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COSCO BUSAN AND MARINE CASUALTY INVESTIGATION PROGRAM

(110–112)

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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April 9, 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 COSCO BUSAN and Marine Casualty Investigation Program

PURPOSE OF THE HEARING

On Thursday, April 10, 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 "Allision of the M/V COSCO BUSAN with the San Francisco-Oakland Bay Bridge." This report was completed pursuant to a request made by Speaker of the House Nancy Pelosi and Subcommittee Chairman Elijah E. Cummings on December 4, 2007.

Additionally, the Subcommittee will examine the recent sinking of the Fishing Vessel ALASKA RANGER on March 23, 2008, which caused the deaths of 5 crewmembers (including the Master, the Mate, Chief Engineer, the Fishing Master, and a crew member). This incident is the subject of on-going investigations by a Coast Guard Marine Board of Investigation and by the National Transportation Safety Board (NTSB).

By examining the OIG's report on the COSCO BUSAN – and by looking at the ALASKA RANGER's participation in an alternative inspection program established by the Coast Guard – the Subcommittee will continue its assessment of the ability of the Coast Guard's marine safety program to effectively regulate the maritime industry and to respond to major marine casualties.

BACKGROUND

COSCO BUSAN ALLISION WITH THE SAN FRANCISCO-OAKLAND BAY BRIDGE

The M/V COSCO BUSAN hit a support under the San Francisco-Oakland Bay Bridge at 8:30 a.m. on November 7, 2007, resulting in the release of an estimated 53,653 gallons of fuel oil (according to the OIG's report).

The Subcommittee held a field hearing in San Francisco on November 19, 2007, to conduct an initial examination of the allision. Following the hearing, Speaker Pelosi and Subcommittee Chairman Cummings requested the DHS OIG to "conduct a review of the facts and circumstances surrounding the allision and the subsequent investigation and response." Specifically, the OIG was asked to examine three aspects of the COSCO BUSAN incident, including (1) the role of the San Francisco Vessel Traffic Service (VTS) in the incident; (2) the Coast Guard's conduct of the immediate post-accident casualty and pollution investigation; and (3) the effectiveness of the response to the oil spill resulting from the allision of the COSCO BUSAN with the Bay Bridge.

In response to this request, the OIG has issued a report entitled "Allision of the M/V COSCO BUSAN with the San Francisco-Oakland Bay Bridge." The main findings of this report are summarized below. Importantly, the OIG report assesses only those aspects of the allision and subsequent response referred to it for review. The OIG did not investigate the probable cause of the accident, which is under review through other on-going investigations.

Vessel Traffic Service (VTS)

The OIG has found that the San Francisco VTS watchstanders were monitoring the COSCO BUSAN throughout the morning of November 7 and were in compliance with established procedures for managing transits during periods of restricted visibility. The watchstanders appropriately notified the ship's pilot of the conditions of reduced visibility prevalent in the Bay that morning and made appropriate inquiries of the ship's intentions throughout its transit – including up to the time the ship hit the Bay Bridge column.

The OIG found that due to the nature of extant software, the VTS system experiences a lag time between when a vessel maneuver is executed and when it is displayed on the VTS console. This lag time prevents a VTS watchstander from receiving the real-time data that would be necessary to enable watchstanders to direct individual vessel maneuvers. Consequently, by the time the VTS data showed watchstanders that the COSCO BUSAN was not in the appropriate position to transit between the Delta and Echo spans of the Bay Bridge as it intended to do, the ship had already started to execute the turn that eventually caused it to hit the bridge column. OIG stated definitively in its report that the "watchstanders on duty before the accident could not have taken any additional action that would have prevented the casualty."

The OIG did find that the software in use then (and now) at San Francisco VTS is the Coast Guard Vessel Traffic System which was installed in the 1990s rather than the more advanced Ports and Waterways Safety System (PAWSS) utilized in other VTS centers. The newer system had been partially installed in San Francisco – and provided some upgrades in technical capacity – but the installation was not fully completed due to funding constraints in 2003 and 2004.

The OIG also found that the VTS has the authority under existing laws to prohibit larger commercial vessels and passenger ferries from transiting the Bay during periods of reduced visibility; VTS also has the authority "to institute and enforce measures to enhance navigation and vessel safety and to protect the marine environment." Nonetheless, the criteria that would be necessary to enable watchstanders to determine what measures should be required of vessels during specific conditions of reduced visibility have not been developed. OIG reports that Coast Guard Sector San Francisco and the San Francisco Harbor Safety Committee are considering issuing new guidelines pertaining to transits during periods of reduced visibility.

The OIG also reports that the San Francisco VTS will institute a new policy to require that in addition to the three watchstanders always on duty managing vessel transits at the VTS, a fourth watchstander will assume duties managing transits during periods of reduced visibility. Among other duties, the fourth watchstander will be assigned to zoom electronic displays onto localized areas of the Bay to enhance awareness of local conditions so appropriate advisories can be provided to ships in transit.

The OIG provided two specific recommendations to improve the operations of VTS centers. First, the OIG found that the Coast Guard does not have in effect a VTS national standard operating procedure. Rather, VTS watchstanders follow guidance provided in the Coast Guard's Marine Safety Manual, which the OIG stated provides only "general concepts" for VTS operations. The OIG recommended that the Coast Guard develop National Standard Operating Procedures. Specifically, the OIG recommended that these procedures should address the following issues.

- VTS watchstanders should be required to be tested for drug and alcohol use following a casualty. Following the COSCO BUSAN allision, the VTS watchstanders were not tested for drug and alcohol use. OIG notes that this testing did not occur because Coast Guard personnel were unaware of Coast Guard personnel manual policies and Department of Transportation orders requiring such testing. Because no testing was performed, it is not possible to affirmatively state that watchstander drug or alcohol use was not a factor in this accident.
- All VTS centers should be required to synchronize the data they receive, including audio, video, and tracking data. OIG found that data was not synchronized at the San Francisco VTS on November 7, 2007, which complicated the effort to recreate the chain of events leading up to the allision.
- Center-specific quick response sheets should be developed for all VTS centers. OIG found that the San Francisco VTS did not have quick response sheets to guide watchstander actions following an accident such as occurred on November 7.

Additionally, the OIG recommended that the Coast Guard work with officials in San Francisco and Oakland, the San Francisco Pilot's Association, and the San Francisco Harbor Safety Commission to develop criteria that would guide vessel transits through San Francisco Bay during periods of reduced visibility.

Marine Casualty and Pollution Investigation

The OIG was very critical of the Coast Guard's investigation of this marine casualty. The OIG found that five of the six individuals assigned to marine casualty investigator billets were not

qualified for those positions; all three of the individuals who responded to the COSCO BUSAN were unqualified as marine casualty investigators. While the OIG does not define the term "qualified," a member of the Coast Guard is typically said to be a qualified as an marine casualty investigating officer when he or she receives a "letter of qualification," which is issued following the completion of performance qualification standards (which, in turn, are completed through on-the-job training, applicable coursework at Coast Guard training centers, and effective completion of an oral examination administered by qualified Coast Guard personnel).

Likely as a result of inadequate training and experience – and the use of inadequate manuals – the investigators who responded to the COSCO BUSAN failed to identify, collect, and secure perishable evidence related to this casualty. The investigators failed to secure the COSCO BUSAN's communications and navigational systems to allow examination to be made of whether they were fully operational at the time of the allision. The investigators failed to identify the presence on the ship of a Voyage Data Recorder and they failed to secure it. The investigators also did not secure aids to navigation along the vessel's transit route so that their operability could be assessed. The investigators did perform breathalyzer tests of the Master of the vessel and the personnel working on the bridge at the time of the allision. The Master was also tested by his employer for drugs within 32 hours of the incident as required following a major casualty; however, the Coast Guard failed to ensure that all other vessel personnel involved in the incident were tested for drugs within the required 32-hour period and the Coast Guard failed to test VTS watchstanders for drug and alcohol use.

Additionally, the Coast Guard incorrectly classified the investigation of the COSCO BUSAN casualty as an informal investigation rather than a formal investigation. Both of these investigations require that the Coast Guard's investigating personnel create a timeline of events, analyze the causes of the accident, and recommend safety improvements as warranted. However, the formal investigations also require that evidence support every fact of the incident; that is not possible in this case because some critical evidence was not collected.

The OIG found that the Pollution Investigators dispatched by the Coast Guard to the COSCO BUSAN gathered inaccurate information about the size of the spill – in part because language barriers prevented the Pollution Investigators from verifying figures in the ship's oil logbook and on the ship's oil gauges. Additionally, reduced visibility in the Bay prevented the Coast Guard from dispatching a helicopter to conduct an overflight to assess the amount of oil in the water following the allision. Importantly, however, the Coast Guard's Response Department assumed that the spill likely involved more oil than the 142 gallon figure received by the Coast Guard's Pollution Investigators. Despite these doubts, however, the Coast Guard itself decided to release the 142-gallon figure to the public – a decision that the service now acknowledges was a mistake.

An accurate assessment of the total volume of oil spilled was made by an expert from the California Office of Spill Prevention and Response (OSPR); however, the expert was delayed in reaching the COSCO BUSAN because the State of California did not have a boat that could take the individual to the ship. OIG reports that it took the expert approximately one hour after boarding the ship to complete a sounding of the ship's bunker tanks and to determine that "at least" 58,000 gallons had been released from the COSCO BUSAN. The expert did not want to communicate this conclusion via personal cell phone because of privacy concerns; however, the expert had to again wait for transportation back to shore after assessing the size of the spill and this delayed notification

to Coast Guard that the initial information that had been released about the spill was inaccurate. Once the Coast Guard was informed of the accurate spill size estimate, it was further delayed in releasing that information to the public due to the "the time required for the press release approval process."

Nonetheless, the OIG has found that the response to the spill was not impeded by the error of the original spill size estimate and the Coast Guard based its response on the worst case scenario (which was the possibility that all of the oil on the vessel – up to 2 million gallons – had been released).

The OIG developed three recommendations to improve the Coast Guard's Casualty and Pollution Investigation operations.

- The Coast Guard should update marine casualty investigation policies and procedures to ensure that "all relevant evidence is collected" and to clarify the drug and alcohol testing protocols to be applied to Coast Guard personnel (particularly VTS watchstanders) following a marine casualty.
- The Coast Guard should clarify the duties to be performed by Pollution Investigators to quantify the volume of oil spilled following a marine incident and to clarify what measures Pollution Investigators should employ to independently verify the size of an oil spill. Additionally, the OIG recommended that the Coast Guard should either employ experts who can independently quantify the size of an oil spill or assess the costs and benefits of providing the training to Pollution Investigators necessary to enable them to quantify the size of a spill.
- The Coast Guard should ensure that individuals who are qualified as investigating officers are assigned to such billets at Sector San Francisco.

Oil Spill Response

The OIG reports that the San Francisco Area Contingency Plan is based on a worse case scenario involving a spill of up to 50 million gallons of oil and was adequate to guide the response to the size of the spill and type of oil released from the COSCO BUSAN. The OIG further reports that the response mounted to the COSCO BUSAN spill implemented the provisions of the Area Contingency Plan – and that the "Unified Command effectively managed the resources it had available to contain and remedy the spill." Further, the OIG found that the San Francisco Area Contingency Plan includes a rapid response plan to guide the treatment of wildlife and marine resources that are affected by oil; OIG found that this plan was implemented.

Nonetheless, there appear to have been some shortcomings in the San Francisco area's planning process. The OIG found that the Area Contingency Plan failed to identify suitable locations where a command post could be located; as a result, it was necessary to move the command post twice in the early days of the oil spill. Further, the OIG found that attendance by local jurisdictions and by local entities in the maritime industry at Area Committee Meetings had been sporadic in the two years preceding November 7, 2007. Similarly, the City of San Francisco Department of Emergency Management had failed to include oil spills on its All-Hazards Response List and had never interacted with the Coast Guard regarding oil spills.

The OIG reported that the Unified Command was established to direct the response to the spill within one hour and 15 minutes of the allision. The Responsible Party's contracted response organizations quickly began their response activities and far exceeded the time frame within which the response was legally required to begin skimming oil.

A Joint Information Command was established on November 7 – but no parties except the Coast Guard chose to participate on the first day of the incident. Participation increased on subsequent days but did not reach full strength until several days had passed, which "placed the responsibility of responding on behalf of the Unified Command solely and inappropriately on the Coast Guard."

The OIG found that the Coast Guard failed to make required notifications to the National Response Center and the State of California's Office of Emergency Services immediately following the allision of COSCO BUSAN with the Bay Bridge. These notifications should have been completed by Sector San Francisco's watchstanders; instead, they were completed by the Responsible Party. The OIG found that the failure of the watchstanders to make these notifications did not impact the initiation of the spill response but could have slowed the notifications that are in turn required to be made by the State of California and the National Response Center.

The OIG found that other delays in the provision of notification to local jurisdictions throughout the Bay region occurred "due to problems in coordination among members of the Unified Command, including the Coast Guard and the State of California" – not because the Contingency Plan failed to specify how notifications were to be provided.

During the course of the response to the oil spill, a number of volunteers sought to aid in oil clean-up efforts. OIG reports that the Area Contingency Plan details the training that volunteers are required to complete to handle hazardous materials. Only on the fifth day of the incident did the Cities of San Francisco and Berkeley develop a process for training and credentialing volunteers to assist in cleaning up oil.

The OIG developed four recommendations to improve the preparedness of the San Francisco area to respond to a future oil spill. Specifically, the OIG recommended that the Coast Guard should:

- Review the operating procedures in place in Sector San Francisco to ensure that Quick Response Checklists are current and reflect the requirements of the San Francisco Area Contingency Plan;
- Ensure that personnel in Sector San Francisco are adequately trained on the implementation of the tasks required in the Quick Response Checklists;
- Identify locations that can house Incident Command Posts – including a concomitant Joint Information Center – and conduct oil spill response exercises in these locations; and,
- Incorporate procedures for training and credential volunteers in the Area Contingency Plan.

<u>Medical Waivers for Pilots</u>

After the 90-day review of the COSCO BUSAN incident was requested from OIG by Speaker Pelosi and Chairman Cummings, questions were raised regarding the medical fitness of the pilot on board the COSCO BUSAN on the day of its allision with the Bay Bridge. Media reports

have indicated that the pilot had a waiver for a medical condition. Further, following the allision, the pilot agreed to voluntarily deposit his pilot's license with the Coast Guard due to a medical condition. Under the provisions of the voluntary deposit process, if the medical condition is resolved, a deposited license can be returned.

In its report, the OIG details how the process of evaluating the medical fitness for duty of mariners is changing. Under current federal law (Title 46, Section 7101), pilots are required to have an annual medical exam; however, prior to 2007, the results of these annual exams were required to be submitted to the Coast Guard only upon request. In September 2006, the Coast Guard announced that it would require the formal submission of pilots' annual medical reports by December 2006 (and that deadline was later extended to April 2007).

Subsequently, the Coast Guard announced that all medical data would be forwarded to the National Maritime Center beginning in October 2007 for review by the Center's medical staff; full implementation of this review process is not expected to begin until September 2008. Prior to this change, medical information was examined in the REC through which a mariner applied for a document or license. Waivers for medical conditions were issued at the REC by Coast Guard officers who were not medical professionals.

The pilot of the COSCO BUSAN submitted his most recent medical examination report to the Coast Guard's Regional Exam Center (REC) in San Francisco prior to the initiation of the changes in the review process – where it was "verified but not reviewed" according to the OIG's report.

LOSS OF F/V ALASKA RANGER ON MARCH 23, 2008

Early on the morning of March 23, 2008, the 200-foot Fishing Vessel (F/V) ALASKA RANGER began taking on water in its rudder room, and within two hours, sank into the deep waters of the Bearing Sea 90 miles west of Dutch Harbor, Alaska. There were 47 crewmembers on board the vessel at the time; a total of 42 crew members were successfully rescued by the combined efforts of another fishing vessel owned by the same company that owned the ALASKA RANGER and by Coast Guard assets, including the High Endurance Cutter (WHEC) MUNRO and aircraft based in Alaska. Despite the rescue effort, the master, mate, engineer, and a crewmember died in the incident; the vessel's fishing master is missing and presumed dead.

Background

ALASKA RANGER was a freezer trawler that was one among 40-50 other similar vessels participating in the Alternative Compliance and Safety Agreement (ACSA) program developed by Coast Guard Districts 13 (Pacific Northwest) and 17 (Alaska) after several tragedies involving other ships in this fleet, including the rapid sinking of the F/V ARCTIC ROSE in 2001 (resulting in the loss of all 15 crewmember), and a fire on board the F/V GALAXY in 2002 (which resulted in the deaths of three crewmembers).

After these two tragic events, the Coast Guard determined that many fishing vessels in the Alaska ground fishery fleet were more appropriately classified as "fish processing vessels" because they were doing more than just "heading and gutting" (H&G) the fish that they caught. Importantly, unlike other types of fishing vessels, "fishing processing vessels" are required to have a "load line" (which is a line affixed to a vessel to enable measurements to be made of whether the vessel is overloaded) and to be built or maintained in accordance with "rules" (standards) developed by a recognized vessel classification society, such as the American Bureau of Shipping. However, because many of the vessels in this fleet are more than 20 years old, classification societies would not allow them to participate in their programs.

There were two apparent alternatives available for these vessels if the Coast Guard strictly enforced all applicable regulations. The vessels could go out of business, or they could undertake fishing activities that did not involve "processing" fish by reverting to activities that did not exceed heading and gutting fish. However, if the vessels limited their activities to just heading and gutting fish, the vessels would continue to operate without being required to make any improvements in their safety features.

Finding both of these alternatives unattractive, the Coast Guard and industry chose to create a third alternative: the Coast Guard created the ACSA that would not involve the formal classification of the boats in this fleet but would require substantial structural upgrades to these vessels. As part of the ACSA, the Coast Guard developed an inspection regime under which it examined the vessels to assess their stability; conducted a dry-dock and internal structural examination; examined the tail (propeller) shafts on the vessels;

determined the thickness of the hull plating by audio gauge; examined all watertight and weather-tight closures; inspected and tested machinery; determined the adequacy, condition, and storage of lifesaving equipment; examined all fixed fire fighting equipment and fire fighting plans; examined communications and navigation equipment; and determined the number of certified drill conductors required for these vessels based on the total number of crew members.

To participate in the ACSA program, the owner of a vessel in the "head and gut" fleet was required to submit an enrollment application by July 15, 2006. No later than May 1, 2007, a Coast Guard inspector from Sector Anchorage or Sector Seattle should have performed a preliminary examination of the vessel as described above to identify all discrepancies between the vessel's current condition and required safety standards. Following the examination, the Coast Guard inspector provided a work list of requirements to the vessel owner with specific completion dates for each deficiency.

Not later than June 1, 2007, according to the ACSA program agreement, "a letter authorizing interim enrollment" for a vessel "making a good faith effort for correction of all deficiencies noted" could be issued to a vessel. All items were to have been completed on each vessel to allow that vessel's final enrollment into the ACSA program no later that January 1, 2008. However, waivers for meeting the full compliance deadline could be considered by the Officer of Marine Inspection "on a case by case basis."

Most of the vessels in the "head and gut" fleet signed-up for the ACSA, and many of them are now in full compliance with the agreement. According to documents provided by the Coast Guard, all totaled, owners of these vessels may have spent approximately $40 million upgrading their vessels and thus substantially improving the quality of the fleet.

The ALASKA RANGER was enrolled in the ACSA but was NOT in full compliance with all of the provisions of the program agreement despite the fact that the deadline for completing all items identified by the Coast Guard as needing improvement or correction was January 1, 2008. Given that the deadline had passed at the time the vessel sank, the Committee has asked the Coast Guard whether a waiver was granted to the

ALASKA RANGER

On March 31, 2008, Congressman James L. Oberstar, Chairman of the Committee on Transportation and Infrastructure, and Congressman Elijah E. Cummings, Chairman of the Subcommittee on Coast Guard and Maritime Transportation, requested that the Commandant of the Coast Guard provide the Committee with all the records pertaining to the enrollment of the ALASKA RANGER in the ACSA.

What is known about the casualty?

The following timeline is compiled from Coast Guard and media reports.

At 0205 AKDT (Alaska Daylight Time) on March 23, 2008, the F/V ALASKA RANGER issued a MAYDAY reporting "uncontrolled flooding."

The Coast Guard diverted the CGC MUNRO to the scene. The CGC MUNRO launched an H-65 helicopter. A C-130 aircraft was also launched from Air Station Kodiak and an H-60 helicopter was launched from St. Paul.

The F/V ALASKA WARRIOR (a fishing vessel owned by the same company that owned the ALASKA RANGER, the Fishing Company of Alaska) was nearby and responded to the MAYDAY.

By 0500, the crew of ALASKA RANGER was abandoning the vessel – some into life rafts and others directly into the frigid water. The officers on board the vessel were the last to leave the vessel.

The ALASKA WARRIOR rescued 22 crewmembers – mostly from life rafts. Coast Guard helicopters rescued 20 crewmembers – most of them directly from the water – and delivered them the CGC MUNRO. A Coast Guard rescue swimmer spent several hours in a raft to make additional space in a helicopter that was delivering survivors to the MUNRO.

The National Transportation Safety Board (NTSB) launched an investigation of this incident on March 24, 2008, and the Commandant of the Coast Guard has convened a three-person Marine Board of Investigation to "investigate thoroughly the matter." Per the Commandant's instructions, "upon completion of its investigation, the Board will report to the Commandant the evidence adduced, the facts established thereby, and its conclusions and recommendations with respect thereto...," and "complete and submit your investigative report to the Commandant within six months." The Coast Guard and the NTSB are conducting joint hearings but may issue separate reports on this casualty.

What is known from the investigation to date?

Testimony received at the public hearings by the NTSB and Marine Board has indicated:

- The ALASKA RANGER was enrolled in the ACSA program.
- The vessel had been examined in June 2007 while drydocked in Seattle and was later drydocked in Japan. Examinations were performed and a work list of items needing attention was developed by the Coast Guard.
- The ALASKA RANGER returned to the U.S where the vessel was examined by a Coast Guard commercial fishing vessel dockside examiner for compliance with lifesaving, fire-fighting, and emergency drill requirements. Additional work was preformed in Dutch Harbor, Alaska, and was examined by a Coast Guard inspector, who found that the repairs that were done were adequate – but that there were still outstanding deficiencies that needed to be completed.
- Surviving crewmembers reported witnessing flooding in the rudder room, but were unable to determine the source. Leaks were noted in bulkheads and flooding appeared to progress from the rudder room to other parts of the vessel.

