

UNITED STATES COAST GUARD

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GREAT LAKES PILOTAGE ADVISORY COMMITTEE

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GLPAC ANNUAL MEETING

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MONDAY
SEPTEMBER 10, 2018

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The Committee met at 230 N. Point Street, Cape Vincent, New York, at 8:16 a.m., Captain Dan Gallagher, Acting Chairman, presiding.

COUNCIL MEMBERS PRESENT

DAN GALLAGHER, Acting Chairman

JOHN BAKER

VINCENT BERG, Alternate Designated Federal
Official

JOHN BOYCE

STEVE FISHER

RAJIV KHANDUPUR, Designated Federal Official

MICHAEL KLEIN

JOHN SWARTOUT

OTHERS PRESENT

**TRACI SILAS
FRED DEICHERT
PAUL TOTH
BILL YOCKEY
TODD HAVILAND
CLAY DIAMOND
JOHN NADEAU
SYLVESTER SOLANKI
ROBERT LEMIRE
MICHAEL BROAD
JACOB NAVARRO
DAVID GRIEVE
TIM BROWN
STUART THEIS
GEORGE HAYNES
DON METZGER**

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1 P-R-O-C-E-E-D-I-N-G-S

2 8:16 a.m.

3 MR. KHANDUPUR: All right. Good
4 morning, everybody. I welcome you to our 2018
5 convening of the Pilotage Advisory Committee
6 meeting here. Thank you all for giving up your
7 Sunday to come down here. This is the only day
8 that we could get everybody on their calendar to
9 make it, so thanks.

10 Also, before we get into this, I'd
11 like to thank Captain John Boyce for giving us
12 this facility. The members requested to come up
13 here, and I thought it would be a good
14 opportunity to see what District 1 folks have
15 been doing with all of the facilities they've
16 upgraded recently; it's a good opportunity to see
17 that.

18 I'd like to turn it over to Captain
19 Boyce, if you can give us some administrative
20 remarks, bathrooms, talk about where we need to
21 go.

22 CAPTAIN BOYCE: Okay. Well, of course

1 we have to have a meeting with 50 people instead
2 of a meeting with four people at it. There's two
3 bathrooms; one right at the base of the stairs.
4 Then at the top of the stairs, there's another
5 door up there. Then to get out, if we need to
6 for any reason, there's a double door right back
7 there. There's actually a double door behind
8 this screen, then the door where you came in back
9 over there.

10 We should have iced tea, coffee,
11 water, and soda back there. We're at Labor Day,
12 so nothing is open in Cape Vincent, so we've got
13 lunch coming in at, I think, 11:30 or noon,
14 otherwise, everybody's heading back to Watertown
15 to get something to eat. I think that's about
16 it.

17 MR. KHANDUPUR: Okay, great. Thank
18 you, John. So we're just going to introduce the
19 members, and then I'd like to go around the room.

20 We have lots of people here today, a lot more
21 people in the audience than we have in the
22 committee, so I think we need to introduce

1 everybody.

2 I'm Rajiv Khandupur; I'm the DFO;
3 that's the Designated Federal Official for this
4 Great Lakes Pilotage Advisory Committee.

5 CAPTAIN GALLAGHER: I'm Dan Gallagher,
6 president of District 2 Pilots' Association.

7 CAPTAIN BOYCE: I'm John Boyce,
8 president of District 1.

9 MR. SWARTOUT: John Swartout,
10 president of Western Great Lakes Pilots'
11 Association, District 3.

12 MR. FISHER: I'm Steve Fisher; I'm
13 executive director of the American Great Lakes
14 Ports Association, and for strange reasons, I am
15 the vessel operator representative here today.

16 MR. KLEIN: I'm Mike Klein; I'm a
17 chartering manager for CHS, a grain company in
18 Minneapolis, Minnesota.

19 MR. BAKER: John Baker, Jr. with the
20 ILA.

21 MR. BERG: Vince Berg; I'm the ADFO
22 today, assisting Rajiv, and I'm with Great Lakes

1 Piloting.

2 MS. SILAS: Traci Silas, good morning.
3 I'm senior attorney, Secretary's Office, director
4 of all federal advisory committees.

5 MR. NADEAU: Hi, John Nadeau. Good
6 morning, Assistant Commandant for Prevention
7 Policy, here visiting with you, and I'm happy to
8 be here instead of Coast Guard headquarters this
9 morning.

10 MR. HAVILAND: Good morning, Todd
11 Haviland; I'm the Director of the Great Lakes
12 Pilotage. I work out of headquarters in D.C.

13 MR. THEIS: Good morning, I'm Stuart
14 Theis of the United States Great Lakes Shipping
15 Association.

16 MR. BROAD: Michael Broad, President,
17 Shipping Federation of Canada.

18 MR. ALLEN: Good morning, Chad Allen,
19 Shipping Federation of Canada.

20 MR. GRIEVE: Good morning, David
21 Grieve, Fednav International from Montreal.

22 MR. SWARTOUT: Torin Swartout,

1 Spliethoff in Richfield, Connecticut.

2 MS. SWARTOUT: Good morning, Katie
3 Swartout; I'm an attorney with McCranie Sistrunk
4 in New Orleans.

5 MR. GUIMOND: Hi, good morning. I'm
6 Christopher Guimond, Director of Lock Operations
7 for the U.S. Seaway in Massena, New York.

8 MR. AUBRY-MORIN: Jean Aubry-Morin,
9 Vice President, Canadian Seaway from Cornwall.

10 MR. DEICHERT: Good morning, I'm Fred
11 Deichert; I'm CFO of Midwest Terminals of Toledo.

12 MS. NEMETH: Good morning, I'm Laura
13 Nemeth with Squire Patton Boggs, Counsel to
14 Midwest Terminals.

15 MR. JOHNSON: Alex Johnson, president
16 of Midwest Terminals.

17 MS. NUNAN: Joanna Nunan, the District
18 Nine Commander.

19 MR. TOTH: I'm Paul Toth; I'm
20 president and CEO of the Toledo-Lucas County Port
21 Authority.

22 MS. BEACH: Good morning, Amy Beach

1 with the Coast Guard's 9th District.

2 MR. TANTILLO: Good morning,
3 Christopher Tantillo, 9th District Prevention.

4 MR. SOLANKI: Good morning, Sylvester
5 Solanki from Petro-Canada.

6 MR. HUCK: Good morning, Jason Huck,
7 director of Global Supply Chain, HollyFrontier.

8 MR. SCOTT: Hi, I'm Ari Scott; I'm
9 with the Coast Guard Office of Regulations and
10 Administrative Law.

11 MR. METZGER: Good morning, Don
12 Metzger, senior pilot with the St. Lawrence
13 Seaway Pilots' Association. Welcome to our home
14 here in Cape Vincent.

15 MR. BROWN: Good morning, I'm Tim
16 Brown. I'm the chief of the Rig Development
17 Shop, Coast Guard headquarters.

18 MR. PAVILONIS: Good morning, I'm Tim
19 Pavilonis; I'm with the Coast Guard's Office of
20 Maritime and International Law.

21 MR. HAYNES: George Haynes, Pilot with
22 Lakes Pilots Association District 2.

1 MR. BAKER: Mike Baker, ILA.

2 MR. YOCKEY: Bill Yockey, ILA, Trustee
3 of Local 1982 in Toledo.

4 MR. LEMIRE: Good morning, Robert
5 Lemire, Great Lakes Pilotage in Canada.

6 MR. BISSONETTE: Stefan Bissonette,
7 Great Lakes Pilotage in Canada.

8 MR. GULLO: Good morning, Ben Gullo
9 from Coast Guard headquarters.

10 MR. DIAMOND: I'm Clay Diamond with
11 the American Pilots' Association; it's the
12 national trade association for the piloting
13 profession in the U.S.

14 MR. WITHINGTON: And finally, Dewit
15 Withington; I'm vice president, District 1.

16 MR. KHANDUPUR: Okay. Before we move
17 on, I have Admiral Nadeau here with us, so I'd
18 like to open it up to him to make some remarks.
19 Admiral, would you like to come up here?

20 ADMIRAL NADEAU: I'll just stand here
21 if it's okay. First off, again, good morning to
22 all of you. It really is a pleasure to be here,

1 and let me start by thanking Captain Boyce for
2 offering his facility.

3 I grew up in Maine, and as I was
4 driving up here -- I don't know about you, but
5 that serene feeling of just rolling down, seeing
6 the fields, the deer here or there; some guy had
7 his hovercraft in his front yard, but it's really
8 a joy to be here, so thank you for allowing us to
9 use your facility. Also to the good captain
10 here, chairing the meeting, and my team for
11 helping to pull this together.

12 These committees -- I think we either
13 have 11 or 12 that Prevention deals with, and so
14 I have two others this week, oddly enough. I
15 said, I want to get to all the FACA meetings that
16 we have within Prevention, Coast Guard, and three
17 this week.

18 But these are a joy, an opportunity
19 for us to hear from you. This is your meeting;
20 this is your opportunity to tell us anything we
21 need to know, all we need to hear. Your ideas,
22 your thoughts, your comments, your reports, your

1 suggestions, for what we need to take on board to
2 make sure that we're serving you, all of the
3 stakeholders.

4 So this is incredibly valuable for us
5 because we have all the stakeholders here, and I
6 invite you to please ensure that you participate
7 today so we can walk away a lot smarter than we
8 came into this room this morning.

9 In particular, I look at this agenda,
10 and it is chock-full of things to talk about.
11 I've had many different folks, since I've been in
12 this job now for just about over a year, and as
13 one of the first introductions I had -- many of
14 you come to visits in Washington and give us a
15 lot of feedback. And at that time, I think I
16 committed to working with you all as you came
17 into my office to try to improve the system.

18 But I said, We need to do it through
19 this forum. This is the forum that's set up;
20 this is the forum where it's transparent. We can
21 collect all the information and together work to
22 improve the system that we all need to have.

1 When I look at the goal today, it's to
2 walk out a little smarter. But the overall goal
3 is really -- and I think it's shared by all of us
4 -- is to have that safe, efficient, reliable
5 pilot services on the Great Lakes, which thereby
6 can facilitate effective movement of goods and
7 people in the Great Lakes, and then thereby help
8 ensure that the economy has what it needs.

9 So that is the goal and our objective;
10 I think we all share that. So I'm excited to be
11 here, thankful for the opportunity to participate
12 and to sit down and listen and get a little
13 smarter here; hopefully, a lot smarter, because
14 you are the experts. We are not.

15 So I am listening intently today to
16 understand the issues and take that back, because
17 our charge is to take information from this body
18 before we take any significant actions. So I'm
19 here to learn and get smart, and then we take
20 that home with us.

21 Thank you all for being here; I look
22 forward to working with you all. I'll be here

1 for most of the day; I've got to leave a little
2 early to get down to Houston tonight, but if you
3 have a chance during lunch or breaks, please, I
4 want to say Hi to you. Thank you. Thanks,
5 Rajiv.

6 MR. KHANDUPUR: Thank you, Admiral.
7 I'd like to recognize Mr. Mike Klein as our new
8 member. You've attended a meeting, but that was
9 a phone meeting, so I don't think you've had
10 face-to-face meeting. So one of the things that
11 we do at this time is to take an oath, if you
12 don't mind, sir. Just raise your right arm and
13 repeat after me.

14 I -- state your name --

15 MR. KLEIN: I, Mike Klein --

16 MR. KHANDUPUR: -- do solemnly swear

17 --

18 MR. KLEIN: -- do solemnly swear --

19 MR. KHANDUPUR: -- that I will

20 faithfully execute the duties --

21 MR. KLEIN: -- that I will faithfully
22 execute the duties --

1 MR. KHANDUPUR: -- as a member of
2 Great Lakes Pilotage Advisory Committee --

3 MR. KLEIN: -- as a member of the
4 Great Lakes Pilotage Advisory Committee --

5 MR. KHANDUPUR: -- and will do, to the
6 best of my ability --

7 MR. KLEIN: -- and will do, to the
8 best of my ability --

9 MR. KHANDUPUR: -- fulfill and carry
10 out --

11 MR. KLEIN: -- fulfill and carry out
12 --

13 MR. KHANDUPUR: -- the policy and
14 purposes --

15 MR. KLEIN: -- the policy and purposes
16 --

17 MR. KHANDUPUR: -- of the Federal
18 Advisory Committee Act.

19 MR. KLEIN: -- of the Federal Advisory
20 Committee Act.

21 MR. KHANDUPUR: I take this obligation
22 freely --

1 MR. KLEIN: I take this obligation
2 freely --

3 MR. KHANDUPUR: -- and without mental
4 reservation --

5 MR. KLEIN: -- and without mental
6 reservation --

7 MR. KHANDUPUR: -- or purpose of
8 evasion.

9 MR. KLEIN: -- or purpose of evasion.

10 MR. KHANDUPUR: So help me God.

11 MR. KLEIN: So help me God.

12 MR. KHANDUPUR: Thank you, sir. All
13 right. Now, there are a few remarks that I'm
14 required to make, which I will go through here.
15 So for the record, the Great Lakes Pilotage
16 Advisory Committee was established on November
17 13th, 1998, in the Coast Guard Authorization Act
18 of 1998.

19 GLPAC's charter was last renewed for
20 two years on January 4th, 2017 under the
21 authority of 46 USC Section 9307, to make
22 recommendations to the Secretary on matters

1 relating to Great Lakes Pilotage including review
2 of proposed Great Lakes Pilotage regulations and
3 policies.

4 The U.S. Government establishes
5 advisory committees so that non-governmental
6 citizens can provide advice and input to the
7 Coast Guard on specific issues. We expect this
8 committee to provide us with its candid opinions
9 and feedback on all Great Lakes pilotage issues.

10 We welcome all legal and ethical
11 recommendations from the committee, because that
12 tells us that the right support for a certain
13 course of action that makes our job a lot easier.

14 But having said that, understand --
15 and I said this earlier on -- understand that
16 even if you can't reach consensus on a particular
17 issue, the fact that it was discussed here in a
18 public forum alerts us as to all the factors
19 surrounding the issue.

20 So we have a court reporter who is
21 transcribing every word of our discussions, and
22 at the end of the day, no matter what, any

1 regulatory changes that are made, whether they
2 are recommendations or they're discussions, they
3 all have to go through a public scrutiny process.
4 They all have to go through the Administrative
5 Procedures Act, where you have Notice of Proposed
6 Rulemaking. You get an opportunity to comment
7 there as well.

8 So I would encourage you to discuss
9 and, like I said, even if you can't reach a
10 consensus, the discussion itself is very, very
11 tangible. So thank you.

12 This meeting was announced in the
13 Federal Register on Tuesday, July 31st, 2018. I
14 think we've had copies of the Federal Register
15 somewhere here. The way we're going to work
16 today is, in the agenda we're going to start off
17 with the first item, Labor Disputes, which has
18 been a big issue. So we're going to start off
19 with that, and crack the tough nut first.

20 Then we're going to talk about Lake
21 Ontario, St. Lawrence River traffic challenges.
22 I believe there are other shippers that want to

1 be using the lakes; the cruise ships and the
2 petrochemical folks. Then we'll get to the use
3 of the 10-year rolling average of traffic.

4 We'll take a break; come back and talk
5 about annual rulemaking and financial reports,
6 billing disputes, target pilot compensation
7 study, and the weighting factors application to
8 charges.

9 We'll break for lunch, then we go into
10 pilots' association training for applicants and
11 partners; temporary registrations; pilots'
12 association compensation practices; pilots'
13 association projects.

14 Break; and then we'll talk about
15 working capital funds; again, that's been a big
16 issue. Competitive pilotage; our last member is
17 going to introduce those topics. Itemized source
18 form; drug usage; recuperative rest for pilots;
19 legislative changes; and then an overall public
20 comment period.

21 As we go through this, once I turn it
22 over to the Chair, just for the record, the

1 Chair, Mr. Tanner, is not here, so Captain Danny
2 Gallagher is the Vice Chair, and he's going to be
3 running the committee.

4 When I turn it over to him, he will
5 introduce each of these topics, and the members
6 will get an opportunity to discuss. He will open
7 it up to the public for their discussion; bring
8 it back to the committee, and then the committee
9 can put forth a recommendation, a resolution.

10 Mr. Vince Berg is going to cap it all
11 off. You guys can provide your input; it will go
12 up on the screen; you'll all have a chance to
13 look at it and vote on it and go to the next
14 topic. So that's the process. None of these
15 issues is of particular matter for the purposes
16 of criminal conflict of interest statute; I'm
17 required to say that as well.

18 Other bits of information, general
19 information about GLPAC is available in the
20 Office of Waterways and Ocean Policy, website
21 under Great Lakes Pilotage. Also, I think, Vince
22 has been asking you to please record your sign-in

1 sheets and note that we have separate sign-in
2 sheets for the general public and the committee
3 members.

4 Like I said earlier, the public
5 meeting is being recorded for a permanent record.
6 In addition, official minutes will be prepared
7 and will appear on the website that I spoke about
8 within 90 days of this meeting. Also, just
9 because of the length of this room, please speak
10 up. Members, please state your name so that the
11 court reporter knows who is speaking and can
12 record your name. Identify yourself, and the
13 same for the public, please.

14 That's it. Those are my remarks. I
15 will turn it now to Captain Gallagher.

16 CAPTAIN GALLAGHER: Okay, thank you,
17 Rajiv. I think the first thing we have to do is
18 declare a quorum, right? So we do have a quorum;
19 there are six members; the seventh member is
20 absent, Mr. John Tanner.

21 Our first order of business is to
22 approve the minutes from the September 25th-26th,

1 2017 Great Lakes Pilotage Advisory Committee
2 meeting. Do we have a motion? Does someone want
3 to make a motion or read the minutes? The
4 minutes are quite long, so --

5 CAPTAIN BOYCE: I'll make a motion to
6 accept the minutes of the previous meeting.

7 CAPTAIN GALLAGHER: Okay. We have a
8 motion by Captain Boyce.

9 MR. BAKER: Second.

10 CAPTAIN GALLAGHER: Second by Mr.
11 Baker. I'll take a vote. Mr. Fisher?

12 MR. FISHER: Aye.

13 CAPTAIN GALLAGHER: John?

14 CAPTAIN BOYCE: Yes.

15 MR. BAKER: Yes.

16 MR. SWARTOUT: Yes.

17 CAPTAIN BOYCE: You skipped Mike.

18 CAPTAIN GALLAGHER: Oh, Mike, I'm
19 sorry.

20 MR. KLEIN: No problem.

21 CAPTAIN GALLAGHER: New guy. The
22 first item on the agenda is the Labor

1 Dispute/Six-Hour Rule. The Labor Dispute/Six
2 Hour Rule; Steve Fisher asked for this topic to
3 be on the agenda. The Coast Guard is not seeking
4 advice on how a previous situation should have
5 been handled. There's no value in dwelling on
6 the past. We need to focus on the way ahead in
7 order to set the proper tone for this meeting.

8 The Coast Guard wants us to provide
9 information regarding national standards
10 regarding pilot service and compulsory pilots.
11 At this time I'd like to turn it over to the
12 committee.

13 MR. BAKER: Excuse me. I move that we
14 remove this from the agenda item. Our
15 constituents put in for a Freedom of Information
16 in May and still have not received Freedom of
17 Information.

18 CAPTAIN GALLAGHER: Is it possible to
19 remove the item?

20 MR. FISHER: Well, we'd like to keep
21 it on the agenda, and we'd like to discuss it.
22 It was in the published Federal Register Notice

1 as an agenda item; we've come prepared to speak
2 about it. Others who are here today, who've
3 traveled to Cape Vincent have come prepared to
4 speak about it.

5 We believe it needs to stay on the
6 agenda. We believe we should deal with this
7 issue. We're all here; everyone's traveled here;
8 everyone has gone to great expense to travel
9 here. We believe we should discuss this issue
10 and provide Coast Guard with advice and feedback
11 on the subject.

12 MR. BAKER: We don't have the facts.

13 MR. FISHER: Excuse me?

14 MR. BAKER: We don't have the facts
15 for the situation. We requested the facts, and
16 they haven't been provided. This was in May when
17 we requested this information.

18 CAPTAIN BOYCE: To make things
19 correct, I'll second a motion to have the
20 discussion on the motion.

21 MS. SILAS: If I could -- excuse me --
22 so we can recognize that you provided that input

1 on behalf of the stakeholder group. You can
2 provide input after you've received the FOIA
3 request and additional information, so we'll
4 leave that window open, but it remains as an
5 agenda item, and we can move forward with
6 discussion.

7 MR. KHANDUPUR: Thank you, Traci.

8 MR. FISHER: Dan, have you made your
9 comments?

10 CAPTAIN GALLAGHER: Yes, sir.

11 MR. FISHER: May I speak on the issue
12 at this point?

13 CAPTAIN GALLAGHER: Yes.

14 MR. FISHER: Okay. Just for those in
15 the room who don't know and for any Coast Guard
16 staff here who don't know; throughout this
17 navigation season, particularly in the Port of
18 Toledo and the Port of Monroe, Michigan, there's
19 been a situation where because of informational
20 pickets that have been established at marine
21 terminals in both of those locations, pilots have
22 not taken their assignments; have not provided

1 service because they have personal convictions
2 that they did not want to cross a picket line.

3 After looking into this by all
4 parties, what we all learned was that, in fact,
5 there's a 1994 Commandant's Instruction which is
6 technically still active right now, which really
7 lays out a scenario that governs this. In fact,
8 it's permissive. It really leaves it to the
9 individual to decide whether or not they want to
10 cross a picket line.

11 We certainly understand that many
12 people, because of their personal convictions,
13 don't like to cross a picket line, and this
14 Commandant's Instruction, which is the rules by
15 which people are operating and conducting
16 themselves, allows for the individual to make
17 this decision.

18 Our view is that pilotage is an
19 essential safety service to ships operating on
20 the Great Lakes. It is something that shouldn't
21 be optional; when a pilot is dispatched to a
22 vessel, that service should be provided to the

1 vessel, just the way when a fire truck and a fire
2 crew are dispatched to a fire, they don't decide
3 whether or not the burning building is one they
4 want to serve or not.

5 Same way the police, another essential
6 safety function -- the police don't pick and
7 choose where they want to work. Air traffic
8 controllers don't pick if and when they want to
9 land planes. Pilotage is a similar essential
10 safety function, serving Great Lakes shipping and
11 keeping our navigation safe. We believe when a
12 pilot is dispatched to a vessel, the pilot should
13 board the vessel and provide navigation
14 assistance to the master of the vessel.

15 Our view, our advice to the Coast
16 Guard -- we're all here to advise the Coast
17 Guard; that's the purpose of this committee. Our
18 advice to the Coast Guard is to, in fact, modify
19 this rule, that pilots should provide service
20 when dispatched to ships; that that should be the
21 normal course of behavior. That's what the
22 pilotage program is here for; it's not here for

1 any other reason, and to ensure a safe operation
2 of vessels on the Great Lakes.

3 I don't think this is a radical
4 thought by any means. I think the reason pilots
5 are in the business they're in is, they want to
6 move ships. They want to pilot ships. I can
7 tell you from the perspective of industry, and
8 I'm speaking on behalf of the ports and the
9 vessel operators; I'm saying this because I've
10 talk to them all; we do not want to see ships
11 moving without pilots on them. We do not seek a
12 situation where ships are operating without
13 pilots navigating them.

14 So I think the future, going forward,
15 should be one where pilots in fact work ships;
16 that the larger maritime community can take
17 confidence that pilots are on ships and want
18 pilots to be on ships to ensure safe navigation.

19 I think the Coast Guard should be a
20 partner in achieving this new reality where in
21 fact, pilots are taking assignments, navigation
22 is moving, commerce is moving, and we have a safe

1 system on the Great Lakes.

2 MR. BAKER: Rajiv?

3 MR. KHANDUPUR: Yes.

4 MR. BAKER: I make a motion we table
5 this, based on the ongoing litigation between the
6 people in this room.

7 CAPTAIN GALLAGHER: We have a motion
8 by Mr. Baker to table this topic because of
9 ongoing litigation. Do we have a second?

10 CAPTAIN BOYCE: That's why I was
11 seconding it before, because I knew there was
12 litigation, so I didn't want to --

13 MS. SILAS: Yes, but if you don't have
14 a second, it dies. So we'll have to do it later.
15 We already addressed that, so we can discuss it
16 at this point, and then we can re-open it later.
17 You can make a motion at a later meeting to re-
18 open it. So as he finishes an agenda item, then
19 whoever wanted to input, because they're allowed
20 to continue.

21 CAPTAIN GALLAGHER: Input?

22 MS. SILAS: Are you done with what

1 you're saying?

2 MR. FISHER: I'm done, unless there's
3 anyone else on the panel, or, I guess, in the
4 audience.

5 CAPTAIN GALLAGHER: Well, the panel
6 first. So can we take the motion now, or do we
7 have to open up --

8 MS. SILAS: Does anybody have anything
9 to say at the table?

10 MR. FISHER: Anybody else?

11 MS. SILAS: Okay. If not, then you
12 can go out here.

13 CAPTAIN GALLAGHER: Okay, we'll open
14 the discussion up to the public.

15 MR. DEICHERT: I'm Fred Deichert; I'm
16 the CFO of Midwest Terminals in Toledo. I'm here
17 to provide some recommendations to the Coast
18 Guard regarding the Commandant's Instruction
19 16637.5. I would like to recommend that, given
20 the current monopoly status of the pilots on the
21 Great Lakes, I think that those monopoly
22 responsibilities should be aligned with

1 appropriate availability standards.

2 So accordingly, I believe that
3 availability should be defined as pilots being
4 onboard 24/7, regardless of any condition outside
5 of immediate vessel safety.

6 I also want to speak a little bit to
7 execution of some of the decisions that the Coast
8 Guard has made out of the Pilotage Office
9 regarding the six-hour rule. I think that recent
10 rulings regarding availability defied the clear
11 intent above the 1994 Commandant's Instruction
12 and common sense. I think the rulings that allow
13 a pilot to be deemed available while they are not
14 performing service, but waiting for, for example,
15 a picket line, just virtually eliminates any
16 enforcement mechanism, and specifically the
17 enforcement mechanism designed through the six-
18 hour rule.

19 So after some of the recent decisions
20 that occurred in Monroe, Michigan, in 2017 and
21 Toledo, Ohio, in 2018, we have pilots being in
22 the position -- kind of the analogy I use is like

1 you have an air traffic controller who is faced
2 looking at the entrance to an airport and seeing
3 a picket line, and saying, Wait a minute; I see a
4 picket line. There's some evidence of a labor
5 dispute, so I'm shutting the airport down. No
6 planes, no international planes, can come in or
7 go out of this airport. It defies logic.

8 And I'm not here to rehash any reasons
9 for picket lines or any reactions; I'm just here
10 to talk about how the Coast Guard should execute
11 their duties under the entire track, from the
12 1960 law as it was amended through the
13 regulations and through the Commandant's
14 Instruction.

15 But I can tell that in Toledo, Ohio,
16 our state and local government and labor leaders
17 have studied this issue, and they agree with the
18 solution of fixing the current Commandant's
19 Instruction. Now, Mr. Chairman, I don't know if
20 you take written supplemental information for
21 this meeting. Do you do that?

22 CAPTAIN GALLAGHER: Yes, sir.

1 MR. DEICHERT: Okay. So I'll just
2 present you with letters that have been written
3 by members of the Ohio Congressional delegation,
4 Senator Portman, letters from the Northwest Ohio
5 Teamsters' Union, and a letter that was written
6 by various community leaders in our area, from
7 the mayor to the county commissioners to the port
8 authority president and board chair, to the
9 leaders of the building trades union, teamsters,
10 and labor union, all in support of a solution
11 that requires pilot availability 24/7.

12 So just to summarize: First of all,
13 the solution we need to come up with, the
14 solution that you need to execute, needs to be
15 executed rapidly; I would say, no later than
16 September 15th. Why? Because the Great Lakes
17 shipping season is coming to a close. If you try
18 to book a vessel from overseas to come in and
19 deliver and get out of the locks by the end of
20 the shipping season is rapidly approaching. That
21 deadline is right on us.

22 I believe the Commandant's Instruction

1 should be amended to require pilots to be on
2 board, to be providing services with no
3 exceptions, and I believe that a strong
4 enforcement mechanism should be attached to any
5 revision of this rule.

6 The six-hour rule provides for a ship
7 to sail under certain conditions without a pilot;
8 I think that is a strong enforcement mechanism.
9 I think that that is an enforcement mechanism
10 that, in practice, should never be gotten to;
11 never, ever. A pilot should be on board; it's
12 pretty simple. And I agree. Pilots want to do
13 their work; pilots are experts.

14 However, there has to be a very strong
15 enforcement mechanism that results in a
16 substantial penalty for pilots who do not perform
17 services. That's all I have; thank you so much
18 for your time.

19 MS. SILAS: Thank you for your
20 comments. Next comment, sir? If you could come
21 up to the podium.

22 MR. TOTH: Again, I'm Paul Toth, and

1 I'm the president and CEO of the Toledo/Lucas
2 County Port Authority, and I just want to share
3 with you the impact that the decision of the
4 Commandant's Instruction and the Coast Guard's
5 failure to implement the six-hour rule has caused
6 in our community.

7 We're part of what I like to call the
8 Midwest Renaissance. We're on a bit of a roll in
9 Toledo; we've had a lot of good things happen, a
10 lot of big announcements and economic impact, but
11 the decision to not put pilots on ships and move
12 them in and out of Toledo has had ramifications
13 across our entire community.

14 It's affecting employment for our
15 skilled trades and union construction workers.
16 Northstar Steel has not been able to get
17 deliveries of pig iron in and out of Toledo.
18 I've recently been informed that there are
19 shipping companies that will not, quote, Movement
20 of grain out of our community, because they
21 perceive that this is a problem across the entire
22 port.

1 So if you think this is affecting one
2 operator and one terminal, you're wrong. It's
3 affecting our entire community in Northwest Ohio,
4 and I implore you to fix this issue once and for
5 all and to allow our port to open back up to
6 business and allow commerce to flow freely.

7 Thank you.

8 MR. BAKER: Just a quick question for
9 you. We came to you about eight years ago and
10 ask you to get involved with this labor dispute,
11 and your answer to us was, We're not getting
12 involved. Now, all of a sudden, you want to get
13 involved. I don't understand.

14 MR. TOTH: I'm not getting involved in
15 a labor dispute; I'm getting involved in opening
16 a port back up for business and opening --

17 MR. BAKER: Where have you been for
18 eight years?

19 MS. SILAS: Thank you for your
20 comment. Anyone else? If you could step up to
21 the podium in the back, please?

22 MR. YOCKEY: My name's Bill Yockey;

1 I'm vice president with the Longshoremen, and I'm
2 a Trustee for Local 1982. You're talking about
3 changing pilotage regulations to allow the U.S.
4 Coast Guard to intervene in a labor dispute. Our
5 dispute is a labor dispute.

6 When you read the Admiral Henn's
7 letter, it identifies a labor dispute. When you
8 go down that letter, after the subject matter of
9 labor dispute there's another subject matter of
10 pilot availability, six-hour rule.

11 This is being misinterpreted and
12 misrepresented here. It doesn't have anything to
13 do with pilots involved in a labor dispute. When
14 pilots are involved in a labor dispute, they are
15 deemed available. There is no pilot unavailable;
16 he's available, but there's a labor dispute.

17 Now, let me tell you the facts of this
18 situation. This situation is handled by the NLRB
19 and the Department of Labor, because it's a labor
20 dispute. It doesn't have anything to do with the
21 U.S. Coast Guard.

22 The Department of Labor, through

1 Midwest Terminals, filed a charge against us for
2 illegal picketing and everything else like that.
3 It was dismissed; not only was it dismissed, the
4 pilots were exonerated, the union was exonerated,
5 and they can't do anything about it.

6 And what he is telling you -- Mr. Toth
7 -- is that the labor union, the teamsters, and
8 the building trades are losing business. They
9 haven't missed an hour; they haven't lost an
10 hour; not one minute of work has been caused by
11 this labor dispute.

12 Our direction is against Midwest
13 Terminals; they're the people being hurt. Now,
14 going forward, there may be some other vessels
15 that are delayed, but I am also interested in
16 knowing what public record is going to be stated
17 here, because we're being sued by Federal Marine
18 and Navigation. The districts and the pilots are
19 being sued by Midwest Terminals. Is this
20 information going to be used in the lawsuit?

21 You're sitting here with your
22 attorneys; I want to know if you're going to use

1 this information in your lawsuit against us.

2 But in finishing, I want to support
3 the Coast Guard; I want to support the Admiral
4 Henn letter. The legislative history of the
5 Admiral Henn letter, I was involved in it in
6 1994. The six-hour rule was for when ships were
7 laying around at anchor with no hope of getting a
8 pilot.

9 The Canadians, in their wisdom, are
10 going to charge you \$50,000 a day to get them out
11 of here, and they needed these ships to move out
12 of here before those fines and penalties kick in.

13 When you really read the Admiral Henn
14 letter, the point of the matter is, there were
15 two public hearings, a congressional hearing, and
16 everything else to develop that because of the
17 dispute that they had at Burns Harbor.

18 The other thing to remember is, one of
19 these comes along every 15 to 20 years. The last
20 time we had one in Toledo was at ADM Elevator;
21 before that it was Indiana Harbor. And before
22 that, there wasn't anybody in this room who could

1 tell you when the last labor dispute was.

2 But when a person tries to take us on,
3 we have what we call the favored-nations clause.
4 These shippers knew, six to eight years in
5 advance, that we were involved in a labor
6 dispute, and they come around, chirping, because,
7 What are you going to do about Toledo? What are
8 you going to do about Toledo? We've got favored-
9 nations clause, you know?

10 Favored-nations clause because the
11 Great Lakes District is covered in a master
12 agreement. Well, Toledo, which by 2022 will be
13 \$10 an hour behind what the rest of the
14 longshoremen on the Great Lakes are making, they
15 want the same thing, because it's a favored-
16 nations clause.

17 This is a labor dispute; it doesn't
18 have anything to do with pilots. Pilots choose
19 to remain neutral. That's all I've got to say,
20 but the legislative history on the six-hour rule
21 is for ships that aren't involved in labor
22 disputes. Ships that are involved in labor

1 disputes are covered in the Admiral Henn letter.
2 I want to make that clear.

3 CAPTAIN GALLAGHER: Do we have anymore
4 comments?

5 MR. DEICHERT: May I just say a couple
6 of things just real quick? I want to clarify
7 that in my request. I'm Fred Deichert. Just a
8 couple of quick things; one of the points I want
9 to make is that the request that we made for
10 pilots to become available regardless of any
11 situation other than safety, excluding the labor
12 dispute; that is not an uncommon situation for
13 pilotage throughout the United States of America.

14 I know in particular one example:
15 Columbia River pilots are not to look at a labor
16 dispute one way or another, and that is
17 neutrality.

18 Regarding the comment about the unions
19 not losing work; that may or may not be the case.
20 My point is, with the exhibits I provided the
21 Chair, that all they did was to look at the
22 issue, and they have rendered their opinion that

1 the pilotage rules need to be changed.

2 Then finally, yes, perhaps this
3 regulation only needs to come into play every 15
4 years, but what we've experienced in Toledo and
5 Monroe is the law of unintended consequences.
6 Perhaps the six-hour rule was generated for a
7 specific incident, but there's no evidence of
8 that in the '94 Commandant's Instruction. So all
9 the pilotage office has left is a paragraph or
10 two on how to deal with labor disputes.

11 Again, I won't repeat myself, but the
12 decisions they've had to make really shred the
13 intent of a rule that says, Pilots need to get on
14 board, but not on board by a certain time. There
15 has to be some alternative means to get vessels
16 off the dock or into a dock. That's all.

17 CAPTAIN GALLAGHER: Anybody else in
18 the public who would like to make comments? Mr.
19 Haviland?

20 MR. HAVILAND: Good morning; my name
21 is Todd Haviland. Since this has been going on,
22 I've been doing a lot of research, and as I've

1 looked around the country, it appears that
2 nowhere in the United States other than the Great
3 Lakes, do we have anything that is referred to as
4 a six-hour rule or an availability determination,
5 and the pilots are compelled to provide service
6 unless there's a safety issue. I would just like
7 to ask Clay Diamond from the APA if my research
8 is correct.

9 MR. DIAMOND: Thank you. I'm Clay
10 Diamond with the American Pilots' Association.
11 It's absolutely the case that in the rest of the
12 country the 24 coastal states regulate pilotage.
13 There is no comparable statutory or regulatory
14 provision about unavailability of a pilot.

15 The oversight authorities, whether
16 it's a state here or, I would argue, the Coast
17 Guard here, have made the determination that
18 ships need a pilot because of safety and
19 environmental protection concerns. So the idea
20 that somehow if one is not available in a couple
21 of hours, you say, Well, then you can sail
22 without one.

1 That undercuts the entire purpose of
2 compulsory pilotage. Either you need it for
3 safety, or you don't. So this idea of setting an
4 arbitrary two- or four- or six-hour rule; that is
5 the case nowhere in the country.

6 I'm also not aware of any state
7 statute that references labor disputes. That's
8 not in the statutes. It's generally the case
9 that pilots can't refuse to service a ship unless
10 it would impact their own personal safety or the
11 safety of the ship or the public welfare. That's
12 generally the case.

13 Having said all of that, this is a
14 very different kind of setting up here. I'll
15 just leave it at that.

16 CAPTAIN GALLAGHER: Is there anyone
17 else from the public who would like to speak?

18 MR. YOCKEY: Tod, thanks for coming up
19 and explaining that. Bill Yockey, Longshoremen.
20 The only place in the country where the U.S.
21 Coast Guard is involved in pilotage is here on
22 the Great Lakes. The rest of the authorities are

1 state authorities. Therein lies the difference
2 between what happens here and what happens at the
3 state authorities. I just wanted to make that
4 point. The Coast Guard doesn't regulate pilots
5 on the coast, but because of our relationship
6 with Canada, the state can't negotiate a treaty
7 with a foreign country, so pilotage is a part of
8 that treaty, and it's administered by the U.S.
9 Coast Guard.

10 CAPTAIN GALLAGHER: Is there anybody
11 else from the public who would like to speak?
12 Having no further comments from the public, we'll
13 turn it back over to the committee.

14 MR. BAKER: I've got a couple of
15 comments. For the record, there is no labor
16 dispute in Monroe. There is no labor dispute in
17 Monroe; that's false. I find it kind of odd that
18 Mr. Deichert would talk about monopoly, about
19 pilots, when he, in fact, has a monopoly over the
20 Port of Toledo. I mean, doesn't that sound kind
21 of odd?

22 I had a motion on the floor still.

1 CAPTAIN GALLAGHER: I think we have to
2 discuss it, and then when it comes to a
3 recommendation, you can -- I think we have to --

4 MS. SILAS: Your motion was shut down;
5 sorry. It wasn't supported by the rest of the
6 committee. That's why we moved --

7 (Simultaneous speaking.)

