

UNITED STATES COAST GUARD
GREAT LAKES PILOTAGE ADVISORY COMMITTEE

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MEETING

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TUESDAY
SEPTEMBER 13, 2022

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The Advisory Committee met at
TownePlace Suites by Marriott, 1440 North Dixie
Highway, Monroe, Michigan, at 8:00 a.m., Danny
Gallagher, Chair, presiding.

PRESENT

Captain DANNY GALLAGHER, Chair, GLPAC; President
Lake Pilots Association
Captain JOHN BOYCE, Vice Chair, GLPAC; St.
Lawrence Seaway Pilots Association
Captain JON OLNEY, GLPAC Member; President
Western Great Lakes Pilots Association
Ms. SUSAN BRAY, GLPAC Member, Director of
Logistics, ArcelorMittal LLC
Mr. PAUL LAMARRE III, GLPAC Member; Director,
Port of Monroe
Mr. JOHN D. BAKER, JR., GLPAC Member; President
Great Lakes District Council, International
Longshoremen's Association
Mr. JOHN CROWLEY, GLPAC Member; Executive
Director, United States Great Lakes Shipping
Association
KEVIN KIEFER, USCG, Designated Federal Officer
TODD HAVILAND, USCG, Director of Great Lakes

Pilotage

VINCE BERG, USCG, Operations Compliance Officer
for the Great Lakes Pilotage Office
FRANCIS LEVESQUE, USCG, Alternate Designated
Federal Officer

ALSO PRESENT

CATHERINE KONIECZNY-KELLS, USCG, Regulations
GRETCHEN HUBBARD, USCG, REC Center Toledo
TIM PAVILONIS, USCG, Senior Attorney
KATE SERGENT, USCG, Regulations and
Administrative Law
PETER HIRTHE, GLS, Great Lakes St. Lawrence
Seaway, Department of Transportation
CLAY DIAMOND, APA, American Pilots Association,
Executive Director, General Counsel
BRENDAN O'SHEA, APA, American Pilots Association,
Deputy Director, Associate Counsel
JORGE VISO, APA American Pilots Association,
Pilot
BILL YOCKEY, ILA International Longshoremen
Association
MIKE SULLIVAN, Department of Transportation
(DOT), Maritime Administration (MARAD),
Great Lakes Director
MICHELLE BERGEVIN, GLPA Great Lakes Pilotage
Association (Canada), CEO
RICHARD QUENNEVILLE, GLPA Great Lakes Pilotage
Association (Canada), Director of
Operations
CHRIS HALL, Shipping Federation of Canada,
President and CEO
CHRISTOPHER EDYVEAN, WGLPA Western Great Lakes
Pilot Association, D-3 Pilot
RICHARD LAURION, Agent, D-3 Benchmark
GEORGE HAYNES, LPA Lake Pilots Association,
D-2 Pilot
AARON MENOUGH, LPA Lake Pilots Association,
D-2 Pilot
ROB MOORE, LPA Lake Pilots Association,
D-2 Pilot

TONY BRANDANO, LPA Lake Pilots Association,
D-2 Pilot

DAN FRANKLIN, LPA Lake Pilots Association,
D-2 Pilot

NATE TURNER, CohnReznick, Auditor

JULIE MITCHELL, CohnReznick, Auditor

MARK LAVALLEY, LPA Lake Pilots Association, D-2
Pilot

C-O-N-T-E-N-T-S

Introduction and Welcome	5
Meeting Objectives	6
Opening Statement and Call to Order.11
Member Introductions12
Role of the Pilot.18
Rulemaking Process/Ex Parte Communications35
Necessary/Reasonable Ratemaking Expenses93
Pilot Staffing/Reliability/Cruise Ships.	112
Winter Navigation.	193
Fees for Weather Disruption.	206
U.S. Registered Pilot Credential	217
Soo Lock Operations.	228
Great Lakes Pilotage Initiatives/Projects.	250
Pilotage Assessment.	264
Public Comments.	270
Meeting Adjourned.	271

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

2 (8:10 a.m.)

3 DFO KIEFER: Good morning. My name is
4 Kevin Kiefer. I'm the Designated Federal
5 Official, for the Great Lakes Pilotage Advisory
6 Committee. Welcome to you all to this public
7 meeting of the Great Lake Pilotage Advisory
8 Committee. I express my appreciation for the hard
9 work of our committee members in preparing for
10 this meeting as well as the past and all their
11 work. What we're going to do is start off with
12 the opening remarks and just keep going and get
13 right through it.

14 As a DFO, I'm responsible for ensuring
15 all provisions of Federal Advisory Committee Act
16 or FACA are met regarding the operations of the
17 committee. Also my role as a DFO for the
18 committee, I work with agency officials to ensure
19 all appropriate ethics and regulations are
20 satisfied.

21 Before we begin this morning there are
22 a few routine formalities I need to address. For

1 the record, the Great Lakes Pilotage Advisory
2 Committee was established on November 13th, 1998,
3 in the Coast Guard Authorization Act of 1998.

4 The committee's charter was last renewed for two
5 years beginning on May 17th, 2021, under the
6 authority of 46 U.S. Code Section 9307, as
7 amended by Section 621(a) of the Coast Guard
8 Authorization Act of 2010.

9 The committee acts in an advisory
10 capacity to make recommendation to the Secretary
11 of the Department of Homeland Security and the
12 Coast Guard on matters relating to Great Lakes
13 Pilotage including review of the proposed Great
14 Lakes Pilotage regulations and policies.

15 U.S. Government establishes advisory
16 committees so that non-governmental citizens can
17 provide advice and recommendations on specific
18 issues. In this instance, the Coast Guard, not
19 the committee members, owns the Great Lakes
20 Pilotage Advisory Committee. We expect this
21 committee to provide us with its candid opinions
22 and feedback and the members must understand that

1 you are present today to help us tackle some big
2 issues.

3 Today's meeting was announced in the
4 Federal Register on Tuesday, July 12th, 2022.
5 The committee has a full agenda today. Please
6 understand the times on the agenda are
7 approximate, and we may not be able to keep up
8 with the exact times noted, but we'll progress
9 punctually through the agenda as written.

10 That being said, we will strive to
11 ensure adequate times provided for presentations,
12 the committee's thorough deliberations and public
13 comments. As stated in the agenda, at this
14 meeting we'll be reviewing the following 11
15 issues.

16 First, the role of pilot. Second,
17 rulemaking process, ex parte communications.
18 Third, necessary and reasonable expenses for
19 ratemaking. Fourth, pilot staffing/importance of
20 system reliability and cruise ships. Fifth,
21 winter navigation. Sixth, fees for weather
22 disruption. Seventh, United States registered

1 pilot credential. Eighth, the Soo Lock
2 operations. Ninth, Great Lakes Pilotage
3 initiatives and projects. Tenth, Pilotage
4 assessment and finally eleventh, we'll have
5 public comments.

6 None of these issues is a particular
7 matter for the purposes of the Criminal Conflict
8 of Interest Statute, whatever that means, but I'm
9 sure I had to say it.

10 General information about the
11 committee is available on the Office of Waterways
12 and Ocean Policy website under Great Lakes
13 Pilotage at CG-WWM-2. If anybody needs that
14 website we can get that to you.

15 I wish to remind you to record your
16 attendance this morning on the sign-in sheets. I
17 think everybody signed in. Also, please note
18 that we have separate sign-in sheets; some for
19 Coast Guard personnel and another separate sheet
20 for the general public. Committee members, you
21 don't have to sign in. We got your attendance.
22 The meeting agenda is also available on the

1 tables as well as any additional information that
2 may be placed there from time-to-time as it
3 becomes available.

4 This public meeting is being recorded
5 for a permanent record. In addition, official
6 minutes will be prepared and will appear on that
7 same website CG-WWM-2's website within 90 days of
8 this meeting. In order to be fully recorded and
9 understood, each time you speak you must speak
10 loudly. It is imperative that you also identify
11 yourself and state your affiliation before giving
12 your comments, including our community members.

13 This is extremely important for an
14 accurate account of the proceedings. Captain
15 Gallagher and I will remind you of this detail as
16 necessary. If you forget to identify yourself
17 during comment we will request that information
18 before we can continue.

19 We're trying to take good care of you
20 and give you everything you need to do your
21 important work. Please let myself or Mr. Frank
22 Levesque, who is our Alternate DFO, Designated

1 Federal Official, if you need anything. And I
2 think Frank has some administrative comments now
3 for us.

4 ADFO LEVESQUE: Hi, my name is Frank
5 Levesque and I'm the Alternate Designated Federal
6 Officer. I have a few admin announcements for
7 everyone. The bathrooms, you should have noticed
8 them as you came in for both male and female.
9 They're right back there outside this exit here.
10 Emergency exits, you can see where they're so
11 highlighted. So, please use them in the event of
12 an emergency. Silence your cell phones, please.
13 The sign-in sheets have already been talked
14 about.

15 One big thing I'd like to mention is
16 hotel accommodations, if you have any comments
17 you'd like to make to me, I made the reservations
18 for this hotel, please let me know if there is
19 anything you'd like to have brought up to make it
20 maybe better for next time or before we leave
21 here today.

22 At the end of the GLPAC, I need the

1 GLPAC members for about 10 minutes for some
2 administrative things that need to be done, Mr.
3 Chairman. And so, that's all I have.

4 DFO KIEFER: Great, thanks, Frank.
5 The Coast Guard leadership continues to value
6 your participation, expertise and continued
7 support with Maritime -- your diligent work on
8 all the tasks you accept, it helps the Coast
9 Guard determine if we are on the right course
10 both nationally and internationally. The Coast
11 Guard leadership and I thank you all for your
12 generously giving your time and efforts to ensure
13 that the environment in which our mariners' work
14 remains as safe as possible.

15 Once again, welcome to the Great Lakes
16 Pilotage Advisory Committee. I look forward to a
17 very productive day. This concludes my opening
18 remarks.

19 I will call this meeting to order. I
20 now ask the committee members to introduce
21 themselves and we'll determine if we have a
22 quorum. For the record, please introduce

1 yourself, state your name and the company you
2 work for and the GLPAC charter position that you
3 are currently filling. When speaking, please
4 hold the microphone close to your mouth to ensure
5 we can hear you and that your comments are
6 accurately captured for the court reporter.

7 Is everything good as far as the
8 audio?

9 THE REPORTER: Fine.

10 DFO KIEFER: Great, sir. Thanks.

11 We'll start with Captain Gallagher.

12 CHAIR GALLAGHER: Dan Gallagher,
13 President Great Lakes Pilotage Association,
14 District No. 2.

15 MEMBER BAKER: John Baker, Jr.,
16 President of the Great Lakes District, ILA.

17 VICE CHAIR BOYCE: John Boyce,
18 President District 1, St. Lawrence Seaway Pilots
19 Association.

20 MEMBER CROWLEY: Hi. John Crowley,
21 Executive Director, U.S. Great Lake Shipping
22 Association filling the vessel operator position.

1 MEMBER OLNEY: I'm Jon Olney,
2 President of Western Great Lakes Pilots
3 Association, District 3.

4 MEMBER BRAY: I'm Susan Bray; I'm the
5 Director of Logistics for ArcelorMittal
6 International America, the largest scale company,
7 part of the largest scale company in the world.

8 MEMBER LAMARRE: Paul LaMarre, I'm the
9 Port Director of the Port of Monroe and the Vice-
10 President of the American Great Lakes Ports
11 Association representing the ports.

12 DFO KIEFER: Thank you.

13 If five voting members, more than half
14 of the GLPAC community membership are present
15 then a quorum is reached and the meeting may
16 proceed. Again, thank you very much. Today we
17 do have a quorum.

18 We'll now go around the room to allow
19 the audience to introduce themselves. Please
20 speak loudly, provide your name and your
21 organization and company that you represent.

22 MR. SULLIVAN: Mike Sullivan, I'm with

1 the Maritime Administration, Director of the
2 Great Lakes Gateway.

3 MR. HAVILAND: Good morning, my name
4 is Todd Haviland. I'm the Director of Great
5 Lakes Pilotage for the U.S. Coast Guard and I
6 work in Washington, D.C.

7 MR. HALL: Good morning, I'm Chris
8 Hall. I'm the President and CEO of the Shipping
9 Federation of Canada based in Montreal.

10 MS. SERGENT: Good morning. I'm Kate
11 Sergent. I'm an Attorney with the Office of
12 Regulations and Administrative Law for the Coast
13 Guard.

14 MS. HUBBARD: Good morning. I'm
15 Gretchen Hubbard. I'm with the Coast Guard. I'm
16 the Supervisor of the Regional Examination Center
17 in Toledo.

18 MR. YOCKEY: Bill Yockey, International
19 Longshoremen's Association, Vice-President.

20 MR. BAKER: John Baker, General
21 Organizer for the ILA.

22 MS. KONIECZNY-KELLS: I'm Catherine

1 Konieczny-Kells, Economist from U.S. Coast Guard
2 and I'm -- great to be here.

3 MR. TURNER: My name is Nate Turner
4 with the CohnReznick. I'm contracted on behalf
5 of the Coast Guard --

6 MR. VISO: Jorge Viso, President of
7 American Pilots Association.

8 MR. BRANDANO: Tony Brandano, Pilot,
9 Lake Pilots Association, District 2.

10 MR. MOORE: Rob Moore, Pilot for
11 District 2, Lake Pilots.

12 MS. BERGEVIN: Good morning, Michelle
13 Bergevin. I'm the CEO of Great Lakes Pilotage
14 Authority. We're based in Cornwall, Ontario.

15 MR. QUENNEVILLE: Good morning,
16 Richard Quenneville, Great Lakes Pilotage
17 Authority, Director of Operations.

18 MR. EDYVEAN: Good morning.
19 Christopher Edyvean, First Vice-President of
20 Western Great Lakes Pilots, D-3.

21 MR. LAURION: Good morning, Richard
22 Laurion, Benchmark Marine Agency and I'm a

1 Chicago Agent and handle most of the U.S. ports.

2 MR. HAYNES: Good morning. My name is
3 George Haynes, Vice-President of District 2, Lake
4 Pilots Association.

5 MR. MENOUGH: I'm Aaron Menough. I'm
6 a Pilot with Lake Pilots Association, District 2.

7 MR. HIRTHE: Peter Hirthe, Great Lakes
8 Regional Representative for the Great Lakes St.
9 Lawrence Seaway Development Corporation.

10 MR. FRANKLIN: Good morning, I'm Dan
11 Franklin, Lake Pilots Association, District 2.

12 MR. O'SHEA: I'm Brendan O'Shea,
13 American Pilots Association, Deputy Director,
14 Associate General Counsel.

15 MR. DIAMOND: Clay Diamond, American
16 Pilots Association, Executive Director, General
17 Counsel.

18 MR. BERG: Vince Berg with the U.S.
19 Coast Guard Great Lakes Pilot Office, Operations.

20 MR. JOHANSSON: Tim Johansson, Port of
21 Monroe.

22 MR. PAVILONIS: Tim Pavilonis. I'm

1 Legal Advisor to the Coast Guard's Office of
2 Great Lakes Pilotage.

3 DFO KIEFER: Okay, great, thank you.
4 Again, welcome. I appreciate everybody being
5 here today.

6 So, now I'll turn it over to Captain
7 Gallagher to begin the discussion.

8 CHAIR GALLAGHER: Thank you. I want
9 to welcome everyone to the Port of Monroe and
10 Paul LaMarre for hosting us today. We have a
11 very full agenda, so I wish everybody's
12 assistance with staying on schedule. We welcome
13 public participation and value your opinion in
14 the Great Lakes Pilotage Advisory Committee
15 meeting today. We combined some of the topics
16 from the Federal Register announcements so we
17 have 11 agenda items initially. GLPAC members
18 will discuss a given topic. After the members
19 discuss the topics I will open up the floor for
20 public questions and/or statements. I will then
21 ask the committee to continue the discussion
22 and/or consider a recommendation.

1 We have a great schedule and a lunch.
2 After we have discussed all the topics we will
3 open the floor for the public comments. We will
4 then end the meeting when the discussion has
5 finished. So, let's begin.

6 The first topic is the Role of Pilot.
7 The American Pilotage Association is a trade
8 organization for American pilots of the United
9 States. The American Pilotage Association
10 ensures the best practices of the pilots'
11 profession to promote safety in order to
12 facilitate commerce in protecting marine
13 environment.

14 Mr. Clay Diamond, Executive Director
15 of the American Pilot Association, will provide a
16 brief outline of a role of a pilot.

17 Clay?

18 MR. DIAMOND: Thanks, Captain
19 Gallagher. I'm going to stand here, I think
20 would be the best place to not put my back to
21 everybody.

22 So, you met the rest of the APA team

1 and just a little bit more on the American Pilots
2 Association. We've been the National Association
3 of the Piloting Professionals since 1884. Our
4 membership consists of all the State licensed
5 pilots in the 24 Coastal States as well as the,
6 all of the U.S. registered pilots up here on the
7 three Districts of the Great Lakes.

8 Our members move well over 90 percent
9 of all of the large oceangoing vessels in U.S.
10 waterways. Their official role and
11 responsibility is to ensure the safe and
12 efficient movement of cargo, of maritime cargo in
13 the safest, most environmental-friendly way. So,
14 that's kind of our mission statement.

15 First off, I want to thank the Coast
16 Guard for having this important forum and, in
17 particular, for having it outside of D.C.,
18 because it's really important I think to have
19 these meetings in places like this, pilot offices
20 where the decisions that this, you know, that
21 this community makes, you know, it really matter.
22 So, this is an important forum and we're glad

1 we've been invited to attend.

2 So, I was asked to kind of do a quick
3 overview, although Frank beat me to that.

4 DFO KIEFER: Yes.

5 MR. DIAMOND: So, one of the more
6 succinct statements, you know, in describing the
7 role of pilot was by Vice-Admiral Brian Salerno,
8 he used to be with the Coast Guard. He's now
9 with the Cruise Lines International Association.
10 We talked to Brian Salerno a lot so I can assure
11 you he still feels the same way even though he's
12 now working for the cruise lines.

13 But this is a description of what
14 these pilots do every day. It's a really, really
15 good, kind of concise statement on the role of a
16 pilot.

17 Nest slide. So, before I get into the
18 role of pilot I want to just briefly give a
19 history of the U.S. piloted system. This is will
20 just take a couple minutes, I promise.

21 So, one of the very first acts of the
22 first Congress of the United States was to decree

1 that until further legislative provisions is made
2 by Congress, the States will continue to regulate
3 pilotage. And the reason for that was, you know,
4 the pilotage systems in the states and actually
5 the call before that had been in place for a long
6 time. The Sandy Hook pilots in New York, for
7 example, were found in the 1690s.

8 So, the pilotage systems in the
9 colonies as well as in the States have had been
10 running for decades and decades and have been
11 running very well. But the specific reason
12 stated in the Congressional record as to why the
13 Lighthouse Act of 1789 left the regulation of
14 pilotage to the states was that pilotage is a
15 uniquely local matter. Every port is different,
16 every waterway is different and every pilot
17 systems should be tailored to meet the needs of
18 those waterways.

19 So, that is still the construct in the
20 U.S. The overwhelming majority of pilotage in
21 the U.S. is regulated by the States.

22 There have been two legislative

1 exceptions to that except for the Lighthouse Act
2 of 1789. One is the U.S. flag coastwise vessels.
3 Meaning, U.S. flagships going between U.S. ports
4 are subject to Coast Guard regulations. They can
5 have a Federal pilot on those ships.

6 All of the other ships, which is the
7 vast majority of large oceangoing ships are
8 foreign flagships or U.S. flagships sailing
9 between U.S. and a foreign port. All of those
10 ships are regulated by the State. So, U.S.
11 coastwise ships are examples of State pilotage
12 and vessels on the Great Lakes are also examples.
13 And there's a historical reason why that has been
14 and I'll talk about that now.

15 Next slide. So, prior to the opening
16 of the seaway, there wasn't an organized system
17 of pilotage on the Great Lakes. There was really
18 no need. There were no large oceangoing vessels
19 in and out of the Lakes. So, it was a combined
20 system.

21 There was kind of an informal system
22 that was in place, I think it was called, Sailing

1 Masters. And they were retired labor captains
2 essentially who would get on the ship in Montreal
3 and advise on that as they made their transit. A
4 very informal system. It wasn't compulsory. It
5 was voluntary. There was no regulatory scheme.
6 There was no training scheme. There was no
7 qualification scheme. Very informal system.

8 When the seaway opened, there was now
9 this rush of large foreign flag oceangoing ships
10 in and out of the system, and that led to a real
11 shortage of these sailing masters. And younger
12 and younger people who weren't nearly as
13 experienced started holding themselves out as
14 sailing masters and created a real problem.

15 Next slide. Congress became very
16 concerned because when the seaway first opened
17 there was a rash of accidents, ship casualties.
18 And again, in the Congressional record it was
19 quite clear, it presents a definite threat to
20 safe navigation, these large oceangoing vessels
21 coming into the system.

22 So, Congress realized, you know, we

1 need to have a pilotage system, an organized
2 pilotage system on the Great Lakes. The initial
3 thought was it should be left to the States.
4 There are eight Great Lakes States. They should
5 be the ones to put the pilotage systems in place,
6 but for a number of reasons that wasn't possible.

7 Now, a lot of people think it's
8 because there's eight states and they border each
9 other and they wouldn't be able to work that out.
10 Well, that's not true because there's lots of
11 examples on the coast where states border each
12 other and they develop memorandums of agreement
13 between the states where there's Great Lake
14 pilotage; Maryland and Virginia, Connecticut and
15 Massachusetts, Connecticut and New York, Florida
16 and Georgia. There's all sorts of examples where
17 states abut each other and they sort it out how
18 to regulate pilotage.

19 The actual reason why there had to be
20 a Federal and not a State system on the Lakes is
21 because of the unique setting of the Great Lakes
22 where U.S. and Canadian internal waters abut.

1 So, if you go from one end of the system to the
2 other you will cross the U.S./Canadian border
3 dozens of times. As most of you here know, the
4 international border actually runs down the
5 center of a number of rivers.

6 So, the only way a pilotage system on
7 the Great Lakes could work is through a treaty
8 between the U.S. and Canada, and states don't
9 have the authority to enter into a treaty with
10 another country. So, this had to be a Federal
11 endeavor.

12 Next slide. So, the legislation that
13 was put in place, what became known now as the
14 Great Lakes Pilotage Act of 1960 was prepared
15 jointly by the State Department, the Department
16 of Commerce and Coast Guard. And the system that
17 was put in place in the Congressional record is
18 amply clear that it was purposely designed after
19 the State pilot system.

20 There's voluntary pools of pilots.
21 They have an underlying credential as a merchant
22 mariner. Then they enter an apprenticeship and

1 get a U.S. registration which is like a scribe
2 that's purposefully mimicking State pilot
3 license. So, even though the Great Lakes system
4 is run by the Coast Guard, it was designed and
5 intended by Congress to mimic the State pilot
6 system.

7 Next slide. Just a couple of
8 clippings from, so this was the president of the
9 Lake Erie Association as the seaway opened, but
10 before there was pilotage, really making a point
11 that had there been a pilotage system a number of
12 these accidents could have been avoided.

13 Next slide. Later on, a few years
14 later after the system was put in place the pilot
15 administrator which predecessor of -- position at
16 the Department of Commerce, you know, kind of
17 made clear that the accident rate is the lowest
18 that it's been since the opening of the seaway
19 and it's actually going down as well.

20 Next slide. So, with that canvas as
21 a background of the State of the Great Lakes
22 pilotage, I'll talk a little bit about the role

1 of pilot. I think as most of you know a large
2 part of piloting is juggling. The U.S.
3 registered pilot often has to decide on a
4 different course of action, whether ships should
5 move in heavy fog, or wind, or current, or ice
6 and whether one route or speed should be used
7 over another.

8 And what's important to point out
9 about the role of pilot is the pilot is
10 independent of the ship. Contrary to what is
11 commonly understood here, the customer of the
12 pilot is not ship. Customer of the pilot is the
13 public interest and the authority that issues the
14 pilot's license.

15 So, a pilot is expected to exercise
16 informed, independent judgment and is expected to
17 make decisions based solely on safety. And when
18 I say that, based solely on safety, another way
19 of saying that, I don't think everybody cares
20 for, but I'm going to say it, a pilot is
21 isolated, is intentionally isolated and insulated
22 from the economic pressures facing a ship.

1 So, if a pilot makes a decision to go
2 slower because of weather conditions. If a pilot
3 has to make a decision to use a tug or use an
4 extra tug they're making that decision solely
5 based on safety, even if it costs more, even if
6 it delays the ship. They're supposed to be
7 insulated from that pressure that understandably
8 is on the shipping companies and the captain.
9 That's why the pilot is there as an independent
10 check.