Questions raised by the casualty:

A number of questions are raised by this casualty that have not yet been answered. For example, what deficiencies on ALASKA RANGER were outstanding at the time of the casualty? Was the vessel owner making a good faith effort to bring the vessel into compliance with the ACSA? Was the vessel issued a letter exempting it from the requirements for a "fish processing vessel" – including construction and maintenance in accordance with the "rules" of a recognized classification society and receipt of a "load line"? Are there issues with the Marine Information for Safety and Law Enforcement (MISLE) safety database system as it applies to the ACSA program? Was there full cooperation between District 17 and Sector Anchorage and District 13 and Sector Seattle in the implementation and administrative details of the ACSA program?

PREVIOUS COMMITTEE ACTION

The Subcommittee on Coast Guard and Maritime Transportation held a hearing on the San Francisco oil spill in San Francisco, California, on November 19, 2007. Following that hearing, Speaker of the House Nancy Pelosi and Subcommittee Chairman Elijah E. Cummings requested the DHS OIG to examine the circumstances surrounding the allision of the COSCO BUSAN with the Bay Bridge and the effectiveness of the initial response to the oil spill resulting from that allision.

WITNESSES

Rear Admiral Brian Salerno
Assistant Commandant for Marine Safety, Security and Stewardship
United States Coast Guard

Ms. Anne Richards
Assistant Inspector General, Office of Audits
Office of Inspector General
Department of Homeland Security

HEARING ON COSCO BUSAN AND MARINE CASUALTY INVESTIGATION PROGRAM

Thursday, April 10, 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. The Subcommittee will now come to order.

Today's hearing gives us the opportunity to receive the report developed by the Department of Homeland Security's Office of Inspector General in response to a request made by Speaker Pelosi and myself for a comprehensive examination of the circumstances surrounding the allision of the COSCO BUSAN with the San Francisco Bay Bridge on November 7th, 2007.

We made that request following a special field hearing held by this Subcommittee in mid-November in San Francisco, during which we began our examination of this incident. At the time of that hearing, I promised that our Subcommittee would continue to follow up on this incident until we understood the facts surrounding it and, more importantly, had identified the lessons from it that needed to be applied to improve the safety of the maritime transportation industry. We continue to fulfill that promise today.

A number of investigations of the COSCO BUSAN allision are ongoing, including a critical review by the National Transportation Safety Board which is examining issues surrounding probable cause that we are not in a position to examine here today. We look forward to reviewing the results of those investigations when they are available.

Today, we specifically examine the Inspector General's findings regarding the role of the Vessel Traffic Service in the COSCO BUSAN allision, the adequacy of the Coast Guard's post-accident investigation, and the infectiveness of the response to the oil spill mounted by the Coast Guard and by State and local officials. We will cover all aspects of the report during the course of our hearing and look forward to the testimony of Ms. Anne Richards, Assistant Inspector General for Audits, who is representing Inspector General Skinner today.

However, let me say at the outset that I am deeply disturbed to learn that the Marine casualty investigators who responded to this incident were not qualified as casualty investigators and that the

apparent lack of job knowledge caused them to fail to secure certain critical evidence. I cannot believe that the Coast Guard would ever send someone who was not qualified, as a pilot of a plane or a helicopter. Yet, we have a circumstance here in which the individuals who were not qualified as casualty investigators were sent to examine a marine casualty that involved a 900-foot ocean-going vessel that had just hit the San Francisco Bay Bridge and was leaking thousands of gallons of oil into the San Francisco Bay.

During the second half of today's hearing we will focus on the tragic loss of a fishing vessel, ALASKA RANGER, which sank on Easter Sunday, March 23rd, 2008, resulting in the confirmed deaths of four crew members and the presumed death of a fifth crew member. Our prayers go out to the families of those who perished: Captain Eric Jacobson, Chief Engineer Daniel Cook, the mate, David Silveira, crewman Byron Carrillo, and Fishing Master Satoshi Cono of Japan, whose body has not yet been recovered.

Each time we confront one of these terrible tragedies, we are reminded of Sir Walter Scott's observation: it is no fish you are buying, it is men's lives. But we rejoice that 42 of the 47 crew members aboard the ALASKA RANGER were saved through the efforts of its sister ship, ALASKA WARRIOR, and by the truly amazing rescue operations mounted by the United States Coast Guard. During those operations, helicopter crews battled severe weather conditions to reach the vessel and rescue swimmers braved terrible conditions in the water to lift the crew members to safety. I especially commend Aviation Survival Technician Third Class Abraham Heller, who voluntarily stayed behind in the water in a small life raft to make room for additional survivors on the helicopter during that rescue.

ALASKA RANGER was one among a fleet of approximately 60 vessels known as head and gut fleet operating in the Gulf of Alaska and the Bering Sea. It was participating in an alternative compliance and safety agreement created by the Coast Guard to enable these ships to continue to operate as fish processors while requiring them to make significant and overdue safety improvements. This Alternative Compliance Program was created specifically because these vessels were too old to meet the standards that would otherwise have been required of them, including classification by a recognized class society and the acquisition of a load line.

While the development of such a partnership is an effort to improve the safety of one part of our Nation's deadliest profession, it is an initiative we applaud. It is deeply troubling that ALASKA RANGER appears to have been underway with major structural and watertight integrity issues that still needed to be corrected. This raises serious questions about the implementation of this Program, including the quality of the inspections of the vessels for compliance with the Program standards, extensions of exemptions from safety standards, and the lack of sufficient resources dedicated to the Marine Safety Program. We hope that Admiral Salerno can shed some light on the Alternative Compliance Program and specifically the ALASKA RANGER's participation in it.

As I close, I want to draw our focus to the broader issue here, one that is a theme continuing to concern this Subcommittee and certainly to the Chairman of the Full Committee, Congressman

Oberstar, and that is the ability of the Coast Guard's Marine Safety Program to effectively and efficiently regulate an increasingly complex marine industry and to respond to marine casualties. The Inspector General's report on COSCO BUSAN paints a picture of a Marine Casualty Program in Sector San Francisco that was not ready to respond when the bell rang. We await the Inspector General's comprehensive examination of the Coast Guard's Marine Casualty Program, which is now almost a year overdue. The report cannot be issued soon enough.

While I know that the Commandant has announced important changes to the Marine Safety Program, including the creation of 276 new billets, it will take significant time to train new personnel to achieve their qualifications in marine safety. Further, I understand that the Coast Guard wants to ensure that the Marine Safety Program is structured appropriately within the environment of a military service. The needs of that military structure should never be allowed to shortchange the needs of the regulatory program on which the maritime industry and the public count to ensure the safety of maritime transportation.

With that, I now ask that the Speaker of the House—I see that she has graciously joined us, thank you, Madam Speaker—joined us at this Subcommittee of the Coast Guard and Maritime Transportation for our hearing today. Although it is the Committee practice to limit participation in Committee hearings to Members of the Committee, I ask unanimous consent to allow the Speaker to participate in today's hearing. Without objection, so ordered.

If the minority leader, Mr. Boehner, wants to participate in some future hearing, I am sure that we will extend the same courtesy.

I know that the Speaker is on a very, very tight schedule, so, without objection, we will now hear from the Speaker.

Speaker PELOSI. Thank you very much, Mr. Chairman.

To you, to Ranking Member LaTourette, thank you for your hospitality this morning so that I could express my appreciation to your Subcommittee and this Full Committee.

Thank you, Mr. Coble, for being here this morning to this issue of concern to people of our area and important to our Country.

I want to thank Congresswoman Tauscher for being in the lead on this issue that affects the San Francisco Bay area as she has been over and over again. I know she is a valued Member of the Full Committee and I thank her for her attention, as I do Mr. Larsen.

What an honor for the Chairman of the Full Committee to be here, an honor for us that he is here. Thank you, Mr. Oberstar, for your knowledge, your wisdom, your attention to these important issues.

And to you, Mr. Cummings, Mr. Chairman, thank you so much on behalf of the people of the Bay Area for whom the San Francisco Bay is a value system in addition to it being an eco system. It is something we care deeply about and everyone feels very possessive of.

So when this incident occurred and the Chairman came almost immediately to California and held a hearing so that we could get the facts—you saw the turnout—hundreds of people turned out to see him, to express appreciation to him and to this Committee be-

cause basically the point is we don't want this to happen again. It is not about finger-pointing; it is about how do we prevent this from happening again.

Ms. Richards, thank you for the report from the IG. It was something that was called for by this Committee. And I am pleased that when I met with the Commandant yesterday, Admiral Allen, he concurred with all nine of the Inspector General's recommendations. Please give my best wishes to Inspector General Skinner and good wishes that his mother is healthy and well soon.

And again to Admiral Salerno, thank you to the Coast Guard, as I mentioned, the Commandant, for providing your full cooperation in this investigation and for the Coast Guard service to our Nation.

I am going to submit my fuller statement for the record, having expressed my appreciation to all concerned and my view that what is valuable about this for the people of our area is that lessens will be learned, it won't happen again there, and, broader than that, that it will be useful in terms of preventing it from happening elsewhere in the Country.

And, with that, I ask unanimous consent to submit my statement for the record——

Mr. CUMMINGS. Without objection, so ordered.

Speaker PELOSI.—with the deepest appreciation to Chairman Cummings for his tremendous leadership. Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you, Madam Speaker. Thank you.

We will now hear from the Ranking Member, Mr. LaTourette. And I want to thank Mr. LaTourette and the other side for your courtesy.

Mr. LATOURETTE. Well, thank you very much, Mr. Chairman.

And welcome, Madam Speaker, to the Subcommittee. If you have been on this Committee for a long time and Jimmy Miller calls you in the morning and says the Speaker has a tight schedule, you follow that and you move forward and do something else.

Mr. Chairman, I want to thank you for having this hearing. Five months ago this Subcommittee held a field hearing to review the events which resulted in the release of more than 58,000 gallons of bunker fuel into the San Francisco Bay. The spill, as we all know, caused environmental and economic damage throughout the region but, thankfully, these impacts were decreased by the Coast Guard's rapid response in conjunction with its Federal, State, and local partners.

While the response was successful in removing a sizeable percentage of the retrievable oil from the Bay waters, the first hearing raised several important questions on how the response efforts could have been improved through better communication with local officials and the general public.

I thank the Chairman for calling today's hearing to continue our examination of this and other questions, and look forward to using today's hearing to identify ways to further enhance the Service's response and investigation capabilities.

The Coast Guard and the National Transportation Safety Board have opened an official investigation into the factors that caused the COSCO BUSAN to strike the Bay Bridge. It is my understanding that this investigation is still underway and we will not

receive the final report for some months. However, I hope the witnesses will provide the Subcommittee with any preliminary findings that have been identified and any lessons learned that could be used to prevent and better response to similar incidents in the future.

I remain concerned that the Coast Guard's current funding and personnel levels may be hampering the Service's capabilities to successfully carry out its marine safety missions, including oil spill prevention and response in maritime casualty investigations. In our previous hearing, Rear Admiral Craig Bone testified that while the Coast Guard's marine safety personnel were not lacking in technical capacity, the Service is not receiving the necessary funding to support the numbers of marine inspectors and investigators necessary to keep up with the continued expansion of maritime industries and port operations in the United States. The President's fiscal year 2009 budget is a good first step, but this Subcommittee may need to look at additional options to strengthen the Coast Guard's performance in these critical missions.

Lastly, I hope that the witnesses will address the perception that the Coast Guard did not adequately communicate the severity of the COSCO BUSAN spill to the State and local officials early in the response process. I know that the Coast Guard did an extensive internal investigation of its response and I believe that the Inspector General is currently looking at those actions that took place.

I thank the witnesses for appearing this morning and I look forward to your testimony.

And I thank you, Mr. Chairman.

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

I ask unanimous consent that Mrs. Tauscher, a Member of the Committee on Transportation and Infrastructure and one who played a very, very significant role, as the Speaker has said, with regard to our hearing in San Francisco, may sit with the Subcommittee today and participate in this hearing. Without objection, so ordered.

I also ask unanimous consent that all Members may have five legislative days in which to revise and extend their remarks and insert extraneous materials into the hearing record. Without objection, so ordered.

We are very pleased to have Rear Admiral Salerno and Ms. Richards. I want to thank both of you for being here. We will now hear from Rear Admiral Salerno.

TESTIMONY OF REAR ADMIRAL BRIAN SALERNO, ASSISTANT COMMANDANT FOR MARINE SAFETY, SECURITY AND STEWARDSHIP, UNITED STATES COAST GUARD; AND ANNE RICHARDS, ASSISTANT INSPECTOR GENERAL FOR AUDITS, HOMELAND SECURITY

Admiral SALERNO. Good morning, Speaker Pelosi, Chairman Oberstar, Chairman Cummings, and distinguished Members of the Subcommittee. It is my honor to appear before you this morning to discuss the motor vessel COSCO BUSAN oil spill which occurred on November 7th, 2007, and how the Coast Guard conducts is Marine Casualty Investigations Program.

The Coast Guard has broad responsibilities to ensure the safety and security of the Marine Transportation System. In executing these responsibilities, the Coast Guard relies upon the information that it develops through detailed investigations of significant incidents. This information may be used to create new standards or update existing standards so that we can better prevent recurrences, improve marine safety, and protect lives in the marine environment. Equally important is sharing the lessons learned from accidents with all maritime stakeholders with whom we partner to achieve levels of safety that frequently exceed regulatory minimums.

Our investigation into the COSCO BUSAN incident is ongoing. The investigators are currently reviewing the evidence and finalizing their conclusions and recommendations. Once complete, the release of the report will be closely coordinated with the Department of Justice and the NTSB. At the same time, as you know, DHS Office of Inspector General and the National Transportation Safety Board are also investigating the COSCO BUSAN incident, including the Coast Guard's performance. These independent reviews are extremely important. We welcome the scrutiny and we are committed to ensuring full transparency.

Protecting lives at sea is at the very core of the Coast Guard's identity. Whenever lives are lost, it causes us to look very closely at the circumstances so that we can understand how it happened and how we can better protect lives in the future. We are saddened by the recent sinking of the fish processing vessel ALASKA RANGER, with the loss of five lives in the frigid waters of the Bering Sea. We in the Coast Guard would also like to express our condolences to the families of the lost crewmen.

We are committed to finding out how it happened. To do so, we have convened a formal Marine Board of Investigation. The Marine Board is comprised of senior Coast Guard and NTSB investigators. Leading the Board is the Chief of the Office of Investigations and Casualty Analysis at Coast Guard Headquarters, Captain Mike Rand. This investigation is still in the early stages of evidence collection and witness interviews. Upon completion of its work, the Board will report their findings and recommendations in a formal report that will be released to the public.

The COSCO BUSAN oil spill and the sinking of the ALASKA RANGER illustrate the challenges faced by Coast Guard investigators each day. The diverse nature of incident types, the kinds of vessels involved, even the geographic locations highlight the importance of having well trained responders and investigators who can be on scene quickly, backed up by specialized capability from around the Coast Guard that can be brought to bear as needed.

To ensure that the Coast Guard maintains the investigative expertise and capacity necessary to meet these challenges, the Commandant has devised his plan to enhance marine safety within the Coast Guard and has delivered it to Congress in September of 2007. I and many others have been working to execute this plan. One of the plan's key elements is the addition of 276 marine inspectors and investigators for fiscal year 2009. The number of full-time field investigator billets will increase by approximately 50 percent.

Included in the plan is the establishment of two new investigative centers of expertise. The centers will provide advanced training on casualty investigations and also on the suspension and revocation process. Preventing marine casualties is one of the main goals of the Coast Guard and the maritime industry. Marine casualties threaten the lives of mariners and citizens, and often result in damage to the environment. Marine casualties also cause delays in the marine transportation system, adversely impacting the flow of domestic and international commerce.

More often than not, marine casualties can be prevented if the factors leading to them can be identified, understood, and properly address. We would much rather prevent an accident than respond to one, which is why the investigative process is so integral to our plan to improve marine safety mission execution in the Coast Guard.

Thank you, sir, for the opportunity to testify today, and I look forward to your questions.

Mr. CUMMINGS. Thank you very much.

We are going to hear from Ms. Richards, but I just wanted the Committee to understand that I wanted the witnesses to give their opening statements while the Speaker is still here, and we will come back to the Committee for any opening statements you may have. Thank you very much.

Ms. Richards, thank you.

Ms. RICHARDS. Good morning, Chairman Cummings and Members of the Subcommittee and Speaker Pelosi. I am Anne Richards, Assistant Inspector General for Audits for the Department of Homeland Security. I am here today on behalf of the Inspector General, Richard Skinner, who unfortunately could not be here due to a family emergency.

Thank you for the opportunity to discuss the Coast Guard's response to the November 7th, 2007——

Mr. CUMMINGS. Ms. Richards, excuse me. Some Members have said that they can't hear you. Can you speak just a little louder?

Ms. RICHARDS. Yes, sir.

Mr. CUMMINGS. Can you pull the mic a little closer to you?

Ms. RICHARDS. Yes, sir.

Mr. CUMMINGS. All right, there we go.

Ms. RICHARDS. Thank you for the opportunity to discuss the Coast Guard's response to the November 7th, 2007 allision of the motor vessel COSCO BUSAN with the San Francisco-Oakland Bay Bridge.

I would first like to express our appreciation to the Coast Guard for their timely and thorough responses to my staff's many requests for information and documentation over the past 90 days. It is fair to say we would not have completed our review in such a timely manner without their complete cooperation.

My testimony today will address our primary findings as they relate to the actions of the Coast Guard's San Francisco Vessel Traffic Service before and immediately after the mishap, the Coast Guard's post-accident pollution assessment and marine casualty investigation, and the adequacy and execution of the San Francisco Area Contingency Plan during the first 24 hours after the allision.

Concerning the San Francisco Vessel Traffic Service, the primary question we addressed was whether there was anything the Coast Guard's VTS could have done to prevent the mishap. Our review determined there was nothing the VTS could reasonably have done to prevent the allision. The VTS watchstanders followed their operating procedures for monitoring the transit of the COSCO BUSAN from the time it left Pier 56 until it allided with the San Francisco-Oakland Bay Bridge.

The watchstanders acknowledged the pilot's intention to get underway and his intended route, and appropriately notified the pilot that visibility was reported to be between one-eighth and one-quarter of a mile. The watchstanders also provided the COSCO BUSAN with traffic advisories and queries the vessel when they became concerned about the vessel's heading. Given the current operating procedures and hardware and software capabilities of the VTS equipment, there were no additional actions the VTS watchstanders could reasonably have taken to prevent the allision.

During our review, we identified two areas for improvement in the Coast Guard's VTS program. The Coast Guard does not have a national standard operating procedure to guide the actions of VTS personnel. For example, the VTS watchstanders on duty during the mishap were not tested for drugs and alcohol due to a lack of awareness of drug and alcohol testing policies and the VTS program manager's practice of conducting such tests following a mishap. Administering the drug and alcohol tests could have ruled out impairment of the VTS watchstanders as a contributing factor to the incident.

The second area concerns VTS's authority to limit vessel movement. The San Francisco VTS has the authority to institute and enforce measures to enhance navigation and vessel safety, and to protect the marine environment. This authority includes managing vessel entry, departure, and movement within a VTS area during extreme weather conditions, including periods of restricted visibility. However, San Francisco VTS's operational procedures currently do not provide watchstanders with the criteria necessary for determining what actions to take and when to take them.

To their credit, the Coast Guard and the San Francisco Harbor Safety Committee, whose members include the Coast Guard and San Francisco Bay pilots, and other State and local stakeholders are taking a proactive approach to preventing future occurrences of maritime mishaps similar to the COSCO BUSAN's allision. The Harbor Safety Committee has formally adopted new guidelines for vessels operating in the San Francisco Bay during periods of reduced visibility. Speed restrictions are also under consideration. The Coast Guard has indicated it intends to incorporate the new guidelines into the San Francisco VTS standard operating procedures.

In the area of post-accident pollution assessment and marine casualty investigation, the first question pursued was whether the Coast Guard's initial report of 142 gallons of oil spilled had impacted the timeliness and completeness of the response. The second question focused on the conduct of the initial post-accident marine casualty investigation.

The initial spill estimate was inaccurate and should not have been made public. The Coast Guard admitted that it erred in releasing this information. Under the Area Contingency Plan, it was the responsibility of the State of California's Oil Spill Prevention and Response Division to estimate the amount of oil discharged. OSPR personnel were available, but did not have timely transportation to and from the allision site and the COSCO BUSAN. This further delayed release of the corrected pollution assessment. A more accurate and timely estimate, however, would not have altered the response of the Unified Command, since the Area Contingency Plan called for assuming a worst case scenario and assets were deployed accordingly.

Concerning the marine casualty investigation, the level of training, experience, and qualification of the casualty investigators assigned to the COSCO BUSAN investigation was generally inadequate. The three Coast Guard investigators initially assigned to the incident were not fully qualified. This may account for the shortfalls in the marine casualty investigation, such as not immediately securing or collecting potential evidence such as the charts used by the bridge team, the vessel's data recorder, or the shipboard navigational systems.

While the voyage data recorder information was later recovered and used by the investigators to recreate the vessel's track line before the mishap, the failure to independently test shipboard navigation and collision avoidance systems, as well as the radar beacons affixed to the Bay Bridge, could prevent the Coast Guard and the National Transportation Safety Board from identifying all of the circumstances and conditions that led to the mishap.

Finally, we reviewed the adequacy of the San Francisco Area Contingency Plan and whether the Coast Guard properly executed the Plan during the 24 hours following the mishap. The San Francisco Area Contingency Plan is adequate to guide the response to an oil spill of this magnitude. However, some changes could be made to improve future responses. One area is seeking increased attendance by local jurisdictions in area committee meetings to update the Plan and participation in response exercises. These actions would help ensure better preparedness. Also, a location for the incident command post was not predesignated in the Plan. Preparedness would be improved by identification of a predesignated command post location and its use in oil spill response exercises.

Overall, we were fortunate that the Unified Command guided by the San Francisco Area Contingency Plan was successful in retrieving the amount of oil spilled from the COSCO BUSAN that it did. This effort is a credit to those who led the Unified Command, including the Coast Guard, the State of California Oil Spill Prevention and Response Division, the responsible party, and the myriad of volunteers who were integral to the response effort. However, like any other complex activity, there is room for improvement.

The Coast Guard faces many challenges to effectively perform its marine safety and maritime homeland security missions. The Commandant, Admiral Salerno, and their staff are well aware of these challenges and are making progress in addressing them. We will continue our oversight of the Coast Guard to help facilitate solutions and improve its mission readiness.

Madam Speaker, Mr. Chairman, Members of the Subcommittee, this concludes my prepared statement. I will be pleased to answer any questions you may have.

Mr. CUMMINGS. Thank you very much.

Madam Speaker, again, thank you very, very much. We really appreciate your being here. Thank you.