8 CAPTAIN GALLAGHER: Captain Boyce?

9 MR. BOYCE: Yes, that's what I said in
10 the beginning --

11 MS. SILAS: But it didn't carry,
12 because you didn't get any other supporters at
13 the table. So it dies if you can't move.

14 MR. GALLAGHER: We had a motion --

15 MS. SILAS: Mm-hmm.

16 MR. GALLAGHER: And we had a second.

17 MS. SILAS: Oh, to not discuss it?

18 MR. BOYCE: Well, that's what I said,
19 because of the litigation, that's why I seconded
20 it, because of the litigation. I don't want to
21 go --

22 MS. SILAS: But nobody else came in to

1 agree with what you --

2 CAPTAIN GALLAGHER: Well, you said we
3 couldn't, so --

4 MS. SILAS: You can't take a topic off
5 the agenda. But that motion to continue; you
6 still have to discuss it. It doesn't mean you
7 have to agree. So it moved on because you got no
8 other support after the motion. So we can do it
9 at the next meeting. So the motion died; there
10 is no motion on the floor anymore, but you can
11 renew a motion, or you can save a motion for
12 recommendation. That's what's going on right
13 now. If anybody has recommendations or
14 discussion --

15 CAPTAIN GALLAGHER: When
16 recommendations come up, he can introduce the
17 motion?

18 MS. SILAS: That's correct.

19 CAPTAIN GALLAGHER: Okay. That's what
20 I was trying to say. Okay, go ahead.

21 MR. FISHER: So my comments are a
22 further discussion on the topic. I just want to

1 clarify; some of the commenters who've spoken
2 have made clear that there's a labor dispute in
3 the Toledo community. I want to make clear,
4 because we asked for this item to be on the
5 agenda, and we're the ones asking the Coast Guard
6 to clarify rules on this area.

7 We don't think pilotage and the
8 provision of pilotage services should have
9 anything to do with labor disputes. They should
10 be blind to labor disputes. I'm not here with
11 any opinion on whether there is a labor dispute,
12 or what the validity of the labor dispute, or
13 what each side in the labor dispute thinks.

14 My point is, we shouldn't care. The
15 provision of pilotage services should be
16 completely independent of that. Any work in the
17 Great Lakes, whether it's Toledo or any other
18 port, pilotage is an essential safety service;
19 ships shouldn't be moving without pilots.

20 Pilots should get assignments, and
21 when the vessels ask for pilots, when they're
22 dispatched to the ship, they should board the

1 ship -- and I want to clarify, they shouldn't
2 just be available. We're not asking for
3 availability; they're available now. We're not
4 asking for availability; we're asking that they
5 be required to provide service. Board the ship,
6 report to the bridge, provide navigation
7 assistance to the master.

8 We believe pilots should be blind to
9 what's going on with regard to any labor dispute,
10 or anything else. They should get on the ship
11 and provide navigation assistance. We think the
12 Coast Guard should clarify that that is the
13 normal course of action. We think the rules
14 right now almost encourage the entangling of this
15 essential safety service with local labor
16 disputes. Why would we do that? We should be
17 blind to that.

18 Pilotage wasn't created by Congress to
19 get encumbered by spats on different local
20 issues. This should be blind to all that local
21 nonsense, and it should be provision of safety to
22 these ships and to the navigation community.

1 So I'm not disputing anything that
2 some of the speakers have said about whether or
3 not there's a labor dispute, or what side is
4 right or wrong in that labor dispute. What I'm
5 saying is, the Coast Guard should be blind to all
6 of that.

7 And as I think Clay mentioned, the
8 norm elsewhere in the country is that pilots
9 board ships when they're assigned to them and
10 move the ships, and they don't get involved in
11 these local issues. I think we should make the
12 Great Lakes the same way as it operates
13 everywhere else in the country, where, in fact,
14 pilots are assigned to ships.

15 Again, I want to reiterate, industry
16 does not support ships moving without pilots;
17 that's not what we're looking for. I think a
18 scenario where this is entangled with local labor
19 disputes or any other local issues, and then we
20 have a separate mop-up regulation that allows for
21 non-availability -- good God, why did we approach
22 it that way?

1 It should be the same way it is
2 everywhere else in the country. When pilots get
3 an assignment, they board that ship unless, for
4 some reason, their personal safety or the ship's
5 on fire or sinking or something else logical, of
6 course they don't get on. But if it's safe to
7 board the ship and complete their piloting
8 assignment, they should do so.

9 So that's what we see, and to us it
10 makes complete logical sense. I kind of feel
11 like we've been stuck in crazy land for the last
12 half year on this issue. We think it makes
13 complete logical sense to not get entangled in
14 local labor issues, to leave them separate.

15 Again, I'm not here to offer an
16 opinion on anyone's local labor problem, but to
17 simply speak to the Coast Guard, because that's
18 what we're here for, to be advisors to the Coast
19 Guard. Speak to the Coast Guard and advise you
20 that pilotage is important, and we should make
21 sure that service is there, and the pilots are
22 ready to do their jobs as I believe they want to

1 do their jobs. Thank you.

2 CAPTAIN GALLAGHER: Is there anyone
3 else on the committee who has anything to say?

4 MR. KLEIN: This is Mike Klein, and I
5 can add a little context to this. I don't know
6 all the intricacies and all the details of what's
7 taking place here this shipping season, but what
8 I can say is, my job is to find vessels to haul
9 our grain from the Great Lakes and other places
10 to various destinations, and the majority of our
11 grain on the Great Lakes is handled at
12 Duluth/Superior, but about six weeks ago, I was
13 asked to find a freight rate from Toledo to haul
14 soybeans out of the Great Lakes.

15 And when I went to the freight market,
16 I had a few owners who were hesitant to give a
17 rate. I had one owner who said he would not give
18 a rate, and he referenced this situation as a
19 reason that he did not want to call on that port.

20 So I just leave it at that point, that
21 any time we have something going on that now is
22 impeding commerce that should probably take place

1 and moving it somewhere else, it just adds to the
2 urgency to find a solution to this situation.

3 Thank you.

4 CAPTAIN GALLAGHER: John?

5 MR. BAKER: In Toledo we operate at
6 two other docks, two grain docks that have been
7 booming here. So it does not affect our shipping
8 at this one dock. It has not affected any grain
9 terminal; as a matter of fact, just the opposite.
10 They're flourishing; ADM, Anderson, they're all
11 flourishing. So this hasn't carried over to the
12 port of Toledo. This is one specific dock.

13 MR. KLEIN: And this is Mike Klein,
14 and I totally respect that, but we have to pay
15 attention too, that some vessel owners are
16 perceiving that there is an issue, and they're
17 hesitant to call on a port, and we have to give
18 respect to their perception, because their
19 perception turns into reality when they decide
20 not to call on a port.

21 I fully respect what you're saying,
22 but in this case, a few of the owners, and

1 particularly this one owner, do not see it that
2 way.

3 MR. BAKER: It's probably been
4 misreported, then.

5 CAPTAIN GALLAGHER: Any more comments
6 from the committee? Okay. At this time, we'll
7 call for any recommendation.

8 MR. BAKER: I make a motion to delay
9 the deliberations until the FOIA is received.

10 CAPTAIN GALLAGHER: We've got a motion
11 by Mr. Baker for a motion to delay. Do we have a
12 second?

13 CAPTAIN BOYCE: Does that delay making
14 the recommendation?

15 CAPTAIN GALLAGHER: Yes. Do you want
16 --

17 CAPTAIN BOYCE: Well, I'll second that
18 and say I'll go onto the recommendation. I don't
19 think we're going to get -- because of the makeup
20 and the voting requirement, we've got one member
21 absent. I don't think we're going to get a
22 recommendation on it anyway.

1 MR. FISHER: Yes. I would say, don't
2 make a recommendation. Why don't we just not
3 make a recommendation? Instead of delaying it,
4 let's just agree --

5 CAPTAIN GALLAGHER: Do you want to
6 revise that, John?

7 MR. BAKER: Motion for no
8 recommendation.

9 CAPTAIN GALLAGHER: All right, we've
10 got a motion for no recommendation by Mr. Baker.

11 CAPTAIN BOYCE: I'll second.

12 CAPTAIN GALLAGHER: Seconded by Mr.
13 Boyce. Any discussion amongst the members?

14 MR. FISHER: Just for the record, if
15 I may; I think we've all shared our views, and
16 certainly the Coast Guard has heard those views
17 and will deliberate on all of our various
18 opinions. I will support a motion for no
19 recommendation because I don't think, as John
20 said, that one would pass here anyway.

21 I think the utility of this discussion
22 was to inform the Coast Guard, so they could hear

1 all sides. We've done that, so I would even join
2 you in not having a recommendation, because I
3 think one is viable.

4 And personally, as a member of this
5 panel, I'll tell you that I don't think the value
6 of coming here is spitting out formal, voted-upon
7 recommendations. I think the value of coming
8 here is to share our wisdom with the Coast Guard,
9 and that's why we're here. So I would join you.

10 CAPTAIN GALLAGHER: Okay. We have a
11 motion and seconded.

12 MR. SWARTOUT: I just have a question.
13 John, who is the FOIA request to? The Coast
14 Guard?

15 MR. BAKER: The Coast Guard, yes.

16 CAPTAIN GALLAGHER: Okay. So we have
17 a motion, a second; to a vote; Mike Klein?

18 MR. KLEIN: Yes.

19 CAPTAIN BOYCE: Yes.

20 MR. SWARTOUT: Yes.

21 MR. BAKER: Yes.

22 CAPTAIN GALLAGHER: Yes.

1 MR. BAKER: Yes.

2 CAPTAIN GALLAGHER: Okay, motion
3 passed.

4 MR. KHANDUPUR: Before we move on, if
5 there is anybody who didn't get in on the
6 discussion and wants to talk about it any
7 further, we can discuss it further. I saw some
8 folks who had gotten up to say something.

9 CAPTAIN GALLAGHER: I think we have
10 got to --

11 (Simultaneous speaking.)

12 MR. KHANDUPUR: But the reason why I'm
13 doing that is because I think this discussion is
14 a good discussion, and I think a no
15 recommendation is a good recommendation. But the
16 Coast Guard has heard everything that needs to be
17 said.

18 So at this point I would say, if there
19 is anybody else who wants to say anything --

20 CAPTAIN GALLAGHER: I think this topic
21 is over, isn't it, Traci?

22 MS. SILAS: So move to the next topic,

1 and then if there are other public comments, they
2 can come in and comment on that topic, and what
3 was discussed prior to. But as for this, move on
4 to the next topic.

5 CAPTAIN GALLAGHER: Okay. The next
6 topic is Lake Ontario/St. Lawrence River traffic
7 challenges and use of a 10-year rolling average
8 of traffic.

9 The Port of Hamilton recently expanded
10 its grain elevator capacity prior to the opening
11 of this shipping season. We have experienced a
12 significant increase in salty traffic that come
13 to Hamilton in bowels to export grain without
14 visiting other ports in the Great Lakes.

15 Canadian laker traffic has increased
16 from about five percent to overall pilot service
17 demand over 30 percent on Lake Ontario this
18 season. Cruise ships are another new dynamic
19 that is increasing demand for pilot services.
20 The Coast Guard uses a 10-year rolling average to
21 determine pilotage demand when establishing
22 rates. Since both of these topics touch on the

1 same underlying issue, I think it is best for us
2 to combine them.

3 The Coast Guard would like us to
4 provide feedback on a first-come, first-serve
5 requirements outlined in the regulations. The
6 Coast Guard would also like the committee to
7 provide feedback on the need to modify the 10-
8 year rolling average for traffic standard.

9 Petro-Canada Lubricants has asked to
10 present some information to the committee to
11 consider prior to our discussion. Will Petro-
12 Canada please present your information at this
13 time?

14 CAPTAIN SOLANKI: Good morning
15 everybody again; my name is Captain Sylvester
16 Solanki. I head the global marine department for
17 Petro-Canada. We had a meeting in the month of
18 July, and we presented this to the Great Lakes
19 Pilotage Association on the Canadian side, and we
20 found value to bring these slides up here just to
21 voice our concerns and the pain that we have gone
22 through because there was an unavailability of

1 pilots.

2 Our general business is, we load stuff
3 onto tankers from Europe. It comes into Canada
4 through Montreal into Mississauga, and then we
5 refine it. The final product is again shipped
6 out back to Europe, the U.S., and all the way to
7 China. We have all the global marine functions
8 of commercial operations, technical assurance,
9 like any other marine company.

10 In 2018 we had a number of delays, and
11 most of these delays were caused because of
12 unavailability of pilots. We give them the
13 required notice during the notice period, and we
14 were advised, Sorry, we don't have a pilot
15 available for various reasons, whether it was an
16 hours of work and rest reason, or just a shortage
17 of pilots, and everything combined.

18 I just want to add a few bullet points
19 and reiterate; we had to cancel cargo because we
20 didn't have enough pilots to take the ship out on
21 time. Of course, if you cancel cargo -- we have
22 a very, very tight shuttle vessel running up and

1 down from Europe to Canada and back. Our
2 customers in Europe, they are waiting for the
3 final product, which we produce in Mississauga in
4 Canada, and if our vessel misses its deadline,
5 then we lose those sales.

6 Of course, the vessel has to wait, and
7 when the vessel is waiting, we pay damage to the
8 vessel owner, because we are chartering the
9 vessel for, I would say, no fault of ours. We
10 ordered the pilot; the pilot is not available;
11 the vessel sits for eight hours, 12 hours, and
12 that is damage we have to pay to the ship owner.

13 We have our time chart of vessels;
14 they are sitting idle because of congestion. We
15 have two berths, and if there's a vessel at the
16 berth, we cannot unload and take the vessel out,
17 because there's no pilot. The second vessel
18 cannot come in, because the berth is not empty.

19 We also have more challenges at the
20 dock, and they are microbursts of weather, and
21 what that means is, it's nice, beautiful, calm,
22 and clear, and then in 20 minutes, it starts

1 blowing. The winds go crazy. Our policy is to
2 unmoor the vessel when the wind is easterly at 15
3 knots. So that's not a very large number.
4 Fifteen knots in the Great Lakes picks up
5 rapidly, within 10 or 15 minutes.

6 We cannot forecast that; we cannot say
7 that the wind is going to pick up at midday, so
8 let's order a pilot and give them 12 hours'
9 notice. That's not possible. When these things
10 happen, the microbursts of weather happen, the
11 vessel is most unsafe, and the reason why is
12 because it starts breaking its mooring lines, and
13 we need to get the vessel out of its berth.

14 Of course, we cannot give a notice to
15 the pilot. We've got to go ahead with an
16 emergency procedure where the captain has to
17 unmoor and take the vessel out, and then take it
18 to anchor.

19 There's another thing; the six-hour
20 notice for American pilots and the 12-hour notice
21 for the Canadian pilots; I was just hoping to
22 come down to a consensus where both the American

1 and the Canadian sides have a common notice
2 period. We do not get an option to select which
3 pilot is going to navigate our vessels; it's on a
4 first-come, first-serve basis, and that's fine.

5 But if we have equality in the notice
6 period; if it's the same with the American and
7 Canadian side, and also if the penalties -- and
8 most of the time, it is no fault of ours. We
9 book a pilot, and for whatever reason, we cannot
10 complete that operation. Maybe the weather goes
11 bad, or maybe the ship has not finished
12 operations for whatever reason -- we need to
13 cancel the pilot, and we get penalized. For
14 another 24 hours, we cannot book a new pilot.

15 And after the 24 hours, if we want to
16 book, we have to give another 12 hours of notice.
17 So our ship is sitting there for 36 hours because
18 we canceled a pilot. Nine out of 10 times, the
19 cancellation is because of weather or because of
20 some reason that is not in our control.

21 I already talked about emergency
22 departures from the dock where, if we don't get a

1 pilot, we cannot get the vessel out, and of
2 course, that is additional cost to us.

3 I'm not going through the dock
4 challenges here, because it's nothing to do with
5 the pilots. It has something to do with our
6 dock, where we have a shallow dock, and the water
7 is splashing around.

8 My last line about suggestions; I
9 would like many things, but I would like to
10 request that the notice be reduced from 12 hours
11 to a more workable of four hours. I've only seen
12 on the Great Lakes that you need to give a 12-
13 hour notice. All around the world, if you go to
14 Rotterdam, you go to Singapore, they need only
15 two hours.

16 You give two hours' notice to the
17 pilot, and that notice is good, because you can
18 give a good notice. You have control over the
19 situation. You know that in two hours, you will
20 be able to move the ship out and move the ship
21 in, as compared to 12 hours, where many things
22 can happen between now and 12 hours.

1 I would also like to request that the
2 penalty to cancel a pilot because of weather or
3 something that is not in our control should be
4 waived. If we cancel a pilot, we don't need to
5 wait for 24 hours before we can re-book.

6 In emergency weather situations, I've
7 already said that the master should be allowed to
8 take the vessel out for the safety of the ship
9 and the safety of the dock.

10 Now, I don't know how far this bullet
11 would go through about allowing masters to dock
12 and undock vessels without pilots. My vessels,
13 which are on time charter, have been doing this
14 for the last five years. The masters replace
15 each other, and they do the same ships. So
16 they've gone through the lock gates, and they've
17 got experience for about five years to do this
18 operation. They are quite capable to dock and
19 undock a ship.

20 The reason for that is that if a pilot
21 is not available, and the master can do it on his
22 own, then we don't have dock congestion, and we

1 are able to do smooth business.

2 Some Canadian companies such as Petro,
3 we have vessel masters who have to sit for an
4 exam or something like that, so with the
5 practical experience and with the written exam,
6 they're allowed to dock and undock ships without
7 pilots. So I would like my masters to be able to
8 do that as well.

9 The last thing is customized pilot
10 services, and what I mean by that is, in the
11 previous meeting it was said that in the Great
12 Lakes, you have petrochemicals and bulkers and
13 ferries, so there are various kinds of vessels
14 coming in. And there is a certain portion of the
15 shipping community which does not mind if a pilot
16 is late. They really don't mind about that.

17 But the petrochemicals and the ferries
18 and the liner services, they cannot afford to
19 have a pilot that is delayed, and if that is the
20 case, either the pilots can be moved to our
21 vessels where we have high priority, or there
22 should be a premium price for a premium service.

1 So I would suggest that we need a
2 pilot on high priority; we are ready to pay a
3 premium to make sure that we get a pilot on time.
4 I would like to conclude there. Thank you.

5 CAPTAIN GALLAGHER: Thank you for the
6 presentation. Does the committee want to discuss
7 traffic challenges and the 10-year rolling
8 average? Steve?

9 MR. FISHER: Yes. I think this issue
10 brings up an interesting topic that we need to
11 tap on. I think the Coast Guard has to re-look
12 at -- I believe in the 2016 rate setting, the
13 methodology -- for all of you who don't know, the
14 annual rate-setting process includes a procedure
15 by would the Coast Guard tries to do the
16 impossible, which is to guess what traffic will
17 be next year.

18 So essentially, they're in the awkward
19 position of predicting the future, which no one
20 can do; but nevertheless, they have to try. For
21 years there's been different methodologies on how
22 they achieve this impossible task, and right now

1 the methodology they're using is to predict
2 traffic levels next year, they're using a 10-year
3 rolling average to predict what traffic will be
4 next year.

5 We think this has proven to be -- we
6 understand they're trying it; previous to 2016,
7 they had a different methodology, but it's
8 probably not a good methodology, and it probably
9 needs to be revisited.

10 We would recommend -- and I think the
11 situation that you described at the beginning,
12 Danny, explains it. There's new cargo, there's
13 new activity; even the President's initiatives on
14 tariffs has caused surges in cargo shipping that
15 no one anticipated 12 months ago, 18 months ago.

16 So I think what we need to do is
17 acknowledge that there is this unpredictability
18 about future traffic, and that taking a 10-year
19 rolling average, we almost betray our own needs,
20 because it will potentially result in an
21 inaccurate calculation of how many pilots will be
22 needed the following year.

1 I think everyone at the table would
2 agree, we want to make sure there's an
3 appropriate number of pilots for whatever the
4 traffic ends up being. But each of the three
5 pilot organizations are given a number by the
6 director and essentially have to work with that
7 number. Then the director, again, is in the
8 uncomfortable position of having to predict the
9 future, which he can't really do.

10 I would like to recommend that the
11 Coast Guard look at an alternative approach, one
12 that's much more consultative. Again, we're
13 always going to be trying to do the impossible,
14 which is to predict the future, so how do we do
15 that better, given the fact that it's always
16 going to be a little squirrely?

17 I would like to recommend a more
18 consultative process where the director convenes
19 the known players, if you will. So the gentleman
20 who just spoke, the various agents, the major
21 shippers on the system, the major customers; I
22 don't mean the vessel operators, but the

1 customers; the vessel operators, of course; the
2 port authorities, the two seaways and their
3 marketing people; all the people who are part of
4 the economic model who have some insight,
5 potentially, into what business will look like
6 next year, realizing they could be wrong, but to
7 reach out to those folks and maybe even call a
8 meeting every fall. Get them together in a
9 caucus and sort of gather the best wisdom that
10 you can. Then consolidate all of that input, and
11 then make your best guess.

12 And I think everyone needs to realize
13 that it's an impossible task to predict traffic
14 next year, but I think the methodology we're
15 using now, in a way, it relieves the director of
16 criticism because it's a formula.

17 I think, as we can see this year, will
18 leave us, from time to time, with the wrong
19 number of pilots. I think we should move to a
20 more consultative process where people who may
21 have a little bit more insight into the business
22 cycle can provide the director with input and

1 better inform the ultimate decision on what
2 traffic will be like next year.

3 CAPTAIN GALLAGHER: John?

4 MR. SWARTOUT: Yes. Just to build on
5 that a little, if you could convene those people
6 with some insight into what traffic is going to
7 be three years from now, that would be really
8 helpful, because it takes us a year and a half to
9 get a pilot working steadily.

10 We've hired every well-qualified
11 candidate that we've had an application from in
12 the last three years -- '15, '16 -- four years.
13 We're getting close to our authorized number, but
14 we're not there yet, and now retirements are
15 going to start.

16 So I think what we really need is a
17 number of pilots that can accommodate traffic
18 surges like District 1 is experiencing now. In
19 District 3 our business is down 10 percent this
20 year, so who could have predicted that? At the
21 same time, District 1 is up substantially.

22 CAPTAIN BOYCE: John Boyce; a few

1 things, partly talking to the presentation made
2 on traffic too. One is, I believe there is a
3 common notice period; I believe the GLP, the 12-
4 hour notice and the six-hour confirmation for
5 Lake Ontario, and that's what we are too. It's a
6 12-hour notice and a six-hour confirmation.

7 I understand Rotterdam and Singapore
8 have a two-hour orders; much, much more
9 convenient. There are geographical and manpower
10 issues to being able to be that close, time-wise.
11 It takes five hours to get across the lake; if
12 you have to send a pilot two-hour notice, we'll
13 never, ever have somebody there unless they
14 happen to be there already.

15 As far as no pilot for an emergency
16 departure, that's already the case, and it's been
17 done many times. To operate without pilots, the
18 big differentiation is, foreign ships and masters
19 gets into the Jones Act and pilotage laws in
20 Canada, and it's the same thing. The Petronav,
21 they have Canadian vessels with Canadian crews,
22 Canadian-built requirements, all that. So that's

1 why they can do it, and the foreign shippers that
2 are trading can't.

3 As far as a premium for priority, the
4 current regulations don't allow that; it's first-
5 come, first-serve. I suppose that could be a
6 topic, and there may be some models for that
7 around.

8 Then to move on to your comments; I do
9 think, and have for a number of years, that the
10 pilot staffing model needs to take peaks into
11 account, not average traffic. And this is
12 something that has moved, I'll say, over the last
13 10 years. There used to be the 1,000 and 1,800
14 bridge-hour standard, which just did not work.

15 What was moved to was a much more, I
16 guess, repeatable process of the assignment
17 cycle, and there's logic to that. Now it's
18 somewhat driven by the beginning-of-season, end-
19 of-season traffic, which are the traditional
20 surges.

21 What we've seen in the last two years
22 is, that's been becoming less and less the case.

1 It gets busy all year 'round, especially -- and
2 one of the bigger things -- with container
3 traffic. That's not a grain-rush scenario; it's
4 all year.

5 While theoretically, looking ahead is
6 the way to do it; crystal balls are great for all
7 sorts of reasons. What we saw for a long time,
8 when the spreadsheet -- you're talking about the
9 over-under projections, what really is the catch
10 to that spreadsheet is that for decades, when it
11 was a consultative process, traffic was over-
12 projected over and over again.

13 And what that would do is drive a
14 higher pilot number, but it also depressed the
15 rate. You would assume much more traffic is
16 coming, but it never really did. So now, I think
17 it was the last rulemaking moved the staff model
18 with the yearly rate NPRM, which I think could be
19 of some benefit because, going back to the
20 comment John made, you can't raise and lower
21 pilot numbers every year. It's a completely
22 unworkable system. So it needs to be forward-

1 looking.

2 The way nearly all pilot groups work
3 is, staff to peak or near traffic, which some
4 work, some don't. That becomes the hard --
5 because sometimes you'll have a tolerance for
6 delays, some don't have a tolerance for delays.
7 Maybe this speaks to what you were saying about
8 the preferential service, but really there's no
9 mechanism to that to which we could go.

10 But I think there's a definite need,
11 especially because the tanker -- and we're much
12 more impacted by the tankers in Districts 2 and
13 3, less so by the cruise ships. District 3 is
14 much more impacted by the cruise ships, but
15 that's two segments that are hugely intolerant of
16 delays. And that's why we're here.

17 MR. SWARTOUT: John Swartout; do they
18 have the option of retaining the pilots?

19 CAPTAIN BOYCE: Yes. At times that
20 makes the issue much worse, because -- I don't
21 know if Rob Lemire would have a comment or not,
22 but we're maxed out, flat-out maxed out, so

1 retaining a pilot someplace makes him not get
2 rested, and makes the ship wait longer, and you
3 will very quickly, exponentially roll out of
4 control.

5 We're talking about switching flags on
6 vessels and things like that; both sides maxed
7 out. It doesn't really help. One thing we tried
8 to put in place -- I don't remember if it was
9 towards the end of season; it was nearly so --
10 is, down bound flagging as well as upbound and
11 trying to smooth out bunches of traffic.

12 It's almost hard to tell, because
13 there's so much traffic right now. The whole
14 system is maxed out.

15 MR. FISHER: Clay --

16 CAPTAIN GALLAGHER: It's not for the
17 public yet.

18 MR. FISHER: Well, I asked for a
19 clarification from an expert in the audience.

20 MS. SILAS: Steve --

21 CAPTAIN GALLAGHER: I don't think it's
22 allowed.

1 MR. FISHER: Is that a no face?

2 MS. SILAS: Pose the question, and
3 then he'll respond in the public comment period.

4 MR. FISHER: Okay. So I will hold my
5 question until then.

6 MS. SILAS: I like that much better,
7 Steve.

8 MR. FISHER: I know that face.

9 (Laughter.)

10 CAPTAIN GALLAGHER: Remember that
11 little speech you gave, Steve? You weren't
12 paying attention. I've got a couple of things to
13 advance about the call-out time and everything.

14 Since the new methodology has come out
15 with the delay class and everything, our district
16 has seen huge efficiencies by the agents by
17 ordering the pilots. They're not getting the
18 pilots there early, sitting around. Previously
19 they would order tugs for 1800 and order the
20 pilot for 1500 just to make sure he gets him, and
21 they're sitting there, doing nothing. And then
22 they sail off to Toledo or Detroit, and they

1 can't go until morning because they don't want to
2 take a big ship in.

3 Now they're timing it; they're timing
4 when they leave Cleveland, when they leave these
5 other ports. It's so much more efficient; pilots
6 are getting rested, and we're not burning up,
7 just sitting around and doing nothing.

8 As far as time, like John says, this
9 is not Miami. This is not Fort Lauderdale, where
10 you've got 10 pilots sitting in one station that
11 drive out a mile to get a ship. The logistics
12 here are unbelievable. It takes us sometimes
13 six, eight hours to get a guy. Actually in
14 District 3 it's even worse.

15 So we cannot do that; our people need
16 notice to get to the station. A lot of these
17 other groups that he may be referring to, they
18 keep all the people on the station, right at the
19 station. Well, we've got so many stations in so
20 many ports just in our district alone -- let
21 alone ports, we've got four states we're dealing
22 with, let alone all the ports within those

1 states. So you can't compare us to some of the
2 other groups, just of the long transits and
3 everything.

4 As far as an emergency; if there's an
5 emergency; any time there's an emergency we waive
6 the 12-hour. We will get a pilot there as soon
7 as possible. And if it happens to be where we
8 didn't have an American pilot there, and they're,
9 say, down in Ojibway Anchorage or Belle Isle, and
10 if we had an emergency, we will do everything we
11 can go get our guy there. If we can't get our
12 guy there, and there's a Canadian pilot around,
13 we send a Canadian pilot.

14 When it comes to safety, we take it
15 very seriously. We don't care what happens, what
16 the rules are; we will service that vessel when
17 it comes to safety.

18 CAPTAIN BOYCE: We care what the rules
19 are; that's the one time you can move a vessel
20 with less than your mandatory restage, for the
21 sake of --

22 CAPTAIN GALLAGHER: Even if a pilot is

1 not rested, we're not going to tell you; we're
2 going to move it. We're going to move it; that's
3 -- I mean, when it comes to safety, we're going
4 to do what we have to do to move that ship, and
5 we're not going to let them have a problem.

6 I was over in Kuwait for five months
7 as a harbor pilot, and when we had strong winds
8 and everything, what we would do is, we would
9 bring tugs in. There's tugs there; keep the tugs
10 there, and if it's that bad, I keep them pinned
11 up against the dock. Sometimes trying to vacate
12 the dock is worse than staying at the dock.

13 MR. KLEIN: This is Mike Klein. Just
14 for my education, as I listen to the discussion,
15 is the staffing done per district, or, like we
16 put on the discussion here earlier, we have one
17 district surging; we have another district down
18 some. Can pilots go and be relocated to help
19 with that surge?

20 CAPTAIN BOYCE: A couple things on
21 that: one, it's done a little more fine than by
22 just area. District 1 is actually two areas:

1 the St. Lawrence River, Lake Ontario. District 2
2 is two areas, which are Lake Erie and the
3 Detroit/St. Clair River; two separate areas.
4 District 3 is three or four areas over the lakes
5 and the rivers. So demand is calculated by area
6 and demand for each area.

7 Between the lakes and rivers, the
8 demand is different for things in each area for
9 each district. As far as going between
10 districts, that's a topic that you're not the
11 person to bring up. It's not allowed.

12 MR. KLEIN: No.

13 CAPTAIN BOYCE: There really is a
14 feasibility issue with doing that. While lakers
15 transit in multiple areas, there's also multiple
16 people on board that know what's going on. We're
17 the only ones on board, 99 percent of the time,
18 that are proficient in the area, and for me to
19 maintain proficiency in Lake Superior, ends up
20 being hugely counterproductive, because now the
21 amount of extra training you do for the one year
22 that they're in a slack time there and here,

1 you're going to have 50-some pilots trying to get
2 trips in and out of anyplace to stay current, and
3 you end up losing efficiency doing that, not
4 gaining for the one time it makes sense.

5 MR. KLEIN: Okay.

6 CAPTAIN GALLAGHER: John?

7 MR. SWARTOUT: Even if it were
8 possible, I mean, business up in District 1, and
9 down in District 3, we don't have any pilots to
10 spare, even if we could send them. We're having
11 delays now because we have barely enough pilots.

12 CAPTAIN GALLAGHER: When John talks
13 about their business being down 10 percent, last
14 night during the conversation, I think it was
15 Steve we had, John said that's a good thing,
16 because if business went up in their district,
17 there would be all kinds of delays. They are
18 barely able handle the traffic they have right
19 now.

20 And it's the same thing in our
21 district. There's not a surplus; we're working
22 every day, we're busy every day. If there is a

1 shift at times where we're not so busy, we don't
2 make a habit of it; but what the GLPA in our
3 district, District 2 we have, on occasion,
4 swapped jobs. If they have some of their people
5 that had to be taken off their rotation for some
6 reason, we have agreed to switch jobs, and then
7 we switch right back.

8 But it's right there in that same area
9 that we do. For us to go up into District 3 like
10 John said, or come down here; just the travel
11 time, by the time we get here, then there's
12 delays up in our area. You have to have enough
13 pilots in each area to attract them. And once we
14 bring a pilot on, we can't lay that pilot off.
15 You'll never ever get another master leaving a
16 good job, a secure job, come in here, and then
17 when he leaves here, then he has to go start as a
18 third mate again somewhere else. It just doesn't
19 happen.

20 MS. SILAS: And just to distinguish,
21 are there three Johns? Is there a last name? I
22 think you were referring to Boyce, just for the

1 record.

2 CAPTAIN GALLAGHER: Correct, sorry.

3 Is there anyone else from the committee who would
4 like to say anything? Okay, at this time I would
5 like to turn it over to the public. Mr. Lemire?

6 MR. LEMIRE: Good morning. I'm not
7 sure if you notice through the windows, but we've
8 had three of our jobs go by in the last half
9 hour. At times, maybe five years ago, you could
10 spend three days and see three ships, so this is
11 what we've got.

12 To clarify some of the things about
13 traffic; traffic is up 30 percent in Lake
14 Ontario. The word substantial was used a lot; 30
15 percent.

16 MS. SILAS: State your name first,
17 please?

18 MR. LEMIRE: Oh, I'm sorry; Robert
19 Lemire, Great Lakes Pilotage. So it's
20 significant this year. There's no excuse for it;
21 we just can't handle it, and we would not be
22 expected to handle that increase.

1 Now, a related question to Steve is,
2 great idea getting together and finding out what
3 traffic is going to be, but I need about a year
4 and a half to react to that. By that I mean, get
5 a tariff in place to be able to fund the
6 training; find the people, and then train them.

7 So if we can ever get to that point,
8 Canada is going to participate in a second, so,
9 great idea. I think you should explore that.
10 We've just gone through a national pilotage
11 review, and the consultants are telling us it's
12 impossible that you can't predict traffic. Well,
13 let's take a look at it. We'd be ready to spend
14 some of our customers' money to go down that
15 road.

16 Finally, we talk about staffing and
17 eliminating delays; that's all we do. We will
18 purposely leave a ship in a port to move another
19 one in a quicker fashion, knowing that we will
20 have an available pilot to move another ship
21 later on. So these delays aren't just haphazard;
22 they're managed. The dispatch office for the

1 Americans is just back here, and they're on the
2 phone all the time.

3 In a situation like we have in 2018,
4 it's just impossible. Now, we will be staffing
5 up for next year for Lake Ontario for the tanker
6 traffic. If traffic falls, well then, we will
7 keep these people on staff, but they will be
8 reflected in the tariff. So it's a difficult
9 exercise.

10 And maybe one last thing on this
11 traffic issue; in the last 20 years, traffic has
12 gone up or down 10 percent half the time. In the
13 last 20 years, traffic goes up 10 percent, up or
14 down, half the time. That's the ultimate rule.
15 So if we can solve that one, we'll be in
16 business. Those are my comments.

17 CAPTAIN GALLAGHER: Steve, did you
18 want to address a question to --

19 MR. FISHER: Steve Fisher. Clay, can
20 you tell us, do you know how, in the coastal
21 areas of the United States, do any of the state-
22 regulated pilotage groups have any particularly

1 wise way of approaching this same question, which
2 is a difficult question, which is how to predict
3 traffic in the future?

4 MR. DIAMOND: Clay Diamond; I get the
5 feeling these questions are a way to get me not
6 to come to the meetings; all you've got to do is
7 ask. I wouldn't have come.

8 (Laughter.)

9 MR. DIAMOND: No. It's one of the
10 more challenging parts of the whole operation.
11 The objective of the oversight authority is to
12 set the, quote, right number of pilots. What
13 right number means, is enough so that fatigue
14 isn't an issue, but not too many where it's an
15 inefficient use, or it's an excess cost, or
16 there's too many pilots, and everybody doesn't
17 get a full rotation on all of the different ships
18 in enough frequency.

19 And as Captain Boyce said, there's
20 some value in having a longer-term look, because
21 you have to project ahead a couple of years at
22 least, usually. You don't open the pilot drawer

1 and get a pilot out this season; it's a long
2 process.

3 So generally the approach that the
4 coastal states take is to staff to average peak,
5 and that will certainly lead to periodically
6 having too many pilots, which, by the way, the
7 pilots don't like. It will occasionally lead to
8 too few pilots on a really anomalous spike, but
9 generally staff to peak average, looking at
10 working with the stakeholders, looking at
11 periodicals. You all are in the business of
12 trying to project this, and I'm sure you wouldn't
13 swear on your prediction, so it's a real
14 challenge.

15 CAPTAIN GALLAGHER: Is there anyone
16 else from the public who would like to talk on
17 this subject?

18 MR. HAVILAND: Good morning, Todd
19 Haviland. Up until just a few years ago, and
20 even today, the vast majority of pilotage usage
21 is to bring steel in and take grain out, and it's
22 been a handful of companies, well-represented by

1 the Shipping Federation of Canada, and they've
2 provided us with some feedback on their tolerance
3 for delays.

4 But the global commodity market has
5 essentially driven traffic for salties in and out
6 of the lakes. What we've got with this new
7 dynamic are these cruise ships who are a new
8 player to the system, and then the petroleum
9 players.

10 I guess, to dovetail on what Steve was
11 talking about, do those types of businesses have
12 a better ability to project out their three-,
13 four-, five-, and ten-year plans to some of the
14 dry commodity salties? I think that type of
15 information would be extremely helpful for Mr.
16 Lemire and I.

17 CAPTAIN GALLAGHER: Anyone else in the
18 public like to comment? If there are no other
19 comments -- Mr. Broad?

20 MR. BROAD: Michael Broad, president
21 of the Shipping Federation of Canada. I just
22 want to say that predicting the future is

1 probably the most important thing we can do.
2 We're predicting the right number of pilots.
3 Clay, you just mentioned staffing to peak
4 average; I don't know if that's going to solve
5 the problem.

6 The pilots talk about not getting
7 enough money, enough income from 2007 to 2015.
8 Let me tell you, the average projected hourly
9 rate for those nine years, projected by the Coast
10 Guard, was going to be \$278.16 an hour.

11 The actual average rate earned was
12 \$278.29, 13 cents more an hour than predicted.
13 So if you staff to peak, and the traffic falls,
14 you're going to be unhappy. We have customers
15 here that are asking for a change; they're asking
16 for an improvement in service; an improvement in
17 efficiency. I think we have to address that; I
18 think we have to look at other means of providing
19 pilotage service.

20 Do we need pilotage across the lakes,
21 open waters? What about the use of helicopters?
22 That might be a stupid idea, but is the use of

1 helicopters to move pilots around faster
2 possible?