11 Next slide. I'm going to put this up
12 here because it's kind of waterfront lore.
13 Sometimes you have a pilot as an advisor. A
14 pilot is not just an advisor. Piloting is an act
15 of, it's a verb. Pilots pilot ships. Pilots
16 don't advise the master. Pilots direct the
17 navigation of the ship.

18 So, there's a couple of Coast Guard
19 documents that I want to mention. One is what's
20 called, it's called a Decision on Appeal.
21 Whether it was a civil penalty case that made it
22 up to an appeal, and there's a statement in here

1 that I think, you know, is really spot on.

2 The popular misconception that a pilot
3 is a mere advisor to the master is without
4 substantial foundation either historically or
5 legally. And then another one from 1989 a U.S.
6 Coast Guard study on pilots is pointed out that a
7 pilot is in full charge of the navigation of the
8 ship if the master retains overall responsibility
9 for the ship.

10 So, a pilot is not a master. And I
11 even remind some of our own members not to use
12 that phrase, you know, piloting and advisor,
13 because I think it cheapens the profession. To
14 somehow reduce, you know, the pilot is just an
15 advisor whose advice can be ignored by the master
16 at will, really understates the value of pilot.

17 Next slide. So, the role of a pilot,
18 what we try to do, what the American Pilots
19 Association was trying to do in the late '90s was
20 to capture what the role of the pilot is. And
21 the goal of that exercise was not to create a
22 standard, but rather to capture the existing

1 legal standard. As well as, it's just as
2 important to capture what actually happens on a
3 bridge of a ship. So, it wasn't meant to be this
4 theoretical academic document. It was meant to
5 be a legally accurate realistic description of
6 the role of pilot.

7 So, the standard that was approved by
8 the American Pilots Association Board of Trustees
9 of 1997 has become the accepted standard for the
10 piloting profession in the U.S. It's been cited
11 in many court cases. It's been cited by many
12 State and Federal pilot oversight authorities and
13 I'm going to talk about that real quickly now and
14 then I'll wrap up.

15 Next slide. So, there's two
16 paragraphs to this American Pilots Association
17 statement with respect to roles of the master and
18 a pilot. Navigation of a ship in U.S. Pilotage
19 waters is a shared responsibility between the
20 pilot and the master and the bridge crew. The
21 compulsory State for U.S. registered pilot
22 directs the navigation of the ship. It doesn't

1 say it advises it. It directs the navigation of
2 the ship subject to the master's overall command
3 of the ship and ultimate responsibility for its
4 safety.

5 The master has the right, and here's
6 the other point that I always like to point out
7 to both our members and shipping interest. The
8 master has the right and, in fact, the duty to
9 intervene or to displace a pilot in circumstances
10 where the pilot is manifestly incompetent,
11 incapacitated or placing the ship in immediate
12 danger. Those were right out of Court cases,
13 those phrases. We didn't make those up.

14 With that limited exception,
15 international law requires the master and/or the
16 officer in charge of the navigational watch to
17 cooperate closely with the pilot and maintain an
18 accurate check on the ship's position and
19 movement.

20 Next slide. So, second paragraph,
21 State licensed and U.S. pilots are expected to
22 act in the public interest and to maintain a

1 professional judgment so that is independent of
2 any desires that do not comport with the needs of
3 maritime safety. So, I rolled through that and
4 I'll say this. This resolution was put together
5 not just by the APA.

6 We put together a conference to do
7 this. It consisted of our pilots, Coast Guard,
8 FMC, NTSB, shipping agents, shipping interests,
9 ship captains. So, when you get a committee like
10 that together to come up with a phrase, that's
11 the kind of sentence you get. What that sentence
12 really means is they're expected to make
13 decisions based on safety, not on economics.

14 In addition, licensing and regulatory
15 authorities, State and Federal, require
16 compulsory pilots to take all reasonable actions
17 to prevent ships under their navigational
18 direction from engaging in unsafe operations.
19 Because of these duties a compulsory pilot, and
20 this used to be controversial I think with some
21 shipping interests, but a pilot is not a member
22 of the bridge team. He's not specifically, not

1 considered to be a member of the bridge team.

2 That's recognized in Treaty 3d STCW
3 Solis. A pilot if not a member of the bridge
4 team, because a bridge team has somebody in
5 charge of it; the captain or the officer in
6 charge of the navigational law. The pilot does
7 not work for that person.

8 Having said that, a pilot is expected
9 to develop and maintain cooperative mutually
10 supportive working relationships with the master
11 and the bridge crew in recognition of the
12 respective responsibilities of each. So, not a
13 member of the bridge team, but expected to use
14 good teamwork skills.

15 Next slide. So, any questions or
16 comments?

17 (No audible response.)

18 MR. DIAMOND: Good. Thanks.

19 CHAIR GALLAGHER: Thank you, Clay,
20 very well done.

21 Are there any comments from the
22 members? John?

1 MEMBER CROWLEY: Yes, John Crowley.
2 Thanks, Clay, an excellent, I think, capture of
3 the roles and responsibilities of both the master
4 and the ship's crew and all together.

5 I'm concerned sometimes that in effort
6 to make clarity we undervalue, to use your words,
7 the skills and the efforts by any particular
8 party. And in this case a pilot brings a
9 tremendous amount of expertise in the areas that
10 they have developed, not only as independent
11 masters and certified professionals, but in the
12 area of the responsibility, the masters and their
13 crew, professional, certified. Certified today,
14 by the way, as opposed to in 1960 when the treaty
15 was first signed, but they bring also their
16 skills to bear.

17 And I guess I would make the point
18 that either one of those teams can ensure failure
19 as well as success of a vessel's transit. And
20 so, we can underestimate and undervalue the
21 responsibility of both parties by making some
22 simplistic comments sometimes in the efforts to

1 provide clarity. And the real, the real goal
2 here is to achieve a safe transit that serves the
3 public interest. The public interest is kind of
4 a key phrase and I appreciate your raising that.

5 So, that's just what I wanted to add.

6 Thank you.

7 CHAIR GALLAGHER: Thank you. Any
8 other comments from the members?

9 (No audible response.)

10 CHAIR GALLAGHER: Okay, at this time,
11 any comments or questions from the public?

12 (No audible response.)

13 CHAIR GALLAGHER: That's it, no
14 discussion. Any discussion from the committee?
15 Any recommendations the committee would like to
16 make?

17 (No audible response.)

18 CHAIR GALLAGHER: No recommendations?
19 We'll move on to the next topic.

20 Second topic is Rulemaking Process and
21 Ex Parte Communications. Coast Guarding is a
22 statutory requirement established rate by March

1 1st of each year. In order to comply with the
2 mandate the Coast Guard Pilots and Administrative
3 Procedures Act to issue an update on this rate
4 for the Great Lakes. Ms. Kate Sergent, Project
5 Counsel of the Great Lakes U.S. Pilotage Coast
6 Guard will provide an overview of the rulemaking
7 process and ex parte communications.

8 Ms. Sergent, please.

9 MS. SERGENT: Thank you, committee
10 members. Yes, I'm going to give a presentation
11 on the rulemaking process and some our statutory
12 requirements that I am in charge of making sure
13 we follow during the ratemaking and other
14 rulemaking processes with the Coast Guard. And
15 then we're going to discuss ex parte
16 communications which is a communicating with the
17 public between an agency during an ongoing
18 rulemaking process. So, there's a general
19 prohibition on that.

20 Next slide, please. So, Congress is
21 our source of authority for all of our
22 rulemaking. So, Congress makes the laws and then

1 we create the regulations in the rulemaking
2 process and that will amend the Code of Federal
3 Regulations.

4 So, we must have our USC authority.
5 Our Great Lakes pilotage authority is 46 U.S.C.
6 9303. That one tells us to create the
7 ratemakings by March 1 every year, and then we
8 have several other rulemaking authorities for all
9 of our safety and security missions in other
10 parts of the U.S.C.

11 Next slide, please. So, this is how
12 a rulemaking moves through the process with Coast
13 Guard from inception to publication. So, we
14 initiate a rule and that requires either a
15 statutory mandate such as the 9303 requirement to
16 create ratemakings every year. Another option is
17 a petition for rulemaking and that's a public
18 submission to the Coast Guard asking us to change
19 our regulations. We take those very seriously
20 and evaluate them and provide recommendations to
21 our senior leadership on all those requests.

22 Another way of getting to issue

1 rulemakings is through advisory committee
2 meetings like this one, through their
3 recommendations. Changes in industry such as a
4 new problem, autonomous vessels, climate change,
5 all of those issues impact what our goals are.

6 So, then we'll start planning a rule
7 to develop a rulemaking project proposal which
8 outlines what the rule purpose is, the goals it's
9 going to achieve and then all the alternatives we
10 considered. And we share that with our Marine
11 Safety and Security Council. So, that is our
12 senior leaders in the Coast Guard who are in
13 charge of the rulemaking programs, and if they
14 approve it then we will start drafting a notice
15 of proposed rulemaking.

16 And that team is made up of a subject
17 matter expert, a project council, an economist,
18 an environmentalist and a technical writer.
19 There's also a product manager that keeps us all
20 on schedule.

21 So, once that's all drafted, we move
22 through the clearance processes. It goes through

1 several different reviews through the Coast Guard
2 and then it goes to DHS and then it also goes to
3 OMB, the Office of Management and Budget for a
4 review. And then we will eventually publish the
5 NPRM. We'll do a comment period. After the
6 comment period closes, we'll review the comments
7 and we'll start drafting a final rule.

8 And then we go through the same
9 process again, clearances and then we can publish
10 the final rule. And then after that we determine
11 if we need to issue additional guidance to help
12 the public to understand what our expectations
13 are and how to follow the rule.

14 Next slide, please. So, this
15 Administrative Procedure Act is the main statute
16 that tells us what the process is for rulemaking.
17 So, in performing these steps we have to issue a
18 Notice of Proposed Rulemaking. We have to allow
19 an opportunity for the public to comment on the
20 rulemaking. And then after we issue a final rule
21 we have to include a statement of the basis and
22 purpose for that rulemaking.

1 And then the rule cannot be effective
2 until at least 30 days after publication unless
3 we have good cause to make it effective sooner.
4 So, that 30-day delay gives us a little time to
5 know what the rule is and to implement its
6 requirements.

7 Next slide, please. So, in a Notice
8 of Proposed Rulemaking we are required to tell
9 the reader, who's not a subject matter expert.
10 Supposed to speak in lay terms what we are doing
11 in this proposed rule. So, the basis and purpose
12 of the rule. The NPRM has to describe what the
13 rule is going to do, its impact. We also
14 evaluate the costs and the benefits which our
15 economists do for us. And then at the end of the
16 rule there is a CFR text which actually amends
17 the regulation or implements the rates into the
18 CFR.

19 Next slide, please. Then we have our
20 comment period. There's no statutory requirement
21 for how long that comment period has to be. It's
22 typically 30 to 90 days depending on the urgency

1 of us to publish the rule. We might shorten it
2 or we might do a longer one if it's a really
3 complex rulemaking that we want to offer more
4 time for the public to comment and consider how
5 it might impact them.

6 So, and then and our requirement from
7 the APA is that the agency has to consider all
8 relevant comments. So, you don't have to
9 consider the comments that are totally off the
10 wall complaining about the thing, but we do have
11 to consider everything relevant.

12 Next slide, please. Okay, so there
13 are some statutes where we don't have to issue a
14 Notice of Proposed Rulemaking or we don't have to
15 give the public notice an opportunity to comment.
16 And that is when we have good cause, if it's
17 impracticable, which means we don't have enough
18 time to issue a Notice of Proposed Rulemaking.
19 And this comes up a lot in more local
20 regulations.

21 So, the Coast Guard issues safety
22 zones around marine events along the coast and

1 maybe we got notice from the head sponsor 30 days
2 ago that we need to put a safety zone in place.
3 So, we can say we have good cause because there's
4 no time to issue an NPRM. We know we have to
5 issue a safety zone; it's in the interest of
6 safety. So, we can avoid notice and comment and
7 just roll out with the final rule correctly.

8 Sometimes it's unnecessary. Congress
9 will say we must extend the documentation to a
10 five-year period versus a three-year period. In
11 that case we have no discretion. So, we say,
12 okay, it's unnecessary, comments won't change,
13 what we're required to do, let's just go out in
14 front of it.

15 Other times it might be contrary to
16 public interest to give people notice. Such as a
17 presidential visit to an area along the coast.
18 We don't want to tell the public where the
19 president is going to be before we issue the
20 safety zone. We just want to issue it right away
21 and enforce it as needed.

22 So, we don't have to give notice when

1 we are updating our own procedures and
2 regulations. So, like authority delegations,
3 things that don't affect the public. When we
4 issue guidance and policy we're not required to
5 follow the APA rules and comment procedures,
6 mostly because guidance is not enforceable on the
7 public. It's just something the agency is
8 expressing how we intend to enforce it, but we
9 can't enforce guidance, only regulations.

10 And then sometimes Congress gives us
11 exemptions to notice and comment in order to let
12 us go out with rules really quickly if there's an
13 extreme demand.

14 Next slide, please. So, these are
15 some of the accountabilities for making sure our
16 agency stays in line with the rulemaking. So,
17 Congress, they have a Congressional Review Act,
18 that allows congress 60 days to void any
19 rulemaking by an agency. They can, by a majority
20 vote, they can decide to void the rulemaking and
21 then the president will then need to also sign
22 off on that. This is very rarely used, but it's

1 something we always keep in mind.

2 Congressional hearings to check on the
3 status of the agency's rulemakings, Government
4 Accountability Office, investigations on programs
5 and how they're running their operations or
6 doing, conducting rulemakings. Sometimes
7 Congress requires us to report to them either
8 internally or actually on house visit.

9 And then the president obviously has
10 to rule on appointment powers. They can remove
11 agency officers that lead the rulemakings and
12 switch them out with people that might align more
13 with their values. They issues executive orders
14 directing the agency to focus on certain things
15 in their rulemakings or follow certain processes.

16 And then OMB, Office of Management and
17 Budget, and their Office of Information and
18 Regulatory Affairs, they are the ones that review
19 all of our rulemakings that we're doing and do a
20 quick review to make sure it's in line with all
21 of the president's goals and initiatives.

22 And then lastly, we have the judicial

1 review and this is where the public is able to
2 keep us in check on rulemakings. So, there's the
3 Administrative Procedure Act challenges.

4 Next slide, please. So, the
5 Administrative Procedure Act gives the public an
6 ability to challenge any rulemaking if it's
7 arbitrary, capricious or an abuse of discretion.
8 This means where an agency has completely failed
9 to consider an important part of the issue or a
10 problem. It might involve where any agency made
11 a decision and then did not support it with
12 facts, or maybe they didn't offer any explanation
13 for why they're doing what they're doing. That
14 could be arbitrary and capricious.

15 And then that gives them the right to
16 challenge things for being unconstitutional, in
17 excess of that statutory authority from Congress
18 or issues about following the APA or other
19 required procedures.

20 And then there's also a right for the
21 public to compel an agency Act and that is
22 unreasonably delayed. This happens occasionally,

1 but it's one of those extra outlets where it's a
2 little bit harder to challenge to get an agency
3 to do something that they haven't already done,
4 but it is an option.

5 All right, next slide, please. Okay,
6 now we'll move on to what an ex parte
7 communication is and some of our policies. So,
8 the Administrative Procedure Act, it says it's an
9 oral written communications not on the public
10 record with respect to which prior notice is not
11 given to all parties. So, it's an off-the-record
12 private conversation to an agency employee and
13 the public concerning the substance of an on-
14 going proposed rule.

15 Next slide, please. So, while it's
16 not statutorily prohibited for us to have these
17 ex parte communications, it is policy for Coast
18 Guard and DHS not to have ex parte
19 communications. So, once we publish an NPRM we
20 aim to try to control information that we
21 receive and then information that we give out on
22 a rulemaking.

1 Next slide, please. This is the DHS
2 policy that we follow. It says that the Coast
3 Guard should consult with the General Counsel
4 before going to specific members of the public to
5 discuss rulemaking. It's strong ex parte
6 communications after publication and they're
7 strongly discouraged. And they require notice of
8 a public docket of that conversation.

9 Next slide, please. So, reasons why
10 ex parte communications are discouraged is
11 because it's inherently unfair to just tell one
12 person what our plans are and not share it with
13 everyone. It does give the public an opportunity
14 to respond to what those plans are that we're
15 given to one person and not to everyone. It
16 creates an appearance that some parties have
17 privileged information and -- discourages others
18 to participate.

19 And then sometimes if you're
20 considering information that don't disclose to
21 everyone, you create a rule that is not based on
22 fully developed policy. So, you don't have all

1 the information, you just have one source.

2 That's not good.

3 Next slide, please. So, ex parte
4 communications can occur with the public. It can
5 occur with specific industry members, Congress.
6 We're not only to tell Congress our plans for
7 rulemakings as they're considered public for our
8 purposes. And then FACA members, of course,
9 people need one source of people we tell
10 rulemaking plans with and maybe not share with
11 others. So, we can't do that.

12 Next slide, please. So, this is the
13 information we're not allowed to share, and then
14 I'll go into what we can share. So, we can't
15 tell people what our views are on the rulemaking
16 or maybe our plans. We can't give any
17 information that's not already published in the
18 docket of the Federal Register. We can't ever
19 discuss the timeline of the- rulemakings. Like,
20 that long process I showed you, I can't tell you
21 oh, it's in this stage or that stage. And then
22 we can't discuss the internal policy debates,

1 alternatives we have considered, things like
2 that.

3 Next slide, please. Things we can
4 share, we can say that we are contemplating a new
5 rulemaking. We can say we are planning to do a
6 ratemaking for 2024, but I can't really tell you
7 anything other than that. I can't give you
8 details about that; that could change.

9 So, information that we can share is
10 information that's already published. So,
11 published rulemaking documents, we can reiterate
12 what's in there. We can tell people to go post
13 comments in that docket.

14 And then OMB publishes a unified
15 agenda twice a year and that is our plan. It
16 lists all the rulemakings that we are planning to
17 do in the next 12 months. So, that source can
18 tell you what, you know, are planning to do and
19 it has a quick summary in Tab 1. They publish
20 this unified agenda on reginfo.gov and the Great
21 Lakes pilotage ratemaking is on there every time.

22 And then after a final rule is issued

1 we are allowed to get that guidance. We are
2 allowed to answer your questions; how do we
3 follow this rule. Because that would be just
4 unfair to just, if we didn't tell you how to
5 implement the final rule.

6 Next slide, please. So, there's three
7 phases for ex parte communications. So, there's
8 the pre-comment period; there's the during the
9 comment period, and then there's after the
10 comment period. I'll discuss the parameters of
11 each.

12 Next slide, please. So, pre-comment
13 period is, there's no requirements for handling
14 ex parte communications, but we like to include
15 any information that helps shape that public rule
16 in our docket. So, if a FACA recommendation says
17 to do something and we are going to do that in
18 the rulemaking, we want to say FACA recommended
19 this and we will put that recommendation in the
20 docket and tell people where we got this
21 recommendation from.

22 We also put our audit reports in the

1 ratemakings because we rely on those to establish
2 the rates every year. So, we want to be
3 transparent and tell people what numbers we're
4 using. And before the comment period, before we
5 issue the NPRM, there is an ability to share
6 information. We're allowed to discuss and gather
7 information that we need and acknowledge that it
8 is for a rulemaking process, but not necessarily
9 explain our plans or what we intend to do with
10 that.

11 Okay, next slide, please. So, as I
12 mentioned, advisory committee recommendations
13 help form our rulemakings. So, for the pilot
14 medical certificate validity period, NPRM, that
15 one extends the period to five years. We rely on
16 FACA recommendation for that and we will put that
17 recommendation in the docket, and then for our
18 ratemakings we rely on these as well.

19 So, next slide, please. Second period
20 is during the comment period. This is more of
21 like the danger zone where you're not allowed to
22 discuss anything. We tell everyone to put

1 everything in the docket. So, it begins when the
2 NPRM is published and we are keeping a record of
3 every communication that we have with the public.
4 Especially if we make any statements to the
5 public we want to post those in the docket so
6 that everyone knows what we've said on the
7 rulemaking.

8 And then if we are going to conduct a
9 public meeting on the rule, that's different from
10 this FACA meeting. We sometimes do public
11 meetings on rulemakings to get a public forum and
12 to get some more questions answered. We try to
13 do those during comment period as well.

14 Next slide, please. And then once the
15 comment period closes, we have to keep all public
16 contacts to a minimum. We can't respond to
17 questions on the status or what changes we're
18 considering in response to the comments.

19 If there are subsequent issues that we
20 need more information on we can re-open a comment
21 period at any time and solicit more comments, or
22 give some information letting people know, hey,

1 we are also considering this as an alternative,
2 please provide your comments on this. And so,
3 that gives the public an opportunity to respond
4 to those changes.

5 Next slide, please. If an ex parte
6 communication occurs, this is kind of our remedy,
7 our solution for making everything right again.
8 We will put a Memorandum of Record in the docket
9 summarizing the communication. It has to list
10 who was part of that communication and describe
11 statements made by the Coast Guard and maybe any
12 questions that we answered from the public. And
13 that would go in the docket and then we advise
14 people, hey, this is going in the docket. We
15 don't want to surprise them that their name might
16 appear on a comment in there.

17 Next slide, please. So, the Federal
18 Advisory Committee meetings must be open to the
19 public. So, at any phase we have to disclose
20 FACA communications on record. So, if we were to
21 have any discussions during this meeting we would
22 then have to relate it to the ratemaking. We

1 would have to put that information in the docket.

2 So, after this meeting, this is your
3 public notice, that we're going to post a
4 memorandum of the record, in the docket, and
5 there's the docket number for the Great Lakes
6 Pilotage Ratemaking. If we make any substantive
7 statements from the Coast Guard related to topics
8 that are on or related to that ratemaking, we
9 will put a summary and list -- in our statements
10 in the docket. So, that anyone not at this
11 meeting also knows what we discussed. We focus
12 on transparency.

13 Next slide, please. All right, that's
14 the end of my presentation. I'm happy to take
15 any questions.

16 MR. YOCKEY: What criteria do you use
17 for just cause for the initial proposal?

18 MS. SERGENT: For good cause?

19 MR. YOCKEY: Good cause, yes, good
20 cause.

21 MS. SERGENT: For good cause to --

22 CHAIR GALLAGHER: Sir, you didn't

1 identify yourself.

2 MR. YOCKEY: I beg your pardon?

3 CHAIR GALLAGHER: You didn't identify
4 yourself.

5 DFO KIEFER: Say your name into the
6 record, state your name please for the record?

7 MR. YOCKEY: Bill Yockey with the
8 Longshoremen.

9 MS. SERGENT: Okay, so we use good
10 cause to go without an NPRM. So, if we want to
11 just go straight to an effective final rule
12 without giving the public the opportunity to
13 comment, we'll use good cause. And that's very
14 rarely used for national scope regulations, but
15 often used for local like the safety zones, the
16 small things that are on more an emergency
17 situation. So, emergencies are only going to be
18 required unnecessary or practical.

19 MR. HAVILAND: Good morning, Todd
20 Haviland with the U.S. Coast Guard. Just real
21 quick, if you could kind of explain, you know,
22 the different between the quality of the comments

1 versus quantity? Because I think, you know,
2 sometimes the public will think if, you know, we
3 get 25 people to say this then it's going to have
4 more weight than if we just get like one or two
5 or a few quality comments.

6 And then if you could also explain
7 what helps us most to receive a comment? Because
8 I get a lot of, you know, I hate this rule or I
9 hate these rates; they're either too expensive or
10 they're not high enough, and that's it. It's
11 really hard for us to do anything with that.

12 MS. SERGENT: Yes, those are great
13 questions. So, quantity with the same exact
14 comment doesn't really do anything for us because
15 that does not, there's no requirement to give it
16 more weight than any other comment that only has
17 one recommendation.

18 So, we're required to consider all
19 relevant comments. So, we get one relevant
20 comment that is really well supported with tons
21 of evidence, a great recommendation and we agree
22 that it will align with our safety and security

1 missions, we will implement that one
2 recommendation.

3 But if we get comments from like a
4 thousand people all saying the same thing, like
5 the same letter whatnot, we will still consider
6 that as like one relevant comment. We'll
7 evaluate it the same way as we evaluated that
8 other one relevant comment.

9 And I guess it doesn't necessarily
10 matter how many people make a recommendation,
11 it's just the recommendation that we have to
12 consider.

13 And then the second part of your
14 comment was the quality, right?

15 MR. HAVILAND: Yes, please.

16 MS. SERGENT: Okay, so we look for
17 supported rationale. So, if somebody says they
18 want us to do something, but doesn't provide a
19 reason why, I would say that's more of a weaker
20 comment that it's hard for us to justify changing
21 something if we don't have a reason why. So,
22 numbers are always helpful for us to understand

1 statistics.

