COAST GUARD AND NATIONAL TRANSPORTATION SAFETY BOARD CASUALTY INVESTIGATION PROGRAM

(110–130)

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

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May 19, 2008

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 "Coast Guard and National Transportation Safety Board Casualty Investigation Program"

PURPOSE OF THE HEARING

On Tuesday, May 20, 2008, at 10:00 a.m., in Room 2167 of the Rayburn House Office Building, the Subcommittee on Coast Guard and Maritime Transportation will meet to receive a report from the Department of Homeland Security's Office of the Inspector General ("OIG") entitled "United States Coast Guard's Management of the Marine Casualty Investigation Program" (OIG-08-51, May 2008). The Subcommittee will also receive testimony from the National Transportation Safety Board ("NTSB") and the Coast Guard regarding the issue of which agency should exercise primacy in the conduct of marine casualty investigations.

BACKGROUND

The investigation of accidents (also know as "casualties") – whether they involve ships, planes, trains, trucks or automobiles – provides a foundation for Congress and the executive branch agencies to review and amend transportation safety legislation and regulation. Without a thorough investigation into the causes of accidents through the development of comprehensive information on all aspects of the accident, including all potential causal factors, it is difficult if not impossible to develop legislation or regulations that can effectively prevent future accidents.

REVIEW OF MARINE CASUALTY INVESTIGATION PROGRAM – U.S. COAST GUARD

Statutes

The casualty investigation procedure codified in Chapter 63 of Title 46, United States Code, has its origins in public law number 622, which reorganized the Bureau of Marine Inspection and Navigation ("BMIN"), a precursor service eventually folded into the modern day Coast Guard. Adopted in 1936, P.L. 74-622 established Marine Casualty Investigation Boards – to be comprised of a chairman representing the Department of Justice, and two additional members, one member representing the BMIN and one member representing the Coast Guard – to investigate serious casualties involving loss of life. For casualties that did not result in loss of life, a Marine Board made up of two traveling inspectors and one supervising inspector of the BMIN was to be appointed by the Secretary of Commerce.

These Boards were abolished by Reorganization Plan No. 3 of 1946, which permanently transferred the BMIN from the U.S. Department of Treasury to the U.S. Coast Guard. However, the tradition of assembling formal panels to examine marine accidents continues in current practice.

Thus, today, Section 6301 of title 46 requires the Coast Guard to investigate marine casualties to determine the cause of the casualty, including the cause of any death, and to determine whether:

- there is "misconduct, incompetence, negligence, unskillfullness, or willful violation of law committed by any licensed individual;"
- "misconduct, incompetence, negligence, unskillfullness, or willful violation of law committed by any person, including any officer, employee, or member of the Coast Guard, contributed to the cause of the casualty or death involved in the casualty;"
- "there is evidence of an act subjecting the offender to a civil penalty;"
- "there is evidence of a criminal act" that should be referred to appropriate authorities for prosecution; and
- "there is a need for new laws or regulations, or amendment or repeal of existing laws or regulations to prevent the recurrence of the casualty". 46 U.S.C. 6301.

Online Posting of Casualty Reports Required

Section 442 of the Maritime Transportation Security Act of 2002 (P.L. 107-295) amended chapter 61 of title 46, United States Code, to require the Coast Guard to make available in electronic format all casualty reports (i.e., to post them online). At the present time, the Coast Guard posts on-line the information recorded in its Marine Information Safety and Law Enforcement ("MISLE") database. In many cases, the information in MISLE does not provide specific information regarding the cause of a casualty, or the recommendations (if any) developed by the investigator to prevent future casualties.

A recent example of a failure to post complete casualty information online involves the tragic death of a crewmember of the inspected Sailing Vessel (S/V) ALABAMA. On July 14, 2006, Benjamin Sutherland, an 18-year-old crewmember of the S/V ALABAMA, fell to his death while trying to cross between the two masts of the vessel on the "spring stay" – a taught wire cable

stretched between the foremast and the mainmast. The following data is posted on the Coast Guard's website regarding that casualty: "A crew member of the Schooner ALABAMA accidently fell from the mast rigging and suffered fatal injuries. Vessel was approximately one hour into a scheduled day trip on Vineyard Sound and was carrying 45 passengers. Weather was calm with reported wave height of 1-2 ft, and winds were at 15 knots in a NW direction." No other information is publicly available.

However, two newspapers, *The Martha's Vineyard Times* and the *Vineyard Gazette*, submitted a Freedom of Information Act ("FOIA") request for the Coast Guard's full casualty investigation report on the ALABAMA and received considerably more information than was made available online. Subcommittee staff requested and received a copy of the information provided to the newspapers. While the report contains no evidence of violations of statute or regulations, there were two important safety recommendations contained in the report aimed at preventing such tragedies in the future, including a recommendation for the development of a regulation regarding the use of safety harnesses onboard similar sailing vessels, and a recommendation regarding the development of safety policies by the owners of such passenger vessels. In addition, the complete report includes the narrative report compiled by the Coast Guard investigator along with written statements by witnesses.

Furthermore, unlike other safety agencies, the Coast Guard does not post all marine casualty safety recommendations on the Internet or conduct follow-up assessments to ensure that the recommendations have been implemented.

Regulations

Regulations (46 CFR Part 4) provide that the Coast Guard's investigation of a marine casualty "will determine as closely as possible:

1) The cause of the accident (emphasis added);
2) Whether there is evidence that any failure of material (either physical or design) was involved or contributed to the casualty, so that proper recommendations for the prevention of the recurrence of similar casualties may be made;
3) Whether there is evidence that any act of misconduct, inattention to duty, negligence or willful violation of the law on the part of any licensed or certificated person contributed to the casualty, so that appropriate proceedings against the license or certificate of such person may be recommended and taken under 46 U.S.C. 6301;
4) Whether there is evidence that any Coast Guard personnel or any representative or employee of any other government agency or any other person caused or contributed to the cause of the casualty; or,
5) Whether the accident shall be further investigated by a Marine Board of Investigation in accordance with regulations in subpart 4.09.[1]

Section 4.07-10 of the regulations requires the investigating officer to submit a report to the Commandant as follows –

> (a) At the conclusion of the investigation the investigating officer shall submit to the Commandant via the Officer in Charge, Marine

[1] 46 CFR 4.07-1.

Inspection, and the District Commander, a full and complete report of the facts as determined by his investigation, together with his opinions and recommendations in the premises. The Officer in Charge, Marine Inspection, and the District Commander shall forward the investigating officer's report to the Commandant with an endorsement stating:

1) Approval or otherwise of the findings of fact, conclusions and recommendations;
2) Any action taken with respect to the recommendations;
3) Whether or not any action has been or will be taken under part 5 of this subchapter to suspend or revoke licenses or certificates; and,
4) Whether or not violations of laws or regulations relating to vessels have been reported on Form CG-2636, report of violation of navigation laws.[2]

Policy Letters/Marine Safety Manual

In addition to statute and regulation, the Coast Guard provides guidance on marine casualty investigations through its Marine Safety Manual and Policy Letters. Chapter 5 of the Marine Safety Manual, entitled "Levels of Effort and Types of Investigations", was recently updated (April 24, 2008) to incorporate guidance from a series of Policy Letters dating back to the mid-1990s. The Chapter covers such issues as "Preliminary Investigation", "Data Collection", and "Informal" and "Formal" Investigations.

The Chapter states that "Preliminary Investigations" are used to determine the seriousness of a casualty or pollution incident and to determine whether further investigation or notification of other agencies is required.

"Data Collection" is required for all reportable marine casualties not assigned to Informal or Formal Investigations. Thus, the Chapter notes that "Data collection is the minimum level of investigation required when there will be no analysis, conclusions, or recommendations stemming from an investigation." Data collection is "intended to document the facts surrounding an incident for the public record and must meet the investigative obligations outlined in 46 U.S.C. 6301" (emphasis added). Data collection does not, however, "decide … the cause of the casualty …" as required by Section 6301.

"Informal Investigations" are conducted when there is: a death; serious injury; loss of an uninspected vessel of less than 500 gross tons; loss of a barge of more than 100 gross tons on inland waters; property damage in excess of $100,000 but less than $1,000,000; a collision or allision resulting in property damage exceeding $25,000; loss of propulsion or steering affecting an inspected U.S. vessel, a foreign vessel, or uninspected U.S. vessel of 100 gross tons on U.S. navigable waters; failure of Coast Guard approved equipment; a medium discharge of oil or hazardous substance; a commercial diving casualty; or a recreational diving casualty. Informal investigations are usually carried out by one Investigating Officer ("IO") in conjunction with other staff.

[2] 46 CFR 4.07-10.

"Formal Investigations" are conducted when there is: two or more deaths; two or more seriously disabling injuries or six or more injuries which result in fractured bones, loss of limbs, severe hemorrhaging, severe muscle, nerve, tendon or internal organ damage or hospitalization for more than 48 hours within five days of the injury; loss of an inspected vessel or loss of an uninspected vessel of 500 gross tons or more; property damage exceeding $1,000,000; or a major discharge of oil or release of hazardous cargoes. Formal Investigations are usually conducted by a "Marine Board" convened by the Commandant and comprised by three or more members.

The Coast Guard has conducted few three-person Marine Boards of Investigation in the last few years. In this decade, only one Marine Board of Investigation has been completed (the F/V ARCTIC ROSE). There is an ongoing formal investigation into the recent sinking of the F/V ALASKA RANGER. In the 1990s, the Coast Guard conducted 12 Marine Boards, while in the 1980s, 18 Marine Boards were conducted.

Qualifications for Coast Guard Marine Casualty Investigators ("IOs")

Concurrent with the issuance of the revised Marine Safety Manual, the Coast Guard issued a message (known as an ALCOAST) to all Coast Guard personnel regarding "Marine Casualty Investigating Officer Doctrine" that outlines the current qualifications required of Marine Casualty Investigators. Significantly, the message admits that, "there has been an overall decrease in the experience of Coast Guard Marine Casualty Investigators" and that "in an effort to strengthen the Marine Casualty Investigation Program, the Commandant is developing an action plan that will ensure IO billets are staffed with a corps of well trained, certified and experienced Marine Casualty Investigating Officers."

The message outlines the specific steps that an individual must complete to become a Marine Casualty Investigator. Specifically, to become an IO, a person must attend the basic investigating officers training course at the Coast Guard's training center in Yorktown, Virginia. The trainee must then complete a number of performance qualification standards – which are individual skill areas that are learned through on-the-job training, including preparing for investigation, initiating an investigation, generating an incident timeline, conducting causal analysis, conducting human error analysis, drawing and recording conclusions, developing safety recommendations/alerts, and recommending enforcement action. The person must then be examined by a Qualification Board consisting of personnel that are already qualified as Marine Casualty Investigators. Additionally, to be considered certified as a Marine Casualty Investigator, the IO must be assigned to an operational billet as a Marine Casualty Investigator and must be designated in writing as an IO by the cognizant Officer in Charge Marine Inspection.

Importantly, the ALCOAST also appears to presage issues that are addressed in the OIG's report on the Coast Guard's Marine Casualty Program when it states, "If your unit lacks the appropriate certified personnel to conduct a marine casualty investigation, then you shall seek assistance outside of your unit. The Coast Guard is conducting a study of the status of IO qualifications, including personnel currently assigned to IO billets and those with IO certifications not assigned to IO billets."

Report of the Department of Homeland Security Inspector General

In December 2005, the Committee on Transportation and Infrastructure and the Committee on Commerce, Science and Transportation of the Senate requested the OIG "to conduct a study of the Coast Guard's marine casualty investigation program and report to the Committees the finding and recommendations."

The Committees were particularly interested in an examination of "the extent to which marine casualty investigations and reports result in information and recommendations that prevent similar casualties; minimize the effect of similar casualties, given that it has occurred; and maximize lives saved in similar casualties given that the vessel has become uninhabitable."

To promote safety for all who work or travel on the water and to protect the marine environment, the Committees asked that the study and report specifically include an examination of the following issues:

- adequacy of resources devoted to marine casualty investigations considering caseload and duty assignment practices;
- training and experience of marine casualty investigators;
- investigation standards and methods, including a comparison of the formal and informal investigation processes;
- use of best investigation practices considering transportation investigation practices used by other Federal agencies and foreign governments, including British Marine Accident Investigation Branch programs;
- usefulness of the marine casualty database for marine casualty prevention programs;
- the extent to which marine casualty data and information have been used to improve the survivability and habitability of vessels involved in marine casualties;
- any changes to current statutes that would clarify Coast Guard responsibilities for marine casualty investigations and report; and
- the extent to which the Coast Guard has reduced the frequency of formal investigations, or changed the types of incidents for which it has carried out a formal investigation process, in the past five years.

Summary of the Report

The Inspector General's report, entitled "United States Coast Guard's Management of the Marine Casualty Investigation Program", finds that the Coast Guard's marine casualty investigation program is "hindered by unqualified personnel conducting marine casualty investigations; investigations that are conducted at inappropriate levels, and ineffective management of a substantial backlog of investigations needing review and closure."

The Inspector General's report covers the period from January 1, 2003, through October 31, 2006. During this period, the Coast Guard "opened" 15,327 investigations but conducted only 13 formal investigations. As noted above, only one three-person Marine Board of Investigation was conducted during that period.

The OIG found that many of the casualty investigations were not conducted at the level of scope (i.e., formal, informal, data collection) that was appropriate to the circumstances of the casualty under the Coast Guard's own policies. The report identifies more than 1,200 casualties that should have been investigated at a higher level than the level at which they were investigated. Specifically, 134 casualties were examined that should have been investigated at the "formal" level including 55 casualties where only data was collected; 952 casualties that should have been investigated at the "informal" level but for which only data was collected; and, 169 casualties that should have been investigated at the "data collection level or higher but were not."

Some of the "downgrading" was due to a post-9/11 directive that allowed casualty investigations to be investigated at lower levels. However, despite the fact that the "9/11 downgrade directive" was cancelled in 2002, not all units have subsequently conducted investigations in accordance with the directive that replaced the "downgrade directive" (G-MOA Policy Letter 2-02), resulting in a number of casualties that were not investigated at the level required by policy given the nature of the accidents involved.

The OIG also found that a significant number of individuals who are not qualified under Coast Guard standards as casualty investigators are nonetheless assigned to such positions. While conducting site visits, the auditors examined a sample of individuals assigned as investigating officers and found that 68 percent (15 of 22) of the marine casualty investigators did not meet qualification standards. Five of these individuals had not even completed the "basic course" required for all investigators. While this was an admittedly small sample, the Coast Guard did not dispute the results, stating "that the results reflect the qualifications problem facing the marine casualty investigation program nation-wide."

Further, the OIG found that in 2007 the Coast Guard had significantly modified the prerequisites for becoming a casualty investigator by changing the "requirement of a Hull or Machinery and Small Vessel Inspector". The OIG observed that, "When investigators do not have the experience or ability to determine that a hull failure or loss of propulsion are possible causes of a marine casualty, they may not be able to issue the appropriate safety alerts or recommendations to possibly prevent or minimize the effect of similar casualties in the future."

The OIG found that the development within the Coast Guard of qualified casualty investigators is hampered by the following factors:

- "The Coast Guard has not effectively managed and controlled aspects of the marine casualty investigation program to ensure that it obtains and develops qualified investigators;"
- "The Coast Guard has not established a clear and desirable career path for investigator, which can further impede recruitment efforts;" and,
- "Additionally, according to Coast Guard personnel, tour of duty rotations hinder investigators in acquiring the experience needed for career development."

The OIG notes that "In contrast, civilian marine casualty investigators are not subject to the three-year tour of duty rotation standard." Nonetheless, of the 22 marine casualty investigators reviewed by the OIG, only one was a civilian. In 2007, the Coast Guard reported that six civilians are serving as full time marine casualty investigators.

The OIG's report also observes that there are previous reports – including one by the Coast Guard's Research and Development Center conducted in 1994 and one by a Coast Guard Quality Action Team conducted in 1995 – that identified problems with the Coast Guard's efforts to increase the numbers and qualifications of marine casualty investigators.

Finally, the report notes that there is a tremendous backlog of casualty investigations that have not been reviewed or closed and a number of instances in which data collected on an accident were incorrectly entered into the Coast Guard MISLE database. In November 2006, Coast Guard headquarters had a backlog of more than 4,000 investigations of which almost 2,500 (58 percent) had been open and awaiting review and closure for more than six months. Coast Guard headquarters reviews and closes investigations, but only one person was assigned to this process. To reduce this backlog, on September 29, 2006, the Coast Guard closed almost 4,000 investigations that it deemed to be "low risk", including 194 informal investigations and one formal investigation. It is the opinion of the OIG that, "some investigations merited reviews because they involved serious incidents requiring causal analysis" and that "enforcement action also may have resulted from these investigations."

Because so many casualty investigations were closed "en mass", there was no opportunity to "identify errors input to the MISLE database." The Inspector General tested 145 marine casualty investigations and found that 30 percent contained at least one MISLE data error. However, it is unlikely that anyone will review the hundreds of cases that were closed without review and, as a result, the data in those cases will always be suspect. Further, the OIG observed that, although MISLE is designed to "support trend analysis and studies that may result in recommendations and safety alerts", the information in the system is unreliable because of the high error rate.

The Inspector General makes eight recommendations, seven of which have been acted upon by the Coast Guard. The OIG is leaving four of these actions open until details and documentation is provided on actions taken so that the OIG can determine whether they adequately address the findings. The recommendations are listed below.

- Develop and implement a plan to increase the number of qualified marine casualty investigators, including hiring civilian marine casualty investigators, and improving the career path for marine casualty investigators.
- Evaluate re-instituting the four-year tour of duty for active duty marine casualty investigators and ensure that they complete the entire tour of duty as a marine casualty investigator.
- Develop and implement a plan to ensure attendance at the basic and advanced courses for those qualified to attend.
- Revise the August 2007 marine casualty investigation qualification standard to include the prequalification of Hull or Machinery, and Small Vessel Inspectors.
- Implement quality controls to ensure that marine casualty investigations are conducted at the recommended levels, consistent information is gathered, and causal factors are determined when appropriate.
- Review and revise the criteria for the levels of marine casualty investigations, make any appropriate changes to reduce or eliminate conflicting interpretations, and ensure criteria are consistently applied throughout the Coast Guard.
- Finalize and issue the Marine Safety Manual.

- Reorganize the headquarters review and closure process to include sufficient staff responsible for reviewing and closing marine casualty investigations, and ensure that the review and closure process is completed in a timely and effective manner.

NATIONAL TRANSPORTATION SAFETY BOARD ("NTSB") REQUEST FOR PRIMACY

The NTSB and the Coast Guard currently share responsibility for the investigation of marine casualties, with the NTSB taking the lead on some major casualties. Recent examples include the investigation of the grounding of the EMPRESS OF THE NORTH and the allision of the M/V COSCO BUSAN with the San Francisco Bay Bridge.

In its draft reauthorization bill, the NTSB proposes to assume "the right to elect lead or primary status in a marine investigation." The NTSB asserts that, "This recommendation is not intended to serve as an expansion of authority by the Board, but to provide the necessary authority if at any time in the immediate aftermath of a marine casualty there is a disagreement between the Board and the Coast Guard created by a disagreement over interpretation of the regulations they have jointly issued; it would thus permit the Board to elect primacy and speed the immediate and urgent investigative process along without confusion over which agency has lead status."

In addition, the Board proposes a new section for "Maritime accident investigation" that in large measure parallels the Board's authority in aviation accidents, and gives the Coast Guard party status in an investigation in the same manner that the Federal Aviation Administration ("FAA") has party status in aviation casualty investigations.

NTSB and Coast Guard Approaches to Investigations

While having similar responsibilities regarding investigation of casualties, the Board and the Coast Guard often approach an investigation with different processes and different objectives. The Board's primary responsibility is to determine the proximate cause of an accident. While responsible for determining proximate cause, the Coast Guard is also charged with determining whether any violations of statute or regulation occurred in conjunction with the accident. At times, this law enforcement function appears to sometimes conflicts with the Coast Guard's search for causal factors.

In addition, the Board is very careful to secure the scene of a casualty and protect all potential evidence. This approach ensures that valuable information is not lost during the early stages of an investigation. In the recent case of the investigation of the COSCO BUSAN (which allided with the San Francisco Bay Bridge in November 2007), investigators from the Board who responded to the incident found that certain important navigational equipment was not only not secured by the Coast Guard, it had not even been identified by Coast Guard investigators (whom the OIG later learned did not meet the Coast Guard's own qualifications for casualty investigators).

When examining an accident, the Board brings together all interested parties, including the Coast Guard, to examine all available evidence. The Board also carefully controls the release of information regarding accident investigations to ensure that a single message is being presented.

PREVIOUS COMMITTEE ACTION

The Subcommittee held a hearing in April 2007, on "Commercial Fishing Vessel Safety" and in August 2007, on "The Challenges Facing the Coast Guard's Marine Safety Program". In November 2007, the Subcommittee conducted a field hearing in San Francisco on the allision of the COSCO BUSAN with the San Francisco Bay Bridge. In April 2008, the Subcommittee held a follow-up hearing on the COSCO BUSAN during which the Department of Homeland Security, Office of Inspector General, testified regarding its report on the "Allision of the M/V COSCO BUSAN with the San Francisco-Oakland Bay Bridge". Each of these hearings examined the Coast Guard's marine safety program, including the casualty investigation mission.

WITNESSES

The Honorable Anne Richards
Assistant Inspector General
Department of Homeland Security

Ms. Kathryn Higgins
Board Member
National Transportation Safety Board

Rear Admiral James Watson, IV
Director of Prevention Policy for Marine Safety, Security, and Stewardship
U.S. Coast Guard

HEARING ON COAST GUARD AND NTSB CASUALTY INVESTIGATION PROGRAM

Tuesday, May 20, 2008,

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

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

Mr. CUMMINGS. This hearing is called to order. Good morning, everyone.

Today we convene this hearing to receive a report issued by the Department of Homeland Security's Office of Inspector General regarding the Coast Guard's marine casualty investigation program and the legislative proposal made by the National Transportation Safety Board to be the lead investigative agency for those accidents which the Board elects to investigate.

The Subcommittee has been examining the multiple facets of the Coast Guard's marine safety program throughout much of the 110th Congress. We began the examination in August of last year when witnesses from the maritime industry testified regarding a number of troubling concerns they had about a loss of professional expertise among Coast Guard marine inspection personnel, unprofessional treatment, and extreme delays in pending rulemakings.

Many of these problems were subsequently documented in a report developed by retired Coast Guard Vice Admiral James C. Card at the request of the Coast Guard Commandant, Admiral Thad Allen, following the Subcommittee's hearing. Admiral Card's report detailed not only the loss of professional competence among marine inspectors and investigators, it indicated that frequent transfers prevent marine safety personnel from developing technical or geographic expertise and it documented a deterioration in the relationship between the Coast Guard and the maritime industry regarding the achievement of safety goals.

The allision of the COSCO Busan with the San Francisco Bay Bridge in November 2007 and the report developed by the Department of Homeland Security's Inspector General on the Coast Guard's response to that incident have demonstrated in a single event many of the challenges the Coast Guard's marine safety program faces, particularly in the casualty investigation mission, which is the cornerstone of all marine safety missions.

With the issuance of today's report, however, we finally have quantifiable assessments of the Coast Guard's challenges in the casualty investigation program, and we have clear and disturbing conclusions: the Coast Guard's marine casualty investigations program is both "hindered by unqualified personnel," by "investigations concluded at inappropriate levels," and by "ineffective management of a substantial backlog of investigations needing review and closure." Ladies and gentlemen, this is simply unacceptable and we can do much better, and we must.

Just to look at one of these findings, the lack of qualified personnel, I note that this was foreshadowed in the IG's study of the COSCO Busan accident, which found that five of the six individuals assigned as casualty investigators to Sector San Francisco were not qualified. For the life of me, I cannot figure out how we can avoid accidents from happening in the future if the very people who are investigating them are not qualified to do the investigation. Something is simply wrong with that picture.

The report that we received from the IG today indicates that, among a sample of individuals assigned as casualty investigators throughout the Coast Guard, more than half were not qualified as casualty investigators. Perhaps more staggering to me, however, is that during last month's hearing on the COSCO Busan, Admiral Brian Salerno, who is in charge of the Coast Guard's marine safety program, testified that he did not know how widespread the lack of qualifications among casualty investigators was.

We look forward to the testimony of Ms. Anne Richards, DHS's Assistant Inspector General, who will expand on the IG's findings. However, let me note that one of the most troubling findings of the IG report is that some of the challenges we will discuss today were identified more than 10 years ago by the Coast Guard itself, and even as far back as the seminal oversight report, Semi-Paratus: The United States Coast Guard, 1981, issued during the 97th Congressional session.