3 Double-pilotage; do we need double-
4 pilotage? Should we be doing risk assessments to
5 see if double-pilotage is necessary at the
6 beginning and end of the season?

7 We talked four years ago; we wrote to
8 the Coast Guard and asked the Coast Guard, gave
9 them a number of ideas about looking at ways to
10 improve the situation, and we never got a reply.
11 We talked about cross -- we know it's difficult
12 to be trained in one area and work in another,
13 but you know, you're all mariners, good mariners.
14 There's got to be some possibilities that there
15 can be some jobs exchanged.

16 But I think there's a lot of little
17 things. There's not big idea that's going to
18 come along that will solve this problem; the
19 problem has been going on as long as I've been in
20 this business, 40 some-odd years.

21 So I think we have to look at new
22 ideas, technology; I think we really have to look

1 deeply into this and come up with some new ideas.
2 That's all I've got to say.

3 CAPTAIN GALLAGHER: Anybody else in
4 the audience who would like to comment? Okay.
5 If there's nobody else in the audience, then
6 we'll turn it back over to the committee. Does
7 the committee have any additional comments?

8 I'll make one here with regard to Mike
9 Broad's comment about the cross-training; I'm
10 going to repeat myself, I'm sure, but just in our
11 district alone, we do almost the whole east coast
12 of Florida under one pilot group, so if there's a
13 pilot that's not in Miami, we run them over to
14 Jackson, and go back and forth. It just doesn't
15 make sense by the time you train everybody.

16 We would have everybody in training in
17 every three districts, and we would have to have
18 double the amount of pilots. In theory, it's a
19 good idea, but in reality, it just would not
20 work. Can Clay say anything now, or --

21 MR. DIAMOND: It's the same topic.

22 CAPTAIN GALLAGHER: Okay.

1 MR. DIAMOND: Okay?

2 MS. SILAS: Anything discussed so far.

3 MR. DIAMOND: Okay. Just to make a
4 point; in addition to being a deputy director of
5 the American Pilots' Association, I'm a delegate
6 to the Congress of the International American
7 Pilots' Association. I'm not aware of any
8 pilotage system in the world where a pilot serves
9 in more than one pilotage district. I mean,
10 that's just not the nature of pilotage. You
11 become an intimate expert in your pilotage
12 district.

13 It's been brought up in my years of
14 coming to this meeting, this idea of, rather than
15 having to travel these guys all through their
16 region, why not have them stationed in kind of a
17 harbor pilot situation around the lakes?

18 Well, you would probably
19 conservatively quadruple the number of pilots if
20 you tried to set up American pilot systems
21 throughout the lakes to kind of mimic what goes
22 on in the coastal states.

1 There's a harbor pilot group in Tampa
2 and in Baltimore and in Savannah and in
3 Charleston and San Francisco, because as Captain
4 Gallagher said, that's their port. They're
5 stationed there, they live around there, they
6 have their pilots stationed there. In some
7 cases, they have pilot home houses right there.

8 If you tried to put pilots in all of
9 the ports around the Great Lakes -- you guys can
10 correct me -- but you would conservatively
11 probably quadruple the number of pilots that you
12 would need. It would be far less efficient and
13 far more expensive.

14 CAPTAIN GALLAGHER: Yes, Mike.

15 MR. BROAD: That was just one idea;
16 there's a lot of other ideas that can be looked
17 at. You know, shipping has changed over the last
18 several years, but I don't think pilotage has.
19 Pilotage has organized pretty well throughout the
20 world under the same business model. I think
21 we've got to start looking at doing things
22 differently.

1 We can't just say to people like the
2 gentleman here from Petro-Canada, I'm sorry; we
3 can't do that. We can't give you better service,
4 because traffic's up, or whatever, because when
5 traffic goes down, we'll have too many guys.
6 We've just got to stop thinking about it like
7 that. We have to look at doing things
8 differently.

9 Listen, we all service people like
10 Mike Klein and the gentleman from Petro-Canada.
11 That's who we move cargo for, and so pilotage is
12 an important part of that. But we've got to look
13 at doing things differently. As I say again,
14 that was just one idea, but there's a lot of
15 other ideas out there.

16 CAPTAIN GALLAGHER: Anybody else on
17 the committee other than me? John Swartout?

18 MR. SWARTOUT: Swartout; I'm not
19 campaigning to be the patron saint of the cruise
20 ship industry, but they're not well represented
21 here today. Last year, I made a motion to have
22 the committee recommend the Coast Guard amend any

1 regulations necessary to allow pilot associations
2 to give priority treatment to cruise ships over
3 other traffic as an interim step to getting
4 enough pilots to serve all of the traffic without
5 delays.

6 We don't have the tanker traffic in
7 our district; District 1 does, so it's not an
8 issue for us right now. But we're told that
9 there are more cruise ships coming. Right now
10 they represent about eight percent of our
11 business, and they could easily double that in
12 the next couple of years.

13 Knowing how intolerant they are of
14 delays, we would like to provide them service,
15 and it's kind of a conflict, because I hear that
16 the rest of the industry doesn't want a lot of
17 pilots, and so how are we supposed to serve the
18 traffic, if we don't have enough pilots?

19 If we can't serve the cruise ships the
20 way they need to be served, then they're going to
21 lose; they can't function. So my point is just
22 that we have 22 authorized pilots in District 3;

1 we have 22 right now, although four are in
2 training. We're going to keep hiring, but I want
3 the Coast Guard to keep close tabs on what's
4 needed for pilot numbers and increase the
5 authorized numbers if necessary, if they're not
6 willing to prioritize cruise ships.

7 CAPTAIN GALLAGHER: Steve?

8 MR. FISHER: I just want to add to
9 what John just said. I'm speaking on behalf of
10 the ports I represent during my day job. Be
11 aware, the governors of the Great Lakes states
12 just announced a new cruise marketing initiative
13 about 10 days ago where they're putting hundreds
14 of thousands of dollars into trying to lure even
15 more cruise activity in the Great Lakes.

16 Generally, I want to remind you that
17 these are wonderful problems to have, folks.
18 We're talking about the woes of accommodating a
19 booming economy, so let's keep that in mind as we
20 talk.

21 One thing I would just say to the
22 director; maybe something we can do is get more

1 plugged in to the cruise community. I don't
2 know; maybe you are, but if you're not, I'm happy
3 to work with you on that. But there's a whole
4 bunch of people trying to do more marketing to
5 bring more cruise ships in.

6 There's a lot of people with the state
7 tourism agencies who believe that the Great Lakes
8 is a cruise destination that's going to boom
9 soon, mostly because people have cruised out
10 everywhere else, and they're looking for new
11 places to go, and the Great Lakes have been
12 largely untapped as a cruise destination. And
13 quite frankly, folks, we've got a lot of great
14 stuff to see here; beautiful places to go.

15 So I think keeping tabs on that from
16 the pilotage perspective and being aware of
17 what's coming is good. I can tell you from
18 working with the cruise lines that are currently
19 in the lakes, they're planning their itineraries
20 now for three years from now, so they can tell
21 you exactly what they're planning on doing for
22 the next couple of years.

1 They've got to sell these tickets way
2 in advance, so at least with that segment -- I
3 don't know about the petroleum segment, but with
4 the cruise segment, they are planning far in
5 advance, and if we can get their plans into your
6 hands, that would better inform your ability to
7 hire the right number of guys.

8 CAPTAIN GALLAGHER: Any other comments
9 from members of the committee?

10 CAPTAIN BOYCE: Well, I was going to
11 say that the hard part of that is, you can know
12 what one segment is doing; if the other one is
13 doing this alongside, it almost doesn't help you.
14 Your load will be a certain base load, but that's
15 -- I'm absolutely in agreement, on board of --
16 everybody wants the right numbers. That's almost
17 a foolish statement. But you need to have the
18 revenues to match with the projection, and you
19 have to have the capacity to provide the service.

20 I believe that's in most of the state
21 systems, that's why you look at a peak, near-
22 peak, or an average peak in different terms is,

1 there will always be the capacity there.

2 The problem is, there's a cost to
3 that; in your up years, it washes; there's the
4 business there to cover it. It's floating that
5 capacity in the down years; that's the real
6 challenge to everyone. And partly it becomes,
7 Well, who bears that risk? Is it industry who
8 bears that risk to make sure, on the up years,
9 there is the capacity there? Or do the pilots
10 end up with a shortfall, and now we start losing
11 people again? It's the opposite sides of the
12 same coin.

13 There is no perfect answer; there is
14 no right answer, and the Coast Guard, to some
15 degree, handicaps itself to try to find the exact
16 right answer to all these things, and that's
17 where, especially with tolerances for whether it
18 be delay or whatnot, have to be finitely, not
19 just conceptually, discussed.

20 What is the cost of delay, not just
21 more or less? Because on the right side of all
22 the calculations, every penny gets scrutinized.

1 Somebody wants more information, somebody wants
2 clearer information, somebody wants all the
3 information, and that's what drives the Coast
4 Guard into a position such as using a 10-year
5 average to project traffic, because they have to
6 have something to fall back on for their scrutiny
7 of, why did you pick this number?

8 Otherwise, it falls to, in some ways,
9 director's discretion, and then fairly enough, we
10 both beat up the director on his discretionary
11 exercise. I guess I was just bringing the topic
12 around a little bit.

13 CAPTAIN GALLAGHER: Mike Broad?

14 MR. BROAD: Yes. I'd like the Coast
15 Guard to take a look at doing five-year rolling
16 averages. Just take a look at it to see if it's
17 better. Also, John, about risk; you're a private
18 monopoly. Private monopolies, I think, have to
19 bear risk. If you don't want the risk, then
20 maybe it's time to look at federalizing, becoming
21 employee pilots.

22 CAPTAIN BOYCE: Risk has to be

1 countered by reward, which means, on the up, you
2 do better, on the down, you do worse. That's
3 understood and acceptable. But you can't
4 mitigate out all the chances of an overage, and
5 then eat all of the shortfalls in a bad year.
6 It's one way or both, but you can't go halfway on
7 it.

8 CAPTAIN GALLAGHER: Steve?

9 MR. FISHER: I was going to add, look;
10 any business has the same conundrum which is, how
11 do they respond to a surge in customers, and then
12 if the economy goes sour, how do they accommodate
13 that, and how do they live through that?

14 So I think the answer is the same
15 answer that any other business has which is, do
16 they have a rainy-day fund? What do they do to
17 survive the business cycle? So while I'm not a
18 businessman, I'm sure there are some smart
19 businessmen we often talk to who could advise you
20 on how to survive a business cycle. How do you
21 survive the lulls?

22 In a way, you guys are getting set up

1 right now. Things are booming; you're going to
2 bring on lots of people. It's great; we want you
3 to.

4 But the economy is going to go south
5 at some point, and then you've got a bunch of
6 people on your hands that you may not need. And
7 as you said, John, you can't just go out and grab
8 them off a shelf. They take a while to train up.

9 But I think every business confronts
10 this same challenge. It could be businesses that
11 have skilled workforces that can't just be
12 brought in and out easily. But we're talking
13 about tens of thousands of businesses that
14 confront the same challenge, so there's got to be
15 a way that it's dealt with.

16 CAPTAIN GALLAGHER: Any more comments
17 from the committee? Is there any recommendation
18 that the committee would like to consider? No
19 recommendation? Okay, we'll take a 15-minute
20 coffee break.

21 (Whereupon, the above-entitled matter
22 went off the record at 10:11 a.m. and resumed at

1 10:32 a.m.)

2 MR. GALLAGHER: Okay, we would like
3 everybody, thank you, everybody, for the break.
4 John, thank you very much for hosting us. We
5 really appreciate you doing that for us.

6 So next item is the Annual Rulemaking
7 and Financial Reports Uniform System of Accounts
8 and Uniform Accounting Practices. Our next, the
9 Uniform System of Accounts and Uniform Accounting
10 Practices. We'll deal with this as two separate
11 topics.

12 Mr. Haviland will provide a brief
13 update to the rulemaking and financial reports,
14 and Mr. Fisher will lead the discussion on the
15 Coast Guard, comparing pilot boat associated
16 expenses and utilizing more up to date data in
17 the annual rulemaking. Mr. Haviland, would you
18 please proceed?

19 MR. HAVILAND: Good morning. Todd
20 Haviland, again. I'll be very brief. The 2018
21 rule and rates are in effect. They will be in
22 effect until the 2019 rule publishes. We're

1 drafting the NPRM, and we anticipate that it will
2 be published soon.

3 The financial reports are being
4 produced for the 2017 season, and as soon as
5 those are finalized, I will share them with the
6 Shipping Federation. We will also put them on
7 our Coast Guard website, and they will also
8 publish with the 2020 rulemaking session. That's
9 all I have, if there are any questions on any of
10 the rulemakings.

11 MR. GALLAGHER: Mr. Fisher?

12 MR. FISHER: I want to ask for a
13 clarification of, make sure I speak to the thing
14 you want me to speak to. So we're talking about
15 the annual rulemaking and financial reports now?

16 MR. GALLAGHER: Yes.

17 MR. FISHER: Is that correct?

18 MR. HAVILAND: Can I say something
19 real quick?

20 MR. FISHER: Yes, go ahead.

21 MR. HAVILAND: You said that I had
22 misinterpreted some of your feedback on what you

1 want us to look at with the expenses. You want
2 them to be aligned so you could do a cross
3 comparison, and it would show that the cheapest
4 option --

5 MR. FISHER: Yes.

6 MR. HAVILAND: -- is made?

7 MR. FISHER: Yes, is that what we're
8 talking about now?

9 MR. HAVILAND: Yes, sir.

10 MR. FISHER: Okay. Okay, thank you.
11 Thank you. You know, before these meetings, we
12 get together with the vessel operator community
13 and discuss the agenda. There is a view that the
14 current model, during the rate setting process,
15 for those of you who don't know, part of the
16 process is that the three pilot organizations are
17 required to have their finances audited each
18 year, and then those audits are reviewed by the
19 Coast Guard, and then all that is put into the
20 Federal Register for public view and comment.

21 One of the issues, and I don't want to
22 talk about this quite yet, but one of the issues

1 is that that all takes so long that we're always,
2 each year we do a rulemaking, and we're looking
3 at data from three years earlier. So that's kind
4 of a flaw right there that we're going to talk
5 about in a second.

6 The other flaw is that, for the
7 layman, now, mind you, this is being put in the
8 Federal Register for public to comment on, yet
9 it's pretty darn complicated, quite frankly. It
10 may not seem complicated to each of the
11 organizations. They're looking at their own
12 books, quite frankly. It may not seem
13 complicated to professional accountants, but
14 quite frankly, I'm not an accountant. I'm not a
15 business manager, but it's somewhat complicated
16 to look at, somewhat complicated to decipher.

17 The three pilot associations are
18 structured differently. I think two are
19 partnerships, one's a corporation. So obviously
20 their books are a little bit different, the way
21 they report and the way they structure their
22 financial statements. Being able to do

1 comparisons between the groups is challenging,
2 and I would even argue it would require some
3 professional accounting assistance to do so.

4 So one recommendation that our group
5 would like to make is that, in fact, the Coast
6 Guard try to strike more consistency between the
7 way the audits are done between the three groups
8 to try to facilitate a better understanding.
9 This is all about better transparency, folks.
10 And if people can look at costs and expenses and
11 pick the expense between the three groups, and be
12 able to compare them and understand a little bit
13 better why an insurance or a, you know, telephone
14 use, or whatever the expense item is, in one
15 group, might be radically different than it is in
16 another group.

17 I think the value of all of this is
18 that you have three different companies operating
19 on their own, and I think if one of them had been
20 particularly clever in finding a way to do
21 something better or cheaper, how can we migrate
22 that best practice over to the other groups, or

1 even have that discussion? I think that's the
2 value, quite frankly. And so I think that's the
3 value in somehow trying to make this simpler.

4 Yes, we've checked the transparency
5 box, because these things are published in the
6 Federal Register. That doesn't mean they're
7 understandable. And so if we want to improve
8 transparency, the next step would be to even make
9 them, simplify them a bit so that the public can
10 understand them a little bit better. Not to
11 belabor that, but that's one point.

12 We would like to get into a discussion
13 in just a sec about the timeliness of this data.
14 To do a rate making each year, using the
15 financial information from three years ago is
16 always going to produce some flawed results. And
17 the more we can tighten that up, and in a second,
18 I'll shut up and let John do some talking, but
19 the more we can tighten that up, the better. And
20 I think everyone realizes that. It's mostly an
21 issue of how do we tighten that up?

22 And it benefits, pilots and benefits,

1 vessel operators, the more recent data we're
2 using, the more accurate the inputs, the metrics
3 are into the rate setting process. And at the
4 end of the day, you end up with a better decision
5 at the end of the day.

6 Our group also discussed the tracking
7 of what I think are unique elements of the rate
8 setting, primarily, training surcharges that are
9 a part of the rates. Most years, when new pilots
10 need to be brought on, there are surcharges to
11 allow for training. We think that, in the
12 financial statements, those costs should be
13 broken out, separately and clearly identified.

14 Also, the working capital fund, which
15 is another element of the rate setting process
16 that essentially allows for a certain percentage
17 up-charge to the rates to allow the three
18 organizations to have a flow of revenue coming
19 in, essentially to allow them to service debt for
20 capital expenses. We believe that should be
21 segregated within the financial reports and
22 carefully tracked, and I think later in the

1 agenda, we're going to talk about how to deal
2 with capital expenditures. So I'll just hold on
3 that.

4 But to the degree that working capital
5 charge is in the rate setting process, we believe
6 it should be segregated, and those funds
7 shouldn't migrate around within the, within the
8 association's budget. They should be kept track
9 of from year to year because they're very
10 relevant to the ability of each of the groups to
11 have the resources necessary to make capital
12 investments when those investments become
13 necessary.

14 And let me, okay. I think that's
15 primarily what I wanted to say, but I do want to
16 hand it off to John Boyce to discuss a little bit
17 about the topic of how do we work toward more
18 recent financial information.

19 MR. BOYCE: John Boyce. I've actually
20 asked our auditors to come in, if there's any
21 questions. But in simple terms, there's a three-
22 year lag. I believe we can take an entire year

1 off of the rate calendar, cycle, whatever you
2 want to call it.

3 By regulation, we all have an audit
4 done on us that becomes turned into the Coast
5 Guard, becomes all of the information, every
6 year. The Coast Guard then goes through, we call
7 it an audit. It's agreed upon procedures. It's
8 not technically an audit, to establish the costs,
9 expenses, revenues for a rulemaking.

10 There's a reason tax time is April
11 15th, because it takes time to close the books,
12 have the books looked at, processed, everything
13 and you're done. Generally, it's a, it's a few
14 months. The current process is, once our
15 auditors do an audit, that's turned in to the
16 Coast Guard. The Coast Guard engages with an
17 entity to re-look at all of that, re-verify all
18 of the same information, and then produce a
19 report. You're looking at the September time
20 frame. Each block takes a couple months to do.

21 While the Coast Guard starts their
22 rate, NPRM rate process in the June time frame,

1 so basically by three or four months, adds a
2 whole extra year onto the cycle. If, basically,
3 I'll call it the scope of their agreed upon
4 procedures, which changed a little bit, when the
5 districts do their audits in the first place,
6 they could already have the audited data that
7 they produce, and simply make the report for the
8 Coast Guard of what the expenses and costs are.
9 And they would be, and I think the term is
10 engaged, with the Coast Guard at that point in
11 time. So there wouldn't be a conflict. That's
12 not the right term, but generally, a conflict.
13 The answer to the Coast Guard for that part of
14 it, not us. You know, the auditor does. And
15 they could likely produce that report, we'll call
16 it, in the late April, probably early May time
17 frame, which will make it timely for the Coast
18 Guard to use for that year's rulemaking.

19 So essentially, right now, the Coast
20 Guard agreed upon procedures is being done on
21 2017. They're already about ready to produce the
22 2019 rulemaking, so 2017 is going to go into the

1 2020. If the report was done in the way I'm
2 proposing, the 2017 data rate would already be in
3 the hands of the Coast Guard months ago, and they
4 would use that in the 2019 rulemaking. It really
5 shortens things up considerably, that, which I
6 think, like you said before, I think it's in
7 everybody's best interest to shorten up that
8 cycle. There's no benefit for it to linger. I
9 don't know if --

10 MR. GALLAGHER: Do you want to have
11 your account segment done, or --

12 MR. BOYCE: Well, what I told him is,
13 I would explain it conceptually. It's more an
14 issue, I think, of, does anybody have any
15 questions about how it will work, how it would
16 remain a neutral third party in things. I wasn't
17 sure what the group would really have, and I
18 figured somebody can speak appropriate industry
19 terms to answer that, would be beneficial.

20 MR. GALLAGHER: Do they want them to,
21 do you have someone who would like a question?
22 We could bring them up to receive it.

1 MR. FISHER: I, oh, I, if he wants to
2 describe, is that what you're going to have him
3 do?

4 MR. BOYCE: I, either way.

5 MR. FISHER: Yes.

6 MR. BOYCE: Jake can go up. This is
7 Jake Navarra.

8 MR. NAVARRA: All right. Well --

9 MR. GALLAGHER: Can you, can you speak
10 your name? Just over by the --

11 MR. BOYCE: There's a little mic there
12 --

13 MR. GALLAGHER: There's a mic right
14 there.

15 MS. SILAS: There's an X on the floor.
16 You can just stand right on that. I tried to
17 make it easier.

18 MR. NAVARRA: My name is Jacob
19 Navarra. I am with a firm, Stackel & Navarra
20 CPAs. We're located in Watertown, New York. At
21 this time, we do the audit for the Seaway Pilots,
22 Inc., and the Saint Lawrence Seaway Pilots

1 Association. We've been doing this audit for
2 many, many years now.

3 John had asked us to look at what is
4 produced for the Coast Guard agreed upon
5 procedures. We have looked at it, looked at the
6 timing of it, what needs to be done with agreed
7 upon procedure, and without a conflict of
8 interest, we have to keep independent. So as a
9 CPA firm, we have to be independent in our work.
10 And with the pilots, we're independent. With
11 this, the pilots, because they have Ron as a CPA
12 here, we do know we have no non-attest services
13 that we do.

14 So we stay completely independent. We
15 don't do the financial statements. We don't do
16 the tax returns. We just do the audit and report
17 on the financials in the audit, okay?

18 And what we say here is that, do we
19 stay independent if we do your agreed upon
20 procedure for the Coast Guard, and also we do the
21 audit for the Seaway Pilots. And the answer to
22 that is yes, we still stay independent.

1 We will engage with the Coast Guard to
2 do the service, just as the firm now does it.
3 The difference, maybe, is that, as John said,
4 they're going to be looking up data. They don't
5 look at our audit, and that's what they're going
6 to use to produce their forms, okay, their agreed
7 upon procedures. And right now, as John said, it
8 comes pretty late to me.

9 Based on what we read in the scope, in
10 the previous scope, we would ask the Coast Guard
11 to redo the scope of the audit, because right
12 now, it's based on three different pilot's
13 programs. Okay? We were just going to do it for
14 the Seaway Pilots.

15 After looking at that, we have kind of
16 come to the point where we think that we can
17 produce this report somewhere in the May time
18 frame. Late April, early to mid-May, we think we
19 can have this done by. And I think that
20 benefits, as John was saying, it seems to benefit
21 everybody here. If anybody has questions on that
22 --

1 MR. BOYCE: Which generally means if
2 it benefits everybody, there's no chance we can
3 do it.

4 MR. FISHER: You're saying in May of
5 each year, you would have the audit done for the
6 previous calendar year, right?

7 MR. NAVARRA: Correct.

8 MR. FISHER: And --

9 MR. NAVARRA: So in other words, right
10 now, we do the audit for the pilots during
11 December, year end. Okay, we come in here
12 usually first week, second week of February, and
13 we report to them middle of March. Usually we
14 try to have it done before the, before the season
15 starts. We come in to give our audit report.
16 And we're thinking that if we can just continue
17 on, along with the agreed upon procedures, we'll
18 just extend it out and hopefully have them done
19 by sometime in May.

20 MR. FISHER: That's what they're
21 hoping.

22 MR. NAVARRA: Depending on the scope

1 of what we're given.

2 MR. FISHER: What's your understanding
3 of the current timeline? You come in early
4 February, you have an audit done for them by
5 March --

6 MR. NAVARRA: Yes.

7 MR. FISHER: -- then their contractor
8 comes in and reviews that audit?

9 MR. NAVARRA: What's happening right
10 now --

11 MR. FISHER: Yes.

12 MR. NAVARRA: -- that's what's
13 happening now. Right.

14 MR. FISHER: I'm asking what's the
15 timeline now? So if you have provided them with,
16 Seaway Pilots with their audit by March-ish --

17 MR. NAVARRA: Yes.

18 MR. FISHER: -- when do you, and you
19 can answer too --

20 (Simultaneous speaking.)

21 MR. BOYCE: He doesn't really deal
22 with anything like that.

1 MR. FISHER: Yes, so because of the
2 opening of the season, and the way the
3 contracting works, our auditors usually engage in
4 late May or early June. Okay, so he's done in
5 March.

6 MR. HAVILAND: He's done in March, and
7 then where does he go? Late May, early June for
8 us. We have an independent accounting firm out
9 of DC that comes and runs our agreed upon
10 procedures.

11 MR. FISHER: Right. And then, they
12 finish up. How long is their process?

13 MR. HAVILAND: It takes, they should
14 be done late September, early October.

15 MR. FISHER: Okay. So when you start
16 your --

17 MS. SILAS: All right. This back and
18 forth, you need to step up to the table.

19 MR. FISHER: When you --

20 MS. SILAS: No, leave that, you can --

21 MR. FISHER: So your audit, your
22 accounting firm is completed in September-ish?

1 MR. HAVILAND: Yes.

2 MR. FISHER: Okay. A review of the
3 audits that are done in March, that is of the
4 previous year?

5 MR. HAVILAND: Correct.

6 MR. FISHER: And so why, when you
7 begin the rate setting process, which is usually
8 published September-ish, why can't you use the
9 previous year's data at that point?

10 MR. HAVILAND: Because of the amount
11 of time it takes to put everything to work.

12 MR. FISHER: That's what I don't
13 understand. What's --

14 MR. HAVILAND: Well, the notice and
15 comment period, in order to publish in September
16 or late summer, early fall, we start drafting the
17 rate around April. Because it goes through a
18 number of levels of review in the Coast Guard,
19 then the Office of Management and Budget looks at
20 it, and then the Department of Homeland Security
21 looks at it, and if we change those numbers
22 significantly, then we have to start over from

1 scratch.

2 MR. FISHER: Okay.

3 MR. HAVILAND: So it's, you just can't
4 drop the numbers in.

5 MR. FISHER: Okay. So let's say,
6 because of that, you're now spilling into the
7 next year. That would make a two-year old --

8 MR. HAVILAND: Correct.

9 MR. FISHER: -- data cycle. Why are
10 we on a three-year old data cycle?

11 MR. HAVILAND: Because we're about to
12 publish the NPRM, and the 2017 numbers haven't
13 been verified by our accounting firm yet that we
14 contracted with.

15 MR. FISHER: So they're late, or --

16 MR. HAVILAND: No.

17 MR. FISHER: Wait, you just --

18 MR. BOYCE: This is John Boyce.

19 MR. FISHER: Yes.

20 MR. BOYCE: They're auditing 2017.

21 They're building --

22 MR. FISHER: Right now?

1 MR. BOYCE: -- their auditors --

2 MR. FISHER: Yes.

3 MR. BOYCE: -- are auditing 2017.

4 MR. FISHER: They will review your
5 audits?

6 (Simultaneous speaking.)

7 MR. BOYCE: The agreed upon procedures
8 is the term everybody uses, but it's incorrect,
9 right? And in some ways, almost re-audit,
10 because they look at it, but they don't really
11 accept a whole lot. They go through it like it's
12 their own procedure again. So they're looking
13 at, currently, 2017 data.

14 MR. FISHER: Yes.

15 MR. BOYCE: In 2019, the director will
16 use that data for the 2020 rate.

17 MR. FISHER: Okay.

18 MR. BOYCE: You see what I mean?

19 MR. FISHER: Yes. Yes.

20 MR. BOYCE: So he would have to have
21 the data months ago that isn't even done yet --

22 MR. FISHER: Yes.

1 MR. BOYCE: -- to put it in the 2019
2 rulemaking.

3 MR. FISHER: Yes.

4 MR. BOYCE: And that's what we're
5 looking at is shortening up the four months
6 between May and October.

7 MR. FISHER: So how many months
8 earlier do you need it? Is it four? I mean, how
9 do you --

10 MR. HAVILAND: Right, four months
11 earlier.

12 MR. FISHER: -- to make it, to get to
13 a two-year --

14 MR. HAVILAND: Yes.

15 MR. FISHER: Okay.

16 MR. HAVILAND: We need it, you know,
17 early spring, late winter. Right now, the most
18 current data we have available to do a rulemaking
19 is the 2016 funding.

20 MR. FISHER: Yes. Can I ask you,
21 beyond John's idea, do you have any other ideas
22 of how to tighten up the timeline?

1 MR. HAVILAND: We proposed a
2 requirement to get their books done earlier, and
3 the feedback we got, that it was impossible for
4 them to do that. So short of the Coast Guard
5 increasing the staff and bringing on a group of
6 CPAs that would perform these jobs, directly
7 under the Coast Guard, I don't know what another
8 option would be.

9 MR. FISHER: Can you comment on
10 whether using, we lose something important if
11 your reviewer isn't the reviewer?

12 MR. HAVILAND: Right now, there's a
13 lot of value in one independent person looking at
14 the three associations. We can put the
15 procedures in place to allow, you know, three
16 different groups to do that, but really, it comes
17 down to what's your comfort level that it's truly
18 independent, and they're not, you know, slipping
19 things in one way or another.

20 MR. FISHER: Yes. Yes.

21 MR. HAVILAND: If you would agree to
22 that --

1 MR. FISHER: No. No.

2 MR. HAVILAND: -- I have no objection.

3 MR. FISHER: No, let me just say that
4 I think your process gives a comfort level to us,
5 and we just would rather you wouldn't take so
6 long. But again, I think another approach would
7 be if the Coast Guard ordered the three audits,
8 rather than each of the groups ordering their own
9 audit. And that way, a Coast Guard-hired auditor
10 audits the three groups.

11 MR. HAVILAND: We do hire an auditing
12 firm, but when that gentleman comes in, he puts
13 their numbers together for the IRS --

14 MR. FISHER: I understand.

15 MR. HAVILAND: -- which has different
16 tolerances for allowing and dishonoring expenses,
17 then the Great Lakes Pilots will reject us. And
18 what we're looking at is, are these expenses
19 necessary for pilotage, and the number of the
20 values reasonable. And as long as it meets those
21 two standards, we include it in the rate, because
22 the rate is intended to reimburse them for

1 incurred expenses that are both necessary and
2 reasonable.

3 MR. FISHER: Can I ask a clarifying
4 question? Your audits are done for both your own
5 IRS needs and for the rate setting process, or
6 are they two different audits you are going to do
7 each year? One to satisfy the Coast Guard's rate
8 setting process, and then one for your own IRS
9 needs?

10 MR. BOYCE: What we have to do is
11 essentially maintain our books for both
12 circumstances. So the Coast Guard is --

13 MR. GALLAGHER: No, no, no. Okay, but
14 I think Steve's question was, we have to perform
15 an audit for the Coast Guard of general
16 accounting principles. Okay. We hire an
17 accounting firm to do that. It's required, it's
18 required that we provide that to the Pilotage
19 Office, I think it is April 5th. April, okay,
20 whatever it is.

21 And then, what happens is the Coast
22 Guard goes out and they hire an independent

1 auditor who comes in and they look at everything
2 that they go through with our auditors, look at
3 everything, and they basically are reviewing
4 everything again. And so technically, it's two
5 different audits.

6 MS. SILAS: But you don't then do
7 another audit?

8 MR. BOYCE: No, we only do one audit.
9 The Coast Guard does the other one. Yes.

10 MR. KHANDUPUR: If I may, they are not
11 a duplication. They do their audits for their
12 books, for the business. We do verify that those
13 expenses are justified or not.

14 MR. FISHER: Right. Right.

15 MR. KHANDUPUR: So it's a whole
16 different kind of process.

17 MR. FISHER: So, yes, if I may provide
18 it, but on behalf of the people I represent here,
19 no, we have a comfort need that your audit, your
20 review, that your contractor does provide. And
21 so we think it's important, but we very much
22 would like to find a way to find those four

1 months. I don't know, is everybody giving up a
2 month or what here, but --

3 MR. HAVILAND: We have the same
4 desire.

5 MR. FISHER: Yes.

6 MR. BOYCE: Yes, I mean, I would like
7 to be able to say it's not ours. They're the
8 ones that said that. You know, the one part to
9 this is, I don't think the term is engaged. When
10 they do that additional report, they don't talk
11 to us. They talk to the Coast Guard.

12 You know, they're continuing on, but
13 I think, I'm going on this because I see the
14 value, and I really don't see, although, like
15 Todd said, the Coast Guard has its own internal
16 people that go along with the auditors. They can
17 try to do two sets of audits at the same time, or
18 they just do their agreed upon procedures without
19 using our audits, you get garbage.

20 It's not going to work, and that's the
21 only way I see to not have to wait until one's
22 done to start on the next one. But I, there's a

1 tradeoff on what the comfort level is with how
2 much we want to shorten it up.

3 MR. HAVILAND: Right. I mean, one
4 solution would be instead of relying on us to
5 generate the rates, the relevant stakeholders get
6 together and propose the rates to us.

7 MR. FISHER: Yes, so something I
8 wanted to say, and it may, I was going to say
9 this at the end, but I think it relates to what
10 you just said, Todd. Folks, this rate setting,
11 this annual rate setting process, in my mind, is
12 one of the reasons we have such a toxic
13 relationship and atmosphere in this program.

14 The Coast Guard, by pursuing an annual
15 rate setting process, sets up a battle between
16 stakeholders every year that we're all obligated
17 to participate in. And so we all lawyer up, and
18 we're ready to submit our comments to the docket
19 and go to court and defend our position, and the
20 pilots do the same, and we all have law firms
21 we're spending a fortune on, and it's all because
22 the United States government, the Coast Guard,

1 creates a rulemaking process that pits us all
2 against each other every year.

3 And just as we try to start working
4 together and create cooperation and improve
5 relationships, there comes the fall of every
6 year, and we're at war again, and that's a war
7 that's hosted by the United States Coast Guard.
8 And so one of the recommendations, and I didn't
9 know where to make this comment in the, in the
10 agenda, but this seems to be a logical place.

11 One of the recommendations is to move
12 away from an annual rate setting, and the laws,
13 the law actually requires that it be done every
14 five years. Could be done more often, but at
15 least every five years. I would argue move to a
16 less frequent rate setting, and then just do cost
17 of living adjustments in between, and that will
18 result in a situation where we're not at war and
19 we're not at each other's throats all the time.

20 I would say to the Coast Guard, and I
21 beg of you to hear these words, manage this
22 program away from conflict. Manage this program

1 away from conflict. And one way to achieve that
2 is to move away from an annual rate setting
3 process, and the annual war it creates between
4 stakeholders and this community.

5 I think we all ought to be working
6 together as partners, cooperatively, for the
7 safety of navigation. That's a mood and an
8 atmosphere that I think is more conducive to what
9 I think, what I think you want to achieve, but
10 unfortunately, we're pitted against each other
11 every year by your process.

12 And so I would urge that we move away
13 from an annual rate setting, do it less
14 frequently, and then this issue of the audits
15 becomes, of course, less critical, because if
16 you're not doing it as often, you don't have to
17 tackle this with such a tight timeline.

18 But again, my apologies. I didn't
19 know where to make those comments, but it seems
20 like we're talking about the rate setting
21 process, and I think this is the time to say it.
22 So with that, I'll shut.

1 MR. HAVILAND: Can I just ask a --

2 MR. FISHER: Yes.

3 MR. HAVILAND: So if I understood you
4 correctly, for example, in 2019, 2020, you'd like
5 to see us establish a number, you'd like to see
6 us establish a number, and then, say, for the
7 next three, four, five years, it's going to
8 increase by either a predetermined COLA, or tie
9 it to some other inflationary number?

10 MR. FISHER: That would be the
11 concept, yes. And I, you know, we may need to
12 play with this. Maybe try three year, five or
13 you know --

14 MR. HAVILAND: Sure.

15 MR. FISHER: -- I'm not sure what the
16 right number is. But I know this --

17 MR. HAVILAND: Try it out for three
18 years --

19 MR. FISHER: -- this battle every year
20 is bad. It's bad for all of us, and it's bad for
21 the system. And I don't think there's anybody at
22 this table who would argue that the adversarial

1 relationships it creates has not, is not positive
2 to this program.

3 MR. GALLAGHER: Is there anybody,
4 well, we've got a long way to go here.

5 (Simultaneous speaking.)

6 MR. GALLAGHER: Is there anybody else
7 --

8 MR. BOYCE: Yes. I think, yes, there
9 is a benefit to having multi-year rates, and
10 gives some sort of visibility. The problem is if
11 it gets too infinitesimally calculated, and then
12 you look at pilot numbers and what needs to
13 change, hey, this is the number for the next five
14 years. Now what happens if you need to bring on
15 one, three, five, seven pilots? What happens
16 when traffic goes way up, way down?

17 That, we're having the same fights
18 over and over again, because there is no right
19 answer. There isn't. At some point, people have
20 to agree with assumptions, and not go from
21 exactly calculated to, well, we need this to
22 happen. There needs to be some latitude, and

1 part of the problem right now, and I understand
2 why, because the more you eliminate latitude, the
3 more defensible everything is.

4 But once you eliminate all the
5 latitude, you can't have any slack on a move
6 forward basis, because it's too closely
7 calculated. It can't, it can't bridge the gaps.
8 I mean, I think it's a great idea, it's just a
9 process to be able to do it. There isn't enough
10 agreement in the room, and there isn't enough
11 agreement in the segments of groups in the room
12 of, you know, we were talking during one of the
13 breaks, you know, everybody wants the right
14 amount of service.

15 Everybody agrees that there should be,
16 you know, X or Y charge for their services, but
17 every single person has different ideas of what
18 that is. And without, you know, us agreeing to
19 it, there's no way the Coast Guard's not going to
20 get beat up left, right, and crooked, and that's
21 where it goes back to doing the adversarial,
22 because they try to get to the point of, hey,

1 what we did was defensible. Well, it may be
2 defensible, but it may not be right, you know?

3 You know, you ask a lawyer how to run
4 a ship, you tie it to the dock and something can
5 go wrong. Well, not a whole lot of cargo's going
6 to get moved either, you know? There's an
7 immense lack of understanding in many places
8 outside where people individually sit and that's
9 listening. Certain people have a better
10 understanding, but not a whole lot. And that
11 goes back to the accounting and transparency.

12 You know, we need to be careful not to
13 confuse lack of understanding with lack of
14 transparency. We are, hands down, the most
15 transparent pilot groups in the country. There
16 is no question about that. For audited, then the
17 Coast Guard comes in and does their agreed upon
18 procedures on top of those.