We are very pleased to be joined by our distinguished Chairman of the Full Committee, who has just been a champion with regard to all of our Subcommittees, but in particular this one. He has just provided very tremendous guidance to me as a new Committee Chairman, and I really do appreciate that, Chairman Oberstar.

Mr. OBERSTAR. Thank you very much, Mr. Chairman, and thank you, Madam Speaker, for joining us. It shows your deep appreciation of the significance of this accident to the people of the Bay Area. Madam Speaker so properly described as having a very special affection for the Bay.

And you, Mr. Chairman, have done a superb job. You have been a great student of the issues of the Coast Guard and master of the subject matter, as has Commodore LaTourette, who similarly took over new responsibilities and has provided great bipartisan partnership here. Mr. Coble has long had an interest in the Coast Guard as a Coastie, in fact.

I needn't belabor the issues. I think the Inspector General did a splendid job of describing the issues. The Coast Guard did a phenomenal job; risked lives in the daring and dangerous rescue of the fishermen of the ALASKA RANGER. There could have been much greater loss of life without them. But they did a bad job of investigating the COSCO BUSAN.

As we looked into this issue and gathered the facts and evaluated the situation, I was astonished that five of the six Coast Guard casualty investigators, uniformed personnel, were not qualified for the task; they had not completed the basic training course to prepare them for this task. Now, the Coast Guard did propose a program called the Alternate Compliance and Safety Agreement. A good idea; we like that concept. We included the establishment of similar program for fishing vessels in the Coast Guard authorization bill, which we will bring to the House floor next year. I just received confirmation from the majority leader that we will have floor time to manage this bill.

But the problems of adequacy of standards, enforcement of standards, sufficiency of Coast Guard personnel, sufficiency of funding for the Coast Guard to carry out these responsibilities, simply underscores the need for the provision that we have included in the Coast Guard authorization to revamp the safety certification of the responsibilities of the Coast Guard. It is a comprehensive proposal. It is not everything that I thought we ought to do. I think it is a very balanced compromise with what the Coast Guard would like to see, at least Commandant Admiral Allen. And we are going to chart the Coast Guard on a new course. We have to substantially increase the number of personnel.

When I was elected to Congress in 1974, my first Committee assignment was the then Public Works Committee and my concurrent Committee assignment was on Merchant Marine and Fisheries, which included jurisdiction of the Coast Guard. And the first

authorization bill that we considered for the Coast Guard, Mr. Chairman, we had 39,000 Coast Guard personnel authorized. Here we are, 37-some years later, and we have only about 4,000 personnel above that number. It is no fault of the Coast Guard. It is the fault of the Congress; the fault of subsequent administrations.

We—by we I mean Congress and Executive Branch—signed into law 27 new functions and responsibilities for the Coast Guard and never funded them adequately, never gave them adequate personnel to carry out those responsibilities. So the Coast Guard loves to say we are a multi-mission agency and we pride ourselves in being able to carry on multiple tasks. Well, sure, because you have been forced into that. Heaven forbid that there was a different attitude. But semper paratus is not enough. We have to give you the wherewithal to be prepared. And we are going to do that. We are making a major step in this legislation to move the Coast Guard in that direction.

I will withhold further comment and submit my entire statement for the record.

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

Mr. Coble?

Mr. COBLE. Thank you, Mr. Chairman, for having this hearing.

Good to have you all with us, Admiral and Ms. Richards.

Mr. Chairman, I think each of us holds the Coast Guard and its service to our Nation in the highest regard. So even as we ask questions about how to best ensure commercial fishing vessel safety in Alaska, none of us should ever forget the heroic efforts, as has already been mentioned, of the brave Coast Guard men and women in darkness and severe weather to rescue the crew members of the ALASKA RANGER.

Even as we take a critical look at the COSCO BUSAN oil spill incident, we should not lose sight of the fact that, as the Inspector General has said, the Coast Guard Vessel Traffic Service watchstanders carried out their duties as expected and couldn't have done anything more to prevent the COSCO BUSAN allision with the Bay Bridge.

We should also not fail to praise the Coast Guard pollution prevention personnel for their prompt and effective response to protect the environment of the San Francisco Bay.

And as an aside, Mr. Chairman, I have either read or heard that there were two other vessels that were berthed in the general vicinity of the COSCO BUSAN that day, and the skippers of those two vessels elected not to get underway, for what bearing, if any, that might have on the subsequent allision.

We in the Congress have had a dialogue for some time now, Mr. Chairman, on the importance of marine safety, and the last time we broached this subject the Commandant announced a number of changes that he had directed the Coast Guard to implement regarding marine safety. Under the very able leadership of Admiral Allen, the men and women of the Coast Guard continue to examine and improve upon the Coast Guard's marine safety role, and I support these efforts heartily.

As I mentioned at the previous hearing on this subject, Mr. Chairman, despite each of our best efforts, there is always room for improvement, and this issue is no exception. I continue to believe

the Coast Guard is unique because of its structure and flexibility. On a daily basis, Coast Guard men and women focus on drug interdiction, environmental protection, migrant interdiction, port security, search and rescue, homeland security, and maritime safety. The list is almost endless. Each of these roles, in my opinion, compliments the other.

I continue to support the efforts to provide stakeholders an opportunity to voice their concerns, provide constructive feedback, and work together to improve the marine safety aspect of the Coast Guard. Incidents such as the COSCO BUSAN allision and the ALASKA RANGER, while unfortunate, provide an opportunity for self-examination by all stakeholders.

At the same time, Mr. Chairman, I firmly believe that we should give the Coast Guard the time, opportunity, and resources to improve and expand upon its maritime safety efforts.

Mr. Oberstar is gone, but I wanted to say, Mr. Chairman, Mr. Oberstar——

Mr. CUMMINGS. Yes, he is still here.

Mr. COBLE. Mr. Norm Mineta, known to all of us, always addresses me affectionately as Coastie, so you have joined good company with Secretary Mineta.

And I yield back, Mr. Chairman. I thank you.

Mr. CUMMINGS. I want to thank you, Mr. Coble. Mr. Coble, let me just say this just very quickly. What you just said I agree with. This Subcommittee has consistently complimented the Coast Guard on the many great things that they do. At the same time, we are looking with that critical eye so that they can be in a better position to do all of those things that you talked about. So we are going to continue to work very closely with them to try to make sure we get the billets that they need and get the resources that they need so that they can be effective and efficient.

Mr. COBLE. I thank you for that, Mr. Chairman. Mr. Chairman, I have two other hearings; I may have to come and go into each of them.

Mr. CUMMINGS. I understand.

Mr. COBLE. But I thank you for that.

Mr. CUMMINGS. I understand. Thank you very much.

Mr. Larsen.

Mr. LARSEN. Mr. Chairman, I have no opening statement.

Mr. CUMMINGS. All right.

Ms. Richardson? Mrs. Tauscher.

Mrs. TAUSCHER. Thank you very much, Mr. Chairman. I want to thank you so much for allowing me to join your Subcommittee today and for inviting me to make a brief statement. I would also like to, on behalf of my constituents and the entire Bay Area delegation, join with the Speaker in thanking you and your staff for coming to San Francisco so quickly and playing such a leading role in the Speaker's request for a field hearing in November. You have shown dedication to oversight of the Coast Guard and to protecting our environment from future accidents. I thank you very much for your leadership and commitment.

I would also like to acknowledge the very strong role of the Speaker in moving so quickly to get not only the field hearing, but

her strong commitment to the environment and health of the Bay, which is unwavering.

Today we will examine the Coast Guard's immediate response to the COSCO BUSAN accident. The Department of Homeland Security Inspector General has concluded that the Coast Guard's response was sufficient, but contained critical flaws. These flaws include the lack of timely drug and alcohol testing and the inexperience of the marine casualty investigators.

Personally, I was most alarmed by the lack of experienced investigators in the San Francisco Bay Area. The IG report states, ''The lack of trained experience and qualified marine casualty investigators at Sector San Francisco is a major concern given the Sector's area of responsibility and the volume, type, and size of vessels that transit the Bay each year.'' I know that my constituents and the people of the Bay Area are pleased to see that the Inspector General's report highlighted this and that the Coast Guard is moving quickly to make sure that these inadequacies are fixed.

The San Francisco Bay is one of the busiest harbors in the Nation. When coupled with severe weather, like thick fog, it becomes a unique and dangerous environment for ships. It is unacceptable that we do not have investigators assigned to the Bay that do not meet Coast Guard standards, and I very much thank Rear Admiral Salerno's comments that this is going to be mitigated.

I would also like to make note of the recent released recordings of the conversation between the COSCO BUSAN's pilot and captain. These recordings paint a chilling story of the moments leading up to the allision. They provide evidence that the pilot was completely unaware of the vessel's location and unable to read the ship's electronic charts.

I have introduced a bill that allows the Coast Guard to require pilots to carry their own electronic charts. The use of portable pilot units is an increasingly common practice which will increase awareness and reduce risk. When the Coast Guard reauthorization bill comes to the floor, I will seek to add my language to this bill, and I expect that the Coast Guard will take advantage of this new authority. It is clear that some ports, including San Francisco, should require pilots to carry their own navigational devices. If the pilot of the COSCO BUSAN had carried one on November 7th of 2007, it is possible that this accident could have been prevented.

We have learned many lessons from this incident. I hope that the Coast Guard will wake up and take action on this lesson before another tragic accident happens.

Mr. Chairman, thank you again for your leadership and your friendship, and I yield back the balance of my time.

Mr. CUMMINGS. Thank you very much, Mrs. Tauscher.

Mr. Taylor.

Mr. TAYLOR. No, thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Now that we have already heard from you all, we will go into our five minutes round.

Let me ask you this, Admiral Salerno. Recent media reports indicate that the pilot on the COSCO BUSAN had a DUI. Do you know about that?

Admiral SALERNO. Yes, sir, I am aware of that.

Mr. CUMMINGS. I understand that a number of assessments must be made of an individual's fitness for duty in that circumstance. I also understand that during the assessment period the individual is ineligible for credential. Was Mr. Coda's credentials ever suspended because of his DUI? And under what circumstance did the Coast Guard determine he was fit for credentials?

Admiral SALERNO. Sir, when Mr. Coda applied to renew his license in 1999, he did report that he had a DUI, as required.

Mr. CUMMINGS. He did or did not?

Admiral SALERNO. He did.

Mr. CUMMINGS. Okay.

Admiral SALERNO. That fact was noted by the regional examination center. At that time, his license was voluntarily deposited with the Coast Guard, it was not renewed, pending a program of treatment, which Mr. Coda underwent. There is a procedure within the Coast Guard whereby an individual who was subject of a DUI can go through a treatment program such as AA. Mr. Coda completed the AA program in a ten and a half month period, at which point cure was established and he was reissued his license.

Mr. CUMMINGS. So if he were to get another DUI, say, since 1999, is he under an obligation to notify you of that, notify the Coast Guard?

Admiral SALERNO. He is under obligation to report any DUIs which have occurred since the last issuance of his license. The license is renewed in five year intervals, so upon application for renewal he is obligated by regulation to report that.

Mr. CUMMINGS. So someone could have their license renewed—let's say they have it renewed. They can literally go out two weeks later, be convicted of a DUI—or let's say three months later, because it takes them a little while to get to trial, and he would not be obligated to report that until four years and nine months later? Is that the case?

Admiral SALERNO. That is the case, sir. That is the way the regulations have been established.

Mr. CUMMINGS. Do you think that is right? It seems like it goes against the very purpose of—it seems like it just goes against what you are trying to accomplish here. I am not asking you to defend the regulations, I am just asking how you feel about that. I am just curious.

Admiral SALERNO. Yes, sir, I understand the question and the concern, and it does concern me that that could happen. Unfortunately, the way the regulations are constructed, that is the system we have.

Mr. CUMMINGS. And might it make sense that even if a person has to report—it seems to me if a person has to report, in other words, to report immediately, for example, a DUI, they could get some kind of treatment immediately and still be in a position to safely carry out their job. But when you go for a four-year-plus period, a lot of things can happen during those four years. I guess that is my point. Somebody will need to take a look at that for the safety of all, including the employee.

Admiral SALERNO. Yes, sir. I would add, though, that as a licenseholder, a pilot or any licensed individual is required to participate in a random drug screening program, so that there are

some controls along the way. The marine employer also has responsibilities, if somebody is exhibiting signs of intoxication or not capable of performing their duties, to take some action. So it is not totally left to that five-year interval; however, from a regulatory standpoint, there is nothing that requires somebody to put themselves on report.

Mr. CUMMINGS. All right, let me go to you, Inspector Richards. The Subcommittee and Chairman Oberstar have obviously had deep concerns about the Coast Guard's Marine Safety Program, and I am deeply disturbed by the findings of the Inspector General's report that five of the six individuals assigned as marine casualty investigators in Sector San Francisco were unqualified for these positions. Similarly, I am disturbed to hear that all three of the investigators who responded to the COSCO BUSAN were unqualified as marine casualty investigating officers. Therefore, I want to begin by just asking you a few questions examining the issue.

Your report indicates that five of the six individuals assigned to marine casualty billets were not qualified for these positions. Can you explain what the qualification standards are and what qualifications these individuals actually had? I am also curious as to any of these five unqualified individuals were in the marine casualty investigative billets in San Francisco completed even the basic investigating officer training course at the Coast Guard's training facility in Yorktown. Of course, my concern about that, if we send somebody out to investigate, for example, in Baltimore, a homicide and they have no training in homicide, it seems like we have got major problems. I am just curious.

Ms. RICHARDS. Yes, sir. The three investigators who reported to the COSCO BUSAN that morning had not completed all the qualifications as marine casualty investigators. Of the three, one had completed the basic training course at Yorktown, the other two had not.

Mr. CUMMINGS. How significant is that?

Ms. RICHARDS. It is a basic training course. It should be early in their training as marine casualty investigators. As to the total significance, I would have to plead that I don't have the details with me and get back to you on that.

Mr. CUMMINGS. Please do.

Ms. RICHARDS. The qualifications for becoming a marine casualty investigator include prerequisite training in a number of areas as a hull or machinery inspector and a small vessel inspector, or as a harbor safety officer or facility safety officer or as a boarding officer. They also include on-the-job training, which involves completing specific tasks involved in a marine casualty investigation, as well as the basic training course. Each of the three marine casualty investigators who were on the COSCO BUSAN that morning were in the process of meeting the pre-qualifications to become a qualified marine casualty investigator.

Mr. CUMMINGS. Admiral Salerno, would you comment on that? Chairman Oberstar talked about the Guard being stretched. Is this part of that problem, that we have got people going out doing investigations who may not be qualified to do them; therefore, the integrity of the investigation being impaired? I am just curious.

Admiral SALERNO. Well, sir, let me echo your sentiment about being disturbed about what was in the IG report.

Mr. CUMMINGS. First of all, do you think it is accurate?

Admiral SALERNO. It is accurate.

Mr. CUMMINGS. All right.

Admiral SALERNO. And disturbing. I am very disturbed by it. It should not have happened. It conflicts with established doctrine within the Coast Guard that marine casualty investigations be conducted by qualified individuals. There are trainees, obviously, and as we rotate people and transfers, but as they conduct their training activities, it is to be done under the direction of a qualified investigator. That did not occur here. I see that as my responsibility to fix, and I will fix that.

Mr. CUMMINGS. And how are you going to go about doing that?

Admiral SALERNO. Sir, I am going to re-enforce established doctrine. I am going to communicate that fact to our field commanders and establish a program that if they do not have the resources they need to conduct an investigation, that they seek them out from other sources within the Coast Guard.

Mr. CUMMINGS. I want you to understand that part of the problem here—I mean, this is not just limited to an incident such as this; it goes even further. As you well know, I have a tremendous concern about the administrative law judge system. Let me tell you, if we don't have the right people investigating matters, it seems to me that it basically goes against the integrity of any kind of evidence that might be presented.

If you don't have the right people doing the right investigations—and it is not a pointing finger kind of thing, but I do want us to learn from what has happened so that we can correct it. And we have got mariners who are complaining that they are not being treated fairly, and then I hear about—as I tell my staff, when I see a problem, I don't just worry about the problem, I worry about what I don't see. So I am just concerned about that and I would really like to—your remedy, has it been put in writing?

Admiral SALERNO. It will be very soon, sir.

Mr. CUMMINGS. What is very soon?

Admiral SALERNO. I intend to put something in writing within the next week or two.

Mr. CUMMINGS. You plan? Will you get us something within two weeks, please?

Admiral SALERNO. Yes, sir, I will share that with you.

Mr. CUMMINGS. Is two weeks enough? I don't want to hold you to something you can't do.

Admiral SALERNO. Yes, sir, two weeks is enough time.

[Information follows:]

Congressional Hearing Transcript Insert

#IFRs-0022

Insert will be entered on Page 42 following Line 937

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. 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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Mr. CUMMINGS. Thank you.

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman.

Before I talk about the COSCO BUSAN, Admiral, I just want to ask you about the Oil Spill Liability Trust Fund. The Trust Fund, as you know, provides funding to pay for the cost of oil spills, not only to reimburse for response activities, but to pay for natural resource damages. The information we have is that the Fund was estimated to be approximately $903 million at the end of fiscal year 2008.

Three questions. Are the amounts in the Fund sufficient to deal with what they are required to deal with in anticipation of a major catastrophic oil spill in U.S. waters? Have the incidents of Hurricanes Rita and Katrina impacted the fund? Have any claims been filed as a result of that and how long do people have to file a claim with the Coast Guard or the EPA?

Admiral SALERNO. Sir, if you would permit me, I would like to answer that for the record. I don't have the detailed information before me, but I will get back to you with those specific numbers.

[Information follows:]

Congressional Hearing Transcript Insert

#IFRs-0022

Insert will be entered on Page 43 following Line 961

Amounts in the Oil Spill liability Trust Fund (OSLTF) are sufficient at this time. The current balance of the OSLTF is $1.072 billion, and it is continuing to rise as tax receipts are credited by the Treasury Department. While the OSLTF is available by law to pay up to $1 billion for any one incident, actual OSLTF costs for any one incident have not exceeded $200 million.

Hurricanes Katrina and Rita have not significantly impacted the OSLTF. One claim has been paid in the amount of $39 thousand and a claim for $1.3 million is under adjudication. Informal communications indicate that the natural resource trustee for the State of Louisiana may be preparing a claim to conduct a Natural Resource Damage Assessment in connection with the hurricanes, which may add claims against the OSLTF.

The Coast Guard National Pollution Funds Center administers the claims process and pays amounts from the OSLTF to compensate claimants. The EPA has no responsibilities in this regard.

- A claim for removal costs must be presented to the OSLTF within six years after the date of completion of all removal activities.
- Claims for damages must be presented to the OSLTF within three years after the date on which the injury and its connection with the discharge was reasonably discoverable with the exercise of due care, or in the case of natural resource damages, if later, the date of completion of the natural resources damage assessment under the damage assessment regulations published by NOAA. Citation: 33 USC 2712 (h)

Mr. LATOURETTE. Okay. I appreciate that.

To the COSCO BUSAN, just a couple of things, Ms. Richards. As I understood your testimony, it was the conclusion of the Inspector General that the VTS performed its function as it was required to perform its function, but you found that drug testing and alcohol testing might be helpful in the future. But there is no indication in your report that anybody at the VTS was drunk or on drugs, right? They did the job well, but, going forward, it would be nice to test them for drugs and alcohol?

Ms. RICHARDS. That is correct.

Mr. LATOURETTE. Okay.

Ms. RICHARDS. We, of course, were not there that day. We did review the actions of the watchstanders and concluded that they had operated in accordance with their procedures.

Mr. LATOURETTE. Similarly, the Coast Guard's early release of 142 gallons, as opposed to the resultant 58,000 gallons, although that was cited as an error in your report because the plan in place called for a worst case scenario, nothing bad happened as a result of 142 gallons being in the press release, as opposed to the actual, because people were prepared for this, right?

Ms. RICHARDS. That is correct. The Area Contingency Plan was designed to deploy a response to a worst case scenario, so the public release of the inaccurate estimate did not affect the response.

Mr. LATOURETTE. And Mr. Cummings, the Chairman, asked a little bit about the pilot's previous DUI. Admiral, was the pilot following the collision subjected to a drug screen?

Admiral SALERNO. Yes, sir, he was tested by the pilot's association, as required for marine employers.

Mr. LATOURETTE. And are you aware of the results of that?

Admiral SALERNO. My understanding is the results were negative.

Mr. LATOURETTE. And did that screen for not only drugs, but alcohol as well?

Admiral SALERNO. Yes, sir.

Mr. LATOURETTE. Okay.

Now, the VTS that is mentioned in the Inspector General's report, the Vehicle Traffic Service, a lot of people, I think, have the view that it is like a TRACON or an air traffic controller that is directing ships within the harbor, but that is not the VTS's function, is it, Admiral?

Admiral SALERNO. No, there are substantial differences between VTS and an air traffic control system. VTS is an advisory system; it does not give course and rudder directions to the ship, it advises the ship of conditions that are present in the harbor, the presence of other traffic and so forth so that the bridge crew has adequate awareness of other activity in the harbor.

Mr. LATOURETTE. But the responsibility for driving the ship, if you will, is that of the pilot?

Admiral SALERNO. That is a responsibility of the pilot and the master. There is a shared responsibility on the ship.

Mr. LATOURETTE. Obviously, the most alarming thing to a lot of us is this training issue, and you have talked about that. And I heard Ms. Richards talk about what the training was or what some pieces of it were. I am reminded, when I was in college, I was four

hours short, and the four hours I was short was medieval English literature, which I don't think prevented me from launching a career later in life. I have heard that there is basic training, there are hours you have to go out and be experienced. Were there pieces, specific—what were these people missing, first of all? And, second of all, whatever they were missing, did that compromise the investigation that followed after the collision of the COSCO BUSAN?

Admiral SALERNO. There are a number of prerequisite requirements, as Ms. Richards mentioned, marine safety specific requirements that are needed for all investigators. There is a system of training that includes on-the-job training, performance qualification system where specific tasks need to be performed under the direction of a qualified investigator, and there is resident training at our training center in Yorktown, Virginia.

All of those elements need to be completed for someone to be designated a fully qualified investigator. Each of these investigators had completed portions of the training program. The individual who looked at the radar system on the bridge, for example, had extensive experience at sea during his Coast Guard career, eight or nine years; he knew what he was looking at.

But were there failures? Yes, there were. The information in the voyage data recorder that should have been secured immediately was not, as Ms. Richards pointed out. So that is a failure and illustrates the reason why we need fully qualified investigators to perform these tasks.

Mr. LATOURETTE. Aside from that feature, have you identified any other failures in the investigation?