2 Historical, just any background
3 information that might lead us to believe that
4 this is a problem and this is how we should
5 change it. You might also consider giving us
6 alternatives. If you have one course of action,
7 you might consider giving us a couple
8 alternatives to consider, as those are also
9 considered recommendations and relevant comments
10 we ought to consider as well.

11 CHAIR GALLAGHER: Yes.

12 MS. KONIECZNY-KELLS: I'm going to add
13 to that as well through -- so it's always best if
14 it's reproduceable. Obviously, all our
15 authorities, if you're saying this reduces
16 safety, we will take a look at that. But if you
17 can present data and with a source and that data
18 is reproduceable that quality is best because
19 then I can take that, share those reproduceable,
20 and that's better to use in any applied data
21 analysis.

22 MEMBER CROWLEY: John Crowley. Thank

1 you for the presentation.

2 Now, often there are public meetings
3 that are devoted solely to a rulemaking process.
4 That wasn't on the chart though, I don't think.
5 Was it?

6 MS. SERGENT: Yes, that happens during
7 the comment period process usually.

8 MEMBER CROWLEY: Yes, and if you have
9 a public meeting dedicated to rulemaking process
10 would there be a Federal Register notice --

11 MS. KONIECZNY-KELLS: They would.

12 MEMBER CROWLEY: -- and describing to
13 the public interest what the things that might be
14 discussed ahead of time for preparation purposes?

15 MS. KONIECZNY-KELLS: Yes, we are
16 required to publish those notices. I think it's
17 around 30 days or 15 days at a minimum before the
18 meeting. Coast Guard hasn't done any of them
19 recently mostly with COVID. And also it makes it
20 hard to, if it's a national impact to decide a
21 location where most people might come to have
22 those meetings.

1 But, yes, we do publish a notice, a
2 Federal Register, on the same docket as the
3 proposed rule would be letting people know the
4 time and date, location, for that. And often
5 there's an option to submit comments in the
6 docket that they would consider during the
7 meeting.

8 MEMBER CROWLEY: And committee
9 meetings such as this, though, can be subject to
10 ex parte remedies aren't intended specifically
11 for an NPRM notice for public comment?

12 MS. KONIECZNY-KELLS: Yes, I mean,
13 there's always a chance the committee off chance
14 might overlap with the ongoing rulemaking, but
15 FACA meetings aren't usually the ones that we
16 present the rulemaking forum for those comments.

17 MEMBER CROWLEY: And then given
18 particularly dynamics of this committee and
19 pilotage in general, so if I can describe a
20 period from the spring when final rates come out
21 and a determination has been made on the prior
22 years' NPRM rule, and the time when the next

1 rulemaking is commenced, such as a little over a
2 week ago for '23, that period is kind of an open
3 period for meetings with the agencies. And
4 there's no particular means for different parties
5 to know what went into those discussions and
6 eventually maybe into the foundations of a
7 proposed rule.

8 MS. KONIECZNY-KELLS: Well, if we do
9 start to rely on a proposed rule we'll say, we
10 gathered this information from this source, or
11 we'll post a report in the docket. So, if there
12 isn't reliance on something and a decision's been
13 made, but in the -- the public we often don't
14 include those if they're going to be stated in
15 the rule anyway. So, like the pilot count number
16 might not have an official letter in the docket.
17 It might just be in the NPRM.

18 MEMBER CROWLEY: Sure, thank you.

19 CHAIR GALLAGHER: Thank you, Kate.

20 MS. KONIECZNY-KELLS: No problem.

21 CHAIR GALLAGHER: Do we have any more
22 discussion from the committee members?

1 MEMBER CROWLEY: I'd like to kind of
2 carry on this discussion, some of what I think
3 we've heard and I think it's very relevant to
4 this meeting. It's an on-point targeted
5 presentation given the fact that we recently had
6 the rulemaking commence for '23. And yet, while
7 there are parts of the agenda that we had a
8 chance to think about and prepare for, the
9 context of the NPRM was not available.

10 I think that it's actually a good
11 thing to have that available in advance of this
12 meeting if we're not going to have any other
13 targeted public meetings where we can discuss and
14 bring forth concerns and recommendations with
15 regard to the ratemaking process.

16 And so, I would like us to consider a
17 recommendation. I would like the Coast Guard to
18 consider in their process to intentionally
19 formulating the process here where we have an
20 intentional opportunity to have a targeted
21 discussion on aspects of ratemaking where there
22 can be an intelligent and informed exchange of

1 views during that meeting.

2 You know, and that's, I think a closer
3 example of what happens to the targeted public
4 meetings that do exist on important matters of
5 rulemaking. And I acknowledge that there
6 probably hasn't been recently in the Coast
7 Guard's experience.

8 In my view, those times of public
9 comment are when there are very important matters
10 or matters of great national significance from a
11 broad standpoint. And I would hate to think that
12 because we are only the Great Lakes Pilotage that
13 we minimize the importance of that public
14 meeting, that public discussion, you know, in
15 this context.

16 And that these are very important
17 issues with respect to the members of the
18 maritime community overall and the business
19 commerce that is produced as a joint result of
20 the maritime community at-large. So, that's
21 maybe opening a discussion. Maybe it has a
22 recommendation in there.

1 I guess I'd like to, and this kind of
2 goes to another agenda item that I had looked at,
3 but I also suggest that maybe there's
4 opportunities for members of the public, meaning
5 many of us, to focus on these things outside the
6 Coast Guard's hearing where an ex parte
7 communication, and I stand to be corrected if I'm
8 wrong, but which would not be precluded as long
9 as the Coast Guard is not here and part of that
10 discussion that other members of the public could
11 join together and exchange contrasting views to
12 help inform later public commentary that's
13 delivered to the Coast Guard.

14 There's a lot of different thoughts
15 there. I'm happy to parse some out if my fellow
16 committee members want me to or to get more
17 specific questions, but that's, those are some of
18 my thoughts here, Mr. Chairman.

19 DFO KIEFER: Again, for the record,
20 that was John Crowley. Thank you, nice job.

21 CHAIR GALLAGHER: Any other from the
22 committee?

1 (No audible response.)

2 CHAIR GALLAGHER: That will open it up
3 to the public?

4 MEMBER LAMARRE: Thank you, I will
5 respond, this is Paul LaMarre, with more of a
6 question. Are you looking for a more detailed
7 dissection of how the rate were arrived at prior
8 to the meeting with more of an explanation?

9 I'm just wondering what the specific
10 ask is?

11 MEMBER CROWLEY: I would argue that,
12 yes, there should be more detail, but I think
13 that part of the detail is, and I'm speculating.
14 I'm bringing in my comment experience, you know,
15 from the Coast Guard time, from my public private
16 business side. When rates are developed they're
17 often developed with a lot of knowledge and
18 understanding of factors that exist; numbers of
19 people, time and sequence, performance at a
20 particular level which would be, you know, given
21 off my safety in terms that we're looking at.

22 And so, there is factors that are

1 brought together and at some times of rates
2 different factors have a greater degree of
3 importance. To know what those are in advance
4 and know or be part of the discussion with kind
5 of all the public parties that are affected, will
6 allow us as public members to better comment and
7 provide better information on the ratemaking
8 process.

9 And so, I guess I would say, yes, to
10 your question, am I looking for more information.
11 But it's, I see it as a process that may be
12 better served by even the members of the public
13 having that discussion themselves and exchanging
14 that information as would be done in most
15 circles; both government and the private sector.

16 The government, the Coast Guard has
17 dynamic discussions with OMB and Congress before
18 budgets are submits, before they're approved.
19 And the public in private service, you have a
20 ratemaking between two different parties and
21 there's a large discussion about numbers, time,
22 performance and all of these factors as well that

1 go into a better thought out result.

2 And that's what I think we might be,
3 receive some benefit from in adopting some of
4 those elements and some of those other processes,
5 because otherwise I think there's a sense that
6 there's a product in the NPRM that's put out
7 there. There's comments made and because
8 ultimately the Coast Guard under the law makes a
9 rationale decision, do they really matter. And
10 it's a sense of they are brought in, but do they
11 have any impact.

12 And this is the question that I think
13 the Coast Guard would be well served with a sense
14 that there is a full discussion of the issues
15 that everyone feels that there's transparency in
16 the process up to the levels of the, you know,
17 the legal limitations. And that the outcome has
18 been arrived at in a fair and appropriate
19 fashion.

20 MEMBER LAMARRE: Todd, can I ask you
21 a question? I don't know all the rules yet.

22 MEMBER CROWLEY: Sure.

1 MEMBER LAMARRE: All right, so it's,
2 and there's been a great deal of discussion about
3 this topic previously ultimately related to
4 transparency, and it's evident through past
5 discussions that it's not black magic. It is a
6 very thorough process and it's, you have
7 economists in the room who have worked on this.
8 Is it published anywhere the list of people and
9 resources that are employed to arrive at this
10 number?

11 Because I actually, not necessarily
12 people by name, but the resources are actually
13 very impressive on how these numbers were arrived
14 at and why and wherefore. And I think actually
15 if anything would support the Coast Guard's
16 position for the rulemaking for people to have a
17 better idea of what went in to that.

18 MR. HAVILAND: Good morning, Todd
19 Haviland. I don't think we would ever publish,
20 you know, individual names --

21 MEMBER LAMARRE: No.

22 MR. HAVILAND: -- but just to dovetail

1 on Kate's presentation.

2 So, a group is formed and they are
3 called the drafting team. They take the reports
4 that Nate, who's going to give a presentation
5 with us when this is done. They take those
6 numbers and then we gather numbers from the
7 Bureau of Labor statistics. We'll look at
8 Moody's AAA bond rate. We'll look at the CPI,
9 again, which is the Consumer Price Index. We'll
10 look at the employment cost index.

11 And when I created this new
12 methodology in 2016, one of the goals was to make
13 sure that the Coast Guard had minimal influence
14 on the inputs, and that those inputs are
15 available to the public. So, this group uses the
16 10-step methodology that is published in the Code
17 of Federal Regulations and works through it step-
18 by-step-by-step.

19 When they're done with that it goes,
20 you know, to a group of divisions throughout
21 Coast Guard, and various divisions. So, it's
22 legal, it's economic, it's the pilotage office.

1 So, they look at it for, you know, anywhere from
2 one to three weeks. They comment on it and
3 everyone's looking at it from, like if I had to
4 explain this to my grandma, you know, would she
5 understand what's in the rule.

6 Then it goes up to another level, they
7 are called the office chiefs. And it's legal,
8 the economists and it's multiple legal offices,
9 you know, other people that deal with Great Lakes
10 pilotage. And then from there it goes up to the
11 Director of Marine Transportation Systems. Him
12 and his deputy look at it and the lawyers look at
13 it again. And if they all agree to it, you know,
14 we get the admiral who is the assistant
15 commandant for prevention, to say hey, we can
16 send this up to the Department of Homeland
17 Security, Office of General Counsel and then
18 Office of Information and Regulatory actions,
19 right?

20 MS. SERGENT: Affairs.

21 MR. HAVILAND: Affairs. So, they look
22 at it and then they take it over to the Office of

1 Management and Budget and they say, this is the
2 rule that we want to put out there, is this a
3 significant rule. There is some parameters
4 around what makes something a significant rule,
5 but if they give us the non-significant
6 determination then it comes back to the
7 Department of Homeland Security.

8 They take the rule and they send it
9 out to every, you know, agency component. And
10 then any other agency in the Federal Government,
11 whether it be the Department of Transportation,
12 Commerce, Defense, if they want to provide
13 comments, they can.

14 And then when all that happens it goes
15 back to the Office of General Counsel, they read
16 it, it's their lawyers and their economists, and
17 then they ask us questions. We respond to those
18 questions and then they say, hey, we feel
19 comfortable then you can publish this.

20 And that's when it goes to the docket
21 for, you know, a 30, 60, 90-day comment period.

22 And after we get those comments we've

1 got to start the process all over. So, when this
2 rule becomes final it's not just like my opinion,
3 it's not just the Coast Guard's opinion.

4 MEMBER LAMARRE: I never said it was
5 done in your basement, but --

6 MR. HAVILAND: No, exactly, and it's
7 the official position of the --

8 MEMBER LAMARRE: That's a really,
9 really good explanation.

10 MEMBER CROWLEY: John Crowley. I just
11 thought --

12 MR. HAVILAND: Can I just finish with
13 one little thing.

14 MEMBER CROWLEY: Sure.

15 MR. HAVILAND: So, and I've said this
16 a number of times. There is nothing preventing
17 the stakeholders from getting together and
18 saying, hey, this is what we think the rates
19 should be. And we'll look at it and as long as
20 it's supported with data and it doesn't
21 compromise safety we would be more than happy to
22 be the receivers of the rate and the publishers

1 of the rate.

2 But in the event that the
3 stakeholders, for whatever reason, don't provide
4 us with what the rate should be, then we have to
5 use that 10-step process because Congress
6 requires us to, to establish these rates.

7 And one little other plug, these rates
8 are the only source of income for the pilots.
9 They're not subsidized by the states. They're
10 not subsidized by the Coast Guard. They're not
11 subsidized by any other, you know, Federal
12 organization. So, we understand just how
13 important these rates are for safety so they can
14 facilitate the commerce and we all know what it
15 looks like when the supply chain is messed up.

16 That's all I've got and I'm open to
17 answer any questions.

18 CHAIR GALLAGHER: Thank you.

19 MEMBER CROWLEY: John Crowley. I
20 would just say that all of that discussion that
21 Todd so ably went through does represent a great
22 deal of effort and work and honest effort and

1 work. I grant that, but it's all Coast Guard
2 effort or government effort.

3 It is not part of a dynamic of that
4 goes on as labor negotiates its contracts, or as
5 commercial entities negotiate theirs. It's not
6 that dynamic sort of exchange of challenge back
7 and forth. And without the, you know, seeing how
8 that's, if that much work is being done, their
9 secret sauce being implemented into it. And
10 without being part of that, you know, comments
11 leave the commenters with a sense of not
12 connecting and being ineffective.

13 And so, part of this is, if a comment,
14 I know it's not taken by the Coast Guard this
15 way, but is in effort to help the efforts that
16 are taken by the Coast Guard to be better
17 accepted as a necessary and reasonable assessment
18 of costs.

19 Now, as the NPRM, for example, isn't
20 all ratemaking this next time as we all know
21 after having looked at it. So, there are
22 elements that aren't simply rates that may be

1 harder for the parties to get together on. But
2 there may be other elements that are easier and
3 that can, then, you know, focus the conservative
4 effort that needs to be left to the Coast Guard
5 to a smaller subsection. And their work can be
6 less by that.

7 But this can't be all done, I don't
8 think, just sua sponte on our own behalf without
9 some recognition by this committee or the Coast
10 Guard. And I don't quite yet understand the
11 dynamics of this FACA committee as opposed to
12 others, but I just think that some other way of
13 endorsing or accepting that there's value to the
14 system can really be made, and that's --

15 MEMBER LAMARRE: There's no silver
16 bullet though. That's the other thing, is that I
17 don't think that whether it's our committee or an
18 individual group should have the ability to tell
19 an economists where they have done right or wrong
20 if they're the ones that have all this
21 information and are doing a full scale analysis
22 of it.

1 So, is it my economist, no, but it's
2 just like is it my lawyer or is it my feasibility
3 study company I hired or otherwise. And this is
4 something we deal with the Ports Association
5 obviously, and I am often the odd man out in our
6 group.

7 However, I do believe, like when the
8 rate came out here last week and we have a few
9 people that are howling at the moon about the
10 rate increase, and it's like, well, what's going
11 on folks. They're, we're economists that work on
12 this. There are all these people and the Coast
13 Guard has taken a look at it, and there are
14 reasons.

15 So, I will say that probably the Coast
16 Guard would be better served in putting out what
17 those reasons are in a more concise format.
18 Because your explanation was very good, but it is
19 something that I don't think that is done and
20 support without good reason.

21 VICE CHAIR BOYCE: That's Paul
22 LaMarre.

1 MEMBER LAMARRE: Yeah, this is Paul
2 LaMarre.

3 MEMBER CROWLEY: John Crowley. What's
4 not done with haste or without good reason.
5 Nevertheless, either, and silver bullets don't
6 have to be targeted just at the final rate. They
7 can be targeted at achieving better consensus and
8 a sense of a community which goes back to Clay
9 Diamond's presentation that this isn't just a
10 pilot, it's just not a master. I mean, they're
11 both, the system is really required to work
12 together here for a safe and effective result for
13 the public interest.

14 Which, oh by the way, includes more
15 than I would suggest going to the rates, more
16 than simply the economics and the wage scales in
17 very targeted areas. You know, the unfolding
18 economic, both impact and inflation and
19 recessionary tales, run through the supply chain
20 and impacts, eventually, the jobs on the
21 waterfront by virtue of the work coming in.

22 And economists, I don't think widely

1 agree on what should happen and, unless there's a
2 dynamic presentation of those various
3 presentations I --

4 MEMBER LAMARRE: You know, I don't
5 think that our, that industry and the ports, or
6 anybody that's utilizing the system, we
7 ourselves, and I just relayed this to our
8 Executive Director just recently, we could all do
9 a better job if there is a question or an
10 argument of actually knowing how a rate increase
11 and pilotage affects your operation specifically.

12 And that's something that really
13 bothers me because you get this, there's an
14 increase. Just the word increase you're going to
15 have 50 percent of the folks losing it. And yet
16 you want to say, how does this specifically
17 affect your business of per ton or throughput or
18 otherwise.

19 And I think that if there is going to
20 be major, whether it's dispute or call for more
21 accountability, that the people asking those
22 questions should be able to better identify how

1 specifically that rate affects their business.
2 Because usually it's just, well, there's an
3 increase and we can't have any increased costs in
4 the system. Well, there are lots of increased
5 costs in the system. So, how is that affecting
6 your business. Well, they don't know that.

7 MEMBER CROWLEY: Well, and John
8 Crowley agrees with that --

9 MEMBER LAMARRE: All right.

10 MEMBER CROWLEY: -- with the exception
11 that in my experience in the particular public
12 sector, in the private sector, that by being
13 forced to come up with proposals and respond to
14 proposals at the proposal time you figure those
15 answers out.

16 When you don't have a part to play in
17 that lead-up to it and you come up with an answer
18 you go, well, it's got to have an impact but, no,
19 I don't know what it is with exasperation.

20 So, if any, now it's got two
21 protagonists/antagonists, whatever, on the
22 committee --

1 MEMBER LAMARRE: We will bring the
2 full -- next time.

3 MEMBER BRAY: Can I make a comment
4 please? Susan Bray with ArcelorMittal. We
5 represent commerce on the Lakes. We do about 1.2
6 million pounds into the U.S. into NAFTA every
7 year. Our Lakes exposure is huge. It's very
8 meaningful to us.

9 And I've got to say as a new member
10 committee and really digging into this for the
11 past three months or so or two months, it's been
12 very enlightening to me how much I don't know, to
13 tell you the truth.

14 And how, and one of the key questions
15 and just what you said, Paul, and that's, you
16 know, what does, what do these rate increases
17 mean to me. How do they impact my funds. How do
18 they impact my marketplace. How does it impact
19 my freight rates, for instance. It definitely
20 doesn't wreck impact onto my freight rates which
21 has ultimately direct impact on my marketability.

22 Also, you know, for us it, and of

1 everyone here sitting here, there is always an
2 alternative to bringing material across the
3 water. It can come locally and domestically
4 across rail.

5 So, we look at this, I am looking at
6 this from a very direct impact position which I
7 think is unique to the committee. And I'm having
8 a little bit of trouble too getting quantified.
9 I mean, I just started looking at it, what is it.
10 I've requested that from my carriers. What
11 percentage of your freight rate is my, is
12 dedicated to pilotage.

13 And going back also to my principals
14 in Antwerp who actually do contractual fixed
15 rates of these vessels. How much of it really
16 impacts our bottom line and what is the impact to
17 the food chain after me. And ultimately, what's
18 going to impact all of us in our daily lives.

19 So, it's, we're all interconnected.
20 It's something that I always want to remind
21 everyone, that the roads that you drive on and
22 the refrigerators you have in your homes are all

1 impacted by these types of things.

2 So, I see your point, Paul, but I also
3 see yours as well. And I would like to further
4 get my head around exactly what the impact is on
5 us of these types of rate increases. Not only in
6 pilotage, but in all, all kinds of different
7 components. It's very interesting, but I did
8 want to remind everyone that ultimately it does
9 follow the food chain right to your back doors.

10 CHAIR GALLAGHER: Any more discussions
11 from the members?

12 MR. HALL: Thank you, Mr. Chair, and
13 I've really enjoyed the commentary here.

14 CHAIR GALLAGHER: Can you state your
15 name.

16 MR. HALL: I'm sorry, I'm Chris Hall,
17 Shipping Federation of Canada. I'm representing
18 the foreign carriers, the international carriers
19 into the Lakes.

20 So, I had my hand up earlier after
21 John's, Mr. Crowley's initial comments, and I
22 wanted to, for the record, be in agreement with

1 his thoughts on the process and, you know, the
2 Notice of Public Ratemaking and the timing of
3 that and how it aligns with this meeting here in
4 creating a bit of a different process or other
5 mechanisms where industry can be part of those
6 earlier discussions.

7 I think that would be extremely
8 valuable and it ties in with Mr. LaMarre's
9 comments a few minutes about those rates and all
10 of the, the level of effort that I'm learning
11 goes into the development of these rates, is
12 significant, and I'm just beginning to understand
13 that now. The number of people involved in
14 Washington and other areas that develops that
15 final number is huge.

16 Yet, industry, the ones that are
17 paying for that are not part of that and have no
18 input to the develop of those numbers. It's
19 purely a reactionary type of environment. All
20 work gets done, it could be all 100 percent
21 correct and valid, it follows the 10-step
22 process, all validated by the top economists in

1 the country, yet, those paying for it don't
2 really have any opportunity to comment as the
3 numbers are being developed.

4 It's a little bit, you know, the horse
5 is out of the barn, you know, the final number is
6 there and it's a lot harder to argue the final
7 number than is some of the individual constituent
8 components to that.

9 So, all I have to say, I agree with
10 John's earlier comments and I think we all need
11 to remember that someone pays for that and
12 industry knows that increases need to occur. We
13 all have increased costs in our business. I
14 don't think, we'd be pretty naive to say that the
15 foreign fleet expects zero increase year over
16 year. That's not true at all.

17 There is an expectation that rates
18 will go up, but it needs to be in a reasonable
19 way and in a way that is based on fact and real
20 inputs, because ultimately someone is paying, it
21 isn't a faceless ship-owner in Timbuktu. Those
22 rates get passed on to the final customer.

1 And to your point, Susan, it's
2 typically a domestic entity that ends up
3 receiving that increased cost and increased
4 freight rate or some other charge. So, it
5 trickles through the system. It just isn't
6 resting on some foreign shore. So, thank you,
7 Mr. Chair. I appreciate the opportunity.

8 CHAIR GALLAGHER: Chris, Captain
9 Gallagher, a comment to yours. We've sat down on
10 this numerous times and tried to work things out.
11 To me, the process is pretty simple. You have
12 the number of pilots you need. You have the
13 recognizable expenses that you wanted to get
14 done. And the Coast Guard looks at it and does
15 have the opportunity to look at them. They're
16 all on the docket. You have the compensation.

17 We've tried numerous times to sit down
18 with them, and we have. And we can't, we can't
19 even make one of the three or four items that we
20 can say to the Coast Guard, all right, here are
21 the number of pilots, here is the average type
22 for delays. Because you listen to some carriers

1 and they say, well, we don't mind delays, until
2 there is a delay. Then they're screaming.

3 And there's other carriers, they don't
4 care what the cost is. They don't want delays.
5 So, I mean, we would be more than happy, the
6 pilots, and their representatives from the pilot
7 groups to sit down, at any time, and try to
8 hammer out some of these things.

9 We're not opposed to that. We've
10 tried it before. The last time we tried they
11 said, well, what we're going to do is we're just
12 going to wait until these lawsuits are done,
13 we're going to wait for the lawsuits, you know,
14 and it never happens. But we would be more than
15 willing to sit down and if we can come up with a
16 recommendation to the Coast Guard, the Coast
17 Guard would love that. They would like nothing
18 better than that.

19 MEMBER LAMARRE: Okay, just as the
20 industry is demanding more accountability of the
21 process for the Coast Guard or otherwise. In my
22 opinion, even as industry myself, we need to come

1 with more accountability with how is this
2 affecting us so that that dialog can occur on an
3 apples to apples basis.

4 And it's also very hard when you're
5 comparing safety to economy and profit. And so,
6 all of those factors I think, they make it
7 complicated. My thing is, you guys are coming
8 with those numbers, with that accountability, the
9 issue needs to be approached from industry side.
10 Our side is receiving the service, how is it
11 affecting us. And I don't think that industry
12 does a good job of that.