19 There's a certain degree of, there's
20 so much information out there, that creates
21 confusion on what it all is, because there's
22 arguably too much out there. Books done

1 according to GAAP, Generally Acceptable
2 Accounting Principles, are just that. It's the
3 correct way to do it. You can't make them
4 simpler and have them just as correct because
5 accounting isn't that simple.

6 You know, the vast majority of us
7 think in terms of being manager of accounting.
8 You know, what's in my checkbook, how about I
9 write the check for it? You know, you don't look
10 at accruals and, you know, prepaid expenses and
11 all that. And the reality is, that changes the
12 numbers.

13 So when you try to make them more and
14 more and more accurate, they get less and less
15 and less clear. You know, so to get that clarity
16 that I don't disagree upon, I mean, most of my
17 pilots don't understand actuarial accounting.
18 They understand managerial accounting. You know,
19 how much money came in, how much money went out,
20 boom, done.

21 You know, but looking at those very
22 simple terms does not make a very correct answer.

1 It's, they're all good ideas. You know, I don't
2 disagree with a whole lot of what you said, and
3 conceptually, it works, but so much of what goes
4 on, and so much of the conflict is the opposition
5 of what common sense would dictate is simple
6 issues, and why can't we just do this, with the
7 reality of, it just doesn't work that way. And
8 it's not because we're not doing novel things and
9 we're not trying to figure it out.

10 I mean, this one, in particular, we
11 have to keep our books according to GAAP, because
12 that's law. You know, so that's how these things
13 work out. And God knows, I don't know why you're
14 attacking the Coast Guard on this, they get beat
15 up on it, because they try to get in the middle,
16 and in some ways, they should get beat up. Maybe
17 that's what they're there for. You know, we both
18 use them as the punching bag, so we shouldn't be
19 using each other as the punching bag.

20 MR. FISHER: I'm just saying, this
21 isn't a radical idea. The regs themselves, or
22 the law, I think, actually, allows for an every

1 five year rate setting. So somebody who wrote
2 the law actually thought, well, maybe it wouldn't
3 be every year. It provides for every year too,
4 but it says no longer than every five years.

5 So I think it was at least
6 contemplated that a rate setting would not
7 necessarily be every year. I agree, John, you
8 know, if it's not every year, it has to allow for
9 some wiggle room for the year that it's not
10 happening, because you don't know what's going on
11 that year, and it needs to, it needs to have that
12 wiggle room in the numbers.

13 But so maybe you try this where you
14 move to every other year first, but just, I can
15 tell you that this every year battle, it's
16 exhausting, first of all, and exhausting, I'm
17 sure, to you. It's exhausting to us, I'm
18 confident it's exhausting to you guys too. It's
19 expensive.

20 If we added up what we're all spending
21 on legal fees right now, I'm sure it's millions.
22 And I'm sure the lawyers that are here in the

1 room, and not in the room that are employed by
2 all of us, love it. But it, I remember years ago
3 where we weren't all suing each other, and it
4 still worked then too. So we don't need to pay
5 all those lawyers, and we don't need to spend all
6 this money, and we don't need to be exhausted
7 fighting each other.

8 And I'll tell you, and you can see it
9 here in the room today, this is a pretty, you
10 know, cooperative discussion here today. That's
11 how it ought to be every day. But when we're at
12 each other's throats, as we fight over the rates
13 each year, again, a battle that is hosted by you
14 all, that we're obligated to show up to, I mean,
15 I would be doing my people a disservice if I
16 didn't show up and argue like a son of a bitch --
17 excuse my language -- in that battle. And so
18 would they. They have people they answer to.
19 And our lawyers, they wouldn't be doing their
20 jobs if they didn't engage.

21 So you're almost encouraging us and
22 leading us into a, into a vicious fight with each

1 other every year, and I, again, yes, if we do a
2 rate setting less than every year, we would need
3 to make sure it thought through and accommodated
4 the realities of a, of a, not being quite as
5 accurate as it might've been if it was every
6 year. But I think it's something, I think it's
7 time to try it.

8 The level of animosity and the toxic
9 atmosphere in this program is at level I've never
10 seen it at. This is my 23rd year in this job,
11 and this, I've never seen it this bad. So I
12 think it's time to try something else.

13 MR. GALLAGHER: Steve, I think, I
14 think we can break it out a little bit. Maybe
15 part of it is the compensation battle that we're
16 battling every year. If we could establish
17 something and then move forward for five years,
18 that would, that would cut part of it down. They
19 could still have the audits. That way, they make
20 sure what we're spending is approved and
21 recognized.

22 You, they could set the amount of

1 pilots at an adequate amount, and if, you know,
2 if one association in the interim has a huge
3 increase of business, and they think it's going
4 to continue, and they need more pilots, and maybe
5 they could petition, have a special petition to
6 take the Coast Guard, and say, hey, let's, we
7 need to look at this here for our district 1, or
8 you know, because at the end of the day, no one
9 wants too many pilots. We want to make sure our
10 guys are working, you know, on a daily basis, and
11 we don't want people sitting around. It
12 benefits, it does not benefit industry, it does
13 not benefit us.

14 However, we need to have enough people
15 staffed to adequately move the ship. So we can,
16 I think there's a possibility that if we can come
17 up with that number, because that seems to be the
18 big, the big fight, most of the time, and we can
19 move beyond this. We're all, I think we're all
20 in favor of that.

21 And you know, it's a possibility that
22 you could just break it up a little bit, and

1 still have one segment that they have to look at,
2 but it would be, it would be a lot easier on the
3 Coast Guard. They wouldn't be worrying about the
4 comp. It would take half of it out. You know,
5 they have the number of pilots, you know, look at
6 that every five years if you wanted to, or
7 they've got to just go with this, come up with
8 the number and go with the consumer index.

9 MR. KHANDUPUR: So just to put it in
10 a historical concept, that's exactly what we used
11 to do is we put the rates once, and then for five
12 years, we would have just the COLA increases, but
13 that, what happened with that was we already had
14 a bad rate and it just exacerbated the problem
15 every five years. I mean, every year for the
16 next five years. And so in 2016, when we took a
17 whole round turn, we've done that and so we are
18 headed in that direction that you're suggesting,
19 and we'd love to get there. So --

20 MR. GALLAGHER: We'll get to the
21 public in a minute. Is there anyone else from
22 the Committee that would like to speak on this?

1 Okay, at this time, we'll open up to the public.
2 Mike Broad.

3 MR. BROAD: Just to Rajiv, your rate
4 was perfect. It was the number of ships that
5 wasn't right. Just keep that in mind.

6 MR. KHANDUPUR: No, there were other
7 things. There were --

8 MR. BROAD: No, no. The average for
9 the nine years was 13 cents --

10 (Simultaneous speaking.)

11 MR. KHANDUPUR: We were, we were using
12 a thousand hours for our designated product, and
13 1800 hours, there was no rationale for that.

14 MR. BROAD: Hourly projected rate was
15 exactly what the actual rate was over the nine
16 years. So just keep in mind that your rate was
17 perfect. It was the number of ships that was not
18 there. And that's the reason for the downfall.
19 A question for Coast Guard --

20 MS. SILAS: What was your name again?

21 MR. BROAD: Michael Broad.

22 MS. SILAS: And then, could you step

1 up in that --

2 (Simultaneous speaking.)

3 MR. BROAD: I've just got a quick
4 question.

5 MS. SILAS: Okay, then I'll walk to
6 you.

7 MR. BROAD: Oh, no, I don't need that.

8 (Simultaneous speaking.)

9 MR. BROAD: All right. You're
10 considering that your accounting firm has been
11 doing this for how many years?

12 MR. HAVILAND: This is the third one.

13 We had --

14 (Simultaneous speaking.)

15 MR. BROAD: Okay. Do you think, if
16 they get, if you get, they get the audited
17 statements from the pilots and people early,
18 April 5th, could they not do it in two months, an
19 audit, which would be May, June, end of June,
20 you've got July and August to look at the
21 numbers? We basically cut one year from there.
22 It would be two years, not three years.

1 MR. HAVILAND: Todd Haviland. The
2 challenges we have with this, when we've had to
3 go to a small business, so a small business
4 doesn't want to give up a whole bunch of
5 lucrative money to conduct audits for private
6 firms in order to do our agreed upon procedures.
7 So they wanted to start after they get their work
8 done, and for them, it's best to start in June.
9 I can ask them if we can adjust this.

10 MR. BROAD: I mean, maybe there's some
11 incentive for them to do it earlier, quicker?

12 MR. HAVILAND: Yes, I mean, this is
13 what our contracting officers' issues have been,
14 but we can look in to see what can be done.

15 MR. GALLAGHER: Is there anyone else
16 from the public who would like to speak on this
17 topic? Robert Lemire?

18 MR. LEMIRE: Robert Lemire, Great
19 Lakes Pilotage. I commend Steve maybe for your
20 recommendation, if there is a recommendation. In
21 Canada, we've been doing, we've been setting
22 rates, I think, on a cooperative basis, I would

1 say, for about 400 pilots for the last 30 years
2 I've been around. Sometimes we get a, we agree,
3 sometimes we don't, but generally, it's worked
4 for the last 30 years I've been around.

5 And I think that's the methodology you
6 had before here, and it kind of worked. You have
7 hiccups, then you need to fix your hiccups.

8 But we just got away from two meetings
9 with the ship fed on what we're looking for next
10 year, and some things, they like, some things, we
11 like, and somewhere in the middle, we're going to
12 meet. And then, tomorrow, we go up and have
13 bacon and eggs in the morning, everybody gets
14 along.

15 So I can just suggest, I can't, I'm
16 not going to comment on your rate methodology.
17 It's yours. Great. I do support you that it
18 causes a lot of grief and regulatory and legal
19 proceedings. So from Canadian point view, and I
20 can share that because we share the system,
21 that's just a recommendation. I commend you for
22 the, for your proposal.

1 MR. GALLAGHER: Anybody else? Clay
2 Diamond?

3 MR. DIAMOND: Thank you. I'm Clay
4 Diamond. I did want to comment on the idea of a
5 cost of living adjustment, but I also wanted to
6 kind of mention, it's been said a number of
7 times, I think Steve and Mike said it, that
8 there's, one side or the other is always filing a
9 lawsuit. And historically, that's just not
10 accurate.

11 For decades, the rate payer certainly
12 didn't file lawsuits, because they were getting a
13 fairly large premium. In 2016, when some
14 adjustments were made, that kind of raise for the
15 first time, the industry kind of raising
16 lawsuits, and I think that's significant to point
17 out. But the other, the more relevant point was
18 it certainly is a trend around the country to
19 move towards cost of living type adjustments for
20 the very reasons that you laid out.

21 I'm not eliminating the acrimonious
22 and adversarial stuff each year. But as was

1 pointed out, those systems depend on a couple
2 things. One, being at a place that makes sense
3 before you start adjusting it for inflation. If
4 you're, if you're far behind or far ahead, that's
5 not the time that I decide that they're going to
6 want a COLA.

7 The other part of it, those places
8 that are doing that have allowed for capital
9 investment surcharges, for example, if any of the
10 pilots have adjustments, if you need to add
11 pilots, other infrastructure investments. So as
12 long as you have a, if you do a cost of living
13 adjustment, it makes some sense, provided there's
14 opportunity to intervene periodically for
15 infrastructure and pilot investments.

16 MR. GRIEVE: Hi, David Grieve. I'm
17 highly encouraged by what I heard before. Steve
18 bears my views on, I think there's some realities
19 we've been dealing with, and honestly, when we
20 get into this process, then we have positions
21 taken that prove to make very difficult
22 negotiating, or working situations, and creates

1 all sorts of unneeded tensions, which lead to
2 other repercussions.

3 All I, all I would like to say here is
4 just of course to re-emphasize what Steve said,
5 and also, it was great to hear Dan reaching out,
6 that there is a view to get a little closer
7 together, and perhaps, in picking up what Todd
8 said about. So you know, what is so wrong about
9 us proposing getting together with the pilots and
10 proposing a rate to Coast Guard?

11 You know, I think these whole
12 discussions today is simply about providing
13 solutions, providing another way to look at
14 things. The business is changing, and perhaps
15 maybe, you know, should this process change a
16 little bit? And I think we're, you know, I'm not
17 quite sure what the eventual destiny should be
18 here, but maybe there's an opportunity to create
19 a subcommittee to this group which would comprise
20 of the right people, pilots and industry, talking
21 together and putting together some common sense
22 thoughts, and be able to look at solutions and

1 opportunities.

2 And as Mr. Lemire rightly said, the
3 ability to work together to come up with these
4 sorts of solutions so we can work together in the
5 right direction, in the same direction. So at
6 the end of the day, I think, I would, I would
7 promote the opportunity, perhaps, to have a
8 subcommittee of some sort, if that's possible for
9 this group, so we have the ability to sit down
10 and talk what basically concerns both of us, and
11 perhaps find some needed solutions. And so
12 that's what I wanted to table today. Thank you.

13 MR. GALLAGHER: Is there anybody else
14 from the audience that would like to say anything
15 on this topic? Okay, if not, we'll bring it back
16 to the Committee. Any additional comments from
17 the Committee members? Is there any resolution
18 or, that, any Committee member who would like to
19 propose? No?

20 Okay, if not, we'll move onto the next
21 item. Billing disputes process. The Pilots
22 Associations, special agents, or services, 26 CFR

1 401.431, outlines a process for shippers to
2 dispute pilot invoices. Mr. Berg will present
3 this process and emphasize the information the
4 Coast Guard needs in order to make an advisory
5 opinion.

6 Recently, the Pilots Office received
7 a challenge for invoices that were nearly three
8 years old. The Coast Guard would like the
9 Committee to provide feedback on the standard
10 time an invoice can be disputed, i.e. statute of
11 limitations. Vince, would you please --

12 BILLING DISPUTES PROCESS

13 MR. BERG: Yes. Thank you, Captain
14 Gallagher. I apologize ahead of time. I need to
15 read here, I can't see without glasses,
16 somewhere. I have one right here. So I
17 apologize it's so far away. It's hard to see,
18 but I will go over it.

19 One thing, we're here today, and I'll
20 go through the process, and then we can discuss,
21 hopefully the Committee will, can discuss this.
22 What we have is we usually have -- I'm sorry.

1 MS. SILAS: Oh, you're good. You're
2 okay.

3 MR. BERG: Okay. There's usually
4 disagreements between the shippers and the, what
5 the registered pilot puts on for the invoice.
6 And what we want to, okay. So the process is,
7 and I've taken this, and it's taken right out of
8 the 40 CFR 401.431, and when there is a
9 disagreement -- sorry.

10 When there's a disagreement, what we
11 like to see is we like to see the shippers and
12 the associations work out the problem on the
13 invoice. That's utopia, if they can get together
14 and figure out what went wrong, or can be re-
15 billed, or we can, you know, come, they can come
16 to a conclusion without involving the Coast
17 Guard.

18 You'll see up there at the top, it
19 says, shipper disagrees, a charge from the
20 registered pilot. And it moves down to the
21 triangle, or that rectangle, and it's a decision
22 there. If they agree, yes, there's a problem and

1 they can come to a solution, then it moves down
2 and they come to an agreement. Process is done.
3 Invoice is redone, and they agree on the
4 solution. When they don't agree, then that comes
5 to where it's called the director's appeals
6 process. Okay?

7 That is a way that there's disputed
8 charges in the CFR. What the shipper needs to
9 do, which is also called the appellant, they need
10 to provide, in letter, a writing, in writing, to
11 the director, what the exact dispute amount is
12 and why they think that it is not correct. Okay?

13 At that same time, they also need to
14 let the respondent, which is the associations,
15 know that they are appealing this invoice. Now,
16 we like to see it in letter form. In the past,
17 what we've gotten is just lists of emails, and
18 sometimes they're a lot to go through. Sometimes
19 they're backdated so far that we don't know that,
20 it's a lot. It's a lot to go through.

21 If we could have them, we'd like to
22 have them in letter form from either the

1 president or the CFO of the shipping company.
2 That way, we're dealing with those folks, and
3 we're dealing with those directly, and it should
4 be in writing, as according to the CFR.

5 Once they provide that, and the pilot
6 association knows that there's an appeal, they
7 have not less than 20 days to respond, and they
8 need to respond back to the appellant and to the
9 Coast Guard. Once they, once they appeal it, or
10 the respondent responds back, the director will
11 review all of the information and all of the
12 issues for an advisory opinion.

13 Once he does that, the, if the
14 authorize, if the charges are authorized, then
15 they go, it goes to the shipper for a reasonable
16 time for payment, and that's 30 days, within 30
17 days, they get a payment. If the, once that,
18 yes, the, and if it's not an authorized payment,
19 then the payment stands. Okay?

20 After that, there is a process they
21 could go further within the building. It can go
22 up to Mr. Emerson in our, in our building, or

1 5PW, and then he can rule on that also. So
2 that's the process there.

3 MR. GALLAGHER: Anybody like to, any
4 questions? Steve?

5 MR. FISHER: Vincent, I might not have
6 understood you. Is there a, is there a timeline
7 on pieces of this, or does the entire process got
8 a timeline on it?

9 MR. BERG: That's what we want to
10 discuss, because, like I said, prior to, we've
11 received some all the way back to 2015. We need
12 to set this to where there's a timeline to where
13 it's not, we're not looking back three years.

14 MR. FISHER: Right. Right.

15 MR. BERG: We would like a
16 recommendation that a timeline be put on this.
17 In the regulation, it doesn't have a timeline.
18 It's only got a couple timelines in there --

19 MR. FISHER: Right.

20 MR. BERG: -- of when the respondent
21 has to respond, not less than 20 days, and when
22 they have to pay the money back, of 30 days.

1 MR. FISHER: Right.

2 MR. BERG: We don't want to see things
3 three years old. We've got a lot of, you know,
4 we've seen them one year back, two years back,
5 three years back. It's just very difficult to --

6 MR. FISHER: Right. Right.

7 MR. BERG: Yes.

8 MR. FISHER: Yes.

9 MR. BERG: Yes.

10 MR. FISHER: Well, I don't know about
11 a motion, but I, just as far as input, I would, I
12 would recommend, on behalf of the people I
13 represent, that there should be a timeline on the
14 whole macro process, and I think that's what
15 we're looking for is that you get an answer one
16 way or another in some sort of time certain
17 frame, time frame.

18 If, additionally, the Coast Guard's
19 view is, hey, don't ask us to resolve these
20 things three years later, you've got a statute of
21 limitations on when you bring them forward,
22 that's certainly fair, and I would think that

1 could be part of a, of the understanding of how
2 to fix this.

3 MR. BERG: Right.

4 MR. FISHER: But yes, I think all
5 we're looking for is a process that has some,
6 what do you call it, bumpers around it or fenders
7 around it, where people know when to get you
8 stuff, and then they have some certainty that a
9 decision will spit out within a time frame.

10 MR. BERG: Correct.

11 MR. BOYCE: Yes, I think right now,
12 the only time frame in there is once the question
13 comes to the pilots, we have 20 days to respond.

14 MR. FISHER: Right.

15 MR. BERG: Not less than --

16 MR. BOYCE: Yes. So I think, on both
17 sides, you know the Coast Guard's going to need
18 more from the 30 days if we get 20. But the flip
19 side is, you know, I think there should be a
20 relevantly short cycle time. You know, 30 days
21 or, to challenge a bill, you know, after that,
22 you know, we get, let's say 20 days to respond to

1 the Coast Guard, and then the Coast Guard has,
2 you know, call it 30 days to respond, or maybe
3 it's 30-30-30, something to that nature.

4 MR. BERG: Right.

5 MR. BOYCE: But it needs to be a
6 relatively short loop, because otherwise, it's
7 almost always surrounding an odd variable, or
8 some circumstance that gets lost in time.

9 MR. BERG: Right.

10 MR. BOYCE: You know, if either, A,
11 it's challenged a year later, or B, it's
12 responded to a year later, the, it's lost in the
13 details.

14 MR. BERG: Completely agree.

15 MR. GALLAGHER: The way it, the way it
16 stands right now, we, let's say April 1st, we
17 send a bill out. It's due May 1st, 30 days.

18 After that, that's when the, I would
19 envision, that's when the shipper has, they have
20 additional 30 days to dispute. So they're
21 actually getting 60 days, and that's, to me, that
22 would be a reasonable amount of time. What's

1 happening now is they're going back two three
2 years, and that data, that historical data is
3 lost, and we have to try to recreate everything.

4 We've had numerous Coast Guard
5 personnel leave. They've given us authorization
6 from things. Their data is gone. Some of that
7 data is gone. We need to be more realistic on
8 time, and again, give us 20 or the 30 days.
9 That's reasonable. I can give the Coast Guard 20
10 or 30, you know, the 30 days, and then that
11 should be very reasonable.

12 And if there is somebody doing
13 something wrong, let's get to the bottom of it.
14 Let's move ahead and, but let's not keep going
15 for years and years on it, because at the end of
16 the day, it's not good for any of us.

17 MR. BOYCE: Just one, the bill's due
18 on receipt. It's 30 days before the late
19 penalties --

20 MR. GALLAGHER: By, they have 30 days
21 to pay the bill.

22 MR. BOYCE: Yes, before there's a --

1 MR. GALLAGHER: Yes. And the thing is
2 though, and I think that there's some confusion
3 on some of, in those requests, while the bill is
4 going into dispute, it still has to be paid,
5 because what could happen then is everybody, just
6 because of the, they don't like the way the rate
7 system came out, they could say, well, we're
8 disputing all the bills, so there's no income.
9 They have to pay the bill.

10 If there's a refund, we refund the
11 money. Is there anybody else in the Committee,
12 have anything? Okay, at this time, I'd like to
13 open it up to the public. Mike had his hand up
14 first. Mike Broad.

15 MR. BROAD: I strongly --

16 MR. GALLAGHER: Mike, you've got to
17 stand up here.

18 MR. BROAD: Yes.

19 MS. SILAS: I'm going to walk to you
20 again, Mike.

21 MR. BROAD: How can you forget my
22 name? Mike Broad.

1 MS. SILAS: It's not for me, it's for
2 the record, so thank you.

3 MR. BROAD: Now I forgot my question.
4 No. Speaking on behalf of the industry, the
5 people that pay the bills, we don't agree, we
6 strongly disagree about giving 30 days after
7 payment to dispute the bill.

8 I mean, if, oftentimes, there is
9 information that only comes out six months later,
10 a year later, that, I mean, you should be able to
11 dispute a bill. I say three years back. I think
12 the important thing is that Coast Guard, once it
13 hits Coast Guard, there's got to be a response
14 period that you have to respond to that request
15 within a certain amount of time, and I would say
16 60 days is plenty for the Coast Guard to respond.

17 And if, obviously, if there's, if
18 there's extenuating circumstances and you need
19 more time, yes, but it should be at least
20 addressed and responded to within, I think, 60 or
21 maybe 90 days, max. Certainly there's got to be
22 a time period in there for when the Coast Guard

1 can make a decision.

2 MR. GALLAGHER: Can I respond to that?

3 MS. SILAS: Cautiously, yes.

4 Cautiously.

5 MR. GALLAGHER: Okay, now, look, Mike,
6 part of the problem going back two or three
7 years, you know, what you've done is you've
8 distorted the audits, because now we don't have
9 the proper revenue. You have credits that have
10 to be given. You have bridge hours have to be
11 taken away.

12 So now, that, all of that data, you
13 know, realistically, the Coast Guard should have
14 to redo the audits, because now they're not
15 active, because we're not using those bridge
16 hours, if you're not going to count the income
17 and the time, let's say. So all these things,
18 that's why it's so important to have this done
19 and not drag it out for three years, because now
20 all that previous information is no good.

21 MR. BROAD: The Coast Guard doesn't
22 get, doesn't use the information for three years.

1 They don't get the financials, then use the three
2 year old financials. So that's not going to
3 change anything if there's a, if there's a
4 question about leave or --

5 MR. GALLAGHER: Yes, it would.

6 MR. BROAD: It would change?

7 MR. GALLAGHER: Yes, it would.

8 Definitely would. I don't think you understand
9 the process, but yes.

10 MR. BROAD: I do. I do.

11 MR. GALLAGHER: No, you don't.

12 MR. BROAD: You're only using three
13 years, three years data from three years ago.

14 MR. GALLAGHER: Okay, Mike. If there,
15 if they are --

16 MS. SILAS: Okay, I'm sorry. Thank
17 you for your comment. It's a Committee that
18 makes decisions, and provides advice and
19 recommendations. So you have that feedback, and
20 they can do a recommendation depending on it.
21 Next comment. Thank you.

22 MR. HAVILAND: Todd Haviland. The

1 quality of the dispute is really what limits our
2 ability to turn it around quickly. When I
3 receive an email from someone saying, I got
4 billed too much, that doesn't help me at all. I
5 really need to know, okay, what's the invoice
6 number? What's the date of the service? How
7 much of the bill are you disputing, and what's
8 your rationale for it?

9 And what has happened recently is
10 we've been put in the position to try to recreate
11 these voyages, and then try to interpret, well,
12 how much of this voyage is being disputed. And
13 that is what is taking so long to respond. But
14 if you tell me, this is the occurrence, this is
15 the amount, and this is why, it makes the
16 turnaround process much simpler.

17 MR. GALLAGHER: Any other comment from
18 the public? No other additional comments, we'll
19 bring it back to the members here.

20 MR. BERG: Can I, can I reiterate on
21 what Todd said, is that seeing those separately,
22 we can almost take that information and rebuild

1 that individual invoice by invoice. The lists
2 and lists of three pages of just saying, this was
3 not done correctly, Todd's right.

4 It took us months to separate all of
5 that out and finally get a response back for
6 that. We need to know specifically, this case
7 for this invoice, this case for this invoice.
8 That way, we can, as they come in, we can record
9 that they've come in at this time, and we can use
10 this time frame to be able to get back to you
11 guys in a more reasonable amount of time so that
12 three pages of invoices that we have to figure
13 out don't linger on for months, almost a year,
14 for you to get a response back. It's not fair to
15 anybody, really.

16 MR. GALLAGHER: So getting back to my
17 point is, if you go back two, three years,
18 they're doing the, you're going to use the 2017
19 data, 2016 data. So if you're adjusting income
20 out of 2016, that's already been audited and
21 already been approved for use in future rates,
22 which is going to distort the rates and the

1 bridge hours and time the pilot's needed.

2 So yes, it does have a huge impact.

3 I think, I think 30 days after the due date of
4 the bill is reasonable for industry to comment.

5 I think 30 days for the pilots to respond is
6 reasonable, and I think 30 to 60 days, at the
7 maximum, I think 30 days, if the Coast Guard is
8 given the proper documentation, and especially if
9 everything, especially if everything is done in
10 the proper form, the pilot's job should not have
11 a hard time doing that.

12 And then, it goes back to the Pilot
13 Association or industry, and they have 30 days to
14 file an appeal with Mr. Emerson, at this point in
15 time. I think that's reasonable, and it's, that
16 whole process can be, been done within a, within
17 a five, six month period instead of dragging it
18 out.

19 MR. BOYCE: Well, and I would agree.
20 You know, the number of days is, you know,
21 flexible, but it needs to be relatively short.
22 You know, 30 days, 30 days, 30 days, something

1 like that. Because if there's something that's
2 being billed incorrectly from three years ago,
3 and now it's going to opine that this is
4 incorrect, you're going to have three years'
5 worth of bills to now reissue. It's been done on
6 a different opinion. It needs to be resolved
7 quickly, all the way around, partly to stop a
8 problem from profligating, if there's a problem.

9 MS. SILAS: Other comments from the
10 Committee members, or is there a motion or
11 recommendation?

12 MR. KLEIN: I'd, just one quick, you
13 know, from all the public comments, my one
14 hesitation is I don't know what the, what the
15 examples are, but has there been times where a
16 new variable has shown up to the industry six
17 months down the road that would impact a bill
18 that's been in place, or is it always just a
19 dispute on the original billing, and we don't
20 agree with this? Can anyone talk to that?

21 MR. GALLAGHER: The rules come out,
22 everybody knows them. They see them. They

1 should, they should be clear. Yes.

2 MR. FISHER: I don't know that we need
3 a motion on this. I think we provided good
4 input. I think the Coast Guard should put some
5 guard rails around this, and put some, you know,
6 timelines on it. Whether it's this many months
7 or that many months --

8 MR. BOYCE: Have to say whether it's
9 30 days, 45 days --

10 MR. FISHER: Yes.

11 MR. BOYCE: -- 60 days --

12 MR. FISHER: But I don't know --

13 MR. BOYCE: -- I don't know --

14 MR. FISHER: I don't know what the
15 right number is. They should put some guard
16 rails on it, and they should, you know, make it
17 spit out a decision. And even on the front end,
18 there should probably be some guard rails on how
19 long after the fact, I think you guys should
20 decide that.

21 I realize that if it's too long after
22 the fact, the data's going to be too hard to pull

1 together to assess the situation. So I
2 acknowledge that, but I don't know that I have
3 the right number of months to tell you. So I
4 would, I would just recommend that, you know, you
5 do with, what's right, but you put some deadlines
6 on this.

7 MS. SILAS: So that is the
8 recommendation. So second that?

9 MR. FISHER: Well, I don't know that
10 I want to make a motion.

11 MS. SILAS: That's the recommendation.
12 The Coast Guard, we can't really do --

13 MR. FISHER: No, I mean, all day,
14 we've been talking about ideas. We haven't had
15 motions about them. I'm not, I'm not asking for
16 a motion. I'm just saying that you've heard --

17 (Simultaneous speaking.)

18 MR. FISHER: -- you've heard input.

19 MS. SILAS: That is not a
20 recommendation.

21 MR. FISHER: Yes, no, I used the wrong
22 word. It's just my advice. My wisdom.

1 MR. BOYCE: Yes, I don't think it
2 would hurt to make a motion though. You know,
3 make a motion for the Coast Guard to explore --

4 MS. SILAS: That's what we're here
5 for, Steve. Come on, now.

6 MR. BOYCE: -- put deadlines on.

7 MS. SILAS: Come on.

8 MR. BOYCE: We're here to make them
9 happy. I'll make a motion that recommend the
10 Coast Guard to explore deadlines for industry to
11 challenge an invoice, Pilot Associations to
12 respond to the Coast Guard, and the Coast Guard
13 to render a decision. Does that work?

14 PARTICIPANT: Say it again.

15 MR. BOYCE: I can't say that again.
16 Explore deadlines for industry to challenge --

17 PARTICIPANT: Not labor disputes.

18 MR. BOYCE: -- invoices.

19 PARTICIPANT: Comma, for Pilot
20 Associations --

21 MR. BOYCE: For Pilot Associations to
22 respond, and the Coast Guard to --

1 PARTICIPANT: Provide an advisory
2 opinion?

3 MR. BOYCE: -- provide an advisory
4 opinion.

5 MS. SILAS: And to be clear, Coast
6 Guard is not providing language, you are
7 providing this to us. So you provide the
8 language without our input.

9 MR. BOYCE: Yes. Well, the advisory
10 period, if it's a correct term, that's the
11 correct term to use. So thank you.

12 MR. GALLAGHER: Good. Any changes to
13 that, John, or are you happy with it?

14 MR. BOYCE: I'm good with that.

15 MR. GALLAGHER: Okay, we have a motion
16 by Captain Boyce. Do we have a second?

17 MR. FISHER: Second.

18 MR. GALLAGHER: Second by Steve
19 Fisher. Any comment, discussion? Okay. So
20 we'll take a vote. Mike?

21 MR. KLEIN: Yes.

22 MR. GALLAGHER: Steve?

1 MR. FISHER: Yes.

2 MR. GALLAGHER: John Swartout?

3 MR. SWARTOUT: Yes.

4 MR. GALLAGHER: John Boyce?

5 MR. BOYCE: Yes.

6 MR. GALLAGHER: Dan Gallagher, yes.

7 John Baker?

8 MR. BAKER: Yes.

9 MR. GALLAGHER: All right. Pass
10 unanimously. Okay. The next item on the agenda
11 is the weighing factors. The regulations that
12 require the Pilot Associations to apply weighing
13 to all allowable piloted charges. The Coast
14 Guard --

15 PARTICIPANT: You skipped one.

16 MR. GALLAGHER: Oh, target comp, okay,
17 I'm sorry. Sorry, sorry, sorry. The Coast Guard
18 would like, will provide an update to the target
19 compensation study. Mr. Tim Brown Chief Office
20 of Standards and Evaluation and Development will
21 provide an update for the Committee.

22 TARGET COMPENSATION STUDY

1 MR. BROWN: Good morning, everyone.
2 My name is Tim Brown. My office at Coast Guard
3 Headquarters support all of our regulatory
4 analysis, including the Great Lakes Pilotage rate
5 making. We have a contracted project underway
6 right now to review pilot compensation
7 nationwide, as well as in Canada.

8 Basically, looking at the systems of
9 the various states, and Canadian authorities use
10 to determine pilot compensation. Our contract
11 was supposed to have ended earlier this summer.
12 The contractor has asked for an extension, which
13 we have granted.

14 As you know, we have, in the past,
15 used American maritime officers' Great Lakes
16 contract information. That information is not as
17 available to the Coast Guard as it was in the
18 past. Several years ago, we tried to use
19 Canadian compensation as a starting point in our
20 methodology.

21 Again, that presented some challenges
22 with currency, and as well as just a different

1 version in Canada. So although we are back to
2 using AMO's contract information, it is a little
3 bit dated from 2015, so what we're doing in this
4 contract is a survey across pilotage nationwide
5 for how those target compensations are
6 determined, what might be a better baseline in
7 order to validate the existing baseline that
8 we're using in our rate making.

9 The extension right now runs through
10 October. We hope to have a draft from our
11 contractors sometime around then. I do know that
12 the contractor has reached out to various pilot
13 organizations across the country, EPA, and I know
14 that the three various Pilot Associations were
15 provided the contract, contact information for
16 our contractor. So if anyone has any questions,
17 that's, honestly, right now, that's all we have
18 to present.

19 MR. GALLAGHER: Committee, anyone have
20 a say?

21 MR. FISHER: Sure.

22 MR. GALLAGHER: Steve?

1 MR. FISHER: Sure. You know, I'll be
2 candid, and saying this to the Coast Guard, we're
3 profoundly uncomfortable about this study. The,
4 look, the Coast Guard has contracted for that the
5 last meeting of this group, which I wasn't at.

6 I think a study got talked about most
7 of that meeting, and how much, how upset people
8 were. This is not this study. Another study.
9 How upset people were with the way that study was
10 pursued. Our discomfort level with this study is
11 we don't know much about the methodology by which
12 it's being done.

13 I think, like Tim said, stakeholders
14 have just recently been put in touch with this
15 contractor. There has not been a lot of
16 interaction between, I believe, between any
17 stakeholders and this contractor. There's very
18 little understanding about what methodology
19 they're using to analyze this questions, and
20 where they're going with it.

21 We're profoundly uncomfortable because
22 we know so little about this study, this study

1 effort, and what its, what its goals are, and
2 again, methodology. I know this organization
3 contracts for studies often. The methodology
4 that your contractor uses is everything. The
5 results can go this way or they can go that way,
6 and you know, so it's not just, hey, what are you
7 studying, and is that good or bad? It's how are
8 you doing it? What's your method? How are you
9 collecting data? How are you assuring the
10 quality of that data?

11 There's so much, so much to what
12 results in a solid study at the end of the day,
13 and we know zipo about what this contractor is
14 doing. A few people have talked with them as
15 they try to gather information, but by no means
16 have they sat down and said, hey, let us tell you
17 the methodology we're using to reach conclusions,
18 and give us your opinion about that methodology.
19 So very uncomfotable about where this is.

20 I would say, in the, in the
21 stakeholder engagement aspect of this study, it's
22 nowhere, I completely disagree with the Coast

1 Guard's previous statements on this study that,
2 don't worry, when the contractor's done, we'll
3 post it on the internet so that you can all
4 participate in a public commentary on it. Well,
5 it's done at that point.

6 You know, we would like, at this
7 stage, some public comment on how they even
8 approach the study, let alone the final results.
9 So we're uncomfortable with this. I, and I know
10 you know what's going to, for all I know, it'll
11 come out a way that favors my peoples' position,
12 but because we don't know, it's crapshoot, and
13 because we don't know who these people are that
14 are conducting it, and the way they're conducting
15 it, and the quality of the way they're conducting
16 it, I rather just tell you we're highly
17 uncomfortable with it.

18 I don't know that it's the way to
19 reach a conclusion on how to compensate pilots
20 fairly. Quite frankly, when you look at the
21 various pilot groups around the United States and
22 Canada, it's hard to make comparisons. People

1 are paid differently. Pilot organizations are
2 structured differently. Yikes.

3 Some people, you know, have stock
4 ownership. Some people have ownership in some of
5 the capital assets of the organization. Some
6 people get a salary. Some people are paid by the
7 hour. It's very difficult to compare apples to
8 apples between the organizations.

9 And I don't know that the contractor
10 who's doing this study have the wisdom to
11 perfectly create an apples to apples comparison.
12 And at the end of the day, if you're going to
13 seek guidance from looking at how others do this,
14 you're going to have to create an apples to
15 apples comparison. So there's a great level of
16 discomfort, and well, let me just put that on the
17 table. I don't think, maybe others have
18 comments.

19 MR. SWARTOUT: Swartout. I have to
20 say I'm skeptical of studies in general, and for
21 about three reasons. I mean, I'll give you a
22 specific example, the Martin Associates study.

1 It was done for the Coast Guard, and I think it
2 was very poorly researched, and poorly presented.
3 So if that's what we have to look forward to from
4 this contractor, I don't like it.

5 I'm always suspicious of the customer,
6 and how they have described their needs to the
7 contractor. I don't know anything about the
8 competence of the contractor, and the methodology
9 that they're using. So I'm as uncomfortable as
10 you are, Steve.

11 MR. GALLAGHER: Anybody else?

12 MR. BOYCE: Well, I'll say that, I
13 think the obvious side step to a study is if
14 agreement on what the numbers should be was
15 brought to the Coast Guard, but that's been tried
16 a number of times, and has failed to produce the
17 result. That being said, I fully agree.

18 I have, every time I hear the word
19 study, see what's going to happen this time. But
20 again, with a number of other things today,
21 either we have to come to agreement, or we're
22 going to roll the dice for the Coast Guard again.

1 MR. GALLAGHER: We have, we have made
2 an attempt. We went up to Montreal a couple
3 years ago before a lot of this controversy,
4 before it escalated. And we sat down with
5 members of the shipping community, and we said,
6 listen, we need to figure this out.

7 Let's figure, now, this is, this is
8 one of the big things, and their whole thing is,
9 no, let's just let the lawsuits proceed. Let's
10 let this proceed, let that proceed. So I echo
11 John's sentiment, if we can't figure out what
12 that number is, then the Coast Guard's got to do
13 something.

