many other EU flags or administrations.
3 Bahamas will be the one conducting the accident investigation.
4 The Chairman: Well, I believe in dialogue here, Mr.
5 Rauta. You are telling me that the Liberians can carry out
6 the kind of inspections and enforce the kind of standards on a
7 ship and its construction and its operation that the French
8 can?
9 Mr. Rauta: Mr. Chairman, with due respect, it is
10 Bahamas, and by the records of port state control in this
11 country and in Paris MOU agreements and in Far East agreements
12 Bahamas has -- or ships registered with Bahamas have very good
13 records. In the Paris MOU system, in Europe they belong to a
14 short list of white-listed flags, so their records are good,
15 generally speaking. About this case, we need to find out the
16 causes and listen to the investigation report.
17 On the business type of --
18 The Chairman: Mr. Sandalow, this kind of lash-up is not
19 the exception, it is the rule; is that right?
20 Mr. Sandalow: That is absolutely correct, Mr. Chairman.
21 The Chairman: I am not interrupting. I am going to get
22 back to you, Mr. Rauta.
23 Go ahead.
24 Mr. Sandalow: Let me just say, this Bahama-Liberian-
25 Greek-Japanese-Martian web of control here is a huge concern,

1 and it is one reason that we need to take long-term steps
2 under the Convention on the Law of the Sea to have additional
3 obligations on flag states. They need to actually have duties
4 and responsibilities and capabilities to carry out the
5 responsibilities that they are undertaking.
6 The Chairman: Continue, Mr. Rauta - go ahead.
7 Mr. Sandalow: One additional point, Mr. Chairman. It is
8 going to take a while to get there. In the interim, we need
9 these "no go" zones I talked about in order to protect the
10 most sensitive areas of the ocean.
11 The Chairman: Complete your comment, Mr. Rauta.
12 Mr. Rauta: Mr. Chairman, on the business relationship
13 that you describe, maybe not though with so many different
14 countries of residence and so on, but there are many other
15 businesses are likewise administrated, organized. It is not
16 only shipping. So, it is not particularly only for maritime
17 business.
18 The Chairman: But those other businesses do not carry
19 crude oil around the world and bring and cause a risk to lives
20 and environment.
21 Mr. Rauta: This is correct, sir. This is correct.
22 Now, in our comments, what we have said is actually not
23 in contradiction to anybody else. The only plea we make is,
24 number one, that if there are going to be corrective actions,
25 those should be based on factual -- fact-finding investigation

1 from an accident, and that those are discussed and applied and
2 adopted at an international level.
3 Now, the master of the ship is the key witness on this
4 investigation. That man has battled for 24 hours to hook the
5 vessel in impossible weather to the tug of that vessel, and
6 after that he is put in jail and sits there for the last 2
7 months. That man probably would not be the excellent witness
8 an investigator would need to clarify the real cause of the
9 accident. That was the background of my statement.
10 The Chairman: I would be glad if there is any of the
11 other witnesses that have a comment on this particular issue,
12 because it has all got to do with confidence. I do not think
13 that Americans, who I am worried about, but I am worried about
14 all citizens of the world, have any confidence in the safety,
15 the maintenance, all of the aspects that have the do with
16 prevention of these kinds of things, when they are an alphabet
17 soup.
18 Go ahead, Mr. Allegretti.
19 Mr. Allegretti: At the risk of appearing to be a
20 shameless opportunist, Mr. Chairman, and I go here with some
21 trepidation because I know you are a skeptic, the kinds of
22 concerns that you raise about international shipping do not
23 exist in the domestic fleet because of the Jones Act, and
24 because all of the vessels that trade domestically in the
25 United States are owned by American citizens, operated by