In other words, the Coast Guard's challenges with the marine safety program far predate the service's assumption of a expanded responsibilities following 9/11. While these new responsibilities make finding balance among all missions much more challenging, they also make it much more important.

Frankly, as anyone who follows this Subcommittee knows, I find it to be a disservice to the American people when Government kicks around the same issues year after year or, in this case, decade after decade. The marine safety mission is a critical mission performed by our thin blue line at sea, the United States Coast Guard, and it needs to adequately serve the safety needs of the maritime industry.

While I appreciate the efforts that the Commandant has taken to strengthen the program, including the requests of 276 new billets in marine safety, I believe that the only way to ensure that the Coast Guard's marine safety program is staffed by qualified and experienced personnel will be the enactment of legislation that codifies new processes and procedures to ensure that robust standards are in place and met by the marine safety program. For that reason, I believe that the enactment of the Coast Guard Authorization Act, H.R. 2830, which passed the House of Representatives, even

with a presidential veto, by a resounding 395 votes to 7 is absolutely critical.

Against this backdrop, we will also hear today from the National Transportation Safety Board regarding their proposals to align their relationship with the Coast Guard regarding the investigation of major marine casualties so that it parallels their relationship with the modal administrations of the United States Department of Transportation. The Board's proposal would provide NTSB with the legislative authority to take the lead in important marine casualties, an authority that they already have for all the other modes.

Given that the Coast Guard infrequently empanels Marine Boards to investigate major casualties, they have done so only twice in the past eight years, it would seem that the NTSB, which has conducted 23 marine casualty investigations in the same period, is in many ways already fulfilling this role.

Since this is the first time that our Subcommittee has met since our reauthorization legislation passed the House, I take this moment to thank on the record all the Members of our Subcommittee for doing outstanding work, because without the outstanding work of this Subcommittee, there is absolutely no way that we would have been able to get the vote that we got on the floor of the House.

With that, I yield to my colleague and the former Chairman of this Committee, Mr. LoBiondo.

Mr. LOBIONDO. Thank you, Mr. Chairman, very much, for holding today's very important hearing. I believe you are aware that Ranking Member LaTourette, while he is not here now, is supposed to be here very shortly. As a result, I would ask unanimous consent to insert his prepared statement into the record.

Mr. CUMMINGS. So granted.

Mr. LOBIONDO. The Subcommittee will be hearing from the Department of Homeland Security's Office of the Inspector General regarding their review of the Coast Guard's marine investigation program. I am concerned by the report's findings that many of the Coast Guard's investigating officers do not meet the qualification standards prescribed for those positions and that the service has relaxed its review and management of the program.

I am encouraged by the Coast Guard's positive response to the report's recommendations. However, I would like to hear more regarding the plans of the Coast Guard and how they will put into place the different measures to improve the investigation process.

I am also concerned about the scope of the new authorities being proposed by the National Transportation Safety Board, which would authorize the Board to establish itself as the lead investigating agency at its own choosing and without regard or consultation with the Coast Guard. This policy could have the effect of muddying the waters farther, allowing the two agencies to move forward with competing investigations with different aims and needs. I look forward to discussing the proposed language further with the witnesses to determine if such an expansion is necessary.

Finally, I know there has been some valid concerns about the ability of the Coast Guard to conduct marine casualty investigations. I would like the record to reflect that the investigation con-

cluded by the Coast Guard in response to the Athos I oil spill on the Delaware River a few years ago was handled very professionally and was completed in a timely manner. I want to commend them for it.

Mr. Chairman, I want to again thank you for the recognition and thank you for holding this very important hearing.

Mr. CUMMINGS. Thank you very much.

Mr. Coble.

Mr. COBLE. Mr. Chairman, I have no detailed opening statement. I will just reiterate what I have said previously at these various hearings. I think the American people probably get more bang from its buck with the U.S. Coast Guard than any other Federal entity known to man, and I look forward to hearing the testimony today, and thank you for scheduling this hearing.

Mr. CUMMINGS. Thank you very much.

Let me be clear that, as I have said many times and I reiterate, I am the biggest fan of the Coast Guard. But I am also the biggest critic, because I want it to be the very, very best that it can be because there is so much that depends on it. All of our efforts are aimed at trying to strengthen the Coast Guard so that it can be the very, very best that it can be not just for the present, but for generations yet unborn.

With that, we will now hear from our witnesses. We welcome all of you. We will hear from Ms. Anne Richards. She is the Inspector General for Audits with the Department of Homeland Security. Then we will hear from Rear Admiral James Watson, who is the Director of Prevention Policy for Marine Safety, Security, and Stewardship, United States Coast Guard. Then we will hear from Kathryn Higgins, who is a Board Member with the National Transportation Safety Board.

With that, we will now hear from you, Ms. Richards.

TESTIMONY OF ANNE L. RICHARDS, ASSISTANT INSPECTOR GENERAL FOR AUDITS, DEPARTMENT OF HOMELAND SECURITY; REAR ADMIRAL JAMES WATSON, IV, DIRECTOR OF PREVENTION POLICY FOR MARITIME SAFETY, SECURITY, AND STEWARDSHIP; AND KATHRYN O'LEARY HIGGINS, BOARD MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD

Ms. RICHARDS. Good morning, Chairman Cummings and Members of the Subcommittee. I am Anne Richards, Assistant Inspector General for Audits for the Department of Homeland Security. Thank you for the opportunity to discuss our report on the Coast Guard's management of the marine casualty investigations program.

I would first like to express our appreciation to the Coast Guard's Office of Budget and Programs, as well as the staff assigned to the marine casualty investigation program, for their timely and thorough responses to my staff's requests for information and documentation.

Our audit was conducted at the request of the Committee on Transportation and Infrastructure and the Senate Commerce, Science, and Transportation Committee. My testimony will address three areas of concern identified in our audit. They are, first, the

training, experience, and qualification of marine casualty investigations; second, the levels at which marine casualty investigations are conducted; and, third, the Coast Guard's process for reviewing and closing its backlog of marine casualty investigations.

Concerning the training, experience, and qualifications of investigators, we found that 15 of the 22 marine casualty investigators in our sample were not qualified to conduct marine casualty investigations based on the standards applicable during our audit period. This problem can be attributed to inadequate management oversight and internal controls to ensure effective assignment, training, and development of qualified marine casualty investigators across the Coast Guard.

The Coast Guard's 1988 standard for determining who was qualified to conduct marine casualty investigations, which was in effect at the time we analyzed our sample, required a combination of experience, investigative tasks, and training. To be considered prequalified for the marine casualty investigations program, personnel had to be qualified as a Hull or Machinery and Small Vessel Inspector, or be trained in port operations as a Boarding Officer, Facility Inspector, and Harbor Safety Officer.

The 1988 standard also required that personnel satisfactorily complete specific investigative tasks and satisfactorily complete the basic marine investigator training course.

Seven of the 22 investigators reviewed at the five locations visited during our audit met the pre-qualification standards by either fulfilling all port operations requirements or through a combination of inspector qualifications. The remaining 15 marine casualty investigators, or 68 percent of the investigators we reviewed, were not qualified under the 1988 standard. Of particular concern were four investigators who did not meet any of the requisite training, experience, or qualification requirements, and did not attend the basic marine investigator training course.

In August 2007, the Coast Guard revised the qualifications for marine casualty investigators by updating the tasks that an investigator must perform to qualify for the position. The revised qualifications also removed the pre-qualification requirement of being a Hull or Machinery and Small Vessel Inspector. According to the Coast Guard, knowledge in these specialty areas is essential to the ability of the investigators to correctly identify the causes of marine casualties and issue appropriate safety alerts and recommendations. Consequently, removing the standard may negatively affect the qualifications and capabilities of Coast Guard marine casualty investigators.

The Coast Guard claims the pre-qualification standard as a Hull or Machinery and Small Vessel Inspector are still required, although not specifically outlined in the August 2007 standard, since this pre-qualification is a prerequisite for attending the basic marine investigator training course. However, we found that five of the 15 investigators that we reviewed that had attended the basic course did so without meeting any of the prerequisites for attendance. Further, the current prerequisites for the course call for certification as a Hull or Machinery or a Small Vessel Inspector, which we believe degrades the prerequisites.

The problem of unqualified marine casualty investigators can also be attributed to the lack of a clear and desirable career path for investigators and the Coast Guard's decision to reduce from four years to three years the tour of duty as a marine casualty investigator, which hinders investigators in acquiring the experience needed for career development.

In contrast, civilian marine casualty investigators are not subject to the three year tour of duty rotation standard. Over time, civilian investigators can gain a greater knowledge of specialties, such as local waterways and industries or experience in enforcing maritime regulations. Of the 22 marine casualty investigators we reviewed, one was a civilian. In fiscal year 2007, the Coast Guard reported there were six civilians serving as full-time marine casualty investigators. To its credit, as part of its efforts to enhance the marine safety program, the Coast Guard is planning to add civilian investigator positions.

Unqualified marine casualty investigators are not a new issue to the Coast Guard. Coast Guard studies in the mid-1990s of various aspects of the marine casualty program also identified many of these same problems with marine casualty investigator qualifications. Although the Coast Guard studies included recommendations to address these problems, there were little progress made in this area.

The second area I want to discuss concerns the level at which marine casualty investigations are conducted.

The Coast Guard has guidance identifying the appropriate level to conduct an investigation based on the severity of the incident. The levels of marine casualty investigations are: preliminary investigations, which are initial investigative efforts; data collection activity investigations, which usually consist only of collecting basic factual information; informal investigations, which are less exhaustive than formal investigations, but determine and report on the causes of the casualty; and formal investigations, which are reserved for the more serious or significant incidents in which the most investigative value can be gained.

Data provided by the Coast Guard showed that between January 1st, 2003 and October 31st, 2006, 93 percent of all marine casualty investigations were conducted at either the preliminary or data collection activity level, the two lowest levels of effort that consists only of collecting information and do not require an analysis of cause. Only 13 of 15,000 investigations were conducted at the formal level.

Our detailed review of a sample of 145 marine casualty investigations from the five Coast Guard locations visited showed that 53 percent of the investigations were conducted at a lower level than that recommended by Coast Guard guidance. The Sector commands have the leeway to conduct investigations at other than the recommended level; however, to maintain control over the program, the Sector commands should document departures from Coast Guard guidance.

We also compared an extract of 15,327 marine casualty investigations contained in the Coast Guard's database against the Coast Guard's guidance on the recommended levels of investigation. From this comparison, we identified 1,255 cases which were

investigated at a lower level than prescribed by Coast Guard guidance. As a result of formal and informal investigations conducted at the lower data collection activity level, causal factors were not always determined. Without such determinations, the Coast Guard may have lost the opportunity to issue safety recommendations or alerts to prevent or minimize the effect of similar casualties.

Finally, we found the Coast Guard Headquarters was not timely in its review and closure of marine casualty investigations. On November 9th, 2006, Coast Guard Headquarters had a backlog of 4,240 investigations, of which 2,466, or 58 percent, have been awaiting review and closure for more than six months. One Headquarter staff member was responsible for reviewing and closing all of the investigations. This function is only one of several functions performed by this staff member.

To reduce the backlog, the Coast Guard resorted to a mass closure of investigations without thorough review. On September 29th, 2006, Coast Guard closed 3,848 investigations that it deemed low risk. However, based on the data provided by the Coast Guard, there were 194 informal investigations and one formal investigation included in this mass closure project. Although the Coast Guard deemed them low risk, we considered the investigations as high risk because they involved serious incidents requiring complete causal analysis.

Coast Guard studies dating to 1994 have identified these same basic problems affecting the marine casualty investigation program. In September 2007, the Coast Guard issued a plan for strengthening the program. This plan included recommendations similar to those made in 1994 and in our audit report. Coast Guard senior leadership must take seriously implementing these recommendations to have a lasting impact on the marine casualty investigations program.

Mr. Chairman, Members of the Committee, this concludes my statement. I would be pleased to answer any questions you may have.

Mr. CUMMINGS. Thank you very much.

Rear Admiral James Watson.

Admiral WATSON. Good morning, Chairman Cummings, Representative LoBiondo, Members of the Subcommittee.

Thirty years ago, when I entered the Coast Guard, it was not uncommon to lose whole ships to the sea, inspected ships with professional crews like Edmund Fitzgerald, The Poet, Ocean Ranger, and Marine Electric. Poor designs, loading, training, and maintenance led to structural failures. The Coast Guard investigated and analyzed each casualty and made the necessary changes to design, construction, manning, and inspection standards. Today, the risk of a serious marine casualty on an inspected vessel is less than one in a million, but we can do better.

Just one year into George Washington's first term, Alexander Hamilton created the U.S. Revenue Marine Service, which is today's Coast Guard. He charged our first officers never to forget that their seafaring countrymen are free men impatient of domineering government officials. He charged them to carry out the law and warned that sloppy work would create clamor, disgust, and alarm.

The combination of maritime service, leadership, professional law enforcement has characterized the Coast Guard for 218 years.

Your alarm regarding our casual investigation program has reverberated throughout the Coast Guard. Nothing gives us more resolve than suggesting we have neglected Alexander Hamilton's warning.

In response to the questions you raised, I can tell you we currently have 136 persons assigned to marine casualty investigating officer billets. 110 of those persons are certified as marine casualty investigators; the other 26 are apprenticed investigators. Coast Guard-wide, we have a total 448 civilians, officers, and warrant officers who are certified marine casualty investigators. Every Coast Guard sector and marine safety unit has at least one certified casualty investigator; most have more. But we are completing a review of all personnel conducting marine casualty investigations and will assign veteran marine casualty investigators back to investigation billets to fill critical gaps. Our military workforce is perfectly suited to adjust when necessary.

Ultimately, the Coast Guard's marine safety program, including marine casualty investigations, will have to grow to match the growth of the marine industry. By this time next year, we plan on having a marine investigation center of expertise and over 40 new investigator billets.

The Coast Guard and the NTSB are each authorized to investigate major marine casualties. NTSB has a staff of 16 and investigates about seven marine casualties a year; Coast Guard provides the immediate response to all reported marine casualties and completes about 5,000 investigations a year. Unlike the NTSB, Coast Guard investigations must go beyond determination of the cause and determine if a violation of law or regulation warrants administrative, civil, or criminal action. Our overall marine safety mission, which includes search and rescue, pollution response, waterways management, and marine inspection, also requires characteristics unique to Coast Guard investigations, such as speedy dissemination of safety alerts, notice to mariners, and policy updates.

We strongly believe that the existing statutory and investigatory regimes work well and should not be changed. Neither agency's role in casualty investigations should be diminished. Any change would seriously disrupt the existing well-considered statutory balance and interagency cooperation between the Coast Guard and the NTSB.

NTSB primacy in marine casualty investigations would not only disrupt the good order and discipline of the U.S. maritime community, it would also proclaim to governments around the world that the Commandant of the United States Coast Guard has been summarily demoted, a message we do not want to send.

The Coast Guard is keenly aware of what is at stake for America's waterways, our economy, and for the thousands of people who go to sea. We stand ready to work with the NTSB and Congress to address all the marine casualty investigation issues in the context of the existing statutory and investigatory framework.

I look forward to this hearing and responding to your questions.

Mr. CUMMINGS. Thank you very much.

Ms. Higgins, I don't usually do this, but the Rear Admiral just said something I want you to answer, to save us some time. He feels that NTSB taking over the responsibilities that you all are proposing would, in the eyes of the world, I think he said, be a demotion of the Commandant. Would you address that in your opening statement, please?

Ms. HIGGINS. Mr. Chairman, thank you, and Mr. LaTourette and other Members of the Committee. Let me just say that Admiral Allen is a personal friend of mine and I have the highest regard for him and all of the members of the Coast Guard, many of whom I consider good friends. Our objective is in no way to diminish the role of the Coast Guard or to send any signal that would in any way indicate any kind of demotion in terms of the important role that they play.

As you know, the National Transportation Safety Board is an independent Federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, pipeline, and hazardous materials—and issuing safety recommendations aimed at preventing future accidents.

I want to talk today about our request to modify the authority we currently have to investigate marine accidents.

The Board proposes to have the right to elect to lead or have primary status in major marine investigations. This proposal is not intended to serve as an expansion of the Board's authority, but to provide the clear authority if at any time in the immediate aftermath of a marine casualty there is a disagreement between the Safety Board and the Coast Guard over interpretation of the regulations we have jointly issued. Such authority is consistent with what we now have in other modes of transportation.

The Safety Board and the Coast Guard currently enjoy a good working relationship; however, there is no assurance that a disagreement concerning primacy in a high-profile marine accident can be resolved in the short time frame necessary to respond quickly and efficiently. We believe that in the aftermath of an accident there should be no confusion or uncertainty about which Federal agency has the lead and which investigative protocol will be followed.

The Safety Board and the Coast Guard take different approaches to accident investigation. We use a party system to leverage the resources of technical experts from operators, manufacturers, and professional organizations. They provide us specialized knowledge to help develop the factual record, and the Coast Guard is almost always a party to our marine investigations and, under our legislation, would have a statutory right to party status.

We may also convene a public hearing to gather additional data. That factual information gathered from various sources is routinely released to the public to inform them of the progress we are making. After the record is developed and analyzed, the Board then discusses the report and deliberates on findings of probable cause and recommendations in a public meeting.

Coast Guard investigations, as Admiral Watson has indicated, address law enforcement as well as safety considerations, but the cause is not determined in a public meeting. The Coast Guard may

also convene a Marine Board of investigation, but it has not done so regularly in recent years.

The Safety Board enjoys a worldwide reputation for technical excellence. Many of our marine investigators, although they are small in number, hold the highest U.S. Coast Guard licenses, are vessel masters or chief engineers. We also have investigators with extensive experience as Coast Guard marine inspectors and marine investigators. Our investigators also include specialists in other engineering, operations, and human performance disciplines. And we have staff dedicated to the analysis of ship voyage data recorders and they can draw on years of Safety Board experience in reading out cockpit voice recorders and flight data recorders.

Just last week, the International Maritime Organization adopted a code for safety investigations into marine casualties. Reflecting the current practice in many countries and the growing trend in many others, the code states: "a marine safety investigation should be unbiased to ensure the free flow of information to it. In order to achieve the outcome, the investigator carrying out a marine safety investigation should have functional independence from: the parties involved in the marine casualty or marine incident; and anyone who may make a decision to take administrative or disciplinary action against an individual or organization involved in that incident." The Safety Board has that independence.

The Coast Guard will always be in charge of rescue, response, security, and port safety. Their investigations and investigators are geared to frequent and routine accidents and the Safety Board has no intention or capability to take over that role. We excel at the unusual accidents, which are often the most serious and also, fortunately, the most rare. It is only on those that the Safety Board seeks clear and unambiguous authority to lead. This approach works very well in our aviation, rail, and pipeline investigations, and will work equally well in the future for marine investigations.

I would be happy to answer any questions.

Mr. CUMMINGS. I want to thank all of our witnesses for your testimony.

Ms. Richards, there were several items that the Committee suggested that the Inspector General's Office might examine, but to which you did not devote much attention in your report. For example, the Committee suggested that the IG examine whether any changes to current statutes would clarify the Coast Guard's responsibilities for marine casualty investigations and reports. To this, the report responded that there are some conflicting interpretations in applications of the Coast Guard's September 2002 policy letter, such as regarding the question of what constitutes a loss of propulsion. You also suggested that dollar estimates for damages in the various categories of investigations should be updated.

Are there any other suggestions that you would have to make to us with regard to potential statutory changes?

Ms. RICHARDS. No, sir. When we started the audit, we were looking at the broad spectrum, but when we found the problems in the qualifications of the marine casualty investigators and the issues on what level they were actually completed the investigations, we concentrated our efforts on those issues, believing that the Coast Guard needed to address those first, and that there would be time

to look at the broader issues after those critical issues had been addressed.

Mr. CUMMINGS. On that note, you noted in the report that the Coast Guard marine casualty investigation program needs additional qualified personnel, and you have recommended increasing the number of civilians in the casualty program or extending the tour of duty for Coast Guard personnel. Can you comment on how many personnel the Coast Guard needs overall in the casualty investigation program to conduct all the casualty investigations at the recommended level?

Ms. RICHARDS. We did not complete a workload analysis, in part because, with the investigations that have been done being at levels other than what was recommended by the Coast Guard guidance, the amount of time it took to complete those investigations wouldn't shed accurate light on the full staffing that would be needed by the Coast Guard. We would ask that the Coast Guard complete a workload analysis to project how many investigators they need total.

We did suggest that increasing the number of civilian investigators would be beneficial to the Coast Guard in part because as the civilians do not rotate, similar to the military members, they would have time to develop the local expertise in that particular waterway or the industry at a particular port. The Coast Guard has a number of civilian investigators currently, but we believe that they should look into increasing that number.

Mr. CUMMINGS. Now, Rear Admiral, I heard what you said about the image of the Commandant, and certainly we do not want the image of the Commandant diminished in the least bit. But I guess one of the things that I am concerned about is effectiveness and efficiency. I often talk about how we can get caught up in a culture of mediocrity.

I talk about that with regard to Katrina, where not, thank God, the Coast Guard was great, but other agencies were caught up in a culture that did not allow us to respond the way we should have responded. And in this instance I think when we are talking about the NTSB doing investigations, there have been times in the past when the Coast Guard was of the belief that there may have been a conflict of interest and asked the NTSB to intervene. Is that correct?

Admiral WATSON. Yes, sir.

Mr. CUMMINGS. Did you see that as might possibly diminishing the image of the Commandant?

Admiral WATSON. No, sir..

Mr. CUMMINGS. So, in this instance—and I realize that the NTSB—and I want you to be ready for this, Ms. Higgins—has a limited budget. We saw that when we were working on the ALJ situation. The NTSB was very sensitive about the little bit of money that they have and how tight things are. We are familiar.

But here we are, the NTSB asking to take on—although you were very careful in your testimony to say we are really not trying to get more authority here, but there are some things we need to be in a position to do, but no matter how you look at it, it is the probability of taking on some more work, and I am just trying to figure out how does this all come together. In other words, I take

it that there are cases, based upon your testimony, that the NTSB would look at and say, wait a minute, this is something that we really need to be involved in.

Tell me the kinds of facts or factors that would cause you to be able to get in a case under the proposed changes, that you are not able to get into now. Do you understand the question?

Ms. HIGGINS. Yes, sir. Let me just say that I think we look at this request—and we think of it really as a modest change—as not changing the underlying guidelines or criteria that we use to select accidents. We are looking at this essentially to be a tiebreaker in the case of high profile accidents where there is a dispute. And I am not suggesting that happens very often. Right now, because of the people involved, we have a very close working relationship.

But essentially the criteria we use is the definition that is in the statute of major marine casualty. We also look at some other factors in terms of the cost involved—there is a dollar value assigned to it. We use the term catastrophic, which, for example, was applicable in the Ethan Allen accident, where it was not on navigable waters, so the Coast Guard wasn't involved. We use that criteria, which is in our statute, to be able to look at that accident, even though it was under State jurisdiction.

So, fundamentally, we think the criteria are not going to change. But we want to make sure we have that authority in our statute, just as we have the authority in aviation to take the lead, and all of what that means. And it really means following our protocol, so that it is clear that we are the spokesperson, and our investigator is in charge.

There was a question or comment made earlier about parallel investigations. We fully expect, as with the FAA, that the Coast Guard would continue to carry out its investigation if they think that there are enforcement issues that have to be addressed. That is not in conflict. In fact, that happens now. What we want is to be sure that, in a major casualty like the COSCO Busan, there is one voice speaking to the public about the accident, that the facts are developed under the guidelines that we have put forth, and that we work cooperatively. And, again, it mostly works, but there have been some examples where it hasn't.

I hope that answers your question.

Mr. CUMMINGS. Yes, you did. Now, you used the word tiebreaker, isn't that right? Didn't you use that word?

Ms. HIGGINS. That is my word, yes, sir.

Mr. CUMMINGS. Who would break that tie right now? Right now.

Ms. HIGGINS. Right now it would be a standoff. If we couldn't agree, presumably, we would both move forward.

Mr. CUMMINGS. So both of you would be doing investigations. And what you are saying is that it would be better if there was this tiebreaker and with the NTSB, I guess, being more of an independent sort of agency. Am I right?

Ms. HIGGINS. That is the way our statute was written.

Mr. CUMMINGS. Right. I understand.

Ms. HIGGINS. Congress wanted us to have the independent responsibility to look at all the modes of transportation, including marine.

Mr. CUMMINGS. Okay.

Ms. HIGGINS. Because if you are the regulator, you do the certification, a lot of these issues come into play, and it is important, I think, when Congress created the statute 40 years ago, that they wanted somebody who didn't have that responsibility, who wasn't the enforcement agency, wasn't the regulator, who wasn't the certifier, who didn't issue the licenses to be able to look impartially at all those issues. And it has worked very well, but we want to make sure that in the event that there is that kind of disagreement with the Coast Guard, that we could, by statute, assert the lead in an important marine investigation.