14 They're doing the best they can.
15 They're getting beaten up by you guys and us. No
16 reason why we can't agree to a number somehow,
17 both propose it to the Coast Guard, and let's
18 save us all this time.

19 MR. BOYCE: I really think it's in
20 both our best interests, because nobody wants to
21 roll that dice and see what the number's going to
22 come out. I think both ideas of what it, what it

1 should or could be, but that never know factor is
2 scary for everybody.

3 MR. GALLAGHER: Is there anybody else
4 on the, on the Committee? No other comments from
5 the Committee, we'll open it up to the public.
6 Anybody from the public? Anybody, comments or
7 questions? Nobody from the, from the public?
8 Any other further discussion? Anyone who would
9 like to make a recommendation? Steve, you're
10 thinking.

11 MR. FISHER: I'm thinking.

12 MS. SILAS: I don't want you to, one
13 way or another, but if you have something
14 valuable to contribute, that's the way to
15 contribute it.

16 MR. FISHER: Yes, so let me take a
17 crack at some wording. Vince, you ready? All
18 right. Like to recommend that the Coast Guard
19 require the contractor -- which is, what, ICF? --
20 ICF International to engage in stakeholder, or
21 seek, change that to seek stakeholder feedback on
22 study's, the study, S-T-U-D-Y, apostrophe S --

1 MR. GALLAGHER: Okay.

2 MR. FISHER: -- on the study's
3 purpose, comma, data collection processes, and --
4 I don't know how to spell it either -- and
5 methodology. And I guess we should put a
6 timeline on this, not at the end of the thing
7 when it's done and baked, but the Coast Guard to
8 seek stakeholder feedback, now, at this time, I
9 guess, to seek stakeholder feedback at this time,
10 as of the, you know, as of this month.

11 MR. GALLAGHER: It says as of this
12 month.

13 MR. FISHER: Or you could say now.

14 MR. BOYCE: As of this month?

15 MR. FISHER: At this time.

16 MR. BOYCE: When in October is it
17 extended? Because they set it October 1st, and -
18 -

19 (Simultaneous speaking.)

20 MR. BOYCE: -- this month, September
21 29th.

22 MR. FISHER: Yes. So may I ask,

1 Traci, may I ask Tim a question, Tim who spoke
2 here --

3 MS. SILAS: A clarifying, yes.

4 MR. FISHER: Yes, a clarifying
5 question. Tim, what kind of product do you
6 anticipate you are going to be given at the end
7 of the current contract extension? A finished
8 study or a partially finished?

9 MR. BROWN: Tim Brown, the Coast
10 Guard, again. So yes, sir, we expect it will be
11 a draft report. Within the federal contracting,
12 we will have to go back and look at the
13 performance work statement based through the
14 scope of work for the entire contract, and we
15 will have to negotiate both with our contracting
16 office, and with the vendor to come up with a way
17 to incorporate this, which will make the timing a
18 little bit difficult.

19 But yes, so we anticipate basically
20 that they will present us their work, completed
21 work, with the Coast Guard having an opportunity
22 to review and sign off on that as a final

1 contract deliverable.

2 MR. FISHER: And is there an
3 opportunity in the contract for them to continue
4 their work?

5 MR. BROWN: As of right now, there is
6 not. That would have to be a call on contract.

7 MR. FISHER: Okay.

8 MR. GALLAGHER: Do they have the
9 ability to do this, or they have to do several
10 and another study? Contracting, this already has
11 a stable --

12 MR. FISHER: So yes, so can we, we can
13 talk to each other. As displeased you were with
14 the market state, and the way the, that's kind of
15 how I'm feeling right now. It's like, so if this
16 were two years ago, and the Martin was halfway
17 through this study, and there was a chance to
18 talk and understand better how he was
19 approaching, that's the moment I think we're at
20 on this point. So, or maybe we're not.

21 We're sort of right before it gets
22 kicked out, I guess, right? So do we ask for an

1 ability to jump in and kind of look at it before
2 it's published, or, which is kind of what my gut
3 says, and offer some feedback? Or what if they
4 use some crazy methodology? What if they're
5 uniformed? What if the, I've hired people like
6 this before. Sometimes they have 22 year olds
7 doing these studies, and they're just uniformed.

8 MR. GALLAGHER: John?

9 MR. SWARTOUT: We have a, we have a
10 precedent at the last meeting. I believe we
11 passed a resolution urging the Coast Guard not to
12 use the Martin Associates study in any rate
13 making function.

14 We could make a recommendation here
15 that's the same. Whatever it is, don't use it.
16 Before we go too far down this road, your motion
17 there, I think exposing the study to lobbying
18 from both sides is not going to make a better
19 product. Or at least there's a risk that it's --

20 MR. FISHER: Yes.

21 MR. SWARTOUT: -- not produce good
22 results for either side.

1 MR. FISHER: So if we recommended that
2 the Coast Guard not use this study in future
3 rate, regardless of what it says, in future rate
4 setting --

5 MR. GALLAGHER: That defeats the
6 purpose of the study.

7 MR. FISHER: Yes. The thing is not
8 knowing what this animal is --

9 MR. GALLAGHER: I mean, I think a lot
10 of the questions that the Coast Guard is fielding
11 from congressional individuals and stakeholders
12 and things, we're looking at this, we're doing
13 the study. Either we have to come up with a
14 number, Steve, that we can propose to them, or I
15 see no option but the Coast Guard, I don't know.
16 I mean, it might be terrible for us.

17 MR. FISHER: Yes. Yes.

18 MR. GALLAGHER: Might be terrible for
19 you.

20 MR. FISHER: Yes.

21 MR. GALLAGHER: But what else is the
22 Coast Guard going to do? If they don't do

1 something, and they're trying to do something, if
2 we can't come up with something, we're just going
3 to keep punching them and punching them.

4 MR. FISHER: Yes.

5 MR. GALLAGHER: I mean, it's never
6 going to end.

7 MR. FISHER: Yes. Well, I, okay. So
8 let's, because we've got to make a decision here.
9 I would lean toward what John just said, that, so
10 Vince, sorry for all this.

11 MR. GALLAGHER: That's okay. That's
12 why we're here.

13 MR. FISHER: I would propose that the
14 language say that we recommend that the Coast
15 Guard suspend using this study, or the result of
16 this study, in a rate setting process, and that
17 we at least hit the pause button on this. Give
18 us all a chance to do what you just said, try to
19 reach a dialogue with each other, and reach a
20 conclusion.

21 MR. GALLAGHER: Well, I think we could
22 do that before.

1 MR. BOYCE: I, well, I think this --
2 (Simultaneous speaking.)

3 MR. BOYCE: -- just like with the
4 invoice entries, I think leaving this in place
5 gives everybody a whole bunch of incentive to
6 actually sit at the table and actually have the
7 discussion, because too many times, we've tried
8 to sit down, and it becomes the wait and see,
9 wait and see.

10 You know, and this is about the only
11 thing, because there's fear on both sides it's
12 going to get screwed up, is actually have the
13 conversation. And I'm not super confident in the
14 study either, but something has to happen. You
15 know, the ball needs to move.

16 MR. FISHER: Yes. See, the reality is
17 we don't have, we don't, we all, we all don't
18 have a solution to the question, which is how you
19 find the right number. And you know, my guess
20 is, if the study comes out, it's just going to be
21 like the Martin study.

22 It's going to favor somebody or the

1 other, and then the side it doesn't favor will do
2 everything under their power to trash it. And
3 then, the Coast Guard's left in the conundrum of,
4 well, was this a good study or was it a bad
5 study? Was it done right? Was it done wrong?
6 And again, as someone who's contracting a lot,
7 for lots of studies, there's no right or wrong.
8 It's, studies, you know, come out the way you
9 want them to come out. So --

10 MR. BOYCE: Usually, yes.

11 MR. FISHER: Yes.

12 MR. BOYCE: If you don't tell them how
13 you want them to come out in the first place --

14 MR. FISHER: Yes, yes.

15 MR. BOYCE: -- they'll be confused
16 with the information.

17 MR. FISHER: So there's no ultimate,
18 you know, great wisdom study uncovers that, you
19 know, so, but on the other hand, we don't have a
20 methodology for coming up with a number either.
21 And that's the conundrum we're in.

22 MR. BOYCE: But I think what you're

1 doing is, forget a methodology for it, the
2 methodology is, you know, is there two sides to
3 the issue, sit down and agree what the number's
4 going to be, and figure out what the time frame
5 or escalator, you know, from that point is going
6 to be. It really is the only --

7 MR. FISHER: Yes.

8 MR. BOYCE: -- it'll probably be a
9 compromise, which neither side is happy with, and
10 what that brings up, but that's, I mean, it's the
11 only solution that's going to get, going back to
12 this pitch battle, it's the only solution that's
13 going to really end the battle is the two sides
14 sit down and agree with what a number is.
15 Because otherwise, both sides are going to throw
16 darts at the other, and it's circular.

17 MR. GALLAGHER: Earlier on, Steve, you
18 said we need to come to, we need, and David
19 echoing it, we need to sit down and talk to each
20 other. We need to let us decide, let, instead of
21 the Coast Guard decide, this is what needs to be
22 done. It's reasonable. If not, the Coast Guard,

1 the Coast Guard's just going to be, you know,
2 we're all going to take pot shots at it forever,
3 and it's not good for anybody.

4 MR. BOYCE: And frankly, the two big
5 numbers in the rates are pilot numbers and pilot
6 compensation. You know, if you can come to an
7 agreement on those two numbers, most of the rest
8 of it comes a whole lot less adversarial, and
9 you're arguing over pennies, at that point, which
10 is foolish.

11 MS. SILAS: You don't have to force
12 it, Steve, but you can give it, you know, we'll
13 table it for later and --

14 MR. FISHER: Yes.

15 MS. SILAS: -- think about it through
16 it. I mean, I think this is a good breaking
17 point right here for lunch. That's your over
18 review, so that you can kind of think it through.

19 MR. GALLAGHER: Yes, we want to get
20 lunch.

21 MS. SILAS: But we don't have a --

22 (Simultaneous speaking.)

1 MR. FISHER: I like that idea.

2 MR. GALLAGHER: Take a motion to take
3 lunch?

4 (Simultaneous speaking.)

5 MR. GALLAGHER: All right, we'll make
6 a motion. We don't need a motion. We're just
7 going to break for lunch. An hour? It is 12:07
8 right now. 1:00? Earlier if we can? No later
9 than 1:00.

10 (Whereupon, the above-entitled matter
11 went off the record at 12:08 p.m. and resumed at
12 12:58 p.m.)

13 MR. GALLAGHER: The next item on the
14 agenda there's weighting factors. The
15 regulations require the Pilots Association to
16 flag weighting factors to the allowable charges.

17 Coast Guard would like us to provide
18 feedback on whether the weighting factors should
19 be applied to cancellation, delay, and detention
20 charges. Mr. Haviland has agreed to provide
21 some additional input prior to our discussion.

22 MR. HAVILAND: Good afternoon. The

1 last couple of years weighting factors have been
2 a pretty contentious issue. I believe everyone
3 knows what weighting factors are.

4 But if you don't know, you take the
5 ship's dimensions and it gives you a pilotage
6 unit. And depending on that number the pilotage
7 base rates can be multiplied by 1.0, 1.15, 1.3,
8 and 1.45, and is a carryover from the regulations
9 of the '60s.

10 And these charges are also applied to
11 delay, detention, and cancellation. And we've
12 received some feedback that the folks who pay the
13 bills don't think that's fair. And I would like
14 to hear from the Committee what your thoughts are
15 on the weighting factors, and how they're applied
16 to the base rate.

17 MR. GALLAGHER: Any comments? John
18 Boyce.

19 MR. BOYCE: I say we make it a real
20 simple transparent. Remove weighting factors all
21 together from the calculations. Just give them
22 the things.

1 Because if you do a calculation based
2 on historic to trend the hourly rate down, to go
3 and reapply the weighting factors back to it, you
4 just get real complaints. And then, whether
5 they're applied to delay and detention becomes
6 immaterial.

7 Because otherwise, the hourly rate has
8 already been depressed by the average weighting
9 factor. So, if you don't reapply to it you're
10 using a depressed rate in the first place. So,
11 either apply it to everything. Or better yet,
12 get rid of them.

13 MR. GALLAGHER: I agree with John
14 Boyce. If they do the calculation and too many
15 big ships come then we, there's a possibility
16 we'll over generate revenue.

17 On the other hand, if smaller ships,
18 which we've seen a few years ago, are more,
19 smaller ships, then we'll see less revenue. It's
20 controversial. Just, in my opinion, just get rid
21 of it. Steve.

22 MR. FISHER: Industry supports, this

1 isn't an answer to the question Todd posed. But
2 industry supports the use of, or the
3 acknowledgment during the rate setting process of
4 the weighting factors.

5 I think a court weighed in on this as
6 well, that they should be taken into
7 consideration during the rate setting process.

8 Now, whether or not they apply to the
9 issues you raised, I'm going to, I have no view,
10 because I'm not knowledgeable on that. But I'm
11 going to look forward to other industry
12 commenters in the audience when we get to that
13 phase.

14 MR. GALLAGHER: Anyone else from the
15 Committee? John, any comments? Okay. Nothing
16 else from the Committee. We'll open it up to the
17 public. Mike Broad.

18 MR. BROAD: If I under -- Michael
19 Broad, Shipping Federation of Canada. If I
20 understood the question properly it's about
21 getting rid of your weighting factors all
22 together, on everything?

1 MR. HAVILAND: The original question
2 was, should the weighting factors apply to delay,
3 detention, and cancellation charges? If you want
4 to keep them. If you want to eliminate them it
5 becomes a moot point.

6 But right now if a ship is delayed, or
7 if you cancel that vessel the weighting factors
8 apply to those cancellation charges.

9 MR. BROAD: So, it's just on that?
10 You're not questioning the weighting factor on
11 the regular --

12 MR. HAVILAND: Oh, no. I'm really not
13 saying -- You want to simplify it, get rid of it.

14 MR. BROAD: Okay.

15 MR. HAVILAND: Don't try to down --

16 (Simultaneous speaking.)

17 MR. BROAD: With respect, and I would
18 appreciate getting feedback, more feedback for my
19 members. My first reaction is, yes, get rid of
20 it on the detention and, the detention charges,
21 and the other smaller.

22 With respect to the getting rid of it

1 all, or keeping the weighting factor, it's well
2 recognized within the shipping business that the
3 more a cargo ship can carry, the more it can
4 earn.

5 And so, it should pay more for pilots.
6 And that's around the world. It's a known, it's
7 done everywhere in the world. The GLPA does the
8 same thing in their charges.

9 So, and you would find a lot of the
10 smaller ship owners objecting to getting rid of
11 it, because they are smaller ships. They can't
12 earn as much. So, I think you got to keep it in.

13 And industry wants it in. So, if
14 you're, if people who are paying money want this
15 weighting factor in there, I think you have no
16 choice but to keep it in.

17 As far as any effect on calculating
18 the rates, it's a simple arithmetic thing that
19 you've done. And it's worked well. And so, back
20 to that. So, we don't see anything that --

21 If I could make one other comment
22 about rates, slide in there that, detention

1 rates. In 2016 the Coast Guard removed any cap
2 on detention rates.

3 Over the last couple of years we've
4 had members who, through no fault of their own,
5 had pilots detained onboard, not because the ship
6 wanted it, but for other reasons. Pilots
7 detained onboard, and up to \$25,000 a day paying
8 for detention. It's just not right.

9 We've had ships that at the end of the
10 year were stuck behind other ships. And I'm not
11 saying that the pilots shouldn't have been -- I
12 know it wasn't the pilots that stayed on there
13 because they wanted to. The Seaway told them to.

14 But we're talking about hundreds of
15 thousands of dollars in detention fees. It just
16 doesn't make sense. You got, I think the Coast
17 Guard has to return to some sort of a reasonable
18 cap on detention charges when ships don't need or
19 want the pilot onboard. When it's out of their
20 ability to, you know, just when it's not their
21 fault. So --

22 MR. HAVILAND: Did you have a

1 recommendation on what that cap should be?

2 MR. GALLAGHER: He doesn't make
3 recommendations.

4 MR. HAVILAND: Oh. Okay.

5 MR. BROAD: I have some ideas. But --

6 MR. GALLAGHER: You have some ideas
7 you want to share?

8 MR. BROAD: Nothing like that, no.
9 Obviously what happened then in cooperation with
10 the Coast Guard and pilots. But I think there
11 should be some sort of a cap. It just does not
12 make sense to pay that kind of money to have
13 pilots sitting there doing nothing.

14 MR. HAVILAND: Todd Haviland again.
15 What we know as part of 2016 was it didn't cost
16 anything to keep a pilot onboard for the time
17 left to port. There was all kinds of free
18 standby service that was being provided. And it
19 was causing serious problems with delays. And
20 then impacted the staffing.

21 So, we are open to changing, you know,
22 how much the, you know, putting a cap on

1 detention charges, as long as it doesn't
2 adversely impact an efficient use of the pilot.

3 Because I think we've heard, you know,
4 time and time again, the quicker we can get these
5 guys on and off the ships, get rested, and then
6 put them back in the queue, the better off we
7 are.

8 MR. GALLAGHER: Thank you. Anybody
9 else from the public? Admiral.

10 MR. NADEAU: Yes, if I could take a
11 minute. John Nadeau, Coast Guard. I have to
12 catch a flight here, and so I'll have to be
13 departing in less than an hour.

14 But I just want to take a minute. And
15 I want to thanks, again, thank you to Captain
16 Boyce and his team here for hosting us, and the
17 fabulous lunch. Thank you. I know that.

18 And to your leadership, sir, for
19 chairing this meeting today. And to all the
20 members. And welcome especially Mr. Klein, the
21 newest to the team.

22 My first GLPAC and the few federal

1 advisory committees before. But my first GLPAC.
2 And as I said when I came in this morning my
3 expectations weren't here. They were moderated a
4 little bit, because I knew there were some issues
5 we had to work through.

6 But I have been tremendously impressed
7 by the dialogue, the insightful comments,
8 stakeholder input on the variety of the difficult
9 issues that we're talking about. And I know
10 there's a lot of issues here that we're not
11 rehashing. But even so, that's kind of a walking
12 issue.

13 So, for me to sit here today, kind of
14 find out a little bit, learning an awful lot, as
15 I hoped I would. Again, I leave here inspired
16 and encouraged that there, we do have some
17 clarity on where we can go to make certain we get
18 some improvements.

19 And the fact that you're talking about
20 recommendations, and whatnot, that, you have a
21 dialogue. But again, for me just to hear the
22 discussion, and for my team to hear the

1 discussion, that's really helpful to us. It
2 really is.

3 So, I didn't want to slip out the back
4 door without, again, saying thank you for making
5 yourselves available, volunteering to sit on this
6 Committee, and help us have good information so
7 we can do our job.

8 I don't know how else I can do it.
9 Just a personal thank you to all of you for
10 making time. And to you that travel to be here,
11 I don't think there's too many that live down the
12 street here in Cape Vincent. I think you all
13 came a little ways.

14 So, thank you for traveling from New
15 Orleans, or from Connecticut, wherever you came
16 from. The Coast Guard appreciates it. So, if I
17 don't get a chance to say goodbye to you as I
18 walk out the door, thanks for being here.

19 You've given us many, many things to
20 think about. And it's not our last opportunity.
21 This Committee is a way forward. And we're just
22 going to kind of reset, recalibrate where we go

1 from here. So, thank you.

2 MR. GALLAGHER: If there's nobody else
3 from the public on this topic we'll bring it back
4 to the Committee.

5 MR. BOYCE: Well, one thing is, part
6 of what drove, I believe what drove the removal
7 of the cap on the hours is, it's straight to
8 consuming pilot capacity.

9 If you're going to limit what can be
10 generated I think we have to go on the other side
11 too, and reintroduce minimums. Because there's a
12 number of evolutions that don't pay for the taxi
13 cab to get there.

14 If you're doing a turnaround at the
15 sugar (phonetic) dock for 45 minutes, the taxi to
16 get to the sugar dock and back is more than
17 you're generating. So, I think you need to look
18 at minimums along with if you look at caps.

19 Or you look at it as a straight
20 hourly. It generates what it generates. And
21 that's how it shakes out.

22 I think as far as if you remove delay

1 and detention charges, remove the weighting
2 factors from that, you're actually giving it a
3 further depressed rate. Because the hourly rate
4 has already been depressed in the rate by the
5 average weighting factor.

6 So, if you don't reapply it it's
7 essentially a depressed rate now, just, not just
8 the hourly rate without the weighting factors.

9 MR. GALLAGHER: In my opinion, an hour
10 is an hour of the pilot consumption. The problem
11 is, you reduce the rate for detention, delay,
12 cancellation, what happens is you've got some
13 agents will not release the pilot.

14 Because he's got some inside
15 information. And he may not get one. And that
16 just further delays the process. It, to me it's
17 been working great. Because the agents are much
18 more efficient ordering the pilot and releasing
19 the pilot.

20 We've seen a huge improvement in that.
21 Our pilots, you look at years ago, the detention,
22 delay hours that we've had, they don't, they were

1 five times more than what we're seeing right now.
2 Just timewise, it's --

3 Very seldom, you know, we have
4 detention and delays. But nowhere near what we
5 used to be. It used to be every trip, every
6 trip.

7 MR. BOYCE: Can I just -- You got
8 them. We got to be --

9 MR. GALLAGHER: One more.

10 MR. BOYCE: She left.

11 PARTICIPANT: She left.

12 MR. GALLAGHER: You're saying I come
13 over to the microphone. One more. Just do it.

14 MR. BROAD: I'm just talking about
15 when the ship is anchors, like we had a ship a
16 couple of years ago, or last year, anchors
17 because there wasn't a pilot available. And the
18 U.S. pilot had to stay onboard.

19 Do you think that it's right that that
20 ship pays \$25,000 dollars to keep that pilot
21 onboard for 24 hours? Sorry, \$20,000 dollars to
22 keep him onboard for 24 hours. Is that right?

1 Yes.

2 MR. BOYCE: What I don't think is
3 right is for shipping industry to accept delays
4 until there's a delay. Have a system stacked
5 that conceives delays as part of the process.
6 And then when there's a cost to that delay
7 complain about it.

8 This system has pros and cons,
9 something that we others agree. But there's a
10 cost to both sides not having, you know, being
11 staffed for all traffic evolution.

12 You know, we're better now than when
13 it was a straight average traffic. I mean,
14 average was terrible. Because by default your
15 short is often as your over capacity, you know.
16 But delays make cost and restrictions on both
17 sides to the ships and the pilots.

18 MR. BROAD: Let me tell you about
19 that. Because overstaffing, or whatever, or
20 staffing. Industry in the past has said
21 basically on the Canadian side.

22 Because they're employee pilots and

1 there are fixed costs, you don't mind a few
2 delays. With respect to U.S. pilots, have as
3 many as you want. You know, pilots, if business
4 slows down you're stuck. And that's --

5 MR. BOYCE: Pilots have to be --

6 (Simultaneous speaking.)

7 MR. KHANDUPUR: All right. I think
8 I'm going to do, so, I'm going to do a Tracy
9 (phonetic) here please. John, thank you for your
10 comment. Thank you for your comment. And you
11 guys may step aside now. And you guys --

12 MR. GALLAGHER: No more, any more
13 input on this Committee? Any recommendations
14 this Committee would like to make? No
15 recommendations from the Committee.

16 Okay. We will go to the next item
17 here. Pilot Association training for applicants
18 and partners, and temporary registration. I
19 decided to combine these topics, because
20 temporary registrations impacted the training of
21 applicant pilots.

22 Mr. Berg is going to present training

1 guidelines for applicant pilots. This discussion
2 will include the milestones and reporting
3 requirements for a trainee to become a United
4 States registered pilot.

5 The Coast Guard would like us to
6 provide feedback on the historic use of using
7 temporary registrations to applicants. The Coast
8 Guard would also like to know what improvement
9 can be made to the training process to increase
10 transparency. Vince, go ahead.

11 MR. BERG: Thank you very much. So
12 maybe until I have better PowerPoints and
13 flowcharts. But that's the way we pulled things
14 out of the CFR to explain it.

15 Every year we get roughly anywhere on
16 the average between three, or six and nine
17 applicants from pilots that just send them in.
18 And when we receive them the Coast Guard, I
19 review them. And we determine whether they have
20 the right information as per the regulations.
21 And we, I hold onto them until the pilots are
22 needed out in the field.

1 If they don't meet the requirements
2 then I send them back to them. I work with them.
3 A lot of times it's the, they don't have enough
4 sea time, or they don't have, their credentials
5 aren't right, or whatever it is. I send them
6 back, and I work with them so we get a good
7 application on file.

8 That's why on the top there you'll see
9 no. When I send it back I'll work with them, and
10 send them back. If it is good, it has all the
11 requirements that meet in the CFR, what I do is I
12 work with the districts. And I forward in the
13 district the application, so that they have them
14 on file. Or, if they request, that they're
15 hiring, I will forward those reviewed
16 applications to them, so that they have them on
17 file. And then they can use them.

18 Back up there, if the, if nobody needs
19 any pilots I keep the applications on file for
20 three years, so that we have them, or until they
21 send me a new one. Sometimes they'll update
22 them. They'll send them to me once they have

1 more sea time, you know, please keep this on
2 file.

3 So, after we file the, send them to
4 the districts, the districts say, hey, I need a
5 pilot. If they don't it goes down there in no,
6 kind of the middle of the screen up there. And
7 they hold it on file, and we hold it on file
8 until they need a pilot. Okay.

9 If they need a pilot then the Pilot
10 Associations conduct the interviews. We don't.
11 They do in the field. Okay. If they decide that
12 the applicant meets their needs for the
13 Association, then they request through our
14 office, via a letter that says, we want to hire a
15 pilot such and such. Okay.

16 We look to make sure that we've
17 reviewed that pilot's application, make sure it's
18 good, still in compliance. And then we approve
19 and tell the Association that they can hire that
20 as a trainee. Okay.

21 Now, there on the bottom he'll be a
22 trainee. We issue them an application, or an

1 applicant in training letter, and a COR, which is
2 a Certificate of Registration. And that is for
3 them to show on the ships when they're doing
4 their training, that they're approved by the
5 Coast Guard to be on the vessel. Okay.

6 (Off microphone comment.)

7 MR. BERG: There's a six month
8 requirement in the regulations that they need to
9 be familiar with the Great Lakes for six months.
10 If they do not, then the applicant remains as a
11 trainee until he gets that six month trainee
12 experience, which it shows up on the top there.

13 If he doesn't have it he remains. And
14 then once a applicant gets his six month or
15 comparable service, then he can, then you go to
16 zoning, and he meets the, that requirement.

17 Here's where we would like to
18 institute that the --

19 MR. KHANDUPUR: Vince, if I might
20 interject.

21 MR. BERG: Oh, okay.

22 MR. KHANDUPUR: Six months is a

1 familiarization of the Great Lakes?

2 MR. BERG: Yes, it is.

3 MR. KHANDUPUR: Okay.

4 MR. BERG: Yes. Yes.

5 MR. KHANDUPUR: Right. So --

6 MR. BERG: It's in the law.

7 MR. KHANDUPUR: But at that time
8 they're not piloting any ships? They're just
9 familiarizing themselves --

10 MR. BERG: Correct. Yes.

11 MR. KHANDUPUR: -- for the --

12 MR. BERG: They're not temporary.
13 They're not, yes, they're not --

14 MR. KHANDUPUR: But that's not
15 required for everybody that --

16 MR. BERG: No --

17 MR. BOYCE: The six months is
18 everybody.

19 MR. BERG: Well --

20 MR. KHANDUPUR: If a person already
21 has a license --

22 MR. BOYCE: He doesn't have to be --

1 (Simultaneous speaking.)

2 MR. BERG: Comparable --

3 MR. BOYCE: If a person's already got
4 Great Lakes experience --

5 MR. BERG: Yes.

6 MR. BOYCE: -- he doesn't have to.

7 MR. BERG: The law says --

8 MR. BOYCE: That satisfies --

9 MR. KHANDUPUR: Yes.

10 MR. BOYCE: -- that they have more
11 than six months Great Lakes experience --

12 MR. BERG: Yes.

13 MR. BOYCE: -- then they have six
14 months experience.

15 (Off microphone comment.)

16 MR. BOYCE: If they don't have it --

17 MR. BERG: He just clarified.

18 (Simultaneous speaking.)

19 MR. BERG: It does say --

20 (Simultaneous speaking.)

21 MR. BERG: Comparable experience,
22 which is what you're talking about, is if he's on

1 the lakes already.

2 MR. BOYCE: Yes. You don't have to do
3 this in the training.

4 MR. BERG: Correct. We understand
5 some of the different, districts are different.
6 Because District 1 here, they only ask for, they
7 take a lot there from ocean going. So, they do
8 their six months familiarity up here.

9 Whereas, D2 and D3, they take a lot of
10 them, the mariners that already masters, and
11 they're already doing their time on the Great
12 Lakes. So, it's either comparable, or they do
13 the familiarization, which they will say is
14 correct.

15 We want to make this transparent and
16 in a way that we can have a way to make sure that
17 the applicants are meeting the requirements that
18 are necessary for the Associations.

19 What we would like to see is a
20 individual training plan that identifies, that is
21 built out for each individual applicant. Let me
22 go to the next slide.

1 And in that individual training plan
2 would be tailored to each of the applicant
3 pilots. This would be identifying information,
4 what he's had in the past, what he has for
5 licenses, his numbers, his, you know, something
6 to identify to that it's individual for them.

7 We'd like to see an approved training
8 team designated, listed in their letter, so that
9 we know who's going to be training that
10 individual.

11 And how, for the familiarization, we'd
12 like to see how the, meet the six month
13 requirement on the Great Lakes. What's, you
14 know, does he have a bunch of ports that he's
15 already familiar with, or he doesn't know, you
16 know? What's his, what's your plan for him to be
17 qualified that six months?

18 And then that next line the same
19 thing. If you have a trainee that is running in
20 and out Milwaukee all the time, he may only need
21 one trip to go in and out, to say, I'm good.

22 But if he doesn't have, you have

1 somebody that never runs in there, he may need a,
2 five trips. And that's up for the Association to
3 determine, and come up with competent trips.

4 It could be eight trips if you don't
5 think he knows. Or if he does five trips, and
6 he's still not comfortable with it, the
7 Association's not comfortable with it, he may
8 have to do more.

9 And in the, we would like to see the
10 training plan as being workable and flexible.
11 Because you may have to come back to it, and have
12 him do more port portions of it, to where the
13 Association is comfortable with the pilot
14 himself.

15 As per the regulations, we prescribed
16 a course of instruction. What is the district
17 going to teach this guy in the instruction
18 portion of it? And each one could be different.
19 It could be the ports. It could be what are the
20 waters? So, that's particular to each district.

21 Anticipated when their Director's Exam
22 will be taken. Down the line, when they perceive

1 this to be one year, two year, three years. They
2 decide that.

3 And then a copy of this is given to
4 the trainee, so that he has it. And the
5 president and the applicant sign it, sign it as a
6 binding agreement. Okay.

7 (Off microphone comment.)

8 MR. BERG: No. Okay. And then, oh,
9 did it go back? Okay. In this time we would
10 like to the, do progress reports every six
11 months, or as their needed, to see where the
12 applicant or the trainee lays in the process.

13 If he has good progress rep -- if he
14 does not have good progress reports you need to
15 be careful on how to have the individual training
16 plan executed properly, you know, what is he
17 doing that he needs to improve on, so that he can
18 finish that training plan.

19 If he comes out with positive progress
20 reviews he continues on working on the training
21 plan until it's complete. Once he
22 satisfactorily, by the Association, meets that,

1 the requirements, then the Association, and this
2 is something we need to discuss is, and we said
3 in the temporary registrations, how long the
4 temporary registrations go.

5 We would like to get the
6 recommendation on if they should be all year, if
7 they should be a portion of the time, so the
8 person can go back into training in other areas.
9 So, if it's all year, or not all year.

10 We issue, the Coast Guard issues a
11 Certificate of Temporary Registration. That's in
12 a letter, and also in a Certificate of
13 Registration. And then the Association can,
14 continues on with progress reviews, even after
15 he's a temporary registration.

16 So, he's got, you know, every six
17 months you send us, or as needed, hey, the guy's
18 doing good. We're going to keep him the program.
19 Or vice versa. We're not sure about this guy.
20 So we know where he's standing throughout his
21 entire career of the training process.

22 (Off microphone comment.)

1 MR. BERG: One more slide. Okay.

2 (Off microphone comment.)

3 MR. BERG: Once the applicant
4 satisfies all the individual training plan and
5 requirements with positive reviews, if he does
6 not the Association talks with the Coast Guard
7 requesting to, either to relieve the person and
8 let him go, and we will work with, you know,
9 releasing the individual.

10 But we need documentation through the
11 progress reviews why he's not a fit for the
12 Association, and what we need to do to release
13 the individual. And the Coast Guard will help
14 release the individual working with you.

15 The Association, if the progress
16 reviews are good and you want to hire the
17 individual, the Association through letter
18 requests that the individual be hired. And then
19 the -- Step back.

20 The Director's Exam needs to be given
21 to the individual. And that is done at the REC
22 in Toledo. Okay. The applicant passes the

1 Director's Exam.

2 The Association requests for full
3 registration. And that's done via letter. And
4 then the Coast Guard approves that, and the
5 individual becomes fully registered. That's the
6 process.

7 MR. BOYCE: Can I provide, from the --

8 -

9 (Simultaneous speaking.)

10 MR. HAVILAND: Good afternoon. Todd
11 Haviland. Historically the pilotage offices
12 relied on the Pilot Associations to bring in the
13 mariners, train them up, and tell us when they're
14 ready to be a registered pilot.

15 What we're really looking for is, we
16 want to make sure that the mariner, the applicant
17 pilot, and the Association, and the Coast Guard
18 all have a consistent understanding of what's
19 expected of these mariners in order to come
20 through and successfully, you know, complete the
21 training. Understanding that not all of them
22 will.

1 Right, wrong, or indifferent, we
2 inherited a system that doesn't really align with
3 the regulations, whereas pilots progress through
4 their training they were given temporary
5 registrations for a given area.

6 And the other thing we're looking at
7 is, should that practice continue? And if so,
8 how should it look? Because right now the
9 regulations don't really say this.

10 But in practicality we have two
11 classes of applicant pilot. We have a trainee
12 pilot, and an applicant pilot with a temporary
13 registration. And we just need some feedback on,
14 you know, how the Committee thinks we should
15 proceed.

16 MR. GALLAGHER: I'd like to start out
17 with, the training program we have, we submit a
18 training program to the Coast Guard. It's a, not
19 an individual one. It is a group one basically.

20 But when we bring a person in we look
21 at their qualifications. We rate them on the
22 amount of experience they have, what size of

1 ships they've been on, how many years, what their
2 license is, how many times they've been and out
3 of all the ports that we handle. And that's how
4 we rate them when we hire them.

5 When we bring a person on, and get him
6 the temporary registered, or in a training
7 program, they have to make a minimum amount of
8 trips to start with.

9 Once they qualify for those trips we
10 get them running on their own from pilot boat to
11 pilot boat, or in and out of the ports as they
12 progress. That is a benefit to the Association
13 and industry.

14 To say you have to have an individual
15 one, and project how many trips he needs in and
16 out of these ports, you don't know that until you
17 have him there.

18 So, we do that now. There are some
19 people that we, our qualifications, it's minimum.
20 We've had some people up into the elevators in
21 Toledo is one of our, you know, worst ports. And
22 the minimum trips are five trips.

1 We've had people that ten trips and
2 you're still not comfortable. And we keep
3 sending them. And they'll get there. And so, I
4 mean, one guy can progress in two years. The
5 next guy, it might take him three years.

6 We have, we had three guys that came
7 in at the same time. Two of them were registered
8 almost a year before the other one. Not that the
9 other guy wasn't good. He just wasn't, he never
10 had the experience in and out of that port that
11 the other ones did. So, he wasn't comfortable.
12 So, it takes just a little bit more time.

13 We use the individual training as we
14 go along. The training program we have I think
15 is great. I think it works. I think it's
16 transparent. I think we send all the
17 evaluations.

18 Captain George Haynes is here. He can
19 tell more in detail, because he handles it. We
20 document everyone, who they're training with.
21 Now, if you want us to send something, okay.

22 We're only going to send this guy

1 with, you know, with only these two pilots to
2 train him, it's going to take us six to eight
3 years to get him. Because, I mean, we have to
4 utilize all the pilots for the training. That's
5 the way we do it.

6 We shared it with the Canadians. The
7 Canadians, likewise. If Robert Lemire has
8 somebody going down the river, and he needs a
9 trip into one of the ports that we're going to,
10 he's with this. It's all competent people who
11 are signing off on it.

12 I don't understand why we have to
13 invent this new wheel, to tell you the truth.
14 It's working good. There's checks and balances.
15 We've had a couple of people throughout the
16 history of it that have not made it. They've
17 made recommendations.

18 And John Boyce can, and John Swartout
19 could allude on this, because it was in your
20 district. But it's working. The system is
21 working.

22 MR. BOYCE: One thing I think is at

1 issue is temporary and full registrations. You
2 know, the full registration was presumed to be a
3 default positive renewal basis. As long as you
4 keep going, you keep renewing every five years.

5 And I think prior to recently the
6 temporary registration was presumed to be on a
7 default negative basis. That it naturally
8 expired unless action was taken to renew the
9 following years.

10 I mean, we operated for years that
11 every winter you'd request the following year for
12 the temporary applicants to be renewed. It
13 appears a current reading of the regulation is
14 that the temporary registration is also a default
15 positive.

16 So, what happens is, you get somebody
17 in the beginning training phases that either it's
18 not working, or now they disagree with the
19 training. And how do you deal with that?

20 And I think it's in some ways as
21 simple as for the regulations to recognize
22 temporary registration could be a default

1 negative, not a default positive. It takes a
2 positive action to renew it. It's not an
3 automatic.

4 Because also, going on to the, can you
5 go back to the slide with the individual training
6 plan? I think you'll run into some real problems
7 having individualized training plans.

8 One is, like Danny said, when you
9 start off you're starting off with an interview
10 and a resume, trying to figure out what this guy
11 really needs to be proficient in all areas. So,
12 to have a different precedent, and after we'll go
13 to the bottom one, sign this is what we agree it
14 is, it's kind of a shot in the dark of what this
15 person's really, really going to need.

16 What I would say is better than an
17 individual plan is a general plan, but allow
18 equivalencies, such as the six months Great Lakes
19 time. You can take prior time to the equivalent
20 of six months in a training plan. Or six months
21 in a training plan is equivalent to prior time.

22 It's an equivalency. You don't have

1 to do a new plan to account for how this guy's
2 going to do it. He's got an equivalency.

3 If somebody's never been into a
4 certain dock, maybe because we've taken them from
5 the ocean, they need at a minimum seven trips in,
6 arbitrary number, seven trips some place.