13 CHAIR GALLAGHER: Mr. Haviland?

14 MR. HAVILAND: Todd Haviland, U.S.
15 Coast Guard. And the other thing that I will
16 offer up, I've always maintained a very robust
17 travel schedule. I go to a lot of the industry
18 meetings. When I'm asked I will, you know, go to
19 just about any city in and around the Lakes to
20 give a presentation on how the Coast Guard does
21 what it does and what things we're looking at.
22 We never stopped traveling during COVID. We

1 never stopped having meetings during COVID. So,
2 I just want to offer that up.

3 And again, to emphasize what Captain
4 Gallagher said, even if the group, whoever is in
5 that group, you know, says hey, this the numbers
6 of pilots we want each district to have. That
7 would be extremely helpful for us, because
8 really, you know, this is, we understand our
9 safety rule, but without those inputs we're going
10 to rely on the 10-steps. I've never going to
11 apologize for relying on those 10 steps and I'm
12 never going to apologize for the inputs that go
13 into those 10 steps.

14 If an input is wrong, I have no
15 problem if you tell me why it's wrong and where I
16 can find the right answer, changing anything. I
17 mean, I think one of the beauties or the great
18 advantages of how we regulate pilotage on the
19 Great Lakes from the U.S. Coast Guard side, we
20 have no vested interest in this.

21 I mean, whether a million ships come
22 or 10 ships come, it doesn't change how much I'm

1 going to make this year. I have no performance
2 bonus that is tied to any of this, you know, I
3 look at this very indifferently. I use the
4 methodology. We do our best to explain it. If
5 there are areas that we can provide additional
6 transparency, please tell us what you would like
7 and then we can figure out, you know, if and how
8 that's available. Thank you.

9 MR. FRANKLIN: Dan Franklin, Lakes
10 Pilots. I just want to make the comment that I
11 think when it comes out with a rate increase
12 everybody thinks pilots got a raise. That rate
13 increase is based on inflationary factors. So,
14 the dollar increase this year is tied into equal
15 values from last year plus inflation.

16 So, we actually didn't get a raise.
17 When you look at the amount or value going up the
18 shipper is going to pay, this number of pilots
19 are going up because traffic will always go
20 along. We have three cruise ships in the portage
21 right now. That's the first time ever. First
22 ever. And so, expanding that cost, there's also

1 more traffic. It's not just us saying, yes,
2 we're needing more money. It's the same value of
3 the dollar last year with the inflationary
4 increase on this year, plus the inflationary
5 increase for expenses based on three years ago.

6 Our boats are old. Our reviewers are
7 here. We're audited yearly, you know,
8 president's price before that, it's a
9 corporation; we're audited. We can't say that
10 for the people that we service. A lot of them
11 are private companies making more of that now --
12 so, but our boats are available always.

13 CHAIR GALLAGHER: Mr. Diamond?

14 MR. DIAMOND: Clay Diamond with the
15 American Pilots Association. If this is the
16 Great Lakes Pilotage Advisory Committee I'd like
17 to maybe get the focus back on GLPAC and the
18 value of GLPAC.

19 Since any recommendation of this body
20 has to be a super majority, that's the only way
21 an approved recommendation gets to the Coast
22 Guard. The last probably decade GLPAC has added

1 a lot of value because it's been able to make
2 nearly unanimous of 6:1 or 7:1 recommendations to
3 the Coast Guard about broad systematic things;
4 pilot training, infrastructure, medical
5 certification, credentialing, broad systematic
6 things.

7 Back to the original suggestion about
8 somehow timing it year round to make a big part
9 of this meeting, I think we're just -- what's
10 going on, what's supposed to go on here. To turn
11 this into a quasi-rate-setting body where there's
12 going to be acrimony and arguments back and forth
13 about what the rates should be, and this is too
14 much and that's too low, I think it undercuts the
15 value of this advisory committee. Which, again,
16 is to provide broad systematic recommendations to
17 the Coast Guard.

18 In fact, to Captain Gallagher's point,
19 several times we've had debate rates, outside of
20 the context of GLPAC between pilots, labor,
21 reports, trying out a dozen things. That's your
22 point, Captain Gallagher, wasn't it? It wasn't

1 great, but there was some discussion. I don't
2 think anybody in the room here is opposed to
3 those kind of discussions outside of this body.

4 Again, trying to use this body to
5 debate rates is, I think pointless. And, again,
6 back to the boats at this point, so I would just
7 offer that. And keep discussions about -- at a
8 different forum, but I think that's a good idea.
9 I just don't think this is the forum to do that.

10 And as far as, just one kind of final
11 point about the rate-setting process, I think
12 it's kind of portrayed in the industry that, you
13 know, who "pays the bills", doesn't have any
14 input in the system, you know, before it comes
15 out. Well, either do the pilots. As the
16 Director said, they are the internal process to
17 look at how it should be funded, a 10-step
18 process that they have to follow, by the way.
19 It's not discretionary. They have to follow
20 that, and then they come up with a number.

21 Then when it's published after all
22 these inter-agency and inter-government review,

1 then the public, which includes pilots, the
2 industry, the ports, labor, it includes
3 everybody, that they're going to have an equal
4 opportunity to comment. And I think to say that,
5 oh, nobody listens to our comments is, I mean,
6 you can say that about any ruling. You know, the
7 government, we have to trust that's it good faith
8 on behalf of the government, and they take public
9 comments. They take them seriously. They
10 adjudicate the comments and make a decision.

11 Thank you, that was longer than I
12 intended. Sorry about that.

13 CHAIR GALLAGHER: Thank you.

14 Any other comments from the public?

15 (No audible response.)

16 CHAIR GALLAGHER: No other comments.

17 Any recommendations from the committee?

18 (No audible response.)

19 CHAIR GALLAGHER: No recommendations,
20 we'll move on to the next topic.

21 The next topic is Necessary and
22 Reasonable Expenses for Ratemaking. The Coast

1 Guard determines which expenses are necessary and
2 reasonable to establish annual pilot rates.

3 Additionally, the Coast Guard wants to ensure
4 that the billing procedures produces revenue
5 proportional to the demand of pilot service.

6 Finally, the Coast Guard wants to
7 ensure that shippers are charged once the
8 necessary and reasonable expenses and they come
9 from all of the revenues.

10 Nate Turner, Senior Manager for
11 CohnReznick will explain the agreed upon
12 procedures for developing the financial reports
13 the Coast Guard uses for the annual audit to
14 establish final rates.

15 Nate?

16 MR. TURNER: Good morning, everyone.
17 I'm based out of CohnReznick. We have a contract
18 by the Coast Guard to perform the annual reviews
19 to discuss the cost of revenues that we realize
20 what we need to look at.

21 One, just to explain to the pilots and
22 as Captain Gallagher explained. The purpose of

1 the procedure and the expense, the agreed upon
2 procedures that we perform, there's an assisted
3 rate that's -- in determining expenses and the
4 accountability requirements before making our
5 decision.

6 This determination is made by ensuring
7 that expenses submitted are one, properly
8 documented and have proper support; the invoices
9 and minutes of where those expenses are existing.
10 We ensure that those expenses are exclusive of
11 lobbying activities, making sure that those
12 expenses are exclusive and not including personal
13 matters. To ensure that those expenses that are
14 directly related to piloting activities.

15 And we also ensure that those expenses
16 that are submitted for that period are related
17 solely to that period and that we don't have
18 calls that occurred in a prior year or subsequent
19 year be included in the current year in review.

20 Additionally, we ensure that the for
21 the U.S. Pilotage activities we have to make sure
22 that any convenience expenses are excluded from

1 the ratemaking process, the full ratemaking
2 process as well.

3 Additionally, we review expenses that
4 may not be directly related to pilotage where
5 revenue may be incurred to ensure that the
6 expenses that are submitted exceed the amount of
7 revenue that may be earned. So, if there's a
8 difference in that amount we will adjust based on
9 the amount of expenses to ensure that there isn't
10 an additional loss being incurred based on
11 activity that is not related to pilotage.

12 And also, we perform the review over
13 the revenue to ensure that that is actually
14 existing. So, in that instance we ensure that
15 the revenue that they reported based on an audit
16 financial statements can be reconciled to the
17 general ledger. We also reconcile that invoices
18 being, that's provided by the Pilot Association,
19 to additional ensure that the billings are
20 accurate. And so, in doing so we re-calculate
21 that the time duration for the trips and ensure
22 that rates that are being charged to the agencies

1 are accurate and following procedures.

2 The guidelines that we utilize to
3 measure and ensure the accuracy and efficiency
4 are one, the title, Title 46, it should be Part
5 404, Great Lakes Ratemaking, Section 5, in
6 addition, utilize the Federal Register in final
7 rulings. In addition, utilize that prior years
8 reviews have been conducted. And can easily
9 confer with the Director of Pilotage to ensure
10 that everything is allowable and eligible in our
11 reviews.

12 One thing I would like to highlight in
13 our review that the methodology is a hybrid. And
14 since we are, your audit financial statements are
15 going to be on approval basis; however, for
16 ratemaking purposes, we do allow quasi cash basis
17 expenses to be included where if you pay for it
18 in that season it can be included into the rate.

19 So, there's been incidents where we do
20 have adjustments where the different Pilot
21 Associations that you guys are familiar with can
22 include costs that are not going to be reported

1 in the audited financial statements because
2 they're on an approval basis.

3 However, if you paid for that item
4 through a current year, it can be included in
5 that year's rate and you can be, you know,
6 compensated for -- additionally, for that
7 purpose, we don't just utilize the expenses
8 reported in your financial statements. We
9 provide the pilots at the beginning of our review
10 with a submission form so they can report their
11 expenses and then they can make the necessary
12 adjustments prior to our review.

13 So, then, we then confirm those
14 adjustments that they are making and ensuring
15 that the amounts are accurate and can be
16 substantiated with the proper documentation, and
17 they are eligible via the -- and in instances, we
18 do have findings, I have a couple of examples
19 where it could be, you know, finding for a
20 reported expense that was not incurred in that
21 current year. We have examples where there may
22 be missing documentation or we don't have any

1 expense. So, we don't have invoices to support
2 it, so we can't award it. We also have examples
3 where it could be a portion of an expense that
4 was submitted that related to pilot, Canadian
5 pilot and it didn't, that should not have been
6 submitted.

7 And we also have, it's a common
8 adjustment where it could be lobbying expenses
9 included in that expense that was submitted for
10 ratemaking purposes. So, we make the necessary
11 adjustments or propose those adjustments to have
12 those removed prior to the removing -- all
13 revenue contract by Coast Guard goes for reviews.
14 Any questions that are related to that.

15 MR. HAVILAND: Todd Haviland. Do you
16 mind just giving a brief history from, you know,
17 when CohnReznick first started performing this
18 service for the Coast Guard up through today,
19 because I think it would be beneficial for the
20 committee members and the public to understand
21 just how long CohnReznick's been working on this.

22 MR. TURNER: So, we've been performing

1 these reviews for a number of years now. The
2 initial kind of time back for us dating the
3 accrual basis versus a quasi-cash basis. The
4 initial portion of the review there was, starting
5 based on the financial statements. And we
6 actually identified that that was not actually
7 fair to the Pilot Associations. We have a lot of
8 adjustments based on their accrual basis where
9 the things we reported, recorded properly based
10 on the actions.

11 However, for rulemaking it is not, it
12 is not eligible. So, you know, we allotted, and
13 we created the submission form over the course of
14 our reviews to allow the Pilot Associations to
15 include and remove expenses that shouldn't be
16 included for rulemaking purposes.

17 This allotted for opportunities where
18 they have large purchases being made to our,
19 during that period to be included. Where, on a
20 GAAP basis they wouldn't be included. They would
21 have to be depreciated over a 10 year and use of
22 life -- however, if they spend that cost during

1 that year, they're now allotted the opportunity
2 to include that full basis during that year
3 during the review.

4 That was a change that we made or just
5 developed, and just in correspondence and
6 understanding the activities that occurred in
7 pilotage. And that was one thing that, you know,
8 we pride ourselves on understanding, you know,
9 being fair, reasonable review independent of the
10 Coast Guard. We were granted one of our criteria
11 and we rely upon the conferring with the
12 pilotage; however, our reviews are fully
13 independent.

14 We take a blind eye when we review
15 expenses where we have adjustments that are
16 upward and downward. So, not only just removing
17 costs, we have adjustments where sometimes we
18 have recommendations to increase when we see that
19 there may be, you know, anything regulatory
20 issues, when we see that they may have over-
21 adjusted or under-adjusted.

22 MR. HAVILAND: Todd Haviland, Coast

1 Guard. If I could just make one quick statement.
2 I just want to make sure everyone understands.
3 So, the way that the rulemaking process works,
4 you know, we kick out a rule every year that
5 takes a lot of agencies a lot longer to do that.

6 But right now CohnReznick is looking
7 at the expenses from last year. At the end of
8 this year I will get that report. The soonest I
9 could use those numbers will be in a future
10 rulemaking. So, I just hope everyone appreciates
11 that, you know, these Pilot Associations are
12 spending money today and incurring expenses with
13 the hope that future business comes back to
14 reimburse them for those expenses.

15 Because if that traffic doesn't come,
16 then those expenses are, you know, are in expense
17 heaven, never to be seen again.

18 MR. TURNER: Thanks. And one
19 additional point I would like to make. During
20 the reviews the fifth year of every -- requires a
21 site visit. So, that site visit requires going
22 to each, I'm sorry, to go to each Pilot

1 Association to observe operations and coincide
2 meetings with the president and conduct our
3 reviews on site.

4 So, that also enables us to gain a
5 further understanding of activities being
6 performed and to, you know, to see the actual
7 physical activities that are being done and the
8 physical expenses that are being incurred. It
9 gives us another level of comfort in the amounts,
10 in the amounts that they're reporting in
11 determining eligibility for reimbursement.

12 I have no more questions.

13 MR. YOCKEY: In calculating these
14 expenses --

15 CHAIR GALLAGHER: Name?

16 MR. YOCKEY: -- oh, Bill Yockey with
17 the Longshoremen. In calculating these expenses,
18 as you said, you go up and down. Let's just pick
19 one. Hospitalization costs are in a group, do
20 you take 100 percent of what's allowed in the
21 rate or do you just take a percentage?

22 MR. TURNER: So, hospitalization in a

1 sense where --

2 MR. YOCKEY: A policy or --

3 MR. TURNER: On-site accident?

4 MR. YOCKEY: Uh-huh.

5 MR. TURNER: So, that honestly will
6 probably be encompassed in the Worker's
7 Compensation Act that's been awarded for that
8 year. So, if there's a Worker's Compensation --
9 details and supporting documentation to support
10 that claim submitted that expense, but it would
11 be 100 percent of the cost. We do not take a
12 percentage, because we couldn't be able to
13 determine the amount that is suggested is
14 allowable. It will be 100 percent of that cost,
15 but it will be Worker's Compensation awarded for
16 that year.

17 MR. YOCKEY: Thank you.

18 CHAIR GALLAGHER: Yes?

19 MEMBER CROWLEY: John Crowley. I
20 don't know which one of you wants to answer this
21 question, but I'm a little confused about that
22 comment that if there was an expense that was not

1 allowable it comes out of the pilots', and I
2 don't remember what word was used, but my
3 impressions was it somehow wasn't being
4 compensated at, an expense that was paid out
5 wasn't being compensated by rates, is what I
6 guess I would take from that comment.

7 I was confused so I, if you can
8 straighten out my confusion?

9 MR. HAVILAND: Do you mind if I answer
10 that?

11 MR. TURNER: No.

12 MR. HAVILAND: Nate can tell me if I'm
13 right. Todd Haviland.

14 PARTICIPANT: Or if you're wrong.

15 MR. HAVILAND: Yeah. I thought I was
16 wrong one time.

17 So, the way that the system is set up
18 at various change points, the U.S. Pilot
19 Association will provide pilot boat services and
20 in some instances the Canadian Great Lakes
21 Pilotage Authority provides pilot boat services.

22 I think what happens in Port Huron is

1 a pretty good example. So, the D-2 pilots
2 provide pilot boat service. For the D-2 pilots,
3 the D-3 pilots, the Canadian pilots that work the
4 Lake. When I say the Lake, or that work Lake
5 Huron, and then the Canadian pilots that work the
6 river. So, sometimes there are charges that have
7 been worked out between Danny Gallagher's group
8 and Jon Olney's group and then Michelle.

9 And what Nate does is he says, okay,
10 all that money that Danny generates for providing
11 that pilot boat service, he makes sure that it
12 gets discounted out of the expenses so you're not
13 charged twice. And then Danny and his group
14 isn't, you know, making extra money on the side
15 to provide that pilot boat service.

16 Did I explain that?

17 MR. TURNER: Yes, but hold on. Just
18 to make it a little bit --

19 MR. HAVILAND: Succinct.

20 MR. TURNER: I'm sorry, Nate Turner,
21 CohnReznick, contracting for the Coast Guard for
22 their expenses and revenues.

1 To simplify it a little bit, imagine
2 an activity being performed and you're incurring
3 a loss as opposed to your revenues you earned.
4 So, as long as that revenue, say you make
5 \$100,000, but you incurred \$50,000 in expenses,
6 those are your --

7 MEMBER CROWLEY: Here's part of your
8 problem with accrual versus cash basis.

9 MR. TURNER: -- but, not essentially.
10 So, earning more revenue than you're incurring
11 expenses, those expenses are allowed for rating
12 purposes. However, you're not allowed to incur
13 \$100,000 in expenses and only earn \$50,000 of
14 revenue and then submit that \$100,000 in expenses
15 for ratemaking purposes. That \$100,000 would
16 then be reduced to the amount of revenue that you
17 incurred. So, the \$100,000 you incurred would be
18 reduced to \$50,000 of revenue that you earned for
19 that activity. It doesn't work --

20 MEMBER CROWLEY: John Crowley. So,
21 what I heard you say, which makes a lot of sense,
22 is that you're not authorized, like government or

1 any other business quite frankly, you're not
2 authorized to expense money that you don't have
3 revenue for?

4 MR. TURNER: Exactly.

5 MEMBER CROWLEY: Okay, that makes
6 perfect sense. Thank you.

7 MR. TURNER: Any additional questions?

8 (No audible response.)

9 CHAIR GALLAGHER: No questions. Are
10 there any comments from the members?

11 (No audible response.)

12 CHAIR GALLAGHER: Okay, if not, are
13 there any questions or comments from the public?

14 (No audible response.)

15 CHAIR GALLAGHER: Okay, if not, we --

16 MEMBER CROWLEY: Excuse me, Mr.
17 Chairman, John Crowley.

18 Is this the discussion on necessary
19 and reasonable on the agenda item? I mean, I
20 know it was a presentation and I appreciate that.
21 But when I saw the agenda item I thought maybe
22 this was in support of that and I didn't want to

1 breeze by the agenda item without completing a
2 discussion on it.

3 I'm just trying to understand the
4 agenda item as a point of order.

5 CHAIR GALLAGHER: I believe the agenda
6 item was the presentation, what is recognizable
7 and reasonable.

8 MEMBER CROWLEY: Okay, I expected a
9 discussion on necessary and reasonable which are
10 not so much qualitative terms as they are
11 subjective terms. And so, I guess I thought we'd
12 learn something about that, but if that's, if
13 this was the point of the agenda item, I'm not
14 trying to make something more out of it.

15 CHAIR GALLAGHER: Mr. Haviland?

16 MR. HAVILAND: Yes, good morning, Todd
17 Haviland, U.S. Coast Guard.

18 I mean, Kate's our Project Counsel and
19 she can tell us whether or not we're outside the
20 bounds of the agenda item.

21 But the purpose was to bring
22 CohnReznick in to demonstrate that there's a

1 third independent party outside of the Coast
2 Guard that assembles these expenses that helps us
3 determine their reasonableness and then the
4 necessity, but it's your committee.

5 If you want to discuss some of these
6 expenses, unless it would be outside the bounds
7 of the agenda, we have no problem with that, and
8 I don't want you to feel stifled.

9 CHAIR GALLAGHER: Dan Gallagher. What
10 I wanted to do is, they come in, they look and
11 they say, okay, we're only paying -- view the
12 cars, the cost of the cars, what are they, how
13 many cars do you have, property taxes, make sure
14 the house is, you know, that nothing is, they're
15 not paying for my wife's fur coat.

16 MEMBER CROWLEY: Again, I appreciate
17 that, the nature of audits and the work that gets
18 done there. And so, if this was a discussion on
19 auditing, I got it and I appreciate the
20 information today. I always go a little bit
21 beyond that. I wasn't going by auditing rules
22 when I, in my mind set, when I read the agenda

1 item I thought it was something else. And so,
2 it's just a matter of getting on the program.
3 I'll catch up with you.

4 CHAIR GALLAGHER: All right, if
5 there's no other recommendations what we'll do is
6 we'll take a 15 minute break and we'll come back
7 in 15 minutes.

8 (Whereupon, the above-entitled matter
9 briefly went off the record.)

10 CHAIR GALLAGHER: Okay, we're just
11 going to go back to the rate making part of it.

12 Catherine, do you want to make a
13 comment?

14 MS. KONIECZNY-KELLS: So, again,
15 Catherine Konieczny-Kells, love me or hate me. I
16 do this every year.

17 Just a nuance I wanted to emphasize is
18 my analysis is really broken up into two parts
19 every year. So, we have the very regimented 10-
20 step methodology for rates which gets us to that
21 final table of what rates are going to be, but if
22 you keep going there's more work which is the

1 impact analysis.

2 So, that's where we're really breaking
3 down what did that percentage increase, what are
4 the components of that. How much is that vision.
5 How much of that is traffic. And there's a lot
6 more flexibility in what I can -- doesn't matter.

7 So, if like Susan was saying earlier,
8 if there is something we're missing where, you
9 know, you just -- off rail, and you have numbers
10 that could be included in that. So, those are
11 very, very helpful comments because it's giving
12 something I can put that in there. And that's
13 where we have the opportunity to include some of
14 these metrics that we don't have to change the
15 methodology to certain -- that could impact that
16 I can include in my assessment very easily.

17 So, if you have those, please, please
18 provide a comment with what I should be including
19 and I would be happy to do more of that.

20 CHAIR GALLAGHER: Okay, the next item
21 on the agenda is Staffing, the Importance of the
22 System Reliability in Cruise Ships.

1 Traffic referred to -- causes unique
2 and welcome challenges. Just a few years ago
3 steel imports and grain exports go into nearly
4 all the pilots demand. This dry bulk cargo
5 industry has a limited power to delay.

6 The petroleum tankers and cruise ships
7 in addition to voluntary pilotage from the
8 Canadian Domestic Fleet has changed the
9 perception regarding delays and projections for
10 pilot demand. This affects Pilot Associations
11 staffing.

12 Mr. Todd Haviland, Director of Great
13 Lakes Pilotage will give us a, provide an
14 overview of the Pilot Association staffing
15 challenges.

16 Mr. Haviland?

17 MR. HAVILAND: Good morning, Todd
18 Haviland, U.S. Coast Guard. Thanks Danny.

19 I've been, I started doing the rates
20 around 2010. I became the Director of Great
21 Lakes Pilotage around 2013, and traffic has
22 changed tremendously in that time. It used to be

1 that we just had to plan for that rush at the
2 opening of the season. Traffic would almost fall
3 off to nearly nothing through June, July, August
4 and most of September. And then everyone would
5 sit around with their fingers crossed that the
6 ships were going to come in before the locks
7 closed to grab the grain, you know, from the
8 harvests and take it to market.

9 So, the staffing model was created to
10 deal with this rush at the opening of the season
11 and rush at the end of the season. But what we
12 have now is a rush at the opening of the season
13 and a whole bunch of demand throughout the year,
14 and another rush at the end of the season.

15 And it's a delicate, you know,
16 balancing act for us because I know if we have
17 too many pilots they're not going to get the
18 recency trips. And I'm going to hear all these
19 complaints about how they're not making their
20 money. And if I don't have enough pilots I'm
21 going to hear, you know, from the shippers, we
22 hate these delays. And the pilots are going to

1 tell me I'm making all this money, but I don't
2 get any time to enjoy it.

3 And then, you know, we're looking at
4 instead of the safety issue associated with not
5 maintaining recency, I've got to start looking
6 at, you know, fatigue and fatigue management.

7 And we have a staffing model that sets
8 an upper limit on how many, you know, pilots we
9 will approve in a rate. And we view that from
10 the Coast Guard perspective as this is the number
11 of pilots we believe that is necessary for safe,
12 efficient, reliable piloting service throughout
13 the Great Lakes.