You made the point about resources. We are not asking. We would like more resources, but they are not reflected in the President's budget. So we are not going to have more investigators. We don't anticipate we are going to have the resources to do many more investigations than we do. We are pretty selective about the ones where we want to assert our lead. We just want to be sure that in the event of a dispute that can't be resolved through the informal process of our office working with the Coast Guard, that we can say we want to take this and we have got the authority to do it.

Mr. CUMMINGS. In other words, these are cases that you would be investigating, probably, no matter what. But with this tiebreaker situation, it would allow you to, I guess, to work closely with the Coast Guard to move forward. Is that basically what you are saying? Hopefully so you would be more effective and efficient.

Ms. HIGGINS. Exactly. This issue of efficiency, I asked the staff to put together—we now have seven open investigations. None of them are older than a little over a year old, a year and a couple months old. In the last 10 years, with our limited staff, we have issued 22 reports and 17 briefs, and a total of 244 recommendations, half of those to the Coast Guard, and we closed half of those, 120, acceptable.

So when we pick accidents, we are pretty selective, but we get the job done. We have had some problems in the past with backlog, we admit that, but in the last couple of years I think we had a GAO report that we paid attention to. We have really improved our operations. So we want to make sure that we can continue to focus on the most difficult high profile accidents, because we think those have the biggest payoff in the long-run in terms of safety.

Mr. CUMMINGS. Just one last question, then I will come back later. Rear Admiral Watson, respond to what she just said. It sounds like it makes sense to me. Maybe I am missing something. She is talking about effectiveness and efficiency; talking about a tiebreaker situation; talking about NTSB, which is supposed to be the more independent agency; not really trying to take away any authority, I don't think. I am just trying figure out—I just need your response on that.

Admiral WATSON. Yes, sir. What my point was is that when Congress changes the legislative authority of the Coast Guard to be able to manage when it is going to do an investigation and when it isn't, shift primacy to another agency, that appears to everyone around the world as a type of a demotion. It is an appearance thing. We shift the lead to NTSB on a regular basis right now.

The system that we have, working under the Memorandum of Understanding between the two agencies, works very well and, in fact, I think it sends a much more powerful statement when the Commandant, who has the authority to do an investigation, voluntarily says I think this is one that ought to be given to the NTSB to lead because there is involvement of a Coast Guard operation with respect to that particular incident.

It could be the VTS, it could be a marine inspection, it could be a buoy out of place. And we have been doing that. The system that we have with the authorities that both agencies have right now works very, very well. I think the improvements that have been made in the marine industry bear this out.

Mr. CUMMINGS. I think that—and then I will turn it over to Mr. LaTourette, but in my opening statement I talked about how some of these issues have been passed on year after year, decade after decade, and I do believe that it was the actions of this Committee, and perhaps the Senate, that caused action to take place with regard to marine safety. And I give credit to both sides; it is not a Democrat thing, it is not a Republican thing. I think we all had something to do with that. I think we saw significant movement—significant—with regard to marine safety.

I guess what my concern is that I would hope that everybody who takes on the position of Commandant would be as good as Admiral Allen, and his decision-making. He has caused this Committee to have a tremendous amount of trust and faith in him. But I am just wondering when a new Commandant comes in, or in future generations, when we all are having hearings up in Heaven,—hopefully, we won't be having hearings——

[Laughter.]

Mr. CUMMINGS. I just want to relax.

[Laughter.]

Mr. CUMMINGS. Anyway, I just want to make sure that we put in what is necessary to make sure that it works. You follow what I am saying? I don't think we can depend just upon people. So sometimes you need to put in mechanisms so that it makes people's jobs easier. But I understand what you are saying.

Admiral WATSON. Well, I had one more point, sir. The tiebreaker concept, that could be driven by the amount of interest that there is in a particular marine casualty; it may not be driven by anything other than that. We don't know. You are suggesting that the authority should be given to the National Transportation Safety Board to make that decision.

The unintended consequence of that could be—the focus of any national Marine Board investigation is just to find the cause of the casualty. What if there is a situation where there needs to be some discipline there, that it needs to be done fast and information needs to be moved out to the Coast Guard's inspectors or our boarding officers in order to correct the maritime? This really is a good order and discipline kind of an issue that is not unlike what the Coast Guard does for ourselves, and it is very important for the commanding officer to be able to have that authority.

Mr. CUMMINGS. But with regard to punishment authority, that would remain with you all, right? Isn't that right?

Ms. HIGGINS. Absolutely. The enforcement responsibility would continue with the Coast Guard. Let me just say that this is how we work currently with the FAA and with the Coast Guard. We fully respect the missions of both the FAA and the Coast Guard in terms of their enforcement responsibilities. In fact, our process allows for that kind of action to be taken immediately if that is what is called for. That does not in any way get in the way of the safety investigation, which may take a little longer to identify the probable cause.

We feel strongly that the way to improve safety over the long term is to take action as quickly as possible, so we in no way want to use our process or currently use our process to delay any kind of enforcement actions, whether it be against pilots or mariners, that need to be taken.

I was, for example, the Member on scene for a cruise ship accident in Juneau just about a year ago, and we worked with the Coast Guard. We were the lead agency, but at the same time they took the actions necessary to engage the crew and ask the crew member who was on the deck at the time of the accident. He voluntarily surrendered his license and they are still having conversations with the captain. That is the kind of process that is currently working. It would not change under this authority.

Mr. CUMMINGS. Very well. Thank you.

Mr. LaTourette.

Mr. LATOURETTE. Thank you very much, Mr. Chairman, for having this hearing, and I apologize for not being here at the very beginning.

I have to say the Chairman and I have worked really well together for the last year, but I have a little different take on today's hearing and NTSB's proposal, and I will try to make that evident during the course of my questions.

Admiral, to you, before I came here I was a prosecuting attorney and we had this really, really big murder, and I was a little naive country lawyer, so on. It was apparently budget time, appropriations time and we were lucky enough to be assisted by some Federal law enforcement agencies. The next time I came back to the crime scene, FBI and ATF and DEA agents, who had appeared in jeans and work clothes, they all had slickers on that said FBI, ATF, DEA, and I thought, it is not raining; why do they have these slickers on? And it became apparent to me, when I watch television, it was so we could all see back at home that their tax dollars were at work and the FBI needed more money than the ATF because they had more jackets working on the murder.

This, to me, as I read the Inspector General's report, I think the Coast Guard is responsible for creating a vacuum in this area, and I think the Inspector General's report, by pointing out deficiencies, has sort of left the playing field open, and I do fault the Coast Guard for that.

I will say, though, Ms. Higgins, that I think NTSB's proposal is not benign, it is not minor, and it is a pretty big, aggressive attempt to fill that vacuum. I thought it was interesting that you used the word tiebreaker, and the Admiral picked up on the word tiebreaker.

A tiebreaker, to me, means that if, at the end of the game, the score is tied, you flip a coin, you go into overtime. In your version of tiebreaker, you always win. So if there is a tie and there is a disagreement, the tie is broken because you say you are going to take the lead, right? You can never lose a tie. You can have a tie, we can have a disagreement, but if NTSB says, hey, tiebreaker time, you win, right? I am not wrong about that, am I?

Ms. HIGGINS. You are right.

Mr. LATOURETTE. That is what I thought. And to the Admiral's point about it appearing to the world to be a demotion, I look at the proposed legislation that NTSB has set up here, particularly Section 1132(a) subparagraph (c) and the participation of the Commandant in marine investigations, the last sentence is: "However, the Commandant may not participate in establishing probable cause." I mean, you are cutting the Commandant out of the equation.

So if I am the Commandant, and to this moment in time we have had a system that has worked pretty well and everybody has gotten along, you like the Commandant, you like the Coast Guard; they have got some deficiencies that the IG has indicated, but you are taking him out of a process that he is now involved in.

Ms. HIGGINS. Sir, if I could explain. When we talk about probable cause—and I mentioned in my statement that probable cause is determined in a public meeting that is convened by the Chairman of our Board, five-member Safety Board, and we publicly vote on a probable cause. We do that for all our accident investigations.

The Coast Guard, under this provision, and as currently exists, would serve as a party to the investigation, our investigation, and they would sit at the table, we would share information with them, they would share information with us. They may conduct an independent enforcement investigation if that is so required. But under our process, which is, again, what we use now for marine investigations, we, as the Safety Board, charged by Congress, determine the probable cause of the accidents.

Mr. LATOURETTE. Then why do you need to put that sentence in there?

Ms. HIGGINS. We tried to, in that language, just parallel the authority that we currently have in investigating aviation accidents. If you were to look at them side-by-side, we substituted marine for aviation. All we are trying to say is that this is the same system that we currently have in aviation, where we have the clear lead and this is the process we follow. I would make a distinction, though, that in aviation we are charged by statute to investigate every aviation accident. Under the statute, which we are really not changing, we would only investigate major marine accidents as defined by regulation

Mr. LATOURETTE. Okay. Thank you very much for that.

To you, Ms. Richards, under the current Coast Guard personnel requirements that apparently came up short in terms of meeting them, in your report, a marine casualty investigator must be either a Hull Inspector, a Machinery Inspector, or a Small Vessel Inspector, and have served as a Boarding Officer, Facility Inspector, or Harbor Safety Officer. Did the IG, as a part of its investigation, look at the qualifications of the NTSB investigators?

Ms. RICHARDS. No, sir

Mr. LATOURETTE. Okay.

And then to you, Ms. Higgins, can you tell me how many NTSB investigators meet the requirement of Hull Inspector, Machinery Inspector, Small Vessel Inspector, and have also served as a Boarding Officer, Facility Inspector, or Harbor Safety Officer?

Ms. HIGGINS. I have with me the resumes of our safety investigators, which I would be happy to provide to the Committee. I don't have the information characterized or classified in the way you asked for, but we can certainly get that for you.

Mr. LATOURETTE. I would ask unanimous consent that those documents be made part of the record.

Mr. CUMMINGS. So granted.

Mr. LATOURETTE. And then if the Chairman would permit me one more question.

Mr. CUMMINGS. Please.

Mr. LATOURETTE. Thank you so much.

Ms. Higgins, you indicated in your testimony that the proposed language would give the Board clear authority to move forward in the case that there is a paralysis between the Board and the Coast Guard created by this agreement over interpretation of the regulations that they have jointly issued. I would ask you has such a paralysis ever occurred?

Ms. HIGGINS. It is my understanding—and I have been with the Board about two and a half years—that in recent history there has not been such paralysis. Admiral Watson and Dr. Spencer from our office were colleagues when they were both with the Coast Guard, before Dr. Spencer came to the Safety Board. So as has been explained to me, this is done as much on personal relationships now as it is in terms of the process that is outlined in the regulations.

But there have been instances in the past where it has been a problem, and we can get you specific examples of that, if that is helpful to the Committee.

Mr. LATOURETTE. Well, I would want you to supplement the record because what I think you are telling me is that everything works well because the Commandant is a great guy, the folks at NTSB are great people, but you think that somehow the new Commandant might be a jerk and we may get some jerks over at NTSB, so we have to make some rules. We are not having any problems at the moment, but we have to make some rules taking away some authority from the Coast Guard because we might get people who don't get along in the future.

Ms. HIGGINS. I think that we are looking for clear authority, the same authority we have in investigating every other mode of transportation when there is an accident. We have had problems in the past. Currently, things are working well. They could work better. We have had some specific issues, for example, in the COSCO Busan, that we worked out, but it is not without its problems. We are looking for the same authority to elect to lead marine investigations that we have in aviation, rail, pipeline, and hazardous materials.

Mr. LATOURETTE. Okay. Then if the Chairman would just indulge me, because you brought up the COSCO Busan.

Was the confusion regarding the COSCO Busan illustrative of a faulty process or was it the failure of certain individuals to follow the appropriate steps outlined in the current process?

Ms. HIGGINS. My understanding of what happened in the COSCO Busan is that the information that was provided to us initially, in terms of the amount of the spill, was inaccurate. I think everybody knows that that was part of the problem. We learned through press accounts the next day that the spill was much greater than what had been originally told to us. We then decided perhaps we should take a closer look at this, and the Coast Guard then also contacted us.

But we didn't get the information about the actual dimensions of the casualty directly from the Coast Guard, we got them from press accounts. So we didn't get on scene until three days after this accident happened. As a result of that, some of the important information, like the voyage data recorder, was not secured, and mistakes happen and we have made it better, but we think if there had been a better process in the beginning, in terms of more accurate information, we could have made a decision earlier that this was a major investigation and we would have launched sooner.

Mr. LATOURETTE. Thank you so much.

Thank you, Mr. Chairman, for your indulgence.

Mr. CUMMINGS. Mr. Larsen.

Mr. LARSEN. Thank you, Mr. Chairman.

I really don't need an answer on this first comment, it is just a possible answer to Ms Higgins' questions about you don't understand why NTSB doesn't have this lead authority when you have it in other areas. I don't have an answer to that, but I personally would like to look into that. It could be because the Coast Guard has had this investigative function since 1832 or so, and it is possible that it has been relatively effective over that time as it has changed to meet the needs of maritime transportation; whereas, in other areas, we didn't have an effective way to investigate accidents. So that is certainly possible.

I also want to throw it out to NTSB. In my district we had the pipeline explosion in 1999 of the Bellingham pipeline. NTSB was johnny-on-the-spot, did a great job with investigation, took the lead. So it is not to say that NTSB can't take the lead on these things; they were great. But that itself, though, was not without its conflicts between NTSB and other agencies in terms of who gets to penalize who and for how much. So it is not a totally perfect process either when you all get the lead.

On page 4 of your testimony, in the last paragraph you say "There may be some incidents where the Coast Guard disagrees with the Safety Board's position that the Board's investigation should take precedence over the Coast Guard's investigation, and a change to the law would enable this dispute to be resolved unambiguously and quickly." This gets into the tiebreaker issue. I am just curious why you decided that you ought to be the tiebreaker and you didn't come to recommend to us that the Coast Guard ought to be the tiebreaker. It would seem to us that it would be just as unambiguous and resolved as quickly if we gave the Coast Guard the tiebreaker.

Ms. HIGGINS. Well, I am representing the NTSB. I think it is important to step back and remember why Congress created the NTSB 40 years ago. The FAA has investigative authority, the Federal Railroad Administration has investigative authority. Congress wanted an independent agency—who was not the regulator, was not the law enforcement agency, didn't do the certification, didn't do the inspections—to have the responsibility to investigate accidents. We don't have a history, necessarily, with any of the players in a particular accident. We don't inspect the ships, we don't license the ships. I think that is why it would make sense in——

Mr. LARSEN. If I may, I think it would be very important for us to go back and look at the same question, which is then why did not Congress include the Coast Guard in that. And that is all I am saying, is perhaps I need to go back and look at that history to understand that better.

Ms. HIGGINS. Sure.

Mr. LARSEN. Because if it happened on purpose that NTSB got the lead for these other investigative efforts, then it must have happened on purpose that the NTSB didn't get the lead for maritime. It is an interesting question for me to try to get an answer to, and I may have to do that independently myself.

With regards to the criteria that NTSB would use to make a decision, you used the term high profile. I hope there are other criteria other than high profile cases that you would use to decide that NTSB was going to be the lead or have primacy. You discussed those somewhat. Can you be specific about the criteria NTSB uses and would use to determine lead?

Ms. HIGGINS. Sure. I can submit for the record all the criteria that we use. Significant loss of life is one criteria. Another criteria would be the dollar amount in terms of the damage done to the vessel itself. The other criteria we look at is whether the accident raises important safety implications that would have significance for the marine industry overall, or whether this is an accident that we have seen before.

Mr. LARSEN. What is your process and time line, say, in an airplane investigation to make that determination?

Ms. HIGGINS. Well, we have to investigate every aviation accident, by statute. So even for civil aviation accidents, we have to determine the probable cause. We may work with the FAA and they provide us the information. So it is a little bit different. In marine we have to be more selective, so that is why the criteria is developed and put in regulation.

Mr. LARSEN. Okay.

Ms. HIGGINS. The statute talks about major marine casualties, and then all of that is defined in regulation.

Mr. LARSEN. Okay, that is fine.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

It is good to have you all with us.

Ms. Richards, I am referring to my notes. I want to revisit the 22 investigative officers who were interviewed. How many of that group did you say were found to be unqualified?

Ms. RICHARDS. Fifteen of the 22 of the marine casualty investigators in our sample were not fully qualified.

Mr. COBLE. So that would be seven were qualified, I guess, then.

Ms. RICHARDS. Yes.

Mr. COBLE. Admiral, do you want to refute or embrace those findings?

Admiral WATSON. Sir, I think one of the main factors that led to the conclusions—first of all, I am not disputing the IG's findings.

Mr. COBLE. And I am not initiating a fight between you either.

Admiral WATSON. That is right, sir. In fact, I think it is important to reiterate that we agreed with almost all of the recommendations from the IG and we are actively working on implementing changes as a result of those recommendations. But back to the data, I just want to clarify that the issue there was the prerequisites of an officer or warrant officer, perhaps even a civilian, that we have in our policy to begin the process of becoming a marine casualty investigator.

And as Ms. Richards said, we had a standard that had a requirement that you have qualifications in other areas of marine inspection, the Hull Inspector, Machinery Inspector, Small Passenger Vessel Inspector; or over in the port operation side, Harbor Officer, Facility Officer, and so on. That was the main cause for the IG's determination on these unqualified people. Some of them had actually achieved their qualifications through going to school in Yorktown, at our marine casualty investigation school, and then performing investigations as an apprentice, and then sitting before the Board, but they bypassed the prerequisites. So it was determined that they were unqualified.

Now, those people, some of them may have been lawyers, they may have been naval architects, like myself, that hadn't been in those particular assignments prior to being an investigating officer, but they were given exceptions to becoming marine casualty investigators by virtue of other qualifications. So our policy, our guidance doesn't cover every different situation, and we have that allowance for the assignment officers and the commanding officers to make these changes.

Mr. COBLE. I thank you for that. Admiral, let me put a two part question to you. We have heard that the Coast Guard needs additional personnel—I have heard potentially up to maybe 10,000 more—to carry out its responsibilities. Two part question: What areas would the Coast Guard focus upon with the additional personnel, A? And, B, what is the Coast Guard doing to strengthen the casualty investigation program?

Admiral WATSON. Sir, the areas that we would focus on are the areas where the maritime community—whether it is boating, cruise lines activities—all of the different growth areas of the maritime communities are growing. We need to right-size the Coast Guard, since we have missions that affect all of these waterways users. We need to match that with the size of the activities that we are responsible for. So that will be one area.

The other thing is that we have been charged, through the Safe Port Act and some other recent legislation, to do things that we haven't done before. We have joint command centers that Congress has asked us to manage in all of the port areas. We need staffing

in those command centers. We also are anticipating to do inspections of towing vessels, approximately 7,000 new vessels that are currently uninspected. Things like that. We are looking at ballast water inspections, air emissions. We have got a lot of activities associated with environmental protection. Those are the types of things that we are going to need to grow to fill.

Now, with regard to marine casualty investigators, we have a program to enhance the whole marine safety program, of which the investigations program is a critical part of that. Our fiscal year 2009 budget requests 276 total new billets for the entire program, of which 44 would be for the investigations program, 20 of those would be for civilian marine casualty investigators; and then there are some other billets in that batch that are to support the training system.

Mr. COBLE. One final question, Mr. Chairman.

Is the 10,000 number an accurate one, additional forces, Admiral?

Admiral WATSON. Sir, that was a number that Admiral Allen suggested. I don't have the details of all of the accumulation to reach that figure.

Mr. COBLE. Thank you. My time has expired.

I yield back, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Ms. Richardson.

Ms. RICHARDSON. Mr. Chairman, I noticed our Chairman had entered. Did you want me to defer to him? No? Okay. Thank you, Mr. Chairman.

You know, as I listen to this discussion, this is the reason why we live in America and we have a democracy. I am going to be really frank with you. I represent an area with ports. There is no need for egos in this room. It really doesn't matter to me who does it. It is important that it is done and it is done right.

I respect, Mr. Admiral, the need for not wanting to appear to be demoted or whatever, but the bottom line is this isn't about who is demoted or who is promoted. This is about ensuring we don't have accidents, so people are not killed and our environment is not caused such harm that it costs all of us for generations.

When I look at what happened in San Francisco, it doesn't matter to me. I have relatives who served, and I understand the need to want to be respected and to be honored, and we give you that. But I don't believe we should jeopardize our personal safety upon that.

Now, the gentleman from the other side asked you about some additional responsibilities and I didn't hear you reference—I think the Coast Guard is now going to be working with also inspecting and being involved with LNG facilities, as well, vessels, and it is like when I look at all the additional responsibilities, I don't view it as a negative. I think what we would be saying to you—and I remember other hearings that we have had of all the additional responsibilities now that is being laid on the Coast Guard. I would see it as a welcoming assistance.

Now, I would challenge Ms. Richards and Ms. Higgins to figure out how we can, as adults, coach this or present it that it is not viewed as a negative, but I would be extremely opposed to us main-

taining jurisdiction just for the sake of because we always had it, because the American people deserve better than that. And you have done a commendable job and all the folks that work with you have done an excellent job, but we should not jeopardize our personal safety for the sake that you have handled it for the last 100 years.

With that, let me say, Ms. Richards, in your testimony you stated that the Coast Guard has not established a clear and desirable career path for its instigators. I think this means investigators, actually. That was typed here. You also state that the Coast Guard has not focused on addressing recommendations related to the investigators qualifications. Can you please go further in detail about these recommendations?

Ms. RICHARDS. Yes. During our audit, we spoke to a number of investigators, both currently in investigator billets and previous investigator billets, as well as personnel in positions of authority. It was suggested to us very strongly that the reason that it is difficult to fill the billets as a marine casualty investigator is that it is not seen as a desirable career move, that it doesn't lead to additional promotions. Coast Guard personnel expressed some reluctance to go into the marine safety line and specifically the marine casualty investigators because, of course, as normal individuals, they are looking for advancement and promotion, and they don't feel that this is the quickest or easiest path to get there, or even a sure path to get there.

Ms. RICHARDSON. Okay. Now, the gentleman on the other side there mentioned that this really may not be that big of a problem, but according to your testimony, Rear Admiral Watson, the IG found that five out of the six individuals assigned to the marine casualty investigators in the Sector San Francisco were unqualified. The IG report also found in its sample that the casualty investigators, 68 percent of those assigned to these positions are not qualified.

And then to further add burden to this, in a report that was done in August of 2007, the standards were removed from requiring prequalifications that the requirement that an individual have experience as a Hull or Machinery Inspector and a Small Vessel Inspector, those were removed, and the IG found that this change in fact lowered the standard, which we see an impact today in accidents that have happened.

So that would bring me to the question, Rear Admiral. It says that you guys have developed a plan. When is it going to be implemented and why did you wait so long?

Admiral WATSON. We had developed a plan prior to the IG's report. I touched on a few of the parts just a few minutes ago with the additional capacity that is needed for our program. Last year, 2007, we implemented a completely new training regime, as well as a qualifications process.

Once a graduate of our training program in Yorktown reaches the field and becomes an apprentice and works under a mentor, they are using something called a personal qualification system, which has been revamped so that they have experienced every element of the program before they go before a board of fully qualified senior investigators to be tested in their knowledge. That whole

system has been in place for years, but the specifics of it was revamped in 2007.

Ms. RICHARDSON. But again, Admiral, I stated to you that the IG said that those revised standards, the IG found that these changes, in their words, was, in essence, it lowered the standard.

Admiral WATSON. Yes, that was in reference to the prerequisites for assignment to a marine casualty investigator billet in the Coast Guard. The old standards there were based on a 1980s version of the marine industry. Today we have a whole new set of qualifications for inspectors and for other officers in the Coast Guard sectors that we have today such that the prerequisites can go well beyond Hull Inspector and Machinery Inspector and Small Passenger Vessel Inspector.

We have a large number of our people that are busy every day doing what we call port state control, which are exams of foreign vessels that by far the larger number of vessels where there is Coast Guard activities is foreign vessels today, compared to U.S. flag domestic vessel. So we shifted to those being the qualifications.

By the way, we removed or are in the process of removing a prerequisite that existed back then that would have allowed a person who only experienced limited activity as a Coast Guard boarding officer for certain navigational checks on a vessel or harbor patrol officers, they are not going to be allowed to begin the process because they really don't have the adequate background. So all we have really done is some shifting; we have not gone backwards.

Ms. RICHARDSON. Mr. Chairman, if I could just get 30 seconds to wrap up.

Ms. Richards, would you agree, then, that the standard has in fact been met?