7 Whereas, if up in Danny's district
8 he's able to get a captain that's been going to
9 that dock for 20 years, maybe one trip in and out
10 to make sure, yes, he really knows how to do it.
11 But that's where you take an equivalency to meet
12 the general requirement.

13 The other issue with individual
14 training plans is it becomes subjective to, you
15 gave this guy an easier plan, you gave this guy a
16 harder plan. And how do you justify which is
17 which, versus if you have all these equivalencies
18 that's the difference between the parameters that
19 have to get filled.

20 Also, if you look at the applicant and
21 different president's signatures, this is the
22 training plan that was agreed to. One, two, five

1 months down the road it becomes blatantly
2 apparent, this isn't working.

3 Well, if the applicant thinks this is
4 working. I'm on my way to being off on my own.
5 Now, who's going to sign that it has to change?
6 Because if the applicant's not going to agree
7 that it has to change, now you're letting the
8 president's signature override the applicant.
9 You're right back in the same apple cart again.

10 MR. KHANDUPUR: I think you can work
11 out the details separately. But what we really
12 would like to see is a plan where you know how
13 you're certifying your pilots.

14 MR. BOYCE: Oh, absolutely.

15 MR. KHANDUPUR: And an evaluation
16 every, that will --

17 MR. BOYCE: Well, there's already --

18 MR. KHANDUPUR: Frequency. Frequent.

19 MR. BOYCE: There's already six
20 months.

21 MR. GALLAGHER: We have that --

22 (Simultaneous speaking.)

1 MR. GALLAGHER: We have that right
2 now.

3 MR. KHANDUPUR: Okay. Well, that
4 should be documented with basically, okay, this
5 guy's on track. Or when you see that there is
6 something off looking, to flag it at that point.
7 And let the applicant know that he is on the
8 border at this point.

9 So, we don't want to get into a
10 situation where he's expended three years, and he
11 finds out at the end of the third year, oh,
12 you're not qualified. And you've wasted your
13 time. He's wasted his time.

14 MR. BOYCE: Nobody wants that to
15 happen.

16 MR. KHANDUPUR: So, we want to, so, I
17 think if you can just have a process, and we
18 don't care what the process looks like. The
19 process is repeatable, it's verifiable. We know
20 what the facts are. You know what the facts are.
21 And it's evaluated on a periodic basis. I think
22 that's something that we want.

1 MR. BOYCE: Yes. And it's almost too
2 bad this came up at this meeting. We've actually
3 done a lot of work completely redoing the whole
4 training plan. And it's not ripe for discussing
5 here exactly what it is. But --

6 MR. FISHER: I have a question.
7 Please appreciate you're very familiar with this.
8 And we're a little at a disadvantage. Because
9 we're just not -- So, if I could ask some
10 questions, just to learn more about how this all
11 works.

12 Is the training program that you guys
13 currently operate, is it largely sort of an
14 apprenticeship approach --

15 MR. BOYCE: Yes.

16 MR. FISHER: -- where -- So, it's not
17 that you're sending them off to school somewhere
18 to take --

19 MR. BOYCE: There is some of that --

20 MR. FISHER: Or is that also part of
21 it?

22 MR. BOYCE: But we do some of that

1 also. I guess to differentiate between
2 continuing education and training. Training is
3 bringing somebody new up to speed. Continuing
4 education is somebody that's been here, and
5 continue --

6 MR. FISHER: Okay.

7 MR. BOYCE: -- with things. You know,
8 things like man model, you know, is good for the
9 new guy's training, and those that have been here
10 for a while.

11 MR. FISHER: Okay.

12 MR. BOYCE: Largely, the send people
13 away type classes apply to continuing education,
14 if not, as much if not more than the new guy's
15 training. You know, by default the way a pilot
16 works in being localized, and these are the
17 ships, these are the conditions --

18 MR. FISHER: Right.

19 MR. BOYCE: Sending somebody away to
20 train has varying degrees of benefit.

21 MR. FISHER: Right. The plans you
22 currently have, which are not individual, they're

1 sort of a universal sort of a -- You submit them
2 to the Coast Guard?

3 MR. BOYCE: Yes.

4 MR. FISHER: And, Coast Guard, do you
5 make those public? Are they somewhere?

6 MR. HAVILAND: We can share them. I
7 mean, there's nothing --

8 MR. FISHER: There's nothing secret?

9 MR. HAVILAND: -- private about them.

10 MR. FISHER: No. Okay. Okay. That
11 might just -- So, the rest of the industry kind
12 of knows --

13 MR. HAVILAND: Sure.

14 MR. FISHER: -- what this is? And
15 then, when you submit those to the Coast Guard,
16 do you weigh in on them? Or is it just sort of,
17 hey, FYI, this is what we're doing? I mean, do
18 you ever --

19 MR. BOYCE: Well, they're an
20 Association training plan. A new plan isn't
21 submitted every time we have an apprentice. This
22 is the training program --

1 MR. FISHER: Right.

2 MR. BOYCE: -- the apprentice will
3 come into.

4 MR. FISHER: But even so, when you --

5 MR. GALLAGHER: This is approved by
6 the Coast Guard.

7 MR. FISHER: So, they do? They do?

8 MR. BOYCE: Yes.

9 MR. GALLAGHER: Okay. When we
10 submitted it the Coast Guard approved. They
11 require us to have X amount of trips. It's
12 written right in there. And we abide by that.
13 And if we think someone needs more trips we have
14 them do more trips.

15 MR. FISHER: Right.

16 MR. GALLAGHER: We don't get
17 permission from the Coast Guard. But we never
18 give them less trips.

19 MR. FISHER: Right. And then, so they
20 do respond when you submit plans. And are they
21 annual? Or are they ever few years? Or is it
22 just a plan until a change?

1 MR. BOYCE: It's a plan until it
2 changes. But that being said, it's one of the
3 things that the Director has asked us. And I
4 know we've been working on this. It's a
5 completely, crumple up the old one, new training
6 plan. Hopefully this is the one that we have in
7 place.

8 MR. FISHER: And can I ask the Coast
9 Guard, why do you feel moving to an individual
10 plan model is better? Or what prompted you to
11 propose this?

12 MR. HAVILAND: I just want to make
13 sure that the applicants understand what's
14 expected of them. And that they don't come to me
15 and say, hey, I completed my training, and the
16 Association told me no. It had to come to he
17 said, he said. And --

18 MR. GALLAGHER: When we get --

19 MR. HAVILAND: It's a lot of
20 unnecessary --

21 MR. GALLAGHER: Steve, when we get to
22 the public part of it I can have George, because

1 George is the one that's starting to meet with
2 them, and really involved in what's happening.
3 So, he can maybe explain in more detail.

4 MR. KHANDUPUR: That's what I said.
5 We want a verifiable plan, which is evaluated
6 periodically. So that we do not come up at the
7 end of the training period, and then be told we
8 don't like him, or whatever. That situation is
9 what --

10 MR. BOYCE: Well, what needs to be
11 understood is, and this is going to sound wrong.
12 But the expectations are lower at the beginning.
13 You don't expect to put the guy on a ship and
14 say, do it, on day one. You --

15 MR. KHANDUPUR: Good point. But keep
16 --

17 MR. GALLAGHER: What about every three
18 months?

19 MR. BOYCE: You're expecting to be
20 able to put him on a ship and say, do it, at the
21 end. It's not unheard of for somebody to get 90
22 percent of the way through, and the end just

1 doesn't come.

2 So, they can look all the way through
3 the process. Like, they're progressing. They're
4 coming through. This is working good. And you
5 get to this point, and it stalls near the end.

6 And that's where the problem comes in
7 is when the stall -- If somebody just can't do
8 it, and it shows all through they can't do it,
9 it's much easier.

10 It's when the person starts faltering
11 near the end of the process is where the
12 confusion comes in. Now what do you do?
13 Because, yes, it hasn't tracked through of not
14 being able to do it. But can't get that final
15 step.

16 MR. KHANDUPUR: Should be just a way
17 to document that. What are the criteria --

18 MR. BOYCE: But if he's doing fine all
19 the way through, and it gets to the end. And it
20 comes down to what -- He's made his trips. He's
21 taken his classes. He's done all the checks in
22 the box.

1 But at the end of the day, you know,
2 he can write a book on how to tie your shoes.
3 And you say, okay, now tie your shoes. And you
4 get a wad of mess. You know, it's just not
5 there.

6 MR. HAVILAND: Todd Haviland. And
7 this is exactly why I want to talk about the
8 temporary registrations. When I get a letter
9 from the training committee from an Association
10 telling me how great a guy is at handling ships,
11 and how great of a mariner he is.

12 And then a few months later I'm told,
13 well, all of a sudden now this person who may
14 have been moving ships for months or years is now
15 not a good mariner. And I don't have any
16 documentation in between that.

17 And then the guy's coming and telling
18 me, you know, these guys have blacklisted me
19 because I'm asking questions that they don't
20 like.

21 It's got to be a tighter process to
22 where that mariner understands, these are what we

1 expect of you. And as long as you meet these
2 expectations you can, you know, continue to go
3 forward.

4 And I don't know if it's because we've
5 just had so much traffic lately. And I know you
6 guys really want to, you know, move the ships.
7 But you, maybe you pushed some people a little
8 quicker than, you know, we should have allowed
9 him to be pushed.

10 But I would rather take a conservative
11 approach in slowing that down, than to try to
12 push people forward. And then you get to the
13 point that, okay, he's been around, he's been
14 moving ships.

15 And, you know, I can't explain, based
16 on the information that's been provided to me why
17 he shouldn't, you know, continue on, or become a
18 registered pilot.

19 MR. GALLAGHER: Any more discussion?
20 And can we open it up to the public?

21 MR. SWARTOUT: Yes. I just want to
22 say a little bit of -- Swartout. I just want to

1 say a little bit about temporary registrations.

2 It's kind of, the whole training
3 system is evolved a lot since 30 years ago when
4 there was practically no training at all. There
5 was, you know, one or two familiarization trips.
6 And then, okay, you're on your own. Sink or
7 swim.

8 The CFRs have a minimum trip
9 requirement. But even those are vague. They
10 say, the applicant must make at least X number of
11 round trips over the waters for which he wishes
12 to be registered.

13 That's pretty vague. I mean, a guy
14 would never get trained if he had to make five
15 round trips in every port in the district. It
16 simply wouldn't happen.

17 So, in our training program, which was
18 written in 1993, and has been amended from time
19 to time in small ways since then, we define what
20 is meant. And so, there were, you know, the
21 Lakes, the River, and the ports, which ones
22 required what number of trips.

1 And the main thing that has changed
2 over the years is which ports require training
3 trips, because of the change in trade. And we
4 used to have a regular traffic to Marathon,
5 Ontario. And then they closed the paper plant.
6 And there hasn't been a ship there in 15 years
7 probably.

8 And we would like to have that
9 flexibility to really look at a list of ports
10 every year and say, do we still need that one?
11 Do we need to have another one that's now become
12 a busier port?

13 But the temporary registrations I
14 think were created originally to allow a pilot
15 who's passed the age of 70, mandatory retirement,
16 to continue to work season to season, as long as
17 he's still competent and healthy.

18 And somewhere along the way it became
19 a way to get an applicant pilot working sooner,
20 which is good and bad. But the trouble is, when
21 you're understaffed, and you need a guy who's
22 able to do a little bit, you tend to make him

1 work.

2 And then his training gets attenuated.
3 Eventually he's got to finish those trips. But
4 it gets to be a real conflict when we don't know
5 what takes precedence, training or working?

6 When a guy is able to work do you make
7 him work, or do you let him train? If it means
8 delaying a ship, which it often would, you know,
9 we pin out the postcard to tell us, what do you
10 want us to do here?

11 But because of guidance from the Coast
12 Guard we're now training people for about five or
13 six months before they ever take a ship on their
14 own, which means they've completed most of the
15 required trips by the time they take their first
16 ship.

17 And that's a good thing. They're
18 training longer before they move their first
19 ship. And then there's less to, you know, less
20 parts of the system to pick up as time goes
21 along. And it's easier to take them out of work
22 for a while, and train in those things, and miss

1 some holes.

2 So, I think the system's gotten better
3 just in the last couple of years. There's
4 probably room for improvement. But this, the
5 idea of tailoring a plan for each applicant seems
6 a little excessive to me.

7 MR. FISHER: Yes. I had a question of
8 you guys. You're not just businesses, you're, a
9 couple of you are partnerships. So, just as a
10 law firm, you know, wouldn't let a new partner
11 come into their partnership without feeling
12 comfortable with that person, not just from their
13 legal skills perspective, but, you know, do we
14 want this person part of the family kind of
15 thing.

16 I assume there's that consideration as
17 well with these individuals. And I have no issue
18 with that. I think, you know, if you have a
19 partnership you're obviously not going to let any
20 jerk into it.

21 You're going to, you know want to not
22 only make sure the person's competent as far as

1 their navigation skills, but can they be part of
2 the group?

3 And especially if you're letting them
4 in your partnership. At what phase do you guys
5 have a feel for that aspect of it, just kind of a
6 people part of it? It's not a skills part of it.

7 And, because if they're not going to
8 ultimately be welcomed into the partnership, then
9 it's, you know, do they know that earlier? Or do
10 you have a feel for that earlier on, or later on?
11 Or how's that sort of non-technical aspect of
12 this question.

13 MR. BOYCE: Yes.

14 PARTICIPANT: Yes. You want --

15 MR. BOYCE: Yes. We have discussed
16 within our group what the appropriate length of
17 time for a training period should be. And
18 historically it's been two years.

19 And I have asked my partners, is it,
20 you know, can we shorten this for some people?
21 And overwhelmingly my partners say, we're not
22 ready. We're never going to be ready to

1 recognize somebody for full registration before
2 they've done two years. Even if they are very
3 good.

4 And it's partly a seasoning process.
5 And it's partly, you know, we want to know that
6 guy well before we make that final decision.

7 MR. FISHER: So, about two years
8 before you get that comfort level?

9 MR. BOYCE: Yes.

10 MR. FISHER: Okay. Is that similar --

11 PARTICIPANT: Yes.

12 MR. FISHER: Yes.

13 MR. KHANDUPUR: Yes. So, to
14 reiterate, I think all we just need is a
15 verifiable process that, and again, we talked
16 about transparency. Does the applicant know that
17 that's part of the equation. That they have to
18 be known. That, yes, you may qualify all the way
19 through. But we still reserve the right.

20 MR. BOYCE: But that becomes part of
21 the issue also. That doesn't go into a training
22 program.

1 MR. FISHER: Right.

2 MR. BOYCE: And we go back to several
3 of the discussions today. It was quantifiable.
4 What's, you can't quantify that.

5 MR. FISHER: It's the squishy part.

6 MR. BOYCE: Yes. And you can do
7 everything you want with a training plan. You
8 can document that he could be God's gift to the
9 sea, or he can be a terrible mariner, either one.

10 And if it doesn't work at the end of
11 the day, what you're addressing to, how do you
12 address that? I think that's part of what this
13 problem is too is, how do you address that
14 aspect? You can't address that aspect in a
15 training plan.

16 You know, whether it's written into,
17 you know, internal by-laws that you've got to
18 vote a person in or our, or whatever. But now
19 you're into the Coast Guard recognizing that.

20 MR. FISHER: Well, and when we had the
21 regulatory reform conference call, what, six,
22 eight months ago. And we were talking about some

1 wording in the regs that says these individuals
2 shall be of good moral fiber, or something --

3 MR. BOYCE: Something like, it's your
4 language. But yes.

5 MR. FISHER: Yes. It was essentially
6 getting at this --

7 PARTICIPANT: It does.

8 MR. FISHER: It literally said moral
9 character, or something. I was like, what the
10 hell is that? But it, I think it's trying to get
11 at the question, do they fit?

12 And, but I think where's John Boyce's
13 raising a good point, which is, if you get a
14 sense the guy's going to be a misfit in your
15 group early on, better to let him know early.
16 Even if he's a great navigator.

17 MR. BOYCE: That's agreed.

18 MR. FISHER: Yes.

19 MR. BOYCE: I mean, if you get a
20 sense, this is just not going to work, nobody
21 needs to prolong agony on either side.

22 MR. FISHER: Yes.

1 MR. BOYCE: And if that was the case
2 of you having to separate ways, you need to work
3 on getting the next guy that's going to resume
4 training in that place on line anyways.

5 MR. FISHER: Not to belabor this, but
6 I'm just curious. If somebody's kind of a
7 behavioral misfit, do you sometimes say, hey
8 dude, you know, you might try a little harder to
9 get along with folks? I mean, is there some, I
10 was an attorney when I was young. We do that
11 with --

12 MR. BOYCE: And we all know I need to
13 get along. Right.

14 MR. FISHER: And you kind of help the
15 guy understand --

16 MR. SWARTOUT: We do tell them that
17 they're not meeting expectations. And sometimes
18 they respond. And sometimes they don't. But we
19 have had guys in fairly recently who, everybody
20 thought they were doing great.

21 Then they were fully registered. And
22 then they start, well, the pressure's off now.

1 Now I can start working the system, and see how
2 little I can work and --

3 MR. GALLAGHER: I see --

4 MR. SWARTOUT: -- you know, play the
5 working rules to my advantage, and all that kind
6 of stuff. And I don't know how you're going to
7 forecast that.

8 MR. GALLAGHER: Okay. Any other
9 discussion? We'll open it up to the public.
10 Mike Broad.

11 MR. BROAD: Just a question for the
12 Coast Guard.

13 MR. GALLAGHER: Yes. Get up here,
14 Mike.

15 MR. BROAD: Get my exercise.

16 (Off microphone comment.)

17 MR. BROAD: Just two questions. What
18 is the Director's Exam? And number two, is this
19 going to give you the tools to provide public
20 oversight of the training program? Or at least
21 give you the tools to make sure that the public
22 good is being done for the training purposes.

1 MR. HAVILAND: You want to answer
2 those questions, Vince?

3 MR. BERG: Yes. The Director's Exam
4 is something that was put together with, to our
5 office, which is a series of questions, and
6 filling out source cards and a, scenarios, that
7 is given at the, towards the end of their
8 training.

9 Kind of like when everything else is
10 done and the Association has told us, hey,
11 they've met all the other requirements. It's
12 kind of like the final thing that they get.

13 And it covers the, in the regulations
14 it says it needs to cover the MOU, and the
15 regulations, and stuff like that. That's given
16 within, at the very end of their training.

17 MR. HAVILAND: Can I just interject a
18 quick -- Todd Haviland. The Director's Exam, we
19 give it to them after we receive a letter from
20 the Association that says, this mariner has
21 completed our training. We want to make him a
22 partner.

1 So, that person understands the
2 uniqueness of being a U.S. registered pilot.
3 They get all their other underlying credentials
4 through the National Maritime Center. So, their
5 first class pilotage endorsement, their master's
6 license and mates licenses, and all those other
7 things.

8 So, it's the last formality. We're
9 going to hopefully get tests tailored to each one
10 of the Associations. Because I don't know if was
11 Frank Flintz or you know, Paul Wasserman
12 (phonetic), but every answer to every question
13 was, the Director of Great Lakes Pilotage. You
14 know, give me a break.

15 And then, as far as this goes, if you
16 would let us know what type of level of
17 transparency you'd like to see with the training,
18 I think we could sit down and accommodate those
19 requests. Because none of this is proprietary.

20 MR. FISHER: Just right off, I think
21 just making the training, existing training plan
22 publicly available. I think that would help.

1 MR. GALLAGHER: I thought they were.
2 I thought they were.

3 MR. HAVILAND: But they are on the
4 website, yes.

5 (Simultaneous speaking.)

6 MR. GALLAGHER: They're on the
7 website. That's all. Anybody else?

8 MR. BROAD: Yes. Just so that, we
9 just, I think people would just like to have
10 Coast Guard's confirmation that everything's
11 good.

12 MR. HAVILAND: Yes.

13 MR. BROAD: That's basically it.
14 That's my oversight. That's it.

15 MR. HAVILAND: That's one of Vince's
16 primary functions is to --

17 MR. BROAD: Good.

18 (Simultaneous speaking.)

19 MR. GALLAGHER: Before we advance
20 anybody anyplace we get approval from the Coast
21 Guard. So, every time, every step somebody is
22 moving up the ladder we submit all our trips.

1 George can maybe explain a little bit more.

2 We submit all our, all their trips.
3 Who they went, what ship they were on. And we
4 ask for their approval. And then, the Coast
5 Guard sends us a letter saying, okay, this
6 individual is approved to go into the port of
7 Toledo.

8 MR. BROAD: I'm not questioning the,
9 your training program, I'm just saying, does the
10 Coast Guard have confidence that public oversight
11 has been served with the training programs?

12 MR. KHANDUPUR: Yes.

13 MR. BROAD: And if that's, that's
14 good, that's fine.

15 MR. KHANDUPUR: And let's do, the
16 Director exam, you've talked about that a couple
17 of times, actually, that's not a technical eval.
18 Technical stuff was done with these guys. We're
19 not pilots at the Coast Guard Pilot Office.

20 What the Director's exam basically
21 talks about is an understanding of what's your
22 district, where do you have to go, which is

1 designated waters, which are un-designated
2 waters, what are your process, what's your
3 procedures.

4 So it's more organization. And
5 that's, and I think that's something that they
6 should actually know going into the program. But
7 we got to do that at the end to test, to know
8 where they are.

9 All the steps for the Director exam.
10 So that's the final checkmark that completed all
11 the claim.

12 MR. GALLAGHER: Anybody else?

13 MR. SWARTOUT: Just one more word. I
14 want to give an example of how, how hard it is to
15 generalize about this stuff.

16 We have a port, Burns Harbor. It's
17 probably the easiest port in our district. We
18 require five trips there.

19 Why do you require five trips for an
20 easy port? Because, you know, we try to hire
21 people that have ship handling experience but
22 they're handling lakers, which don't, for the

1 most part, handle like a salty. Salties are more
2 difficult to handle in general.

3 So, for that guide, once he has seen
4 Burns Harbor several times, now he can start
5 working that port. And every time he does that
6 easy harbor, he develops his ship sailing skills
7 more and they are applicable to ones that are
8 more difficult.

9 The alternative would be to make 15
10 trips into hard ports and no trips in the easy
11 ports. And that doesn't work either.

12 So, I think the system works pretty
13 well in our district with the system we have.
14 And anxious to make some small tweaks, but other
15 than that, I think that part is pretty well.

16 MR. GALLAGHER: Anymore public comment
17 directed to members?

18 MR. BOYCE: I think part of the
19 original question was about time frames with
20 temporary registrations. I'll say again, I think
21 the bigger issue with them is, whatever time
22 frame, there should be a default negative that

1 takes affirmative action to renew them not just
2 for a resumed action.

3 And if it makes it easier to do that,
4 have these six months or more, more periodical
5 renewals of them, then I would be for that.

6 MR. SWARTOUT: If you want to make
7 that into a motion I'll second it?

8 MR. BOYCE: Okay.

9 MR. SWARTOUT: What did I say?

10 (Laughter.)

11 MR. BOYCE: Recommend temporary
12 registrations. This, he saying default negative.
13 Do the people reading this understand what I mean
14 by saying that?

15 MR. SWARTOUT: I know what you mean
16 but you probably ought to define it a little bit.

17 MR. BOYCE: Temporary registrations.
18 Would it be better to say take an affirmative
19 action to, affirmative actions is a different
20 term.

21 Temporary registrations are not
22 equivalent to full registrations. Ah, see, I'm

1 know what I'm talking about, and how to get it --

2 MR. KHANDUPUR: You can say they
3 expire within a certain amount of time.

4 MR. BOYCE: That they --

5 MR. HAVILAND: That there's no
6 expectation of renewal.

7 MR. BOYCE: There's no expectation of
8 renewal. That's what I meant by --

9 MR. GALLAGHER: So --

10 MR. BOYCE: Recommended temporary
11 registrations have no expectation of renewal.
12 And if that was the case, and I'm making sure the
13 recommendation is adequate for that.

14 If that was the case, does the period
15 of temporary registration matter at that point,
16 because there's no expectation renewal, and leave
17 it to the director for the period that they deem
18 appropriate, less than one year?

19 Or, or temporarily registered when
20 they're trending plan, they have to have the
21 August and January six month performance reports,
22 do they expire at the end of six month reports?

1 MR. GALLAGHER: I would think they
2 would expire. They'd be good for a year, just
3 like they do right now.

4 And if some, we don't think they're
5 doing good enough then we can talk to the
6 director and say, hey, we recommend that you
7 suspend his registration.

8 MR. KHANDUPUR: These are for upcoming
9 trainees?

10 MR. BOYCE: Yes. In a temporary
11 registration.

12 MR. GALLAGHER: Correct.

13 MR. KHANDUPUR: So, you need to
14 mention that, because the other people that might
15 get a temporary registration, like a 70-year-old
16 that gets a temporary registration.

17 MR. BOYCE: But, I don't think so. I
18 think that, I think it should apply for temporary
19 registrations. Because that's somebody that, due
20 to whether its traffic demands or what have you,
21 you're --

22 MR. KHANDUPUR: I just wanted to make

1 sure --

2 MR. BOYCE: -- trying to keep going.

3 MR. KHANDUPUR: Yes.

4 MR. BOYCE: And really, that's at the
5 point, you know, for somebody that's over 70, is
6 getting to the point, it's a very individual
7 thing whether that person, at that time, is still
8 --

9 MR. KHANDUPUR: If your affirmative
10 action is fine, it requires affirmative action to
11 renew it.

12 MR. BROAD: Just a quick question.
13 Who decides that, temporary registration has no
14 expectation of renewal?

15 Now, if somebody is at the, climbing
16 the association that goes up to the guy and says,
17 sorry, you're not going to be renewed or do you
18 go through the pilot, the pilot's office, Great
19 Lakes Pilot Office.

20 And if you do go through the Great
21 Lakes Pilot Office, what expertise is there, what
22 do they listen to? Do they listen to them only

1 or --

2 MR. HAVILAND: Good afternoon, Todd
3 Haviland. The way the regulations state, in
4 order for me not to renew a temporary
5 registration, the burden is upon me to go and try
6 to an administrative law judge and communicate to
7 the administrative law judge why that mariner
8 lacks the ability to continue with the renewal.

9 MR. BROAD: Thank you.

10 MR. GALLAGHER: Is that your
11 recommendation, Tod?

12 MR. BOYCE: I'm just thinking about
13 what else needs to be covered. Maybe put in for
14 both, because I think the Coast Guard is probably
15 looking for input to whether they should use
16 temporary registrations. For lack of a better
17 term, on the front side during training.

18 MR. HAVILAND: There could be two
19 separate recommendations.

20 MR. BOYCE: Okay. Yes, maybe that's
21 a better way instead of trying to string, string
22 things together. Then I'll make that a

1 recommendation.

2 MR. GALLAGHER: Okay, we have a motion
3 by John Boyce, recommend temporary registration,
4 to add no expectation of renewal. Do we have a
5 second?

6 MR. FISHER: Second.

7 MR. GALLAGHER: Second by Steve
8 Fisher. Any discussion? Okay. Mike?

9 MR. KLEIN: Yes.

10 MR. GALLAGHER: Steve?

11 MR. FISHER: Yes.

12 MR. GALLAGHER: John Swartout?

13 MR. SWARTOUT: Yes.

14 MR. GALLAGHER: John Boyce?

15 MR. BOYCE: Yes.

16 MR. GALLAGHER: Dan Gallagher, yes.
17 John Baker?

18 MR. BAKER: Yes.

19 MR. BOYCE: Okay, motion carries.

20 MR. BOYCE: I'll make another
21 recommendation that temporary registrations be
22 issued, both to facilitate training and the

1 movement of traffic.

2 And I would think that movement of
3 traffic to cover the use of somebody that's after
4 70 and then can't be issued a full registration.
5 They're doing it to facilitate the movement of
6 traffic for somebody that's 71, that can't be
7 issued a full anymore by regulation, they can be
8 issued a temporary still.

9 MR. KHANDUPUR: Now, what do you mean
10 by facilitate training?

11 MR. BOYCE: During the training
12 process, as all three districts have used in the
13 past, as somebody gets to the stage, whether it's
14 a pilot boat, the pilot boat, or certain ports
15 that they've trained enough, certain ports in all
16 districts get far more traffic than others.

17 I mean, you can have somebody trained
18 up in that port area or whatnot, before others.
19 Maybe because of traffic or difficulties, that
20 they haven't completed all the training yet, but
21 they've completed some. So you can have them
22 working and further developing the skills on

1 their own --

2 MR. KHANDUPUR: So that would be
3 partial registration. They're only registered
4 for certain ports, not for the entire district.

5 MR. BOYCE: Correct.

6 MR. GALLAGHER: That's what we have
7 right now, the temporary registered. Yes.

8 MR. KHANDUPUR: Okay. So I think
9 we're using temporary and partial to sort of mean
10 the same thing?

11 MR. GALLAGHER: Yes.

12 MR. KHANDUPUR: I mean, we know we're
13 registering a pilot, they are registered for the
14 entire --

15 MR. BOYCE: A full registration.

16 MR. KHANDUPUR: Full registration.

17 MR. BOYCE: Yes.

18 MR. KHANDUPUR: But a temporary
19 registration could be a full registration for a
20 full area.

21 MR. BOYCE: I supposed theoretically.
22 I know if we've ever done that before today.

1 MR. KHANDUPUR: But temporary, to me,
2 suggests it's temporary. It doesn't talk about
3 what's the area of --

4 MR. GALLAGHER: It's whatever area
5 they're approved for.

6 MR. BOYCE: And that usually, when
7 you're doing the beginning side training it's,
8 part of the issue is, all the training is
9 completed, but a material portion of it is --

10 MR. GALLAGHER: You're temporarily
11 registered for parts of the district. And we
12 want to utilize them with a temporary
13 registration while they're finishing their full
14 registration.

15 And each segment that goes along, we
16 advance them when they meet the requirement and
17 meet out satisfactory evaluation. After the
18 approval of the director.

19 MR. KHANDUPUR: Okay.

20 MR. GALLAGHER: All settled then,
21 John?

22 MR. BOYCE: I'll add on, temporary

1 registration may be for the full or part of the
2 district. That way it will spell it out.

3 MR. GALLAGHER: Title then?

4 MR. BOYCE: Temporary registration may
5 be for all or part of the district.

6 MR. SWARTOUT: Second.

7 MR. GALLAGHER: Okay, we got a motion
8 by John Boyce, do we have a second?

9 MR. SWARTOUT: I did.

10 MR. GALLAGHER: Second by John
11 Swartout. Any other discussion, questions?
12 Okay, Mike?

13 MR. KLEIN: Yes.

14 MR. GALLAGHER: Steve?

15 MR. FISHER: Yes.

16 MR. GALLAGHER: John Swartout?

17 MR. SWARTOUT: Yes.

18 MR. GALLAGHER: John Boyce?

19 MR. BOYCE: Yes.

20 MR. GALLAGHER: Dan Gallagher, yes.

21 John Baker?

22 MR. BAKER: Yes.

1 MR. BOYCE: Okay, motion carries.
2 Okay, the next one, the Coast Guard works with
3 the American Pilot Association to implement best
4 practices with regards to professional
5 development for the association, partners, United
6 States registered pilots.

7 At this time, I'd like to ask the
8 pilot presidents to disclose the training in
9 their association who participated in during the
10 last couple of seasons. Captain Boyce, do you
11 want to go first?

12 MR. BOYCE: Okay. Aside from
13 individual requirements, as a group, what we've
14 done in plan on continuing this manned model
15 train.

16 There's a facility down in Louisiana
17 that they had scaled shifts in their own lake
18 essentially, that the majority of our group went
19 to two years ago. And our plan is for this
20 coming off season to cycle, intentions all, but
21 reality always happens and materially all of our
22 guys do that again.

1 At our winter and spring meetings we
2 had somebody come in and do different classes
3 from fatigue, resource management for pilots.
4 And this coming off season, at the winter and
5 springs meetings on either end, we plan on having
6 somebody come in to give those classes, again, at
7 our meeting.

8 We find this actually easier to get
9 everybody when they come to the meetings to do
10 the training. And it's actually considerably
11 cheaper.

12 Because they're paying to trip,
13 vacation for one person to come up here instead
14 of 20 pilots to go there. So it's a real
15 beneficial way to do training, at least in our
16 group.

17 MR. GALLAGHER: John?

18 MR. SWARTOUT: We started a rotation
19 back, I think it was in 2014, early 2014, of four
20 core curriculum items. Bridge resource
21 management for pilots, ECDIS training, Electronic
22 Chart Display Information System, ARPA for

1 pilots, Automatic Radar Plotting Aids. And also
2 manned model training.

3 So, we've been working through these
4 things and now we're back to the beginning again,
5 and we're going to go back to what we started.

6 This winter, it's not set in stone
7 yet, but we're looking at another legal aspects
8 of piloting class, which we haven't done in 40
9 years. And some more electronic ECDIS training
10 and some more manned model.

11 Most of our guys have done all of
12 these things in the last 40 years, but we're
13 constantly bringing in new people. So some of
14 these classes are going to be new to them.

15 But we're on this rotation and we're
16 going to carry on with it.

17 MR. GALLAGHER: Okay. In our district
18 we've had, in the last three or four years, we
19 have sent a couple of people to a mini-module
20 course. We're going to plan on sending some more
21 this year.

22 Of course, we do the radar renewal.

1 Every five years everybody has to.

2 Fatigue management we had last year.

3 The previous year we had bridge resource
4 management, the legal aspects of pilotage,
5 electronic navigation with all the new electronic
6 handheld pilot units.

7 So, we're on a continual rotation.

8 Every company meeting the last few years we've
9 brought in an instructor again. It's cheaper for
10 us to do it that way. We bring him in instead of
11 us all going to him.

12 It's worked out great. Our guys get
13 great feedback, they've learned a lot out of it
14 and the world has changed.

15 Any questions from the committee? Any
16 questions from the public? Okay.

17 All right, the next item on the agenda
18 is the pilot association compensation practice.

19 MR. BOYCE: Do you want to take a
20 break?

21 MR. GALLAGHER: Do I want to take a
22 break? No, let's go a little more.

1 (Laughter.)

2 MR. GALLAGHER: We got work to do. We
3 can go just a little, we just had a break.

4 PARTICIPANT: I'll take a break.

5 (Laughter.)

6 MR. GALLAGHER: We've only been here
7 an hour. You want us to pull the ship over?

8 (Laughter.)

9 MR. GALLAGHER: Mr. Fisher has made a
10 request to discuss individual pilot compensation.
11 At this time, I ask Mr. Fisher to explain the
12 rationale for this request outlining the
13 information he wanted the public to assess in
14 identifying the party who would be responsible
15 for providing this information.

16 MR. FISHER: Thank you, Mr. Chairman.
17 So, the individual pilot compensation is an issue
18 that was brought up two years ago in the 2016, I
19 think it was a June meeting, of GLPAC in 2016.

20 The Coast Guard, during the 2016 rate
21 setting, essentially argued that they believed
22 there were recruitment and retention issues among

1 the three pilot organizations that largely stem
2 from a lack of adequate compensation.

3 And as a consequence, decided to
4 increase the overall revenue flowing into the
5 three pilot organizations by raising rates.

6 We then argued, well, so be it, but if
7 you care about recruitment and retention, which
8 was the policy decision you had made, the
9 experience of the individual pilot is what's
10 relevant, not just the revenue experience of the
11 overall pilotage pool by the revenue experience
12 of the individual pilot is relevant.

13 And in reality, the heart of this, I
14 guess, is a question that we don't know the
15 answer to which is, once the revenue flows into
16 the individual pilot associations, a certain
17 amount of it of course goes to expenses and so on
18 but a certain amount of it goes to compensation.
19 And does each pilot experience a compensation,
20 have a compensation experience that's
21 satisfactory. And realizing that no everybody is
22 necessarily going to be paid the same.

1 And so, all we are asking for is
2 transparency on this question. And the same
3 issue was raised two years ago.

4 There was a discussion at the GLPAC
5 meeting that year in Detroit. Quite frankly at
6 that time, I don't know will happen today, at
7 that time there was not any opposition expressed,
8 the only input I recall was Phil Knetchal, from,
9 formally from District II, who was in the
10 audience and shared a view that this should be
11 anonymous, that we shouldn't use people's names.
12 And that absolutely reasonable, it can be
13 anonymous.

14 What we're looking to see is, we could
15 do Pilot 1, Pilot 2, Pilot 3 or we can use A, B,
16 C, D, E, whatever designation we want. But there
17 should be transparency on how, what the
18 compensation experience is pilot-by-pilot.

19 Only until that is transparent will we
20 know, and will the regulator know, if the policy
21 goal, which is to ensure that there is a
22 compensation motive to stay in these jobs, only

1 then will we know whether that's been achieved.

2 It was alleged that because of a lack
3 of a decent compensation people were leaving.
4 And I'm not necessarily questioning that I'm just
5 saying, okay, then let's see what the experience
6 is of people.

7 So, this is a transparency issue in my
8 mind. And, again, it's been raised before. I
9 think it's been raised in every single filing our
10 group has done. The industry users group has
11 done. We've raised this issue time and again.

12 It's a transparency issue. We're not
13 necessarily asking for a change of policy or
14 anything like that, we're simply saying, make
15 public what the compensation experience is,
16 anonymously, for the various pilots, individual
17 pilots, in each of the three pilot organizations.

18 And if in fact it looks reasonable,
19 fine, we'll all go on with our lives. But if in
20 fact it's apparent over time that in some
21 individuals aren't having a good compensation
22 experience, I think we need to ask questions

1 about what's going on. Because at the end of the
2 day they'll leave and then we've got a retention
3 problem.

4 So, I don't know how, from a policy
5 perspective, the coast guard can be concerned
6 about recruitment and retention, yet not want to
7 know this data. That is an inconsistency in my
8 opinion.

9 So, again, we're all here not to
10 debate each other, we're here to advise the Coast
11 Guard. And so, the advice I'd offer, I'm not
12 doing a recommendation, the advice I'd offer is
13 that, yet again, because we've made this
14 recommendation numerous times, that in future
15 financial statements of the pilot organizations,
16 that they anonymously list the compensation of
17 the individual pilots for the preceding calendar
18 year.

19 MR. BOYCE: One thing I'll say is,
20 compensation experience, as I think you said,
21 there's two parts of that, whether people are
22 satisfied.

1 MR. FISHER: Sure.

2 MR. BOYCE: One is controllable by the
3 association, one is not controllable by the
4 association. If there is enough gross money,
5 it's going to be a poor compensation experience
6 through no ability of ours.

7 MR. FISHER: Got it.

8 MR. BOYCE: If it's through, one guy
9 makes a dollar, one guy makes a million, that's
10 addressable. I guess we'll call it internal
11 deliverables.

12 Our group, depending on how you
13 consider expenses for travel and what not, we
14 don't make the same. Once you're working,
15 everybody makes the same. It's divided by 17.
16 Unless somebody was not available for any given
17 day of the month. For unexcused reasons we all
18 make the same amount.