14 But as these numbers have grown and
15 people will, you know, we think we've got
16 everything lined up and then two months before
17 someone's going to complete the rest of their
18 training, they decide that pilotage is not for
19 me. And now we've got to start over from
20 nothing. So, depending on the mariner's
21 qualifications and experience, it's going to take
22 us anywhere from six to 24 months to get that

1 mariner trained to be a U.S. registered pilot.

2 And then on the other side, this
3 always seems to happen like right before the
4 season starts or right after it starts, there
5 will be a health issue. And when we thought
6 we're going to have, you know, a strength of X
7 number of pilots in a group, now someone fails a
8 medical or, you know, someone has a heart attack.
9 Someone has an accident and now they're laid up
10 for seven, eight months dealing with a back
11 issue.

12 Or what sometimes is even more
13 challenging, an immediate family member.
14 Someone's spouse or child will need, you know,
15 long-term hospital care, and the pilot's like,
16 you know, well, I just. So, you know, we go into
17 the season thinking this is going to be the pilot
18 strength; this is going to be the number of
19 apprentices we need, that should deal with
20 attrition, that should deal with maybe an uptick
21 in pilotage demand.

22 And then life happens and it takes us,

1 you know, a year before we can start addressing
2 those things in a rate. And it takes us up to
3 four years before we can start, you know,
4 addressing replacing those pilots at times.

5 So, what my question is to the
6 committee is, you know, do you think any
7 modification should be made to the staffing model
8 that gives the Coast Guard a little bit of
9 discretion? Or is the staffing model something
10 that has become obsolete and we have to do
11 something, you know, totally different, and if
12 so, you know, what should that look like.

13 And then the last thing I'm going to
14 do is ask Mr. LaMarre to read a letter that Steve
15 Fisher prepared for the meeting. Because the one
16 thing I've learned over the years is, you know,
17 safety is paramount and so is reliability. And I
18 think as we have brought more reliability to the
19 system, you know, those cruise ships are like
20 hey, we can come in and we got a good belief and
21 a good confidence that we're going to be able to
22 hit our ports when we need to hit our ports.

1 And then I don't know at what point
2 the Canadian Domestic Fleet is either going to
3 say we're going to take pilots forever or they're
4 going to self-certify. That's a very disruptive
5 aspect to, and I'll ask the pilots present to
6 kind of weigh in on it. You know, it doesn't
7 take very many jobs from the Canadian Domestic
8 Fleet to start bringing people in off of their,
9 you know, recuperative rest.

10 And then in the winter months when
11 maybe we had one or two a month, you know, there
12 are weeks where almost all the pilots who were
13 supposed to be, you know, in their downtime
14 spending time with their families, are now back
15 on the Lakes providing piloting service. Not
16 only to the Everbright which is a foreign flight
17 vessel, but to the Canadian Domestic Fleet.

18 And I know that there's different
19 thoughts on how that should be compensated, but
20 it really impacts, you know, we've got all this
21 weather now, someone comes back and they're
22 sitting in standby for three or four days because

1 the ship can't get underway for whatever reason.

2 And it would be very easy for me just
3 to tell, you know, just to mandate to the pilots,
4 you know, hire a whole bunch of people, it's
5 going to increase the rates. And if the traffic
6 doesn't come, you know, these pilots just can't
7 be fired tomorrow.

8 So, what I'm asking the committee to
9 do is give the Coast Guard feedback on, you know,
10 what are the things we should consider with the
11 staffing model? Should it continue to be a
12 ceiling for us and are there aspects that can be
13 improved? Thank you.

14 CHAIR GALLAGHER: Dan Gallagher. We
15 started out, Brian from the pilotage office,
16 would send out the staffing model dictates how
17 many filings each crew has as a maximum. Our
18 number right now is 16.

19 So, Brian asked us last, early on in
20 the year, like I think March, how many pilots are
21 you going to have for 2021/2022. And so, we told
22 how many, 16 plus we think, we had two trainees

1 that we were going to bring onboard. What
2 happened is we lost one of them and one guy
3 failed in January, the 1st of January, we had to
4 let him go. We notified the Coast Guard. Before
5 the final rule come out the Coast Guard
6 eliminated that individual from the rate
7 structure. So, we were going to actually --
8 because of retiree, we had 14 and three trainees.

9 So, our trainees will be up and
10 running. We will be at a full 16 pilots. What
11 we've done is we've brought back, at our expense,
12 one of our retirees, because in our group this
13 year so far, I think we've had about eight to 10
14 hours of delay, which is nothing. We're
15 committed to the reliability. We're bringing
16 people off on their days off if need be. They
17 can work over their time if need be.

18 And we're utilizing one of our pilots,
19 Phil Continental and the system is, you know, the
20 Directors authorize that individual to work for
21 us and it helps us. It's not a permanent thing.
22 It's not what we want, but we're fully staffed

1 and we still can't handle the traffic.

2 So, at the very least and I have
3 talked to the Director about this, the very
4 least, I think the system should at least
5 recognize his, the cost of that individual. And
6 we only use them, we're not down on a contract
7 basis; we only utilize him when we need him. So,
8 if there's a delay, we bring him in. He might
9 work, some months he's working six, seven jobs
10 and another month maybe one or two. But I think
11 it's reasonable for us to recoup our money in the
12 expense space which will be, you know, three
13 years out, of course, because of the way the
14 system is.

15 And then to get back to the staffing
16 model, like Dan Franklin said earlier on,
17 yesterday alone in Detroit we had three cruise
18 ships. That took up six pilots over a 36-hour
19 period there were six pilots being tied up.

20 So, I think our number, I think we
21 have to look at it. We've got another cruise
22 ship coming, the Viking Polaris will be here next

1 year and they're running quite a bit in our
2 district. I think the staffing model we need to
3 look at it and I think we, I think we need one
4 more at a bare minimum. We don't want you to get
5 the pilot because then we have to teach them, but
6 I think it would be dangerous.

7 We've had, for some reason, I don't
8 know why, but just in the last two, three weeks
9 we've probably had eight or nine assignments for
10 Canadian Lakers. So, some months we don't get
11 anything. We can go two months without it and
12 then all of a sudden, I don't know what happens,
13 we get hit with them, and we have to service
14 them. So, we're not complaining. We welcome the
15 new business, but they don't want delays.
16 They've made it perfectly clear they don't want
17 delays.

18 VICE CHAIR BOYCE: This is John Boyce
19 with the Seaway Pilots, and to dovetail onto what
20 Dan was just saying. With the old staffing model
21 and, you know, the steel and grain out was the
22 Great Lakes. There was, I'll say built into

1 their model, you know, the handicapping for other
2 delays and inefficiencies that happen.

3 Well, now at least in our district,
4 the steel and grain out, there's only about 50
5 percent of the traffic anymore. The tankers have
6 gone way up, you know, in certain years we're 30
7 percent tankers. Then you throw in the Canadian
8 Domestic on top of that, you know, the project
9 cargo, the cruise ships, all that. Well, all
10 that segment wants nothing to do with delays.

11 So, the staffing model always can see
12 there being delays, you know, the whole staff and
13 average and whatnot. It doesn't work anymore.
14 And on a fatigue side of it, you had plenty of
15 time off all summer long because the traffic just
16 has, had a huge slump. Now, it doesn't fall off.
17 It stays busy all the time.

18 And then at the end of the season
19 which you usually weren't fatigue too badly
20 because it was slow, now it ramps up. And you
21 got guys that don't have a day off in a month-
22 and-a-half because there's no restorative rest

1 for December. And every guy in the Association
2 wasn't off November 29th and 30th. We kind of
3 rotate people through so that the people on the
4 front side of it, you know, the last day off was
5 early November and working straight through to
6 the end.

7 And that is just not something that
8 should be either accepted or tolerated, working
9 that long when you're the guy that has to come on
10 and be rested because the captain of that ship
11 has been out for three days and just about
12 walking wounded. There needs to be capacity to
13 deal with these things.

14 And to the cruise ships, they operate
15 entirely differently, you know, it's almost they
16 don't care what the capacity is. They want to
17 arrive at 1800 or 0600 or whatever. You know,
18 we're going to slow steam at four knots across
19 Lake Ontario because that's what time we want to
20 get there. And it just throws everything into a
21 tailspin because there just isn't the capacity to
22 be able to accommodate how they operate.

1 And as Dan was saying, I think we need
2 three more pilots, and that's just on currently
3 where traffic is now. We're not as impacted as
4 Districts 2 and 3 are on the cruise ships, but
5 the tankers, you know, we get a lot more of that,
6 and there's no bones about it. They want the
7 ship in. They want to their dock. They want to
8 ship off the dock. It's got to be open and
9 close.

10 MEMBER CROWLEY: John Crowley. I
11 guess Todd posed the question, you know, what do
12 you think about the staffing model. And I'll
13 just say from the get go I assume a staffing
14 model is a model and not necessarily the answer.
15 That's generally how I've seen it employed. That
16 may or may not be the case here. So, I'm just
17 kind of saying in terms of reference that I'm
18 using when I talk about a staffing model and I
19 think it's a tool to --

20 MR. HAVILAND: Can I speak real quick?

21 MEMBER CROWLEY: Please.

22 MR. HAVILAND: Good morning, Todd

1 Haviland. I'm sorry, I assumed everyone knew.
2 The staffing model that we use incorporates the
3 pilot assignments, I hope. So, it's the time
4 that, you know, a pilot is notified, the travel
5 time to get to the job, the time on the pilot
6 boat, the time providing piloting service, the
7 time from a pilot boat back to the office or the
8 hotel, a little bit of time of administrative
9 work and then 10 hours of rest before they're
10 eligible to be called again.

11 And that assignment cycle helps us
12 determine in a 24-hour period. And one of the
13 broken out areas or in a given body of water how
14 many ships we can move in a 24-hour period. And
15 based on how many ships we can move through a
16 given waterway in a 24-hour period, you know, we
17 look back at historic traffic data and say, well,
18 this is about an average of peak demand. So, we
19 think if we staff it to this level we'll be able
20 to, you know, put X number of ships through this
21 body of water in a 24-hour period.

22 And then that sets an upper limit that

1 says, okay, right now John Boyce's group is at 18
2 pilots. So, 18 pilots is the maximum number you
3 can have to provide that service. And so, in
4 that sense, you know, that's the model we're
5 looking at and then that 18 number. So, I hope I
6 answered your question.

7 MEMBER CROWLEY: I don't think I asked
8 one, but thank you anyway.

9 So, my terms of reference are rightly
10 or wrongly that a model is a framework on which
11 you understand the information that you have. I
12 think that's consistent with what you just said
13 in that the model provides an estimate as to the
14 number of pilots needed to move X number of ships
15 through the system.

16 My question really is then given the
17 circumstances that we face today with different
18 shipping patterns, does that model not provide
19 you necessarily the exact answer, but is it as
20 helpful when the circulation of different ships
21 with cargo/passengers have different calculus in
22 terms of their movement. And that can provide us

1 a lot of different information if that's true.

2 And so, I mean, I guess I would then
3 ask the question, Todd, that I don't want an
4 answer right now, but hold it. Is that do you
5 need, do you feel you have inadequate information
6 given, you know, application of the current
7 staffing model? And, if so, where would that be
8 in terms of inadequate or erroneous information
9 that's led you astray in coming up with your max
10 number, your ceiling here?

11 Otherwise, I would say that the model
12 would probably be accurate. And then the
13 question goes to the Chair's question of, is
14 there a tool to help better utilize and respond
15 to these unique circumstances of contracting with
16 someone? And that, I know, has been on the table
17 at least several times, and I think that's a
18 valid question.

19 I don't know if I have a definitive
20 answer on it, but that seems to be recognizing if
21 the model can't always provide you a definitive
22 answer it can help you define what your world of

1 work is and then you have tools to compensate.

2 And then I guess I'm really, I'm
3 really at a point where the system does look a
4 lot different today. And whether the staffing
5 model is the end all and be all. Even if it
6 provides you, Todd, the information is it really
7 sufficient to ensure the best movement commerce
8 including passengers through the system in a
9 responsive and efficient manner, and a more
10 global sense.

11 And I would like to think, or maybe we
12 have these figures, but I would like to think we
13 have some metrics as to how many delays, you
14 know, would be able to support a pilot, have
15 occurred because of inadequacy of the model. How
16 many times, yes, we provided a pilot in a timely
17 responsible fashion, but it was not the ideal
18 circumstance for the pilot in terms of rest and
19 fatigue issues.

20 What are the rest and fatigue
21 parameters that are guidelines/bar hard over
22 rules? I suspect there haven't been NTSB cases

1 on the Great Lakes that have driven us to those
2 kind of rules because that's where they normally
3 come from in our industry.

4 But, you know, the metrics, let me
5 turn the table around to our earlier discussion,
6 the metrics as to use of the pilots, the
7 adequacy, the fatigue issues would be helpful for
8 everyone else to understand the importance of
9 managing those things well rather than by the
10 seat of our pants which I'm sure we call can do,
11 but disagree with how the seat of our pants feel.
12 It might feel kind of tight right now.

13 But at any rate, so I guess, I
14 challenge the model a little bit back to the
15 Director and then I challenge all of us to
16 consider the metrics that would be most valuable
17 in understanding if we're leading to an
18 inadequacy, a crisis or even a crisis situation
19 or not.

20 CHAIR GALLAGHER: Dan Gallagher. We
21 had, one nice thing about the cruise ships, they
22 give us a schedule. So, we'll be getting a

1 schedule from the cruise ships starting shortly
2 for next year.

3 So, what we do is we took all the
4 estimated times and just the cruise ships in our
5 district alone adds up to three-and-a-half full-
6 time pilots based on reach overs and rest time.
7 So, it's three-and-a-half pilots in the system
8 which we never had accounted for before.

9 So, like I say, for the tolerance
10 delay, if one of those are delayed they're
11 pissed.

12 Jon?

13 MEMBER OLNEY: I'd like to jump in.
14 Jon Olney, District 3, Western Great Lake Pilots.

15 As we look at the staffing model
16 there's a couple of things that certainly come
17 into play. One of those is the time between jobs
18 transporting a pilot over land, and that's not
19 captured in the ratemaking. They take into
20 account bridge hours which I'll get to that in
21 just a second.

22 But a pilot in our district, for

1 example, he has to do overland travel from Duluth
2 to Sault St. Marie. That's somewhere around a 10
3 hour job just getting him from one port to
4 another.

5 And as we are looking at staffing
6 models and that kind of thing, that's not
7 accounted for, but there's no getting around the
8 fact that that guy is tied up moving between
9 ports. He's not generating any revenue, but it's
10 certainly chewing up man hours because he cannot
11 be doing something else including getting rest on
12 the job.

13 For our district we are currently
14 providing 21 pilots and have been since the
15 spring of the year. We have 19 in the rating.
16 We have given industry 21 pilots since the spring
17 of the year.

18 If you look at the bridge hours
19 between District 1, District 2 and District 3;
20 District 3 by a long ways outnumbered bridge hours
21 in the other two districts. Yet, we don't have
22 that many more pilots in our district to account

1 for that same number of hours. And that's not
2 even taking into account the fact that our guys'
3 travel time between ports, just because it's so
4 densely huge, is not taken into account either.

5 And then I want to jump on Daniel's
6 point that he made about contract pilots. If we
7 provide contract pilots, that's essentially
8 coming out of our pockets to provide another
9 pilot industry. Yes, we're generating the
10 revenue that that job provides, but that pilot
11 wasn't accounted for being in the rate. So, it's
12 yes, we're getting a portion, but we're not
13 getting the portion we should have received.

14 MR. HAVILAND: Todd Haviland. I just
15 have a quick question. What do you mean that the
16 travel time between assignments is unaccounted
17 for?

18 MEMBER OLNEY: John Olney, Western
19 Great Lakes. The travel time was not accounted
20 for in the bridge hours.

21 MR. HAVILAND: Correct.

22 CHAIR GALLAGHER: Sir?

1 MEMBER LAMARRE: Paul LaMarre. I have
2 a few different comments here. I think we're at
3 somewhat of an impasse because everyone wants
4 growth. Everyone wants the system to expand
5 which I think the system as it relates to
6 manpower is already strained.

7 When it comes to the number of pilots,
8 and you talk about, being on time, the different
9 types of vessels, and I'll mention that is a
10 second, I do believe that you guys are placed in
11 a position of constant damage control, which it
12 would be nice to be able to get ahead of that a
13 little bit because you need it, and you don't
14 miss a beat.

15 That's the other thing is that for us,
16 say Phil Continental, if Phil was not able to
17 take vessels for you we would have encountered
18 delays countless times at the Port of Monroe. I
19 mean, Phil has handled Monroe a number of times
20 and it has been a great benefit. There is no
21 reason why he should not be getting paid when
22 that is occurring.

1 I also, from a port perspective that
2 doesn't get cruise ships. You mentioned slow
3 steaming on a cruise ship, well, why should I be
4 waiting for a pilot at the Port of Monroe on
5 cargo that has a value that could be
6 exponentially greater than, you know, John Smith
7 making his tee time.

8 I believe that for that there should
9 be a consideration that there's a premium for
10 cruise ships. If they want to maintain slow
11 steaming or otherwise, it should be a
12 consideration. And we're going to talk about
13 winter navigation in a minute and I feel the same
14 way about that.

15 And I will mention that as well even
16 though the primary ship that is utilizing pilot
17 services comes to the Port of Monroe. We should,
18 as a port singularly, expect everyone else to pay
19 the bill.

20 And I have a letter from Steve Fisher
21 from the Ports Association that I'd like to read
22 for the record, but then I'd also like to follow

1 it up with a couple of comments if that's okay.

2 So, I will do my best Steve Fisher
3 now, very much less animated. This is from Steve
4 Fisher, Executive Director of the American Great
5 Lakes Ports Association.

6 To Mr. Todd Haviland. Dear Todd, I
7 regret that I am unable to attend the September
8 13th meeting of the Great Lakes Pilotage Advisory
9 Committee due to a personal conflict. As a
10 former member of the committee I believe GLPAC
11 provides an important forum for the discussion
12 and resolution of key issues relating to Great
13 Lakes Pilotage. With your indulgence I'd like to
14 share a few thoughts via this letter and ask that
15 they be included in the meeting record.

16 The American Great Lakes Port
17 Association represents the public port
18 authorities on the U.S. side of the Great Lakes
19 and has historically had a strong interest in
20 Great Lakes pilotage. Pilotage services and
21 their related costs have a direct impact on the
22 viability of seaway commerce. As ports work to

1 market the seaway system to new customers,
2 reliability is a critical issue.

3 During the last year west coast ports
4 have shown us all what a broken and unreliable
5 supply chain looks like. We should all be proud
6 that the Great Lakes supply chain works. Our
7 customers can rely on timely and efficient
8 transportation of cargos. This is no accident.
9 It is the result of ports, terminals,
10 longshoremen, vessel operators, agents, block
11 operators, pilots and others all committed to
12 system reliability.

13 Reliability is particularly important
14 to the newest sector of Great Lakes seaway
15 commerce, the cruise tourism industry. Many
16 Great Lakes communities have welcomed cruise ship
17 operators and their passenger. While cruise
18 tourism does not have as a large of an economic
19 impact as cargo operations, it brings positive
20 public attention and appreciation to the Great
21 Lakes seaway system and the importance of our
22 ports and waterway.

1 Nevertheless, we should all be sobered
2 that public attention cuts both ways. Nothing
3 will grab negative media attention quicker than a
4 cruise ship full of tweeting passengers stranded
5 at anchor due to a lack of pilot availability.

6 I know that the Coast Guard and all
7 three U.S. Pilot Associations are committed to
8 providing reliable pilotage services to the Great
9 Lakes cruise sector. I want to take this
10 opportunity to applaud that commitment to
11 reliable service and stress that we all need to
12 work together to make this new business a success
13 in our system. Thank you for considering our
14 views. Sincerely, Steve Fisher, Executive
15 Director of the American Great Lakes Ports
16 Association.

17 So, my comments, you heard my cruise
18 ship comments. I want to say and I said this at
19 the last GLPAC meeting that I was at, thank you
20 to the pilots. 2020 is the best example that I
21 can put into perspective for anyone. At the
22 height of the pandemic when people were shuttered

1 in their homes, it was the pilots that were
2 stepping aboard foreign ships into God knows what
3 circumstance or unexpected health condition and
4 ensuring that commerce continued to flow through
5 the system.

6 In 2020, the Port of Monroe had its
7 most successful season ever. The pilots brought
8 14 consecutive big lift vessels in and out of the
9 port and it allowed hundreds of people to
10 continue working because they were willing to toe
11 the line and step aboard the bridge of a foreign
12 ship.

13 I think that it's really important to
14 note that and I think it's really important when
15 we talk about reliability to note that the next
16 such crisis could happen at any time. And their
17 ability to be reliable and essentially have
18 people on the bench ready to take the field is
19 important. That's all I've got, sir.

20 CHAIR GALLAGHER. Any other comments
21 from the committee?

22 MEMBER CROWLEY: John Crowley. I'd

1 only like to add that the maritime industry at
2 large really pulled the lion's share despite some
3 bad press of getting in to certain ports. They
4 really pulled together labor, shippers, yes, and
5 very much so pilots, all going above and beyond
6 what was the norm through our nation.

7 And so, just not to forget others in
8 the system, not diminishing the contributions of
9 the pilots.

10 CHAIR GALLAGHER: It won't. Anymore
11 from the committee?

12 (No audible response.)

13 CHAIR GALLAGHER: We'll open it up to
14 the public.

15 MR. LAURION: Hi, Rick Laurion from
16 Benchmark Marine. I'm curious on the staffing
17 model whether perhaps we should look at the
18 historic value of a sailing master for the
19 passenger ships. We could let the pilots do
20 their job. I know that the food on those ships,
21 they should pay us. The quality of life on board
22 passenger ships is completely different than it

1 is on a salt water freight ship.

2 If we are short people and we know
3 their schedule three-and-a-half men per schedule,
4 I think is the number you quoted, why can we not
5 have a two-tiered model that includes pilots for
6 passenger ships and pilots for non-passenger
7 ships?

8 You know, the model is supposed to be
9 flexible, and it seems that it needs to flex in
10 this moment.

11 CHAIR GALLAGHER: Any other comments?

12 MS. KONIECZNY-KELLS: It's Catherine
13 Konieczny-Kells again. A question for District
14 3. How are you guys managing those overland
15 manpower hours? How is it getting put into --
16 doing all the -- hours?

17 MEMBER OLNEY: Jon Olney, Western
18 Great Lakes Pilots. That is being put into the
19 SEAPRO system. It's just not being captured as a
20 number that the system is taking into account
21 establishing the staffing model. We are tracking
22 it though is what I'm saying.

1 CHAIR GALLAGHER: I have a question
2 for Todd.

3 MR. HAVILAND: Yes?

4 CHAIR GALLAGHER: Todd, isn't part of
5 the travel time in the pilot assignment cycle.
6 That's another point, I thought.

7 MR. HAVILAND: Yes, it's part of the,
8 Todd Haviland. The travel time is one of the key
9 components in the pilot assignment cycle.

10 Back in 2013, when we did that
11 comprehensive study on the bridge hours and
12 methodology, one of the things that we did was,
13 you know, Pat Ryan with MSI put together a model
14 for us. And we said, okay, based on the current
15 roles, if these ships line up perfectly is it
16 possible to move these ships through the system
17 and still hit those bridge hour numbers that were
18 necessary for staffing?

19 And we came to find out a couple
20 areas, no matter how many ships came through it
21 was just never going to work. And what we wanted
22 to communicate in the pilot assignment cycle is

1 there's a lot more on the Great Lakes to
2 providing piloting service than just getting on
3 the boat at point A and getting off the boat at
4 point B.

5 And depending on where you're assigned
6 and where the assignments start, I mean, it could
7 just be a couple hours, but in District 3,
8 particularly, you could be traveling 17 hours
9 between two assignments if you're traveling by
10 car. If we decide to put someone in an airport
11 it usually doesn't save a whole lot of time.

12 But we put those in there so people
13 could understand that, yeah, to move the ship
14 from point A to point B is one thing, but the
15 logistics around it require more capacity if you
16 want to move more ships in a 24-hour period.

17 I mean, right now to do what Danny and
18 John want to do is pretty easy. We just say,
19 hey, we want to move more ships in a 24-hour
20 period and that's how we're going to get one more
21 pilot for District 2 and three more pilots for
22 District 1, and if everyone is comfortable with

1 that, that's fine.

2 But all those things are incorporated
3 in the pilot assignment cycle. Vince Berg, you
4 know, like I spend my time doing geeky pilotage
5 stuff, he spends his time doing geeky pilotage
6 stuff of maintaining those numbers that go into
7 the pilot assignment cycle to make sure that
8 there aren't significant changes from year-to-
9 year.