1 American crews, and built in U.S. shipyards, and are subject
2 to the --
3 The Chairman: I appreciate that commercial, but these
4 ships come into U.S. ports and operate in U.S. waters. That
5 was the issue, after the commercial is over for the Jones Act,
6 which has raised costs dramatically to all American citizens
7 who consume products that are carried in this exclusionary
8 fashion. That is my commercial.
9 Go ahead.
10 Mr. Allegretti: I said I was going there with
11 trepidation. I think I have made the point.
12 [Laughter.]
13 The Chairman: No, but please go ahead if you had a
14 comment on this other situation.
15 Mr. Allegretti: I would simply say that the question of
16 confidence is one that should not exist with respect to
17 domestic trade because we are subject to the full extent of
18 U.S. law within American jurisprudence, and to all the
19 liabilities that accrue under OPA 90. End of commercial.
20 The Chairman: I thank you, Mr. Allegretti. I think you
21 do make a very legitimate point because we do have confidence
22 in ships that are carrying an American flag. I would like to
23 have that same confidence in every ship that carries any flag
24 of any nation in the world, and that is not the case today.
25 Go ahead, Mr. Cox, if you want to. We will go down, if

1 you have any additional comments, or just pass.

2 Mr. Cox: Just quickly, Senator, that the international

3 maritime community is engaged in a debate as we sit here on

4 transparency. That is, are we too secretive in regards to

5 holding close to the chest cards that do not have to be held

6 close to the chest and should be opened up for review. I

7 think the investigation into the PRESTIGE, the class society

8 and the governments involved have been extremely open, much

9 more open than any previous incident. So, this is an

10 extremely good time for you to be expressing an interest in

11 this aspect of the industry.

12 The Chairman: Mr. Godfrey.

13 Mr. Godfrey: Mr. Chairman, yes. I believe OPA 90 is

14 good evidence that when you can clearly define who is

15 responsible you get good results. I think in the

16 international realm of shipping, it is a mess out there, and I

17 think again one of our points was we believe that liability

18 and responsibility needs to be clarified.

19 The Chairman: Mr. Sandalow, anything in addition?

20 Mr. Sandalow: A quick additional point. This is an area

21 where I think we can work very productively with the European

22 Union in light of what has happened over the past couple of

23 months, and particularly putting short-term diplomatic

24 pressure on the worst violators of flags of convenience-type

25 rules.

1 The Chairman: Mr. Frick, I know you do not have a direct
2 interest, but it is your product that is carried. Do you have
3 any additional? And I, again, apologize for the
4 inconvenience.
5 Mr. Frick: It is like a bad cocktail party.
6 [Laughter.]
7 Mr. Frick: What I would like to add to this is that --
8 and I am not touching the whole issue of flags of convenience,
9 both from a knowledge standpoint, and I know it is a very
10 complicated issue. But what I think we can look at to your
11 question of confidence is that OPA did more than just deal
12 with single hulls. It has a system, the Coast Guard has a
13 system, our members have systems, in which they look at these
14 tankers that are coming in.
15 So we screen these facilities. It is not just that they
16 say, well, it is coming from Liberia, they flagged it, it is
17 okay. There is a lot of other review that takes place as a
18 part of our own companies' practices, but also because of some
19 of the initiatives that have been brought in by OPA. So that
20 I think what we are missing here is that there are a lot of
21 other aspects of it, all of which lead us to the results,
22 which I tried to emphasize, we are not having these dangerous
23 ships come in. We have a way of ensuring that the ones coming
24 in are meeting higher standards, and that is why in the last
25 year that they have records 200 gallons were spilled when 3.2

1 -- barrels, excuse me -- while 3.2 billion barrels were
2 imported.
3 So, I think the record shows we are doing better and part
4 of it is because of these other elements, such as certificates
5 of financial responsibility and other elements of OPA.
6 The Chairman: Thank you.
7 Mr. Frick -- I mean Mr. Cowen. I am sorry.
8 Mr. Cowen: Thank you, Mr. Chairman. Mr. Chairman, I
9 agree wholeheartedly that Americans should have confidence in
10 all the oil that is coming into our country. We are importing
11 10 million barrels a day by sea.
12 The Chairman: Not just oil.
13 Mr. Cowen: Yes, absolutely, Mr. Chairman. The point
14 that I wish to make is OSG is a U.S.-based tanker company. We
15 are a rarity today in the industry. For reasons having to do
16 with the tax law and so on, U.S. owners of these vessels that
17 move the oil are at a competitive disadvantage. With your
18 permission, Mr. Chairman, I am pleased to submit for the
19 record a brief statement that would explain some of the tax
20 problems we have, and why we are not on a level playing field
21 with our foreign competitors.
22 But we do very much believe that there should be a
23 greater U.S. ownership involvement in the vessels that move on
24 the high seas and come into our ports.
25 [The information referred to follows:]

