

**CFIVSAC MEETING  
May 11-13, 2010  
Waterfront Hotel  
10 Washington Street  
Oakland, California**

**Day one, Tuesday, May 11, 2010  
9:00 a.m.**

**TABLE OF CONTENTS**

<b>Convene Meeting, Opening Remarks Captain Eric Christensen</b>	<b>3</b>
<b>Welcome and Remarks re California Fishing Rear Admiral Castillo, D11 Commander</b>	<b>4</b>
<b>Opening Comments by Chairman Dzugan</b>	<b>5</b>
<b>Individual Introductions and Goals</b>	<b>6</b>
<b>Status Updates, Recommendations From Last Meeting, Jack Kemerer</b>	<b>12</b>
<b>Administrative, Vessel Loss Statistics Jack Kemerer</b>	<b>12</b>
<b>Old Business Approval of Minutes</b>	<b>13</b>
<b>Subcommittee Report, Leland Stanford</b>	<b>13</b>
<b>Notice of Proposed Rulemaking Jack Kemerer</b>	<b>15</b>
<b>MOTION to communicate Board legislative recommendations (made and tabled)</b>	<b>17</b>

<b>Safety Agreement Program and Casualty Investigation Reports</b>	<b>20</b>
<b>Drill Conductor Courses</b>	<b>21</b>
<b>Website Revamping</b>	<b>22</b>
<b>Proceedings Magazine</b>	<b>23</b>
<b>PUBLIC COMMENTS</b>	
<b>Captain Jimmy Ruhle</b>	<b>24</b>
<b>Ian Pitzman (letter)</b>	<b>37</b>
<b>Gulf of Mexico Shrimpers- Safety and Health Issues And Training Initiatives</b>	
<b>Dr. Jeff Levin</b>	<b>40</b>
<b>AFTERNOON SESSION</b>	
<b>Drug and Alcohol Testing Program</b>	
<b>Kristine Neeley</b>	<b>50</b>
<b>Sea Boarding, Types and Purposes</b>	
<b>Lt. Steve Arnwine</b>	<b>61</b>
<b>Equipment Standards</b>	
<b>LCDR Vince Gamma</b>	<b>72</b>
<b>DISTRICT ACTIVITY REPORTS</b>	
<b>District 17, Ken Lawrenson</b>	<b>81</b>
<b>District 14, Jack Kemerer</b>	<b>86</b>
<b>District 13, Dan Hardin</b>	<b>87</b>
<b>Troy Rentz on ACSA</b>	<b>90</b>
<b>District 11, Peggy Murphy</b>	<b>97</b>
<b>District 9, Great Lakes, Eric Pickering</b>	<b>100</b>
<b>District 8, Gulf of Mexico, Jack Kemerer</b>	<b>102</b>
<b>District 7, Larry Yarborough</b>	<b>104</b>

## PROCEEDINGS

### **Convene Meeting, Opening Remarks Captain Eric Christensen**

CAPTAIN ERIC CHRISTENSEN: If everyone could take your seats, we're going to go ahead and convene the advisory committee. Good morning, everyone. My name's Captain Eric Christensen, chief of the Office of Vessel Activities and the designated federal official for the Commercial Fishing Industry Vessel Advisory Committee. I want to welcome you all to our meeting and to Oakland.

I'd like to thank the committee members who were able to deconflict their schedules and join us today. We have 11 of 16, so a robust hard-core nucleus of our advisory committee here. Again, thank you for your time and effort in being here.

I'd like to go over a couple things in opening remarks. I'll keep it very brief so Admiral Castillo can welcome us all here. The *Katmai* casualty investigation was released last week and we're currently awaiting the *Alaska Ranger* Casualty Investigation to be released.

The notice of proposed rulemaking is farther along than it was last year at this time, but all I can tell you now is it's in clearance.

On the legislative front, the Senate passed the Coast Guard authorization bill. It does not contain a lot of the fishing vessel safety provisions that the House bill contains, but we're hoping that once they come together in committee we can get some of the language in place that will support fishing vessel safety. Washington State has promised to try to move some fishing vessel safety legislation forward. So we're hopeful that will happen before we have our commandant change of command.

From the standpoint of the Fishing Vessel Safety Division in my office that Jack Kemerer is the division chief of, we have just about filled out the civilian hires. We've made an offer for the final civilian billet, and we have a Coast Guard officer coming in to the lieutenant billet that is currently ably being filled by Ensign Amy Downton, who is a Reserve. But her time is up in July, and once that happens we will get somebody else ordered in there. So Jack will actually have a full staff for the first time in, Jack, how long has that been? Five years you've been here, and finally we'll have a staff. And if some of the legislation goes through, we're going to need that staff.

I'd like to welcome Rear Admiral Joseph Castillo, currently the 11<sup>th</sup> Coast Guard District commander, and he assumed that position in July of 2009. Prior to this assignment he served as the director of Response Policy—for anyone keeping track of the numbers at Headquarters, that's Coast Guard 53—where he oversaw development of strategic doctrine and policy guidance for Coast Guard forces to effectively and efficiently accomplish operational maritime missions in the areas of law enforcement, search and rescue, counter-terrorism, and defense operations. Also included, incident management

and preparedness and a contingency exercise program which is coming in real handy right now, sir.

He previously served as the chief of staff for the 9<sup>th</sup> Coast Guard District in Cleveland, Ohio, where he oversaw the daily activities of more than 7,000 personnel and auxiliaries operating in the Great Lakes region. He commanded Group New Orleans and as the 8<sup>th</sup> Coast Guard District chief of Operations in New Orleans he was instrumental in leading the Coast Guard's efforts to rescue and evacuate over 33,500 people from New Orleans, Mississippi and Alabama coasts following the devastation of Hurricane Katrina. If the admiral was wearing his service dress blue you'd see a chest full of ribbons, highly decorated.

And, Admiral, I'd like to welcome you to our Advisory Committee.

## **WELCOME AND REMARKS re CALIFORNIA FISHING Rear Admiral Castillo, D11 Commander**

ADM. CASTILLO: Thanks. Well, welcome to the 11<sup>th</sup> Coast Guard District. I'm glad to get the chance to give you a welcome. We're here in Jack London Square which I think most of you know he was a famous author. I'm not sure if everybody knows he was also a commercial fisherman, ran the oyster boats in the bay area here and also worked on some of the larger vessels operating offshore and up to Alaska. So it's pretty fitting that you would come here.

It's interesting to have this in California. Most people when you think of commercial fishing don't think of California. They think of Alaska, the Gulf, Pacific Northwest maybe, New England. But we've got over 3,000 boats and 9,000 people employed in the business here. The world market for squid comes off the central California coast and lobster by volume is number six looking at all the states out here. While LA is very well-known for its container industry, not too many people know it ranks continuously in the top 10 for poundage of fish landed each and every year. So there's a lot going on in the state for that.

We also have a number of marine protected areas important to sustainable fisheries, so there's a lot of focus on commercial fishing in the state. It certainly isn't what it was in the heyday with the salmon runs from the delta and that kind of thing, but it is a very important industry and very important business to us. We put a lot of attention into the safety aspects. We've got Operation Safe Crab, Operation Safe Squid to help make certain that people are being safe in doing this.

I'm thrilled to see somebody wearing a life jacket here today proving they are comfortable and you can wear a version of it anywhere. It's one of the key things I try to get out to everybody all the time, and it's great to see you just wearing that in the middle of the stuff going on.

The safety aspect of it concerns me greatly. We all know how dangerous commercial

fishing is when you look at all the dangerous jobs in the country it's right up in the top two places if not the very top. As I looked at some statistics before I came over here I saw our number of boats in California has been decreasing over the last 5 years and the number of fatalities has been increasing. I want to stop that. I tell my people constantly that I'd rather have them keep something bad from happening than respond heroically to something bad happening. So I appreciate the work you all do to help make this industry a safer way for people to earn their living, and I look forward to the work you're doing here. Welcome to the bay area. Thank you.

## **OPENING COMMENTS by CHAIRMAN**

CHAIRMAN GERALD DZUGAN: First, I want to thank everybody who showed up. Thanks to Coast Guard staff for facilitating this in this beautiful place and the accommodations and making this a pretty comfortable place to have our meeting for three days. Thanks to the coordinators who could make it and the agency people here from NTSB, Mr. Rosecrans who's looking at us from the other side of the table now who everybody knows. Dr. Lincoln from NIOSH; the Observer Training Program back there Mr. Hansford; and everybody else who was able to make it, fishermen able to make it.

There will be time for some public comment every day. We've scheduled that in, and I think we've got some scheduled for 11:00 this morning. So please take advantage of that. Please sign up ahead of time though if you can so we know who you are, and announce yourself and who you represent.

Just a couple time management things—I've said these before and to repeat, those who wish to speak on a topic, sign up ahead of time, try to be specific in your comments, and we'll allocate the time people have to speak based on how many people sign up, to give it all fairness to somebody in case we get a lot of people.

If others in attendance have specific expertise they can add to any topic we're discussing as a committee, please raise your hand and you'll be recognized to add that, but try to be concise in your comments as well. That's been our practice as long as I've been on this committee, and as long as this committee has begun in 1990, so we'll continue that practice.

In all committee meetings there is a need for us to be efficient in our use of time, and endless discussions that go on with no resolution can be frustrating to everyone, so try to think of resolutions. The key words we used last year were "specific, actionable, achievable," and if we test what we're trying to achieve by those three things. Is it achievable what we're doing, is it in our purview even? Is it specific? Is it something that action can be taken on? Those three things we need to think of in our motions. And think about motions ahead of time to move things along; and use of motions is a good tool to move things along and expect some wordsmithing to happen when you do those motions, but try to prepare them ahead of time a little bit and give some thought them.

We operate on Roberts Rules of Orders, so direct your comments to the chair. As such, using Roberts Rules of Orders we should avoid using abstentions on votes to duck a hard issue. That's what we're here, why the government is paying us to be here is to make some sometimes hard decisions. So try to take that seriously.

Any consensual discussions we have, silence is considered consent. Sounds like that was written by a cross between a lawyer and a poet, a lot of alliteration, but if we don't hear from you we'll assume your thoughts are along the lines of everybody else's basically.

In order to have an open, respectful dialog, try to avoid personal attacks on people or agencies. Try to be specific. And I'll end with that serenity prayer as to help us accept things that we cannot change. That's a hard one for us sometimes. The courage to change the things that we can change and to have the wisdom to know the difference. And I'll just end up my opening remarks with just making sure you've got your cell phones off for our meeting.

Looking at the agenda quickly, this has gone out to everyone, several versions, a couple slight changes to the agenda is we've got to approve the minutes from the last meeting, so when Mr. Kemerer gets done with the administrative matters that will be an opportunity for us to do that. I don't know if everyone's had a chance to look at these minutes, but before we start on any old or new business, we need to finish up our last business with approval of those.

I think tomorrow, jumping ahead to page 3 of the agenda, 1:30 instead of the subcommittee meetings since the *Katmai* Report just came out a couple days ago we're going to have a discussion on that at 1:30 and do our subcommittee meetings after the break if that's all right. I think we'll end up going there anyway, so instead of having a lot of sidebars on the *Katmai* Report I thought we'd give that some attention individually. Is that okay with everybody? Okay.

Mr. Kemerer is going to pass out hard copies of those minutes. We don't have any new members to swear in so I thought we'd use a little of the extra time—we're going to try to stay on time so excuse me in advance if I move you along. I know the subcommittees were shortened last time, and I don't want to have that frustration again this meeting, so we'll try to keep things moving along. I did want to take a few minutes to go around, especially since we have a smaller group, to see what your personal goals are for this meeting so at the end we can check off some of those and revisit them. So starting with Mr. Martin? On our way to our introductions around the table maybe we can give a short synopsis of what our goals are and then also go to the audience and give introductions. Mr. Martin?

## **INDIVIDUAL INTRODUCTIONS AND GOALS**

MR. JIMMIE MARTIN: Gulf shrimper. I'll respond right now. My goal is trying to make fishing boats safer. Anything I can do to make the fishing boats safer and save lives, number one thing among us.

KATHY RHULE: Kathy Rhule: from, NC. – We run a 90 foot trawl boat, and I think, I'd really like to make relevant to everyone here is due to all the restrictions and rules that have come out with Marine Fishery Service, that's creating more problems than anything else for loss of life and loss of boat.

THOMAS DAMERON: Thomas Dameron, Midatlantic Fishermen. Currently I'm managing three fishing vessels out of Pt. Pleasant, NJ. I'd like to concentrate on making sure the regulations that move through Congress are the right regulations. I believe they've missed the ball on previous attempts, and I'd like to see it get done right.

FREDERICK MATTERA: Fred Mattera from Rhode Island. I'd like to continue to heighten safety awareness among commercial fishermen. I ditto what Jimmy Martin said that I think it's important that we try and save lives and do it in a constructive manner. I think, I'd also like to consider the Magnusson Act and Standard 10 in that we should recognize safety at sea in our management regulations going forward. And I want to emphasize that and try to improve that. That's basically it.

ALAN DAVIS: I'm Alan Davis, with American Seafoods and the Seattle Fishermen's Memorial. Obviously all of our goals are to reduce fatalities and injuries in commercial fishing. Some things I'd like to see from the meeting are: updates on where we are with the distant water tuna fleet, updates on where we are and where we can go with the safety recommendations in the House and Senate because as we're meeting here today somebody's preparing to slice and dice and try to turn two different bills into one bill that the House and Senate can approve and move forward. And I'm interested in the update on where we are with PFDs and trying to advance the use of PFDs through a variety of different approaches.

CHAIRMAN DZUGAN: I think Reid's going down right now.

ALAN DAVIS: He is, and I applaud that. That's good.

MS. LESLIE HUGHES: I'd echo the support for improving fishing vessel safety whether it's injuries or fatalities, and in a variety of ways that I know our association, the North Pacific Fishing Vessel Owners Association, tries to do through our safety program. I think I'd like to see the recommendations we make here help us get fishermen to think beyond what the Coast Guard is requiring or having them do to get them to start thinking more about what's going to make themselves safe. This *Northern Belle* we just recently saw was a classic case in my mind of it didn't make sense to have the boats so overloaded and what they were trying to do, and the Coast Guard can't regulate that, so.

JOHN O'LEARY: John O'Leary. I own a commercial fishing vessel. I've also been teaching safety and survival along the East Coast the last five years, full-time, and I see a lot of problems coming with the regulations and just because of the fishing, the money is going down and stuff like that, so I see a lot of deficiencies. Between the two, and we're getting less crew members, less maintenance on the boats, and I see the Coast Guard

only has so much strength to go aboard the boat even doing their safety inspections. They don't have enough to get things right like water-tight bulkheads. They don't have enough say with rot from the boats, stuff like that, to actually even tie up these boats. Between that and the regulations and not making money with maintenance there's a lot of stuff that I think we can, I'd like to work on to try to get that better so we don't lose more lives, because I can see it coming right in front of my face. And boy, would I like to try to stop it. So.

MR. LELAND STANFORD: I represent equipment manufacturers, and as you can see I'm wearing my life jacket today. I would have worn my immersion suit but it was a little too warm, so I can't hold a pen in an immersion suit either. I think one of the things I've talked about with other committee members behind the scenes is the scorecard of where we are with our recommendations to the Coast Guard. This is my third term, and we rehashed many things because we're waiting for the Coast Guard to accept or reject our recommendations.

I think one important aspect of our work is obviously a commitment to continually improving safety in the fishing industry. But our time and the group of minds we have here today, it's so important we receive feedback and some sense of closure with certain issues that we've brought up previously that we've made recommendations on, we've sweat and toiled over motions we feel are critical to improving safety in the commercial fishing industry. I think the lack of feedback we get from the Coast Guard—I'm not bashing anyone, just as a general statement—is disheartening to this committee, to a lot of the folks that I speak to behind the scenes.

We come here, we're not exactly getting paid for it, and we do have safety at the top of our minds. And we think we're providing a valuable service, and to not have any feedback as to our motions is disheartening. So I'd like to see that reversed somehow, and those are my goals.

MS. MICHELE LONGO-EDER: I'm with my husband Bob Eder, own a commercial fishing business in Newport, Oregon. My goals for the meeting, I'm looking forward to hearing from reports from different areas, but particularly from the 13<sup>th</sup> District in regard to efforts on the education and training that's gone on in terms of safety, as well as reporting to the group my efforts with the Oregon Fish and Wildlife Commission to have vessels be required to have Coast Guard safety inspection at dockside before getting their pot tags. So I'm looking forward to a lot of exchange back and forth and hearing from other areas' effort. Then I look forward, in terms of goals for the meeting, to some action from this committee about the Coast Guard bills, the status of the Senate bill in getting the safety parts in the House bill included as well as working with others on our charter. Those are my goals for the meeting.

ERLING (JAKE) JACOBSEN: I fished commercially 30 years before becoming a marine surveyor, going full-time into surveying in 1998. My brother, father, both grandfathers are fishermen. One was lost at sea. I have many, many friends, who have been lost at sea, Bering Sea where I fished most of the time I was fishing on crab-boats in

the Bering Sea. I have a lot of interest in seeing my friends come home. When I was a kid I used to light fireworks on 4<sup>th</sup> of July and most of the fireworks had a label that said "Safe and sane." And I'd like to see improvements in fishing safety without putting the boats out of business. It would be real easy to improve safety by just banning fishing, but I think there's a lot of things that can be done in the way of fishing safety and still allow vessels to operate in a difficult environment. So those are the things I'm interested in.

CHAIRMAN DZUGAN: For the record, I used to fish several fisheries in Alaska in the 1980s. I've been involved with marine safety training and education since the '90s with Alaska Safety Education Association, and my goal is for us to wrap up some of the tasks we've been working on for awhile, get those with nice bows on them, start some new tasks, and I think overall to educate ourselves for what potentially is an avalanche of new regulations that might be coming out of the proposed rulemaking as well as Congress. So I think this a good meeting for us to educate ourselves as much as possible towards that end.

Before we go around and have the audience introduce themselves, I'm going to turn it over to the captain for a minute.

CAPTAIN CHRISTENSEN: Admiral, I want to thank you for your time and support here today, and I know your schedule's pretty jam-packed today, so thank you for being here. I appreciate the support.

ADM. CASTILLO: My pleasure.

CHAIRMAN DZUGAN: Can we start with Ms. Murphy?

MS. PEGGY MURPHY: Good morning. My name is Peggy Murphy, and I'm the 11<sup>th</sup> District Coordinator for Fishing Vessel Safety. And my goal today is to listen and learn from the committee members and I'm interested in your input and in sharing what I do in my program with you. Thank you.

CHAIRMAN DZUGAN: I appreciate the concise introduction. This is not the time for public testimony, so let's not get off into that. We'll have time at 11:00, and not because of anything you said or didn't say, Ms. Murphy.

PJ MCGUIRE: I'm with the 11<sup>th</sup> Coast Guard District, work for Admiral Castillo, and I have a great interest in fishing safety. I've been stationed around the country working on that.

MS. AMY DOWNTON: Amy Downton. I'm currently at Headquarters working for Mr. Kemerer. He assigned me for the web pages to put out new info for commercial fishermen, so any recommendations please see me. I would love some input.

DAN HARDIN: Mr. Chairman, committee members, my name is Dan Hardin. I'm the 13<sup>th</sup> District Fishing Vessel Safety coordinator. I will be providing a brief today, and answer some of Michele's questions that she posited.

TROY RENTZ: This is my first meeting, so I'm honored to be here and my goal is to learn some things from the committee that I can take back for the alternate compliance program. I'm the coordinator for that program in the 13<sup>th</sup> District, and I will be presenting on the ACSA program, a really unique program. I look forward to sharing that with you.

DEVIN LUCAS: Good morning. I'm a statistician with NIOSH. I work with Dr. Lincoln in the commercial fishing safety research program, and I'm down here looking forward to hearing updates on things going on around the country and also tomorrow morning to share a little bit about one of our recent research projects with PFDs and fishermen in Alaska.

DENNIS HANSFORD: Good morning. I'm with the National Marine Fishery Service, National Observer Program. I chair our Safety Committee, and I'm here to see if I can help get insight on what I can do to provide our observers an increased sense of safety consciousness as they deploy our commercial vessels. I'm also looking to find out what we can do to help move this legislation forward on commercial vessel safety as well as to get a sense on trying to develop a framework for tracking mere\* incidents that our observers are constantly exposed to on commercial vessels.

ERIC PICKERING: Hi. Good morning. I'm from the other coast that people forget about, the Great Lakes District 9. I'm the coordinator up there.

VINCE GAMMA: Coast Guard Headquarters, life saving equipment approvals and standards development. I will be speaking this afternoon about regulatory progress for lifesaving equipment. Hopefully I can answer some of the questions the manufacturing gentleman had.

JEFF LEVIN: I'm with the U of Texas Health Science Center in Tyler, and here today representing the NIOSH SW Ag Center in which we have a project that focuses on commercial fishing in the Gulf Coast. Today I'm going to give you an informational update about what's happening with that project.

CAPTAIN RUHLE: My name is Captain Jimmy Ruhle. I own and operate a 90-foot trawler out of Wanchese, North Carolina. I'm also president of Commercial Fishing of America, a national organization representing our fishing industry around the coast. I'm here for one purpose today and that's basically to be the skunk at the picnic. We've got basically some major issues on the East Coast with the Coast Guard side of search and rescue and lifesaving and they absolutely need to be put on the table and exposed, and that's my intention during the open public comment period. Thank you.

MANNY RAMIREZ: Good morning, Manny Ramirez, Sector San Francisco, a fishing vessel examiner, and I'm here to learn and observe. Thank you.

BARRY EVERHART: Barry Everhart, the examiner from NC representing D5, Lieutenant Commander Troy Luna could not make it, so he asked me to come today. So thank you.

MIKE ROSECRANS: Mike Rosecrans, National Transportation Safety Board. I'm here recruiting, and you'll hear more about that tomorrow.

TOM MILKE: Good morning. I'm Tom Milke. I'm from Regulations Administrative Law at Coast Guard Headquarters, and I have the privilege of being project counsel for the Advisory Committee here.

MELANEE LIBBY: Good morning, everyone. My name is Melanee Libby. I'm the group officer for the U.S. Coast Guard. I'm actually handling all the federal advisory committees for the Coast Guard.

TED HARRINGTON: Good morning. Ted Harrington, 1<sup>st</sup> Coast Guard District, Boston.

LARRY YARBOROUGH: Good morning. Larry Yarborough, 7<sup>th</sup> Coast District, Miami.

CURTIS FARRELL: Curt Farrell. I work for Dan, coordinator/examiner for Oregon and Southern Washington.

KENNETH LAWRENSEN: Mr. Chairman, committee members, Ken Lawrenson, District 17 coordinator.

MICHAEL RUDOLPH: Mike Rudolph from Sector, Portland.

DR. JENNIFER LINCOLN: Good morning, everyone. My name is Jennifer Lincoln. I work for NIOSH in Anchorage, Alaska, and I'm getting back to the goals. I wrote some down, Jerry, since you gave me some time. Some goals for the meeting from the NIOSH perspective is to provide data for action, to continue to improve fishing vessel safety, to provide guidance and examples of what we can do with industry, like the PFD study and through the council process by showing up and providing examples. Continue to show the significant progress that has been made in fishing vessel safety, and to identify ways to make it easy for fishermen to make the safe choice.

GERALD DZUGAN: Thank you, Dr. Lincoln. Thanks again to those who made the time out of their busy schedules to come.

Mr. Kemerer.

## **OLD BUSINESS, STATUS UPDATES, RECOMMENDATIONS FROM LAST MEETING**

MR. JACK KEMERER: I'm Jack Kemerer, the chief of the Fishing Vessel Safety Division at Coast Guard Headquarters. Mike Rosecrans bailed out on me last year so I had to fill his big shoes, and it's been a challenge, and I look forward to it for future years. I get to wear several hats during this time I guess, assistant to the DFO Captain Christensen. Also I guess I'm executive secretary here so I get to do a lot of the coordination for the meeting. I want to tell you, if you see any of the staff at the hotel here, they have just been outstanding working with us and making arrangements, setting up everything. I think it's a very nice setting, and I appreciate everything they did, and I hope you will enjoy the facility here and the setting.

I want to thank everyone for coming and attending. I know schedules have been pretty busy and to try to find a time when everyone on the committee can make it is a challenge, so we are missing some key folks here today, some scheduling conflicts. But there was one scheduled that certainly couldn't be changed too much, Ms. Thu Bui, our representative from Texas. I got an e-mail from her about 4:00 in the morning two weeks ago and said, "I just had my baby, I don't think I'll be at the meeting!" So congratulations to her. I hope everything is going well. If anyone knows anything more and would like to pass it, that would be nice.

Before I forget, Jonathan Wendland didn't get to introduce himself. Jonathan is relatively new on staff. He came and joined the office last fall. Captain Christensen mentioned the other position that we have, a GS12 position we just filled, or at least the offer has been made and accepted. So when paperwork is final we can release who that is, but let me say it's a person who's been involved in the program for a number of years, a lot of field experience, and looks forward to staying in the program and working with the rest of us. I think everyone will be happy with the selection that's been made.

## **ADMINISTRATIVE, VESSEL LOSS STATISTICS**

MR. KEMERER: Some administrative things. Out on the table there's a sign-up sheet so please on the next break everyone signs their name so we have a record of who's been at the meeting. If you haven't found them, the restrooms are down the hallway by the elevators, and you can get into the restaurant from the back side. They've had things all set up for very nice. If there are any issues with anything, please let me know, and I'll see if we can get it corrected.

I wanted to touch on a couple things I thought Captain Christensen might have touched on. We've all heard about statistics, and Jennifer, you'll talk about a lot of data I'm sure as we go along. There's been a little uptick in the statistics for vessel losses and casualties over the last two years, actually. So far this year we have I think 13 vessels have been lost and 9 fatalities and it was interesting going through the minutes several times recently that Captain Ruhle you actually made a comment last year that we shouldn't be surprised if we see an increase in vessel losses and fatalities. In fact that

does seem to have happened over the last year or two, so I thought that was interesting and wanted to make note.

Some other items we'll address after the break, the updates we wanted to get into. Some of you were around earlier this morning, and the first hour this morning we had an administrative session with just the committee, not part of the public meeting, and it was to go over some of the requirements that come out of the Federal Advisory Committee Act, and some refresher training for us here, responsibilities, roles, and duties of the committee so that we don't run afoul of anything that might be required by the legislation. And so that was what went on the first hour, not that we wanted to exclude anybody else, but it was information and presentations that really applied just to the committee, and that was the purpose of that first hour.

With that I suppose we can move on.

## **OLD BUSINESS APPROVAL OF MINUTES**

CHAIRMAN DZUGAN: We're going to take up the approval of the last minutes first before we move on so we don't forget about that. Does anybody need more time to review them? I know you just got them recently. I went through them on the plane last night coming down yesterday. All I found was small typos and syntax things. I've corrected them on a sheet which I'll give to staff. Anything of substance? Mr. Stanford?

MR. KEMERER: Mr. Chairman, I have to make a motion to approve the minutes as presented.

MS. EDER: Second.

CHAIRMAN DZUGAN: All in favor signify by saying aye? (chorus of ayes)  
Opposed? None. Okay. The minutes from the last meeting have been accepted.

I'm wondering if we can get into where the subcommittees are at, look at our long-term goals and other things later, but Mr. Stanford, would you mind giving us an update on your subcommittee?

MR. KEMERER: Hold off, and before we get into it I can go over recommendations.

## **SUBCOMMITTEE REPORT**

MR. KEMERER: Part of the look at the recommendations, status updates, and we appreciate your comment about feedback on that. Over the years of the committee I don't remember the exact number of recommendations made, but approximately 50 percent of the recommendations made by the committee have been acted on by the Coast Guard. Another 20, 25 percent have partially been accepted or acted on by the committee, so I have a file that shows for at least the last 5 years that we can look at later

if you wish, for last year's recommendations came out of the meeting I have a summary and can go over those very quickly if you'd like. There were 23 motions, recommendations presented last year, and a couple were letters to be sent out, but we accepted the mission and guiding principles, the long-range goals for the committee. There was a Man-Overboard Prevention recommendation to include in the proposed rulemaking, and that's under consideration. The life rafts and survival suit letters, there was a letter that went out to the manufacturers that's been completed. And also with testing of the suits, that's under consideration for the rulemaking. Elimination of 391 SOLAS items, changing to the NVIC is pending on how we're going to address that, and I think Vince will probably get into some of that this afternoon as well as other recommendations on life rafts; there were about 3 of those. There was a recommendation to send a letter to the Fisheries Management Council, North Pacific; that is pending. I think I have that letter now that came out, so that's one of those like Jake you mentioned it's a timely thing that if we determine we need to or should forward that on that somehow we do that in a timely fashion to make the meeting. I appreciate the point on that.

There was a letter supposed to be sent, we offered to send a letter to B13 on behalf of several individuals working with the ACSA Program and safe operations. I think that's still pending.

MS. EDER: One of those letters was sent. My feeling is, without the *Alaska Ranger* Report being released I don't think, nothing would come of it.

MR. KEMERER: Okay. Safety investigations to include other experienced personnel in the group. A letter was supposed to be, and I'm not sure if that was completed or not. I had Alan on that, letter to us about green boards and casualty investigations to make sure qualified and experienced personnel were included in the board.

MR. DAVIS: That went out, and I have a number of responses from that.

MR. KEMERER: Training recommendation includes training requirements in the proposed rulemaking. That's under consideration, as well as one on PFDs to be worn while on deck. The committee accepted the motions from the Communications Subcommittee, and the letter to the secretary and NMFS on concerns with the deep water tuna fleet has been completed. And the letter to the commandant encouraging additional funding for the safety program has been completed.

So most of the things from last year have been addressed. There are a couple pending that we'll need to look at and confirm, so when we get into the subcommittees I think those are ones that deal with that, so we'll address it then.

MR. KEMERER: Those were approved and are in the minutes.

CHAIRMAN DZUGAN: We should ask if anybody had questions or issues with the long-term goals we'd set. (pause)

MR. KEMERER: Okay. I'd suggest we refer the stuff on the subcommittees to a bit later and go into the update.

CHAIRMAN DZUGAN: Is that okay with the committee? We can take that up, a progress report on those, before we break into our subcommittees tomorrow. That will probably be a little bit more refreshed anyway.

MS. EDER: Mr. Chairman, regarding to actions taken from the last meeting, I also believe the committee agreed to and did send a letter to Oregon Fish and Wildlife Commission regarding the voluntary inspection, having a safety endorsement prior to the issuance of crab licenses.

MR. KEMERER: Yes, that's correct. That was completed.

CHAIRMAN DZUGAN: Did you mention the Distant Water Fleet letter on the tuna fleet? That was mentioned. Okay, good.

### **NOTICE OF PROPOSED RULEMAKING:**

MR. KEMERER: We can get through the updates before we take a break. With that, I'm going to move into the next section dealing with update status a little bit more. We mentioned some of this already. The notice of proposed rulemaking is under review by the administration. There are some things we've heard back on that, so it's still in the process. That's all I can say. It's moving, the wheels are grinding slowly. What happens with the pending legislation may have an impact on how we proceed with the NPRM and the project team; or a number of us at Headquarters will have to decide if it's worthwhile to possibly hold up the current rulemaking and incorporate new things. If we get these authorities potentially out there in the authorization bill or whether we'd go with a supplemental rulemaking, whatever, that process will have to be evaluated and determined how to proceed.

There's been a lot in the news lately about the Coast Guard Authorization Bill. I don't know if everyone gets to see that or not. Recall that we mentioned before the House passed a version of the Authorization Bill that had a number of requirements that would affect fishing vessel safety, would give the Coast Guard a number of new authorities. A couple of the key ones I don't all the details, but some key ones were mandatory exams on fishing vessels, requirements on survival craft that would keep a person out of the water, training and competency requirements for crew members as well as masters. There were some items in there about grant programs on training and research, requirements in there that addressed the Advisory Committee as well and extending the timeframe for it and revising the membership some. That's all pending.

The House passed that, and it went to the Senate and was held a number of months and recently passed, but the Senate version didn't include any of the fishing vessel safety

items that were in the House Bill. As mentioned, Senator Cantwell seems to be in favor of many of these provisions, and when it goes to conference committee we'll just have to see what comes out. We hope a lot if not all of it will come out in the final bill, but we'll have to wait and see. We could get very busy in the future or we could be status quo and continue to seek initiatives to improve safety as we've been working on them.

CHAIRMAN DZUGAN: May I add something, Jack? If you are interested in the exact language, you can Google HR3619, the House version and it's Section 804 that mostly deals with safety, but also Section 802 deals with fish management and there's a few other sections there that will influence safety. The Senate bill version, which has nothing on fishing vessel safety, or not much on it, is SB1194.

MS. EDER: I have a question as to what the committee's role is in regard to legislation, for example. I don't know if it's on the agenda, I don't think it is, but I wonder if it isn't our role to take a look at the version of the HR bill and see what's in there, to then also look at what senators we think may be in support of adding that language and then as a committee writing a letter to those senators and asking them to either include the language and join as cosponsor and/or ask our House people to also join on as a cosponsor. To me that's one of the roles I see this committee playing, and would be an action item to come out of this meeting. The time and agenda to, first of all does the committee, Mr. Kemerer and Mr. Chairman, do you see our role as being that? And if so, can we do that during this meeting?

CHAIRMAN DZUGAN: This kind of extends the conversation we just had from counsel here this morning, so I'll defer it to staff and counsel.

MR. KEMERER: I think there's a role there for the committee to do that. Any correspondence to another agency we have to be very careful of because the charter says your recommendations come to the Coast Guard so we can address that. But one thing we looked at for later on is maybe have a subcommittee that deals with, we already have the Communications Subcommittee, but maybe one on Legislative Affairs or Legislative Recommendations, because we are looking at from NTSB the recommendation came down we should revisit the inspection plan submitted back in 1992. That's one thing we'll propose later on for possible action. So that might be an area or group to work with on that as well.

I think we've talked about that enough, so let's hold that and decide and make a determination on it. From the committee itself we have to be careful that you don't send a letter as the committee to outside agencies, but individually you can send whatever you want.

MS. EDER: I don't mean to beat this to death, but my feeling is that as a committee to be effective that the Coast Guard would welcome representatives in this committee support of measures within a bill that relate to safety. And that there would be some expedited movement of this kind of a recommendation to the commandant of the Coast Guard. But who at the Coast Guard level—I don't know about the structure of the Coast Guard—

who at the Coast Guard in legislative affairs is on the Hill doing this kind of work and would welcome a letter from this committee? My feeling is, our recommendations are supposed to be at the Coast Guard, the commandant, but let's also send it to the Legislative Affairs, and who is that person? Seems to me they would play an important role as a liaison with this committee.

MR. KEMERER: We can get that for you, but we in fact have submitted recommendations from the committee, information, have submitted it to the Legislative Affairs folks through legislative change proposals. At times staff has asked for information from us, so we have had communications with those folks to get that information over to the offices and those that are interested in including that information in a bill possibly. So that process goes through, we make the proposals or information through the -- and it goes through one of the legal offices to the Congressional Affairs folks, goes to the Hill. So we have in fact done that, and there is a procedure to follow through with that.

## **MOTION**

MS. EDER: This is only my second meeting, and we only meet once a year, so this is why my questions are coming up at this time. I think I have a little different vision maybe, and what I'd like to see then is more interaction between the Congressional Affairs when it comes to an issue like this, and it actually looks like there's going to be a reauthorization, the Coast Guard, that there be more interaction from Congressional Affairs with Coast Guard with this committee so that we can offer our support in ways that we have members of Congress who are aware this is very important legislation and not just the Coast Guard saying it's important, it's the constituents as well saying it's important.

I guess a recommendation I'd like to make, Mr. Chairman, is that we seek to a greater interaction with Legislative Affairs of the Coast Guard and a direct liaison to that office.

CHAIRMAN DZUGAN: Is that a motion that I heard?

MS. EDER: I would make that motion.

MR. DAVIS: I'll second that.

CHAIRMAN DZUGAN: Discussion?

MR. KEMERER: Can somebody state the motion?

CHAIRMAN DZUGAN: Once more, can we state that motion?

MS. EDER: I would move that the Coast Guard Office of Legislative Affairs, or Congressional Affairs, communicate regularly with the chairman and members of the Commercial Fishing Industry Vessel Advisory Committee or CFIVSAC, regarding

matters of fishing vessel safety and call upon the committee CFIVSAC for input, support in the form of testimony, letters by the chairman of the committee or his representatives.

CHAIRMAN DZUGAN: Discussion?

MALE: Can we have it read back once?

MR. DAVIS: Motion that the Coast Guard Office of Legislative or Congressional Affairs communicate regularly with the chairman and members of CFIVSAC and call upon the members of CFIVSAC for input in the form of testimony and letters from the chair or his representatives. Am I missing anything?

MS. EDER: Regarding fishing vessel safety. Regarding legislation or administrative rules pertaining to fishing vessel safety.

CHAIRMAN DZUGAN: In all fairness to Mr. Davis, who's been taking notes on this, he had a comment before this came up and I want to let him get that out.

MR. DAVIS: I'm good.

CHAIRMAN DZUGAN: Second by, Mr. Mattera.

I have a question for discussion, just to get the discussion going. If I was to vote for this as a member, I would want to have some kind of security that the chairman or the designated representative was acting and speaking for the committee that can be documented through past motions so you don't get one – we're all very opinionated, and it would be very easy for us to speak in terms of the committee and then not, either by syntax or by if not word not being what it should be but by the way it's represented even by tone, it could have a quite different feeling. So I think that's the intent with this motion.

MS. EDER: You're in charge.

CHAIRMAN DZUGAN: Well, we're in charge.

MS. EDER: I meant it would be your testimony or your designee.

CHAIRMAN DZUGAN: Based on documentation of past meetings.

MR. DAMERON: I have a question for Jack. If the committee was to make a motion to send a request to the commandant of the Coast Guard that he relay certain information to these legislative bodies, could we expect that would be something that could be done in a timely fashion?

MR. KEMERER: Yes, it could be passed along. Whether the specific items get relayed to the Hill I think or to the staffers, there's a fine line there in the process on how we

submit or how a legislative proposal gets submitted. And I don't know that it's any time we feel like it or whether it's when they ask for our feedback. But I must say that the recommendations that have come out of the committee on various things have been incorporated into our proposals that have gone in for legislative change. And when feedback, when questions have come back whether we object to something or not, what the committee has presented, recommended, comes into play. I mean we take that information and include it in our response. So there's things that go on behind the scenes that you don't always see or hear about I guess, on the recommendations and committee actions.

MR. MATTERA: Mr. Mattera, I have a question from Michele. Initially when you started to speak, I took it that you were hoping this committee could send comments or reply to comments to this bill, to say a specific bill. And now you basically, the way I read this is, the congressional legislative committees or people would actually interact or relate with us looking for our comments or, so I mean do you want this motion to be so that we can comment as a committee as a whole on, say, HR3619? Or do you want them to come to us?

MS. EDER: I'd like both.

MR. MATTERA: I don't know if this motion basically expresses that.

MR. DAVIS: It gets one of them.

MR. MATTERA: I took it that initially when Jerry started talking about the bills and you started talking about the ability to get our comments in there to get to the right people so that this committee as a whole has an impact on the legislative process and approval process.

MS. EDER: My intent is that we'd be able to go both ways, that we are able to, as a committee, communicate our position.

MR. MATTERA: Then maybe we should amend this a little to cover both?

MS. EDER: Alan, do you have a suggestion?

MR. DAVIS: I would sort of suggest that it be two motions, because it could be not just because the typing would drive me nuts, because I think it would be clearer and more concise if they are broken out separately. That's my suggestion.

MS. EDER: Okay.

CHAIRMAN DZUGAN: Mr. Jacobsen.

MR. JACOBSEN: Mr. Chairman, I'm just wondering, I think the suggestion was made earlier that there might be a subcommittee to deal with legislative issues such as this that

can sort through a lot of material and come back to the committee with some specific things to vote on and pass forward. And I'm just wondering if it might be a friendly amendment with this motion to have the formation of the Legislative Affairs Committee, subcommittee.

CHAIRMAN DZUGAN: I think the idea is to table this motion, and if it's okay with the mover and the second, we can table that. And we can give this some more thought. It would probably fit nice with that subcommittee, and we can see how we want to wordsmith this and there may be one or more motions. Is that okay with the movers?

MS. EDER: Yes.

CHAIRMAN DZUGAN: Is that okay with the shakers?

MR. DAVIS: Yes. Is it possible, Jack, that anyone from your staff could go through this HR3619 and Section 804 and print some of that up so that we could have later on look at this evening, because we're going to break up into subcommittees tomorrow? It would be nice to have those safety things from the legislation in bullets so that we can examine them and then offer our support to them.

CHAIRMAN DZUGAN: I recommend if you're going to direct staff, if we direct staff to do that is to maybe find a synopsis of those because if you try to read the exact language itself, it has all these references to other places, and because the pages are short and the borders are huge, it's a lot of running off of papers. But if we have a good synopsis of that, and I've seen several of them.

MR. DAVIS: You sent me one.

CHAIRMAN DZUGAN: Maybe look at that synopsis I sent out. That covers it in a little bit plainer language. Would that be okay? And I still have that here. So if you didn't get that maybe we can work at running that off.

MR. DAVIS: That would be great. Thank you.

## **MOTION TABLED**

CHAIRMAN DZUGAN: So officially that motion has been tabled in agreement with the mover and the second, and we will revisit that again. Thank you.

Moving on with your list, Mr. Kemerer.

## **Alternate Compliance and Safety Agreement Program**

MR. KEMERER: The next item is the Alternate Compliance and Safety Agreement Program. Both Dan and Troy I think we're going to address that later in their district

presentations. So I won't go into that other than to say it is in the works and working, and we've got a meeting coming up next month to go over some of the possible changes or updates on it.

### **Casualty Investigation Reports:**

MR. KEMERER: Casualty investigation reports, I think the Captain mentioned that the *Katmai* Report came out last week, and we've got some data on that that we will look at discussing later. The *Alaska Ranger* Report should be coming out shortly. It's been, far as I know, been cleared and I think signed, but the process, the notifications have to made to next of kin, the brief, and then the Hill, and a couple other places where the report has to go first before it actually goes out to the public. So that should be coming out soon, but I told Leslie that for a couple months I think.

I also understand the *Patriot* Report should be coming out before too long. So a couple weeks, hopefully not a couple months, but it's close.

### **Drill Conductor Courses:**

Another big item some of you are aware of and others may not be; Jerry and I think it's a big item, those of you involved with drill conductor training the courses in the past have been Coast Guard approved courses which means under the process with the National Maritime Center who approves all these things, those courses are subject to an audit program. Part of that audit program is to make sure the organization doing the training has appropriate sized classrooms, appropriate lighting, and the course location and setting gets approved so many weeks ahead of the course, the instructor has so much space and the sound system, and everything else. It was all really I think designed to address the organizations of doing bigger type training for STCW, other licensing type things, a more formal type training program and longer-term, not like the drill conductor training.

So it didn't make sense to require all those things of a one-day course. And Jerry's group with AMSEA and Leslie experienced the same thing at NPFVOA, and the other organizations who are doing drill conductor training were getting in a real bind because NMC basically said if you don't comply with the audit stuff that your course can be taken away and you won't be able to do the course. So I talked with Jerry, I think, some time back and we thought about how we could alleviate this demand on trainers. And I went to some folks in the mariner credentialing office and talked about it to someone who had worked at NMC, and we decided that, we had talked about it, decided why not make this course an accepted course. It carries the same weight, it has everything the same requirements, and is still going to be a course curriculum that's standardized for the country and an approved curriculum. And it will do away with the audit requirements because you can't meet the audit requirements when you go down to a vessel and do a drill conductor training class. So NMC accepted the recommendation, and letters have gone out to AMSEA and I believe NPFVOA got one. Chesapeake Training Institute and a couple other organizations that do drill conductor training have received letters that the drill conductor course is reclassified as an accepted course by the Coast Guard rather than

an approved course. It's really semantics. There's no change in what's being done and what the outcome of the course is, so it's made I think a very positive impact on the training organizations, and I think the National Maritime Center got a benefit out of they don't have to worry about doing audits on all these courses. So it's something that went through very quickly and we really got what we wanted. I was just surprised and really appreciate everyone that was involved with that and accepting it.

CHAIRMAN DZUGAN: Thanks for your staff, Jack, thanks to Dave Belliveau for working with that. It was an exquisite solution. But I want to make it clear that the Coast Guard still has oversight over classes. They still have to accept instructors, and they still have a right to review and come in and sit in on classes to make sure you are teaching what you are supposed to teach. I think in the big picture though, and this is important for the committee to understand, if you're going to have under Congress a national training program for fishermen, this is a way to do that. Otherwise, all you're going to have under the standard Coast Guard approval is this course being taught out of Maritime academies which is fine, but you're not going to train 100,000 fishermen by them traveling to five or six different maritime academies around the country. And the cost for that and the time for that would make this something very prohibitive. So if we're going to continue and expand fishing vessel safety to make it meaningful to fishermen, to have it accessible to fishermen, and to still have oversight, this is really the way to do this. So I'm hoping if more training comes of Congress if that's what happens that the Coast Guard looks at this as a way to do this.

## **Website Revamping**

MR. KEMERER: One thing I failed to mention earlier, Ensign Downton is on short term orders with our office, Reservist, and she's working primarily with the website redevelopment and updating, and I don't know how many people have gone on to Fishsafe, got info lately and looked at it in our area in Homeport, but it's being reworked, and I hope the design has made it a little bit more user friendly. But there's been all kinds of glitches that came up with getting into that, and I have to put Amy on the spot here. She came in and she's been super on staff and just very good and real positive attitude when she came in. She said, "You know I think I can do this in two or three weeks." I said, I appreciate the optimism, but I think when you get into it you'll find it's going to be quite different than that because there are so many files that were in there, and then trying to move things around in different categories, and now there's new protocols I guess to putting links in to the URLs into different things. So I know I've had a problem getting into some of the things, so if you've looked at it I'm sure there have been problems. But we are working on it. Hopefully we're going to get it cleared out, and sometime down the line it's going to be a much better site and more user-friendly and so I appreciate Amy's work. If you haven't seen it lately, I don't know if we can call it up here, but we can do that sometime during the day and let you look at some of the changes.

I appreciate Amy's work, and if she doesn't get it all done before she leaves the end of July, I think the new staff member we've got coming in will have comparable experience

to take over where she's left off. We're going to have someone that's going to be more dedicated to working these websites in the future I think. She said if there's any recommendations you have, including information, links, or redesign a little bit, she's open to that and will certainly take that back with us.

## **Proceedings Magazine**

MR. KEMERER: A couple weeks back I sent out an e-mail to everyone letting you know the winter issue of the *Proceedings Magazine* for 2010, 2011 is dedicated to fishing vessel safety. It's been exactly 10 years since the last issue of *Proceedings* has been addressed completely to fishing vessel safety, so I've got a couple commitments from some people to provide an article for the *Proceedings*, and even though Admiral Salerno is going to be the champion of the publication, I think most of the coordination and effort will come down to Captain Christensen and myself to put that together. So again, we've hit one deadline but if anyone is interested in contributing an article for that magazine, I'd more than welcome it, and we can probably get it included. We've got all different parts of the program, information, training, lessons learned from past casualties, whatever you might offer to put in there I'd welcome. Michele, I see you writing. I'll get an e-mail when I get back next week. We'll certainly let folks know shortly if we're accepting your article or not. There are people who drop out the last minute so we could add some in. I haven't been told what the exact limit is but it's probably somewhere between 15 to 20 articles, 2500 to 3000 words, two pages. There's a sample *Proceedings* magazine out there on the table. Any graphics or pictures are really good to put in. They love that. I think the timeframe for the final draft article is end of June. We still have some time. I can send out a reminder on that if you'd like with the author guidelines and all. I may have that on my thing right now I can just resend.

The last thing I wanted to mention and won't have to talk about is the NTSB safety form. Mike is here, and he's going to give a presentation later and tell us all about that good program coming up, and what else he's been doing at NTSB, keeping tabs on us. With that, I've covered all I need to in updates.

CHAIRMAN DZUGAN: Good. We're ahead of schedule. Before we start anything else we'll call for an early break, come back at the appointed time at 10:45, so a 20 minute break. Looking at the minutes last year, all our 15 minute breaks took 20 minutes, so it's not unreasonable. It's a 15-minute break but come back at quarter to, and we'll start with comments from the public, keep with the same agenda roll and have time for Dr. Levin to talk about the program with Texas A&M in the Gulf. It would be good, in case we finish with that, if we could have one of the speakers scheduled for after lunch, Mr. Wheatley? Lieutenant Arnwine? Maybe Lieutenant Commander Gamma we might start with yours if we have time before lunch. We'll adjourn for break and come back at quarter to 11:00.

**[BREAK to 10:45 a.m.]**

## **PUBLIC COMMENTS**

**CHAIRMAN DZUGAN:** We're going to reconvene after our break, and we've come to the point in the agenda for public comments. In front of Dr. Lincoln on the table is a sheet to sign up on, so if you've not signed that sheet we'd appreciate that. Does anybody wish to speak on any issue relating to our business? Captain Ruhle.

### **REPORT BY CAPTAIN JIMMY RUHLE:**

**CAPTAIN RUHLE:** I may have to refer to papers. I usually do this without papers in front of me but unfortunately there's too many dates associated with this. I've been involved with this committee a lot of years and seen the committee do a fair amount of decent work and see it gets stalled to where it hasn't done a damned thing and then maybe come back and do a little bit more. I'm using this committee today as a vehicle, and that's all. I want to make people aware on this committee that the safety of fishermen is not always, well the responsibility is two-sided. It's not always the fault of the industry, and I want to make it very clear. This is going to come out and it's going to be harsh against the Coast Guard and it's intended to be that way. It's going to be respectful, but I think we've got some very significant issues that have to be put on the record.

I've only spoken to one Coast Guard official about one of these incidents simply because, even though some of them are five and six months old, one of them is eight months old. The concerns I've got for the families of the fishermen or the fishermen themselves with association with losses of their vessels and insurance on the fishermen themselves and their families or their vessels that were total losses is something I wanted to make sure was clear.

The last one I'll speak about is one I'd like to mention now, the man that lost the boat in Oregon Inlet on the 3<sup>rd</sup> day of January this year began the process of trying to request a certificate of loss for that vessel. It was only a 44 foot gill netter, but it was all he had. And it was two days after I had a meeting with the official Coast Guard, the captain that took over that, that the certificate was hand-delivered to him. That was two weeks ago. It's inexcusable. So a lot of the problems are pretty significant. Again, you're going to hear words today, and I'm not using them lightly. Words like 'incompetence,' words like "dereliction of duty." Even as far as "falsifying records," and we know as an industry for fact that we can support these. And there is the problem.

I am totally convinced with the people I've worked with in the Coast Guard from Thad Allen to Mary Landry, or to her and her husband both, Sally Brice-O'Hare, Salerno, I am totally convinced that if those people in the higher management of the Coast Guard were to hear the true story, that something would be done. And that's the purpose of these comments today, to try to make them as factual as I possibly can. Some of it's hearsay, but when I say 'hearsay' I've collected it from more than one man. And no one time is it one man speaking against the Coast Guard without support from other industry members.

This is the way I live life. I got a certain set of principles. You do a job right, I'll tell you. You do one wrong, I'm going to tell you because the only way you'll do it right is if it's pointed out you did it wrong. When the Coast Guard's efforts to rescue my brother when his boat went down, they deserve every bit of credit they could possibly get. They went way beyond what was necessary. Granted, conditions were such that he could have survived. But they did save the two men off that boat under pretty harsh conditions that might. The boat was upside down. They didn't get him. They did a great job with that. The instances I'm talking about are just the opposite. It's a failure on the part of the Coast Guard to do the right thing.

I was two or three years into this committee that an initiative came out PTP, Prevention Through People. I'm here to tell you today the prevention that needs to take place needs to take place on the Coast Guard's side, not the industry's side, because there's a breakdown here. Something's going wrong, and I witnessed it from a lot of different angles.

The first one I'll talk about is the fishing vessel *Patriot* which you said the report is coming out soon, which Harrington, Ted. I get him confused with Ted Williams. He thinks he is Ted Williams. But anyway he's more familiar with it. There has been resolve in it. Bottom line is, the boat sunk, two men were lost, Gloucester, Massachusetts, second day of January of 2009. The cause of the sinking is yet to be determined. That will certainly be in the report. The boat had an unusual set of circumstances as far as the alarm system, had some kind of fire alarm that I've never fully understood what that is. But it's been determined and acknowledged by the Coast Guard that there was 2 to 2 ½ hour delay from the watch officer making any calls to his commanding officer to take action. At 2:00 in the morning on the second day of January in Gloucester, Massachusetts, you don't have 2 or 2 ½ hours to make up your mind if you want to wake up somebody. That has been resolved. There's the first mistake. Whether it made any difference, I can't tell you. A father and his son-in-law were lost in that, and it was a very well-respected family in the Gloucester fishing community. That's the first one. Again, that one has been acknowledged, so I don't have a quarrel with that. I just hope that there's something done and they talked about in the reports I read that something would be done.

Next one is March 24, Cape May, New Jersey, fishing vessel *Lady Mary*. This is a scalloper, and she was working what is called what we have on the East Coast is rotational closed management areas. The name of this particular area just opened up on the 1<sup>st</sup> of March is the Elephant Trunk simply because of the shape of the contour of the grounds. There were over 40 vessels in the Elephant Trunk scalloping when the *Lady Mary* sunk. And it was 4:25 in the morning when the EPIRB went off, and the first call went out at 5:25, urgent notice to mariners. It has been determined since that one of the two towers that provides high frequency transmissions to the fleet was not operative. It was 11 hours before the boats on scene were recognized that there was an issue. Eleven hours. There were no bodies found in that vessel when the divers went on, and by the way they strongly believe the vessel was run down by a ship because another one was significantly damaged in the same area, which is possible.

Some of these freighters and tankers and so forth have all the courtesy in the world. They'll see a fleet of boats and they will veer all the way around them, knowing they got to make up the time somewhere else. Others just don't give a damn. They will plow right down the middle, and it's a problem. But that's beside the point. Eleven hours before the fleet was notified that there were six—six men were lost on this. One saved, six men were lost. Those eleven hours is inexcusable. There were boats within three-quarters of a mile where that boat went down. Now scallop fishery involves a lot of turning, so a boat going this way and two minutes later it's coming back at you, that's not unusual. That's the way they fish. And a lot of activity in the area is not unusual when you got 40 or 50 boats there. So I don't know what the final outcome will be. Again, there are a lot of insurance issues here, a lot of concerns all the way around, but the 11-hour delay there's other ways to notify a fleet.

The Coast Guard has to recognize the ability of the fishermen. I don't care if it's something as simple as designing gear lifesaving equipment or catching fish or making repairs. The ingenuity that fishermen have is incredible. It should be tapped right now, and Jimmy Martin's back yard, they should just put a bounty on oil and say to fishermen, "You know what, go collect the oil off the surface and we'll give you this much a gallon." They will come up with shit that you never even dreamed of, and it will work. It will work. It probably won't be certified or approved, but I believe there are options for that, and that's just the way we operate.

So if the fleet was notified where the *Lady Mary* was down, everybody's dredge would have come on and everybody would have been looking. Would it have made a difference? I can't tell you. I certainly hope that it would have, but it should have happened, and utilizing other ways of notifying the fleet besides one radio call or one transmission is something that has to be adopted all the way around. It's absolutely necessary.

By the way, I knew of these fellows personally or knew of their family, every one that was lost, and references I'm going to give you. The *Lady Mary* I knew the fellow that owned the boat and I knew his two sons. He lost two sons on that boat. They were a lot younger than myself, but I did know the dad.

This next one is the fishing vessel *Sea Tractor* in November 11 off Cape May, NJ, a very well-respected fishing family, resulted in 3 deaths, Captain Kenny Rose who was 76, his son Kenny Jr. was 54 and another fellow 55. I knew both Kenny and Kenny Jr. very well. Kenny was one of the best fishermen I've ever met, but he had just calmed down in the last few years from a bigger boat to a smaller boat, but he never did in his mind. He was fishing weather with that boat that he really shouldn't have. I will say, and everybody agrees, he took way too many chances. However, on top of that, he was facing a closure, a 6:00 closure to get to the dock for a three-day fluke opening in the state of NJ. And we've said it before and I think it was Jackson from Stormy Seas, my God, they postpone ballgames for weather. Well, they damned sure should have postponed his closure. This storm ended up being very close to the perfect storm. It was called NorIda because it was

the remnants of a hurricane that came out of Gulf of Mexico, Ida, and a very significant nor'easter. It generated winds over 75 MPH, it flooded the area that I keep my boat at levels we've never seen before. All the sheds and everything I normally keep, we had about a 7 foot tide just from this blow. It lasted 3 days, and it was bad. It was really a bad one. But Kenny was only 20 miles from home. And I believe she took a window out. That's why there was no Mayday.

Set aside the fact that he used poor judgment, set aside that he shouldn't have ever been there, set aside the fact that the closure was not postponed so he didn't have to be under the pressure. What went on here and what continues to go on to this day is extremely bothersome. The initial response was by one fishing vessel, Captain Jeff, and the Coast Guard copters out of Atlantic City and one vessel I believe out of Cape May. Remember, Cape May is the training center for the U.S. Coast Guard. Kenny was 19 miles from Cape May. His brother was in the harbor, and other friends in the harbor when they got notified about this, they were more than willing to untie their boats which were bigger and get out there and do anything they could. Six men on six different boats with six different radios heard this transmission, "Person or persons in the raft." They all heard it. To this day the Coast Guard denies that that statement was ever made. Completely denies that it was ever made. You can't find a transmission of it, you can't find it anywhere. And I'm putting my faith in the men that heard it at different vessels. That took them back. They just said, okay, they are going to be all right. So they did nothing. Within hours there was calls made to the station asking about that transmission, and within hours the station denied that it ever was made. So there's the first problem that we've got.

Next comes a diver, excuse me, rescue swimmer from the helicopter gets to the raft, looks in the raft, and claims there's nobody in it. Does he sink the raft? No. Leaves it drifting. And according to the policies of the Coast Guard and the procedures, that raft should have been sunk right then and there. So we're all thinking, well that's the end of it, now how do we deal with it? And the storm kept on. The search went on for 24 hours after the sinking, not even 24 hours, which in all fairness under those conditions was probably long enough. But no notice went out that if you see a raft, about picking it up, or how about letting us know? Two ships, this was November 11, and again the response was adequate by the Coast Guard and what they'd done up to this point without the question of whether or not this transmission took place.

On November 15 or 16, I'm not sure on that one, myself, my wife and 300 other fishermen went to a memorial service in Broad Creek NC, for the Rose family. On the 16<sup>th</sup>, a day later, the raft from the *Sea Tractor* washes ashore 10 miles south of Pea Island, NC, with no one in it. Three days later, Captain Kenny came home. He washed ashore 10 miles north of this raft. The body was taken to East Carolina University, and it was reported at that time that Kenny Rose survived 5 days in that raft. That's what was reported at that time by the autopsy and the spokesperson for East Carolina University. I'll quote a line from a famous ballad related to fishing. "Does anyone know where the love of God goes when the waves turn the minutes to hours?" Just think about that. If he lived one day in that raft or he lived five days in that raft, I don't know of a single soul

that could have stood it. Kenny Rose was as tough as they come. He was challenged by a lot of medical conditions, he had just fought cancer, he had heart problems, and he was out of shape, he was overweight, he drank too much, he smoked too much, he did everything too much. He was a lot of man. But he was not physically capable of getting in and out of that raft over once. No way. There's no way in God's world that he was not in that raft.

By the way, this raft and Kenny Rose washed 185 miles from where the *Sea Tractor* sunk, 185 miles. There is no way in God's world with tides, winds, or anything else, that a body could travel that distance, in our opinion, without being in the raft. It's our estimate that he fell out of the raft somewhere along a day or two before the raft came ashore, or maybe he jumped out. Think about what he was going through. He's wondering if his son made it off the boat. He knows his boat's gone. I can't even begin to imagine what went through this man's mind, and that was the sentiment of every fisherman at that memorial service. It was heart-wrenching to live through that.

Well, as time goes by and the autopsy report comes out, things started to get a little more interesting. This challenge is made by the Coast Guard besides the fact that the transmission took place or didn't take place the 6 men heard. Now they're claiming the boat had two life rafts, the Coast Guard does. They said, "Well, we looked in the wrong raft. We know the boat had two rafts." The boat never had two rafts. The condemned raft is in Philadelphia. Kenny had to buy a new one before it went out. The gear supply house that sold it to him never got it back. It was condemned. There was one raft on the boat. The man, the diver never looked in that raft, simple as that. That swimmer either was blind or never looked in that raft. And therefore, there is the beginning of our concern. That's negligence on somebody's part. Maybe it was just an error, but the errors started to pile up when you talk about a search that was called off 24 hours later when there was nobody looking for that raft as it drifted down the coast, issues like that.

So now you've got the Coast Guard saying there were two rafts, they looked in one. Here's where it really gets interesting, and I know that some of you or at least Jack knows about this. He's very well aware of it, and I actually missed it. The Coast Guard visited East Carolina University recently and asked the coroner to revisit the report, which maybe that's standard operating procedure. But this is not standard operating procedure. Doug Boyd, spokesman for East Carolina – and they're claiming Kenny Rose died on the 11<sup>th</sup>, the day the boat sunk. Now the autopsy has been changed from "surviving 5 days" to only surviving one. This is why the autopsy was changed. Doug Boyd, a spokesman for East Carolina University said "the medical examiner changed the preliminary findings after talking to the Coast Guard." The medical examiner now believes Rose was dead in the water during those 5 days. She estimated on November 16 she had main reasons for the change in the Coast Guard told her the raft was empty.

So a medical examiner has changed her findings because the Coast Guard said, "This couldn't be, he couldn't have been in the raft." That's crap. That's all the hell that is. There's nowhere else he could have been. But this is where this line in the sand is changing. I don't put it past our government to do anything. I'm living a nightmare of

fisheries regulations being crammed down our throat because the agenda of this new current administrator of NOAA thinks she knows the best thing that we know. What the industry knows, what has been proven scientifically, what has been proven anywhere else means nothing. So in fact I think there is a conspiracy on the part of the Coast Guard to get this thing down, cover it up, change it, because there's a tremendous lawsuit here if in fact he did live five days. I hope to Hell they are right; I hope he drowned as soon as he got in that raft, for Kenny's sake, I really do.

I mean, Kenny didn't live his life anywhere near to be a reputable man, but Kenny Rose didn't deserve to die the way he died, if he lasted more than one day in that raft. And somebody supposedly looked into it. The final results of the *Sea Tractor* are yet to come out, but they will come out.

And lastly, if you don't mind, Mr. Chairman, the last one is an incident which is somewhat interesting because it actually crosses a line between Coast Guard policy on salvage and Coast Guard policy on search and rescue. Oregon Inlet, North Carolina, which is a terribly treacherous inlet with extremely high-velocity tides, terrible shoaling, it went all winter last winter with three of the main buoys not in place. I've had personally bad experiences in Oregon Inlet, haven't been back with my boat, and I only live 12 miles from it. But I keep the boat 112 miles away because I'm not going to deal with it, and 27 men have lost their lives in Oregon Inlet. It's a treacherous place; leave it at that.

The commanding officer of the district, which I think used to be Wilmington and now it's moved up to Atlantic Beach, actually Sally Brice O'Hare was in that position a few years back while I was on the Council. Anyway, this officer, evidently it was a captain, had some policies or interpreted policies different than a lot of people did, so it created problems. But a vessel comes in on January 2<sup>nd</sup>, runs aground, and loses its steering. That's what it was, loses it steering, not in terrible danger of being on a bar but there's a big bridge that goes across the inlet that a lot of traffic uses. And the Coast Guard's concern was that the boat could in fact end up in the bridge, so they put a boat on scene.

The fishing vessel *Handful*, which is a little 44 foot gill-netter, a friend of mine out of Wanchese says, he's a fisherman but he's just as good a man as you'll ever deal with, in heart and spirit. And he has a 100 percent track record of freeing vessels that are aground. His is a very unique style, different from what anybody else does, but if he puts a rope on you, you're going to come off. That's all there is to it. And he's done it 100 times in the last 8 or 10 years. He doesn't have a towing endorsement, he doesn't go out there on the charter to tow you off. He goes out there to help fellows get off of a shoal or lead them through the shoals because he runs it every day.

He went down to guide another vessel from Cape May as a matter of fact in the Inlet for the fish house that he packs at when the Sheila Renee was aground. They'd already taken the crew off the *Sheila Renee*. Coast Guard was on scene and Sea Tow came on scene, and the Coast Guard said to the Sea Tow, "Don't put a line on it, can't touch this boat right now." The captain of that district said that there will be no lines put on the *Sheila*

*Renee* until there's a 3,000 HP tug on scene. How are you going to a 3,000 HP tug in Oregon Inlet, with no buoys, and they draw a little bit of water, 3,000 HP tug is impossible. So the opportunity to get that vessel freed passed as the tide changed. Tommy Danchise from the *Handful* told the Sea Tow, "I can get her right now. Not a problem." He was not allowed to put a line on that boat. This is the 2<sup>nd</sup> day of January. The boat had been "federalized." I never heard that term before, but that's the claim that came out. That's just fine. This is salvage, okay?

The next day 7:00 in the morning the Coast Guard called Sea Tow to try to salvage the *Sheila Renee* and he in turn hires subcontracts, Tommy Danshey's on the *Handful*, to be the tow vessel. The Sea Tow vessel was not large enough, it was incapable of doing this job. And the guy that owned Sea Tow is a complete freaking idiot. He had nothing but incompetence as far as I'm concerned; he just took over this business. So what does he do? He does the right thing, he goes to an expert. But at no time did Tommy Dansheys be able to talk to the Coast Guard. Everything had to go through Sea Tow which had to go from Sea Tow to the commanding officer in Atlantic Beach back to the boats on the station.

Okay. Boat's aground. He puts a line on it. By the way, the Coast Guard tied it to a bulldozer, so that it wouldn't go through the bridge, which was a little squirrely to me. Because the bulldozer was on a beach, by the way. But that's where they fastened their line to it. Anyway, Tommy got the boat coming off, hit a shoal, and broke the line. They used a poor line on it. And now he's past the tide. His recommendation right then and there was, we need to leave this alone until tomorrow. We need to either anchor the vessel up, do something different. And the Coast Guard said, "No, you have to get it. You have to attempt to get it now." And that's when things got interesting, and they got interesting fast.

And this sounds a little bit boring, but it gets a little better. Tommy puts a line on it, it parts when he hits the shoal, and the Coast Guard says, "You need to put a line on the stern." Tommy says, that ain't going to work, I don't like that idea. "Well, that's what you gotta do and that's what we're telling you to do." So he puts the line on the stern. The line doesn't even come tight. The lines to his boat didn't even come tight. The *Handful* hits a very steep shoal and flips over. Now she's laying on her side, one side is laying against a 3 foot shoal, the other side's got 30 foot of water on it. This is a hole that the dredge dug to put spoil in. You got a 4 knot tide, 35 or 40 MPH nor'wester, 25 degree air temperature, 36 degree water temperature. You got two men that are soaking wet from the chest down in the boat, kick out a side window, get out of the boat, and are standing on the side of the boat on the *Handful*. Two Coast Guard boats were 150 yards away, two inflatable boats, up-tide, towards the bridge as these guys are on the rail of this boat.

The guys say it could be 15 minutes, 20 minutes. They've made ice between their clothing and their bodies, so it was well over 10 minutes. The Coast Guard is claiming it was 10 minutes. They never moved the Coast Guard boats, never moved them to try to get to these two men. Sea Tows finally came in there with their smaller boat, picked the

two off. One of them fell in the water, was able to get back up and got on the boat. My argument is, the Coast Guard, right the minute that *Handful* went upside down the policy should have changed that made it a search and rescue. And the captain or the cocksman of that small boat immediately should have took that boat down-tide because if one of them fellows slipped again or hypothermia set in or he ended up in that 30 foot of water behind him, that's where he was going with a 4 knot tide, out the Inlet. And it didn't happen. They ended up on the Sea Tow boat.

In the meantime, when all this is going on, this went on in a very short period of time, the mother of one of the guys that went overboard is notified by phone the *Handful* just sunk." That's all she hears for 10 minutes. It just happened to be that the mother of one of the guys on the boat is my wife. That was my son, my youngest son on that boat. But the Coast Guard's two vessels were that close to them and they are not moving. How in the Hell am I supposed to think about the Coast Guard?

So because of concerns, they ended up getting on another boat, didn't even offer them dry clothes, didn't do anything, the Coast Guard didn't. Sea Tow took them to another boat where they got on, another fishing vessel, and were provided dry clothes. The *Handful* was considered a total loss the next day when the winds calmed down, tide changed, the *Sheila Renee* was in fact salvaged. They called her a total loss, but she was removed from the scene. The *Handful* is still buried in the sand in that 30 foot hole.

So the Coast Guard again needs to capitalize on the expertise of local fishermen. I don't care what port you're in and I don't care what area you're in, and utilize their expertise to work with them, whether it be a salvage operation or search and rescue, if there's something they can do to help. There's a significant breakdown here in what I consider to be policy. And again, I did in fact 3 weeks have a meeting with the new captain and explained all this to him, and I did request this. I said, Listen, I'm going to bring the 2 guys that were involved with this that were on that boat, my son and another guy. I said, "I want you to bring somebody that was on-scene because you weren't there." The coxswain's report and what these boys said didn't match. So I think there needs to be a very significant investigation into exactly how these reports are filtered when they're generated, and if there's significant changes that are made that smoothes them out before they get to the upper management. Because I believe the Coast Guards higher level of Government Affairs would be appalled by this, and I can't prove any of it but then again this certainly has to raise questions in everybody's mind around the table.

So don't, while I support any actions that are reasonable, and I appreciate Leland's gesture with the life jacket, but he's sitting on his ass not doing nothing. Put it on when you're working your ass off on a boat in 90 degree weather and it might be a little different. Hopefully that little thing might be all right, but it doesn't, it's not reality. It's not reality. That's what I'm here for, to try to inject reality into what we as an industry deal with. The reality is now on the East Coast from Mid-Atlantic, from North Carolina north there's zero confidence in the Coast Guard, zero. This Kenny Rose thing is the biggest one.

If in fact it turns out that there has been falsification of records or somebody is lying through their teeth or there's a cover-up, it needs to be exposed because I'll be damned if I'm going to sit here and help you come up with regulations and protocols to help save lives when on the opposite side you're drowning us. It's just not going to happen.

Lastly, Mr. Chairman, for those involved with fisheries, I hope you took advantage of seeing an article in the last edition of *National Fishermen* before they minimized it to a little teeny thing, had the red snappers on it. It's an article called "Our House in Dock Talk" by a gal named Lori French, and it is excellent. It talks about the women, the husband's wives, the husbands' families when tragedies occur and their fishermen don't come home. It's one of the best written pieces I've ever seen. I only have one copy with me, but I'd advise you to take a look at it. I know it will hit some of you real close to the heart, but this is extremely well-written and it's the other side of it.

I told you before, none of us go fishing with the intention of not coming back. That's the ultimate goal. But we do have to make a living. We've got to do that. So let's see, again this is just going through this committee, if there's any specific questions anybody's got. But I'm not done with this. I've been waiting for clearance from the people that are involved with the insurance. I'll take it as far as I can possibly take it until something is resolved. I'm speaking on the part of myself, not Commercial Fishing of America. I think they'd fully support me, but I did not run this past the board, so let's make sure that distinction is clear.

Thank you, Mr. Chairman.

CHAIRMAN DZUGAN: Thank you, Captain Ruhle, for bringing this to our attention. Any comments from the Coast Guard or members of the committee? Anybody have any more information or wish to make any comments? Mr. Mattera.

MR. MATTERA: I'd like to comment on what Jimmy has expressed, and it's a very painful situation. I happened to know the fellows on the *Patriot*. The *Lady Mary* incident was very problematic for a lot of fishermen. Not only were there 30 or 40 scallopers there, but there was actually a squid fleet right close by, and it's very difficult when you lose fellow fishermen and you know you were within miles of potential assistance. And maybe we would not have saved anyone's life, but we may have recovered bodies. And having gone to too many memorial services, a lot of times you see family members, and all they wanted was that body to be able to put away. And sometimes, just those thoughts in mind.

From that, I picked up, I went on-line and I have the Coast Guard Maritime Assistance Policy, their key points. And I just want to bring up a couple of issues here.

One is a primary concern. In the Coast Guard, the search rescue situation is that "timely and effective assistance be provided." Now maybe in their eyes in some respects it was timely, but for the industry they don't see it that way. And Coast Guard policy in a

distress: "Immediate response will be initiated if feasible to any known situation is that timely and effective assistance be provided."

Then I go down to Marine Assistance Request Broadcast, because this is where the industry feels there was a breakdown in the *Lady Mary* incident, because no one heard anything for 11 or 12 hours. It was 3:00 in the afternoon before there was a broadcast. And, "a broadcast made to determine if someone in the area can come to his or her assistance, a Coast Guard guideline of 10 minutes is recommended for SMC to await an answer to MARB prior to directing Coast Guard or Coast Guard auxiliary sources to respond."

So I just see these key points. They have a flowchart here, and at times I think it's reflective on the story that Jimmy tells about the salvage of the vessels that run aground. We had similar incidents in Point Judith where vessels ran into a breechway, hit the rocks. One was a wooden vessel. The weather was deteriorating. They had Coast Guard from the station on-scene. But they have to concur with the captain of the port who's up 40 miles into the city. He doesn't see the weather conditions, and lo and behold by the time a decision is made the vessel is busted up into pieces, and we get no salvage, and the cost is that much greater.

And I guess it's this chain of command. We need to improve that.

And as far as what happened with the *Sea Tractor*, I don't know if there's a conspiracy there. I'd like to think that there isn't. But it is something that I think should be addressed. I think that we should take a constructive approach to these things, and I think, I applaud Jimmy with having the gumption to get up here and make some comments like that because I think what he's really trying to say is, "Reach out to everyone and reach out to the Coast Guard." And this fishing industry definitely has a long way to go to improve on safety, but we need to have faith in the Coast Guard so that we dovetail, we work together in knowing that they got our backs and we're going to improve.

And I can go on. I could spend hours here telling you stories of when the Coast Guard has been there and had our backs. They've come to the rescue for me. I've been on-scene rescuing other fishermen. And Coast Guard's done miraculous work. But there are problems. There are things that are not accountable. And I think we need to reflect on that. Thank you.

CHAIRMAN DZUGAN: Mr. O'Leary.

MR. O'LEARY: I know since this happened the Coast Guard's been realizing that their response time hasn't been what they want it to be, and everything else, and they have making things better. I know they said when EPIRB goes off no matter if they have the correct number or nothing, or whatever it is, they got to send a message on everybody's boat tracks, because we're all working with boat tracks now and stuff. And they are trying to make things better.

But you know, we train with survival training, and in emergency situations you can't always have a protocol that's going to work. And I think that's what's happening. These people that are on-scene that have to react very quickly in an emergency situation like the Sandbot thing, those guys had a protocol to go by, and they couldn't react quick enough to it. And luckily they didn't have a loss of life. Same thing with the EPIRB number because there's so many false EPIRBs. But they had a protocol. You have to see if we can train the guys to have enough knowledge about everything to make it better so we're not getting stuck in one protocol. I can see that's the problem. You can't, in emergency situations there's too many things that can happen on the water to get stuck in a one-protocol situation.

We've seen it off of Point Judith when that oil barge got loose there, caught on fire and went aground. Two fishing boats had ahold of it, and it was holding it off, and the Coast Guard made them let it go. And it went aground. And we are still paying for that, especially with the lobstering industry with the shell disease. And that was how long ago, early '90s?

MR. MATTERA: It's got to be 12 years.

MR. O'LEARY: So there are certain protocols that we can make better. And maybe by bringing this up and doing what we're doing we can make these protocols better and make it so when we're training we can go over some different scenarios where that protocol don't work. And maybe even if they get together with the fishermen like we are trying to now, we can give them some scenarios where that protocol would have worked. They really, if the *Lady Mary* is the perfect example, they made a call out on the single side ban on 2182, on the side ban. None of the fishermen listen to 2182. So if we had better communication, we would have solved that problem. They would have put out, said, "Hey, we heard something," and they would have got earlier response. There was a good chance some of those guys being alive if we had somebody get to that point where that boat went down inside of an hour and a half because a couple of them had their survival suits on, so they got to stay afloat. And it takes that long in that cold water that it was there probably an hour and a half before they'd die.

So we can make it better, and that's what we got to try to do with this because I can make a mistake, anybody can make a mistake, but we have to remember what our emergency is and our best, and we have to be able to react to it quicker. The Coast Guard does too.

CHAIRMAN DZUGAN: Mr. Jacobsen.

MR. JACOBSEN: The stories that Captain Ruhle presented are of course heart-wrenching and horrifying. And all my experience fishing, almost all my experience has been in District 17. And I can't imagine those kinds of things going on in that district. We work well with the Coast Guard there, and on a couple of occasions the Bering Sea Crab Fleet, prior to the rationalization program where we had the derby style fishery, we communicated with the Coast Guard and looking at the forecasts. And on a couple of

occasions they were able to delay the start of the season for us because they couldn't launch their choppers in a search and rescue effort. So we worked with them every year. If it looked like a bad forecast coming up, we'd delay the season.

Hopefully a lot of those things, a lot of the problems can be averted by fishermen and Coast Guard working together. I think it's worked very well in District 17.

CHAIRMAN DZUGAN: Other comments? I'm going to kind of wrap this up. Maybe to take it to the bigger issue, I've been in a lot of fishing ports around the U.S. in training, and so I've gotten to work with the Coast Guard and fishermen in those areas. I've seen mostly exemplary cooperation with the Coast Guard, sometimes real bad communication with the Coast Guard and fishermen, and it seems to be local culture in a port. And those are problem areas whenever you've got those local culture problems or local lack of communication problems that need to work in that area. But usually it doesn't get on somebody's desk who can do something about it.

But the bigger issue is, it gives the Coast Guard a bad name. Fishermen lose their trust in the Coast Guard as the captain pointed out, and instead of building trust obviously it takes it away.

But the bigger issue for me is, the time to catch these things is during the reports, investigations, where you can get factual information hopefully, or somebody does a strategic fact-finding investigation and you get a report, so that now you've got something hard to go with to make changes with to take to people. But the length that that takes I know everybody in this room is frustrated with. And we'll talk about this more when we look at the *Katmai* investigation and the recommendations that were made.

I get confused between the *Arctic Rose* and the *Katmai* because even though one was nine years ago a lot of them are the same recommendations. So here we are 9 years later going over the same thing. So I think we would all see the necessity of getting fact-finding out, and investigations out in a timely way, with experienced people who know how to do investigations on fishing vessels.

I think that helps correct deficiencies quicker. It can help build trust again even when an agency has to come clean with something where they made a mistake. We can kind of move on from there and not make mistakes like that again. But when it takes 9 years the number of fishermen that have died in the last 5 years for example who could have been helped with those recommendations is enormous.

So thank you for bringing that up, Captain Ruhle, and you wish to speak one more time?

CAPTAIN RUHLE: I'm not asking this committee to do anything. This was a courtesy to this committee. I'm going as far as I can go with this up the chain because this is not a done deal yet, so it was just to advise you of it. I like to utilize the proper procedures and proper steps. That's why I had the meeting with the captain of the Coast Guard in the

district where the *Handful* sunk first. So it's just an advisory. I'm not asking you to do anything. If in fact there's something you all think you should do, that's fine. But don't base it on this testimony. You do the research yourself, you find out, you dig into it. Don't take my word.

My word is not just my word. This morning I was on the phone with 4 out of 6 people that heard that transmission, and Kenny Rose's brother. This is not just me speaking. This is the industry.

And you're right, you don't have this problem in the 17<sup>th</sup> District. I don't think anybody's got this problem. This has become a bigger problem. And it's related to the area that we're in. And don't forget, the Coast Guard is responsible for enforcing fishing regulations. That's all part of it right now, it's all blended together. So there's a little bit more to it.

Jack mentioned earlier that I predicted there would be more vessels lost, and unfortunately that happened to be right. I have no crystal ball, but I am terrified of the upcoming year in New England. With what's going on with these sectors and catch shares and the crap that the National Marine Fishery Service is doing, I predict that you'll see a significant loss of vessels, hopefully not without lives. They're going to start pulling plugs. That's the only way out of it. It's the only way out of it for a lot of damned good, hardworking men. They're going to have to sink their damned boat, and hopefully they can get off. This is not your concern. This is another agency that's in charge of it. But believe me, it's going to happen. Thank you.

CHAIRMAN DZUGAN: Thank you, Captain Ruhle. Any other comments? Mr. O'Leary?

MR. O'LEARY: One of the good points maybe we can bring up is like, he said he's working with the Coast Guard when there's a dangerous situation where maybe we can start doing that in the 5th District where we are because I hear it every day. The fluke industry, like I mentioned before with the regulations, they're forced to go down to NC with their catch and run that Inlet. And there's going to be somebody that dies on that Inlet, and I can feel it. I know it. I hear so many stories of these guys just barely making it. Stuff like that, it's coming up all the time. I was at a stability safety thing with the Coast Guard in Cape May and there were 35 to 45, a couple boats wanted to come in to safe harbor, and they would not let them in the safe harbor. Now can't we make that better in that district? And can the Coast Guard do something about that? I hope so. I really do, because I've lived it too. And we're seeing it up and down the coasts. It's just in that area.

Hopefully with this meeting and getting this point across we can open up that communication and find out where these problems with the Coast Guard, and get a number to call. "Hey, the weather's bad. We got this fishery. Can we postpone it a few days?" And make a quick decision instead of waiting for somebody to force themselves

into a situation where somebody's going to get hurt before the Coast Guard can't respond to them on time because of the weather, or whatever.

CHAIRMAN DZUGAN: Thank you. Mr. O'Leary, this committee has heard more about safe harbors a meeting or two ago, with Florida and hurricanes, so it seems to be a continuing problem. Any other comments? Mr. Kemerer.

**IAN PITZMAN REPORT (letter)**

MR. KEMERER: Since we're into public comment, I'll pass this out to the committee. I received an e-mail and letter attachment from a Mr. Ian Pitzman from Alaska, and he wanted to bring before the committee some information about catch shares and safety, how it's impacting safety up there.