Ms. RICHARDS. No, I would not. It is our opinion that, in particular, the standard to be a Hull or Machinery Inspector, as well as a Small Vessel Inspector, is very important to the prerequisites of becoming a marine casualty investigator. The way it was explained to me was that those qualifications allowed the investigators, when they were doing an investigation and talking to the operators of the vessel in question, to basically tell if they were hearing truth or they were hearing a fabricated story, or at least have some basic knowledge of how a vessel would be operated and the components of a vessel would be operated in order to make that initial determination which drives their investigation.

One of the individuals that we spoke to during the course of our audit was the Captain of the Port of New York. He suggested to us that six to nine years experience as an inspector in those areas would be a sufficient criteria to become an investigator. So we believe those are very important still.

Ms. RICHARDSON. So, Mr. Chairman, I would just say that, to me, what I just heard here the last minute is of great concern to me, that we have our Admiral, who feels that the standards are appropriate, and yet we have the Inspector General who says clearly they are not. So I look forward to us exploring this further.

Again, Admiral, we have nothing but respect for you. In fact, our Chairman has talked continually about the additional responsibilities that has been put on you, and we support you. So if there is a way that we can help you to do the job more effectively, we want

to do that; and it shouldn't be viewed as a demotion, it should be viewed as thanking you for what you have done, and we know the tremendous challenges you have before you.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you.

As we now go to the Chairman of the Full Committee, let me just ask you this. Rear Admiral Watson, if you just heard what Ms. Richards said, that is a pretty tough statement she just made about what they found. We have a lot of confidence in Ms. Richards. And Rich Johnson, who is sitting behind her, I want to thank you too, Mr. Johnson, for all your hard work. We really do thank you and the whole team there.

But I guess there are just two things I want to get to before the Chairman asks his questions. Of the 110 people you cite as being fully qualified to meet all the prerequisites, as well as having completed all required training, is that accurate? You said 110 were fully qualified. Is that true? And while you are doing that, you mentioned certain people like yourself, I think you said, where exceptions are granted. Is that written somewhere, that if I am a plumber, I can get an exception; if I am a lawyer I can get an exception? Do you remember mentioning that?

I guess what I am trying to get to is that if I want somebody to operate on my heart, I don't want people that got exceptions and they have never had to go through the heart classes—you follow what I am saying?—in medical school. I am just trying to make sure that when we have people who are doing—because these casualty investigations have the potential for so much impact, I want to make sure that there is some kind of a standard. So where is that standard of who gets an exception?

And then we will hear from Mr. Oberstar.

Admiral WATSON. Yes, sir. The policy, the guidance is designed for the majority of the people that you would—the pool of people that you would draw from if you were the Coast Guard assignment officers and you were needing to put apprenticed marine casualty investigators out to the sectors and begin the process. We are talking about who do you use for the pool.

So we wrote the guidance for the majority. And we have got to remember that we are not saying there are any exceptions to the sequence of going to the school, doing the PQS, going through the Board to get examined, and then having the commanding officer actually sign your designation as a marine casualty. No exceptions there.

What we are talking about is, is it acceptable to look beyond that assumed pool and choose somebody whose background has been in the technical side of the program. This gets into some of the same issues I think that you probably had to think about in the recent bill; what should those qualifications be for different positions. We could have hired somebody from the American Bureau of Shipping, for example, as a civilian in the Coast Guard. That person may have years and years of experience, but he has never gotten the Coast Guard qualification as a marine inspector of hulls or machinery.

Mr. CUMMINGS. Well, of that 110, how many of them were given exceptions, the 110 that you cited that were fully qualified?

Admiral WATSON. I don't know, sir. But those exceptions were, in effect, not exceptions because our system, our policy accommodates those reasonable alternatives.

Mr. CUMMINGS. Admiral, I have to stop here, but I have got to tell you what you just said concerns me more than anything else you have said here, because what that means is that anybody can come up with a pie-in-the-sky this is an exception and say, okay, this person has now met the requirements. That is the impression I get from what you said. Maybe I am wrong, but Mr. Oberstar can pick that up. I see he is anxious to get started.

Mr. OBERSTAR. Oh, no, you are doing well. I am in agreement with you. I am very concerned about the direction this is going.

I think some of the problems that we are covering here, and have in the past work of the Committee leading to this hearing, are going to be addressed if we ever get the Coast Guard authorization bill enacted, making substantial improvements in the marine safety function of the Coast Guard and establishing full course in marine safety work and qualifications of Coast Guard personnel.

What disturbed me so much was a comment that, well, our people aren't up to ABS standards. Oh, my goodness. The ABS should be up to Coast Guard standards, it shouldn't be the other way around. I was at the Coast Guard Academy recently, a month or so ago, and talked to the Commandant of the Academy and Commandant of the Cadets, talked with several of the cadets.

They are pretty excited about the idea of having a full-time safety course, and the other provisions that we have crafted into that legislation will ameliorate the existing situation, but two-thirds of Coast Guard marine casualty investigators don't meet Coast Guard qualifications, let alone the NTSB qualifications; and five of the six Coast Guard personnel who investigated the allision in San Francisco were unqualified.

Now, if you look at the NTSB—and I won't name them, need to do that, but their qualifications—Master of U.S. Steam or Motor Vessels of 100 gross tons, Master of Steam or Motor Vessels of not more than 1600 registered gross tons, graduates of Massachusetts Maritime Academy; Chief Engineer Unlimited Horsepower for Steam, Motor and Gas Turbine, Bachelor of Science Marine Engineering, Marine Maritime Academy; Master of U.S. Steam or Motor Vessels of any gross ton, Master of Science, World Maritime University, Bachelor of Science, California Maritime Academy.

I am not going to go through the others, but they are of that qualification. That is the standard the Coast Guard should have internally. That is what we are expecting of the Coast Guard, to be the gold standard. Those are NTSB investigators.

Thirty percent of casualty reports surveyed had factual errors. And until we pressed this issue in Committee, Coast Guard had not established a career path for casualty investigators.

Now, when I first immersed myself in this issue of the division of responsibilities between the NTSB and the Coast Guard was in the aftermath of a vessel inspected by the Coast Guard that just a few days later sank in Arkansas. A duck gone through the Coast Guard. And there were fatalities. The Coast Guard insisted on investigating itself. Now, Admiral, don't you think that was a conflict of interest?

Admiral WATSON. Sir, I think a organization like the Coast Guard needs to investigate itself. We need to have a process to do a critical examination of ourselves. We do that——

Mr. OBERSTAR. You should, but should you be the lead investigator in a situation where just a few days before the Coast Guard said this vessel is fine to operate and a few days later it sinks? Should you be the lead investigator of yourself?

Admiral WATSON. Sir, we have a long tradition of doing that. We investigate when an accident occurs involving a Coast Guard cutter, involving an aviator, and we certainly need to investigate ourselves when the incident involves a Coast Guard marine inspection.

Mr. OBERSTAR. Well, I submit that the Coast Guard is a human institution, and you are fallible when you are investigating yourself; and, at the very least, the MOU that resulted from that incident that was preceded several years earlier by a previous MOU between the Coast Guard and the NTSB, I think that should be refined. There are two differing responsibilities. Can you tell me what the differences are between the role of the NTSB in an investigation and the role of the Coast Guard in conducting an investigation?

Admiral WATSON. Yes, sir. The role of the NTSB is to determine the cause, and the role of the Coast Guard is to determine the cause for the purpose of the management of the marine safety program, which runs all the way from the inspections, standards for search and rescue, waterways management, all the missions that we have, as well as to ensure good order and discipline in the U.S. maritime.

Mr. OBERSTAR. Okay, but you shortcut the NTSB. Not only determine the cause, but make safety recommendations. In the investigation of aviation accidents, the NTSB engages the FAA, the aircraft manufacturer, the airline, a range of outside interests. They bring metallurgists in to the investigation, whatever specialty they need, but the NTSB is in charge of the overall investigation and, in the end, they make the recommendations independent.

If Boeing were the only one to have investigated the crash of a 737 at Aliquippa, Pennsylvania following an uncommanded rudder movement, Boeing would have cleared itself of any responsibility, said this just doesn't happen; we have 93 million hours of operation of 737s and we have never had an uncommanded rudder movement. Oh, really? There were at least a dozen. There were two unexplained crashes.

Now, the manufacturer should not be in charge of investigating its own aircraft or failure of its own. Yes, they should be engaged, they should be part, but they should not be the one to make the final determination. There are certain incidents in which the NTSB ought to have the lead. And where there is clearly a conflict of interest where the Coast Guard has, in the incident I cited a moment ago, I think that surely the Coast Guard should be engaged, as provided for in the MOU, but I think the NTSB in those situations ought to be the lead, because they have the independence and the objectivity.

Admiral WATSON. Sir, I agree with you. We have an MOU which lays out those conditions in which it is expected that the Commandant will shift the lead to the NTSB. It has been working very

well and it has been working through a number of Commandants now. The responsibility of the Coast Guard to have the overall charge for the marine industry needs to stay with the Coast Guard. I think that is the larger question: Does Congress, which exempted maritime from the NTSB's authorities when NTSB was created, and then subsequently reinforced that original decision, is it a good idea now to change the primacy for the maritime?

Mr. OBERSTAR. I think that time has arrived and we have to raise that question and review the issue. That separation of authority was done in the 1970s by the Merchant Marine & Fisheries Committee which had jurisdiction over Coast Guard at the time, and it was done without a great deal of thought.

But let me ask Ms. Higgins and Ms. Richards whether you think the MOU is in fact working satisfactorily. Do you work out the question of primacy in a satisfactory manner?

Ms. HIGGINS. Mr. Chairman, based on my experience and in what I have been told by our investigators, it has worked pretty well. I think our concern is—and we talked about this a little earlier—if we can't reach agreement—and I don't want to say that we haven't been able to reach agreement, but in that instance we think we ought to be able to look to the statute to be able to assert our jurisdiction to take the lead for all the reasons that you just suggested, because we are an independent agency and we have a responsibility to look at the regulatory agencies as we do in aviation and the other modes to reach probable cause and safety recommendations regardless of who that might affect.

Mr. OBERSTAR. Ms. Richards?

Ms. RICHARDS. Sir, we did not look at the interaction between the Coast Guard and the NTSB on determining who would take the lead on investigations, so I don't have any information to offer at this time.

Mr. OBERSTAR. Well, Homeland Security is rather new to this as a department and new to this subject matter.

Ms. Higgins, let me come back. The NTSB has a very different relationship with other modes of transportation. It has a primacy role.

Ms. HIGGINS. We do, with every other mode. It is very clear.

Mr. OBERSTAR. What is different about maritime? Why should that be different?

Ms. HIGGINS. We believe it shouldn't be different. We believe historically it has been different. It has been refined over time through previous reauthorizations where the MOU was first called for and then later modified. Again, I don't want to suggest here that we haven't all tried to make it work, but we do think that, from the standpoint of the Safety Board, we ought to have the authority to exert primacy and take the lead without any question about that in investigations where we can't reach agreement.

As we talked about earlier, the regulations and the process that we currently follow would be what we would look to for guidance, but if for some reason we can't reach agreement, then we think we ought to be able to assert jurisdiction, because we think we have a track record that shows that our investigations were very selective. We only look at those we think will have national significance in terms of the recommendations we make and we have dem-

onstrated the benefit of having an independent investigative body take the lead in certain kinds of investigations.

Mr. OBERSTAR. Well, the most recent serious accident, that of the COSCO allision, is a good example where the Coast Guard rather early on dismissed the issue as of not very great significance and did not dispatch personnel to the scene for a substantial investigation and only later rose to the incident when 58,000 gallons of pollutant were discharged.

It reminds me somewhat, in a different vein, of TWA 800. The FBI arrived on the scene immediately, they were right there—they had offices all over the Country—and took charge of the scene as a crime scene. That substantially inhibited the ability of the NTSB to conduct its complete investigation as an accident, as a failure of a system—gaining control of material, gaining control of the engines, for example, to inspect those engines and determine whether engine failure occurred; to rule out or rule in a missile strike, as was hypothesized at the outset. It is a very, very important distinction to be made between the role of the FBI and the NTSB, between the role of the Coast Guard and the NTSB.

I am not suggesting that the Coast Guard step aside, nor is the NTSB that the Coast Guard step aside and stay out of the investigation; it should be a partner in it. But there are some situations where the NTSB should take the lead and where its current role under the MOU should be strengthened.

Ms. HIGGINS. Mr. Chairman, we would agree with that. As you probably know, I was very involved in a different capacity in the standoff, if you will, between the NTSB and the FBI on the TWA 800 investigation, and in the end the two agencies worked together until it could be determined that, in fact, it was an accident rather than a criminal act, but it was very hard to make that work. As a result of that, we have changed our procedures and now it works much better.

Again, I think we said at the outset we have enormous respect for the Coast Guard and the challenges that they face in terms of all their responsibilities. They would be, as they are now, a party to any investigation where we would take primacy. We need their resources; we need their capability to help manage the site on scene and to do all the good things that they do in terms of search and rescue and everything else.

But in the COSCO Busan, for example, the voyage data recorder was not protected immediately, until our people got there. There wasn't recognition that there even was one.

So these are just some of the things that are important in major investigations that we think we have the expertise and the experience to handle, taking nothing away from the Coast Guard and all the good work they do, but there are some special circumstances and special accidents where we think it would be important for us to be able to clearly take the lead and then have our protocol and our process followed in terms of leading the investigation.

Mr. OBERSTAR. The Coast Guard would argue that they should have, among other reasons, because they lead the U.S. delegation to the IMO. The FAA leads the U.S. delegation to IKO, the international civil aviation organization. But the NTSB is the lead entity in an aviation accident.

Admiral, do you see any further adjustments that could be made to the existing MOU without undermining the Coast Guard's proud and historic role?

Admiral WATSON. Absolutely, sir. I think we are very anxious to engage with NTSB and make improvements to the MOU. We have learned a lot since the MOU was written originally, and we would like to incorporate those changes for the betterment of NTSB's investigations and Coast Guard investigations. We are very supportive of the MOU process; it is the way to go. I think there are things that we can look back on to where it could have been improved.

My personal experience was with a boiler explosion on a vessel called the S.S. Norway down in Miami, Florida. That investigation, quite frankly, was, per the MOU, given to NTSB to lead. My concern with it is that it took years before we had any results from that. In the meantime, there was a DOJ investigation, and just this year, about five years later, both agencies, DOJ and the NTSB, had outcomes.

But the Coast Guard can do both of those roles. As you say, the difference between the Coast Guard and the NTSB is that we do have an obligation to do the law enforcement side, the disciplinary side. So when a Coast Guard investigation is ongoing and the Coast Guard has the lead, we can do both of these things at the same time; we can accommodate both the NTSB and the DOJ, and we don't have a Flight 800 type of situation. That is what we have been doing for over 100 years, so I think that is part of the reason why Congress has left our system the way it is.

In addition, I think it is important to note that, for aviation, NTSB does all aviation casualty investigations. Were they to do that for maritime, they would add the 5,000 investigations that we are currently doing to their area of responsibility, and if you think that there needs to be separation, how is that justified just for a very small handful out of the total number? I just think that there is a lot of unintended consequences that could come from this.

Mr. OBERSTAR. For a very long period of time, the Marine Board was headed by Justice Department official. That was changed in 1948. And I think the Coast Guard's personnel qualifications are going to improve with enactment of our authorization bill and establishment of these programs.

Meanwhile, I think there are at least refinements to the MOU that should be made, and I would like to recommend and request specifically that the Coast Guard submit their thoughts to the Chairman and Ranking Member, and that the NTSB submit their language comparably for changes, and then let us evaluate those and see if we can play the role of honest broker and achieve what I see as a need to upgrade the quality of safety investigations.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. Taylor.

Mr. TAYLOR. I am going to pass.

Mr. CUMMINGS. Very well.

Let me just go back. Rear Admiral Watson, you said that you all had looked at the recommendations from the Inspector General's Office and that you were in agreement, I think. Don't let me put

words in your mouth. Tell me what you said, because I am going to hold you to it.

Admiral WATSON. Sir, I think there were about seven recommendations.

Mr. CUMMINGS. There were eight.

Admiral WATSON. Eight recommendations, yes, sir. We concurred with all except for one that we agreed with some of it but disagreed with——

Mr. CUMMINGS. And which one was that?

Admiral WATSON. That was the one that was about the hull and machinery inspectors and small passenger vessel inspection as a prerequisite, versus hull, machinery or small passenger vessel inspectors as an entering prerequisite condition for assigning a person to a marine casualty investigation billet. And if I could just touch on that, sir.

Mr. CUMMINGS. That is recommendation number 4. It says revise the August 2007 marine casualty investigation qualification standard to include the pre-qualification of all or machinery and small vessel inspectors. Is that the one?

Admiral WATSON. Yes, sir. And it is the word "and" that is the issue.

Mr. CUMMINGS. And small vessel inspectors.

Admiral WATSON. Our standard is or. If you are a small passenger vessel inspector—actually, that goes beyond that. A variety of other inspection qualifications. You don't have to have them all before you can begin the process of becoming a marine casualty investigator.

Mr. CUMMINGS. Now, Sam tells me that you all made that change. It used to be "and."

Admiral WATSON. Yes, sir.

Mr. CUMMINGS. So now it is still "and." So what happened?

Admiral WATSON. We made it into an "or."

Mr. CUMMINGS. Now you want to go back?

Admiral WATSON. Yes, sir. It was almost impossible for us to have enough of a pool of people with prerequisites to feed our marine casualty inspection program, which requires 136 Coast Guard officers to fill the billets, if we had that "and" in there, and the reason is because we really don't need that large of a number of hull and machinery inspectors for U.S. flag vessels like we did in the 1980s.

There aren't as many of those type of vessels. Our fleet of 10,200 inspected vessels is largely small passenger vessels. The industry has changed significantly, and the way you get experience on the large vessels these days is doing port state control, which is a whole other set of qualifications different from hull and machinery.

Mr. CUMMINGS. Do you have an opinion on that, Ms. Richards, since they are your recommendations?

Ms. RICHARDS. Yes, sir. In the August 2007 publication, the Coast Guard actually did not include the prerequisite to a hull or machinery or small vessel inspector. They believe that it is covered because it is a prerequisite for attending the basic investigator training course. And that is one of our problems with the Coast Guard's position, because we know from our work that it is possible to attend the basic training without meeting the prerequisites for

the basic training. So we believe that the qualifications need to be specifically set in the Coast Guard's guidance.

We also believe that the Coast Guard is taking a step backwards by eliminating the "and" and lowering the standards, and we don't understand why the Coast Guard would choose to do so other than perhaps it is difficult to fill its billets because they don't have a number of personnel trained to meet all those inspector qualifications. Our work showed, and the people that we talked to said that it was very important to have both the hull or machinery and the small vessel inspector qualifications.

Mr. CUMMINGS. All right, I get the picture. Let me go on to something else very quickly. Going back to these qualifications of the 110 investigators you cited as being fully qualified, Rear Admiral, I am just wondering, do you think the IG team would find all of them to be qualified? I guess what I am trying to understand is in a sample of the IG, they found 68 percent of the investigators were unqualified. You say that 110 of 136 assigned individuals are qualified. So either the IG had a non-representative sample or we are not talking about the same thing, and I am trying to figure out where the problem is here.

Admiral WATSON. Yes, sir. Well, both of these sets of numbers are a snapshot in time. That is one thing. The 68 percent is from a sample of five units some time last summer, I believe. Now, you have got to remember that in the spring there is typically going to be more people that have reached their qualifications than in the summer, when people just get assigned to a unit. So there is a cycle to this that is a natural cycle.

The 110, I would have to give all of the data to the IG for them to be able to tell me whether they agree with us, but we look at the data. It is like Chairman Oberstar looking at the resumes. They are what they are. We make our own rules for this and we determine that they are fully qualified.

Mr. CUMMINGS. I understand. I guess, based on what you just said about seasonal and cycles, would it be safe to say that there are times when a small percentage are qualified? In other words, you are talking about the snapshots and the fact that certain things happen at certain times of the year, what have you. Would that be an accurate assessment, do you think?

Admiral WATSON. Yes, sir. There is always going to be some apprentices in the system, people that are assigned to a billet that have yet to be qualified, they are working on their qualifications.

Mr. CUMMINGS. And what we need is consistency, because we never know when these things are going to happen and when we are going to need these personnel to use certain skills. I am just trying to figure out how do you plan to—I am sure you would agree with me that we want more consistency. You understand what I am saying, right?

Admiral WATSON. Yes, sir. We have 448 fully qualified marine casualty investigators throughout the Coast Guard. Most of them are not in marine casualty inspection investigator billets, but we are a military organization. If we need somebody that has the experience and knowledge to deal with a marine casualty on an LNG ship, some special ship, we will get the right person to the right place at the right time.

Mr. CUMMINGS. Well, did that happen with the San Francisco incident?

Admiral WATSON. No, sir.

Mr. CUMMINGS. Well, see, that is the problem.

Admiral WATSON. Well, I think there was——

Mr. CUMMINGS. Listen to what you just said to me.

Admiral WATSON. Yes, sir.

Mr. CUMMINGS. You just said if we have a problem, we will find the people and we will get them here. In this instance it didn't happen, and that is the problem. I understand the Coast Guard is stretching, and I am telling you, we fight on both sides to try to get you the personnel and the expertise you need. But one thing I do know is that if I haven't learned anything in my 57 years on earth, I have learned this: in order to deal with a problem, you have got to first acknowledge you have got it.

I remember when my daughter—I have to tell you this little story, and then I will turn it over to Mr. Taylor. When my 26-year-old was 3, she used to come up to me, Admiral, and I can remember this as if it was happening right now. She would come up to me and she would put her hand over my eyes and she would say, daddy, let's play hide and go seek. And she is standing right in front of me and then she would say you can't find me. Well, that is all right for a three-year-old, but we have to face up to whatever the problems are that we have so we can try to address them, because I think that we all want to work together to make this work.

I think Mr. Taylor wanted to ask a question.

Mr. TAYLOR. Admiral, thank you very much for being here.

Mr. Chairman, thank you for recognizing me.

I have to admit that I have mixed feelings about this whole hearing because I realize that the Coast Guard is increasingly asked to do more things, and then we scratch our heads in amazement when you are not experts at everything we ask you to do, and that is just not realistic. But there are a couple of things that come to mind that make me wonder whether or not something does need to improve.

Number one, the case of the Seabold Trader, which is a vessel in the American flag that had major modifications done to it over in China. Folks brought me photographs of those. I don't know how they smuggled them out of China, but they brought me photographs of it. We handed it to the Coast Guard and I think the answer was, well, we don't have enough people to inspect this. That wasn't a good thing.

Second thing, obviously, that still continues to stick in my craw is the mess up on the 110s to 123s. To this day, I haven't heard anyone in the Coast Guard—and you do have some very knowledgeable people working for you at Baltimore; they walked me through the vessels. But to this day I haven't heard anybody say this is where they screwed up. We should have taken a coupon; we should have known the hull wasn't ready; we should have done the hogging and sagging. To this day. So the Nation is out $100 million. We have got eight tied-up vessels. That tells me you lack expertise.

And I would give you the opportunity to tell me that I am wrong, but those two things really jump out at me.

I appreciate your willingness to make some changes. What I haven't seen, and I am curious if you have considered, is I can't believe that you need the best team every day. You are not going to face a major collision every day. You may not even face a major collision once a month. But when you do need a good team, you need a good team. Using the example of the Air Guard and the Reserves, who are on a daily basis we have people out there flying 747s, 757s, 767s in the commercial world within transit over to fly a C-130, C-17s as a Guardsman, and we get that world of experience, and when we need them they are there.

Has the Coast Guard considered some sort of a reserve outfit where people could have a career either in the Merchant Marine or working for ABS or Lloyds, but also have a reserve commission that when you need that pool of experts for a major collision like you saw in San Francisco or any other similar, that you could call those people up and that is how they perform their active duty? I have got to believe that in this Nation there would be people who would be chomping at the bit for that opportunity. I am just curious if the Coast Guard has considered it.

Admiral WATSON. Sir, we have a Coast Guard Reserve and there are large numbers of those people that have their primary job in other elements of the maritime. Do we recruit specifically for Master Mariners, Chief Engineers? I think maybe that is the question you are asking. And the answer is no, we allow everybody to apply and compete on a more or less even playing field for the Coast Guard Reserve, and then we train them after they answer the service.

Mr. TAYLOR. Okay, Admiral, reclaiming my time. Keeping in mind that this is a specialty, keeping in mind that you may have some 50-year-old ship captain out there who would be a phenomenal investigator, but who may not be up to the day-to-day activities on one of your big cutters, or who may be, beyond that, financially just couldn't take that sort of hit to come back in the active force. But he would have all those years of experience in determining the cause of an accident.