1 [COMMITTEE INSERT]
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1 The Chairman: Thank you, and we will include that
2 statement in the record.
3 With the indulgence of my colleague from Oregon, I ask
4 one more question for the panel. Should the U.S. consider
5 adopting the European Commission proposal, particularly if it
6 is adopted by the IMO, and what impacts would the EU proposal
7 have on the U.S. flag fleet? Mr. Rauta, beginning with you,
8 sir.
9 Mr. Rauta: Thank you very much, sir. Well, difficult to
10 give you a straight answer because the EU proposes two new
11 regulations, an accelerated phase-out, which it might be more
12 clear and probably easier to look into the statistics and
13 judge.
14 The second one is to restrict certain types of cargo.
15 They say heavy fuel oils, which is well-defined, and then
16 heavy crude oils. This is -- there is no definition at the
17 moment. There are two or three variations. In our written
18 submissions, we have -- according to the proposed rule by the
19 European Commission at the moment, we listed to our best
20 ability those crudes that may fall into that category that in
21 Europe should be brought in, or trade out by double hulls
22 only.
23 Now, with that degree of uncertainty it would be very
24 difficult to make an assessment globally. In the United
25 States, probably in the long-term, I personally would not

1 believe there will be too much of an impact. In the short
2 term, it depends very much on this definition of what is a
3 heavy crude oil, because most of the Venezuelan crude, some of
4 the crude from West Africa, and a couple of crudes coming from
5 the Arabian Gulf will fall in this category should the EU
6 still retain the definition that they are proposing now.
7 We basically have alternative definitions given there.
8 So, we will have to wait and see what is the final outcome.
9 The Chairman: Thank you.
10 Mr. Allegretti.
11 Mr. Allegretti: I am not an expert on the EU proposal,
12 but my understanding of it is that it has many, many
13 similarities with OPA 90, and indeed is moving the European
14 regulatory system closer to what we have already had here. I
15 hesitate to say that there would be no impact on U.S. flag
16 vessels because I think that in order to figure out what the
17 impact is of that movement, you have to actually look at the
18 vessel, at its size, at its age, and make a comparison.
19 But I believe that it is correct that, generally
20 speaking, the EU proposals are largely in accordance with what
21 we already live under here in the U.S. under OPA 90.
22 The Chairman: I think they accelerate what we are doing
23 here.
24 Mr. Cox.
25 Mr. Cox: Thank you, Senator. I agree, I think they

1 accelerate in terms of the single hulls calling into LOOP and
2 into the lightering zones. My testimony was, yes, there could
3 be a market shift of some ships to our market, and we do have
4 to take a look at that. We also suggest that we do not open
5 up all of OPA 90 and redo everything that is working
6 satisfactorily now. But we certainly do have to pay strict
7 attention to something that is occurring in another major
8 market that could have that impact on us.
9 I think one of the factors that could ameliorate our
10 concern is the port state control that we exercise. I think I
11 can say with some confidence that our inspection circumstances
12 here in the U.S. are much stronger than even in the EU, and
13 therefore, we are protected even today by a more stringent and
14 diverse type of an inspection regime. So, that would have to
15 be factored into our determination.
16 Thank you.
17 The Chairman: Thank you.
18 Mr. Godfrey.
19 Mr. Godfrey: Mr. Chairman, in general the Shipbuilders
20 Council believes that Congress should confirm OPA 90 without
21 any significant change. However, and to qualify that, we
22 think there are going to be a few good ideas in the new EU
23 regulations, for instance stricter inspection, more frequent
24 inspection of older vessels. We think Congress should
25 consider adopting some of those enhancements.