And his letter was: "I make these comments regarding safety issue of Bering Sea crab fisheries, a potential safety issue for all catch share programs in the future. I support catch shares, but the crab rationalization program in the Bering Sea is a forerunner to a national trend. In a nutshell, the annual harvest is divided into individual fishing quota based on past catch history and owners of the IFQ may elect to go fishing or lease out the quota to other fishermen. The option to lease is where the problem starts. Lease rates are currently totally unregulated. I'm a new entrant in the industry. As a vessel owner I've worked the deck and wheelhouses for two decades. I bought my first crab boat in 2006 just after the IFQ program. IFQs are tremendously expensive.

"In short, a bequeathment for my father to sign any new entrant must lease a quota to participate. This is the avenue for future access to this resource. Going forward this is a path all must follow. I lease from five different quota-holders. Recently in a conversation with an industry insider I was told that in order to remain competitive I must raise my lease rates. I already pay 70 percent. For the uninitiated, this means that after the crab are caught and sold, 70 percent of the value goes straight to the IFQ holder. The remaining 30 percent must cover the cost of insurance, fuel, food, bait, gear, crew wages and vessel maintenance. This inequity creates a very real and looming safety issue. It becomes increasingly difficult to operate responsibly in a small and ever-shrinking share of the resource. Just this past season I found myself choosing between new crab line for the gear or a new life raft. Our crab boat returns to port this afternoon after a long season. Out of economic necessity we'll be making tough decisions regarding deferred maintenance. In light of the tremendous value of the resource, this should not be happening.

"Catch share lease rate regulation is a very real safety issue. As anyone in the marine industry knows, proper vessel maintenance is expensive. Lease rate regulation will keep more working capital on the vessels for the benefit of both the ship and the crew. Everyone involved knows that 70 percent lease rates are indefensible, but there's no will to change. This creates a parasitic relationship in which one entity thrives while the other withers and dies. In this case, given the dangerous waters we sail, someone may literally die."

So, submitted to you at the request of Mr. Pitzman from Homer, Alaska.

CHAIRMAN DZUGAN: Thank you for reading that. Any comments?

MR. JACOBSEN: I don't know if I should comment or not. I've known Ian for many, many years, and he belongs to the co-op that I manage, Bering Sea Crab Fishermen. We control 70 percent of the IFQ through inter-cooperative exchange, which I'm the executive director of. And I know Ian's concerns. There are a couple of boats that fall into his category where they weren't issued any IFQ originally. He doesn't own any IFQ. He has to lease all his IFQ. Basically it comes down to an economic decision. However, we are discussing the issue internally, and trying to decide how we can address the problem of lease rates which he sees as a safety concern. And his concerns, they have some validity as whether you can operate economically as a new entrant into a fishery. It's kind of a convoluted thing. It's not entirely a safety issue. There are a lot of political ramifications that might be well outside the purview of this committee. But it brings up a larger issue, and that's the role of the Coast Guard advisor to the management councils, which hopefully we'll be able to discuss in the future. It's one of these issues where input from the Coast Guard I think is quite important.

CHAIRMAN DZUGAN: Any other comments on the letter before we close out of public comment? Mr. Ruhle.

CAPTAIN RUHLE: Could you read the first sentence of what that letter said, please, first paragraph or whatever? Just the first sentence I think says it.

MR. DAVIS: Dear Sir. I make these comments regarding a safety issue in Bering Sea Crab Fisheries and a potential safety issue for all Catch Share programs in the future.

CAPTAIN RUHLE: Is it the next sentence that he says he supported Catch Shares?

MR. DAVIS: Yep.

CAPTAIN RUHLE: Sure doesn't sound like it to me. It sure doesn't sound like it to me. It's all part of the Catch Share program. He's arguing against Catch Shares in everything else that's read in that letter. And if you take the issue related—that's the problem. When they bring people over to the East Coast to support Catch Shares, they are hand-picking out of 100 to 1 that will stand up. But I think there's more issues related to the crab fishery when you've got processor quota that's forcing vessels to go on a port like St. Paul with the ice conditions than there are the shares themselves. But that's a portion of Catch Shares. But to me, that man doesn't support Catch Shares. Thank you.

CHAIRMAN DZUGAN: Any other comments? I think what he's looking at, he might be supportive of Catch Shares but he's rebelling at the economic ramifications of it for somebody who's a new entrant. I kind of wanted to wrap this session up by saying, in a world of dwindling resources and more people and economic needs and demands, we are

going to see more of this in fisheries, and it is going to be a safety issue. What this committee can do about that and how we can influence that positively is something that we have to think real hard about. But it's difficult.

MS. EDER: I think what you just said is correct, and I think that the implementation of Catch Shares throughout different fisheries in the US, whether it's been 10 or 15 years ago of as of May 1<sup>st</sup>, that the fisheries are so distinct and this particular management tool may or may not be fit for different fisheries. And even if it fits a fishery to some extent, there may be 75 percent of the issues that are litigious and difficult. But I see our job as potentially looking at that we might be included in the loop for public comment. When one of these plans is advanced and goes out for public comment, that we take a look at that particular plan, try and understand it—we have significant expertise on the committee—and then look at it and see what we have to say in terms of safety effects. There have been some fisheries in which, really, safety has not had the downside economically that other fisheries have. There have been some IQ fisheries that have completely exited new entrants. But that might not be our intent. The intent is just to simply look, from a safety perspective, is this the safer fishery? That might be something part of our long-term goals maybe to assess the different fishery management plans relative to safety.

CHAIRMAN DZUGAN: To remind the committee, that is one of our tasks under the Risk Subcommittee to look at the 10 most hazardous high-risk management plans. When we do look at those I think it's important, like you said, to look at them individually because they don't always transfer from one fishery to another. That is going to be the challenge. I'm going to wrap this one up now, if that's okay with the committee.

In all fairness to Dr. Levin. I'd suggest, Dr. Levin, you have the floor, that we all stand up and stretch at our seats.

[BREAK]

CHAIRMAN DZUGAN: Call to order. Would you mind introducing yourself?

## **GULF OF MEXICO SHRIMPERS – SAFETY AND HEALTH ISSUES and TRAINING INITIATIVES**

### **Presentation by Dr. Jeff Levin**

DR. JEFF LEVIN: I hope everyone can hear me okay. It's a pleasure for me to be here today, and I appreciate the chair and Mr. Kemerer's invitation as well as that of the entire committee to come and present on this particular project we've been working on. I came and presented to the committee roughly two years ago when we were just first getting started with this project. And though progress is slow, interrupted by several hurricanes now and of course in the near future an oil spill, I think we have actually made some progress.

I will preface my comments by saying I don't think what I'm going to present right now is as compelling as the public testimony comment you've just heard, but I think it does give me an opportunity to pick up on two points already made today, that I think this project does lend itself to. And I'd like to emphasize first of all I think Dr. Lincoln may have said a little bit earlier that one important goal is that we help workers, in this instance fishermen, make the right safety choice. And then the second comment I heard in the testimony is that it really is imperative for us to listen to individuals doing the work in terms of what the best solutions are. I think this particular project does a little bit of both of those.

I want to caution you that this project focuses a little bit less on the compelling issue of fatalities and a little more on the issue of nonfatal injury/illness that we believe occurs in this particular work sector. This is based upon very preliminary evidence at this point.

Finally, before going into the slide materials themselves, I want to say that, although I'm not going to spend a lot of time today focusing on the theoretical framework utilized in designing this project or how it's unfolding, I am happy to answer any questions about that. But I want to assure you it's based on a theoretical framework utilized for helping workers adopt safety interventions in a wide variety of occupational health settings.

Finally, one disclaimer. I'm not a fisherman, and there's a good deal I have to learn that I continue to learn and have learned along the way. My formal background is in occupational health and occupational health research. That is the vantage point I'm coming from on this project.

I think we all recognize there are a whole variety of risk factors that come to play. These are very broad categories, of course, of risk factors that influence the occupational safety and health of fishermen. This information, actually coming from Mr. Lucas and Dr. Lincoln, emphasizes the fatality side. And I don't want to steal any thunder from tomorrow but I'm borrowing this from information she presented in Cincinnati last year looking at some areas in which there are still fairly high percentage of fatalities, many due to falls overboard.

The background for this project is on the premise that there's less known about nonfatal injuries and illnesses, and although there data amassing on this, this is still largely an unexplored area. It also is based upon the principle that there are behavioral factors that contribute to not just fatal but nonfatal outcomes as well.

I want to quickly review the very early part of this project, largely focused on a particular population of fishermen in the Gulf Coast, looking at receptivity to safety training, looked at the fleet at Port of Galveston where we built a project, working closely with the community of fishermen at that port, looking at some of the demographic characteristics of that population, conducting a series of focus groups with that population of fishermen, and then utilizing already-available educational methods and materials in place to conduct some safety training.

I want to make a distinction that we're not talking drills conducted for training but safety training. There are some obvious areas of overlap.

There are some things we discovered I presented last time so I won't go into detail on that phase of the study except to say there were some considerations in training best practices we discovered from doing that work at the Port of Galveston. First, that language and views of compulsory requirements and authority figures were major issues in terms of that population of workers largely made up of Vietnamese fishermen influencing their receptivity to any form of safety training.

Secondly, that the type of safety training they were interested in was a combination of something that involved hands-on exercise not unlike drills conductor training, taught by experienced mariners. I'll come back to that because it also goes to the issue of how we disseminate some of the safety interventions. This is a principle known as using an opinion leader to convey a safety message or to socially disseminate a message among a group of workers.

Thirdly, they were interested in having training done hands-on, one-on-one in their primary language.

To summarize, that's a bit of a different component of the project from where we're currently going, is we discovered a number of barriers reduce receptivity to training, many cultural and largely dependent on language for those segments of the commercial fishing population where that language barrier exists along Texas and Louisiana Gulf Coast to a certain extent, as well as needs for hands-on training by experienced individuals. Training was actually done in Vietnamese in partnership with a number of groups you saw listed at the initial slide including the Marine Safety Unit of the Coast Guard. We tried to bring in individuals, Vietnamese mariners fluent in the language to help with this training.

Moving to the current longer project, the phase of study we were just getting into when I last presented to you, I want to start by outlining the two long-term objectives of the

study, first, we wanted to get a better handle on some of the workplace factors and other behaviors which might contribute to fatal and nonfatal injuries and illnesses that might occur among commercial fishermen along the Gulf Coast, predominantly Vietnamese, and we ventured further south as well to a large proportion of Latino fishermen as well.

Secondly, the part where we take feedback from the fishermen to utilize a community-based participatory approach to plan and implement and unfold an intervention measure directed at some of the early identified workplace factors in the five-year study.

I won't go through all the aims, but assure you this is a very methodical, step-wise approach to try to accomplish those objectives, including identifying the specific populations along the Texas and Louisiana Gulf Coast we were going to work with. In the academic sector we'd refer to these as "convenience samples." That has intrinsic difficulty in the later analysis, that we're not able to get at the entire population for sampling purposes of commercial fishermen among these subsets, predominately Vietnamese and Latino. We elected to start with a survey of behavioral factors using this theoretical framework of beliefs fishermen carry regarding how risky their work is and how certain other risk factors may influence their opportunity to develop occupational safety and health disease later on.

We combined that with a couple of items, sporometry, which we went down a mistaken path and didn't uncover the level of difficulty or problem we'd encounter when we proposed doing sporometry in this group. We did do noise level monitoring aboard vessel, audiometric testing for this particular group of fishermen. The current phase of the project we're in included conducting focus groups in each convenience sample to help them select what they thought was one of the greatest problems they wanted to work on developing a safety intervention for.

A good deal of effort goes into designing one of these survey tools, and there are a number of things to consider like "content validity." In other words, are the questions asked appropriate for this work sector and population of individuals? Are they literacy appropriate? We had to face issues of translating, a fairly significant challenge with Vietnamese in particular; getting people capable of administering the survey in a consistent fashion and the usual considerations like length of the survey, that fishermen are likely to participate or be willing to respond to, etcetera. Other routine things, consent, etcetera, come to bear.

The survey design includes a number of categories based upon available literature. We looked as potential categories for nonfatal risks for the commercial fishermen: traumatic injury was a category, eye injuries, hearing loss, respiratory complaints, and that's where the sporometry component came into play; extended work and fatigue, which actually rose to the top as a concern for the commercial fishermen; use of personal protective equipment and other nonspecific work-related influences such as alcohol use, fatalism, leadership aboard vessel, etcetera.

Incidentally, we have a number of community members you'll recognize 2 Buoy. This was taken before that event, but Mr. Kemerer got an e-mail on helping us to administer the survey in Abbeville.

Some preliminary findings for this survey, combined results of all three convenience samples totaling 227 individuals, and I have more detailed information on the noise level monitoring results we obtained and I can comment on that if we have time.

First, this group's primary language is 95 percent Vietnamese and more than 50 percent felt they had little fluency with English. Work perception of risk is high among this group, number of workdays per month during high season and number of hours per day worked approaching 65 percent in population of workers across all three convenience samples. On issue of noise, based on noise level measurements made in port estimated exposures in highest noise areas in engine room between 95 and 105 db. On audiometric examination 32 percent, or roughly a third had moderate or more severe speech frequency hearing loss. One can't immediately leap to the conclusion that noise exposure aboard a vessel is the absolute cause of this hearing loss or the hearing loss is even noise-induced. That would take a good deal more work, but it's interesting and suggestive as a finding.

An unexpected finding done not with any intent to look at this health factor among the fishermen but as a prelude to sporometry was blood pressure measurement. Surprisingly, nearly 60 percent of this population, many not in overweight categories, had elevated single blood pressure measurement. I won't break that down as to severity, but there are a handful of individuals that had dangerously high elevations we needed to refer quickly for management. The only relevance is for medical emergencies that might occur aboard a vessel or the sequel or outcomes from having uncontrolled elevated blood pressure that might occur as a result of individuals being in a situation where they might not have ready medical help.

Finally, sporometry, there was a very modest amount of obstructive lung disease on sporometry in these fishermen with a significant portion of them actually being smokers. So this number is not a surprise or where we see evidence of it as work-related.

To recap, the noise level exposure is real in segments of vessel activity; hearing loss is present in speech range which could go along with noise-induced hearing loss. The work is considered risky, obviously not a surprise to anyone. Long hours and days with inadequate sleep and greater than 50 percent with stage one or greater hypertension.

A few items actually asked in the survey related to these findings, we asked a series of questions based on prior work done in other occupational health settings that focus on risk factors for fatigue. These are co variants for fatigue, so when you ask a question like, Do you have a lot of complaint of sore muscles, are you sleepy at work, difficulty staying alert while at work, are you forgetful, etcetera, you can see at least a third of these individuals complained of these co variants of fatigue.

With the information we gathered on the categories we asked questions we took as potential opportunities to identify risk that could be focused on through interventions. More specifically looking at machinery equipment hazards aboard vessel, the risk for eye injury, the relevance of fatigue to nonfatal as well as fatal injuries, noise and hearing loss, breathing hazard and skin cancer and the risk factors associated with skin cancer namely sun exposure predominately as being potential areas of risk the commercial fisherman may want to focus on based on the preliminary data and responses to the questions asked.

At that point we conducted a series of fairly sizeable focus groups in three areas roughly geographically segregated, where these particular fleets, fish predominately but not exclusively, Pilasius which is about 100 miles south of Galveston. We had to combine that group. Belle Chasse, as a separate group of 90 to 100 fishermen, just outside of New Orleans. Then Abbeville, a fairly isolated, but not exclusively, fleet operates in Southern Louisiana.

We looked at those categorical areas of risk and asked them to prioritize what they thought were some of the biggest areas of risk, those that as a community they wanted to focus on, and to identify the single one they wanted to work on developing a particular intervention for. As you can see how it panned out, one wanted to focus on noise and hearing loss. A second one on winch safety awareness outside the realm of engineering solutions that have been worked on extensively in other areas of the country where there have been successful efforts at disseminating those engineering solutions. Then finally, in Abbeville the notion of fatigue as a risk factor for nonfatal and fatal events.

After we identified those specific opportunities for designing an intervention, we pulled a fairly large advisory group together including some commercial fishermen but made up of a variety of stakeholders including the Coast Guard, the individuals from Extension, etcetera. And we looked at what the focus groups produced in their selected interventions and they looked at hierarchy of safety controls that could reasonably or logically be developed in a fairly short timeframe. For the most part these focus more on administrative and work practice as opposed to engineering or personal protective equipment.

The advisory group felt the methodologies that should be adopted were some combination of training, visual aids, checklists or messages disseminated as safety messages on a recurrent basis in order to try to increase the adoption of those safety behaviors.

One of the pieces of feedback we kept getting was that training or the offering of training is a very effective recruitment tool for this group and as it turns out for the Latino group of fishermen in encouraging them to participate in this sort of initiative. One reason is the opinion leaders in these communities feel strongly about training. I know others may feel that's arguable, but that's been the feedback we've gotten. In fact when we talked about disseminating these safety interventions we talked about doing it through community meetings to unfold these interventions you'll see which are very simple. The

feedback we got was, “We really needed to have community training sessions because it was much more likely to garner participation from the fishermen in such circumstances.”

Then there are a host of routine reasons why training could actually serve as a favorable recruitment tool.

In the survey one thing we discovered again was who the participants wanted to receive training from. Training that involves the Coast Guard or training from a vessel captain are two of the most desirable trainers.

I showed some of this last time, some components of the training. This is not drills conductor, although it includes some elements one might typically see. This is Gilbert Gallardo from District 8, the marine safety unit there, and he’s working with the commercial fishermen in response to feedback from Ports and Waterways Report from Houston that the fishermen could benefit from communication skills for vessel navigation. This is a good illustration of that.

This is Bill Everett from the marine safety unit down in Abbeville area, one of our volunteer individuals Trang Vu, who helps us with training. Quyenie Lam who actually works for a subsidiary of Exxon Mobil and larger freighter operations.

We conducted these community training meetings, and what’s happening here is we used those as an opportunity to unfold the intervention targeted at the specific area each of these convenience samples wanted us to look at. So these community training meetings included a number of training components, and one I mentioned is ship-to-ship communication and doing a Mayday simulation using the Coast Guard damage control unit and incorporating some first aid training in response to what we found re blood pressure. That was attractive to get fishermen to come to hear more specifically about the intervention we wanted to unfold.

And we’re using an intervention theory called “diffusion of innovations” in which some idea or concept is communicated through certain channels over time among members of a social group, and its penetration is dependent upon decisions of other members of the group, often in leadership role. That leadership is occupied by someone who’s referred to as an “opinion leader” who’s an individual who can influence the attitudes or behaviors of other individuals in the social group. The concept there is, if we take opinion leaders from the Coast Guard, captains who are trusted in the community who speak Vietnamese or the same language, that the adoption of the intervention is far more likely.

A good deal of thought went into this, the safety signage developed for each of the three areas, calling upon signage out there or available. And in some instances there’s no relevant signage we could find to the commercial fishing industry, so we had to prepare some. I can give you the sources. It’s not all created, so some has been vetted previously, for instance this is material from a NIOSH source. We developed a sign and series of instructions that fishermen could easily place outside their engine room along with a set of ear muffs to be used when they enter into the engine room. This was

translated into Vietnamese. A lot of thought went into, i.e. the universal symbol for “danger.” Do we translate that, leave it as danger, etcetera? To show you the signage for each of the three areas, this is for winch safety awareness largely tied to entanglement hazard and pinch-points. There have been a few cases just recent months this occurred in the Gulf where people lost digits and limbs and practically their lives over this issue. This is an awareness behavioral modification approach, not an engineering intervention.

Finally, third area, fatigue, trying to make individuals remember when you operate in high risk areas you have to be cognizant of some of the risk factors associated with fatigue.

This is being disseminated by a number of means: tee-shirts given to captains to reinforce the message through training sessions. It will go out through public service announcements over a period of months when we’ll come back to the communities to determine their interest or intent (using a theory-based approach) to adopt some of these behaviors.

Here are illustrations. This is Robert Wynn from the New Orleans area helping us unfold this intervention. These messages will continue to go out, disseminated dock-side, by PSAs, by community training meetings. There are always issues with language barriers and it’s been a challenge working with this group along the Gulf Coast for a host of reasons, not the least of which is economic experienced throughout the country but also more unique to the Gulf with hurricanes and the oil spill. This is not the entire fishing population, but very selected communities along Texas and more western portion of Louisiana Gulf Coast.

We’ll repeat the survey in year five to look at our progress in terms of intent to adopt these safety behaviors.

Quickly, most recently in February and April this year we took the first phase of the project to Port Isabel where we did surveys. This is preliminary survey information we have. We had only 39 surveys, 100 percent Latino males participating, only half speak English. High risk perception of their jobs. We found this interesting that 85 percent of them favor dock-side exam at the time of their next license renewal. They too prefer hands-on training and have high level during active fishing season of work activity. We conducted the training in Spanish for over 40 participants, hands-on. We’ve not evaluated this information yet but did a bit of pre and post testing that was literacy-appropriate, using images, selecting certain images for certain situations to see how they’d respond based on the training and end-of-session evaluation for these workers.

This is a quick series of images from the survey to the actual safety training that went on directly across from the Coast Guard facility. This is at Padre Island, fellow by name of Israel Linarte who some of you may know who did a good portion of the training in Spanish. Others of us as well. These were materials translated into Spanish for fire. This is Juan Garza with the marine safety unit who represents that area all the way down to the tip of Texas. Gilbert Gallardo again. All of us were able to conduct training in

Spanish and also first aid training for the participants. How to use your PFD effectively. Life ring. Combating fires. Flood control or receiving the pump from the Coast Guard or vessel. Gilbert doing his communications and Mayday signaling which is slightly interactive; we're working on that. Then a couple of traditional elements for drills conductor training. Then a post assessment, a fairly long day with two separate groups involved.

We have kept tabs on those 500 involved in various safety training sessions over this period of the study. I appreciate your attention, and I'd be happy to answer any questions, or any comments you may have.

MR. STANFORD: In your risk assessment when you interviewed them, I noticed no one mentioned anything about falling overboard or drowning as being considered high risk. Did you expand on that at all?

DR. LEVIN: We did ask questions about that. I don't recall the exact number, but that was a component as well. Absolutely.

MR. STANFORD: I also noticed, and your presentation was great, thank you. What you found to be effective communication, if I can summarize, was really had the key word, which is "community," and in that particular group you worked with there was a real sense of community. This committee observed something very similar to that when we were up in New Bedford. The entire community came together, and we found that really took hold. I want to remind the committee that the New Bedford example is very high on my list in terms of good communication. It stems from involving the community, and you had a very interesting example there which is the intervention theory. And if possible, I'd like to get a copy of that. I need that for our Communications Subcommittee.

DR. LEVIN: Certainly, absolutely. I can send you a copy. The slides will remain here; they're not proprietary.

CHAIRMAN DZUGAN: Other questions from the committee for Dr. Levin? Mr. Mattera.

MR. MATTERA: I think in some of your postings and directives you had Maydays and you had them in Vietnamese?

DR. LEVIN: Yes.

MR. MATTERA: Someone from the Coast Guard knowledgeable in Vietnamese when you're making a Mayday call?

DR. LEVIN: Here's what we did, and that's an excellent question, and the Mayday approach evolved for a variety of reasons. In recent event I mentioned for example there was a fisherman who was entangled in the winch accidentally. He lost his arm. There

was another individual aboard vessel. Instead of calling a Mayday I guess perhaps in part he thought the event was not so substantial, but nonetheless called another fisherman I believe by cell phone, well it wouldn't have been by cell phone, but at any rate part of the explanation was kind of this communication fear of not being able to transmit the information adequately. This is something that has been a recurring theme, so what we've done both in the hands-on Mayday practice component as well as Mayday card that we have that's been developed for them to place on the bridge or wherever they would make that call typically is to have the English and Vietnamese translation together, right there. Then we help them practice that in English because that's obviously going to be their primary issue.

So it is not the total solution, but it is a step further because as it stands right now there's a great concern of communicating by radio just because of the language barrier.

MR. MATTERA: I was a trainer myself. We have a cross-section of language—Vietnamese, we have Portuguese and Spanish. I'll provide everything in all the languages except Mayday. I make them have to learn to do a Mayday in English, and I think it's always a good idea to go through the whole crew. Lots of times now days skippers, not only just skippers, but mates, engineers, cook, all of the above. In an incident, say a flooding or fire, they are head down butt up in the air trying to deal with the situation and the water's coming up over the floorboards and they realize boy, nobody's made a Mayday call and we need to do that. So they turn to their fellow fishermen that are all standing by, and say, "Go make a Mayday call." At times you may have a crew of three, four, five, seven, some of us scallopers, seven crewmen, and you're going to realize when you put all seven through that maybe there's only one or two that really can articulate well enough. And it's nothing against them. It's just that there's a language barrier and there's a problem, there's a breakdown. So you definitely want to know that you've got the right person up there.

DR. LEVIN: I appreciate that comment. In fact, one thing we did was because adult learning often relies heavily on case scenario learning, we actually created some case scenarios for all the deck hands whereby the captain was cooking, developed chest pain, fire got out of hand in the galley, and things fell apart after that. So the deckhands had to figure out, for example, what am I going to do if the captain who's likely having a heart attack dealing with the fire, maybe even eventually abandoning this vessel.

So you're right, and we did actually try to expand, bring in as many deckhands as possible. Most of the participants have been captains.

MR. MATTERA: Good. Thank you.

CHAIRMAN DZUGAN: We need to wrap this up. Mr. Martin.

MR. MARTIN: First, I'm not prejudiced. I've got a lot of Vietnamese I'm real good friends with. I got a lot of Hispanics I'm real good friends with. But when I went to grade school I didn't speak English. You all don't believe this, parlez vous francais. I

know none of you understand it. So we had to learn how to talk English. But yet we're going and educating these people in their native language. We speak English here in the United States and we're spending taxpayer money, and just like when you make a phone call if you want, in English you press 1, if you want Spanish you press 2. That's BS. Now, there's a lot of things happening in the Gulf of Mexico (unclear) and problems these people are having when they hang their nets up and what do they hang it up on? I'm going to tell you when you're at the wheel of a boat and you're dragging and you hang up, you're going to have high blood pressure. You'll have a lot more than high blood pressure. We broke one Friday afternoon about 4:00, 3,000 pound pressure on it, and the water was flying 100 feet up in the air in 200 foot of water. Doing all this training in Vietnamese and in Spanish, that's bull. We speak American, English here in the United States. If you're going to become an American citizen it seems to me like it's one thing you're supposed to know is how to speak English.

DR. LEVIN: I can try to respond or I can – I accept that as a statement and I log that and I appreciate that comment.

CHAIRMAN DZUGAN: Mr. Jacobsen and then we either need to break for lunch or have an agreement that we'll have lunch later.

MR. JACOBSEN: Not to belabor the point but to respond to Mr. Martin's comments, every boat should have posted in the wheelhouse emergency procedures for radio, emergency and stress call. I don't see that it's too big of a burden to impose on all crew members to memorize that in English because it's simple. It's Mayday, Mayday, Mayday, this is the (name of the vessel and a position). And they might not even comprehend what they're saying, but they should have it memorized in English, I think.

DR. LEVIN: This is the style of what's been developed, and it has the English on one side, Vietnamese on the other, simply an assistive tool. Our perception was the option is we have people who are not making Mayday calls or we provide them with the tool where they can make a Mayday call in English because they have a greater confidence of being able to do that. So it is not an intent to supplant or replace the English language. It is simply to increase utilization of a very important practice they need to have experience with. In the behavior practices, we can talk about that off-line. I recognize what you're saying.

MR. MARTIN: They have no problems when they come to buy something at the hardware store to say "we pay no tax, we pay no tax," in English.

CHAIRMAN DZUGAN: As a trainer we just recently did some training in Galveston with 18 Vietnamese, and we had a Robert Wynn who you saw the picture of was one of our new instructors, so the next day he helped us co-teach a class for 18 Vietnamese fishermen. I talked to most of them. They'd been in the U.S. since the 1970s, and I'd say their English comprehension was between 20 and 40 percent. Basically we had Robert translate everything we said. If it was a key point that was really important, I turned to Robert, and he said it in Vietnamese. When it came to practicing Maydays, you got to do

it in English. We all practiced Maydays, and I realized we need English as a second language because it's not just the words. It's also the pronunciation, and if an emergency with engine noise in the background with a heavy accent it doesn't make any difference if you have the words or not. So it made me think though that you almost need to do an ESL program along with safety training and get people to start practicing English for that, just for communication. It was very difficult to do the training because of that. Everything took twice as long. But the group was enthusiastic, the hands on was so important because even if they didn't understand the story or something behind it, when we did the skill they got it, and you could just see their whole manner and comprehension changed. They were enthusiastic about it. We did a lot, maybe 80 percent hands on, because that's what was effective. Those were the lifesaving skills anyway. But it's going to be a big problem when you're looking down the line for training of captains and everybody on the boat. It's something for us all to keep in mind and that maybe having as a component ESL training along with that. It's not easy. If I can use that as a wrap-up, can we agree to adjourn for lunch and come back at 1:35? It gives us exactly an hour. Okay, we are adjourned. Have a good lunch. Thank you, Dr. Levin.

[BREAK to 1:35]

## **AFTERNOON SESSION**

CHAIRMAN DZUGAN: If we can get started again and reconvene. If it's okay with the committee we're going to bump everything up by half an hour and go to 5:30 so we don't cut anybody off short. Jack, do you think we're ready?

MR. KEMERER: In setting up the agenda for the meeting this year I think for some of the comments came out in the past, I thought it might be good to have presentations on the drug and alcohol testing program requirements and particularly targeted towards fishing vessels and also have a person from our law enforcement office talk about boardings a little bit. Those are the next two presentations.

Gerald Wheatley, who's the district person with the drug and alcohol program here, has been tied up with the Deep Water Horizon Board, so Kristine Neely from the Sector is going to talk with us about the Drug and Alcohol Testing Program, and then Lieutenant Arnwine from the district staff board living marine resources and law enforcement.

Kristine, please.

## **DRUG AND ALCOHOL TESTING PROGRAM Presentation by Kristine Neeley, Sec SF**

MS. KRISTINE NEELEY: Good afternoon, committee members. I'm going to talk briefly about investigations in general and go over the drug and alcohol testing requirements as it pertains to commercial fishing vessels as well. So we can go to the next slide.

This is where we get our authorities from—46 CFR is part 4 and 5. Mainly when we deal with commercial vessels a lot of our masters are not licensed because the vessels are less than 200 gross tons, so part 5 doesn't really fit in with you guys. But part 4 is where we get the authority to investigate the marine casualties.

Next slide, please. Our primary responsibilities in the Investigations Division, of course investigate marine casualties. Then we have personnel actions where we can take suspension and revocation against mariners' credentials. Then we also do enforcement actions, things such as Notices of Violation, letters of warning, and civil penalties.

Here's a breakdown of the reportable marine casualties. Anytime one of these happens, and this also pertains to commercial fishing vessels, you need to notify the Coast Guard. Anytime you have a grounding, collision with a bridge, loss of propulsion, loss of life, injuries beyond first aid.

This one is kind of confusing because a lot of people say, "Well, I thought it was going to be a minor injury, and he just kind of tweaked his back a little bit." This can turn into something serious, so it's always a good idea just to call your local Coast Guard office and let them know that, "Hey, I had this crew member on board, he was throwing a line or whatever and hurt his back, and I wanted to let you know." Then property damage exceeding \$25,000.

MS. NEELEY: Yes. That will be coming in the next slides. For all those casualties you'd file a 2692. Again if you're ever in doubt just call your local sector or Coast Guard office, and they'll get a hold of somebody who can let you know that, yes, you do need to file a 2692 or, No, that's something we're not worried about, or, whatever you need to do. When in doubt, just fill one out and send it to us. It's the easiest thing.

MR. JACOBSEN: A lot of guys don't like to file a 2692, and they avoid doing that because they think it makes them a target.

MS. NEELEY: Yes, that's what they think. But it does not. We get a lot of 2692s. A lot of times what people think might be reportable is not even reportable. We just kind of do it as a notification that this thing happened. We don't pull the stuff in our system and say, "Oh, look at all these marine casualties that this vessel has had." Sometimes if they're having a lot of seaworthiness issues, yeah, we might be a little bit concerned about people going out on that boat. But sometimes there are just a lot of little things that can happen that's coincidental or luck of the draw, and we're not going to ding somebody for sending us a 2692. It's the law, it's required, and you're supposed to do it. You're not going to be a target from it, but you do need to report it.

MR. JACOBSEN: They think they're going to have to go to court and all out, go through – they've had to do that in the past, some guys have. It's a concern that most everybody has.

MS. NEELEY: Well, again, if it's affecting the seaworthiness of your vessel though, do you want to lose your vessel, or is this something you want to get fixed?

MR. JACOBSEN:: I'm just telling you their concerns.

MS. NEELEY: Yeah, yeah. But I mean you got to kind of look at it – we're not trying to make you do anything that's going to be extra costly or that's going to hurt you.

MR. JACOBSEN:: If you have two rudders and you only lose one, they still drive around. But they don't want to have to interrupt their fishing season to go to town, or if their engine goes out they still have a good engine. Or if they hit some ice and bang up the hull but nothing's leaking, but it's probably going to be \$25,000 to replace it, they just don't know. They assume it's going to be, and they don't want to have to go to Dutch Harbor somewhere and call out and have the captain with a court order and lose a lot of time.

MS. NEELEY: I see what you're saying.

MR. JACOBSEN:: I'm sorry. I don't mean to –

MS. NEELEY: I understand the concerns. I don't know what, how we can get around that, because it is in the regulations.

CAPTAIN CHRISTENSEN: If I may.

MS. NEELEY: Sure, CAPT..

CAPTAIN CHRISTENSEN: The Office of Investigations and Analysis at Headquarters is actually doing a revision to the reporting requirements trying to better explain the box that you want to be in, and it's also addressing things like multiple engine installations, redundancy. Obviously redundancy is built into a vessel for a reason, so you can keep operating. So there are situations where while it might be something you would notify the Coast Guard about, it doesn't preclude you from continuing to operate. Nothing in the rulebook says you need more than one engine. Nothing in the rulebook says you need more than one rudder. Nothing in the rulebook says you got to paint the hull. So again, there's a lot of flexibility. So they are working on that right now, and the genesis of this was the complaints from the passenger vessel industry. Again, akin to the commercial fishing they want to be able to take people out and continue their revenue generating even if part of their redundancy is lost. But there has to be a little bit better criteria for determining when to report and when it should be okay to continue to operate. So they're working on that right now. Hopefully by next year. If not, before then we'll have something better.

MR. JACOBSEN: For the record, I always advise them to file. When in doubt file a 2692.

MS. NEELEY: Thank you for the information. There's a difference. My office is Investigations, so, inspections—we're not going to tell somebody to haul out their boat. We just want the reporting.

When we're looking at investigations, just we're trying to find out what the causal factors are. Again, we're not looking to place blame or take somebody from their livelihood, or what not. But ultimately we want to look to how we can prevent this in the future. Are there things we can put in place to help these casualties from happening again? Again, with our credentialed mariners we can do a suspension revocation if we find out they are in violation of the law. With our non-credentialed mariners we can do civil penalties.

Next slide, please. This is what we've been talking about, the 2692 form. You have a requirement to report immediately, and that could just be a verbal report to us either via radio, phone call, whatever. Within five days you have to submit this 2692 form. It's just written notification. There are a couple different parts, the 2692 itself, and then there's the 2692a which is the barge addendum which doesn't pertain to you guys and then the 2692b which is the report of the chemical drug and alcohol testing.

Next slide, please. This is what a form looks like if you haven't seen it before. It's just got general information, and then the second page of this has an open space where you can tell us what happened in your own words.

Next slide, please. This is the drug and alcohol testing portion of it.

So this is where we get into serious marine incidents, and this is when drug and alcohol testing is required. When we have one or more deaths, damage over \$100,000, significant injury to a crew member or passenger. "Significant" means anything beyond first aid basically. As I stated before, sometimes these injuries you might think are minor, and they are not going to turn into a serious marine incident. But a lot of times they do progress into a serious marine incident, so it's always good to just report it to us and let us know that something happened. Of course if you have a loss of an inspected vessel or loss of an uninspected vessel over 100 gross tons and then discharge of oil or hazardous materials greater than 10,000 gallons.

Next slide. So the required drug and alcohol testing. The marine employer or the master shall initiate the testing. Each individual employed on the vessel who is directly involved in the accident. And we get questions about this quite often. It's a good practice to have everybody tested, but if you have some crew members that were maybe in the racks at the time or what not, it's not a requirement that those people get tested. It's the ones that were directly involved with the incident that need to get tested. And the testing for drugs must be done within 32 hours, and the alcohol test must be done within two hours.

This is just an overview of suspension and revocation in civil penalties. Suspension and revocation is for the licensed and documented mariners. Drug or alcohol usage, misconduct, negligence, violation of law. We can go after their license and do a

suspension or a revocation. And then those that aren't licensed we can go after civil penalties for violations of law or regulation.

This is just an example of some of the amounts of civil penalties, so if we find you failed to report we can do a civil penalty in the amount of \$5,000. Fail to provide us with written report, \$1,000. Drug test, \$1,000. And you can see on down.

I think that might be it. Are there any more questions? Yes, sir.

MR. JACOBSEN: Would it be possible to have this put up on the Fishsafe website?

MS. NEELEY: I can look into that.

MR. KEMERER: Requirements for the whole program you mean?

MR. JACOBSEN: Just even this PowerPoint presentation, it's excellent. I get a lot of questions about this program. I've gotten a real heated argument with the former Coast Guard admiral who's representing a company. I said he needed to have certified people on board, and he said he didn't. And we finally went to the regulations and got it straightened out. I was right.

MS. HUGHES: You're talking, Jake, about being certified to conduct the testing? Yes. We offer a lot of that training in our safety program.

MR. JACOBSEN: This would be really helpful just for people, good reference.

MS. NEELEY: Sure. It's just my little quick and dirty, but yeah I can see about putting that on there.

MR. DAVIS: I'm curious if anybody else has run into problems with local hospitals in getting the testing done. For instance in Seattle, Harborview Hospital if you have somebody that's hurt on the boat during maintenance and repair most of the time it's their captains and mates that are the ones that are the certified drug testers. So somebody gets hurt, they wind up at the major hospital in Seattle, and they won't do a DOT drug test. So if somebody is in the hospital, the only way we can get a DOT drug test is to hire some nurse to go stand by his bedside and collect.

MR. MATTERA: I had an incident on a vessel with a major injury and I wanted them drug-tested. And they wouldn't do it, due to the HIPAA Act. They said everything is confidential, and I knew that at some point it would probably go to litigation, and I said, I want it because if not I'm going to have an attorney get it from you because I know it's going to go to litigation. Sure enough, it did. But they wouldn't conduct it due to the HIPAA Act. But if you have a major incident, you can go and have them drug tested as long as – it's the party, the individual that's hurt they won't drug test, but they will drug test everyone else. I have a question as well for Kristine.

Do you have a copy of the DOT forms? That's the thing I have trouble trying to attain is to get DOT forms and get them out on the boats.

MS. NEELEY: The drug testing forms themselves?

MR. MATTERA: Yes. They have to be filled out by medical physician or the hospital emergency room.

MS. NEELEY: I do not have those forms. I can try to see if I can get that information.

MR. MATTERA: That would be something that would be good to get put up on that Fishsafe so we could access it.

MR. KEMERER: I should be able to get those back at Headquarters.

MR. MARTIN: In our area, the hospital will not take a drug test. We have independent labs that come in and they'll drug test everybody you want drug-tested. The one got hurt and everybody on the boat get drug tested. They will come to the boat, they'll go to the hospital at any time 24 hours a day, 7 days a week.

MR. MATTERA: One other question. You talk about injuries, and you say you should report them, so somebody breaks a finger or twists an ankle, something like that, we should report those to the Coast Guard?

MS. NEELEY: Beyond first aid. If you think about it this way, think about if they need some type of medical attention other than what you can provide them on the vessel then yes you should report it to us. Where we get into the serious marine incident part of it is if somebody is not fit for duty, then it's definitely a serious marine incident.

MR. MATTERA: So that you're going to do up a report then on that incident?

MS. NEELEY: Um-hum. If they twist their ankle –

MR. MATTERA: I don't know anybody that does that in our area. No one. I mean we report it to our insurers obviously.

MS. NEELEY: That's interesting.

MR. MATTERA: But I don't believe the insurers report it or the –

MS. NEELEY: No, they don't.

MR. MATTERA: Or the fishing vessels or myself. I've never reported it.

MS. NEELEY: Um-hum.

MR. DAVIS: About five or six years ago they changed from one of the major triggers being an injury severe enough that they couldn't return to duty within 72 hours, to if they can't return to duty, like okay I'm done, go back to work. And it caught a bunch of us by surprise. I think there were a large number of people in our area that didn't know about it until we started getting nasty-grams from D17 explaining that we were not doing what we were supposed to do. It took a little while for us to work through it. But I would suspect that problem exists all over the country.

MR. MATTERA: Yes. I'm not familiar with it at all.

MS. EDER: A couple weeks ago they added (off mic) pollution event, a lot of people were looked at and can trigger it to.

MR. DAMERON: 10,000 gallons?

MR. DAMERON: So 5,000 is not serious?

MS. NEELEY: It's still reportable.

MR. DAVIS: But a twisted ankle.

MS. NEELEY: But it's not as serious.

MR. DAMERON: They're not on that form?

MS. NEELEY: Yes, you can report it on this form, just not as a serious marine incident.

MS. HUGHES: I'd just add too that one of the issues or challenges we've had has been that the vessels that are under 200 gross tons that thinks drug testing rules don't apply to them at all have been caught short when they've had a serious marine incident and they've like, "Wait a minute, those don't apply to us," and it's been hard to get the word to them that if they have a serious marine incident all of that then suddenly applies to them. So they do need to pay attention to it.

MS. NEELEY: We run into that a lot here. But fortunately they've been really good about it when we've said you need to get this done. They're like, Well, where can we go? We tell them a couple places in their area, and they get it done.

MR. O'LEARY: We have the alcohol test on the boats. The captain's not certified and nobody's certified, so what does that mean?

MS. NEELEY: That's okay. Even like the saliva strips, as long as he or she doesn't do it on himself. Somebody else has to do it on that person.

MR. O'LEARY: Just making sure on that.

MS. NEELEY: But that's acceptable.

MR. DAVIS It's acceptable until you get to the point that somebody protests about it and

—

MR. MATTERA: You should write that down on the form.

MS. NEELEY: (unclear)

MR. DAVIS: We get sued every time we turn around. So if you give an alcohol test to somebody and you say it's positive and you fire that person or whatever, then it winds up coming back around. How do you know what to do, how you do know what you're doing properly? So I know Leslie's program has certification courses for drug and alcohol testing. I don't know what's available in the rest of the country, but I'm assuming there's stuff that's outside of maritime. These same basic rules for drug and alcohol testing apply to all the over-the-road DOT transport, so if a truck driver has a car wreck or squishes a car, he's supposed to get the same test, same form I think. I've run into the problem with our major trauma center that they won't do it. They refuse to do it. They actually drug test everybody that comes to the emergency room. They just won't do a DOT drug test and give the evil employer the results, or the evil Coast Guard depending on how you want to look at it.

MR. O'LEARY: So because we're not certified it really wouldn't hold up in court of law, is that what you're telling?

MR. DAVIS: I'm not an attorney. I just play one.

MR. O'LEARY: Basically that's what I've heard before too.

MS. HUGHES: One other point I'd add, we've had some of our members that when they've been medivaced by the Coast Guard, they have assumed the Coast Guard would do that drug and alcohol testing, and they don't. They have no responsibility for that.

MS. NEELEY: Correct.

MS. EDER: That becomes another catch-all.

MR. MARTIN: We have company policies that you're going to take a drug test and you're going to take an alcohol test, and you sign off on a policy before we hire you, or as we are hiring you. We offer you a job, you got to sign off. If you don't sign off —

MS. EDER: But if that person is medivac you've got the time is flying by that that person is out of your hands to do the drug and alcohol testing. They are in the Coast Guard's hands, and the Coast Guard won't do that for you.

MR. MARTIN: But when they hit the emergency room, we have independent person there waiting. Before he sees the emergency doc unless it's pretty serious he's going to take a drug test.

VOICE: (off mic): (unclear)

MS. NEELEY: We have an electronic file in the MSIS system, so it gets stored electronically, and then the hard copy we put in other files that are stored in our locked office, and when we purge those I don't know often, every third year or whatever, it goes to the documentation center here in Oakland.

MS. MURPHY: (off-mic) Does that go into the system being attached to the vessel or does it go to some general file saying that we had X amount of boats that lost steering in that year, or –

MS. NEELEY: No, it attaches to that vessel.

MS. MURPHY: So then any kind of drug or alcohol related incident on a fishing vessel would then be attached to that vessel also?

MS. NEELEY: Yes.

MR. MATTERA: I had a question, not sure how to word it, but drug and alcohol testing for a deceased person, does that have to be done, and by whom is it to be done? I just wouldn't know how to go about doing that.

MS. NEELEY: It is supposed to be done, and normally it's the coroner that does it, but yes very often we don't –

MR. MATTERA: In these timeframes it's not going to be –

MS. NEELEY: But they are deceased, so it's still in their body. You do what you can do.

MR. DAVIS: So everybody has another idea. We've had issues where somebody got off the boat and went to the clinic and went straight to the airport and was gone before we realized that we had a 2692 event. Or some other thing happens, like you helicopter somebody off. And there is no way when you have a trauma or a heart attack or something that you're going to legitimately stop what you're doing and collect the drug and alcohol sample. So when we do the 2692, we fill out the 2692b, we put down in the description of event we were "unable to collect sample due to" and explain it. So far we haven't had a lot of pushback on that, but we don't abuse it either. It's only when we are unable to do it. But we are able to do the drug and alcohol testing on board, but we are also a large enough company, not a five-man crew.

MS. NEELEY: That's a good point because sometimes you're just not going to be able to do it, and if you've tried your best effort to do that, we understand that. Yes, we're not going to ding you for not having.

MR. DAVIS: Some of you understand.

MR. KEMERER: Jake, you mentioned about is there targeting people who submit the 2692 and from the Coast Guard perspective I don't think that's the case, but my question is, for someone who fills out and probably targeted towards Fred if a vessel or company makes a lot of casualty reports like this, what does that do to your insurance underwriting? Does the insurance company look at how many casualties and things you've had on that vessel? Does it affect your rates like with your automobile? Every time you report a claim or whether you file a claim or not it's a black mark on your record. Does that apply to vessels as well?

MS. NEELEY: That's a good question.

MR. MATTERA: If it's an injury, a medical injury, loss of life, anything like that, obviously the insurance company is apprised of it. If it's a mechanical, I happen to have a situation where I lost some of my steering, I had flooding in the Lazerette and had pumps dropped off and everything else and had to go through, fill a 2692 about a month and a half ago. I called the insurance companies right away, and told them, and we corrected the problem and sent that whole pictures to the Coast Guard along with what we purchased and what we did to repair it so that we didn't have any further problems. And the insurance company was fine because I incurred the cost. If it was a major cost where it was a \$50,000 to \$100,000 or something like that, where in years past I had a fire, it definitely impacted my insurance premium. That's for sure. But 2692s I don't know if any insurance company that's looking into 2692s being sent.

MS. NEELEY: I can tell you from my experience because I've been the FOIA officer at the unit too, and I've never had an insurance company request documentation on vessels for 2692s.

MR. DAMERON: Is it public information?

MR. MATTERA: If you request it, I think.

MS. NEELEY: Yes. Parts of it get, can be public information. But a lot of what you submit is redacted, which means that it just, it gets blacked out.

CAPTAIN CHRITENSEN: For instance there's port safety information exchange, PSIX, that's a database, and so if the Coast Guard did a case, even if it was strictly data collection, it's recorded in there. That's why in the tanker industry and that, you've got the oil major vetting operations that will go into PSIX and check and see whether they want to be shipping oil on a particular vessel. And if they see a series of 2692s, depending on what they are, will have an impact on how they are vetted. So there is that.

But once we do a case on it, it is public information. Supposed to be transparent here, so, but you just won't have a lot of the details of the case. It will be mechanical failure, it will be injury, something like that. But you'd have to FOIA the specific information if want to go deeper.

CHAIRMAN DZUGAN: Fred, as a self-insurance pool, if you're made aware of a 2692 on one of your pool members, how does that affect their insurance?

MR. MATTERA: We just monitor the vessels. It's like a self-policing, you know we're aware of it. This is redundant. This is something that's continuing to crop up, then we just call a surveyor in. We just have a surveyor come in, go through the vessel, and he comes up with a list of recommendations that need to be done within, you know maybe you don't even go fishing depending on the nature of the recommendations. Or we give you 30 days to comply with all of these. Again, it's one of these things where you just continue to monitor it. You have, we are insuring actually fishermen. We insure the boats and crews on them, but we're looking at people that are running and managing these boats, and that's what we are really insuring. But it can have an impact, but not generally.

CHAIRMAN DZUGAN: One or two more questions, and then wrap it up.

MS. EDER: There's a time for discussion about the reverse of the issue whether or not fishermen could be encouraged to drug and alcohol test all their crew as a condition of employment. Their crew agreement. Also having a vessel inspection. If those two factors, if you communicated them, provided proof to your insurer whether it's a pool or a company, that fishermen would receive some kind of discount or benefit on their premium. I know I keep raising it.

MR. MATTERA: That's what your supposed to do.

MS. EDER: In reality I could look at the fleet in Newport and I'd guess two-thirds or more don't have a drug and alcohol policy, and two-thirds also haven't been inspected. So yes, I agree it's what you're supposed to do, but if our goal is to – find another way to incentive. It's like the idea of the professor from U of Texas, how you get people to behave well, psychology in the behavior, and incentives work, mandatory rules.

CHAIRMAN DZUGAN: For the record and this discussion, when you say "inspected" are you talking about examined like for a decal or inspected?

MS. EDER: Examined.

CHAIRMAN DZUGAN: Any other questions? Thank you, Kristine.

MS. NEELEY: You're welcome. I have a few handouts I'll leave on one of these tables. This one is for serious marine incident, alcohol testing, and has some good information in there. I have some 2692 forms I'll leave, so if anybody wants any you can pick one up.

CHAIRMAN DZUGAN: Thanks again. Could we move the podium to the far right-hand side of the room? Some people can't see what's being shown. Steve. We have a presentation about at sea boardings, discussion of types and purposes by Lt. Steve Arnwine. Next.

## **SEA BOARDINGS, TYPES AND PURPOSES**

### **Presentation by Lt. Steve Arnwine**

LT. STEVE ARNWINE: Good afternoon. Again my name is Lt. Steven Arnwine. I'm right down the road, Coast Guard. I'm District 11, Living Marine Resources officer, anything regarding fishing, fisheries, marine protected species, the National Marine Sanctuaries comes through my desk. I'm fairly new, just took over the job a couple months ago so please bear with me.

I do have a fisheries law enforcement experience briefly up in Alaska and I spent two years working out of Woods Hole, Massachusetts. That's the bulk of my fishing vessel enforcement.

Right now the Coast Guard's enforcement role, the Coast Guard is the only non DOD agency with maritime infrastructure. Basically our cutters, patrol boats, small boat stations and aircraft which have the legs to go out and patrol our US EEZ. So right now we are the primary agency for at sea enforcement of all federal fisheries laws and related international agreements.

If you're being boarded by a Coast Guard cutter, a boarding team consists of the boarding officer who's the individual an officer or petty officer in charge of the boarding team. They are the direct POC who the master's going to deal with. The boarding officer will walk the master through all the forms, answer any questions he may have, and the boarding team member aids the boarding officer throughout the boarding, normally helps conduct the basic initial safety inspection once the team gets on board, also helps with safety year check and any other miscellaneous items the boarding officer requires.

So boarding teams range in size depending on the size of the vessel and number of people on board, so if you're out there and get boarded once and there's a certain number of people on that boarding team and again later on, there's some discretion by the on-scene commander of the asset that's boarding you on how many people they send over.

I want to go through as a master on a fishing vessel what you should expect the process to sort of look like. Once the team gets on board they'll go through a BISI, basic initial safety inspection. Then they'll go into a safety gear check, document review, fishing gear check, and then they'll check the catch breakdown to see what fish you have on board.

Your BISI is just a quick and limited protective inspection of the vessel for the boarding team's safety. Once we get on board, first thing the team conducts, to make sure the vessel we're getting on board is safe for us to be on there. They go through and do a quick peek in the engine room, main hole, accessible voids, steering compartment, looking for maybe excessive water, oil in the bilge or any other hazards that may hinder the boarding team.

Normally the BO will go up to the cabin, pilot house, and do his introduction with the master. The team will start going through the safety gear check, big ticket items immersion suits, life rings, survival craft, distress signals, all the major items we require a fishing vessel have on board for safety. With commercial fishing industry safety Act, the Coast Guard does offer no cost, no fault voluntary dockside exams in which they issue a decal good for two years. If the unit comes across a vessel with that decal then they don't have to go through all the big ticket safety items, can conduct what they call the "big 8," those items at the bottom, survival craft, immersion suits, PFDs, distress signals, EPIRBs, fire extinguishers, high water alarms, building instructions and compliance and make sure the crew has been conducting drills which is very important, where they know where all the safety gear is.

At that point the BO, normally on the bridge interacting with the master, will go through, look at vessel documentation whether state-registered or federally-documented vessel. We go through and review all our fishing permits, whether fishing for scallops or long lining for tuna or crab out here; make sure you have your proper state or NOAA permits on board. We also collect ID and run warrants to make sure if there are people on board local law enforcement would like to talk to.

Then, normally go through and ensure, do a fishing gear check, based on what fishery that vessel is involved with. We'll look at whether it's correct net size or dredge length or ring size or whatever gear the fishery that vessel is engaged in, make sure it's all up to par.

Last thing I did is go through, talk to the master, see what his logs show for catch and my team will go down to the fish hole and check to make sure the permits this vessel has is what catch they have in the main hole and see the if master's logs correlate with what we think we see down there, right species and size of fish or crabs or lobster on board.

A big thing on the West Coast, we do a lot of joint law enforcement because the state's laws and federal laws overlap so much, so for those individuals fishing on the West Coast, don't be alarmed if you get boarded and it's a Coast Guard team along with state agencies or NOAA office of law enforcement. We have four national marine sanctuaries on this coast as well, so do a lot of work with them.

That's my breakdown on boarding. If anyone has questions, you're more than welcome to field them. Yes, sir.

MR. MATTERA: I've gone through an awful lot of boardings over the years, maybe 100 boardings, probably 90 of them have been superb. Great teams, boarding officer comes aboard with the right attitude which sets the tone for the whole boarding. And then again you get these cowboys that come aboard that have a chip on their shoulder, and they're just looking to peg you for something. And I'm trying not to make a generalization that this is what happens all the time, but there are those. I come from Rhode Island so I come from the northeast, and I've done safety training with the Coast Guard and people there, and it's an excellent group of individuals, and some of the trainers I think up in Woods Hole somewhere, they trained them.

LT. ARNWINE: Right there at Pt. Otis, regional training center.

MR. MATTERA: Some of these trainers have been fantastic, but I don't know what happens between there and once they get on the ship. Now the other problem that we constantly see, and we saw it this past winter again, is the breakdown in communication. You have cutters that come up from down south. Now I understand they're supposed to be briefed on the fishing vessel regulations. Well, at times they have a problem with that, so maybe a boarding may take a little longer in order to get a clarification on maybe an incident or what they perceive as a potential violation. But safety regs, one thing that continues to bother me is you tell us to get dockside exam good for two years. Well, that no longer exists that way. It's one year. I don't know about a year, but I know in the northeast it has to be one year because I have to take an observer in certain fisheries, and if I take an observer that decal has to be renewed within that one-year period. Basically, anybody comes aboard Coast Guard now that does the boarding, if it's over a year they're pulling everything out. If they're not, they're doing the basic inspection.

So we're getting two thoughts out there that need to be cleaned up and clarified.

Secondly, we had an incident last year with fire extinguishers. Coast Guard still doesn't have their head correct on if there should be inspections on fire extinguishers, which I think they should be every year. It's a nominal fee, and I think simple to have them serviced. They were terminating the trip because the skipper was adamant because he does drill training and safety inspection on a month-to-month basis. And they said, these need to be inspected. Well, he inspects them himself. He has a card. It was two years old, and he writes on the back every month. But yet they were going to terminate the trip, and he finally backed off realizing "I'm not going to gain here," until they got in. And fortunately when it goes through the chain of command, he goes either to tag or it goes down to dockside examiners. They correct the situation. But what it doesn't do, it leaves a bitter taste in those fishermen's mouth thinking, boy, we do so many things with the Coast Guard that we encourage and take five steps forward, and then one of these incidences—because everybody's on the radio, everybody's on the bulkhead after that talking about—you take 10 steps backwards.

So the problems I'm seeing is the briefings with the new, especially these crews that come up from down South on these cutters, there's problems, there's flaws. They don't seem to get it right.

MR. MARTIN: Fred, we had the same problem with those that come down South from North. They don't know what a cyclone board is.

MR. MATTERA: I'm not saying it's the southern boys that are the problem.

CHAIRMAN DZUGAN: Let's not recreate the Civil War. Could I ask Dennis, Mr. Hansford to come talk about the first issue, the one year decal? Can you address that?

MR. HANSFORD: Fred, you're right, there is a lot of confusion on that. The last understanding I have, the decals are good for two years. There is a move for it to become annual, and I'm under the impression that in certain districts there's an annual requirement. It hasn't, far as I know, hasn't become regulations, but we're still looking at some vessels on a two-year period, more so on the West Coast than on the East Coast. So there is that confusion, and Jack can maybe shed some more light on it. But that's something we're still looking at too trying to get clarification on.

There's another issue, I have a question I wanted to ask. I didn't see, and maybe you can share with us, what is your rule of engagement when you come on board a commercial vessel and there's an observer on board. How do you interact with those guys?

LT. ARWINE: When there's an observer on board normally they'll just pull the boarding officer aside and talk to them, ask them general questions, research they're doing or what not. Usually that's a whole separate element from the boarding itself. Typically in the past they've been there just for scientific research. I know on the West Coast I think now there is a big move for research but also to just ensure the boat is being safe out there. But normally that was separate from the enforcement of the fisheries regulation.

CHAIRMAN DZUGAN: Just taking the hands that went up, it was like flags going down on foul on a football game. Mr. Yarborough, Mr. Kemerer, and Mr. Martin.

MR. YARBOROUGH: Let's start with decals. Decals don't exist in regulation. Decals were a policy adopted by the program to try and provide encouragement for fishing vessels to get the examinations, to get the equipment on board. The original policy came out with a two-year decal. LANT area with the increased observer coverage and the requirement that if a vessel was going to carry an observer that it had a current decal, and the decal was from our perspective a primary way that your agency was assuring the safety of your observers was we were going on board making sure this vessel had the right safety equipment. Well LANT Area coordinators got together, looked at it, and said, a two-year decal doesn't make sense, if that's the standard it's going against, because a lot of the things involved in safety have one-year expiration. So as a LANT Area policy now it's one-year decals. Pacific area, my understanding is it's still a two-year decal. So there's the difference there. Did that address the question?

MR. MATTERA: For me, no, because I just listened to him tell us that it was a two-year. So there's confusion. And I'm on this committee. I'm aware of it. I deal with the Coast Guard all the time. I do the safety training. What about the fishermen that's out at sea all the time, and this is what he hears? He goes to a Fix Expo and listens to something like this because he wants to know, and it comes up two years. And then next week when he goes back he wants to go ground fishing and the observer comes down and says, Your decal, what's this, it's 18 months old. You got to get a new one.

LT. ARNWINE: Sir, this gentlemen deals with the East Coast, and my experience on the West Coast, I only deal with the West Coast.

MR. MATTERA: I'm not directing this personally at anybody other than Jimmy. I'm just trying to get a clarification as Dennis alluded to as well, it's very confusing. If this is what it's going to be on the East Coast, then put a memo out. Get something out there to let the guys know, okay, it's one year.

MR. KEMERER: As it stands now LANT Area has put out a policy that the period of validity for decals will be one year. The Coast Guard policy other than that is two years. So yes, right now, and until we get the Commadant instruction corrected where it will be one year everywhere, it's –

MR. MATTERA: So it's one year.

MR. KEMERER: So we have Right Coast and Left Coast.

CHAIRMAN DZUGAN: For clarification, Mr. Kemerer?

MR. KEMERER: The decal validity will be going to one year.

CHAIRMAN DZUGAN: It's not official yet, but that's the way it's headed.

MR. KEMERER: Right. Now if we get authorization to make exams mandatory for a two-year period, we won't have to worry about a decal because we get a letter of compliance.

MR. O'LEARY: I just heard two things again. Is it two year right now or one year?

MR. KEMERER: its one year on the Atlantic and Gulf Coast and two-year on the West Coast and Alaska and Hawaii.

MR. O'LEARY: I have one other question. Most of the boats down my way go through fire extinguishers every year, take the tags off them and the Coast Guard's letting it go. What is the regulation?

MR. DAVIS: You probably aren't going to like hearing this, but your boats are still under OSHA jurisdiction within three miles regardless of crew size, in spite of something

I saw printed somewhere else, and the requirement per OSHA is that they be inspected annually.

MR. O'LEARY: So if OSHA comes down, we're in trouble. But if the Coast Guard comes down we're not.

MR. MATTERA: I think we're under OSHA.

MR. JACOBSEN: The policy is, my experience, in District 17 and I believe District 13 they refer to I believe there's a NVIC that talks about the standards of fire prevention,

CAPTAIN CHRISTENSEN: NFPA 10 is the standard.

MR. MARTIN: The issue of the two-year decal, it's no good because at the end of 12 months your inflatable has to be redone and your fire extinguisher, so if you go to 13 months and you board it it will terminate your trip, so you're wasting your time with the decal, with the two-year decal. Just get everything up to standard and don't worry about dockside examination. I've had two boats built and asked for an examination and couldn't get them.

MR. DAMERON: I have a question for you. One of your early slides said your initial inspection by the boarding team was for seaworthiness, and I'm curious as to what training the boarding team has to make a declaration of seaworthiness on a fishing vessel.

LT. ARNWINE: We're not really getting into specifics. We're just making, looking to make sure there's excessive amount of flammable liquids in the bilges, make sure there's no free communication, holes in the side of the ship with water flowing in and out. We don't have specific training. A lot of times my boarding team had a machinist on board, an MK, but in general there's no specific training. We're just making sure we're not opening a compartment that's completely filled with seawater.

MR. DAMERON: On your boarding form is there a place that asks for a place you can check if the boat's not seaworthy?

LT. ARNWINE: There is a box on there, but it's nothing the boarding team can really cite a vessel for. That's something someone dockside with more expertise in stability would have to follow with the vessel.

MR. DAMERON: I'm wondering how beneficial it is to have that box on that boarding form. Here you have the Coast Guard going on board a boat that may or may not be seaworthy, and if they don't check that box this is a professional boarding team that's leaving that boat with a box unchecked, and it's basically saying that they determined that vessel was seaworthy as they were on it.

CHAIRMAN DZUGAN: I think what you're looking at, at an initial look-through is for the immediate safety of that boarding team.

LT. ARNWINE: Yes, sir.

CHAIRMAN DZUGAN: As opposed to a seaworthiness of that vessel to continue in its operation with that crew, which is a whole different matter.

LT. ARNWINE: Yes, sir. You're correct. We're just identifying any hazards so we make sure the vessel is not going to right while we're on board or make sure there are no hazards in the engine room when our crew is going through.

MR. DAMERON: I'm wondering if that is necessary that we have a box on that form that says "seaworthy" or "not seaworthy" that they are either checking or not checking. It can, if that boat sinks within the next six hours, it puts the defense of the people that were on that boat in jeopardy that a Coast Guard team was just on that boat thought it was seaworthy, when they are really not making that determination.

MR. JACOBSEN: There's no marine surveyor who knows what he's doing at all that would ever say a boat is seaworthy. You can't tell from looking at a boat, and if it says "seaworthy" or not I think that's a mistake. Usually they just go down and look to see if you have oil in you bilge, come up and tell you about it.

MR. DAMERON: The point I'm making is, I'm wondering, should that box even be on that form? A box that the boarding officer checks or does not check that says that the boat is in a seaworthy condition.

LT. ARNWINE: That's not my call, sir. I'm not –

CHAIRMAN DZUGAN: Has that ever been a problem in litigation?

MR. DAMERON: Yes. And I think now that it's something we should have further discussion and get that removed.

MR. MARTIN: Do you all open tanks throughout my whole coast and look inside of them at any time when you're doing your basically seaworthiness?

LT. ARNWINE: No, sir.

MR. MARTIN: When you get ready to go into the rudder compartment, do you just go down into it, or do you have a competent person check air quality before you go down there?

LT. ARNWINE: Usually if it's a lazarette or what not, sir, we're just opening the hatch and looking visually in there. We're not actually going into the space. Again it's just to make sure there are no holes in the vessel, not excessive amount of hydraulic fluid, water, or whatnot, in that space. We're not getting down to the nitty gritty for stability. We're

just making sure that there's no identifiable latent hazards that's going to affect the boarding team itself.

MR. MARTIN: I know (unclear) cameras, get rid of the boarding team and start taking pictures. (unclear) scares them off right away.

CHAIRMAN DZUGAN: We need to get down to wrapping this up, and if there are any motions that come out of this we'll write some potentialities down to revisit. But Mr. O'Leary and Ms. Murphy had a comment. Mr. O'Leary.

MR. O'LEARY: I can't see really where we're going with this unless Tommy really had a problem. I'd like to find out how that could, if it's on a form or not.

MR. DAMERON: Because it is on the form, some determination is made by the boarding team whether the boat is seaworthy or not. And if there's a problem with that boat in the near future where a litigant is saying that the boat was unseaworthy because of something that happened, there is a piece of proof that the owner of the vessel can offer up that at this time, at 0300 hours on this date, a boarding team came aboard my boat and deemed it seaworthy. This box was not checked. I'm not sure it's proper that that even be there.

MR. MARTIN: It could be seaworthy at 0300 and you could have a sea chest go out at 0330 and the boarding team would have never known a sea chest was fixing to go out. Just a visual look you couldn't tell a sea chest is fixing to go out. Nobody knew the glass was going to fall, but it did.

CHAIRMAN DZUGAN: Ms. Eder and Mr. Yarborough.

MS. EDER: I think Tom raised a legitimate point of seaworthy. We're all aware it has a certain legal definition, although we're kind of pressed at times to describe what it is. It's like the definition of pornography. I can't tell you what it is, but I know it when I see it—as opposed to it being seaworthy at a certain time and place. So even though something could happen half an hour later, it really does take on legal significance for that box to be checked in a way that it may not have been intended to be meant.

CHAIRMAN DZUGAN: It seems like clearing up that wording to get rid of that loaded word would help. For the purposes of the boarding team also, because I can see how that could be some confusion for a boarding team. Like, what are they looking at? But Mr. Yarborough had a comment.

MR. YARBOROUGH: The origin of this procedure by the Coast Guard goes back into the early 1980s and it has to do with some rather scary experiences we had where not everybody we dealt with and still today not everybody we deal with is a good legitimate mariner. We don't know when we start on board, and we've had vessels sinking on us because the crew was deliberately scuttling the vessel and trying to keep us occupied topside away from that hazard, did not know that our boarding party was endangered by

what was going on board. So the origin of this procedure was strictly officer safety, a very quick run-through the vessel to see if the sea cocks are open, if it's flooding, if other hazards are there, if there are 80 illegal migrants below that are waiting to come up and throw you off the side. We have been through these experiences.

This was strictly officer safety. We are not declaring your boat seaworthy. We are declaring you don't appear to be a hazard to me right now. Maybe it is unfortunate terminology in the box, but I think as Ted pointed out to me that came from this committee.

CHAIRMAN DZUGAN: Thank you, Mr. Yarborough for that history. Again we might revisit this with a recommendation maybe on some word changes that would help clear that up like Ms. Eder said. It's one of those loaded words that means a lot out of context, but I think I get the idea, we get the idea what your intention is as boarding officer. We'll take one more comment from Captain Ruhle.

CAPTAIN RUHLE: Thank you, Mr. Chairman. Just looking at this from a national perspective recognizing that I represent fishermen from all coasts and the Gulf Coast, now we're getting back to an inconsistency problem. The way this was described to me, the Atlantic area is required to get the decal renewed every year. I don't know about the Gulf. What's the status in the Gulf? Same thing in the Gulf? Yet the West Coast is not. Somebody's going to have to do a lot of explaining to me to tell me why that is so.

The first time I was notified that the decal would be a one-year was through this committee, and there was no reason in the world for me to assume that two reasons were going to be covered and one was not or required. Unless you've got observers over here that are entirely different than the ones we've got over there, or less, which you don't, unless you got fire extinguishers that are good for two years over here which we only have them for a year, which you don't—you're not going to be able to justify this. I don't like the inconsistency because it's creating a problem. Twelve months, yeah, I don't like to get the damned decal every year, but I get it because it does make sense whether the expiration date is on everything you've got annually. I understand all that. But this double standard doesn't work. And it needs to be rectified.

Another thing the officer reported in his boarding of the Big 8, what the hell happened to the Big 5? On the East Coast it's the Big 5, unless it's been upgraded to the Big 8. It was always 5 that were required to be looked at if you had a current decal. He's saying 8. So there's another inconsistency.

The last one is, when you talk about questioning an observer, don't ever assume that an observer on board represents research. That is not at all the case. The observer on board is a requirement by the Fisheries Management Councils and the management plans. A true research vessel, whether a fishing boat or not, may have observers on it and it may not, but they will also have a certification that they are under a research trip. They will have exempted permits for different landing quotas, limits, mesh sizes, things like that.

Very deeply involved with that, but I don't like associating the fact that observers on a boat with automatically that boat being involved in research, because it's not so.

But you've got inconsistencies. They need to be rectified so everybody is on the same page. Thank you.

MRS. RUHLE: I was wondering over here on the West Coast which is where you are, if you could tell me how much time you spend making sure the boat is seaworthy as opposed to being the fish caught.

LT. ARNWINE: This is in the process of boarding, ma'am?

MRS. RUHLE: When you board a boat, how much time do you spend on the safety aspects of it, and how much time do you spend trying to find something wrong with the catch on the boat?

LT. ARNWINE: Well, I'd have to say I don't think the boarding team goes on there looking to find something that's wrong with the vessel. I really don't have any experience on the West Coast, briefly up in Alaska. Mine was on the East Coast. We'd go in there and I'd say it was probably, there's no set standard. I couldn't tell you exactly. It's however long it took us to go through the safety gears, the overall condition of the vessel, so there's no specified amount of time. So I couldn't give you an exact number, ma'am.

CHAIRMAN DZUGAN: I keep saying we'll take one or two more questions and move on, but I really mean it this time. Jacob.

MR. KEMERER: Just a note. I find there's a lot more people now requesting to get the sticker done annually instead of two years. They want to know that everything's up to par on one year basis.

MR. MATTERA: Vessels that conduct drills on a month-to-month basis, we give them forms and they are dittoed, and they have them in a folder. Is it in their best interest to bring that out along with the rest of the documentation, their operator's permit, the documentation, the fisheries permits, and bring those out and say, Look, boarding officer, we conduct these drills, we just did one three weeks ago, here's all the same crew we just went through that." I'm certain that really demonstrates due diligence and responsibility on that part of the crew and probably the whole aspect of how you conduct the rest of the boarding safety-wise sort of changes a bit, correct?

LT. ARNWINE: Yes, sir. Anything you can do to, what is seen that works well is the master up on the bridge would have a binder with all his documentation, permits, boat documentation, drills, everything in one place, whatever can speed up the process so we're not impeding you all out there fishing. That works well.

Not to open a whole other can of worms, I think from what I'm hearing from the committee, and stop me if I'm not speaking for you, consensually it seems there's some

agreement here there should be standardization in the years for the dockside exam decals to one year so it's the same around the country. Anybody disagree with that? That's the direction they're moving in? To encourage them to move ahead with expediency in that so we don't have this problem, because I've been hearing about it also far as a year or two ago, somebody in a port in Alaska will tell me, I just heard it's a one-year decal now and all the way westward. What I'm saying, are you getting the message from us?

LT. ARNWINE: Sure are.

MR. O'LEARY: Can we make that so the fire extinguishers are the same for everybody? When are they going to terminate a trip? What conditions are they going, if the EPIRBs are out for not registered for a year or two or the battery a year or two or if it's a month or two, maybe not. Let's get a standard so some guy is not getting terminated if we got a situation like Fred said, and other guys aren't. That's what's happened. If we can make it the same for everybody, because we're going to miss dates just like everybody else because they are all over the place.

MR. MARTIN: I think, John, that's pretty much up to the boarding party as to when they terminate your trip. You get some boarding parties that will board you and if everything is a month out they'll just tell you, Take care of this when you get in. Others are going to say, no, it's out.

MR. O'LEARY: We know a month out is still good, but –

MR. MARTIN: But it's outdated.

MR. O'LEARY: -- they'll terminate you. If we could have a set of rules that works for everybody so everybody knows, it will be a little bit better.

CHAIRMAN DZUGAN: I recommend we think about this and talk about this further.

MR. MARTIN: Most boarding parties will come on, you got a couple chemicals, even if they're outdated you can look at the gauge and see they're still good. They will probably let you slide. But if your raft has been outdated for three months, you're going to the dock.

CHAIRMAN DZUGAN: Mr. Arnwine, thank you for your presentation.

LT. ARNWINE: Thank you for your time.

CHAIRMAN DZUGAN: We all want to hear from Mr. Vince Gamma before we go for a break.

## **EQUIPMENT STANDARDS**

### **Presentation by LCDR Vince Gamma**

LCDR VINCE GAMMA: I'm Vince Gamma. I work at Coast Guard Headquarters, and as I stated earlier I do lifesaving equipment approvals and standards development. Feel free to contact me any time. Some of you have sent me personal e-mails and I try to be prompt and get back to you in a reasonable amount of time. At Headquarters we have niches we specialize in. Mine are life floats, life rafts, hydrostatic release units, EPIRBs and immersion suits.

If you ask me questions about PFDs I can't help you. I can give you a name at Headquarters. For PFDs it's Marty Jackson or Randy Baldwin, and they are the specialists. Unfortunately I can't help you there.

So there are two rulemaking projects that I'm currently involved in. The first one involves basically updating the regulations for life floats, life rafts, lifeboats, and releasing gear. And that rulemaking is very close to being open for public comment, I'm thinking maybe later this summer, early fall.

The second rulemaking I'm working on involves updating the regulations on immersion suits and PFDs. That one we just submitted a scoping document, so that's going to be down the road, maybe public comment in a year or something. I'm not really sure.

Some highlights of these regulatory projects, I've got half a dozen for each. For buoy apparatus and life rafts, we've updated all the references in the regulations, the international IMO, ISO, the industry, military specs, all those references have been updated and they are accurate so when you look up a reference it actually goes somewhere.

Second, the inflation system standards for inflatable life rafts have been upgraded, an ISO standard. The interior lighting standards have been upgraded, also weight standard for testing for the weight of the persons on board was 75 kilograms. It's now 85 kilograms, so that means all the tests that require you load the raft with all the gear and people on board is going to be much more weight and to pass a test it's going to be a much stronger raft obviously.

Fifth item came from a committee recommendation, a sea anchor positioning specified. It was never specified before and you had to have one but didn't tell you where it had to be positioned on the raft. So I actually got that inserted into the reg text. This will be open for public comment. If you don't like the way this is worded you'll be able to comment on it, but this is what I came up with, "Sea anchors must be attached to the raft so as to orient the primary entrance away from the seas as far as practicable while still allowing the sea anchor to be retrieved by a person inside the raft." That came from your comments specifically.

MR. MATTERA: Six inches away from the –

VOICE: (unclear);

MR. O'LEARY: I see on the biking rafts, here's the door, and they're right on that side where they can reach it, where if we could put it that far and have maybe a little strap with a piece of Velcro or something to hang on, that would solve that problem, and then we'd have both. It's a tough one. But you can see the problem. It's pretty simple.

LCDR GAMMA: Um-hum, but it's in the regulation, and that will be open for public comment, so we're trying to do something about that.

MR. O'LEARY: Yep, you're doing good.

LCDR GAMMA: Last item, "Survival equipment must be replaced at the time of servicing if less than six months remain until the expiration date." It used to be that while the rafts were being serviced the expiration date could be tomorrow, to pack up the raft and send it off and it's in there, and it's okay. It's not expiring until tomorrow, that's changed. If it's less than six months, you got to replace it. So those are the highlights from the life raft rig project.

Highlights of the immersion suit reg project, the first one is—again this was from a committee recommendation—the caution wording on the bag, and actually we got that put into the UL1197 standard, it's already in there. We got the following words put on the bag: "Caution, suit may not fit all persons at extremes of marked height and weight ranges. Try on suit while wearing garments typically worn on the vessel." That's in the UL 1197, something that came out of the discussions we've had, and we're going to get that put into the regulation, make it part of the CFR.

Also with the immersion suits we need to harmonize with the IMO testing standards. That really has nothing to do with you all, that mainly has to do with the manufacturers and how they're going to test these, and UL.

MR. STANFORD: Sir, I have a specific question about the testing. Are you familiar with the UL 1197?

LCDR GAMMA: Pretty familiar, yeah.

MR. STANFORD: Can you describe to the committee the carbon arc testing for the fabric?

LCDR GAMMA: Carbon arc testing of the fabric? No, I can't.

MR. STANFORD: The accelerated aging test?

LCDR GAMMA: I can't explain it to you off the top of my head, no.

MR. STANFORD: Okay. Well, this committee worked last time in trying to understand the useful life of immersion suits, and part of our discussion included the testing of the fabrics, the materials that make up those suits to try to understand what would be a useful life. Have you been in any of those meetings at industry discussions regarding useful life?

LCDR GAMMA: For immersion, no, I have not.

MR. STANFORD: Okay. Thank you.

LCDR GAMMA: Sorry. To harmonization with IMO testing standards, and then also upgrading, updating all the references in the subchapter. Lights and whistles meeting the LSAA code must be attached to the immersion suit. Immersion suits will require buddy lines and lifting straps; this is all part of the harmonization with the IMO. Also, there's been discussion in the committee about servicing of immersion suits, so I took it upon myself to put in a section concerning servicing of immersion suits. It's going to be open for comment, and that's part of the process of formulating a good regulation, so I don't promise it's going to be perfect.

I can't give you too many details because it gets into the whole ex parte communication thing, but I came up with a periodic requirement where a new immersion suit you'll have a period of time, and as it gets older more frequent inspections. I drafted so it's similar to, if you're familiar with the life raft servicing requirements it's along those lines except that it uses the MSC circulars which we reference in the NVIC, if you're familiar with the NVIC 01-08, talks about inspections and servicing of immersion suits. So it will include some of those ideas in the regulation.

CHAIRMAN DZUGAN: Mr. Gamma, can I ask you about this harmonization, just to bring everybody up to date on this the new SOLAS requirements for immersion suits that involve lifting harnesses and buddy lines and they are required to be on SOLAS ships after July 1. And any suits bought after July 1 need to meet the SOLAS 2010 requirements. Because the Coast Guard has dual, meets both Coast Guard standards and SOLAS requirements, is this going to be a problem for a commercial fishing vessel which is a non SOLAS vessel if they buy a suit after July 1 and it's not a SOLAS 2010 suit?

LCDR GAMMA: That's a question I'm going to have take up with my boss. Nobody's going to be made to throw their suits away and buy a new suit. The manufacturers obviously can't continue to manufacture these other. They will not be approved after July. So what you're saying is, can they purchase—they shouldn't be purchasing. If they go to purchase it should be one with the latest approval.

CHAIRMAN DZUGAN: Exactly, and this is the problem. I just want to get it out in the open so it's not a problem after July 1. A lot of those pre SOLAS 10 immersion suits are still going to be in the retail pipeline. And it would be very easy for a fisherman to buy a suit that is a pre-2010 suit because they're going to be out there for months, in some cases

for years, another year or two at least before the store in rural Alaska or someplace gets rid of its inventory. If there's a dockside examiner after July 1 who says, oh by the way, these suits don't pass, and you go to a local marine supplier and pick up those old suits, we'd be interested in not seeing this to be a problem. So the time to correct that is maybe now rather than after the fact when there are problems.

MS. HUGES: It seems like another potential problem would be that if say you had a fatality of someone who got into a suit and it had been purchased after July and was an older version, inadvertently, would you have not had the best equipment available, and possibly have more liability exposure.

LCDR GAMMA: Sounds like we need to get some educational materials out to the inspectors in the field.

MS. HUGES: Well, and I think get it to people like us that can disseminate some of that information to people we have contact with.

LCDR GAMMA: That will be one of the things I do when I get back to Washington.

MR. O'LEARY: Got to get it out to all the fishermen so they're not buying them either.

CHAIRMAN DZUGAN: The other thing is a written policy so everybody can be reading off the same sheet, and we have a standard. We already talked about we've got one coast does this, the other does that, and this is something you'd also want a universal standard about. Thanks.

MR. JACOBSEN: I have a question on life rafts, a comment before he goes away. Reading from page 31 from the *Katmai* incident report: "The seas and winds at the time were heavy causing lift rafts canopy to begin coming apart from the raft. The immersion suit gloves made it difficult for the seven survivors to secure the life raft's canopy to the lift raft. According to testimony, the processor foreman partially removed his immersion suit in an attempt to secure the canopy, but soon after a wave caused the life raft to overturn, detaching the canopy and throwing the six remaining crewmembers and EPIRB into the water." Is there something that can be done so we don't have to worry about tying the roof on the raft?

MR. DAVIS: I think that's already been addressed by existing standards, and that raft predated those standards.

MR. JACOBSEN: Okay, thank you.

LCDR GAMMA: Those are no longer approved. So that's my update on our regulatory upgrades, updates we're doing. The last item on the agenda had to do with the life spans of equipment, and I hate to do this but I'm going to read the comments from my boss, Kurt Heinzs, because it's well-worded and I think this is where we stand with this right now.

He says: “The idea of establishing expiration dates for life rafts and immersion suits has been a subject of international discussions off and on in IMO for some years, and frankly hasn’t gained much traction. The general concern which has a lot of merit is that if you establish a uniform service life two things will inevitably happen: one, lots of perfectly good serviceable and expensive equipment will be discarded simply because it has reached the established expiration date. Two, lots of equipment that’s no good will be kept in service well past its useful life simply because it has not reached its expiration date. Both life rafts and immersion suits are made with a wide range of materials and design concepts, and subject to a practically infinite range of environmental storage and maintenance conditions. Establishment of uniform service lives could perversely disincentivize production of higher quality products and conscientious maintenance because they would provide no perceived value; whereas, product-specific service lives established by manufacturers would almost certainly become marketing tools rather than a meaningful performance parameter. Accordingly, the preference has consistently been for periodic tests and inspections to evaluate whether equipment remains serviceable over time rather than applying an arbitrary mandated service life.”