Admiral SALERNO. That was the most significant failure that I have been advised of.

Mr. LATOURETTE. Thank you.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you.

Mr. OBERSTAR. Ms. Richards, two years ago, actually, two years ago December, our Committee asked the IG to undertake a marine casualty report inquiry and provide a report to the Committee. It is way overdue. Can we expect to have this document by the end of next week?

Ms. RICHARDS. The IG is committed to make completing that report a top priority. It, unfortunately, was a resource issue. When the request to complete a review of the allision of the COSCO BUSAN came up, we needed to shift resources. At this point, the IG has committed to make that his top priority.

Mr. OBERSTAR. We have a hearing in another Subcommittee of this Committee on Transportation and Infrastructure, the Aviation Subcommittee, on reauthorization of the National Transportation Safety Board, and I would like to have that document available for us in time for that hearing, which is on the 23rd of April.

Ms. RICHARDS. Again, I can repeat that the Inspector General has committed to make this a top priority, and I will convey your concerns directly to him.

Mr. OBERSTAR. Thank you.

Admiral Salerno, five of the six Coast Guard casualty investigators, uniformed personnel, as I said earlier, were not qualified for

the task—you admitted to that—have not completed the basic training course. How is it that the Coast Guard assignment officers were able to assign these personnel to this task? Did they not have other qualified people to assign? Did they know these people had not completed the course work, were not prepared to undertake this investigation with the skills and experience needed?

Admiral SALERNO. Sir, I don't have an explanation for that. The way the process is supposed to work is that qualified people are placed into duty billets. We do have quite a significant number of people who complete the training program every year; there are four courses at Yorktown, about 25 persons per course. About 100 people a year go through this course. So there is throughput through the program. At this point, today, I can't explain to you why a qualified person was not assigned to the unit, but I will look into that, sir, and get back to you.

Mr. OBERSTAR. It is very troubling to me, particularly in light of our hearing last week in the Full Committee on the aviation safety investigation and oversight of maintenance in the airline industry. That follows on several years earlier, when we found that the Federal Railroad Administration was engaging in an operator-friendly arrangement with the railroads, called the Rail Advisory Safety Committee, where they sat down with the railroads management and said tell us what you are doing and we will see whether you have some problems; maybe we can look the other way and let you fix them, instead of saying this is an enforcement activity; you have failed to inspect your journals on your box cars properly, you failed to inspect switches and rails properly, you failed to fix them properly; now, get out there or we impose a fine on you or worse. I think hearings conducted in this very hearing room caused the FRA to turn around. Now we find the FAA being operator-friendly, cozy, treating the airlines as customers.

Now we find that the Coast Guard, the preeminent safety agency, isn't fully prepared, find shortcomings in a number of areas, and particularly in this investigation. The IG's report said the investigating team did not secure what we call in investigations—and I have done this for 25-plus years—perishable information—the radar printouts, the voyage data recorder—to ensure that drug testing, as required, was completed on the crew members, and they failed to conduct drug and alcohol tests on the VTS watchstanders. What is happening here? Is this a shortage of personnel, inadequate numbers of people? Is it a laxity in your training in oversight and preparation?

Admiral SALERNO. Certainly, sir, turnover of people contributes to the issue, which is why we, in our Marine Safety Improvement Plan, do fully intend to institute a greater number of civilian inspectors and investigators so that there is always that stability at every port in the Country. There will be a cadre of people who do not rotate and there will always be a trained person or persons available in every port. So I see that as part of the way ahead and part of the solution to the problem. There are other issues, obviously, with assignments, as you just mentioned, that we need to address as well, to make sure that qualified people fill duty billets.

Mr. OBERSTAR. Well, you answered rightly. Turnover of personnel and inadequate numbers. Not only that, but inadequate

numbers of trained personnel. And one of the key elements of our Coast Guard so-called reform updating provisions in the authorization bill is to establish a career civilian staff under the management of a uniformed Coast Guard officer who has skills and qualifications and is trained, is completely adequate to carry out the responsibility, who has at least the skills and qualifications of the ABS standards, and as the Corps of Engineers does, have a uniformed officer in charge of the district engineer unit and a career staff of trained, skilled personnel who have continuity so there isn't turnover, so that you don't have persons undertaking work who are not qualified for the job. That is a cornerstone of the provisions we are going to bring to the House floor next week.

Mr. Chairman, I will withhold further questions at this time because other Members want to.

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

Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

Admiral, I was at a Judiciary hearing back and forth. You may have been asked this, but I don't think you have. What steps has the Coast Guard taken since the COSCO BUSAN oil spill?

Admiral SALERNO. Sir, as you mentioned, or as has been discussed, there have been a number of investigations, including what we call an incident-specific preparedness review, which looked at the actual response by the Coast Guard and its partner agencies and the private sector, and there are a number of lessons that have come out of that. We are sharing those lessons with all of our field units so that they can upgrade their Contingency Response Plans in ports around the Country.

About a month or so after the incident, we issued an All Coast, a message that went to all units in the Coast Guard listing some very quick lessons learned that addressed issues such as incorporation of volunteers, actions to be taken by investigating officers, and so forth, that were lessons from the COSCO BUSAN.

As we address some of these other issues regarding the training of investigators, more needs to be done, but the lessons that come out of the IG's report, we concur with those and we will take the action that is indicated.

Mr. COBLE. Thank you, sir. There has been a great deal of discussion before this Committee and the Subcommittee regarding the Coast Guard's Marine Safety Program. During this dialogue, what has the Coast Guard done to improve the Marine Safety Program?

Admiral SALERNO. Sir, the Commandant has put together a plan of action to improve the Marine Safety Program. It does include a provision in fiscal year 2009 to increase the numbers of inspectors and investigators by 276. We will be establishing centers of expertise that will assist in the training of our inspectors and investigators. There is a greater emphasis on outreach to the marine community so that we understand where problems are emerging and we can resolve problems in a more expeditious way. There is a long list sir. I can provide you with each item in our——

Mr. COBLE. I would like to have that.

Admiral SALERNO. Yes, sir.

[Information follows:]

Congressional Hearing Transcript Insert

#IFRs-0022

Insert will be entered on Page 53 following Line 1201

On September 25, 2007, the Coast Guard delivered to Congress its plan to enhance the Marine Safety Program (Table 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 capacity, improving technical competencies, and expanding rulemaking capability to ensure that we meet current and future industry needs.

Table 1: Enhancing the Coast Guard's Marine Safety Program

	Objective	Action	Progress
Improve the Coast Guard's Marine Safety Capacity and Performance	• Increase marine inspector and investigator capacity	• Multiple marine safety resource proposals	FY08 FY09 FY10
	• Strengthen marine inspection and investigation consistency through addition of civilian positions	• Senior civilian training officer additions to all Sectors and Marine Safety Units	FY08
	• Increase accessions from U.S. Merchant Marine Academy and maritime institutions	• Doubling annual MARGRAD accessions from 18 to 36	FY08
	• Strengthen Marine Safety career paths	• Auth Bill proposal for promotion targets	FY08
	• Expand professional Marine Safety training and education	• Increase post graduate opportunities from 8 to 10 positions	FY08
	• Expand opportunities for maritime industry training	• Double annual industry trng billets to 24	FY08
	• Enhance engineering capacity for plan review, policy, and standards development	• Add 97 billets to support plan review, policy and standards development	FY10
Enhance Service Delivery to Mariners and Industry Customers	• Establish Centers of Excellence (COEs)	• 6 new COEs planned including 2 in FY08	FY08 FY10
	• Improve information technology systems	• Add IT for marine safety field personnel	FY08 FY09 FY10
	• Increase rulemaking capacity to meet regulatory implementation	• Added 31 billets to boost standards development in FY08	FY08 FY10
	• Improve credentialing through greater efficiency, transparency and capacity	• NMC restructuring complete in CY08 – productivity is up 20% in FY 08	FY08
Expand Outreach and Advisory Mechanisms for Industry and Communities	• Establish Assistant Commandant for Marine Safety, Security, and Stewardship.	• Need passage of Auth Bill to finalize DCO organization	FY08
	• Establish a national council of maritime advisors for the Commandant.	• Hosted 1st in series of listening sessions with industry executives on 28 Feb 08	FY08
	• Exercise leadership at international, national, regional, state, and local safety, security, and environmental committees.	• Doubled annual flag officer attendance at marine safety forums	FY08

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.

Congressional Hearing Transcript Insert

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Specific efforts currently underway include:

1. Improve credentialing through greater efficiency, transparency, and capacity

The National Maritime Center (NMC) was established as the central processing point for Merchant Mariner Credentials (MMC), Applications are sent to the NMC for processing and Regional Examination Center (REC) for issuance. Twelve of the 17 RECs have transitioned to centralized operations, and the remaining RECs will transition by the end of 2008.

In addition to relocating to a new building in Martinsburg, West Virginia this year, the NMC implemented several customer service enhancements including the option to contact the NMC through a toll-free help desk (1-888 – IASK-NMC) or via email. The help desk is currently averaging 5,000 calls per month. Applicants now have the option to pay fees through www.pay.gov, check on their application status via the Internet (20,000 inquiries per month), and enroll in a Listserv to receive the most up-to-date information from the NMC (currently over 1,100 customers). To reduce the number of application errors - the most common cause for application processing delays - the NMC created an electronic application form that, in addition to other process improvements, has reduced average cycle times by 20% or as little as two weeks.

2. Increase accessions from U.S. Merchant Marine Academy and maritime institutions

For the graduating class of 2008, 13 of 19 graduates were selected and have accepted commissions. Two additional selection panels are scheduled for this year. We anticipate approximately 30 Maritime Academy (including California Maritime) graduates will accept commissions in 2008.

3. Expand professional Marine Safety training and education

The number of post graduate opportunities in Marine Safety technical fields offered to Coast Guard officers was increased from 8 to 10.

4. Double annual industry training billets

We have begun to revise the entire Merchant Marine Industry Training Program to consider long-term (12 months), mid-term (3-6 months), and short-term professional development opportunities with the industry.

5. Strengthen marine inspection and investigation consistency through additional civilian positions and add senior civilian training officers to Sectors and Marine Safety Units

Through FY08 internal reprogramming efforts, 30 positions from Coast Guard Headquarters have been shifted to field units. These positions include 8 senior civilian training officers at the busiest ports without a training officer; 16 civilian marine inspectors; 2 civilian marine inspectors for a Center of Expertise in Large Passenger Vessels in Miami, FL; and 4 civilians for the Center of Expertise for Suspension and Revocation Processes. These positions are in various stages of the hiring process.

6. Maritime Industry Outreach Efforts

The Commandant hosted a group of senior maritime stakeholders on February 8, 2008 and a group of maritime union leaders or representatives on April 24, 2008. Coast Guard Sectors have been directed to meet with industry customers and report problems needing attention through the chain of command by June 2008. Flag officers are taking advantage of industry gatherings to interact with industry leaders.

Mr. COBLE. And finally, Mr. Chairman, let me ask you this, Admiral. Do vessel traffic centers have the authority to direct and/or manage the movement of vessels in their respective regions?

Admiral SALERNO. Sir, a VTS does have the authority to direct a vessel to take specific action, yes, sir, we do have that authority. Typically, it is given in the form of a desired outcome. In other words, a vessel may be directed to proceed to a certain anchorage and anchor. What it would not do is give the course to take in going to that anchorage. But we do have that directive authority, yes, sir.

Mr. COBLE. Thank you.

I yield back, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. Taylor.

Mr. TAYLOR. Mr. Chairman, I actually got here after some other Members. If you don't mind, I will waive my time and turn.

Mr. CUMMINGS. Very well.

Mr. Larsen

Mr. LARSEN. Thank you, Mr. Chairman. As you might imagine, I probably have a few more questions about ALASKA RANGER than I do COSCO BUSAN, but I also note I will be meeting with Coast Guard folks about noon to discuss some of the other issues with ALASKA RANGER.

But while I do have you all here, I will ask a few questions, if I might, Admiral. Regarding the ACSA program and specifically with the requirements that vessels enrolled in the ACSA meet the requirements sometime in early January. But as I understand, the ALASKA RANGER was not one of those vessels in the ACSA program that had met all the requirements?

Admiral SALERNO. Sir, the ALASKA RANGER was in fact enrolled in the ACSA program. There were still a number of outstanding requirements that needed to be completed. That was to done by January 1st. The vessel had been examined in dry dock in Japan by qualified Coast Guard inspectors. A long list of requirements were issued, including watertight integrity items, watertight doors, stability information, and so forth. When the vessel returned to the United States, it was examined again in Dutch Harbor.

Most of those requirements were cleared; there were still a few that remained outstanding. In February, the Coast Guard sent a letter to the owner requesting a status of those outstanding items and expected a return within 30 days of what is the status and what is your plan to complete them. That is, unfortunately, about the time frame when the vessel was lost.

Mr. LARSEN. I was just reading through the agreement from June 2006 that Districts 13 and 17 prepared, or it might be a MOU or MOA. Was there any requirement or any lever the Coast Guard had to prevent a boat from going out that had not completed the requirements of the ACSA?

Admiral SALERNO. It is important to keep in mind, sir, that this is an uninspected vessel, essentially.

Mr. LARSEN. Right.

Admiral SALERNO. And although it is a head and gut vessel, as the Chairman mentioned, it was conducting activities on board that

made it more of a processor, so we created this program so that they can continue to operate as a processor. We could have been very inflexible and said January 1st, you comply or you cannot operate. What that would have done, realistically, is just force them to operate as a fishing boat, which they could have done legally, without any requirement to upgrade the safety of the vessel. So what this program does in a cooperative way is help elevate the level of safety by forcing them to——

Mr. LARSEN. Don't confuse my questions with being critical of the ACSA. I was just asking specifically if there was any mechanisms within the agreement to implement the ACSA to prevent a boat from going out that had not fully met the requirements.

Admiral SALERNO. If a vessel were to present an immediate hazard to its crew or to the environment, yes, the Coast Guard can take Captain of the Port action and hold it to the pier until those corrections are made.

Mr. LARSEN. Whether they are a part of this program or any other program?

Admiral SALERNO. That is correct.

Mr. LARSEN. So it went to Dutch Harbor but not all of the items on the work list defined in Japan had been resolved, but many of them had?

Admiral SALERNO. That is correct, yes, sir.

Mr. LARSEN. What were the outstanding issues, do you recall?

Admiral SALERNO. As I recall, there was some work on an interior bulkhead in the forward part of the vessel. To my knowledge, based on the testimony received so far in the Marine Board, none of the outstanding items appeared to be linked to the flooding of the vessel, which occurred in the after portions of the vessel.

Mr. LARSEN. And I understand the investigation is ongoing.

Admiral SALERNO. That is correct, yes, sir.

Mr. LARSEN. And your assertion might change, depending on further investigation for all we know.

Admiral SALERNO. Yes, sir. New information will be developed in the next phase of the Marine Board's activities, which will occur in Seattle.

Mr. LARSEN. Right, right. And the ACSA program is developed specifically for this region?

Admiral SALERNO. Yes, sir, it is. It was an agreement between District 13, based in Seattle, District 17 in Alaska, and the fleet operators themselves. It is, as the Chairman mentioned, about 60 vessels that operate in this fleet.

Mr. LARSEN. Right. Did you not receive a response back from the vessel owner based on the Dutch Harbor evaluation?

Admiral SALERNO. I believe we did receive a letter back from the company that listed all of the vessels that they owned that were in this program and the status of the outstanding requirements and when they expected to complete them.

Mr. LARSEN. And how many were outstanding? I am sorry, how many vessels had outstanding issues, do you recall that?

Admiral SALERNO. For this particular company, sir, or overall?

Mr. LARSEN. Yes.

Admiral SALERNO. I don't recall for this particular company. There were several.

Mr. LARSEN. There were several. Okay. I see my time is up. I appreciate it. I have further questions and I will be meeting with some of your folks at noon, and we can talk through some of these then.

Admiral SALERNO. Yes, sir. Overall, about a little over 30 vessels still needed to complete the ASCS program.

Mr. CUMMINGS. Thank you very much.

For the Committee's information, we have got about six minutes left before the vote expires. We are going to hear from Ms. Richardson and then we are going to take a recess for the three votes, and we will be back in about 40 minutes.

Ms. Richardson.

Ms. RICHARDSON. Thank you, Mr. Chairman. I will try and be brief and cut it down to three questions.

Ms. Richards, you mentioned one of the problems is the lack of a national standard operating procedure; the Coast Guard does not have a VTS national standard operating procedure. Do you foresee any objections or barriers of why we couldn't establish this?

Ms. RICHARDS. No. The Coast Guard has replied to us that they are in the process of developing the national standard operating procedures.

Ms. RICHARDSON. And, Admiral, are you aware of when we expect that to be implemented?

Admiral SALERNO. It is in clearance within Coast Guard Headquarters. I don't have a firm date for you, but I can provide that.

Ms. RICHARDSON. Okay, if you could provide that to the Committee.

[Information follows:]

Congressional Hearing Transcript Insert

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The Vessel Traffic Services National Standard Operating Procedures (NSOP) is under development. This new standard operating procedure builds on existing guidance in the Marine Safety Manual and has incorporated international guidelines. Coast Guard VTS procedures are continually reviewed and updated. We estimate publication of the VTS NSOP by the end of calendar year 2008.

Ms. RICHARDSON. My second question also to you, Admiral, the Inspector General's Office recommended in its report that the Coast Guard assessed the possibility of either employing experts who can quantify the size of an oil spill or potentially upgrading the training provided to pollution investigators to enable them to assess the size of the spill. Can you comment on this recommendation and can you explain why pollution investigators do not already receive the training they need to employ multiple techniques for assessing the size of an oil spill?

Admiral SALERNO. Yes. The pollution investigators actually perform a very distinct subset of the overall investigation process. What they are out there to do is establish the elements of a violation. There is a strict liability provision in the law, and what they do is establish that there is oil in the water, it is a harmful quantity, and so forth. Typically, for assessing the quantity, there would be a qualified marine inspector or qualified investigator who is more familiar with ship systems, how to read ship's plans and so forth, who can work with the ship's crew and make that determination. The critical point here is that the response is not held up pending an assessment of what the spill quantity was. We assume that the tank had full contents and we base our response on that. So it is something that is not critical to the response effort; it is something that can be refined later.

Ms. RICHARDSON. Well, with all due respect, Admiral, I was at the original hearing, and if I am not mistaken, it was originally reported that the spill was of a much smaller size; and then when other people actually got out there, they saw it was significantly larger. That is, I would disagree with you, very important. It may not be important to you, but to environmentalists and people who are left to clean up the beaches and the fowls and everything that we lost, by not having a clear understanding of the size is a critical point.

So I am down to now two minutes and we have votes, but I would ask the Chairman if you would please provide to this Committee—I think it is a legitimate concern, and if it is not your responsibility to determine the appropriate size, then someone else needs to be assigned to do that. And there was a recommendation for you of including—and I already read it very briefly to you of who that could be.

Admiral SALERNO. If I might, ma'am, the actual response capabilities that were deployed within hours was vastly in excess of that initial false estimate; the rated capacity of the equipment was in the 50,000 gallon range that was deployed that very day.

Ms. RICHARDSON. Okay. So will you work with our Chairman to get us that information?

Admiral SALERNO. Yes, ma'am.

[Information follows:]

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Determining the volume of oil spilled is an element of the Coast Guard's investigation into an incident, and is therefore the responsibility of the Coast Guard Officer in Charge Marine Inspection (OCMI), who concurrently serves as the Federal On-Scene Coordinator at Coast Guard Sectors and Marine Safety Units.

The quantification process can take hours, days, or even weeks depending on a number of factors including the type and size of vessel, cargo and fuel tank arrangements, the particular circumstances of the incident, as well as wind and sea conditions, and other factors. Coast Guard investigators will use all appropriate means to determine the volume of oil lost, including careful scrutiny of the vessel's logs, interviews, and the assistance of independent experts as necessary.

There is no set time when this quantification must occur. To determine the appropriate response, the Coast Guard initiates actions based on the maximum potential volume based on the size of the vessel and known circumstances of the case, not on reported amounts or on assumptions.

The volume of oil on the water is a function of the thickness and surface area covered, but both of these factors are extremely difficult to estimate by observing a spill site from a vessel or aircraft. Experienced professionals, working in ideal conditions are reluctant to make estimates based on observations alone, except in very broad ranges. Wind, darkness, fog, precipitation, and sea conditions can and frequently do complicate this task. In addition to any oil visible on open water, oil can be hidden under piers, beneath damaged vessels, or even sink to the bottom.

Response operations are planned and directed by the Unified Command consisting of the Federal On-Scene Coordinator (FOSC), State On-Scene Coordinator (SOSC), and the Responsible Party (RP). As part of the response they will make estimates of the volume spilled to ensure they have sufficient resources to respond effectively.

Ms. RICHARDSON. Okay.

My last question is, Admiral, can you comment on whether San Francisco's VTS will receive the upgrade to the PAWSS tracking system, and will all other VTS centers, such as Seattle, not currently utilizing this system also receive the upgrade?

Admiral SALERNO. The two systems that the Coast Guard operates, two operating systems, are in fact compatible. There have been upgrades already to the system in San Francisco, which is the older system. Those upgrades actually bring it up to the same level as the PAWSS system, so essentially, regardless of which system operators are using, they are receiving the same data.

Ms. RICHARDSON. Okay. Admiral, I am not going to tell you how to do your job, however, I think this Committee deserves to understand what is the difference between the two and why you are using that one, because obviously other people are recommending this other system. And our upgraded systems done throughout all the systems, which was my last question?

Admiral SALERNO. Yes, all of the centers that the Coast Guard operates are operating to the same standard, but they are employing different operating systems, essentially two different operating systems. But they achieve the same result.

Ms. RICHARDSON. Okay.

Mr. Chairman, I know we are tight on votes, but I think that I don't know whether it is Ms. Richards or through the Admiral, but I think this is of much discussion, the fact of using different systems are all VT, are all of the centers upgraded. I am not getting a clear answer from you that they are all sufficiently to the level that has been recommended based upon this accident.

Mr. CUMMINGS. To the gentlelady, when we come back, I will follow up on those questions, because I have some concerns myself. I want to see what kind of commitments we can get, if they are appropriate, that is, so that we can move this along.

And I want to clear that up, Admiral, when we come back.

We are going to be, I said, 40 minutes, but it looks like it is going to be probably closer to 25 to 30. That is just an estimate, but as soon as we can come back, we will be back. All right? Thank you. We stand in recess.

[Recess.]

Mr. CUMMINGS. The hearing is called back into order. I want to apologize to you all. We had a new Member being sworn in that we didn't realize—we did not know that—a new Member replacing Mr. Lantos. So it took a lot longer than we had anticipated, and we do apologize.