1 Last, I would say that we need to be very careful to
2 watch what the final form of these regulations might be,
3 because if they turn out to be tremendously different than OPA
4 90 and therefore became quite a difference in terms of timing
5 of vessels and the conditions of which vessels would be put
6 out of service, anything that would hasten an increase in
7 traffic of aged vessels toward U.S. shores needs to be guarded
8 against.
9 I think we are going to have to watch and coordinate and
10 anticipate the direct and the indirect effects of those new
11 regulations in Europe. And I do not know what they will be,
12 but we need to watch it very closely.
13 The Chairman: Mr. Sandalow.
14 Thank you, Mr. Godfrey.
15 Mr. Sandalow: Yes.
16 The Chairman: Thank you.
17 Mr. Sandalow: Delighted to elaborate. This will help us
18 protect our oceans. I am encouraged by what I hear to be some
19 of the openness from my colleagues on the panel here to the
20 suggestion that you raise.
21 The Chairman: Thank you.
22 Mr. Frick, I think you can take a pass if you want to on
23 this.
24 Mr. Cowen.
25 Mr. Cowen: I think certainly, in terms of the

1 possibility that EU, tighter EU rules, would apply and drive
2 the vessels they do not want to our shores, we certainly have
3 to act. So far as the Jones Act trade goes, I would say that
4 that is not impacted by the effect of driving vessels here.
5 The Jones Act trade, of course, is a trade unto itself. But
6 in that trade, I think we have to continue to remain vigilant.
7 We maintain the vessels to a high standard. Those vessels are
8 in our ports every day. Those vessels are subject to Coast
9 Guard regulation every day, and I think that that fleet,
10 especially the Alaskan fleet, is currently being replaced with
11 double hulls that are on order right now. So I think that
12 that is happening.
13 The Chairman: Thank you. I want to thank the entire
14 panel for a very interesting and informative discussion.
15 Senator Wyden.
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1 STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

2 Senator Wyden: [presiding] Thank you, Mr. Chairman. I
3 want to join you, Mr. Chairman, in this effort to close the
4 loopholes on the foreign-flag vessels. I think, frankly, you
5 have been pretty diplomatic in terms of how you have handled
6 it. To me, what is going on is real simple. You have got
7 these foreign-flag vessels playing a corporate shell game.
8 They are playing a shell game that is designed to try to avoid
9 accountability, to hide the ownership interests along the
10 lines that the chairman is talking about.

11 I want you to know, Mr. Chairman, I am going to support
12 you fully in the effort the close the loopholes in this
13 statute. That is priority business.

14 Frankly, I would like to see us go significantly further.
15 I think there is much to do in this area. The system
16 certainly incentivizes using older, less seaworthy vessels
17 rather than modern double-hulled vessels. Again and again, as
18 you look at this area, it seems to me that profits are
19 constantly trumping safety, to the detriment of communities
20 across the country.

21 We have had a special problem in my home State. The NEW
22 CARISSA ran aground on Oregon's shores in February of 1999.
23 We saw firsthand environmental devastation on our special
24 coastline, and we have been playing catch-up ball to repair
25 the damage done to the State's shoreline and coastal resources

1 ever since. That was a spill involving a ship carrying
2 400,000 gallons of oil, and supertankers like the EXXON VALDEZ
3 that split in two and sank off Spain carry millions of gallons
4 of oil and that is why it is important that we go at this in a
5 comprehensive way.
6 So, I wanted to start with a question for Mr. Frick if I
7 might. It has been reported, Mr. Frick, that the tanker ERIKA
8 that broke in half and sank off the coast of France was
9 chartered by the oil company TotalFina Elf at half the going
10 market rate and that the oil company officials involved in
11 chartering the tanker were rewarded for keeping down the
12 charter cost.
13 My question to you is, how do you justify a system that
14 creates these perverse incentives to charter less seaworthy
15 vessels that put at risk coastlines and livelihoods of coastal
16 communities rather than the charters that seem to me to be in
17 the public interest, and those are the modern, state-of-the-
18 art charter vessels?
19 Mr. Frick: Obviously, I have no immediate knowledge of
20 the details of the charter there. All I would say is that for
21 the traffic into the United States, due to OPA, due to the
22 policies of our members and the Coast Guard's activities, I
23 would submit that that is not the lowest -- we are not looking
24 for the lowest price. We have many criteria we use. We have
25 high limits of liability that we have to deal with. We have