CHAIRMAN DZUGAN: I disagree with almost everything in that statement, but I will let Mr. O’Leary speak first.

MR. O’LEARY: Rafts are made of different materials, and some materials, like a heavy rubber the glue’s going to stay strong because it bonds better than say if it’s poly and the rubber that glue’s going to deteriorate faster. So what if we made it so it goes with the different types of rafts? If a raft was built for 18 years because of the material, heavy raft, it might work. But these lighter rafts, the ones that’s built thinner, now those the lifespan on them just shouldn’t be 18 years. So maybe we have to make it a little bit more specific. Do you think that might have some merit? Can we do something like that?

MR. MATTERA: I think it comes down to marketing. You got products out there, and everybody wants you to buy their product, and unless we set minimum standards on the material that’s used, the thickness of the material, the means of bonding to the material and everything else, in order for such and such to sell his raft he’s probably going to skimp on a few things just so that his raft is \$400 or \$500 or \$600 cheaper than the other person’s raft, and hoping that he’s going to sell more rafts.

So unless I believe we set some minimum standards on the material and the use of material, the fatigue –

LCDR GAMMA: That’s already in existence.

MR. MATTERA: That exists? I looked at some rafts at Lift Raft and Survival two weeks ago. I walked in and he had three of them. It was like going into a showroom and seeing Cadillac’s. They looked so good. Then when I walked over to them and spoke to the person that runs the facility, he said, oh, these really are not what you want on your

vessels. Look how thin they are. And when you picked it up and really looked at it, looking at it from a distance they look really attractive. They had all bells and whistles and everything. But the material was very light, very skimpy, and when you went back and looked at others, Revere's, Avon, Switlink's, it was amazingly different. So maybe there's a minimum.

LCDR GAMMA: These were approved life rafts?

MR. MATTERA: Yeah.

LCDR GAMMA: Coast Guard approved?

MR. MATTERA: Yeah.

LCDR GAMMA: So they were run through a battery of tests to be approved? Serviced annually to make sure they are still serviceable?

CHAIRMAN DZUGAN: We'll take Mr. Davis's comments. Since we've been through a lot of this discussion already, despite my own passion for this, and in part because there's a rulemaking already in the process on this, we'll take a few more comments but we can get in a big hole here about this. Mr. Davis?

MR. DAVIS: I just wanted to point out to John and Fred, one thing we constantly face every day is advancements in materials, so subjectively something that feels thin may or may not be stronger or better. If we went back 30 years and you handed a piece of half-inch spectra to a guy and told him it was stronger than one-inch wire rope he would tell you, you were full of stuff. I like performance standards so you torture-test it, blow it down the road behind a jet engine, drag it behind a pickup truck, whatever criteria are set to torture them, and that would be where I'd want to go with stuff. But yes there is the question of how long can anything last, and is it tested and rated by the manufacturer, or warranted by the manufacturer?

MR. MATTERA: I agree with that.

CHAIRMAN DZUGAN: Ms. Hughes, and I'm going to let Mr. Gamma finish his presentation.

MS. HUGHES: Besides the materials, you have features that have evolved over the years like the boarding ramp and some features on the life rafts that have been critical to saving lives. To be carrying rafts that don't have boarding ramps, don't have the better buoyancy, the better ballast pockets, it's a bit foolhardy in certain waters particularly.

LCDR GAMMA: Mr. Davis stated we're already torturing these rafts to make sure they are built to a certain standard. We're testing them every year. The production coming off the line is being monitored by third party independent labs. We're doing all this stuff. The problem is with these ancient rafts, with the cabin raft. I'd like to throw this out

there, maybe it's a terrible idea, but I was thinking as I was sitting over there, an idea, I'll read my notes: "rather than proposing useful life, it would be better to require vessels working in cold water fisheries to carry a 46CFR 160.151, a SOLAS life raft. This would have the effect of, one, phasing out all old life rafts, the ones built before 1991 and, two, providing a better life raft, i.e. improved stability, larger ballast bags, more insulation, etcetera, for vessels working in these harsh environments. But then this would be going to Jack's court with a 46CFR 28 carriage requirement."

That's what I would suggest.

CHAIRMAN DZUGAN: That brings up in the *Katmai* report, it mentions one of the recommendations, refers to pre-1997 rafts, and I believe that was a typo. It should be 1991. I just want to make that on the record so that's corrected. Mr. Brown is representing U.S. Marine Safety Association.

MR. BROWN: Thank you, Mr. Chairman. There were a couple points that I think need to be addressed, and one is that while there are a variety of fabrics approved and manufacturing techniques, one element that hasn't been discussed is the relationship between the service station and the vessel operator. I went and pulled a number of USMSA members at our service stations and asked them when a 15-year service comes up on a life raft, what are the first words you say to the master who brings the raft in? Their answer across the board was, "This is going to be expensive." You might consider replacing this life raft at this time.

So the discussion and decision about construction of the product itself eliminates one important element which is the master has the option and is most often afforded that question of replacing the product as it ages because the cost of service continues to increase as the product ages. Thank you.

CHAIRMAN DZUGAN: Thank you. Mr. Gamma, want to continue?

LCDR GAMMA: That's really all I have. I'll answer questions if I can.

MR. MATTERA: I have a couple questions. On immersion suits, I didn't catch everything you said. Your comments were based on the described weight and sizes that individuals should try on the suits with their general working clothing, so there's no problem with a specific type of suit that says "this universal suit is good for a person 6' 3" 330 pounds." I'm 100 pounds less than that, and I can't get into it. So there's no problem with stating that, as long as you are basically trying to put the onus on the individual that he should go and try that suit on.

LCDR GAMMA: Yes.

MR. MATTERA: The skipper that goes and buys six suits, not knowing what he has for a crew, just so he has suits for the crew and goes out and all brand new suits and says, Well, I might have two big guys so I'll get a couple of jumbos and I'll get four of these,

and gee, just look at the sizes that's stated right on the raft and on the suits, says, oh, this will cover it. And off he goes and brings them back and crews change all the time, because the crewmember themselves don't have their own specific, personal immersion suit. So you don't have a problem with a manufacturer that is just way out of line with the specs.

LCDR GAMMA: You shouldn't way out of line. They're tested.

MR. MATTERA: Not way out of line—they are so far. I said 100 pounds.

CHAIRMAN DZUGAN: We saw that in a demonstration right here in this committee meeting, I believe the last time. A person who was 100 pounds less than the limit couldn't zip it.

MR. MATTERA: I can't get my shoulders in the suit.

CHAIRMAN DZUGAN: Craig went to put on a Stern suit. I have the UL spec open right now. It says an adult size immersion suit shall be constructed to fit persons ranging from 110 pounds to 330 pounds. That's the adult size. We don't even talk about the child size. It says an oversize adult immersion suit shall be constructed to fit persons too large for adult suits. The reason for this change in language on the bag that Mr. Gamma's talking about is to help move in some direction to put the onus on people buying that to know that one size doesn't fit all, as the size indicator might say from 110 to 330. That's a positive step I see.

MR. MATTERA: Take the word "universal" out too.

CHAIRMAN DZUGAN: The UL spec further states, and this is pertinent to the conversation, that to test for this fit test individuals are selected and they're supposed to wear underwear, short sleeved or long legged, a shirt long-sleeved, trousers but not woolen. They're supposed to wear woolen or equivalent synthetic socks and rubber soled work shoes to prepare for the donning test.

MR. DAVIS: Where's my sweatshirt? Now everybody wears a sweatshirt.

CHAIRMAN DZUGAN: I had this UL spec. I'm not allowed to legally broadcast it, but I can leave it up on my computer if anybody wants to come look at it. Mr. Gamma, continue, or are we done?

LCDR GAMMA: That's all had to share.

MR. MATTERA: Excuse me, I have one more comment. Lights and whistles, you're harmonizing everything with your standards, so what about these Cyalumes, the sticks, the light luminescent sticks? Are we getting away from these things? They are just a joke.

LCDR GAMMA: I believe so. I don't think they –

MR. MATTERA: Going all for strobe or flashing lights?

LCDR GAMMA: Yes.

MR. MATTERA: Good. Excellent. I know that was in our motions last year.

DR. LINCOLN: Could you state what the expected date is for the notice of proposed rulemaking?

LCDR GAMMA: I don't know the exact date. I was guesstimating late summer, early fall. Does the committee have a way of being notified when this is – okay. I want to make sure you all get an opportunity to comment.

CHAIRMAN DZUGAN: Thank you, Mr. Gamma. I suggest we take a 15 minute break, come back top of the hour.

[BREAK]

## **DISTRICT ACTIVITY REPORTS**

CHAIRMAN DZUGAN: We're going to have activity reports from different Coast Guard coordinators from around the country and I know this usually generates some discussion. If I did my math right, in the hour and half we have left we have about 15 minutes per region, so if we can kind of keep that as concise as we can, and I'm sure there will be questions and discussion, but we'll keep moving along. Since we always start at the 1<sup>st</sup> District and go up the numbers, I thought today we'd start with District 17 and go down the number list.

As a reminder for committee members so people in the audience can hear, if you'd use your mics, and do that. If you want to give a comment from the audience, make your hand really visible because sometimes I can't see it from here.

### **DISTRICT 17 Presentation by Ken Lawrenson**

MR. KENNETH LAWRENSON: Mr. Chairman, members of the committee, thank you for having us and inviting us, making sure we're here. I think it's important for everybody we develop a good synergy and I think it revitalizes everybody, not only you guys but us as well.

The District 17 report, I'll cover a couple items real quick, talk about pulse operations and very briefly about the *Katmai* report investigation only to give you a foretaste for tomorrow's discussion. I think, Mr. Chairman, you put that on the agenda for tomorrow afternoon. I'll briefly touch on that.

I was asked to provide preliminary information on the investigation into the Northern Belle loss, and then I was asked to give a short presentation discuss the Aleutian Trade Act and the cargo for hire, freight-for-hire issues as regards fishing tenders.

I have one other thing, Mr. Chairman. I was able during the last break to get a copy of the 4100 F boarding form, and so there's no misunderstanding there is in fact no seaworthiness block on that form. There's a block for "material condition, satisfactory or unsatisfactory," and a place for the boarding officer to indicate that the Marine Safety Office should be recommended to do a follow-up, so material condition then and the other item is "stability and stability instructions." So nowhere is there a seaworthy block on the 4100F.

CHAIRMAN DZUGAN: Thanks for clarifying that, saved us a lot of discussion.

MR. LAWRENSON: Pulse operations are the cornerstone of the D17 strategic plan. My boss has been leaning on me for the last 2 ½ years to update Sue Jorgenson's 2006 to 2009 three-year strategic plan for the 17<sup>th</sup> District. I was able to do that earlier this year. We got the blessing on that from the front office. Really what we tried to do was to address the 17<sup>th</sup> District strategic plan to orient our efforts towards the mitigation of what

we could identify as high risk. So the pulse operation is a concept we see as the intervention for a high risk fishery-specific issue or set of issues that we've been able to identify either from a casualty record, from poor compliance history or where we don't have any information at all such as new fisheries where we don't know if it's high risk or not we're going to assume until we figure out otherwise that it is a high risk fishery, or fishing behavior. I can talk about that offline if you have a question.

The important thing about pulse operations in Alaska is that we are very geographically spread out. The distances are immense and so to bring Coast Guard resources together where we have fishing industry presence is sometimes difficult. So we look to be able to achieve that time-specific, place-specific concentration of our prevention forces, our law enforcement forces, with the fishery as it's being prosecuted or being readied to prosecute.

Once we identify that kind of nexus, then we look at what sort of intervention we can tailor to the specific risks we've identified per that fishery. I use an acronym SCC, Safety Compliance Check. Some of our interventions are SCCs, some are dockside exams. You're familiar with the dockside examination where an examiner will go on board and look at all the vessel's applicability with the regulations. So they go through everything from the very important items, survival suits and EPIRBs and life rafts all the way down to fixed piping in the bilge that if it's over 100 gross tons for getting spent lube oil out of the way without spilling that into the environment.

A safety compliance check is a specific short checklist that's been developed of those items that we see as important to breaking the causal chains or to improve the safety environment for those mariners. The classic example is the Bering Sea crab during the winter. This was an operation that came about specifically because vessels were rolling over, we were losing an average of 7 to 8 commercial fishermen a year in those derby seasons. So a number of individuals identified a stability problem, and so the SCC for that operation became looking at the lift raft to make sure it was installed correctly, looking at the EPIRB to make sure it was going to work, but most critically take a look at the vessel's stability book, figure out what her loading condition was, what the allowable pot limit was from the naval architect, and then quite simply count the number of crab pots on the back deck. If there's a mismatch, the vessel doesn't go to sea. That was the compliance check, the pulse operation.

So we draw a distinction between doing these very specific tailored interventions with an SCC versus going out and doing a dock side exam. There are some fisheries for example in Petersburg in SE Alaska where we've started out treating those as a fairly high risk fishery and concentrated on those few top items and as time went by we found it wasn't the problem that it had been, that things were improving. However there became other reasons for vessels to have dockside exam decals. For self-insurance purposes and other reasons. So that operation now became an opportunity for the Coast Guard to go out and do dockside exams in a large-scale operation.

However the SCC is designed to be a short, specific, 12 to 15-minute check—we're on, we're off, we're not holding these guys up.

Outreach and communication is a crucial element of the pulse operation. The industry has to know that we're coming, what it is we're going to be looking for and what we're going to be doing and what the consequences are. We found you have to have the stick with the carrot, and so we'd figured out a credible law enforcement consequence for those who either won't comply, can't comply, won't participate and because of vertical alignment where we have sectors now the same sector commander that has a prevention team to go do dockside exams and SCCs on the one hand also has 110 foot patrol boat on the other hand. So the dockside exam guys show up to do their thing prevention-wise; two days later before the fishery opens the 110 sails over the horizon and she's going to board vessels that have been identified as being noncompliant and not participating in these dockside efforts.

So that in a nutshell is where we're trying to take most of our interventions in the 17<sup>th</sup> District because we find we get the biggest bang for the buck, we're targeting the most high risk parts of the fishing industry, and it's the most effective and efficient use of our limited Coast Guard resources.

Next item I want to talk about briefly, give you an overview of the *Katmai* report of investigation. It was signed by the commandant about 3 weeks ago, released publicly on the 5<sup>th</sup> after it cleared some congressional staffs and next of kin notifications. It's available on-line at the home port Coast Guard website. I know Jerry has forwarded those links on as well.

The report of investigation makes 31 recommendations including inspection and stability requirements, monitoring of water-tight doors, licensing of masters, various revisions to part 28, enhancing drills and training, and life rafts and survival suits, amongst other lifesaving equipment.

Commandant has made comment regarding those recommendations, and I'd imagine Mr. Chairman that's going to be debated and discussed tomorrow as well.

The report found the following primary causal factors were responsible for the loss of the *Katmai*: imprudent voyage planning given the forecasted weather conditions; failure to maintain water-tight boundaries; excessive loading of cargo in the vessel's hold; exposure to heavy winds and high seas; and they were unable to determine the cause of the engine room flooding.

After the report was released to the public the 17<sup>th</sup> District released a safety alert, some of you may have seen. It got pushed around by Richard Hassock on his e-mail tree. We sent it to some of our Alaskan and Pacific NW contacts, and we've taken what we consider to be between the *Katmai* and several other recent vessel losses what we consider to be the big stability lessons learned that we want to reinforce to our Alaskan commercial fishing.

Basically overloading the vessel, maintaining water-tight integrity, limiting free surface effect, and maintaining bilge high-water alarms.

It's nothing that hasn't been heard already. We felt it needed to be said again.

On April 20 the fishing vessel *Northern Belle* capsized and sank about 15 nautical miles SW of Prince William Sound in the central Gulf of Alaska. If you read any of the media accounts you know the captain did not survive the sinking, is being hailed as a hero for staying behind and making a Mayday call. It's possible he was killed in egressing the vessel at that point. We don't know at this point. However, the three crewmembers were saved after 2 ½ hours in the water. There were some issues being looked at, I'll talk about in a second. That vessel's last dockside exam was in June 2004. The lucky dockside examiner is speaking to you now. I had no idea at the time, and I hate it when that happens. It was in Bristol Bay tendering salmon during the June salmon gill net season when I took a look at that boat last. Didn't give him a decal, they had some problems, a short work list, and those items apparently were not addressed by the Coast Guard for any follow-up. We believe the vessel was acting in a capacity as a tender, and because I have that in quotes I'll define that when we talk about cargo for hire. Carrying cargo from Seattle to Dillingham which is in Bristol Bay we believe it was carrying cargo for one of the fish companies, and that's one of the primary focuses this ongoing investigation is looking into, the exact nature of that voyage. We're trying to factualize the type and amount of cargo loaded on board the *Northern Belle*, the stability conditions of the vessel. There were problems with the deployment of the life raft. None of the crew were able to get into that life raft. That's something being looked at very closely. And there was no receipt of an EPIRB signal. That apparent failure is another focus of this investigation. They're looking into a number of different avenues, and that's as specific as I can get now.

This brings me to the Aleutian Trade Act and Cargo for Hire. Aleutian Trade Act passed by Congress in 1990 just after the Commercial Fishing Vessel Safety Act of 1988. The ATA was intended to allow those vessels that were operating carrying cargo to remote Alaskan communities which at the time of the ATA were generally well-recognized as being largely commercial fishing-based to allow those vessels to continue in service despite being uninspected while at the same time insuring that they came into a phased-in period of having to comply to a higher set of safety standards. If you look in 46 CFR part 28, subpart (g) is that part that's back there, got a lot of requirements. Nobody ever enforces all of it because it applies to like 20 ATA boats. But that's the set of regulations that apply to these guys.

Congress specifically identified 20 vessels in service at that time, so the ATA allowed Congress to make the allowance in the law for a those vessels to remain grandfathered, bring them up to a higher safety status and remain in competition with other vessels already in service carrying freight but that were inspected—either barge traffic or freight ship traffic.

Congress saw the need to ensure that service to rural remote Alaskan communities as providing that incentive to allow the tenders to continue without having to come into inspected status.

The Aleutian Trade Act area is very specifically defined in regulation. This map from Dan Hardin, that line at 153 degrees west cuts through the middle of Kodiak Island and goes westward to the end of the Aleutian chain. So that was the area those vessels were envisioned being able to remain in service, a service they'd been in for in some cases decades competing with larger vessels from Sea Land and APL and some of the larger transportation companies.

Nothing is ever easy, and this issue is not cut and dry. As defined in the regulations a fish tender vessel and pretty much I think about 98 percent of the tenders out there are operating in the 17<sup>th</sup> District, it's defined by the regulations as a "vessel that commercially supplies, stores, refrigerates or moves fish, fish products or materials directly related to fishing or the preparation of fish to or from a fishing, fish processor or fish tender vessel or a fish processing facility on shore."

So it's this general grab-bag which says you are a fishing industry vessel as long as what you're doing is related to commercial fishing.

The US Code discusses exemptions from the inspection requirements for vessels carrying freight, and some of those exemptions rely on the vessel status as a fish tender or not. This is very complex piece of decision, and we're still in the process of trying to relearn it. We go through a cyclical period every 7 or 8 years, turn over enough people and forget what we knew last time, so we have to go back to 20, 25-year-old documents and try to reeducate ourselves on the ATA process and this cargo-for-hire. There are a lot of questions that need to be asked that are specific to the vessel: What is it carrying, where is it going, is there a common carrier service to that location? It becomes a very difficult, in some cases, determination to make. We almost always get the lawyers involved when we try to make these decisions.

Thank you, Jerry. I appreciate that. If anyone has any questions, that's my prepared remarks.

CHAIRMAN DZUGAN: Thank you, Mr. Lawrenson. Mr. Jacobsen.

MR. JACOBSEN: Ken, can you define "for hire," because the practice of most fish tenders when they start out the season is that they'll take a deckload of bags of salt or some other equipment up for the processor they're working for, but they're not on the payroll yet until they actually starting tendering. So that would be considered "for hire," or is there a legal definition of that somewhere that would make them subject to the regulations?

MR. LAWRENSON: There is a legal definition. I'm not a lawyer and I'm still not entirely sure what it is. It was in the original congressional record that when they

discussed the practice of a “fishery company or processing company, a plant, moving vessel equipment, moving processing equipment, moving bags of salt, cardboard boxes, lumber for docks, at the beginning of the season to pre-deploy for a fishery and then to bring it back down to civilization after the fishery ended, that was intended to fall within the definition of a ‘fish tender.’” So if a vessel is conducting those activities then I’d be pretty confident saying we’re going to look at that vessel as a fish tender and not as ‘for hire.’

CHAIRMAN DZUGAN: Any other questions for Mr. Lawrenson? We’ll have further discussion of the *Katmai*. Thank you.

Count backwards, District 14, Mr. Hardin. Looks like he’s beaming something up. While he’s setting that up we’ll hear from Mr. Kemerer about D14.

### **DISTRICT 14 by Jack Kemerer**

MR. KEMERER: George Butler couldn’t make the meeting, so he sent me a little bit of information, just basically the deep water tuna fleet is out in the Pacific and seems there’s always issues to deal with that. Several months ago one of the 378s, one of the cutters did a patrol out through the South Pacific for Fisheries Enforcement, in cooperation with some of the other states out through there. They were able to board a couple of the tuna fleet vessels. There were two voyages terminated because of discrepancies, and one example, one vessel had a steady stream of water coming into it and they were just keeping up with it with the pumps and going to keep fishing. So they got that stabilized and made him go back in and fix it.

There’s an issue with observers on those vessels. NOAA does not provide observers on the tuna fleet, the purseiner’s, under the treaty they are provided by the FFA association, so there’s an issue of trying to decide if we might be able to apply the exam requirement on those vessels because they do have an observer or no observer, so we are looking at that and some other options as well.

One thing we ran across here recently, those vessels are required to carry an international oil pollution prevention certificate, and in 33 CFR if you have dealt with those and you look at it, it says “for uninspected vessels the certificate is good for 5 years,” and uninspected vessels can have only a mid-period exam check rather than an annual that’s required on inspected vessels. Well, MARPOL requirements changed some time ago, and even on uninspected vessels there’s an annual check required for the IOPP certificate, so we have a little conflict between our regulations and MARPOL requirements. So that’s being corrected. There’s a reg project in move, but in the meantime there was guidance went out to those purseiner’s that they didn’t have to have an annual check. So we are trying to resolve that issue.

He got some additional auxiliaries out there to do exams, and that’s what he wanted to pass along. Sends his greetings and regrets he couldn’t be here, so.

CHAIRMAN DZUGAN: Mr. Kemerer, is there any update on the distant water tuna fleet as far as being brought into oversight in the safety regulations?

MR. KEMERER: Yes. The Coast Guard authorization Act in 2006 ran an exemption to these vessels, and currently there are 39 vessels in the fleet that as long as the master was a U.S. citizen, everybody else on that vessel could be foreign. That exemption expires this year in July, so there's a move afoot to try to extend that or to make it permanent, and when the Coast Guard was asked their feelings on it we provided comments to those who will make a decision or make it into legislation. We've asked for an annual exam on those vessels in a U.S. port because they otherwise don't really come in. Some come to Samoa, some to Guam occasionally, so we'll have to see whether it's in this year's OS bill or some other bill. Some of the operators say it's finances, economics come into play, and if they have to hire all U.S. crew the expenses will be much more. They may go out of U.S. flag, go out of U.S. documentation. So we'll have to see what happens.

CHAIRMAN DZUGAN: Thanks for that update. Personally I'm glad you asked for that authorization. Any questions for Mr. Kemerer? Moving from warm Pacific waters up the line, Mr. Hardin.

## **DISTRICT 13**

### **Presentation by Dan Hardin**

MR. DAN HARDIN: Thank you, Mr. Chairman, committee members, thanks for the opportunity to come speak with you today. I'm from the 13<sup>th</sup> Coast Guard District, Oregon and Washington our area of operation, but I share a fleet with Alaska, so Ken and I are usually talking on a daily basis, recently about Aleutian Trade Act. So we have a shared fleet, and we continue to communicate.

I've got a slide to give you an overview of our fatalities. This is about the norm for our district, and each year we wind up with about 3 deaths. I thought it would be interesting to note what had occurred 4/14/2009. We had a vessel go down, the Rene Marie, one death. The vessel didn't go down, but was in trouble, foundering. Helicopter got on the scene and, because of the condition of the vessel, the helicopter had the people leave the vessel and get into the water. At some point the master of the vessel succumbed to some form of heart attack during the evolution, and died during the rescue. The other two crew members lived.

The other 2 fatalities we have are man-overboard fatalities, and rather than go into the specifics I'll leave that to Dr. Lincoln and Devin. That's definitely one of our concerns, man overboards. I appreciate you are wearing a life jacket, Leland.

Next thing is pulse operations similar to the folks in Alaska. We have one fishery we're concerned about every year, our Dungeness Crab Fishery off Oregon Coast, although we're also concerned about the Washington Coast. But the highest occupation fatality rate we have is Dungeness Crab Fishery off the Oregon Coast. Dr. Lincoln spoke of this last year and we continue to try to make a dent in the fatalities from this fishery.

Here you see a crab vessel and it's fully loaded with pots. These vessels don't have stability letters so we can't necessarily say you're overloaded, but to look at the vessel it's obvious the vessel is overloaded. These are the things we try to catch before they get underway, so we do similar to the 17<sup>th</sup> District and have a SCC we do with these vessels and try to determine if a vessel is overloaded. We say, if you don't have at least 6 inches of free board we believe you're overloaded and you need to remove some pots. But again, we don't have any stability book that tells us that, but we have established 6 inches of freeboard should at least be available for the vessel.

Based on information I received from NIOSH folks we're 6.8 times higher than the national average for all other commercial fisheries with our fatality rate based on number of people operate in the fishery. This last year 2009 we did several different operations, mostly ran by our folks at Sector Portland, Mr. Curt Farrell and Mr. Mike Rudolph who are here today, and if you have specific questions about what it is they're doing they can certainly answer some questions.

We're examining them for the primary lifesaving equipment, doing a vessel material condition survey to determine the seaworthiness of the vessel best we can. We look at their loading practices, as I showed the picture of the one vessel overloaded. We used a lot of people to hit the docks all at once, so we had 2 separate pulse operations we did, the first a 3-day period and later they did some more of the boats. We used not only active duty folks but our Reservists, civilian employees and auxiliary members and use them from a lot of different units. We used some folks from 13 District staff, Sector Portland, Sector Seattle, Sector Juneau came down, Sector Ketchikan, Station Chetco River, Station Coos Bay and Group Astoria. We inundate the docks and try to get on board as many vessels as we can to ensure their survival crafts will float free, that the EPIRBs will work and their exposure suits are in good shape. A lot of work done by a lot of folks.

We conducted total 249 vessels all the way from Brookings, Oregon to Neah Bay, had 8 teams worked over 810 man hours, checked 249 vessels, corrected discrepancies on 18 life rafts or survival craft and 20 EPIRB corrections and 19 immersion suit discrepancies and various other discrepancies during the pulse operation. They also got the Outstanding Team Award from our district commander at the completion of the operation, which I was proud of.

Additionally, Sector Portland has worked to provide drill conductor training up and down the various ports. There's a little bit of a vacuum in the Oregon area for this drill conductor training, so they've tried to fill that void, so in 2009 they conducted 10 drill conductor classes for 172 fishermen, 3 sea safety classes for scientists and some other folks, and assisted in providing survival trainings for the NIPUS observer class of 24.

Sector Portland has provided other trainings, stability classes, 3 full day classes at various ports in Oregon and provided 46 folks first aid and CPR classes.

The folks in Sector Seattle, since they have the MPFDOA that provides that training, have assisted with the MPFDOA best they can or anybody else that's conducting drill conductor training by bringing the stability trainer out or our damage control trainer. They help with that. Everybody's doing as many docksides as folks will let us on board their vessels.

Up at District, we've tried to expand our ability to handle information both inside the Coast Guard and folks outside the Coast Guard, so I've concentrated on providing a website, our internal website, working with Ken to set up a strategy for managing the amount of information we have and combined letters we generate, so we are developing a way to search the documents developed by our two districts so we can easily find various topics already touched on from previous communications to the industry. Then I'll move a lot of stuff to an external website that folks in our two districts can visit and get this kind of information. I've heard during this meeting that information is not getting out to the folks in the field, so once we get that developed we'll advertise and folks can come and find a copy of a 4100 boarding report form or 4100f for the Coast Guard 5587 we use for doing dockside exams. My plan is to develop YouTube type videos that explain what we're looking for when we come aboard a vessel. So you can go and view a little video on what are we looking for when we look at a Life Ring? Or Your Survival Suit. What are the key things we're looking for? They are real easy to do. You don't have to edit them. They are really rough but they just explain what's going on, and I'm working on a lot of those things to communicate better to our folks.

Another thing I've worked on is a way to provide basic stability training, so I put together a little flash demonstration. This will eventually be on our website for fishermen to view. I sent a copy to Jerry and his folks at AMC to review, sent to Ken, looking for feedback how to make it better. I wanted to show you a little bit, it's interactive. It has a voiceover I won't play because it's my voice. I can see doing this in other languages if other folks wanted to view the stability presentation. It's self-paced, you go through it on your own, has a voiceover and verbiage you can read if you want. For example, it starts off talking about Archimedes principle, and what the heck that's all about. We start off by weighing a simple boat on a scale, so I made a little animation there that shows the weight of the boat on a scale. Then we pick it up, move the scale out of the way, put a tub of water below the boat and show what Archimedes principle is all about. We fill the thing up with water, overflow spout and a little tank to catch the overflow and then we drop the boat in the water and displace the same amount of weight the boat is. So it teaches a simple stability concept. It goes in further. I have a vessel, talk about buoyancy, center of gravity, animated, so. It has a voiceover, so when the boat keels over you can see what's happening to the center of gravity. Just some ideas of ways to provide some additional training to fishermen on what the heck is basic stability all about. It comes from if you saw the Canadians had a little stability book. It's that book only animated, so hopefully that will help people understand.

Next thing is compliance and safety agreement. Jack had asked we do a presentation on that, so I'll hand that over to Mr. Troy Rentz who was hired as our compliance and safety

agreement manager at the district office. So he's going to give us history on the ACSA program and where it is we have the vessels at this point in time.

## **ACSA PROGRAM HISTORY**

### **Presentation by Troy Rentz**

MR. TROY RENTZ: It's a pleasure to be here, Mr. Chairman, committee members, and I'm happy to talk about the program. I'm pretty proud of it. It's a program that I really was kind of skeptical coming into fresh. I came from the Gulf of Mexico and we didn't have anything like this. But after working with all the stakeholders, I think we got something going here that's really good. It's got a lot of benefits to it, so I'm proud to present.

What is the Alternate Compliance and Safety Agreement, referred to as ACSA? It is a voluntary program for Bering Sea, Aleutian Islands and Gulf of Alaska freezer long-liners and freezer trawlers. Here's an example of one ACSA vessel, the *Bering Prowler* there. ACSA vessels and their operating areas are contained within the 17<sup>th</sup> and 13<sup>th</sup> Coast Guard districts. Primary operating area is up there in the Bering Sea in the Aleutian Islands, and occasionally they have jobs that take them out of that area. And of course they transit between Seattle. Home port is primarily Seattle. We have a few based out of Petersburg. Dry dock facilities are primarily in Seattle, although we have a few dry-docked in Ketchikan and we have quite a few emergency repairs conducted in Dutch Harbor.

So where do ACSA vessels fit into the commercial fishing safety program? They are considered fish processors, not factory ships but rather trawlers and long-liners that conduct limited processing on board. The vessels are enrolled in a voluntary Alternate Compliance and Safety Agreement. ACSA vessels range in size from 90 to 267 feet. That's an example of one of the smaller vessels, *Ocean Alaska*. On the bottom, *Aleutian Lady* is one of the larger vessels in the program.

Most of the ACSA vessels are older vessels and converted from other services. Bill dates range from 1939 to 2005 and average age is 32 years. ACSA vessels operate in harsh environments, far from search and rescue and they typically have 10 to 50 people on board. So how did the ACSA program come to be? Well, research following major marine casualties on Bering Sea, Aleutian Island trawlers and long-liners determined they were processing fish on board and not just fishing vessels. Examples were the *Arctic Rose* and the *Galaxy*.

Fish processor regulations require load-lines, and in many cases full class rotation. But due to strict classification society rules on vessel design and construction the decision to class and load-line vessels are usually made during the design phase of the vessel. In other words, when the concept is made to build a new vessel this is something the naval architects take into account, when they want to meet classification rules and also they have certain requirements for construction for load-lines.

Since ACSA vessels had been in service for many years and classification societies were not involved in the plan review or construction oversight or vessel modifications, owners experienced difficulties attempting to obtain classification for the vessels. So the ACSA program utilizes exemption language provided for in statute and regulation. Those are the specific cites. And the criteria for exemption is: Good cause exists, and the safety of the vessel and crew are not adversely affected.

So recognizing increased risk of operating in remote cold water areas, ACSA program was developed. ACSA exempts certain fish processing vessels from classification and load-line requirements. In exchange they adhere to comprehensive safety standards and examinations outlined in the agreement. The ACSA safety standards are developed collaboratively by the Coast Guard with vessel owners, operators and vessel associations. So how is an equivalent level of safety achieved? ACSA incorporates appropriate safety recommendations from marine casualty investigations. Right now it's going through some examples, requirements of vessels within the ACSA program. These are in addition to what's found in the regulations and most of these came about as recommendations from marine casualty boards.

A few of my favorite ones here are at sea watches must verify the status of watertight closures. Life rafts must be capable of launching by a single person. The immersion suit lights must be strobe type, and they have additional people trained in drill conducting and for the fire teams. So safety recommendations from the last *Ranger* and *Katmai* investigations are being studied for applicability to ACSA vessels.

There's always historically been a gray area: what's a fish processing vessel, what's a fishing vessel, and where do you draw the line? Prior to ACSA there were many different opinions on which vessels were considered fish processing vessels for applicability of regulations. It's a huge step going from uninspected vessel to a vessel that's fully classified and load-lined. So there's a huge gap in there, and a lot of people didn't really know when they were crossing the line into fish processing. It was agreed the National Marine Fishery Service product codes would be used to delineate fish processing vessels from fishing vessels conducting incidental processing.

Here's an example of what a fishing vessel is allowed to do: allowed incidental or minimal processing as a necessary part of the fishing activity to preserve the catch. That's what you're looking at on a fishing vessel. It's different depending on the species you target.

Fish processing vessels commercially prepare fish or fish products other than by gutting, decapitating, skinning, shucking, icing, freezing, brine chilling. So these products you see on the chart are beyond the minimal processing, and the vessels doing these processes are considered fish processing vessels under regulations.

Some of the advantages of this ACSA program are: it offers an alternate safety compliance on vessels where risk exists and regulatory compliance may be difficult or

inappropriate. There's an increased frequency of safety examinations. Vessels in the program do have the dockside exam every year, have their certificate of compliance every year. In addition they go through drills with the Coast Guard inspector on board every year. They do get examined on dry-dock at least once every 3 years by Coast Guard inspectors. There are higher standards for training and lifesaving equipment. And this is my favorite, ACSA has ability to implement effective safety measures in a short period of time. So when safety recommendations come out we can discuss them; and if the stakeholders agree this is a good safety recommendation, we don't have to wait around for legislation in order to change things.

The ACSA program represents a benchmark effort between the Coast Guard and catcher processor fleets to improve safety, and it serves as a model for Coast Guard interaction with commercial fishing industry.

I'll update ACSA. Our active fleet there is 48 vessels, 3 are laid up at this time, total 51 vessels enrolled in the program now. Personnel, we have ACSA coordinator, that's me at District 13, and then 2 ACSA inspectors -- one in Anchorage, one in Seattle; and we have quite a bit of help from the Marine Safety detachments in Kodiak and also up in Dutch Harbor.

There's a significant issue with ACSA vessels, Amendment 80, and I bring this up to show the importance of trying to get this changed. There are a lot of agencies and people trying to change the Amendment 80. I'll go through and explain the issue. Lack of replacement provisions in Amendment 80 to the fisheries management plan for the Bering Sea and Aleutian Islands lists specific vessels that may participate in the fishery; vessels may not be replaced unless a total loss. All 21 active Amendment 80 vessels are enrolled in the ACSA program. Casualty rates and emergency repairs due to material failure have been high. Examples are *Alaska Ranger*, major marine casualty. The *Ocean Alaska* had flooding in the factory space and hydrous ammonia leaks. *Alaska Juris* and *Alaska Warrior* both had some hold fractures and steering problems. These were all fairly recent with the exception of *Alaska Ranger*.

Potential problems with older vessels, they may not have been originally designed for the current service or their operating environment. Most were converted from offshore supply service, freight shifts of surplus vessels. So in other words they might not have been designed to operate in the Bering Sea in icy conditions, but they have had modifications since then. They had no formal plan review for damage, stability or subdivision. There is a high incidence of hull fractures, corrosion and failure of critical piping and valves. These, I'm talking of vessels when they reach the end of their service life as envisioned by the naval architect, and depends on how their maintenance is, how well they keep up with it, but these are some problems we run into.

Advantages of the newer vessels are, they are designed and built for the service in a particular fishery. If you can imagine being able to design your own vessel for the fishery you operate in, then you can have it designed the way you'd like it, safety features built in, convenience features. So there's a real advantage, things you can change during

the vessel design that you can't really change afterwards when you're making modifications. There's a formal review, a damage, stability and subdivision on the new fish processors, and human factors are considered when they are developing the designs for these vessels. There's more efficient machinery, which means the vessel burns less fuel and has less emissions. Generally there will be less manning due to automation.

Current efforts. We are updating the ACSA guide, and taking into account significant input from industry partners. We do this every year, part of the process. We're consolidating the ACSA information into one central internet site that Dan talked of earlier. Our future plans are to continue annual meetings with stakeholders, review and discuss the safety recommendations from *Alaska Ranger* and the *Katmai* marine ports of investigation, and support efforts to allow vessel replacements for Amendment 80 vessels.

As I mentioned, it's important we help everyone out who's working on this. We have common goals. NIMS have safety goals, so does Coast Guard and all the fisheries management councils. This has been a big one. It's going to take some effort because of politics involved, but it's something we have to be able to change, in my opinion. We can't continue to be forced to fish in older vessels that have passed their service life.

There are the points of contact, my contact information. Mr. Ed Minor up in Anchorage can be the point of contact for Aleutian Islands and Kodiak as well. The Seattle inspectors, Marty Teachout and Mr. Paul Tramm were just hired on; this is his first week.

That's the end of my presentation, and I'm open for comments and questions.

MR. KEMERER: I have a few comments, a comment. Troy, can you take a minute and say we have a meeting scheduled next month with ACSA?

MR. RENTZ: Yes, 23<sup>rd</sup> of June is our next ACSA meeting with stakeholders. We're reviewing proposed changes to the ACSA guide, and we'll talk about process improvements, different things that come up during the year. I think that's really important to get that input on a continual basis. That is an Aleutian Island.

MR. JACOBSEN: I'm wondering on the Amendment 80 issue if a vessel needs to be replaced can't they just build it to class, or would it be built, are you trying to change the rules to build it to an unclassified vessel that would reenter ASCA program? Why not just build it to class?

MR. RENTZ: I think that's the goal of the people involved is they want to build new vessels to meet classification and load line, but currently their particular vessel is listed by name in Amendment 80, and they have quotas assigned to that vessel.

MR. JACOBSEN: So they'd potentially lose their quota if they replaced it with another vessel?

MR. RENTZ: Yes. That's the concern, yes.

MR. JACOBSEN: Is that any different from AFA?

MR. RENTZ: I'll have to ask someone else to address that; I'm not familiar.

ALAN DAVIS: I'm not completely familiar with the nuances between AFA and Amendment 80, but my understanding is that some vessels you could build a new one but only grow the vessel 10 percent in size, power and capacity. Other vessels, you are prohibited from building a replacement for it and wouldn't be able to transfer quota if you were to do so unless you completely lose the vessel, which sounds like one of those safety regulations that is in defiance of safety. So for a company to be able to work the numbers and be profitable and get a loan and come out on the right side of the balance sheet, you need to be able to almost replace two vessels with one. So you need to build a bigger, more efficient fish-gathering machine that needs less crew, needs less fuel, and can stay out longer and bring in more. But right now I think we're legislatively prohibited from doing so.

MS. EDER: Mr. Hardin, first of all I'd like to thank and congratulate District 13 and your incredible efforts for Operation Safe Crab this past year. It's truly appreciated by the fleets and the families in District 13 Oregon and Washington. As many of you recall, Dr. Lincoln and Devin Lucas, their work was published a few years ago about the Oregon Dungeness Crab Fishery being the most dangerous fishery, and since then we've attacked that problem in a number of ways. This committee has written letters, there's been testimony in front of the Oregon Fish and Wildlife Commission, but I think the thing that's been the most effective has been the efforts of the Coast Guard. I really commend you, and those below and above you, for the man hours and recognition of what an important problem has been. It was really extraordinary the statistics that you put up there in terms of how many vessels you were able to visit and engage.

Also as important as the vessels you visited for safety checks were the drills done along the docks. I know from personal experience my youngest son came home and said, oh, we had really good drills on the boat today, there was this really neat lady there. That was Dr. Lincoln. So it's just been tremendously satisfying to see the type of coverage and cooperation between the districts that we were able to do. I hope to see that if we can't get an administrative rule change that requires vessels to have the dockside safety exams or to wear PFDs that we continue to see the kind of support we've had from Coast Guard Auxiliary and the other stations. Thank you. We're all really grateful.

MR. HARDIN: Thank you. I also want to mention to the committee that Michele was working with the Oregon Fish and Wildlife folks to try to get them to adopt a requirement to get a dockside exam before they were issued their tags for crab pots. The district commander did write a letter in support of your attempts to do that. As of now Oregon Department of Fish and Wildlife has not made a move on that, and so we appreciate the work you did do on that, but I'm kind of sorry that didn't move forward.

CHAIRMAN DZUGAN: One more follow-up.

MS. EDER: To give you an idea of what we did, Mr. Hardin and Mr. Farrell and others were present at meetings in front of the Oregon Fish and Wildlife Commission when I initially presented the issue and followed up by getting on the agenda. Usually there's a crab meeting in front of the OFWC which they address some of the rules, but the Oregon Dungeness Crab Commission, which is the marketing commission, got a sense that things were happening as a result of what they'd read, Dr. Lincoln's work, that it had been widely publicized. So the crab fleet themselves sought to address the issue of what they were going to do. So there was a crab summit that met before the OFWC's late summer or fall meeting. And the crabbers that attended the crab summit overwhelmingly voted to participate in--what they wanted was more drills and more Coast Guard presence on the docks rather than any kind of requirement they have their vessel inspected. So the Fish and Wildlife Commission takes the position that they're going to do what the fleet wants them to do. That's where it's been left at this point, so the Coast Guard came all out and did what they were asked to do. I certainly appreciate that, and no matter how we got there we saw a significant demonstration of greater participation in issues pertaining to safety in the crab fleet this year, and I thank you for that.

MR. HARDIN: One good thing that came out of the push you did is we got support from the Oregon Dungeness Crab Commission folks to help support the training that Curt and Mike and some of the other folks have done. So they've been trying to promote the safety classes and help find locations for them, provide money to make it low, minimal or no cost to the commercial fishermen. I think the work you did pushed them to make a move of some kind, so that's helped Curt and his program quite a bit, so we thank you for your help.

CHAIRMAN DZUGAN: Mr. Mattera, then Mr. Jacobsen.

MR. MATTERA: I have a question for Troy and Mr. Hardin. I'm a babe in the woods when it comes to the ACSA program and the vessels involved in it. Is it a 12-month fishery or is it seasonal fishery, those vessels, the long-liners and processors?

MR. RENTZ: They are seasonal fisheries. Basically there are two groups involved. The Bering Sea trawlers and Bering Sea long-liners, and of course around Aleutian Islands too. But generally we have a group that sets out in late summer and that's generally long-liners, and then the trawlers set out right after the holidays around January 1<sup>st</sup>.

MR. MATTERA: Six months?

MR. RENTZ: I'll defer to Alan on that one.

MR. DAVIS: I don't have any vessels that are in the trawler category for this fleet. The long-liners begin shortly after Christmas and fish until sometime in March, come home in April, and then they leave again in late June or July. And they pretty much fish until the

end of November, the first few weeks of December, so it's not quite a year around fishery but we manage to keep them busy for a good stretch.

I think the trawlers are pretty much the same way, from one season to the other, one fishery to the other they try to keep them going.

MR. MATTERA: Mr. Hardin, this stability video, is that something that's available by going to your website?

MR. HARDIN: I can provide a copy of it. We haven't made it available for download, and it's not up on the site yet, but it's my plan to have it available on the site.

MR. MATTERA: That would be great. I would love to use it as a training tool to tailor it right to the vessels, bring it to the vessels, have workshops in the areas, and I'm certain John would as well. Those types of things, visual, makes it so much easier for the guys to grasp.

MR. HARDIN: I can certainly provide you a copy. In fact my guys Curt and Mike when they do their stability training they've taken I think parts of it or, they used the whole thing. They use it during the presentation because it's animated and it shows what the heck the center of gravity is doing and what the metacenter is doing, and so on. So it's a good visual. And I can certainly provide anybody that wants a copy, a copy.

MR. MATTERA: That would be great. Thank you.

CHAIRMAN DZUGAN: Mr. Jacobsen, and then we'll try to head down the coast.

MR. JACOBSEN: Dan, 249 vessel inspections represents a lot of man hours, so I was wondering what percent of the Dungeness Fleet that represents.

MR. HARDIN: We had, what, 500?

MS. EDER: The number for the inspections covered both Oregon and Washington, so that I can't break out. In the Oregon Dungeness fleet there's about 430 or 440 permits of which about 320 landed Dungeness crab last year. Not knowing the Washington figures, I can't say, but that's pretty high inspection.

VOICE: Do you know how many failed inspection the first round?

MR. HARDIN: I don't have the exact number of boats. I showed the deficiencies we found in the vessels weren't allowed to sail until after those deficiencies were corrected. So I went more by equipment failure than I did by vessel failure, but we did hold back some boats. They voluntarily said, yeah, fine. So they went and got whatever it was fixed right away. So another leg we also had is we did have some folks that refused to let us on board to do the safety checks, and certainly they do have that right but our district commander gave us the word to tell the fishermen that you can either get checked at the

dock or you'll be checked under way. He said you can use those words. So any vessel that refused to get a dockside safety check was boarded at sea for an exam. The other side of that, providing some incentive to get the exam. Yes, Captain.

CAPTAIN: Any terminations? For folks who didn't want to get the exam at the dock and were boarded at sea resulted in any terminations?

MR. HARDIN: We had a couple. Yes.

CHAIRMAN DZUGAN: Thank you, Mr. Hardin. I did some training with Curt Farrell and Mike Rudolph last fall and it's ongoing, and I was really impressed by their efforts above and beyond the call of duty and of the crab commission in Oregon Sea Grant. It was great networking collaboration. I want to publicly acknowledge and thank them for all their efforts, just an excellent relationship they've developed with the fleet as result of that training and having that face-to-face contact. So a good model. Mr. Martin?

MR. MARTIN: When they speak of class, is that restricting it to ABS?

MR. HARDIN: No.

MR. MARTIN: It can be large or DNV?

MR. HARDIN: Yes.

CHAIRMAN DZUGAN: As long as it's a recognized classification society.

MR. MARTIN: Because we're running more into different people going to large and DNV than ABS.

CHAIRMAN DZUGAN: Thank you, again. Ms. Murphy.

## **DISTRICT 11**

### **Presentation by Peggy Murphy**

MS. PEGGY MURPHY: Mr. Chairman, committee members, good afternoon, and again welcome to California, my native state, and I am the fishing vessel coordinator for D11. D11 actually consists of four states: California, Arizona, Utah and Nevada. Obviously most of the fishing is done in California.

We've got approximately 3,000 commercial fishing vessels that employ approximately 9,000 commercial fishermen. They work out of 12 major ports and fish 15 major fisheries. You can see the pounds landed for 2009 stats, and our top ports are LA, Moss Landing, Oxnard, Ventura, and Eureka and Crescent City.

I should mention I had the opportunity to speak with you in your teleconference in February, gave you a brief then and also sent out a brief for 2009. So I thought today I'd give you an overview for 2010 since we're almost halfway through the year.

This is our state broken down into our major ports, and our fishing vessels are pretty much divided between northern and southern California. It also shows you what each sector and group hold for fishing vessels. These are major fisheries. The salmon season will be open in 2010 but just for 8 days, a very limited commercial fishery. It's been closed for the last 2 years. Our squid fleet is one of the smaller vessel-wise, but it brings in the most revenue for the state.

So casualties, we've had 4 major casualties this year, 2 resulted in fatalities, 3 vessels were lost. The lives saved by the CFVSA, that equals the lives where people were saved because they used safety equipment in the CFVSA Act.

The 2 deaths, one was in January on the *Saigon I* which was a 47 foot fiberglass trawler, missed the turn into Ventura Harbor and everybody was rescued, but the boat went down. It was broken up in the surf. In February we lost a fisherman. The *Flamingo* which was a 49 foot steel trawler out of Astoria, and in 30 foot seas knocked out a pilot house window about 50 miles west of Crescent City, a fire started, the boat sank. The Coast Guard got on scene and the two crewmen abandoned ship but when the master got in the water he had what we believe to be a cold water shock episode and was pronounced DOA. The vessel was salvaged though and taken to Crescent City.

In April we had the *Betty K*, a 34 foot wood trawler. She began taking on water off Pillar Point, and a pretty snotty sea condition, and both men ended up in the water. The master had what we believe to be a cold water shock episode and was pronounced DOA. They were both in the water about 45 minutes without any protection.

Then most recently we had the *Donnie Boy*, which was a 31 foot fiberglass boat. She was fishing off Morrow Bay and she went down very fast, no injuries, and the two crewmen were picked up by a fellow fisherman.

I keep track of all our SAR statistics, so if the boat becomes disabled or there's a casualty that we consider not a major casualty but a minor casualty I track it. I think it's just a good idea to see what's happening out there in the fleet. If there's a lot of mechanical issues we try to address that at the dock.

This is a picture of our latest. We got some good shots of this. You'll note the surfers in the background. It was a soft grounding off Huntington Beach. Another shot of that. Some historical casualty data for D11.

Prior to this we've been doing Operation Safe Crab and Safe Squid for about 3 to 5 years respectively now and the fleet's pretty well used to us coming around in November and doing safety checks and dockside exams and prepping for the opening of crab season. Our squid fleet, that's a year-around fishery, but the massing occurs mostly off the central

coast in November, and it runs through March. So we go from November through March and consider that our op safe squid.

The way the Coast Guard measures my performance is through how many decals we issue, how many deaths we had, and how many exams we did. So that gives you the average of, they put a value on life for mariners and this is how many deaths we think you can have or how many the commandant considers to be within a performance standard. For the last 5 years in D11 we've had 3 deaths on average. Our highest casualty rate is in the crab, squid and ground fish fleet which are our most active fisheries.

This is our dockside statistics for year-to-date through March on track. Most of our customers are repeat customers. We do get a percentage of customers that are first-time. The observer program gives us about 30 percent of our exams annually. Our current fleet has with current exams about 17 percent and with current decals about 13 percent. Not every exam results in a decal. We get about 1 decal for every 3 exams we do.

Here's some historical dockside data, 2008, 2007 really had a lot of exams. We do a lot of outreach hours, and we have a very robust auxiliary that assists us with dockside exams.

Every boarding done in the 11<sup>th</sup> District comes across my desk, and I like to look at it and make sure the boarding officers are looking at the right things and I also do a compliance incentive program which is if you have a violation and you're a fisherman I'll send you a letter and say, We see you had a violation and if you correct this within 30 days then there's no penalty. And 98 percent of our fishermen comply within the 30-day period.

You'll note that of the 60 boardings we had, half had violations and the other half didn't. So there's a good percentage of our fleet out there in compliance.

We do two pulse operations similar to what they do in D13 and D17 with the crab fleet. We have about 600 crab fishermen in D11 permitted. I'd assume there's probably 400 fishing annually. We have about 100 squid and light boats.

We board about 10 percent of the fleet every year in D11.

I also wanted to mention we have the largest network of marine protected areas in the country off the Channel Islands, encompasses 241 nautical miles.

That's my brief. A brief brief.

MS. HUGHES: I have one question, Peg. You said you have an incentive program for your boardings, and then you said you issue one decal for every 3 exams you conduct. Do you follow up on the exams if they don't pass, or do you have any incentive program for the dockside exam people?

MS. MURPHY: No. If they don't pass an exam, usually it's because they just didn't finish their work list. We will check back with them, but we don't have anything other than a phone call that we'll do to incentivize.

CHAIRMAN DZUGAN: Alan Davis.

MR. DAVIS: I noticed in 2009 you did almost 300 less exams. Was there a shift in the industry?

MS. MURPHY: Salmon season was closed and it was the second year it was closed. We think that had something to do with it. That didn't escape us either. But I think also 2008, 2009 were just exceptional years. Any other questions? Thank you.

CHAIRMAN DZUGAN: Thank you. We've reached 5:30. We put on an extra half hour for the district coordinators reports, and as usual we get into trouble because there are questions and there's a lot to talk about. Our sound man is already on OT. I'm wondering if I could have his cooperation and the committee's cooperation to go to 6:00, knock a few more out? Would that be okay, so we don't leave the Gulf Coast and East Coast just floating out there, and try to make it around the coast a little bit more? Is that okay with the committee? In order to help with that, you can be concise, brief as you can in your comments and give us the highlights. That would be appreciated by everybody. I don't want to take away anything from them either. We just had some issues with Alternative Compliance and some of the casualty reports that just came out, so. Working our way down, we're in the Great Lakes. Anything from the Great Lakes?

## **D9 – Great Lakes Presentation by Eric Pickering**

MR. ERIC PICKERING: Good afternoon, Mr. Chairman, committee, and everyone keeps mentioning the East Coast/West Coast/Gulf. And I'm the unknown Great Lakes. We're always left out. The North Coast, the frozen tundra up north, whatever you want to call us. I am going to be brief. We were there, we have a commercial fishing fleet.

We have about 427 vessels that operate up on the 5 Great Lakes, and of those 276 are tribal vessels. That's one of the areas we didn't talk about too much today. We got pretty active Native American tribes, and we have agreements with them and they conduct most of their exams themselves. We have 85 state registered, about 66 documented. Our number of examiners are down, about 7 or so, and that includes some tribal examiners. They go through the Yorktown course; we fund them for that, so it's unique.

As far as causalities, I didn't put anything up there because most of ours are winter-related and at the dock, just sink at the dock during winter, which is fun. We have four sectors and 7 MSUs, MSDs and an SFO that conduct the exams. To give an example of our fleet which is a little different, these are fish tugs, and I think they're about the most ugly looking boat out there. They are different. Also got two other types here. On the

left are the Asian carp fishermen down on the Illinois, down on Peoria. They are commercial fish, Asian carp. A lot of people have heard about them, but they are pulling in about 10 or 20,000 pounds a day, and just making a killing down there. If anybody's looking for some action, down in the Illinois there.

We have some current Memorandums of Understanding with the tribes, and these are a listing of the tribes. They were signed, and what it does is gives them the authority to go out and conduct a federal fishing vessel exam and handle their own affairs when it comes to this. We also retain some of our authorities and jurisdictions with them in a joint fashion. It's kind of unique.

We do have some issues. They are running into a lot of funding issues and there are a lot of issues. We may be playing more of a role in the upcoming years.

Some current things we're doing, Sector Detroit is getting ready to go out and do exams this spring, have a couple dedicated fishing vessel examiners. Not necessarily dedicated, we're not billeted for any fishing vessel people in D9, which is kind of interesting. Everyone's on collateral duty, so that adds to why our numbers are sometimes a little low. They are going to be assisting with the Sector field office Grandhaven for doing some exams. Sector Sault is reengaging with the tribes and working on some coordinated safety patrols, increased awareness of the regs. One of the recent issues we've had with them is we've issued some exemptions back in the '90s, the district did, exempting them from some lifesaving. We said, "You just have to get an exam." Nowhere did we say they had to complete one and pass or anything like that. And we also made a requirement to get the exams done every year, and they haven't done that in the last 10 years or so, we're trying to reengage with the tribes and bring them back up to speed if they want to keep their exemptions.

Then they are also going to be working with another Indian tribe out of Canada, but working with them to bring along their program too. A lot of outreach we're trying to get done, trying to bring up the awareness, actually I would like to come back, hopefully next year with some better numbers.

A sector like Michigan, over on the Michigan side, they're working to identify some of their fleet and do some more outreach. Grandhaven is part of a sector like Michigan. Detroit was helping them. They're on the same peninsula. It's a lot easier for them to drive over than for some of the folks in Michigan Sector on the other side of the lake. MSD Sturgeon Bay just got one of their petty officers is a fisheries expert, got a degree in fisheries and is eating the stuff up like crazy, conducted a major outreach effort on March 22 with a lot of the fleet over in Wisconsin area. Good things out of there.

Sector Buffalo, really isn't much of a fleet when you get up into Lake Ontario and such on the U.S. side there isn't anything, so they didn't have anything to report there.

The tribal exams are stuck right now, just had some downturn, laid off a bunch of their tribal enforcement officers, so they're hurting right now. We're going to try to work with

them, backfill with some of our Coasties as we get them done. We continue to bring up the awareness of the commercial fishing vessel program to our sectors, sector commanders, prevention chiefs. I've been trying to get these guys to go out and do it. For some reason there's been a lack, they seem to think the fishing boats are off limits. We talked earlier about you send out the prevention folks and if they don't want to do it then you send out the response folks, and then you get people with no sense of humor coming on board rather than people with a sense of humor. So we're trying to work on that and bring up the level of compliance with our boats.

We've got money, we try to get it out to them, money to conduct exams and fund it. Our stability trainer fell into disrepair, so if anybody can help out, rebuild the stability trainer, points of contact, I got a card and if you can help out with that.

Our DC trainer has been renovated only because it was at Grandhaven and was in the parade so they painted it all nice and neat and actually paraded it through the Coast Guard Day Parade in Grandhaven. One of the biggest challenges for the D9 staff is there is no full-time uninspected vessel coordinator, passenger, fishing, anything like that. So the program is a collateral, and I heard in some sidebar discussions with active duty folks, we come in, we leave. That's sort of what we do.

Finally, the Great Lakes Indian Fish and Wildlife Commission are one of the tribal organizations, and they are working to get their program up. It's interesting to note they're trying to do a phase-in approach with their own tribe and bring them up to speed, sort of a bridging program like we're doing with tow boats, things like that. So they are doing walk-throughs with the fish tugs and trying to get them up to speed, point out discrepancies, bring them up to speed with everyone else.

It's short, and I'll be more than happy to take any questions.

CHAIRMAN DZUGAN: Thank you. Are there any questions about the Great Lakes Program? Seeing none, let's go down the coast. I think we can get to the Gulf of Mexico. Mr. Kemerer, thanks.

## **D8- GULF OF MEXICO by Jack Kemerer**

MR. KEMERER: As you can imagine down in the Gulf there are lots of other things going on that seem to override fishing vessel safety and fishing operations. In fact I think fishing has been shut down in a good portion of it. Jimmy, I'm glad you could make it here with everything going on down there.

Rob Perkins is quite busy as you can imagine doing exams on fishing vessels because BP is looking to hire a number of vessels of opportunity, so all the examiners are tied up with that. They were talking about bringing folks in from other areas. I don't know if they actually did that or not.

Some comments about up to 1,000 or 1,500 vessels could be involved with the clean-up operations at some point, so last week rather than go through the normal process for ordering decals and exam booklets through the stock system we were able to get them to overnight 1,000 decals and 1,500 exam booklets down to D8 so they'd be prepared to take care of that surge.

They are just busy with all that, and I don't know Dennis if you want to comment anymore on the permit and observer problem with the long-liners. There was an issue came up just recently with some of the vessels that needed to go out and needed an exam because they were carrying an observer, and it's gotten overwhelmed. So we're working on that.

MR. HANSFORD: We just, I got feedback on that in the conference call between Coast Guard and our observer program in the SE. We understand that a lot of the examiners been called to take part in the oil spill response. Consequently they haven't been available to provide examination to some of the long-line vessels in the Gulf, especially since there's been an increase in the observer requirement coverage for our blue fin and the cancellation of those examinations have put the long-liners, it's giving them a concern.

But we are pretty close to an agreement that we can identify those vessels that are potentially going to have to carry observers and issue wavers, and don't see the issuance of wavers to significantly impact the data collection or the scientific requirements for resource management. So that's where we stand right now. I think by the end of the day the program manager out of Miami will have a crafted a waiver that we'll be able to move forward with those long-liners.

MR. KEMERER: The last part I'd add for D8, and some of this goes into other areas, we've talked about vessel populations and you can imagine we're getting all kinds of questions for things down in the Gulf. One of them was, well how many fishing vessels could be affected by the closure of fishing down there? So the range is somewhere between 10,000 and 20,000 because the number of state vessels around the Gulf, whether they're all involved in fishing or not, and the document vessels the same thing, so somewhere between probably 1,000 and 1,200 vessels are going to be out of business for awhile down there. 10,000 I mean.

MR. MARTIN: All the drilling permits as of yesterday were pulled. So all the OSBs that were geared up for drilling on a shelf and in deep water will be out of work very shortly. All permits that are being drilled at this present time can continue, but no new drilling permits will be allowed.

CHAIRMAN DZUGAN: Or contracted out for the spill work?

MR. MARTIN: No, they just shut it down until there's an answer to what happened on this hole here.

CHAIRMAN DZUGAN: I understand but I'm wondering how many of those drills, I understand the drilling will stop, but fishing vessels and other offshore oil support vessels, how many of those will be employed just dealing with the spill?

MR. MARTIN: Dealing with the oil spill? 5,000.

CHAIRMAN DZUGAN: 5,000 you estimate? Any other questions on that or anything to add on D8, Gulf of Mexico? We're going to go to Mr. Yarborough.

## **7<sup>th</sup> DISTRICT**

### **Presentation by Larry Yarborough**

MR. YARBOROUGH: I'm Larry Yarborough. I'm the fishing vessel safety coordinator in the 7<sup>th</sup> District. We are also impacted by the oil spill, West Coast of Florida we have a real up-tick in exam requests for vessels and anticipate that may get an opportunity to work for BP. It has not yet shut down fisheries for us on the West Coast of Florida, but we see it coming.

D7 population, this is an update of what you saw from me last year and the year before. This is fishing vessel fleet for the 7<sup>th</sup> District. I want to point out the small wedges of pie, 196 vessels, about 2 percent of the fleet. This is that population, over 55 feet, and you see a precipitous drop in that. Those are almost all shrimp vessels that have gone out of business. Most of it occurred, they held on through '05 and '06 were really rough years for them but they held on and just couldn't hold on any longer, and we saw a steep drop. I may be overstating the current population of working vessels over 55 feet. It's been that steep a drop.

It's difficult sometimes to tell where a vessel should be counted, so we have shrimpers working out of Key West that take the boat home a couple times a year but really work out of Key West. Do I count them as a D7 boat or do they count against D8? It becomes a quandary that we just fuss with, don't really do anything important with it.

Casualties. When I looked at casualties for '09 you look at that blue wedge and those are the vessels less than 8 meters long. Well, they go back two slides, if you look at that 8 meter population it's almost half the fleet, and the other half is 8 to 18 meters. That's 98 percent of the fleet are those two wedges of vessels. Well look at where the casualties are. That 2 percent of the fleet, over 18 meters or roughly over 55 feet, account for a huge percentage of the casualties in the district.

If you normalize that data like you would an auto crash where you say how many Hondas crashed versus how many Toyotas, what's the crash rate for those—I did that for these. This is adjusting the population until it was 1,000 vessels, and what would the casualty rate be. Well, the smaller the vessel the less the casualty rate. When we hit that 55 foot level, all of a sudden the casualty rate goes way up. If casualties were evenly distributed

across all the vessels, then each vessel would have a casualty rate of 1.0. If you look at the over-55 feet, it has a casualty rate 20 times higher. That's who I concentrate on.

I found this through a study, put this into effect, where I looked at pre-study and found that casualty rate with that group of vessels over 55 feet, and I went in with a policy in the district where we focused to those vessels. I tell my examiners, I don't care how many decals they put on; I want them visiting these vessels, I want them on those vessels multiple times a year if it's just to talk and have a cup of coffee. Get with those vessels, work with them, and increase their safety awareness, etcetera.

After the dotted line you see the change in policy, you see what happened to the casualty rate. You look at the upper chart area, the red bars are the expected boundaries giving normal variation with what goes on. That looks at weather and economics and I don't know what all the variables are, literally, that cause casualties, but those red lines bound what statistically we expect the casualties to be. What I see is that focus to those larger fishing vessels in the D7 fleet is really working. We've been able to significantly reduce the casualties in those vessels.

Some of it was using carrot and stick. This is the stick side of it. Getting our sector commanders to focus to what do their enforcement vessels look for, who do they board, what are they doing? And this is where they are focusing to that 55 foot-and-over fleet. Even with all of our visits, all our work with those vessels, we're still finding them at sea with termination problems, life rafts that haven't been serviced, EPIRBs that haven't been serviced, just significant. Those are the big items for us, but significant items on board, sailing with two fire extinguishers that have been expended and they didn't bother to replenish them, things that cause us to say, "No, you've got to go back to the dock and repair this." If they come back to the dock for us, they go through a full exam and drills before they get underway to go fishing again.

So our sector commanders are backing the over-55-foot level of where the focus of effort is.

Looking at deaths, last year I had a banner year. I got down to zero deaths in the district for commercial vessel in an operational mode. Unfortunately this spring has not been good. I've had 2 deaths already, both of them man-overboards. Investigations are not back on those. One apparently was somebody repairing, inspecting the bottom of his hull deliberately went over on an anchored vessel, and was not recovered. The other was drug and alcohol pretty clearly involved. The other man on board, on the way to get his drug and alcohol testing, started talking about how much marijuana they'd been smoking that afternoon and the beer they'd consumed. This was a vessel at anchor. It had sailed that morning and gone about 2 miles offshore, dropped the hook and apparently the 2 men on board were going to use up their recreational supplies and did. And when the crewman woke up from his nap, the other member was missing.

So the high risk program, found where the high risk was, and that was in my fishing vessels over 55 feet, and focused to them. What's going on with those? Well, there's

been a real attrition in that fleet, most of it voluntary. The economics are driving the worst of the operators out because they just can't afford the bubble gum to patch the bottom of the hulls, and they are going out of business. It's a slow, painful death, but they are starving themselves out of business.

Root cause of the casualties on these vessels? Poor maintenance, no maintenance, and under-manning. Poor maintenance or no maintenance brings the physical breakdown of the vessel whether it's through hull-fitting, down-flooding or fire, and the under-manning means they don't have the manpower to do anything about it when it does happen.

I did have a first this past summer. Jerry and his crowd came down and provided an MSIT course in D7. It's the first one since I have been there. The first time we've had, now have trained the trainers available, the whole drill conductor courses in southern part of Florida and the West Coast of Florida. And thank you, Jerry. You and your staff did a great job for us, and thank you.

It's meant that I can go to the next stage, and we start pushing the drill requirements. It was a real quandary to push drill requirements when the fishermen couldn't find a drill conductor to do the drills. And we are now leaning on it, focusing to those over-55 foot vessels first, but really pushing the drill requirements.

Another effort of mine has been working with the standards for EPIRBs. I've been doing statistical work with it in working with the committee that drafts the standards for EPIRB constructions. One thing that's very clear to me working with that is that the GPS on EPIRBs, the current generation produced in the last 3 years or later, it really works. It is routine when an EPIRB goes off that has that GPS embedded in it that our search and rescue center has a location in three to five minutes after the EPIRB was first activated. It may not be registered correctly, they may have screwed up the numbers on it, they may not have gotten good phone numbers for us, but we have a location, and we do respond. That's the critical thing in getting us our response out.

That can improve the response time of 4 to 6 hours before we can even launch a response. So if you talk to your fishermen, the people you've interaction with and talk about an EPIRB the approximate \$100 difference for getting an EPIRB with a GPS in it, that will save lives. Most of you deal with cold water; 4 to 6 hours of soaking in cold water is a huge difference in survival factor.

QUESTION: How do you get that 4 to 6 hours? That seems like a long time.

MR. YARBOROUGH: If we don't have it from the GPS, there's two other ways we get a location. The registration on the EPIRB has a phone number for somebody who knows where you're fishing, and we know we can go out to the middle grounds and the southern section of the middle grounds and probably find you, and that's enough to launch on. We know you're out there fishing, you haven't responded when we did the Marine Safety Broadcast. We've got enough information, we launch on now, "we" the Coast Guard. I don't fly, I'm not out there. The other way we get it is, we have to wait for the low

orbiting satellites to pass. Well, it takes three good transmissions on a low orbit to calculate a position, but that gives us an A/B solution, meaning it could be in the Gulf of Mexico and it could be off Bermuda, because we don't know which side of the satellite. The satellite passes about every 90 minutes. You get some coverage on an area. So we take two passes minimum to get a really refined position that we know enough to get out there. That means that EPIRB had to have been in the footprint of that satellite and provided 3 good transmissions that were not interfered with by another radio signal of some kind, so the satellite heard it clearly, got all the factors off it, and it had to be on each side of overhead nadir, to get a position. And we really need two of them before we refine the position to get enough to do it.

Average in looking at start statistics is 4 to 6 hours to difference in launch time. That is a significant survival factor in my mind. They work (GPS). Three years ago when I was looking at EPIRBs that were the first generation with GPS in it, I would have told you not to buy, not to spend your money on it, it was marketing, they didn't work, they weren't integrated properly, they didn't really work. Today's really do work. They are fast getting a GPS position on the first transmission from an EPIRB; and that's a cold start. That EPIRB popped up in the middle of the night in cold water and within a minute it's telling you where it is. That's great. It really works.

CHAIRMAN DZUGAN: Any other questions for Mr. Yarborough? Mr. Mattera.

MR. MATTERA: Is that indicative of your area? Because the satellite passes? Same thing on the East Coast in the Northeast, 3 to 4 hours?

MR. YARBOROUGH: It really is. I don't look at 7<sup>th</sup> District. I look at Coast Guard overall in doing the work with the Standards Committee. Something that is coming out, you're seeing improved brackets in there that are reducing the false alerts. That reduces Coast Guard costs, but it brings up actual alerts and more prominent. You're seeing EPIRBs now produced with a bracket that you can carry it safely. A lot of the smaller vessels don't like to leave EPIRBs on board overnight when they tie up. They take it home. Well, how do they grab it? Well, that's that antenna on top. That's the handle, which is really good for the antennas as they swing it going down the pier, but it left a naked EPIRB that was subject to false alerts because there was nothing preventing moisture from activating that EPIRB. So we find EPIRBs in trunks of cars in garages and places like that.

They are now producing them with brackets designed so that it's a two-part bracket; one part's screwed to the bulkhead, the other part is clipped in. You unclip it, take it with you; it has the control on it, the magnet that controls the EPIRB so it doesn't alert falsely. This is reducing those problems.

To me, the big changes are in the ergonomic standards. The standards are now changing and the committee is in the final stages of completing the upgrade in the standards, although you can see the beginnings of this in the newest models EPIRBs that have come out where it's required that the mariner can hold that EPIRB while he's in an immersion

suit, he can hold it in one hand, he can activate it with one hand. Oh, he can hold on to the side of something while he turns his EPIRB on, and he has to be able to carry that EPIRB with him while he moves about the ship using both hands. It essentially means he's got to have a wrist-strap that he can put over his immersion suit glove, and it does require that goes over the immersion suit. And he can move around the vessel without losing his EPIRB.

That's a big change to me.

CHAIRMAN DZUGAN: Any other comments for Mr. Yarborough, questions? I want to publicly thank Mr. Yarborough for helping recruit for that Marine Safety Instructor class in Florida. There was a group of real high quality people, and 4 to 5 of them are already active and more are coming on line. So you did an excellent job with that, so thank you. Anything else we can ask questions of Mr. Yarborough later, keeping with the maximum that the brain can only absorb what the butt can endure?

And looking at the body language of everybody here, I think we've reached saturation. So can we hear from District 5 and District 1 in the morning, first thing? Would that be okay with you, Mr. Harrington?

MR. HARRINGTON: Fine with me. I was going to suggest it anyway.

CHAIRMAN DZUGAN: Okay. Good. Mr. Kemerer has copies of the *Katmai* Report for those of you who have not downloaded it and need a paper copy. And I think we are going to adjourn.

MR. STANFORD: Motion to adjourn.

MS. HUGHES: I'll second.

CHAIRMAN DZUGAN: We'll have them for the committee tomorrow. I don't have copies of that. We'll have copies tomorrow. I heard a motion and a second to adjourn by Mr. Stanford and Ms. Hughes, so unless there's any objection, we'll see you tomorrow morning, 8:00.

**[ Whereupon, the meeting was adjourned, subject to recess, to the following morning at 8:00 a.m.]**

**CFIVSAC MEETING  
May 11-13, 2010  
Waterfront Hotel  
10 Washington Street  
Oakland, California**

**Day two, Wednesday, May 12, 2010  
8:00 a.m. to 5:00 p.m.**

**TABLE OF CONTENTS**

	<u>Page</u>
<b>Opening Remarks</b>	<b>111</b>
<b>Report from Districts</b>	
<b>District 1, Mr. Harrington</b>	<b>111</b>
<b>District 5, Barry Everhart</b>	<b>122</b>
<b>NIOSH: Non-fatal Injury Study – Dutch Harbor     Dr. Paul Anderson</b>	<b>125</b>
<b>NIOSH: High-risk Fisheries; Regional Trends     Dr. Jennifer Lincoln</b>	<b>132</b>
<b>PUBLIC COMMENT</b>	
<b>Dennis Hansford re Observers</b>	<b>145</b>
<b>Water Safety – Cold Water Boot Camp     Cecilia Duer</b>	<b>155</b>
<b>NTSB Report</b>	
<b>Mike Rosecrans</b>	<b>167</b>

**AFTERNOON SESSION**

<b>NIOSH: Study on PFD Use Demos and Tryouts</b> <b>Mr. Devin Lucas</b>	<b>174</b>
<b>Katmai Recommendation Review</b> <b>Chairman Dzugan</b>	<b>188</b>
<b>Subcommittees – Review and Taskings</b> <b>Chairman Dzugan</b>	<b>203</b>
<b>Risk Subcommittee Old Business</b>	<b>210</b>
<b>Communications Subcommittee</b> <b>Leland Stanford</b>	<b>212</b>

## **PROCEEDINGS**

### **OPENING REMARKS, REVIEW AGENDA**

CHAIRMAN DZUGAN: We'll call the meeting to order. A few opening comments. One, we'll pick up the districts we didn't hear from yesterday first, and then we'll go through the agenda as it is ordered, although the times are going to shift. Mr. Kemerer, do you have any comments?

MR. KEMERER: Ted, right behind you on the table there's a sign-in sheet. If you'd start passing that around and everyone make sure they get to sign in for today, please. Thank you.

CHAIRMAN DZUGAN: Captain, do you have anything? Members? Okay. Let's get started then. We were working our way around the coast backwards. So we're going to go to District 1, Mr. Harrington.

### **REPORT FROM DISTRICTS**

#### **DISTRICT 1 –**

MR. TED HARRINGTON: Top of the morning, ladies and gentlemen. Again, my name is Ted Harrington. I'm up at the 1<sup>st</sup> Coast Guard District, and unlike the other districts we kind of give away valuable gifts and prizes during our little segment here. In this particular one this is courtesy of Captain Servidio who used to sit in the chairman's seat there, will buy two lunches and two breakfasts for any committee member, and we'll throw this open to the audience, that can find Jennifer Lincoln who went up to Boston and actually attended her first Red Sox game at Fenway Park, and she is in that section right there. Next slide, please. Captain Servidio said to pass on that the captain should sponsor someone at the next committee meeting, two lunches, two breakfasts, a rich tradition.

In the interest of brevity and for next time, and I don't know what the observation of the committee members was, but maybe if the committee directs us as coordinators to what you're looking for, I thought if it would just be a strict set of measures and maybe one initiative we could keep it to our 10 minutes instead of taking up 2-plus hours of your time. That's what I did, Peg Murphy and a few others did, to stick to measures of activities I thought we identified. I'll breeze through these to show what's going on in the 1<sup>st</sup> District.

These are dockside exams, and we did about 1,500 last year. There's the pass/fail rate, about 1 out of every 4 fails, but eventually we get about everybody into the fold. First Coast Guard District casualty last year, very bad year in the 1<sup>st</sup> District. We had 13 deaths, the highest we've had in a long time. It's significant there that the observation has always been when you have a very bad year the next year is going to be a very good year. If even one person died, it could be considered a good year. But that seems to

follow a trend we've had the last 15 years, and so far this year we've only had one fisherman die, and that was kind of significant in that it was a fall overboard. He knew enough, his vessel lost maneuverability, and he knew enough to put on his survival suit, had been through training that someone on this committee had given him, was able to put on a flap, tied a rope to him, jumped in the water, saved his other fishermen, actually died of a heart attack while in the water. The other fisherman was holding on to him, so he was actually dead and he saved someone's life. It ties into the other fisherman made a very timely VHF phone call. Coast Guard got there and was able to lift both people out of the water.

I'd like to address something Jimmy Ruhle said yesterday and it's timely with this search and rescue case, a canvas of what you'd like to see, but I have the opportunity to instruct all our boarding officers at our regional fisheries training center in Otis. I get to see and talk to all these young men and women going into the Coast Guard, and whenever I have an existential crisis, which is quite frequently, I'll go down there and it renews my enthusiasm for the men and women of the Coast Guard. So Jimmy, I usually agree with about 70 percent of what you say, which is more than I agree with myself so that's a compliment. I have 100 percent respect for your passion, but it really pained me yesterday to hear you say there is zero confidence in the Coast Guard's search and rescue effort.

I understand mistakes are made, I understand your confidence may be shaken, but with someone that carries as much respect as you I hope part of that was said in the passion of the moment because I've talked to some of these people that go out on these search and rescues and I'm sure there's a lot of other suits in the audience can say that. I've seen people break down and cry telling me they couldn't save someone. I know in the Patriot there were some very upset people in how it worked. I talked to rescue swimmers that will stay and swim in water because there's not enough room on the helicopter for them because they've taken fishermen off. I know these stories are there, so perfectly understandable that your confidence is shaken, but I guarantee you that 100 percent of those people have the best of intentions when it comes to search and rescue, and these are the men and women that actually do it. Sometimes decisions are made, but I'd hope you might reconsider that because someone of our stature carries a lot of weight, and I'd hope that's not the overriding feeling that that's been destroyed.

I digress. I'm sorry.

Deaths by state, not that there's any significance to that, but Maine itself had a very bad year last year. It only shows 6 but there's been like 13 over the last 2 years and I'll get back to that quick. Causes of sinking and death, sinkings resulted in 8, man overboard 3, deck accident 1, diving accident 1, kind of the same percentages we see in some of the other presentations. Tracking that comes out of our MISLE database system, 414. These are commercial fishing vessel lives saved just last year, and that's search and rescue data, and how we capture that is open to discussion but 414 fishermen were taken off the water when their lives were threatened, so search and rescue may be some problems but overall these people are really outstanding.

Boardings conducted in the 1st Coast Guard District, one measure of what the fishing industry's doing out there, I've done this a year and a half, and it's been pretty consistent. Of the boardings, 81 percent of fishermen are in total compliance with all regulations; only 19 percent have anything wrong, 18 percent of the 19 percent are minor.

To get back to Fred's point and Jimmy's point, there are problems. I recognize there are a whole lot of problems with boardings. Humans are involved, they make errors. What we've done to try to remedy that is, every single boarding now goes to our Office of Law Enforcement, was here yesterday. They review the boarding; they'll send it back if there's an error. Then it comes to me after that, and probably that's one thing of value where we can be fair to fishermen. I'll also review the boarding and correct any errors I see not in fairness to the fishermen, either call them up or send them a letter, "Hey, we're sorry, we were wrong." But at the same time while correcting it with the fishermen, it's also an excellent opportunity to talk to boarding officers, to instruct them of what they did wrong, how they should make something right in the future.

I'd hate to see the Coast Guard lose that, and there's a possibility that's going to happen. Losing that venue of having a funnel where all these boarding reports go through, then comes just lost in translation, becomes another function, no personal involvement, no interaction with boarding officers, with fishermen. That's the Coast Guard's best opportunity, in my view, to not only make the Coast Guard a little bit better but be a whole lot fairer to fishermen.

The thing you mentioned, Fred, on the fire extinguishers, that's another one of the things where we're a little off on. There are two requirements; one is a monthly inspection and can be done by the master of the boat or anyone else. It does not require a tag. That's a very common error with boardings for some reason. In one year you're required to have that thing examined and that's supposed be done by a qualified person, and that's the subject of some problem. The new NFPA10 out in 2007, we send something to Headquarters about the whole thing to get out a pointed directive so those mistakes aren't made in the future. I'm sure it will get shared with this committee so we don't have that all over the country.

The Exam Program, we issued about 1,000 decals last year, quite significant. However, this year with the implementation of the Sector management schemes in the Northeast, the National Marine Fisheries Service is really increased the number of observers they'll have, not at-sea observers but called "monitors," so this is new to me. That will be a whole lot more vessels that carry observers and we've already started and notice there's some hostility with fishermen. I can't say as I blame them because now if they don't have that decal in essence they can't go fishing, so it becomes a mandatory inspection. I can see that situation getting a little worse in the future, especially if the predictions come true a whole lot of fishermen go out of business with the new sector management scheme.

Terminations. We're pretty consistent, do about anywhere from 30 to 40 a year. Someone brought up, Is there any guide? We have a quick response guide, QRC is the

acronym, a three-page document that's at all our command centers and I believe all the other coordinators have this if someone was interested in seeing it. It details what rises to the level of termination, and at the same time it also provides mitigating circumstances about what you can do to help out the fishermen to not terminate his voyage. If we can correct it out there, we always try to do so if at all possible. If they can get another survival suit, we've been known to let fishermen borrow them. We carry extras. We're not going to terminate them if they don't have a survival suit. We did it awhile ago on fire extinguishers, and someone said that may be a legal problem. We got away from that, but there are a whole lot of things we can do to try and build up. And it goes to the issue of respect that Jimmy touched on, unless both sides respect each other it's going to turn into what the skunk reference you gave, which was pretty darn accurate. So I think we have to do a lot of build-up on communication and respect. I know we really try to do that, and if there's anything else we can do we're certainly willing to try it.