We will proceed with our questions, and we left off with Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

Admiral, in the aftermath of the Exxon Valdez, Congress passed the Oil Pollution Act in 1990, and I don't know if it was a direct result of that, but one of the results of that was the starting of an outfit called the MSRC, Marine Spill Recovery Corporation. I am curious, in reading the transcript here, when they said that there was no one available to give a good assessment of the volume of the spill, I am looking at the MSRC website and they apparently have a branch in San Francisco. At what point were they involved,

if at all, and to what point does the Coast Guard now rely on the private sector for things that they used to do in-house?

The second thing, for the record, it doesn't appear that you have it today, but I have visited, many years ago, the Vessel Traffic System in San Francisco—and I am talking in the 1970s—and I thought it was pretty impressive then. So I am curious when I read again in the transcript—and I would hope that you would correct it if the staff got it wrong—when they said that you weren't getting instantaneous reads of the speed and direction of the vessel, because the way I remember it from way back then is that it was pretty impressive; it looked like the radar you would see on the bridge of any ship anywhere in the world.

I guess the third question would be if that is the case, at what point, if any, are your monitors involved in saying, vessel whatever, it appears you are getting caught in the current, or are you aware that you are heading for the pilots of the bridge? I think it would be very important for you to walk the Committee through that because we, as a Nation, have spent a considerable amount of money making that Vessel Traffic System available and for me, as a taxpayer, it doesn't seem to make any sense unless it is actually going to be involved in vessel safety. If it is there only to record a mistake in process, we really haven't accomplished a whole lot.

So these three things I hope you would address.

Admiral SALERNO. Yes, sir. First to the MSRC and the Oil Pollution Act of 1990. As I am sure you recall, sir, the provisions of the Act require that vessel owners contract with oil spill response organizations, OSROs.

Mr. TAYLOR. Okay, when you say vessel owners, walk me through this. Does that mean every vessel that transits American waters or is that only people in the business of transporting petroleum or chemicals as a primary cargo? Does COSCO contribute to this?

Admiral SALERNO. They do. If you will bear with me for a second, sir. The Oil Pollution Act originally pertained to tank vessels.

Mr. TAYLOR. Okay.

Admiral SALERNO. There was a law passed a few years ago which required non-tank vessels essentially to develop response plans with essentially the same requirements, that they contract for response resources. The COSCO BUSAN in fact had done that and MSRC, I believe, was their designated provider of those resources. They did respond——

Mr. TAYLOR. How quickly?

Admiral SALERNO. Very quickly, within two hours. In fact, I think it was shorter than that. I can get you the exact time, but it was very quick response.

[Information follows:]

Congressional Hearing Transcript Insert

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According to the Incident Specific Preparedness Review (ISPR) Phase I timeline, MSRC was called by the pilot onboard the M/V COSCO BUSAN at 0917, and by 1035 MSRC had resources in place actively skimming oil, (1 hr and 18 minutes time elapsed above).

Admiral SALERNO. There was also another major oil spill response organization, the National Response Corporation, one of the major companies in this business. They also responded. So there was quite a bit of capability deployed at the owner's expense very early in this response, so it was very, very aggressive response early.

We do hold the responsible party, in this case the vessel, to be the primary responder to contract for those resources and to get them on scene, and our Federal on-scene coordinator, the Coast Guard captain of the port typically, is the one who makes sure that they are acting responsibly under the law. So those things did occur.

Mr. TAYLOR. Okay. As a matter of curiosity, did the initial assessment of the spill, of the quantity of the spill, did that come from inside the Coast Guard or did that come from MSRC or the other outfit?

Admiral SALERNO. The initial quantity was reported by our pollution investigator on-scene who obtained those numbers from the ship's crew.

Mr. TAYLOR. Okay.

Admiral SALERNO. But as mentioned earlier, that had no bearing on the magnitude of the response that was mounted.

Sir, your other question on Vessel Traffic Services, the time delay I believe you are referring to is really just the antenna sweep. You know, the antenna rotates; it takes a few seconds to make that sweep. So the picture that the VTS operator views typically has no more than a four second refresh rate, so that is fairly instantaneous given the speed of movement of ships through a harbor.

The system in place in San Francisco was mid-1990s vintage. We call that CGVTS. That is just one of two systems that are operating. The two systems are comparable in terms of the capabilities that they present. They each can be upgraded as additional software becomes available. There is a planned upgrade for the San Francisco VTS which would allow greater resolution on the electronic chart display within the VTS center.

Mr. TAYLOR. But Admiral, to the point, if all your watchstander is going to do is sit there and be a witness electronically to a collision, then why are we, as a Nation, spending all that money? I have got to believe that part of the reason for all of this is that someone is there, particularly in bad weather, to make a vessel aware of a dangerous situation.

Admiral SALERNO. You are correct, sir. That is the purpose of the VTS. It is not to be a witness, it is to provide advice.

Mr. TAYLOR. Okay. So what did your watchstander do that morning?

Admiral SALERNO. Our watchstander contacted the vessel; it was tracking its movements through the harbor; talked to the pilot; confirmed the pilot's intentions. The pilot indicated that, yes, I intend to go through this span of the bridge. There was that confirmation that took place, so there was dialogue. The reason that call was initiated is it didn't quite look right to the VTS operator. He was paying attention to the movement and that is what initiated that call. And when he received the confirmation from the pilot, the assumption was that he was about to make a turn.

Mr. TAYLOR. I am curious, given the enormous tidal speed and direction within San Francisco Bay, particularly, I would presume, near the bridge even more so, do your electronic tracking devices co-mingle that information with what is on the radar? Could your watchstander have been in a position to say, hey, skipper, you are about to go into a five knot current that is dragging you straight toward that bridge abutment?

Admiral SALERNO. Sir, I am not sure the VTS has the capability to track the currents electronically. There is current information available. I can get back to you on the specific capabilities of that system. What the VTS operator will look at and see is the actual course made good over the ground. So they will track that.

Mr. TAYLOR. Mr. Chairman, just one last question.

Given that the national data buoy center, given that you train all of your search and rescue crews in set and drift, how to use the tide tables, that this information is available years in advance, but you have also got electronic equipment to make up for any variations that may be caused by storms or whatever, particularly in a place like San Francisco, why wouldn't that be a part of the VTS?

Admiral SALERNO. Well, sir, the way I would answer it is this way: we place great reliance on the technical competency of the pilot, who has the situational awareness on the vessel, is familiar with the currents and the patterns of the harbor, how it is configured and how those currents act within channels, and to maneuver the vessel in accordance with those parameters. I can get back to you with more detail on all of the data inputs that the VTS operators typically take into account, sir, if you would like.

[Information follows:]

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VTS sensor inputs include radar, the Automatic Identification System (AIS), visual, closed circuit TV and marine radios. The specific sensors at any VTS vary based on local needs. Other information sources available to VTS watchstanders include shipping schedules from Pilots, Marine Exchanges, ferry companies, shipping and tug companies; weather information, information from other Coast Guard systems, and from other Coast Guard units.

The VTS System operating system presents sensor and data inputs to the VTS operator to assist in building a "traffic image" that can be used to aid the mariner in navigational decision making. The VTS has access to real-time environmental data (e.g., weather and tidal current data) where such sensors are available (e.g., through the NOAA PORTS system, National Data Buoy Center installations). In some cases this environmental information is input into the VTS operating system; in others it is available through separate displays or internet. In either case, it is available for the VTS operator to use in facilitating navigation safety.

Mr. TAYLOR. Thank you, Mr. Chairman. You have been very patient.

Mr. CUMMINGS. Thank you very much.

Ms. Richards, I want to go back and clarify something. The VTS watchstanders should have been tested for drugs and alcohol, is that right?

Ms. RICHARDS. Yes, sir. According to the policies and the procedures of the VTS program manager.

Mr. CUMMINGS. But they weren't, is that right?

Ms. RICHARDS. Yes, sir.

Mr. CUMMINGS. And, as a result, it is now not possible to say for sure whether watchstander impairment was or was not a factor in the accident, is that correct?

Ms. RICHARDS. Yes, sir.

Mr. CUMMINGS. Admiral, I want to go back to the VTS issue. The IG's report states that the San Francisco VTS "does not have the most up-to-date traffic technology" and it notes that the current system does not allow a watchstander to zoom in and display on Bay Bridge columns. Do you disagree with these findings?

Admiral SALERNO. No, sir, I do not disagree. There is a planned upgrade to achieve that additional capability.

Mr. CUMMINGS. So when can we—what is the most up-to-date system?

Admiral SALERNO. Sir, the two systems are comparable, and as software enhancements are available, they are incorporated into each of these systems. The San Francisco upgrade is planned, I believe, some time this year. I don't have a specific date.

Mr. CUMMINGS. Can you get us a specific date on that?

Admiral SALERNO. Yes, sir, I will check with the technical staff and get you a date.

[Information follows:]

Congressional Hearing Transcript Insert

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The next major upgrade to the Coast Guard Vessel Traffic System (CGVTS) in San Francisco is scheduled to be accomplished by the end of first quarter FY 2009. VTS watchstanders will be trained on the improved software and application features.

Mr. CUMMINGS. Now, I want to follow up on what Ms. Richardson was asking you. Are these systems going to be—that is, the most up-to-date systems in the other areas where we now have VTS? You follow what I am saying? I am asking you, Admiral. In other words, you just said that very soon we would have the most up-to-date system—is that right?—in San Francisco.

Admiral SALERNO. Yes, sir. The software upgrades that will be put into place in San Francisco will put it on a par with the other systems.

Mr. CUMMINGS. So right now San Francisco is behind, is that what you are saying?

Admiral SALERNO. In terms of this one capability, yes, sir. But I would like to add that they do meet all of the Coast Guard requirements for VTS systems. There is not a shortfall in capability for what it takes for a VTS operator to perform his functions; they can still do that.

Mr. CUMMINGS. Well, what do you see as the difference in the new improved system as opposed to the one they presently have?

Admiral SALERNO. Well, you mentioned the zoom system, sir. That is essentially this additional capability that will be provided, it is the ability to zoom in on a nautical chart, an electronic display, and to see in greater detail up close.

Mr. CUMMINGS. Is that significant?

Admiral SALERNO. For this particular instance, sir, I do not believe it was significant. The operators are very well acquainted with the local area; they know where the spans are on the bridge; they are acquainted with typical maneuvers in the harbor. The VTS operators, one of the things they really bring to the table is local familiarity with how ships operate in their geographic area, and the system that they have to use in San Francisco enables them to make all of those determinations. So I do not believe this was a factor.

Mr. CUMMINGS. I just want to be clear on something. You said in two weeks you are going to get back to the Subcommittee with a plan for getting qualified marine casualty investigators into the investigative billets. Is that what you said?

Admiral SALERNO. What I said, sir, is within two weeks I will have our guidance to our field units regarding making sure that they are using qualified marine investigators to conduct investigation missions.

Mr. CUMMINGS. Well, will you commit to ensuring that every billet for an investigator is filled with a qualified investigator?

Admiral SALERNO. Sir, what I would have to do——

Mr. CUMMINGS. In other words, I am trying to figure out when do we have qualified people doing the investigations.

Admiral SALERNO. We need to qualify people to do every investigation.

Mr. CUMMINGS. Well, right now, let's zero in on this one.

We had a situation here, am I right, Inspector Richards, where there were certain folks who came to the scene who did not have the qualifications required, is that correct?

Ms. RICHARDS. Correct.

Mr. CUMMINGS. And what I am asking you is a very simple question: When can you tell us—and if you have limitations—I want to

go back to something the Chairman said. If there are limitations, we need to know about those limitations. Let me tell you what concerns me. When I see things like Katrina, when I see various things—the Coast Guard was great in Katrina, but I am using it just as an example.

We can stretch this rubber band but so far, and you have heard me say this before: we stretch and stretch and stretch—that is, the Coast Guard—during all these missions and it gets thinner and thinner at certain points, and that thinness—in personnel, resources, what have you—I think can lead to a culture of mediocrity. And when we get into that culture, we are waiting for the rubber to meet the road, and when it comes time for that to happen, there is no road.

So I guess what I am trying to figure out is—when Mr. LaTourette was asking about the drug tests, you know, well, nothing happened, but it is okay. No, it is not okay. Now I am asking about inspectors that are supposed to have certain qualifications. There is a reason why those requirements are there. Then we talked about the drug tests and going back to another aspect of the drug tests, and that is whether we, if we had had qualified inspectors, would they have made sure that the watchstanders had gotten the test. Well, these folks who were doing the investigation apparently didn't know. Why? Probably because they were not properly trained.

So what I am asking you is you said a few minutes ago that you were going to—you were very emphatic about how you were going to come back to this Committee and make sure this stuff was straightened out, and I believe you. All I am asking you is when can we expect that people who are supposed to be investigating these kinds of incidents are qualified.

Admiral SALERNO. Sir, they need to be qualified now, and my guidance will insist that they are qualified.

Mr. CUMMINGS. When?

Admiral SALERNO. I will have that guidance out within two weeks, sir. Sir, my hesitation was we will have trainees out there as well. We have to. How do we train new investigators? We have to put them on the job. We cannot just send someone to a school and have them become a qualified investigator; they need familiarity with the process. So we pair up our trainees with qualified people, and that is what I am saying. We will have trainees, but they are going to work for a trained investigator who will be in charge of every investigation.

Mr. CUMMINGS. Before we go to Mr. Oberstar, I have just one last question. Why would the field need guidance on having qualified investigators during investigations? Don't they know?

Admiral SALERNO. Sir, actually, the guidance already exists. We have existing policy that establishes that. What I will do is reinforce that and insist upon it.

Mr. CUMMINGS. You see what I mean? You are saying exactly what I was getting to. You are saying we have got the regulations, we have got the guidance, but some kind of way we are not measuring up to the standard. That is basically what you are saying. Answer me, am I right or wrong?

Admiral SALERNO. You are correct.

Mr. CUMMINGS. And all I am asking you, then, therefore—this is getting to the nitty gritty—how do we measure up to the standards? I am telling you, I have gone to these events where you are honor Coast Guard men and women for their bravery and what have you, and I am telling you they deserve to be properly trained to do a job.

Admiral SALERNO. I agree.

Mr. CUMMINGS. And I think it would break their hearts if they went out, were not properly trained, something happened, and because of their failure to be properly trained, somebody dies or there is harm that comes. I think they would not feel very good.

Let me let Mr. Oberstar—Mr. Oberstar?

Mr. OBERSTAR. Thank you very much. And thank you for that very persistent and thoughtful line of questioning, to which I will return later.

There is authority for the Coast Guard—moving to the other issue that we are considering in this hearing—to exempt a vessel from load line requirement "when good cause exists." And the Coast Guard, through the Secretary, is authorized to issue a certificate detailing the extent of the exemption. On what basis did the Coast Guard issue an exemption to a whole class of head and gut, as they are called, boats in which no two vessels are built the same, rather than doing it on a vessel-by-vessel basis?

Admiral SALERNO. Sir, the program is meant to be conducted on a vessel-by-vessel basis, not on a fleet-wide basis. So you are correct. The reason by which the load line requirement would not be enforced on a fish processing vessel would be compliance with an alternative program which establishes an equivalent level of safety. That is what this Alternative Compliance for Safety Agreement is designed to achieve.

Mr. OBERSTAR. So you were avoiding the base rule and attributing good cause to the ACSA.

Admiral SALERNO. Sir, the base rule, which requires that a classification society class the vessel and issue the load line was, for most of these vessels, unachievable.

Mr. OBERSTAR. You mean that they would not be able to be—they could not qualify?

Admiral SALERNO. Most class societies are unwilling, very reluctant to class these vessels primarily due to their age. Remember, these are uninspected vessels; many have been in service for 20 years——

Mr. OBERSTAR. And if the classification society wouldn't, why would the Coast Guard?

Admiral SALERNO. Sir, we looked at the special operating conditions of these vessels and felt we could achieve a comparable level of safety, keeping in mind that these are uninspected vessels. They are operating as processors; they have the option of reducing some of the processing functions performed onboard and operating purely as a fishing vessel in an uninspected capacity with no obligation to meet that class rule or the load line.

Mr. OBERSTAR. And they don't operate in just calm waters; they are operating in a very hostile marine environment——

Admiral SALERNO. That is correct.

Mr. OBERSTAR.—as testified to by numerous programs of the Weather Channel and the History Channel, which I observe. I call it the Coast Guard channel, frankly; the Coast Guard is so frequently engaged.

But I want to restate the rule of the Committee, that no audible signal is to emerge from any phone or BlackBerry or anything else, and the person not complying with that will be removed from the Committee room.

There is an e-mail from Sector Seattle to Coast Guard Headquarters, January 25th of this year, extending the compliance deadline from January 1st, 2008 has enabled the fleet to operate and find the money to complete the repairs and says we are doing so on a schedule that preserves the economic viability of this industry. This last aspect, it continues, is central to the cooperation of the fleet. If we do not walk this line appropriately, we very easily risk the fleet getting their congressional delegation to expand the head gut and freeze definitions so that these vessels will never be inspected again.

That sounds hauntingly to me like the customer service initiative of the Federal Aviation Administration last week on which a hearing was conducted in this very hearing room. Sounds very industry-friendly and compliant. Those safety regulations in the FAA and the Coast Guard and the Federal Railroad Administration are not to be based on the economics of the industry, but on the safety to the crew in the case of aircraft, passengers on board, and to all those who stand to be affected by the disadvantaged environment.

Should those safety regulations be based on the interest of the safety of the crew or on the economics of the industry?

Admiral SALERNO. Sir, we want to elevate the level of safety in this fleet. This is an avenue to do that. The ships are making improvements in their material condition that would not otherwise be made, I am quite confident, if we had simply said, sorry, you cannot meet the requirement for class, you can't operate as a process. We are allowing them to operate that way, but with the requirement that they increase their safety.

There are 1,200 people operating on these 60 vessels that now are benefitting from an elevated level of safety. They are changing watertight doors; they are doing things to improve their stability; they are conducting drills; they are doing things that, in the past, would not have been required. And, as I mentioned, if we insisted on the base rule, which they couldn't meet, their option is simply operate as an uninspected fishing vessel with really no additional requirements. So there are improvements being made as a result of this program to the benefit of those 1200 crew members.

Mr. OBERSTAR. Improvements should be made first, before they put out to sea.

Next week we bring the Coast Guard bill to the House floor very probably will be an amendment dealing with the DELTA QUEEN to allow it to continue operating, although they have one more year on their exemption. Maybe it is just to the end of this year, but, at any rate, they have some period of time. The Coast Guard says no, and I agree with the Coast Guard. That is an all-wooden vessel. They argue, oh, you know, it sails on the Mississippi and it is never

far from shore. Yet, the worst inland maritime disaster was on a river boat on the Mississippi in the 1800s.

Admiral SALERNO. SALTANA.

Mr. OBERSTAR. 1867. You know it well. You are not going to say to the DELTA QUEEN, you know, that is okay, you fellas just keep working on this, spray some more fire retardant on the wood and you will be okay. You are not going to do that, are you?

Admiral SALERNO. No, sir. Fundamental difference——

Mr. OBERSTAR. Is there a fundamental difference, then, between that——

Admiral SALERNO. Yes, sir.

Mr. OBERSTAR.—and the——

Admiral SALERNO. There is, and the difference is the DELTA QUEEN is an inspected vessel, inspected passenger vessel under subchapter (h). The fishing vessels are uninspected. This is a cooperative program that will elevate their safety. The option is they just operate not as—they perform a few less processes on board and they still operate as a fishing boat.

Mr. OBERSTAR. So they can fish, but they can't process. If they are treated as processing vessels——

Admiral SALERNO. That is correct, sir.

Mr. OBERSTAR. There is a big economic difference.

Admiral SALERNO. There is a difference. Now, the head and gut fleet is allowed to perform half a dozen or so processes on fish—they can head, gut, freeze, and so forth—without being considered a processor, the definition in the law. So they can go up to that line; it is just when they cross that and perform additional processing on their catch that they become a processor. So if they just step back and don't cross that line, there is no requirement that they meet class or load line rules.

Mr. OBERSTAR. Well, I think this needs much more deliberation, Mr. Chairman and Mr. LaTourette, our Ranking Member. I think we need to give this further thought.

Let me come back to the line of questioning of Chairman Cummings, which you had some difficulty with, Admiral. The marine casualty investigators in the sector don't actually work for you, do they; they are not under your direct authority?

Admiral SALERNO. They work for the sector commander.

Mr. OBERSTAR. They work for the sector, who reports to the district.

Admiral SALERNO. That is correct, sir.

Mr. OBERSTAR. The district reports to the area.

Admiral SALERNO. Yes, sir.

Mr. OBERSTAR. Who reports to you?

Admiral SALERNO. Sir, they don't—there is not a direct line relationship. What I do——

Mr. OBERSTAR. They don't. Do they report to the Commandant?

Admiral SALERNO. Ultimately, yes, sir, they do, and I work for the Commandant, and I establish mission requirements for the marine investigation program.

Mr. OBERSTAR. Should be more direct line of authority, it strikes me. As we were crafting the restructuring of the marine safety program, it seems to me that people who inspect vessels and do casualty investigations and don't work for the Assistant Commandant

for Marine Safety, Security and Stewardship, how can you hold them accountable if that is your responsibility?

Admiral SALERNO. Sir, I said——

Mr. OBERSTAR. You can only issue guidance.

Admiral SALERNO. I set the mission requirements and I perform the review every year to make sure that the mission is being accomplished. We have ongoing dialogue with the area and with the district chiefs of prevention, and I personally have met with all of the sector commanders on marine safety missions, so that that dialogue is there. The resources of my staff are available to all levels in the chain of command.

Mr. OBERSTAR. Shouldn't you have direct line of authority, though, if that is your responsibility? Instead of issuing guidance, that you should really have a much more authoritative position.

Admiral SALERNO. Sir, I feel our system actually works quite well.

Mr. OBERSTAR. You are not going to answer that question with the Commandant looking over your shoulder, I know, and I acceded to his request and changed that provision in our bill. I regret it. But that will be as it is.

Mr. Chairman, I will withhold further questions at this point.

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

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman. I don't want to be misunderstood about the drug testing and the folks and the VTS. If the rules say that they are supposed to be drug and alcohol tested, they should be, but I think when I was listening to the Inspector General's conclusions, I was reminded of Congressman Barney Frank who has a pretty well known story that talks about editorial writers sort of being the folks that sit up on the hill and watch the battle, and then after it is over, come down to slaughter the wounded.

[Laughter.]

Mr. LaTourette. My concern was that if the rules say that these folks should be tested, they should be tested, but I then understood the Inspector General's conclusion to be that even if they were drunk they didn't do anything that contributed to the outcome of this particular incident. Is that a fair observation? They did their job.