19 As far as the Coast Guard being
20 interested in the information, they see it. The
21 auditors look at it, it's, the Coast Guard sees
22 it. So to say they're disinterested in it is not

1 a correct statement. They do see it.

2 MR. FISHER: Okay.

3 MR. BOYCE: Whether it's the
4 regulators job to look at it or whether that
5 should be the public looking at it, that's a
6 different question of whether you trust the
7 regulators to be looking at it.

8 And I think that differs from not
9 knowing whether they're looking at it or not. I
10 think they came in with us not know what we're
11 going to go. And the fact is, they do look at
12 it, the auditors do test it and things like that.

13 So, it isn't wholly unknown, whether
14 individuals' compensation goes up to the public,
15 is a different question than whether the
16 regulators are interested and see it. Because
17 they are interested and they do see it and it is
18 tested by the, well, by the agreed upon
19 procedures, not the audit.

20 MR. FISHER: I just want to
21 acknowledge, to John's credit, District 1 pilots,
22 until 2015, did exactly what I am recommending.

1 They, in their financial statement each year,
2 would list, actually, not anonymously, by names -
3 -

4 MR. BOYCE: Right.

5 MR. FISHER: -- you knew what every
6 guy made. And so that would be the model is to
7 return to that.

8 MR. BOYCE: And I'll tell you why we
9 stopped doing that.

10 MR. FISHER: Yes, never knew why.

11 MR. BOYCE: Is --

12 (Off microphone comment.)

13 MR. BOYCE: We had, there was some
14 retirements and some people that left, some
15 people that started mid-season. And of course if
16 somebody leaves two months into the season,
17 they're not going to make the same as somebody
18 who works a whole season.

19 MR. FISHER: Okay.

20 MR. BOYCE: If you have somebody that
21 works six months into the season, you have
22 somebody that starts very late, those numbers are

1 going to be very different. And also, if you had
2 somebody leave before somebody started, the
3 individuals that were working all that time are
4 going to be elevated too because you're providing
5 a full list.

6 It was fair questions that when that
7 information came out. It was explained to
8 various individuals exactly what happened, by
9 individual name, this was a case with this, this
10 was a case with this, this was a case with this.

11 And for quite some time afterwards,
12 either was conveniently forgotten what the
13 explanation was or was intentionally disregarded
14 and was never explained to them. And that's
15 largely why we stopped pulling the information
16 out because it was being twisted.

17 MR. FISHER: Yes. I would think that
18 would be easily addressed within the financial
19 statements "worked partial year." Or something
20 to that effect, so that somebody else can't
21 misrepresent why somebody --

22 MR. BOYCE: You'd be surprised what

1 people can misrepresent.

2 MR. FISHER: Yes. Transparency is a
3 good thing. And I think this, I don't know how
4 you claim to be concerned about recruitment and
5 retention and not want to make this information
6 available.

7 I'm not doubting there was a concerned
8 about recruitment retention, I'm just saying,
9 it's inconsistent to care about and then not be
10 transparent about this.

11 MR. GALLAGHER: Steve, I think a lot
12 of the people that did leave, they submitted
13 letters to the Coast Guard reasons why they left.
14 I know John Swartout had a lot of guys that were,
15 and John Boyce included, they had a lot of guys
16 that were full registered, full partners
17 receiving full compensation and they still chose
18 to leave.

19 There's letters that they submitted.
20 They didn't leave because the compensation was
21 inadequate compared to their partners, it was
22 inadequate because of what they were making, what

1 the expectations were, what the workload was and
2 that they could go get a far better job working
3 less, making more.

4 And the Coast Guard has those letters.
5 John.

6 MR. SWARTOUT: Swartout. The Coast
7 Guard also has our working rules and our
8 articles, which describe how we compensate our
9 pilots, so they know what the process is and that
10 it's fair to everybody.

11 MR. FISHER: I want the public to know
12 that too.

13 MR. GALLAGHER: Okay, anymore from the
14 Members? Okay, we'll open up to the public. Go
15 ahead.

16 MR. BROAD: I just want to ask you, or
17 just confirm with the, Steve just said. That its
18 good out in the public and has to, can be
19 anonymous and there can be an explanation for
20 different things.

21 But we found some numbers that were
22 interesting and different, and as soon as we

1 pointed that out, that reporting stopped. So, I
2 think it's good to go back and have the public
3 know what pilots made and everybody can feel
4 good. There you go.

5 MR. GALLAGHER: Anybody from the
6 public? Okay, now we'll bring it back to the
7 Membership. Any further discussion from the
8 Members? Any Member want to make a
9 recommendation?

10 Okay. With that we'll move on to the
11 next item, which is pilot association projects.
12 The Coast Guard asked the U.S. Pilots Association
13 President to provide an update on capital
14 projects and significant future investments in
15 their perspective districts. Captain Swartout,
16 you want to go?

17 MR. SWARTOUT: We have been struggling
18 for years now, in fact, a pilot always assumed
19 dock you on the locks. And have been seeking a
20 solution to that problem night and day, for
21 years.

22 And we were ready to build a dock and

1 dredge above the locks this spring and then we
2 solicited bids on that project. And out of nine
3 contractors we got two bids, one was only for
4 part of the project, not for all of it.

5 And it was all too expensive for the
6 amount of business that we do there and justify
7 the cost. So, that was about April that we
8 learned that.

9 And so we went back to the drawing
10 board trying to find the second better solution.
11 And we decided that we're going to acquire either
12 by building or buying a shallow graph boat
13 similar to the draft of John's boat out there,
14 and dock it about 2.7 miles from the change
15 point.

16 And that will serve the needs about 80
17 percent of the time. The rest of the time
18 weather will dictate that we can't use that boat,
19 and we will use the boat we already have from
20 below the locks and do the change in more
21 protective waters.

22 So, that's our, that's the big thing

1 on our plate right now. The cost of the docking
2 area is going to be minimal. It's undetermined
3 yet, but Superior Township has some property and
4 they are eager to have us there.

5 We'll put up, probably put some money
6 up front and they'll give us a long terms lease
7 at no cost. I'm speculating right now. That's
8 kind of been the pattern that they followed with
9 others.

10 We are in the midst of a transition.
11 We are hoping to move from Superior, Wisconsin to
12 St. Mary's. And when we do, we'll be in
13 temporary digs for a while and then hope to build
14 or buy an office in Soo or near the Soo.

15 We have acquired two pilot boats in
16 the last three years. Now they're Coast Guard 41
17 footers. One at the Detour, one at the Soo.
18 They were virtually identical. They are really a
19 joy to use compared to what we were using before.

20 They're both aluminum boats so they
21 can't operate on ice. And during the ice season
22 we'll revert to using the steel boat, that was

1 the pilot boat at Detour.

2 And at the Soo we're also working on
3 a solution to be able to do ice. Ice transfers.
4 But at the meantime, upbound vessels, we're
5 changing the lock down. Upbound vessels we're
6 typically using tugboat service to make pilot
7 changes that can't be done by a pilot boat. And
8 that's our plans for right now.

9 MR. GALLAGHER: Stacy. I mean, Boyce.

10 MR. BOYCE: Stacy has got to go back
11 to John again, it's easier.

12 (Laughter.)

13 MR. BOYCE: Well, one is the building
14 we're sitting in. About two years ago we moved
15 from a 1960 something double wide to this
16 facility. We actually bought two properties next
17 door to each other.

18 This is our office, right behind it is
19 a motel. And then on the side of us was the
20 former Coast Guard station up here that had gone
21 to the seaway and then became private.

22 We purchased both of these, partly

1 because the prior office was never meant to be an
2 office. Tried to consolidate into that years ago
3 when it was frankly too small.

4 The two big benefits, there's about 35
5 pilots that cycle in and out of here on a
6 rotation basis between the Americans and the
7 Canadians. So all of that to be able to stay
8 over, what we use for the station now, there's a
9 lot more room. The dock is far better.

10 And once the, I'm not sure the date on
11 this yet, once the seaway has, the root tug,
12 we've got 20 plus feet of draft right to the end
13 of our dock.

14 And they're trying to work something,
15 from ice mitigation when assets are around and
16 available, to help free up availability at the
17 beginning and end of the season. A lot of
18 talking details to be worked out. But I think it
19 definitely adds to the capacity.

20 At this office, we're building out
21 front here is why everything is covered up in
22 crush stone and dirt all over the place, we're

1 building a new dock out front. What Pat's going
2 to do is we're also in the process of building a
3 new pilot boat. Various challenges.

4 And like John said, we have a shallow
5 draft boat, because of ice issues, the best we
6 could do at the time was build a small light boat
7 that we could pull, because the ability to winter
8 the boat, options run out quickly.

9 Now that we've got this that we're
10 building, the bigger boat we're working on, we'll
11 be able to winter with ice heaters and bubbles,
12 right at the dock.

13 So, between that in most years, and if
14 we can get help from the Coast Guard in seaways
15 with ice mitigation, it's the best chance we're
16 going to have at the busy times of year when over
17 carriage and ice really becomes an issue of when
18 we're going to be able to operate the boat.
19 We're trying our hardest to get the best possible
20 options for keeping everything moving.

21 So, yes, the new boat we're working on
22 and our office here. Also, we have an office in

1 Massena. That first floor there is where we
2 dispatch out of and the upper floor is what we
3 use when the pilots are staying on the other end.

4 Massena has got more hotel room than
5 Cape Vincent does, but only by about that much.
6 So we've got our own place for people to stay on
7 the other end. It shortens up rest cycles quite
8 often. Helps availability, reduces travel, both
9 expense and time. Much like the motel over here.

10 Prior to this, whenever a pilot got on
11 or off was going to be dispatched from here
12 again, had to go to Watertown to get a hotel
13 room. You're adding a few hours and a few
14 hundred bucks on every assignment when somebody
15 is here.

16 So that's making a, I'd say taking
17 dividends for itself, but overtime it will be the
18 cheaper option.

19 MR. GALLAGHER: Okay, District 2 we're
20 going on two years, I think, in November here.
21 We took delivery of our new pilot boat.

22 Everything is going good. We had a

1 few problems the first year, like anything. You
2 know, we had problems here and there a little
3 bit. I think we got everything worked out now.

4 We've relocated the Huron Belle, the
5 bigger boat, down to Detroit. Last year we
6 rebuilt, rewired that one.

7 A couple years ago we put all new
8 engines, gear boxes. In both of the boats, the
9 Belle and the Maid. So that's last year.

10 We completely went through the Belle
11 onto the electrical. We just did things which we
12 couldn't do before because we couldn't afford to
13 take her out of service. So it's working good
14 now.

15 The Canadian pilots are, and our
16 pilots, are happy with it in Detroit. We had an
17 issue with the weather, we think we've got it
18 secured enough. It just gets beat up there with
19 a lot of the yachts going by. Bigger boat.

20 The Huron Maid, this year we took it
21 out, had it completely sandblasted. Again, all
22 new wiring, new rudder system, new props on it.

1 A couple of new props for that point. So
2 everything is going good there.

3 Our office is about seven years old
4 now in Port Huron. Built the new about seven
5 years ago.

6 We've got some work to do on the
7 docks. Nothing urgent, urgent but we're looking
8 at it in the next year or two. We've got to
9 start making some improvements to that.

10 Our house at Port Colborne, our
11 station at Port Colborne. Just last year we
12 finished the renovations, it was a complete gut.
13 We were out of the place for a, it was a yearlong
14 project, we had to vacate for the year.

15 It's just right off the canal. You
16 guys get off the boat, just like here, you walk
17 right into the house, everything is right there
18 for you. So that's about it with our group.

19 Any questions from the Committee?
20 Steve.

21 MR. FISHER: Can you guys provide
22 pilot boat service for Canadians?

1 MR. GALLAGHER: In our area, yes. We
2 have to provide the pilot boat in Detroit for the
3 Canadians.

4 Westcott, we provide the boat, charter
5 to Westcott, for \$1 a year. It's our obligation
6 to provide the boat down there.

7 Westcott bills, they operate our boat.
8 They bill us directly for every run that we make.
9 They bill the GLPA directly for every run they
10 make. So there's no money, because our boats
11 down there, it's kind of like we're making a
12 profit of the GLPA.

13 MR. FISHER: Correct.

14 MR. GALLAGHER: It's going direct to
15 them.

16 MR. FISHER: Right.

17 MR. GALLAGHER: So, up in Port Huron
18 we provide pilot boat services not only for us,
19 the District 2 Canadians, the District 3
20 Canadians and the District 3 Americans.

21 MR. FISHER: Got it. And then, John
22 Swartout, you also provide, don't you have boat

1 services for Canadians down there?

2 MR. SWARTOUT: Yes. The Canadian
3 pilots in our district are practically integrated
4 into the district. We dispatch them, we go for
5 them, we provide pilotable service for them. And
6 we pay their employer their share of the revenue
7 minus their share of the expense.

8 MR. FISHER: Okay. And then up here.

9 MR. BOYCE: Yes. We do the pilot boat
10 here. And then the GLPA has a pilot boat either
11 end of the canal. The two boats there.

12 So we don't charge anything and we
13 kind of recognize they use, the Canadian Lake
14 pilots use our boat here, our lake pilots use
15 their boat there and then the river pilots just
16 use our boats. There's nothing that changes.
17 It's in the rates, it's paid for, so --

18 MR. FISHER: Right. Okay.

19 MR. GALLAGHER: Any other questions
20 from the Committee?

21 MR. KLEIN: Just --

22 MR. GALLAGHER: Over to the public,

1 any questions from the public?

2 (Off microphone comment.)

3 MR. KLEIN: Yes, it can wait till it
4 comes back.

5 MR. GALLAGHER: Oh. Oh, I'm sorry,
6 Mike.

7 MR. KLEIN: I just had a, just a real
8 quick one.

9 MR. GALLAGHER: Sorry, Mike.

10 MR. KLEIN: Just for my education
11 again, the process for capital expenditures like
12 this. I mean, obviously they're needed, but then
13 does each district make a proposal to the Coast
14 Guard and the Coast Guard approves it and then
15 its put into play or is there more to the process
16 then that?

17 MR. GALLAGHER: John?

18 MR. BOYCE: A little bit of both.

19 MR. GALLAGHER: They've done yours,
20 okay.

21 MR. BOYCE: In some degrees it depends
22 on the magnitude of what's going on. When we

1 redid the driveway here, we didn't go to the
2 Coast Guard and said, I don't think we did, maybe
3 I did, I said, can we re-pave the driveway. It
4 needed to be done, we did it. The Coast Guard
5 will look at the expense and audit it and say, is
6 that necessarily reasonable, and the answer is
7 yes.

8 The director is in the district a few
9 times a year, knows what's going on. And a lot
10 of this stuff, we plan ahead of time, have
11 discussions with the director all through of
12 where we are, what's getting --

13 MR. KLEIN: Okay.

14 MR. BOYCE: -- need the repair.

15 MR. KLEIN: Got it.

16 MR. HAVILAND: Todd Haviland. Another
17 thing that we do is we make sure, like, if
18 they're getting work done and it's a lot of money
19 involved, it's not one of the pilot's brothers or
20 an in-law or a cousin or, you know, a company
21 that is owned by one of the association member's
22 wife or something like that.

1 MR. GALLAGHER: And, Mike, like us,
2 the boat we did this year was completely
3 sandblasted and we let the director, he's aware
4 of it. We didn't go out and get bids on
5 everything because our guys did some of the work.
6 Of course, we had to get some subcontractors for
7 the sandblasting and pulling the boat out.

8 We had another company have to make
9 the rudder and everything. But we just, it was
10 something that needed to be done. It's part of,
11 you know, we filed this boat at least maybe
12 \$60,000, \$70,000. It might be up to \$70,000 into
13 that one this year.

14 MR. FISHER: Yes.

15 MR. GALLAGHER: It's something we have
16 to have. We need this boat to get from Point A
17 to Point B, and the last thing we want is an
18 incident or something.

19 MR. FISHER: Sure.

20 MR. GALLAGHER: But on big major
21 things, we let, usually let the users know.

22 When we built our boat, we got

1 surcharge for the new boat, we give accounting
2 how much money we generate every year. They
3 understand where our costs is.

4 We had a little bit of a surplus last
5 year. We took that surplus, after consultation
6 with the Coast Guard and the GLPA, we said, okay,
7 here's the surplus we had this year above what we
8 had thought we'd collect and we put that right
9 down on the principle.

10 MR. FISHER: All right.

11 MR. GALLAGHER: And that's all, I
12 believe it's on the document, am I correct, Tod?

13 (Off microphone comment.)

14 MR. HAVILAND: Yes.

15 MR. BOYCE: And one more thing, just
16 to expand on what Todd said, about making sure no
17 pilot's brothers ran like that. It's actually in
18 the CFRs, and I'll paraphrase, but you have to,
19 any support services or something of that nature,
20 has to be communicated to the director if there
21 are any.

22 MR. FISHER: Okay, got it.

1 MR. GALLAGHER: Mr. Lemire?

2 MR. LEMIRE: Robert Lemire. Just to
3 close the loop on the pilot boats. On the new
4 constructions, with the District 2, we've got an
5 agreement that we'll pay our share of our usage.
6 So there's a fee in that. As well as the
7 District 1.

8 John's build here, we would require
9 the state and the funding that. And we would
10 probably go toward an amendment for that. So, we
11 get an accounting of the money they spend.

12 And once the bill is paid for the
13 pilot boat we stop paying and Tod's brother
14 doesn't get any more money, or whoever was
15 getting my side of it. Just close the loop on an
16 escalator of comments there.

17 MR. GALLAGHER: Any other questions?
18 Mike.

19 MR. BROAD: Yes. As well, I know the
20 Coast Guard established a, because they took one
21 fund and renamed it the working capital --

22 MR. GALLAGHER: I think that's the --

1 MR. BOYCE: That's the next topic.

2 MR. GALLAGHER: So we'll be going to
3 that.

4 MR. BROAD: All right, thank you.
5 Anybody else have any questions? Okay, why don't
6 we take this time to take a 15 minute break. Now
7 is the time to break.

8 (Whereupon, the above-entitled matter
9 went off the record at 2:48 p.m. and resumed at
10 3:10 p.m.)

11 MR. GALLAGHER: Okay, the next item on
12 the agenda is the Working Capital Fund. The
13 Coast Guard recently renamed the return on
14 investment calculations to the Working Capital
15 Fund.

16 The Coast Guard wants to promote
17 capital investments from sure, safe, efficient,
18 and reliable piloting services. Coast Guard
19 always wants to understand and appreciates the
20 shippers' concerns about the accountability and
21 use of the funds. The Coast Guard wants the
22 Committee input on the Working Capital Fund.

1 At this time I would like to ask Mr.
2 Haviland to address the Committee, please.

3 MR. HAVILAND: Todd Haviland. Good
4 afternoon. In the methodology that was created in the
5 '90s up through 2016, there's a portion in the rate
6 that called for a return on investment. In 2017, at
7 the request of the shippers, we changed that language
8 to the Working Capital Fund.

9 There's been a lot of angst over how
10 these funds are used, and how they are set aside.
11 This was an agenda item during the last meeting
12 where the pilot president said that they agreed
13 that they shouldn't be used for compensation.
14 But I think, you know, the question that we have
15 now is what level of comfort do the shippers want
16 to see these funds segregated, and you know, do
17 the pilot presidents and the shippers, are they
18 interested in continuing this type of funding.

19 It's only been in place for a partial
20 season. The goal is to build this fund up to
21 where we can maybe avoid doing surcharges in the
22 future. But our goal is safe, efficient and

1 reliable service, and however you want those
2 funds to flow to the associations and whatever
3 metrics and safeguards you want and reporting
4 requirements is what we're interested in
5 developing.

6 MR. GALLAGHER: Okay. Anybody from
7 GLPAC?

8 MR. BOYCE: Yes, in the previous
9 rulemaking like Todd said, there was return on
10 investment. It was our understanding this was
11 largely turned into a working capital fund, was
12 more semantic in changing terms than really
13 completely changing the category of funds and
14 what was meant by it.

15 I personally think this is something
16 that falls more in the public utility model of
17 what they have as a return on equity. And it's a
18 rate set by the regulators to earn a return.
19 It's not a zero sum mechanism. We'll call it
20 category in question, has been defined and used
21 four more ways than you can use one dollar. You
22 can't spend it four different ways.

1 Is it classified as a profit? Is it
2 classified as a mechanism to show profit? It was
3 classified as a mechanism like Todd just said to
4 build money (a) to eliminate surcharges, or loans
5 that could create interest on top of that, and
6 the fund capital expenditures.

7 Also at one point it was received as
8 being able to have that pool of money that floats
9 during the bad years so there's money in the
10 businesses to float expenses during those years.

11 The problem is, you stick different
12 names on it and you categorize it too many
13 different ways, in the course of three years
14 nobody knows what it is. Nobody becomes
15 comfortable with it because it's changed a number
16 of times.

17 I think there's a need there for all
18 those intents, and maybe the answer is a third
19 change in what the term for this is. And looking
20 into the utility models, I think return on equity
21 is probably the right way to do it. And I'm sure
22 if we looked hard enough, there's probably

1 147,000 different ways to do that as well.

2 But more following the utility is a
3 regulated monopoly where they don't have pricing
4 power. The regulators do with an audience that
5 choose to use or doesn't choose to use their
6 service just like we have.

7 We have users that use our service
8 because it's compulsory. There's users that use
9 our service by choice; it's not compulsory. So I
10 really do think that it is reasonable to look at
11 how the public utilities are regulated as far as
12 what amount outside of just an audited, this
13 expense was just four years ago, to generate
14 revenue.

15 MR. GALLAGHER: Steve?

16 MR. FISHER: I couldn't agree with John
17 more. I think this particular item and the rate-
18 setting process is scandalous. As John said, it
19 has morphed from being for this, and it's about
20 that, and it was supposed to be for something
21 else three years ago.

22 And so I think the Coast Guard needs

1 to clarify, you know, what this is for and what
2 this is and so that everyone -- I know what you
3 think it is for now. It was for something else a
4 few years back.

5 I think what you said is completely
6 accurate. We need to decide what this is for.
7 If it's for capital investments, then it should
8 be tracked. You used the word "fund" when you
9 were making your comments.

10 If there's in concept to be a pool of
11 money to be tapped into when capital needs, and
12 capital needs are legitimate, but if that's what
13 this is, then it should be tracked over the
14 years. It shouldn't, you know, migrate into
15 other parts of the budget, and it should be
16 tracked.

17 And then when there is a big, big
18 capital need like a pilot boat, that amount may
19 or may not be sufficient. But then at least
20 everyone can come to the table and say, okay,
21 we've got a certain amount in your fund. We see
22 the boat costs way more, and so maybe there's a

1 need for a certain amount of surcharge.

2 Quite frankly, I think a surcharge
3 system is cleaner. It's more black-and-white.
4 We know, you know, what exactly the money's for.
5 If you need a new pilot boat, you know, we know
6 exactly what that costs and the surcharge is
7 assessed over time.

8 This thing's so squishy, and the funds
9 and where they are, and whether they've, you
10 know, been distributed as compensation or spent
11 on something else is unclear. I think this needs
12 to be tightened up.

13 We should either move to a pure
14 surcharge system for capital needs, or if there's
15 a need for something like this, particularly if
16 you need to go take out loans and need to show
17 some weight to service that, then at least it
18 needs to be in the financial statements track
19 every year so that it's transparent and it's
20 clear that these funds have been contributed over
21 the years, and that they're there and available
22 for capital needs. Again, probably small to

1 medium capital needs because the larger capital
2 needs are probably going to need a surcharge.

3 But this has kind of been a squishy
4 part of the rate-setting process, this certain
5 percentage of money. And I think you
6 characterized it correctly, John, that it's kind
7 of fluctuated as to what it's for and it needs to
8 be defined.

9 I'm all for making sure that there's
10 adequate money for the capital needs. We need to
11 come up with a system that's clear and black-and-
12 white as we move forward.

13 MR. BOYCE: And that's what I worry
14 about. It's the same category in public
15 utilities, whether it's electric companies or
16 whatnot. There's a model for it. And part of it
17 is, right or wrongly, different times there's
18 people who got too hung up on what the term or
19 the correct term for it is. And by not using the
20 correct term at times, or by saying it's just a
21 word you understand what it's for, then it
22 becomes, well, this term means this. And that's

1 not what it is. It's just confusion.

2 MR. GALLAGHER: John Swartout.

3 MR. SWARTOUT: I think I understand how
4 it's supposed to work although we're trying to
5 figure out how to make the intent a reality. Our
6 CPA firm has been working to try to figure out
7 how to -- I mean, we're a partnership -- so
8 whatever the Coast Guard says is one thing, but
9 what the IRS says is something else.

10 According to the IRS, it's money we
11 generated and we're going to be taxed on it at an
12 individual rate because we're a pass-through
13 company. So we're trying to figure out a way how
14 can we keep this money in the company, not be
15 taxed at the individual rate, but be taxed at the
16 corporate rate on that money.

17 And then, of course, let's say we had
18 \$300,000 of working capital this year. Well
19 after taxes, it's going to be \$240,000 probably.
20 But we have capital needs that are ongoing, and
21 our intention right now is not to spend the
22 money, but to borrow the money and use the

1 working capital to service the debt.

2 You know, the pilot boats and the
3 electronic equipment that we bought, we had about
4 \$330,000 worth of partners' investment in the
5 company that we used. That money is always there
6 at the end of the year helps to get us through
7 the winter when we have no revenue.

8 But we ended up spending that money on
9 our infrastructure needs, and then ended up with
10 no cash to start the winter with, and we ended up
11 borrowing from a retirement fund to get us
12 through the winter. That's a dangerous thing to
13 have to do.

14 Fortunately, we've had enough revenue
15 to replace it during the season. But what we
16 want to do is replace it on a permanent basis and
17 increase it so that we don't have to borrow every
18 winter to get through the three or four months of
19 no revenue. We don't have a solution yet, but
20 I've got in my inbox a proposal to make it
21 functional.

22 MR. GALLAGHER: Any other from the

1 members? I'll open it up to the public. Now's
2 the time.

3 MR. BROAD: Now's the time. Thank you.
4 First of all, it's the case for everything. At
5 the end of the day, they pay for everything.

6 Historically, we've had the ability to
7 talk to a Pilotage Association's directive for
8 capital expenditures, particularly pilot boats
9 for dock in District 1, and I'll think you'll
10 agree for the most part we agreed to have the
11 surcharge to work with the capital expenditures.

12 As far as the working capital fund
13 goes, we don't mind it being that. If you need
14 money up front as a down-payment on a boat, or if
15 you've got smaller working capital expenditures
16 that you're looking at, you can use that fund for
17 it.

18 We also understand that for larger
19 capital investments, we may need some surcharge.
20 We all just want to make sure that that working
21 capital fund is defined properly, that the money
22 is separated, that maybe we can come up with an

1 amount to be in there. I don't know.

2 If the Association has one year, a
3 couple of hundred thousand dollars sitting there
4 doing nothing, maybe the next year don't charge
5 the working capital surcharge.

6 As long as we can define the working
7 capital fund, as long as we can track the funds
8 there and the surcharges, we're fine with it.

9 MR. HAVILAND: What kind of tracking
10 mechanism would you implement?

11 MR. BROAD: Well it's not rocket
12 science. Money in. You show what you collect.
13 It's separate; it's in the reserve fund. You put
14 through expenses for capital expenditures through
15 it, smaller ones.

16 If you have need for a pilot boat, you
17 might say well come to the Industry and say,
18 well, we've got to spend a million dollars on a
19 pilot boat or two million dollars on a pilot
20 boat. And we have \$200,000 in the fund, we'll
21 put that down, and maybe surcharge until it's
22 paid off.

1 MR. BOYCE: One of the issues with the
2 last rate and the wording of -- the newest
3 wording of how to fund is to work, doesn't work.
4 Because what happens is, it says, if you use the
5 working capital funds toward purchase of an
6 asset, then those amounts are removed from the
7 rate expense, which at first watch their case
8 statement comes back.

9 The problem is they'll never make it
10 into the rate. So once you start using the
11 working capital fund, it's done. A new boat's
12 going to be \$200,000 a year. First year, boom,
13 wipes out that year's working capital fund. And
14 it will never catch up because the next year
15 you'll use all of it that's generated, and the
16 next year you'll use all of it that's that
17 generated.

18 So the life-span of paying for the
19 boat, it's gone. So essentially, you've gotten
20 to the point where you have no more working
21 capital available or until a boat's paid off, or
22 the 12 years of your loan. It doesn't ever climb

1 its way back to the rate to be able to build that
2 account. It's going to be in deficit entirely.

3 MR. BROAD: Well if you also have a
4 surcharge system, you should be able to work,
5 too. At least the working capital fund is a
6 better explanation than the prior description
7 which was very difficult.

8 And maybe the thing to do is get rid
9 of the thing altogether and just work through
10 surcharges. I mean, how many capital
11 expenditures do you have a year? And you have
12 depreciation which should allow you to reinvest
13 in the business for the future in assets.

14 So I think, in any case, we're good to
15 the fund as long as it's well-defined and it's
16 separate and we can see the numbers, and a
17 combination of that and surcharges if necessary.

18 MR. GALLAGHER: Anybody else from the
19 public? If nobody else, then I'll turn it back
20 over to the Committee again.

21 There's got to be some return on
22 investment for the shareholders. Our

1 corporation, we're a corporation, employees are
2 pilots. We have to buy into the corporation
3 because of all the assets.

4 Mike said that, you know, the rate
5 users are the, you know, the customers that are
6 paying all this. It's the same thing with all
7 the shipping companies and the stevedores. Your
8 customers are paying for it.

9 I mean, we're no different than the
10 shipping companies. You know, their customers
11 are paying services.

12 MR. BOYCE: In all business, the users
13 pay for it.

14 MR. GALLAGHER: All businesses. Yes,
15 the users pay for it. So I mean, it is what it
16 is. There needs to be something for a return on
17 investment on the capital improvements. If we
18 can do this without any tax consequences, I don't
19 see a problem with it.

20 And, you know, I wouldn't disagree,
21 Mike, with you and we could track it. That's
22 what we're doing with our pilot boat surcharge.

1 It's transparent. You know like this year, the
2 money we put into the one boat, we could utilize
3 some of that and we'll take that out of the -- as
4 long as we track it properly, then when they do
5 the audit, those expenses will not be recognized.
6 That we were not double-dipping, so it's
7 transparent. But there's got to be something for
8 a return on investment.

9 MR. BOYCE: Yes, I really think the
10 public return on equity, public utility model,
11 it's the square peg for the square hole. It's
12 the same thing. And granted, look at it, explore
13 it, and see what it is, but that's how it's done
14 in similar entities all over the country.

15 MR. GALLAGHER: You don't necessarily
16 have to make a motion; you can make a
17 recommendation to the Coast Guard. Or if you
18 want to make a motion.

19 MR. BOYCE: All right, I'll make a
20 motion to -- I mean does anyone want to discuss
21 on --

22 MR. FISHER: I think we've talked about

1 it.

2 MR. BOYCE: Well I'm just saying look
3 at -- something in the nature of look at the
4 public utility model's return on equity and try
5 to veer that to get a standard definition of how
6 it's done, how it's processed in that model.

7 MR. FISHER: I guess I've heard some
8 concepts and I want to make sure I'm clear. I think
9 under the old definition, a return on investment was
10 not necessarily for capital reinvestment. It was an
11 earnings, a type of earnings.

12 MR. BOYCE: But it was always used for
13 capital reinvestment largely because it had to be.

14 MR. FISHER: Okay. But that wasn't its
15 stated purpose as I recall years ago.

16 MR. BOYCE: Okay.

17 MR. FISHER: And then it got changed. We
18 all know that. And then it got a new name, and then
19 its new purpose or more redefined purpose was to be
20 available for capital investment purposes. Which I
21 think is fine, but I guess we've got to need to
22 decide, and that's what my comment was, what is this

1 animal. Is it a skunk or a squirrel? What is it and
2 what's it for, and just talking about capital needs,
3 I think it's actually legitimate for it to be for
4 capital needs. You just need to track it.

5 MR. BOYCE: Well I think all those things
6 you said before, I think it's truly been intended to
7 be for all those things. And all those things are
8 needed on the, you know, different bases. And I think
9 this return on equity concept is that. That's how
10 they deal with those things in public utilities and
11 things like that which are regulated monopolies.

12 I think that's the square peg for the
13 square hole, and we should have the Coast Guard look
14 at that model. Whether they do it or not, so again
15 they can look at it, say that doesn't fit.

16 MR. FISHER: So let me ask you, just
17 because you're going to do a recommendation, I want to
18 see we can maybe get on the same page.

19 Per Mike's comment, I think we're all fine
20 with it. Let's all agree what it's for and let's
21 track it. So would you agree that, you know, we
22 should advise the Coast Guard to continue collecting

1 it. That, you know, the Coast Guard will work with
2 the pilot associations to have it sort of tracked in
3 your financial statements, so you know, it's not just
4 sort of in the slush but it's accounted for over the
5 years, and then you are able to make use of it as is
6 needed.

7 If you need to re-pave the driveway, then
8 great. That's the exact kind of project it can be
9 used for. And then when a capital need comes along
10 that's bigger than this can accommodate, then you have
11 a discussion about an extraordinary capital need that
12 ends up being a surcharge situation, which I think
13 everyone here is okay with that model. But let's
14 decide it's that --

15 MR. BOYCE: -- the public utilities that
16 becomes, you know, a useable source of funds. It
17 isn't something that can go back-and-forth. It
18 becomes earmarked for reinvestment for lack of a
19 better term, but you don't spend it out and it's gone.
20 You invest in buildings, boats, docks, whatever. The
21 rate will recognize it and pick it up afterwards,
22 otherwise you just deplete it and then you have

1 nothing.

2 MR. FISHER: I think the concern on the
3 industry side is that it's getting used for small
4 capital needs, and then at some point a big need comes
5 along. But who's kept track of how much of that money
6 got used up for the small capital needs? So if it
7 isn't segregated and tracked -- because some day
8 you're going to say, hey, I want to buy a new pilot
9 boat. It's a million dollars.

10 And someone's going to say, hey, you've
11 got \$200,000 in your fund, and so you really only need
12 \$800,000 for the -- but if it's not been accounted
13 for, it's just kind of well, we don't know what
14 happened to that money. And oh, we paved the driveway
15 and put new gutters on the building and things.

16 Then industry feels like, well, this money
17 had been flowing in, we're not quite sure where it
18 went, and now they need a bunch of money for a big
19 capital need.

20 MR. BOYCE: And part of that is trusting
21 that the Coast Guard Directors are doing their job
22 vetting all of these things. And when the audit comes

1 through, that they're auditing it and making sure
2 they're necessary reasonable expenses, and that's what
3 flows through.

4 Because the other of this goes back to
5 that three-year window. We're floating all these
6 expenses. We're floating the three-year period until
7 you get the expenses back. Yes, you're getting them
8 back at three years' worth of CPI. So theoretically
9 you're getting, but you're still floating it for three
10 years.

11 And when an expense goes up, when the fuel
12 price goes up, whatever goes up, you're still floating
13 all those things for those years until you get it
14 back, and there needs to be a source to float those
15 things.

16 MR. FISHER: So is that what this thing
17 is?

18 MR. BOYCE: And I believe that's the
19 public utility mode, that's how there's a segment of
20 money, and if its structured that way, it can do those
21 things. You know, it can be a pot of money that
22 covers A, B, C, and D as long as you're not trying to

1 save only for A, well now you've got nothing for B, C,
2 and D.

3 MR. FISHER: I don't think we're
4 disagreeing with each other. I just think it should
5 be tracked, and then you can use it for all those
6 purposes.

7 MR. GALLAGHER: I think a portion of it
8 needs to be allocated towards a return on investment
9 though.

10 MR. BOYCE: Well I don't think those two
11 things are mutually exclusive. Part of it could be
12 our return on investment, but the money's still
13 tracked, and now people know how much of it went
14 towards that. I think that's possible.

15 MR. THEIS: Mr. Chairman, could we go back
16 to a public comment?

17 (Off microphone comment.)

18 MR. GALLAGHER: Well, she's not here. If
19 you're not here --

20 MR. THEIS: I just think maybe I could
21 inquire a little bit to help this. I'm Stuart Theis
22 with U.S. Great Lakes Shipping Association. The one

1 thing that, you know, you talk about the utility
2 model. The ROI thing is something that goes to the
3 utilities because they're public companies, and public
4 companies have public shareholders. And public
5 shareholders have expectations of profit. And when
6 the state regulatory agencies put these things
7 together, the ROI, the guaranteed profit there
8 actually, is their support, among other things, to
9 support the stock price frankly.

10 And it probably, you know, when you say
11 the return on investments for, and it may be my
12 opinion of likely pilots and so forth, any and all of
13 these could be right. It's nice to have a guaranteed
14 profit in there, but there's also the expectation of
15 the -- in many places when you run a business, you
16 don't have that luxury.

17 Then you have to use productivity, you
18 have to use the cost patterns, you have to do other
19 things to create that profit for the partnership if
20 you will. So I'm not so sure.

21 And the second thing is that if you do, I
22 don't disagree with Steve with the reason that they

1 can have it as kind of a more theme, but kind of a
2 sinking fund, and it's available to take care of
3 things, and then you have bigger projects that you do
4 with surcharges.

5 The good part about that is if you do away
6 with the sinking fund altogether, the return on equity
7 altogether, then you're relying on surcharges. Some
8 years there will be no major capital expenditures and
9 then you get a surge for pilot boat, and it goes back
10 down. So it's up and down. And where the existence
11 of some sort of a sinking fund, and not a return on
12 investment, but some sort of a capital sinking fund to
13 cushion the capital needs when the time comes. When
14 the pilot boat comes along, it's not quite as severe
15 of a cost to the user.

16 But I think the key is here, public
17 companies, and public companies that are specifically
18 designed by user state statute, which requires the
19 tradition of investments there, because it really is
20 a device to keep the stock costs low. Thank you.

21 MR. GALLAGHER: Okay, any other discussion
22 from the Committee? Any recommendations from the

1 committee? Okay, the next item on the agenda is
2 a competitive pilotage. It claims competitive
3 pilotage had been used in recent correspondence
4 by the shippers in ports.

5 I'd like to ask Mr. Fisher to lead the
6 discussion on the topic. The Coast Guard would
7 like the Committee to provide feedback on the
8 concept of competitive pilotage. Mr. Fisher.

9 MR. FISHER: Thank you. So all of you
10 who are brain-numb right now because we've been
11 sitting here for six hours, seven hours, talking
12 about all these issues, all these issues are the
13 minutiae of a regulated monopoly.

14 Whether the debate over compensation,
15 the debate over the issue we just talked about,
16 everything we've talked about today for the most
17 part has been the building blocks of a regulated
18 monopoly. And it's mind-numbing. You're all
19 numb. I'm looking at your faces. Your brains
20 are all numb because you've been sitting here for
21 seven hours listening to this.