D1 initiatives. This, Jimmy, is an exact response to what you talked about, the fishing vessel Patriot. The Coast Guard without a doubt made a very grievous error on that search and rescue case. In their defense, they came out and not only the district commander but the LANT Area commander admitted they made a mistake. The thing is, they tried to bring value to that mistake: how can we, as a result of that, make something better?

What we do now is, because that was that fire alarm thing I still don't understand myself, but whenever there's heavy weather and we have a threshold of like 45 MPH winds and maybe 20 foot seas, we'll send a jet out there to oversee who's out there, and we also call up VMS I talked about last time, where I can see who's out there off the coast. Then we go to the NOAA EPIRB database, beacon registration database, I'll call up each individual vessel out there. They all have about 3 emergency contact numbers. We'll call the contact numbers and ask if they're aware that boat's out there. Any other pertinent information we can find like exactly where he's fishing. So far we found the contact numbers are pretty accurate, but when it comes to asking people where that boat is most answers are "I don't have a clue, just know he's out fishing," so there's a fall-down point somewhere.

We started issuing dockside examiners on an experimental basis the tough books with air cards so while we're doing the exams we can call up the EPIRB database and verify their emergency contact numbers while we do the exam. It all goes back to trying to do something to correct that wrong we know we made. Errors will always be made, but when it comes to search and rescue there's absolutely no room for any errors at all, and we fully understand that and try to correct it wherever we can. But of course there's always that cycle, the exact same thing happened 15 years ago off Martha's Vineyard, so you have to constantly pound away at it, constantly be vigilant.

The other thing on the sinkings up in Maine, we had an uptight and watertight demonstration, someone from the 5<sup>th</sup> district talked about. We went out in six different states put on a 4-hour demonstration of stability. It worked very well in New Bedford as it always does, but once we got into outlying areas it gradually dwindled down to zero

attendance, at about 3 of the 7. So very difficult to get people to come in live to attend these training sessions, and totally understandable. Saturday afternoon someone wants me to do something, I'm not coming.

So instead of just the déjà vu type where it's "hey, we already tried that, let's try it again," we started surveying fishermen at things like the Maine Fish Forum, Mass Lobstermen's. We have a thing coming up in New Bedford's that's the equivalent of the East Coast Expo, and ask for, if we're going to present stability to you how would it best be received? Very few people, we're very honest about it, have any idea about stability. These are mostly people that don't require any stability training. I called up Dan's excellent presentation to have that available when it's ready, but there was the survey so far, and that's probably 150 or 160 fishermen that have responded. Computer based training seems to be winning so far in what they receive. Video, if that's the case, we'll get a whole bunch of copies of Jerry's excellent presentation on stability he made a couple years ago, very informative, and entertaining at the same time. Surprisingly, about a third of the people said they'd attend live training, and some of those people we actually asked to attend, and they never show up. So it sounds like a good thing to say and totally understandable, but it looks like video or computer-based training is the way to go. I know Dan is willing to share that with just about anyone that will take it.

Last thing we did up in Maine, another stability trial where a lot of fishermen up there convert over, depending on time of year, and stick a giant A-frame on their boat and go out and drag for scallops or used to be lobster boats. So we had our Marine Safety Center design a typical lobster boat up in Maine and throw on an A frame for dragging. The presentation to fishermen, and quite a few people actually showed up, was to show them, make it simple as you can, show them the difference in just the height of towing on that A-frame what it can make. So you see a 35-foot lobster boat, freeboard, 2.8, 3 feet, and I think the towing height is 12 feet, and it gives the scenario of what can happen when you're towing 15 degrees off centerline.

The next presentation was, we dropped that down to a 7-foot A-frame, same degree off centerline. You have a lot more freeboard, and the degree of heel is a lot less. We actually went down to 2 feet, and surprisingly virtually everyone in the audience said, "We're going to start towing with a smaller A-frame." Now I know Harvard University's interested in getting a grant to do the same thing, kind of that Jennifer Lincoln did with the little stopgap on the towing rail to try and help fishermen, do that free of charge.

That's all I have, and thank you kindly.

CHAIRMAN DZUGAN: Thank you, Mr. Harrington. Any comments, questions? Mr. Stanford.

MR. STANFORD: Great presentation, thank you. Your boarding numbers, do they include voluntary dockside exams?

MR. HARRINGTON: No. Those are strictly at-sea boardings done by cutters and stations, and actually the number's a lot higher than that. This is infamously inaccurate, probably another 20 percent higher, so we do more. The 1<sup>st</sup> district I know does more commercial fishing vessel boardings than any other district. In fact I think we do 35 to 40 percent of the total number in the country, so it's a huge part of what we do in the Northeast, and a huge focus area. That's why it gets the support of virtually, from the district commander all the way down to lowly me.

MR. STANFORD: Do you see a lot of people asking for voluntary dockside?

MR. HARRINGTON: As I showed you up there, we did 1,500 exams. We used to have 19,000 commercial fishing boats, if you counted them all. You can see that's a very small percentage. However, vessels over 50 feet I'd say 60 to 70 percent have a decal on them. Those are the significant ones, and it's increasing because of the observer program.

MR. STANFORD: Was there any common denominator on the terminations?

MR. HARRINGTON: Four.

MR. STANFORD: I mean any underlying reason for the terminations. Was it mostly lack of immersion suits?

MR. HARRINGTON: I missed your real question.

MR. STANFORD: You had a pretty large number of terminations. Was there one single underlying cause you could point to for the terminations?

MR. HARRINGTON: Yes. Mostly survival craft, and a big part of that is 4 years ago we used to give a year overdue for servicing. Once the Coast Guard went to five months I'd say probably 40 percent are overdue life raft servicing, next up survival suits, and we don't tolerate. There's no room for flexibility for survival suits or survival craft. We can tolerate fire extinguishers if they have deck wash-down pumps or something; we'll make sure they got a hose and nozzle, everything else.

MR. JACOBSEN: Mr. Chairman, I'm wondering if there's any particular fishery or size vessel in which the casualties are predominant.

MR. HARRINGTON: Size, type of fishing boat? I looked at that over a 15-year period and the answer is no, surprisingly. It runs the full gamut of everyone. Everyone's an equal opportunity visitor to the grim reaper out there, and same holds for sinkings and everything else. So it depends on the type of casualty too. Sometimes it is predominant in one or the other. For fishery, it's obviously exposure things, so the scallopers and the draggers that stay open 2 to 3 weeks have a higher percentage of casualties only for the reason they are exposed for a longer period of time.

CHAIRMAN DZUGAN: Ms. Eder, Leslie and then we'll get to the group.

MS. EDER: A couple of observations about your comment and it's a little hard to talk in the mic and also speak with you directly, but I wondered with the onset of sector management in the Northeast and the requirement for observer coverage, have there been any other fisheries previously required observers on their vessels?

MR. HARRINGTON: I think Dennis would be the best one to answer that. I don't mean to put you on the spot.

DENNIS: All fisheries in the Northeast are required to (unclear) observer when requested by (unclear).

MS. EDER: The reason I ask, there have been some fisheries in the Pacific Northwest that are required to have observers, about 30 percent of the time, in the fixed gear sablefish fishery, and now the West Coast trawl individual quota fishery is going to be moving to have 100 percent observer coverage. The difference that's going to happen is that in the fixed gear, some of the observer coverage was to account for bycatch. They were to report it, and they were not to have an enforcement rule. With the West Coast individual quota program for trawl, there are going to be observers who observe everything that comes over the side of the boat is delivered across the dock. So there's a different role in the observers.

Secondly, in the West Coast as opposed to Alaska, we don't have to pay for our observers. In the sector program that you're talking about in the Northeast, are those vessels going to have to pay for the observers?

MR. HARRINGTON: Correct me if I'm wrong, but they have been funded for two years. The government's going to fund them two years, and then the fishermen will have to pay for it. There's two types of observers—the at-sea ones doing the usual we've seen in the past, and now with the sectors I don't know if it's the same out there they monitor the actual amount of fish, and it's at sea. And then at the dock they are also monitoring the fish.

MS. EDER: I was thinking one reason why we've not had as much resentment is because we have to insure them, pay for the additional insurance cost, but we've not had to pay for their actual service. So if you run into resistance, finding some way to fund those observers might reduce the resistance.

MR. HARRINGTON: That's been a big concern, that when we start paying for it it's going to be a horse of a different color.

MS. EDER: Yes. It's extremely expensive. The other question, I wanted to respond to the comments about how painful it is for the Coast Guard when they are not successful in a rescue mission. I really want to speak differently than some of the comments that have been made, and I think we lost a vessel 9 years ago, the vessel capsized and 4 men died

including our oldest son. The surf man who came into the station after having come off shift and another vessel switching out crews, he was the father of two boys my kids' age, and wrestled on the same team as his kids did, and not for a minute did I ever believe-- when I saw his face I felt as bad as I could possibly feel for him because of what he perceived to be failure, when in fact it just may not have been possible to either find or recover those people.

I wonder, I have no doubt whatsoever in how it affects the young people and older people in the Coast Guard in terms of when there's not a successful end to the mission.

I wonder, this could be for any Coast Guard people who spoke yesterday or today, what kind of follow-up is there for those surf men or search and rescue people out there when there's an unsuccessful mission, to help them process all of this? It certainly can't be without deep and long-term effect for some people. Is there a program?

MR. HARRINGTON: They have the same thing anyone else has, grief counselors. I talked to, the TWA thing over Long Island had long-lasting effects on a lot of people that get out of the Coast Guard because they go through the same thing we would if you lose someone. To them it's just as emotional. So they have grief counseling. When they go through a traumatic experience, training of course comes in, chaplain service. But you go through something like that, you don't, it's always there with you. I go back, that bothered me yesterday. I talked to one guy in New London, a boat overturned, and they got out there quick and 4 were on the hull and they could hear the fishermen tapping away and just him telling the story, two of them, 28-year-old guys, just started crying. It works both ways. People join the Coast Guard to do search and rescue, and that's one mission they take very, very seriously, take it home with them.

MS. EDER: I just wanted to let you and the other regional commanders know that we understand that too.

CHAIRMAN DZUGAN: Ms. Hughes.

MS. HUGHES: Ted, I enjoyed your report as usual. Do you ask the crews to demonstrate any of their drills in front of your dockside examiners?

MR. HARRINGTON: If at all possible; however, what we find most of the time is the real crew is not on that boat. There just may be a representative down on that boat. We do always focus at sea. We go back to the three things I always drum into the boarding officers when I tell them what to do at sea is, I go back to Mike's saying of "initiative is to prevent the casualty, second to survive the casualty," and we focus on the survival part because we can't much on prevention. But when I talk to them it's always, "Do they have the equipment, is the equipment capable of being used, and the third part I always think is the most important, do the people on the boat know how to use it?" Because if they don't know how to use it, the other two you can have it and it's useless. Or show videos that we have throughout the years of where it didn't work. So if at all possible, all things being considered, there's no hostility. We'll make someone get in a new survival

suit, demonstrate how you launch the life raft manually, and right now that's about the only value impact we can have.

MS. HUGHES: I think that's great, and at least you're doing that, and making it clear to the crews that the drills matter to you as Coast Guard.

MR. HARRINGTON: That's right.

CHAIRMAN DZUGAN: Any other comments? Mr. Mattera and then we'll get to the audience.

MR. MATTERA: A couple things. The dockside exams they do, it's very difficult, and they have an excellent team of Kevin Plowman from Maine and Kevin Coyle out of Massachusetts, and a lot of its real pulse. The fisheries start up in May and it's probably like fisheries anywhere else when they start up, and everybody's scrambling in that last week. You know, there are a thousand boats that want exams because they may have to take an observer. Somehow they get it done. They do have an excellent team of individuals. And when they come to the vessel and it's not like everything is in New Bedford where they're housed or where they're from. They have to travel all the way down into Connecticut and up throughout Massachusetts and Rhode Island. Sometimes you don't fully comply the first time, but they are there again with 2 or 3 days to make certain everything is done and you needed to get a new battery for an EPIRB or strobe light didn't work on your suit, or whatever. So they do work with you very well. They do have an excellent team there, as well as at sea violations.

I'll be the first one to complain when there's an issue and bring it up and I've called Ted plenty of times and dealt with it, but they also have some excellent corrective measures. When this fire extinguisher issue came up, it was very alarming to the fishermen because a lot of these guys do drills. They do them month to month or quarterly, and they know what has to be done and what doesn't have to be done, especially with fire extinguishers. And you got the violation, it went through the chain of command, gets back to their examiner, and one of the individuals called up the skipper of that vessel and said that there was an error on their part and corrected the issue. Unfortunately when there's an error and there's a mistake, that hits the pipelines and it's out there and everybody is quite upset. When it's corrected, no one really goes around and says too much afterwards.

Observers. You talked about observers, and we've basically in most of the fisheries, especially ground fish fishery, have had about 5 percent coverage, now under sectors we're going to 30 percent coverage, so there will be extended coverage. Ted's right, that will be paid for the first 2 years by National Marine Fishery Service, and then we'll be at a cost. What that will be, none of us know. I don't know about insurance deals and everything else. But that's where it will go. So there will be more and more exams definitely.

Lastly, fire extinguishers. Maybe I heard you wrong, but you said two things. One, that

on a month-to-month basis it should be examined and examined by anybody on the vessel and then turn the card over and mark it on a month-to-month basis. That's true. But they have to be serviced annually. There is nothing that's written that says they have to be serviced annually. That's what came back out of Matt Olivera and Kevin Coyle was that they don't have to be serviced annually. When you come and do your dockside exams on all those vessels they aren't tagged and marked month to month, and if they have a little postcard, anything they have on there, as long as they're in the green zone you've been approving them and giving them decals.

So I don't know where this annual servicing has to be done because it's not there.

MR. HARRINGTON: I had the book, I didn't bring it, but it does have to be done. Unfortunately we're not trying to violate. I just call people and tell them right now we're trying to put the kibosh and stop it until we get it right, but there is a requirement. We're trying to resolve it to make sure the master can't do that too every year, because it does say there was a change two years ago that said only a certified person can do it. But really we're dealing with the matter, Jack's aware of it, his gurus and Obi-Wans and Yodas are on top of this thing. Hopefully within the next 4 to 7 years we'll have an answer.

CHAIRMAN DZUGAN: This committee and the fishing industry would like a definitive answer on that because it keeps coming up all the time. There are people who have abused that by, it's the issue of who's certified, what makes somebody certified to do this. And there are in some rural communities, since they are the people who fill up the fire extinguishers they have self-certified themselves as doing this, and they have convinced the whole fleet that they have to be on the boat to do it, and there's a fee for that. And it gets abused both ways.

MR. MATTERA: Inconsistencies.

CHAIRMAN DZUGAN: So I would like for this, I can't make a motion but I think I hear a consensus, if I can, from the committee. Take it from there, Stanford.

MR. STANFORD: I'm going to the FPA conference in Vegas in two weeks, and I'll be meeting with a lot of the rulemaking people there, so I can get a definitive answer and report back.

MR. HARRINGTON: Until I see it in black and white, I'm not going.

CHAIRMAN DZUGAN: Let's have the committee at least go on record, at least in the transcripts, that we would expect to see a definitive answer on this in the next, before the next meeting. Is that okay with everybody?

MR. DAVIS: Do you want a motion, or we're good?

CHAIRMAN DZUGAN: It's up to you. We'll take one more comment and then we have to move on. Mr. Ruhle has been quite patient back there.

CAPTAIN RUHLE: Thank you, Mr. Chairman. Let me start out by saying, Ted, I've got a tremendous amount of respect for you and Larry and Sue Jorgenson and all the people I've dealt with in my role as representing the fishermen. I appreciate your comments. If in fact I said that the industry has zero confidence in search and rescue, I misspoke. The industry has zero confidence in the Coast Guard overall; there's a difference. And I understand how people are sensitive, and there's one person on this committee right now that I'm afraid of offending. Everybody else I don't give a damn if it gets the message across. But you actually helped me, you've created a situation where together we can fix this problem, and we fix it quick. Admit that there was a mistake made. You did it with the *Patriot*. Think about what I said yesterday. This boils down to one man made a mistake. It was the rescue swimmer. He did not see Kenny Rose in that raft. Do an investigation from the top down, get to the bottom of this. Admit that the man was in the raft, he either didn't look it in or whatever happened, or show me a case where a body without a survival suit went 185 miles and ended up 7 miles from where the raft from that vessel washed ashore in 10 days. Show me a case. That's what, one of the calls I had to make yesterday was to his brother to get some straights and particulars before I presented this to the industry, to you all. And that's what he said: If they would just admit somebody made a mistake instead of trying to cover it up at the level that they're doing, this would be fixed. Help me fix this. You can do it, and we can do it together. If we offend people while we're doing it, so be it, but get to the bottom of it. But 99 percent of the boardings, 99 percent of the rescue efforts are perfect. One is the one that will be reported by the industry as a failure, and this is one of them. I can talk to you about different boardings that I've experienced or know of or actually had to intervene in because there was a personal issue. McGinnis, up in New England, helped me get one straightened out where the captain of an offshore cutter forced his boarding team on to a set of pair trawlers from New Jersey in ridiculously bad weather conditions, because he wanted to hang those boys out. Personal issue. He jeopardized the safety of his own crew, and it took somebody to talk to somebody higher up to do an investigation. It went away. So it's a people thing.

But one mistake goes a whole lot further than everything that you all do right. But right now I'm telling you, Ted, its zero confidence. Little things. There was a boat boarded the other day because it had excessive oil in the bilge. He needed two more tows to finish up his flounder quota. They made the guy shut the engine off and they towed him to Sandy Hook, 100 miles from where he was fishing, and another boat had to go pick him up. Two more tows, he could have finished his trip, and they could have escorted him in. That one little incident has spread like wildfire, just like everything else, but that's compounded with everything else, the other problems.

But we talk about safety. You don't have to talk to me about fishing vessel safety. You yourself heard me argue at the council level that a national standard 10 is 10 times more important than national standard 1. But what did it get us? Nowhere, because the law

says. And until we get some of the laws changed through Congress for our industry, we're not even going to have an industry before it's all said and done.

But together, you and I can make a difference. But I think that's where you need to look with this *Sea Tractor* deal. There's something wrong. There's absolutely something wrong. If you at some point find out what it is, acknowledge there were mistakes made, nobody has to be held accountable for it. Nobody's asking for that. Just admit that there was something wrong. Then we can resolve it. But again, when we talk about safety, thinking back to last summer, I'm third generation fisherman, and it was one trip I made with one son, one daughter and my three grandkids were on the boat, a 6-year-old, a 5-year-old and a 3-year-old. Don't tell me about fishing vessel safety. I was 100 miles offshore by the way, and I loaded with 100,000 pounds of squid. So does stability concerned me, does fishing vessel safety? You're damned right it does. And most of us in the industry recognize that. I'm here as a spokesman for the industry nationwide to say that anybody can make mistakes. This is not meant to be personal in any way, shape or form, but there needs to be accountability on both sides. So together we can fix it.

Thank you, Mr. Chairman.

CHAIRMAN DZUGAN: And thank you, Mr. Harrington, for your presentation and everybody in attendance for their comments. I'm going to wrap this up now. We'll have an interesting discussion on this when all the facts are in.

So moving on, can we now have the next district? District 5.

## **DISTRICT 5 – Barry Everhart**

MR. EVERHART: Mr. Chairman, committee, ladies and gentlemen, thank you for having me come today. First, we have an intern coordinator, Lt. Cdr. Troy Luna. Bob Garrett retired back in November. We should have a new civilian GS13 hopefully in July for a full-time position.

First, I'm the fishing vessel examiner for North Carolina, speaking for North Carolina but I have the District 5 actual PowerPoint here. I'll go over it with you. Right now our GS13 coordinator position is open. Hopefully it will filled in July. You see sector Baltimore has a GS11 examiner plus 11 auxiliaries. Sector Delaware Bay has one E5 lead examiner, no civilian there at this time, and 3 auxiliary members. Hampton Roads has a GS12, E7 examiner plus 4 auxiliaries. In my sector North Carolina I have myself, actually an E5 and E7 who's not on here, and I have at least 13 auxiliary examiners who help me out throughout the state.

The 5 district is pretty much, their program is ongoing, prevention of SAR, sea boardings, provide training to boarding officers, boarding team members. We do outreach to vessel owners, operators and crew members through different safety seminars, council meetings, etcetera.

Now 5<sup>th</sup> district we have our own high risk vessel list which is very similar to other districts. How we look at it in 5<sup>th</sup> district, if the vessel is greater than 50 feet it's determined by casualty data, so we have a high risk vessel pool that we use at district, and we try to target these high risk vessel boats. Usually they are over 50 feet. Lots of times they are wooden vessels. They go farther off-shore. So this is our high risk vessel use we use for 5<sup>th</sup> district.

Right now you'll see at the very bottom at the right-hand corner for D5, Lieutenant Commander Luna put down that right now we've identified 577 high risk vessels for North Carolina all the way up through New Jersey and Philadelphia, Delaware. You see Sector Baltimore actually has the smallest list. Most of their fleet, all their fleet is pretty much inland. Hampton Roads, NC, we have the largest high risk vessel fleet compared to Delaware Bay.

Right now this is a rough guess of what the fleet is for Sector Delaware Bay. You see they have approximately 1,700 vessels in the AOR, a large state-numbered fleet about 1,000 vessels. Hampton Roads has a large fleet. In NC I only have about 800 approximately documented vessels, but my largest fleet is state registered vessels which are vessels usually below 50 feet, below 40 feet that are state registered. So I have a large state-registered fleet in North Carolina.

Examiner activity for 2009, you see where the green are decals, the blue is exams. Most of the exams were done, a lot of this took place during the spring months in the summer when the weather was getting good, and fishing was picking up. The numbers speak for themselves.

Casualties for 2009, we had 2 due to fire, 1 collision with another fishing vessel, 4 vessels taking on water. The *Lady Mary* high profile incident, *Sea Tractor* we've discussed already, and the *Alisha Marie* was another vessel that sank in D5 waters.

For North Carolina we've had one death this year, a man overboard. The gal was out lifting an anchor offshore in heavy seas without wearing a PFD, went overboard and was lost at sea. Man overboard is definitely an issue we deal with every day.

Between November 1 and April 30 was Operation Safe Catch, and for our operation we targeted high risk vessels for NC, for NJ, for Delaware, for Virginia, and we tried to target those vessels for high risk during Safe Catch. We did that through seminars, meetings, town meetings, different forums to talk to the public, myself and most of my auxiliary examiners all went out on the docks with the other sectors to give out literature, handouts on the stability issues, running safety drills and etcetera.

30 for Safe Catch and November 1 to end of December we did an outreach period to educate the fishermen. January 1 through April 30 was the enforcement mode, where the cutters were out doing their thing.

These are approximate numbers Lieutenant Commander Luna came up with. We issued over 400 fishing vessel exams, decals, during the six-month period. We mitigated over 100 hazardous conditions such as we'd go on a vessel and work list for life raft issue or an EPIRB issue or survival suit issue. When the vessel cleared those issues out, got a decal, those are mitigated. You'll see where we had over 50 violations issued, had a handful of terminations in a couple port letters keeping the vessels tied to the dock until they fixed their problems.

Pretty much our PowerPoint was pretty small. North Carolina, we're struggling like the other sectors, the other districts. The economy is a big blow. It's very difficult. We've had several meetings with NOAA and the observer program, so right now it's hard for everybody. I can speak for my district, my sector, saying it's getting difficult. A lot of my boats are being sold, being moved up north, and a lot of guys just can't make it fishing anymore, and it's just getting worse. That's all I got for 5<sup>th</sup> district. Any questions?

CHAIRMAN DZUGAN: Okay, thank you, Mr. Everhart. I appreciate the concise presentation.

MR. EVERHART: No problem.

CHAIRMAN DZUGAN: I have one quick question, Mr. Everhart. How much do you interact with the trainers in your area, like Chesapeake Maritime, Robert Miller, and a few of those? Is the drills training available? I know it's difficult.

MR. EVERHART: Yes. You see, my coastline is very vast, between Tucan and Virginia, it's very vast. But John O'Leary's been fantastic. John comes down to Wanchese, down to Beaufort several times. Robert Miller is now qualified. He's fantastic. He's been through Morehead City. Actually I think Robert went to Charleston a couple times to help out down there, so the big issue for my guys was getting a drill conductor to give training, between John and Robert Miller both it's been very successful. We're getting more and more vessels with a qualified person.

CHAIRMAN DZUGAN: Thanks for that update. Thank you again. I think we've made it through the district reports. Jennifer Lincoln is next on for high risk fisheries and regional trends. It's 9:05 now. We'll do a break after her presentation in half an hour.

MS. LINCOLN: Could we make a change? I'd like Paul to go first. So Dr. Anderson will present first.

CHAIRMAN DZUGAN: It's your pleasure. While Paul's getting set up can we stand and stretch?

## **NIOSH: Non-fatal injury study – Dutch Harbor**

DR. PAUL ANDERSON: Good morning. My name is Dr. Paul Anderson, and I am actually a fellow at the Centers for Disease Control. I work in the Alaska Pacific Regional Office for NIOSH with Devon Lucas and Jennifer Lincoln who you all know very well.

Today I want to talk to you about a survey of nonfatal workplace injuries to commercial fishermen in Dutch Harbor Alaska, and I'd like to tell you about this study. It's a brief presentation, probably takes 10 minutes, and then have plenty of time for questions and Jennifer is more robust talk that I'm sure will generate a lot of discussion for you all.

Before I begin I want to thank Devon and Jennifer and Jerry for teaching me pretty much everything I know about commercial fishing. I'm not a fishermen, I don't come from a fishing family as such. I'm from Minnesota and we have lots of clean water but no salt water, so thank you to each of you for your work in helping me be able to look at this interesting group of workers.

So commercial fishermen in Alaska have commonly been understood to have a very high fatality rate on the job, 124 deaths per 100,000 workers. That's 31 times the national average for all workers. And in Alaska if you followed our progress there for very long, there's been a significant reduction in fatal injuries to fishermen over the last 10 to 20 years. We're very pleased about that, but that focus has made it difficult for us to devote a lot of attention to nonfatal injury. It's harder to study, and so there's been not any attention but rather minimal attention to nonfatal injury among Alaska's commercial fishermen.

And really we don't know that much about nonfatal injury patterns among commercial fishermen from the data. All of you who do commercial fishing know a lot, but one thing we asked ourselves around the office was if you had to guess what would you say would be the most common injury to a commercial fisherman in Dutch Harbor, Alaska? And those of you here who fish know there's so many different types of fishing, different injuries that go with each one. So that's what we aimed to do is go to a port, look at their fishermen and see what we could find.

So our objective for this study was to describe nonfatal injuries to commercial fishermen in Alaska. We don't just collect data though. Our goal was to develop preventive strategies, and there are lots of safety folks here from fishing companies who understand the importance of this. Then we wanted after developing those strategies to create a plan for broader investigation around Alaska, so this is one port we wanted to develop a plan for doing this on a broader basis and then hopefully a model for expanding it to the U.S. in general.

So Dutch Harbor, Alaska, if you've been there, is on Alaska Island, the largest volume fishing port in the U.S. Thousands of people are employed there, many seasonal workers, many migrant workers, and there is a solitary medical clinic there known as the Iliuliuk

Health Center, and it sees all the fishermen. So it's a unique place where we can go and collect some pretty concentrated data on injuries to fishermen.

This is Dutch Harbor on a good day, which doesn't happen all that often. If you don't like the weather, it will change.

So how did we do this? We called Iliuliuk and asked them to query their medical records so they have a paper medical chart review system, and we asked them to look at ICD9 codes, injury codes ascribed to an injury when it comes into the clinic. These are all traumatic injury codes, so we're not looking at chronic injury but traumatic injuries on the job. The codes are 800 to 999, and they'll specify anything from a hand injury to a leg injury, they'll tell you if it's a rib fracture, whatever, and it gets a specific code. So we asked them to look for codes from 800 to 999. They also recorded job type when a person comes into the clinic. We asked them to look for job type "fisherman," which as you all know can mean lots of different things. We also insisted there be a corporate payer, so if all these conditions were met they pulled that chart and then we went out and reviewed those charts.

When we looked at that, we got an on-site medical chart review, did 366 charts for 2007 to 2008, and looked at the charts for demographic information, physicians or PA's report of the injury description, and we looked at the pink slip and what kind of lost time injuries they had.

The data is pretty straightforward, and one thing I wanted to show by doing this for you all this morning is that while this takes time, and it took me a week and a half to go through this number of records myself with a colleague, it's not impossible and it's not rocket science. It's a great thing that possibly could be expanded around Alaska and the U.S.

As you'd imagine most of these fishermen are male, a little bit better than half are Caucasian and smaller numbers African Americans, Pacific Islanders, Asians, and American Indians. Part of this has to do with the coding system they use now at the clinic, so I'm just reporting how they code the races. This is taking a quick look at their data.

We looked at: Did the injury happen at sea or in port? We made this judgment based on how long it took the person to present at the medical clinic, or if it said in the chart if the physician noted the injury took place at sea and was seen by a person on a ship, whatnot. We coded it that way. Most of them took place out at sea. Some did take place in port when people were off-loading, or what have you. A lot of the injuries happened on deck, 30 percent, and 15 percent were clearly delineated as happening in the freezer and a smaller number happening in the factory.

These numbers you're looking at, you're like well these don't add up to 100 percent. Clinicians are doing occupational coding, so we got as much information as we could and when you see gaps and the percentage is not adding up it means it wasn't recorded.

You'll see lots of blue and yellow over the next few minutes, tells an interesting story. We recorded the job type for all these workers, and you can see who gets hurt on a vessel, not surprising probably to any of you. Processors 178 of the 366. 151 were deckhands. Engineers and captains with much smaller numbers. Of course there are lots of other jobs, anything less than 3 was not included in this graph.

When you look at the mechanism, how was the worker injured, you have along the bottom here being caught in something like a net or rope, a laceration. You have strain injuries, struck by a crab pot or something on deck, slips and falls, and then crush injuries where an object actually crushes a part of the worker's body. On the left-hand column you see a percentage so for caught in, lacerations and strains, a fairly small number; but when you get into "struck by," slips and falls and crush, you see a phenomena where 'struck by' injuries were more common for deckhands whereas crush injuries were more common for processors as they are handling product.

What was it that was injuring folks? Injuries, when we looked at the causal agent, I tried to extract this from the chart if the clinician noted it, and are only reporting here, this is not a full list of things on a boat that can hurt you, but we took the five most common ones. You can see the distinction between the two types of workers most commonly injured. Processors are interacting constantly with frozen fish product, especially on the big trawl vessels, and so 35 percent of those injuries were from a box of fish; whereas deckhands were usually injured by some piece of deck equipment. Does this tell us a whole lot? Not specifically, but it gets us in the right direction that generally people are being injured by specific work that they do.

We also look at person characteristics, we look at the injury type, and we also look at is there a certain time phase to these injuries. I just put this slide up here to let you see that there are some curves that go, that tell you the seasons in Dutch Harbor. February to March we stuck these on without lines because the peaks and valleys roughly correlate with the A season, the B season, and the king crab season in Dutch. So this is helpful to the clinic to plan their staffing.

We were able to also get more detail from the ICD9 codes, and when you look at what kind of injuries people were having, the top of the graph and number of injuries to the fishermen by the type of injury, strains and sprains were usually most common with 82. This is number of injuries that came in out of 366. Contusions and fractures were also a big problem. Open wounds, superficial injuries, late complications would be somebody that got hurt on a boat, maybe a month or two ago, and they are having problems even though it wasn't an acute injury the first time they were seen.

Over the next few slides I'll show the breakdown more specifically of what kinds of strains and sprains, what kinds of contusions, what kinds of fractures, and I think you'll be interested to see and not surprised where the data takes us. When you look at strain and sprain injuries, not surprisingly a lot of fishermen were coming in and saying they had strained their back, lots of heavy work done on these vessels. Shoulder and upper

arm injuries were also a major source of strain and sprain injuries. Ankle and foot injuries, I reviewed the chart myself, and people jumping off of things on the deck, jumping from the dock onto the boat produce a lot of these cases of ankle injury, and I saw that repeatedly. Knee and leg, wrist and hand, and so on. Back and shoulder and upper arm strain injuries are big problem for Dutch Harbor fishermen.

What about fractures? There are 72 fractures if you remember from the previous slide, and the majority happened to the upper limb for these fishermen, not too surprising in this group of workers the upper limb fractures were most common, by ICD9 code followed by the lower limb, neck and trunk, and not a lot of head injuries in this group of workers.

To get more specific because of the ICD9 codes, of those 35 upper limb fractures I just showed you, look how many were to the hand. You have a lot of smashed hands in Dutch Harbor, 33 out of 35 around 95 percent of all injuries happening to upper limb are fractures are to people's hands. Remember, they are interacting with boxes of fish. What does this do for us? It starts to show you if you were going to look for a place to reduce the number of nonfatal injuries to these fishermen you'd look at hand injuries and try to figure out moving fish product how are these people injuring their hands, etcetera? Just a little preview of some of our conclusions.

What about contusions? Again the upper limb is a major problem for these fishermen followed by the lower limb, and contusion is a blunt injury to the body without a break in the skin. When you look at the 29 contusions to the upper limb, how many are to the hands and fingers? Lots of hand injuries in Dutch Harbor.

Finally looking at some of the off-work, what is this doing to the fishermen? We had four different boxes the clinician could check, could go back to work today with no restrictions, go back today with some restrictions, take them off work and that was not so common, or they are off work until they see a specialist. There was a large number, 40 percent, went back the same day; 20 percent went back with restrictions, but a large number, 25 percent, couldn't work again until they saw a specialist. When we looked at which specialists they needed to see, usually it was an orthopedist or a hand surgeon. All this data can be looked at in different ways, but the story that's emerging here has to do with upper limb injuries and especially hand injuries for these fishermen out in Dutch Harbor as well as back strain.

The other thing I wanted to throw up here is a program. I don't know if you've heard of it, called Safety Pays, and it's put out by OSHA, it's online, you can look it up. I put the link here at the bottom of the page. It estimates the cost of injury by type, so if you have, i.e. a fracture, how much does that cost your company? It takes a profit margin you'd estimate for your company, and you can change the profit margin. Suppose you have a 3 percent profit margin, so how much profit is required to pay for one injury of this kind? It's a fairly useful tool. So for example, one fracture at a 3 percent margin, I just pulled this off the website, the direct cost in terms of clinical costs and healthcare is \$37,911. The indirect costs, \$41,702. The income required to cover those expenses, over \$2.5 million. So you can make some estimates. Nobody's saying this is perfect, but they put

this together, and industry uses this a lot in various shapes to get an estimate of how much it costs when you have an injury like this.

What are the indirect costs just mentioned? Basically wages not covered by Work Comp, costs from work stoppage, post incident administrative time filling out all the paperwork for an injury, employee training and replacement cost, lost productivity, replacement of damaged material and machinery and property. That's a quick sketch of something called Safety Pays that you may want to use as you think about this problem.

Conclusions. If we had to make a sketch of who's getting hurt and how they're getting hurt out in Dutch Harbor, Alaska, males, Caucasians, average age around 39, most deckhands and processors, a lot injured while out at sea not surprising, and a lot have a delayed presentation for traumatic injury can produce problems with infection, etcetera. Hand injuries would be an area of focus, back strain, slips and falls on deck were a problem for both these types of workers. Deckhands were having problems interacting with deck equipment, and the processors handling frozen product was a problem probably producing a lot of hand injuries.

There's some limitations obviously to what we did, three are:

- Documentation in the charts the physicians are not occupational coders so it's not clear many times what exactly happened, but we're giving you a sketch.

- There's probably some under-reporting. It's not real popular if you're on a fishing boat to be injured and not work. A lot of people were injured in these situations even now with all the work done in workplace safety.

- I think the other thing, a lot of the worst injuries that happen on a boat, an amputation or something gets evacuated right off the boat and never goes to the clinic, so we don't have—it may be in MISLE or some other, but they not be in the Dutch Harbor clinic in the Iliuliuk Clinic notes. Those are some limitations to what we did.

Recommendations. Continued data analysis would be good. I'm just giving a basic descriptive sketch of what's happening here. We can probably do better risk analysis and risk factor analysis as we have more time and better look at the data. We'd like to do chart reviews in other places like St. Paul Island, Seward, Kodiak, other clinics very focused on fishing communities to provide increased information about what kinds of injuries are a part of other types of fishing. Dutch is a pretty unique place. I think it would be advantageous to consider field research for hand injury. When I was out there I wanted to go to a trawler and look at how you get a box of frozen fish out of the freezer of the bottom of one of these boats. So some field research to look at how the process is done, and how to strategize to reduce injury. It's a tough problem, and I think that may be an interesting area to look at job hazard analyses. And some sort of a surveillance system that starts to look at nonfatal injuries for commercial fishermen. The ones we have are good, but they're very general, and when you do a chart review like this you realize there's more detail to be had which helps you focus in on prevention.

So thank you again for having me present this information. I'd be happy to take any questions you all have.

CHAIRMAN DZUGAN: Thank you, Dr. Anderson. Any questions, follow-up? Mr. Mattera.

MR. MATTERA: Great presentation, Paul. I'm a president of a point club which is an insurance group of fishing vessels, and insurance basically covers dealing with all these injuries and cost, etcetera, and we did a profile. We've been together almost 25 years now. In 23 years we looked at types of injuries, and it was quite alarming at the end of that 23 years because when we asked the audience, the fishermen themselves, what they thought was the most common and costly injury, everybody chimed in, oh it's got to be back injuries. Lo and behold, hands. The highest number of injuries were hands, and by far almost 2.5 to 1 the cost of hand injuries were the greatest. So I was elated to see the same things happening anywhere else.

DR. ANDERSON: So this is not surprising to you at all.

MR. MATTERA: No, and the costly things are when people start losing digits. Those become very costly. In the beginning it was knives, lacerations, cuts. This is very informative.

DR. ANDERSON: Thank you.

MS. EDER: That was a great presentation, thank you. I had a question. Was there no way it was coded in terms of race as to Native American or Alaskan Native? Were they all included within "Caucasian?"

DR. ANDERSON: They had six categories, and I think they were lumped in together. I think there may have been an Alaskan native or Native American category, but didn't show it. I'd have to go back and look, but it's very rudimentary.

MS. EDER: I saw American Indian but I didn't –

DR. ANDERSON: I think Alaskan natives are coupled in there as well.

MS. EDER: That may not have been coded that way. The other thing, you did it only with people injured who had a corporate payer. How did you define a corporate payer?

DR. ANDERSON: Basically through the hospital records. If it was the name of a company that was the payer, then we pulled that record. So if a fisherman came in as a self-pay, they have those two designations, then I'd have to go back and look. That's basically how we distinguished it.

MS. EDER: So it wasn't just catcher processors you looked at. You looked at fishing vessels?

DR. ANDERSON: If the boat sent this person in and said they need care, they were listed as the corporation. Many times we had a boat name instead.

MR. DAVIS: One thing I think would be great, the safety calculator that OSHA has is good and I think it would be a good idea for commercial fishing to use that kind of calculator. But our direct and indirect costs are astronomically higher than what the OSHA calculator uses. For instance, if you have somebody that needs specialty care and are unable to fly on a commercial flight which would be \$1,600 probably to get them off the island, then it's \$60,000 to fly them off the island. There are no specialists on the island, so all those people that were referred to specialists had to go home. The other thing, the calculations that OSHA uses are based on Workers Comp costs and Compensation, and under Jones Act it can quickly become a free-for-all.

I love this work. I think you found a lot of interesting stuff to work on in the future, and I look forward to seeing more pulled from the other fishing focused clinics in Alaska. We have so many of the clinics in Alaska that we are able to mine this way that I think in probably the rest of the country you wouldn't have such a concentration of fishermen going to one place. In Cordova there's one place to go, in Dutch Harbor there's one place to go, so you can do some data mining. I'd like to see NIOSH and Alaska Department of Health, whoever else interested in it, moving forward to mine the insurance companies. There are a limited number of insurance companies, and all have many of the data points that I think NIOSH would be interested in. I think there's a wealth of information there if we can get the paranoid insurance companies and the government together to pull that information out while protecting the privacy of it.

DR. ANDERSON: I'm glad we can start to sketch a picture of how we can help them. The advantages of what we did was this quick, and we just signed an MOU with the clinic, and it was very straightforward. I think the rest of Alaska could be studied in very rapid fashion and I think reinforce some of this data.

MR. JACOBSEN: I really appreciate your presentation here having spent so many years in the Bering Sea. My mom actually ran the Iliuliuk Clinic 8 years in Dutch Harbor and I spent a lot time there as a patient. It would be interesting to also integrate the Medevacs information too. I was Medivac by the cutter Munro, my boat, and they took me to St. Paul Island and then flew me to Kodiak. I never visited my mom at the clinic who was running it at that time. I went directly to the hospital in Anchorage. The C130 came from Kodiak to pick me up at a huge cost to the government. I can't even estimate how much that cost. But it would be really interesting to see the detail of the Medevacs and how much those cost and integrate that information as well.

CHAIRMAN DZUGAN: It would be interesting to follow up with longer-term follow-up. I know you're catching the clinical data, but especially in the area of strains and sprains, stuff that's not acute and critical that needs to get taken care after the fishing season is done when you're back at home in Seattle or Wyoming or Mexico or wherever you came from to work. I'd expect it would increase those costs tremendously in terms of percentages. One area that gives indication of that is the Fishermen's Fund. I know

for epidemiological reasons why the Fishermen's Fund data is not so clean, but by far the greatest number of injuries they get reported by are that they come back weeks or months after the season are strains and sprains they get reported on. To be captured by Fishermen's Fund you don't have to go to a clinic. I can be just follow up care you've gotten with a chiropractor or something for your back, things like that. Anybody who fishes knows if you were to ask fishermen what's the most common injury it would be strains and sprains, usually the back and upper arms. So follow-up would be interesting on that.

MR. MATTERA: Can we get a copy of this report?

DR. ANDERSON: Sure.

MR. MATTERA: Great. Thank you.

CHAIRMAN DZUGAN: Thank you very much for your presentation.

We can start another presentation or do our break early and come back early. Break is what I hear, so it's 9:35, so come back at 10 to the hour.

[BREAK]

## **NIOSH: High Risk Fisheries; Regional Trends**

DR. LINCOLN: Good morning, everyone. My name is Jennifer Lincoln. I work for the NIOSH Alaska Pacific Regional Office. I'm an injury epidemiologist, which means I look for patterns of injuries in populations. The population I specialize in is commercial fishing industry. The talk today will look at a decade of data for the country. Many of you have known me for years, and when NIOSH first entered the scene looking at fishing safety we focused on Alaska, but in the last few years we've expanded our efforts to places outside Alaska, and it's been interesting to offer the expertise and technical assistance to other places. Today I want to mention some of the highlights of that work.

I want to introduce Devin Lucas in the audience, and I hope many of you have already met Devin. He's a statistician in my office, the rows and columns person when it comes to keeping all this information straight. He's very good at what he does.

For those who aren't familiar with NIOSH and what we do, NIOSH stands for National Institute for Occupational Safety and Health. We are a federal organization and our mission is to provide leadership and research to prevent work-related illness, injury, disability and death. My office focuses on the latter part of that mission to prevent injury, disability and death.

Many people think NIOSH and OSHA are the same group, and I always want to make that distinction very clear that we are not. Although we were created with the same act, the Occupational Safety and Health Act of 1970, we are two different and distinct

organizations. So OSHA is under the Department of Labor and they focus on regulation and enforcement actions. We are under the Department of Health and Human Services and actually are one of the centers in the Centers for Disease Control and Prevention. We are a public health organization, and we focus on research, training and prevention recommendations.

Over the years the Alaska office has worked as a catalyst for change by providing a scientific assessment of the worst workplace problems, identify high risk groups involved with the problems. We support development of interventions, lead some interventions and evaluate progress to see if we're having an impact on improving safety. This is the same cycle and the same process we apply to any workforce we're working with and how we've worked with the fishing industry.

I think many of you are familiar with the Bureau of Labor Statistic press release that comes out every fall talking about the occupational fatality rate among commercial fishermen. We will say that data comes from CFS, Census of Fatal Occupational Injuries, and all 50 of the United States have a CFS office within it that keeps track of occupational fatalities.

Each year the BLS, Bureau of Labor Statistics, reports certain industries and occupations have a high fatality rate, started doing this in 1992. From '92 to 2008 commercial fishing was in the top 3 of the highest risk occupations in the country. This chart's jagged line indicates the rate in each of those years, and the straight trend line is calculated, takes into account the change in the workforce size, and we can see if there's been an overall change or reduction in the fatality rate. We do a chi square test for trend where we look to see if the fatalities decreased quicker than the workforce decreased. So over the years there has been a statistical trend downward reducing commercial fishing fatalities in the country since 1992.

The way we expanded our work from Alaska to the rest of the country is to start to look at establishing a surveillance system for work-related fatalities among fishermen. You do fatality surveillance to answer several questions: what is the problem, who is affected, how many people in what ways, what are the causes and risks and contributing factors? We spend a lot of time trying to figure out how we can identify the modifiable factors. You can't change somebody's age, where they fish, but you can change other risk contributing factors identified in casualties or fatalities.

We wanted to use the fatality surveillance to identify areas for targeted interventions focusing on a particular problem or fleet, and we wanted to be able to monitor progress to see if deaths are reduced. We created this Commercial Fishing Incident Database which is a relational database which means there's a data entry screen and behind it tables where we collect information. So if a vessel sinks there will be a table where we collect information about the incident. There are also tables for each of the people involved, both victims and survivors, and we collect information on both. Then there's a vessel table because we need to understand certain factors about the vessel. There are roughly

100 variables for each incident, and we're able to query the data in a variety of ways and can export it to other software to do something more sophisticated.

Our data sources include the U.S. Coast Guard investigative reports, and that's by and large where we get a lot of our information. In addition Devin spends a lot of time talking to state health departments including the CFOI offices I mentioned. We also look into cases by looking at local law enforcement records, the news media and death certificates in the respective states.

It was challenging for me to figure out how to present 10 years of data for the entire country in 30 minutes. I have limited the type of information to the key areas I wanted this group to take home. Some ways we divide the information is to look at the types of events, so this shows we look at vessel disasters defined by anything that happened to the vessel that required people to abandon it: capsizing, sinkings, fires, we call "vessel disasters." Within that we can look at the initiating event and also the cause of some of those initiating events like cause of the flooding, cause of the instability, which I'll share a little of that information with you.

We can also look at falls overboard, and we've determined the causes of the falls overboard, and we look at contributing factors including PFD usage in those fatalities.

When I put this talk together I had a section on onboard injuries and didn't delete it from this slide; however I'm not going to get into the specifics due to time, but we have information on on-board injuries as well as diving injuries and onshore injuries, so the fisherman is injured while offloading on the dock that's something we also keep track of.

We looked at fishery-specific information whether geographic location, and we divided the country into five major areas. Living in one of the states not connected I know we'd have Hawaii and there's fisheries on the Great Lakes, but for the purpose of this talk and by and large the information in CFID these are the geographic locations we focus on.

We also pay attention to the type of fish that's caught.

The purpose of this talk is to provide a brief look at the type and level of data we have, and to make sure you understand, we can look at it in a variety of ways. I want to learn what other types of information you'd like and I hope I inspire you to address things on not just a national or regional level but also an individual level.

The challenging part of any talk is explaining the data making sure I don't lose my audience. Its count information, so if you look across this the year, 2000 to 2009, and the Y axis is the number of deaths. The different color of bars represents the different areas of the country. So there were 504 fatalities in this 10-year period, about 50 a year, and you can see they are distributed across the country and many fatalities occur where there is a lot of fishing, in Alaska, along the West Coast and in the Northeast. You can see the thinner blue parts of the bar are the mid and south Atlantic part of the U.S, and the top purple color is the Gulf of Mexico.

We can divide this another way, look at fatalities by types of event. So the red parts of the bar, the bars represent the number of deaths each year 2000 to 2009, and different colors represent type of event. So red parts of the bars are vessel disasters, so these are events where at least one person died and people had to abandon the ship after some incident. The blue parts of the bar are falls overboard. Yellow is onboard injuries, crushings, entanglements. The very small orange parts are any onshore injuries, and the top of the bars are diving injuries.

The rest of the talk I'll focus on vessel disasters and falls overboard. For each of those events I'll talk about the causes and associated risk factors we have in CFID as well as the particular high risk fisheries defined by where these types of things occur most frequently. Then I'll get into fishery-specific fatality rates.

So 52 percent of all fatalities in this 10-year period were due to some sort of a vessel disaster, and we can look at the initiating event. In 25 percent of the events it was due to flooding initially, and another 16 percent due to some sort of instability issue. Another 16 percent was 'struck by a large wave.' So this is the initial event that the investigating officer identified as the first thing that happened. I understand there's a series of things that happen when a vessel sinks, but we tried to figure out the first thing so we could determine the intervention to be developed.

Back to this, with flooding there's 37 events, 25 percent of all events. We can look more specifically what within flooding happened. It was usually down-flooding, 27 percent flooding below the waterline. Some vessel disasters were open skiffs that had been swamped. It's important what type of flooding event we're talking of because it requires different issues, whether water-tight integrity or hull maintenance, whatever, different hazards are found, different intervention points are found. If you look at instability, the issue usually is overloading followed by hauling up a heavy net, and there were other factors associated like shifting loads, icing, structural modifications and slack tanks. But this is the reason why the vessel was unstable.

If you think of vessel loss, there are many times multiple fatalities involved in a single vessel loss, so this slide illustrates the number of fatal events in each of the fisheries and location in the fisheries where vessel disaster events most commonly occur. The northeast multispecies ground fish and Alaska salmon fisheries had 12 fatal vessel losses in that 10-year period, followed by West Coast Dungeness crab had 10, Northeast scallop had 9, etcetera.

Another way to look at it, the fatalities. So the light part of the bars is the events, and the darker part of the bars is the number of fatalities that occurred in all those fatal events. If you look at the fishery that has the most fatalities, it's the Northeast scallop fleet and they also have a larger crew. You notice West Coast Dungeness crab have the second most frequent number of fatalities in the 10-year period. Alaska sole at the bottom you see 2 fatal vessel losses, but 20 people were killed in those 2 events. You can start intervention efforts based on number of fatal events, the number of fatalities, or number of high

fatality rates. Many times vessel losses result in multiple fatalities, and this is the resulting picture when it comes to in which fishery does it most commonly occur.

Next, falls overboard. About a third of all fatalities in the 10 year period in the fishing industry were from falls overboard. I think Jerry coined the phrase, one by one, one by one, so there were 155 different fall overboard events and 155 fatalities.

If you look at causes of falls overboard, you see half are caused by slips, trips and falls and people losing their balance. You notice over here that 14 percent of them are due to gear entanglement. If you want to address falls overboard you must understand why people end up in the water in the first place. We can also look at contributing factors, and majority of fatal falls overboard the people were alone when they fell in. This could be because they were fishing by themselves or because they were out on deck by themselves. The majority were alone and zero were wearing a PFD.

Falls overboard fatalities by fishery, the highest number due to fall overboard is Gulf of Mexico shrimp fishery, followed by Alaska salmon fishery, all gear types, and Northeast lobster fleet.

There are different reasons to focus on specific hazards and develop interventions. You can run with, it's a high number of fatalities, a high number of fatal events, or you can look at fatality rates. You can say, given the population of salmon fishermen or crab fishermen or scallop fishermen, do we see higher numbers of fatalities?

To calculate rates, you need workforce estimates specific to the fishery you're looking at. I've worked with Steve Hughes on developing a way to come up with a workforce estimate. The information available that we use, we look at number of vessels that make a landing in a fishery, we look at the openings for that fishery and the average crew size on a vessel, and within that if we multiply those factors we get an estimate of the amount of time spent fishing for a particular species.

In the past I focused on Alaska salmon, cod, halibut and Bering Sea Aleutian Island crab, the deadliest catch fleet. A couple years ago we highlighted how the West Coast Dungeness crab fishery had a higher fatality rate than the Bering Sea Aleutian Island crab fishery. In the last year we've been able to start looking at East Coast fisheries and you see the Atlantic scallop fleet and the Northeast multi-species ground fish fleet has an even higher fatality rate than what we see in any fishery in Alaska as well as the Dungeness crab fishery on the West Coast.

These rates take into account the amount of people participating, amount of time spent catching the type of fish. So the northeast multispecies ground fish and Atlantic scallop fleet have a higher fatality rate than any other fishery we've been able to look at.

Devin and I can't calculate a fatality rate by region, don't know how many fishermen fish along the East Coast, so I can't provide information geographically, but we can look at some fishery-specific fatality rates because we do have workforce estimates for those.

You notice I don't have anything for the Gulf of Mexico yet; it's something Steve and I were talking at lunch to see if we can look at workforce estimates for some fisheries for the Gulf Coast. Do you have a question, Fred?

MR. MATTERA: How do you come up with these rates?

DR. LINCOLN: We know the number of fatalities, so that's the number that goes on top, the numerator, and it's divided by a full-time equivalent, this workforce estimate we call a full-time equivalent. That estimate is established by looking at which vessels participated in the fishery by who made landings, the length of those fisheries openings so you take vessel landings by length of openings then you get vessel days. Then we take average crew size, so vessel days times the average crew size and come up with this FTE, full-time equivalent. We do that for all the fisheries shown in that slide so the workforce estimate collected the same way.

Something important to note, we know risks vary by fishery so you can look at the fatality rate and know these are high risk fisheries, the ones that require our attention, but what do we do about it? If you look at the details, at NE ground fish, about half the events are due to instability usually due to hauling a heavy net of fish or due to flooding. If you look at Alaska salmon though, these are set-net skiffs that are being swamped. So a one-size-fits-all approach won't work for these two fleets. An intervention on a deck vessel would be different than an intervention for a non deck vessel. West Coast Dungeness crab across the board all were involved in heavy weather and many times it was while they were crossing a hazardous river bar. And the Northeast scallop fleet was a smattering of things, instability issues, gear caught on bottom and there were collisions.

It's interesting, I know my audience, one group is trying to come up with affecting national policy. There are other examiners in here trying to come up with regional issues and interventions. But all of us are individuals with expertise in particular fisheries, so the information we have I hope will provide support for any sort of action you're trying to work on.

Since risks vary, the Northeast scallop and ground fish fleets, an intervention focusing on the relationship between vessel stability and gear handling may be appropriate. I was pleased that Ted mentioned that in his report about how they engage the industry to look at the specific issue of stability.

With the Alaska salmon and West Coast Dungeness crab fleet maybe intervention is focusing on issues operating in heavy weather or crossing hazardous bars are the regional specific thing to work on.

So what do you walk away with? Vessel disasters and falls overboard are the key reasons that fishermen die. The majority of fatalities are due to the vessel disasters and different fisheries have different risk factors. With falls overboard, one-third of the fatalities are due to falls overboard, and none of the victims were wearing a PFD when they drowned,

and the majority of them are alone. When we look at whatever we're developing, whether national policy, regional effort or a fishery-specific intervention the information you can build those on is contained in some of the past tragedies we've experienced.

I think that's about it. As far as the NIOSH, we'll continue to do our work, we'll continue to assess, collect and interpret data, continue whether it's a policy development to research—we might research new insights, innovative solutions. But I think the challenge, the most important part of our work is to inform, educate and empower and continue the downward trend of fatalities in the fishing industry we've experienced so far.

CHAIRMAN DZUGAN: Thank you, Dr. Lincoln. Before we open it for comments, I want to thank you for including types of fisheries throughout your data collection because if we are going to have effective meaningful regulations or projects, if they are not targeted for fisheries as you noted they will be ineffective in other fisheries and there will be in fact pushback from that because it doesn't relate to them. I really appreciate the extra time mining that data because I know it's not always obvious, not given to you that way. Normalizing the data also with work effort is really time consuming I'm sure and good work. It's exemplary data, all of this, and we just don't get it from anyplace else. So thank you and your crew for doing this.

DR. LINCOLN: Devin definitely needs to be acknowledged here.

CHAIRMAN DZUGAN: A copy should be, it's hard to e-mail PowerPoints but if the committee members could get a copy of the summary where you've got 3 of the PowerPoints on a sheet or six on a sheet it would be really helpful for us when we're going to subcommittees and doing work to look at those high risk fisheries because to approach it strategically we need to put most of our efforts into those highest risk fisheries and target them to have the greatest effect on reducing fatalities.

DR. LINCOLN: Yes.

MALE: Jennifer needs to make sure there's data behind the slides, and I'll have the presentations so I can either e-mail it to everyone on the committee, but it will also be posted on the website from the committee meeting information. So anyone will be able to download it from the website then.

DR. LINCOLN: Right. The talk is available. You know you have the regional summaries that Devin created in August, and we've updated, and you have those. You've distributed them to your district coordinators. You can e-mail us with questions if you want something specific. This is just the tip of the iceberg as far as what type of information and the level of detail that we can get to.

Devin and I keep track of who requests information and for what purposes because we go back. We have to compete for funding, and if we can go back and show how this is a resource not just for us but for many people, then we are more competitive.

CHAIRMAN DZUGAN: We want to support those efforts. The last thing, to put a plug in for D17, Ken Lawrenson and Scott Wilwert just did a brochure which I'll bring this afternoon on addressing single operators and falls overboard issues, so I'll pass that out to committee members, and if there's some left over you can have them. I'll put them in the back to try to target some of those high risk fisheries and situations. Ms. Hughes?

MS. HUGHES: Jennifer, with the initial amount of research you've done so far, do any of the fisheries you've looked at look like they might be prime considerations for an alternate safety compliance agreement arrangement?

DR. LINCOLN: That's a very interesting question. I think yes that they are because if you can tailor the program to the specific hazards that fleet has and work with industry to develop that, then it's a win/win situation. But it's all in how it's approached, and I think some of those high risk fisheries would lend themselves to some sort of an alternate program.

MS. HUGHES: I think the research you're doing will make it very helpful for all of us to make more meaningful comments when we do see that NPRM because like it was said, one size does not fit all, and that's going to be the challenge with the NPRM.

CHAIRMAN DZUGAN: Other comments from the committee?

MR. MATTERA: Great presentation, Jennifer, as usual. I want to ditto what Jerry said, especially on breaking it down by the fisheries. Jimmy Ruhle alluded to it, and I have in the past. We see ground fish fishery here, and when you have something like this and I have some documents in front of me, it makes it easy for us in the peer review process going to council meetings and saying, Look, you're not considering national standard 10, promoting safety at sea, because this is the highest risk fishery right now. They way you've managed this fishery I think has been conducive of what we're having here is fatalities." Have you taken into consideration as a factor the economic strength of fisheries as they go on? For instance, in the Gulf of Mexico years ago marketing was terrible, fishing was poor. And you saw a tremendous reduction in the shrimping fleet. In the northeast the same things are happening through the management; the effort controls have been devastating and draconian. The impact on lack of maintenance on the vessel which ends up with material failure, less crew so you can make a little more money, going further, staying longer, smaller boats offshore, all of these, have you taken those things into consideration in the factoring on safety and fatalities?

DR. LINCOLN: All those factors are very important, and I think that's why I try to spend as much time talking to fishermen as I can to understand what some of those issues are. When Devin put this together, he spends a lot of time traveling around the U.S. to understand what the differences in the fisheries, what the vessels are like, not only how they fish but the policies in place they have to operate under. The last year and a half, far as fisheries management issues go, that's been something I've got a lot more interested in and have acquired more understanding of as to how those policies affect safety.

When you create a surveillance system, the variables you pick have to be something mutually exclusive but cover the whole category. So when you try to come up with a factor you'd collect for economics, for instance, I don't know how you'd get information about that from a casualty report. When you look at fishery-specific incidents understanding the overall condition of the fleet, what the economics are, what fishermen are facing, you have to get from behind your desk and go talk and listen and learn.

MR. MATTERA: I understand that. In the northeast there have been numerous socioeconomic impacts. I wouldn't pull or glean them out of NMFS because they are socioeconomic impact statements are pie in the sky. I'd go to people like Madeline Hall Arber, Dan Georgianna, Dr. Pollanak out of U of Rhode Island because they have done some independent studies which I think are more accurate and they might be helpful.

DR. LINCOLN: So the research question is, how do economics affect these numbers, I'd find myself an economist and say, how can we work together on answering that question?

CHAIRMAN DZUGAN: It struck me, while you're looking for funding as a proposal it would be interesting to develop a rapid response team almost like a swat time within NIOSH to respond to quick changes in economics and management regimes that can turn these statistics on its head quickly within a year or two rather than wait to get the 5 or 10-year data and see the damage it's done. I think it would be an excellent proposal to be funded, and management councils could also use it to get instant feedback on the effects their regimes or an economy is having on a particular fishery even if it's not a management regime, the value of the yen versus the dollar, whatever. It's the kind of work that an economist would be interested in, so something to put in the hopper there. Michele.

MS. EDER: Mr. Chairman, Dr. Lincoln looking at the West Coast Dungeness crab fishery, was Northern California included in the data or was it just Oregon and Washington?

DR. LINCOLN: Northern California is included.

MS. EDER: I saw on one of the slides when you look at a certain fishery that there may be different suggestion looking at what the cause is so you can address fleet-wide the solution to reduce fatalities. I saw one solution was to regulate bar crossings, whether the bar is open or closed depending on the weather. Now with the West Coast Dungeness crab fishery, one that starts on December 1<sup>st</sup>, if there's a price agreement and everyone leaves the dock at the same time and there's a preset such that the pots are set. People come back to the dock for a hold inspection and then it's Katy bar the door once the season opens. Because the fleet varies in size from 35- to 100-foot vessels, and because those vessels can manage different weather conditions and bar crossings, I would suggest rather than or in addition to looking at the condition of the bar management measure in this case would be more suitable to decrease the fatalities in this fishery, and I'd say individual quotas in the Dungeness crab fishery would be far more efficacious in

addressing fatalities because it would address the issue of overloading pots, which would also address the issue of stability potentially and also give the smaller vessels the opportunity to choose when to fish as opposed to competing with vessels that actually have stability booklets. Since they have in heavy weather smaller vessel would then have the choice as to whether or not to go fish.

I think an individual quota program, given the variety of vessels in the fleet, would be another way to look at how to decrease fatalities in that fleet in addition to monitoring the bar.

The other thing, I'm not sure what year it went into effect, Oregon initiated a pot limit program, and previously there were no limit to the pots a vessel could own and that on occasion related to fatalities and stability issues. If the Fish and Wildlife Commission enacted a pot limit program based on three tiers of 500 pots, 200 pots and 100 pots. It had nothing to do with the size of your vessel but everything to do with what your history was. So I wonder, I think in 2007 or 2008 crab season, and I wonder if you can break out that data to see if there was a decrease in fatalities after the implementation of the pot limit program, a factor to look at, and I think California is now looking at a pot limit program and I believe Washington already has one, has for 5 or 6 years.

MR. KEMERER: Thank you, Jennifer. I've got a couple questions, two I'll address because it might apply to everyone and the other 3 I'll take up with you separately because they're more program questions. On the man overboard studies you did and research, do you have data on how many people who fell overboard were recovered?

DR. LINCOLN: None. It's on the dream sheet.

MR. KEMERER: For those you have data on for falling overboard, how did you attribute the cause of the fall overboard and particularly if it was a single man operation?

DR. LINCOLN: Devin, do you want to talk about that?

DEVIN LUCAS: On a fall overboard where there's no witness how do we attribute the cause? We refer to the Coast Guard reports or law enforcement reports, and we don't make anything up. We base it off what the investigators found. Anytime there's a fall overboard event like this even if there's no witnesses there's usually evidence left behind that can give some indication of what happened, whether it's open containers of alcohol on the vessel or scuffmarks where there was a fall or blood marks where someone hit their head as they went overboard or things like that. Sometimes there's no cause except it's attributed to trip/slip or sometimes the only contributing factor we know is that they were alone and it was unwitnessed. It kind of depends but usually investigators are able to come up with some educated guess on what the cause of the fatality was, and we base our analysis off of that.

DR. LINCOLN: You'll see on the pie chart 15 percent of the time we don't know.

DEVIN LUCAS: When there's just absolutely no idea and the investigator says that, they can't come up with any educated guess, then it will just be left as "unknown."

MS. EDER: When I saw this pie chart I was surprised by the statistic jumped 10 percent. Was that relative to people, I know crew is exchanged at sea between boats on occasion, but is this suicide?

DR. LINCOLN: Suicide. Yes.

MS. EDER: That struck me as rather high.

DR. LINCOLN: Our information is all traumatic injuries, so if there are any homicides or suicides they are included in the data. It's just not a very big proportion of the overall fatalities, but 10 percent, those are suicide.

CHAIRMAN DZUGAN: To point out 2009 stats for Alaska which I got from Jennifer, we had 9 fatalities in Alaska, all man overboards in some way, and 6 traditional man overboards and 1 person thrown out of a skiff, and 2 suicides, for a total of 9, so 25 percent were actual suicides. Every single fatality last year was some type of man overboard event. Not one death due to loss of a vessel last year in Alaska.

DR. LINCOLN: We'd code that one skiff as a vessel loss.

CHAIRMAN DZUGAN: Captain Ruhle. If it's okay with everybody in the committee, can we slip into our public comments also so we can use some of this time to ask questions? Okay?

CAPTAIN RUHLE: Actually the question is related to the presentation. You can deal with it any way you want. Jennifer, it was a very informative presentation as always. I have a few suggestions and possibly some questions/comments in your analysis when you combine Mid-Atlantic and South Atlantic, that's a mistake. You really need to go Mid-Atlantic, Northeast. The traditional Mid-Atlantic area is New York to Cape Lookout, halfway through North Carolina. The traditional fisheries separate right there. And the Mid-Atlantic casualties are anything associated with Mid-Atlantaic is relative to Northeast fisheries. The boats that fish the Mid-Atlantic also fish in the Northeast and vice versa. That's one suggestion.

DR. LINCOLN: So you divide the East Coast differently.

CAPTAIN RUHLE: Well, North Carolina, like Florida, sits in two council regions, but the Mid-Atlantic is defined as Cape Lookout, North Carolina, to New York. And it's much more, it's 98 percent of the fisheries relevant to the Northeast, similar to the Northeast fisheries. All the scallop fleet, all the ground fish fleet. You have ground fish vessels in North Carolina, you have scallop vessels in North Carolina that fish well off of George's Bank clear down to Virginia depending, vice versa you have New England vessels fish to Virginia.

DR. LINCOLN: Okay.

CAPTAIN RUHLE: The two should be lumped together. They are much more similar. I don't know if it would change any of the data. Also, I was quite surprised, and I think somebody that's paying attention on the councils if there's anybody left that pays attention on the councils, both on the East Coast because it's really bad, could use your data to support some more safety concerns related to the fisheries. I didn't have it. I've argued for years in the sea scallop fishery that a 7-man crew is dangerous. And you're actually supporting that now. What happens with a 7-man crew if they're working two shifts, you've got four men on one shift, which puts somebody in the wheelhouse. The other shift, three guys are on deck. And this collision rate is a direct result of the requirement to keep seven men on a boat. That's actually been modified, hasn't it Fred, for the closed areas where they've increased the crew to 8, which puts somebody in the wheelhouse. A lot of the collisions are not reported. If they don't result in any injury, they are not reported, simply for the reason previously stated here.

I think it would also be beneficial to you to take, which I'm sure you could do on any fishery, the offshore sea scallop fishery or the large boat sea scallop fishery versus the small boat. Same thing with lobster. You really shouldn't lump the inshore lobster fishery with the offshore because the man overboards are all mostly associated with one or a single man operations.

DR. LINCOLN: Right, and we do make that distinction.

CAPTAIN RUHLE: Well, it doesn't come out in that. Lastly, the length of the season. You talk about the opening, but you've got to recognize in the Northeast in the ground fish and the scallop fishery, you've basically got a year-around fishery. Now the vessels are only allowed on individual basis to participate at a certain number of days at sea, so somehow or other that's got to be factored in, and I'm sure you have, but it doesn't come out the same way when you look at your slides as to the Bering Sea crab fisheries which are somewhat limited, which has actually changed now with the ITQs.

DR. LINCOLN: It is. We've had to modify the way we make those estimates, and so that description in general is what we do, but keeping in mind some have limited days, some have IFQs, so you have all the time in the world to go catch your amount. Well, how much time does that really take to catch that amount of fish? So Steve has had to adjust the way he deals with specific fisheries because of these nuances.

CAPTAIN RUHLE: Thank you.

CHAIRMAN DZUGAN: Thank you, Captain Ruhle. Any other comments for Jennifer? Ms. Murphy.

MS. MURPHY: Thank you, Dr. Lincoln. That was very informative and it's a lot of good information I'm sure you can look at in many different ways. I wanted to clarify the 155 fatalities for man overboard, was 155 deaths as well?

DR. LINCOLN: It's 155 fatalities, 31 percent of all the fatalities were falls overboard.

MS. MURPHY: I thought I heard you say every man overboard resulted in a fatality. Is that correct?

DR. LINCOLN: If I said that, I misspoke. These are only fatal falls overboard. The point I was tarrying to make, unlike vessel losses when we talk about man overboard event and fatality is the same number, but when you talk about vessel losses and a vessel loss event and number of people killed in the event, they are not equal. That was the point I was making.

MS. MURPHY: I see. Thank you. That clarifies that. In California last year we had a number of man overboards as well, and half those resulted in fatalities, and the other half were recovered.

DR. LINCOLN: I don't have any information on the number of people that fall in and are recovered. That's something I'd be thrilled to be able to look at so we can learn why.

MS. MURPHY: It's a good point. Also I'd like to second what Jerry recommended in terms of fisheries. In California the salmon fishery has been closed the last 2 years and that's our largest fleet of vessels in California, so when they get to fish this year in the 8 days they've opened it, I think that could present some safety issues. It would be informative to have something analytical to compare those seasons with when it was closed, when it was open a limited time.

DR. LINCOLN: It's one thing to look at it after the fact and another thing to make sure you show up to the management council meetings or some sort of a gathering preseason to make sure there are some prevention efforts put into place. If those guys have 8 days to fish, by golly, they're going to go fish. So maybe, and I'm sure you thought about this, the Coast Guard needs to make sure they're there to take a look at the boats and try to talk to the guys about particular issues and make sure they have current dockside exams or do a quick safety check on vessels prior to the opening. It's interesting to look at, so are these things associated with increases or decreases? But if you think it might be and you're in the position, I'm talking to all you Coast Guard people, you're in the position that this might happen, what can I do to see that it doesn't?

MS. MURPHY: Just so you know, we do an Up Save Salmon. We got that covered, but it's nice to have that economic data. I know that's not your area you're looking at, but it would be informative as a big picture. So thank you.

MR. DAVIS Do I understand correctly that Devin was a commercial fisherman?

DR. LINCOLN: Yes.

MR. DAVIS: I'd like to applaud you're hiring a fisherman to count fishing fatalities and work with fishing.

DR. LINCOLN: Devin really does need a round of applause.

**[applause]**

MR. DAVIS: I'd also like to applaud the Coast Guard for hiring someone with 10 years of fishing experience to be a fishing vessel safety examiner.

CHAIRMAN DZUGAN: We all appreciate efforts for the Coast Guard and other agencies to pick people from the industry for any kind of work they can do. Thank you, Dr. Lincoln. Your work is always good, well done, and generates an interesting discussion.

We'll continue more open public comment. This is the time to speak on any fishing vessel issue for anybody who's come who wishes to speak on any issue.

**PUBLIC COMMENT:  
DENNIS HANSFORD (NMFS) on OBSERVERS**

MR. DENNIS HANSFORD (NMFS): Thank you, Mr. Chairman, committee members. I am really glad I was able to make it out here. There were some things I wanted to broach with all our district reports and hopefully I can talk offline and at the same time get some feedback here. I'm from the National Observer Program, so I'm acutely aware of our observers on the front line on these commercial fishing vessels and some issues they face as they try to collect biological data for resource management. We constantly tried outreach to the industry to make sure the understanding is we're not enforcement. We're about trying to maintain the viability of the fisheries for the fisherman at the same time having to provide information to make those hard decisions that can be impactful to the industry.

I wanted to find out from you here the interactions you had with the observers, what safety concerns the observers bring to the vessel. We train them, we give them a high level of safety training, a lot of it provided by the Alaska Marine Education Association through Jerry. We have found a lot of times they're the most proficient in safety awareness on some of these vessels. We've tried to provide that information through onboard drills.

I want to know, have you been privy to marine safety certified instructors providing guidance in these onboard drills? That's something we view as a way to bridge some of our mutual concerns for safety awareness.

CHAIRMAN DZUGAN: Can I help clarify what you're saying? There's truth to what you're saying in terms of the observers being trained in safety awareness in terms of how to use the equipment, but they are in a particularly difficult situation in that they are being put on an unfamiliar boat, sometimes for the first time in a fishery they've never been on before, and the overall bigger picture of safety you really can't train them in a couple of days or even a couple of weeks. They are in an interesting position; they may know more about the use of the survival equipment in case of an emergency, but they are sort of the lowest man or woman on the totem pole in terms of being responsible for it or being in charge or really knowing the bigger picture. Is that a fair statement?

MR. HANSFORD: I may have misspoken. Our marine safety instructors through your training are certified to do onboard drills. That's what I'm trying to focus on, those individuals that train our observers, not so much the observers that come on board but the trainers of the observers. They are the ones that are outreach to help with conducting onboard drills. They can do that in terms of the man overboard drills or any other on-board drills. They are certified to do that, and I'm trying to get a sense of whether or not that's taking place, not so much as having observers out there collecting data conduct these drills. Does that clear it up?

MR. JACOBSEN: Thank you, Mr. Hansford. I've had experience with probably a dozen observers on boats I've operated, and as far as safety goes we'd rather have the observers in any serious situation just follow instructions, put on their survival suit when told, stand where – we don't want them to do anything beyond that because as has been pointed out they are the low person on the totem pole, often in my experience not familiar with the sea or anything else, and it's a lot different experience having a drill at a dock than it is when you get out on a real-life situation and the boat is being pounded in 30 foot seas and it's a whole different world out there.

Also what I want to convey to you is, I'm a third party vessel examiner and a marine surveyor so I see a lot of boats and talk to a lot of fishermen, and there's a lot of resentment towards observers who come on board and think they know something and are giving advice, threats even to the captain, making comments about their vessel and whether it's certain things on their vessel are safe or unsafe. It's just the way that some of the observers have chosen to present themselves I think that has created a lot of resentment that has spread throughout the fleet. So observers coming on to a boat for the first time need to understand, one, they are the low man on the totem pole, and two there's a lot of resentment about a them being there, and the fishermen do not take kindly to having them think they're going to be their instructors.

MR. HANSFORD: I fully understand that. Again I'm sorry if I gave the impression the observers that are deployed are the ones that would possibly conduct these onboard drills. That's not the case. Those as you stated, and we train them that they take orders from the captain, they are guests on board. I'm trying to get a sense of the individuals that train them, and invariably they are former fishermen that have come into the program and do

have some experience at sea. Those are the individuals certified and trained to conduct those kind of drills on board.

CHAIRMAN DZUGAN: A point of clarification, it's national observer training policy that observers not do drills on boats and not be placed in the position of doing drills on boats. It's an obvious conflict of interest, not to even mention the fact that there may be a lack of familiarity with that boat and that fishery. That's very clear to all observers.

MR. JACOBSEN: I think what I was referring to more was not necessarily drills but they come on and do a safety inspection as if they were going to give a decal to the boat. And even though the boat has a decal and maybe the safety inspection has just been done, the observer wants to do it over again.

CHAIRMAN DZUGAN: In fact, you can explain that.

MR. HANSFORD: As part of the observer health and safety regulations they are required to check certain aspects in support of the decal, and that's one of the main things they check is the decal.

CHAIRMAN DZUGAN: I know Dennis Hansford has a list, a few points he wants to make, but Mr. Davis would like to make a point.

MR. DAVIS: To respond to your question, yes. We have taken advantage of the opportunity to use national marine fisheries, NOAA, trained MST people to facilitate cold water survival training for us. We undertook a two-day training for a set of boats that was leaving and then did another day and a fourth day. National Marine Fisheries trainers were vital to being in the water and on the boat, facilitating the process of people putting on their survival suits, jumping into the water and helping them get into life rafts and get out of the life rafts. The training that we undertook was so massive that if National Marine Fisheries NOAA people hadn't been able to facilitate or to work with us, I'm not sure we could have – it was a joint effort with the Coast Guard, National Marine Fisheries, trainers we hired, American Seafoods crew. And we in four days did 790 people, into the water.

Towards the end of that four days, and it was two days consecutively and then a third day and then a fourth day later, the NOAA office in Seattle was pulling back a little bit because they felt like they were spending too much time helping. The people doing the work felt like it was a good use of their time, good practice for them, good experience for them. So I have nothing but good things to say about the people that were doing it, and I would hope that nationwide NOAA is encouraging people to do such outreach to help with. Fred's doing a big training in New Bedford or somewhere.

MR. HANSFORD: Exactly. I appreciate that.

MR. DAVIS: As far as what Jake was referring to, the inspection that an observer does when they come on board vessels, at least in the vessels I've been on and I've done the

pre-inspections with them on factory trawlers and long-liners, the inspection they do looks to me to be point by point a part-28 inspection.

MR. HANSFORD: It is.

MR. DAVIS: And I'm fine with it. The people that have done it have been professional about it, they've been thorough about it, and the reason it's done is part of the Arctic Rose Report indicated that observers had been coming off the boat for years and saying that it was unsafe and that they didn't want to go back on it again. But that never went full circle and resulted in any action being taken.

MR. HANSFORD: It did, it resulted in the amendment to the Health and Safety Standards where we made those clarifications.

MR. DAVIS: No, no, that was after the boat sank. Those complaints never came full circle and resulted in preventing a tragedy. My company's professional, my captains are professional, my mates are professional, and every once in awhile they will be doing one of these exams and they will see that there is an issue with the sickler on an EPIRB, something we didn't catch or didn't get caught in the Coast Guard inspection. That happens. It's an extra opportunity. It takes an hour out of somebody's life on the boat. For my company if I happen to be there when a new observer arrives, I do the walk-around instead of the mate. So I don't view it as an excessive burden, and I've never had any of the observers doing it that were obnoxious with me.

MR. HANSFORD: I appreciate those comments, but back to Mr. Jacobsen I'm also interested in being aware of instances where those observers are maybe overstepping their bounds. That is not the way they are trained, and we emphatically insist that when they go on board these vessels that they recognize that they are not the experts.

CHAIRMAN DZUGAN: I'm going to let Mr. Hansford continue with his list unless we're responding directly to his last statements, then Ms. Hughes.

MR. JACOBSEN: I think part of the reason for the resentment is that they don't know that that's what's going to happen. The guy comes on board and the captain is unaware he's going to do a part-28 type inspection on his vessel, just a guy coming on board asking all kinds of questions and wanting to see documents. So I think perhaps a little better communication could solve a lot of those issues. A lot of the boats just coming on line for observer coverage in the Bering Sea crab fleet, we have never had an observer before. It's 30 percent observer coverage. Now all of a sudden this boat has to have an observer coverage and this guy's never had an observer in his life, doesn't know what to expect.

MR. HANSFORD: There should be some forewarning, and I agree with that, and perhaps we should talk offline. I could give you points of contact so we both know who should be providing information to whom. I agree an open line of communication will alleviate a lot of this.

MS. HUGHES: I've heard complaints that have created resentment that has come from observers that did actually participate in the monthly drills, but would not sign the validation that they had participated. I've heard that from quite a few people, that it's a real worry to vessel owners if they know they've participated but they'll say they don't need to sign it.

MR. HANSFORD: We do train them not to sign any documents. However, it is documented in their records, and that is what we see as sufficient. As long as it's been documented by them in their records then that gets forwarded, and that may be where we need to work on making sure that it's followed up on, that the credit is given to the vessel that these drills are being conducted.

MS. HUGHES: I can say with certainty that would go a long way.

CHAIRMAN DZUGAN: Especially if that was an observer policy, that would make a lot of vessel owners a lot more comfortable with that.

MR. HANSFORD: It is observer policy for them to document it. Between the program receiving that documentation and making sure that appropriate district MSO is aware that these have been conducted, it's something I think we probably need to work on.

MR. JACOBSEN: Some of our observers, or most of them now I think will sign the documentation that we have the crew sign. The few that don't I've instructed my captains to put down "observer Billy Bob refused to sign but was present." There have been a few cases where several months after a voyage there's been some pushback from the Coast Guard that you had an observer on board that said you didn't do drills during the month of March, and then you're left with the situation where you have to defend yourself about did you do the drill, when did you do the drill, where the Hell was the observer when the drill was done, how do you prove it if there's no signature kind of thing.

MR. MATTERA: Dennis, a couple of points. I've been fortunate to train the observers there in Woods Hole with Mike Dawken, Amy Van Atten, along with Rodney, and I think the first question we asked them is, "Why are you doing this? You realize what you're taking on?" I heard you say they are coming aboard as guests. Wrong. It's not. For most people unfortunately, I'm generalizing, but most of them look at them as intruders.

MR. HANSFORD: I say we train them to come with the mindset that they are coming on board as guests. They may not be perceived as guests, but that's –

MR. MATTERA: I know you trained them in that fashion. It's a six-week program, and we just did a small part of it which was the safety aspect of it. But because both of us were fishermen we spent an hour just trying to explain to them the approach. And it's like anything you approach; when you come onboard or you meet someone, it's all that initial

approach of how you come. Now that with Catch Shares in the Northeast and this expansion of 30 percent coverage, just like Jake alluded to, there were to be observers going on vessels that have never had an observer before. There are now new observers that you have several other vendors out there. So I think it's in your best interest to have a letter of introduction that helps when you come aboard and say, "This is who I am, this is who I represent, this is what's going to take place, this is how we're going to conduct this, I want this to work between us." All of these are a positive approach in doing this.

Second, I think everybody should come with a certificate of insurance to assure those masters and owners of those vessels that you have the appropriate insurance coverage because we know one company, we know what they had for insurance coverage, because that vessel is liable. That's why he has insurance. Does he need to get excess insurance to cover that? Are there subrogation possibilities to come back? They should have a certificate of insurance. This is a package that people should bring.

Third, they should have a certificate of safety, a safety certificate that says they did participate. We as a drill conductor, some of the boat owners will say, Fred, I want you to come down and conduct a drill with this observer. Most of the observers are cooperative, they go through the whole process. Most skippers and masters of the vessels, put your suit on, stand in the corner, and do whatever I tell you to do. You're out of it because this is a teamwork, we're trained, we've done this enough times, and you might be more of a liability than an asset so this is what you are. But what we have seen is refusal to put a suit on. "I already did that." And they put the suits on, trust me. They did put the suits on. So we've seen some of those elements. It's just they're trying to give you an approach.