10 And if Vince wants to talk about that,
11 you know, with your permission.

12 CHAIR GALLAGHER: That's fine.

13 MEMBER CROWLEY: John Crowley. To get
14 back to Clay Diamond's comment earlier about, you
15 know, big things for this committee. And it
16 seems to me that while I was looking at a later
17 agenda item, in a certain way I'm going to kind
18 of bring it forth in my thoughts. And that is
19 that part of the solution to helping pilots be
20 targeted to deal with land transits, to
21 accommodate, you know, the new foreign shipping
22 on the Lakes, is by looking at the proclamation

1 that was put out in 1960 which does the structure
2 and talks about undesignated waters that I'm not
3 sure, while appropriate during the sale master
4 time, is really not so relevant anymore today.

5 I mean, the technology that the pilots
6 have to bring to bear on the job they do, but
7 also thinking of the certification, the
8 technology on board our ocean-going vessels today
9 as compared to 1960 is eons different. I mean,
10 it is this compared to this, you know, in terms
11 of communication, and I don't know that I can
12 quantify how it solves certain problems.

13 But on a big picture level to
14 understand what was just one president's
15 proclamation at one point in time that here's how
16 we divide up the Lakes. And I'm not trying to
17 re-jockey Association boundaries so much as to
18 find a way that in today's world thinking of the
19 differences between designated and undesignated
20 waters, isn't there room here that we can become
21 more efficient and allow the pilots to do the job
22 that they're really meant to do.

1 And to make sure that the, and in the
2 worst of circumstances, you got the skilled
3 people who need to be fresh and ready to do the
4 job, are really there at that point in time. I
5 would love to have a little bit more data about
6 some of the transits to be able to look at the
7 numbers and see how I think this might be able to
8 work in a more definite way.

9 But this is my kind of proposal that
10 we in some fashion move forward. And I'm not
11 sure of all of the mechanics of this, but look
12 for, if there's a better answer to frame the work
13 that needs to be done that's so valuable and so
14 important to our maritime system of commerce.

15 MEMBER OLNEY: I'd like to ask John a
16 question. Jon Olney, Western Great Lakes Pilots.

17 John, are you suggesting, I'm not
18 trying to put words in your mouth, I just want to
19 make sure --

20 MEMBER CROWLEY: You can do that too.

21 MEMBER OLNEY: Are you suggesting that
22 there are designated waters that maybe shouldn't

1 be designated? And at the same time were you
2 saying maybe there are undesignated waters that
3 should be designated?

4 MEMBER CROWLEY: Maybe the
5 requirements for one -- John Crowley.

6 And maybe yes, maybe. I don't know.
7 I mean, I don't know, but we are in a different
8 time period. The availability of navigational,
9 you know, aids and being able to ensure you're on
10 course and safe and what is around you. I know
11 it's a lot different from when I started in the
12 system in the '70s, and I know it's a lot
13 different even then compared to 1960.

14 So, I can't imagine that there aren't
15 some differences here now. Again, without some
16 numbers of exactly how things worked today and
17 where the soft points are, I don't know that I
18 can identify or quantify, you know, where to do
19 something.

20 But I can't, I just can't imagine as
21 I'm sitting here that there's not, you know, we
22 could do something different today if we were

1 starting from scratch. And it would possibly
2 make a difference in the issues that we're
3 talking about.

4 MEMBER OLNEY: Can I respond to him?

5 CHAIR GALLAGHER: Yes.

6 MEMBER OLNEY: Jon Olney, Western
7 Great Lakes Pilots. I can't speak on John
8 Boyce's district because I haven't spent that
9 much time in his district, but if we're talking
10 about, you know, maybe eliminating some of the
11 designated waters, I promise you in Danny
12 Gallagher's district the first ship that goes up
13 the Amherstburg Channel without a pilot
14 navigating that ship is going to have an issue.

15 MEMBER CROWLEY: I am positive there
16 are areas which exactly fit that requirement and
17 with hands down but there are, you know, this is
18 just stripping things down and just maybe
19 ratified, but --

20 MEMBER OLNEY: Well, the ship owners
21 have a great investment in their equipment, their
22 manpower and all those things. And if we're

1 trying to provide the best service we can by
2 getting the most qualified people, the best
3 trained people we can, if I'm a shipowner, that's
4 the guy or gal I want on my ship.

5 MEMBER CROWLEY: But particularly
6 where it is important to be had. And also
7 because there are these, you know, business risk
8 management decisions that are made. And we
9 touched on it a little earlier about safety
10 versus money-making. Well, let's face it folks,
11 every part of our business is making those
12 decisions.

13 So, it's not that the pilots don't
14 make that, and there are pilots that say, yes, I
15 can go in today and I've got the skills to do
16 that. It may be difficult, the wind may be, you
17 know, at the odd angle, the seas may be moving
18 rough, but we can get there. And it's done so
19 safely without incident to the vessel and the
20 vessel owner/operator and the cargo interest, and
21 the people of the destination all are winners
22 because of that timely delivery.

1 And so, I'm just saying that with that
2 skill set that you all have, why don't we, you
3 know, see if there aren't opportunities here to
4 target it in absolutely the best place.

5 I'll give my time.

6 VICE CHAIR BOYCE: John Boyce. The
7 whole point that's missed in all that is the
8 least common denominator. There's a whole bunch
9 of things we can do in the best situation. The
10 system has to be there for the worst situation.
11 And you get a broke down Chinese cruise ship that
12 can't communicate for nothing and a boat that
13 doesn't handle at all. That's what you have to
14 be able to do.

15 And that is not a way out there, left
16 field, this could happen. No, it happens all the
17 time. There's, one of our biggest customers,
18 some of their boats are starting to be built to
19 be more efficient, which means their rudder is
20 tiny. They don't handle for a hill of beans
21 trying to make a lock in the following current.
22 You can't, yeah, is there a -- can you follow a

1 line in the middle, yep. That is such a mystery
2 part of what we do, it's almost immaterial.

3 MEMBER LAMARRE: Paul LaMarre. What
4 is being paid for is situational awareness. And
5 a perfect example, you talk about wind and wave,
6 the Great Lakes are different than sailing on the
7 ocean, period. Weather circumstances, currents,
8 traffic, it is different than what is experienced
9 on the ocean.

10 And I was just talking to one of the
11 pilots last night about their situational
12 awareness to know that if you have a big, huge
13 spot of red on the weather that's headed for the
14 Detroit River to the west and you're just out
15 past Detroit River light, that you know to check
16 down before you hit that Amherstburg Channel and
17 get wiped out in the middle of the channel.

18 That's something that a foreign
19 operator cannot understand. And you look at,
20 well, are there points here in the lake where
21 you're just in the open lake? Well, yeah, sure.
22 Look at the transit for D-2 from Port Colborne to

1 let's say Detroit. Okay, you've got shallow
2 water off Port Dover. You've got Pelee Passage.
3 You've got making the turn for Detroit River
4 Light Amherstburg and Livingston channels.

5 Where do you put somebody off or on
6 and when the lake comes up and it's blowing like
7 hell out of the northeast or southwest, which is
8 does every other day, how do those guys handle
9 that when they're getting the crap pounded out of
10 them on Lake Erie? And they don't, because they
11 won't know how to respond.

12 And like this is one pilots I feel for
13 on this argument. I fight with the Port
14 Directors about it. We've had Port Directors who
15 have made such a suggestion that well, why do we
16 need pilots with all this technology. We're not
17 paying for the times where, as you said, things
18 are perfect. It's the situational awareness that
19 makes the system move as a well-oiled machine.
20 This one gets me fired up. So, is having to say
21 my name every five seconds.

22 MEMBER CROWLEY: So, John Crowley. It

1 gets me fired up too because I've sailed in a lot
2 of places and I've sailed in the Great Lakes and
3 I've been on that Fitzgerald case. And so, I
4 know down deep what it's like on the Great Lakes.
5 I mean, you can't have it any other way.

6 But don't tell me that when I'm going
7 through the Straits of Gibraltar, the English
8 Channel or other difficult places of, that have
9 significantly more vessels moving through them,
10 of all sorts of nationalities where people are
11 getting the crap beat out of them there too, that
12 there aren't capable masters and crews sailing
13 there.

14 Now, it's the, it's a situational
15 awareness, yes. I think that's the perfect word
16 to understand that there are situations where we
17 need to work to, for the worst case. There are
18 situations that we need to understand from a risk
19 management standpoint. You can put everything
20 you want into it and you're still not going to
21 prevent X from happening.

22 And if we're not trying to do the best

1 we can in that fashion and we're just assuming
2 that we don't want any incident and therefore
3 we're going to throw everything possible at the
4 mission, that's a, I think we're not doing a
5 service. We are not, in Clay's words, looking at
6 the big picture and taking on the big challenges.

7 MEMBER LAMARRE: No disrespect to your
8 abilities, John, just --

9 MEMBER CROWLEY: You can do that if
10 you want. They're certainly --

11 MEMBER LAMARRE: You were on a vessel
12 with about 20 people in the bridge, that one
13 school, time after time after time that didn't do
14 any cargo unloading and didn't do this and didn't
15 do that.

16 These ships that we have, they come
17 out of the canal, they're whipped. They're
18 whipped. You're lucky sometimes if there's one
19 person, two people in -- let alone one. Those
20 people left Hamilton, Toronto and their cargo
21 operations. Then they're in -- Canal all night,
22 you know, the whole crew's up working, limited

1 crews.

2 We're been on there, you go to
3 southwest shore and I've had some of the Indian
4 ships tell me, you know, well, why do we need a
5 pilot. We've come up and we're working. Again,
6 so you're wondering why you need a pilot. I'll
7 tell you why you need a pilot, because you're
8 going on the wrong side of the southeast shore.
9 Pretty soon we're, you're going to really find
10 out why you need a pilot.

11 And these people, I mean, some of them
12 are good, but a lot of them, they're exhausted,
13 they don't know what they're doing, and I wonder
14 sometimes how they even got here.

15 MEMBER CROWLEY: And they're the same
16 ones that go through the English Channel where my
17 seven person bridge team, not 20, had just done a
18 refueling all night the night before and were
19 still up there doing its work.

20 So, I get the point, but my point
21 again and then I'll shut up, maybe I won't, but
22 I'll try and Clay knows that.

1 MR. DIAMOND: Yes, sir, I do.

2 MEMBER CROWLEY: I'll shut up, but my
3 point is that if we got nothing else to do except
4 to accept the current state of affairs then we
5 might as well just adjourn and go home.

6 And I'm just suggesting that we've got
7 some classical changes in the way work has been
8 done and in the situations that this mission has
9 performed. That if we're not challenging it in
10 some fashion, you know, I don't know what we're
11 doing.

12 MR. DIAMOND: You know how to get
13 people excited, that's for sure.

14 MR. FRANKLIN: Dan Franklin, Lake
15 Pilots. Just a couple points from a practical
16 perspective as a working pilot. You talk about
17 electronics. One of the first things we do when
18 we get onboard is we vet their route that they're
19 doing. You would be amazed at what you see and
20 were they're planning on going. And it's a long
21 discussion with the navigation officer, we need
22 to change this, we need to change that.

1 A prime example of necessary pilots,
2 about two or three years ago, Ted Albert, which
3 is a U.S. Flight Lieutenant. They were not
4 required to have pilots because of that. Their
5 electronics started updating as they were
6 entering Lake St. Claire. They had no idea where
7 they were at. They didn't have their nice little
8 box to tell them where to go. They left the
9 range light on the wrong side. They were aground
10 for a couple days. It's a patrolling barge.
11 Luckily there was no spill.

12 Anything like that produces bad for
13 everybody. And having worked formerly as a
14 Master on the Great Lakes and working with the
15 PNI Club and -- if some of the PNI Clubs saw some
16 of the routes that are in these ECTA systems your
17 insurance rates will go up; I guarantee it.

18 MEMBER CROWLEY: You don't think the
19 insurance companies know the faults in the ECTA
20 systems and otherwise? They also know the
21 accident preventions that have occurred since
22 we've gone to electronics.

1 But again, I'm asking that we take
2 this, consider it, not that we right it fight it
3 out today. I mean, I don't think we're --

4 CHAIR GALLAGHER: Clay?

5 MR. DIAMOND: Yes, I really want to
6 comment on the staffing model because I think
7 there some natural respective things that may
8 help.

9 But on this discussion, and I'll just
10 put one more point and I think we can go back to
11 what we're talking about kind of all day. I was
12 at a pilot commission meeting in Florida a number
13 of years ago and a representative from the cruise
14 lines, the large coastal cruise lines. Well,
15 they'll tell you if you ask them, and it's
16 largely true, they have the most sophisticated
17 nav systems of any ship operating, you know, they
18 do.

19 And the example he used whenever this
20 discussion started to go about, you know,
21 technology, we don't need these pilots. The very
22 first thing he said, and this is a cruise line

1 official, he pulled out his phone and said, you
2 know, I was coming across the bridge here to get
3 to the meeting and my GPS has in the water, a
4 fairly short -- in the water, right?

5 So, just to give a perspective, what
6 pilots need to be able to do and these guys talk
7 about it a lot better than I do, when they're
8 trained, they're trained to be able to do the job
9 if everything goes out. That's the value of a
10 pilot. All the electronics go down, which by the
11 way, this may shock some of you, it happens
12 regularly.

13 So, a pilot certainly uses very
14 sophisticated important pilot units that assists
15 them in their job, but they're really trained to
16 do it without any of the equipment to do the arc
17 piloting, visual piloting.

18 But really the point I wanted to make
19 was about staffing models, the challenges that
20 the Director has and that, you know, you all are
21 kind of wrestling with, is common. Every pilot
22 authority in the world, you know, frankly, has to

1 have a system to come up with what the right
2 number of pilots is, right? And you have to look
3 at what you think traffic is going to be, right?
4 And then you come up with a number as to what the
5 right number is.

6 And the right number as we eluded to
7 is to make sure you don't have too many pilots
8 because that's inefficient and unnecessary costs.
9 But you don't also want to have too many pilots
10 because then the pilots don't get enough
11 repetition and recency on all different types of
12 ships that come into the port. But you don't
13 want to have too few because you'll run into
14 fatigue as a problem.

15 And we work very closely with the NTSB
16 in 2010 and '11 on, there was an accident in the
17 Gulf that the NTSB tagged as pilot fatigue
18 accident and recognized that the STCW convention
19 and some other U.S. and domestic work and rest
20 paroles don't apply to pilots. The Coast Guard
21 will tell you that. They don't apply to pilots.
22 They apply to the crews of ships.

1 So, the NTSB sent letters to the
2 Governors of the 24 Coastal States as well as
3 Puerto Rico and Virgin Islands and to the Coast
4 Guard laying out, you know, pilot fatigue is a
5 serious problem and you need to get your staffing
6 correct.

7 So, the Director loves to just kind of
8 make it up, there's guidance from the NTSB about
9 making sure that not just your daily rest, but
10 your recuperative rest or adequate to avoid the
11 dangers of fatigue.

12 And then the last thing about the
13 staffing model that I want to say that's unique
14 about the Great Lakes that I think allows these
15 guys to figure out ways to avoid delays without
16 incurring a bunch of unnecessary costs.

17 And to my knowledge, this is the only
18 place in the country where if there's a mandatory
19 retirement age there's a system in place that
20 allows the Director, you know, in concert with
21 the Association, to temporarily register a person
22 who is beyond their retirement age to allow them

1 to work. You know, someone that's kind of a
2 pressure relief valve.

3 That's a unique system of here and I
4 think, and it's not meant to be a permanent fix.
5 It's not meant to be used all the time. It's
6 meant to just, you know, it's meant to be a
7 system that allows a little bit of our release
8 without the full cost, but there's a cost to it.

9 So, again, that's a unique system that
10 I think you all should be proud of because it's
11 a, it really allows some flexibility to the
12 model.

13 CHAIR GALLAGHER: George, thank you.

14 MR. HAYNES: George Haynes, Lake
15 Pilots, District 2, reiterating what some of the
16 other folks have said. They do need help. They
17 need help everywhere on every lake whether it's
18 in the middle of the lake or in a river.

19 They do sail all around the world and
20 they do have technology and equipment, but they
21 have ideas on where to go and how to use that.
22 And they will run all willy-nilly all over the

1 Lakes if they don't have somebody there to cover.
2 In one of the reports, I see it all the time;
3 they want to go up the down and the down the up,
4 and all based on economics, basically, and what's
5 logical to them. They need that local knowledge.

6 The other thing I want to say is the
7 stakes are high. In this day and age, it's a
8 safety culture. We, there's very little
9 tolerance in the public for disasters. For
10 running over a fishing board. For lack, for
11 death, for spilled oil.

12 There's very little tolerance for
13 that. It's immediately published, probably
14 within seconds, over the media, and then there's
15 an uproar, and it's been very little tolerance.

16 Pilots protect that. We're the best.
17 We have the best technology. We protect all of
18 that. It's not all about saving money or
19 skimping here and there. We're past that.

20 They did that in the '70s, but there's
21 very little tolerance. We protect that. We work
22 for the people. We work for the environment. We

1 work for the system infrastructure.

2 CHAIR GALLAGHER: Chris?

3 MR. HALL: Thank you, Mr. Chairman.

4 I have two comments and one question. I'm sorry,
5 Chris Hall, Shipping Federation. We're all, we
6 all woke up this disease today, don't we? Two
7 comments and one question.

8 First question, and it could be
9 answered later. If there are any statistics that
10 either the three Associations or the Coast Guard
11 has on delay times, that would be helpful to
12 industry, I think, because industry have their,
13 their own stats. The different companies within
14 it, or the Associations, and it would be
15 interesting to see a reconciliation of those
16 numbers.

17 I know, for instance, one of our
18 members have, keep very detailed numbers, and
19 they recorded 5.25 days' worth of delays due to
20 lack of availability of U.S. pilots.

21 It's not a bad number. They, you
22 know, they would like it to be zero but, you

1 know, they're, they're thinking that's very good.
2 With all respect to the Canadian Lakers where
3 they have a little bit higher delays.

4 But it was interesting to see data
5 shared because we need to talk, we need to
6 compare apples to apples. So, if the
7 Associations and the Coast Guard have delay
8 numbers, that would be, that would be very
9 useful. So, that could be answered later.

10 Two quick comments; one is just to
11 reinforce the reliability and efficiency theme,
12 which I think, we all, we all understand needs to
13 be there. That is paramount for users.

14 And anything we can do to keep dialing
15 that down, whether it's leverage from the
16 cooperation between Canadian pilots and U.S.
17 pilots, and figuring out a way to make that a
18 little more seamless.

19 So, you know, that may be part of the
20 relief valve kind of solution that we borrow
21 pilots from one jurisdiction to the other, as is
22 necessary, based on availability. Maybe that

1 system can be made a little bit better; I don't
2 know. So, I wanted to make that point.

3 Last one was, yeah, no, that was it.
4 Thank you. I had the question and then those two
5 comments. Thank you, Chair.

6 CHAIR GALLAGHER: Any more questions?
7 (No audible response.)

8 CHAIR GALLAGHER: I'll bring them back
9 to the committee for recommendation.

10 I'd like to make a recommendation that
11 we, any contract pilot that we have to bring in
12 for delays only should cost that individual
13 should be in the expense phase.

14 MEMBER LAMARRE: Do you need a second?

15 CHAIR GALLAGHER: Yes.

16 MEMBER LAMARRE: Second.

17 CHAIR GALLAGHER: Thank you, Paul
18 LaMarre. Any discussion?

19 MR. CROWLEY: John Crowley. I guess
20 I'd like to have that put into the NPRM process
21 that's currently ongoing, as being open and
22 subject to comment. I don't disagree that it's a

1 tool to have, but I think that -- I'm not sure I
2 have all the information behind it.

3 But I'd like to see a recommendation
4 to have that, that maybe would be anyway, but put
5 into the current NPRM evolution.

6 VICE CHAIR BOYCE: John Boyce. I
7 think its two different things. One is whether
8 this specific rate that impacts it. I think what
9 Danny is saying is, as a general practice, that's
10 how it should be viewed.

11 In which case, would not necessarily
12 flow through the NPRM, and the Coast Guard
13 deciding. That's what we're here for is to make
14 a recommendation to the Coast Guard. Whether it
15 impacts this specific end year-end or not is a
16 side note on that.

17 But as a practice, I believe where I'm
18 looking at is we're recommending to the Coast
19 Guard, that should be seen as allowable expense.

20 MEMBER LAMARRE: It's still for them
21 to consider.

22 VICE CHAIR BOYCE: All it is is a

1 recommendation. They still consider whether they
2 apply it to them or not.

3 MR. HAVILAND: Can I say something
4 really quick?

5 CHAIR GALLAGHER: Sure.

6 MR. HAVILAND: Good morning, Tom
7 Haviland. Just to dovetail on what John Boyce is
8 saying. So, we receive numerous recommendations
9 from the advisory committee. We still have to go
10 through the rule-making process to implement
11 those. I hope that --

12 MEMBER LAMARRE: Then that's, yes,
13 yes, so I'm good.

14 CHAIR GALLAGHER: Bill?

15 MR. YOCKEY: Bill Yockey with the
16 Longshoremen. I support that motion that you
17 made about the retired pilots coming in as
18 contract pilots. Now, will they be paid the same
19 rate as the, as the, as a regular pilot?

20 CHAIR GALLAGHER: They, what we do
21 with those guys is we give them daily rate --

22 MR. YOCKEY: How does that reflect

1 towards what a co-pilot makes?

2 CHAIR GALLAGHER: About the same, if
3 not more, because they're not, they're not on
4 24/7, you know, they're not on seven days a week,
5 so we compensate a lot.

6 Vince?

7 MR. BERG: Yeah, Vince Berg, Great
8 Lakes pilot. I was just afraid of, we need to
9 have another, you know, build a new
10 recommendation? We need to get it word-for-word
11 so that they can get approved and in -- set it up
12 right now. So, that's what I wanted to say.

13 MEMBER CROWLEY: John Crowley. I
14 think this is part of what I was thinking and
15 concerned about, that what we don't have is how
16 does this compare with the hourly rate of your
17 assigned pilot?

18 How is it -- I mean, as a general
19 principal, it's easy to take a position to say
20 yes, and make the recommendation. But once you
21 start putting some meat on the bones of that, I
22 just don't know that we got the details on that

1 in order to have a prepared recommendation aside
2 from letting it broadly work through the system,
3 but that's, that's my peace.

4 CHAIR GALLAGHER: I would like to say,
5 we were fully funded. I mean, we have all the
6 pilots that are on the tours' roles. That we --

7 MEMBER CROWLEY: And John Crowley
8 accepts that.

9 MS. SERGENT: One thing I would like
10 in this recommendation is we specify which step
11 of methodology you're wanting this to be
12 included.

13 Whether this is step one, where we're
14 looking at the recommended authority district or
15 if we're wanting this to be the same rate, if
16 you're wanting this to be part of the staff
17 model. The specificity would be helpful.

18 And I want to reiterate with this year
19 being a full rate meeting, we can accept comments
20 more broadly on the methodology. So, it's an
21 appropriate time to be making this
22 recommendation.

1 CHAIR GALLAGHER: I believe the
2 Director can use his discretion.

3 VICE CHAIR BOYCE: This is John Boyce.
4 To your first point, I think that's correct.
5 It's authorized expensive just the way it is.

6 MS. SERGENT: Yeah, I was --

7 VICE CHAIR BOYCE: You're not going to
8 be able to do it in the staffing model looking
9 forward to how much we're going to have to use
10 somebody that will be, you know, staffing and
11 what we were just talking about is needing more
12 people in the first place. This is on the, you
13 know, Bob retired, but we can have him come back
14 and fill some surge capacity. Doing it that way,
15 that's almost by definition would be an after the
16 fact thing which would have to be recognized in
17 the expense side and come back later.

18 MEMBER CROWLEY: So, John Crowley.
19 And how do you have an authorized revenue against
20 which the authorized expense gets charged if you
21 don't have a mechanism --

22 VICE CHAIR BOYCE: Because it comes

1 out of our compensation to do it. That's where
2 it comes from.

3 CHAIR GALLAGHER: We can utilize it.
4 And we'll get the compensation, but the shipping
5 is going to be delayed, and that's what we're
6 trying to avoid. I don't have a problem if
7 that's what you would like, we can ship and
8 anchor --

9 MEMBER LAMARRE: Paul LaMarre. My
10 thing is, I don't care what it cost to bring --
11 off the bench if it's going to delay a ship and
12 anchor. And like, we've experienced it multiple
13 times, and it's worth every penny to make sure
14 that that cargo continues to flow. Respectfully
15 --

16 MS. BRAY: Susan Bray. We have the
17 cargo; I agree. I agree.

18 PARTICIPANT: How do you feel; that's
19 how we want it Mr. Chairman.

20 CHAIR GALLAGHER: The cost associated
21 with the Pilot Association relies on services --

22 (Simultaneous speaking.)