22 We believe that bringing market forces

1 into all this will relieve all of us of this. It
2 will relieve the United States Coast Guard of
3 being in the middle of every single question,
4 every single bit of minutiae that relates to the
5 provision of pilotage services.

6 The situation we have where three
7 private entities essentially are providing the
8 service, you've got the ogre of the Federal
9 Government looking over their shoulder and micro-
10 managing their affairs, and then all this public
11 process around it nit-picking.

12 And I, you know, I can hear it in your
13 voices. I'm confident it's annoying to you as
14 the people running these companies. You're three
15 private companies, and quite frankly, we believe
16 that bringing market forces back into this will
17 move us away from this kind of thing, let you run
18 your businesses yourselves, and it will end up,
19 the marketplace will address many of these
20 issues.

21 We don't have to debate them. We've
22 probably talked about 15 different issues here

1 today that would largely be dealt with by the
2 marketplace. There are a number of ways you
3 could introduce market forces into this, and I
4 see it as a spectrum.

5 There's, you know, sort of a full,
6 free-market competition version of this, and then
7 there's the opposite which would probably be a
8 Canadian Great Lakes Pilotage story, which is a
9 federalized system which completely non-free
10 market.

11 But this system is probably one step
12 away toward the center of the Canadian System. I
13 would say bring it farther over to the right and
14 introduce more market forces.

15 You could conceivably have a
16 commercialized system which is very similar to
17 the way the Canadian Seaway is run. It's a
18 commercialized system, essentially private
19 individuals running it for the Government
20 essentially under a multi-year contract.

21 You could contract it out to people,
22 perhaps them, perhaps other people, with

1 performance metrics, where essentially after a
2 period of time if services aren't provided in a
3 decent way at a decent price, it can be re-
4 contracted out to somebody else. Or you can have
5 full-blown free-market competition where
6 companies are competing against each other.

7 All these are ideas are worth looking
8 at. I believe this is a painful system we have
9 now, and I can see it on your faces. It's a
10 painful system we have now. It is micro-
11 managing. It is the worst of Government in my
12 opinion to have a regulated monopoly, and I think
13 the Coast Guard should start looking at some
14 other models.

15 I want to point to the fact that the
16 conference of various Governors and Premiers just
17 released a study several months ago. It was
18 meant to start a dialogue about this, to lay out
19 some different ideas and some different
20 scenarios.

21 I believe the General Accountability
22 Office recently launched a study and they're also

1 going to be looking at some various scenarios or
2 other ideas. I'm confident we will hear a chorus
3 of oh my god, we can't change things, and oh my
4 god, safety will be harmed, and oh my god, this
5 is the way it's done all over the United States.

6 But you know folks, we can consider
7 new ideas. I will note that when the rail
8 industry and the trucking industry and the
9 airline industry were deregulated in the 1970s
10 and '80s, they became more competitive, they
11 became more cost-effective, and they also became
12 safer.

13 And so I think it's a red herring to
14 say that safety's going to go into the shitter.
15 I think quite frankly that we'll end up with a
16 better pilotage system if market forces are
17 brought back into it. So that's my speech. Have
18 at it.

19 MR. GALLAGHER: Anybody else from the
20 Committee like to comment at this time? I'll
21 open it up to the public.

22 MR. BROAD: And I'm not speaking on

1 behalf of myself. I'm speaking to the gentleman
2 from Petro Canada, that said that if pilotage
3 service cannot service him properly, he'd likely
4 add his own pilots and he can get his own pilots.

5 MR. GALLAGHER: Clay?

6 MR. DIAMOND: It's Clay Diamond from
7 the American Pilots Association. I was hoping
8 that this wouldn't come to yet this whole thing
9 again, but apparently it has. I'm going to read
10 some things if you don't mind.

11 But I will say I that I think the
12 pained faces you were seeing was the group of
13 people who one aspect of this business that they
14 don't control completely. Those are the pained
15 faces that you were saying candidly.

16 Competition is simply incompatible
17 with compulsory pilotage, period. It's bad for
18 the public, it's bad for the shipping business,
19 it's bad for the pilots, it's bad public policy.
20 And by the way, that's not the judgment of the
21 American Pilots Association with three regulated
22 pilot groups. It's the judgment of every

1 Government entity that regulates pilotage in the
2 United States.

3 It's the judgment of virtually all of
4 the entities that regulate pilotage around the
5 world. So this idea that this could be this
6 unique thing that you all think of is just not
7 the case. A lot of people have thought of it,
8 and it simply does not apply, so get on the
9 reason fence.

10 So competition is just not a feature
11 of the U.S. Pilot System anywhere. It's frankly
12 not a feature of pilot systems anywhere else. In
13 the U.S. either a single pilot group operates in
14 a pilotage area, or in the case of a pilot going
15 out on the border between two states. Two of our
16 pilot groups operate a joint service under a
17 single rotation or under some kind of work
18 division formula.

19 Again, there's no place in the U.S.
20 where pilots compete with each other. Over 130
21 years ago there was some competition in the U.S.
22 And in some horrible storms in the late 1800s

1 when these pilots were competing with one another
2 racing off the shore to be the first to seek a
3 ship, there were dozens of pilots killed in the
4 storm season.

5 As a specific response, and there's a
6 little bit of history to this. At the specific
7 response of a shipping company and at the urging
8 of the shipping community, pilots in various
9 ports joined into associations while the
10 remaining independent contractor pilots agreed to
11 work on a single rotation, and to pull their
12 pilot posts, their dispatching, their billing
13 activities, and to share other expenses.

14 The regulatory authorities would then
15 set the pilot rates to make sure there were
16 revenues to support that. That's been the basic
17 framework of pilotage in the United States ever
18 since.

19 So despite a strong U.S. national
20 policy in favor of free enterprise, Government
21 authorities have recognized that some activities,
22 and you yourself pointed out, there are some

1 activities, particularly those involved in public
2 safety or essential government services, that are
3 better provided for by what is called a highly-
4 regulated monopoly.

5 That's an economic term. A highly-
6 regulated monopoly is an economic term. It's not
7 to be confused with an illegal monopoly. A
8 highly-regulated monopoly is a term of art in
9 economics.

10 Compulsory pilotage is just such an
11 activity. It's so essential to the public
12 welfare that it should not be left to open
13 forces. One state in particular has at the
14 beginning of their pilotage statement, it reads
15 that piloting is such an essential service of
16 such paramount importance to the public interest
17 that its contingent existence must be secured by
18 the state and should not be left to open market
19 forces.

20 So there's five reasons. Actually
21 there's a lot more than five, but I'm going to
22 quickly hit five reasons why competition is

1 inconsistent with compulsory pilotage.

2 It's inconsistent with the nature and
3 the function of both compulsory pilots and the
4 comprehensive regulatory system that go with
5 them. It's been said up here a lot by a number
6 of people, you know, this piloting business.
7 Piloting is not just another business.

8 Compulsory pilotage is a navigation
9 safety regulation at its heart. Although the
10 pilot is not a Government employee, he or she
11 performs what is in large measure and
12 governmental function. A pilot's primary
13 responsibility is to protect the interest of the
14 public.

15 So with all due respect to the people
16 in the audience, the principal customer of a
17 pilot is not the ship or the ship owner, it's the
18 public interest. Pilotage is provided to a
19 comprehensive regulatory system which does far
20 more than really issue license to pilots.

21 In addition to require to take a
22 pilot, the systems seeks to ensure that they are

1 trained properly, and good, capable pilots are
2 available 24 hours a day throughout the shipping
3 season, and that all ships are treated on an
4 equal, nondiscriminatory basis.

5 In order to accomplish that, the
6 system requires that pilots be available to
7 service the ships that are required to take a
8 pilot. This required the association to maintain
9 training programs, pilot boats, dispatch services
10 or taking systems, and all other types of
11 equipment that are needed for a modern, safe, and
12 efficient pilot operation.

13 A competitive environment simply would
14 not lead, and you can't compel those sorts of
15 requirements in a competitive system. And I know
16 competition in pilotage absolutely compromises
17 safety.

18 A large part of being a pilot is
19 judgment. A pilot often has to decide between
20 different courses of action. For example,
21 whether a ship should proceed with movement in
22 heavy fog or unexpected weather conditions, or

1 the ship should wait for particular ice
2 conditions. Whether one route or river should be
3 used rather than other even though it might take
4 longer. And the pilots are expected to exercise
5 independent judgment in making these kind of
6 decisions, and to resist any economic pressures
7 that might be on the ship.

8 A shipper's responsibility, a
9 shipper's goal, is to get to A to B on time,
10 period. A pilot is purposely insulated from
11 those pressures to make decisions based on
12 navigation safety, not on business pressures.

13 So there was a study conducted on
14 behalf of the Florida legislature about pilotage,
15 and they specifically addressed the issue of
16 competition. And I'm going to quote here,
17 "There's a significant conflict of interest
18 between a vessel owner's economic needs and the
19 public interest in safe passage. It's in the
20 public's best interest for the pilot's judgment
21 to be absolutely free of economic considerations
22 to the ship owner when piloting his vessel.

1 "If pilot's must compete against one
2 another in order to win assignments, there is a
3 likelihood that a pilot will compromise safety
4 considerations in order to accommodate the
5 financial interest of the ship owner, or in so
6 doing, he will have a competitive edge over
7 another pilot."

8 The third issue I want to address,
9 competition leads to discriminatory service. In
10 the handful of places around the world where a
11 pilot is provided on a non-competitive basis
12 through a comprehensive oversight system, each
13 ship can be assured that it will receive the same
14 level of pilotage service.

15 In a competitive situation, pilots
16 would naturally prefer and would pursue customers
17 operating a more regular, the higher volume, the
18 more lucrative, or maybe even the easier
19 assignments.

20 In the traditional non-competitive
21 pilotage operation, pilots are required to be
22 available at all times and to all ships equally.

1 With a single rotation system, each ship gets the
2 next pilot on turn when the ship needs a pilot,
3 not whether it suits the needs of the pilot.

4 In addition, spreading out the work
5 among the pilots ensures a greater assurance
6 rather that you get a rested pilot.

7 The fourth issue is competition is
8 economically inefficient. In view of the large
9 capital investments required for a full-service,
10 modern pilot operations where two or more groups
11 operate in a single rotation area, there is
12 inevitably a duplication of many of the items of
13 expense such as pilot boats and dispatch.

14 With the goal of rate regulation being
15 to ensure that pilots' fees are no higher than
16 necessary, the duplication of expenses is
17 contrary to the public interest.

18 So a couple of years ago in Hawaii,
19 for example, there was some discussion about a
20 competing pilot group. So the State of Hawaii's
21 Department of Commerce, and particularly their
22 Consumer Affairs Advocate, weighed in and did a

1 study on this.

2 And they concluded, "the existence of
3 two-pilot organizations resulted in a very
4 inefficient pilot system in Hawaii. Since they
5 did not share information or resources, there was
6 unnecessarily a duplication of staffing
7 requirements and an inefficient use of
8 resources."

9 And then the last point I want to make
10 is competition requires a greater level of
11 regulatory oversight. It sprang with a handful
12 of places around the world where pilotage was
13 competitive. You know the burns place on the
14 regulator is higher and not lower.

15 In the non-competitive, one
16 association says there is little incentive to
17 shortcut the licensing or training process in
18 order to add additional pilots quickly, or to
19 offer rebate or kickback or engage in other kind
20 of illegal activities involving the rich.

21 With competition, a far greater level
22 of oversight is required in order to monitor the

1 activities of the pilots to ensure that these
2 types of activities don't occur.

3 And I'll just conclude with this. A
4 compulsory pilotage requirement is by far the
5 most effective mechanism available to the
6 Government to protect its waters, ensure the
7 safety of its people, and its environment to
8 facilitate water-born commerce.

9 It's effective because it places on
10 the bridge of a ship an individual whose purpose
11 in being there is to protect the public interest.
12 When a pilot has to compete for ship assignments,
13 particularly for assignments from a ship owner or
14 other entity that promotes competition, the pilot
15 knows that his or her livelihood depends on
16 acting in the interest not of the public but of
17 the person who controls the selection of the
18 pilot.

19 When a pilot's role is compromised in
20 this fashion, the purpose of compulsory pilot
21 requirement is frustrating.

22 So thank you for kind of indulging me

1 in kind of a long-winded thing, and I'll be happy
2 to give a copy of this to you if you'd like it.

3 MR. GALLAGHER: Okay, anybody else from
4 the public? Okay, I'll turn it back over to the
5 Committee. Any comments from the Committee? Are
6 there any recommendations from the Committee?
7 Okay, no recommendations, we'll move on.

8 The next item on the agenda is the
9 itemized source forms. Pilot boat and dispatch
10 services are included in the operating expenses.
11 The Coast Guard would like the Committee to
12 provide feedback on separating the cost per
13 dispatching and pilot boats on the source form.
14 This would provide a greater level of
15 transparency.

16 Officially the Coast Guard would like
17 the Committee to consider the concept of having
18 the entity responsible to the pilot boat/dispatch
19 issue the bill to the vessel at this time. I'd
20 like to ask Mr. Haviland to come up.

21 MR. HAVILAND: Good afternoon. Todd
22 Haviland. What I'm asking you is what value is

1 there in the shipper receiving a bill? The bill
2 says this is the amount that you paid for
3 pilotage, this is the amount that you paid for
4 the dispatching, and this is the amount for the
5 pilot boat.

6 Right now all these costs are
7 intertwined, and because of the memorandum of
8 agreement that I have with the Canadian Great
9 Lakes Pilotage Board, a lot of these services
10 were traded, you know, back-and-forth.

11 So the proposal would also include is
12 there value every time that one of the pilot
13 boats gets underway from the Welland Canal. That
14 Robert Lemire of the GLPA issued that bill to the
15 ship directly, and none of that money had to flow
16 through here.

17 For every time Captain Gallagher and
18 the Lakes Pilots Association dispatched a boat
19 out of Port Huron, we need to provide pilot boat
20 service for Canadian pilots in District 3,
21 American pilots in District 3, Canadian pilots in
22 District 2, and American pilots in District 2.

1 That helped with transparency and to
2 see if there are any of these efficiencies that
3 can be gained if we separate out some of these
4 expenses.

5 MR. GALLAGHER: Any suggestions from
6 the Committee? Any questions or discussion?
7 John?

8 MR. SWARTOUT: I just don't know how
9 that could work because you know the cost of
10 pilot boat run until the end of the season. You
11 take your pilot boat costs and divide by the
12 number of runs. So how you could bill it, I mean
13 it would be a guess.

14 And the same goes for some of the
15 other costs. We don't know what our lodging
16 costs are going to be until the end of the
17 season. I mean, yes, every time a pilot stays in
18 a hotel, there is a bill. But the administrative
19 burden of breaking all this down so you could put
20 it on a source form? Please don't.

21 MR. BOYCE: I would say the next step
22 beyond that, while I guess it would be more

1 visibility on what entity's bearing what cost,
2 now we get a ship that comes through here with a
3 Canadian pilot on it, we're going to still issue
4 a U.S. bill just for the pilot boat to go out. I
5 feel what's probably of more value is what the
6 gross numbers are for the things that say this
7 trip cost \$312 for the pilot boat to go out.

8 MR. GALLAGHER: I mean I think the
9 concept is, you know, it's not a bad concept, but
10 I think it's just too hard to do to tell you the
11 truth. Determining the facts what each run cost,
12 separated out, who billed for what, how much time
13 is spent. Whether there are pilot boat guys are
14 maybe cleaning the cart today versus working on
15 the pilot boat today, or dispatching right now.

16 I mean I guess if we had one group
17 that's all they did, and we had a separate
18 company doing it. But then you're just building
19 companies for nothing, and you're just moving the
20 burden of more record keeping.

21 I think it's pretty transparent. We
22 put everything out there right now. It's

1 included in the rate structure. I understand
2 where the Coast Guard and Mr. Haviland's coming
3 from. The concept of it sounds good, but I just
4 don't know if makes sense to try to implement.

5 Any other questions or discussion from
6 the Committee? I'd like to turn it over to the
7 public for any questions.

8 MR. GRIEVE: Hi, Dave Grieve. You know
9 in light of the new billing process and how we
10 determine whether bills in fact are correct in
11 the office I believe is complicated enough. I
12 think there's a lot going on on the ship side
13 when pilots are coming off and boarding in terms
14 of the ship validating and looking at source
15 forms.

16 I think it's already complicated
17 enough, and I think to integrate this into as an
18 addition to the source form would only be too
19 complicated.

20 MR. GALLAGHER: Anybody else from the
21 public? No one from the public, I'll bring it
22 back to the Committee. Any further discussion

1 from the Committee? Any recommendations from the
2 Committee? We'll move on to the next item.

3 The next item on the agenda is Tug
4 Usage. The Coast Guard has received a lot of
5 feedback in the last two shipping seasons with
6 regard to tug usage. The shippers claim that the
7 pilots unnecessarily employ tugs for punitive
8 reasons. The Coast Guard views this as an issue
9 between the master and the pilot.

10 The Coast Guard wants to ensure that
11 the stakeholders understand the difference
12 between designated and undesignated waters, and
13 that's how pilotage relates to tug usage. Vince
14 would you please present?

15 MR. BERG: Good afternoon. Vince Berg
16 from Great Lakes Pilotage. I think we've
17 explained undesignated and designated waters
18 several times to several groups. The Coast Guard
19 thinks that the tug usage is an agreement between
20 the master and the pilot.

21 In undesignated waters the pilot is on
22 board for not -- he's there for the master's use

1 if he needs to use them. And tugs really aren't
2 using them in the open waters. In designated
3 waters, the pilot's on board who takes over
4 control of the vessel. And in tighter situations
5 in ports and in designated waters, the pilot may
6 think they may need to use the coast.

7 We don't find that there's any -- we
8 want to stay out of it. We want to keep it
9 between master and pilot, unless we see if
10 there's any wrongdoing going on.

11 MR. GALLAGHER: Todd Haviland.

12 MR. HAVILAND: Todd Haviland. The
13 important part of undesignated waters is, like
14 Mr. Berg was saying, the pilot's aboard and
15 available for the master. If the master believes
16 he can do these evolutions in undesignated waters
17 without the pilot, then the master needs to
18 understand he can do these things.

19 What the master can't do is put the
20 ship into extremis against the recommendations of
21 a pilot, and then turn it over to the pilot and
22 expect him to fix it. And that's so the reason,

1 I mean we've tried to explain this, and I'm not
2 sure who understands it.

3 We really don't understand how this
4 could ever be an issue in undesignated waters.
5 Designated waters is different. The pilot's on
6 board. He's there, he's directing the navigation
7 of the ship.

8 And the other thing that I would like
9 the pilot associations to kind of explain, if I
10 believe correctly, you aren't ordering the
11 pilots. It's the agents that order the pilots.

12 MR. GALLAGHER: It's not pilots.

13 MR. HAVILAND: Or the tugs. I'm sorry,
14 correct?

15 MR. FISHER: Could we bring it back to
16 the Committee for discussion? Could I ask what's
17 the answer to the last question Todd posed?

18 MR. GALLAGHER: We recommend to the
19 agent --

20 MR. FISHER: The agent does order the
21 tug?

22 MR. GALLAGHER: If we want a tug, then

1 we have the agent, the agent orders it.

2 MR. FISHER: Is that always the
3 situation?

4 MR. HAVILAND: I believe so.

5 MR. SWARTOUT: In the St. Mary's River,
6 which is designated waters for the lock, the
7 pilot calls the tug company. But in every other
8 situation, it's through the agent.

9 MR. BOYCE: In District 1 also we
10 recommended to the agent required what we think
11 usually is in line. Sometimes there's a
12 disagreement and sometimes there's availability
13 of tug issues and whatnot. But we don't directly
14 order --

15 MR. FISHER: Oh, could I ask another
16 question? I totally don't know. Is a tug --
17 when a tug's ordered, is it something that's done
18 far in advance? I mean, you've essentially
19 assessed a weather navigation situation where a
20 tug's needed and it's ordered in advance? Or is
21 it sort of right in the moment. And I'm
22 completely ignorant about how this --

1 MR. BOYCE: Usually, there's certain
2 evolutions. You need a tug. Back in the
3 shipping -- that's not going to happen on most
4 ships without a tug. The maneuverability is not
5 there.

6 Other cases, it's more weather-
7 dependent and you're looking at it a lot of
8 times. You know the dispatcher, sometimes a day
9 out, you have rough idea of the weather. And
10 different pilots have different tolerance and
11 different experience for how to do things.

12 So largely what happens here is going
13 onto Lake Ontario. The dispatcher and agent will
14 call up the dispatcher and pilot. Once it
15 becomes obvious who it's going to be, we'll have
16 dispatch relay it to the agent.

17 And then usually around when a pilot
18 gets on it, if it's something going outbound,
19 talk with the master and confirm times and things
20 like that what's going to happen.

21 MR. FISHER: So it may be that the
22 pilot and agent may have decided that a tug's

1 necessary based on the voyage before the master's
2 even physically with the pilot.

3 MR. BOYCE: And I'll show you a perfect
4 example. A number of times somebody, a master
5 said you don't need two tugs. I'm looking at a
6 chart, it doesn't look that bad. You can go in
7 and out of there. And that's part of why there's
8 pilots on. Sometimes you've got masters that
9 have been into a port 20 times. Sometimes it's
10 their first time.

11 MR. FISHER: If I could comment. I
12 heard this issue over the last two years. Again,
13 we're just here to advise the Coast Guard. I
14 would just advise that a new complaint form be
15 developed. I think right now you're hearing about
16 it on a general feedback form.

17 I would just encourage that a new
18 complaint form be developed where if the operator
19 believes a tug's been ordered inappropriately,
20 that a detailed description -- I fear you're just
21 getting bitching at you, which is I suspect
22 what's happening. That instead a detailed

1 description of why the master believes the tug is
2 not necessary. The narrative is provided to you.

3 Because I assume once you hear about
4 this stuff later, it's he-said, she-said, and you
5 don't know because you weren't on the spot.

6 First of all, you're not even necessarily
7 qualified to judge it anyway, but even less so,
8 you don't have the information at hand. You have
9 complaining at hand.

10 And so maybe a more formalized
11 complaint form where if somebody wants to
12 complain, fine, but you just can't complain.
13 You've got to provide a description of the
14 navigation conditions that the master feels
15 existed that don't warrant a tug.

16 And maybe even the pilot has an
17 opportunity to comment on there why a tug was
18 necessary. Because otherwise, he's just not got
19 information in his hands. And nevertheless, the
20 director's getting these things lobbed at him.

21 At the end of the day, if I were you
22 I don't know what I'd do with them, because it's

1 just complaining and you weren't there, and
2 you're not qualified to determine what was right
3 or wrong anyway, quite frankly. But it's just my
4 thoughts.

5 MR. GALLAGHER: There's a lot of times
6 these captains are sending these complaint forms
7 into the agents. It's a standard thing they're
8 told to do. We get a lot of captains say, you
9 know what, I don't want to send this in but I'm
10 being forced to. It happens all the time.

11 MR. FISHER: By their company?

12 MR. GALLAGHER: Their companies are
13 forcing them to submit these forms. We've had in
14 the last year how many pilot assignments
15 throughout the Great Lakes. Tens of thousands of
16 bridge hours, no incidents. That's got to say
17 something. We've got to be doing something
18 right.

19 The Great Lakes has some great history
20 of safety. We're going over the tolerances less.
21 We've gone through all these training courses.
22 What we used to do 10 years ago you don't do

1 today. Look up in the Straits of Mackinac, the
2 problem they're having right now with the
3 pipeline.

4 There's pipelines up and down the
5 river. Most of the docks, we're making fuel
6 docks right next to them, behind them. Something
7 happens, times have changed. We used to use --
8 when I was captain we used to use bridges to
9 pivot on to get into the facilities. If you were
10 doing that today, the first thing you'd be at the
11 clinic getting tested. I mean times have
12 changed. Tolerance is not there anymore.

13 Everywhere you go there's cameras,
14 there's cell phones. Before you get off the
15 ship, everybody and their brother knows what
16 happened. If you come up alongside that dock too
17 hard, everybody's got a picture. These captains
18 don't want it, and I'm sure these shipping
19 companies don't want any damage to all these new
20 ships.

21 Any comment before we turn it over to
22 the public? Any comment from the public? Mr.

1 Broad?

2 MR. BROAD: Yes. I just want to say,
3 Steve, that these forms that are there now allow
4 for a complete description of why the master
5 disagreed with the pilot. Most of them are cases
6 where the ship has bow thrusters and doesn't use
7 tugs. In 2016, I didn't see one complaint. In
8 2017, immediately after the issuance of the
9 supplementary MPRM, were 57 cases of masters
10 saying they disagreed with the pilot for ordering
11 excessive tugs.

12 In fact, I saw a video of a ship
13 coming in to Cleveland I think it was, or
14 Detroit, with a tug just sitting off doing
15 nothing. And this year, we've had three or four
16 complaints. So in the case of the 57, all we got
17 was recognition that they were received by the
18 Coast Guard.

19 I think that if you have numbers like
20 that where there's nothing but a big spike in tug
21 orders, and then nothing, I think that it's too
22 late now. But that's the reason why this was

1 brought up today was just for that issue.

2 And I think going forward, it's
3 incumbent on the Coast Guard to look into these
4 things and provide an answer to the master.

5 MR. GALLAGHER: Anybody else? George
6 Haynes?

7 MR. HAYNES: Hello. My name is George
8 Haynes, Vice President, pilot, and in charge of
9 hiring and training for District 2 pilots. We
10 have taken some heat for our tug usage in 2017,
11 and I want to explain to you a few things that
12 may not have been obvious or well known.

13 Dave's points were some of the points
14 I was going to make. But the nature of tugs in
15 general is as a pilot, we want to make a safe
16 docking and undocking in every port. We don't
17 want to have to spend our time filling out
18 paperwork and getting investigated by the Coast
19 Guard.

20 So things don't always go as expected,
21 obviously, with anything. You have wind,
22 weather, current, the equipment on the ship

1 doesn't always work. Somebody mentioned bow
2 thrusters. Bow thrusters are rated on a certain
3 pilot card we read. We get aboard and 1200
4 horsepower, and sometimes you only get 600.

5 We're not on the ship all the time.
6 We actually -- we get on the ship, we may not
7 know if the thing's going to work properly or
8 not. And then sometimes the crews are a little
9 slow. As good as they're trained, things don't
10 always work out. So we have to be extra careful
11 more than any of the lake crews.

12 Tugs are relatively cheap insurance.
13 I know nobody wants to hear that; they sound
14 expensive. But when it comes to the cost of an
15 accident, even a fender bender can be tens of
16 thousands of dollars. A dent. And then the
17 resulting investigation, and all the hassle, and
18 the ship has to stop and be inspected. So tugs
19 are relatively cheap compared to the costs of an
20 accident.

21 A lot of ports in the world, tugs are
22 compulsory because those ports have decided they

1 want to protect their infrastructure. And on the
2 Great Lakes though, it's all at the discretion of
3 the pilot and the master.

4 Some things you may not have known, in
5 2017 in District 2, that's in the middle of Lake
6 Erie, Detroit, Cleveland, Toledo. In the last
7 five years, we've had 70 percent turnover of
8 pilots. Danny and I are the old guys now, when
9 we used to be the kids. And we've hired ten new
10 pilots in the last five years.

11 And in 2017, the year in question, we
12 had five pilots who are in various states of
13 training. Some had only had a year experience.
14 Three actually. One was brand new, and one had
15 two years' experience. I can't recall exactly.
16 But we want to see our pilots -- the worse thing
17 for us, we're self-regulating.

18 We don't turn a guy loose on any dock
19 or any given job unless we feel they are
20 confident and we're confident in them, and
21 they're ready to roll. So we don't want to turn
22 them loose. So we encourage them. If they feel

1 they need a tugboat for safety because they're
2 newer at it, they might be experienced in the job
3 they came from, but they're still new to an
4 ocean-going ship and the ways of ocean-going
5 ships.

6 And when you get on a ship and you've
7 never been on a ship before, you don't know if
8 the equipment's going to work. So we encourage
9 them if they feel they need a tug, take one.
10 We'll back them up on that.

11 And in 2017 we had many new people.
12 And some other things with that March, we're
13 talking about timing with MPRM. In March that
14 year, we had a bridge resource man in class talk
15 to us. And we talked about several cases, high-
16 profile cases, where vessels had accidents, and
17 one of the things that could have helped them was
18 a tugboat.

19 In 2016, in one of their reports on
20 the Great Lakes here that is more remote where
21 there's no tug service, and it would be
22 prohibitive to bring a tug in from such a far

1 distance, a vessel was docking at a dock and
2 things go wrong. The current or whatever it was,
3 hit the dock and caused an amount of damage. In
4 the article, they blamed the pilot for that. If
5 he had had a tug, probably that accident wouldn't
6 have happened.

7 And then recently, two articles have
8 come up. This is our worse fear, somebody gets
9 killed. When things are going wrong, sometimes
10 lines get put out, and we're trying to control
11 the situation with lines. Either the ship surges
12 or the wind's blowing the ship; these lines are
13 maybe not the best quality anymore, they park.

14 And when they snap, somebody on the
15 dock or somebody on ship can be killed. And
16 that's happened twice this year already. And
17 tugs are a check on those kinds of situations
18 that go haywire.

19 So all these things are not lost on
20 the newer breed of pilots. There's 10 out of 14
21 guys in our group. They are safety-oriented.
22 The stakes are higher in this day and age. The

1 public has very little tolerance for hitting
2 things, breaking things, spilling oil, and loss
3 of life. And who's that going to fall onto? The
4 pilot.

5 So we're going to err on the side of
6 more caution, and not taking risks. And if that
7 costs some money, we're sorry about that, but I'm
8 not going to feel bad for trying to be a
9 accountable on one of these ships and having
10 somebody being killed or oil spilled or damage to
11 a dock. That shuts the whole system down, and
12 that's what I would like to say.

13 MR. GALLAGHER: Anybody else from the
14 public? We'll come back to the Membership
15 Committee. Any further comment from the
16 Committee? Any recommendation from the
17 Committee? Okay, we'll move on.

18 Recuperative rest for pilots. The
19 staffing model includes 10 days for recuperative
20 rest during non-peak months of the year, May
21 through November. The Coast Guard would like to
22 clarify the misperceptions about the days. I'd

1 like to ask Mr. Todd Haviland to please give us
2 some information on this topic.

3 MR. HAVILAND: In 2016 we updated our
4 staffing model. It included 10 days of
5 recoupment rest per month for the pilots from May
6 to November. There's been some misperceptions
7 that these days are guaranteed and they have to
8 be taken in a block.

9 The law does not allow the pilots to
10 have these guaranteed days, and it says that
11 there in bold. And really, I just want to clear
12 up any confusion between when these pilots aboard
13 to a vessel, they've got to provide service.

14 MR. GALLAGHER: Any discussion from the
15 committee? Steve.

16 MR. FISHER: The feedback I've heard
17 from vessel operators is a view that when this
18 was -- I think you increased the number of days
19 in the 2016 rate, am I correct?

20 MR. HAVILAND: There were never days
21 before the '16 rate.

22 MR. FISHER: Okay, so --

1 MR. HAVILAND: It was just that 1,000
2 hours of designated --

3 MR. FISHER: Got it, got it. Okay. I
4 believe there was a view that, and maybe when I'm
5 done talking and we open it up to some of the
6 others in the audience to make comment, I believe
7 there was a view that it was insufficiently
8 explained. And I think that was more of the
9 issue that, or even justified, why 10 and why not
10 another number.

11 And I think that was more of the issue
12 that in that rule-making, it was sort of a number
13 pulled out of the air and insufficiently
14 explained. So maybe just going forward, a better
15 explanation about how you came to the 10 days as
16 opposed to other numbers. But I understand that,
17 you know, if traffic's busy, people are working.

18 But that's been my understanding of
19 the concern is that just insufficiently justified
20 or explained in the original decision.

21 MR. GALLAGHER: Anybody else from the
22 Committee like to add anything? I'll open it up

1 to the public. Any public comment? No public
2 comment, we're back to the Committee. Any
3 further questions, concerns? Any resolutions?
4 Okay, we'll move on to our next item.

5 Legislative changes. Mr. Berg is
6 going to explain the difference between the
7 process of change and regulation, and the process
8 to change the law.

9 MR. BERG: This one's pretty simple.
10 If you want to change the law, we do it on behalf
11 of either the President, the Secretary of
12 Homeland Security, or the Commandant. However,
13 Congress is the only one who can change that law.

14 Regulations, the best way we can
15 change regulations is if we bring it to this
16 Committee and we take those ideas back. And if
17 we implement them or take your ideas, then we
18 take it through the regulatory process through
19 the Coast Guard, and that's what we do.

20 MR. GALLAGHER: Any questions from the
21 Committee? Any comments? No comments, we'll bring
22 it back to the public. Any public questions,

1 comments? Yes, sir? You have to come up here.

2 MR. METZGER: Good afternoon, Don
3 Metzger, St. Lawrence Seaway Pilots Association.
4 Clear question, Chairman Danny. First, thanks
5 for the privilege of the floor.

6 You're asking for comments on the
7 specific events or just the meeting in general.

8 (Simultaneous speaking.)

9 MR. METZGER: I misunderstood, so I
10 would like to make a comment later on the agenda
11 where it says open to the public comment.

12 MR. GALLAGHER: Any other comments from
13 the public? Now we'll bring it back to the
14 Committee. Any questions from the Committee?
15 Any comments? Any recommendations? Okay, we'll
16 move on to the next item.

17 Actually the next item, we've got to
18 back-track to the -- we never concluded the
19 target pilot compensation study. I don't know if
20 we can table that. We actually, when we took our
21 break at lunch.

22 MR. FISHER: Could I, may I?

1 MR. GALLAGHER: Yes, Steve.

2 MR. FISHER: An idea did come forward
3 since we brought this up that might be something
4 to consider. I think I sense the discomfort
5 among many of us on the whole study.

6 I think we did this, I think we did
7 the following on the bridge-hour study years ago
8 where essentially we asked the Coast Guard to
9 bring it to this Committee, to GLPAC, for
10 deliberation before it was released. And that
11 might be an appropriate course of action that
12 when the contractor's done, that it come to this
13 Committee for consideration before it's released.
14 I think that's how the bridge-hour study was done
15 as I recall.

16 MR. BOYCE: Well the difference with
17 the bridge-hour study is this Committee is the
18 one that requested that study to be done that way
19 in the first place. I'm not saying it can't be.

20 MR. GALLAGHER: This is a different
21 entity. Still, Steve, I would still say it would
22 be great if we could get together and come up

1 with a number, and we have time to do that before
2 the study's released and move forward.

3 You guys made it perfectly clear that
4 you'd like to talk, negotiate. This would be a
5 perfect time. I encourage you guys get in
6 contact with us and we can see if we can come up
7 with something.

8 MR. FISHER: Then why don't we just not
9 have any recommendation on this item for now.

10 MR. BERG: Should I remove that then?

11 MR. FISHER: Yes.

12 MR. GALLAGHER: Okay, is there any
13 other discussion to add from the Committee?
14 Anybody from the public like to add anything?

15 MR. BERG: Nope. I'm just waiting
16 before I delete it.

17 MR. GALLAGHER: We're good? Anybody
18 from the public that would like to add anything?
19 Don?

20 MR. METZGER: Again, on this topic or?

21 MR. GALLAGHER: Yes, on this topic.

22 (Laughter.)

1 MR. BOYCE: Just so everybody knows
2 whenever we have a meeting, I give Don 15 minutes
3 at the end of every meeting to make these
4 comments.

5 MR. GALLAGHER: Do any of the Committee
6 members have any additional comments now that
7 we've heard from the public that we need to
8 discuss further? Okay.

9 The last item on the agenda would be
10 the public comments. We'll now hear from the
11 public. We just ask that you try to keep your
12 comments limited to probably five minutes or so.
13 Don, you can speak now.

14 MR. METZGER: Don Metzger, St. Lawrence
15 Seaway Pilots Association. Thank you for the
16 privilege of the floor, Mr. Chairman, and John,
17 thank you for your patience over the years.

18 A comment on GLPAC. Because of my age
19 and the fact that I have so much gray hair on my
20 head and furrows on my face, at this stage of my
21 life I tend to look at things more from a
22 historical perspective. And I do have a

1 perspective of 41 years of pilotage here in this
2 association.

3 I've seen a lot of changes. I've seen
4 a lot of Commanders and Captains of the ports,
5 and Commandants come and go, and Presidents come
6 and go. And Presidents of the United States and
7 Administrators of the Seaway, and Administrators
8 of the Canadian Seaway and all.

9 But I look back 20 years ago almost to
10 the month when GLPAC first started, when they had
11 their first meeting down in the Baltimore-
12 Washington area, and some of these faces here
13 were there then.

14 I think wow, 20 years, GLPAC is still
15 here, still alive and well. And I look around
16 after 20 years and I see all of the brainpower
17 here and all the experience here. The experience
18 with pilots, ports, regulators, industry.

19 If it covers the waterfront, they're
20 all here and they're all talking to each other,
21 and they're all sharing their experiences and
22 asking questions, legitimate questions, and

1 sharing their opinions. And I'm thinking, wow,
2 Admiral Tiller (phonetic), when we first worked
3 with him to get GLPAC going 20 years ago, he
4 would be very glad to see this meeting here
5 today.

6 I think Admiral Tiller is retired now,
7 but I have great respect for him and what he did
8 in getting this Committee going. And I'm of
9 course close to the end of my professional career
10 as a pilot, but I'm looking to the future today
11 and I'm saying I think the future of pilotage on
12 the Great Lakes is in a good place today, and
13 will probably be in a good place tomorrow based
14 on what I observed.

15 Thank you, Mr. Chairman, for the
16 privilege of the floor.

17 MR. GALLAGHER: Any other comments from
18 the general public? No further comments.
19 Closing remarks? Rajiv?

20 MR. KHANDUPUR: Well, thank you all for
21 all your patience in going through this very
22 comprehensive agenda. I think we had a lot of

1 good discussion, a lot of information for us to
2 take back.

3 Steve, thank you for all your input
4 from the various issues and the pilot presidents.
5 I think we've got a lot of thoughts to process, a
6 lot of information. I think this is definitely a
7 very productive meeting.

8 We've had a couple of very good
9 productive meetings in the past so many years. I
10 think this is one of those top ones. Nothing
11 more to add, thank you. We just wish you a safe
12 journey back home.

13 MR. GALLAGHER: All right. Having
14 concluded all the Committee's business, I will
15 now enter a motion to close the meeting.

16 MR. BOYCE: So moved.

17 MR. FISHER: Second.

18 MR. GALLAGHER: All in favor? The
19 meeting is closed.

20 (Whereupon, the above-entitled matter
21 went off the record at 4:33 p.m.)
22

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This is to certify that the foregoing transcript

In the matter of: Great Lakes Pilotage Adv. Comm.

Before: US Coast Guard

Date: 09-10-18

Place: Cape Vincent, NY

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