Another thing, you say they're not enforcement. I remember when years ago we wrote up and started with observers and wrote up a definition of what an observer would be, and boy we made certain there was no enforcement element in an observer. Well, there is.

MR. HANSFORD: Time has changed.

MR. MATTERA: There is an enforcement element, because if you don't have that Coast Guard decal and it's within the year, they are not going fishing. If they got six guys on board and they got five survival suits, they are not going. If the life raft is two or three months beyond being serviced, they're not going.

MR. HANSFORD: You raised quite a few points there I'd like to try to address some of them, to keep track of them. Going back a little bit to the insurance aspect, there is under the Magnuson coverage for observer in the Federal Employee Compensation Act, so the desire to have a cert may not be necessary, and subrogation is not a real concern under FECA. These observers are covered for any incidents or injury or death that may occur.

There are more details to that I can talk to you about offline.

You mentioned about the certificate for under introduction I think, some programs do

provide letters of introduction, but there are some ramifications and conference of authorization with a certificate under an act of, I can't think of it, it's the, I'd have to look it up –

MR. MATTERA: This is a safety certificate?

MR. HANSFORD: A certificate of any kind comes with a perception of some authorization, and as such it makes it wholly difficult for the programs to – administrative act; that's what I'm thinking of. And under the Administrative Act there are courses and procedures you need to follow if you want to relieve an observer of his duties and consequently an observer that would be facing dismissal could potentially be deployed collecting additional data we don't want. All this stems from the fact that he was given a certificate, whether a safety certificate or a certificate of completion of observer training. So to alleviate that a lot of programs do not issue the certificates.

Now the letter of introduction is something else, and we are working to try to make it a national policy that all the programs –some of the programs do that, some don't unfortunately.

There was another issue you raised I wanted to address.

MR. MATTERA: That letter of introduction, it would be good to know that the fisherman knows that they do have coverage, and it would be good to know that they have participated in safety training. If you're not going to provide the certificates, it would be nice in the letter of introduction to explain to the master, the skipper of the vessel, that this is what is entailed in the training and for this observer.

MR. HANSFORD: Not to take up the committee's time, I'd like to pursue this with you offline.

MR. MATTERA: One other thing we've had problems with EPIRBs, and you're aware of it.

MR. HANSFORD: Yes.

MR. MATTERA: It came to the committee. I don't know what happens elsewhere, but EPIRBs you buy now are in shells, have a cover on them, a lot of them are positioned in a vertical apposition. They pull the cotter pin out, they open it up, boom, EPIRB falls on the ground, cracks it, breaks the antenna, oh shit, picks it up, puts it back in the thing, and just walks away. And some of these skippers, or we come aboard and do an inspection, it's cracked, it's broken, or they'll go back up there, the cotter pin wasn't put in properly the thing opened, it broke, the antenna broke, some of them admit to it and some don't admit to it, and I know now the policy there is when they do that checklist when they go to EPIRBs they ask a crew member or the skipper to please come up, open the shell, take it out, hand it to them, they inspect it, and then they put it back.

MR. HANSFORD: They're not to touch it.

MR. MATTERA: That has been an issue.

MR. HANSFORD: Well, the operative word is "has been."

MR. JACOBSEN: Should not be in the future.

CHAIRMAN DZUGAN: Mr. Hansford, can you continue with your points? Before you begin, I recommend to Coast Guard staff in the new office that before these meetings we have that we get you on the agenda as a speaker. I think the observer programs are really part and parcel of fishing vessel safety these days. You have a big presence on vessels, you're loved and you're hated, and when Amy gave her survival suit to the crew member of the fishing vessel Galaxy when other observers have actually intervened and saved fishermen's lives during an emergency, let's not forget that. But the key element here is communication, and I think it's really important that we communicate regularly with the observer program.

MR. HANSFORD: I'll definitely make sure I will get on your agenda.

CHAIRMAN DZUGAN: We'll work at it both ways.

MS. RUHLE: I'd like to know what the reason is why observers are advised not to sign on after a safety drill.

MR. HANSFORD: Those are the guidance given to us by our lawyers.

MS. RUHLE: Doesn't that leave the owner of the boat liable if something happens?

MR. MATTERA: It sure does.

MR. HANSFORD: No. Again, it's documented in their records, and so as long as they have it documented in their records it's viewed by our lawyers as sufficient to verify that the training is being conducted.

MS. HUGHES: But what is the reason that you don't want them to sign, or they are not required to sign that they've had a drill?

MR. JACOBSEN: We don't have access to the records.

CHAIRMAN DZUGAN: Can we hear from a lawyer on that? Ms. Eder.

MS. EDER: It's not a legal opinion. It's just, and I feel bad saying this but it's because it's more important to the government to not be liable than it is to represent to make boat owners feel safe and protected that they know the observer has signed the document that says "I have been trained." So that's part of the underlying reason why there's so much

resentment about observers, because even though they don't have control over that policy it's very clear that the government is going to protect the government first with the regulations and even to the point where they won't even allow a trained observer to warrant to the vessel that they've done the training. But that's shameful. Now that's shameful to me.

MR. JACOBSEN: It's a sign that I was here.

MS. EDER: It's horrible.

MR. HANSFORD: I think, Ms. Eder, it goes to the statement you made that it's in part beyond that individual's capacity to take on that responsibility.

MS. EDER: But unfortunately they are going to get the imprint of flow-down.

MR. HANSFORD: They are the front line so they are the ones that catch it.

MS. EDER: And if the government cared about them, they'd protect them from that resentment.

MR. HANSFORD: That opens up a whole other issue because they are not our employees the government says.

MR. JACOBSEN: The other way of saying it is, the government's attorney doesn't trust us, and our attorney doesn't trust them.

CHAIRMAN DZUGAN: A point of order here so we can proceed and don't get into a big time deficit issue again, we're going to let Mr. Hansford finish his presentation, and in 10 minutes we are going to break and let Mike Rosecrans from NTSB and Cecelia and company finish theirs before lunch, which means that lunch won't be for at least to 12:30, so keep all this in mind. We'll let Mr. Hansford continue unless there's any objection.

MR. HANSFORD: If I may, Mr. Chairman, I will relinquish my time. I encourage, and I will talk to individuals offline. I do have a couple other things, but again I'm here for the duration.

CHAIRMAN DZUGAN: Mr. Hansford, you've got 10 minutes, and I know you had more things on your list, so don't let this group bother you.

MR. HANSFORD: I've been to council meetings, I think by comparison you guys are very civil. The other points I wanted to raise are involved with Dr. Lincoln and Dr. Anderson brought forth, and that is extending a way to look at nonfatal injuries. I'm looking for input from this committee as well as Dr. Anderson and Dr. Lincoln to help our safety committee develop ways for tracking these nonfatal injuries. I think these observers represent a frontline again for a way of getting at some of these issues near trips, slips, falls, and as well as some of the sprains. We've done some preliminary

tracking for hearing, sprains, and other causal effects for injuries, but I think with Dr. Lincoln and Dr. Anderson's assistance we can refine this and possibly put in place something for all our programs to feed into a higher risk assessment risk management for activities on board commercial vessels.

CHAIRMAN DZUGAN: The way I understand it, you're talking about near-misses, falls that didn't result in an injury. I've been to some of those meetings, as a way to help assess risk for other observers.

MR. HANSFORD: Exactly.

CHAIRMAN DZUGAN: To prevent an injury. You're not talking about injuries themselves that involve information that can't be released, like people's names, is that right?

MR. HANSFORD: I want to take this one step at a time because invariably it's going to become a confidentiality issue as we move forward with this, but I think if we start addressing how we can possibly collect this data, it's clear the utilization and benefits of it. I think Tom, we're going to have to talk with the lawyers about how it can be aggregated and disseminated. I'd like to see us move forward in setting up a framework.

MS. EDER: I think that's a great idea. Thanks for communicating that because I think there are obviously certain fisheries if you take a pot fishery whether Dungeness crab or black cod, the operation of the gear on the deck where the observer needs to be positioned, what they need to be looking at, and how they need to be aware of how the gear actually operates and how they can position themselves and communicate that to other observers. Obviously they are instructed by the captain owner of the vessel at the time the observer gets on board as part of their training. But for the observer to further communicate that to future observers is really helpful.

I also want to say, I was upset a couple minutes ago it's not at you personally. The administrative rules with which you have to deal with. I think most of us involved in commercial fishing, observers on this committee, for at least 3 or 4 seasons we had, even though it's 30 percent coverage we had 100 percent coverage in a sablefish pot fishery just because of the volume of the permits we had. During the season with each observer, wasn't necessarily the same observer, would go over a 3-month period of time with each observer my husband would communicate back with the person in charge of the observers, let them know throughout the season who was good, who was lazy, who wasn't doing their job as an observer. There's a lot of one-to-one feedback good communication, and it's a lot of times an individual basis. The fleet has become accustomed to having observers, and now it's at the point where now they're accustomed to the culture of having observers now it's down to us expressing preferences about which observers we'd like to have. We want to know who's available. And seniority almost dictates who gets to get on what was our vessel, things like that.

MR. HANSFORD: That's a concern to me. That's a bias that I don't like to see on my data.

MS. EDER: Well, it's my cooking, what can I say. The point is, there's very good and very one-on-one relationship with the program and good communication between captains and supervisors of the observers, so that it's a very human relationship and not one that's distant or resented.

CHAIRMAN DZUGAN: Mr. Hansford, any other points you wanted to get out and communicate in the next few minutes to us? We don't want to rush you in it, but I don't want to see anything on your list not at least mentioned to us.

MR. HANSFORD: I kind of singled out individuals I feel I can approach and I will make known some of the other concerns. I think the last thing is that we have an international observer conference in the making in Chile and in our conference there's a panel that specifically addresses safety. I tried to get Mike Rosecrans to take part in our last one which was last year in Portland, Maine, and we weren't able to get him, so now it falls on Jack to represent. But I want to extend to other Coast Guard entity, Ted Harrington was instrumental in our safety training and on-board drills we had at the conference, and I'm still getting comments from our international delegates on how much they enjoyed the DC trainer. But again there's a session dedicated to safety I'd like to have representation from this committee, Coast Guard, and stay tuned for abstract requests.

CHAIRMAN DZUGAN: When is that?

MR. HANSFORD: Well, you got some time. It's not going to be until 2013. But takes a lot of planning for international conference of this level. Thank you.

CHAIRMAN DZUGAN: Thank you, Mr. Hansford. We'll have the cold water boot camp and Mike Rosecrans with NTSB if we stay with the same order without Cecilia first and call her up with Mr. Rosecrans. Is that okay? We'll get you in before lunch unless you have a plane you're catching. Let's do Cecilia and then Mr. Rosecrans as is the order on the agenda.

[BREAK]

CHAIRMAN DZUGAN: We have a quorum, so we'll begin. I'll let you introduce yourselves.

## **WATER SAFETY – COLD WATER BOOT CAMP**

MS. CECILIA DUER: Good morning. Thank you, Mr. Chairman, for allowing us the opportunity. My name is Cecelia Duer, and I direct the National Water Safety Congress, and I have members of our team with us—Mike Ulrich and Jerry Craddock, and I'm going to let them tell you about themselves when it gets to that portion of our presentation.

I wear a couple different hats. I'm a member of the National Boating Safety Advisory Council and on behalf of BSAC I want to thank you, Mr. Chairman, for allowing us to present, sending regards from Mr. Muldoon and any information I can share with you about what we're doing in BSAC I'd be happy to do that also.

National Water Safety Congress was awarded a grant in 2008 to produce a piece of educational material that would help folks to understand the importance of wearing life jackets in and around the cold water, and it became an overwhelmingly great success for us. It went beyond where we thought it would go to allow a lot of folks to use it as educational training, not only for professional responders but for the industries and in particular the fishing industry, the towing industry, and a lot of our folks with Coast Guard, Coast Guard Auxiliary, Maritime academies and so on.

So we want to talk a little bit about the history of what we've done since 2008. The first project was called Cold Water Boot Camp USA, and we had great partnerships we developed. It was a little unnerving to say the least to attempt to take folks and purposely bring them to hypothermia through cold water immersion. So we had a great team we put together to do this. We worked with the Coast Guard in Fairport, Ohio, on Lake Erie. We did this in 2008 in 38 degree water. We actually had to remove some ice off our beaches to produce what we did.

We had a myth. Folks believed you could die in cold water in 5 to 10 minutes from hypothermia, so we needed to dispel the myth and we went about doing that through this production. We took what we like to call superheroes and put them in the water with us in the 38 degrees. We had rescue swimmers from Coast Guard, we had several folks from Coast Guard, we had folks from divisions of watercraft and areas where we knew these were professional people so we could show not only the recreational boater but also the first responders and folks from the industry that you will fail; no matter who you are if you don't have a lifejacket on you're not going to survive. So this is a little bit about our myth.

[showing film]

FEMALE: "I don't know how fast it happens. I have always just told my crew that they could die within 10 minutes if they're not in a survival suit."

MALE: "About 4 to 5 minutes average. Then if you're strong if you can take deep breaths and hold out a little bit longer, but without a suit just plain clothes, no. It's my guess."

MS. DUER: So there's our myth. And 90 percent of the folks drowning in 2008 were drowning because they weren't wearing a life jacket. So we attempted to dispel the myth, if you had your life jacket on you probably could make it into hypothermia and hopefully be rescued by then.

In water under 59 degrees that drowning risk increased by 500 percent, and most of those drownings occurred within five feet of safety, so whether that was due, failed because of the dynamics of what was happening to the body or because post-rescue collapse, all was leading in a new direction, which we'll get to later on, about rescue, recovery and rewarm.

So we were headed off in a direction we weren't even aware of until the project was actually complete, and then we moved on further from there.

This was our response to attempt to dispel that myth.

**[Showing of film]**

"I didn't make it as far as I thought I would have."

"I was surprised at how difficult it was."

"30 seconds after I started swimming I was not able to swim anymore."

"Life jackets are, they are the seatbelts of the water."

"No matter what you think before you go in, it's a fight for your life. Rather than it is up to you to keep yourself afloat, you need to leave it up to the life jacket to keep you afloat."

"Wear your life jacket all the time. You never know if you're going to end up in the water."

MS. DUER: We took 8 folks, all professionals in the field, and you can see just from that little clip, like Chuck Yoest says, whatever you think it definitely changes once you're in the water. "In 30 seconds, I couldn't stay above the water." So we continued on here, and we took –

**[Showing of film]**

"No matter what you think before you go in as far as mental preparedness, it's a fight for your life."

"The greatest thing I can bring back and take to the people that have those arguments, well the life jackets are expensive or they're uncomfortable or there's all these reasons not to wear them, and some of them are, some of the older inflating ones that are comfortable enough to wear while you're fishing or having a good time recreating are expensive, but they seem a lot cheaper in the water. Once you get in there, you're not going to be thinking about how much that thing cost. You're just going to be glad you have it."

MS. DUER: So Mario makes an excellent point. Mario is with Coast Guard. I think some of you actually know him and have worked with him. Some of teams we used, this was a national endeavor. When I first took this project on, I had a couple folks say, "You know, you're just going to kill someone," which really didn't encourage me too heavily. So I got together with Mike and Jerry who are teams in Fire and Dive Rescue, and they helped us put together a protocol. We had our state divisions with us, we had Coast Guard, we had a Dolphin out of Detroit come in. So it was a nationally encompassed event we were able to be able to produce this with that much help.

So these were some of our rescues. We had rescue swimmers with every person in the water, rescue teams on the water. We had divers in the water. And of course our EMTs on shore, and I'll let the guys talk more about that.

Dr. Geesberg, for those not familiar with him, has done significant studies in lowering body temperatures and cold water studies and physiology of what happens to the body, and going through all these processes. We had him on board, and he's kind of a character if you haven't worked with him. So here he is.

**[Showing of film]**

"I've tried to be a subject in most of my studies because I always need a subject anyway, but I also want to feel what it's like so I can empathize with my subjects and also then I know what the results are like and I can speak more forcefully when I'm talking about them. I do have people in the public and in the scientific community sometimes question what I'm saying, but I can be pretty confident with what I'm talking about because I've got the data and I've got the experience."

MS. DUER: So it was an international partnership we were able to do. We had a lot of great responses from folks. The DVD went out to 8 countries, we had a lot of folks saying, yes, we'll definitely be using it in our courses at all times. It was mandatory education for a lot of folks. Definitely we'll wear the life jackets, everyone should see this, Fire Rescue Dive Teams. It will change the views of the way that even the San Chista Center. IN the paddling world, we had a lot of paddlers come forward and say folks are really paying attention to this and wearing the life jackets." In Canada their cold water boot camp is mandatory viewing for all their near and on-water staff of which they have 2,500 vessels on the water. So it's become a very important educational tool in a lot of different venues. Then this is some of the ways we've changed the behavior of folks because of the Cold Water Boot Camp and we will be changing it in the next program which is going to be out in June or July called Beyond Boot Camp, Rescue, Recovery, Rewarm. So we've also done some research and gone back to the folks who have educated with this tool and shown it's definitely the continued wear of life jackets, especially being able to see these folks in real life settings. It's changed the minds of a lot of folks on the life jacket wear.

This is a couple slides I'll breeze right through. We did a little bit of research on how often the educational tool was used and how effective it was, and obviously we're seeing great effectiveness. This is a little about what our campers as we refer to them, the 8 folks that went in the water for us, thought about what they learned and what they shared and what we learned from their experience. We're incredibly grateful to them because it allowed us to move forward in everything we do, in all the new protocols, all the new science of how we handle and recover and rewarm and person who's been in the cold water. It's changed not only the way we think about that, because we had that first-hand experience, but also the way we should be doing things in order to save lives and not lose lives in a rescue.

**[showing of film]**

"I think the whole weekend was a tremendous thing for me so I can go on and pass it on to all our students in our lectures, and the whole process, understanding how that works, and the emergency response people also were really surprised how much they've learned this weekend as well by taking part in this exercise. They were really shocked too, and they were all, the Medic was saying, we always were taught you're dead in 10 minutes in the water, and that's certainly not the case. So especially if you're wearing a life jacket. You can survive a long time in cold water, and it does get cold."

"So fish in the waters at Cape Cod, fishing the canyons and fishing in-shore, fishing wherever I am or wherever my friends are it is greatly important to have a life jacket or any other survival tool you can have because it's going to save your life. Wear a life jacket."

"Well, my family, they are actually boaters, and they are not very good at wearing their life jacket, so they need to wear theirs more often. You know, I'm from Maryland and the water's not as cold, but it can be even in the early summertime, so I think it's really important for a them and everyone to be wearing life jackets at all times."

"My experience in the cold water environment this last couple of days, there's no doubt in my mind that wearing a life jacket is going to increase your chances of survival if you ever land yourself in the water unexpectedly."

"I will tell all my family and friends and everybody I ever come across that life jackets are the seatbelts of the water."

"Always wear your life jacket. I mean when you're on that boat, always have your life jacket on. Don't wait until you fall in and be able to put it on because like I said in the first minute is very crucial. It's like you're not even there. I mean how could you possibly think to maneuver a life jacket and put it on. It's always safe to be wearing it at all times."

MS. DUER: So that's a little bit about how we did our first project, Cold Water Boot Camp. It led us to a lot of lessons learned, like I said I'll turn this over to Mike and Jerry. The fear we had going into this in trying to produce this type of educational tool was a little overwhelming for me in particular. I had a lot of folks say this is way too dangerous to do. So I went locally to our Coast Guard station in Fairport where the master chief there was incredibly supportive when I said, I just think I should turn this back into the Coast Guard and tell them we can't do it. He said, "Let's really think about this, let's put a good team in place and let's do a good job of this."

This is where Mike Orick and Jerry Craddock came in. They are the commander and second in command of the Dive Team there, and they put together an incredible protocol, a great instant command system. I'm going to let them talk to you about that because of them not only did we produce this first one but we moved forward into the second one which I think is going to be very important and very much appropriate for a tool for all of you to use as educators as well.

I'll step aside here.

JERRY CRADDOCK: First, as rescuers we were put in this position where Cecilia comes to us and talks to Mike who's in charge of the team to this idea of putting people in 38 degree water, we're going to rescue them. The background with me and Mike, we're fire department based, all paramedics, divers, and Mike presented this to me and I'm thinking, so we're going to induce hypothermia and put them in water and baby-sit these people and we're all going to learn from this and do an education. This turned out to be an extraordinary experience. We were able to learn so much from this. We had to have an incident command system in place because that's just the way we do business, so we had time to get that ready, and we got ourselves in a state of being hyper-ready. As Cecelia said, we had rescue swimmers, rescue divers, boat crew, EMS was standing by, helicopter ready, hospitals were notified, so that was the known. We knew we could get ourselves prepared and ready. The unknown was, we didn't know what kind of reaction the swimmers were going to have. We were literally prepared for the swimmers to go to the bottom, and that's the way we had to look at it in terms of being prepared.

We sensed some were going to do better than others, so we did have a swimmer with each boot camper. The other concern was what these people were going to be like as they got out of the water that post-rescue unknown.

Next slide. The photographs you see there is the one top left is the shock, and we have rescue swimmer with them, but each person that got into the water that's 38 degree water, basically street clothes on, no life jackets, so the common, the first thing these people do is rapid respirations, and the look on their face is shock, agony, pain, and as we said some did better than others.

Next slide: Left-hand corner, we saw determination, the right upper right picture shows someone that's been in the water a little while. They start off pretty high up in the water

and eventually you can see them dropping deeper and deeper into the water, no life jackets. The lower left there shows we had our response team ready should they go to the bottom. The lower right is that shock, that rapid take-your-breath-away shock as you enter 38 degree water, and the center picture of Mario who is a very experienced swimmer, he's coming out of the water and he just has this appearance of being really gimped up. The 110-1 was an idea we introduced that you have one minute to get your respirations under control because when you get in that water you are going to do this rapid breathing, out-of-control shock. Then you'll have 10 minutes to do a self-rescue of moving around trying to get yourself in a rescue position. The 'one' is the one hour that, providing you do have a life jacket on, your chances are you'll have a good recovery after one hour.

Next slide. The post-rescue collapse, approximately 20 percent of severe hypothermia victims die during or shortly thereafter rescued. This seems to be a problem we addressed in the second video that's coming out more so on the Rescue/Recovery/Rewarm. We talk about Rescue/Recovery/Rewarm, and the rescue is us who are rescuing somebody whether it's a fishing vessel or I'm going around to the rescue. The recovery is not are they deceased in the water, but 'we have a viable victim here that we're rescuing.' We pull them in to the vessel and then we rewarm them very shortly thereafter. Down below you see some examples of recoveries.

The program's all about taking the boot camps beyond getting people into life jackets by providing a hands-on educational tool for first responders and accidental rescuers, so our goal is to get this out to everybody. They can use it as a teaching tool in their programs and get the word out and hopefully this will help you to better get people to wear life jackets.

The last one is the Rescue Recovery Rewarm that's coming up.

This is pretty important. No previous healthy person should die from cold water immersion or hypothermia incident if they have been Rescued, Recovered and Rewarmed appropriately and properly in a timely manner. The picture shows what we did prior to the Rescue, Recovery, Rewarming, just go out, find somebody, pull them in the boat, throw them in the boat really quick, maybe put some towels on them, and go to shore and get them in. Now after the Rescue, Recovery, Rewarm program we just finished that will be out sometime in late June or July, is we take a little bit more time, package them up a little nicer, keep them horizontal, new techniques of getting them out of the water safely, securely, and then starting their rewarming process at the beginning.

One thing we're trying to mention here is some of the things we learned. There were exit interviews with these people we brought out of the water and we asked them, "How did you feel with our rescue techniques?" It was like, "Don't stand me straight up, don't rub my body, don't move me around real quick, because I felt that." So these people's bodies, they are in a state of shock, so we were able to get some, through the exit interviews, get good information from the patient, from the swimmer to sort of develop this beyond boot camp program.

The beauty of this, it was like we're going to take someone and put you in a heart attack and bring you out of it, so this was an incredible live experiment that we had going here, so we got a lot from it.

This is a day of our Cold Water Boot Camp. There was a winter storm moving in, heavy snow, high gusts up to 61 mph, and this is the conditions in which we had that day. Our dive team moving in, our trailer, our equipment, our safety forces, our other agencies we worked with, and our ALS squads we had there, incident command we had going on along with the Coast Guard and all our partners were involved. Coast Guard Auxiliary and all our safety force personnel.

**[showing of film]**

“If you're waiting for the delivery of a victim, it's important to get set up ahead of time instead of waiting until he gets here and then trying to set it up, so – (unclear) this is great.”

JERRY CRADDOCK: And this is our Canadian professor. He loves this weather. No one should be considered dead until they are warm and dead. The lowest recorded core temperature surviving adult is 60.8 degrees, so we have our standard from our protocol from our fire department is that anything under 70 degrees we give them an hour to make it a rescue, no matter what we're doing, to give them the benefit of the doubt. If we do find somebody we're going to keep rewarming them until their core temperature is back up to normal body temperature. By that time they will be at a medical facility and they can go from there.

Different responders that we had, Coast Guard, public water safety, our teams we had for the first one we had here, consisted of almost all of Lake County we're from. We were the dive team on the situation. We had law enforcement and –

This is our focus group. This is where this information is going to, this is who we want to put this information out to so we can educate and obviously create a safer water.

These are four of our elements of our Rescue Recovery Rewarming that we're going to give you a little blip on here.

**[showing of film clip]**

VOICE: “Our rescuers have done a great job of taking their time to do it right. They've kept them horizontal, they've been gentle, and now as they would normally do they're going to take the clothing off, and the first thing is we, we look at the patient, we want to try to determine what level of hypothermia is he at? And we can see, he's shivering, and you want to test to see how alert he is. “How are you doing? What is your name?” ANSWER: My name is Zack. “Do you know what day it is?” ANSWER: December 9.

VOICE: "Okay. So he's doing very well. He's shivering a lot, and he's obviously mildly hypothermic. We always want to be gentle. When a person is mildly hypothermic he can help take some of his clothing off. Notice, we didn't cut off the PFD, but we are cutting the rest of his clothing off. Normally, you would cut all the clothing off, although we will leave his shorts on for this demonstration. So before they transfer him to a cot, they want to dry him off, and it's important not to pat the skin or rub the skin. What you want to do is blot the skin, so you would put a towel on and just use your hands to blot it. Take the water off the skin, being gentle, because when a person is colder, if you rub on the skin you can actually put them into ventricular fibrillation. As you can see, this patient is presenting as a mildly hypothermic person. He's awake, he knows where he is, what day it is, he knows his name, and you can see he's shivering fairly vigorously, and that is the signs and symptoms of mild hypothermia. So we have him dried off, and once we've put him into this dry, insulated cocoon, the heat producing from shivering will actually help warm him up on his way to the hospital. And now the paramedics will use a standard procedure to put the victim on the stretcher. They are going to do the best they can to be gentle and keep him horizontal and place him properly on the blanket so that they can do it up later. In this case, the paramedics have chemical heat packs that they are going to apply to areas of high heat transfer. They can put them in the armpits, and another great place to put them is right on the chest, because you are trying to warm up the heart, so you want to put heat as close to the heart as possible."

**[end of film clip]**

TEAM MEMBER: Along with the triaging treatment, if you noticed there are real simple things you can do. Commercial heat packs, they're pretty inexpensive. A regular sleeping bag with a piece of plastic in the center of it. You put the victim when you get them from the water's edge until you get them someplace where you have a controlled environment, where you can disclothe them and move them into a dryer blanket or another sleeping bag or a hypothermic blanket there that we had.

QUESTION: Is there much danger with those thermal packs of heating them too fast?

TEAM MEMBER: With the covering that comes with them, we used MARSARS, and they have a fleece lining with them that protects it from getting too hot, because they will go up to 120 degrees. There's a fleece lining you put in you put the chemical heating pack into, and then you place it on their chest, so there's a barrier between that and the commercial heat pack.

QUESTION: So you're not going to heat them up too fast.

TEAM MEMBER: No. And you're only putting them in the armpits, the groins and across the chest. Next one. The fireside chat I just flew through real quick, in the video that's up and coming it will have a detailed segment, classroom setting, where they

discuss in depth areas of what we did. Here are some approaches to extrication that we used.

**[showing of film clip]**

PROFESSOR: “One of the goals for extracting a victim out of cold water is to keep them as horizontal as possible. In this case, the responders are going to use a second sling placed under the legs, and that will allow them to bring them in, in a more horizontal position. After securing the first sling, then put the legs through the second sling, and as you can see now they have two nice handles to keep the victim horizontal as they bring him in horizontal and gently and lay him on the bottom of the boat.”

“The next thing is to gently take the slings off and prepare to package the patient for transport back to shore. They have pre-prepared the sleeping bag with a piece of plastic inside because they know the victim is going to be wet, and they want to protect the insulation from getting wet. So now they are putting him inside the plastic. Then they are going to first wrap him in the plastic. Once they have wrapped him up in the plastic, then they are going to take the time to do up the zipper of the sleeping bag. Of course in a situation like this, the sleeping bag is bound to get a little wet, but at least they are protecting the sleeping bag from the wet clothing of the victim. Once the sleeping bag is done up, they secure him into the stretcher, and they are ready for transport to shore.”

“These rescuers are going to demonstrate the use of a rescue net. The advantage of this procedure is that it keeps the victim horizontal all the time, and as they pull the net it rolls them into the boat. They pull the victim on top of themselves so that there’s a gentle landing, and they then gradually and gently lay them on to the bottom of the boat. One of the rescuers stabilizes the victim’s upper body to keep it secure during transport to land. So this procedure maximizes two of the principles for rescuing a first victim. First, it keeps the victim horizontal in an effort to be as gentle as possible.”

**[end of film clip]**

MS. DUER: We’ll skip through a couple of those other ones for the sake of time. Just to tell you, these are some of the rough cuts in our first cut of this next DVD which, again, will be out this summer. We’ll be able to take this and our end products will obviously be the program itself and the education tool itself. We’ll use this across the country and in Canada. We’ve worked with our Canadian partners on this. It was the first time this was ever done in North America, Cold Water Boot Camp and Beyond Boot Camp, so we feel really fortunate and proud of the program and the education we’re allowed to bring, especially with the new science given to the recovery process and the rewarming process. Again, you just saw very small part of that.

This will all be packaged into a course which will all be hands-on training anywhere that we can take the course to.

Another 10,000 DVDs are coming out. You have DVDs on Cold Water Boot Camp, and we have them for the folks in our audience today, in the back. Then the new DVDs will be distributed, and I'm sure I'll have a list to distribute to those to you as well.

The other thing we're going to be able to do, a live streaming web delivery and downloading coursework, so that if we wanted to do a drill up on Lake Erie and have folks join us live from on water from on shore from classrooms in schools, we can deliver that to them through a live streaming video drill as well. So that's kind of where we were.

We appreciate your time. We're happy to take a couple questions if we need to or if we can, and anything we can do, we'd like to hear from you. If you can contact us and tell us what you need. As educators, we want to bring you what you need in order to educate crews and the folks in your industry as well. So, question?

CHAIRMAN DZUGAN: Thanks for your efforts in producing that. Did someone have a question over here?

MR. DAVIS: Looks like a fantastic product. One thing I wondered, your recovery DVD most of the people in this room are well outside of the golden hour, so I'm not sure if you plan on including the treatment beyond that golden hour because for me to get a crew member to the hospital is 40 hours. Actually that's to get to a clinic.

MS. DUER: Right. And thank you for that. We do intend on including that. There will be several chapters other than the four you saw in the video, and we do intend to include that type of information as well as the new equipment that's available to help you to get beyond that golden hour and things that you may need on board to help you protect your victims and your crew so that you can get them beyond that.

MR. MATTERA: This is excellent, and I have used this. I think Jack sent this to us from Mario Vittone initially, and at the bottom it said, "Go to this video, Cold Water Boot Camp, on YouTube." As soon as I saw it, I said, this is great. I've used it now for the last six months, especially through past winter, and other than hands-on videos really help as a tool in training and trying to get people to really understand. All the other videos I've have been generic where they got somebody and put probes on them and put them in a tank and it's sort of a sterile environment. This I love because it's real. Its volunteers. You see the gasp, you see the agony and the pain in their face, you see what happens, and there's someone that fell in the water all by myself with no one around in February about 12 years ago. I know what it's like to be in that cold water of about 45 degrees and trying to get about 150 feet to a ladder, and I was a very lucky individual. I will say, I did all the wrong things when I ran back and jumped in the shower and did all those things that were wrong, but at that point I didn't know better. So I encourage

anybody and everybody to use this as a tool. When you see this whole video you'll be astonished at how well it's done.

MS. DUER: And there are chapters in the DVD, and thank you very much for that. We appreciate those comments. There's a 30-minute classroom session, there's a 10 minute, a 5 minute, there's a lot of interstitials and PSAs, and that's the way the entire new program will be developed as well. Then from that we actually have a book curriculum where we'll teach hands-on everything that we've learned, all the new science and protocols involved in saving a person who's gone into the water, whether that be from cold water immersion or from hypothermia, so we've encompassed both of the situations.

MR. DAVIS: More of a medical question, one thing I saw was putting the heat packs in the armpits and the groin, and at one point I remembered that was contraindicated in training that I received because of the fear that you would release the blood flow from the cold limbs. Has new research shown that evolved past that and that's not an issue? Or if they're in deep hypothermia you don't put the cold packs in those points?

MS. DUER: There has been some controversy over using the heat packs in the groin area, and so now we're focused heavily on under the arms and across the chest in keeping the heart warm. But there is controversy on the groin area using the heat packs.

CHAIRMAN DZUGAN: There's a big difference between heat packs and going in a hot shower.

MS. DUER: Absolutely.

CHAIRMAN DZUGAN: And it is controversial, and state of Alaska hypothermic guidelines were worked out with state of Alaska and Wilderness Medical Associates, and they follow this very closely, and anybody can get those treatment guidelines by just Googling state of Alaska hypothermia, and under Cold water near drowning guidelines, there are two, and they are used by a lot of areas around the country. We had another comment from the committee, Ms. Murphy.

MS. MURPHY: It's a great product, thank you. I had never seen those tubes, the slings, and I was wondering if you have a source for those.

MS. DUER: MARSARS.

CHAIRMAN DZUGAN: If you just Google MARSARS.

MS. MURPHY: Also, have you tried it on a vessel with a greater freeboard?

MS. DUER: We did. We've used it on the Coast Guard 47s and on our higher state boats.

MS. MURPHY: And they worked just as well?

MS. DUER: Really well.

MS. MURPHY: Awesome. Thank you.

CHAIRMAN DZUGAN: Well, thank you very much for your efforts in doing this. It's really well-done, and congratulates you on that and wish you success on your other copy you'll finish up this summer, and good work on your part. Again, they distribute one to all of us as committee members. I hope you'll take time to look at it. There are extra copies you said?

MS. DUER: There are.

MR. DAVID: Where do we get more?

MS. DUER: We're actually reprinting another 10,000 copies, so you'll have my contact information, it's right there on the DVD, and let us know and soon as those are in we'll make them available. But we'll also have them available through Mr. Kemerer's office.

CHAIRMAN DZUGAN: Some of us have already received some from that office.

MS. DUER: So we're making thousands more available.

CHAIRMAN DZUGAN: Thank you very much. Mr. Rosecrans, when you are ready? We'll break for lunch after this and after lunch we'll have some hands-on activities with Devin Lucas.

## **NTSB REPORT**

MR. MIKE ROSECRANS: Mr. Chairman, committee members, thank you for entertaining my request to speak to you this morning. I explained to Jack about I always have to go after lunch. I don't know if that's worse than going just before lunch. I'm sorry you have one more talking head today before lunch. NTSB, Amy, you can find that?

CHAIRMAN DZUGAN: The advantage, Mike, is also the speaker is also hungry, and they will tend to go fast too.

MR. ROSECRANS: I talk fast enough, I'm going to try to slow down. Let me tell you a little about the NTSB. I included the NTSB in this, but the NTSB is an independent agency in the Executive Branch, and that means we don't answer to any other federal agency, we're completely independent, and Jennifer showed you the wiring diagram for OSHA and NIOSH with a long chain that goes to a secretary. We don't. So NTSB is probably most well-known for showing up at the scene of an airline crash. Airline is the big dog at NTSB, but other modes are represented and investigated bodies as well. The Office of Marine Safety is the smallest of the modal agencies, and we are the only modal

within NTSB, doesn't have primacy in an investigation. In other words, we don't have to investigate one where the others do, and if they show up they take precedence over anybody else.

But NTSB does investigations of casualties and we write reports and make recommendations, and that's all we can do. We have no authority to change anything other than by recommending to another federal agency. We can't make recommendations to Congress, only to federal agencies or to businesses impacted by the accident.

So I'll start the real presentation now. Forum objectives are to identify safety issues in the commercial fishing industry, to get industry perspective, and identify improvement areas and strategies. So first question is, what the heck's a forum? It's a public meeting of invited speakers to gather facts. What NTSB does in investigations and special safety studies is to gather facts and do the analysis. There will be a public docket of information submitted to the forum. No sworn testimony. We have public hearings involved with specific casualties in which we take sworn testimony. This will not be sworn testimony; it will have a member in charge of running the forum and will have a technical panel and there'll be presentations and Q&A period.

The agenda of forum will be six focused panels over two days. We'll ask the panel members to make submissions in advance, and the goal is to try to share all the submissions with those on each panel in advance so they all come to the table, knowing what the other is going to address. Short presentation, much like congressional testimony you see and they submit written comments for the record and do a quick summary. We hope to be able to do that too; otherwise, this could draw out for more than just two days. There will be questions and answers from the technical panel, and I'll review who that is going to be. The public, written questions and perhaps e-mail questions; we've not decided exactly how we might manage that.

A forum on fishing vessel safety marks a milestone at the NTSB. There was a time in the '90s when NTSB gave up even investigating fishing vessel casualties because nothing would ever come of them. The Coast Guard had little or no authority, politics were there were not going to be anymore additional legislation for the Coast Guard to regulate the industry. So you put a lot of effort into something, it doesn't go anywhere, and they just decided they wouldn't do it. Well, that started changing about five years ago. In fact when I got to NTSB a year ago, there were 3 fishing vessel casualties under review. This is the next step of what the NTSB can do to improve safety. We can't write regulations, we can't give authority, but we can gather facts and make recommendations to appropriate parties. The forum is the way we intend to gather facts, much as the way the Marine Board did with the first study back in 1990, the Blueprint for a National Program, which I know you all have a copy of.

The technical panel will be me, Captain Mike Karr used to be designated federal officer for this committee who now works for NTSB, Liam LaRue who was an ex Coastie, and in fact is still a Reserve officer, but he was the investigator in charge of the *Alaska*

*Ranger* casualty, so he's learned quite a bit about the fishing industry. And Rob Henry who's been with the NTSB Office of Marine Safety the longest of any of us know, almost 20 years, but has a Coast Guard background as well and is a naval architect and a lot of experience in putting on these public forums. That's why he was chosen.

So the six panels I'll run down a bit about what the issues are and who the appropriate parties to address those issues should be. As I'm here the rest of today and tomorrow I welcome all of your inputs whether you're on the committee or just in the audience, to help make this a memorable and productive event.

The first panel will be Identifying Safety Issues: some issues of fatalities, causes, culture within the industry, what's the desired state/our ultimate goal, what does success look like in the commercial industry per safety aspects? There's authority and lack of authority for different parties. Prevention alternatives, because we all would rather prevent casualties rather than to respond to them. Fatigue is an issue, we know. Drug and alcohol we suspect is probably an issue as well. So the goal is to put a panel together to address these issues. We've identified some appropriate parties, and we even have names and places for some of these. I don't have them here, but I welcome your recommendations for any of these panels as we go through these.

The second panel will be The Fishermen's Perspective. We're having a bit of an internal debate as to how best to allow fishermen to comment on the panels. So this is our first idea, to have a panel of fishermen to address issues: culture, risk tolerance, impediments to safety improvement, safety enforcement, and the National Marine Fishery Services role; the economics of the fisheries certainly plays a part in it; fatigue; drugs and alcohol; and incompetency of those who operate the vessels. There are a number of parties here, and I have in mind some ideas including some of you on the committee to represent the industry. We prefer to have organizations represented rather than individual fishermen because they would then represent a broader spectrum of the industry. I ask those of you who are interested to please let me know, those who have ideas about who might represent different factions of the industry, and as you all know every fishery is a little bit different and every region has a number of different fisheries. So we're looking to have a broad spectrum of the fishing industry represented. Obviously we can't have every fishery represented, but we thought by having it regionally we could have a good cross section. At the end I'll talk about a different idea about how to get fishermen's perspectives, and I'll ask for your input.

There are a number of vessel issues, and as you saw, Dr. Lincoln's presentation today that vessel maintenance, watertight integrity issues are big with the industry. If you read the Coast Guard's causality analysis, which I know you all have been given a copy, you see maintenance is a big issue. You know HR3619 proposes a bunch of different authority for the Coast Guard and there are vessel design issues in there, design maintenance, construction, reliability, surveying, and the cost of that will all be issues. There's a list of the parties we think could represent those.

Panel 4 will start the second day, and will be Lifesaving Equipment. We'll hear from Devin today on the study NIOSH has done that started with this committee about 4 years ago, we need to find something fishermen will wear, so NIOSH took and ran with it. Some discussion about what's currently used with equipment standards, what the carriage requirements are and nonstandard equipment approvals, something highlighted within the Coast Guard Reauthorization Act of 2010.

Here are some of the parties: NIOSH, the USMSA, the Coast Guard, and PFD Manufacturers Assn. Some I've talked to and some not, and again I welcome your ideas. After Devin's presentation this afternoon perhaps some ideas will come to mind.

Panel 5 is Training—benefits, infrastructure to support training, stability training which is what the Advisory Committee recommended in New Bedford in 2005, and basic safety training benefits. The perfect example is what is going on in New Bedford, and I'm looking for representative to portray what community involvement is, the difference that means in training.

Panel 6, Resource management impacts on safety. The current state, the desired state, what role the Coast Guard plays in the resource management issues related to safety, the National Marine Fisheries Authority responsibility, any actions they've taken, and that all relates to National Standard 10. There are studies on the impacts of safety and resource management.

So that's the six panels. This will all be in Washington in the National Transportation Safety Board's Conference Room, which is a big auditorium, but outside there's room for static displays. Our idea was, having static displays is likely to get the members more involved, which is always an issue with us because aircraft is the big dog and we have to continually fight for attention and support. But it may also draw some press attention, and one benefit of having a forum is that it does draw attention from a nationwide audience, and typically these kinds of things are broadcast on the Internet, live streaming so anybody can sit and watch as long as they want. I sit in my office and watch the board meetings so I can respond to your emails at the same time.

I've talked to Dr. Lincoln about having a setup for some of the stuff they take to Civic Marine Expo every year. I've talked to USMSA quickly, not yet talked to person of Flotation Device Manufacturer Assn, but I can see there's room for each of those to have displays to show the equipment. Other possibilities are AMSEA and NPFVOA, Fishsafe BC has a training program many of you know about, and the Coast Guard has a number of different displays for EPIRBs, SARSAT and we have yet to decide exactly which is the best static displays to draw attention.

So what's the expected outcome of this forum? Ultimately it will result in recommendations, more than likely to the Coast Guard and NMFS and possibly others as part of the strategies to improve safety. We intend to take what we gather in the forum to come up with some compendium report, remains to be seen what that might look like at this point, but will include testimony of presenters, the presentations submitted and

recommendations we develop. Our policy is to be transparent as possible, so all that will ultimately be on the web.

Potential complications. What if the Coast Guard Reauthorization Act passes? Then what? Some of the issues in the first panel, lack of authority, will change, and the issues will change. What if the Coast Guard got more authority or why doesn't the Coast Guard get more authority? But what are they going to do with that authority? So that may make a change at the last minute in our forum. That's life in the big city I guess. Some provisions in that Reauthorization Act are mandatory exams. The NTSB has made numerous recommendations to the Coast Guard to seek legislative authority to get that authority. The Reauthorization Act has a provision for classing vessels greater than 50 feet, new construction, training certificates for masters, current requirements extended to all vessels. They'd change the applicability of subpart (C) now to Part 28, subpart (c). Out-of-water primary lifesaving is a provision in the Reauthorization Act. It says that lifesaving will have to prevent people from being immersed in water. There are also provisions for a couple of grant programs within the Reauthorization Act, a research grant and a safety training grant. So those all will change the panels and the discussions.

The date has been set for October 13 and 14, and some of you know about that already. There have been a lot of e-mails going back and forth on that. That's Wednesday and Thursday after Columbus Day, so we've still got your 3-day weekends, those invited to testify, a day to travel, 2 days with the panel, and the Friday to go back. It will be a short but fast week.

The member appointed for this is Robert Sumwalt. He has heavy aircraft safety background, but he's very interested in getting immersed in the industry, and I've talked to some of you about getting some training for him, getting him on boats, getting him to talk to people from the industry, and I'm always anxious for recommendations to get him more immersed now. I have to say the calendar is not always open for that, but they've shown a lot of willingness to be flexible in trying to arrange his schedule to accommodate a better immersion than the fishing industry. He can't get up there and not know something about it. In fact he wants to know a lot about it, and the notebook I gave him to start reading goes from Magnuson Stevens Reauthorization Act, the Commercial Fishing Industry Safety Act, and any number of other lengthy documents.

So what can you do to assist, and why am I here? Well, part of it is I need contacts for fishing vessel organizations for our second panel, so that we can have the fishermen's perspective and have a regional representation. I look to you all to help with that. See me while I'm here, send me an e-mail, I'll give you my card, let me know who might be the appropriate parties to represent. Some I've already identified, but some I have not, but I'll take all recommendations.

Recommendations on fishermen involved, I said the second panel would be the fishermen's perspective, so let me ask you this question. Would it be better to allow the fishermen to have some time at the end of each day to comment on what they've heard, rather than just have one panel at the beginning? Or maybe move the panel at the end?

MR. O'LEARY: I think you should have a fishermen on the panel to start with.

MR. ROSECRANS: Well, there will be a panel of just fishermen, or those representing fishermen.

MR. DAVIS: I think it would be good to have time at the end of each day for public comments.

MR. ROSECRANS: Okay.

But as John said, try to include them as much as possible throughout the forum. Those would be your first comments, why aren't fishermen involved.

MR. ROSECRANS: So you say there should be a fisherman on each panel?

MR. O'LEARY: Um-hum.

MR. DAVIS: But how does that person –

CHAIRMAN DZUGAN: I think as you canvas us and I'd encourage committee members and those in attendance to forward names of appropriate people from people from the industry on those panels. I think we can have more representative parties. For example, I'm not sure that works for vessel design ABS or classification society is going to really be who you want on there since they have no standards themselves for vessels under 79 feet. As an example, try to get people on that panel who are representative and have experience in fishing. And having one commercial fisherman on each panel, if it's in the appropriate panel, would be a good reality check for that panel I think.

MR. ROSECRANS: So maybe we'd have a fishing organization or the fishing industry represented on each panel rather than having a separate panel?

CHAIRMAN DZUGAN: I think what I'm saying is, on each of these panels there would be one person representing one of those things you want from the fishing industry. That would be a good balance. For example, if you had a fishing vessel organization, that organization may have people in their network that's got specific expertise in what you're looking for, than maybe the person who sits in the office and deals with all the administrative things. I don't know if that makes any sense, but I think it's important for us to give Mr. Rosecrans feedback on some ideas for people so he'd have some more to choose from.

MR. ROSECRANS: If this forum is done right, it will bring national attention to the issue of fishing vessel safety. It's a short half-life, and we want to make sure we do it right. There hasn't been this kind of attention drawn to fishing vessel safety as has been peaking over the last couple of years. This is a chance to timed well to make a difference, whether it's the Coast Guard getting the authority they've requested so many times or

whether it's giving the Coast Guard a chance to discuss how they might implement additional legislation they had just gotten. So thank you, Jerry, for those recommendations.

I'm also looking to a representative from New Bedford that can talk about the community training program and also looking for participants on panels. The way we intend to approach this is to come up with our straw man list of panel members and then discuss with each of them, and then we'll eventually send out a formal invitation and lay out the specifics of the issues to be addressed by the panel, who else will be on the panel, and a little bit about what a forum is and how the panels will operate so they can make good decisions about who to send and make their commitment.

So October seems like a long way away, but as my 300-step project plan shows, there's a lot of work between now and then. But we really can't get off the dime until we have set our panels and the issues, and so I look to you all to have some input to that. You're the big stakeholders.

So with that I guess we're ready for lunch, discussion, questions? I'd be happy to answer questions.

CHAIRMAN DZUGAN: Any questions for Mr. Rosecrans? Thanks for that presentation and giving us an update on what's going on with that. We'll come back at 1:40 in an hour. Can we find those more expedient places to eat for lunch? We're doing great, we're an hour and a half behind yesterday and still an hour and a half behind. So after lunch let's not make it 2 hours behind. Let's come back at 1:00.

[LUNCH BREAK]

## **AFTERNOON SESSION**

CHAIRMAN DZUGAN: Let's get started. We have moved the schedule around a bit, bump up Devin Lucas on NIOSH on the study on PFD use and have demos and trials. So, Devin, if you can control us you can have us, some of us.

### **NIOSH: Study on PFD Use – Demos and Tryouts**

MR. DEVIN LUCAS: Thanks a lot for letting me be here and share the results of this study we recently finished up in Alaska, and in this presentation I'm going to talk about what we did and why we did it and what we've found so far.

This chart, to start off, shows the number of fatal falls overboard in the U.S. for that 10-year time period Jennifer shared data for. So there 155 deaths, and this shows the number of deaths per year. You can see by looking at it you don't need to be a statistician that there's not any kind of a trend at all. It's evened out, and in 2009 in Alaska we had almost all the fatalities were falls overboard, and across the country there were many falls overboard, the most since 2000.

Based on this kind of information and seeing falls overboard as such a persistent problem across the country, we decided to take on a study to look at the use of personal flotation devices among fishermen. As you all know, most fishermen don't wear PFDs while they work on deck, and when we talk to fishermen and other experts, people like you, we get the same feedback that fishermen say that PFDs are too cumbersome to work, are uncomfortable, and they feel it's not something they can wear on deck and work in.

So we designed a study to do a couple things. We were interested in talking to fishermen and gathering data about their risk perceptions for falls overboard, their attitudes towards safety as it relates to falls overboard and also their thoughts and feelings or preconceptions about PFDs, to find out before giving them PFDs what their preconceptions were.

One idea was fishermen feel PFDs are uncomfortable because they may not know about styles that are more comfortable to work in, so the second thing we did in the study was evaluate some of the newer types of PFDs with fishermen and find out if they really were more comfortable to work in or not. So when we thought of where to do the study and which fishermen to involve, we looked back to the data and since we decided to do the study in Alaska we looked at falls overboard fatalities since 1990 and 2005 in Alaska and found on the crabbers and gill netters and long-liners, those three gear groups had the highest number of fatal falls overboard, so we wanted to concentrate the study with those gear types. We also added in the trawlers as a comparison group because in the Bering Sea area most of those trawlers have company policies that the deckhands wear PFDs. We wanted to get the opinions and preconceptions of fishermen used to wearing PFDs all the time already.

For locations for the study, we went back to the data and found most of the falls overboard occurred in the SW region in the Bering Sea in Bristol Bay, so we targeted Dutch Harbor and Naknek as the ports where crabbers, trawlers and Naknek gill-netters based out of and fish in that southwest region. We also focused in the south central region on long-liners operating out of Kodiak, Homer, and Seward.

The study started off with a questionnaire. We went out to the ports before the start of each fishing season and on each of the four gear types we did this questionnaire with 100 fishermen, so at the end we had a total sample size of 400. We administered the first survey which asked several questions about their risk perceptions, attitudes and beliefs about PFDs and questions about their experiences with falls overboard. We wanted to know things like if they'd ever fallen overboard in their career or knew fishermen who had died from falls overboard, risk perception questions like what they thought their career chance of falling overboard were, and once the phase I survey was finished, we invited 50, half of the fishermen, on each gear type to stay on with the study and participate in phase II.

On phase I, when we went out and talked to fishermen and asked them to participate we received overwhelmingly positive response from fishermen and nearly every fisherman we approached on the docks was more than happy to take our survey, to participate in the PFD evaluation, so we had a really incredible response from the industry out in those areas.

Moving on to phase II, the second part of the study was the PFD evaluation, so we invited half the fishermen to participate, and randomly assigned each fisherman one of six PFD models and asked them to wear it on deck for a month every time they went out on deck to wear the PFD or for the duration of their fishing season if it was less than a month, and to complete an evaluation form after the first day they wore the PFD that gave us their initial reaction to it, and then after the end of the 30 days to get their final overall opinion of the PFD.

We were asking questions about out-of-water comfort. We selected these PFDs, we trust they'd been tested in the water and were sure they'd work in the water, so we're concerned if they work out of the water that the fishermen can operate in them. We ended up with a little over 200 fishermen participating in this phase II evaluation. We selected six PFDs, and 3 were similar in that they were integrated into existing rain gear or fishermen's rain gear, so I'll go into these in more detail in the results, but briefly we included on the left Guy Cotton rain bibs with inflatable PTB built as the suspenders, and then also Stormy Seas has an inflatable suspenders that is designed to clip into Grundens bibs. And then on the far right is a set of rain gear manufactured by Regatta of Norway, and it has foam built into the chest and the back for floatation.

Then we also selected three other stand-alone PFDs. Two of them were inflatable suspenders, one built by Stearns and one by Mustang. The inflatable suspenders we included from Mustang was actually a prototype when we included it in the study. We worked with the engineers and representatives with Mustang to get it ready and have it

available for the study. And then in the center we also included just your basic type 3 foam vest.

So these are a few photographs of the research teams. We had generally about six staff out in the field, sometimes as one group and sometimes broke up into different teams, going around the docks and administering the survey and getting fishermen outfitted with PFDs. And so we found fishermen were very receptive to the study, excited about participating and really into what we were doing and felt like it was a great study, great idea, and they all said they were really interested in the results and glad to be able to participate. Beyond that they got to keep the PFD they tested, so they got a free PFD out of it as well.

We ended up with the evaluation forms from the PFD testing, and 90 percent of fishermen actually followed through and filled out the forms like we asked and sent them in, which is a really phenomenal response rate for a mail-in survey like this. We'd asked them to wear the PFD every time they went out on deck. We asked them in the evaluation forms how many times they actually wore it, and so in self-reported evaluation forms they actually wore the PFDs about 65 percent of the time they went out on deck, about 7 times out of 10. We found that preferences for PFDs was very much dependent on the gear type that the fishermen were working on, and I'll get into that when I talk about the results more.

But from the phase I study we also found for the most part fishermen have pretty positive thoughts about PFDs. They feel like they are effective, feel like if they're wearing it, it will save their life; but then conversely we found that fishermen don't wear PFDs with the exception of the trawl fleet.

We had reports of six unintentional inflations with the inflatable PFDs. A couple of those were from the manual pull tab snagging on something and inflating and then others were being sprayed by a deck hose and the salt tab in the Stearns going off. So that did happen a few times.

I'll ask Dr. Lincoln to come up. She's kindly put on some jeans and agreed to help me with these PFDs, showing them. I'll ask Mike to dress up too.

MR. KEMERER: Devin, while you're waiting for the models to get prepared, on the initial survey was there, do you address some of the questions were, some of the things you were looking for in the initial survey on your talk here?

MR. LUCAS: I don't have the results from the phase I survey to present here. I have some of them, but as kind of a supplement at the end. I don't have them to present in the presentation unless there's some direct questions.

MR. KEMERER: I was wondering what some of the general type things were you asked.

MR. LUCAS: Sure. There were 32 questions on the first survey, and a lot had to do with risk perceptions like: “how much do you worry about falls overboard, or how much do you feel a fisherman can do to prevent dying from a fall overboard? Your career chance of falling overboard or dying from a fall overboard, perceived chance of survival wearing a PFD if you fell overboard in the summer, in the winter?” So a lot of questions about perceptions and then a lot of questions about PFDs, asking them what their feelings were about PFDs if they felt like a PFD was effective in saving their life or if it was comfortable or what we’re trying to get a barriers to PFD use by fishermen, their preconceptions, so asking them questions about PFDs before we handed them out and had them wear them. Those were the types of questions we have. I have some of that data here I can go into after.

So we evaluated each of these PFDs in many different areas, and we kind of mashed them all together and came up with overall ratings for each of them. These ratings I’ll go through initially here are for all the fishermen combined. It’s not by gear type; it’s just for all the fishermen as a single group. So overall this Mustang inflatable that Alan is showing off is the final, the commercialized product of the prototype we tested. So in the fishery you can see the black PFD that fisherman is wearing is the prototype they tested, and shortly after the study was finished the Mustang finished up the final version, and this is the Coast Guard approved inflatable work vest.

So one thing fishermen really liked about this besides it being overall the most comfortable to wear out of the six PFDs, they liked the covering. It’s a rubberized coating instead of the typical nylon you see on a lot of PFDs. The fishermen liked that because it helped keep it clean and keep it from absorbing the fish slime and on the cover and getting stinky.

MR. LUCAS: Possibly. We didn’t measure that, but it’s a possibility. The other thing about this PFD that’s unique is the hydrostatic inflation technology, and that’s exclusive to Mustang right now, but hopefully in the future it’ll be able to be more widespread. But this gets rid of the dissolvable soft tab as the water activation and senses water pressure just like the hydrostatic release on a life raft or EPIRB. So those were some features fishermen really liked about it.

VOICE: Where’s the manual activation?

MR. LUCAS: The cartridge is removed for shipping, but there would be a yellow tab right at the bottom of that side.

VOICE: (unclear) get so much salt in them, that pretty soon they crack.

MR. LUCAS: We’ve seen that definitely. So that should help overcome that. So moving along, the second highest – I guess I can take questions on a specific PFD as I go through it.

MR. STANFORD: I want to comment, the one thing you mentioned about the cost of the device, but I didn't notice on there the cost of use for the device, and to rearm that starts at \$59.

MR. LUCAS: Oh, sure.

MR. STANFORD: So you get wet, it's going to cost you \$60.

MR. LUCAS: If you go in the water, yes, absolutely.

MR. MATTERA: It's \$375 for that.

MR. LUCAS: I'd look online. I'd do some competitive shopping online. You can find it for much cheaper.

VOICE: You want to talk about what it's like to rearm that one?

MR. LUCAS: Rearming that Mustang is really a challenge and it's very difficult, but the mechanism itself has a five-year, maintenance-free life on the inflation, so hopefully you're not needing to rearm it unless you actually fell overboard and used it. You wouldn't be blowing it up to test it.

MR. MATTERA: The hydrostatic release on that, what do you have to be, 18 inches below the water?

MR. LUCAS: Six inches.

MR. MATTERA: Six inches is enough pressure? Wow. That's amazing. And you tested those obviously. Fantastic.

MR. LUCAS: UL fully tested them.

VOICE: We've used them in training, and people fall in and it blows up.

MR. LUCAS: The next one here, the Regatta, we brought this over from Norway. It wasn't available commercially in the U.S. yet when we started the study. It is now with a guy out of Seattle is selling it here in the U.S. But we brought them over from Norway to include in the study, and this is a whole suit. It comes with the bibs and the raincoat and it has foam flotation built into the chest and the back, has the same flotation about as a type 3 PFD over here. All the flotation is in the bibs. So it's approved by the EU, it's not Coast Guard approved. And it ended up being the second highest rated for comfort and overall satisfaction.

VOICE: It has 11 pounds of flotation?

MR. LUCAS: Eleven pounds, yes.

MR. LUCAS: I believe they will sell you just the pants. You market them on the East Coast? Great.

VOICE: You either got to sell them at least for \$350.

MR. MATTERA: No, \$450. Yeah, wish. Don Morrison is the one who designed those, won the award, lost his son and that's why. A fisherman designed this to stop it.

DR. LINCOLN: This was designed by a scientist in Norway.

MR. MATTERA: Don Morrison's telling stories then. That's exactly a byte from Don Morrison.

MR. LUCAS: Out of the UK? There's a guy in the UK.

MR. MATTERA: Tried to stop it.

MR. LUCAS: He's selling them, but he didn't design them. No.

MR. MATTERA: I guess he's telling stories.

MR. LUCAS: So these are available from a guy in Seattle for \$200 for the set. Just the bib pants, I'm not sure how much he's selling them.

MR. MATTERA: Jackets are only about \$80.

FEMALE: It's a nice jacket.

MR. LUCAS: They are. The scientists that designed it did interviews with fishermen, and they didn't ask just about the safety. They also asked in general what fishermen want in their rain gear, so they designed some of those features like the pockets on the side with zippers and the flaps and the fleece in the neck of the jacket and things like that.

We have the other inflatable suspenders here, and these are more basic Stearns model. It's cheaper, about \$125, water-activated with the older-style dissolvable pill. We included it because it was less expensive and it was kind of representative of a lot of other inflatable PFDs like that on the market. It ended up still doing pretty well, being third highest-rated overall for comfort, and in some gear types it was second. One point too, the exact make and model of these PFDs aren't as important as the general style, so we're not saying a fisherman has to get this model of Stearns inflatable PFD or Mustang inflatable to have a comfortable PFD. We're saying, PFDs like this style are considered by fishermen as the most comfortable to work in. It could be the Stearns, or Revere, or whatever. It's the style that is important.

VOICE: Do they wear it on the outside of their coats, under their coats?

MR. LUCAS: That's not something we asked them on the evaluation form, but in talking to fishermen and seeing photos later we found some fishermen wore them over their raincoats and some under.

DR. LINCOLN: Some of them came with raincoats that would go over, specially designed. The Guy Cotten in the inflatable and it came with a raincoat that goes over.

MR. LUCAS: Specially designed raincoats to blow out in the chest to allow the expansion, the inflation of the PFD.

VOICE: Since this is my expertise, with the cost of ownership of a standard suspender-style life jacket. It depends on the inflation system contained in that jacket, so Mustang has a certain cost because they have a hydrostatic deployer which is really the best to prevent premature inflations. Then there are two other styles. Stearns uses two different inflation systems, one out of Germany that's expensive to rearm because the little pills they use are very expensive, not sure why, but perhaps they are better than the Halkey Roberts.

The Halkey Roberts ones you can always tell have a yellow pull-tab, and the Stearns ones made in Germany have a red pull-tab. That's the subtle difference. Halkey Roberts has made a lot of improvements to prevent premature inflation by moving the water-sensing area up much higher in the device so that water spray doesn't get on it. In previous models, absolutely true; it was way down low, very easy for it to get wet.

So the cost to rearm a normal automatic inflatable life jacket should be around \$19 on average. I know that because I sell tons of those like to West Marine and Cabela's and all those companies. The Stearns auto device in the suspenders like this is somewhere around \$29 to \$39 depending on the retailer. Cost of ownership I know from the PFD industry is a huge factor in decision-making on which PFD to buy.

MR. LUCAS: That's a really good point, and hopefully with the advances you mentioned with the Halkey Roberts inflation, they've minimized the chance for accidental inflation, and so minimized the cost of ownership and having to rearm it after it goes off accidentally. And with the Mustang hopefully—one of the accidental inflations in the study of those six I mentioned, one was the Mustang inflatable, but it was because the pull-tab got snagged.

Next we have Stormy Seas inflatable suspenders, and they've designed these to clip into a pair of Grundens raingear, and its water activated with the dissolvable pill as others. One common complaint of fishermen of this PFD was the shoulders would fall off, so they recommended in their written feedback to manufacturers a chest strap or something to keep the shoulders from sliding off. That's not reflected in these results, but it is in their written comments we sent to the manufacturers.

MR. MATTERA: Devin, we bought 100 of those for Point Club vessels, and the guys, we sold them to them for \$50. I think we bought them for \$100 and sold them for \$50, to encourage them to wear them. And you are right, that on the shoulders for big guys it actually rides high, and it chafes the neck. That was one of the problems the guys see. You really have to mess with that thing to get the straps suspenders just right to tailor to your size body.

MR. LUCAS: And that was kind of reflected in the results, so overall of all the fishermen this was rated fourth highest for comfort.

Number five is this Stearns foam vest I'm wearing, and we included this because it's really inexpensive and it's kind of the common type PFD we see out a lot. We wanted to find out the comfort rating of it, and it was low rated because it was bulky as you can see. The stars for 'bulky' are very low. And keeping it clean was also a concern, snagging was a concern, and it being constricting.

Lastly we have the Guy Cotten inflatable suspenders with the bibs, and this ended up being the lowest rated for comfort. Some common complaints, it's too heavy and bulky, and people complained of fatigue on their neck and shoulders, that it kind of pulls down, kind of rides on your neck and pulls down. It was highly rated on the issue of no snagging and keeping clean, but overall there were a lot of features they didn't like.

VOICE: How does this one inflate?

MR. LUCAS: It's the same, automatic inflation when it's submerged in water, and then there's the manual pull-tab too.

VOICE: This has a clipboard, but I don't see the --

MR. LUCAS: That's down inside, and that's another issue that it's difficult to put on and take off and it takes a lot of time. There are four clips in the front to buckle yourself in. It's manufactured in France, Guy Cotten.

I went through the overall ratings on all the PFDs by the whole group of fishermen. There were big differences between gear types, for the crabbers the top three went: Mustang inflatable, the Regatta, the Stearns foam vest. And the trawlers were the same: Mustang inflatable, the Regatta and the Stearns foam vest. Those two types of fisheries operating generally in the winter, colder months, engaged in activities on deck where they're getting banged around kind of liked the two foam PFDs in their top 3 because of some of the padding protection it gave them. They mentioned being bounced up against the rail and pots and things.

Looking at the long-liners, the Regatta and Stearns inflatable tied for top highest score, followed by the Mustang inflatable and the Stormy Seas inflatable as having the same second highest score. With the gill-netters, the Regatta was highest rated for comfort, followed by the Mustang inflatable and the Guy Cotten inflatable. So with the gill-

netters they liked the Guy Cotten more than any of the other gear types, and it was the third highest rated. So one point we wanted to bring out with this slide is that all six of these PFDs are represented somewhere in the top three in these four gear types, so it brings home the point that your preference for a PFD really is an individual choice, and that fishermen operating in different environments and different gear types are going to like different style PFDs. But there is something out there for everyone.

Lastly, these results were just now preparing and publishing and we plan to widely distribute these results back to the fishing industry and also through organizations like AMSI and MPFEOA as well as to manufacturers which we've already done to some extent providing some initial feedback from fishermen on their products; and then to the scientific community.

I have some questions for the committee, if I may, and perhaps generate some discussion. We're interested in input about what types of products are going to be the most effective to get this information out to the fishing industry and how we can most effectively distribute the results and get it into the hands of industry. So if that could stimulate some discussion we'd appreciate hearing that kind of feedback.

That's all I have for the presentation.

CHAIRMAN DZUGAN: Thank you, Mr. Lucas. That was an interesting study, and glad you pointed out the difference in fisheries and asked for feedback on that because the problems and solutions will be fisheries industry-specific. Mr. Stanford, question?

MR. STANFORD: I thought your presentation was excellent. The economic impact I think is really important for the fishermen to understand. Are you going to do any follow-up surveys with them?

MR. LUCAS: No, we're not. The funding for the study as well as authorizations we have to get for interviewing human subjects is over, so we won't be able to contact these people later for follow-up.

MR. STANFORD: To answer you about the communication products, the Personal Floation Device Manufacturers Association is a great place to disseminate what you just showed us, and those folks will definitely help you participate in getting the word out if you show it to them. Being that there's no specific carriage requirement or wear requirement on commercial fishing vessels, the manufacturers are free to come up with designs that are relevant to commercial fishing operations. One immediate thing they can do is remove the pull-tabs and replace them with beads. They are round, red beads, also made in different colors, so the pull-tabs do not have to be a snag hazard. This is in stock at al inflator manufacturers to have a retrofit for these pull tabs. That's real important, and I know all the work vests we go through at our facility we don't have pull tabs, we have pull beads.

MR. LUCAS: Yes, that's fantastic.

MR. STANFORD: I know snagging is a huge issue. The Office of Boating Safety, or Standards Division rather, know full well from years of experience that the PFD manufacturers have tried to come up with alternative designs and have tried to get them approved. The approval process is very expensive for a manufacturer. He's got to go out, get test subjects, it's a long lengthy process, very expensive, and a manufacturer is reluctant to sell a non-approved device where you are trying to meet a carriage requirement. Those two things don't work together. So if there's no carriage requirement or no law for wear, then they are more apt to be creative and try different things. I think that's an important message we're going to try to get to the PFD manufacturers in an upcoming meeting in the next couple weeks. Dr. Lincoln is going to address them and I'll be helping her to try to get some materials together as to how to present this type of information. But your presentation was excellent, and I hope you'll take into account economic factors, cost of ownership next time.

MR. DAVIS: I think Dr. Lincoln's pretty much aware of my views for how to disseminate information but I'll say it again. I think one of the best ways is to look at the papers they read, *National Fishermen*, *Pacific Fisherman*, *International Fishing News*, the Dutch Harbor newspaper, the Dillingham Newspaper, the Cordova Newspaper, and when I've talked to those various entities about the idea of publishing safety related articles they've all been very interested. I think if NIOSH writes a stock article and has a couple photos of the quality that newspapers would use, you could go a long way towards reaching a lot of people in the things they read. Maybe if those small newspapers pick it up you could also get the Anchorage Newspaper to pick it up or the New Bedford newspaper to pick it up.

MR. LUCAS: Thanks.

MR. MATTERA: I agree with Alan. That's what I was going to say. I think *National Fisherman* writes a Safety Alert. You can write guest columns. *National Fisherman* has it, *Commercial Fisheries News* which most of us read in the Northeast has a guest column. I write a byline every two months and you could certainly take my place.

MR. LUCAS: Those publications have published other safety articles about other safety products we have, so I think they'd be receptive to that.

MR. MATTERA: And we have the Fish Expo in another month.

MR. LUCAS: And we will be there. We'll have a booth.

MR. MATTERA: The 9<sup>th</sup> and 10<sup>th</sup>. This would be great.

MR. DAVIS: The other thing I'd like to see is coordination between the manufacturers association and NIOSH and anybody else that we can get to come play so that when there's a fisherman's festival in New Bedford, when there's the one in the fall in Seattle, and I'm sure there's one wherever fishermen gather they have a party, we should be there

and hand things out, pass out information, give them coupons if we can get the manufacturers to prime the pump, hand out raffle tickets or give away life jackets and get them started with it.

MR. LUCAS: Excellent. Thank you.

CHAIRMAN DZUGAN: Two things for trainers and I'm sure other trainers here will agree. We do the same thing. Every drill conductor class we do we bring in wearable PFDs and we do a sales job. They get up and sell them to each other. It's big fun. They get to turn into salesmen and get to put it on. Then we go and practice with the pool and I'm sure you guys do that too at NPFVOA. You've seen, every class people go, "I didn't know these existed." We probably get fishermen to buy more of those inflatable rain jackets of Stormy Seas than anything else probably fishermen see. That exposes them to that.

Second, you know this working with prevention, if you want people to do something for safety have another use for ease of work or something and they are more likely to then buy it for that reason. So one product we have working with you of course is the video on Man Overboard. There needs to be a newer video on Man Overboard directed at fishermen, and we just shot that this summer, and part of that we'll be showing some of these devices, yes similar to that, as part of our regular training; and that will be available to anybody doing training. They will not only get the sequence of how to rescue somebody but how to prevent it and some of the devices. So I think those are two big venues, and that will get thousands of fishermen every year, between all these training groups, literally with their hands on the equipment, and visually. Ms. Eder.

MS. EDER: Mr. Hardin touched on it yesterday, the Oregon Dungeness Crab Commission, that there's a landing tax for crabbers that both processors and fishermen pay to the Crab Commission. They used the money and I think the fishermen each got \$100 credit from the ODCC, money to go in and buy PFDs; so that reduced the cost significantly. I think the most effective reason why they went into the stores to get the PFDs was because of Dr. Lincoln and the training that came down through Newport along with Coast because those personal presentations and contacts were invaluable. It really worked.

Two other suggestions, fishermen's wives groups along the coast. Ours tries to stay out of politics per se because there's so many politics about fishing that can be divisive, but a lot of fishermen's wives groups focus on promotion of sea food safety and family. I think if you communicate to fishermen's wives groups nationally there are several groups on Facebook that there's a great source of positive pressure to do it.

Then I think identifying key vessels or key people or key fishermen in ports who are identified already as leaders, vessels that are desirable to fish on for whatever reason because they're highliners or whatever the reason, and so peer leadership. I'm sure these things are ideas you've thought of already, but I wanted to throw them out into the pot.

MR. LUCAS: Thanks.

CHAIRMAN DZUGAN: Any other comments or responses to Devin Lucas? You defer to Mike Rosecrans and then Captain Ruhle.

MR. ROSECRANS: I have a comment and a couple questions. First, I congratulate NIOSH on picking this issue up from the Advisory Committee 3 years ago and running with the project. You can see how successful it was. Secondly, is there any evidence any of these inflatables saved anybody this last year while they were under the test?

MR. LUCAS: No. There were a couple of fishermen in our study who did fall overboard during the study, but neither of them were wearing the PFD at the time.

**[audience laughter]**

MR. LUCAS: So no we can't claim they saved anyone's lives in the study.

MR. ROSECRANS: Canadian standards requires that people on deck wear some kind of a floatation device that provides I think 15 pounds of flotation. What is the range of flotation that these provide? Do you know?

MR. LUCAS: I do. The lowest would be the Regatta with 11 point something pounds of flotation. That's the requirement by the EU with the Coast Guard it's 15 for the type 3, but it's a little bit lower for the EU at 11 pounds up to 33 pounds of buoyancy on the inflatable suspenders.

MR. MATTERA: There's a lobsterman bought that Regatta and went over in February and had the PFD on, Regatta suit on, and they were able to retrieve him and bring him back aboard. Having the lowest, that Regatta, I've been in the water with it and some of you know Rodney and he's bigger than I am, and there are pictures. In fact it was in *Commercial Fisheries News* of Rodney holding him up. I weigh 230 and Rodney's a little bigger than I am.

MR. LUCAS: The average adult person requires about 7 pounds of additional buoyancy to stay afloat, so 11 pounds is plenty.

CHAIRMAN DZUGAN: Captain Ruhle.

CAPTAIN RUHLE: Thank you, Mr. Chairman. Just a tip. The information you just provided, I would turn it around. I would say that the two fellows that fell overboard during the test not wearing the PVDs went back to go get them. They weren't about to drown without them. So it did save two lives. That's the way I'd turn that around.

Secondly, Jennifer wins the modeling contest hands down.

**[audience laughter]**

Thirdly, I notice John tried on two different types of units while you were here. Somebody make it clear to him as cheap as he is that that doesn't qualify to take them home.

**[audience laughter]**

I think that's where he's going with that. But the question I have for you is, did you rotate these different units among the same people? In other words, if a guy tried one, did he try all five? Or did he only try one?

MR. LUCAS: No. Each fisherman was assigned a single PFD to wear.

CAPTAIN RUHLE: Mistake. Rotate them around. Take the guys that are doing the test and get them to find out and cull through to say which ones they prefer. Right now you got a bias. They got into one, okay, this is the one I'm demonstrating so this is one I'm going to sell. I think that's a bias. I think if you turned around and give them an opportunity, if they were so willing, to try different ones, they may change, they may not. But you're not, I don't know that that's a full, complete test. Just words of suggestion.

MR. LUCAS: I respect your opinion. Thank you.

CHAIRMAN DZUGAN: Dr. Lincoln, would you like to address the bias issue? I know you had to deal with that when you designed the study.

DR. LINCOLN: We wanted to engineer the biasness out of it, so the reason we randomly assigned the PFDs and had one guy test it the whole time was that he didn't get to choose which one. He was assigned one of the six randomly, so he didn't get to choose. Now something that did happen often was that whenever we did we were sitting around the galley table, and so there were 4 to 6 guys sitting around the table, and we'd assign. And usually each one of them got a different one. And so they did get to see how other ones, what other ones were like, how the guys were able to work in them, and they also did comment on the evaluation forms occasionally that, Well, mine did this, but I really liked this on the other guy's" – on the same boat. So we spent a lot of time making sure that the biasness was out of it so that we can generalize, as best we can, to the rest of that particular fleet.

CHAIRMAN DZUGAN: Thank you, Dr. Lincoln. One or two more questions before we move on? Mr. Davis.

MR. DAVIS: Jimmy, which one will you wear? Which one can we get you? We need the highliners. It was your idea. We need you to pick one to wear.

JIMMY: I'm going to evaluate the information.

CHAIRMAN DZUGAN: Dr. Lincoln.

DR. LINCOLN: A couple other things I wanted to make sure-- we drove home with the group--is that it was really amazing how positive the industry accepted us. I know Devin and I were nervous about how many people we were going to have to approach before we got all of them that we needed. We were pleasantly surprised that it didn't take long, and actually in Bristol Bay we could have done it in a day. It was amazing how many people came.

I think the proof is in the pudding though whenever it comes to—was it just because we were there, or was it because they were sincerely interested? When you get a response rate of 89 percent on a mail-in survey it doesn't have as much to do with the person there waiting for the survey; it had to do with the person that was enrolled in the study, his dedication to making it work. So I really applaud the fishing industry for being so into it and giving us all kinds of information about the PFDs that they wore.

We have gone back to Dutch Harbor and tried to get on the crab boats and trawlers that participated in the study. Devin and I didn't design the study to go back and do follow-up with the individuals, but you remember boat names, and so we did go on there and try to investigate to see which ones they are still using because we thought that would be important information. We just did this in Kodiak too, and it was very nice to see that some of them were still being used. You could tell they had been used; they were dirty. They had been worn, the Regatta, the Mustang inflatable, I found a couple of Stearns. I don't remember what you found in Kodiak.

VOICE: In Kodiak we just saw the Mustang.

DR. LINCOLN: By and large when people volunteered to do the evaluation part, they were a little bit hesitant, but we always assured them if you say yes you want to participate and then we hold up the PFD and you say "no way I'm not going to wear it," that they could drop out. So people would cautiously say, "Yes, I'll participate," and then when we showed them what we had it seemed like at least 2 out of 3 vessels people would say "I had no idea that PFDs like this were available." I think that was something that was very telling that, although we as safety professionals knew they existed, these guys didn't know they were out there. They also stated that if that store right there, they were pointing to, they didn't have them, they didn't know about them. So that's something as a safety community to deal with the stores in these little fishing ports is important.

MR. DAVIS: I will take whatever you give me to Alaska Ship and LFS in Dutch Harbor and hand it to them and show them your study. I'll do it personally.

DR. LINCOLN: Okay. The last thing is, Dan Hardin and I are meeting with the folks at U of Washington to see about repeating this type of a survey with Dungeness crab fishermen. However, we are looking for money to do that. Devin is going away to school, and so we're going to be short-staffed, so I'm hoping the U of Washington folks

will be able to do the science stuff. I just want to go talk to fishermen, so I'm hoping I'll be able to go do the surveys. But the U of W folks will hopefully pick up and run with it.

CHAIRMAN DZUGAN: Jennifer I have a source with them on one of their advisory teams, and they have these grants that come out and so there's a possibility there. I want to congratulate you both on having such a high success rate in your survey. I know when I survey fishermen I don't get such a high response rate as you do. I don't understand why that is, but if we do that again could we rent you out? Good job.

DR. LINCOLN: It wasn't just the pretty smile. These guys got as good reception as I did.

CHAIRMAN DZUGAN: I did say "the team." It was a good team. So thank you for that, and that presentation and letting us know all about this. Thank you.

The question off mic was, were there any women in that survey? Was it all men?

MR. LUCAS: No. There were (off-mic)

CHAIRMAN DZUGAN: I don't know if you had enough women in the survey to see if their wear rate was any different than the men.

MR. LUCAS: It wouldn't be that high. (off-mic) maybe one-third. (off-mic)

## ***KATMAI* RECOMMENDATION REVIEW**

CHAIRMAN DZUGAN: Okay, thank you again. So we're moving down to the *Katmai* report in our ongoing revised agenda. I don't know how many of you have had a chance to look at that report. If you haven't, we've got more copies here. One we thought of talking about this is – there's an executive summary on the first page, both sides. Then there are actions and recommendations on the following pages. Anyone whose read this will recognize there's a number of these recommendations and actions responded to by the Coast Guard that they defer to the ongoing either rulemaking process that's been in the works the last few years or potential act of Congress. At the pleasure of the committee I thought we might focus on some of the ones not already being considered under this proposed action.

If you want to take a minute to look though those, pick some up? Or if you want to talk about some of the ones that do have proposed action on them already? But we need to have a discussion about that. Anybody have anything on recommendation one, defining what a "fish processing vessel" is?

VOICE: Why do they think there's ambiguity? It's fairly clearly stated.

CHAIRMAN DZUGAN: If they use the NIMS policy they do have a standard there, but when it comes to what you do with the fish, cutting off a fin by other definitions can be

considered “processing,” taking the cheek out of a halibut is even by the NIMS definition processing.

MR. DAVIS: Saving the roe.

CHAIRMAN DZUGAN: Saving the roe is another example, so I think people get confused that if they don't have the NIMS definition of that it's really easy for people to get confused by that.

MR. DAVIS: I noticed when I read the *Katmai* Report that this recommendation said pretty much everything, and then down to the last sentence “vessels that carry more than six crewmembers,” and I am loath to put a crewmember number on anything that we promulgate as a rule or regulation because there will be people that may have a boat that should have 8 people on it that will sail with 6 to dodge the rule, just like when there were some National Marine Fisheries regulations that went out that said “vessels over 120 feet,” some people went out with a torch and cut five feet off the front of their boat. So I would like to see us find some way to use tonnage, something, that doesn't cause us to further restrict how people man their vessels.

CHAIRMAN DZUGAN: Knowing full well that then people to use tonnage to go around it, but manning considerations have a pretty direct effect on safety at sea. Good comment. Anything else on recommendation #1 people want to comment on?

Recommendation #2 is on watertight doors, to be alarmed and equipped with visual and audio systems in the pilot house to indicate the position of the door. Coast Guard partially concurs with the recommendation.

MR. JACOBSEN: This is addressed somewhat in ACSA. I think they took the right approach. They are not requiring it right now unless it becomes a problem. Maybe it has become a problem with these other studies, but something we should look at. I don't know about having—I think audio and visual alarms are kind of tied in together but they should be at least be a watch keeping standard where they visually see that the doors are closed.

MR. DAMERON: I'm curious to know the technology is actually available that you're not just putting a switch on the door. I think it was in the *Katmai* Report that the deck boss or process foreman noted that the door was closed but he could see light top and bottom through the gasket. And you could put a switch on that door in the wheelhouse and you'd have the alarm off and it would not be a watertight door.