Ms. RICHARDS. Our conclusion is that they did do their job, they followed their operating procedures appropriately.

Mr. LATOURETTE. Right. That is what I was trying to get at.

Admiral, to the ALASKA RANGER, it is my understanding that for a good part of its life this vessel was in the Gulf of Mexico before it went to the Bering Sea.

Admiral SALERNO. That is correct, sir. When it was originally constructed, it served the oil field as an offshore supply vessel.

Mr. LATOURETTE. Okay. I think what concerns me—and you have heard both Chairmen talk about it, and I wrote down two words that you used. You know, basically, these 60 head and gut boats were not inspected, and when the Coast Guard determined that they were doing more than sort of running afoul of the difference between a fishing vessel and a processing vessel, that the Coast Guard came up with the ACSA.

You, at one point, used the word an equivalent level of safety and then a couple minutes later said comparable, which I think are the same thing. But I guess the question is—and what disturbs me—if these head and gut vessels, if the Coast Guard has reached a conclusion that in fact they are doing processing, which would subject them to additional regulation, if the ACSA is truly equivalent, then it is equal. Equivalent means equal to me. Is it equal or is it not equal?

Admiral SALERNO. In our view, it is equal. We benchmarked the requirements of the ACSA against load line requirements, for example, so that they are on a par with each other.

Mr. LATOURETTE. Then why would these vessels fail or not be successful in getting the certification as processing vessels?

Admiral SALERNO. Quite simply, sir, it is a commercial decision by the classification societies. They are under no obligation to class any vessel; they do that as a business decision. And most class societies are very reluctant to accept a vessel into their system of the age of these vessels. Typically, beyond 20 years they see this as a risk that they are just not willing to assume.

Mr. LATOURETTE. Okay. But I guess I am getting at—because I want to be clear, because to me it is one thing if you have a vessel that if you put it to a certain test, it would fail, as opposed to somebody that is in charge of issuing the credential says I just don't want to do this.

So which is it? If the classification societies were willing to make that business decision and say I am going to inspect it to the same level of safety requirements for the processing vessels, is it your conclusion that for these—and I think you have now 20 vessels that have been enrolled out of the 60—is it your opinion that these 20 vessels that have made the safety improvements would pass if the classification systems were willing to inspect them as processing vessels?

Admiral SALERNO. Yes, sir, I would say that they would pass.

Mr. LATOURETTE. Thank you very much.

Mr. CUMMINGS. Mr. Taylor.

Mr. TAYLOR. Admiral, just for my information, what percentage of the recruits coming in today will do two or more tours in the Coast Guard? The number for the Marines is like 70 percent of all Marines will do one hitch. I was curious what it is for the Coasties.

Admiral SALERNO. Sir, I would like to think it is at least that. I don't have that number, but I would say it is a fairly highly percentage. I can provide that for you.

Mr. TAYLOR. That means only 30 percent of Marines do two or more hitches.

Admiral SALERNO. Oh, I am sorry, I thought you meant 70 percent did two or more. I would say we would be on the high end, closer to 70 percent doing two or more. But I don't know that for sure. I can find that out.

[Information follows:]

Congressional Hearing Transcript Insert

#IFRs-0022

Insert will be entered on Page 87 following Line 2041

The Coast Guard does not currently track "second term" enlistments specifically. We track "subsequent" enlistments, which is defined as a member with over eight years time in service as a result of an extension or reenlistment.

The subsequent reenlistment rate for the last 12 months is 87.9% and the 3-year average is 90.4% (2005-2007).

Mr. TAYLOR. Okay, given your manning requirements, I know that you are always going to have a steady supply of people in the pipeline, new people to train, old people getting ready to leave. But I am curious, if we as a Nation are going to go to the tremendous expense of having these Vessel Traffic Systems, and if they are supposed to accomplish something other than being a witness to an accident, within the Coast Guard, what sort of rules do you have to have a certain ratio of trainers to trainees? It appeared to be pretty light the day of the accident in San Francisco Bay.

Was that a temporary condition because of a holiday, because of sickness amongst the crew, just a seasonal redeployment? How did you get to that situation where you were pretty heavy in inexperienced people that morning?

Admiral SALERNO. For the VTS, sir, or for the——

Mr. TAYLOR. On the VTS.

Admiral SALERNO. Sir, I don't believe we were understaffed; I think they met the proper staffing level at the VTS.

Mr. TAYLOR. I wasn't questioning the number of people, but the memo I read led me to believe they were fairly inexperienced.

Admiral SALERNO. Sir, my understanding is not that, that the VTS operators were in fact fully trained.

Mr. TAYLOR. Okay.

Admiral SALERNO. One change that the unit has made since the accident is they have instituted additional procedures for conditions of fog. So they put an additional watchstander on during those conditions, which is a process change.

Mr. TAYLOR. Again, I am going way back to the 1970s, but I was really impressed back then. At least the story was that they could look at a blip on the radar screen, and if that vessel had been to San Francisco before, they could tell you which vessel that was, what its draft restrictions were, ranked overall with where it normally moored and what it normally carried. Is that still the case?

Admiral SALERNO. Yes, sir. In fact, with additional systems, the systems will tell them what ship that is, it'll identify it by name.

Mr. TAYLOR. Would the turning radius be one of the pieces of information that you kept on those vessels?

Admiral SALERNO. On the VTS display? I don't believe so, sir.

Mr. TAYLOR. As far as the characteristics of the ship.

Admiral SALERNO. That information is available on the bridge of the ship for use by the pilot, definitely; that is a requirement in our regulations, that it be there. I do not believe that that is immediately available to the VTS.

Mr. TAYLOR. Okay, now, I going back from hearsay from staff, but the hearsay from staff was that the pilot could not read the electronic chart and could not distinguish where the center of the span was, where the channel was. What did the Coast Guard investigation say about that?

Admiral SALERNO. Sir, there was no indication that there was anything wrong with the ship's radar. Our investigation——

Mr. TAYLOR. That is not my question. My question is was part of the problem that the pilot could not distinguish on the electronic chart where the center of the span was, where the channel was, as opposed to where the pilings that support the bridge are?

Admiral SALERNO. Sir, there is a racon on the center of the span, so that it is very apparent on a functioning radar system.

Mr. TAYLOR. Was the pilot able to distinguish that?

Admiral SALERNO. Sir, all of the means for the pilot to determine that were there. You are asking me to get in his head.

Mr. TAYLOR. Well, no. I would hope that was part of the inquiry, Admiral. I think that is a fairly common sense question to ask. I am going all the way back to the tug and barge that took out the bridge near Mobile in the early 1990s because the pilot then couldn't read a radar. And I thought we passed some language then that required the ability, the mastery of electronic navigation as being one of the prerequisites. That is just for a tugboat operator. So if it is that case for a tugboat operator, I would certainly hope that a pilot would have this knowledge.

Admiral SALERNO. Yes, sir. I misunderstood your question. Professional requirements for someone to obtain a pilot's license is that, yes, they must pass radar course. They have to be familiar with the electronic navigation systems that are required on the bridge of a ship. So there are professional requirements.

Mr. TAYLOR. Okay, so for the record, did the Coast Guard ever look into whether or not pilot error, the inability or, as I am told by staff, now, the inability of the pilot that day to distinguish the opening where the channel was on the electronic charts in front of him? Was it pilot error; was the machine at fault? What was the contributing factor that day? Has the Coast Guard made a definitive ruling yet?

Admiral SALERNO. No, sir. The investigation has not been completed yet. But there has been nothing to indicate any mechanical failure.

Mr. TAYLOR. Mr. Chairman, would you bear with me?

Let's go to the vessel off of Alaska. I am curious where the Coast Guard differentiation comes in as far as vessel safety as to whether or not a vessel stops at a certain point in fish processing. Now, I would think that would have nothing to do with the structural integrity of the hull. I would think it would have nothing to do with the stability of the hull. I think it would have nothing to do with watertight bulkheads. As a matter of fact, it would have absolutely nothing to do with the safety of that vessel. So why on God's green earth does the Coast Guard have one set of rules for people who stop at one point in the processing system and why do they have another for people that go a little bit further in the processing of a fish? Is that politically driven? Did that come from within the Coast Guard? Because it really sounds to me like an incredibly squirrely way for the Coast Guard to do business.

Admiral SALERNO. Sir, it is derived from statute. The statute defines——

Mr. TAYLOR. Okay, so where did the statute come from, was it recommended by the Coast Guard? Again, was it a political consideration or did someone in the Coast Guard say this is the way we ought to be doing business?

Admiral SALERNO. Sir, it echoes back to the late 1980s, commercial fishing industry——

Mr. TAYLOR. Okay, I have got to believe, looking at all that gold on your sleeve, that you were in the Coast Guard in the late 1980s. So, again, where did that consideration come from?

Admiral SALERNO. The origins of how it got into statute, sir, I don't know offhand. I would have to research that for you.

Mr. TAYLOR. Well, again, Admiral, we do respect your expertise, but given that that is one of the most dangerous professions in America, given that it not only costs the lives of the men and women serving on those vessels, but I would imagine the Coast Guard spends an enormous amount of the citizens' treasure. Anticipating those events and responding to those events, wouldn't it make sense for everyone involved, starting with the taxpayers, but certainly for the men and women who serve on the those vessels and their families, to base our criteria on the risk to the vessel and to the crew, and not on what type of activity is going on as far as gutting fish?

Admiral SALERNO. Sir, we would welcome a requirement for all fishing vessels to be inspected. That is not the case now. We are working in the authority's behalf.

Mr. TAYLOR. Well, I don't want to get into overkill on this because, obviously, falling overboard in Bay St. Louis, which is seven feet deep, in July is significantly different than operating off the coast of Alaska during the middle of the winter. You know the difference; I know the difference.

Admiral SALERNO. Yes, sir.

Mr. TAYLOR. A person can tread water in Bay St. Louis for two days before hypothermia would kick in. What is it in Alaska, five minutes, two minutes?

Admiral SALERNO. It is not long.

Mr. TAYLOR. So, again, I would expect the Coast Guard to use some common sense when it comes to this. But if that is the most dangerous place for a person to be serving on a vessel, I would hope that the Coast Guard would make some recommendations for the sake of everyone involved that we do a better job.

Admiral SALERNO. Sir, and we are pushing as hard as we can within the authorities we have to do just that. We do have a fishing vessel examination program. We work very aggressively with the fishing community, especially in Alaska and in other cold water areas as well.

In fact, I would say that the fact that 42 people survived this sinking can be attributed to the fact that they had immersion suits. Every crew member had an immersion suit. They had a strobe light so that they could be found in the darkness by rescue crews. They had life rafts that they knew how to deploy. They knew to take radios into the rafts with them.

They called the Coast Guard before the vessel sank. There were previous accidents where they didn't know how to do this; they didn't call the Coast Guard early on and get rescue forces mobilized. So a lot of these things, working with our fishing vessel examiners, even though these are uninspected vessels, contributed to saving lives, in my estimation.

Now, I would point out that this is an uninspected fleet, largely, so we don't have the same degree of assuredness as to the hull envelope and the stability that are critical factors in overall safety.

Mr. TAYLOR. Under their requirements, were they required to have a life boat for every member of the crew?

Admiral SALERNO. They have life rafts for the crew and immersion suits for every member of the crew when they operate in cold water, so that is a distinction between operating in the Gulf of Mexico.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. Larsen.

Mr. LARSEN. Mr. Chairman, I have no further questions, but I had an excellent briefing on some of the facts as they are currently known on the ALASKA RANGER as well as getting some answers to some of the questions that have been prepared as well, and I appreciate that. I certainly will have further questions as this investigation moves along, but I am obviously very interested in the Pacific Northwest. A lot of the fleets base there before they head up north for the fishing season. So I appreciate the Coast Guard's willingness to share some information. Thanks.

Mr. CUMMINGS. Thank you very much.

Just one last question. Admiral, I am still kind of concerned about the need to re-emphasize guidance that should be already in place. How did it happen that the majority of the people assigned to the casualty investigator positions in the sector were not qualified? And is that occurring in other sectors?

Admiral SALERNO. Sir, I don't have a good answer for that. It is an answer I need to know myself, because I have concerns nationwide.

Mr. CUMMINGS. Now, how long have you been in your position?

Admiral SALERNO. I have been in my current position for about a year and a half, sir.

Mr. CUMMINGS. And you didn't know that?

Admiral SALERNO. No, sir, I did not know that. But I know it now, and I am going to do something about it.

Mr. CUMMINGS. How long have you known?

Admiral SALERNO. I read this in the IG report. So within the past few days.

Mr. CUMMINGS. So you will have something in writing showing us how that will be corrected?

Admiral SALERNO. Yes, sir.

Mr. CUMMINGS. Ms. Richards, my last question to you is the Coast Guard believes that in a multi-mission service all members of the service should essentially be able to perform all missions. The Coast Guard strongly resists the idea of specialization among its members and, as a result, the quality of personnel in some specialties, such as marine safety, is suffering.

Do you believe it is appropriate that the Coast Guard should maintain an organizational model that requires all personnel to be able to perform all missions, or does the Service need to create systems that will cultivate specialized skills among some of its personnel? Do you have an opinion on that?

Ms. RICHARDS. Mr. Chairman, I have been with the Department of Homeland Security a very short time, so I don't personally have an opinion. I am aware that our Inspector General has testified on previous occasions about his concerns.

Mr. CUMMINGS. Well, what we will do is we will submit that in writing. How about that?

Ms. RICHARDS. Thank you very much, sir.

Mr. CUMMINGS. And, with that—Mr. LaTourette, do you have anything else?

Mr. LATOURETTE. No, sir.

Mr. CUMMINGS. With that, we want to thank all of you for your patience and that ends this hearing.

[Whereupon, at 12:58 p.m., the Subcommittee was adjourned.]

SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION

"COSCO BUSAN and Marine Casualty Investigation Program"

April 9, 2008 – 10:00 a.m.
Room 2167, Rayburn House Office Building

Script of Chairman Elijah E. Cummings

The Subcommittee will come to order [GAVEL].

Today's hearing gives us the opportunity to receive the report developed by the Department of Homeland Security's Office of the Inspector General in response to a request made by Speaker Pelosi and myself for a comprehensive examination of the circumstances surrounding the allision of the COSCO BUSAN with the San Francisco Bay Bridge on November 7, 2007.

We made that request following a special field hearing held by this Subcommittee in mid-November in San Francisco, during which we began our examination of this incident.

At the time of that hearing, I promised that our Subcommittee would continue to follow-up on this incident until we understood the facts surrounding it and, more importantly, had identified the lessons from it that needed to be applied to improve the safety of the maritime transportation industry. We continue to fulfill that promise today.

A number of investigations of the COSCO BUSAN allision are on-going – including a critical review by the National Transportation Safety Board, which is examining issues surrounding probable cause that

we are not in a position to examine today. We look forward to reviewing the results of those investigations when they are available.

Today, we specifically examine the Inspector General's findings regarding the role of the Vessel Traffic Service in the COSCO BUSAN allision, the adequacy of the Coast Guard's post-accident investigation, and the effectiveness of the response to the oil spill mounted by the Coast Guard and by state and local officials.

We will cover all aspects of the report during the course of our hearing – and look forward to the testimony of Ms. Anne Richards, Assistant Inspector General for Audits, who is representing Inspector General Skinner today.

However, let me say at the outset that I am deeply disturbed to learn that the marine casualty investigators who responded to this incident were not qualified as casualty investigators – and that their apparent lack of job knowledge caused them to fail to secure critical evidence.

I cannot believe that the Coast Guard would ever send someone who was not qualified as a pilot to pilot a plane or a helicopter – and yet we have a circumstance here in which individuals who were not qualified as casualty investigators were sent to examine a marine casualty that involved a 900-foot ocean-going vessel that had just hit the San Francisco Bay Bridge and was leaking thousands of gallons of oil into San Francisco Bay.

During the second half of today's hearing, we will focus on the tragic loss of the fishing vessel ALASKA RANGER, which sank on Easter Sunday – March 23, 2008 – resulting in the confirmed deaths of four crew members and the presumed death of a fifth crew member.

Our prayers go out to the families of those who perished – the captain Eric Jacobsen, the chief engineer Daniel Cook, the mate David Silveira, crewman Byron Carrillo, and fishing master Satashi Konno of Japan, whose body has not been recovered.

Each time we confront one of these terrible tragedies, we are reminded of Sir Walter Scott's

observation: "It's no fish you are buying, it's men's lives."

But, we rejoice that 42 of the 47 crewmembers aboard the ALASKA RANGER were saved through the efforts of its sister ship, the ALASKA WARRIOR, and by the truly amazing rescue operations mounted by the United States Coast Guard.

During those operations, helicopter crews battled severe weather conditions to reach the vessel, and rescue swimmers braved terrible conditions in the water to lift the crew members to safety. I especially commend Aviation Survival Technician Third Class, Abram Heller, who voluntarily stayed behind in the water in a small liferaft to make room for additional

survivors on the helicopter during that rescue operation.

ALASKA RANGER was one among a fleet of approximately 60 vessels known as the "head and gut" fleet operating in the Gulf of Alaska and the Bearing Sea. It was participating in an Alternative Compliance and Safety Agreement created by the Coast Guard to enable these ships to continue to operate as "fish processors" while requiring them to make significant and overdue safety improvements.

This alternative compliance program was created specifically because these vessels were too old to meet the standards that would otherwise have been required of them – including classification by a

recognized class society and the acquisition of a "load line."

While the development of such a partnership in an effort to improve the safety of one part of our nation's deadliest profession is an initiative we applaud, it is deeply troubling that ALASKA RANGER appears to have been underway with major structural and watertight integrity issues that still needed to be corrected.

This raises serious questions about the implementation of this program, including the quality of the inspections of the vessels for compliance with the program's standards; extensions of exemptions from safety standards; and the lack of

sufficient resources dedicated to the marine safety program.

We hope that Admiral Salerno can shed some light on the Alternative Compliance program and specifically ALASKA RANGER'S participation in it.

As I close, I want to draw our focus to the broader issue here – one that is a theme of continuing concern to this Subcommittee and certainly to the Chairman of the Full Committee, Congressman Oberstar – and that is the ability of the Coast Guard's marine safety program to effectively regulate an increasingly complex marine industry and to respond to marine casualties.

The Inspector General's report on the COSCO BUSAN paints a picture of a marine casualty program at Sector San Francisco that was not ready to respond when the bell rang.

We await from the Inspector General a comprehensive examination of the Coast Guard's marine casualty program, which is now almost a year overdue. This report cannot be issued soon enough.

While I know that the Commandant has announced important changes to the marine safety program, including the creation of 276 new billets, it will take significant time to train new personnel to achieve their qualifications in marine safety.

Further, while I understand that the Coast Guard wants to ensure that the marine safety program is structured appropriately within the environment of a military service, the needs of that military structure can NEVER be allowed to shortchange the needs of the regulatory program on which the maritime industry and the public count to ensure the safety of maritime transportation.

With that, I recognize the Ranking Member.

Nancy Pelosi

Statement of House Speaker Nancy Pelosi
Subcommittee on Coast Guard and Maritime Transportation Hearing
Allision of the M/V COSCO BUSAN with the San Francisco-Oakland Bay Bridge
April 10, 2008

Chairman Cummings, Ranking Member LaTourette, and Members of the Subcommittee, thank you for convening today's hearing on this issue of particular importance to my district in San Francisco, and for allowing me to join you for the proceedings. Inspector General Skinner, thank you for conducting the investigation of the Coast Guard's response to the Cosco Busan spill. Your report provides a tremendous amount of insight into the unfortunate events of that day, and offers a number of useful recommendations for the future. Thank you also for the speed with which you and your team conducted this investigation. Thank you also Admiral Salerno to the Coast Guard for providing your full cooperation in this investigation, and for the Coast Guard's service to our nation.

San Francisco Bay is more than just a body of water to San Franciscans. In terms of both commerce and recreation, it provides the heartbeat of the region. We bring our kids and grandkids there to play and learn about the environment. We surf and sail. And we appreciate the precious ecosystem that exists on the beaches, in the estuaries, under the water and in the nearby National Marine Sanctuary – the Gulf of the Farallones. So protection of the Bay – its safety and its health – is not just a priority, it is an ethic for Bay Area residents.

Chairman Cummings and I requested this investigation to review the Coast Guard's response to the oil spill, to determine whether available resources were utilized appropriately, and to ensure that emergency response plans for the Bay are sufficient for this and other potential disasters.

The Inspector General (IG) report identifies several areas for improvement, including improved standard operating procedures to guide the response of Coast Guard personnel, sufficient training for on-site investigators, and amending the Area Contingency Plan to include an expedited process for managing, training and credentialing large numbers of volunteers.

Several of the report's recommendations focus on the need to develop standard procedures to ensure that systems are functioning properly and that appropriate steps are taken when incidents occur. The failure of the San Francisco Vessel Traffic Service (VTS) to synchronize audio, video and tracking data made it more difficult for investigators to recreate the chain of events. Although the Voyage Data Recorder was eventually recovered, the failure of Coast Guard investigators to secure it and other critical communications and navigations systems also threatened to impair the investigation. In addition, investigators failed to ensure these systems were fully operational at the time of the incident, making it more difficult to determine whether system malfunctions were a contributing factor. Finally, the failure to conduct drug and alcohol tests on the VTS watchstanders made it impossible to rule out the possibility that impairment of Coast Guard personnel contributed to the allision. Although the report makes it clear that additional actions by the VTS could not have prevented this disaster, these shortcomings impacted the response. As a result, the IG's call for National Standard Operating Procedures and the use of "Quick Response Checklists" to ensure these mistakes do not occur in the future is appropriate.

Many of these issues directly relate to the inexperience of the Coast Guard investigators who were initially sent to the scene. The report's finding that all three of the marine casualty

investigators assigned by the Coast Guard to the scene immediately following the incident were not qualified to conduct this type of investigation is disconcerting. Given that five of the six marine casualty investigators assigned to Sector San Francisco were unqualified in this area, this outcome was nearly inevitable. In addition to the failures to collect evidence, check systems and conduct required tests by marine casualty investigators at the scene, the on-site pollution investigators grossly underestimated the magnitude of the spill and the VTS watchstanders failed to notify the National Response Center and the State Office of Emergency Services as required by the Area Contingency Plan, instead leaving that essential task to the Responsible Party. An increased emphasis on training and, where required, certification of Coast Guard personnel must be prioritized going forward.