1 MR. HAVILAND: Mr. Chairman?

2 CHAIR GALLAGHER: Yes, sir.

3 MR. HAVILAND: Good morning, Todd
4 Haviland. You're free to recommend, you know,
5 whatever you want and use the words you want and
6 use the words you want to use. I think there's
7 some confusion in the room about what exactly
8 you're asking.

9 Because I don't think you're asking,
10 you know, I don't want it coming off my rest.
11 So, if Phil's going to go do a job for me and
12 then, you know, I'm paying, I'm going to then
13 charge the shipping, you know, industry for a
14 work -- and as far as the costs go, I think
15 you're talking about the daily wages, because the
16 expenses, you know, to transport the, the
17 temporary registered pilot to and from the
18 vessel, you know, anything with subsistence or
19 lodging will be included in the rates.

20 CHAIR GALLAGHER: It's only the daily
21 rate.

22 MR. HAVILAND: Yeah, so then I think

1 it would be helpful if people understood, you
2 know, when you're using this.

3 CHAIR GALLAGHER: We're only using him
4 for surge capacity. If there's going to be a
5 delay in the system, and we've got everybody
6 working, people are coming back, then we will
7 utilize him.

8 We don't utilize him all the time.
9 Like I say, there's months that you might only
10 use him once, you know, and I think the last
11 month, we only used him like once. There's been
12 months where we used him eight, nine times in one
13 month.

14 MR. HAVILAND: This is Todd Haviland
15 again. And I think what you're asking is that
16 you want that included in the expense space for
17 future --

18 CHAIR GALLAGHER: Yeah, we don't want,
19 we don't want an additional pilot for that,
20 because we, we don't want that extra pilot. We
21 don't want to have to commit to him to a
22 contract. It's just on a daily basis, if we need

1 him for emergencies to keep things rolling. The
2 cost is minimal, really. We feel we should, you
3 know, it should be coming out of compensation.

4 DFO KIEFER: Contract pilot; this is
5 Kevin Kiefer. Contract pilot costs should be an
6 all price expense to the daily rate, right? What
7 is the terminology there? I'm just trying to --

8 VICE CHAIR BOYCE: No, because all
9 three are different.

10 DFO KIEFER: Okay.

11 VICE CHAIR BOYCE: You want to be a
12 bit open because all three districts actually pay
13 each, out through daily, but we don't do daily
14 rate. Based on the way we do it is that at the
15 end you pay your expenses, you got your revenue,
16 you should divide it up and that's what the rate
17 ends up being. It's not a daily rate.

18 Well, you know, there's a case, we've
19 got one guy. We're 18, we're actually eighteen-
20 and-a-half. We've got a guy that wants to
21 retire, and we keep dragging him back in. It's a
22 half share that's totally above the rate. The

1 base just comes out of our, our compensation.
2 Basically, paying him to be there also.

3 MS. BRAY: Susan Bray, ArcelorMittal.
4 Ultimately, from a budgetary standpoint, is this
5 plan viable? I mean, you, this absolutely is
6 more cost effective and more efficient than
7 adding a permanent pilot; is that correct?

8 CHAIR GALLAGHER: It is. It is
9 because we're just using the surge capacity, but
10 the problem is, it's not a permanent fix, because
11 we don't -- and like Clay said, our system has
12 the ability to do that. We've been doing it.

13 We have, we had an extra, not an extra
14 number, but we had a number that if somebody, so
15 for an example, if somebody would retire, let's
16 say two months before, and we used Bill in the
17 last two months. We wouldn't, we wouldn't put
18 this in expense space because we're not up to our
19 full number.

20 And the Coast Guard monitors it.
21 Vince, Vince can go on the system and look who's
22 working, who's not working. How many assignments

1 there is. So, they know how many pilots we have.
2 They know what's going on. The SEAPRO system is,
3 it's so trackable, you know.

4 MS. BRAY: Susan Bray one more time.
5 So, ultimately, you think still bring in
6 additional pilots as the work demands it?

7 CHAIR GALLAGHER: Yes.

8 MS. BRAY: As you can justify that,
9 but in addition, this is still one for the --

10 CHAIR GALLAGHER: Yes.

11 MS. BRAY: It's a pressure valve,
12 basically.

13 CHAIR GALLAGHER: Yes.

14 VICE CHAIR BOYCE: John Boyce. Part
15 of the issue is it takes two years to train a new
16 pilot. So, when somebody retires, they usually
17 don't give you two-and-a-half years of lead time
18 for what's going to happen.

19 So, maybe you get somebody who says,
20 look, can you stay around a little bit longer?
21 You know, and then work him way less; we get it,
22 you're done.

1 But you can't afford the gap that just
2 popped up in front of you. So, this is a way to,
3 to backfill, or if, if you're just at track and
4 fit that's just exceed you're capacity without
5 anybody retiring.

6 But a guy that did retire, one, two,
7 three years ago and has still been around, you
8 can still get some benefit out of it. And
9 really, it's the, the mitigator to, it takes time
10 to make a pilot.

11 CHAIR GALLAGHER: Okay, we have a
12 recommendation.

13 Do we have a second?

14 MEMBER OLNEY: Second.

15 CHAIR GALLAGHER: All in favor?

16 (Chorus of ayes.)

17 CHAIR GALLAGHER: Well, that was easy.

18 MEMBER CROWLEY: Mr. Chair, if I could
19 make a basic recommendation and just an
20 observation. I think as we go forward in the
21 committee, the more we can identify prospective
22 motions and recommendations that are front-loaded

1 with presentations that provide the information
2 and lead us to a, you know, an obvious statement,
3 we can then take votes that are corrected,
4 straight-forward.

5 And, in my experience, it's the easier
6 process. I'm kind of speaking to all of us, from
7 the Director to us on the committee. But I think
8 the more we can do that and prepare in advance,
9 the better off we will be served in getting
10 through to the nut of the issue. So, just my
11 thoughts.

12 CHAIR GALLAGHER: This is a
13 recommendation to the Coast Guard. They don't
14 have to take it.

15 MEMBER CROWLEY: I know, but we need;
16 it's a big step to get to the recommendation.
17 And as it's been said before, they can be
18 important and valuable, I just think we can get
19 there in a little bit easier, more thoughtful way
20 if we do a little bit of prep to think ahead of
21 what we want out of things.

22 And that we stage the information

1 within the presentations that are available to
2 all of us so we can argue out, to the extent that
3 we do, but then the language and the meat is
4 there for everybody's purpose.

5 Yeah, but you all get to it real quick
6 because you, you live this every day. But there,
7 some of us are, you know, kind of have to walk
8 through with you what you're really asking for.
9 It wasn't clear right from the get-go.

10 I'm just making an observation as we
11 go forward. That maybe we may be able to make
12 this an easier process, less painful. I'd be in
13 favor of that, personally.

14 CHAIR GALLAGHER: Anybody want to look
15 our recommendation --

16 MEMBER CROWLEY: That doesn't need a
17 recommendation.

18 CHAIR GALLAGHER: Mr. Haviland, do you
19 need a recommendation to look at -- or if we
20 provide you with the data for cruise ships or
21 just the increase that we see, would that be
22 sufficient enough?

1 MR. HAVILAND: Good morning; Todd
2 Haviland. I mean, I have ample discretion to
3 take action, but what I think is best for
4 everyone is to be transparent.

5 And, again, since I have no financial
6 vested interest in the number of pilots that are
7 at each Association, and I hope everyone in the
8 room appreciates this, you know, the group that
9 makes up Lake Pilots Association, they're all
10 business partners.

11 They're not, you know, employees.
12 But, you know, if everyone's happy with the, the
13 current staffing model, and you just want to, you
14 know, work on, we're going to increase or
15 decrease the number of transits in a 24-hour
16 period, I'm fine.

17 It would be helpful if you told me,
18 you know, what you think that number should be
19 and why.

20 VICE CHAIR BOYCE: John Boyce. Would
21 it be beneficial if we gave you a recommendation
22 to encourage you to use your discretion to

1 address pilot numbers? I know there's, I know
2 that you --

3 MR. HAVILAND: I can't answer that
4 question. I mean, your recommendations have to
5 be outside of my personal desires. I mean, the
6 recommendation I want is --

7 VICE CHAIR BOYCE: I didn't ask what
8 you wanted. Would it be beneficial? Because I
9 know the Coast Guard, in general, for lack of a
10 better term, tries to over calculate, and almost
11 remove discretion from the process. That's why
12 there is a 10-step process as I read through it,
13 but there needs to be, there needs to be an
14 exercise of discretion to make it work at the end
15 of the day.

16 And that's why the -- all right, for
17 lack of a better term, where it is, if there is
18 the latitude to actually employ the discretion.

19 MR. HAVILAND: Todd Haviland again.
20 I think that's what I was asking.

21 VICE CHAIR BOYCE: That's only --

22 MR. HAVILAND: Yes. You know, is it

1 time to maybe lift that portion of the staffing
2 model, it's just, that's a ceiling. And if you
3 do, you know, want a little bit of discretion
4 exercised, but do you want a limit to that
5 discretion?

6 Because I know in the discussions that
7 I had prior to creating that staffing model, one
8 of the concerns; and I think it's a legitimate
9 concern, you know, from the shippers, and it was
10 primarily the Shipping Federation was, well, is
11 there a limit to how many pilots you put in the
12 system, you know, without first consulting us.

13 So, yes, I mean, I'm more than willing
14 to exercise discretion.

15 VICE CHAIR BOYCE: That's scary thing.

16 MR. HAVILAND: If you, yeah, that's a
17 scary thing. But just understand that, you know,
18 after I make that decision, and to dovetail on
19 what, you know, Kate presented, when that rate is
20 finalized, your remedies, you know, to try to fix
21 it in a future ratemaking, we're going to go to
22 Courts.

1 MEMBER CROWLEY: Don't want to do
2 that.

3 MR. HAVILAND: So --

4 MEMBER CROWLEY: Let's try to avoid
5 that.

6 MR. HAVILAND: But to answer your
7 question, yes.

8 VICE CHAIR BOYCE: So, I'll make a
9 motion to encourage the Director of -- Coast
10 Guard, in general, now all three of those, to
11 exercise discretion, or is discretion employing
12 the staffing model to what?

13 MEMBER CROWLEY: To reduce or expand
14 the numbers of pilots as appropriate --

15 PARTICIPANT: To best suit market
16 conditions.

17 VICE CHAIR BOYCE: John Boyce. To
18 accommodate demand.

19 MEMBER CROWLEY: Accommodate sounds
20 like you only go up instead of go down, depending
21 on market conditions.

22 CHAIR GALLAGHER: All right, we have

1 a recommendation by Captain Boyce to encourage
2 Director -- discretion in employing staffing
3 model to accommodate demand.

4 Is there a second?

5 MEMBER LAMARRE: Second.

6 CHAIR GALLAGHER: Second by Paul
7 LaMarre. All in favor?

8 MS. BRAY: It's pretty broad.

9 MR. HAVILAND: All right, then, you
10 vote no?

11 MS. BRAY: Yes, Todd.

12 CHAIR GALLAGHER: All right, we have
13 six yes, one no.

14 MEMBER LAMARRE: So, it passes with
15 that?

16 CHAIR GALLAGHER: Yes.

17 MEMBER LAMARRE: That's what I
18 thought.

19 CHAIR GALLAGHER: All right.

20 Okay, moving on. Any other discussion
21 on that topic?

22 (No audible response.)

1 CHAIR GALLAGHER: I guess we beat that
2 horse to death, pretty much.

3 MR. HAVILAND: Captain Gallagher, can
4 I ask one more question, please?

5 CHAIR GALLAGHER: Yes.

6 MR. HAVILAND: Todd Haviland. Ms.
7 Bray said that, something about, it was too
8 broad. I mean, is there --

9 MS. BRAY: Susan Bray. It is broad.
10 I mean, it is -- I think I would like to know
11 what goes into -- I understand your 10-step
12 analysis. But I guess, does the information fed
13 from the pilots directly to your organization,
14 then? Is that how it works?

15 CHAIR GALLAGHER: Through the SEAPRO.
16 Todd, do you want to explain to them,
17 please?

18 MS. BRAY: Yes, and I'm sorry, just --

19 MR. HAVILAND: Todd Haviland, Great
20 Lakes Pilotage. So, the pilots use a program
21 called SEAPRO, and it tracks all these steps of
22 the pilot assignment cycle.

1 So, we're fairly confident that we
2 know how many hours it takes for a pilot to
3 provide service through a certain waterway.

4 But the other thing that the staffing
5 model does is, so what we say is the St. Lawrence
6 River, you know, between Cape Vincent and Soo
7 Locks is a very straight-forward example.

8 We want the ability to move five ships
9 a day. It's a 10-and-a-half-hour transit.
10 There's 10 hours of rest. There's about two
11 hours of travel time and maybe 30 minutes of
12 admin time.

13 So, it takes 23, anywhere between 23-
14 and-a-half hours and 25 hours for that pilot's
15 assignment cycle to happen. And so, if I'm going
16 to move, if I'm going to tell the pilots they
17 have to move five ships in a 24-hour period, they
18 need 10 pilots to do that.

19 And the question is, you know, based
20 on this diversification of traffic, you know,
21 right now that number in the staffing model
22 limits the Coast Guard in the maximum number that

1 we're going to allow in rule-making.

2 You know, do we want to adjust those
3 numbers? You know, do you want that ceiling to
4 remain there, and we just work on adjusting the
5 numbers or, you know, has the staffing model
6 become; does it need an upgrade?

7 So, the way I interpret this is that
8 they want, there's some potential that they want
9 me to include a future ratemaking, some surge
10 capacity, which the staffing model does not
11 account for.

12 MS. BRAY: And other components in a
13 changing environment, basically, to be added in
14 in the future.

15 MR. HAVILAND: Yes, ma'am.

16 CHAIR GALLAGHER: So, when the
17 staffing model was put in place, we didn't have
18 cruise ships, but this, just base that out. We
19 have, like I say, we can, we can have that data
20 in here, and we provided it to the Director on
21 his request.

22 So, we can, we can look at the demand

1 to the pilots, and I would say it's going to be
2 at least three-and-a-half, maybe four next year
3 in our district. So, that's never been
4 considered. So, we need --

5 Now, that doesn't mean he's going to
6 put another pilot next year. So, we're at,
7 authorized at 16. We will have 16. We'll bring
8 in trainings. So, it's going to take us probably
9 a year to get that guy back up and going, or at
10 least a year-and-a-half.

11 So, it may, you know, it'll lag. I
12 mean, and if it goes down, what the Director has
13 done, and get it this year when we lost the one
14 guy, we reported it to him right away and he took
15 another --

16 MS. BRAY: So, you're going to use
17 other quantifiable components, possibly, and
18 change the model slightly in order to accommodate
19 current conditions?

20 MR. HAVILAND: I think that's, Todd
21 Haviland. I think that's what the recommendation
22 is saying.

1 MS. BRAY: Thank you for the
2 recommendation. Thank you.

3 MEMBER CROWLEY: I can't comment on
4 whether you'll change the model or, I mean, I
5 read that as you're using the, employing the
6 staffing model to accommodate demand, not to
7 change the model.

8 MR. HAVILAND: I can't change the
9 model without those comments.

10 MEMBER CROWLEY: Okay, but I heard you
11 say that that authorized you to do that.

12 MR. HAVILAND: Oh, I'm sorry, I mis-
13 spoke.

14 MEMBER CROWLEY: And that's, I guess,
15 what I didn't think it did.

16 MR. HAVILAND: Yeah, Todd Haviland.
17 What I think this is asking me to do is to maybe
18 raise and lower those numbers based on traffic.

19 VICE CHAIR BOYCE: Yes, absolutely.

20 MEMBER CROWLEY: You don't have hard
21 over max numbers, basically.

22 MR. HAVILAND: Exactly. That's the

1 way I read it. And, again, it's your
2 recommendation, not mine.

3 MEMBER CROWLEY: It's not mine.

4 MS. SERGENT: I just want to state for
5 the record that the e-mails of what's in that
6 cycle are in the Exhibit 16 file, and that is
7 what we cite to every year when we need the
8 staffing model.

9 MEMBER CROWLEY: Yes.

10 MS. SERGENT: So, that is a resource
11 to look to if you're looking for what were the
12 last numbers we used for all of them.

13 MS. BRAY: Susan Bray. I understand.

14 CHAIR GALLAGHER: All right, we'll
15 move on to the next one real quick, because I
16 know --

17 MR. HALL: Excuse me, Mr. Chair, I'd
18 just like to make a comment for the record.
19 Chris Hall, Shipping Federation of Canada. I
20 would just make the comment that, for the record,
21 that the Director already has discretion in a
22 number of places, if I'm not mistaken, in the 10-

1 step process.

2 So, that discretion is already there.

3 So, I believe this recommendation is a bit, bit
4 redundant; my personal feeling. That's just my
5 feelings. I understand if you object to that,
6 but I'd just like it noted that the Director
7 already has that discretion.

8 And from industry standpoint, that
9 discretion is what introduces risk and
10 uncertainty. And that's what makes industry
11 nervous, because we don't know what, what
12 discretion could be employed in the various steps
13 where it's allowed for.

14 I'm just saying that's the perception
15 of industry; that there's already and inherent
16 built-in discretion that is beyond industry's
17 ability to control. So, to be encouraging that
18 even more would probably not rest so well with
19 some parties. That's my comment.

20 CHAIR GALLAGHER: All right, moving on
21 to the next one.

22 MR. YOCKEY: Mr. Chair?

1 CHAIR GALLAGHER: Yes.

2 MR. YOCKEY: Well, I was just going to
3 say that the record -- Bill Yockey with the
4 Longshoremen. The recommendation that you guys
5 just passed was that the hours the person worked
6 be allowed in the rate. Not as, we know he's got
7 the discretion to put a, unregistered, or a
8 temporary registered pilot out there, but what
9 you passed was that the time and the expense that
10 you incur will be put back into the rate?

11 CHAIR GALLAGHER: Yes.

12 MR. YOCKEY: So, that's the
13 difference. He doesn't have the discretion right
14 now.

15 CHAIR GALLAGHER: Okay, Winter
16 Navigation. Historically, navigation style for
17 the locks closed as the end of the season. It
18 was rare for a ship to request time during the
19 winter months; however, the last few years demand
20 pilot services on Lake Erie, Lake Huron and Lake
21 Michigan remain consist throughout the winter
22 months.

1 Here's some of the challenges the
2 Pilots Associations and pilots experience during
3 the winter months.

4 MEMBER OLNEY: Mr. Chairman?

5 CHAIR GALLAGHER: Yes.

6 MEMBER OLNEY: Respectfully, it's a
7 couple of minutes in front of noon. Do you want
8 to tackle this here?

9 CHAIR GALLAGHER: Yes, I don't think
10 it's going that long. Jon, you want to; I'll,
11 maybe I'll explain what happens and if we got the
12 -- right which will show the travel in the winter
13 months.

14 We've never, for years and years, if
15 we had one or two assignments in the winter, it
16 was a lot. I mean, there's years where we didn't
17 have a cycle. Now, it seems like, well, with the
18 -- system, it's continuing to run all year long.

19 Those numbers are not even in the
20 staffing model. None of that, none of that time
21 I'm talking is in the staffing model. So, we've
22 got people, you know, we had a bunch of them in

1 training this year.

2 So, we have five, six guys that are on
3 a role. The other ones are all in training.
4 Those people have to be available. I don't know
5 the answer to it. Of course, we don't want to
6 add three pilots because, two pilots because it's
7 winter, and that could go away.

8 And we get a lot of the Canadian
9 tankers that, from time-to-time, and a couple of
10 the U.S. tankers once in a while now, that
11 utilize it. It seems like it's more and more.

12 I know the Canadians are even over,
13 more -- than us, because of the tankers going
14 into -- it's a, it's a big problem. I don't know
15 the answer.

16 At the very least, I think we should
17 at least be, you know, the pilots that are doing
18 the work and, you know, they're on call, should
19 at least get, you know, some compensation. Well,
20 we do get compensation. We bill for it.

21 But we've got everybody working on
22 standby, and the system was based on a nine-month

1 season, not a 12-month season. Granted, not
2 everybody's working, but you've got to have the
3 people. You have to have the rotation.

4 Again, I don't, we don't want to add
5 pilots if we, that could go away tomorrow, but
6 there should be something. You know, we, the
7 subsistence, just the cost of, you know,
8 transportation; those items should be accounted
9 for somehow.

10 I know, Paul, you've said that you
11 would like to, you know, maybe penalize a little
12 bit. Then what do you do with --

13 MEMBER LAMARRE: Not a penalty, per
14 se, but look at it the same way that you're
15 looking at the standby pilot that's coming out of
16 retirement. That is, it's an expense that,
17 ultimately -- Paul LaMarre.

18 The entire system, and those that are
19 concerned about rates, should not have to bear
20 the burden of the fact that Suncore has chartered
21 a foreign vessel so that they can reduce costs,
22 operate all year long, and put a burden on the

1 system.

2 It's not just on the pilots. The
3 Coast Guard will tell you in Sector Detroit that
4 they are a private escort for the -- all winter
5 long. They do not move without a Coast Guard
6 140.

7 And they, the Coast Guard shows up,
8 they escort the -- either down to Detroit or
9 Monroe. Now, I'm saying this as a port that gets
10 this vessel just about as much or more than
11 anybody else, and it is taxing an already taxed
12 system.

13 And I was going to make a
14 recommendation that this be looked at, similar to
15 your having to bring a standby pilot out of
16 retirement. There should be an eligible expense
17 that is passed on to the user.

18 CHAIR GALLAGHER: Mr. Haviland?

19 MR. HAVILAND: Todd Haviland, the U.S.
20 Coast Guard. The expenses are included in the
21 rate, the necessary and reasonable ones that are
22 part of it, and even, you know, the numbers are

1 put into the pilot's assignments angel.

2 It's just the transits are so few it
3 doesn't impact the numbers, but like throughout
4 the winter I'll get calls and say, hey, what do
5 we do with this guy? He has cancelled us twice,
6 or he's, you know, amended the prospect a couple
7 times.

8 And, you know, someone who's come back
9 from, you know, what they thought was going to be
10 their winter vacation is spending a week or two.
11 And I don't know if we need a separate set of
12 working rules for the winter.

13 I don't know if you're interested in
14 a separate rate for the winter, and it was part
15 of the staffing model. You know, also, I mean,
16 we've only got one small, I call it a limited
17 resource, of U.S. registered pilots.

18 And if you go through the process that
19 are outlined in the regulations to order one, I
20 expect the pilot to be there, you know, when
21 they're ordered to provide the service.

22 And the challenge with winter

1 navigation is somewhat the challenge I'm having
2 with the staffing model. Is this something
3 that's here to stay, or is this something that we
4 just will experience for a couple years, and then
5 it'll go away.

6 Because if it's just a temporary, you
7 know, challenge, we can look at it one way, but
8 if it's, if the Canadian Domestic Fleet is going
9 to employ pilots throughout the winter months, I
10 mean, now two operations don't shut down.

11 And that, to Paul LaMarre's point, you
12 know, part of the rate increase is, you know,
13 John Boyce and his group shut down because, you
14 know, the locks are closed.

15 But now, Danny Gallagher and Jon Olney
16 have to keep a significant portion of their
17 operation running year-round, and it's not cheap
18 to keep these operations up and running.

19 MEMBER LAMARRE: Well, the Canadian
20 Laker Fleets --

21 PARTICIPANT: It's voluntary pilots.

22 MEMBER LAMARRE: -- they are using the

1 pilots as part of their HR staffing department.
2 And it, really, like, so you guys at the on-call,
3 24/7, 365, and it's because they don't have
4 someone with a pilotage on their domestic fleet
5 vessel.

6 That shouldn't overturn the appletart
7 for the whole pilotage system, and it's an easy
8 out for them. I mean, you don't see the American
9 fleets doing that.

10 And I just, I think that it's; so
11 okay, you don't have a Canadian master with
12 pilotage to move that vessel up and down the
13 river. Why? Oh, he might be on vacation. But
14 pull these guys off vacation to come do it
15 because we can grab them, and I don't agree with
16 that, in principle, either.

17 CHAIR GALLAGHER: That was Paul
18 LaMarre.

19 Todd Haviland?

20 MR. HAVILAND: And again, I just want
21 to preface this is that these are great
22 challenges to have, because when I first took

1 over I thought maybe the whole system was getting
2 old.

3 But if you look at how the system was
4 designed, it was designed for those dry bulk
5 carriers who started when the locks opened, and
6 stopped when the locks closed.

7 Now, in addition to those dry bulk
8 carriers, we've got the petroleum tankers, and
9 we've got the cruise ships. And again, part of
10 the variable to kind of, you know, put in a
11 corner is the Canadians Domestic Fleet.