I would think it would make abundant sense for the Coast Guard, rather than, again, spending more money to train a handful of people that you are not going to need every day pursuing some sort of a reserve officer corps of trained engineers, of trained marine architects that you could call on when you have a major accident that you need a pool of experts wearing the Coast Guard uniform to make a determination.

I would ask that you consider that as well, because, again, I can hear this Committee asking you to do a lot of things with a limited budget, and what troubles me is there are times when you do phenomenally well, such as Hurricane Katrina There are times, such as stretching the 110s to 123s, where to this day I don't think you have done the Nation any favors. And I think that this might be somewhere in between where we can accomplish that goal by thinking outside the normal course of action.

Admiral WATSON. Yes, sir.

Mr. TAYLOR. I would ask that you or the Commandant get back to me on this, because I do think it is a way of getting a heck of

a lot of expertise when we need them, and only when we need them, without paying for them all year long.

I yield back, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman.

I think Mr. Taylor, as he often does, has really hit on an outstanding idea. I know that in the Coast Guard reauthorization that was just shepherded through by Chairman Cummings and Chairman Oberstar, the Commandant—and I know he didn't like some portions of it because he and I have had conversations, but on the marine safety side was a little resistant to adding some civilian posts within that marine safety.

I supported that and continue to support that, and I know that my support is based upon the fact that all of the testimony before this Subcommittee relative to rotation and career paths and things of that nature, and longevity in the service, point to the fact that on the marine safety side, and now on the marine casualty side, the Country would be better served with a civilian component that augments the uniform corps, and I think that is what Mr. Taylor was talking about. I had never thought of reservists, but that makes perfect sense, and I would ask you to take that back to the Commandant, because it does in fact make sense.

Just a couple of cleanup things. I was talking to the Chairman and I do think, Admiral, that this business of exemptions or exceptions has sort of a negative connotation in this hearing today, and I don't think it needs to be left that way. I don't want anybody to be left with the impression that the Coast Guard, using the Chairman's analogy, would send a plumber to do heart surgery.

What I indicated to the Chairman was, I am a lawyer, he is a lawyer, and we have continuing legal education requirements. Some States have equivalencies. And by virtue of being a Member of Congress or a member of State legislature, you get credit, so you don't have to sit in the classroom for two hours listening to some pointy-headed guy talking about rules of evidence, because you are actually creating laws at the national level. So you get credit for that.

I assume that that forms the basis of your exemptions or your exceptions, but if you could perhaps supplement the record as to how that process works. In other words, somebody coming from ABS and opting out of the hull inspector course is different from the Chairman's example of a lawyer. Because you happen to be a lawyer, you don't have to take the hull course. So if you could do that.

My other difficulty is—well, it is not a difficulty. Chairman Oberstar, the reason he is such a great Chairman is he often, almost always comes up with sort of the middle course that is good. I do think that the legislative language set up by the NTSB, even though I have great respect for the work they do, is a power grab in this instance, and we will respectfully disagree on that.

So the Chairman's suggestion that both NTSB and Coast Guard come up with suggested modifications to your Memorandum of Understanding I think would be a great idea, and I would urge you both to accept the Chairman's invitation. Admiral, to you, I would

say I really urge you to do it because I do get the sense that, absent that, the NTSB will be successful and tie-breaks will now always be determined in favor of the NTSB unless you provide the majority of the Members of this Committee with a reasonable alternative.

And my objection to the power grab is that the Inspector General's report found eight deficiencies, and you have acknowledged seven of those. I would just say on number four, which is the eighth of the eight, the Coast Guard created the original standards, and my understanding is you went from Hull Inspector or Machinery Inspector and Small Vessel Inspector plus Board Officer plus Facility Inspector plus Harbor Safety Officer to now it is either Hull Inspector or Machinery Inspector or Small Vessel Inspector plus the other three; and that is the change that caused the Inspector General to say that you sort of dumbed down the standards.

I have had a chance to sort of review the resumes of the folks that work for the NTSB, and I have to say that all of them have outstanding credentials. But I would note that 95 percent of them are former Coast Guardsmen. So you can't make the argument that people trained by the Coast Guard can't do the job when the NTSB has now hired the same people—maybe they pay them more money, I don't know—to do what it is the Coast Guard does.

And again I would say that just making a change for change sake, because of the deficiencies found by the IG b the Coast Guard, if the IG has not looked at the qualifications of the folks that work for the NTSB, I think it is silly to say, well, let's give NTSB primacy even though their inspectors may not meet the qualifications that you are being criticized for. So change for change sake is not very attractive to me either.

So, at the end of the day, please accept Chairman Oberstar's invitation; come up with modifications to the MOU and let's see if we can work this out in a peaceful way that will continue to demonstrate great cooperation between the Coast Guard and the NTSB.

Ms. Higgins, last thing. I had a train derailment in my district and I am still waiting for your report. So if you could get that to me, I would very much appreciate it.

Ms. HIGGINS. We will do that, sir.

Mr. LATOURETTE. Thank you so much.

Mr. CUMMINGS. Ms. Richardson.

Thank you very much.

Finally, let me just ask two other questions. Admiral, when it comes to revocation and suspension hearings, I would imagine that if you have these investigators and a charge is appropriate, it would be likely that they would testify or definitely provide some type of evidence in these hearings. Is that a reasonable expectation?

Admiral WATSON. Yes, sir. They shouldn't even be charging a mariner with any kind of charge unless they have evidence.

Mr. CUMMINGS. Yes. I guess what I am getting at is, as you know from previous testimony in other hearings, a lot of times the mariners felt that they were not necessarily treated fairly. We had testimony from some judge or two—I think it was two judges—who had concerns about the ALJs. I guess what I am getting at here is if

we have people who are not qualified doing these investigations, trying to present evidence of their findings in a hearing, it seems to me that there might be a problem with that. Would you agree?

Admiral WATSON. Yes, sir, but I don't have any evidence that we have used unqualified people to present a case to an ALJ.

Mr. CUMMINGS. Did you have a comment on that, Ms. Richards?

Ms. RICHARDS. No, sir. We didn't trace the investigations done by the individuals we have determined to be unqualified through the whole process to see if they had been adjudicated before an ALJ.

Mr. CUMMINGS. All right, I want to thank you all very much for your testimony. As usual, as you can see, we act in a very much bipartisan manner, and I think a lot has come out of this hearing, and I am hoping that the issues that Chairman Oberstar and Ranking Member LaTourette have raised and the suggestions that have been made here, that you will take heed and would hope that you would also—there are all kinds of ways to resolve issues; some of them you do through statute, some you do by way of people sitting down and working out their differences, or agencies sitting down. So where you can try your hand at that, we would love to do that, consistent with what Chairman Oberstar had to say.

Again, thank you all very much and have a good day.

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

SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION

"Coast Guard and National Transportation Safety Board Casualty Investigation Program"

May 20, 2008 – 10:00 a.m.
Room 2167, Rayburn House Office Building

Script of Chairman Elijah E. Cummings

The Subcommittee will come to order [Gavel].

We convene today to receive a report issued by the Department of Homeland Security's Office of Inspector General regarding the Coast Guard's marine casualty investigation program and the legislative proposal made by the National Transportation Safety Board to be the

lead investigative agency for those accidents which the Board elects to investigate.

The Subcommittee has been examining the multiple facets of the Coast Guard's marine safety program throughout much of the 110th Congress.

We began the examination in August of last year when witnesses from the maritime industry testified regarding a number of troubling concerns they had about a loss of professional expertise among Coast Guard marine inspection

personnel, unprofessional treatment, and extreme delays in pending rulemakings.

Many of these problems were subsequently documented in a report developed by retired Coast Guard Vice Admiral James C. Card at the request of the Coast Guard Commandant, Admiral Thad Allen, following the Subcommittee's hearing.

Admiral Card's report detailed not only the loss of professional competence among marine inspectors and investigators, it indicated that

frequent transfers prevent marine safety personnel from developing technical or geographic expertise and it documented a deterioration in the relationship between the Coast Guard and the maritime industry regarding the achievement of safety goals.

The allision of the COSCO BUSAN with the San Francisco Bay Bridge in November 2007 – and the report developed by the Department of Homeland Security's Inspector General on the Coast Guard's response to that incident – have demonstrated in a single event many of the

challenges the Coast Guard's marine safety program faces, particularly in the casualty investigation mission, which is the cornerstone of all marine safety missions.

With the issuance of today's report, however, we finally have quantifiable assessments of the Coast Guard's challenges in the casualty investigation program – and we have clear and disturbing conclusions: the Coast Guard's marine casualty investigations program is "hindered by unqualified personnel," by "investigations conducted at inappropriate

levels," and by "ineffective management of a substantial backlog of investigations needing review and closure."

Just to look at one of these findings – the lack of qualified personnel – I note that this was foreshadowed in the IG's study of the COSCO BUSAN accident, which found that 5 of the 6 individuals assigned as casualty investigators to Sector San Francisco were not qualified.

The report that we receive from the IG today indicates that among a sample of individuals

assigned as casualty investigators throughout the Coast Guard, more than half were not qualified as casualty investigators.

Perhaps more staggering to me, however, is that during last month's hearing on the COSCO BUSAN, Admiral Brian Salerno, who is in charge of the Coast Guard's marine safety program, testified that he did not know how widespread the lack of qualifications among casualty investigators was.

We look forward to the testimony of Ms. Anne Richards, DHS' Assistant Inspector General, who will expand on the IG's findings.

However, let me note that one of the most troubling findings of the IG's report is that some of the challenges we will discuss today were identified more than 10 years ago by the Coast Guard itself – and even as far back as the seminal oversight report "Semi-Paratus: The United States Coast Guard, 1981," issued during the 97th Congress.

In other words, the Coast Guard's challenges with the marine safety program far pre-date the service's assumption of expanded responsibilities following 9/11. While these new responsibilities make finding balance among all missions that much more challenging – they also make it that much more important.

Frankly, as anyone who follows this Subcommittee knows, I find it to be a disservice to the American people when government kicks around the same issues year after year – or, in this case, decade after decade. The marine

safety mission is a critical mission performed by the Coast Guard – and it needs to adequately serve the safety needs of the maritime industry.

While I appreciate the efforts that the Commandant is taking to strengthen the program – including the request of 276 new billets in marine safety – I believe that the only way to ensure that the Coast Guard's marine safety program is staffed by qualified and experienced personnel will be by the enactment of legislation that codifies new processes and procedures to

ensure that robust standards are in place and are met by the marine safety program.

For that reason, I believe that the enactment of the Coast Guard Authorization Act, H.R. 2830, which passed the House of Representatives by a resounding 395 to 7, is absolutely critical.

Against this backdrop, we will also hear today from the National Transportation Safety Board regarding their proposal to align their relationship with the Coast Guard regarding the investigation of major marine causalities so that

it parallels their relationship with the modal administrations of the United States Department of Transportation.

The Board's proposal would provide NTSB with the legislative authority to take the lead in important marine casualties – an authority that they already have for all other modes.

Given that the Coast Guard infrequently empanels Marine Boards to investigate major casualties – they have done so only twice in the past 8 years – it would seem that the NTSB,

which has conducted 23 marine casualty investigations in the same period, is in many ways already fulfilling this role.

National Transportation Safety Board

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Kathryn O'Leary Higgins
Board Member

Testimony of

Kathryn O'Leary Higgins, Board Member

National Transportation Safety Board

before the

Transportation and Infrastructure Committee

Coast Guard and Maritime Transportation Subcommittee

U.S. House of Representatives

May 20, 2008

Good morning Chairman Cummings, Ranking Member LaTourette, and Members of the Coast Guard and Maritime Transportation Subcommittee. I am pleased to appear before you today representing the National Transportation Safety Board, and in particular, the Safety Board's reauthorization request to amend its authority to investigate major marine accidents.

As you know, the Safety Board is an independent Federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation – railroad, highway, marine, pipeline, and hazardous materials – and issuing safety recommendations aimed at preventing future accidents.

I would like to first focus on our request to modify the authority of the Safety Board to investigate marine accidents, one part of our larger reauthorization request. Let me clarify what we are proposing, what we are not proposing, and why.

We are seeking the right to elect lead or primary status in marine investigations. This recommendation is not intended to serve as an expansion of authority by the Board. It is intended to provide the necessary authority if at any time in the immediate aftermath of a marine casualty there is paralysis between the Board and the Coast Guard created by a disagreement over interpretation of the regulations they have jointly issued. We believe this is a modest change and a needed clarification of congressional intent in the Safety Board's jurisdiction for marine investigations. While we have a small marine safety investigative staff, our investigators collectively have decades of experience across multiple marine and specialized fields and have proven capable over the years at determining cause in some very complicated scenarios. We believe we have demonstrated competence in our work and should have the authority to elect to take the lead in accidents we deem to be of national significance.

The Safety Board provides an important safety oversight function for domestic and international transportation in aviation, rail, highway, pipeline, hazardous materials and marine transportation. Through independent investigations, safety recommendations, and safety advocacy, the Safety Board has influenced the regulatory agenda of transportation safety agencies, including the Coast Guard. The Safety Board has previously examined issues within the safety jurisdiction of the Coast Guard – such as ship certification, mariner certification, operational rules, navigation aids and standards, regulatory standards, industry practices. The ability to assume the lead in these investigations is critical to ensuring an independent and dispassionate hard look at these issues to provide the safety oversight Congress intended.

The Safety Board is not seeking a dramatic increase in the number of accidents we investigate—neither directly nor by delegation of fact gathering to the Coast Guard. Quite frankly, we do not have the personnel to complete substantially more investigations than we do currently, or even to perform probable cause analyses in substantially more investigations should the Coast Guard perform on-scene fact-gathering for us consistent with another legislative change we have proposed. We are not proposing to expand in any significant way the type or number of marine accidents we investigate. We would continue to select accidents based on the existing criteria used now when we work with the Coast Guard under the existing memorandum of understanding (MOU), or any future revisions we incorporate.

The proposed change would harmonize the Safety Board's investigative authority and make it consistent with the authority we now have for aviation and rail and other transportation modes where Congress has recognized that accidents occasionally involve matters of national importance. It makes the marine jurisdiction language more closely parallel to that in modes where we routinely interact with other Federal transportation agencies also having a regulatory, inspection and enforcement role. We believe this authority will further public confidence in the integrity, competence, transparency, and independence of our marine investigations.

Currently, the Office of Marine Safety operates under the provisions of 49 USC Section 1131(1)(E) which requires the Safety Board to investigate (or have investigated) a major marine casualty (except a casualty involving only public vessels) occurring on or under the navigable waters, internal waters, or the territorial sea of the United States, involving a public and nonpublic vessel of the United States under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating. A "major marine casualty" is defined in the current MOU and in regulations (49 CFR 850.5(e)) as a casualty involving a vessel, other than a public vessel, that results in the loss of six lives or more, the loss of a mechanically propelled vessel of 100 or more gross tons, property damage initially estimated at $500,000 or more, or serious threat to life, property or the environment by hazardous materials. Most major marine accidents are those where the property damage is more than $500,000, although occasionally a vessel of over 100 gross tons is lost. Because of the high cost of repairing damaged ships, relatively inconsequential accidents could be classified as major because of damage and repair costs. For example, the sinking of the *Alaska Ranger* on March 23,

2008, is classified as a major marine casualty because it was both the loss of a mechanically propelled vessel over 100 gross tons and resulted in more than $500,000 in property damage. The loss of five crewmembers alone would not have constituted a major marine casualty. The Coast Guard is leading this investigation, with Safety Board participation.

Since 2005, there has been only one vessel casualty that claimed six or more lives – the capsizing and sinking of the *Ethan Allen* on Lake George, New York, on October 2, with the loss of 20 elderly passengers. Because the *Ethan Allen* did not operate on waters defined as "navigable," the Coast Guard did not inspect the vessel or conduct an investigation. The Safety Board launched and conducted an independent investigation receiving on-scene support and technical assistance from the Coast Guard and local law enforcement agencies. The *Ethan Allen* report was adopted by the Board on July 25, 2006, and led to changes in New York state law concerning state registered commercial passenger vessels and a significant effort to review vessel operations in sole state waters.

The proposed change we are seeking would modify only slightly the current relationship between the Coast Guard and the Safety Board. That relationship is defined by an MOU first entered into by the Safety Board and the Coast Guard in 1981. The Congress, in Public Law 106-424 in 2000, required the two agencies to revise that MOU, which now stipulates that the Coast Guard and the Safety Board agree that the Board may elect to lead an investigation of major marine casualties that "risked or threatened high loss of life to innocent third parties." That revised MOU was signed on September 12, 2002. The Staten Island ferry *M/V Andrew J. Barberi* allision in 2003 is an example where the Safety Board took the lead based on the new MOU. The "bright line" test, an attachment to the MOU to help determine the lead agency, was used effectively by the Coast Guard in handing over the investigation of the grounding of the containership *M/V New Delhi Express* in New York Harbor's Kill Van Kull Channel in 2006.

Despite the present good relationship and existing laws, regulations, and MOU, there is no assurance that a disagreement concerning primacy in a high profile marine accident investigation can be resolved in the short timeframe necessary. Once a federal investigation is underway, it must be clear who is leading the investigation. The ability to elect lead status is an important issue for the Safety Board because in cases where the Coast Guard and the Safety Board are both involved in a high profile accident investigation, cooperation is absolutely necessary and it must be clear to the public which agency is responsible for the investigation and who speaks for the Federal government.

While the MOU has provided a solid framework for Safety Board and Coast Guard cooperation, it does not resolve either's authority to direct the course of an investigation should the Safety Board and Coast Guard not agree on how to conduct the investigation. Furthermore, in some instances, there is complexity, and to some degree uncertainty by all involved in working through the MOU framework while information following an accident is unknown, incomplete, or initially inaccurate. The Safety Board believes it would benefit the public if the Board were allowed to take the lead in certain marine accident investigations, manage the evidence being collected, and be the

spokesperson for the investigation – thus resolving those isolated episodes of uncertainty or disagreement.

The rules and purposes of a Coast Guard and a Safety Board investigation are different in some significant respects. NTSB determines cause and makes safety recommendations to prevent recurrence; the Coast Guard determines cause and makes internal corrections to Coast Guard procedures and processes and potentially seeks enforcement action against mariners or operators when appropriate. There are other differences in the investigations. The Safety Board uses the party system in its investigations, leveraging its resources by involving technical experts from operators, manufacturers, professional organizations who were involved in the accident and can provide specialized knowledge to assist in developing the factual record. Factual information is routinely released during the investigation to keep the public informed of the progress of an investigation. After the factual record is developed and the facts are analyzed, the Safety Board discusses the report and deliberates on the probable cause and the recommendations to prevent the accident from recurring in a public meeting. Coast Guard investigations do not include parties involved in the accident, do not reach a causal determination in a public meeting, and focus almost exclusively on enforcement of Coast Guard regulations.

While the Office of Marine Safety is the smallest modal office at the Safety Board with just 16 employees, it is a very effective office. The Coast Guard investigates thousands of accidents a year; the Safety Board usually limits its involvement to about 20 percent of the major marine accidents, or a total of about six per year. Since our last reauthorization hearing in 2006, there have been 45 major marine casualty notifications from the Coast Guard to the Safety Board. Two of the notifications involved public (U.S. Navy) and non-public vessels in which Office of Marine Safety launched an investigator to one accident and cooperated in a foreign investigation in the other. The Office of Marine Safety launched investigation teams to 11 other major marine casualties and one non-major marine casualty during this same time period. Of these 14 investigations, after consulting with the Coast Guard, the Safety Board asserted the lead role in the investigations of just 5 major marine casualties. The Coast Guard led the other investigations of all accidents that the Safety Board did not investigate.

Even when the Safety Board is the lead agency, we rely on the support of the Coast Guard in securing accident sites, providing transportation and logistics, and gathering evidence. The Coast Guard is often first to the accident scene, might be involved in rescue and response operations, and has the boats, aircraft, facilities, and local expertise to assist Safety Board investigators. In the majority of Safety Board marine accident investigations, the Coast Guard and the Safety Board still work side-by-side in conducting parallel but not redundant investigations, regardless of which agency has lead status. Close cooperation with the Coast Guard is thus essential for virtually all marine accident investigations. However, there may be some accidents where the Coast Guard disagrees with the Safety Board's position that the Board's investigation should take precedence over the Coast Guard's investigation, and a change to the law would enable this dispute to be resolved unambiguously and quickly.

An example of some friction in the decision making process would be the investigation into the accident involving the container ship *M/V Cosco Busan* in San Francisco Bay on November 7, 2007. The 901-foot container ship, registered in Hong Kong, allided with one of the supporting towers of the San Francisco-Oakland Bay Bridge. Preliminary estimates of the oil release were low. The Safety Board was notified by phone from Coast Guard headquarters within 2 hours of the accident. The Director of the Office of Marine Safety decided not to launch because of the small (140 gallons) oil spill and minor damage reported by the Coast Guard at the time and because the marine investigators were elsewhere on another major accident investigation. However, later in the day, the Coast Guard increased its estimate of the quantity of bunker oil released to over 58,000 gallons. By November 10th, the severity of the oil spill and the Coast Guard's handling of the response were drawing increased criticism. The Board Chairman and the Director of the Office of Marine Safety, after discussing the situation with the Coast Guard, decided to launch a go-team of six investigators and a Board Member on the afternoon of November 10th. The Safety Board investigation focused on the safety aspects of the accident and the initial oil spill response, including the probable cause of the ship's allision with the bridge, damages sustained by the ship and bridge, notification of the accident, and action taken immediately after the accident to limit and contain the spill.

The Safety Board assumed leadership of the accident investigation from the Coast Guard while they were still conducting spill response and law enforcement activities. By the end of the first day of the Safety Board's investigation, there were some misunderstandings as to the respective roles of the Coast Guard and the Safety Board. Handover of information from the Coast Guard to the Safety Board was not as smooth as it could have been. More problematic were the unilateral actions of the Coast Guard in attempting to release information relevant to the safety investigation without consulting the Safety Board. Additionally, during Coast Guard press conferences, their public statements went beyond the issues related to spill cleanup and included premature conclusions about the cause of the accident.

Since the formation of the National Transportation Safety Board 40 years ago, there has been a growing public expectation that significant transportation accidents should be investigated by an expert agency seen to be independent of outside influences. This is increasingly true throughout the world. Several years ago, the United Kingdom created the independent Marine Accident Investigation Branch, vesting it with the investigation responsibility previously held by the Maritime and Coastguard agency. More recently, the European Union decided that transportation safety investigations should be conducted by agencies independent of the regulatory agencies. Japan recently passed legislation to separate marine safety investigations from regulatory enforcement investigations, and is in the process of creating an agency to investigate aviation, rail and marine accidents. The International Maritime Organization adopted a new marine casualty investigation code, parts of which will become mandatory by treaty, that specifies that a "marine safety investigation shall be able to report on the results of a marine safety investigation without direction or interference from any person or organizations that may be affected by its outcome." In proposing this modest change to

the U.S. Safety Board's authority, we are seeking a modification that is consistent with action now being taken by our international counterparts.

This completes my testimony and I would be happy to respond to any questions you may have.

Jun-23-08 12:05pm From-NTSB 202-314-6110 T-852 P.002/004 F-457

National Transportation Safety Board
Washington, D.C. 20594

Office of the Chairman

JUN 23 2008

Honorable Elijah E. Cummings
Chairman
Coast Guard and Maritime Transportation Subcommittee
Transportation and Infrastructure Committee
U.S. House of Representatives
507 Ford House Office Building
Washington, D.C. 20515

Dear Chairman Cummings:

The National Transportation Safety Board would like to thank you for the opportunity to respond to questions for the record submitted during a hearing on the Coast Guard and National Transportation Safety Board Casualty Investigation Program before the Coast Guard and Maritime Transportation Subcommittee on May 20, 2008. Enclosed please find responses to those questions.

We appreciate your continued interest in the Safety Board and your support. Please do not hesitate to call me at (202) 314-6035, or Ms. Brenda Yager, Director of Government and Industry Affairs, at (202) 314-6006, if you have any further questions on this or any other topic.

Sincerely,

Mark V. Rosenker
Chairman

Enclosure

cc: Honorable Steven C. LaTourette

NATIONAL TRANSPORTATION SAFETY BOARD
RESPONSES TO QUESTIONS FOR THE RECORD
COAST GUARD AND MARITIME TRANSPORTATION SUBCOMMITTEE HEARING
MAY 20, 2008

Congressman Larsen:

1. What criteria does the Safety Board use to determine lead or primacy in a marine investigation?

   - **RESPONSE:** The Safety Board's criteria presently used to determine lead status is the September 2002 Memorandum of Understanding with the U.S. Coast Guard (Coast Guard). Upon report of a major marine casualty or a casualty involving public and non-public vessels, the Coast Guard should notify the Safety Board of all information available regarding the casualty. A major marine casualty in this context is defined as a casualty involving a vessel, other than a public vessel, that results in: the loss of 6 or more lives; the loss of a mechanically propelled vessel of 100 or more gross tons; property damage initially estimated at $500,000 or more; or a serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials. The Safety Board may elect to lead an investigation if (1) a passenger vessel accident that places those on board at serious risk (such as fire, collision, grounding, sinking); (2) a vessel accident that seriously threatens port facilities (such as an allision with a permanently moored vessel or high occupancy waterfront facility); (3) a cargo vessel accident that involves three or more fatalities; and (4) a multimodal marine accident that results in fatalities. Additionally, lead status can be determined through direct conversations with the Coast Guard Commandant and the Chairman of the Board or their designees.