1 our own standards that we apply.

2 So, I think it would be wrong to say that cost is the

3 only factor in making those determinations. I think OPA,

4 company policies, Coast Guard policies are working to get the

5 better ships into the United States.

6 Senator Wyden: Well, let us examine that. It is my

7 understanding that the difference in chartering single-hull

8 versus double-hull vessels in the domestic trades for charters

9 of approximately 6 months to 2 years is approximately $4,000

10 to $5,000 a day. Now, over the course of the year, that

11 difference is as much as $1.5 million, certainly what looks to

12 me to be a substantial financial incentive not to charter the

13 double-hull tankers.

14 Do you not think -- and again, I am not going to ask you

15 about a specific case. But is not, from the standpoint of the

16 system, is that not a substantial financial incentive that

17 exists today for chartering the older, less seaworthy vessels?

18 Because I do not want us to say that government policy should

19 be to just sit around and hope that you do not have a

20 disaster. I want government policy to try to create the

21 appropriate incentives to limit the prospect for tragedies.

22 Mr. Frick: I think we will find that the statistics are

23 showing that the number of shipments coming in by double hulls

24 is growing significantly. I think it is about 50-50 now. So

25 I think there are a lot of reasons.

1 Just because -- and secondly is, just because you have an
2 older single-hull ship does not mean that it is not seaworthy.
3 If you have the right inspections, if you have the right
4 criteria that you are applying, you can ensure that they are
5 of high quality performance coming in. So, I think just
6 because we have those, we have age and single hull, does not
7 mean those are not seaworthy ships.
8 Senator Wyden: I think that is just one of the sort of
9 structural problems I see with respect to the industry today.
10 I look at the fact that ships containing as much diesel oil as
11 a small tanker are not regulated as you would have a double-
12 hull vessel. That was part of the problem in Oregon. I think
13 what I would like to do is take the panel through the Oregon
14 situation.
15 In Oregon, you have a vessel, the NEW CARISSA, that ran
16 aground. It was not a tanker, it was a cargo ship. But at
17 the time it ran aground, it was carrying 400,000 gallons of
18 fuel oil. Now, this caused enormous devastation to our
19 coastline and severe economic hardship to the coastal
20 communities.
21 What ought to be done in the view of this panel to reduce
22 the risk of oil spills from these ships? This seems to me to
23 be another shortcoming in the statutes as they exist on the
24 books. I would like to hear what this panel thinks, because
25 you have got a situation where my State has been hammered as a

1 result of a tragedy involving a ship containing as much diesel
2 oil as a small tanker, and the fact of the matter is it is not
3 regulated with the kind of safety provisions that you would
4 have with the double-hull requirements.
5 Let us take this panel, and we can just begin at the end
6 of the table.
7 Mr. Cowen: Thank you, Senator. Your point is, of
8 course, well taken. It is a fact, what happened. OSG, I
9 might say, has recently modified the designs on the latest
10 double-hulled tankers it is building to actually add the
11 double hull to cover the bunker area. This is, in fact, an
12 area of additional vulnerability and I think the point is
13 well-taken. Of course, accidents can happen regardless of
14 what you do, but I think that is an additional element of
15 safety that can be introduced into tanker design, or any ship
16 design.
17 Senator Wyden: Would others on the panel like to
18 respond?
19 Mr. Cox: Thank you, Senator. Yes, we were certainly
20 aware of the NEW CARISSA and the outcome there, and there were
21 some operational issues that have to be looked at. But at the
22 same time, I wrote down here "protective fuel tank location."
23 I think that is something that has to be looked at for all
24 types of ships.
25 I believe that the NEW CARISSA was a bulk carrier and she