CHAIRMAN DZUGAN: There are two issues. One is the switch, the other is maintenance, and when I was in a few ports lately I've looked at watertight doors to see what the maintenance is like, and it's all over the place. But generally it's not one of the things that's on a lot of boats' maintenance lists.

MR. DAMERON: It's a survey issue.

CHAIRMAN DZUGAN: But that's a good point.

MR. DAMERON: So I think it would be more important that we address the maintenance instead of just putting a switch with a light and a buzzer that would satisfy a requirement.

MR. MARTIN: Your maintenance would come into play if this was an inspected vessel.

CHAIRMAN DZUGAN: Point is taken.

MR. DAVIS: We have the benefit of being a guinea pig for NIOSH and our competitor TRIDENT is also a guinea pig for the hatch monitoring system. Some of the guys from the Spokane Field Station or research group had an idea that due to our environmental conditions, normal magnetic switches or contact switches don't hold up very well. So what they did is, they came out and we picked the six watertight doors and hatches that were identified by the Coast Guard ACSA inspector, and they rigged it up with fiber optic sensors, and then the fiber optics would go into a junction box in a dry area and get translated into normal wiring. All this led up to the wheelhouse where there was a box with a red light, yellow light and green light for each one of those hatches. The red light meant that it was open, the yellow light meant the hatch was closed, the green light meant that it was dogged. The captain loves it. It's not an inexpensive system though. I don't know what it would cost to do it now that we've gone through the learning process, but the prototype exists.

I'd be adamantly against anything that said an "audible alarm" because I know what's going to happen. That damned thing is going to buzz every time somebody opens a door, and the captain is going to wind up finding the green wire, the red wire, the blue wire, whatever wire, and yanking it out because it's going to drive him nuts. But like Jake said, in the ACSA program in lieu of a mechanical monitoring they have rounds, so when they're in transit, at sea, they have somebody go through every 2 or 6 hours or whatever they standardize on and they log it.

MS. HUGHES: I think what you say, Jerry, about what you see with watertight doors and hatches across the industry are all over the place. And because of the work that NIOSH did with the system that Alan just described, our organization decided that it was important to develop a half day course on watertight integrity with doors and hatches, repairing them properly and going through gaskets and all this, making sure of how to take good care of the dogs. It's been a great class, and it's pretty new to what we offer, but it's got relevance for so many people in the industry that I'm pretty excited that we could translate NIOSH's work into an actual course that is very beneficial.

MR. O'LEARY: In my area I have a lot of boats that the Lazarette drains into the fish hole and the fish hole drains into the engine room, and all they have to do to fix it is put, between the engine room and the fish hole, put a packing gland there and a pipe that runs from the fish hole to the lazarette fix it. The boats were designed to have the watertight

bulkheads, but they don't. And because it's not a Coast Guard regulation when they get the stickers and stuff like that, these boats don't have watertight bulkheads, and a lot of boats are sinking because of it. Some of them you can't, the older wooden boats you can't do it. But a lot of these boats are designed to have it, and it wouldn't cost hardly any money to do it. But it's a real problem. We're talking about watertight doors and we can't even get them to do that. I think it should be a recommendation with everything else. I'd like to see that get done because I see well over half the fleet without everything draining into one compartment. And because of that regulation the Coast Guard goes aboard and they say, "Well, check your watertight compartments." They said, Oh, I have one in a 90 foot boat. That's maybe where we can for it from here.

CHAIRMAN DZUGAN: Editorial comment, the thing I've often heard too from fishermen sometimes, "Well, I've got a watertight bulkhead," one, thinking that that's watertight integrity, to talk about maybe one watertight bulkhead forward. So yes, it's great you're doing that course, Leslie. There's definitely a need, and more awareness of watertight integrity. I like the name of that stability course the Coast Guard was doing on the East Coast, "Upright and Watertight." Dang, why didn't I think of that name! I'm still thinking of stealing it. But the water tightness, knowing that's such a part of it, is an important part of stability; they are closely related issues.

MR. MARTIN: What John is talking about, wouldn't that be covered in stability? Watertight integrity?

CHAIRMAN DZUGAN: Really closely related issues.

MR. MARTIN: It just doesn't make sense on a steel boat not to have your rudder compartment watertight from your fish hole and your fish hole watertight from the engine room. I mean you're shot-gunning. All you're doing is shot-gunning.

MR. O'LEARY: You know most of the shrimp boats down there. You know that the lazarette drains in the fish hole, and when they change the engine or have to do any engine room work those packing glands and stuff, when those boats come up from down south they're not watertight from hold to hold.

MR. MARTIN: I don't know, John. I've got five of them, and they certainly are not like that.

MR. O'LEARY: You do.

MR. MARTIN: If you got water in the rear compartment you got to pump it. And there's a bilge alarm.

MR. O'LEARY: Right. You do.

CHAIRMAN DZUGAN: I think the point has been taken that there are boats that don't. It's not a universal standard.

MR. O'LEARY: Like I said, a very high percentage where it's a problem, and that's what we're trying to address. I'd like to see it addressed.

CHAIRMAN DZUGAN: Third recommendation deals with documenting drills being done on board the vessel, and that's I think being considered under the proposed rulemaking. It's been seen as a need for a long time.

Fourth recommendation is, talking about operator licenses for fishing vessels, and Mr. Jacobsen?

MR. JACOBSEN: I want to go back to drills. When I go to do a vessel exam or a survey I always ask to see their drill log, and they show me their navigation log and it says "on this day we conducted drills." Sometimes they have names, but it really is very sloppy record-keeping. And I ask them what they do in their drills, and they kind of fidget around. "Well, you're not doing your drills, are you?" And, "Oh, yes, we are." Because they want the sticker. I can't prove that they are lying, but I have a feeling a lot of people are just lying about their drills.

CHAIRMAN DZUGAN: In the original Act in the way it came out in the regulations in the early '90s when we were working on it was, there was seen to be a need to have this documented. And then the Coast Guard ran into the Paperwork Reduction Act. I remember very well that discussion, and that was a fight that they did not want to go through at that time with everything else going on. But I think enough time has passed, and there's certainly been a need seen for a long time. It also makes it a lot easier for the Coast Guard in at-sea boarding and also great protection for the owner, and it's just a win/win situation all the way around. I think we're to the point in the 21<sup>st</sup> century now where it wouldn't be too much to ask for fishermen to log.

MR. DAVIS: My vessels all have a form we created where they log the drills. The 10 contingencies are on there, and then the crew signs it. But I believe there's a fairly famous fisherman on the *Galaxy* that could tell you that documenting his drills saved his butt. And that he was very intense in searching for wherever the people in the office had been hiding them for several years.

MR. KEMERER: Anything that's a legal issue, you've got to do it.

MR. DAVIS: Anybody in today's time that's not documenting their drills is leaving their tush hanging out in the wind.

CHAIRMAN DZUGAN: We've trained over 10,000 drill instructors and PFUA has done just as many if not more, and we give them the drill. But the instruction book, they've got it right there. They get it with every class, so they've got the resource for it. It's nothing that has to be invented.

MS. HUGHES: I'm a very firm believer that the Coast Guard should, whenever the opportunity is there and there are enough crewmembers, to have them conduct drills in front of the Coast Guard. It's a really critical way to emphasize the importance, because in my view the drill requirement is the most powerful tool we've had come out of the Coast Guard for maybe ever because if crews would take those drills seriously and do them religiously, they are going to be getting themselves ready for an emergency.

MR. MATTERA: Jake, you know, I see some of the same things you do when I go on because some boats I just bought it on a quarterly basis, some just on an annual basis. They are drill conductors, skippers are, and they are supposed to do them, and when they start fidgeting they're lying, because those that do it they embrace it. They want to show you, they want to tell you what they've done, they want to show you everything they have done. All you have to do is do a drill with them. Leslie is right, have them do a drill. In 5 to 10 minutes you'll know if they're doing a drill or not.

MR. JACOBSEN: If that were possible, that would be great. But usually when I'm doing a survey or inspection they don't have crew on board or they're busy working or it's just not always possible.

CHAIRMAN DZUGAN: I'm going to pick up the pace on these. We've got 31 recommendations here, and these four I've done in 15 minutes, so to be a time bandit here.

Recommendation #4 is on crew licensing, and I think this subcommittee on licensing back in 1992 and 1993, Leslie, I was on that subcommittee, we proposed not a licensing system but an operator system, a certification system more hands-on. That is reflected in the Act that's going through Congress right now, and they talk about that. Then it will be interesting to see what comes out of that. The difference between a license and a certification has a lot of meaning to it. I think this committee has gone on record as being more for certifications. We'll see what comes out of that.

I'll stop for a second. This goes to another topic. I've used my office, not this organization, to already write to my congressman about my feelings about that, in terms of certification or licensure. I did that as an individual through my office. I would encourage people, this is the time to get a hold of your congressional people just as individuals. That's safe to say, right?

Number 5, risk based analysis, fishing vessel casualty to determine appropriate parameters. This committee has talked about that, and this refers to the current proposed rulemaking regarding stability in this case for a vessel 50 to 79 feet. Coast Guard concurs.

Recommendation 6, Coast Guard seeks legislation that requires masters and owners to have stability training. That's also in the proposed rulemaking. This committee has had quite a bit of input on that.

Recommendation 7, Inspection. There's legislation in Congress about this, and we can revisit that one hopefully beginning today and tomorrow, look at that inspection plan also from the early '90s.

Recommendation 8: Review and advise requirements of 46CFR in light of previous commercial fishing vessel marine casualties.

Proposed rulemakings and development, I'm sure we'll be taking care of some of those, looking at some of those items.

MR. KEMERER: On that I can comment that we went back through as many of the casualty investigation reports back through the early '90s. We went to NTSB recommendations, we went to Marine Boards, we went back as far as we could go pretty much and hundreds and hundreds of safety recommendations and compiled those and grouped them in different categories and used those as part of consideration on what might be included in the NPRM, in the new rulemaking requirements.

CHAIRMAN DZUGAN: Recommendation number 9 is interesting, came out of *Katmai* and age of the rafts that were repacked on the *Katmai*, which did not hold up well. Of course it was extreme conditions, but nonetheless there were problems. Recommendation was to require that all Coast Guard approved life rafts be witnessed by a Coast Guard marine inspector. I think currently that's only required now for inspected vessels. Many of them are SOLAS. The response was, they partly concur, they note a problem with perhaps availability of Coast Guard resources to do this.

When I called around to different life raft repackers around the country last year, some of them had not seen an inspector for years if they were not doing inspected vessels. Some here on this coast, there was one Coast Guard auxiliary person who'd try to go around for every life raft in the Seattle area, Seattle to Portland. That was the exception from the impression I got from other places in the country. The Coast Guard by their action seems to say they'll 'try to do better,' but they're not going to promise that every one's going to be inspected. I'm sure that's a resource issue. Then there's some issues too if you do have volunteers do that like the Auxiliary, I talked to one repacker about this, how qualified is that person to be able to do that? The repacker has taught him quite a bit about what to look for. We talked about this before.

MR. KEMERER: Where did we wind up with it?

MS. HUGHES: We thought there needed to be more oversight.

CHAIRMAN DZUGAN: We definitely thought more oversight. I don't think there was a specific motion though.

MR. MATTERA: We wanted the Coast Guard and manufacturers to come up with their own oversight; they wanted to come up with their own criteria through USMSA. That's what we did.

CHAIRMAN DZUGAN: That's right. We communicated that with USMSA.

MR. MATTERA: Yes.

VOICE: Jack, did you have an update on that? Did we make that as a motion?

MR. KEMERER: Yes. I know we addressed that last year, and I was trying to find the exact motion on that.

CHAIRMAN DZUGAN: Mr. Brown, while we're looking, do you remember any conversations with USMSA about that in the last year?

MR. BROWN: I don't, but (off mic). I don't recall (off mic). I know the current scenario is a call goes out to local (off mic) put the emphasis on Motion 5.

MR. DAVIS: Motion 5 from last year, the life rafts.

CHAIRMAN DZUGAN: The motion was: "Coast Guard and lift raft manufacturers cooperatively devise servicing checklists to document life raft servicing and provide for a quality control check-off for critical inspection points."

MR. BROWN: (off mic)

CHAIRMAN DZUGAN: Can we ask you to take that back to them?

MR. KEMERER: If Vince is here tomorrow we can ask him.

CHAIRMAN DZUGAN: We'll talk to Vince about that tomorrow also. I know I just had my life raft repacked and just got it two weeks ago, and it actually came with a report card. That wasn't required, but I actually got an A through F report card on it on just the general condition and other things. I really like that. Mine's a Switlik, and it was done at Tacoma, Westpack, Raleigh? It was a great additional thing. It also helped me realize as I saw my grade go down over the years, it helped me plan when I might be needing a new life raft.

VOICE: He's ISO registered, Raleigh is. ISO 9000.

MR. DAVIS: I noted in that recommendation that the Coast Guard, I don't think it's practical to try to have somebody at every life raft repacking. That's a whole bunch of time. But I do think it's practical for the repackers wherever they are to see somebody from the Coast Guard once a year to have a face-to-face kind of audit sort of thing, somebody from the Coast Guard that's proficient in it. The Coast Guard demurred from the recommendation of making the checklist, of having a specific checklist for each life raft manufacturer and model, and I think it's an even better idea now than it was a year ago.

VOICE: Alan, I think if we were to send somebody out to audit once a year, that's probably not enough because you don't get proficiency in the Coast Guard. Life raft servicing qualification used to be the first qualification a marine inspector would get from showing up to a marine safety office. Again, legally that changed. We didn't have to do it. Therefore, it falls off the table. I think as we might have discussed in Jacksonville and things like that, where we are not, which is now at life raft servicing facilities, we have a higher incidence of raft pirates, meaning that people are servicing illegally. Again, a fisherman will look at the cost of getting the raft serviced and maybe not necessarily look at whether someone is actually approved to do that raft or not.

Every sector or marine safety office I've ever been stationed at, we've had a life raft issue. I don't know whether it follows me around. I don't know. Or I'm the only one to care about it. But I think, and again we'll have to take a look and see where we stand with the recommendation from last year. But it was standard practice up until a few years ago that every inspected vessel had their life raft servicing witnessed by the Coast Guard. So again, depending on where we land on fishing vessel examinations, inspection, however that lands, there might be another opportunity to get somebody out there.

The problem is, we have an inspected fleet right now of 12,000 vessels. If you add 80,000 to that, that's a lot of people.

CHAIRMAN DZUGAN: On the other hand, a monthly check on a repacker, there's not that many repackers around anymore. That's gone down. Doesn't seem to be too onerous.

VOICE: I'm sure there's a balance.

MR. DAVIS: Monthly would be more than I ever thought we'd ever squeeze out of them. So I think that would be fabulous.

VOICE: I'm sure there's a balance.

MR. DAMERON: I have a quick follow-up question. When you say "life raft pirating," is it a unit that's packing rafts that shouldn't be, or is it a life raft packer that might be taking on a Viking when they're not certified to be doing a Viking?

VOICE: A little bit of both. But mostly what I have seen, at least most recently, legitimate Coast Guard approved facilities taking on rafts they are not approved to do. It could be there was a time where they were approved, but they haven't been able to keep up with the manuals or the service bulletins or whatever because ultimately the life raft manufacturer is the one who decides who services the gear, so there could very well be a situation where somebody has done Switliks for 20 years but Switlik decides, not you, this person. We have no control over that. But what we do control is the approval process.

MR. BROWN: From the industry standpoint, one of the big concerns is the availability of parts because parts are not interchangeable because we ran some (unclear).

VOICE: So it's the spare parts, it's the service bulletins, it's the manuals, it's the training requirements that fall by the wayside when a manufacturer removes a facility from their list. So it's either that, or what I have also seen especially when the fishing vessel regs first came out and we had a legitimate business in Newport, Oregon, that then turned around and started doing rafts, and not just illegally servicing but altering lifesaving equipment, charging somebody for new equipment when all they did was re-date a SOLAS flare, things like that. It's actually really easy to turn a raft around in about 12 hours if you never unpack it, if all you do is grab the equipment and re-date it and charge someone.

MR. DAVIS: That's someone that should be taken 200 miles out with the raft that they approved.

VOICE: It almost happened that way. So I agree, but we'll just have to see where we stand. I'm not privy to where we stand with last year's recommendation, but I do know that it is a concern.

CHAIRMAN DZUGAN: Moving on to life raft issues, the next recommendation #10 had to do with ballast pockets, and I understood why I thought this was a typo in 1997 in the size of the ballast pockets. SOLAS had required bigger ballast pockets by 1991. The Coast Guard did not require them until 1997. So the Coast Guard did not line up with SOLAS until six years later, so that's why this says 1997. But many life rafts already had those bigger ballast pockets by 1991.

And #11 is our age limit on life rafts. We've had quite a bit of discussion already on this one in the last meeting.

Number 12 is on immersion suits. We're also talking about life limits. I think it would be really interesting, I see we can't leave this issue myself, to ask the glue manufacturer who supplies the glue for immersion suits and life rafts, what they would like their glue life expectancy to be. To look at the components of some of these things and you might get a different response.

MR. KEMERER: And everybody should read that bulletin that came out from Ann Bachus today, \$20 eBay immersion suits, real interesting article.

CHAIRMAN DZUGAN: Recommendation #13 talks about revising the minimum amount of equipment to be carried on immersion suits. Lights and whistles. I think we may be getting more of that with SOLAS 2010 suits anyway which are going to be the standard now. Lifting harnesses, buddy lines. I don't know if SOLAS 2010 speaks to whistles or not. Maybe we'll find out when Mr. Gamma is back.

Number 14, require all fishing vessels beyond the boundary line to have an emergency means to communicate such as a sap phone or GMDSS. That was a recommendation back at the *Arctic Rose*. Coast Guard concurs. Seems they're considering that as part of the present rulemaking.

Number 15. Coast Guard published a safety alert about the limitations and hazards of modular life rafts when used in inclement and cold weather environments, consideration given to employing life rafts to provide greater amount of protection and serviceability for basically cold waters such as the Bering Sea, North Gulf. Action: They concur with the intent. They are kind of leaving it to the industry to buy a life raft that better suits those conditions themselves with promises of a lessons learned.

Recommendation 16: Coast Guard should publish a safety alert that informs fishing vessel owners to inspect immersion suits. Consider the assignment of immersion suit to crew members according to size. Coast Guard concurs with the intent. They intend to publish a Lessons Learned highlighting the importance of periodic inspections and testing of suits, which goes back to that product from the Risks Subcommittee on immersion suits. I just got some feedback from USMSA on that brochure I handed out yesterday. I'll see if I can bring another one. You already have an example I guess, because you commented on that, USMSA did. So we'll revise that based on those recommendations, and I'll talk about that in the Risk Committee. Fairly minor recommending that if you repair a suit, get to a service facility as soon as it's practical to do so. And removing USMSA's name.

Number 17, Coast Guard promulgate a policy that requires all commercial fishing vessels to revise vessel stability information following major modifications or when fishing operations are changed. There is some proposed rulemaking already in the works on that one as well. I think I covered on the section instability, especially for vessels under 50 to 79 feet.

MR. MATTERA: Instead of "revising" it should be "informing" whoever did the original, the naval architect, they should be informing that they're going to make some major changes or modifications to the vessel and make certain that they can. And if they can't, what's the recost? What are they going to have to do? They're going to have add weight here, adjust and make this right, not just "revise" the stability. I don't see how you can "revise" it until you know what the hell you're doing.

MS. HUGHES: I agree with you.

MR. MATTERA: You have to inform them first. I can't make changes on my vessel unless I inform my naval architect. I wanted to raise my top net drum 16 inches, and if I do it's going to cost me \$25,000 in six of it is to do that. The other \$19,000 is to add weight to the bottom of the vessel.

CHAIRMAN DZUGAN: The other problem too is notification. What's the catch-point for the Coast Guard? Where do they find –

MR. MATTERA: The reason they're doing it is because of insurance.

CHAIRMAN DZUGAN: A lot of those slip through the cracks I've heard on the East Coast, boats coming up from the Gulf, the Coast Guard hasn't had an opportunity to check that and not required to.

VOICE: I catch a few of them doing surveys where they've added structure, and I see a revised stability report. "Well, we didn't get one." "Well, you better go see the architect right now."

MR. MATTERA: Is there a survey around that we see now that doesn't finish with the last paragraph that states that you should have a stability test.

VOICE: I think Recommendation 17 is only the last step in the process, which going to the naval architect was the first step, but the last step the stability information on the boat has to be changed for the master.

CHAIRMAN DZUGAN: Good. Next two recommendations, 18 and 19, are about lift raft servicing. If I don't see your hand, please speak up.

MS. EDER: Mr. Chairman, the proposed rule is going to require a stability study for all vessels between 50 and 79 feet, is that right?

CHAIRMAN DZUGAN: Stability guidance.

MS. EDER: Okay. So let's say that went through and all vessels would then have to get stability guidance for between 50 to 79 feet, and then let's say a 60-foot vessel that already has stability guidance decides to lengthen and/or sponson their vessel, they'd then have to get a revised stability report? Okay, thank you.

CHAIRMAN DZUGAN: Again, 18 and 19 are about life rafts and inspections. The checklist was 18, Coast Guard didn't concur with that. And 19 were quality assurance programs. Action, again the Coast Guard concurs with the intents but the same response they had in other recommendations.

Number 20, Coast Guard developed a policy that requires all commercial fishing vessel owners to maintain crew training records similar to our drills log. The Coast Guard concurs with that.

MR. DAVIS: This is something that a big company does and struggles to do because we're doing training on the vessel, we're doing training off the vessel, and trying to maintain those records. But I'm wondering, how does a one-person, two-person, three-person operation maintain crew training records when they go, "Hey, Bubba, come on," you know when they're not working with the same people for six years in a row.

MR. KEMERER: You're always in training.

CHAIRMAN DZUGAN: With the use of the monthly drill logs that already exist up there, they can be used for other training if they take any additional training that's not required. Doesn't seem to be too heavy a lift to me.

MR. MATTERA: One thing that's really important in documenting drills is, usually they'll put it in the log but they'll have their own log book, and it's on the vessel. What happens if the vessel goes down? That's lost. The wife is there, and the crew member, mother and father are quite upset and want to sue them, and she has no recourse, and she knows they did drills and the mother and father didn't know because the kid never came home and said, oh, Mom and Dad, we do drills all the time." And now you have a problem. When I go on vessels, I have four carbon sheets. I give them one, I mail them one so they have shore-side, and Tom was actually the first one that came up with this that I know of, and then I keep two records myself. That has been a problem in some litigation in the past where all the records went down with the vessel, and there they were doing their due diligence, conducting the drills, but no one is there to defend it or has the paper trail.

CHAIRMAN DZUGAN: And that's why it's a good idea for them to use a copy machine, do carbon copies, whatever, wise vessel owner would want to do. Same thing the big boats do.

MR. DAVIS: My thought was more, how do you know what the person's had before? If you're hiring somebody to go out and be a deckhand for a season or a trip, there's a piece that's lacking.

CHAIRMAN DZUGAN: Most training that takes place people get certificates from, and a lot of crewmembers to get a job will be happy to let their potential skipper know that they've been trained. I know people have gotten jobs just based on some of those certificates. There is a paper trail you could use.

MR. O'LEARY: Jerry, I use your general instructions you have there, and most of the time I go aboard unless I do a full safety orientation I don't have the whole crew sign it. And when I do a safety orientation I do the thing where you go on land. But when I go aboard to do a drill, usually I just log off that I did the drill but I don't have the whole crew sign it. The crews are changing all the time. There's not actually a place I should, maybe we should put another piece of paper in there because I just use your general line.

CHAIRMAN DZUGAN: That's just a minimal one. You'd want everybody to sign it.

MR. O'LEARY: I haven't been doing that, but I guess it makes a lot of sense.

MR. MATTERA: Their memories go out the window. What drills?

MS. HUGHES: I'm in favor of trainers keeping records of who they've trained. It's a good idea, and like Jerry and Jennifer have asked us to, well you and I have been asked to confirm whether we train people when boats have gone down and lives have been lost.

CHAIRMAN DZUGAN: We have a database, and like Leslie has, of every drill conductor for example back to when we first started.

MS. HUGHES: We have everybody we've trained for any course in our database.

CHAIRMAN DZUGAN: So number 21, watertight doors again. Develop guidance on the proper maintenance of watertight doors. Good idea?

MR. KEMERER: I thought I'd seen that in a circular.

CHAIRMAN DZUGAN: Alan Dujenski did an article in one of the journals, the *Pacific Northwest*, on watertight doors, a really good article actually, talked to one of the manufacturers. It was about four pages long, *Fishermen's News*. An excellent article.

MR. KEMERER: And also such a great idea to have the vessel owners inspect watertight doors. They're probably not qualified to do that, and sometimes it's just a matter of seeing if your patch dog is okay. A lot of people it's, "Oh, well, it's good enough." Their gaskets aren't – I mean I test gaskets, I have an ultrasonic tester I put a sound maker on one side, close the hatch and I listen all around. I have earphones and I can tell if the gasket is good or not. There are tests you can use on patches. Owners don't have that equipment.

CHAIRMAN DZUGAN: This will be an interesting discussion for the inspection plan when we review it because the current licensing plan from the early '90s says on vessels under 50 feet it will be self-inspection. So we can have that discussion again, and that would be a test based on that issue. Thanks for bringing that up, crash test, inspection plan, right.

Number 22, Coast Guard identify all fish processing vessels and fishing vessels that perform head and gut, operations that operate are home port in 13<sup>th</sup> and 17<sup>th</sup> districts. Risk assessment performed on those vessels to determine additional local safety interventions necessary to mitigate risk. Coast Guard concurs; we're in the process of identifying all vessels that perform this. Some of the alternative compliance agreement, looks like potential fodder for future revisions to the alternative compliance system.

Number 23. Coast Guard considering deploying SAR assets in Adak, Alaska, to improve SAR capacities in D19. Mr. Davis.

MR. DAVIS: Amen and add St. Paul too.

MR. KEMERER: Which they are doing.

MR. DAVIS: They are not there all the time.

MR. KEMERER: Would it be best to have it in Adak or –

VOICE: Haven't there been pre-sitings of aircraft though?

CHAIRMAN DZUGAN: They will periodically site aircraft at St. Paul in Cold Bay.

VOICE: The search and rescue guys with the 17<sup>th</sup> district have moved several aircraft around depending on the season that's going on. We'll predeploy aviation assets to Cold Bay for example during the red king crab in Bristol Bay because Cold Bay covers that slime bank area effectively. When OP season comes along when the boats move out further towards St. Paul and that area we have predeployed a helicopter out to St. Paul. I have discussed this with the SAR planning guys and they would love to have more assets to be able to do this. Unfortunately we have gotten into a disturbing trend in the last year or so of losing airframes. We are short as it is, and another aspect of this is the desire to provide a self-rescue capability, meaning two helicopters in these remote areas so that a tragedy that involves a fishing vessel also doesn't necessarily involve a tragedy with a Coast Guard aviation asset because the next nearest one is 8 flying hours away.

MR. DAVIS: I understand that, but to see them leave when the crab boat leaves and we're still there for a month and a half kind of leaves you feeling unloved.

CHAIRMAN DZUGAN: I agree it's totally a resource issue with the Coast Guard, and I just got something from Fat Alan that was circulated around, some testimony that said they are looking now to replace the two helicopters they've lost. So it's going to be a resource and budget issue when they are being asked to cut back 3 percent like everybody else is. So let us know, Coast Guard, what we can do to help.

MR. DAVIS: Bake sale.

MS. EDER: I also serve on the U.S. Arctic Research Commission, and there has been testimony from the Coast Guard in regard to increasing potential SAR assets in District 17. Under the statute that authorizes the Arctic Research Commission the definition of the "Arctic" is not just the Arctic per se but also includes the Bering Sea and everything north up to the Aleutian Islands. It's a different definition but it does include all of that. So we've had a lot of testimony also from native communities concerned about their subsistence fishermen as well. Also generally the size of the fleets in the Bering Sea fishery. So we've gone on record in our recommendations, in our annual report, to support increased search and rescue efforts in District 17. So to the extent we can be of any assistance, please let us know. Thank you.

CHAIRMAN DZUGAN: Next two recommendations, 24 and 25, are regarding fatigue including fatigue in the analysis of fishing vessel casualties. Making sure those are included in casualty reports. That's often one of the most overlooked things, and I think for us on the committee and our work on that high risk management plans, it's probably

something we'll want to keep in the back of our minds in terms of management plans that increase fatigue of crew are inevitably going to lead to more stupid mistakes just because of human endurance issues.

Really 26 to the end is congratulations and where the reports are going to, so I think unless anybody else has anything they want to comment on the *Katmai* report?

MR. KEMERER: This report has been sent out to the world by now, through different e-mail services and websites and everything else.

CHAIRMAN DZUGAN: The *Alaska Ranger* report will be on its heels perhaps.

MR. KEMERER: Perhaps, and the *Patriot* perhaps.

CHAIRMAN DZUGAN: Do we get our award now and get a break?

MR. KEMERER: I think that would be a good idea.

CHAIRMAN DZUGAN: It's 3:40. We'll do a 12 minute break, make it back by 3:50.

**[BREAK]**

CHAIRMAN DZUGAN: If your name was mentioned, you owe Leland \$33 if you've not paid already. It was on Lee's credit card, and we're paying him back. Would you like to say who you are? Can you introduce yourself to everybody?

## **SUBCOMMITTEES - REVIEW AND TASKINGS:**

CHAIRMAN DZUGAN: Come up to the microphone.

MS. BEVERLY KNOLL: I'm Beverly Knoll, and I'm a tagalong on this committee now and I'm on my way to Morrow Bay to teach a safety drill class to commercial fishermen.

MR. DAVIS: She's got a bunch of stuff in the back of her truck in the parking lot.

MS. KNOLL: Did you see it already? I'll be here all day tomorrow.

CHAIRMAN DZUGAN: We'll move into the subcommittee portion of the meeting and we have two rooms to go into once we talk, one room here and one room up in 481, and I thought the smallest subcommittee might be the one that does the moving for efficiency sake, and the subcommittee with the most people can stay down here. If you're an attendee representing yourself or an agency, you are welcome to join one of the subcommittees for your own technical input. Don't feel you're being stranded, take part.

The Old Risk Subcommittee is suit maintenance, navigation, and a lot of these things we've done. Some we are in the process of finishing up, and the tasks we have to work

the most on probably to tie up is the high risk management practices. I'm hoping some of the folks from NIOSH might participate in that one at least.

The Communications Subcommittee has the contact lists, not much to talk about with that, but the marketing plan I don't know where you're at with that.

VOICE: I had it up on my screen so we can work on that.

CHAIRMAN DZUGAN: It's 4:00 now and we need to be down at quarter to or 10 to 5:00, and we'll do the same, and there are other things we have to take care of that may involve you or present committees. One is looking at the inspection plan from the early 1990s and we also have a task statement description list for us to sign off on. We should probably do that, knock this out before we leave today, be nice to have the tasks explained. Maybe I'll do it before we break.

The task statement on inspections as written sounds like this right now: Description of tasks. The Coast Guard continues to seek means to improve casualty rate within the commercial fishing industry. The Commercial Fishing Vessel Safety Advisory Committee is a significant participant in this effort by providing recommendations for improving safety and program initiatives. One of the early efforts of this committee was in participation in preparing a report to Congress for the inspection of commercial fishing industry vessels. The Coast Guard is responding to recommendations that this project be reviewed, revised and updated in order that it may be resubmitted as a basis for requesting authority to require inspections on commercial fishing vessels.

Background: Over the years numerous casualty investigation reports have included a safety recommendation that commercial fishing vessels be inspected as is required for most other commercial vessels. However, the Coast Guard has no such authority currently even though it's been requested. Most recently after the investigation into the fish processor *Alaska Ranger*, the NTSB recommended the Coast Guard seek legislative authority to require that all commercial fishing vessels be inspected and certified to ensure that the vessels provide an appropriate level of safety to those on board. The Coast Guard believes that inspection and certification of commercial fishing vessels would improve the level of safety of the vessels and to those who work on them. Further, we believe that a review and a revision of the 1992 report to Congress will provide a basis for proposing a legislative change for authority to inspect commercial fishing vessels.

Our tasks are, in order to be able to present current data, findings and recommendations for a plan to seek authority to inspect commercial fishing vessels, the Coast Guard wishes to establish a subcommittee that will address vessel inspections and the following tasks are assigned.

One, review, revise and/or update the 1992 report to Congress on fishing vessel inspections.

Two, provide other applicable recommendations on inspection requirements for fishing vessels. Coast Guard representative Jack Kemerer, committee consideration to Eric Christensen, and that would be signed by me for committee action.

So the two things again, review the old inspection report to Congress of 1992 and provide any other applicable recommendations on inspection requirements of fishing vessels is the task we're being asked to do. Clear?

MR. KEMERER: To clarify that more, I don't think we can expect the committee to rewrite the full report because there were two enclosures with the report of other studies, and the time involved at this point might be better just to identify those areas of the report we need to look at to update or revise so we can have that data and information available to submit if we are offered that opportunity.

CHAIRMAN DZUGAN: A key area to look for under that report is the vessel breaks. The 1992 report recommended self-inspection for fishing vessels under 50 feet, third party inspection for fishing vessels 50 to 79 feet, and Coast Guard inspection for fishing vessels over 79 feet. So keep that criteria in mind they came up with in '92.

VOICE: Do I have a copy?

CHAIRMAN DZUGAN: That copy was sent to you by Headquarters.

MR. KEMERER: I have some copies.

MR. DAVIS: Is it necessary to form another subcommittee?

CHAIRMAN DZUGAN: One question I wanted to ask while you two gentlemen are here, if we make progress on our current subcommittee work today and see a way to finish that up, either today or within the next few weeks, then can we tackle this as a group, inspection plan?

MS. HUGHES: I think we should try.

MR. DAVIS: As a full group?

CHAIRMAN DZUGAN: I don't know who you'd want to leave out of this group for that.

MR. DAVIS: That was my concern about creating a third subcommittee is we are already, some of us want to be in two places at once as it is. I think looking at what I believe risk management subcommittee has gotten done and what I've failed to get accomplished that we have some things to tie up and we'll be able to come close to doing that tomorrow morning.

CHAIRMAN DZUGAN: What I'm hearing is, let's wrap up our subcommittee tasks

we've already got to work on today before you leave town Mr. Davis, make sure there's any unfinished tasks that we have a champion to remind us this is the bow ties to finish up are due in two weeks? Sound okay?

MS. EDER: I want to revisit the issue we started the meeting with, the proposed changes, fishing vessel safety issues contained in the House bill and not within the Senate, and I know we heard comments from FACA council, but I requested we be made aware of who the congressional affairs or legislative liaison is for Coast Guard congressional affairs, and that we draft a letter. I think we need a committee for that in order to move forward with our comments and as they are communicated to the Commandant but also to members of the Senate that have not yet seen our thoughtful wisdom.

MR. DAVIS: So we need a Legislative Affairs Subcommittee?

MS. EDER: Yes.

MR. KEMERER: Or part of the Communications Subcommittee.

CHAIRMAN DZUGAN: If we do that, and we want to work on that concurrently, inspection plan tomorrow and this legislative subcommittee let's call it, we will have to split us up for efficiency sake. You think that is doable? Would there be a few volunteers for that Legislative Subcommittee that would not need to work on the Inspection Plan? Anybody volunteer?

MR. DAVIS: Is that subcommittee's work really done here, or that subcommittee's work monitoring and keeping us informed as we go along?

CHAIRMAN DZUGAN: If we are going to craft any wording in a letter, we can do that outside of this organization. We in fact have done that in the last year. How do you feel about working on that letter of correspondence outside this meeting through e-mail?

MS. EDER: That would be fine with me, and I'll initiate, volunteer to initiate a draft letter.

CHAIRMAN DZUGAN: Okay, great. Thinking one step forward of that, do we have the ability to vote on items outside of meetings because of the Federal Meetings Act? So if we draft a letter that has some content in terms of a policy that we recommend, not just wordsmithing something but we write a letter that has –

MR. MATTERA: Make a motion tomorrow to do that. That's what we did last time. We sent all those letters out. We'll just make a motion. We follow up on that.

MS. EDER: Right. We move and vote.

MR. DAVIS: Have the ten points or whatever.

CHAIRMAN DZUGAN: Have the draft with the basic content of the letter.

MS. EDER: Tomorrow?

CHAIRMAN DZUGAN: Tomorrow before we leave this meeting.

MR. DAMERON: I'd like to be clear who exactly we're sending the letter to. We're sending a letter to the Commandant of the Coast Guard and we're asking him to forward it to legislative bodies?

MS. EDER: We'll be doing both, sending it to the Commandant but also sending it to the  
—

MR. DAMERON: Isn't also sending it to outside our charter?

CHAIRMAN DZUGAN: No. From our discussion yesterday it would be as an FYI, for your information, because this is public record whatever happens today and tomorrow and yesterday, so all we would be repeating is what went on here and informing other people about that. It's not requesting, we've done our request to the Coast Guard to do that. I think listening to legal counsel yesterday the wiggle room we had is just informing other parties of things we already requested the Coast Guard to do.

MR. DAMERON: Personally I'm a little disturbed that we are looking for wiggle room instead of looking for a way that we can do this within the charter and how that was put together and when that was put down on paper what the drafters of that what that was intended to do. I think that was intended that we were to advise the commander of the Coast Guard, and I think that's our purpose here.

MR. JACOBSEN: I understand Tom's concerns. I'm not sure if wiggle room is quite the right term to use. I think we're just informing appropriate people of the action that the committee has taken, which is public knowledge.

CHAIRMAN DZUGAN: It's a CC of what's already been done.

VOICE: Otherwise you just recommend that the Commandant share this with the, through our congressional and legislative affairs about again CCing this.

MR. DAVIS: Prior to them meeting it would be good if they had this information.

CHAIRMAN DZUGAN: Exactly.

MR. DAVIS: Because if it waits, it's time-sensitive.

MR. JACOBSEN: You're looking at informing the legislators of the advisory committee's desire to relook at inspections and that you'll provide comments to the Coast

Guard that should be able to be used as Congress moves forward in getting our OF bill passed. But it's going to have to be done fairly quickly.

CHAIRMAN DZUGAN: So if we asked you to do that and send that CC: through your legislative liaisons, how long will that take? If it just takes a few weeks –

MR. JACOBSEN: If you have the letter and you've got the CC then that could be taken care of fairly quickly.

CHAIRMAN DZUGAN: So then do we really need to send a separate letter from us to them, like we have done in the last 12 months?

VOICE: No, because you're CCing the letter that's going to the Commandant. There's no two letters.

MR. JACOBSEN: If individually you want to go to like Senator Cantwell and others who have expressed an interest in putting a commercial fishing vessel examination or inspection program into place, you're certainly welcome to do that also, highlighting what maybe was, hey, I attended the Advisory Committee meeting and this is what we talked about, and you should know this and take it into consideration as a private citizen. I believe what I heard yesterday you'd be allowed to do that.

MR. MATTERA: Not as a member of this committee but as a private citizen.

MR. JACOBSEN: Sure. You are a member, but you're just saying as a person that –

MR. MATTERA: Trying to get the words right.

CHAIRMAN DZUGAN: The same thing somebody out there could do who attended this meeting or heard this and wanted to.

MR. KEMERER: That's a letter regarding the pending authorization bill.

MS. EDER: That's right.

MR. DAVIS: See what happens when you decide not to go out?

CHAIRMAN DZUGAN: My question still would be for the committee for tomorrow. Do you want to work on inspection on one group and work on this letter separately or concurrently at the same time?

MR. DAVIS: Concurrently probably. Thrash it out once, not twice.

CHAIRMAN DZUGAN: So one group will work on the inspection plan and the other group will work on the letter. That's what I meant by concurrently. We have two groups

working on two different things and we could bring both those recommendations together to the whole group.

MR. DAVIS: Okay.

MR. JACOBSEN: I'd like to see a legislative subcommittee designated on a permanent basis.

MR. DAVIS: I second that motion.

MR. JACOBSEN: I'd like to participate on the Inspection. I think that could be done together.

CHAIRMAN DZUGAN: Right. Is there agreement, consensus about that? Everybody working on the Inspection Plan together and then some or all working on the Legislative Group?

MS. EDER: Yes.

CHAIRMAN DZUGAN: There was a motion and a second on the floor. Want to repeat the motion?

MR. JACOBSEN: I wasn't aware I was making a motion.

CHAIRMAN DZUGAN: You moved, he seconded.

MR. DAVIS: The motion was that we form a Legislative Subcommittee to keep track of what's going on and keep us fully informed by Jake Jacobsen. Seconded by Alan Davis.

CHAIRMAN DZUGAN: Any discussion? All in favor? (chorus of ayes) Any opposed? Okay, it's passed. We have a new subcommittee.

VOICE: Who's the subcommittee?

MR. DAVIS: Michelle.

CHAIRMAN DZUGAN: Anyone else?

MR. JACOBSEN: I'd love to be on it.

MS. EDER: Leslie? Anybody else?

MR. KEDERER: I vote for Michele as the chairman.

CHAIRMAN DZUGAN: Okay with everyone? Consensus.

MS. EDER: I vote for Jake as co-chair.

CHAIRMAN DZUGAN: So chair has been settled. So we'll deal with both these issues tomorrow, see how far we get with the Inspection Plan and then go on to the next. We'll meet with Inspection first and then go to the Legislative one next, but for now can we get with our two groups? Who's on the Subcommittee for Communications with Mr. Stanford? Okay. Would you mind retiring to Room 481 which is right up the elevator?

MR. KEMERER: Are we still on the same committees we were on last meeting?

CHAIRMAN DZUGAN: Yes.

VOICE: We have three of us move to a new committee?

CHAIRMAN DZUGAN: Which committee?

VOICE: Legislative.

CHAIRMAN DZUGAN: That's going to meet tomorrow. We're not going to meet now. The Risk Group is going to stay here. So Jake, can you remind them to come back at quarter to? Before we do a quick debrief of each other's activities, tomorrow if some people come in before 8, Amy was here at 7 this morning. If you'd like to have your travel orders dealt with and get them signed, if you're going to be here please do that. We might do that as a rolling option during the breaks tomorrow so it doesn't take so much time, all bundled at the end of the day. Maybe now we can debrief each other's activities and make this a quick synopsis, no more than 5 minutes for each group.

## **RISK SUBCOMMITTEE OLD BUSINESS**

MR. DAVIS: We were reviewing what we thought we'd done, what we think we've done and what we think we need to do, go, no go. Far as we know that's a done deal. Deck safety: Communications, can you confirm we handed a product off to you last round?

VOICE: We don't have anything.

MR. DAVIS: So that's lost in the ethos, and I will go back through the 752 files I have on this thing now.

Man Overboard, Best Practices and Strategies, I think we have a second or third draft we're going to go back through tomorrow and try to combine some stuff to hopefully finalize and hand off.

CHAIRMAN DZUGAN: You have that brochure I gave you with some of the names on it?

MR. DAVIS: It's sitting over there. There's a document Jerry's offering up as something to be included and factored in for consideration.

Watch standing, we're going to go back through the document we have or I think I've got in the computer, see what needs to be done to it to pull together the final product.

My understanding is Navigation Rules of the Road is completed and posted on the website already.

Stability. We discussed the fact that John Wilmack had completed several stability documents that are already on the website too? Yes. We talked about next areas to work on based on the information we've seen from Dr. Jennifer Lincoln's work on vessel casualties and stability issues. We posted up Mid-Atlantic, New England, pelagic fisheries, RSW Holds. So for that type of vessel and those types of fisheries, Dungeness crab, Alaska salmon, set net skiffs, and New England multispecies ground fish to be projects for him to work on. And then most of those have a champion to be a contact to work with John to provide him the information he needs. I think Dr. Lincoln or Jerry would be the set net contact for the Alaska Set Net Fishery.

We also talked about working on a project with John to combine watertight integrity, to create a document talking about it, perhaps integrating the products from D13 and D1 because it sounds like both those districts have fantastic tools and materials available.

The thing we spent most of our time on was discussing what we're calling the Top 10 List of Unsafe Fisheries Management Practices. Dr. Lincoln revealed to us that she and Dr. Gunnar Knapp are working on a paper about this exact issue, so perhaps in an effort to avoid duplication we did some brainstorming to give her some ideas with the idea that as soon as she's finished that work then perhaps we can participate and reap its benefits.

We put a little caveat in here, whenever management plan includes these things it may result in unintended safety hazards. We asked the counsels to evaluate the specific fisheries these practices have been applied to or may be applied because we have taken note that stupidity can be duplicated.

Derby style fishing, excessive bar crossing exposures, limits on cruise size, limits on vessel size, daily catch limits that force boats to fish or stay out in poor weather. Management plans that favor keeping older vessels in a fishery or require keeping older vessels in a fishery, or plans that pose barriers to building newer, better, bigger vessels to replace aging vessels. Closed areas forcing vessels to go around or to disconnect gear in order to transit them. According to one report we've had at least one fatality where someone in order to cross a closed area went out to disconnect the wire from the door so he wouldn't get dinged by the authorities and in the process of disconnecting the wire from the door was lost.

Forcing delivery to any specific port. This is a riff off the delivery relief issue and the Bering Sea king crab. Universal safe harbor provisions need to be in place so that it's not something that's different from one port to another port to another management district to

another region. If a guy's boat's got a problem or there's bad weather, he needs to be able to come in and hide or fix it.

Local fisheries managers and Coast Guard need to be able to temporarily close a fishery, I should include here 'in a swift fashion' due to weather hazards. The placement of marine reserves, marine protected areas and alternative green energy installations that would include wave generation or wind generation systems needs to have safety ramifications considered. Example from the East Coast is, they're looking at putting what could be as many as 100 windmills in a body of water. So essentially in bad weather you could have fishing boats surfing through a slalom course.

Does that basically sum it up? Okay. So that's the tasks that we have before us in the morning to tear into is to pull together the remaining pieces of the deck safety, man overboard safety and watch standing and light them up.

CHAIRMAN DZUGAN: I think we're going to finish that by e-mail.

MR. DAVIS: Oh, I thought we had time in the morning, thought that's what the agenda said. I've been wrong before.

CHAIRMAN DZUGAN: We can. It's just how much time the committee wants to get to the Inspection Plan.

MR. DAVIS: If it's the pleasure of the chair that we launch into that other part of it, I am fine with finishing these up by e-mail and we'll strive not to be a dufus and lose track of where things were and where things are and cracking the whip, that kind of stuff.

CHAIRMAN DZUGAN: If it's okay with the committee, it would be nice to get a start on Inspection at least rather than get drug down with some more of this old stuff because work fills all time, so let's just get started on that if it's okay. Thanks, Alan.

## **COMMUNICATIONS SUBCOMMITTEE**

MR. LELAND STANFORD: The subcommittee for Communications met. We reviewed our mission statement and immediately noticed part of our subcommittee Communications mission statement is to report on the effectiveness of Coast Guard communications; however, we're not on the list. We are not receiving any communications from the Coast Guard, and that started off the whole discussion.

We recognize that Homeport website is our entry point, but most of our passwords have expired due to inactivity. For example, I can't get back on because it tells you there's been no activity. We have to do a better job, or at least I do, on the committee of getting on there more often.

We discussed as part of that that, for example, NVICs are issued as a product but there's no means of receiving them automatically, no subscription service for a NVIC. We

thought that was important to talk more about and that brought the discussion to improving the FishSafe site so as to provide the users a methodology to sign up for a subscription for various Coast Guard products such as safety bulletins or NVIC or certain products.

Ensign Amy explained that could be problematic because there are so many different agencies feeding the database that you'd have to have a pretty good filtering system; otherwise you're going to wind up with 100 e-mails a day based on your subscription service. But there may be a way to do that through the national Maritime Center which is a large database, and that's something the Communications Subcommittee is going to look at further and try to understand that better. Ensign Amy was very valuable to have in the meeting. She has an understanding of how a lot of that works, at least at a level she could explain to us and we could understand. That then led us to what are modern means of communication today. When you go on a commercial website and are looking to buy a product, it will often say on the bottom, "follow us on Twitter," or "follow on Facebook," things like that. I won't get into a lot of that because that's a little on the outside edge of where we need to be.

We talked about Homeport and how it relates to communications and how we're trying to get products either from this committee or products the Coast Guard in general messages, how to get those out to people who need to see them. Clearly in our opinion the Coast Guard needs help doing that and getting feedback on those products is very important. For example, if you did receive a NVIC due to a subscription you signed up for on Homeport, was it useful? Did you understand it? Do you need more explanation? Just some sort of feedback getting back to the Coast Guard is we think vitally important. We think there's a lot of information that gets put out there and people are like, I don't know what the hell this is, and just erase it or turn the page and move on to something else.

So feedback is critical, and that's part of our mission statement in the subcommittee is to gather the feedback. So we have to get on the Coast Guard about that topic and try to get this incorporated in the products we put out. Looking forward when we put out a pamphlet on whatever, Getting the Right Immersion Suit, or Stability, there should be an avenue on every document we put out comments, questions, feedback, click here, or go to this website and click here, and tell us what you think. Was this product helpful for you? How would you have done it differently?

This is the kind of feedback we need from the industry stakeholders, so the Communications Subcommittee has work to do. We don't have very many specific task statements issued to us, but I'll clean these notes up and supply them to everyone and I think that will serve as our work.

CHAIRMAN DZUGAN: Thank you. Any on the two committees have any concerns about each other's works?

VOICE: Leland, how are you making out with your stakeholder list?

MR. STANFORD: Thank you for reminding me. I forgot to report on that. The stakeholder list is being passed around. Leslie has it. Did you find it, Leslie? You still haven't gotten there? That's fine. Leslie's got it, Jake is next, and you're right after Jake. So the purpose of the stakeholders' list is a database that Jack forwarded me, we're all looking at it, eyeballing it to see if it makes sense. If we have any additions of people or organizations that have the ability to re-disseminate information, I don't need your personal address, and that's not what this is about. This is about if you have an e-mail broadcast list where it goes out to 200 safety professionals, okay, then I just need your e-mail address on the list, not 200 safety professionals that you mail to. This is the web effect. That's what we're trying to accomplish and, Mr. Chairman, I expect that list to be turned in by July.

CHAIRMAN DZUGAN: Good. Deadlines. Nice. Then I propose that there be a motion to adjourn if you're ready.

MR. DAVIS: Motion to adjourn.

CHAIRMAN DZUGAN: Before we go, I want to remind people we are coming here at 8:00 tomorrow. Be conversant about the Inspection Plan, please, for tomorrow morning. Can I hear a second?

MR. DAMERON: Second.

CHAIRMAN DZUGAN: Second by Mr. Dameron. All in favor? (chorus of ayes) Any opposed?

Thanks to everybody who attended, and all your hard work today.

[The meeting was adjourned, subject to recess to 8:00 the following morning.]

**CFIVSAC MEETING  
May 11-13, 2010  
Waterfront Hotel  
10 Washington Street  
Oakland, California**

**Day three, Thursday, Wednesday, May 13, 2010  
8:00 a.m. to 4:00 p.m.**

**TABLE OF CONTENTS**

<b>Opening Remarks, Review Agenda</b>	<b>217</b>
<b>Task Statement Approval Discussion</b>	<b>217</b>
<b>Motion to approve, vote to pass</b>	<b>220</b>
<b>INSPECTION PROGRAM DISCUSSION</b>	
<b>Authorization Bill - Jack Kemerer</b>	<b>220</b>
<b>History of '92 Report - Mike Rosecrans</b>	<b>222</b>
<b>Define "examine at Dockside"</b>	<b>224</b>
<b>COC as term of Use</b>	<b>225</b>
<b>ACSA Layer</b>	<b>229</b>
<b>More than Dockside Exam</b>	<b>229</b>
<b>Inspections: Periodicity, Extent, Uniformity,</b>	
<b>Grandfather - Mr. Jacobsen</b>	<b>231</b>
<b>Highwater alarms great failure</b>	<b>237</b>
<b>Instability solved by training</b>	<b>237</b>
<b>Vessel length categories</b>	<b>238</b>
<b>Under 50 feet</b>	<b>240</b>
<b>Exams vs. Inspections</b>	<b>241</b>
<b>Watertight Integrity – Mr. Lawrenson</b>	<b>243</b>
<b>PUBLIC COMMENT</b>	
<b>Troy Rentz</b>	<b>244</b>
<b>Captain Ruhle</b>	<b>244</b>
<b>Mr. Lawrenson</b>	
<b>re House Authorization Bill wording</b>	<b>248</b>

<b>Captain Ruhle re</b>	
<b>Published lists, Tie charts, Compasses</b>	<b>254</b>
<b>Revise or Continue 1992 Report?</b>	<b>255</b>
<b>Motion (wordsmith) by Ms. Eder re stat update</b>	
<b>request for '92 report</b>	<b>258</b>
<b>Passed</b>	<b>264</b>
<b>Desired Outcomes for '92 Update - Mr. Davis</b>	<b>264</b>
<b>Developing Self-Inspection Checklist - Mr. Dzugan</b>	<b>265</b>

## **AFTERNOON SESSION**

<b>Motion by Tom Dameron re hull exam</b>	<b>269</b>
<b>Motion tabled</b>	<b>274</b>
<b>Motion by Ms. Eder re 42USC4502</b>	<b>275</b>
<b>Passed</b>	<b>278</b>
<b>Motion re CCing letter to commandant, Ms. Eder</b>	<b>279</b>
<b>Passed</b>	<b>282</b>
<b>Motion re Internal GPS, Mr. Dameron</b>	<b>283</b>
<b>Passed</b>	<b>283</b>
<b>Motion by Mr. Mattera</b>	
<b>re SAR review on Lady Mary and Sea Tractor</b>	<b>284</b>
<b>Passed</b>	<b>290</b>
<b>Motion re SATs as substitute for</b>	
<b>single sideband radio - Mr. Dameron</b>	<b>290</b>
<b>Passed</b>	<b>292</b>
<b>Motion by Mr. Davis to send letter</b>	
<b>of appreciation to chief of SAR operations</b>	<b>293</b>
<b>Passed</b>	<b>293</b>
<b>More Frequent Meetings Discussion</b>	<b>293</b>
<b>Election of Chairman and Vice Chairman</b>	
<b>Captain Christensen</b>	<b>295</b>
<b>Debriefing</b>	<b>298</b>
<b>Plans for next meeting, Jack Kemerer</b>	<b>304</b>
<b>Distant Water Tuna Fleet – Mr. Davis</b>	<b>306</b>
<b>Adjourn</b>	<b>307</b>

## **PROCEEDINGS**

### **Welcome and Agenda:**

CHAIRMAN DZUGAN: We're going to get started. Just to review the agenda, we're going to be looking this morning at the Inspection Plan, and after that we'll be looking at this Legislative Subcommittee or work related to that issue. I don't know if we have anymore reports from subcommittees. I think we did those yesterday at the end of the day. Any recommendations though or motions we've shelved or need to be made? That would be a good time during or after those two topics to bring those up, and then elections chair and vice, deltas for the meeting. Does anybody have any other business they see needs to be on this agenda before we move ahead?

MR. STANFORD: I'm going to auction off a free pull on the life jacket. I have a number, and one of the committee members can wear it and see what it feels like. If you never had one on when it inflates, it's an interesting experience.

MR. MARTIN: We're going to bid and you're going to pay us to do it.

CHAIRMAN DZUGAN: Any other business we need to make sure is on the agenda before we wrap up the day? If things come up, please let the chair know and we'll try to work that in. Let's go right into the Inspection Plan. One of the first things I think we should take care of this task statement and get a motion and approval on that.

### **INSPECTION PROGRAM AND DISCUSSION**

#### **Task Statement Approval**

CHAIRMAN DZUGAN: I'll reread the task. I read the preamble, the description and the background yesterday, but we didn't vote, so if you'll save me the time of repeating the description of the tasks and the background I'll just describe the two tasks? Is that okay? Then we can have a discussion about that and decide whether we take this on or not.

The task that we have been given by the Coast Guard is in order to be able to present current data findings and recommendations for a plan to seek authority to inspect commercial fishing vessels, the Coast Guard wishes to establish a subcommittee (and yesterday we decided to do this as a committee as a whole) that will address vessel inspections, and the following tasks are assigned:

1. To review, revise, and/or update the 1992 report to Congress on fishing vessel inspection. (That was the one we were supposed to be reviewing last night, and it was already previously sent to us.)

2. Provide other applicable recommendations on inspection requirements for fishing vessels.

That's our two tasks. To help us stay focused, I notice one of the tasks was not for us to decide if there should be one. I'm talking about an inspection plan. That is going to be dealt with in Congress. So if there is an inspection plan, if Coast Guard is authorized by Congress to develop an inspection plan that's what they're asking for input into. We could have quite a discussion all day long about whether there should be one or not, but that isn't the way I see it. That's in Congress's hands, and that's in another arena, and if we get into a discussion of whether there should be one or not I think it's going to distract from our discussion of if there is one, what input and what changes need to be done to that? Is that a fair statement to make from the Coast Guard's perspective?

MR. KEMERER: Yes, and I might add the reason behind this tasking is that over the years numerous casualty investigation reports, some of the safety recommendations including that fishing vessels should be inspected, and most recently and more importantly is after the *Alaska Ranger* report from NTSB, one of the main recommendations is for the Coast Guard to review that inspection plan and provide updates and have it ready to submit as a legislative change proposal to Congress for authority to do inspections, some sort of inspections at least on fishing vessels. The Coast Guard's response to NTSB is that we'd undertake that task and work with the committee to review that plan from 1992 and have it ready and seek authority for inspections at some level. So we're on the hook a bit to at least do that and submit our results and have it ready.

MR. STANFORD: Jack, do you feel the '92 report is in the proper order and framework that we can just go through it and subtract something out, add something in? It's in the right format as you want it?

MR. KEMERER: We can rewrite it, however. It references two studies that were in there which I don't have available right now. But the body of the report I think covers all that and incorporates information from those studies, so I'd like to just go through this and see what areas need to be addressed and updated and any suggestions or recommendations from the committee how to change that so we can start working on this and then we'll send it back out to everyone to look at after we complete what we think is needed on it. So you're not locked into just updating the report. If there's a different recommendation the committee has, we can take that into consideration and maybe include it. So what the report says now doesn't necessarily have to be what goes back when we do the LCP. So if you don't like the format of under 50-foot self-inspections and 50 to 79-foot third party inspections, and over 79-foot Coast Guard inspections, let's have a recommendation on how we'd modify that, what the committee feels might be appropriate for an inspection program.

MR. STANFORD: So in your eyes we've got to sell the information to Congress, or you do?

CHAIRMAN DZUGAN: I don't think we have to sell anything. Congress would give the authority to the Coast Guard to have the power as it were to develop and refine and implement an inspection plan. We can provide input into the particulars of that, what size boats, should they be sized, should it be documented, should it be tonnage, whatever, how that might be implemented. But Congress is the one who would be giving the Coast Guard the authority to do that overall. Congress generally with these things gives some broad guidelines and then allows that agency to develop the particulars of it. Of course the devil in all these things is in the details, but we don't have to sell this to Congress. Congress will decide on their own and they've got their own salespeople talking to them, I'm sure. That's not what they're asking us to do. That's not our task.

MR. KEMERER: It's up to the secretary to develop regulations to implement inspections on the vessel, so we get the broad authority and then we develop how the plan should be implemented.

MR. STANFORD: I understand. It's somewhat of a daunting task to think about that whole report as I looked at it last night. There are a lot of elements in it. The executive summary and clearly the NIOSH data we have available to us is something that needs to be inserted. I struggled in my mind last night as I read it to try to figure out how we as a committee could divvy it up or sit down at a table and try to tackle it. It's a big one to tackle, and it's problematic to send a document around to everybody and everybody throws their red lines on it and then one person gets it back. It's very difficult to review a big document like that.

My recommendation is that we look, we examine as a group the key elements of the document and then perhaps people within the committee volunteer to take on an element and try to bring it up to date based on their knowledge of what the committee's views have been. Thank you.

CHAIRMAN DZUGAN: Just to begin, and we'll get back to approving the task statements and taking it on as a committee, but this original plan was done and sent to Congress in '92, developed in '91, '92, and the Fishing Vessel Safety Act was passed in 1988, so when this plan was developed you had a history of fishing vessel fatalities and casualties pretty much pre-regulation when they're looking back at 5 or 10 years before that, and you're looking at what's going on in the 1980s, maybe even the 1970s. So it's important that we reality-check this with more recent data. What has the Fishing Vessel Safety Act already positively impacted? What are the deficiencies still? What are the areas of improvement? That's I think one of the important updates we give the plan is remember the data we've been given by the Coast Guard and NIOSH and seeing are these problems that can still be corrected due to deficiencies happening because of lack of inspection, whether self-inspection or anything else? So let's keep the problems in mind and where they're still occurring.

MS. HUGHES: I think we should keep in mind too that most of the fleets around the country have significant age and we're going to continue to see more and more reports,

investigations that end up with recommendations that involve inspecting the material condition of these vessels. I think this is a very important task that we keep that in mind as we look at updating it.

CHAIRMAN DZUGAN: I don't see a timeline on this task sheet, task statement 10-01, action sheet. But we definitely need to make some progress on this and do what we can on this day before we separate again. It may be another year before we meet. If Congress passes this Act this summer let's say, there will be a lot of things that need to be done.

First matter of duty though is, does somebody want to entertain or craft **a motion that we accept this task statement that's been given to us to review, revise and/or update the 1992 report to Congress on inspection and provide other applicable recommendations on inspection?**

## **MOTION**

MS. HUGHES: I'll make that motion.

CHAIRMAN DZUGAN: Ms. Hughes motions to accept this task statement 10-01.

MR. MARTIN: I'll second it.

CHAIRMAN DZUGAN: Seconded by Mr. Jimmy Martin. Any further discussion, any discussion? Seeing none, all in favor to accept this task signal by saying aye. (chorus of ayes) Any opposed? Okay. Passed unanimously. Then I'll sign this with the captain.

## **MOTION PASSED**

## **INSPECTION PROGRAM AND DISCUSSION cont.**

### **Authorization Bill**

CHAIRMAN DZUGAN: Next two things I'd like to do is, if we could hear from Mr. Kemerer to get this in the context of the present reality of the House bill in Congress so we can look at this plan from 1992 almost 20 years ago in light of what's going on now in Congress. Secondly, if we could hear from Mr. Rosecrans about a little narrative of that history how this developed, and then I think we've got a good background to begin some discussion. Mr. Kemerer.

MR. KEMERER: Thank you. I understand, I heard something this morning that the Authorization Bill was on hold of some type for some reason, but it may be released again, so there may be some movement on the authorization bill. I think all we need to cover at this point is Section 4502, what the new requirements are for safety standards. I think everyone got a copy yesterday, the redline version that Mike provided. He had a file he let us have. The big changes to the standards are, first, they are removing the

wording “documented vessel” and it’s section 2 where it said the way the requirements are broken down, requirements to all vessels and then for documented vessels that operate beyond the boundary line with more than 16 people and so on. Then new vessels and then processing vessels and tenders.

So the first major thing that changes here is that the documented vessel part is removed. There’s additional requirements such as communications equipment, drills and training, and all those things in that second section will apply to all vessels, state and documented. There’s no distinction between that. Also, removing the wording “boundary line.” Those additional requirements apply to vessels that operate beyond the “boundary line” is proposed to be removed and “for any vessels operating beyond 3 miles from baseline of the territorial sea.” So that’s significant changes. That will level the playing field between state and documented vessels, because now you could have 2 vessels 25 to 30 miles offshore fishing in the same fishery, one a documented vessel and one a state vessel, and they have different equipment requirements. So it will level the playing field and the effect could be wide-ranging.

The third would be where it sets requirements for lifeboats and life-rafts, be changed to a “survival craft that ensures no part of the individual is immersed in water.” That’s going to eliminate life floats. You either have to have an inflatable buoyant apparatus or an inflatable life raft for those vessels operating beyond 3 miles.

Then some change in wording to communications equipment, first aid equipment. Next big item would be on individuals in charge of the vessel would have to keep a record of equipment maintenance, instruction and drills, so a log of some sort where everything is document that you’re doing so when you test or do maintenance on equipment or do drills and training there’s a record of it. That will have to be available for inspection by an examiner or boarding officer, whatever.

Along with that is a dockside exam at least once every 2 years, so the exam will become mandatory under this legislation, not voluntary anymore, even though in many cases in some fisheries it’s a mandatory exam because of the requirement NOAA has for the observers, but the Coast Guard will have authority to examine every commercial fishing vessel.

CHAIRMAN DZUGAN: Mr. Kemerer, can we get a clarification? Traditionally under the Fishing Vessel Safety Act an exam has been taken to be understood as a check of the safety equipment mostly, the part 28, where an inspection is more not just that but also hull and machinery. So when we’re using those terms, that’s the way it’s traditionally been used; is that correct?

MR. KEMERER: Yes. With this the way it’s worded “shall examine the vessel dockside at least once every 2 years,” that sounds like it’s open to more frequent and that we may actually be able to put more than just the safety and survival equipment on there.

Mike.

## **History of '92 Report**

MR. MIKE ROSECRANS: Let me serve as a bit of a historian, not as anybody from NTSB. The law has different classes of vessels, and within Chapter 33 it defines which vessels are subject to inspection. The proposed changes in the Coast Guard Authorization Act would not classify fishing vessels as inspected vessels. They would remain uninspected. However, the examination is meant to be "semi-inspection" if you will, and so by being inspected vessels a whole lot of other things change and are included with that, all the material, equipment standards, all number of subchapters, requirements for COIs and those kinds of things. That is not what the Coast Guard Authorization Act is proposing. It's proposing something in between: full inspection and what we have now, uninspected.

So in the Coast Guard we stayed away from talking about inspecting fishing vessels because the connotation is that they're now inspected vessels. The word "examination" was specifically chosen to not make them inspected vessels but to allow the Coast Guard to have a program where they could get on board and check material condition periodically, in this case every 2 years.

CHAIRMAN DZUGAN: That being said, sounds like part of what our task, and the Coast Guard's task certainly is to define what's going to be included in this what you might say 'exam on steroids' since it's not an inspection. Will that include things like pumps and the diameter and the pressure of fire pumps, things like that? That's part of a traditional inspection. So which parts of those traditional inspection are going to be included in the parameters of this new fishing vessel exam-plus? That hasn't been developed; I've never seen anything like that ever developed, unless there was something under 586. I don't remember, under the Voluntary Standards.

MR. KEMERER: I don't think the bill would give us authority to put specific requirements on some of those things unless they already exist other places in the regulations for vessels of certain size. But I think, the lawyers will, again, have to look at it to see how far we can go on some of this, we probably can still examine all the equipment and make sure it's in place, but maybe not require certain size or whatever. That will have to be developed as we go along.

MR. ROSECRANS: A little bit more historical value. There is quite a bit of authority within the existing regulations and law whether the Coast Guard has exercised it or not. For instance, the Coast Guard could require certain portions of the marine engineering regulations applicable to commercial fishing vessels, they have that authority. The law says you'll develop standards for such and such and when the first rulemaking came out the committee was heavily involved, and Jerry was the only one on the committee back then, the first advisory committee. So there was a lot of concern the Coast Guard not go too overboard on existing vessels in particular on developing these standards. So you'll

see the regulations as the vessel got larger, new construction came on, the construction standards really applied to new vessels as they were built not to existing vessels.

But the Coast Guard has authority, and I'd think if the Reauthorization Act came to pass they'd have to go back and decide what standards are going to apply for new vessels, existing vessels, those kinds of things, because if you go back and look at the casualty stuff it's those kinds of material condition things that are causing the vessels to sink. You can expect that Congress by giving the Coast Guard authority to examine these vessels would do something with that authority to stop those kinds of problems, would identify the risks and develop standards and take some action to make sure those were no longer problems.

CHAIRMAN DZUGAN: Anything else specific to inspections in this Reauthorization Act, focusing on inspections?

MR. KEMERER: No. Others deals with training.

CHAIRMAN DZUGAN: Mr. Davis, Ms. Ruhle, Ms. Eder.

MR. DAVIS: A point of clarification. We heard yesterday East Coast/West Coast differences in frequencies of dockside exams and with the East Coast having annual requirements and the West Coast having every two years. Here we have just said "every two years." So we need, this seems to be a point to make a decision. Is it annual or every two years, unilaterally?

MR. KEMERER: The bill proposed, the wording is "at least once every two years," so that leaves it open to make it more frequent, so we'll have to make the determination what that is.

MS. RUHLE: I'm interested in who is going to be conducting the inspections and where it's going to occur.

CHAIRMAN DZUGAN: I think that's one thing we'd have privy to giving input to as a group, so that's a matter for discussion today, to begin that discussion.

MR. KEMERER: To clarify, are you referring to mandatory exams in the bill?

MS. RUHLE: I'm talking about the inspection, the possibility of boats having to be required to be inspected. Who will be doing the inspecting, and where will it occur?

MR. KEMERER: That's one of the things the committee needs to look at or we're asking you to look at in the old plan. The format explained there were self-inspections, third party and Coast Guard. Is that still a viable option or should Coast Guard do everything? The plan set up I'd expect to be similar to other vessels, the local inspectors at the sector would be involved with it; existing fishing vessel examiners qualify as inspectors would do it. That will have to be determined if the plan comes to fruition.

MS. RUHLE: Thank you.

**Definitions, "Examine at Dockside"**

MS. EDER: I go back to the question I don't think has been answered, on page 3 the first big red paragraph number 2. "Shall examine at dockside a vessel described in subsection (b) at least once every 2 years." I listened to Mr. Rosecrans describe we don't want to use the word "inspection" but use the word "examine," but I don't see a definition in here of what "examine at dockside" means specifically and there's no reference to another as incorporated or as stated by such-and-such rule. So is this just excerpted from something else and the definition of "examine at dockside" is set forth somewhere else? Or is this a commonly – I mean it seems to me it either has to be defined what a "dockside exam" is or it has to reference a definition or something, because I just don't see. I think we need to spell it out what a dockside exam is, up and down the docks everybody, when you say dockside exam, I think there has to be some referral to some administrative rule or something that defines that.

CHAIRMAN DZUGAN: I think we need, let's let Mr. Rosecrans shed some light on this.

MS. EDER: I see lots of confusion.

CHAIRMAN DZUGAN: With the historian hat, there's been tension between Congress and Coast Guard about why the Coast Guard doesn't go down on the docks and examine vessels, and the Coast Guard's position is that these are not inspected vessels, they're not defined as inspected vessels, and therefore they have no authority to go aboard at the dock. Underway is a completely different issue. The Coast Guard has such broad authority on the water they can go anyplace, anytime and board any vessel in U.S. waters or with the U.S. flag. So this is Congress's intention to give the Coast Guard specific authority to go aboard and do dockside exams, and you'll see I call this kind of a semi-inspection program. They require some letter of certification that the vessel complies with existing regulations, kind of like a COI does now. So the dockside is meant to allow the Coast Guard to go down before the vessel gets underway. Now it's a voluntary. They only go on board voluntarily. Congress is trying to say, We want you to go aboard mandatorily.

MS. EDER: I understand that, but what I don't understand is where is the definition of "examine at dockside."

CHAIRMAN DZUGAN: I think I understand your question. We have the definition of an "exam" because there's a checklist for the dockside exam sticker. I think we're already getting into the problem of nomenclature and what are we calling this thing, which has not even been developed yet by authority or by regulation. We're making it up as we go along, and so the answer to that question would be, we don't know yet. We're making it up.

MR. KEMERER: If I can add in here, when the law was passed back in '88, the Coast Guard had to develop implementing regulations which the original committee was involved with in helping do that, so if this bill passes and gives us authority for dockside exams the Coast Guard will have to develop the implementing regulations, and within that we'd have to define what some of these things are. So the existing part 28 regs will have to be changed considerably.

### **Certificate of Compliance (as term) Discussion**

CHAIRMAN DZUGAN: Can I propose using a working term for this, since a dockside exam is already well-known as Part 28, and there are definitions and checklists for that. An inspection, anybody who's dealt with T-boats or inspected vessels, we all have an image in the mind of what that is. Since 80 percent of any idea talked about is already present in the mind before you begin to talk about it, instead of dealing with these confusing terms of "exam" and "inspection," that we use the term "vessel certification," or "letter of certificate." Mr. Rosecrans just used it, a letter of certification. That's what we're really talking about here, and if we can use that term maybe it will help us be better able to communicate about what we're talking about without getting confused by what the baggage of this other terminology already brings in.

MR. KEMERER: The bill says after an exam a certificate of compliance, so a COC much like the processors and tenders might get.

MS. EDER: What bothers me about that is I don't want to create a new class of something that may cause confusion on the docks, because I think what fishermen are going to hear is that instead of having a voluntary dockside exam they'll hear, "Oh, the law's changed, now we've got to get one," as opposed to, "We got to get a dockside exam." That's something everybody nods their heads and understands what it is. If we create a new class so you have to get a 'certificate of compliance,' people are going to go bonkers thinking "we already got this program and now we got this program?" I think from just a practical standpoint of somebody who's standing on the dock thinking, "What are the feds doing to us this time," that if the intent is to make sure every vessel gets a dockside exam every two years and I'd like to stick with the exam at dockside.

MR. KEMERER: To clarify, we'll have to develop this, but simply put the exam will have to be conducted on the vessel and instead of issuing a decal there will be a certificate much like a small passenger vessel, certificate of inspection, more like a letter they'll have available to post on the vessel. We could still opt for the decal program, maybe a decal and a certificate. That will have to be worked out, if we get the authority.

MR. MARTIN: To help clarify the exam, I was on this committee in the early '90s. The first 3 years I wasn't on it, and then somebody never made a meeting and I got appointed to it, and when the exams first came out it was said that if you call the examiner down he's going to come down, look at everything, and tell you what you're short of, and you're not going to be penalized. If you decide to go to sea without it, nobody's going to say anything, but if you get stopped offshore then you could get terminated. And it's

twisted around more that the examiner tells you, You can't go now. And when I got my first, and Bob Lynch who's in charge came down, and my boats were the first ones. If you didn't do it, well I came down and I tried but you don't have to do it. But if you get caught ...

But now it's revolved around, you've got to do it. If we come on your boat and we find some deficiencies, you better not sail because we will send somebody out there to get you. So we need to rethink what we've done from the '90s to now. It's revolved from one thing to something completely different today.

MR. O'LEARY: Going to the 2-year thing, there are a lot of boats that still don't have to have shore-side inspections. A lot of those fish, it's like lobster, and I don't actually have to have a sticker on the side of my boat because I'm offshore lobster right now and I'm not using my multispecies, so I don't have to have a sticker. And there's a lot of those fisheries that's actually struggling that don't use it, the shrimping and stuff like that. So there are an awful lot of boats that are really hurting that need to get inspected to try to save lives. The two years is good for that. The rest of the stuff with the observer programs and stuff are going to be one. So this 2-year just to back to that would be good for that even though it's different. But we're still going to catch a lot of boats and a lot of accidents hopefully before they happen.

The big thing I'm worried about is the difference between the shore-side exam as it is now and where the next, is there going to be a next level tier that's going to put half the fishing boats right out of business. If we can keep it close to where it is and maybe adds a few things so we save lives, that's great, because it's definitely needed. But if we go too far and get towards inspected vessels, we're going to be putting half the fisheries right totally out of business, and I don't think that's what we want to do. We want to save lives.

CHAIRMAN DZUGAN: And that's our task as it's delineated here after we agree on a basic definition of what we're talking about. In combination with the fact that if nationally we're going to a one-side dockside exam sticker and then we have a two-year exam-plus or letter of compliance, or can those be put together so it's one thing? Ms. Eder was talking about confusion in the fleet, well how come I got to do this and now I got to do this other thing?

MR. O'LEARY: It's the difference in the observer program, to help protect the observer. That's what it's about, and I don't think we're going to change that. But we're still going to be, by putting this in for 2 years for all the fisheries we're going to be catching a lot of boats that haven't had any safety stuff and basically I get checked a lot less than Fred. I'll get checked once every 3 years or once every 4 years because of the fishery I'm in. These boats, a lot of these boats have a lot of problems I see them on the boats, and so if we can keep it so it's a little bit better for them and it's not so much work for the Coast Guard so it gets done—because if they got to go to all the boats every year, you know they're having a hard time keeping up since the one-year thing. Now you add it to all these other boats, these small boats and stuff, and you go once a year, boy now you're

really opening up a lot of extra help and you need quality help because the more people the quality of the guys that go aboard those boats that really know what they're doing and go aboard with the right attitude it's going to go down. I don't think that's going to help either, so that's just another point to make.

CHAIRMAN DZUGAN: I wonder if the committee could help me and give a name. Let's call this something we can consistently use. Again, I just heard the word 'inspection' several times, and that just confuses me. Can somebody please? Mr. Dameron.

MR. DAMERON: I believe that certificate of compliance sums it up, sums what they're talking about in the proposed regulations.

CHAIRMAN DZUGAN: Is that okay with the committee? We can even refer to it as a COC, nice little acronym, just so we can differentiate between the two inspections and exams we traditionally have? Okay. That just helps me a lot.

MR. DAMERON: When you issue a certificate of compliance, you are very specifically then referring to something, so –

CHAIRMAN DZUGAN: Yet to be developed. Yet to be given authorization to the Coast Guard.

MR. DAMERON: Understood. It sounded like to me when I read this that the Coast Guard's trying to keep the verbiage open a little bit because as someone boards the vessel they might see something, maybe a stability issue, so we'll do some safety checks and I want to talk about stability. I think it gives the inspectors a little bit more latitude during the visit. I want to be cautious of the certificate of compliance because usually it's specific.

CHAIRMAN DZUGAN: I think it's important for more than just our discussion, but a lot of the people going to be doing this if the Coast Guard is involved come from an inspected background, and we saw this when they get involved with fishing vessels they bring their inspection background to another level. They bring in a lot of that history and experience with them and sometimes implement things they shouldn't be. It's helpful both ways.

VOICE: Or get all freaked out.

CHAIRMAN DZUGAN: Yes.

MR. MATTERA: I'm trying to wrap my mind around the intent. That's my biggest problem here because what I see is, right now presently we have the voluntary dockside exam. In my eyes this is mandatory dockside exam, plain and simple. Not letter of compliance, all new language, it's a mandatory. I listened to all the districts, and we are hitting voluntarily less than 50 percent. So if the intent is to get out there and try and get

75 or 80 percent, because I don't think we're ever going to get 100, if that is the intent then let's just make this a mandatory dockside exam, and that's what we're saying in 2 years. I don't care about observers, that's bologna. You know what they need? They go aboard with a checklist, and I understand the rationale behind it. The rationale behind it is because in 2 years my hydrostatic release on my life raft, on my EPIRB could expire, my registration on my EPIRB could expire, my flares could expire, all those things that have expiration dates could. But they are going on it with a checklist, and if those things haven't expired, then why do we need to do this every year for them?

VOICE: Exactly.

MR. MATTERA: That's just ridiculous. Now if it's expired, okay, then we do. But they go aboard with a checklist. If all they are worried about is to go aboard and look to see you have your decal, 'oh yeah, a decal was 23 months ago so I guess we're okay, let's go.' But it's not that. It's a matter of, Do you have your decal, and let's go through this whole checklist, which I have no problem with. I think it's a prudent measure. I don't think an observer or anybody should be exposed to going on a vessel that's unsafe. So that's what I'm trying to wrap my mind around is, but I hear so many other things. Now we're concerned with these inspections of having watertight integrity? I don't know where Congress is really trying to go because we keep looking at these reports of these vessels that go down, and they all did dockside exams.

CAPTAIN CHRISTENSEN: I think I said this before, and the fishing vessel regs are not designed for any sort of structural integrity. They are designed to allow the individuals on board to survive, so we are still seeing vessel losses but we are seeing survivors. I will go part of the long red paragraph, 4A, H on the last page, "A vessel to which this chapter applies, which will be commercial fishing vessels, shall be constructed in a manner that provides a level of safety equivalent to the minimum safety standards the secretary (meaning the Coast Guard) may establish for recreational vessels under --" you know. So there's a provision for some sort of structural integrity for recreational boats. That's probably for smaller vessels, but I think what they're going to look at ultimately is construction standards, which goes back to John's concern that there's going to be an issue when you start putting construction standards on board some of these vessels, because they're not going to pass. That's all going to be part of the regulatory analysis, cost benefit and everything else like that that the reg process has to go through.

MR. MATTERA: That's why I would like to just stay focused on something simple. Let's get broad coverage. Let's try and get out there and get everybody at least having an exam. I see some of these vessels that leave the dock, and we shudder.

CAPTAIN CHRISTENSEN: But that's the first step is to get out there and --

MR. MATTERA: We're reviewing something from 1992. Tell me about the first step. We can't even get documented --

CHAIRMAN DZUGAN: There's two issues here, not just quantity, getting more vessels in a dockside exam program when the national average is 12 or 17 percent, often the good guys, the choir as it were, but also quality. When that person does the exam and is focusing on Part 28, there are basic structural and hull integrity issues that they're not looking at or even qualified to look at currently. When you go through Yorktown you're not given much on hull integrity as we found out last year when we did an inspection course with a lot of dockside examiners basically. So there are two issues, quantity and quality that we're looking at upgrading.

### **ACSA Layer**

MR. DAVIS: One thing that comes to mind is riffing off what everybody's saying. We should keep the dockside exams, but there's another layer that hasn't been included in the dockside exams, and that's, how do you keep the boat from freaking sinking? ACSA, the Alternative Compliance Safety Agreement, steps into that and creates another layer of things that are looked at. It's a pretty big layer of the original 60 vessels that signed up for that program, when they did their first dry-docking they pulled the propeller shafts, had to condemn, Dan, was it 10 or 12? When we did ACSA to start with how many propeller shafts got condemned? I think it was 12. Those are 12 vessels that very well could have lost their screw in the Bering Sea. And then hull-gauging was part of it. By doing the hull-gauging they found a whole lot of rotten spots, so those are vessels that very well could have lost it and sank. So what simple things can we add to the dockside exam as it exists now that gives us that extra layer of, okay we've got the survival part on the 50 percent of the fleet that actually is doing the voluntary dockside exam. So if we make the dockside exam mandatory and we add another layer that speaks to keeping the water out of the boat, what would that be?

MR. O'LEARY: If we can maybe use some of Jennifer's information to do that to high risk vessels, the high risk, we're losing our lives and stuff like that which is, I can't say because multispecies what's happening with them. Of course they are in high risk now. But if you add a whole other layer to that with hull-gauging and everything else, it's already going to be a lot of people going out. So we can't do that either, and that's what I'm afraid of. But we have to look at the high risk and try to put it like you guys did. We can use the higher risk areas, the heavier seas, the stronger winters to maybe put a small layer. But to go to the point where you guys are doing up in Alaska in the Bering Sea, it wouldn't work on the East Coast. It just won't fit right now.