Congressman LaTourette:

2. How many NTSB investigators meet the requirement of Hull Inspector, Machinery Inspector, Small Vessel Inspector, and have also served as a Boarding Officer, Facility Inspector, or Harbor Safety Officer?

   - **RESPONSE:** Those particular designations are used by the Coast Guard for Coast Guard-specific missions and are not used by the Safety Board. There are 14 investigators in the Safety Board's Office of Marine Safety. Of those, the numbers who have those specific designations are listed below. All of those qualifications and experiences were obtained while they served in the Coast Guard.

     Hull Inspector – 3
     Machinery Inspector – 2
     Small Vessel Inspector – 3
     Boarding Officer – 1

Facility Inspector – 2
Harbor Safety Officer – 2

3. Has a paralysis ever occurred between the Safety Board and the Coast Guard over interpretation of the regulations that have been jointly issued on lead or primacy in an investigation?

   - **RESPONSE:** During the *Cosco Busan* accident investigation in 2007, the handover of the lead from the Coast Guard to the Safety Board occurred with some disruption, including control of evidence and release of information to the public; however, most problems were resolved within a day.

     On April 7, 2008, the small passenger vessel *Queen of the West*, experienced a serious engine room fire. The Coast Guard initially determined that the damages from the fire were less than $500,000 and therefore not a major marine casualty. The Coast Guard did not notify the Safety Board of the incident. News of the fire was picked up by the Safety Board on public media by the NTSB Communications Center, and the Safety Board launched a small investigation team to the scene as the Board has an interest in engine room fires on passenger vessels. While on scene, investigators identified other safety issues. Even though damage to the vessel exceeded $500,000, the Coast Guard did not reclassify the incident as major.

     During the *Miss Majestic* marine accident investigation in 1999, Coast Guard safety issues were involved and the Coast Guard did not agree to have the Safety Board take the lead and declined party status. As a result, there were two independent investigations on scene.

     The Safety Board's review of Coast Guard records on major marine accidents indicates that the Coast Guard has not notified the Board on as many as half of the marine accidents that ultimately meet the definition of a major marine accident, because the initial determination was that they did not meet the definition of a major marine casualty.

4. I had a train derailment in my district and I am still waiting for your report. If you could get that to me, I would very much appreciate it.

   - **RESPONSE:** With regard to Painesville, Ohio, there is one open rail accident investigation that occurred October 10, 2007, when a CSX train derailed. The investigation is ongoing. Upon completion, we will provide you a copy of the final report.

STATEMENT OF ANNE L. RICHARDS

ASSISTANT INSPECTOR GENERAL FOR AUDITS

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

U.S. HOUSE OF REPRESENTATIVES

MAY 20, 2008

Good morning, Chairman Cummings and members of the Subcommittee. I am Anne Richards, Assistant Inspector General for Audits for the Department of Homeland Security. Thank you for the opportunity to discuss the Coast Guard's management of the marine casualty investigations program.

I would first like to express our appreciation to the Coast Guard Headquarters Office of Budget and Programs, as well as the staff assigned to the marine casualty investigation program for their timely and thorough responses to my staff's requests for information and documentation.

At the joint request of the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate we recently completed an audit on the Coast Guard's management of the marine casualty investigation program. The Committees requested that we determine the extent to which marine casualty investigations and reports result in information and recommendations that can prevent or minimize the effect of similar casualties. Our report responding to these Congressional concerns is being issued today and will be available on our website.

My testimony will address three areas of concern identified during our review and presented in our report. They are:

1. The training, experience, and qualifications of marine casualty investigators;
2. The level of marine casualty investigations conducted by the Coast Guard; and
3. The Coast Guard's process for reviewing and closing its backlog of marine casualty investigations.

Training, Experience, and Qualifications of Marine Casualty Investigators

The Coast Guard's June 1988 marine casualty investigation standard required a combination of experience, investigative tasks, and training for an investigator to be qualified. Specifically, to be considered prequalified for the marine casualty investigations program, personnel had to have experience as a Hull or Machinery, and Small Vessel Inspector; or be trained in port operations as a Boarding Officer, Facility Inspector, and Harbor Safety Officer.

The 1988 standard also required that personnel satisfactorily complete specific investigative tasks including: (1) initiating a marine casualty investigation, (2) conducting a marine casualty investigation, (3) preparing a written investigative report, (4) preparing marine investigation products, (5) conducting a boating accident investigation, and (6) ensuring Privacy Act and Freedom of Information Act requirements are maintained during and after the investigation. In addition, personnel were to satisfactorily complete the Basic Marine Investigator Training Course. Once these tasks and training were completed, the commanding officer certified that the qualification standards had been met.

Seven of 22 investigators sampled met the prequalification standards by either fulfilling all Port Operations requirements or through a combination of inspector qualifications. The

remaining 15 marine casualty investigators reviewed were not qualified under the 1988 standard. Of particular concern were four investigators who did not meet any of the requisite training, experience. or qualification requirements, and they did not attend the Basic Marine Investigator Course.

Coast Guard Sector personnel also did not always follow the 1988 standard, but rather developed their own local standards for determining who was prequalified and qualified to be a marine casualty investigator. For example, Sector Hampton Roads marine casualty investigators did not use the 1988 standard, but developed and used a training and qualifications program checklist that required knowledge of local industry, waterways, and jurisdictions, as well as interviewing techniques, MISLE (data system used to manage marine casualties), and chemical testing. Additionally, Sector New York did not use the 1988 standard, but instead developed a training and qualifications program checklist based on the one used in Sector Hampton Roads. Such diverse application of the 1988 standard contributed to inconsistency in investigator qualifications across the Coast Guard.

In August 2007, the Coast Guard issued a revised standard, which both improved and detracted from the qualifications for marine casualty investigators. The Coast Guard improved the standards by updating the tasks that an investigator must perform to qualify for the position. These tasks include preparing for an investigation, initiating an investigation, generating an incident timeline, conducting causal analysis, conducting human error analysis, drawing and recording conclusions, developing safety recommendations/alerts, recommending enforcement actions, and completing the Basic Marine Investigator Training Course.

However, the August 2007 standard also removed the prequalification requirement as a Hull or Machinery and Small Vessel Inspector, which, in essence, lowered the standard. Coast Guard personnel stated that knowledge in these specialty areas is essential to the ability of investigators to correctly identify the causes of marine casualties and issue appropriate safety alerts and recommendations. In our opinion, removing this prequalification standard may negatively affect the qualifications and capabilities of Coast Guard marine casualty investigators.

The Coast Guard claims that the removal of this prequalification requirement does not lower investigator standards because the Basic Marine Investigator Training Course has Hull, Machinery, or Small Vessel inspector as a prerequisite for attendance. There are two problems with this rationale. First, of the 22 investigators we reviewed, 15 attended the Basic Marine Investigator Training Course, of which 5 did not meet any of the training course prerequisites, including both the Marine Inspector and the Port Operations qualifications. Second, the June 1988 standard required a prequalification of a Hull **or** Machinery and Small Vessel Inspector, while the Basic Course requires Hull, Machinery or Small Vessel qualification.

Management Controls to Ensure Qualified Investigators

The investigator qualification issues that we identified can be attributed to competing Coast Guard priorities and a limited number of experienced personnel, making it difficult to ensure

that all investigator positions are filled with qualified staff. Specifically, Coast Guard Headquarters assignment officials select personnel to fill sector investigator positions from a pool of available candidates. Because the marine casualty specialty is not viewed as important or as exciting as other mission areas, there are a limited number of candidates interested in marine casualty investigation from which to draw.

The Coast Guard has not established a clear and desirable career path for investigators, which can further impede recruitment efforts. At the Sectors, commanders have the discretion to assign experienced and qualified investigators to meet higher priority mission needs, leaving less trained and qualified personnel to perform investigative duties. Given competing mission demands, there is no assurance that an investigator will perform investigative work. Instead, investigators may be called upon to work in areas such as inspections or facilities, outside of their specialty area. For example, a tour in the Prevention Directorate could mean yearly rotations across specialty areas, such as waterways management, and drug and alcohol testing. Given the lack of a career path and the unpredictable nature of investigation assignments, potential Coast Guard candidates also may not want to become investigators. Hull and Machinery Inspectors told us that promotion to the position of marine casualty investigator would not advance their careers.

Additionally, according to Coast Guard personnel, tour of duty rotations hinder investigators from acquiring the experience needed for career development. The agency's uniformed investigators generally are not in their positions for more than a single, 3-year tour of duty in the same location. The forced rotations preclude the investigators from acquiring the extensive knowledge of local waterways and industries that experienced casualty investigators have told us is needed to be effective.

In contrast, civilian marine casualty investigators are not subject to the 3-year tour of duty rotation standard. Over time, they can gain a greater knowledge of specialties such as local waterways and industries or experience in enforcing maritime regulations to enhance their qualifications. In Fiscal Year 2007, the Coast Guard reported there were only six civilians serving as full time marine casualty investigators.

Unqualified marine casualty investigators are not a new issue to the Coast Guard. Coast Guard studies in the mid-1990s of various aspects of the marine casualty program also identified problems with marine casualty investigator qualifications:

- The Coast Guard Research and Development Center report, *U.S. Coast Guard Marine Casualty Investigation and Reporting: Analysis and Recommendations for Improvement*, August 1994, included recommendations for organizational change, such as encouraging specialization in investigations and using civilian investigators to help increase the numbers and qualifications of marine casualty investigators.

- The Coast Guard's *Report on the Quality Action Team on Marine Safety Investigation*, January 1995, included recommendations for maximizing staff use and updating the marine casualty investigation process.

The Coast Guard has implemented a number of these study recommendations, resulting in improvements to the program. For example, as defined in the G-MOA Policy Letter 1-00, the Coast Guard instituted the levels of investigation. In addition, the Coast Guard now requires investigators to complete causal analysis training. However, the Coast Guard has not focused on addressing recommendations related to investigator qualifications. Until it does, unqualified personnel may continue to conduct marine casualty investigations, inhibiting the ability of the Coast Guard to identify causes and make appropriate recommendations for preventing or minimizing similar casualties.

Level of Marine Casualty Investigations Conducted by the Coast Guard

The Coast Guard conducts investigations commensurate with severity of the incident and value to marine safety. An accident involving two or more deaths, for example, would undergo a formal investigation. The levels of marine casualty investigations are as follows:

- Preliminary investigations are initial investigative efforts of casualties to determine whether to assign a case as a data collection activity, an informal investigation, or a formal investigation, depending on the severity and value to marine safety.

- Data collection activity investigations do not require any significant investigative effort, and usually consist only of collecting basic factual information and entering it into the Coast Guard's MISLE database for future reference and analysis. Only minimum followup to verify accuracy and completeness of the data collected should be conducted, as necessary.

- Informal investigations are less exhaustive than formal investigations, but include the determination and reporting on the causes of a casualty. At the time of our audit, this was the minimum level of investigative effort required to initiate enforcement actions. The Coast Guard has since eliminated this requirement. Some of the criteria for an informal investigation include casualties in which property damage exceeds $100,000 but is less than $1 million, any collision or allision resulting in property damage exceeding $25,000, and a medium discharge of oil, i.e., between 1,000 and 10,000 gallons to inland waterways and between 10,000 and 100,000 gallons to coastal waters.

- Formal investigations are reserved for the more serious or significant incidents in which the most investigative value can be gained. Some of the criteria for conducting a formal investigation include two or more deaths, property damage exceeding $1 million, and a major discharge of oil, i.e., more than 10,000 gallons to inland waterways and over 100,000 gallons to coastal waters.

Between January 1, 2003, and October 31, 2006, 15,327 marine casualties were reported to the Coast Guard of which 1,066 (7%) were investigated at the "Informal" or "Formal" activity level. During this same period, the Coast Guard issued 396 recommendations to mariners, industry, and to other Coast Guard components, and issued safety alerts for general operations, cargo operations, engineering, navigation equipment, safety equipment, and local waterways and industries.

Table 1 summarizes the number and level of marine casualty investigations conducted during our audit period.

Table 1: Investigations of Marine Casualties That Occurred During the Period January 1, 2003, Through October 31, 2006

Level of Investigation	2003	2004	2005	Through October 31, 2006	Total Investigations	% of Investigative Effort
Preliminary	201	69	44	0	314	2
Data Collection Activity	3,529	3,623	3,617	3,178	13,947	91
Informal	311	166	184	392	1,053	7
Formal	2	2	4	5	13	0
Grand Totals	**4,043**	**3,860**	**3,849**	**3,575**	**15,327**	**100**

Table 2 is an extract from the Coast Guard's MISLE database outlining the types and property damage costs of marine casualties. The large increase in property damage costs in 2005 was primarily due to Hurricane Katrina.

Table 2: Types of Marine Casualties That Occurred During the Period January 1, 2003, Through October 31, 2006 ($ in millions)

Type of Casualty	2003	2004	2005	Through October 31, 2006
Number of Injured	850	733	684	859
Number of Missing	16	34	18	11
Number of Deaths	190	175	169	158
Number of Damaged Vessels	1,791	1,771	1,661	1,494
Total Property Damage	$194	$215	$810	$109

Due to the September 11, 2001, terrorist attacks and to promote consistency and free staff resources for other duties, the Coast Guard permitted formal marine casualty investigations to be conducted at the informal level, not to be downgraded further, and informal investigations to be conducted at the data collection activity level, not to be downgraded further. This initiative became known within the Coast Guard as the "9/11 downgrade."

In September 2002, the Coast Guard issued G-MOA Policy Letter 2-02 that superseded the "9/11 downgrade" and returned the investigative levels to the pre-September 11, 2001 levels. However, the Coast Guard Headquarters did not effectively communicate to the Sectors that the "9/11 downgrade" was rescinded. Some Sectors did not stop the "9/11 downgrade" until mid-2006, 4 years later.

Our review of marine casualty investigations from five Coast Guard locations throughout the United States showed that 53% of the investigations in our samples were conducted at a lower level than recommended by Coast Guard guidance. For example, the Coast Guard conducted eight investigations at the data collection activity level, two levels below the

formal level needed. See Table 3 below for a summary of marine casualty investigations tested. The Sector commands have the leeway to conduct investigations at other than the recommended level. However, to maintain control over the program, the Sector commands should document departures from Coast Guard guidance.

As summarized in Table 3, 48 marine casualty investigations were conducted at the incorrect level pursuant to the "9/11 downgrade."

Table 3: Summary Judgmental Samples of Marine Casualty Investigations

			Improper Downgrades					
Sample Size (All Locations)	Number of Locations Tested	Sample Type	Preliminary That Should Have Been Data Collection Activity	Data Collection Activity That Should Have Been Informal	Data Collection Activity That Should Have Been Formal	Informal That Should Have Been Formal	Total Incorrect Level	% of Error
145	5	Not stopping 9/11 downgrade	0	40	6	2	48	33
		All other	1	23	2	3	29	20
		Totals	1	63	8	5	77	53

We also analyzed an extract from the Coast Guard's MISLE database of 15,327 marine casualties that occurred during the period of January 1, 2003, through October 31, 2006. Using the Coast Guard's G-MOA Policy Letter 2-02 as guidance, and based on the extracted data, we identified:

- 134 marine casualties that should have been investigated at the formal level but were not, including 55 conducted two levels below at the data collection activity level;
- 952 marine casualties that should have been investigated at the informal level, but were not;
- 169 marine casualties that should have been investigated at the data collection activity level or higher, but were not.

These investigations were conducted at improper levels for varying reasons. For example, some Coast Guard Sectors did stop the "9/11 downgrade" until mid-2006 because of a lack of clear communication from Coast Guard Headquarters regarding issuance of the G-MOA Policy Letter 2-02. Per Coast Guard officials, there were also conflicting interpretations of how to apply the Coast Guard's G-MOA Policy Letter 2-02. For example, according to the policy letter, loss of propulsion should be investigated at the informal level. However, some marine casualty investigators defined loss of propulsion as lost propulsion from one engine even though there might be multiple engines, whereas others defined loss of propulsion as when a vessel cannot remain underway.

Further, some marine casualty investigators relied on the Coast Guard's outdated February 1989 *Marine Safety Manual* for investigation guidance, which also created confusion. On April 24, 2008, the Coast Guard promulgated an updated edition of the *Marine Safety Manual*.

As a result of formal and informal investigations conducted at the lower data collection activity level, causal factors were not always determined. Without such determinations, the Coast Guard may have lost the opportunity to issue safety recommendations or alerts to prevent or minimize the effect of similar casualties occurring again.

Backlog of Marine Casualty Investigations to Review and Close

Coast Guard Headquarters is not timely in reviewing or closing marine casualty investigation reports. On November 9, 2006, Coast Guard Headquarters had a backlog of 4,240 investigations, of which 2,466 (58%) were open and had been awaiting review and closure for more than 6 months. One Coast Guard Headquarters staff member was responsible for reviewing and closing all of the investigations. This staff member estimated that, at best, they could devote 50% of their time to this function. In our opinion, this significant workload is too much for one person and contributes even further to creating a backlog in marine casualty investigations.

To reduce the backlog, the Coast Guard resorted to a mass closure of investigations without thorough review. On September 29, 2006, Coast Guard Headquarters closed 3,848 investigations that it deemed "low risk" based on the criteria that the casualty:

- Occurred in calendar years 2002-2004;
- Involved no fatalities or missing persons;
- Involved injuries to fewer than six persons;
- Involved total dollar damages of less than $250,000;
- Involved less than 100 gallons of oil spilled; and
- Involved no total losses of vessels.

Included in the September 29, 2006, closure project were 194 informal investigations and 1 formal investigation. Although the Coast Guard deemed them low risk, we identified the investigations as high risk because they involved serious incidents requiring complete causal analysis. Enforcement actions also may have resulted from these investigations.

Further, closing investigations at incorrect levels and without thorough review resulted in lost opportunities to identify errors input to the MISLE database. The MISLE data can support trend analysis and studies that may result in recommendations and safety alerts. Likely, no one will go back to check for errors or make corrections to those included in the mass closure project. In our testing of 145 marine casualty investigations, we identified 43 (30%) that contained at least one MISLE data error. The Coast Guard corrected the errors, such as incident dates, numbers of people at risk, and levels of investigation, that we brought to their attention. With a thorough review at headquarters, the number of errors could be further

reduced. Assigning more staff to manage the investigation review and closure process would also help.

The Coast Guard has recognized the weaknesses in the marine casualty investigation program and is moving to strengthen it. In September 2007, the Coast Guard issued a plan entitled "Enhancing the Coast Guard Marine Safety Program." As noted in the plan, the Coast Guard will be moving to improve the consistency of marine inspections and investigations by increasing the number of civilian inspectors and investigators and by strengthening the Marine Safety Career path.

Mr. Chairman, members of the Committee, this concludes my prepared statement. I will be pleased to answer any questions you may have.

# # #

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DEPARTMENT OF HOMELAND SECURITY

U. S. COAST GUARD

STATEMENT OF

REAR ADMIRAL JAMES WATSON
DIRECTOR OF PREVENTION POLICY

ON THE

MARINE CASUALTY INVESTIGATION PROGRAM

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON COAST GUARD AND MARINE TRANSPORTATION

U. S. HOUSE OF REPRESENTATIVES

MAY 20, 2008

Good morning Mr. Chairman and distinguished members of the Committee. I am pleased to appear before you today to discuss the Coast Guard's Marine Investigation Program, the Department of Homeland Security (DHS) Office of Inspector General's (OIG) report on our management of marine casualty investigations.

The Coast Guard has broad, multi-faceted jurisdictional authorities and responsibilities to ensure the safety and security of the Marine Transportation System (MTS). The Coast Guard relies upon information developed through detailed investigations of various incidents to prevent recurrences of casualties, strengthen the global MTS, safeguard lives at sea and protect the marine environment. We use the lessons-learned from investigations and oil spills to provide valuable input into standards development, compliance and enforcement, as well as education and outreach programs.

The Coast Guard benefits from external reviews. The DHS OIG recently completed a report of our management of the marine casualty investigations program. We worked closely with the DHS OIG to provide information required to facilitate a transparent review of our program. We generally concur with the DHS OIG's recommendations included in his report and appreciate the efforts of the DHS OIG in documenting areas for improvement. We are taking actions to address these recommendations.

The Coast Guard conducts its own incident investigations to assess adequacy of current procedures, associated implementation, and the need for additional requirements to prevent future marine casualties. For example, at present, we are conducting a Marine Board of Investigation into the tragic loss of four lives associated with the sinking of the fish processing vessel Alaska Ranger.

The Coast Guard works closely with the NTSB. On September 12, 2002, the Coast Guard and NTSB entered into our current Memorandum of Understanding (MOU) regarding marine accident investigations. The MOU clarifies the standards used to determine when the NTSB will lead an investigation and identifies the standards used to determine when a major marine accident involves significant safety issues related to Coast Guard safety functions.

These investigative mechanisms serve to improve the safety and security of the MTS. Rigorous self-scrutiny, third party review and thorough Coast Guard investigations are vital components of our program.

COAST GUARD'S RESPONSE TO DHS OIG RECOMMENDATIONS

In direct response to the DHS OIG's report entitled, "United States Coast Guard's Management of the Marine Casualty Investigations Program," I offer the following responses to the eight recommendations in this report:

Recommendation #1: Develop and implement a plan to increase the number of qualified marine casualty investigators, including hiring civilian marine casualty investigators, and improving the career path for marine casualty investigators.

> The Coast Guard concurs. The Coast Guard is seeking to increase the number of field Investigating Officers (IOs) and marine investigations staff support personnel. We are taking into account current staffing levels and increasing demand for services in our planning efforts. These efforts are part of a broad plan to improve marine safety which is attached as Enclosure 1.

On September 25, 2007, the Coast Guard delivered this plan (Enclosure 1) to Congress to outline efforts to enhance the Coast Guard's Marine Safety Program. Our plan provides a vision and multi-year roadmap for improving the effectiveness, consistency, and responsiveness of the Marine Safety Program to promote safe, secure, and environmentally sound maritime commerce. The Coast Guard will reinvigorate industry partnerships, improve mariner credentialing services, bolster inspector and investigator capacity, improve technical competencies, and expand rulemaking capability to ensure that we meet current and future industry needs.

Consistent with this plan, the President's Fiscal Year 2009 Budget request includes 276 additional Coast Guard Marine Safety personnel. Of these 276 positions, 221 will be marine inspectors and investigators, 28 positions are for program management and training, and 27 positions are for support. There are currently 552 marine inspectors and investigators in the field at Coast Guard units. Therefore, the additional 221 personnel added to the field represent a 40 percent growth in the existing number of marine inspectors and investigators. These personnel will begin to increase our capacity to perform both vessel inspections and casualty investigations.

Recommendation #2: Evaluate re-instituting the four-year tour of duty for active duty marine casualty investigators and ensure that they complete the entire tour of duty as a marine casualty investigator.

The Coast Guard concurs. A return to a four-year tour would provide additional time and training opportunities to develop a strong knowledge base for investigating officers. We also agree that assigned personnel should complete their entire tour in their assigned billet. The Coast Guard Personnel Command recently issued Coast Guard-wide guidance directing field units to ensure personnel remain in their original billet assignment, and we will continue to enforce a four-year tour of duty as broadly as possible.

Recommendation #3: Develop and implement a plan to ensure attendance at the basic and advanced courses for those qualified to attend.

The Coast Guard concurs. Priority is given to individuals who are assigned to Investigating Officer billets and conducting investigations. This was recently re-emphasized in a directive from Coast Guard Headquarters to field units (Enclosure 2).

Recommendation #4: Revise the August 2007 marine casualty investigation qualification standard to include the prequalification of Hull or Machinery, and Small Vessel Inspectors.