Finally, I have heard significant concerns from my constituents and other Bay Area residents, environmental organizations, fisherman and local officials about the Unified Command's inadequate use of the literally thousands of volunteers who offered assistance in the immediate aftermath of the spill. While the existing Area Contingency Plan includes details regarding required training for volunteers handling hazardous materials, it does not include a process for expediting the training and credentialing of those volunteers. The Cities of San Francisco and Berkeley stepped in to fill this void several days after the spill, but the IG correctly recommends that procedures to quickly implement volunteer training and credentialing after an incident be incorporated into the Area Contingency Plan.

The report also provides useful input regarding the need for expanded and clarified criteria for the San Francisco VTS to guide limitations on vessel movement during periods of restricted visibility, the need for medical review of all federal pilot applicants and license renewals, and the importance of regular drills that include a focus on fish, wildlife and shoreline protection. Community input also focused on issues that are not prominently addressed in this report, including the failure to communicate information regarding the magnitude of the spill to the public in a timely manner on the day of the incident, the need to better prioritize sensitive environmental protection areas to target resources effectively during the first 24 to 48 hours of response, and the urgent need for increased federal resources related to environmental response, assessment and restoration when hazardous materials are released.

Another key issue is already being addressed legislatively. The pending Coast Guard reauthorization (H.R. 2830) includes language requiring double-hulls to protect their bunker fuel tanks on U.S.-flagged ships that enter into service in 2010 or later. This is the same deadline as has been established by the International Maritime Organization for double-hulling ships' fuel tanks. The IMO requirements, however, do not apply to U.S.-flagged vessels in domestic trade.

In the Incident Specific Preparedness review released in January, the Coast Guard raised many of the same points highlighted by the IG and in the community. Our challenge going forward is to use this information to prevent future disasters and to respond more effectively when emergencies do occur. I met with Admiral Allen on Tuesday and am pleased to report that the Coast Guard concurs with all nine of the Inspector General's recommendations. Given San Francisco Bay's biodiversity and fundamental role in the region's commerce and recreation, it is essential that these recommendations be swiftly implemented.

STATEMENT OF ANNE L. RICHARDS

ASSISTANT INSPECTOR GENERAL FOR AUDITS

OFFICE OF INSPECTOR GENERAL

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

April 10, 2008

Good morning, Chairman Cummings and members of the Subcommittee. I am Anne L. Richards, Assistant Inspector General for Audits for the Department of Homeland Security. Thank you for the opportunity to discuss the Coast Guard's response to the November 7, 2007 allision of the M/V COSCO BUSAN with the San Francisco-Oakland Bay Bridge.

I would first like to express our appreciation to the Coast Guard's Eleventh District Command and the Coast Guard's headquarters Office of Budget and Programs for their timely and thorough responses to my staff's innumerable requests for information and documentation over the past 90 days. It is fair to say we would not have completed our review in such a timely manner without their complete cooperation.

My testimony today will address five major questions that have been asked regarding the Coast Guard's actions prior to and during the first 24 hour following the allision. They are:

1. Was there anything the Coast Guard's Vessel Traffic Service could have done to prevent the allision?

2. To what extent was the Coast Guard's post-mishap pollution assessment and marine casualty investigation conducted in a complete and effective manner?

3. To what extent did the delay in notification of the size of the oil spill adversely impact the response of Coast Guard, state and local governments, and responsible party to the mishap?

4. Was the San Francisco Area Contingency Plan adequate to guide the response to an oil spill of this magnitude?

5. To what extent did the San Francisco Area Contingency plan provide for the treatment of marine resources, wildlife and fisheries?

San Francisco Vessel Traffic Service

Was there anything the Coast Guard's Vessel Traffic Service could have done to prevent the allision?

There was nothing the San Francisco Vessel Traffic Service (VTS) could have done to prevent the allision. The VTS watchstanders followed their operating procedures for monitoring the transit of the M/V COSCO BUSAN from the time it left Pier 56, transited the Oakland Bar Channel, and allided with the San Francisco-Oakland Bay Bridge. The watchstanders acknowledged the pilot's intention to get underway, his intended route, and appropriately notified the pilot that visibility was reported to be between one-eighth and one-quarter of a mile between the Bay Bridge and the Golden Gate Bridge. The VTS also provided the M/V COSCO BUSAN with traffic advisories and appropriately queried the vessel when they became concerned about the vessel's heading. Given the current operating procedures and hardware/software capabilities, there were no additional actions the VTS watchstanders could reasonably have taken to prevent the allision. However, we identified the following areas for improvement in the VTS program:

1. **National Standard Operating Procedures.**--The Coast Guard does not have a VTS national standard operating procedure. Currently, the individual VTSs follow guidance provided in the Coast Guard's Marine Safety Manual. The Marine Safety Manual only provides general concepts for VTS operations and not the specific requirements for equipment operation or emergency procedures. For example, the San Francisco VTS watchstanders on duty when the mishap occurred were not tested for drugs and alcohol due to a lack of awareness of drug and alcohol testing policies and the VTS program manager's practice of conducting such tests following a mishap. By not administering the drug and alcohol tests, the Coast Guard is unable to positively rule out impairment of the VTS watchstanders as a contributing factor to the incident. The issuance of a VTS national standard operating procedure would reduce future oversights associated with drug and alcohol testing by standardizing the operations and requirements that apply to all VTS command centers.

2. **VTS Authority to Limit Vessel Movement.**--The San Francisco VTS has the authority to institute and enforce measures to enhance navigation and vessel safety and to protect the marine environment (including the authority to control the movement of vessels) as provided by the Ports and Waterways Safety Act (33 U.S.C. 1221.and Title 33 Code of Federal Regulations Part 161 (Vessel Traffic Management). This authority includes managing vessel entry and movement, or departure to, from, or within a VTS area during extreme weather, sea, and atmospheric conditions, including during periods of high winds and restricted visibility. However, San Francisco VTS' operational procedures currently do not provide watchstanders with the criteria necessary for determining what additional action(s) to take and when to take these actions.

   To their credit, the Coast Guard and the San Francisco Harbor Safety Committee (whose members include the Coast Guard, the San Francisco Bay Pilots, and other state and local stakeholders) are taking a proactive approach to preventing future occurrences of maritime mishaps similar to the M/V COSCO BUSAN's allision with the San Francisco-Oakland Bay Bridge. Specifically, the Harbor Safety Committee has formally adopted new guidelines for vessel operations in and around San Francisco Bay during periods of reduced visibility. Speed restrictions are also under consideration. The Coast Guard has indicated its intention to incorporate the new guidelines into San Francisco VTS standard operating procedures. When fully implemented, the proposed guidelines should improve maritime safety in the San Francisco Bay area.

Pollution and Marine Casualty Investigations

To what extent was the Coast Guard's post-mishap pollution assessment and marine casualty investigation conducted in a complete and effective manner?

There were problems in the initial pollution assessment that did not hinder the response. Shortfalls in the Sector San Francisco's marine casualty investigation of the allision resulted in a lost opportunity to identify, collect, and preserve all potential evidence relevant to this mishap.

Pollution Assessment.--The initial pollution assessment was inaccurate and should not have been made public. The Coast Guard has admitted that it erred in releasing this information. Under the Area Contingency Plan, it was the responsibility of Oil Spill Prevention and Response (OSPR) to estimate the amount of oil discharged in the allision. OSPR personnel were available, but did not have timely transportation to and from the allision site. This further delayed release of the corrected pollution assessment. A more accurate estimate earlier in the day would have been ideal; however, both the Coast Guard and the California State Office of OSPR reported that such an estimate would not have altered the *response* of the Unified Command, which includes the Coast Guard and the State of California.

Marine Casualty Investigation.--The level of training, experience, and qualification of the marine casualty investigators assigned to the M/V COSCO BUSAN investigation was generally inadequate. Five of the six investigators did not meet the Coast Guard's marine casualty investigation standards. This may account for the shortfalls in the marine casualty investigation. Specifically, the investigators did not immediately secure or collect potential evidence, such as the charts used by the bridge team, the vessel's data recorder, or the shipboard navigational systems. While the Voyage Data Recorder information was later recovered and used by investigators to recreate the vessel's trackline before the mishap, the failure to independently test shipboard navigation and collision-avoidance systems as well as the radar beacons affixed to the bay bridge could prevent the Coast Guard and the National Transportation Safety Board from identifying all of the circumstances and conditions that led to the mishap.

Coast Guard marine casualty investigators also did not ensure that all civilian and active duty Coast Guard personnel underwent drug and alcohol testing as authorized by Coast Guard policies and practices. Marine casualty investigators assigned to this incident stated they were unaware of the policy to test VTS personnel on duty at the time of the mishap.

The investigators conducted breathalyzer testing of the M/V COSCO BUSAN's captain and bridge team but, with the exception of the captain, failed to ensure that all persons on duty aboard the M/V COSCO BUSAN were drug and alcohol tested within the required 32-hours following the mishap. To its credit, the Coast Guard immediately acted to ensure the entire M/V COSCO BUSAN's crew was tested as soon as the discrepancy was brought to their attention and all tests were negative. The VTS watchstanders were never drug and alcohol tested. The Coast Guard's omission of such tests, as well as the marine employer's lack of timely testing of the M/V COSCO BUSAN's crewmembers, may prevent authorities from being able to rule out the use of drugs or alcohol as a contributing cause of the mishap.

The lack of trained, experienced, and qualified marine casualty investigators at Sector San Francisco is a major concern given that the Sector's area of responsibility and the volume, type, and size of vessels that transit Bay area each year. Few people realize that Sector San Francisco's area of responsibility covers the coast out to 50 miles offshore from Point Sur north to Point Arena, all of San Francisco Bay, the Sacramento and San Joaquin river deltas, and the states of Nevada and Utah, including Lake Tahoe. During FY 2007, the San Francisco VTS monitored the movement of 124,762 vessels through this area. The training and qualifications of the investigators assigned raise doubts about the quality of marine casualty investigations conducted by Sector San Francisco.

Notification Delays

To what extent did the delay in notification of the size of the oil spill adversely impact the response of Coast Guard, state, and local governments, and responsible party to the casualty?

The delay in notification of the size of the oil spill did not have an impact on the emergency response. In this mishap, the Responsible Party notified the National Response Center, the San Francisco VTS, and the State of California. The Coast Guard was described by the environmental unit leader as having responded quickly with assets (staffing and equipment) based on the "potential" oil spilled and not the "reported" oil spilled.

The Unified Command's response to the mishap was based on tenets of the San Francisco Area Contingency Plan. According to the State of California Oil Spill Response Organization (OSRO) requirements for the San Francisco Area Contingency Plan resources are to be deployed within 6 hours. The first OSRO (National Response Corporation) was on scene and skimming within 1 and 1/2 hours of the mishap, which is well within the 6 hour requirement. The second OSRO (Marine Spill Response Corporation) was on scene and skimming within 2 hours of the mishap.

Adequacy of Response Plan

Was the San Francisco Area Contingency Plan adequate to guide the response to an oil spill of this magnitude?

Adequacy of the San Francisco Area Contingency Plan.— The San Francisco Area Contingency Plan is adequate to guide the response to an oil spill of this magnitude. However, some changes could be made to improve future responses. Specifically, there was limited local participation in area committee meetings to update the plan. Increased and consistent attendance would help ensure better preparedness. Also, a location for the incident command post was not predesignated in the plan. Preparedness would be improved by identification of a predesignated command post location for use in emergency response exercises. According to California OSPR environmental response personnel, the San Francisco Area Contingency Plan was adequate and executed as written by both OSPR and the Coast Guard. The results of the clean up also support this conclusion. For example, an estimated 19,466 gallons of oil were recovered (on water) during the first two weeks of the clean up.

Overall, we believe the success of the San Francisco Area Contingency Plan was largely the result of a number of factors and conditions including: (1) the Coast Guard and State of California's spill response policy of responding to worst-case scenarios; (2) a responsible party that had the knowledge, expertise, and resources to implement its role in the Area Contingency Plan in a timely and effective manner; (3) the knowledge, skills and capabilities that the State of California Office of Spill Response brought to the clean-up effort; and (4) the efforts of the citizens of the San Francisco Bay area who volunteered many hours to their community to mitigate the effects of the spill on marine resources, wildlife, and fisheries.

Adequacy of Response Plan

To what extent did the San Francisco Area Contingency plan provide for the treatment of marine resources, wildlife and fisheries?

The San Francisco Area Contingency Plan incorporates a rapid response plan for the treatment of marine resources, wildlife, and fisheries, per the Oil Pollution Act of 1990. The plan, Wildlife Response Plan For California, details the logistics, resources, operations, and responsibilities of those involved with treatment of oiled wildlife resources. Integral to the wildlife response effort is the Oiled Wildlife care Network (OWLN), which maintains a statewide system of specialized wildlife health centers, set up by California statute. The staff includes paid veterinarians, paid staff, and professionally trained volunteers. The trained volunteers are integrated into the Wildlife Branch of the Unified Command during oil spills and work to retrieve oiled animals, and evaluate their need for treatment. After treatment, the animals are rehabilitated and released into suitable sites and where possible, monitored.

Further, federal agencies conduct drills specifically related to fish and wildlife protection. The Coast Guard participated in the Sulfur Springs Creek Exercise in 2006. This exercise was designated as a full scale, Marine Environmental Protection Exercise designed to validate the information and procedures contained in the Regional Contingency Plan, Area Contingency Plan, California Wildlife Contingency Plan, and Valero Benicia Refinery Oil Spill Contingency Plan. The exercise also identified weaknesses to correct subsequent versions of the contingency plans, identified strengths to share best practices with the response community, and tested command and control processes within an incident command/unified command framework.

The California Code of Regulations outlines state drill and exercise requirements for contingency plans. According to California State Law, it is mandatory that the "entire plan is exercised at least once every 3 years...."[21] The Coast Guard participated in the Safe Seas 2006, Exercise, which tested the San Francisco Area Contingency Plan, the Region IX Regional Response Plan, and the Harley Marine Services Vessel Response Plan. Numerous federal, state and local agencies, including the Coast Guard, National Marine Fisheries Service, National Marine Sanctuaries Fish and Wildlife Service, and OSPR jointly conducted this multipart exercise. One of the objectives and major lessons learned during Safe Seas 2006 was demonstration of the ability to conduct initial environmental assessments and forecasts and development of the appropriate plans for such matters as shoreline protection, wildlife protection, cultural resource protection, dispersant use, and place of refuge.

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Mr. Chairman, members of the Subcommittee, this concludes my prepared statement. We were fortunate that Unified Command, guided by the San Francisco Area Contingency Plan, was successful in retrieving the amount of oil spilled from the M/V COSCO BUSAN that it did. This effort is a credit to those who led the Unified Command including, the Coast Guard, the State of California Oil Spill Prevention and Response division, the Responsible Party, and the myriad of volunteers who were integral to the response effort. However, like any other

[21] 14 CCR § 820.01.

complex activity, there is always room for improvement. This is especially true as it relates to the Coast Guard's initial investigation of the casualty and its failure to conduct post-mishap, drug and alcohol testing.

The Coast Guard faces many challenges to effectively performing its marine safety and maritime homeland security missions. The Commandant, Admiral Salerno, and their staff are well aware of these challenges and are making progress in addressing them. We will continue to focus our oversight in these areas to facilitate solutions to improving the Coast Guard's readiness in performing its missions.

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 BRIAN SALERNO

ON THE

M/V COSCO BUSAN AND THE MARINE CASUALTY INVESTIGATION PROGRAM

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON COAST GUARD AND MARINE TRANSPORTATION

U. S. HOUSE OF REPRESENTATIVES

APRIL 10, 2008

Good morning Mr. Chairman and distinguished members of the Committee. I am pleased to appear before you today to discuss how the Coast Guard conducts its Marine Investigations Program as well as the Department of Homeland Security (DHS) Office of Inspector General's (OIG) investigation findings on the Motor Vessel (M/V) COSCO BUSAN oil spill that occurred on November 7, 2007.

The United States Coast Guard has broad, multi-faceted jurisdictional authority and responsibilities to ensure the safety and security of the Marine Transportation System (MTS). The Coast Guard relies upon the information it develops through detailed investigations of various incidents in order prevent recurrences, improve marine safety, safeguard lives at sea and to protect the marine environment. We use the lessons-learned from investigations and oil spills, most recently the M/V COSCO BUSAN, to provide valuable input into standards development, compliance and enforcement, as well as education and outreach programs.

The Coast Guard uses several mechanisms to meet this review and investigation function. Following the M/V COSCO BUSAN incident, the Coast Guard initiated an interagency, collaborative review of the joint incident response. The second stage of that review continues and we are receiving excellent cooperation from state and local agencies, stakeholders, and industry representatives. The results of this review will inform federal, state and local planning and response efforts.

The Coast Guard also benefits from external reviews. The DHS OIG recently completed a 60 day review of the Cosco Busan Incident. The Coast Guard worked closely with the OIG to provide information required to facilitate a transparent review of the response to the incident. We provided similar assistance to the National Transportation Safety Board to assist with their independent investigation of the same incident.

The Coast Guard also 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 and sinking of the fish processing vessel Alaska Ranger.

Each of these investigative mechanisms serves to improve the safety and security of the MTS. Rigorous self-scrutiny, third party review and thorough investigations are vital components our program.

EXECUTIVE SUMMARY OF THE COSCO BUSAN INCIDENT

On Wednesday, November 7, 2007 the Hong Kong flagged M/V COSCO BUSAN, a 900-foot container carrier, struck one of the towers of the San Francisco Bay Bridge. The ship suffered structural damage along a 100 foot section of the vessel's port side. The Coast Guard estimated it took less than one minute for approximately 53,000 gallons of medium grade fuel oil to spill into the San Francisco Bay. The conditions at the time of the incident included heavy fog with limited visibility to approximately 1/8 of a mile. The State of California, the vessel owner's representative, and the Coast Guard formed a Unified Command to coordinate response efforts. Joint actions resulted in the recovery of over 7,000 gallons of product on the first day and 22,836 gallons of product by the conclusion of the cleanup.

THE INCIDENT SPECIFIC PREPAREDNESS REVIEW (ISPR)

On November 14, 2007, the Coast Guard Chief of Staff chartered an ISPR to analyze the Unified Command response to the M/V COSCO BUSAN oil spill in San Francisco Bay. Chaired by Rear Admiral Carlton Moore, U.S. Coast Guard Reserve (retired), the ISPR team is comprised of senior representatives from the Pacific Merchant Shipping Association, the California Office of Spill Prevention & Response, the Pacific States/British Columbia Oil Spill Task Force, the City and County of San Francisco Department of Emergency Management, the National Oceanic & Atmospheric Administration Office of Response and Restoration, the California Coastkeeper Alliance and the San Francisco Baykeepers.

The ISPR Team is reviewing the San Francisco Bay Area Contingency Plan and the effectiveness of the Unified Command's response to the oil spill in accordance with its charter. The Team is not charged with addressing the cause of the incident or with recommending administrative, civil, or criminal penalties against any parties. The ISPR assessment is conducted in two stages: the first, already completed, covered the initial two weeks of the response and the second will cover the remainder of the response. The second report will be completed by May 7, 2008.

On January 11, 2008, the ISPR Team finalized their initial report, which addressed the first two weeks of the response. The report includes a detailed timeline of the incident and response, as well as data on the number of responders and volunteers involved, the amount of oil recovered, equipment deployed, and other figures relevant to the response effort. It includes approximately 110 lessons learned and 128 recommendations intended to improve preparedness and response in the San Francisco Bay response community. The recommendations fall into several broad categories such as Exercises and Drills, Area Contingency Planning, Training, Initial Actions and Unified Command. Examples of report observations include:

1. Poor visibility, language barriers, and the relatively low experience level of the first Coast Guard personnel to arrive on board the vessel contributed to a misunderstanding about the volume of oil spilled on the first day.

2. Through the efforts of the Unified Command and the vessel's contracted Oil Spill Response Organizations, responders recovered 7,140 gallons of oil by the end of the first day, and 19,466 gallons during the first two weeks.

3. It is vitally important that local governments, response organizations, non-government organizations, and other stakeholder groups be included in exercises, planning, and other preparedness activities. When incidents do occur, those same groups must be incorporated into the operation as described in the plan, and kept informed of response progress.

While the report is focused on the San Francisco Bay Area, many of the recommendations are applicable to other geographic areas. Accordingly, the Coast Guard distributed the initial ISPR Report to all Coast Guard Sectors. Our Federal On-Scene Coordinators are reviewing the findings with respective Area Committees in order to make appropriate updates to Area Contingency Plans. The Coast Guard is also implementing changes at the national level that incorporate some of the ISPR's observations and recommendations. The ISPR Team continues to review the response and will deliver a final report on May 7, 2008.

DHS OIG REPORT RECOMMENDATIONS

The Coast Guard worked closely with the Inspector General's staff to provide needed information to facilitate understanding of our prevention, preparedness, and response programs. The OIG's report makes recommendations that address vessel traffic services, marine casualty and pollution investigation, and command and control, including interagency collaboration, during response operations.

BACKGROUND ON THE 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 program's predecessor, 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 to these facts 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 also 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.

Investigations are conducted for:

- vessel casualties or accidents;
- 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 80 percent of casualties are caused by human factors.

All incidents reported to the Coast Guard, regardless of source, are investigated; however, the Sector Commander under their Officer in Charge of 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 Coast Guard may establish a Marine Board of Investigation consisting of both Coast Guard officers and investigators from the National Transportation Safety Board (NTSB). Recently, pursuant to the authority established in 46 USC 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. Of the 47 people on board the Alaska Ranger, 42 survived the incident. The Board will thoroughly investigate this tragic loss 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. Upon completion of its investigation, the Board will report their findings and recommendations to the Commandant.

MARINE INVESTIGATIONS TRAINING AND QUALIFICATIONS

The role of a Marine Casualty Investigating Officer is to thoroughly investigate the cause of a marine casualty through the collection of data. These data are then 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 Coast Guard Training Center Yorktown, Performance Qualification Standards (PQS) and on-the-job training that must be completed to obtain these qualifications.

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. This year the Marine Investigations Program will send two personnel to industry training.

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.

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 inform regulations and Coast Guard policy, we use this information at the field level to reach out to and educate the public at both the regional and national levels. 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 International Maritime Organization (IMO). The Coast Guard Office of Investigations and Casualty Analysis is an active member of the IMO Subcommittee on Flag State Implementation and 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.

The Office of Investigations and Casualty Analysis currently chairs the Marine Accident Investigators' International Forum (MAIIF). MAIIF is an international non-profit organization 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 foster cooperation and communication between marine accident investigators across the globe.

FEEDBACK AND PREVENTION

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 with regard to 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.

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, pose urgent threats to safety in fleets of vessels or particular types of operations and to propose voluntary actions for elimination or mitigation of those threats. Safety Advisories are also used, to address ways to improve marine safety focusing on specific vessel operations, practices, topics or other areas without 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.