### **More than Dockside Exam**

MR. DAMERON: Mr. Chairman, committee members, the way I see this Congress going with this rulemaking and the document from 1990 to the date they asked us to review, this certificate of compliance is most likely going to make this voluntary dockside exam go away. The one-year, the two-year, and I'd imagine that if this goes through that National Marine Fisheries, all vessels either documented or go outside of 3 miles are required to have this certificate of compliance, it's going to be recognized that this is going to be significantly over and above a dockside exam. They are stopping short

of referring to us as “inspected vessels.” That might be for the industry’s benefit, but they are going in that direction. I think the research this committee and previous committees have looked at that we can save lives if we do go more towards a mandatory inspection program. What that covers and who’s going to be doing that I think that’s the direction that Congress is heading, and they are looking for our input on what boats this should cover and who should be doing these exams.

MR. MARTIN: I’ll support some kind of inspections or a step above what we’re doing right now. And I think a 2-year dockside is useless because you’ve got to do your fire extinguishers and rafts every year. So you might as well do it every year. But the thing, and I don’t think it’s going to be a problem for me, but the guys in the Bering Sea, how are they going to get this done? That’s my concern. I’m going to get it done in my area, even if it’s a Coast Guard inspectors have to do it. Believe me, these guys are flexible about coming in and saying, this is a T-boat, we got to do certain things on a T-boat, certain things on an I or an L boat, which not a whole lot of difference but there is some difference. I don’t think they’re a bunch of dummies out there. They’ll have to adjust to what they do on a fishing boat versus what they do to a T-boat or an L or an I boat.

MR. KEMERER: I think I need to add something here, and I think we’re getting caught up in the details a little bit too much. What Fred was leading to here in talking about how that current program is going to change, that’s really the basis here, that the current exam program that is a voluntary program except in those cases where observer carriage is required and it basically becomes mandatory, the proposal in the Auth Bill will change that from a voluntary program to where all fishing vessels will have to have a dockside exam, so the terminology here really isn’t changing anything. In the language also it says, at least once every 2 years. That leaves it open when we develop implementing regulations to make it more frequent, so it could be annual.

To go back a few years, the Coast Guard submitted change proposal a couple times to get the exams mandatory. We even asked for a pilot project to see how it would go several years back to start mandatory exam program in at least one or two districts. That was not accepted. Of course the Auth Bill didn’t even pass that year. So we tried to get it in. So this year’s language for this current Auth Bill makes it available throughout the country.

What might happen here, and we’ve talked before about vessel population, we don’t know exactly how many fishing vessels are out there, so if an exam requirement comes into effect for all fishing vessels, we’ll probably find there’s a number of vessels that aren’t operating anymore as fishing vessels, aren’t doing landings, so those that are operating and actually fishing would be the ones to get the exam. If you’re not operating as a fishing vessel or if you don’t get the exam, you have the dockside and you have the at-sea, which is the real enforcement arm. Giving us authority to do the exam will give us some more enforcement authority at the dock rather than just at sea, because now like Jimmy said early on with the program if you got an exam and didn’t have everything in compliance you’d get a work list, and you still do, and it’s supposed to be no fault. But in some of these surge operations of high risk areas if you don’t have all the equipment the operator is advised that if you go out and operate and fish without correcting this

equipment and you get boarded, you will be cited for that deficiency, and if it's serious enough your voyage could be terminated. So that still exists.

But with this requirement, I can see it that if you don't get the exam, don't get the COC that may be required under this bill, then you go to fishing and get boarded, you are definitely out of compliance and there may be provisions to terminate. That would be in the regulations as well: you could be terminated for not having a current certificate. But now for the inspected vessels, if you don't have a current COI you could be held up. It's going to have to all be worked out if we get this authority.

But it's going to go from a voluntary program to a mandatory program for the dockside exams, and how much extra detail gets included in that exam we'll have to see where we go with that. The committee will certainly be part of developing these regulations or what you'd like to see included in it, just like we addressed with you on the current rulemaking project.

CHAIRMAN DZUGAN: This is a good opening discussion. One more comment from the committee, since the agenda says we'll take some comments from the public too. Mr. Jacobsen.

### **Inspections: Periodicity, Extent, Uniformity, Grandfathering**

MR. JACOBSEN: Thank you, Mr. Chairman. I have a couple remarks in regard to this paper which I hope we're considering now, the '92 inspection plan. I've issued quite a few COCs and done a lot of dockside exams, and I've identified four areas I consider problematic in the way this is done. Fred identified one of them already, the periodicity of the inspections. Alan identified another, the extent of the inspections. Another I've identified is uniformity of the inspections, and a fourth is grandfathering issues.

Periodicity of inspections. If I go on to a vessel and a dockside exam and their EPIRB registration expires in a month, I tell them their EPIRB registration is going to expire in a month but I issue the decal because they are in compliance. I have no way to know if they are going to actually register their EPIRB again or get their life raft repacked, or whatever it is. They could be going for 11 months out of compliance but they've got the decal on their window. I see that as a problem.

Another thing is the extent of the inspections. That gets down to the detail level where we can decide what should or should not be looked at, but there's a lot of things that are glaring safety issues on vessels that have decals in the windows because they're not part of, specifically mentioned in Part 28.

Another is uniformity of inspections. When I do a survey of a vessel, I go through all the safety items even if the Coast Guard just did it 2 weeks before. I have to do it because I have a responsibility to the owner of the vessel to do a complete and thorough survey, and I find things, and this is not to disparage anybody and especially the Coast Guard, I love the Coast Guard. But sometimes inspectors miss things, sometimes I have missed

things. I've had Coast Guard inspectors go behind, Marty's gone behind me sometimes and "you didn't see this knife edge on this hatch was painted?" I say, yes, I saw that but it's not on my Part 28. I gave them the sticker. And other things. So we follow behind each other and find things.

Grandfathering issues. I went on a vessel a few years ago and they had some serious issues with down-flooding, serious. I called Marty Teachout, Lieutenant Teachout, I guess he's not lieutenant anymore, but he's my go-to guy. I called him and said, Look, Marty, this boat is dangerous, it's got serious down-flooding issues. We went through the regulations and he was grandfathered in and didn't have to comply. I issued him a certificate of compliance under protest. He passed everything. Marty said, you got to issue him a certificate, so I issued one.

Anyway, periodicity of inspections I have a solution to this that's under development right now, and as I read through this document I see there's various vessel length delineations that have different requirements, i.e. under 50 feet it's a self-exam, for 50 to 79 it's a third party, above 79 the Coast Guard is recommended to do that examination. I'd like to see that changed as an alternative from 50 feet to 200 feet a vessel could enroll in an approved compliance program administered by a third party inspector.

CHAIRMAN DZUGAN: For clarification, would you mind repeating those lengths? 50 to 100 feet?

MR. JACOBSEN: From 50 to 200 feet. What I have under construction now is a program that ensures constant compliance or rather aids it quite a bit. The initial inspection is done, the expiration dates and all those things are noted, various conditions are noted and they are entered into a database. The owner of the vessel can select notification periods, and it's all done on-line and automatically, so he can say "I'd like to be notified of when my EPIRB battery is going to expire and receive a one-month notification and receive notifications every week after that until I click the box that says this is done." Whenever anything is about to expire, flares or anything else, they receive notification that's about to occur. As great and wonderful as my friends are on the Bering Sea, they don't check their flares very often, and I find expired equipment all the time from very competent very safety conscious people. So this will give the owners notification. If they click that they received the notification then they click they've corrected the problem so that's all done in an email and automatic so I don't have to do a lot of work except for verification surveys. Once every year or every other year, whatever the periodicity, I do a verification. I suggest it's one year.

That's my solution to the periodicity issues I see.

Uniformity of inspections I think is something that can be resolved through training. Right now there's no training for third party inspectors; it's all done through your approved society and to become an approved inspector it's to take an open book test, kind of the 100 questions, real easy kinds of things and now all of a sudden you're an approved third party inspector. Certification class would be great for this kind of thing.

There are variations in every district, so a guy has a magnetic compass that's not been adjusted in 10 years, it doesn't say 10 years in the regulation but in Districts 13 and 17 the practice is 10 years you have to have your compass adjusted. A lot of them you look underneath and they don't even have heeling magnets. There's nothing. Sometimes that stuff is neglected. There's nothing in the regulation that says how out of date your light list can get, but in practice it's 3 years. You don't know these things unless you go through it with the Coast Guard guy and he tells you what the practice is, or you call him on the phone and say, what's the practice, are you letting guys get by on this fixed oil removal system or are you starting to enforce that now? We have these uniformity issues to deal with.

Then the extent of an inspection. I see cracks and holes all the time when I haul vessels out. It's kind of a safety issue. I'd like to see vessels hauled out at least every 2 years, see them out of water as part of their safety inspection, look at their running gear. A lot of this is part of regular insurance surveys, but maybe it should be included in some of this. I'm not saying it should be, but maybe we should look at some of these things and decide how far we need to go as far as extent of inspection.

CHAIRMAN DZUGAN: Any comments?

MR. MATTERA: Jake, I think it's excellent what you're proposing. We go on and do safety inspections of the equipment and do drills and I began a program with Rodney a year and a half ago where when we leave we look at registrations, say, of EPIRB and we know it's going to expire in a month. Anything that's pending up to 6 months we highlight it if it's 3 months or a month. We send these notices out, give them a decal they can take and put right at their chart table in their pilot house that alerts them. We ask them if and when they comply, just fax us that you got your raft done, send us the letter you had. A lot of times we get, Don't you trust us? I said, Yeah, I do trust you, but it's not me that's going to be the problem. If something happens to you and the boat, it's the court that's going to be the problem. I'm just creating the paper trail for you. You may think it's crazy because you never think it's going to happen to you, and when it does happen and you're sitting there in litigation, you are going to be so happy you did create this paper trail."

So I think that's a great way of constantly reminding. We have the girl call sometimes but that gets very hectic and it's difficult. It's a lot more unique for us because these boats are in 2, 3, 4 maybe 7 days at the longest out to sea, so we see them quite often.

CHAIRMAN DZUGAN: Any other comments? Ms. Knoll, would you please use the mic and state your name?

MS. NOLL: Beverly Knoll. Just for the table throwing it out for thoughts as you're all really trying to pull all of this together. Number one, we've worked very hard over the last years to gain that up to about 50 percent with trust, and it's trust between the Coast Guard and with whoever the dockside examiners are. Now we're seeing, at least on the West Coast, seeing people wave you down and they actually want these courtesy exams.

So when we start twisting this around, and I've always been for mandatory, but when it gets so convoluted as how we apply this and who does that, I think we have to be very careful of the language that goes in, that we don't bite ourselves in the fanny.

The other thing is that as we proceed ahead with this, right now we have Reservists and Coast Guard Auxiliary out there helping make this courtesy dockside a viable thing to do. If we pull back now where we are going, whatever we call it, it's an inspection. As Alan says when we start adding these layers you are going to have to have somebody as Mr. Jacobsen said that's gone through some sort of training. All these people won't. Will we step backwards then at that point where we don't have the force that's on the docks to do exams, inspections, whatever you want to call it? So I think we need to consider how it's going to be implemented. We're gaining on that implementation right now of having the force in the field.

The other part of this where it's held up a lot of the courtesy exams is the amount of training so that the guys have the training to conduct the drills on the boat. Just thoughts.

CHAIRMAN DZUGAN: Thank you. Dr. Lincoln, I'm wondering, looking on page 11 of the 1992 report, that's the estimated commercial fishing fatality rates broken down for size of vessel, below 50 feet, between 50 and 79 feet, and above 79 feet. I'm wondering, and I'm not asking you to do this now unless you have this number right off the top of your head, but it would be helpful for us as the committee to get an 18 year update on where are the fatalities and what group so we can apply the right remedies in terms of where the fatalities are.

DR. LINCOLN: Right. I don't have that report in front of me, but what you just said was fatality rates based on vessel size?

CHAIRMAN DZUGAN: Yes. I can tell you quickly it was 30 per 100,000 below 50 feet.

DR. LINCOLN: So we'd have to go back to see how those were calculated to begin with because NIOSH wouldn't have denominators from vessel lengths. We'd have it for fisheries, but not for vessel lengths.

CHAIRMAN DZUGAN: Could this committee ask you to do that, because you've got the best updated stats generally in the U.S., especially once you complete the Gulf of Mexico.

DR. LINCOLN: Assuming that it's available. I'm guessing these numbers came from, would it be the documented vessels?

CHAIRMAN DZUGAN: From MSLE, wherever you're getting your Coast Guard data from, because they should have the length of the vessel in their casualty data.

DR. LINCOLN: But I don't know that there is a list of all vessels. If these fatality rates are, this is confusing because it says the fatality rates are per 100,000 workers. But I don't have any idea how they got numbers of workers for these vessel categories, I don't know where the information came from. I can try to look.

CHAIRMAN DZUGAN: Mr. Rosecrans, do you have anything on the background on this? I know it refers to studies done by the NAE study and it uses the caveat "these are estimates." So I assume we aren't going to have the same –

MR. ROSECRANS: You have to go back to the Marine Board Study. The data was not very good. (off-mic)

CHAIRMAN DZUGAN: The question I'm asking and the committee would be interested, we don't need the comparison but where do we stand today? In the size vessels considered in the 1992 plan, 50, 79, 79 and above, where are the casualties again?

DR. LINCOLN: If you just want counts of fatalities categorized by length of vessel, that's very easy to do, and something we have. The problem is, we'll probably find most vessel losses and most casualties occur on vessels that are smaller. That's not necessarily because those vessels are more dangerous. It's because there's more of them. So that's something we'll have to keep in mind.

MR. ROSECRANS: Historically speaking, the Coast Guard has gone through 3 times in the last 10 years to go through all the fishing vessel casualties, and they are in now Coast Guard 545. Mr. Dickey has extracted all those things, screened and categorized them, so they can tell you what the rate of vessel sinkings by length are. I'm sure he can tell you the death rate by vessel length too.

DR. LINCOLN: But what I'm not sure of is what he's using as a rate. I don't know what his denominator is. We've got all the data as well as far as counts of when these occur, but I can ask Mr. Dickey what he uses for a denominator.

CAPTAIN CHRISTENSEN: They don't have a denominator. I was just conferring with Jack. We have a Marine Safety Performance plan that we've just an annual update to and it's strictly number of casualties, so lacking a denominator we can't get a rate.

DR. LINCOLN: Right. What we do have nationally and what I showed yesterday is the data from CFOI, the Bureau of Labor Statistics. We all know when that annual number comes out that we all say, they are not counting enough, their workforce estimate isn't high enough, but they do it consistently every year and you can see how, so there's a fatality rate but it's a fatality rate for that occupation and it's not broken down by vessel size.

CHAIRMAN DZUGAN: I'm looking ahead an evaluation of an exam program 5, 10, 20 years down the line. We say, right now we have, picking a number out of the air, 68 fatalities per year on average for the last five years. At this point an examination plan is

implemented with a phase-in period of five years and examine to see what effect that exam plan had on reducing fatalities. I'm not sure we need so much the rate, but the raw numbers of fatalities are what is going to be counted. If the raw number of fatalities are occurring in a certain size break then, to put the medicine directly towards the symptom, you'd want to show you put most of your effort on that group dying, irrespective of the denominators and rates.

DR. LINCOLN: You're right. I said yesterday you can target your intervention based on number of incidents, number of events, or you can base it on rates if you have it.

CHAIRMAN DZUGAN: If you find 80 percent of the fatalities are in the 50 to 200, as you said Mr. Mattera, then that's where the strictest standards should be applied.

DR. LINCOLN: Right, and then we go to evaluate it if that number has decreased, we'll have to interpret it conservatively and say yes, this has gone down; if the population has remained the same then this is real. If the population of vessels has also decreased, we'll have to question were we having an effect or is it less because there are fewer. It's all in the interpretation.

MR. KEMERER: That's important to look at how the data is presented, the statisticians, whatever, because in the report done in '92 they use the figure 31,000 documented vessels and 80,000 state vessels, so over 110,000 vessels. The population we're looking at now is around 20,000 documented vessels with fishing endorsement and probably 58,000 or 59,000 state vessels. So the population has come down. If the number of losses, of fatalities, stays the same, that means the rate is going to go way up. But the raw numbers have come down for losses and fatalities as well. But the rates could still be changing in there. So it's how you present the data. Some people like to see it by rate, some like the raw numbers. That will all come into play when we look at this.

DR. LINCOLN: Yes. Another way to track progress, to track this exam either at the beginning start giving vessels a score at the end so you do this exam and it's not just a simple pass or fail, but some sort of a grade given. You have a list of things and if you get it, you get a check, if not you don't. You can monitor how that average improves over the years, assuming vessels get better every year. So you can show effectiveness of a program not just in a decline in fatality rates but you could show progress in an improvement in the score. We can probably do it with dockside exams if there was a way you could go back to the beginning whenever they were started and you could look at the percentage of vessels that got a decal or didn't and see how that improved over the years. You could also show success of that program that way because more vessels were attaining the decal. You can measure success in different ways; it doesn't have to be simply a fatality rate.

MR. MATTERA: I thought you meant you wanted to give each vessel a score, and I was going to say whoever was doing those things has to have a big stick. But I think you're looking at the overall program and giving it a grade annually.

DR. LINCOLN: Yes.

MR. MATTERA: I have one question. If looking at these exams and we want to make certain we're targeting the right things, you had up there New England Multispecies fisheries, ground fish fishery as high risk. If I'm not mistaken, if I was to look at it I'd say flooding causing capsizes would probably be the highest incident to cause sinkings that lead to fatalities.

DR. LINCOLN: I can look that up, tell you specifically for that fleet what the problem was.

### **High Water Alarms Seen as Greatest Failure**

MR. MATTERA: If I see the one thing I can point out that I see the greatest failure when I go on and do safety inspections is high water alarms. If there's going to be failures it's consistently high water alarms. There's no doubt that we're not going to, and I know in the Northeast we're not going to be pulling shafts or gauging vessels. If those things are going to happen, they are going to happen by surveys for insurance companies. But to just go out and say that's the next if that's going to come in, forget it. Well, they will go to the dock and say, you can have it, it's all over.

DR. LINCOLN: Yesterday nationally the leading initial cause of all vessel losses was flooding followed by instability.

MR. MATTERA: Which leads to rot.

DR. LINCOLN: Then there's a whole series.

### **Instability solved through Training**

MR. MATTERA: Instability in my eyes comes through training. You improve that through an element of training. That's all I wanted to know so I think we can focus on what we want to have in that exam. Thank you.

CHAIRMAN DZUGAN: I think it would be really good for Coast Guard investigations to note the use or lack of use of a high-water alarm in all its investigations. I was surprised when in the *Katmai* report when it came out I didn't hear one mention of the high-water alarm, and that was significant in the sinking of that vessel. To me it was a big oversight of that investigation is that high-water alarms weren't even mentioned, when we know that watertight integrity issues and down-flooding played a big role in sinkings in the last 10 years in Alaska. Any other questions of Dr. Lincoln? Thank you.

We've discussed some definitions and some of the issues and problems. I think we've heard a lot of statistics and data in the last few meetings, and it seems there is a large number of fatalities in the over 50-foot fleet, when you talk about numbers. We saw some of the rates as well Dr. Lincoln showed in the last couple meetings. I think that's

an area that needs special attention as the original 1992 report seemed to give some extra efforts towards. What's the feeling of the committee on the break sizes they used in terms of length?

### **Vessel length categories**

MR. DAMERON: My feeling as far as the break sizes would be to discontinue that 79 foot and above and have it 50 foot and above, get rid of the self-inspections for the 50 foot and above seeing that the casualty rate on those vessels, and either/and/or make it Coast Guard or approved third party.

CAPTAIN CHRISTENSEN: I guess 79 feet is a good break point from the Coast Guard perspective only because that's also consistent with where the load line comes into play, not that we don't have other vessels that are inspected that some are over 79 feet and have a load line and those are not. But I guess I'd want the committee to take a look at the casualty data and try to better focus that, but 79 is a "natural breakpoint," if there's anything natural about the regulatory process. It's at least an existing number now, so that's my only comment.

CHAIRMAN DZUGAN: Aren't there also some IMO comparisons that way too? They've used 12 meters, 20 meters, and 20 meters is about 65? Not quite the same.

CAPTAIN CHRISTENSEN: We have other breakpoints in the regs.

MR. STANFORD: Captain, in the big picture of what we're talking about, did you have the feeling this would be going more to a risk-based approach, because as I read this it seems it's fairly broad and open. We've used terminology "exam" and giving the examiners not specific checklists as a lot of the committee members were suggesting. But you see something that's up, you deal with it during the exam. You may not get to do some other portion of the exam, but it satisfies the team based on the risk for that fishery. Other members here have stated clearly that doing a risk-based exam makes sense because it's applicable to specific fisheries and so can you speak to that for a moment?

CAPTAIN CHRISTENSEN: From the standpoint of risk based, the Coast Guard's marine inspection program to a certain extent incorporates risk based decision-making because we have operators out there in substantial compliance with the regulations and we have operators. I'm talking of the inspected fleet now and I'm going to draw an analogy here. We have our inspected fleet and within it we have vessels substantially in compliance. You go on board and they're always ready. Your inspections don't take very long at all. You go on board other vessels that are substandard or right on that line and it usually takes a lot more care and feeding and there's a lot more resources. There are programs out there. The streamlined inspection program is one of them that are afforded to the U.S. domestic fleet whereby the vessel itself and the crew take on more responsibility for the examination and upkeep. Ultimately it is the responsibility of the vessel owner and operator to maintain the vessel. We've definitely tried to distance

ourselves from the Coast Guard being responsible for making sure these vessels are in compliance. The Coast Guard verifies compliance. The day we are on the vessel if it's in compliance it gets a certificate. The day after it could be out of compliance, but the day we are on there it is. So we verify. We do not ensure compliance. That is the responsibility of the owner/operator. So we've developed a program, streamline inspection program, where more ownership is taken by the vessel's crew, more exams of equipment and maintenance are done on a more frequent basis. Sort of what Jake's talking about, Jake's even going farther though and talking about what could be described as a safety management system. We all know that the NTSB wants to see safety management system incorporated as it is on the larger inspected vessels now to the domestic passenger industry. Safety management systems are also being talked about in the towing vessel regs, again another uninspected entity that is coming under inspection. The commercial fishing vessel industry is not being added to the inspected fleet. Now, so we do measure, and we do have risk based decision making. How much time we spend on a vessel is dependent on what that history of the vessel is.

Now where you start talking about risks, do we spend more time out on deep draft vessels that transit the ocean versus a water taxi that transfers people from point A to point B? Certainly we do, but there's also more regulations associated with them, so the regulations are almost used for risk.

I think we can take a look at a fishery, and again using Jennifer's data and that, and determine what is a more high risk. However, our regulations right now don't really address that. Our regulations say, you need this many immersion suits, you need this many flares, things like that. Now again, potential legislation is probably going to bring structural standards into play. That's going to be more based on vessel size. Again, there are discussions about being able to meet recreational boat standards.

So yeah, there is certainly the Coast Guard will look at risk based for any of our activities, only because we don't have the resources. The last 2 ½ years we have added 410 billets to our Marine Safety Program in light of Congressman Oberstar taking us to task in August of 2007. Those 410 billets are just to get us to the level where we could have accomplished 2007's work, and 5,000 towing vessels are coming on line for inspection if we can ever get those regulations out. There are discussions of a safety management system to assist that where third parties are used-- again, third parties that are Coast Guard authorized. So there's all that potential.

But now if we're going to talk about 80,000 commercial fishing vessels, the idea of quadrupling our inspections workforce is not palatable probably to the taxpaying public. So we're going to have to find a way to use risk-based decision-making in order to execute this. We have Reserves, Auxiliary, we have qualified third parties through NAMS and SAMS, going to have to use them all. But at the same time we're probably going to have to grow our inspections workforce at least modestly to be able to maybe address those higher risk operations that maybe look a little bit more like the inspected fleet where we can bring our expertise as marine inspectors in to have the most bang for the buck. But again, little boats in coastal areas, something like that, if they are not the

risk then we might look to something a little different. But again, this is going to be based –

So long answer to your very specific question on risk based decision-making, yeah, we do use it and yeah, we will incorporate it any sort of way forward. And we'd hope the committee will also take a look at that and give us those types of recommendations.

### **Inspection of under 50-foot boats**

MR. EDER: I am not entirely comfortable with excluding or having vessels less than 50 feet do a self-examination. I don't know enough about the risk in the other fisheries but I know that in Dungeness Crab Fishery for example that there's a great deal of risk associated with fishery regardless of the size of the vessel, and that there are numerous, I don't know the number but numerous vessels under 50 feet that participate in that fishery. So I am less than comfortable excluding that length vessel or relying on self-examination for that fleet. My question is, what incentive would there be, if any, we go ahead with a 50 foot cutoff, for vessels less than 50 feet to participate in the dockside incentive program? To clarify my position, I'm not comfortable with less than 50 feet relying on self-inspection because of the risk in the fishery. But if that's what this committee decides to do, then I wonder what kind of incentive program if any there will be for those vessels less than 50 feet. Will voluntary exams still be available to them? Do you want to have different classes of your voluntary but you're mandatory? I'm not sure that's good public policy but I don't have a grasp on the numbers of vessels that we're talking about. I just know within a certain number of vessels that the risk is very high regardless of length.

MR. DAVIS: On Captain Christensen's comment about the 79 foot line in the water so to speak, one thing I noted from the coordinators' reports 2 days ago was that while the vessels above 50 feet were a small portion of the number of fishing boats in two of the districts, they were 80 percent of the problem. So that's why I believe putting it somewhere in the neighborhood of the 50 foot when at least two districts have identified 50 foot and above being the bulk of their high risk group is where we want it.

MR. JACOBSEN: Thank you, Mr. Chairman. I share Michele's discomfort in having the self-exams under 50 feet, but I think it would be manageable, I think it would work well if there were training, if somebody were able to go to North Pacific Fishing vessel owners or to Fred or to you, receive a class on how to do these inspections, and what to look for, and maybe they'd be able to offer industry-specific or fishery-specific instructions on what to look for in a gill-netter, what to look for in a scallop vessel or whatever vessels are used in those districts, because we do that for drill instructors. We have drill instructor training and those people are considered qualified to conduct drills on their vessels, so why not have them qualify to do these exams.

CHAIRMAN DZUGAN: We did a prototype class like that, called it Inspections 101 last summer, 3 days class, and we found it was really Inspections 100. The background people brought into that class was all over the place from experienced shipyard inspectors

for 20 years to Auxiliarists who were still getting the pointy end of the boat sorted out. So it was a difficult class number one, needed some entry requirements. But a lot of, for those people who didn't much experience, it was a big eye-opener and a lot was learned. I don't know what the length in curriculum would have to be to be sufficient for this. It would depend on what came out of the regulations that were developed, how deep and thorough this exam-plus was going to get. It certainly helped.

MS. HUGHES: My interpretation of what the intent of this inspection plan has always been that it was meant to be a means to get at the watertight integrity of the vessel, and that we've already gotten drills, gotten some elementary training, why not I think most if not all of us would like to see more of training. But I really think this committee needs to tussle with how you're going to get at water-tight integrity and structural issues because I think that is really what this is meant to do, and with the number of aged vessels in the U.S. fleets, I think it's a major problem that we have to recognize.

CHAIRMAN DZUGAN: About the 79 foot break, seems to me like a lot of vessels over 79 feet in our part of the world are more heavily involved with processing, and so by that very nature they are much more complicated machinery, have crew dedicated to processing, and I'm thinking of this long-liner I'm very familiar with that's a 54-foot steel longliner in town and what it would mean for this person to group him in a group with 120 and 180-foot largely processing vessels, longline catchers, processing trawlers. It's pretty different world and a different level of complication I think. So basic watertight integrity issues would still be important but just would like you to think about that jump for making it different sizes knowing that any size we make in terms of a length or tonnage is going to be somewhat arbitrary. Mr. Kemerer and then, Fred, did you have something else?

### **Exams vs. Inspections**

MR. KEMERER: I still had a little sense that we're confusing the exams and inspections. The exams we're talking about and what the authorization bill would give us authority to require those exams is the current program we're doing now. The inspection program and the plan here we've asked about you looking at is, as Leslie alluded to, the intent was to get that watertight integrity, hull integrity, and basically some construction standards involved with it. The breakpoints as proposed then were 50, 79 feet. That doesn't have to be the same today, as Alan referred to the risk base of the different sized vessels. So that's what we're really looking at some feedback from you is, are those breakpoints still good? Do you still think self-inspection is a viable alternative for the smaller vessels, or what? Some numbers on vessels, I don't have the exact count, but I'm pretty sure that vessels over 79 feet there's less than 1,000 fishing vessels that size, but in the 700 or 800 range, between 50 and 79 feet we're talking about a couple thousand. By far the majority of vessels are under 50 feet, actually under 40 feet probably. That can come into play on who might have to do the inspections.

The exam requirement will apply, if this bill passes, to all commercial fishing vessels.

## **Watertight Integrity**

MR. MATTERA: I don't know if Captain Christensen will know, and maybe Jake will know, if I'm not mistaken in the CFRs any machinery space has to have watertight integrity, shaft alleys, lazarettes, thru-hole, any thru-hole and machinery space areas have to have water-tight integrity.

MR. STANFORD: Unless they are grandfathered.

MR. MATTERA: Oh, grandfathered, yes. But we don't have any grandfathering in the East Coast that I know of. I refer to it because we have made a minimum standard, and part of those minimum standards is that you have to have watertight integrity and at least a lazarette, you have to have a sealed shaft alley and engine room. I know because I've referred to the CFRs, and didn't bring the book with me, and I just wanted to concur to make certain my interpretation is correct.

MR. O'LEARY: That's basically where I'm working, especially down South a little more that we have the lazarettes with the pumps and stuff, a few pumps and some basic stuff learned, but one compartment flows to the other to the other, and they get stickers. That's the way it works, and these are the problem. Yes, can it be fixed fairly easily? Yes. Was the boat designed to do that in the beginning? No, but that's the way they are, and it is a problem that has to be looked at.

MS. EDER: I'm back on this document now with the redline, looking at pages 3 and 4, describes training program, and bottom of page 3 says "Secretary shall prescribe regulations and establish a fishing safety training grants program used to train trainers, purchase safety equipment and training aids for use in those fishing vessel safety training programs and awards shall be made on a competitive basis and that funding can be provided to individuals in academia, members of nonprofit businesses involved in fishing and maritime matters." The funding is \$3 million for each fiscal year from 2010 through 2014. I don't see any funding for fishermen to help them come into compliance with any deficiencies found as a result of the dockside exam. So my suggestion would be to establish, suggest an amendment to establish a fund to which fishermen could apply for funds, some minimum/maximum amount to help them come into compliance.

I don't think most people who don't have fishing vessel dockside exams do so because they want to have an accident at sea; I think they fail to do it because of financial issues. They are balancing "I need to make a living," but I can't afford another immersion suit and if I have one of those guys come and look at my boat they are not going to let me go out, so I'm not going to be able to make a living." There's a significant portion of the fleet who just doesn't want the Coast Guard on their boats, but I think there's also a significant portion of the fleet who genuinely are looking at, "do I make a living or do I take a chance?" When I see that much money provided for training, I'd also like to see some money to allow fishermen to apply for funds to allow them to comply with the dockside exam where deficiencies are found. I throw that out as a way when I hear how low the dockside exam participation rates are there's got to be some other reason besides

not wanting government on your boat, something like that. I think it's genuinely a financial one.

CHAIRMAN DZUGAN: We're going to call for a break after we hear from Mr. Davis. I've heard some things that you might want to consider as motions after the break, to talk about bringing it to some kind of conclusion. After the break I'd like to hear from the survivors in the audience, a couple comment before we lose anybody else from the audience. To remind you, there's an authorization, and that's what this bill is. There's also an appropriation process. Just because it's in here doesn't mean if this passes we're going to get funded for it. Matter of fact, quite often that's not the case at all. But the Captain had something.

CAPTAIN CHRISTENSEN: I'm going to have Ken talk about the brochure, the regs, with regard to Fred's question re watertight integrity. We had a pow wow over there, and I'd like Ken to address that.

CHAIRMAN DZUGAN: We'll hear from Mr. Lawrenson on that now and do the break right after.

### **Watertight Integrity Presentation**

MR. LAWRENSON: Mr. Mattera, you were asking about specific regulations that talk about the water-tight envelope and where that shows up in the CFR. It does but it's indirect, so when we take a look at the regulations there's very specific requirements for bilge-pump arrangements, specific requirements for high water alarms, where they are required, what they need to be able to do, and those standards. Mr. Chairman, you referred to a class we did in Sitka last summer where we brought dockside examiners in. One thing we tried to accomplish with that class was to provide some tools to the dockside examiner out there to be able to more fully engage and deal with everything he or she should be looking at, including a lot of gray areas. So specifically, and when you open up the regs, and the pamphlet doesn't talk clearly enough about especially hazardous conditions, but that's where this issue shows up with a lack of watertight integrity, with flooding or uncontrolled leakage, with water-tight closures that are missing or inoperable. Those are in the regs but only in the context of allowing the Coast Guard and the Coast Guard boarding officer to terminate a vessel when they see an especially hazardous condition underway.

So it's a gray area available to the boarding officer when he goes on during the course of an at-sea boarding and sees a hole in the vessel side shell when he goes down into the machinery space to do his initial safety inspection, that he can address that problem if it rises in his mind to the definition of an "especially hazardous condition."

But you're right, the dockside examiner, the third party surveyor, when they are looking at that hole in the hull at the dock, you can't necessarily point to a cite in the regulations.

MR. MATTERA: Thank you.

CHAIRMAN DZUGAN: We'll do that break now, it's 10:00, come back at 10:15. Use that time to discuss, get language down on some proposed motions?

MR. KEMERER: Your orders and travel claim, Amy needs to get you to sign your original orders.

[BREAK]

## **PUBLIC COMMENT**

CHAIRMAN DZUGAN: We'll leave time for comments from those in attendance who have been patient and those who haven't been patient. Can I see the number of hands of people who might want to give comments? Okay, 3. We'll give this 30 minutes. If we could limit comments to 10 minutes apiece we can fit everybody in. Come introduce yourself, who you represent.

TROY RENTZ: I'm Troy Rentz, the person that coordinates ACSA program. I like history a bit, and if this goes through we have a wonderful opportunity here back in the late '80s and early '90s we didn't have a lot of really good information provided. Now we do, set before us from NIOSH. For instance we know flooding and man overboard are two largest risks, our biggest safety problems. We get that from NIOSH. From marine casualty reports we know excessive risk-taking has been a problem. So we have really good information to make our decisions on, broken down by fishery which makes more sense than random breakpoints such as whether or not they are removing a tongue or the roe out of the fish or whether they are documented or state numbered. Those are really not risk factors. Operating environment is a risk factor, number of people on board is risk, and those sort of things should align with how we focus our efforts. I'd like to see the information provided by NIOSH incorporated into the process. We've learned a lot too that individual fisheries have different risks, and that we have different groups working here, alternate programs that seem to work probably better than our traditional regulatory process. So if we break things down into fishery then we have groups of people who have common interests and common risks associated with them, and allows more opportunity for the team concept for alternate programs and people to work together addressing their specific risk to their fishery.

That's my viewpoint on how we could get a step ahead here if this goes forward.

### **Reality Check Presentation, Bill won't pass**

CAPTAIN RUHLE: Thank you, Mr. Chairman. I think it's time for a reality check here. I made a few calls this morning. I don't have a crystal ball, can't tell you what's going to happen where, but in the discussions with Barney Frank's office, Walter Jones' office, Senator Snowe's office, and Senator Kerry's office when you bring up this bill it's almost laughed at. It ain't going nowhere. We got an oil crisis in the Gulf that is 10-fold over more important to the industry than anything else. You've got a financial crisis in this country that we never experienced before. Let's get real. Let's just admit this bill is not

going nowhere. Take the time, throw out the '91 recommendations, build your own. You do have some expertise as far as hull integrity and things like that go with people like Jake, but the majority of you are not capable of doing it. You can make recommendations on your level certainly. Just trying to be realistic here.

Once again, we got a committee that's supposed to be dealing with fishing vessel safety, and I as well as CFA support fishing vessel safety, not at the cost of driving the industry out of business. I think it was Jack that stated that there would be more losses that I comment on last year. I took the boat with a lot of you yesterday to San Francisco. That fleet's down two-thirds from what I saw three years ago there. There is no place in this country that you will not find the same circumstances with the exception of possibly Alaska. You got plenty of time to come up with something for the few boats that are left. I am at a point now with the concerns for our industry I don't know if we're going to make it. I don't know if anybody's going to make it with the exception of a chosen few, and if in fact it's Catch Shares keep going on the big fish will eat up the little fish, and you will be dealing with 10 or 15 or 50 owners around this country, which has never been the intent of what commercial fishing in this country was. The independents, the communities are going to Hell in a hand basket if nothing's changed.

But for the short term for right now, don't worry about this bill passing because my recommendation to my senators and congressmen is, don't pass it, stop it right now. There's other issues that are in fact more important to this industry and that happens to be survival, financial survival has to take place in order to be able to go fishing and take the risks that are associated with it. This is not, I don't think there's anybody at this table who will not agree with this, especially in the Mid Atlantic and Northeast. We've never experienced what we're up against now. The fleet is going to be reduced significantly. Hopefully it will be a safer fleet, but why worry about what you did 19 years ago? Just develop a set of standards that you would like to see boats that are possible to reach, something realistic. You keep talking about water-tight bulkheads. I was telling my wife before, in my 90 foot vessel which is 79.2 on the papers, I got six bulkheads that I consider to be watertight, but they are not watertight when you get the wireway and the track that allows alternate power supplied by electric wires, refrigeration lines, are not all in packed tubes. They're in a pipe and the pipe is open. So at the very top of this watertight bulkhead you've got an opportunity for water to flow to the next compartment. But in that boat when that water level gets there, she's going. Now the lazarette will float her, the freezer compartment will float her, the fish hole will actually float. But when you get to that point, you need to be going because she's going. So it is not technically a watertight bulkhead.

Fred's comment about a self-contained shaft alley or a sealed shaft alley, I don't know what the Hell that is. I know what a shaft alley does; it drains water from a leaking shaft into a point, whether a sump in the fish hole or a sump in the engine room. Mine are water-tight shaft alleys that run the length of the shafts, drain into the engine room through an inch and a quarter valve. It is contained. No matter what happens in that shaft alley, it can be slam full of water but I'm only going to get a stream of an inch and a quarter into the engine room.

MR. MATTERA: That's not a stream, Jimmy.

CAPTAIN RUHLE: I put my vessel against anything on the East Coast. Granted, she's old. But I'll put her up against safety-wise. What I'm saying is, to me it's the responsibility of this committee to come up with what you think is in the best interest of the industry as the industry lays today, and tomorrow the industry is going to look different. I believe you do have time. I really do, because I don't think this legislation is going to go through. I'm thinking back to the last round when you had ABS specifications and all that crap that went on. That's what stopped it. You don't have the infrastructure in place to do this. You can't expect us to be tied to the dock while you come up with a training session or some way to train people and try to get them dispersed across the country to inspect boats. That's back asswards. To me the role of the committee is to come up with the recommendations, and I think it's hard for Leslie to understand what we're dealing with over here just like it's hard for us to understand the big boat philosophy.

Granted, you do have small boats as well as big boats. I understand that. But I'm telling you, I was talking to the gentleman that was in the Gulf. The Gulf shrimpers are down from when we visited Galveston and saw the industry going down, they are down now two-thirds from that. There's a lot going on in economically in this industry, and I don't think it would be in your best interest to make recommendations that add to that problem. So if there's ways you could just back off this and not worry about the pressure of what goes on with the legislation and create your own, and if you're asked by the Coast Guard or anyone else. What do you think? That's what you do. But you've got to take in the economics and standards, the standing of the industry of this point, and not put as much emphasis on what happens 'if.' I certainly hope the "if" doesn't take place at this point. I'd like to see something that provides safer vessels certainly, but not at the cost of driving a man out of business. That's being taken care of by friends in Natural Fisheries. Thank you.

CHAIRMAN DZUGAN: Thank you, Captain Ruhle. Mr. Mattera.

MR. MATTERA: Voluntary dockside exams, how do you feel about them?

CAPTAIN RUHLE: You and I both know, Fred, there is no such thing. In the Northeast in the Mid Atlantic, I can't understand why John is not being asked to take observers. I just, for the life of me I don't understand why the offshore lobster fishery is exempted from taking observers.

MR. MATTERA: That's not the question I asked.

CAPTAIN RUHLE: You said voluntary.

MR. MATTERA: Voluntary dockside exams. The decals that you have. How do you –

CAPTAIN RUHLE: There is no such thing. It's mandatory, but I agree with it now the way that it is, and I really don't have that much objection to the 12 months because I can pick up a phone and get somebody down there tomorrow or this afternoon. If I lived in Alaska I probably couldn't do that. I'm disappointed with the difference in the two coasts, but as far as the project itself goes call it mandatory, and I support it the way that it stands.

MR. MATTERA: So if it was mandatory you wouldn't have a problem with it?

CAPTAIN RUHLE: It is mandatory, Fred.

MR. MATTERA: Well, yes, but for some of the fisheries that we are engaged in, Jimmy, but not for all the fisheries.

CAPTAIN RUHLE: No. I actually wouldn't have a problem with it. The dockside exam. Make sure you're talking about the dockside exam and nothing beyond that.

MR. MATTERA: I am talking about the dockside exam, and when you looked at yesterday what Ted Harrington demonstrated, we have 5,000 or 6,000 vessels of which 1,450 went to have it inspected and 955 passed. So I'm saying, would you be in favor of mandatory dockside exam for all vessels, not just those that had observers?

CAPTAIN RUHLE: As it's written now and it doesn't go beyond what is expected of that program –

MR. MATTERA: As presently right now.

CAPTAIN RUHLE: I could support it.

MR. MATTERA: Thank you.

CHAIRMAN DZUGAN: Mr. Dameron.

MR. DAMERON: Captain Ruhle, I wholeheartedly share your concern with the financial situation of commercial fishing today and the economic situation that a lot of these fishermen are in. But it is what it is. Do you feel that because of this economic situation that there are boats sailing today that should not be sailing?

CAPTAIN RUHLE: Yes, definitely, and that's going to get worse as days go on until it reaches a point where they economically cannot go anymore. They are going to start cutting corners. The letter that was read to you about Catch Shares is a perfect example of it. That man's going to make a decision to buy more quota or to get his equipment repaired. To me that's a no brainer. You get caught without the equipment, you're going back anyway, so if you just bought quota and got a dead line, you just lost money. It's a no brainer. Yes, it's going to be more boats lost, more lives lost, and you know what? There's not a damned thing you can do about it right now because by the time you do

something, by the time you get something through that makes it mandatory, the culling will be over. Either Congress will recognize that the fishing industry in this country does deserve some consideration and does deserve to be recognized and need the flexibility because fisheries science is not perfect—until such time as that and the laws are actually changed, there will be diminished returns on the part of the majority of the fishing fleet and risks will be taken. You put a man in a corner, and he's going to do something. You are putting him in a corner where he's fighting for the survival of his family, he's going to do things he normally wouldn't do, and that's exactly what's happening. So yes, more boats lost, more lives lost, and you can't do a damned thing about it.

CHAIRMAN DZUGAN: Any comments for Captain Ruhle? Mr. Lawrenson?

### **House Authorization version wording**

MR. LAWRENSEN: I'm not sure I'm up to the task of bringing some mundane items here, having still digesting what he had to say, sir. Thank you. I wanted to address real quick the wording in the House Authorization version. I think the way I read that the goal down the road with the wording of 10 years hence for vessels over a certain length over a certain age, meeting certain requirements that are close to class and those vessels either having to meet class or come into some sort of an alternate compliance scheme similar to what we have in the head and gut fleet in the ACSA program. I think clearly the long-term goal is as Ms. Hughes was saying to achieve something more than just compliance with Part 28 that we have now, but something that will combat the issues of watertight integrity, some structural issues you mentioned. I think that's the long-range goal when I read that piece of legislation. I think the way to get there is a well-phased-in, reasonable schedule for compliance to get there. I think the first step is to require that mandatory certificate of compliance. The compliance with the regulations on the book today, and I have a sneaking suspicion that probably a third to half of the vessels presently landing less than 15 or 20 percent of the fish aren't going to take the time to go ahead and come into that basic compliance. So we need to keep in the back of our minds when we think about workload estimates for mandatory exams that we're going to be dealing with fewer vessels than what we're doing out of data calls from MISLE out of current documentation, those things. There's going to be a lot of hard choices. I know a lot of vessels are being maintained in an above-the-water condition solely for the reason of maintaining catch history. Those folks are going to have to make some hard decisions, and I don't even want to go towards trying to address the management issues. This is a very difficult ball of wax to deal with, but I suspect once we start down this road we'll find the examination load is not going to be quite as dire as it what we think of right now.

I spent quite a lot of time trying to think how we'd do this if the legislation comes to pass, some of the unintended consequences. I think on the Coast Guard's part I see us upping our game in terms of professionalism and the way these exams are going to be conducted. This gets back to the workload issue. Once this becomes the cost of doing business, the dockside examiner is no longer in the business of walking the docks in order to market the program. The expectation as we progress into the process from the industry will be, I don't have time to sit down with another regulator over a cup of coffee for an hour before

we start getting to things. I want that examiner to come down to my boat, do the checklist, we'll transact the paperwork, and then I've got other things to do. That's where I see this happening.

So when we talk about needing quadruple or more examiner resources, I think in the long run that's not a realistic expectation of how we're actually going to be conducting business out in the field. I've looked at the resources necessary in my district to be able to support mandatory exams, and I've come to the conclusion looking at the numbers of vessels, the activities we've already been conducting with dockside exams on a voluntary or observer driven basis, and it's not that much more of a lift for my district, especially when we talk about doing this every other year.

When this becomes the cost of doing business, the industry will be able to approach this as a business decision. These exams are going to be scheduled similar to the inspected fleet to where an owner will be able to know six months in advance when he's going to have this examination done. He will be able to structure his finances and his logistics to make sure he's got everything pulled together so that when the examiner shows up it's a very quick process to get that taken care of.

One thing that appeals to me, I think we'll at that point have the ability, especially in my district, where it's going to be an absolute necessity because of the geographic constraints, we're going to be able to schedule these, be able to set up periodic times when we go to remote communities. We'll be able to deal with the majority of vessels in a port and bang these things out and as long as there is a phase-in period I think disruption to the industry to do a mandatory exam can be minimized.

One thing I'd recommend the committee consider as they are deliberating the COC exams would be to evaluate the need for some sort of annual or what would be analogous in the inspected fleet a mid-period exam so that if this COC is issued every other year there might be cause to have an annual mid period. However, I'd urge you to consider whether or not at-sea boardings that will intersect with somewhere between 10 and 20 percent of the fleet on an annual basis anyway, if an abbreviated safety check obviates or negates the need for a mid-period exam. That's an alternative to that annual exam concept.

I'm not sure in a mandatory COC scheme whether or not an annual exam is going to be required. I have more faith in the industry that as we work into this and all up our professionalism that it won't be necessary to go on board every year in order to check those items we all know are going to expire on an annual basis. In fact when I wrote my strategic plan for the 17<sup>th</sup> district and when I go out and talk with my sectors, I'm trying very strenuously to urge my boarding officers during training that they focus especially on vessels that have a valid dockside exam decal that they focus on specifically those items that we know have annual expiration dates and that that become the risk-based decision making on the part of the boarding officer at that point. I think a stronger emphasis on what we look at during a boarding can negate the need for an annual dockside exam.

I think that's my comments.

CHAIRMAN DZUGAN: Any comments? Mr. Jacobsen and then Mr. O'Leary.

## **Discussion**

MR. JACOBSEN: Can you describe what relationship your office has with the captains of the various ports, how you might work together to keep, give the captain of the port order to restrict the vessel from leaving?

MR. LAWRENSEN: In general the captain of the port is working for the district commander. I work for the district commander. I represent the district commander. In regulation there are certain authorities and jurisdictions granted to the captain of the port which places some responsibilities for example with dealing with especially hazardous conditions that are detected on board vessels. Those responsibilities and jurisdiction lay at the captain of the port. So there's a delicate dance that describes the relationships there. Certainly the district commander strives to give as much autonomy to the local captain of the Port/OCMI as possible. However, that officer does work for the district commander.

MR. JACOBSEN: So if I were to go on board a fishing vessel and see a condition on there that might be considered really unsafe, just being a third party examiner/inspector I have no authority to keep that vessel in the port. Nevertheless, I feel strongly that those people are likely to die. Could I suggest to the Captain of the Port that he take a look at that vessel, or how would I go about informing people that maybe this vessel shouldn't leave port?

MR. LAWRENSEN: Mr. Chairman, Mr. Jacobsen, I think certainly I'd be an appropriate point of contact. I'd carry that information back to my counterparts at the sector of the captain of the port, and certainly the districts' intent is that safety of life at sea trumps everything else, so there would be a considerable issue on that point. I could almost guarantee that someone in blue would end up putting eyeballs on the situation if it was brought to our attention so we'd be able to make some resolution.

MR. JACOBSEN: Thank you.

MR. O'LEARY: Just a comment. We're talking about financial and struggling and getting people trained, and with the increased number of boats there probably should be some provision in there. So say if you're so busy you can't get to a boat in years and he's going to go fishing because of an opening, but you just can't get to him, there should be some provision that says you can go fishing, say I'm going to be in a month or two, can we do it? Can that boat still go fishing and not get tied up at the dock after that because, say, if you got hit in the beginning of the season the way it always happens or beginning of the opening, everybody calls you at once. Now you don't have enough guys to go around, and that guy is stuck to the dock in the beginning, I think that's something we,

looking at the problems we might want to put in there so somebody's not stuck in the dock because of a regulation.

CHAIRMAN DZUGAN: One unique characteristic of fishing is it's a just-in-time industry, especially in smaller boats. Maybe it's that way with other industries I'm not so familiar with, maybe it's human nature, but that poses a problem we see in training all the time where I can't get anybody to come in the fall and winter but come a week before the opening 10,000 people want training.

MR. O'LEARY: It's maybe something we want to add in, something we have to put into this as we are trying to develop it.

CHAIRMAN DZUGAN: In fact people like with their life raft repacking are looking forward a year ahead to if they do it midyear when they're off and that expiration comes up a year later or two years later, the middle of a fishing season, people are going to want to adjust so that doesn't happen. So there is an inducement to do things at the last minute so it will last as long as possible while you're fishing.

MR. MARTIN: Making this examination an annual thing is taking up what we're talking about having go fishing. Why not put a plus or minus 90 days, you can get your examination before or after, and the 90 days after as long as you were in compliance you wouldn't get terminated. But no longer have 90 days after the exam dated.

CHAIRMAN DZUGAN: Mr. Lawrenson, what do they do with the life raft expirations? Is there a 30-day grace period?

MR. MARTIN: No, zero.

MR. LAWRENSON: Mr. Chairman, Mr. Martin, when a life raft expires, if the vessel continues to operate then that vessel is in violation and should expect to get treated accordingly as far as being issued a violation. There was a policy that came out of commandant a number of years ago that defined when that expired servicing becomes an especially hazardous condition for the purposes of determining whether or not vessel is going to be terminated. That's at five months. So a vessel is in violation as soon as it expires; however, the guidance is, it doesn't rise to the level of termination until it's been expired for five months.

MR. MARTIN: So with a 90 day window either have your raft re-inspected and have 90 days to get your examination done, if we made it an annual examination cut and dry.

MR. MATTERA: Mr. Lawrenson, for terminating a trip would it be multiple violations then? If he was out of compliance with the service date on his raft, EPIRB battery had expired, hydrostatic release had expired, several of these things, then would there because there's multiples would there be cause for a termination?

MR. LAWRENSEN: The guidance to the boarding officers and to the sector commanders that are making those determinations are that the totality of the circumstances on board that vessel needs to rise to the level of an especially hazardous condition. So we tried to get away from defining that in terms of a number of violations, what we're looking for is the seriousness of what's being found. You could have a single violation that would be what we would consider to be pretty much an open and shut termination decision. For example, we do an at-sea boarding on a boat that has four people on board and there's only 3 survival suits, regardless of what else is going on, regardless of whether the vessel has a current decal or not, that vessel is going to be terminated. As far as some of these other things, that's going to be more of a judgment call as to whether or not the totality of that comes back to meeting what we consider to be an especially hazardous condition.

So if for example the EPIRB battery, the EPIRB hydrostatic release, if those are expired, those are items that may be an especially hazardous condition. However if the vessel could demonstrate that they have, through other communication equipment that's tested and functional that they have the ability to make a Mayday call in an emergency, then perhaps those conditions with the EPIRB for example don't necessarily rise to the level of an especially hazardous condition.

MR. MATTERA: That interpretation or judgment probably differs with each district?

MR. LAWRENSEN: I'm sure that it does.

MR. MATTERA: Okay. Thank you.

MR. KEMERER: The criteria for termination of voyage is spelled out in the regulations what those items are. But again those can be open to some interpretation or leeway by the sector or the district. But those criteria are spelled out in the regulations in 28.65, what they are.

MR. DAVIS: Mr. Lawrensen, in your district you are quite widely spread far-flung, and you have everything from the 600 pound gorillas of the factory trawlers fishing for Pollock all the way down to the 18 foot skiffs that people are getting herring or roe or fishing subsistence for salmon. If you were going to add anything to the current fishing vessel safety decal exam, what would those three or four things be?

MR. LAWRENSEN: Mr. Chairman, Mr. Davis, that's an excellent question. If I could waive a magic pen and cause regulation to come into being, essentially I would like the ability to address high risk fisheries, high risk fishing behaviors in a cooperative fashion with the industry much like what we have with the ACSA program so that we can take a look at the solutions to the problems that are killing the majority of the commercial fishermen in my district which is falls overboard off salmon vessels. There is nothing in Part 28 that addresses man overboard prevention other than the need to practice a monthly drill on how to get that crew member back over the side should he fall overboard.

So to answer your question, I'd love to have the flexibility to be able to work with industry to develop more appropriate risk based standards.

MR. DAVIS: That's one.

MR. LAWRENSEN: That solves all my problems.

MR. DAVIS: I was looking for something a little more definite, but okay.

MR. JACOBSEN: Thank you. Are there any regulations in Part 28 that you would like to get rid of or see as unnecessary or overly obscure, complicated, inefficient?

CHAIRMAN DZUGAN: We better be careful. All this power is going to go to his head.

MR. JACOBSEN: I have a list. I was wondering if you had one.

MR. LAWRENSEN: The regulations I think as they were written 20 years ago reflected the state of good marine practice from probably 50 years ago, so that if I were going to go in and tweak nuts and bolts I'd be looking at things like navigation information, accepting electronic navigation devices in lieu of some of the requirements out there now. I'd look at more performance-based requirements for things like bilge pumping systems for high water alarms. I think there's a lot of room to go in and go more for the intent of the regulation rather than just require a number of specific equipment, for example bilge alarms I think those requirements could be tweaked so they are more effective and realistic for the particular vessel they are being installed on board.

CHAIRMAN DZUGAN: Since we've talked about this, Mr. Lawrenson, and you see a lot of boats and look at a lot of casualties in both 13 and 17<sup>th</sup> district for a long period of time, what's your feeling on watertight integrity and enclosed spaces being watertight, all enclosed spaces basically having true water tightness?

MR. LAWRENSEN: I think the Coast Guard by and large underestimates the impact or the effect of the lack of watertight integrity on commercial fishing vessels. When we really take a look at casualties we see the same common threads coming through. We see problems with down-flooding points, we see problems with water-tight fittings among the main deck, doors into processing spaces for example, things being tied open, doors and fittings being missing. We see serious hull material conditions that lead to the freeflow or near freeflow of water into vessels. It's a serious issue, watertight integrity, and unfortunately I think, I'm not telling anyone anything new when I say the Coast Guard by and large perceives that we don't have the tools at present to effectively deal with those problems. I hope I'm not pissing the commandant guys off.

CHAIRMAN DZUGAN: Any other questions of Mr. Lawrenson? Thank you.

MR. LAWRENSEN: Mr. Chairman, thank you.

CHAIRMAN DZUGAN: Any other comments on fishing vessel safety in general?  
Captain Ruhle.

### **Published light lists, tie charts, compasses**

CAPTAIN RUHLE: Thank you, Mr. Chairman. Just briefly what the gentleman touched on. I think it's high time to revisit the requirement to carry published light lists, tie charts, compasses. The fact is, nobody knows how to work a compass anymore. If you can't press a button, a lot of people can't get there. Except for people that have a license, unfortunately people can't navigate with a compass anymore. So if it's 10 degrees off, it really ain't going to hurt them if they don't know whether to go east or west. But I've argued this every time I get a decal, the requirement for a license. Do you want to know what the tide is? Press that button. It will tell you the tide for any port that you want to enter. The upgrade in electronics these days needs to be revisited. That's something you could get some credit for if you'd make the suggestion that if you have the proper electronic equipment and backup batteries to operate it that you would be exempted from carrying paper copies that expire in 3 to 5 years. Simple as that. I think that's something I meant to mention earlier but it was swallowed up by bigger issues. But it's something I think needs to be revisited. Times changed. That's why I referred to the '91 document. It's 19 years old, and that is right. A lot of the lessons learned in that are now 20 or 30 years old. Things have changed. It's time to recognize that. That's the benefit of this committee. Thank you.

CHAIRMAN DZUGAN: Thank you, Captain Ruhle. Mr. Jacobsen.

MR. JACOBSEN: Captain Ruhle, would you consider charts to be in that category as well, paper that's probably unnecessary?

CAPTAIN RUHLE: Yes. Matter of fact, I do and so does West Marine because they no longer carry them. You go in there and they will press a button and print you any chart you want. So things have changed, and in all fairness between the PC programs like PC WinPlot, and some of the NorthStar equipment that has the charts built into it, you have one little chip, if you can demonstrate that you've got appropriate equipment aboard that boat in place of the paper charts, yes. I don't know how you'd define that, but you got to recognize we're in the new age of technology and take advantage of it. Thank you.

MR. DAVIS: At great risk of poking Captain Ruhle with a stick, I had a question that I wanted some input on. You'd said in your comment that we shouldn't grow the current Part 28 inspection. I wonder if one of us is doing a fishing vessel safety decal exam and see something with the vessel that one of us in our opinion views as an immediate danger to the vessel and the crew, some structural issue whether leaky propeller shaft or a thru-hole fitting or some other issue, what do you think we should do?

CAPTAIN RUHLE: First, that's a pretty good-sized stick you're using by the way. If you could develop a standard for that that would apply throughout anybody that was

making that inspection, I suggest you'd be in a position to either refuse to give the decal, we're talking about a mandatory decal basically and that's the only way I know to determine it. Certainly not issue a decal. And you're correct, there are a lot of boats that have been given decals that really never should have been. They are not seaworthy. Something has to be done for that.

MR. DAVIS: You and I have both seen boats that we wouldn't put our children on.

CAPTAIN RUHLE: That's exactly right, and it would be the responsibility of whoever is in charge as long as it was a uniform, standardized program so that you didn't have one guy saying one thing and you're dealing with human beings so you're going to have a variance of some sort, but I don't object to anything that ties up boats that are not seaworthy. But not seaworthy, there's a fine line there. And that also includes where he's fishing. If he's less than 3 miles offshore, maybe you would let something slide a little differently for that fishery, if it's not a high risk fishery. All that has to be considered. But increasing your ability or whoever's ability is with the dockside exam to reasonable lengths, I don't object to, but not when you're subject to somebody's interpretation, and it can vary 180 degrees. There's where the concern is.

MR. DAVIS: Thank you.

### **Revising/Continuing 1992 Report Update**

CHAIRMAN DZUGAN: Silence is consent? We have a plan from 1992 we've been tasked to give comments to, had a lot of discussion, some discussion, a lot of education we can never get enough of, some ideas were put forward and could have been motions. What's the pleasure of the committee?

MS. EDER: I preface my comment, because I don't have history on the committee I'm sometimes dropping into the middle of things. Instinctively I have difficulty with making recommendations on a report that comes from 1992. I don't know if that's the only thing we have to work from. I'm not saying I can identify anything in that report necessarily an incorrect assumption or something researched other than what was referenced earlier about the number of fatalities relative to we don't know the denominator or numerator, whatever. So number one I'm uncomfortable making recommendations based on work from '92. I'd be interested in other people's feelings on the committee if the rest of the committee feels that way as well then what work needs to be done to update the information in the 1992 report?

And three, who does that work, who evaluates the '92 report to see what needs to be updated?

And four, I'd then see it as time for this committee to make comments on that 1992 report.

Looking around the table I see expressions I know we don't want to go backwards, but forwards, take action, and I assume everybody has worked really hard on input to this report, but coming new into it I can't help but echo Captain Ruhle's comments that it does give me some concern to be working off a 1992 report. Maybe that's because it rings my ear, leaves a bad taste, whatever. Maybe somebody can clarify for me that this was reviewed last year and found to be the same issues significant in 2009 as they were in 1992, and then I can move right ahead with that. But I think I need some clarification.

CHAIRMAN DZUGAN: I'm tempted to offer some assumptions between the early '90s and now and see if there's some consensus. From what we've heard, a little bit of immediacy about this I see is next time we meet there's probably going to be a third of us changed again and then this whole education effort begins again, and you just bring people up to speed. The good thing about this committee right now is we have met a few times now as a group and have been given a common level of statistics and information and have heard different perspectives. Before we lose that again and have to go through internal self-training you might say, it would be nice to get some assumptions consensually agreed upon.

One I'll offer is that a difference between the early '90s and now is that the fishing vessel casualty rate has fallen between 30 and 40 percent nationwide roughly. We're losing about 90 people in the early '90s a year. Now you lose about 60 people, just rough numbers. I think we've all seen from what's happened, the difference in survivability has been Part 28; the survival equipment and training parts have made the difference. In Alaska in the early '90s, during the '80s, before then, you were losing 5 or 6 boats a year, all crew, up to 38 to 40 people a year, 5 or 6 boats you could count on every couple months all crew lost. That's not happening anymore, and as we saw last year it's the one man overboards where you might have one casualty. Arctic Rose or Katmai where you'd lose some, but that's the outlier, not the typical casualty. I think that's reflected in other parts of the country too probably. So we made a difference, and Part 28 has made a difference in life saving equipment part of it. We plateaued there. I think the Coast Guard's statistics also showed we haven't made any improvements, that it hasn't over a long 5-year term gotten any worse, a couple years have been some up ticks, and as Captain Ruhle has mentioned and we've seen in regulations we can always get more up ticks due to that.

Now we're at the threshold where to dig any deeper into the fatalities we need to dig deeper into the vessel itself and to oversight. When you are only hitting 12 to 20 percent of the fleet in a voluntary/mandatory program, depending if you're under NIMS observer requirements, you're not even getting to 50 percent doing that. The ones truly voluntary doing it, again you're getting to the choir, not to some of the vessels that need it the most. So if we are going to dig deeper into this and have a greater effect on the fatalities we need to get deeper into the platform itself and lower the risk on the platform.

Is that what you all see? If that's the case, you need more enforcement of what already exists in Part 28, which is what a mandatory exam program would do as it presently

exists. Do you see that? Would a mandatory program, do you see that as decreasing the risk to fishermen's lives? Instead of hitting the 12 to 20 percent – to a point?

MS. EDER: To a point.

CHAIRMAN DZUGAN: Absolutely to a point. I'm looking for agreement here that we are all in agreement about these things. Mr. Jacobsen and Ms. Eder.

MR. JACOBSEN: Thank you, Mr. Chairman. We have this issue to deal with about what we do with this, and I think this is one issue, and what we're talking about might be a separate issue. We've heard public testimony that perhaps this isn't going to go anywhere and it's not really worth our time considering, and it's too old. Maybe we should just recommend this document not be used and go on forging a new document regarding mandatory requirement or whatever the committee deems necessary.

CHAIRMAN DZUGAN: I remind you of the task we signed off on says we will review, I assume up to this point we've reviewed it. We will revise and/or update the 1992 report. Now part of that is assuming, we can do nothing with it and let it stand as it is.

MR. JACOBSEN: So update be a separate document and maybe just put that aside for now and if there's anything valuable in there that we need to pull out we can do so, but –

CHAIRMAN DZUGAN: One thing we could certainly do is get good data as a way of updating that document. Since you're looking at 1980 fatalities to begin with which were admittedly estimates, and we certainly didn't have the surveillance then we have now with Coast Guard data and NIOSH and others, so that could be a good recommendation we could make and a positive step in making this a 21<sup>st</sup> century document rather than a mid 20<sup>th</sup> century document. But I can't make that motion.

MR. KEMERER: If I could add something here. In the study I note on page 3, look to identify the problem with fishing vessel safety, it said, there were three factors or three ways they addressed it. The vessel, the fishermen and external forces. Now those are probably still all valid, but are they at the same level of influence or impact they were 20 years ago? I think maybe 20 years ago the vessel was more of a problem than the fishermen and external forces. That may have changed. So maybe if you want to come up with other recommendations or information on a document, are those areas still valid, or do you propose other areas come into play?

CHAIRMAN DZUGAN: My reaction to your comment is, all those factors are still in play just as much as ever. The vessel, the human factor, the outside elements like management systems. If anything they are coming at you faster all the time, and the environment section more dynamic.

MS. EDER: I'm still not clear as to what we want to do with this document. Do you want to make a motion to say to the committee that we accept this document for review

and recommendations pending an update statistical information contained therein relative to vessel casualties and human loss of life.

CHAIRMAN DZUGAN: I think that would be a little bit of movement in getting us some more up-to-date statistics, and sounded like a motion to me.

MR. JACOBSEN: I second that motion.

MR. DAMERON: Do you want to repeat?

CHAIRMAN DZUGAN: It's never as good as the first time.

### **MOTION (WORDSMITHING)**

MS. EDER: I have no memory. **I move that the committee commence review of the 1992 report and in particular update that report specifically with regard to vessel loss and loss of human life.**

VOICE: I move the committee commence review of the 1992 – review and update?

MS. EDER: Review and update, um-hum.

VOICE: Review and update the 1992 report with current statistical data?

MS. EDER: Um-hum.

MR. MATTERA: Based on vessel loss and fatalities.

MS. EDER: Um-hum.

CHAIRMAN DZUGAN: We need casualty data. We've already got length in here.

VOICE: Fishery, ties in, dovetails with the risk base assessing.

MS. EDER: I'd like to include that in the motion. "And loss of life fishery."

MR. DAMERON: I move that the committee commence review and update the 1992 report with current statistical casualty data by fishery including current – should I be more specific when I refer to the 1992 report?

CHAIRMAN DZUGAN: Just say "1992 inspection report."

MR. DAMERON: Michele, do I have this correct? "I move that the committee commence review and update the 1992 inspection report with current statistical casualty data by fishery."

CHAIRMAN DZUGAN: Can I offer a small suggestion of word change? Just to make sure we're not putting the onus on us to do this statistical update, that we are requesting updated information.

MR. DAMERON: The committee requests review and update the 1992 inspection report with current statistical casualty data.

GD We're doing the review, but we are requesting an update on statistical data. The task statement says we're supposed to review this, and what we'd be asking that motion, if I'm keeping with the intent.

MR. DAMERON: Mr. Chairman, Michele, what are we adding to this by saying "by fishery" at the end of this?

MS. EDER: I think it helps us identify those fisheries that have the highest fatality rates, because this is old data and management plans have changed significantly and I don't think fatalities are necessarily based on vessel length (my gut instinct).

CHAIRMAN DZUGAN: Michele, by your motion do you mean to direct this at the Coast Guard and by NIOSH? That's who we're directing it at?

MS. EDER: Yes. We are requesting the information from NIOSH and the Coast Guard.

CHAIRMAN DZUGAN: Is that a good addition?

MS. EDER: Yes.

MR. DAMERON: One last time. "I move the committee request US Coast Guard and NIOSH review and update the 1992 Inspection Report with current statistical casualty data by fishery."

CHAIRMAN DZUGAN: It's specific towards the casualty data. I know it sounds a little bit like we're asking to review the whole document. The intent is to look at casualty update as part of our review process, and maybe it needs to begin, as part of our review.

MS. EDER: By fishery and vessel length.

CHAIRMAN DZUGAN: I think it would be good to see vessel length in there also since that was included originally, right or wrong, but we could have a comparison that way.

MR. DAVIS: I'm trying to catch up since I already have the other ones.

CHAIRMAN DZUGAN: While you two are catching up, if you don't mind, Mr. O'Leary.

MR. O'LEARY: She said what I was going to say, make a motion.

MR. JACOBSEN: Kind of out of order here because we're constructing a motion, but I want to make sure the motion doesn't imply that we approve of the rest of the document in any way. We just want this information so we can consider it in a better light. I don't agree with the document.

CHAIRMAN DZUGAN: Unless anybody feels we are implying some kind of tacit approval of the present plan, let me know now. I'm not taking it that way, and that might be another motion separately if you want to make that distinct.

MR. DAMERON: My question is, we're reviewing and updating the 1992 report. Should we be looking for a specific time period that we want the Coast Guard and NIOSH to concentrate on giving us the data from?

CHAIRMAN DZUGAN: Dr. Lincoln said they were going to finish up the Gulf of Mexico this summer, and I don't know what your timelines for something like that are. There's already a compilation of casualties due a certain time of year anyway, like at end of present fiscal year.

MR. DAVIS: Time sensitivity of when this needs to be done, so do we want to wait for the Gulf of Mexico stuff that Jennifer's working on, or is this something the Coast Guard needs by July or June?

CHAIRMAN DZUGAN: What's your deadline on this?

MR. KEMERER: I don't recall there's a deadline or timeframe on completing that, just that it was recommended we do that. I think this year to get something pretty well drafted.

MS. EDER: Question. What is the year that voluntary dockside exams went into effect?

MR. KEMERER: I think the formal program as exists now or the more formal program was soon after the regulations went into effect from '91, but there was actually a voluntary program in effect way before that, back as far as '78 some sort of an exam program in effect.

CAPTAIN CHRISTENSEN: We started hiring the examiners and coordinators in '92 and '93, Ken came on board in Portland with me, so it's around that '92, '93 timeframe that we actually started getting the official resources to do the job.

MS. EDER: The individual quota program for sable fish and halibut in the North Pacific began in '95, and so in terms of when we'd like to see the data from, do we want to go from 1990 forward, from 1994 forward? I see Fred shaking his head over there.

MR. MATTERA: Let's get general. This is only a little subpart of what we need. We need to address, do we want inspections, do we not? Do we want to train people, do we not?

Do we want to look at the outside factors, do we not? Or do we want to just toss this thing away? I'm sorry I'm getting maybe impatient, but I think we're just beating a dead horse here and we're really not getting off the dime. Let's stick with what we have and not get so – let's keep it general. We want to look at the causalities by fisheries and where we're going in the review process, and then let's jump on what we need to look at here as far as do we want to approve inspections, do we want to do it in a three tier system or do we want to do it just generally across the board? Then do we want to have training, and how do we want to implement training? Or do we not even want to bother with training or deal with outside factors? I didn't mean to make my gestures in a – I'm trying to it in a benign way, but I guess I never usually come across that way, so I apologize.

MS. EDER: Fred, neither do I come across in a benign way either. It's okay. I'm not screaming, I'm Italian. There's a Facegroup we can join. I agree with you we need to move forward, but I heard the statement, there was a very general statement that the reason for the decrease in fatalities had to do with dockside exams, and I don't think that's necessarily true. I think its management changes that have driven some of the decreases in exams. So I don't want that assumption, I guess I'm concerned about that assumption floating out there. I agree with you, perhaps my brain is micromanaging issues that we just need to go what do we want to do with this document, let's go right back to the beginning of the motion and I'll stop there. But just to let you know my thinking why I want to get the best information possible about what it is that is affecting, why dockside exams are effective in terms of reducing casualties.

Before we leave that and get back to the motion again, I think she made a good statement. I think we do need to look at data after the program is implemented because if you do throw in older data then you've mixed up two different things. The Fishing Vessel Safety Act was implemented between 1981 and 1994. The last parts of September 1, 1994 were one of the last major parts of it that was implemented. So if we're looking at data from the mid '90s forward I think that would be the most germane, the cleanest data. I think that's all we need to say on that and just move on. Do we have a motion on the floor?

MR. DAVIS: Want me to read it as I think I've got it typed up now?

CHAIRMAN DZUGAN: Do you want to hand it off to Alan or keep going Tom? So far Tom's been.

MR. DAMERON: I'm not sure Michele agreed on a date, but I move that the committee request US Coast Guard and NIOSH review an update of the 1992 Inspection Report with current statistical casualty data by fishery and vessel length with post 1990 data.

CHAIRMAN DZUGAN: I don't know if we need to go there. Mr. Lawrenson is going to have a stroke if we don't get him up here right away.

MR. LAWRENSEN: Mr. Chairman, for the edification of the committee, and I don't want to speak for Jennifer, and I'm obviously not Jennifer, but as a primary customer of

Jennifer's information I can tell you that she doesn't have anything before 2000. So if you want anything of quality, especially as regards fishery type, it's going to be from 2000 forward.

CHAIRMAN DZUGAN: Great. Thank you. That's helpful. We have a 21<sup>st</sup> century data document then.

CAPTAIN RUHLE: I'm disappointed you're not even talking about, and it amazes me it hasn't come out, there needs to be an analysis of what the effects of the decal has been in the causalities or more importantly training. How the hell many people have been trained by Leslie and others all the way back? You haven't even touched on that. That has to be incorporated into it. You've got a lot of outside factors. You've got regulations that certainly contribute to a reduction in loss when you got programs like the halibut sable fish fishery. You've got, admit it, you've got a significantly lowered number of people involved in the fishery. That's another issue. But the survival of those that have a calamity that went through a training, you're not even talking about it. I'd suggest that be an analysis done by the committee to say, with this many people have had training and take it in five-year increments. I don't recall seeing any decals on any boats with the exception of one or two in a special program before '94 or '95. So you take from '95 to 2000 and you incorporate Jennifer's data and then you go from 2000 to 2005, 2005 to 2010. Break it down so you can look at it. But get credit for those that have taken classes. Leslie, I don't know when you began training fishermen –

MS. HUGHES: '85.

CAPTAIN RUHLE: All right. It wasn't long after long afterwards that sinkings resulted in a saving of a lot more lives. That's not even being touched on. So that's an analysis that needs to be done to support further training at whatever level, and it's only been in New Bedford in the last five years that it's really took off. You've got to at least recognize that some people have gone to extremes and demonstrate the benefits of that. Jerry, I don't know how long you've been doing it.

CHAIRMAN DZUGAN: '85, same.

CAPTAIN RUHLE: Capitalize on that and use that as an example, but you need to show something other than lumped together. It needs to be specific.

CHAIRMAN DZUGAN: Let me say NIOSH has done a study on the effectiveness of training on fishing vessels, and people who have taken training, and they have a number. Other smaller studies have been done on the effect of dockside exam programs. I think we agree that's an important thing. I'm not sure that's a separate motion, but this one is just getting at the data.

CAPTAIN RUHLE: I agree, Mr. Chairman. Just include it in data. Specify that you're going to include it, and segregate it, because when Jennifer puts it up, and I made these comments before, how do you identify what boats had a decal in your fatality status or

sinking status? And she does that. But it's never clearly identified so somebody that picks this up can say, okay this boat had this, this one had that. I think it's important that you do that because they are actually products of this committee.

MS. HUGHES: Tom, could you read that one more time, please? It still sounded to me like we're asking the Coast Guard and NIOSH to review the plan.

MR. DAMERON: **I move the committee request US Coast Guard and NIOSH review and update the 1992 inspection report with current statistical casualty data by fishery and vessel length using post 1995 data.**

CHAIRMAN DZUGAN: I suggest to the mover that if we just **dropped "review"** we'd get rid of that.

MS. HUGHES: Then in that data I'd really like to see as much information as NIOSH has gleaned about vessel losses. I think the vessel losses is the area we've not really examined that we need to look at in relation to this inspection plan. Material condition of the platform is the issue here.

CHAIRMAN DZUGAN: Again, NIOSH has been collecting some of that data all along when they talk about the flooding, stability issues, things like that. Jake?

MR. JACOBSEN: At this point of procedure should we request that the commandant ask that these reviews be made?

VOICES: Coast Guard's good enough.

CHAIRMAN DZUGAN: Coast Guard's good enough is what it sounds like. We have a motion on the floor crafted by committee.

MR. DAMERON: Second.

MR. MATTERA: Can we go back to him reading this again, please?

CHAIRMAN DZUGAN: Can we do it without the "review?"

MR. DAMERON: All I did was take out that word. **"I move that the committee request US Coast Guard and NIOSH update the 1992 inspection report with current statistical casualty data by fishery and vessel length using post 1995 data.**

MR. MATTERA: For our review process, right?

CHAIRMAN DZUGAN: If it's okay with the mover we can add that, **"for the review process,"** so tied specifically to the plan. Do you want to add that?

MS. HUGHES: **"To the task."**

MS. EDER: Sure.

CHAIRMAN DZUGAN: To the task. How specific do you want to get?

MS. HUGHES: It ties us back to what our task is.

MR. DAMERON: For our review process?

CHAIRMAN DZUGAN: Yes, “**for the committee’s review**,” period. We’re okay with that Michele?

MS. EDER: Um-hum.

CHAIRMAN DZUGAN: Okay with the second on that?

VOICE: I move the chairman calls the vote.

CHAIRMAN DZUGAN: There being no more discussion, all in favor signify by saying aye? (Chorus of ayes) Any opposed? Passed unanimously.

## **MOTION PASSED**

### **Desired Outcomes for '92 Update**

MR. DAVIS: I think I’ve got it. You want me to blow that up? I had a little exercise for “desired outcomes” that might help facilitate the discussion. Using an expensive week of education from a long time ago, what are our desired outcomes from updating this inspection report and messing with the system? The two I got from the conversation were, one, we have 50 percent or less participation in existing fishing vessel safety exams. So one thing we’re moving towards is making it mandatory. The idea being, we believe it’s been successful and if we make it mandatory and as Captain Ruhle’s pointed out in accord with the National Marine Fishery stuff it is mandatory by default. So making it mandatory, we hope to get our arms around more people.

Second part, we’ve identified in our discussions that we’d like to prevent future sinkings and thereby loss of life, that we think with the carriage requirements for lifesaving equipment that we’re already saving a chunk of people and with the training people are getting in how to use that we’re saving a chunk of people.

What’s the next layer we can peel? What are basic common issues that should be looked at?

I heard earlier in the conversations that, do we need two different exam programs or certificate programs, or do we want it to be one thing so we don’t have two things we’re

going to. That was just something I thought we should use to try to focus our thoughts. I think I just gave the chairman a headache.

## **DEVELOPING A SELF-INSPECTION CHECKLIST**

CHAIRMAN DZUGAN: I think we have to look at this issue of inspection exams with the idea that no matter what Congress does, it's just going to be a moving target, and we've signed on to this task statement that we will look at this plan and provide other applicable recommendations on inspection requirements for fishing vessels. We talked about the need, or desire on some to make the present Part 28 dockside exam mandatory for all. I haven't seen much discretion or people reacting negatively to that. Next step would be looking at the hull, which we talked about which has been seen as a problem by many different testimonies we heard. The lowest level of that is a self-inspection program, this checklist. Does anybody want to do anything with that, because this way no matter what Congress does you will have begun work on developing a self-inspection checklist for fishermen to use, if nothing else, as a tool for themselves to go through their vessel and check that they've got basic things that are common sense issues and work on that as a product.

MS. HUGHES: I would be in favor of that as a starting point, or one of the starting points, because this is an opportunity for us to go from looking at survivability aspects to starting to get on the side of preventative. That's been something a lot of us on the committee have wanted for a very long time, and it would be good to impress on Congress, in my view, that this committee cares about getting on the preventative side.

MR. MARTIN: I think some things we should look at as hull integrity, dewatering, and a little better alarm systems and most people have. Three points I'd like to look at in alarm systems, high water, smoke and fire. We monitor everything. Our last boat came out with 50 points. We were monitoring 50 points on a boat. But these are the 3 essential ones and if you burn an engine up you have smoke you'll have fire.

CHAIRMAN DZUGAN: Is there interest in starting this self-inspection list?

MR. MARTIN: I'll write it today.

CHAIRMAN DZUGAN: I think maybe some of us came here this week ready for that. We can make some progress on that as a subcommittee or a full committee. I think that would be a good thing to do, and work on it between committee meetings. Where would the committee like to go with that?

MR. JACOBSEN: I've got a list I just prepared from Part 28 I use for my inspections. It's not hard. Probably there are several lists already in existence. If we just want to use a list based on existing regulations, I think there are several of those around.

CHAIRMAN DZUGAN: The examiners already have their lists too for Part 28, and I don't know if we reproduce that and make this part of it over and beyond that to some of

those hull issues and alarm issues and watertight issues we keep talking about. In defense of our own time, I'm never into reproducing the wheel or the parts we already have, but adding on the new parts of the wheel that you want to do to update your tool.

MR. JACOBSEN: And subtracting. If we can have some time to work on something maybe we can trade a document around or something, give suggestions anyway.

CHAIRMAN DZUGAN: Can we have a champion of this?

MR. DAVIS: I think the risk management committee is the natural champion of it, and I can work with Jimmy and Jake because they represent lots of different gear types for Jake, Jimmy too.

CHAIRMAN DZUGAN: Is that okay with you, Mr. Martin?

MR. DAVIS: He said he's ready to go today. I took that as a volunteer.

CHAIRMAN DZUGAN: Jake?

MR. JACOBSEN: Sure.

CHAIRMAN DZUGAN: Anybody else. Fred?

MR. DAVIS: Fred.

CHAIRMAN DZUGAN: John:

MR. DAVIS: Okay, we got coast to coast, and Leslie raised her hand too.

MS. HUGHES: Yes, the vessel safety manual has had a lot of review by the Coast Guard and industry and there are checklists in there.

MR. DAVIS: I added something while we were talking, hull and watertight integrity. That checklist goes together in my mind. Is that an amen? Okay.

CHAIRMAN DZUGAN: That was my assumption.

MR. DAVIS: We have some suggestive guidance on dewatering, high-water alarms, smoke and fire alarms that are part of the ACSA agreement, not that I'd try before Jimmy throws something at me, not that I'd try to cookie cutter that, but it's a place to start to see what would, wouldn't, is and isn't universal.

CHAIRMAN DZUGAN: A timeline to get a draft out, Jimmy and Jake and Alan?

MR. DAVIS: June.

MR. MARTIN: First of July.

CHAIRMAN DZUGAN: July 1 is a nice round number.