1 went aground and the fuel spilled. I do not know the
2 technical details.
3 Senator Wyden: How would you see strengthening the fuel
4 tank protections that you have touched on?
5 Mr. Cox: Well, you would want to locate the fuel tanks
6 in a protected location, maybe aft in vertical-type tanks.
7 Senator Wyden: So, you would require that of new vessel
8 construction?
9 Mr. Cox: That is what I think we should be looking at at
10 the IMO, is should we be looking at protective fuel location,
11 fuel tank location.
12 Senator, you brought up an interesting point, which is
13 that certainly OPA 90 covers oil spills from all types of
14 ships. So if a ship like the NEW CARISSA happens it is
15 certainly an OPA incident in terms of spilling that oil, even
16 though it was not cargo, it was oil in the water.
17 Senator Wyden: Other suggestions from panel members?
18 Yes?
19 Mr. Rauta: Senator, thank you very much. Actually, the
20 NEW CARISSA accident really did, brought the issue that you
21 raised here to IMO and it is on the IMO agenda. However, the
22 ERIKA accident and all this revision of phasing out of single
23 hulls and so on kind of delayed those developments in IMO.
24 Now, the good news is that the IMO is taking up again the
25 issue and actually INTERTANKO, together with the U.S.-based

1 Society of Naval Architects and Marine Engineers, have
2 submitted already a paper for an IMO meeting in March with
3 suggestions that will -- well, a methodology on how to address
4 this issue for all ship types.
5 Senator Wyden: How soon could that be implemented?
6 Again, what my constituents are very frustrated about is that
7 we have spent years now wrangling with the owners of this
8 company, and we still have this vessel out there, and there is
9 enormous frustration. It seems that there is one meeting or
10 one workshop after another and very little done to actually
11 get in place the changes.
12 Mr. Rauta: Senator, we here, we are NGO's, we are
13 industry representatives. It is very much in IMO, it is very
14 much up to the governments to speed up. Now, the last couple
15 of years IMO have shown very much strength in speeding up
16 legislation. So, I would say that immediately when IMO shapes
17 up proposed regulations, and the industry has the confidence
18 that those will not be changed throughout the approval
19 procedure, all the new ships will be built up to those
20 standards, even before the rules come into force.
21 Senator Wyden: Others? Yes?
22 Mr. Sandalow: Senator, another question is whether the
23 NEW CARISSA should have been at that location at all. If it
24 was an area of special importance to coastal communities, or
25 an area of special biological importance, the answer is no, it

1 should not have been. One of the proposals that could make a
2 difference in this type of incident is to have "no go" zones
3 adopted by the IMO to make sure that vessels are not
4 traversing over areas where accidents would cause a special
5 damage to communities and to fisheries.
6 Senator Wyden: Other suggestions?
7 Mr. Godfrey: Senator, if I might make a few comments.
8 Any new requirements that would require greater hull
9 protection for fuel tanks would have very far-reaching
10 implications for all vessels, including many vessels that are
11 not necessarily concerned with OPA 90. Many vessels in the
12 domestic trade are carrying fuel in single-skin tanks. This
13 would, of course, also include military vessels and vessels
14 owned by the U.S. Government. Many of those vessels are
15 fueled with tanks that are adjacent to the exterior shell of
16 the vessel.
17 You would have to reconfigure the fleet of the entire
18 world to deal with that regulation, and I do not know how that
19 could be dealt with in any period of time reasonably. So,
20 that is a big issue, and I just caution that it has massive
21 implications for all vessels and I do not know how you deal
22 with it, frankly.
23 Senator Wyden: So, you do not do anything?
24 Mr. Godfrey: No, sir, I am not saying that.
25 Senator Wyden: Well, tell me what you do. You have told

1 me what you are against. I would like to know --

2 Mr. Godfrey: No, I am not against.

3 Senator Wyden: I would like to know what you are for,

4 because the fact of the matter is 3 years after this tragedy

5 in Oregon involving a ship containing as much diesel oil as a

6 small tanker, which was not subject to the tougher rules, we

7 still do not have a remedy for the people in Oregon who are

8 hurting as a result of this tragedy.