WAY FORWARD

The Coast Guard has developed a strategy that 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 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 2009 Request includes $22.6 million in new resources. Budgeted resources will be directed to:

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 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 Investigating Officer billets will create a regimented career path for Investigating Officers that will support the development of competent and experienced Investigating Officers 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 have previously announced that 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 in the MISLE system 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 and 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.

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 will be happy to answer any questions you may have.

Question#:	1
Topic:	ACSA
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: The "Alternate Compliance and Safety Agreement (ACSA) for Bearing Sea / Aleutian Islands and Gulf of Alaska Freezer Longliner and Freezer Trawler Fishing Fleets" (dated and signed June 15, 2006) sets forth (on page 9) specific "Timelines for Implementation of the ACSA".

Paragraph (4) states that vessels participating in the ACSA must have "completed their preliminary examination" by May 1, 2007; it appears from the documents provide to the committee that the first examination of the ALASKA RANGER was completed on 31 October 2007.

Why wasn't a "preliminary examination" done in accordance with the agreed upon schedule?

Did the Coast Guard provide the owner of ALASKA RANGER with a written extension for the requirement for a "preliminary examination"?

Was the 31 October examination considered the "preliminary examination" for the purposes of ACSA?

Paragraph (5) states, "Sector Anchorage or Sector Seattle will identify all deficiencies and will provide a work list to the vessel owner with specific completion dates for each deficiency"

Please provide us with this document for the ALASKA RANGER, one that clearly indicates that it was delivered to the owner of the vessel, and has "specific completion dates for each deficiency."

Also, please provide specific documentation indicating that the above deficiencies were completed and inspected / examined by a Coast Guard inspector or authorized third-party and found to be satisfactory.

Paragraph (6) states "If the owner is making a good faith effort for correction of all deficiencies noted Sector Anchorage or Sector Seattle will issue a letter authorizing interim enrollment into the ACSA no later than June 1, 2007.

Please provide a copy of letter of any interim enrollment into ACSA for the ALASKA

Question#:	1
Topic:	ACSA
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RANGER.

ANSWER: The first date set for initial examination was considered reasonable at the time of the creation of the program. However, it became very difficult for all vessels to get initial examinations by May 1, 2007. As stated in G-PCV Policy Letter 06-03 (previously provided) paragraph (d), the requirements for a preliminary examination was an anticipated goal. The ALASKA RANGER was visited by a Commercial Fishing Vessel Safety Examiner on June 20, 2007 to explain the requirements of the ACSA Program to the Master.

No written extension of date for initial examination was issued to any vessel in the ACSA Program.

The October 31, 2007 examination of the ALASKA RANGER was considered the initial examination under the ACSA Program.

The worklist did not have specific completion dates as required by the joint D13/D17"Alternate Compliance and Safety Agreement (ACSA) for Bering Sea / Aleutian Islands and Gulf of Alaska Freezer Longliner and Freezer Trawler Fishing Fleets" (dated and signed June 15, 2006) . The worklist was provided to the operator's representative at the shipyard without formal receipt acknowledgement.

MISLE case 3132409 (January 17, 2007), previously provided, is the documentation of the inspection in Dutch Harbor. Some repairs were accepted in the port forward ballast tank. Three additional repairs from additional damage were added to the worklist at that time. The majority remained outstanding after this visit by the marine inspector from Marine Safety Detachment Unalaska.

No interim enrollment letters were issued in 2007 as part of the "Alternate Compliance and Safety Agreement (ACSA) for Bering Sea / Aleutian Islands and Gulf of Alaska Freezer Longliner and Freezer Trawler Fishing Fleets" (dated and signed June 15, 2006.)

Question#:	2
Topic:	Alaska Ranger
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: Item B 'Stability" of the inspection book for ALASKA RANGER indicates the "need" for the Coast Guard to "examine instructional addendum to stability instruction to ensure it describes each of the following: (1) List of each watertight bulkhead" including a listing of all watertight and weather-tight closures.

And, the Coast Guard worklist that the ALASKA RANGER was required to complete to be in compliance with the ACSA stated that a naval architect had to provide an addendum to the stability book identifying all watertight bulkheads.

We understand that there may have been a delay in providing the paperwork necessary to fulfill this requirement.

a) Please provide us with specific documentation that the watertight bulkheads of the ALASKA RANGER were identified and inspected / examined by a Coast Guard inspector or other approved third-party to ensure that they met this requirement.

b) Does this mean that the naval architect had to make sure the bulkheads were watertight? Is that his job?

c) What is the standard for survivability under ACSA

d) Should a vessel be able to survive a one-compartment flooding, such as flooding in the rudder room?

ANSWER:
a) The stability addendum for the ALASKA RANGER had not been completed prior to loss of the vessel. All other documentation is attached.

b) The vessel's naval architect is responsible for providing the information contracted for by the operator. The purpose of the stability addendum is to provide operating personnel with appropriate information on maintaining watertight integrity. At a minimum, the addendum should contain a list of closures, their locations, and any remote means of closure. In consultation with the operator, naval architects may recommend changes in the vessel to improve watertight integrity and limit the risk of progressive flooding, including improvements to bulkheads.

Question#:	2
Topic:	Alaska Ranger
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

c) There is no survivability requirement for fish processing vessels built before September 15, 1991, including those enrolled in the ACSA program. The Commercial Fishing Industry Vessel Safety Act of 1988 (P.L. 100-242) prohibits retrofitting a vessel to meet a survivability standard that includes extensive under-deck modifications. ACSA requires a) compliance with current intact stability regulations; b) an updated lightweight determination; and c) a stability addendum.

d) The ALASKA RANGER was a converted Offshore Supply Vessel originally built in 1973. Historically, vessels of this design and vintage have survived damage to any compartment except the engine room.

Question#:	3
Topic:	bulkheads
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: While the Committee will leave the investigation of the "cause" of the ALASKA RANGER casualty to the Coast Guard and the NTSB, it appears that the watertight bulkheads were not watertight.

Are Coast Guard inspectors required to examine and test all watertight bulkheads to ensure that they are, in fact, watertight – including in between decks and where piping goes through the bulkhead?

ANSWER: There are no regulations requiring any watertight bulkheads on fish processing vessels built prior to September 15, 1991. Neither classification society rules nor load line regulations address watertight bulkheads below deck. The ACSA program was intended to overcome the lack of statutory authority for vessel subdivision by focusing on improving watertight integrity because casualty records show that watertight integrity remains a significant risk within the fishing industry, including the head and gut fleet. Actions expected of marine inspectors and industry to address watertight integrity issues including deck and bulkhead penetrations need to be clarified and we are undertaking this.

For ACSA compliance marine inspectors require bulkheads below deck to have watertight doors reinstalled when they are discovered to have been removed and to ensure those doors that remain are repaired to become watertight. The worklist for the ALASKA RANGER includes several such requirements. In many vessel modifications to accommodate processing equipment this is not yet possible because watertight doors have been removed to facilitate movement of product/cargo. The Coast Guard will continue to work with operators to improve watertight integrity to include correcting conditions that undermine the integrity of installed bulkheads and decks.

In the absence of authority to require below deck watertight integrity, our efforts have been to educate operators of the desirability of maintaining watertight integrity. These efforts include the importance of eliminating penetrations of below deck bulkheads to provide reduced risk from progressive flooding.

ACSA requires verification that all bulkheads listed in the Addendum as watertight are in fact in a satisfactory watertight condition. Future program direction will take a more aggressive approach in improving watertight integrity.

Question#:	4
Topic:	load line
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: At the hearing on April 10th Admiral Salerno testified regarding the issuance of load line exemptions that, "the program is meant to be conducted on a vessel-by-vessel basis, not on a fleet-wide basis."

When does the Coast Guard plan on issuing vessel specific load line exemptions for vessels in the ACSA program?

Please provide the Committee with a list of the vessels in the ACSA program that have received an individual load line exemption along with a sample of the exemption letter.

ANSWER: Vessels that have completed all ACSA program requirements have been issued letters granting exemptions from the requirement for maintaining Load Line Certificates. The continued issuance of Load Line exemptions to ACSA vessels is currently under review.

The table below contains a listing of vessels for which a load line exemption letter has been issued. An accompanying file contains a letter issued to an ACSA compliant vessel.

ACSA Compliant Vessels

ARICA
CAPE HORN
CONSTELLATION
DEEP PACIFIC
DEFENDER
ENTERPRISE
GLACIER BAY
KJEVOLJA
LILLI ANN
NORTH CAPE
NORTON SOUND
PATHFINDER
REBECCA IRENE
SEAFISHER
SIBERIAN SEA
TREMONT
UNIMAK

Question#:	4
Topic:	load line
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

US LIBERATOR
VAERDAL
ZENITH

Question#:	5
Topic:	MISLE
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: Based on the documents the Coast Guard provided to the Committee, Sector Anchorage had concerns about the lack of information that was in Marine Information Safety and Law Enforcement (MISLE) (the Coast Guard's safety database) regarding the status of repairs to vessels in the ACSA program as well as waivers and extensions granted to such vessels. They felt they did not have access to the information that they needed to enforce the program requirements.

Did Sector Seattle not have enough people to enter the information into MISLE regarding all the vessels in ACSA as the information was generated?

ANSWER: Coast Guard Sector Seattle, as with most Sectors, is challenged by a heavy and growing workload which does always allow for rapid data entry. Industry growth is challenging Coast Guard marine safety capacity in several areas. The President's FY 2009 request seeks 276 new billets too help address capacity challenges and enhance the program.

Question#:	6
Topic:	marine inspector
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: We understand that Sector Seattle only had one qualified marine inspector assigned to monitor and inspect almost all of the approximately 60 "head and gut" boats in the ACSA and that this person worked nights and weekends to get his job done.

Should the Coast Guard have assigned more people to inspect compliance with this important marine safety program?

How long will it take to have all "head and gut" fish processors in full compliance?

ANSWER: Sector Seattle has made significant efforts to meet the additional workload resulting from the ACSA program. The extent of the Coast Guard's efforts to reduce safety risks to the head and gut fleet through extended work hours are consistent with efforts needed to ensure safety throughout the maritime industry. The President's FY 2009 request seeks 276 new billets to help address capacity challenges and enhance the program.

The initial target date for all vessels to come into full compliance was January 1, 2008. This date proved to be too aggressive because of the extent of work on the enrolled vessels and a limited capacity within naval architecture support and repair facilities. The timeline for completion of all ACSA requirements is determined on a case-by-case basis and varies by vessel. The February 2008 issuance of letters to vessels not yet in full compliance initiated the extension of the compliance dates for vessels showing continued progress.

Question#:	7
Topic:	letter
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: According to the documents provided to the Subcommittee, the ALASKA RANGER was issued a letter exempting it from requirements to be classed and load lined on February 28, 2008, for one month. It also appears that many other vessels in the ACSA program were issued similar letters that same day. The letters require that vessel owners provide the Coast Guard with "a comprehensive listing of each work list item that remains outstanding, the status of each item, and a proposed schedule for completion of each item."

Did the owner of the ALASKA RANGER provide a response to this letter? If so, when was it received by the Coast Guard?

Was the schedule of compliance within the parameters of the ACSA program?

ANSWER: The owner of Alaska Ranger, FCA Holdings Inc., responded on March 8, 2008.

Completion of all requirements is evaluated on a case-by-case basis. The initial target date for all vessels to come into full compliance was January 1, 2008. This date proved to be too aggressive because of the extent of work on the enrolled vessels. Specifically, there were capacity limitations at commercial naval architecture support and repair facilities. The timeline for completion of all ACSA requirements varies by vessel. The letters issued to vessels not yet in full compliance in February 2008 were the initiation of extending the compliance dates for vessels showing continued progress.

Question#:	8
Topic:	report
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: We understand that when the Coast Guard examined the ALASKA RANGER in a shipyard in Japan in October of last year, the Coast Guard decided not to have the rudder and propeller shafts pulled for inspection – but rather to rely on a 2-year old report on those items.

Was the 2-year old report prepared by a member of the International Association of Classification Societies? If not, why didn't the Coast Guard require these items to be pulled for inspection prior to the vessel's admission into the ACSA program?

ANSWER:
ACSA requirements for examination of rudders and tailshafts are modeled after requirements for inspected vessels. Title 46 CFR 61.20-17(c) requires tailshafts to be pulled once in five years for vessels with multiple tailshafts, such as the ALASKA RANGER, unless a visual examination reveals cause for further investigation. The October 2007 drydock examination by a drydock qualified marine inspector did not reveal cause for further examination. The Coast Guard agreed that tailshafts and rudders would be pulled at the next drydock.

The report was issued by the shipyard that performed the previous drydocking of the ALASKA RANGER. Neither class societies nor marine inspectors issue such reports.

Question#:	9
Topic:	repairs
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: It appears that the industry may not understand what is required for future modifications and repairs to the vessels in the "head and gut" fleet? For example, there is a May 21, 2007, Coast Guard e-mail from Sector Seattle to Sector Anchorage stating that the ALASKA PIONEER, owned by the same company that owns the ALASKA RANGER, "should never have done the modifications they did to the bow without Coast Guard over sight. Replacing the entire deck on the bow and the amount of framing they replaced was bull..."

Are repairs being made to ACSA vessels without Coast Guard oversight?

ANSWER: No. The Coast Guard marine inspectors accept or deny all final repairs. For repair work, the Coast Guard discusses the extent and nature of the repair with the operator's representative prior to the work being completed. The Coast Guard then revisits the vessel after repairs are completed to determine acceptable quality and extent of work. Not all such repairs within the ACSA program have been accepted by the Coast Guard as meeting appropriate standards, and some repairs have required rework.

The Coast Guard has also concluded that many operators' representatives are unfamiliar with commercial vessel requirements for expected quality and documentation of repairs. The head and gut fleet is seeking additional clarification on how to handle modifications and examinations, what standards apply, an explanation of the requirements, and what the Coast Guard's expectations are. The Coast Guard is developing the requested clarification of requirements for modifications and examinations for operators.

Question#:	10
Topic:	safety standards
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

Question: The Subcommittee was provided with volumes of information regarding the ACSA, some of it specifically related to the ALASKA RANGER. Even a cursory review of this information reveals several troubling administrative and resource issues. First, it appears that the scope of this project turned out to be much bigger that the original architects anticipated and that there were inadequate Coast Guard resources available to implement the program. Second, there appears to be – or to have been – some major internal disagreements about the implementation of the ACSA program.

Can you reassure us that every effort is being made to make the necessary resources available to the program, and that administrative issues are being resolved?

Were the safety standards developed for the ACSA program sent to the National Maritime Center for review by the Coast Guard's technical staff – or were the standards developed in the District offices in Seattle and Anchorage?

Are there any "head and gut" boats in the ACSA program today that don't have watertight bulkheads? If so, how many such vessels are there?

Are there any "head and gut" boats in the ACSA program today that don't have watertight doors? If so, how many such vessels are there?

Are there any "head and gut" boats in the ACSA program today that don't have new stability calculations based on all of the modifications made to the vessel to comply with the ACSA? If so, how many such vessels are there?

ANSWER: The Coast Guard is committed to carrying out the ACSA program. The work required for this program has challenges all stakeholders. Since the work needed by most vessels is more extensive than anticipated, many operators have been unable to obtain adequate engineering and shipyard support. The magnitude of the work is the primary reason original timelines have been extended. The Coast Guard is addressing capacity for this and other marine safety programs as a part of our plan to enhance Marine Safety.

The standards were developed by District, Headquarters and industry personnel with requisite technical and industry knowledge to address program specific requirements. Therefore, neither the National Maritime Center (Mariner Licensing and Documentation) nor the Marine Safety Center (technical plan review) were consulted as relevant technical

Question#:	10
Topic:	safety standards
Hearing:	Hearing on Cosco Busan
Primary:	The Honorable Elijah E. Cummings
Committee:	TRANSPORTATION (HOUSE)

expertise was already available.

The Coast Guard is not aware of any vessels in ACSA without bulkheads below deck but many of the bulkheads may not be effective in maintaining watertight integrity and/or reducing the risk of progressive flooding. The Coast Guard will continue to work with operators to improve watertight integrity.

There are ACSA vessels that have worklist items requiring improvements to watertight integrity including adding watertight doors to bulkheads from which they have been removed and making bulkheads watertight.

The Coast Guard estimates at least 50% of the vessels in the program have not completed stability evaluations and stability addendums. At present, 20 of 60 vessels are fully enrolled in ACSA.

Department of Emergency Management

SFDEM
SAN FRANCISCO DEPARTMENT OF EMERGENCY MANAGEMENT

Gavin Newsom
Mayor

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Acting Executive Director

June 5, 2008

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

Dear Chairman Cummings,

Thank you for your leadership in investigating the collision of the ship Cosco Busan with the Bay Bridge on November 7, 2007. I am grateful to you for quickly convening a hearing in San Francisco on November 19, 2007, as well as in Washington, DC on April 10, 2008, in order to analyze the lessons from this incident and develop solutions for the future.

The April 10 hearing before your Subcommittee reviewed the Department of Homeland Security's Office of Inspector General (OIG) report, entitled "Allision of the M/V Cosco Busan with the San Francisco-Oakland Bay Bridge." There are several statements under the Oil Spill Response section of the April 9 Summary memo provided to Committee members that I would like to respond to and correct for the record.

Planning

The Committee's summary memo states:

> *"The OIG found that attendance by local jurisdictions and by local entities in the maritime industry at Area Committee meetings had been sporadic in the two years preceding November 7, 2007. Similarly, the City of San Francisco Department of Emergency Management had failed to include oil spills on its All-Hazards Response List and had never interacted with the Coast Guard responding oil spills."*

Response: Prior to the Cosco Busan oil spill, responsibility for oil spill planning resided with the Environmental Health Unit of the San Francisco Department of Public Health (DPH). DPH was one of the few local jurisdictions that attended the monthly/bimonthly Area Contingency Plan meetings at Coast Guard Island on a regular basis.

The initial draft of the San Francisco Local Oil Spill Response and Prevention Plan was completed in August 1993. The approach to oil spills is different from that of any other type of emergency: whereas local government leads the response to most disasters, federal regulations require that the response to oil spills be led by a Unified Command consisting of the Coast Guard, the state office of Oil Spill Prevention and Response, and a contractor for the shipping company. Because of this, the City had historically maintained a separate oil spill response plan rather than incorporate such specificity into an All Hazards Emergency Operations Plan.

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In addition, the San Francisco Department of Emergency Management (DEM) has prioritized planning for emergency response based on federal grant guidelines under the U.S. Department of Homeland Security's Urban Area Security Initiative (UASI) and State Homeland Security Grant Program (SHSGP). These federal grant programs focus on terrorism and natural disasters such as hurricanes and earthquakes, and do not prioritize oil spill response planning.

Following the oil spill, the Mayor's Office and the Department of Emergency Management have directly and regularly engaged with the Coast Guard to improve response to future oil spills. After some initial challenges, the City's communication and coordination with the Unified Command improved significantly under the leadership of Coast Guard Rear Admiral Craig Bone. San Francisco has subsequently worked closely with the Coast Guard on their Incident Specific Preparedness Review following this incident, and mutually agreed that local emergency contingency planning should be done in collaboration in this all-threats environment.

Joint Information Command

The Committee's summary memo states:

> *"A Joint Information Command was established on November 7 – but no parties except the Coast Guard chose to participate on the first day of the incident. Participation increased on subsequent days but did not reach full strength until several days had passed, which 'placed the responsibility of responding on behalf of the United Command solely and inappropriately on the Coast Guard.'"*

Response: San Francisco was not invited to participate in the JIC or any other aspect of Unified Command on November 7. In fact, while the City was aware of the spill and actively coordinating local resources to respond in the hours following the incident, the City did not receive any official notification from state or federal authorities about the spill until we were contacted by the State Office of Emergency Services at 9pm on the night of November 7. Beginning on November 8, DEM provided numerous staff members to Unified Command, including a Public Information Officer (PIO), who remained at Unified Command for several consecutive days.

San Francisco provided an Incident Command trailer to Unified Command as well as numerous other items specifically for use in the JIC, which included laptop computers, printers, fax machines, and cell phones that the JIC was unable to obtain in a timely fashion from the Logistics Section of the Unified Command. Additionally, off site public affairs employees of the City performed such functions as media monitoring for the JIC, since they had limited ability to do so at the command posts at Fort Mason and Treasure Island. After the City helped Unified Command move to Treasure Island, the DEM PIO remained in constant communication with the JIC.

Volunteer Training

The Committee's summary memo states:

> *"OIG reports that the Area Contingency Plan details the training that volunteers are required to complete to handle hazardous materials. Only on the fifth day of the incident*

did the Cities of San Francisco and Berkeley develop a process for training and credentialing volunteers to assist in cleaning up oil."

Response: State Fish and Game office of Oil Spill Prevention and Response (OSPR), a member of the Unified Commend, informed the City on November 8 that volunteers could not be used to clean up beaches. OSPR presented a program on the third day of the spill for potential volunteers that reinforced this message. San Francisco wanted to allow volunteers to participate earlier but remained sensitive to guidance from Unified Command about allowable local activities, in order to preserve the City's eligibility for federal reimbursement for the City's efforts to respond to the oil spill.

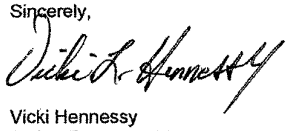
Only through the persistent efforts of San Francisco City staff located at the command post did Unified Command grant permission on the fourth day of the event to allow the training of volunteers to clean up beaches. Through cooperation of representatives from the Environmental Protection Agency and the U.S. Park Police, a course was developed and presented to over 150 volunteers the following morning. Volunteers were credentialed and deployed to Ocean Beach that afternoon. Subsequent trainings resulted in the credentialing of over 1200 volunteers and San Francisco arranged equipment, supplies and supervision throughout the following weeks.

Conclusion

I am extremely proud of the efforts of City and County of San Francisco departments and residents to respond quickly and effectively to the Cosco Busan oil spill, which spilled 53,000 gallons of oil into San Francisco Bay. Almost 20 City agencies participated in the initial response, which included setting up a command post on Treasure Island, posting notices on public beaches, providing public information, and other critical activities. Our 311 non-emergency information telephone number became a clearinghouse for information about the event for local residents. Our community non-profit organizations such as SFConnect, the Bay Area Red Cross, and the San Francisco Volunteer Center rallied to support our response and recovery efforts.

Thank you again for your leadership following the Cosco Busan incident. I appreciate Congress's attention to this matter in order to improve the ability of the federal government and local agencies to work closely together during any emergency.

Sincerely,



Vicki Hennessy
Acting Executive Director
San Francisco Department of Emergency Management

CC: Mayor Gavin Newsom
Speaker Nancy Pelosi

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