The Coast Guard does not concur. Prequalification as a hull, machinery, or small vessel inspector is required to attend the basic marine investigator course. Any one of these inspection qualifications provides the basic knowledge needed to begin investigating officer training. On April 24, 2008, the Coast Guard's Assistant Commandant for Marine Safety, Security, and Stewardship, sent Coast Guard-wide guidance to reiterate and emphasize the importance of policies currently in place that strive to ensure the integrity of the Marine Casualty Investigations program (Enclosure 2). This message states the importance of proper training and upholds core competencies and prerequisites for becoming a qualified Marine Casualty Investigator. We are also working to ensure billets are staffed in the field with a corps of well-trained, certified, and experienced Marine Casualty Investigators. We have completed a review of all personnel conducting marine casualty investigations and are preparing to exchange entry level billets that are currently assigned to Investigations to Marine Inspections, while re-assigning second tour Marine Inspection billets to the Investigations program. This will enhance the level of qualification and experience of all marine casualty investigators.

Recommendation #5: Implement quality controls to ensure marine casualty investigations are conducted at the proper levels to make certain that consistent information is gathered and that causal factors are determined when appropriate.

The Coast Guard concurs. However, quality control measures are already delineated in Chapter A5 of the Marine Safety Manual Vol. V, Commandant Instruction M16200.10A. The Marine Safety Manual outlines suggested levels of effort and types of investigations. The Marine Information for Safety and Law Enforcement (MISLE) database aids in quality control through the requirement for specific data entries based on the level of investigation. For example, if an informal level of investigation is selected, MISLE requires that Causal Analysis be entered. Policy in the MISLE Process Guide also requires at least one level of review of an investigation prior to forwarding to Coast Guard Headquarters. Coast Guard Headquarters staff review investigation activities prior to closure to ensure compliance with policy.

Recommendation #6: Review and revise the criteria for the levels of marine casualty investigations, make any appropriate changes to reduce or eliminate conflicting interpretations, and ensure criteria are consistently applied throughout the Coast Guard.

The Coast Guard concurs. We believe the criteria for the levels of marine casualty investigations established in the Marine Safety Manual Vol. V are clear and sufficient. We ensure consistent application through courses at the Coast Guard's Training Center in Yorktown, VA, periodic training at various units, and informal postings on our web portal. However, we agree there is room for improvement in applying the criteria consistently and are committed to reviewing and revising all criteria.

Recommendation #7: Finalize and issue the Marine Safety Manual.

The Coast Guard concurs. The revised Marine Safety Manual was completed and signed on April 24, 2008.

Recommendation #8: Reorganize the Headquarters review and closure process to include sufficient staff responsible for reviewing and closing marine casualty investigations, and ensure that the review and closure process is completed in a timely and effective manner.

The Coast Guard concurs. We agree there needs to be sufficient resources in place to review and close marine casualty investigations in a timely and effective manner.

The DHS OIG report states that about 8 percent or 1,255 of the 15,327 marine casualties that occurred between January 1, 2003 and October 31, 2006 were not investigated at the level recommended by policy guidance in place at the time, based only on a comparison of the classification criteria with the recorded level of investigation. A simple comparison of dollar amount of damage or other criteria cannot determine whether an investigation was conducted at the appropriate level. Our policy letters and the Marine Safety Manual, Volume V, provide suggested guidelines for the level of investigation. These are not absolute requirements and the Officer in Charge, Marine Inspection (OCMI) has the ultimate authority and responsibility to determine appropriate actions and investigation level in any specific case.

Determination of the proper conduct of an investigation requires a review of the investigative record to be sure it is complete and appropriate for the specific casualty and the lessons to be learned. For example, the DHS OIG report states that 134 casualties should have been investigated at the formal level, but were not. Our review of those cases shows that 79 were conducted appropriately at the informal level, all included causal analysis, and 22 contain safety recommendations. Our review of the remaining cases investigated at the data collection level shows that the level of investigation was generally proper for the casualty circumstances, with eight cases downgraded without an identifiable reason. While we have concurred with the DHS OIG's recommendations in this area and will strive for constant improvement, we do not agree that the picture is as bleak as painted by the DHS OIG.

BACKGROUND: COAST GUARD MARINE INVESTIGATIONS PROGRAM

The Coast Guard's Marine Investigations Program has been a vital arm of marine safety activities since the 1830s when the Steamboat Inspection Service was established. In 1832 alone, approximately 14 percent of the steam vessels in operation were destroyed by explosion and over 1,000 people were killed. These explosions happened largely because there were no vessel inspection laws or rules of navigation. In some cases, mariner incompetence, negligence, and/or misconduct were contributing causes. The U.S. Congress reacted by establishing inspection laws and creating the Steamship Inspection Service. Subsequent revisions to the law created both the Vessel Inspection and Marine Investigations Programs, whose precepts are largely unchanged in today's Coast Guard: 1) to ensure that credentialed mariners are competent; 2) to ensure that the vessel safety laws are observed; and 3) to suggest where new laws or inspection rules are necessary to save lives.

The historical missions have evolved into the modern marine casualty investigations and personnel action segments of the Marine Investigations Program. Our investigation and law enforcement roles have grown to include detecting violations of all applicable federal laws and regulations, taking remedial law enforcement action such as civil penalties and suspension and revocation, investigating pollution, and ensuring compliance with international treaties such as the International Convention on Load Lines, 1966 (ICLL); the International Convention for the Safety of Life at Sea 1974 (SOLAS); the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW); and the International Convention for the Prevention of Pollution from Ships, 1973, as amended 1978 (MARPOL 73/78).

MARINE INVESTIGATIONS PROGRAM ACTIVITIES

The Marine Investigations Program accomplishes its mission through the investigation of casualties and follow-up activities designed to prevent casualties from reoccurring. Investigative activities are intended to uncover the causes of incidents, document the events and their causes, and initiate the necessary corrective actions. Investigations are also designed to detect and enforce federal law violations. The Office of Investigations and Casualty Analysis at Coast Guard Headquarters provides program guidance for all aspects of casualty investigations, including field investigations, training, outreach and follow up.

Marine investigations are generally conducted after the occurrence of incidents involving vessel casualties, such as groundings, collisions, and sinkings, and personnel injuries, or fatalities.

Investigations are also conducted for:

- vessel seaworthiness;
- violations of statutes the Coast Guard is authorized to enforce;
- incidents involving vessel personnel that may lead to suspension and revocation proceedings or assessment of civil or criminal penalties;
- boating accidents;
- waterfront facility casualties and incidents;
- deepwater port casualties and incidents;
- marine pollution incidents;
- accidents involving aids to navigation; and
- accidents involving installations and other devices on the outer continental shelf.

The Coast Guard conducts over 9,000 casualty and pollution investigations annually, both to assess responsibility and to develop a better understanding of safety issues. These investigations include a focus on the "human element" based on the premise that the cause of 80 percent of casualties can be tied to human factors.

All incidents reported to the Coast Guard, regardless of source, are investigated; however, the Sector Commander through their Officer in Charge, Marine Inspection (OCMI) authority must determine on a case-by-case basis what investigative actions are appropriate for a specific case based on factors such as the likely value to marine safety and risks in a given port.

Depending on the nature and circumstances of a marine casualty, the Coast Guard will conduct either an informal or formal investigation as appropriate. The Commandant of the Coast Guard may establish a Marine Board of Investigation for very serious casualties. The Marine Board will consist of senior Coast Guard investigators and may include investigators from the NTSB.

MARINE INVESTIGATIONS TRAINING AND QUALIFICATIONS

The role of a Marine Casualty Investigating Officer is to thoroughly investigate the cause of a marine casualty. The evidence is analyzed to identify causal factors and human error. Safety recommendations are issued and implemented that address those factors in order to prevent similar casualties from occurring in the future. The Coast Guard initiates administrative, civil and criminal procedures against those responsible when appropriate.

The Coast Guard announced its new suite of Investigating Officer qualifications (Marine Casualty Investigator, Maritime Enforcement Investigator, Suspension and Revocation Investigator, Suspension and Revocation Hearing Investigator, and Pollution Investigator) in August 2007. These qualifications are supported by several training courses held at the Coast Guard's Training Center in Yorktown, VA, Performance Qualification Standards (PQS), and on-the-job training that must be completed to obtain them.

The current suite of qualifications and training courses are the result of a comprehensive Sector Performance Analysis project initiated in 2004. The study aimed to determine the appropriate level of performance support for the newly created Sectors with the primary focus on improving and updating marine safety personnel training and qualifications. As a result, the Marine Investigations training program updated resident training course curricula, promulgated new job aids to support training and

on-the-job performance, and revised PQS workbooks for all job specialties in the Investigations Program, including Marine Casualty Investigator, Marine Enforcement Investigator, Suspension and Revocation Hearing Investigator, and Suspension and Revocation Investigator.

The Marine Safety Program's Merchant Marine Industry Training (MMIT) program has typically provided one position per year to the Marine Investigations Program. The active duty individual selected for this program works with a particular segment of the marine industry for four to six months to learn how that segment operates, and to become better aware of the challenges faced by the industry, noting unique business methods and observing the effect of regulation upon their operations. An additional benefit of the program is that it opens lines of communication between industry and the Coast Guard.

In order to bolster investigator expertise, additional Investigating Officer training opportunities have been introduced. One significant example is the establishment of an Investigating Officer Professional Development Program at the U.S. Merchant Marine Academy. This program provides Coast Guard Investigating Officers with a better understanding of the marine transportation system including current characteristics of the maritime industry, current trends and influences on maritime safety, Master/Pilot relationships, marine insurance, bridge resource management, shipboard electronics including radar and Automatic Radar Plotting Aids, vessel operations and systems (both deck and engine), and vessel hydrodynamics.

Coast Guard Investigating Officers may also attend the National Association of State Boating Law Administrators boating accident investigator seminars. These seminars provide Investigating Officers with an opportunity to expand their professional investigator skill sets.

The Coast Guard expects that the addition of the 276 additional Coast Guard Marine Safety personnel contained in the President's Fiscal Year 2009 Budget request will further bolster these courses by ensuring that adequate personnel are available at the Sectors to allow attendance.

PROFESSIONALISM

The Coast Guard's Office of Investigations and Casualty Analysis is a recognized authority in marine investigations policy. In addition to using lessons-learned from casualty investigations to improve regulations and Coast Guard policy, we also use investigation information at the field level to educate the public and prevent casualties. These outreach activities include participation in public meetings (e.g. Harbor Safety Committees, Area Committees), various national partnerships (e.g. the National Association of State Boating Law Administrators, Towing Safety Advisory Committee, Boating Safety Advisory Committee, Commercial Fishing Vessel Safety Advisory Committee) and other forums.

The Coast Guard's expertise in marine investigations is also recognized by the United Nation's International Maritime Organization (IMO). Personnel from the Coast Guard's Office of Investigations and Casualty Analysis are members of the U.S. delegation to the IMO Subcommittee on Flag State Implementation and one member chairs the subcommittee's Marine Casualty Investigations and Analysis working group. The main focus of this subcommittee is to identify the problems countries are experiencing in properly carrying out their convention responsibilities and to develop guidance to assist them in solving those problems. Casualty investigation and analysis is always an agenda item for meetings of this subcommittee. At its last meeting, the working group and the subcommittee completed and forwarded for approval the "Code for Investigation of Marine Casualties and Incidents," which is expected to become a mandatory instrument to replace the existing voluntary guidelines.

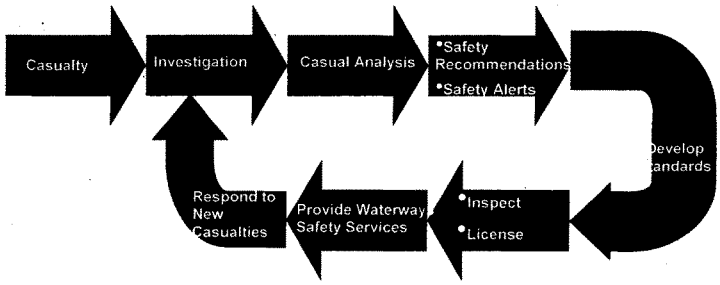
A member of the Office of Investigations and Casualty Analysis currently chairs the Marine Accident Investigators' International Forum (MAIIF). MAIIF is an international non-profit organization of government marine accident investigators dedicated to the advancement of maritime safety and the prevention of marine pollution through the exchange of ideas, experiences and information acquired in marine accident investigation, and to fostering cooperation and communication between marine accident investigators of all nations across the globe. MAIIF currently has more than 70 members representing more than 40 administrations worldwide.

FEEDBACK AND PREVENTION

The marine casualty investigation and analysis process is an integral part of our marine safety program. The program relies upon an ongoing cycle of review and standards upgrades to effect improvements. We investigate a casualty, analyze the initiating events, issue safety alerts as appropriate, develop standards to prevent reoccurrence, implement new inspection and licensing standards, and adjust waterway safety services. With each new casualty we repeat the cycle in order to effect improvements that will reduce or eliminate casualties.

The Coast Guard's Office of Investigations and Casualty Analysis gathers and analyzes information from many sources (Coast Guard marine safety professionals, the marine industry, open source publications, etc.) to provide trend analysis, track leading and lagging indicators, conduct formal studies and generate reports. These outputs allow Coast Guard decision-makers to determine where to best focus attention and resources to improve marine safety. This information is used for process improvement, to take corrective actions and to increase awareness both internal and external to the Coast Guard.

Casualty Investigations: Process Flow

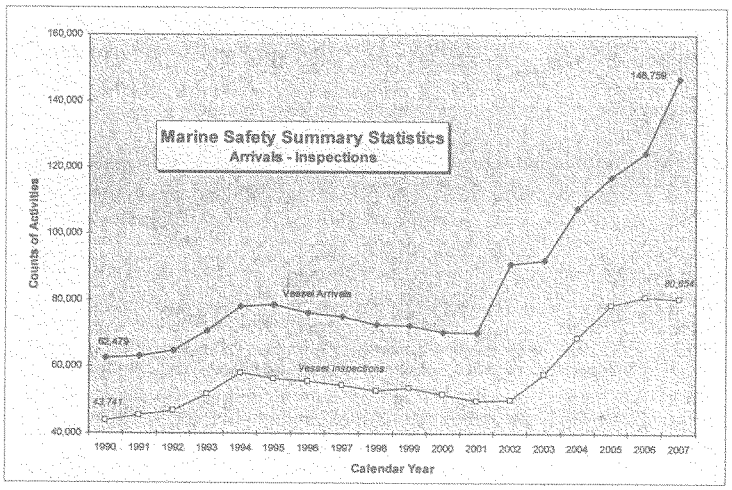


Process improvements may come in the form of Safety Recommendations, which are generally used to create or inform policy, processes, laws and/or regulations; and Safety Alerts which are used to quickly advise the public of conditions that, if left unaddressed, could pose urgent threats to safety in fleets of vessels or particular types of operations and to propose voluntary actions for the elimination or mitigation of those threats. Safety Advisories are used to address ways to improve marine safety focusing on specific vessel operations, practices, topics or other areas that do not require the same level of urgency as Safety Alerts.

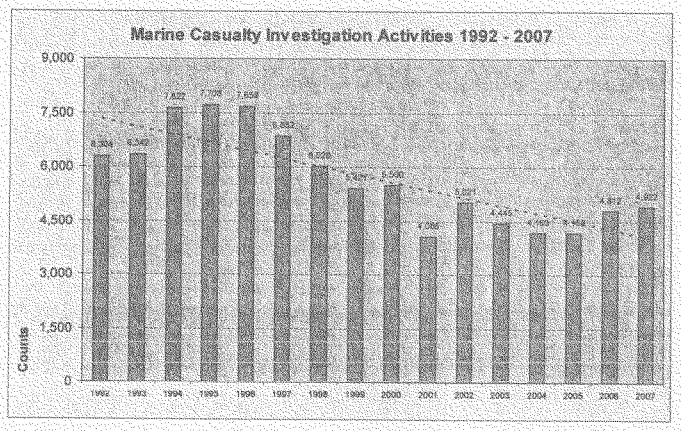
The Coast Guard's Office of Investigations and Casualty Analysis regularly uses its internally-developed Safety Alert Distribution System to share "lessons-learned" from marine casualties to its global maritime audience. When important safety or inspection considerations are discovered during the course of a casualty investigation, these considerations can be distributed within days after the initial inquiry to maritime personnel in private and governmental organizations worldwide. These alerts, emailed to more than 2,500 addressees, are frequently retransmitted through other printed and electronic media outlets and distribution systems, furthering their dissemination.

On May 9, 2008, the Coast Guard issued its first Marine Safety Alert resulting from the information gathered at that time in the ALASKA RANGER investigation. The alert is posted on the public Coast Guard website and was emailed to a list of thousands of stakeholders. The alert recommends vessel owners and operators verify vessel watertight integrity and suggests ways to ensure proper installation and operation of high level bilge alarms. Marine Safety Alerts are just one of several means we employ to provide timely investigation information to the marine industry to help prevent similar casualties in the future.

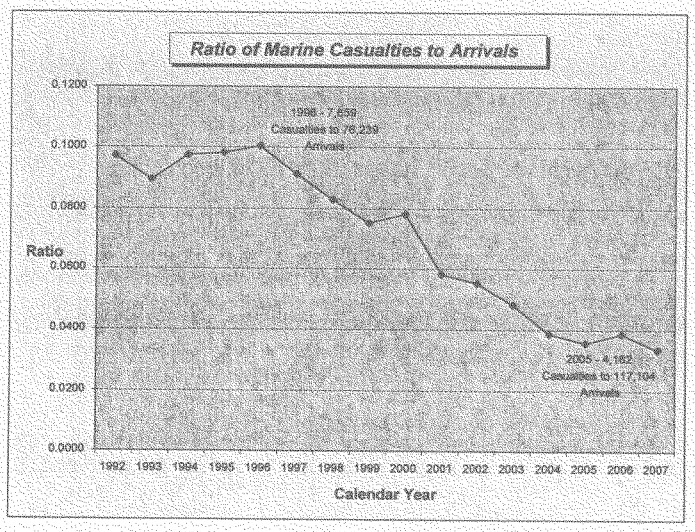
History shows that the Coast Guard's casualty investigation feedback loop works well. Simply put, over the years as maritime activity in the U.S. increased, the casualty rate decreased. For example, vessel arrivals at U.S. ports have more than doubled, and vessel inspections have almost doubled since 1990 (see figure titled "Marine Safety Summary Statistics").



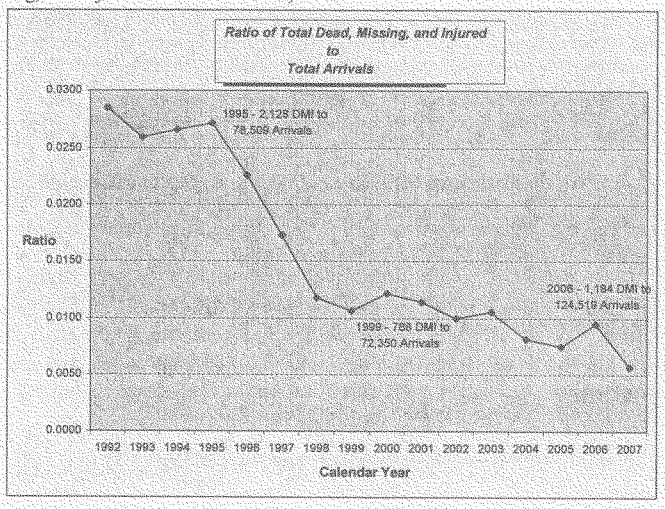
At the same time, the trend for the number of annual casualties continues to diminish (see figure titled "Marine Casualty Investigation Activities 1997- 2007").



The ratio of marine casualties to vessel arrivals shows a dramatic improvement since the early 1990's (see figure titled "Ratio of "Marine Casualties to Vessel Arrivals").



Personnel deaths and injuries resulting from marine casualties are also declining. The ratio of deaths and injuries to total arrivals shows an approximate five-fold decrease (see figure titled "Ratio of Total Dead, Missing, and Injured to Total Arrivals").



The decreases in casualties, deaths, and injuries are clearly significant. Similar trends are seen when comparing casualties, deaths, and injuries to the number of inspections.

We note that, under current law, both the Coast Guard and the NTSB are authorized to investigate major marine casualties. The Coast Guard has many responsibilities in the aftermath of a casualty, and our response activities may last for weeks. In addition to marine safety aspects, our investigations must look into possible violations of law or regulation so that appropriate administrative, civil, or criminal action can be taken. We strongly believe that the existing statutory and investigatory regimes work well and should not be changed. Neither the Coast Guard's nor the NTSB's role in marine casualty investigations should be diminished. Any change would seriously disrupt the existing, well-considered statutory balance and interagency cooperation between the Coast Guard and the NTSB. If there are specific concerns, we stand ready to work with the NTSB and Congress to address those issues in the context of the existing statutory and investigatory framework.

The Coast Guard and the NTSB cooperate closely to ensure that complete investigations are accomplished and all casualty response activities are not impeded. For example, earlier this year, pursuant to the authority established in 46 U.S.C. 6301, the Commandant ordered the establishment of a Marine Board of Investigation concerning the sinking of the Fishing Vessel (F/V) ALASKA RANGER in the Bering Sea on March 23, 2008. The Marine Board, with the full participation and cooperation of the NTSB, held public hearings in Dutch Harbor and Anchorage, Alaska, and Seattle, Washington. The Coast Guard and the NTSB Investigators worked closely to identify potential witnesses, conduct preliminary interviews, and take public testimony in order to thoroughly investigate this tragic loss.

The Coast Guard will prepare its report covering all aspects of the vessel's operations and condition, review any Coast Guard examination/inspection records and activities, and also review the Coast Guard's search and rescue operations. The NTSB will prepare its report independently. The broad experience, technical expertise and diverse backgrounds of the Coast Guard and NTSB personnel, as well as the full cooperation and equal participation enabled both agencies to probe the causes of the casualty to the fullest. The independent preparation of investigative reports will provide the public with thorough, in-depth analysis of casualties from each agency.

WAY FORWARD

On September 25, 2007, the Coast Guard delivered to Congress its plan to enhance the Marine Safety Program (Enclosure 1). This strategy provides a vision and multi-year roadmap for improving the effectiveness, consistency, and responsiveness of the Coast Guard Marine Safety program to promote safe, secure, and environmentally sound maritime commerce. The Coast Guard is reinvigorating industry partnerships, improving mariner credentialing services, bolstering inspector and investigator capacities, improving technical competencies, and expanding rulemaking capabilities to ensure that we meet current and future industry needs.

The 2009 President's Budget request includes $20 million to support an increase in marine inspector and investigator capacity. In addition, the Coast Guard continues to develop a resource strategy to address the following areas identified in the Enhanced Marine Safety Plan:

Improve the Coast Guard's Marine Safety Capacity and Performance

- Strengthen marine inspection and investigation consistency through the addition of civilian positions.
- Increase accessions from U.S. Merchant Marine Academy and maritime institutions.
- Strengthen Marine Safety career paths.
- Expand professional Marine Safety training and education.
- Expand opportunities for maritime industry training.
- Enhance engineering capacity for plan review, policy, and standards development.

Enhance Service Delivery to Mariners and Industry Customers

- Establish Centers of Expertise.
- Improve information technology systems.
- Increase rulemaking capacity to meet regulatory implementation.
- Improve credentialing through greater efficiency, transparency and capacity.

The Coast Guard anticipates the addition of military and civilian positions will create a regimented career path for Investigating Officers that will support the development of competent and experienced personnel capable of consistently conducting complete and accurate marine casualty investigations. The additions will help field units process an ever increasing investigative workload while improving the consistency, accuracy, timeliness and completeness of marine casualty investigations. Improving the quality of marine casualty investigations will in turn enable the Coast Guard and the industry to better analyze casualty trends and identify areas of maritime operations where action is needed to improve safety.

We previously announced the Coast Guard will establish Centers of Expertise to provide venues for professional development and exchange between industry and Coast Guard personnel. Our plans include the establishment of two investigation-related Centers of Expertise (i.e., marine casualty investigations, and suspension and revocation) which are a vital step in the process to improve the Marine Investigations Program and related Suspension and Revocation Program. The Centers of Expertise will increase the overall quality of Coast Guard marine casualty investigations and suspension and revocation proceedings, lead to a more efficient and higher quality service to the public, and increase the overall quality of maritime safety and security.

Another vital step in the process to improve the Marine Investigation Program and related Suspension and Revocation Program is to improve the Marine Information for Safety and Law Enforcement (MISLE) system. MISLE is the Coast Guard central database where marine safety activity information is stored. We anticipate that updates to the MISLE system and a new mobile application will increase the amount and accuracy of the information our investigators are able to document and increase the speed with which that information makes it into the feedback loop available to field commands and other stakeholders within the Coast Guard.

We also anticipate improving the use of MISLE by Investigating Officers in the suspension and revocation process. We envision MISLE being used to generate and file all Coast Guard suspension and revocation documents. This will standardize the process for the creation of Coast Guard suspension and revocation filings, improve the service of filings with mariners, and foster a nationally consistent Coast Guard suspension and revocation policy and process.