9 I want to be sensitive to the questions of cost, and

10 making sure that you phase in any new requirements and all of

11 the technical questions that are relevant to putting in place

12 these new requirements. But I think what has been important

13 about this hearing is it has exposed some very significant

14 loopholes in the system.

15 Tell me what you are for?

16 Mr. Godfrey: Well, first of all, I am all for making

17 these vessels safer. I am concerned that that type of

18 requirement would take far longer than OPA 90 to put into

19 place. There are many vessels by nature of their design, and

20 by nature of their naval architecture that would become

21 unstable and unseaworthy if the fuels were removed from those

22 tanks, or relocated elsewhere in the vessel. It would require

23 a complete redesign of the world's fleet.

24 What I would suggest, first of all, shipyards would be

25 delighted to be involved. And I assume, since the chairman is

1 no longer here, I can set forth an advertisement. We would
2 love to take that problem on and fix it.
3 Senator Wyden: I have absolutely nothing against the
4 idea of putting people to work in the Portland shipyard.
5 [Laughter.]
6 Mr. Godfrey: Very good, Senator.
7 Senator Wyden: If that is part of the remedy, folks,
8 that we can come up with something that beefs up safety and
9 creates some family wage jobs in shipyards, I think you will
10 have a lot of Senators flock to that proposition.
11 Mr. Godfrey: Well, to encourage you, Senator, I am sure
12 there are good engineering solutions and we look forward to
13 helping you with them.
14 Senator Wyden: Let us hold the record open for your
15 suggestions on this point, because I will tell you I just had
16 a town hall meeting in Coos Bay, Oregon, in fact just this
17 past weekend, where there is substantial frustration as a
18 result of the years worth of wrangling with the company and
19 the inability to secure the compensation that is appropriate.
20 People want answers. I will hold the record open. I think
21 the points you are making with respect to how you do it and
22 ensuring that it is cost-effective and which vessels and under
23 what circumstances are very fair questions. But we have got
24 to find answers to this.
25 Mr. Cox, did you want to get into this?

1 Mr. Cox: Yes, Senator, I would like to add onto the
2 concerns of the shipyards, and that is, we have begun to
3 engage this protective fuel tank location issue. It will
4 affect all vessels in the world's fleet. I think you can
5 confidently go back and tell the people of Oregon that the
6 initiatives that the U.S. took to the IMO are going to have a
7 major impact on the way ships are designed throughout the
8 world.
9 Certainly, it is going to take a lot of time in
10 eventually coming to fruition on changing all these vessels.
11 But at the same time, Senator, if we do not start we will not
12 get to the point where we want to be, either, and we are at
13 that starting point.
14 Senator Wyden: Gentlemen, anything you want to add
15 further?
16 [No response.]
17 Senator Wyden: I think your last point, Mr. Cox, is
18 again a fair one, and I would only say in rejoinder what my
19 constituents want to know as a result of what happened in
20 Oregon, as a result of news reports that they have seen around
21 the country, is they are asking: How many gallons of oil need
22 to be spilled, and how many miles of coastline need to be
23 destroyed before our country gets serious about this issue,
24 and gets serious about dealing with vessels that are
25 unseaworthy, and are transporting oil in our coastal waters?

1 The problems are particularly egregious with respect to
2 these foreign vessels that the chairman has been talking
3 about. But suffice it to say that it is relevant in a number
4 of other areas. So there is much to do on this.
5 Do any of you gentlemen have anything further that you
6 would like to add this afternoon?
7 [No response.]
8 If not, the hearing is adjourned.
9 [Whereupon, at 4:43 p.m., the committee was adjourned.]
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