MR. DAVIS: July 1.

CHAIRMAN DZUGAN: Alan, you are lead champion on that?

MR. DAVIS: Yeah, okay, but somebody needs to be the whip.

CHAIRMAN DZUGAN: Jake, can I ask you to be the whip since you're in this neighborhood?

MR. JACOBSEN: Sure.

MR. MARTIN: Mr. Chairman, if you want me to come to your place, I'll come.

CHAIRMAN DZUGAN: Jimmy, feel free to back them both up as needed. Leland.

MR. STANFORD: In all the years I've been on this committee, the stability comes up time and time again. I don't see anything regarding stability on there. Is it appropriate to put something in there regarding stability? Where I'm going with that, it goes back to something we talked about 2 years ago, that how does a boarding team or an examiner know if the vessel has significantly changed since that owner has it from the time it was certified or first put into service? My point of raising this is, I don't want the committee to forget that a lot of loss occurs because of instability, and we may have to dig deeper back to the root cause or back to what could a boarding team notice, what could an examiner notice significantly different about a vessel than, say, the last time they were there? What's the comparison? We've talked about charts, draw a picture of the vessel and where the gear is today and when I come back next time has it been moved, elevated? All those kinds of issues. I don't want the committee to lose sight that we've spent a lot of time on what we think is a very important cause of sinkings.

CHAIRMAN DZUGAN: A couple thoughts on that. One, I think that's a good idea for the self-inspection checklist, and that would be something the box would be a stability, if over 79 feet stability report updated. You can see that on the self-inspection list from your own perspective as a reminder, or a boarding officer's perspective. If you look at that book and see the configuration of the vessel is not the fishery the test was designed for.

Second, there is a proposed rulemaking that will talk about stability guidance for vessels between 50 and 79 feet, which would dovetail pretty well.

Then if it picks up hull integrity issues like we're talking about already for the inspection list, we already know that's implicated in a lot of stability issues. I think we've got a format to take care of those issues.

MR. JACOBSEN: A quick anecdote if it's okay. A couple years ago I surveyed a vessel and this was a 58 foot standard Alaska saner\* design that had been modified to be a small trawler. I recommended the owner get a stability test on the vessel, and he was complaining and whining and I suggested to his insurance company that they require that. They did, so he got the stability test and called me up and said, thank you, thank you. Because he was just, without loading anything he was right on the edge of stability. If they'd loaded the boat and gone outside into Puget Sound it would have rolled over. As a consequence, he put sponsons on the boat and now it's a very stable vessel. But when they make these modifications a lot of them don't even think about stability.

MS. EDER: Is it time for us to get back to the mandatory dockside safety exams?

CHAIRMAN DZUGAN: It's almost time for lunch. We can bring it up after lunch. I also want to say, just a comment, what we were handed is not an easy task, so although I feel frustrated that we've not sunk our teeth into it more we were handed a document that's a generation old on old data from another generation done by a polytech institution and association of engineers, a lot of other input from people, and we're being asked to revise this and update this. My expectation was we were not to be able to give this some kind of justice it's had to that point, but I think by beginning with a self-inspection list and getting at some of the hull integrity issues I think we're making a start that we can use to build on, and asking for this data. So I appreciate you motioning those and starting us, getting more of a basis to make some decisions on.

Do we need to formally request a copy of the 4100 boarding sheet and the boarding officer's job aids or can I just say, Hey, Captain, can you email me that?

CAPTAIN CHRISTENSEN: That's one thing I was going to ask Ken or Jack, is our job aid online?

MR. JACOBSEN: For some districts it might be, but we can certainly get one for you from Dan. The 4100 F I can email to you.

MR. DAVIS: What about the boarding officer's job aid?

CAPTAIN CHRISTENSEN: The job aid is what we're going to check and see if some folks already have it potentially online, some district folks, but yes.

MR. JACOBSEN: I'll get you a copy.

MR. DAVIS: If somebody could just e-mail us or the subcommittee that?

CAPTAIN CHRISTENSEN: The checklist is useless without having the background on what makes the item compliant and the job aid we developed 20 years ago is still good.

MR. JACOBSEN: We were looking for the 2100F yesterday and couldn't find it, but the job aid might be there. I'll have to go back and look.

CHAIRMAN DZUGAN: Looking ahead for the rest of the day, we'll break for lunch and we need to pick up on your idea and whether you want to throw it out there before we break for lunch so we can think about it? Or write it down during lunch and then bring it back to us. We want to revisit the original motion we had about the congressional bill. We can have more of a discussion, further this list along we just started. We are going to break at 2:30 and I'll hand it over to Captain Christenson for election of officers. Then we can finish our Deltas. We do have to be out of here at 4:00. They bring in a D9 patent and shove us out of here. Is that a general okay for the rest of the day? Can we then call for lunch? Any objections to that? Use our efficient restaurants or other ones you heard about so we can get back in an hour? It's almost noon now, so let's just come back at 1:00. Thanks for all your help today.

[BREAK FOR LUNCH]

## **AFTERNOON SESSION**

CHAIRMAN DZUGAN: Let's get started. We were finishing up a conversation about exams and self-inspection lists. Do we have anything else related to that topic before we move on? Michele had something. Mr. Dameron?

## **MOTION**

MR. DAMERON: I'd like to put forward a motion and then let you know where I'm coming from with it. **"Requiring that hull and machinery self-exams are required for all fishing vessels. These exams must be documented and available for audit by the US Coast Guard."**

That's my motion. What I was trying to do is, while we were waiting for the updated data, kind of put a floor in on letting the Coast Guard know that we are concurring with numerous recommendations that have come out of casualty investigations saying that we need to be looking at hull and machinery and at a minimum we support at least self-exams.

CHAIRMAN DZUGAN: For clarification, does your motion say "self-exam?" I think you just used the word "exams."

MS. HUGHES: No, he said self-exams.

CHAIRMAN DZUGAN: We don't have a second yet.

MR. JACOBSEN: I second that.

MS. RUHLE: Require that the hull and machinery have self-examination. Are you saying you want the boat pulled out and examined, or just from the waterline up, or what?

MR. DAMERON: I'm looking at that to be determined, but I move that in some aspect they require that boat owners are doing self-inspections on the hull and machinery of fishing vessels, these exams are documented and available for audit.

MS. RUHLE: I understand all that, but how often do you want it done? If the boat has to be pulled out of the water, how often do you want it to be done?

MR. DAMERON: I'm not looking at requiring the boat to be pulled out of the water.

MS. RUHLE: Well, you have a diver go down?

MR. DAMERON: No, no. You can do hull and thru-hole and machinery examinations in the water.

MR. JACOBSEN: Really shallow draft boats.

MS. RUHLE: Well, now, I should say, what sized boats are you talking about?

MR. DAMERON: Fishing boats.

MS. RUHLE: Size, not type.

CHAIRMAN DZUGAN: All fishing vessels are what he said. Mr. Martin and then Mr. Davis.

MR. MARTIN: The motion sounds good, but it's pretty wide open that the Coast Guard could shut you down at just any time as to interpretation. I think Cathy has some valid points. Are you going to dry-dock it, are you going to dive it, or what you going to do to do this examination? Just, I think we've got a wide open motion here, pretty wide open to how the Coast Guard's going to interpret this.

CHAIRMAN DZUGAN: I'm sure the group would entertain friendly amendments. Mr. Davis?

MR. DAVIS: I was wondering if the intention is that this would be like a pre-voyage look-see checking for hull integrity, water-tight machinery, thru-holes, or if it's more an annual or semi-annual in-depth thing, because my first thought when he said it was that you were looking for something prior to a voyage, sort of like the chief engineers on my vessels do rounds. So which direction are you headed?

MR. DAMERON: I'm leaving it open knowing that the process will better define it. I'm just trying to let the Coast Guard know that as a committee that at a minimum we do

support having at least self-exams conducted by vessel owners that must be documented and can be looked at, audited by the Coast Guard.

MR. JACOBSEN: I'd like to ask the maker of the motion, Mr. Chairman, if this was something we neglected to consider in our assignments to do the checklist, or is this something that we can consider as we prepare that checklist assignment?

MR. DAMERON: I was trying to get something out there while we were devising that checklist. Again, to show the Coast Guard that we are in favor of at a minimum requiring vessel owners to at least look at their hull and machinery.

MR. JACOBSEN: Okay. I agree with those who think it needs more definition.

MR. MATTERA: There's no doubt. I think it's so broad. If you said in a self-exam, if I said to Leland I want you to go down and check your hull and machinery, you're probably going to walk around and see if you see any cracks or folds in the hull, go down and make certain your pumps work and the engines start up. Check it off. I don't think that's what your intent is, Tom. I think I'd like to see this sort of folded into the self-exam checklist like Jake is talking about and am we looking at making certain that the bilge pumps work? Are we making certain that there's check valves there in line? Are we making certain that the thru-hole fittings that we don't have other problems, that in the stern ramp or something we don't have a hole in the hull? But I think we can incorporate this into it, and I applaud your intent that let's get something out there now and let the Coast Guard know. That's a fallacy of what's happened so far. I think if we incorporate this – my feeling is if we can incorporate this in the self-exam looking at hull integrity, de-watering which is your pumps, high water alarms, smoke, etcetera, then it could be a little more definitive.

MR. O'LEARY: I'm kind of afraid of it myself. I think it's just adding a lot more paperwork that a lot of fishermen aren't very good at anyway. The guys that are prudent captains and owners and stuff, we do that all the time. We have to do that. We don't want to break down out there. So it's getting done anyway. It's just adding a lot more paperwork and fishermen aren't very good at paperwork. We can't even get them to log, very little. I think we're just putting another layer. The same people that didn't check it anyways or just checking it to satisfy the Coast Guard are the same people that will wind up having the problem, but I'm sure if we're going to be solving a problem or making things better by doing that.

MR. MATTERA: Could I offer a friendly amendment, in that the hull and machinery self-exam be added to this checklist? I put that as a motion, yes, that we add hull and machinery to the self-exam checklist.

MR. DAMERON: What I'd like to point out, what I've attempted to do here, and this wasn't new business but concerning this document we have in front of us, I was attempting, looking at this document which was suggesting load line requirements, suggesting the exams for hull and machinery standards, I was attempting to let the Coast

Guard know that without looking at the additional data, without considering load line requirements, that we did support at least a self-examination program and an examination program, an inspection program. It's been suggested in almost every casualty report I've read that's come out of the Coast Guard in the last 20 years. That's where I was going with this. I don't know that we need to specify the details in that.

CHAIRMAN DZUGAN: My observation is, it's not going to, looking into the future five minutes is not going to pass without some more details. That's what we're hearing. Mr. Martin.

MR. MARTIN: What about if we add something about at dry-docking time that you'd have some kind of report you'd keep on file as to what you'd witnessed while you were up on dry-dock.

MR. JACOBSEN: Like a checklist.

VOICE: That makes sense, like a dry-dock or something like that, so it's not –

MR. MARTIN: You check your sea chest, the stern bearings, some kind of checklist that we'd have at dry-docking time and there would be a self-examination you'd have done if you're dry-docking.

MR. DAMERON: I know there are a lot of vessels that are not required to have a dry-docking time, so these would be prudent things to do. Again I'm trying to set a floor here.

MR. JACOBSEN: Mr. Chairman, I'm concerned just thinking about this here that somebody might substitute this checklist on some vessels for an actual look by a competent professional. It's not that easy to look at a controllable pitch-propeller and see that it's going to operate in the next little while just by the casual observer, even opening it up it's not easy to tell. Those have to be inspected. The same might be true with some people that may not have any experience in what a worn out packing gland looks like or what some of the bottom components might be or how to recognize a crack in the hull. Even shipyard people sometimes miss cracks in the hull. So there's just, to have it so broad and sweeping and not designating the time periods for hull out, and then he said it didn't need to be hauled out, it sounded like it's an inside inspection maybe. I'd just like to see a lot more detail and definition before we suggest that the Coast Guard take action on something.

CHAIRMAN DZUGAN: If there was more detail, there's a motion on the floor so we'll deal with this motion, but I think what we're hearing from the committee is they'd like more detail. For example, I think it would help if it was an in-water inspection. That helps. Or out-of-water. That helps us know what you're getting at. If it's by a self-exam checklist to be developed by CFIVSAC and the Coast Guard that gives some opportunity for some input into that in the future. I think with those two things it could give us more specificity so we know what you're talking about. Fred.

MR. MATTERA: That's why I made the friendly motion just if we get it in this checklist we can be a little more definitive.

CHAIRMAN DZUGAN: I am loathe putting words in the mover's mouth, but, I'm leaving it to you to do that. I'll let the mover try again.

MR. DAMERON: How about if I, I could amend or I could withdraw the original.

CHAIRMAN DZUGAN: With the concurrence of the second you can change the wording. You can choose to amend your wording with the agreement of the second.

MR. DAMERON: Mr. Chairman, I'd like to amend my wording to state, I move requiring that in-water hull and machinery self-examinations are required for all fishing vessels. These examinations must be documented. These examinations will include items come up by this committee in conjunction with the Coast Guard.

CHAIRMAN DZUGAN: Second?

MR. STANFORD: Yes. I agree with that.

CHAIRMAN DZUGAN: Discussion? John then Jake.

MR. O'LEARY: Can we put some kind of timeframe this stuff has to happen and how often it has to be logged so we get an idea of frequency of these? I move requiring that annual in-water hull and machinery self-inspections are required for all fishing vessels. These examinations will include items to be determined by commercial fishing, this committee and the Coast Guard, and must be documented and available by audit by the Coast Guard.

MR. JACOBSEN: If that's the course of action, Mr. Chairman, I suggest we submit it as a part of the entire checklist that we are developing.

MR. DAVIS: I don't think it has to say that in the motion, but I believe that would be the first place it would go.

MR. MATTERA: It should say that.

MR. JACOBSEN: I'm just questioning the need for the motion. We are going to do it anyway, we can incorporate this into the committee's work.

CHAIRMAN DZUGAN: The difference I see is the checklist we talked about starting before lunch was, nonmandatory, not required. He's making it a requirement annually, rather suggesting in that motion it would be required annually. Anymore discussion?

## **MOTION TO TABLE MOTION**

MS. EDER: I move to table the motion.

MS. HUGHES: I second.

MS. EDER: I think it's a really good idea, I think I understand what the intent is, but I think there are specific things that will combine with that we want to do in a future time.

CHAIRMAN DZUGAN: It's been moved and seconded to table the motion. All in favor? (Chorus of ayes) Any opposed? Five opposed. Can I see the ayes again, show of hands? Five.

VOICE: Mr. Chair? Tom, your intention to push this through now I believe you stated it was so we get something in motion because it's going to take awhile to formulate that other material.

MR. DAMERON: Yes. We get something in front of the Coast Guard that this committee supports at least self-exams on an annual basis that are documented and auditable.

VOICE: Thank you.

MS. HUGHES: I want to explain my position on this. My understanding is that we are waiting for an update on the information we've asked for from NIOSH to have Coast Guard look at it and make sure they don't have a problem with it and that we were looking at the risk management subcommittee putting together an initial checklist for the rest of the committee to look at by roughly July 1. I don't think it will take Jennifer very long to get us some casualty data we can look at. Then I think we're at a point to look at what you're recommending, Tom, but I think we're not quite there yet. I would ask you give us more time to work this out and put some more thought into it before we just move ahead with that recommendation.

CHAIRMAN DZUGAN: It's nice to see the committee move consensually toward something instead of 50/50 votes, and for that reason I'm going to vote to table it as well so we can get something more developed and something we can act on more consensually. Cathy?

## **MOTION TO TABLE PASSES**

MS. RUHLE: The reason I'm not voting for this is I believe every boat has a competent captain and I'm sure they do all this more than one time a year. I'd imagine that it's done frequently. I know it is on our boat. I can't speak for anybody else, but I know it is on ours.

CAPTAIN RUHLE: Thank you, Mr. Chairman. I am delighted that you decided to table it. I think it was a well-intended motion, but it certainly wasn't well thought out. That's the problem. It's too frigging vague. You say "fishing vessel." You talking about 20 foot skiff that a guy pulls up on a trailer, right on up to a 200-some foot boat? When you say "machinery," define "machinery" for me. Self-inspection? What I'm very nervous about you're trying to do here, appeasing the Coast Guard, is make liars out of fishermen. You're going to have certificates, you're going to make people forge pieces of paper to satisfy you that mean absolutely nothing. It's the wrong way to go. And a lot of times you don't have the owners involved with the boat. It said "the owners." The owners may not see their boat for a year. Some of them see it every day. Just think about things like this. Don't try just to kiss the Coast Guard's ass. Come up with something that works. And this doesn't. I'm thinking about the point (unclear) fleet, that guy comes down in the boat to go out fishing at 3:00 in the morning in a 25 foot boat to a 100 foot boat, gets in 6 or 7:00 at night, are you suggesting that 3:00 the next morning he come down there and do this? Once a year. It's just, it's well-intended, it's not thought out, do a better job.

CHAIRMAN DZUGAN: Thank you, Captain Ruhle. Let's move on. Michele, you had something you wanted to bring up after lunch?

### **Red Lines Document 46 USC4502 w/ proposed amendments**

MS. EDER: Yes. I wanted to go back to the document with the red lines in it which is 46 USC4502 with amendments proposed by HR3619 Coast Guard Authorization Act of 2010. Before I make the motion, I have a question. Has this committee communicated with the commandant of the Coast Guard as to whether or not we support these amendments?

CHAIRMAN DZUGAN: I have my pack of letters here. I have to look at them. I don't remember us, the committee itself reporting directly to Congress on this. No, we didn't. Proposed rulemaking we wrote to the commandant about urging him to hurry it along, but I will check on that though, so keep going.

### **MOTION**

MS. EDER: The motion is that that **CFIVSAC send a letter to the commandant of the Coast Guard that we support adoption of the amendments as proposed by HR3619 Coast Guard Authorization Act of 2010 which includes mandatory dockside safety exams for all vessels.**

MR. DAMERON: I second the motion.

MR. DAVIS: Could you give me another read of that? I got Motion that CFIVSAC send a letter to the commandant of the Coast Guard to support the documents –

MS. EDER: We support adoption.

MR. DAVIS: Adoption.

**MS. EDER: Adoption of the amendments proposed by HR3619 of the Coast Guard Authorization Act of 2010, which includes mandatory dockside safety exams for all vessels.**

CHAIRMAN DZUGAN: Michele, do you want this to be specific of fishing vessel safety, because HR3619 has a lot of amendments regarding many things. Its 1000 pages long.

MS. EDER: Yes. Yes.

CHAIRMAN DZUGAN: So where would “regarding fishing vessel safety,” go in your motion?

MS. EDER: Support adoption of.

CHAIRMAN DZUGAN: Support adoption of the fishing safety vessel amendments? Is that where it would go? Is that what you said?

MS. EDER: Um-hum. Specifically 46USC4502, the safety standards.

CHAIRMAN DZUGAN: Okay. Was there a second to that motion? Tom, did have it. Okay. Discussion?

MR. MATTERA: This would all be encompassing Part 28? Okay, and not expanded? Or what is in here in this document? Doesn't this go beyond 28?

MS. EDER: Yes. Without having 28 in front of me or being intimately familiar with it.

VOICE: Does it matter, Fred?

CHAIRMAN DZUGAN: I think the way it's worded it's not a problem with the way it's worded. I don't think.

MR. JACOBSEN: It's mostly Part 28, but I think there were a couple other things.

MR. MATTERA: Well, there's navigation in here. You start talking about including radars, fathom meters, things like that.

MR. JACOBSEN: That's addressed in Part 28.

CHAIRMAN DZUGAN: Further discussion?

MR. DAVIS: There were a few things we discussed this morning as we read through this. Is the 79 foot line drawn in this document, or was that in the other document?

MS. EDER: As far as I know it's not, as far as I've read.

MR. DAVIS: Okay. The other issue is, on this first page and then throughout the document Item 2b, one thing it says is 'operate with more than 16 individuals on board,' and I know that's currently in Part 28, but I'm somewhat loathe to have things that have a number of people on board as a line drawn, so just wondering if the committee want it as part of their recommendation to be continuing to perpetuate 16 people's lives versus 17 people's lives versus 15 people's lives.

CHAIRMAN DZUGAN: My follow-up question after the Coast Guard would be, since some parts of this would apply to Part 28, that doesn't make Part 28 pretty chopped up and irregular? Parts of 28 are going to have 16 that involve safety equipment, and other parts won't? Are we making the situation –

MR. DAVIS: -- back to the class jumping up and down going ooh, ooh, ooh. Sorry. Thanks. Mr. Rosecrans.

MR. ROSECRANS: Thank you, Mr. Chairman. I don't think you should waste any time to decide whether you are going to use 16 as a breakpoint. It's in the law. You can't change that.

#### **FINALIZED MOTION REREAD**

MR. DAVIS: Let me reread it to see if I've got it typed into the record properly. The motion is: **CFIVSAC send a letter to the commandant of the Coast Guard stating that we support adoption of the Fishing Vessel Safety Amendments 46 USC 4502 proposed by HR3619 of the Coast Guard Authorization Act of 2010, which includes mandatory dockside safety exams for all vessels.** Did I get that right?

MS. EDER: Yes.

MR. O'LEARY: Should we put "documented vessels," or vessels fishing outside of certain area?

CHAIRMAN DZUGAN: You have to remember the rest of this eliminates discrepancy between documented and state numbered vessels, and it also gets rid of the boundary line, so it gives everybody, it's more equitable to all boats and it makes a line that everybody understands instead of a line that nobody understands. So I wouldn't mess with that.

VOICE: I move the chair close the vote.

CHAIRMAN DZUGAN: The motion has been called for. All in favor of the motion, signify by saying aye? (Chorus of ayes) Any opposed?

VOICE: I oppose.

CHAIRMAN DZUGAN: One nay. 10 ayes. Okay. Thank you for moving that along.

## **MOTION PASSES**

CHAIRMAN DZUGAN: Does this take care of the issue from yesterday that you brought up, Michele, the first one about –

MR. JACOBSEN: Can I just say why I oppose?

CHAIRMAN DZUGAN: Oh, sure. We were hoping you would.

MR. JACOBSEN: I just don't think insurance companies should be deciding who's going to issue certificates of compliance.

VOICE: But they're the ones that pay, or don't.

CHAIRMAN DZUGAN: Thank you, good point. Thank you for stopping me on that before we move on. Which line are you referring to in there so we can all read the page?

MR. JACOBSEN: This is on the third page under number 2. Just move to the floor before I could get to address the issue, and I might be fine with it if I knew a little bit more about what their intent was, but looks like whoever's providing insurance would either be a broker or an underwriter, would issue a certificate of compliance for the vessel. I'd really rather see a competent examiner, surveyor do that.

CHAIRMAN DZUGAN: This is a pretty general, that was a pretty general motion about supporting that legislation, and it was specific to dockside exams, so unless you want to revisit a motion that we've already voted on, I'm okay with letting that stand. I think when we start picking this apart we could all find things we'd probably not vote that same way for. But it's the pleasure of the committee if you wish to revisit that vote or not, but it was called, it was voted on. Michele, you had a comment?

MS. EDER: I'm trying to figure out if it's currently, if it was previously part of the statute.

MR. JACOBSEN: No.

MS. EDER: It's a proposed change?

MR. JACOBSEN: Yes.

MS. EDER: I guess I don't have, my gut response to it is just what insurance company would be nuts enough to assume the risk of saying that this vessel meets the standards

and then should an accident happen they are going to be hurt, just put themselves in the chain of who's going to get sued, not just because they insure the vessel, not just the owner but they themselves. So I think it may not be a risk. I agree with you exams should be done by professionals, but it just occurred to me that I don't think any insurance company or certainly no broker would ever step up to does that unless they were – I understand your point.

VOICE: When I read that, Jake, my assumption was that the insurance company would hire a third party such as yourself to verify that.

MR. JACOBSEN: I hope that would be the case.

CHAIRMAN DZUGAN: The language isn't very clear.

MR. JACOBSEN: I would strike that whole sentence.

CHAIRMAN DZUGAN: That is my assumption. Go back to that original motion of Michele's from the first day and it said, Can the committee write a letter supporting letters to HR3619, and then we got into that discussion of what the proper communication was, and it was tabled.

## **MOTION**

MS. EDER: The next motion I'd like to make is **the letter that goes to the commandant that we send a CC of the letter to those sponsors of the Senate bill and House bill and to specifically include members of the Conference Committee.** It's a motion.

CHAIRMAN DZUGAN: It's a motion. Is there a second?

MR. MATTERA: Second.

CHAIRMAN DZUGAN: Discussion?

VOICE: In keeping with our original discussion, I'm not sure it's appropriate that we send a copy of that letter but rather we inform of the outcome which is that we sent a letter. Your motion suggests that we are copying people on a letter to the people who we're responsible to answer to. I believe, based on our Monday morning training that it may be more appropriate to advise others of the outcome, the public portion of the outcome. I understand your intent, but I think we're getting close to the edge again.

MR. DAVIS: I think the view is that if it's a time-sensitive document to avoid it perhaps languishing somewhere that we send a letter to the commandant CCing the parties that need to be notified of the time sensitive issues, and they can throw us in jail if they want to. I said that on the record, didn't I? Or they can throw Captain Christenson in the (unclear) jail since he's the federal officer.

CHAIRMAN DZUGAN: This is an aside. I want you to know that if you guys vote this in and I have to send out another letter and use my address, I'm getting a PO box separate in a different city.

[Group laughter]

That doesn't affect whether you want this or not, but –

MR. DAVIS: We can use my address. It's close to the federal building in Seattle, save everybody.

CHAIRMAN DZUGAN: Discussion? Any feedback from the Coast Guard on this? For us? Before I ask that question, let me ask the Coast Guard, if we directed you to CC our letter from the previous motion to members of the House, Senate Conference Committee, what's the likelihood of, one, that being done or, two, having it done three months from now when that committee is all over with? What's the timeline, and could you do that?

CAPTAIN RUHLE: I think we discussed this yesterday that CCing is okay.

MR. DAVIS: That's what I got out of the thing yesterday. I wouldn't have actually asked the guy yesterday. I would have just done it and see if it came back (unclear). But they sort of stared at each other and kind of shrugged their shoulders and went, yeah.

VOICE: So I think the CCing is going to be an appropriate mechanism to use.

MR. DAVIS: And make sure whoever is the commandant that won't let it sit on his desk too long.

CHAIRMAN DZUGAN: So can we have that read one more time?

MR. DAVIS: **Motion to CC a copy of the letter to the commandant to be sent to the sponsors of the Senate and House Coast Guard Appropriations bills to specifically include members of the Conference Committee.**

MS. EDER: That's correct.

MR. DAVIS: Authorization bill, excuse me.

VOICE: My question is, how many letters are we sending? Are we sending one letter to the commandant and asking that our views be forwarded to these particular members in Congress.

MS. EDER: No. We're going to send the letter to the commandant and then we're going to copy it and send it to the sponsors of the House bill and the Senate bill and to the

extent we can determine it the members of the Conference Committee which I expect will include sponsors from the House and from the Senate.

VOICE: Okay. So my second question to Jack and all the training he had, is that within our charter to do?

MR. KEMERER: I think we discussed that, but the letter, the recommendations, the advice comes to us, and copying other folks seems to be okay, but we would also forward it on to the Congressional Affairs Office liaison folks.

CAPTAIN RUHLE: We'd want to expedite that because undoubtedly the staffs of the individuals that are copied on this, you're going to be reaching out to our legislative folks, so again it's sort of a (unclear). So I think you're tackling it from both ends. You're not sending a letter directly to Senator Cantwell, Hi, We're the Fishing Vessel Advisory Committee, chartered by the Coast Guard, and we think this. You are giving that information to us. You are copying ultimately who is going to be the beneficiary of that information in order to expedite because this is going on right now. So I think we're on firm ground, or at least not squishy enough ground where we're going to sink.

CHAIRMAN DZUGAN: I would see that letter not having much of a preamble or anything but pretty much just that motion. For your information, here's the motion. Jake?

MR. JACOBSEN: Thank you, Mr. Chairman. I intend to support this motion because sitting here I have reevaluated my position on the last motion and discovered that I could actually save \$600 a year by not having to join the organization that qualifies me to be a third party examiner. All I have to do is get the insurance company to sign me up.

CHAIRMAN DZUGAN: Always looking for ways to cut costs to industry.

MR. JACOBSEN: Absolutely.

CHAIRMAN DZUGAN: Anymore discussion on the motion? Michele?

MS. EDER: I think, Mr. Chairman, this question is for Jack. I'm not familiar with the set-up of the congressional affairs or relations office in the Coast Guard, and what's the name of the person who heads it?

MR. KEMERER: I will have to get you the name of the person.

CAPTAIN CHRISTENSEN: Admiral Shultz is 092. So underneath that is a, we have liaisons with both the House and Senate, and so as we've been going through this process, if for instance we're called upon by staff and go and give a brief, our Senate or House Liaison folks will be the ones that escort us in and they are pretty much the only ones that the staff members and members of Congress can talk to. They don't talk to us directly. So we don't get calls from elected officials or anything else like that. We

strictly work through the House and Senate liaison office, and they are all under a single Coast Guard admiral, and then they've got the staff that supports that. And they will know exactly who to give this to.

### **AMENDING MOTION**

MS. EDER: Mr. Chairman, **I'd suggest that in addition to sending it directly to the commandant that we also cc the admiral or if Captain Christensen can provide us with the names of the House and/or Senate liaison in the Congressional Affairs Office that we CC them as well.**

CHAIRMAN DZUGAN: So are you amending your motion to say send this to the commandant and the Legislative Affairs Office with a CC to Congress? You're kind of amending the motion.

MS. EDER: Yes.

CAPTAIN CHRISTENSEN: I'm not sure what benefit that does. The only reason I say that is, because the commandant's office gets that, and they understand that it's CC'ed to a bunch of congressional folks, and they basically send it out to our Congressional Affairs folks. That's a very short turnaround. That's not a built-in delay, so –

MS. EDER: **I'll withdraw that then.**

CAPTAIN CHRISTENSEN: We don't want to build in any delays, but like I said by CC'ing the members of Congress then that's a feedback loop, so we'll get it from their side and then we'll also have at the letter since it was sent to us on our side.

MS. EDER: I think my only concern was that it just might not get there.

CAPTAIN CHRISTENSEN: Right, you want to expedite.

MS. EDER: Yes, and I send copies to everybody for everything. It's just my nature.

CHAIRMAN DZUGAN: Any other discussion? Call for the question. **All in favor of the motion to send a letter to the Coast Guard with a CC to the House, Senate Conference Committee, all in favor say aye? (Chorus of ayes) Any nays? It passed unanimously. Okay.**

### **MOTION PASSES**

Any other things, motions, items people want to put on the agenda for discussion? Mr. Dameron?

MR. DAVIS: Regarding this, or anything?

CHAIRMAN DZUGAN: We're beyond this now and moving on to "anything."

## **MOTION**

MR. DAMERON: This has to do with the *Lady Mary* tragedy and also some of the talk that we heard yesterday about the delay time that may be present with the current EPIRBs in use and the technology that is now available. **I move that: "the Coast Guard phase in within five years a requirement for vessels required to carry EPIRBs that the EPIRBs must have an internal GPS or be interfaced with a vessel's GPS to download vessel position into the EPIRB so that the position data is transmitted when the EPIRB is activated."**

CHAIRMAN DZUGAN: Is there a second?

MR. MARTIN: I don't feel like I'm left out.

CHAIRMAN DZUGAN: Second, Jimmy Martin. I saw him first. Okay, discussion?

MR. MARTIN: I think it's an excellent move.

CHAIRMAN DZUGAN: Can call for the question then?

VOICE: Call for the vote.

CHAIRMAN DZUGAN: Call for the vote, thank you. All in favor signify by saying aye? (Chorus of ayes) Any opposed? Passed unanimously.

## **MOTION PASSES**

MR. DAVIS: Holy crap that one was – wait a minute. I haven't touched it.

CHAIRMAN DZUGAN: Let's make sure we have the wording down. We'll read it one more time just to make sure we're satisfied with what we got.

MR. DAVIS: I'm trying to –

VOICE: Mr. Chair, while they're doing that, do we have time to finish our travel orders in the hallway?

CHAIRMAN DZUGAN: We're going to go at 2:30 or sooner to election of officers. I probably have a few closing remarks by staff. Then we'll be doing our Deltas, travel –

MR. KEMERER: Plan our next meeting in Maui.

MR. MATTERA: Mr. Chairman, another motion please.

CHAIRMAN DZUGAN: Can we get the wording on this one down and we'll move on?

MR. DAVIS: She is not satisfied with my typing speed.

CHAIRMAN DZUGAN: You all want to fit in a little debrief of this before we go too, of the meeting, like we did last time? Do we need that? In the past meetings we've done a little roundtable debrief of how the meeting went, goals achieved, things like that. Is that okay? We can do that quickly. Maybe that's a good way to wrap things up.

MR. MATTERA: If we're going to have the meeting in Maui what we need to do is have 2 meetings a year.

CHAIRMAN DZUGAN: I suspect if the proposed rulemaking comes out we'll probably have another meeting before the end of this calendar year. During that comment period I'd hope –

CAPTAIN CHRISTENSEN: That would be our budget year?

CHAIRMAN DZUGAN: I'm thinking after October 1.

MR. DAVIS: I would like to add to what Fred just said. The OSHA's Maritime Advisory Committee meets three times a year, and there are a whole lot of conference calls. That's probably why I'm behind in a lot of my Coast Guard stuff.

CHAIRMAN DZUGAN: You're saying you're not being worked hard enough on this committee, Mr. Davis?

MR. DAVIS: That would be one way of saying it I guess, but that would be the way I'd say it. Okay. **Motion: That the Coast Guard phase in within five years a requirement for vessels required to carry EPIRBs that the EPIRB must have an internal GPS or be interfaced with the vessel's GPS to download vessel position into the EPIRB so that position data is transmitted when the EPIRB is activated. Motion by Tom Dameron, second by Jimmy Martin.**

CHAIRMAN DZUGAN: No problems with that? Then Mr. Mattera had a motion.

## **MOTION:**

MR. MATTERA: Yes. **I'd like to make a motion that NTSB, National Academies, or another third party conduct a review of Coast Guard SAR missions in the last 3 years and issue a report on ways the SAR process can be improved, with a special emphasis on the *Lady Mary*, the *Sea Tractor* and other recent events. This is requested in order to provide assurance of transparency to the commercial fishing community.**

MR. DAVIS: Second.

CHAIRMAN DZUGAN: Discussion?

Could you read that one more time, please? Sorry.

MR. DAVIS: As I think I've got it written here, Motion that NTSB, National Academies, or another third part conduct a review of Coast Guard SAR missions (Search and Rescue Missions) in the last three years and issue a report on ways the SAR process can be improved, with a special emphasis on the *Lady Mary*, the *Sea Tractor*, and other recent events. This is requested in order to provide assurance of transparency to the commercial fishing community.

CHAIRMAN DZUGAN: Discussion? Jake.

MR. JACOBSEN: Just a question. Are those audits done anyway? I mean, are there audits done of the search and rescue events, or are we just asking for an outside agency to come and do it?

CHAIRMAN DZUGAN: No. They do their own internal debriefings after a SAR mission. That's usually just done within the base. I don't know if they go up any higher than that.

CAPTAIN CHRISTENSEN: Other audits, for instance right now we're going through an audit, DHSIG is doing an audit on the marine inspection program right now. GAO has done audits of particular programs in the past. So it's something that occurs but usually for instance the GAO audit was convened by Congress, so I think the DHSIG audit there was an independent report done by Homeland Security Institute which indicated there were some issues with the marine inspection program, and so DHSIG is auditing us and trying to figure out what we're doing to improve that. There are things that generate the need for an audit, and that could come from Congress, could come from the department.

MR. DAVIS: To me, GAO and some of those other places when they do something it's an audit and it implies financial and fiduciary issues and those kind of things. NTSB or National Academies are able to select people from internal or external that can look specifically at issues on how to improve processes instead of –

CAPTAIN CHRISTENSEN: I'd say that either DHSIG (Department of Homeland Security Inspector General) or GAO can do the same thing. It isn't necessarily financial. Auditing our marine safety program, there was nothing financial other than what are your budget type things? That sort of falls into that category of the third party that you mentioned, so based on a decision there could be another government entity that takes an interest in your recommendation.

MR. DAVIS: It's open for selection.

MR. DAMERON: I think it's a good recommendation to pass on to the Coast Guard, and if they act on it, it can only help our search and rescue efforts.

MS. EDER: I'm not really familiar with what specifically will trigger an investigation or initiation of a review by the Inspector General. I don't know if it's a request from a member of Congress or if as an advisory body that we can ourselves request DHS, the Inspector General to do that kind of review. I think the first question is whether or not we want to do one, but also I'd like to know more about how a review of SAR procedures and/or incidents over the last three years, how that's initiated, if a specific complaint has to be made about a specific incident because I don't know if just saying "over the last 3 years" because some of those have been problematic to us as a fleet. I don't know that the time issue is necessarily relevant. I think we have to show some primo case if you will, or a particular reason. So who can trigger a review or an investigation and what's the minimum at least amount, or what's the justification for an agency agreeing to engage with us? And I'll stop there.

CHAIRMAN DZUGAN: Just looking at the motion again, I think in consideration of conversations we've had over the last 2 weeks and the first day by counsel, we are directing this motion at NTSB and the National Academies or third party, and our charter is to recommend to the Coast Guard that they, we're an advisory committee to the Coast Guard and so we reword that and direct that recommendation to the Coast Guard. In essence we're asking the Coast Guard to get a third party to look into their SAR and probably the proper channel should be done.

MR. DAVIS: So would you entertain a friendly amendment? Yes. The motion with the friendly amendment so that we are not violating our FACA.

**“Motion that we request to the Coast Guard that they request NTSB, National Academies or another third party conduct a review of Coast Guard SAR missions in the last 3 years and issue a report on ways the SAR process can be improved, with special emphasis on the Lady Mary, the Sea Tractor and other recent events. This is requested in order to provide assurance of transparency to the commercial fishing community.”**

MR. JACOBSEN: I'm wondering if this might be a little bit overwhelming if they receive this and maybe we'll get to our purpose if we restrict it to an audit of certain sectors or districts.

CHAIRMAN DZUGAN: Or to those two cases even?

MR. JACOBSEN: Or to those cases.

MS. EDER: I agree with Jake. I also have to say I'm not as up to speed about some people's concerns around the table. I have read about the *Lady Mary* and I've read the Inspector General's report re law enforcement and the Department of Commerce and NOAA. But the initiation of that investigation was not requested by the Department of

Commerce. NOAA didn't ask the IG to review themselves I don't believe, or their law enforcement division. I guess if we're asking the Coast Guard, if there's a dissatisfaction about what has happened in SAR, and again I don't the specifics other than what I've read in the trade papers, do we ask the Coast Guard to do that? And is this the committee to do it, or is it our congressional representatives that we want to ask to do it? I'm not opposed to the motion. I just want to make sure we figure out where it's going to go. I don't know the structure of NTSB. Maybe Alan or Mike can talk about NTSB and whether or not they do audits of other agencies. I don't know if the National Academy of Science will entertain this kind of review because my understanding, last thing I can remember about National Academy of Science doing anything regarding fishing was back in 1994 when they reviewed individual quotas. So while I agree with what you're suggesting, I'd just like to get a better footing on getting to the right agency as soon as possible and I think hashing out this discussion a little bit might, I hope, be helpful.

CHAIRMAN DZUGAN: I think in terms of that first thing is to try to make things specific and actionable, achievable, we're asking for an investigation of all SAR cases in the last 3 cases and that's huge.

MR. DAVIS: Review.

CHAIRMAN DZUGAN: Review. Okay, that's still big. If you're asking for it to be done on a sector that's still large, not as big. If your concern and focus are these two outliers we've had in the last couple years and want to target it on those specific incidents to help regain credibility in the fleet regarding those two incidents and not by inference bring into question all the Coast Guard's SAR resources, which I'm afraid would be more damaging than good, you might want to consider focusing on just those 2 incidents, the *Sea Tractor* and the *Lady Mary*. That's my observation on that. It would be different if they were sporadically happening all the time in all parts of the country, but that's not what I'm hearing, not what we observed.

MR. JACOBSEN: Mr. Chairman, I'd like to offer a friendly amendment to that effect, hopefully the maker sees it as friendly.

MR. DAVIS: Before we do, my thought and what we'd talked about with the idea is if you look at 2 cases that went bad or could have gone bad or there's questions, that's an investigation, and you are looking at 2 cases. If you look at a wider snapshot, you're not just looking at what went bad, but also what went good and learning from your successes and your lack of success. But if the feeling of the committee is that instead we should direct and confine it to a few cases, then –

Coast Guard: I have concerns that it's going to bring into question a much bigger group than is intended and do more harm than good. That's my only –

MR. DAVIS: Are you willing to? As the second I'm willing.

MR. MATTERA: -- Jake?

**MR. JACOBSEN: My friendly amendment was to restrict the request to those two vessels mentioned in the motion.**

MR. DAVIS: Are there any other cases that should be named?

MS. EDER: Captain Christensen may have answered this before, but let's say there's a SAR mission completed and someone is not happy with the outcome, whether of the report or of the actions or what's happened, if it's an affected citizen, or an advisory group comes to Headquarters and says we're not happy with this, is there already existing an external process? What is the process, if any, for an external group to review what has been done by the Coast Guard?

CAPTAIN CHRISTENSEN: Honestly I'm not entirely sure, and so I'd not want to hazard a guess. I know internally Headquarters looks at when things—because again the field is executing what our policies and procedures are, and if we feel there was a problem with the execution of the policies and procedures that usually is as a result of an investigation. So there are internal Coast Guard investigations that occur. If the case was a marine casualty that was investigated by the Coast Guard with NTSB there's a report that is published there. So there are opportunities for the public, I believe. I'm just not sure what the process would be to bring in any sort of external audit at this point, and I'd offer Jack or Mike has anything to say about that I'd welcome it, or anyone for that matter. I'm just not sure.

MR. DAVIS: Mike's sitting back there with his arms crossed.

MR. ROSECRANS: As part of a typical NTSB Office of Marine Safety investigation, the response is part of what we look at, and so we will look at the SAR preparedness, the execution of it and all that stuff. The NTSB, I talked about the products of NTSB, and typically you'd have a single ACSA investigation is most typical of what we produce. I talked about the forum yesterday, which is something different than that. It's a fact-gathering body. But the NTSB also does special studies, and they can be any particular topic they feel is worthy. For instance, some of you are familiar with the special study on fishing vessel safety the completed in 1987 just before the law passed. It went into looking at a number of fishing vessel casualties and drew some conclusions and made recommendations. The same thing could happen with SAR if the Coast Guard asked us to or if we found that our investigations of casualties had a common thread that needed to be investigated, or that perhaps we didn't have all the facts or there are commonalities there that showed a systemic problem. We'd have to either decide on our own to do it or we could do it if the Coast Guard asked us to do it.

As far as other bodies, the National Academies of Science has a transportation Research Board and a Marine Board part of that, and they could be commissioned to do a study. But you pay for those. They support other government agencies on commission, so if the Coast Guard wanted the Marine Board to take a look at SAR cases, best practices or any

of that stuff they could put together a statement of work and commission the Marine Board to do that.

As far as the IG and DHS, I don't know that the Coast Guard can initiate those or what the normal process is because that's generally above our pay grade and higher up in the food chain than the Coast Guard gets involved in.

Does that answer your question about the range of possibilities?

MR. DAVIS: I heard it's possible.

CHAIRMAN DZUGAN: Since these are just recommendations to the Coast Guard, the Coast Guard can decide to not adopt this, but maybe it would encourage them to do their own internal investigation more fully and completely which would still be a plus.

MR. O'LEARY: I just have a funny feeling that we're wasting our time a little bit. I know the families are putting a lot of pressure on for investigations. We read email about investigations already going on. So this letter, the families and everything else, there's a lot of people already putting enough pressure on the Coast Guard with this stuff. They know it's going to get done, and that's where it should come from.

MR. ROSECRANS: Mr. Chairman, the Coast Guard does have a mechanism for doing internal investigations, administrative investigations, and there's a whole manual of how they go about that stuff. They typically do it when they think they're going to be sued, but that could be used for some other purpose as well. In fact, with the *Patriot* case they did an internal investigation. I'm sure many of you read Admiral Papp's report of that with all the changes that are going to happen as a result of that investigation. So the Coast Guard has a mechanism by which they do improvement internally as well as having third parties do that.

MR. MATTERA: I understand where John's coming from, but I think as an advisory to the commercial fishing industry this will help to solidify it. We're acknowledging that there is a problem and we'd like to see it investigated.

MR. DAVIS: This is emphasizing on process improvement as well instead of wasting somebody's head.

CHAIRMAN DZUGAN: Let's move on and if you're ready to call for the question?

MR. DAVIS: Read it as it has undertaken its friendly modification?

**MR. DAVIS: Motion that CFIVSAC requests Coast Guard ask NTSB, National Academies or another third party to conduct a review of Coast Guard SAR missions for the Lady Mary and the Sea Tractor and issue a report on ways the SAR process can be improved. This is requested in order to provide assurances of transparency for the commercial fishing community.**

CHAIRMAN DZUGAN: Is that clear? Shall we call for the question? All in favor signify by saying aye? (Chorus of ayes) Opposed? One. Passed, 10 to 1. Thank you.

**MOTION PASSED**

Mr. Dameron.

**MOTION**

MR. DAMERON: New Business. **I move to reevaluate or that the Coast Guard reevaluate the effectiveness of satellite communication systems as acceptable communication substitutes for single sideband radios and refine communication equipment requirements if necessary.**

CHAIRMAN DZUGAN: Is there a second?

MR. DAVIS: Second.

CHAIRMAN DZUGAN: Discussion?

MR. DAMERON: I'll read it again? I move to reevaluate the effectiveness of satellite communication systems as acceptable communication substitutes for single sideband radios and refine the communication equipment requirements if necessary.

MR. DAVIS: How do those ladies in court keep up?

MR. DAMERON: Where this motion came from, I was getting a dockside exam a few weeks ago and they asked me how far offshore I went, and "75 or 80 miles you need a single sideband radio or an alternate means of satellite communication." I pointed to my SAT phone. He checked that off as filling the requirement for that. A couple days later I got a phone call on that SAT phone from one of my captains. He indicated that it had taken him over 20 tries to get through to me. So obviously this piece of equipment that is being substituted as a means to put out a Mayday in a lot of cases is basically junk. I think the Coast Guard should reevaluate what they are accepting as acceptable substitutes for the single sideband radio.

MR. DAVIS: That was exactly opposite of what I thought your intent was.

CHAIRMAN DZUGAN: I'm wondering, Tom, I'd feel a lot better about that if what you're asking to be reevaluated for satellite communication equipment was that equipment that was applicable to a marine environment to substitute for a single sideband. In other words, a lot of testing of satellite communication equipment is done terrestrially in a lab someplace, in a dry, warm atmosphere, and some of the problems that have come in the past even with EPIRBs are that they were not real-world tested or appropriate for a marine environment. One problem we have with cell phones for

example or the early, early EPIRBs. If we're going to go down this way and ask them to test things, it needs to be things appropriate to be used in a wheelhouse.

MR. DAMERON: So it would be "reevaluated in a marine environment?"

CHAIRMAN DZUGAN: I think the way you've got to say is, "reevaluate satellite equipment, proposing applicable to a marine environment as communication substitutes for single sideband radios." I don't know if that makes sense or if the committee agrees with that.

MR. O'LEARY: I know in our area there are allowing boat tracks to be the second communication. Most of the single sidebands aren't working. These guys are working 60, 70, 80 miles offshore or better, a lot of scallop, and their single sidebands not working and they are accepting the boat tracks.

MR. MATTERA: "Marine environment" isn't causing the problem with satellite phones. The problem with satellite phones is satellites. Global Star now owns basically the company that's covering, and I've had a satellite phone for 15, 16 years. First six years worked perfect. A couple of satellites went down, and we've been hearing for the last 10 years, oh we're putting more satellites on and you're going to come in line." There's many times where I just say, Hello, hello, and it's drop call, drop call, drop call. I've had incidences where I've tried to talk through them offshore because I couldn't get through on the sideband well enough, and I just can't do it. So to rely on a SAT phone at least in the Eastern Corridor, I don't know what goes on with Jim in the Gulf or in the West Coast which sounds like it works very well there, there is a problem.

Boat tracks, I'll give you a perfect example. Just before I left to come here, three days in a row Boat Tracks called me because my Boat Tracks was down. What happens is, somehow it misses positioning and it goes down and you have to reboot it. You have to actually shut it off, disconnect, reconnect it, turn it back on. I don't know why, but it took 3 days to get to me. So relying on those two pieces of equipment is just not appropriate right now.

MR. DAVIS: This motion perhaps say, "Failures of satellite communication systems and Boat Tracks have been reported.

MR. DAMERON: I think if they reevaluate what they are accepting as substitutes, they are going to find that out themselves.

MR. MATTERA: It's so bad that Global Star has dropped the price. I used to pay over \$200 a month. I have unlimited minutes for \$39.

MR. O'LEARY: I've got the same plan for \$20

MR. MATTER: Oh, \$29. Excuse me. It's \$29, unlimited, for \$29, because they got egg on their face.

MR. JACOBSEN: Mr. Chairman, I had for the last 2 years a satellite phone in my office and I regularly communicate with boats in the Bering Sea. And if they are turning on a pot, they lose reception. So just minor changes in the attitude of the vessel can interrupt service, and if somebody is having a marine incident where he needs to make a Mayday broadcast, I sure would rather have him do it on a sideband and make sure that somebody gets the call.

VOICE: I don't know if it was Jacksonville or previous meeting, but Bob Markle, former Coast Guard gentleman is operating the Radio Technical Committee. Could we, he's the guy. He knows this stuff like he eat and drinks and sleeps it. I don't know that we have, at this table the committee has recognized there's an issue, and I think we need to bring it to the Coast Guard's attention, but I think to solve it really it's a different technical field.

CHAIRMAN DZUGAN: Is that GMDSS Committee on Fishing Vessels? That would be seems like an appropriate place for that to go to. Thanks for bringing that up.

MS. HUGHES: Easy solution.

CHAIRMAN DZUGAN: They were at the last couple meetings.

VOICE: Bob Markle is a good guy, and he knows how to get that done.

MR. MATTERA: Should we send a letter to him?

CHAIRMAN DZUGAN: Through the Coast Guard again.

MR. DAVIS: Request the Coast Guard and the Coast Guard can tap their experts.

MR. DAMERON: Do I need to make that motion?

MR. DAVIS: When I said, does it need to be specified that 2 guys in the Coast Guard said no, they were going to send it to him anyway. Is that what I understood?

CAPTAIN CHRISTENSEN: What you'd do is recommend that the Coast Guard reach out to the GMDSS.

CHAIRMAN DZUGAN: With the motion as stated, you'll know that and with the minutes that we've just given. So I'm going to call for the question. All in favor of the motion, say aye? (Chorus of ayes) Any opposed? Passes.

**MOTION PASSES**

CHAIRMAN DZUGAN: Any other business, motions?

## **MOTION**

MR. DAVIS: There was one more that had been discussed earlier, **motion that the committee send a letter to the US Coast Guard chief of SAR Operations, whatever that title would be, expressing our appreciation for the men and women of the US Coast Guard that risk their lives to save the lives of our fishermen in their hour of need.**

CHAIRMAN DZUGAN: Second?

MR. MATTERA: Second.

CHAIRMAN DZUGAN: Discussion? Call for the question. All in favor, signify by saying aye? (Chorus of ayes) Opposed? Okay, passes unanimously.

MS. EDER: There was a previous motion that I voted against that I just wanted to explain why I voted against it. I realize I'm doing a Jake here. But it's not that I don't have serious and significant concerns as expressed by other members at the table. It's just that until I was clear about the actual mechanism that would trigger an investigation I was not comfortable in supporting the motion. And it's not at all, I certainly support the efforts of the Coast Guard as well as the concerns of the family and of the fleet in that district in regard to those incidents.

CHAIRMAN DZUGAN: Thank you.

MR. DAVIS: I think none of us at the table really know what the mechanism is, and that this is just sort of a first attempt to getting it started. From my part, my purpose in participating in it is simply to provide the third party transparency that I think the Coast Guard needs right now with these two events to clean up whatever it is that needs to be cleaned up and improve their reputation with those who feel that their reputation is besmirched. Does that make sense?

## **Having More Meetings, i.e. 2 or 3 a year**

MS. EDER: I have another matter. There was some side discussion about having more than one meeting in person a year and acknowledging, we were talking about the fact that these are expensive meetings to hold. I don't have any sense of what the budget is for this committee. But I do know that a number of people feel very strongly that we're not meeting enough to carry out our mission in the best way and most effective way that we can. But it's hard to address that without knowing what our budget is. What is our budget, is there a regulation in place that has to be changed? Are we only allowed to meet once a year, or what's the mechanism for changing that if it's affordable, all those things? I really feel that as a member of this committee that we could be much more timely, respond to issues much more quickly, get feedback from our community and

bring it to the table more efficiently and quickly and be more effective as a committee if we were able to meet actually really more than twice a year. I'd even be up to three times a year. Phone conferences are helpful for keeping updates and emailing is a tremendous way to communicate as well, but I'd like to see us have 2 or 3 meetings a year.

CHAIRMAN DZUGAN: Do you want to talk about that?

MR. KEMERER: We're required to call a meeting or have a meeting at least annually. As far as budget goes, this year we'll probably be well under budget because of where we're meeting and there are 5 members who aren't attending. But the dollar figures shouldn't come into play necessarily quite that much except that we do have to compete with other needs for funding and justify the amount that we're requesting and we'll get. We are going to look into other options for a meeting. We've done informational teleconferences to just update you on what's going on with the Coast Guard, not conducting any business. But there may be ways to actually conduct meetings teleconferences that could be open to the public as well. That's the key. If there's a meeting where we are going to conduct business, it's got to be a public forum where the public can tune into it and have access. So we are going to look into how we can do that, and certainly I agree that it would be much more effective if we met more than once a year.

MS. EDER: I appreciate you addressing that concern, but I really don't feel that teleconferencing – I think conference calls for information is good, but I don't think teleconferencing with providing access to the public is an adequate substitute for an actual in-person meeting. So my goal would be to ask appropriate personnel with the Coast Guard to give us a sense of what the budget is for this committee and what we've been spending and whether or not there's budgetary room to have 2 or 3 meetings in person a year. I've never been on a committee where I didn't see the budget information or not know where we were through the third quarter, something like that. I realize it's because I don't have experience on a government advisory. Well that's not true; I sit on the U.S. Arctic Research Commission, and I receive quarterly budget information, and we don't do anything but make recommendations. So that would help me. That kind of transparency would help me be a more effective member on this committee.

MR. KEMERER: Well, our budget line item, for this year our budget line item for the committee meeting is \$45,000. So when you take into travel and per diem for a week and hotel arrangements as needed, actually you can figure probably close to \$2,000 a person.

MR. DAVIS: For each of us and the staff.

MR. KEMERER: Correct.

CHAIRMAN DZUGAN: Lee?

MR. STANFORD: Mr. Chairman I was going to save this for my closing remarks, but we are about to get kicked out of this room so I'll say it now. I think we could probably

do a little better job of getting the committee members the information from the presenters prior to the meeting so that we can review it and then spend the face-to-face time with discussion and questions. Clearly we want and we need the information from the district coordinators and others that share with us, even some of Dr. Lincoln's information. But if I had that to read in advance then when I got here I could quickly get into it, and I think we could probably save half to three quarters of a day of presentations and get right to the meat of what we need to get done. I also think that a teleconference scheduled approximately 14 days prior to us meeting so we make sure everybody has seen and understands the read-ahead and to ensure everybody's in good shape to get ready for the meeting, I think teleconferences are an effective way to do a reality check of where we are, what we intend to get accomplished when we come to sit here. Clearly your agenda alludes to that, Jack, and it's well-prepared. But I think a teleconference is a great way to maybe iron out some things and really finalize the agenda before we show up. Thank you.

CHAIRMAN DZUGAN: Besides the read-aheads, can I just add to that, if things can be sent electronically from presenters ahead of time, that would be a big boon. But also the PowerPoints, you can print three of them on one sheet, and those are really helpful to have. I still have Mr. Rosecrans' PowerPoint on the proposed rulemaking from six years ago as a document. It's been shown that paper documents actually live longer than electronic documents, and I go back to that one quite a bit when I need information. That would be good to have too, have available at the desk for those who want it during breaks.

As long as we've entered this stage of debriefing, can we do that?

CAPTAIN CHRISTENSEN: Do you want to do election of chair and vice chair before you do that?

CHAIRMAN DZUGAN: I want to make sure we're done with the business before we go to elections and then debriefing. Any other business to discuss, take up? Hearing none, I'll turn the gavel over to the Captain.

## **ELECTIONS of COMMITTEE CHAIR AND VICE-CHAIR**

CAPTAIN CHRISTENSEN: So we've come to the time in our program for the election of the chair and vice chair of the committee, and so at this point I will open up for nominations for the positions of chair and vice chair. Currently we have Jerry as chair and Alan as vice chair. So I will now open to nominations.

VOICE: I'd like to nominate Jerry Dzugan as chair, Alan Davis as Vice Chair.

MS. EGAN: I second.

VOICE: I call for a vote.

VOICE: Second.

MS. EDER: All those in favor? (Chorus of ayes)

(Group laughter]

CAPTAIN CHRISTENSEN: So, okay, now, let's just take it down a notch.

MR. DAVIS: Robert just rolled over.

CAPTAIN CHRISTENSEN: The way I understand that is that we had a nomination and a second. Now didn't get the chance to get out any other nominations. Does anyone else want to nominate anyone else?

MR. MARTIN: -- for the job.

CAPTAIN CHRISTENSEN: Now that would enter into the discussion phase. But at this point, does anyone have any other nominations? Certainly we could move forward quickly if there were no other nominations, and I'm not trying to prejudice by saying that.

MR. DAVIS: That's why Jimmy moved to close it so fast.

CAPTAIN CHRISTENSEN: I saw that.

MR. DAVIS: That somebody might nominate him.

CAPTAIN CHRISTENSEN: Does anyone else have any other nomination?

MR. KEMERER: As a point of order, I think we need to do them separately.

CAPTAIN CHRISTENSEN: Okay. Then I'll read you, then we're redoing.

MR. KEMERER: Yes, sir.

I'd like to nominate Jerry Dzugan as chairman of the CFIVSAC Committee.

MS. EGAN: I'll second.

CAPTAIN CHRISTENSEN: Are there any other nominations? Think carefully now. Okay. So all those in favor?

MR. KEMERER: Is it closed?

VOICE: Move the nominations be closed.

MR. DAVIS: Second.

CAPTAIN CHRISTENSEN: All those in favor? (Chorus of ayes) Opposed?

**MOTION PASSES**

MR. DAVIS: Unanimous.

MR. MARTIN: (off mic)

VOICE: I'd like to nominate Alan Davis as vice chairman of the CFIVSAC Committee.

VOICE: Second.

CAPTAIN CHRISTENSEN: Any move to, any other? Any motion to close?

VOICE: I make a motion to close the nominations.

MR. MARTIN: Second the motion.

CAPTAIN CHRISTENSEN: All those in favor? (Chorus of ayes) All those opposed?  
Fred.

**MOTION PASSES**

MR. DAVIS: Fred wants the job. Give it to Fred.

CAPTAIN CHRISTENSEN: So the motions are unanimous, so we have for another year, am I correct in that assumption, for another year –

CHAIRMAN DZUGAN: Or until life leaves our body.

CAPTAIN CHRISTENSEN: Okay, which we hope is not between now –

MR. DAVIS: Assuming that I am reappointed.

CAPTAIN CHRISTENSEN: Again, that whole thing is in flux there. So I don't know. Congratulations or condolences are in order?

CHAIRMAN DZUGAN: Thank you.

CAPTAIN CHRISTENSEN: My work here is done.

MR. DAVIS: My great fear is that Jerry would be hit by a truck.

CHAIRMAN DZUGAN: And you will be driving it. Well, thanks to everyone for their help and cooperation and working with you. Good to work with you for two years now.

Personalities will change over time, but it's been again nice working with a consistent group for a few years. I think it makes getting up to speed a lot quicker and you build relationships during that time too, so understand each other's positions and backgrounds and experience, so thank you.

Shall we continue with a debrief for the meeting?

## **DEBRIEFING**

CHAIRMAN DZUGAN: Suggestions, ideas for next time? We've already had a few from Michele, but she can add to that. Maybe just starting with Jake. How were our goals and expectations met, exceeded or not met?

MR. JACOBSEN: I want to say I really appreciate the work that you do, Jerry and Alan as well, leading the committee. You do a great job. I really liked this meeting this year. I think we have a great group of people here, and I think I would have liked to have seen more time doing just what we've been doing today, discussing issues and maybe a little lighter on the presentations. I appreciate Leland's suggestion there. I think it would really be helpful some way if we could have a second face-to-face meeting, although I really don't have time to do that.

MR. DAVIS: None of us do.

MR. JACOBSEN: As far as where to meet next year, I hear Guam is pretty this time of year. I don't care. It's not the location that's important.

CHAIRMAN DZUGAN: Thank you, Jake. Michele.

MS. EDER: I'm wondering if it would be possible to, when motions are made to have the computer connected to that screen so that the motions can go up visually, and I think it would make it easier for Alan or whoever might be doing it, and for all of us to look at it. There were several times over the last two days that I probably would have been able to be more articulate or cleaned up my motion faster and you wouldn't have had to clean me up as much. That's just an administrative suggestion.

CHAIRMAN DZUGAN: I wonder if we have staff like Amy back there, if we can ask staff to do that. For several reasons: They are not engaged in the conversation and I know how you are writing you are deleted from the conversation, can't multitask too, especially if it's a woman. Men only have two fingers it seems like when it comes to typing. Maybe if we can use staff in the future for that if it's already set up. That would be nice too. Good suggestion. Anything else?

MS. EDER: No. 5

CHAIRMAN DZUGAN: Okay. Thanks, Michele.

Mr. Leland Stanford: I thoroughly enjoyed working with everyone as usual. This is my third term on the committee, and I feel like that there is progress being made. I especially am pleased that Jack was able to regurgitate where we stood on various matters from the previous meeting. I hope he will continue that trend. It's very important as a level of satisfaction and accomplishment that this committee is constantly reminded of all the good things that we've done and where they stand with regard to the Coast Guard. With the topic of multiple meetings, I don't think we're going to see that unless something urgent comes up that we need to have a second meeting. Just based on what I've seen over the years, just from experience, I think that's how it's going to fly. But we should make good use of the teleconferences that they do plan an important part in my opinion because we are able to get important information out to each other and go back and forth. It's much better than an email. It's the next best thing.

And finally in my communications subcommittee I am not apologizing for not making any motions during this meeting because I didn't feel that we concluded enough to make a motion. I don't want to just throw motions out just to say that the subcommittee did a motion. That's not the point. We want to provide good quality work, provide good quality recommendations to the Coast Guard. Communications is critical. There's a lot of electronic means of doing the communications today that the Coast Guard can pick up on. I need to spend some more time with Ensign Amy over there. She has an understanding. She's the first person I've talked to in the Coast Guard, civilian or otherwise, that has an understanding of how the data is really maintained and how it could potentially be disseminated. I'm not taking that as an improved route of dissemination, but I just need to understand it better in order to work with it. I'm willing to work with whatever you guys got and what you can do. Electronic is cheap, and rapid. So there are fishermen out there and fishermen's families out there that do not rely on electronic communications. We are providing for that, and I believe we're going to be able to work with that part of it. As I call upon you and I send you a list of industry stakeholders, please keep in mind one of the presentations Dr. Levin had, and that was think about who in your community is important to the fishermen. That's the guy's name I want the most. I know you know the crab fishers of Seattle and that association. That's easy. But Bob Johnson or whoever the guy's name is, the guy who is respected in the fishing community, those are really the movers and shakers that the Coast Guard needs to help us disseminate that information. So please keep that in mind when I send you round the list. Thank you.

MR. O'LEARY: I just appreciate being here. You know every day I'm listening to the fishermen and their problems and seeing different problems and having a way, a place to actually try to work on them where it might make a difference and talking to the commandant here and other Coast Guard guys, captain, talking to everybody and being able to actually sit down there and get my points across and get things going instead of just talking around the dock, and being able to think we're fixing things. I even know it goes too slow sometimes and that's tough sometimes when you know there's problems, but at least we got an outlet. This group is a wonderful group. We got a lot of diversity here, and I think we got a lot of talent. I think we can do a lot of good for fishery. I know we can. I know we are. And just getting together with all the different teachers

and learning all the time—I learned a lot, not only got some points across I needed to get across, and I feel a lot about. I also learned a lot. I just want to thank you for letting me be here.

MS. HUGHES: I appreciate very much being on this committee too and working with all of you, and it's always a good check I think for us to come together with the different issues that we have in our various regions and remind ourselves of what are the real concerns of the fishermen in each of those regions. I think Leland's suggestions for getting the district coordinators to give us their reports ahead of time is excellent and possibly some of Jennifer's reports, to shorten the presentation time so we can have more discussion time. I liked this meeting too because I know at first we were thinking there were no motions and we were not doing anything, but we cleaned up some of the tasks we had on the risk subcommittee meeting, so we could now concentrate more on some of these legislative, subcommittee issues, and the inspection plan is going to be a big one. I look forward to working with all of you on that.

I liked having Mike Rosecrans here from NTSB. I like it that NTSB is getting more involved in getting more expertise so they can do a better job with their investigative reports, and I liked having Dennis Hansford here and hearing his perspective with the observer issues. I think that was a plus, and I'd like to see them on the agenda in the future. And I especially like having Captain Christensen here. I feel like you give us your time and attention when you're here, and we haven't always had that. So thank you very much for that. And Jack, I think you're doing an outstanding job with managing the committee. I like working with you on this committee.

CHAIRMAN DZUGAN: Thank you. I'm going to skip to Alan.

MR. DAVIS: As always it's a pleasure working with the committee, and I really enjoy the relationships that I've formed over the years of working with the committee. It's nice to know that pretty much wherever I go in the country there's somebody fishy there waiting for me. I was really proud today that I managed to make a motion without Captain Ruhle throwing anything at me, but then I realized he wasn't in the room anymore. Maybe next time.

I look forward to working with the Risk Committee on getting some of our action items done, and I beseech you, I apologize that I'm so busy, if I don't get in touch with you within a week throw something at me and continue to do so until you get a response.

CHAIRMAN DZUGAN: Thanks, Alan. Fred.

MR. MATTERA: I feel the same way. I feel very fortunate to be an advisor on this committee. I think Jerry and Jack and Alan do a great job in informing us and try to keep us on task. It takes everybody's effort to make this happen, and sometimes I see emails going back and forth, but I only see 2 or 3 people responding. Sometimes I'm not one of those two or three people as well because we're all very busy. But there seems to be very good communication. I think there is a little room for improvement. I agree with Leland,

and I'd like to be able to spend more time as a forum here in the committee trying to be more constructive. I'm like John, as a fisherman I don't go to see that often. I still have a boat but I do an awful lot of training and I listen to an awful lot of good and bad. There's a lot of positive, there's a lot of negative, and this is a way for me to bring that to a forum and try and act constructively, come out of this in a constructive fashion and then bring it back to the industry and let them know how we're moving ahead.

As far as meetings go, yes, I know we have budget restrictions and all, so I may send an email out with a motion requesting that we go to Newport, Oregon, and have the next meeting there, Michele cooking dinner. If we were to have another meeting, that would be fine, that would be great. If we don't, I'd like to see, and maybe this is happening and I just don't see it because I'm behind the scenes—a better outreach to the industry. This bothers me immensely. I know there are fishermen around here, and they just don't seem to attend. I'm not familiar with this area, so maybe there are thousands of fishermen here and maybe there aren't. I'd like to see us target ports like New Bedford or Cape May, Seattle, areas there where we know there are fishermen. I love the network we have here, I love the cross-section and the passion all you as advisors have, but boy nothing can stir it up more than having Jimmy Ruhle here and 10 or 12 others right behind him. Just as passionate. It really hits home. He really, I think sometimes, opens our eyes.

So looking forward I'd like us all to start to dwell on the fact that at some point we're going to have to improve training and education. We're going to have to reach out to this industry. We're talking about equipment and safety equipment, and I think that's paramount, I think it's excellent. But you can have all the equipment in the world on that vessel and if you don't know how to use it and work together as a team, what the hell good is it? So at some point we need to start to consider where are we going with training and education? Thank you.

CHAIRMAN DZUGAN: Thank you, Fred. Tom.

MR. DAMERON: I'd like to echo something that Jake said about it seemed like the funniest part of the meeting was when we were bouncing the ball back and forth here at the end. I think it would be productive, especially from public point of view, if we did a little more of that before we lost those in the audience. I know personally it helped me that I looked through the CFRs before coming into the meeting and identified problems that I saw and with the fire extinguishers. You know, if we come to meeting with those things already in mind I think that's helpful.

As far as, I'd like the committee to keep in mind that during this process there is a comment period, and we'd like to encourage everybody that when those comment periods come up to take full advantage of those and comment proposed rulemaking. We can get our opinions out here and we can drive it home in those comment periods.

I enjoyed the meeting very much. Thank you.

CHAIRMAN DZUGAN: Thanks, Tom. Cathy.

MS. RUHLE: Well, I've been on this committee a long, long time, and I've enjoyed every moment of it. I've never had it come to a meeting that I haven't really learned something. Most of the time Jimmy is with me, and I think he does have a lot to offer because he's very compassionate about the industry. He has a lot of knowledge. He sat on the council for 9 years. I'm not defending him. I know that he's a little rough around the sides when he makes his point, but people hear him. That's the important thing. And I really think that Cape May, New Jersey would be the place to have the most fishermen to attend a meeting on the East Coast. I don't know anything about the West Coast so I can't make any recommendations over here, but I am in Cape May a lot myself. Our boat is there a lot. And the Axelsson's are there and they will certainly be there, Lars and Danny. I think as I always have that this group has a lot of potential to help commercial fishermen and to help the Coast Guard. I just appreciate being part of it.

And I do have a request that at the next meeting that all of us sitting with our back to the screen get to look at it face-to-face. Thank you, and safe travels home for everybody.

CHAIRMAN DZUGAN: Thank you, Cathy. Jimmy.

MR. MARTIN: Well, it's an honor for me to sit on this committee. I think we've accomplished a lot in the last 3 days. Of course I'd like to see a lot more accomplished, and I'd like to see it accomplished about 4 times a year. I'm greedy. I think one thing I'm real happy about is to see we're going to expand the examination or try to, to more than what we have. We've been sitting at this same point now for 18 or 20 years when I came on here. I felt like hull and rigging was important to me, and I still think it's important. Of course annual examinations I think is a definite must, no two ways about it. Every 2 years you're going to check equipment once every 2 years unless somebody stops you and says you got to do it. But if you have to do it annually that would be important to me, and hull and rigging is still very important to me. I see that's where most of our accidents happen in the Gulf. We probably aren't reporting to 15 ton blocks pulling out of the rigging and shackles breaking and stuff like that. That's important to me, so I'm glad to see we're looking at least towards the hull now and maybe the rigging will come later. Everybody have a good trip home.

CHAIRMAN DZUGAN: Thank you, Jimmy. To wrap this end up, I want to say also it's an honor for me to be involved with the committee as long as I have been and to work with you as the chair or just as committee member. I value all of you and my relationship with all of you and I think it's really important we've built this relationship over some of the "nots." I don't want to say there are ever easy times in the industry, but it really helps us when we have to come to difficult decisions that we may have diverse opinions about to know that we have a level of mutual respect, and I think we have that. It makes it a lot easier to not take it personal and to see there are just different views of things.

We've had 30 meetings in 20 years, about a meeting every 9 months, and I've observed those meetings happen with more frequency the more proposed rulemakings come out, and the more the Coast Guard requests our advice. There are going to be more infrequent

meetings when the Coast Guard does not have that burning need to get advice from us even though we may want to give it. So that's going to ebb and flow I think, and I see this again the last year or so as an education phase for us to get up to speed on issues because we're going to have regulations to deal with again and it's going to come pretty fast and furious. I do want to note though on the record that it has been 30 meetings without a meeting in Alaska, and I don't care where we have at the meeting really. But the timing of the meeting is important. I'd hope the next meeting is within the proposed rulemaking period for the proposed rules when they finally come out so we can have direct input into those. I think that would be effective.

But at some point Alaska gets cited for all these fatalities and all these cases and produce half the seafood in this nation, and it's got some unique characteristics, and I'd sure as hell hope that we get a meeting up there at some point so we can see that part of the fleet that we just talked about so much but we never get to see.

MR. JACOBSEN: I've got connections at the Grand Aleutian.

CHAIRMAN DZUGAN: Anyplace but Anchorage and Juneau would be a fine site as long as it's on the coast. Anyway, I'm done with that.

I think it's important that in between meetings since we have time between meetings sometimes, that we have those champions of those tasks and that they follow up on it and that they have backups to remind them to produce things. Otherwise, we are revising the same tasks a year later and we've forgotten where we're at. So let's keep that up and keep the recordkeeping going on those things so we don't lose ground on them.

I want to thank Coast Guard staff. I want to thank Jack. Jack has just been the best to deal with. Whenever I call, he is there. There's the chair. I think if ever you call, he is also extremely responsive. I try to be the same, and I think we have a good relationship with that. I also want to thank the captain also for being here and being involved and being engaged, participating. We don't always get that from either one of your two staff people, but we've got it now and that feels really good. It makes it feel like it's worth my time.

We realize when we hold a meeting that we're asking the most valuable thing of you that you can provide, which is your time, not your money or anything else but it's really your time which is limited. We're all busy, have active lives, so we want to make that valuable and useful.

I want to second again having NTSB and the National Observer Program here and other agencies, is really important to keep that communication going. I greatly value your company and working with you and sometimes you're even a lot of fun, so thanks a lot.

Before we leave that, I want to know if we need to chip in any money for these snacks before we leave. Are we okay on that or do you need us to pass the hat?

MR. KEMERER: We're okay.

CHAIRMAN DZUGAN: Okay. I'll turn it over to you guys.

## **PLANS FOR FUTURE**

MR. KEMERER: I do have some words towards the end, and I appreciate your kind comments and trust in me for coordinating the activities here, and I do have to say, I send Jerry an email. I don't know if you forward that to everyone or not. I think I needed to eat some crow for the meeting because looking back over the minutes from the last meeting we promised we'd get things out quicker, ahead of time, and briefing materials ahead of time. That didn't happen, so I am remiss in that, and I will strive to improve and make it better for the next time. So in light of that, I appreciate the kind words, and I will try to improve that.

And I appreciate the comments, Lee, about the information ahead of time that the meetings, extra meetings and all that, the recommendations scorecards, so I have a lot of things here that I noted that I can do to improve the follow-up from the meeting in preparation for the next one, whenever we do it. Since I do have some more help on staff now, I fully expect that we will be able to post all the presentations and other things; and the minutes we can do that electronically to get them approved so that can be posted in a much quicker time than from last meeting.

I note that I owe you a number of things, so again if you don't get these things from me in a short order remind me and I'll make sure I get them out. But posting the items to the website, you ask about the decal terms, validity for decals and resolving that within the Coast Guard, fire extinguishers information and guidance on that, not just for you but for the coordinators and examiners out there so they have that. And the issue about the SOLAS 10 suits, the pre-SOLAS 10 suits, whether they will continue, is there a mechanism for them to continue to be sold or not and used. Exam forms for you and the boarding officers' thing.

For this meeting again, from some of the comments, I realize we were probably very top-heavy in presentations. Every one of those presentations I think was probably valuable and very informative for us, but there might be ways we can get some of that information ahead of time and pass out. If we go to a second meeting or a teleconference in there, maybe we can put something as only having a very few presentations and do strictly business. So I'd ask of you for future meetings, what topics specifically would you like to have presented and specific presenters, and we can tailor it much more so we have more time for subcommittees or dealing with issues at hand within the whole committee. And we will continue to pass that out through Jerry or directly to all of you.

So I expect to be in constant communication with you as we go along. Likewise, don't be afraid to give me a call and I know several of you have called me and emailed me about an issue that's come up with you out in the field. I hope I've responded timely to that. So next meeting we will work on a location but several people have talked with me about it and Cape May, may be a very good location because of the fleet size there and all

the activity and as Mr. Ruhle has mentioned the Mid Atlantic, that area is a high interest area, so that could be a very good point for a meeting. And we are due to go back to Mid Atlantic Northeast anyhow. We've been moving around the country, so it's time to get back there. So we will look at that, and anyone has suggestions, let me know. I may call on you if some of you with local knowledge.

So with that I think I've probably said enough. Thank you for your time and attention here and kind words like I said, and I look forward to keep working with you.

CHAIRMAN DZUGAN: Captain.

CAPTAIN CHRISTENSEN: This is my third meeting, and that might very well be an office chief record for having the same office chief for three meetings in a row. I think the difference between this meeting and the previous ones and what I have to do really is to start off with an apology. This thing is evil, and it really should have just gone into the estuary as soon as I showed up. The unfortunate thing is, when you have a burning and sunk oil rig in the Gulf of Mexico and my responsibilities are not only to commercial fishing vessel safety but to domestic vessel compliance, foreign vessels operating on our waters, and mariner licensing. There's just way too much going on. So I do want to apologize. This group energizes me every time that I meet with you, and the ability to focus is tremendous. And so I just feel like I was taken away from that a little bit this time, and I will do better next time because all indications are that I will be at a fourth Advisory Committee meeting next year. So barring any unforeseen circumstances.

But again, just the ability, really commercial fishing vessel safety at this point is that area of the commercial industry that we can have the most impact. It's not inspected, yet we've got regulations in place. And there are ways to improve, and I think the committee really did start to look at ways to get off to dead center where we have had these regulations in place, probably done everything we can do voluntarily, and I think it's time to move forward.

I heard, and I want to get a feel, it appears we didn't really have enough time for the subcommittees. I think the subcommittees might have been a little rushed, and given the opportunity to have breakouts and have meetings and then to reconvene and present, I think we'll try and build that into next agenda wherever that may be, Alaska or Cape May.

So and I guess the way I want to end this is, I just want to thank Jerry for his leadership. I think the meetings run very well with you as the chairman. Again, congratulations on your reelection again. You certainly have an able vice chair to be able to assist you also. I just want to thank you. That's really all I have, and I wish everyone safe travels back to their homes.

CHAIRMAN DZUGAN: Before we call for a motion to adjourn, one thing we should note, the district coordinators reports are usually of great interest, but they always run about an hour and a half over. We do really good up to that point in the meeting, and

then after that – and we don't want to shut them off, but it would be good to give them more of a timeframe and give them more time so they can give a full report. I think that would be a big addition to this. So then by the time we got to subcommittee meeting we weren't in this time management problem. So if we can note that for the meeting, I think that would be good.

MR. DAVIS: There should be a prep though because a lot of the things we wind up working on are things we've learned.

CHAIRMAN DZUGAN: Absolutely, before the subcommittee, and still before the subcommittee. It's good that we get information first and then break into smaller groups and do some work and make decisions.

VOICE: I mentioned this one other time, to have presentations done during lunch. If we're going to pay \$10 for lunch anyhow, it could be brought to us from the hotel, and we could have lunch and watch. Watch and learn. I do that at other Eastern conferences.

CHAIRMAN DZUGAN: Sometimes we also just need to get out. A lot of the work that gets done is walking down the street and in the restaurant, when people talk more informally. In the halls of justice, as Lenny Bruce said, the only justice is in the halls, and a lot of the work gets done in the halls. So okay. Any other comments?

I forgot. You laughed the loudest at that one and you'd know the best about it, Michele. Do we have anything else before we entertain a motion to adjourn?

## **DISTANT TUNA WATER FLEET UPDATE**

MR. DAVIS: I think I did have a question we didn't talk about. Either Jack or Captain Christensen have anything that's an update on the Distant Water Tuna Fleet and what's happening with them? I saw there was a flurry of activity after our last meeting. We stirred the pot. Where's the pot now and what's happening?

MR. KEMERER: It has settled down. There were some things earlier on about extending the exemption or making the exemption permanent on them, but as far as I know nothing's gone through and it doesn't appear there's anything in the authorization bill on that. So if they're going to incorporate into something else, I don't know.

CHAIRMAN DZUGAN: If something's going to happen, my read is that House/Senate Conference Committee is going to be a great place for somebody to drop an exemption in for them again. That's where it will be done.

MR. DAVIS: Depending upon the feeling of the committee, I've sort of taken great personal offense at the way that fleet is conducted. To update the committee, after we met and sent the letter to the Coast Guard, gotten everybody about our hate and discontent for what we'd seen, there was almost immediately, I think before the letter even got to Washington, DC, part of that fleet called District 14 and requested a meeting

to see how we could all get along, part of that fleet. I think that may have been spurred by me trying to find some facts, and suddenly there was a flurry of activity. Something else that came out of it is, I had two captains that had served in that fleet come to me and are now registered with NOAA as informants. And the stuff that I learned from them was human rights violations, deplorable conditions on the vessels, basically being confined to quarters or told to stand in a corner and shut up. The thing that NOAA really got excited about was setting on whales and killing whales. One of them said he'd seen a couple of them consumed. And transloading or transferring of product in dark places in far off unwatched spots. So there's some activity going on within NOAA, but I don't know when and where anything is going to happen.

CHAIRMAN DZUGAN: Do you have congressional representatives you can contact about that fleet? It would be a good time to contact them and especially if they are on the House/Senate Conference Committee, and remind them it's an ongoing problem. I know somebody's going to be trying to slip that back in again.

MR. DAVIS: I wonder if in this letter that we have a motion to send to that committee between the House and Senate that tried to rectify everything, does this committee want to slip in something about the Distant Water Tuna Fleet?

CHAIRMAN DZUGAN: We already have a letter that we have sent and so informationally as we have talked about this we could resend that to people on that committee without having to worry about other Advisory Committee stuff.

MR. KEMERER: If you want to do something like that, that's your decision, but I think the concerns and interest about the safety involved with the tuna fleet and other issues that have come up have been pretty well addressed, and staffers know our position and what we'd like to see out of it, and I think it's covered.

MR. DAVIS: Hit them again. I keep expecting them to wake up with a tuna hid in my bed now.

CHAIRMAN DZUGAN: Any other business?

VOICE: Motion to adjourn.

MR. DAVIS: Second.

CHAIRMAN DZUGAN: All in favor? (Chorus of ayes) Opposed? Passed. Good to see you all again. Good travels. Take care of your travel stuff with Amy. Don't forget Amy.

**[The meeting was adjourned.]**