CONCLUSION

Preventing marine casualties is a shared goal between the Coast Guard, NTSB and the maritime industry. Marine casualties cause delays to the Marine Transportation System, adversely impact the flow of domestic and international commerce, and impose additional financial burdens on the maritime industry and their customers. Marine casualties also threaten the lives of mariners and citizens alike and often result in damage to the environment. More often than not, marine casualties can be prevented if the causal factors can be identified, understood and properly addressed.

It is vital to preserve the existing, well considered statutory balance and interagency cooperation between the Coast Guard and NTSB

We have the opportunity to prevent many marine casualties from occurring and mitigate the consequences of those that do occur. We can achieve these goals with an adequate corps of well trained and experienced investigating officers who have the necessary tools and resources, including an efficient and comprehensive data system, to accomplish their job.

During his State of the Coast Guard address, the Commandant emphasized the Coast Guard's longstanding commitment to honoring and serving professional mariners. Our plan to enhance the Coast Guard's marine safety program, including our Marine Investigations Program, is a hallmark of this commitment.

Thank you for the opportunity to testify before you today. I look forward to your questions.

ENCLOSURE 1: Marine Safety Improvement Plan

Executive Summary

"Enhancing the Coast Guard Marine Safety Program"
25 September 2007

Background. The Coast Guard ensures the safety of maritime transportation and commerce through a layered, interwoven system of authorities, compliance, collaboration, enforcement and public dialogue. We have been a leader in promoting global maritime safety, security, and environmental protection. Notwithstanding, the maritime industry is experiencing unprecedented complexity and growth, while also facing increased risk from transnational threats. These dynamics lead to a greater demand for Coast Guard Marine Safety services and call for a renewed focus on this core Coast Guard mission.

Way Ahead. While we have taken steps to improve this system, we acknowledge much more must be done. I am directing the development of a strategy that provides a vision and roadmap for improving the effectiveness, consistency, and responsiveness of the Coast Guard Marine Safety program to promote safe, secure, and environmentally sound maritime commerce. The Coast Guard will reinvigorate industry partnerships, improve mariner credentialing services, bolster inspector and investigator capacity, improve technical competencies, and expand rulemaking capability to ensure that we meet current and future industry needs. The Coast Guard will develop metrics to continually assess our progress towards achieving Marine Safety goals and objectives.

This strategy, to be developed in consultation with industry partners, will include the following decisive actions (some of which are underway) to improve Marine Safety mission effectiveness:

Improve the Coast Guard's Marine Safety Capacity and Performance

- Increase marine inspector and investigator capacity.
- Strengthen marine inspection and investigation consistency through addition of civilian positions.
- Increase accessions from U.S. Merchant Marine Academy and maritime institutions.
- Strengthen Marine Safety career paths.
- Expand professional Marine Safety training and education.
- Expand opportunities for maritime industry training.
- Enhance engineering capacity for plan review, policy and standards development.

Enhance Service Delivery to Mariners and Industry Customers

- Establish Centers of Excellence.
- Improve information technology systems.
- Increase rulemaking capacity to meet regulatory implementation.
- Improve credentialing through greater efficiency, transparency and capacity.

ENCLOSURE 1: Marine Safety Improvement Plan

Expand Outreach and Advisory Mechanisms for Industry and Communities

- Establish Assistant Commandant for Marine Safety, Security, and Stewardship
- Establish a national council of maritime advisors for the Commandant.
- Exercise leadership at international, national, regional, state, and local safety, security, and environmental committees.

We are confident these courses of action will result in needed improvements, although many require additional planning to ensure proper implementation and efficacy. A more thorough review of resource requirements is needed before developing specific timelines and milestones.

ENCLOSURE 1: Marine Safety Improvement Plan

"Enhancing the Coast Guard Marine Safety Program"

Current state. The Coast Guard's Marine Safety program is responsible for ensuring the safe operation and navigation of some 20,000 U.S. and foreign-flagged vessels. We conduct over 70,000 domestic vessel inspections and 10,000 port state control examinations each year to safeguard maritime commerce, international trade and supply chain security. We also conduct 14,000 casualty, suspension and revocation, and civil penalty cases annually to leverage lessons-learned and prevent future maritime tragedies. These missions are accomplished by a cadre of approximately 1,000 uniformed and civilian inspectors, investigators and port state control officers stationed domestically and around the world. They are carried out through a shared commitment with industry to facilitate safe, secure, and environmentally sound marine transportation.

Discussion. The Coast Guard's responsibility to improve Marine Safety service delivery is time-critical given growth trends in the maritime industry and increase in demand for Marine Safety services. Industry growth and increased complexity over the last 10 years outpaced commensurate growth in the Coast Guard Marine Safety program, resulting in a performance gap. For example, last year United States deep-draft seaports and seaport-related firms employed over 8 million American citizens while adding nearly $2 trillion to our domestic economy. From 2002 to 2005, U.S. port calls of large, ocean-going merchant vessels (i.e., over 10,000 gross tons) increased nearly 10 percent to 61,047 according to U.S. Department of Transportation statistics. Moreover, over the last five years, the number of U.S.-flag passenger vessels increased by seven percent and offshore oil industry vessel growth exceeded 35 percent. We recognize industry's concern that our Marine Safety program lacks sufficient capacity to be responsive, inclusive, accessible, and customer-focused. We share in their desire to aggressively address this concern.

Projected growth areas for Marine Safety services include:

- New inspection requirements for as many as 7,000 uninspected towing vessels;
- Market-driven shifts in port activity due to increased demand for such products as liquefied natural gas, petroleum, dangerous cargoes, and containerized freight;
- Proportional growth in marine investigations resulting from industry growth;
- Increased demand for commercial fishing vessel examinations; and
- Continued growth in requirements to publish implementing regulations.

An integrated Coast Guard approach to safety, environmental protection, waterways management, and security best ensures the long-term success of the global maritime transportation system. The goal in preventing or responding to major marine incidents, regardless of cause, is the same: to save lives, preserve property, protect the environment, and minimize disruption to the maritime transportation system. The Coast Guard's operational model is flexible, adaptive, efficient and capable of succeeding with myriad

ENCLOSURE 1: Marine Safety Improvement Plan

maritime scenarios. Today, as in the past, our safety, security, and stewardship program goals and authorities to act are inextricably linked.

Following the terrorist attacks of 9/11, our longstanding industry partnerships were critical to protecting the global marine transportation system. These partnerships remain vital today. We must ensure resources match the growing demand for our Marine Safety services. Our marine safety capacity and effective engagement with stakeholders demand senior leadership's attention. We will improve Marine Safety program focus and performance.

Course of Action. The Commandant is directing the development of a strategy that includes the following courses of action, (some of which are underway):

Improve the Coast Guard's Marine Safety Program Capacity and Performance

Increase marine inspector and investigator capacity.
Within budget, the Coast Guard will add more marine inspectors, port state control officers, and investigators. We will use these full-time positions to meet current and anticipated growth in maritime commerce and expansion of the regulated fleet. Demand for inspection and investigation work is increasing and capacity to match these demands must be built and sustained as a result of growth factors such as projected Liquefied Natural Gas (LNG) ships and facilities, thousands of towing vessel examinations, non-tank vessel response plan reviews, ballast water management oversight, and regulatory development.

Strengthen marine inspection and investigation consistency by adding civilian positions.
Within budget, we intend to increase the number of civilian inspectors and investigators. Additional civilian inspector/port state control officer positions and investigating officers will help the Coast Guard retain expertise and geographic-specific competencies while ensuring long-term continuity in critical mission areas. We will distribute civilian positions according to demand and to complement the military workforce. Military personnel must continue to serve as marine inspectors and investigators to ensure innovation, and garner requisite experience for future program management and command responsibilities. A blend of military and civilian personnel is critical to building and sustaining consistency and competence.

Increase accessions from U.S. Merchant Marine Academy and maritime institutions.
The Coast Guard will strengthen recruiting efforts at the maritime colleges through additional liaison officers and by seeking opportunities for Coast Guard officers to serve as faculty at those institutions. Maintaining and sustaining competency within the Marine Safety program begins with recruitment and accession of additional maritime professionals, and active partnerships with maritime educational institutions.

Strengthen Marine Safety career paths.
We will demonstrate the value the organization places on the Marine Safety profession by revising personnel management policies. These policies must continue to ensure a viable career path to the most senior ranks in the Coast Guard, and value and promote the competencies of marine safety specialists. These policies could include, but are not limited

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to: direct commission programs; direction and guidance to officer selection panels relating to the need for specific Marine Safety specialties; increased tour lengths; incentives to retain qualified inspectors and investigators; institutional recognition of Marine Safety leadership positions in the field; and continuation contracts for officers possessing critical skills. Recognize those who advance from apprentice, to journeyman, to expert marine safety professional status.

Expand professional Marine Safety training and education.
We recently completed extensive review, update, and field testing of Marine Safety course and qualification material. The Coast Guard will expand formal and informal training and education opportunities to improve Marine Safety competencies, skills and qualifications. These programs will include additional resident educational opportunities for the military and civilian marine safety workforce, and enhanced pipeline training for field personnel to ensure better continuity and consistency in service. Through continuous evaluation, we will ensure training, education and qualification standards are responsive to the dynamics of the marine transportation system. A robust marine inspector and investigator workforce also requires additional expert field personnel to conduct unit training in order to build and sustain these critical competencies.

Expand opportunities for maritime industry training.
The Merchant Marine Industry Training (MMIT) program is a model of industry partnership and professional development. Therefore, the MMIT program will be expanded to include both formal and informal assignments to maximize interaction and experience. We will adjust the MMIT to industry's technological innovations, complexity, and growth as a means for the Coast Guard to better understand and address emerging safety, security, stewardship, and economic issues. The Coast Guard will engage industry within applicable legal and ethical guidelines to maximize training opportunities and fully immerse participants in industry operations. The Ship Rider and other industry familiarization programs will be offered to a larger group of Marine Safety professionals.

Enhance engineering capacity for plan review, policy, and standards development.
We will seek additional capacity and expertise for plan review of vessels and facilities. Increased technical capacity is needed to address plan review of commercial non-tank vessels, marine fire fighting and salvage, standards development and vessel construction specialties at Coast Guard Headquarters and the Marine Safety Center. Increased growth and complexity in ship design and construction, including high capacity fast ferries, LNG ships, mega container and cruise ships, and novel structural designs, call for an innovative and knowledgeable technical staff to develop guidance, standards, and policy. As industry evolves, so too does the demand for technical expertise.

Enhance Service Delivery to Mariners and Industry Customers

Establish Centers of Excellence.
We plan to establish additional Centers of Excellence (COE) to provide venues for professional development and exchange between industry and Coast Guard personnel. COEs will focus on specialized areas of industry to improve inspector competencies and promote consistency across ports. For example, the Coast Guard Cruise Ship COE in Miami, Florida was created to recognize and address cruise ship complexity, industry

ENCLOSURE 1: Marine Safety Improvement Plan

growth, and attendant risk. Specialized vessel inspection approaches were developed to improve inspector competence, effectiveness, and efficiency in nationwide cruise ship inspections. The support staff manages a resident 6-day course which provides instruction on USCG policy, and covers technical and management issues for foreign flagged cruise ships. COEs are appropriate for existing industry sectors and projected growth areas including investigations, LNG ships, towing vessels, fishing industry vessels, and outer continental shelf activity. COEs also will provide deployable casualty response and surge capacity.

Improve information technology systems.
The Coast Guard will incorporate tools to improve access and the exchange of information between industry and government using existing marine exchanges as a model. Such systems provide real-time, technology-based information to capture and manage the maritime transportation system. The Coast Guard will enhance web-based portals for sharing information and lessons learned between Coast Guard field personnel and industry, and include Coast Guard office directories and contact methods. The Coast Guard also will provide help-desks and FAQs to facilitate transparency.

Increase rulemaking capacity to expedite regulatory implementation.
The Coast Guard will increase capacity to address current and anticipated rulemaking projects. Increased rulemaking capacity requires additional support for project management, rulemaking development, economic analysis, environmental analysis, technical writing, and administrative law capacity to ensure legal sufficiency and efficacy of implementing regulations. We will publish timely guidance to assist regulated industry with implementation. To the extent practicable, the Coast Guard also will prepare legislative change proposals that minimize required rulemaking process time.

Improve mariner credentialing through greater efficiency, transparency and capacity.
The National Maritime Center (NMC) consolidation began in 2005. Located in West Virginia, recent accomplishments include implementation of the Mission Management System and reduction in cycle time by 25 percent since September 2006. The following milestones will further improve service delivery to the mariner:

- Credentialing help desk fully staffed by February 2008;
- Online self-help application tracking and payment options via www.pay.gov;
- Bulk application processing for academies, schools and industry groups;
- Issue of merchant mariner licensing documents in less than one week; and
- Rebuild primary computer system and implement web-based processing.

ENCLOSURE 1: Marine Safety Improvement Plan

Expand Outreach and Advisory Mechanisms for Industry and Communities

Establish an Assistant Commandant for Marine Safety, Security, and Stewardship
The Assistant Commandant for Marine Safety, Security, and Stewardship will direct and integrate Marine Safety, security, and environmental protection doctrine, policy, plans, and regulations. This flag officer will be the Coast Guard's national Marine Safety leader and will ensure alignment throughout the Coast Guard and among federal and international partners. This flag officer will be responsible for developing and promulgating national policy in prevention, response and waterways management, as well as leading and overseeing the important work of numerous federal advisory committees and industry partnerships.

Establish a national council of maritime advisors for the Commandant.
A council of maritime advisors will inform the Commandant of national maritime trends and issues of concern. This council will draw its membership from industry leaders, governors, academics, former military and government officials, and media.

Exercise leadership at international, national, regional, state, and local safety, security, and environmental committees
We will commit resources to lead, support, and engage these committees to collectively advance the shared goals of safety, security, and environmental stewardship. These fora also offer important opportunities to shape regulatory initiatives, and develop non-regulatory solutions where appropriate. We will incorporate customer engagement using quality processes to elicit maritime input as previously done with the "Prevention through People" philosophy.

Conclusion. The Coast Guard has established a clear way ahead to enhance the Marine Safety program. The proposed courses of action are responsive to external stakeholders and overseers, and supportive of work in progress and ongoing initiatives.

ENCLOSURE 2: Marine Casualty Investigation Officer Doctrine

R 241806Z APR 08 ZUI ASN-A00115000012 ZYB FM COMDT COGARD WASHINGTON DC//CG-5// TO ALCOAST BT UNCLAS //N16732// ALCOAST 194/08 COMDTNOTE 16732
SUBJ: MARINE CASUALTY INVESTIGATING OFFICER DOCTRINE A. COMDT COGARD WASHINGTON DC 191735Z NOV 07/ALCOAST 541/07 B. MARINE SAFETY MANUAL VOLUME V, COMDTINST M16000.10A C. MARINE SAFETY MANUAL VOLUME I, COMDTINST M16000.6 D. COMCOGARD PERSCOM ARLINGTON VA 250057Z MAR 08/ALCGOFF 037/08 E. COMDT COGARD WASHINGTON DC 081630Z AUG 07/ALCOAST 387/07 1. REFERENCE A PROVIDED INITIAL GUIDANCE ON RESPONSE DOCTRINE FOLLOWING SIGNIFICANT INCIDENTS. THIS MESSAGE REITERATES AND EMPHASIZES THE IMPORTANCE OF POLICIES CURRENTLY IN PLACE THAT STRIVE TO ENSURE THE INTEGRITY OF THE MARINE CASUALTY INVESTIGATIONS PROGRAM. IN SUPPORT OF THIS EFFORT, THIS MESSAGE ANNOUNCES THAT REFERENCE B HAS BEEN PROMULGATED THIS DATE AND WILL BE PUBLISHED SHORTLY.
2. THERE HAS BEEN AN OVERALL DECREASE IN THE EXPERIENCE OF COAST GUARD MARINE CASUALTY INVESTIGATING OFFICERS (IO). THIS IS DUE IN PART TO THE ASSIGNMENT OF NEWLY COMMISSIONED OFFICERS AND OTHER OFFICERS THAT DO NOT MEET THE ESTABLISHED PREREQUISITES AND HAVE NO PRIOR EXPERIENCE AS INVESTIGATING OFFICERS AND TO THE INFORMAL, BUT ROUTINE, PRACTICE OF ROTATING THESE OFFICERS THROUGH SEVERAL "PROFESSIONAL GROWTH ASSIGNMENTS" DURING THEIR TOUR AT A SECTOR OR SUBORDINATE UNIT.
3. IN AN EFFORT TO STRENGTHEN THE MARINE CASUALTY INVESTIGATION PROGRAM, COMDT (CG-545) IS DEVELOPING AN ACTION PLAN THAT WILL ENSURE IO BILLETS ARE STAFFED WITH A CORPS OF WELL TRAINED, CERTIFIED AND EXPERIENCED MARINE CASUALTY INVESTIGATING OFFICERS.
UNTIL THE PLAN IS FULLY COMPLETED AND IMPLEMENTED THERE ARE SEVERAL STEPS THAT SECTOR COMMANDERS AND MSU COMMANDING OFFICERS MUST TAKE TO ENSURE THAT THE OVERSIGHT AND COMPLETION OF MARINE CASUALTY INVESTIGATIONS IS DONE BY CERTIFIED MARINE CASUALTY INVESTIGATORS.
4. I CANNOT OVERSTRESS THAT PROPER TRAINING IS ONE OF THE MOST IMPORTANT ASPECTS OF ENSURING OUR PERSONNEL ARE PREPARED AND MOTIVATED TO DO THE JOB. CORE COMPETENCIES, PREREQUISITES FOR BECOMING A MARINE CASUALTY INVESTIGATOR AND COMPLETING EACH STEP IN THE TRAINING AND CERTIFICATION PROCESS, MUST BE UPHELD.
5. COMDT (CG-545) IS RESPONSIBLE FOR DETERMINING MISSION ESSENTIAL TRAINING REQUIREMENTS FOR ALL MARINE CASUALTY INVESTIGATORS IN ORDER TO MEET COAST GUARD AND PROGRAM OPERATIONAL COMMITMENTS.
ONLY COMDT (CG-545) MAY GRANT A WAIVER TO ANY CERTIFICATION OR MINIMUM STANDARD FOR TRAINING. UPDATED PERFORMANCE QUALIFICATION STANDARDS WERE ANNOUNCED IN REFERENCE E. COAST GUARD COMMANDS SHALL ENSURE THAT ALL PERSONNEL REQUESTING AND ASSIGNED TO TRAINING MEET ALL COURSE PREREQUISITES.
6. IN ACCORDANCE WITH POLICY IN REFERENCES B AND C, PERSONNEL ASSIGNED TO AN OPERATIONAL BILLET AS A MARINE CASUALTY INVESTIGATOR SHOULD ALREADY BE FAMILIAR WITH MARINE SAFETY LAWS AND REGULATIONS THROUGH PRIOR TRAINING AND QUALIFICATIONS, GENERALLY, AS A MARINE INSPECTOR PRIOR TO BEING ASSIGNED TO MARINE CASUALTY INVESTIGATION DUTIES. TO FACILITATE THIS REQUIREMENT DURING AY 2009 ASSIGNMENT SEASON AND BEYOND, I HAVE DIRECTED COMDT (CG-545) TO WORK WITH THE APPROPRIATE HEADQUARTERS OFFICES AND PERSONNEL COMMAND TO ENSURE THAT ALL INVESTIGATING OFFICER BILLETS ARE PROPERLY CODED TO INDICATE THE PREREQUISITE QUALIFICATIONS REQUIRED FOR PERSONNEL TO BE ASSIGNED AND TO FACILITATE THE EFFORTS BY PERSONNEL COMMAND TO FILL THE BILLETS WITH APPROPRIATE CERTIFIED PERSONNEL.
7. THE MARINE CASUALTY INVESTIGATIONS PROGRAM IS CONSIDERED AN ADVANCED LEVEL OF THE COAST GUARD MARINE SAFETY COMMUNITY.

ENCLOSURE 2: Marine Casualty Investigation Officer Doctrine

ACCORDINGLY, QUICK INTERNAL ROTATION THROUGH AN INVESTIGATING OFFICER BILLET IS INAPPROPRIATE. PERSONNEL ASSIGNED ARE EXPECTED TO HAVE HAD PRELIMINARY TOURS RENDERING SUCH TICKET-PUNCHING UNNECESSARY. AS WITH SHORT TOURS, ACTIVE DUTY MARINE CASUALTY INVESTIGATORS MAY OCCASIONALLY BE SELECTED FOR REASSIGNMENT WITHIN A UNIT. SUCH REASSIGNMENTS ARE BASED ON THE NEEDS OF THE COMMAND AND ARE OFTEN REQUIRED TO FILL CRITICAL POSITIONS WITHIN THE COAST GUARD. BECAUSE OF THE ENORMOUS INVESTMENT OF TRAINING AND EXPERIENCE REQUIRED TO CERTIFY AS A MARINE CASUALTY INVESTIGATOR AND TO GAIN TECHNICAL COMPETENCE, INTERNAL ROTATIONS AND SHORT TOURS ARE HIGHLY DISCOURAGED AND SHOULD BE MADE ONLY IN ACCORDANCE WITH REFERENCE D.

8. IN ORDER TO BECOME CERTIFIED AS A MARINE CASUALTY INVESTIGATOR, THE IO MUST COMPLETE PQS AND SIT BEFORE A QUALIFICATION BOARD CONSISTING OF PERSONNEL THAT ARE CERTIFIED IN THAT SPECIALTY. TO BE CONSIDERED CERTIFIED AS A MARINE CASUALTY INVESTIGATOR THE IO MUST BE ASSIGNED TO AN OPERATIONAL BILLET AS A MARINE CASUALTY INVESTIGATOR, BE DESIGNATED IN WRITING AS AN IO BY THE COGNIZANT OCMI, HAVE ATTENDED THE BASIC INVESTIGATING OFFICER COURSE (IOC) AT TRACEN YORKTOWN AND HAVE COMPLETED THE MARINE CASUALTY INVESTIGATOR
(FO) QUALIFICATION. UNTIL THE IO HAS COMPLETED THEIR CERTIFICATION, THEY SHALL, AT ALL TIMES, BE UNDER THE SUPERVISION OF A CERTIFIED MARINE CASUALTY INVESTIGATOR AND SHALL NOT BE AUTHORIZED TO CONDUCT AN INDEPENDENT MARINE CASUALTY INVESTIGATION. PERSONNEL MUST COMPLETE THE PQS ANNOUNCED IN REFERENCE E. LOCAL QUALIFICATIONS ARE NOT AUTHORIZED. IN ORDER TO ALLOW PROPER IDENTIFICATION OF CERTIFIED PERSONNEL, UNITS SHOULD ENSURE THEY KEEP THE TMT DATA BASE UP TO DATE WITH IO AND OTHER CERTIFICATIONS.

9. IF YOUR UNIT LACKS THE APPROPRIATE CERTIFIED PERSONNEL TO CONDUCT A MARINE CASUALTY INVESTIGATION, THEN YOU SHALL SEEK ASSISTANCE OUTSIDE OF YOUR UNIT. COMDT (CG-545) IS CONDUCTING A STUDY OF THE STATUS OF IO QUALIFICATIONS, INCLUDING PERSONNEL CURRENTLY ASSIGNED TO IO BILLETS AND THOSE WITH IO CERTIFICATIONS NOT ASSIGNED TO IO BILLETS. ON APRIL 18, COMDT (CG-545) REQUESTED DATA FROM ALL UNITS DOCUMENTING CERTIFICATION AND BILLET INFORMATION ON ALL INVESTIGATING OFFICERS. IF, IN THE PROCESS OF COMPLETING THE DATA CALL, A UNIT WITH A SHORTFALL OF CERTIFIED MARINE CASUALTY INVESTIGATORS IDENTIFIES A CERTIFIED MARINE CASUALTY INVESTIGATOR NOT CURRENTLY ASSIGNED TO AN IO BILLET, THE UNIT SHOULD CONSIDER FOLLOWING THE GUIDANCE OF REFERENCE D TO INTERNALLY ROTATE THAT CERTIFIED PERSON INTO AN IO BILLET, OR AS AN ALTERNATIVE, IDENTIFY THEM AS A RESOURCE TO SUPERVISE ALL MARINE CASUALTY INVESTIGATIONS UNTIL SUCH TIME AS THE UNIT IS ASSIGNED CERTIFIED PERSONNEL. IF A UNIT HAS NO CERTIFIED MARINE CASUALTY INVESTIGATORS, COMDT (CG-545) WILL WORK TO IDENTIFY AVAILABLE RESOURCES TO ASSIST.

10. RDML BRIAN SALERNO, ASSISTANT COMMANDANT FOR MARINE SAFETY, SECURITY AND STEWARDSHIP, SENDS.

11. INTERNET RELEASE AUTHORIZED.

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