12 Well, if they're delivering goods to
13 a U.S. port, you know, me denying pilots to them
14 could have some overarching, you know, impacts to
15 U.S. citizens, and --

16 MEMBER LAMARRE: Why there should be
17 a winter rate and --

18 MR. HAVILAND: Yes, so --

19 MEMBER CROWLEY: John Crowley. I
20 think that there's one further question, and that
21 is winter rate, but does that deter another entry
22 into that market where it would be good for

1 everyone and for the system, the Maritime
2 Commerce?

3 Because now the price, the break price
4 to get into the market has raised. And I don't
5 know what that is, but to me that seems to be the
6 question. It's an easy one if you've got one
7 certain customer that is playing out of the, out
8 of the timeline, out of the rules.

9 You add a rate increase so that
10 everybody else isn't sucking it up for them, but
11 if that denies more enterers' entrance into the
12 market, then it is maybe not something the system
13 wants to do.

14 And so, I took, I don't know the
15 answer to that question.

16 CHAIR GALLAGHER: Danny Gallagher.
17 You're right, Jon, we don't, we don't -- it's in
18 our district, but we're the ones that are getting
19 a lot, and I don't know. I don't know the
20 answer. We don't want to discourage these people
21 coming in, setting up shop. We welcome their
22 business. We welcome all the Canadian Lakers on

1 their business.

2 I know it's, you know, it's
3 unpredictable at times but, I mean, it's good
4 revenue, it's in summertime to help this out. It
5 keeps everyone going, and it's a good, it's good
6 problems to have.

7 But, you know, we just wanted to make
8 everyone aware that we discussed before, like I
9 say, at very least, at least our, like I say, our
10 system is based on the nine months. It would
11 take, because it would stop a full schedule, it's
12 adding a month or more to everybody's schedule.

13 So, if we need to take that into
14 consideration then, you know, like a subsistence
15 allowance, stuff like that, I don't know.

16 MEMBER LAMARRE: Captain, I
17 think --

18 CHAIR GALLAGHER: What's your name
19 again?

20 MEMBER LAMARRE: Mickey Mouse. Paul
21 LaMarre. I think that the good of the system, of
22 course, in the summer months is very important,

1 but when you get into the winter, it's the old,
2 there's only free cheese in a mouse trap.

3 And from my perspective, from the
4 management of a port, not only are you putting
5 wear and tear on the pilots, additional work on
6 the Coast Guard, I'm looking at our guys on the
7 dock, even, who are handling the lines for these
8 boats that are literally beating soft lines off
9 with sledge hammers to get them to come off of a,
10 you know, a ballard or bit because it's a soft
11 line versus a cable like you would have on the
12 lake during the winter months.

13 And it's just this wear and tear on
14 everybody that touches that vessel so that
15 Suncore can move liquid asphalt cheaper so that a
16 refinery can get rid of a waste product so that
17 they can keep producing.

18 And I, I just feel like it is on the
19 backs of a system that works very, very hard, and
20 those things should be taken into consideration.

21 MEMBER CROWLEY: John Crowley. I
22 mean, I think that's a great observation. I, it

1 didn't, though, encourage me to be more concerned
2 that the solution is set on the hands of the
3 pilotage system, and not a bigger and broader
4 answer to, to adapt the true costs of that
5 service, which go beyond the time and commitment
6 of the pilots.

7 And not to diminish theirs, but it's
8 a greater cost that doesn't get, then gets to all
9 the rest of the parts that are, that are taking a
10 hit, also.

11 CHAIR GALLAGHER: Anymore discussion
12 to be made?

13 (No audible response.)

14 CHAIR GALLAGHER: Any discussion from
15 the audience on the recommendation that's been
16 made?

17 (No audible response.)

18 CHAIR GALLAGHER: Okay, we'll move on
19 to lunch, which is going to be a good talk.

20 (Whereupon, the above-entitled matter
21 briefly went off the record.)

22 CHAIR GALLAGHER: Okay, our next item

1 on the agenda is --

2 MEMBER LAMARRE: Seriously, it's
3 helpful to have your name up there in front so
4 that the transcript actually reflects who said
5 what, and they're going to be embarrassed with
6 later, or not.

7 CHAIR GALLAGHER: Okay, our next topic
8 is Fees for Weather Disruption. Regulations
9 outline the dates when fees are set for delays
10 due to weather based on the shipping centers and
11 as -- concern regarding fees.

12 Mr. Chris Hall, President of Shipping
13 Federation of Canada will outline concerns
14 regarding the fees associated with weather
15 delays.

16 Mr. Hall?

17 MR. HALL: Thank you. Chris Hall,
18 Shipping Federation. This actually was put on
19 the agenda by my predecessor, Michael Broad, but
20 I'm up to speed on the issue, and just wanted to
21 maybe make some, just describe what the impact
22 was, and maybe make a suggestion for

1 consideration.

2 So, the, it sort of came to light how
3 that rule was being implemented about a year or
4 so ago when there were two pilots that had to
5 remain onboard the vessel because of the closure
6 of a particular lock, and I'm sorry, but I don't
7 know which one it was.

8 But two pilots retained onboard for
9 about two-and-a-half days. So, the rate applied,
10 as per the rule, and the resulting charge was
11 about \$98,000 to the ship; significant number.

12 There's no sort of argument that there
13 shouldn't be compensation for the time that the
14 pilot is unavailable to do any work. That's not
15 certainly in dispute at all, because that, you
16 know, you just don't expect a pilot to be taken
17 off station for that long of time.

18 What I wanted to kind of put out here
19 as food for thought is that could there be
20 another way to prevent that from happening? I
21 know you can't prevent or predict a weather even
22 causing the pilots to have to stay onboard, but

1 could there be other mechanisms? Could there be
2 additional anchorages created so that the pilot
3 could be taken off the vessel, the vessel could
4 be, you know, safely anchored.

5 Get the pilot off, wait for the
6 weather to improve, pilot back on, then get to
7 work. I know that's not an easy, not an easy or
8 quick solution, but just wanted to cover that.
9 That might be a good alternative.

10 The other, and maybe this would be a
11 stopgap measure; could there be another rate
12 established for those occasions that would keep
13 the Pilots Association or the pilots and the
14 Association whole for that time without it being
15 as high of a for-profit type of activity?

16 Because, you know, the ship obviously
17 didn't want it; the pilots don't want it. No one
18 wanted the weather delay; it was beyond
19 everyone's control.

20 So, could there be a mechanism that
21 would just keep, keep the pilots whole and keep
22 the costs down a little more? That was the

1 background on the item. I don't know whether
2 there would be any discussion from the committee
3 or any comment, but I be interested to hear any
4 thoughts on that.

5 CHAIR GALLAGHER: Thank you.

6 Any comments from the committee?

7 Anyone?

8 MS. BRAY: I have a question; Susan
9 Bray. Was this disruption due to the type of
10 cargo that was in the hold, or was it due to, was
11 it pure weather?

12 MR. HALL: I understand it was a pure
13 weather event and the locks were closed for that
14 reason.

15 MS. BRAY: Okay.

16 MR. HALL: Nothing to do with the
17 cargo.

18 CHAIR GALLAGHER: Dan Gallagher. I
19 know in our district we've got anchorages pretty
20 much all over the place, but I don't see it
21 happening our district.

22 Like I say, our guys, they, you know,

1 their goal is to get from point A to point B as
2 fast and efficient as they can, and get off.
3 Nobody likes to sit out on a ship anchored.

4 MR. HALL: Chris Hall. And maybe this
5 is an isolated incident, and maybe it's unlikely
6 it would happen again. I'm not familiar enough
7 with the geography to comment, but maybe other
8 districts, I don't know if we have any comments
9 on that, if you recall the incident.

10 VICE CHAIR BOYCE: Well, this is Jon
11 Boyce. Part of the challenge with anchorage is,
12 was one, you got to have some place to park the
13 ship. That's easy, make an anchorage; you got
14 it. Now, you have to have an asset to be able to
15 get somebody off, and it doesn't really do any
16 good. Like in our district, we've got, the two
17 anchorages that were created a few years ago,
18 either side of Cape Vincent, which definitely
19 worked very well.

20 Then down by the locks you've got
21 Wilsonhill anchorage down there, but there's no
22 real good way to service it because there's just,

1 it's very limited traffic that ever, actually
2 stops there for any period of time that is going
3 to take somebody offboard.

4 And you can't have the main boat off,
5 it takes you long enough to be gone for almost a
6 day to run down there, do a change and come back.
7 Plus, you're just burning another pilot in eight
8 hours on a pilot boat going back and forth.

9 It becomes counterproductive, almost,
10 to try to get people on and off down there. Now,
11 if you had a back-up that you knew was going to
12 last for days, that's a different story. Most of
13 the time they're not days, it's hours, and you're
14 throwing good money after bad trying to do
15 something about it.

16 MEMBER OLNEY: I probably would also
17 add that that the pilot's time in this case, they
18 were still tied up. They weren't able to go and
19 either get rest or service another ship. I don't
20 think you were disputing that, but I'm just
21 thinking it just for the benefit of everybody in
22 the room. That that pilot can't be transferred

1 to another job. He can't generate revenue
2 somewhere else, and he can't do his routes. So,
3 therefore, that's why the till keeps, or meter
4 keeps running.

5 DFO KIEFER: That was Jon, right?

6 MEMBER OLNEY: I'm sorry, Jon Olney
7 from Great Lakes.

8 MR. FRANKLIN: Dan Franklin, LPA Lake
9 Pilot. First, just to making a point that
10 weather delays, that's not year-round. So, you
11 take a weather delay in August, the worse that
12 guy worked for eight hours, you're not charged
13 one penny with that.

14 I believe the weather delays are set
15 up during periods of high ice times or November,
16 when you know you're going to get gales, but
17 you're still have a lot of ships that need to be
18 served, so you know you expect relative weather
19 delays.

20 We also, I know in our district there
21 are a lot of times when we talk to the agent;
22 listen, we don't know if that ship is going to be

1 able to get in. You might want to just leave him
2 in Port Colborne and no, no, put him on. We have
3 to get him out. We want to get it out, okay.

4 We had that discussion, so we do try
5 to work around that, but we're tying up a pilot
6 for two days, you're using our service; it's hard
7 to say, you know, with -- now all of a sudden,
8 it's gales of November that we don't, generally,
9 don't charge you then.

10 MEMBER LAMARRE: Or you're stuck on
11 the -- in the ice for two days.

12 MEMBER CROWLEY: John Crowley. I'd
13 like to direct a question to the Director. Now,
14 is this kind of information transparent within
15 the data that you collect for the, in the step
16 process where you identify when there's been a
17 delay; weather or otherwise, into the system?

18 I mean, it would be helpful. I guess
19 I ask the question because then you know whether
20 it's a larger problem that maybe we can think of
21 a different solution, or as Chris mentioned, just
22 an isolated case which maybe demands none of our

1 attention.

2 But I'm not clear whether it would be
3 this type of incident would be reflected in the
4 data system that you have for the pilots?

5 MR. HAVILAND: Todd Haviland, U.S.
6 Coast Guard. There are various delays that we
7 track. The one that's most important to me is
8 when there's a delay due to a lack of a pilot or
9 a pilot being unavailable.

10 We track the weather delays. In fact,
11 in 2016, when we put these rules in place, it was
12 a balancing act. Everyone's adversely affected,
13 but I, I still wanted to encourage the efficient
14 use of a pilot.

15 So, we, and I'll let the pilots speak
16 for themselves, but they were a little upset that
17 I put a significant chunk of time where if
18 there's a delay due to weather they can't, they
19 can't charge for it.

20 But we track it internally. I don't
21 release it as part of the annual rulemaking, but
22 if you ask specific questions about those things

1 then, you know, we could run a report and provide
2 that information to you.

3 And it's very easy because, you know,
4 when, primarily Vince, but when he's looking at,
5 you know, bills and all of a sudden we have this
6 huge outlier, they usually tell me long before I
7 get that bill. But if we see an outlier, I'll
8 call him up and be like what's going on here?

9 So, but we don't generate a report
10 that says, you know, in this month we had this
11 number of, but we have that data if you want to
12 look at it.

13 MEMBER CROWLEY: Thank you.

14 MR. HALL: Chris Hall. Thank you for
15 all those comments. You know, I don't want to
16 take any more of the committee's time, but really
17 just wanted to flag it for consideration of it.

18 If it was, if there were some
19 opportunities to, you know, minimize that from
20 time-to-time, that would be, obviously, well
21 received. And all of the comments made, well
22 noted, so thank you.

1 CHAIR GALLAGHER: Any other questions?

2 MR. LAURION: Rich from Benchmark
3 again. There's a small port in Lake Michigan
4 called Menominee. The berth is on the other side
5 of a very, very, very tight drawbridge. In 2007,
6 we had 20 ships go in through the bridge, and we
7 tracked the delay time waiting for the bridge,
8 and it was about a day, at worst, for a ship.

9 We had the same cargo which was --
10 through the same bridges four years later, and
11 the amount of waiting for wind had more than
12 quadrupled. And I suspect that as global weather
13 change continues, weather delays are going to
14 become more and more and more significant.

15 So, I think you need to figure out a
16 way to calculate it, because I don't see the
17 winds improving.

18 CHAIR GALLAGHER: Any other comments?

19 (No audible response.)

20 CHAIR GALLAGHER: To the committee,
21 any recommendations?

22 (No audible response.)

1 CHAIR GALLAGHER: Then we'll move on.

2 Our next topic is the United States
3 Registered Pilot Credential. Vince Berg's office
4 issues credentials for U.S. registered pilots.

5 This is an operational overview of the
6 entire process to explain his plans to modernize
7 the current credentials.

8 MR. BERG: Good afternoon. Vince Berg
9 with the U.S. Coast Guard. I oversee the
10 operations in the Great Lakes Pilotage Office,
11 making sure that Associations are complying with
12 regulations.

13 One of the things I do is I create the
14 ID cards that are given to the registered pilots.
15 These are given by the direction of Mr. Haviland,
16 the Director.

17 These, right now, we probably produce
18 about 15 between to the applicant pilots and the
19 apprentice pilots each year. And then we do
20 probably about three to five temporary for the
21 temporary registered pilots.

22 And then, depending on who's got to

1 get their MMCs renewed, I deal with anywhere from
2 five to 10 renewals a year.

3 It doesn't sound like a lot. It's a
4 very simple card to make, but it's not very
5 durable, and it's not very professional. So, the
6 process is quite an interesting process. I
7 literally cut these out, I cut their pictures out
8 and run them through a laminating machine. It's
9 very simple. Yes, it's very low key, but I do
10 it. You know, better than this; however, these
11 guys are showing these on the vessels, they use
12 them on the vessels. I mean, if you look at this
13 (showing current ID card), you think you're
14 looking at something like this (showing a sample
15 of the new card), yes, this is what our driver's
16 licenses look like.

17 So, these are a little bit more
18 professional. These are what our CAC cards for
19 the Federal Government are made from these. Your
20 driver's licenses are made like this. These are
21 the new ID, retired military ID cards, and we're
22 still giving out this.

1 So, what we're looking to do, and
2 we're going through the process of getting it
3 approved, is to buy an ID printer to produce
4 these, just like they do at the DMV, just like we
5 do at the Coast Guard for our CAC's, you know,
6 everybody else's IDs. We can tailor this to
7 either look like this and put all the information
8 on it, you know, front and back. It's more
9 durable. It will be laminated on both sides. It
10 can still contain all the information that we
11 have on here.

12 It will also fit into a lot of the
13 card holders, because we've had in the past, as
14 you see I don't leave very much trim rather
15 because this is the size of the card of the
16 laminate. People try to trim that off to get
17 them to fit in the holders, but once you do that,
18 it falls apart.

19 PARTICIPANT: You're not going to use
20 my name, are you?

21 MR. BERG: Not at all, but it does
22 happen.

1 So, if we could go to this and be more
2 professional, more durable, these are renewed
3 every five years for a fully registered pilot.
4 For the apprentice pilots and the applicant
5 trainees, I do them once a year. Depending if
6 they're on a one, two or three-year program, I'll
7 do those every year. But once they get fully
8 registered, then they're on a five-year which
9 coincides with their Merchant Mariner's
10 credentials. So, I think we can go to this, it
11 will be more professional, more durable, and
12 we're in the process right now of asking the
13 Coast Guard for the money for the ID printer.

14 The other thing, too, is when I
15 produce these for the applicant pilot and the
16 apprentice trainees, I always do these so that
17 they run out on December 31st, just so we're not
18 reproducing. The thing with these is I have to
19 ask the pilots every time to send me a picture.
20 So, that's more money in their pocket, they've
21 got to go to CVS or wherever they get their
22 pictures, and then I create that.

1 So, with this, we can do it
2 electronically. They can send me the picture
3 electronically and I could actually produce these
4 twice a year in accordance with their semi-annual
5 performance reviews. So, then I can put this
6 August 15th on here, create another one to go
7 December 31st. That way I'm probably making, in
8 the average, maybe 35 to 40, maybe 45 each year,
9 which isn't a big deal, but I've got it right
10 here that I'm just changing names, you know, and
11 it's more professional-looking.

12 MEMBER LAMARRE: Paul LaMarre. Do you
13 need a recommendation to support the acquisition
14 to transition from the Amish card production
15 program?

16 MR. HAVILAND: Todd Haviland, Great
17 Lakes Pilotage. If you feel, you know, so moved
18 to provide that recommendation.

19 VICE CHAIR BOYCE: John Boyce. I make
20 a recommendation that Coast Guard moves ahead
21 with an ID printer to stop using the third grader
22 project.

1 MEMBER CROWLEY: I'll second that.

2 CHAIR GALLAGHER: Discussion?

3 MEMBER CROWLEY: John Crowley. What
4 is that card used for as distinguished from the
5 mariner card?

6 PARTICIPANT: Discounts at Chuck E.
7 Cheese.

8 MEMBER CROWLEY: Well, then I'd
9 support that. I think you guys will look cooler
10 with badges personally.

11 MR. BERG: Vince Berg from the Coast
12 Guard. What they use this for which says in the
13 regulations, that they can show this when they go
14 on a vessel, when asked to see if they are a
15 registered pilot. It's supposed to be --

16 VICE CHAIR BOYCE: That's what we're
17 supposed to have on our license; it's that.

18 MR. BERG: This right here.

19 MEMBER CROWLEY: Okay, is there --

20 MR. BERG: So, when I go on a boat,
21 sorry, Vince Berg. I go on a boat, I'm a pilot,
22 they say are you really, who are you with and

1 blah, and they don't believe you. This, yes, can
2 it be reproduced because like this, absolutely.

3 But this is for them to show that I'm --

4 MEMBER CROWLEY: So, you don't carry
5 your license?

6 VICE CHAIR BOYCE: I carry that, too.

7 MEMBER CROWLEY: But you're not asked
8 for it?

9 VICE CHAIR BOYCE: That's for --

10 PARTICIPANT: It's signed by the --

11 MEMBER CROWLEY: The Coast Guard
12 produces the other license. There's not a
13 reason, not a way that that can be, you can use
14 one to check all boxes?

15 MR. BERG: Vince Berg from the Coast
16 Guard. This is not a license. This is a
17 certification, a certification of registration.
18 Now, when you look in their books for their NMCs,
19 when that list master, whatever, you know, you've
20 seen them, those are endorsements, and those are
21 endorsements by the NMC or the REC, you know,
22 REC's are around the country, those are

1 endorsements.

2 If we were to want to put this in the
3 book, we wouldn't have, it wouldn't say anything
4 because this would be a certificate. So, if you
5 look in the books, the certificates don't say
6 where they're going to operate. On this card,
7 according to regulation, it has to say where they
8 operate.

9 So, every card, like District 3, I
10 make it for District 3, it says their waters.
11 They can't just go to District 2 and say I know
12 how to drive a boat. They can't use it there.

13 MEMBER CROWLEY: Got it. This is just
14 a taxpayer kind of question but also the one I
15 would have used before this proposal would have
16 gone kind of to the bigger boss outside of
17 Pilotage, and it's just tell me why you need two
18 cards and it's not intuitively obvious, but I
19 understand the explanation. So, I'm done now.

20 CHAIR GALLAGHER: George?

21 MR. HAYNES: Yes, just a quick thing.
22 Another use we use it for occasionally,

1 occasionally you might get randomly pulled over
2 at Canadian or U.S. Customs. So, what is your
3 purpose? Well, I'm a pilot. If you can pull out
4 a card that shows that, it just takes that
5 question, right, of what's a pilot doing, you
6 know, but that's another thing that occasionally
7 we use that card for.

8 So, having the old style like fake
9 high school ID by viewing it, it would be nice to
10 have something that should or, you know,
11 something that looks more modern day.

12 CHAIR GALLAGHER: Any other questions?

13 MR. BERG: I'm sorry, I'd like to
14 bring in one more. We have asked this, well, not
15 asked but it's been in discussion in the building
16 to put this in the book and to do it for MMC, and
17 they don't want to have any part of it. I mean,
18 we only do 60, you know, pilots or, you know,
19 that's how we monitor. So, they don't want to
20 have anything to do with this, they don't want to
21 do it, that's another part. So, we just kind of
22 left it at this. It's our regular thing and

1 we'll just keep with it. Sorry to interrupt.

2 CHAIR GALLAGHER: We've got a
3 recommendation by John.

4 Do we got a second?

5 MR. BAKER: I'll second.

6 PARTICIPANT: You don't have anything
7 written.

8 PARTICIPANT: You need to have
9 something written.

10 PARTICIPANT: Where is the writer?

11 PARTICIPANT: Right here.

12 PARTICIPANT: It's not my job.

13 VICE CHAIR BOYCE: For the Coast Guard
14 to acquire an ID printer that's made professional
15 to replace the current --

16 PARTICIPANT: Third grade, how about
17 it?

18 VICE CHAIR BOYCE: Yes, third grade --

19 MEMBER CROWLEY: How about to produce
20 professional and durable ID cards usable for
21 professional purposes, rather than replace?

22 VICE CHAIR BOYCE: No, the third

1 grader project is the important part of this
2 motion.

3 MEMBER CROWLEY: But I think, you
4 know, I get what you want. It's the acquisition
5 here. You're looking for a more professional
6 card and that's about the recommendation.

7 PARTICIPANT: Why wouldn't you have
8 Kinko's do this? It's much more cost effective.

9 PARTICIPANT: They could.

10 PARTICIPANT: Like there's a Kinko's
11 right now.

12 CHAIR GALLAGHER: We have a motion
13 that United States Registered Pilot Credentials
14 recommendation that the Coast Guards acquire a
15 professional ID card printer to replace the
16 outdated version.

17 MR. BAKER: Second by John Baker.

18 CHAIR GALLAGHER: Okay, we've got a
19 second by John Baker.

20 All in favor?

21 (Chorus of ayes.)

22 CHAIR GALLAGHER: Opposed?

1 (No audible response.)

2 CAPTAIN GALLAGHER: Motion carries.

3 All right, moving on to the next
4 topic. It's the Soo Lock's Operations. Mr. Paul
5 LaMarre, Director of Port of Monroe, is concerned
6 about the tug availability of the Soo Lock in the
7 Great Lakes. He will opine his concerns.

8 Mr. LaMarre?

9 MEMBER LAMARRE: I actually think that
10 this brings up a bigger issue about reliability
11 within the system -- oh, this is Paul LaMarre, by
12 the way, related to tug service.

13 I know that there are ports which are
14 challenged right now in having tug availability
15 when we talk about ice breaking, we talk about
16 any number of different cogs in the wheel of the
17 system that make it work. The new Soo Lock is
18 what got me on the topic and I think that it's
19 worth discussing.

20 Really, I'm very interested from a
21 system perspective what the pilots' thoughts are
22 because the new Soo Lock, the State of Michigan

1 is investing \$60 million, the Federal Government
2 is investing a billion dollars, and regardless of
3 what the rule is, I would say that there are
4 certain outside influences of vessel owners to
5 not use tugs. That could be debated quite a bit
6 onto itself, but it is reliable and, in the big
7 picture, ultimately inexpensive insurance that is
8 supporting the whole network of mariners within
9 the system.

10 You look at, say the Port of Thunder
11 Bay on the Great Lakes, there's compulsory tug
12 use. You look at any number of coastal ports
13 where there are critical assets, there's
14 compulsory tug use. This isn't necessarily a
15 perspective that is popular with all of my board
16 peers, but I think that it's an important
17 discussion to be had.

18 The Soo Lock, being that we have all
19 of these things kind of that we've said to
20 justify the construction of the new full-size
21 lock of essentially the lynchpin of the American
22 economy, the majority of the nation's iron ore,

1 there's a great deal of commerce that transits
2 that. If the Mac lock presently goes down, we
3 have major issues and delays which becomes an
4 issue.

5 We're putting, in some cases you talk
6 about the unique handling of four and five
7 vessels that you get the joy of navigating
8 through the narrow part of bays, spoken or
9 unspoken, pilots are under financial pressures
10 when the vessel is in operation. No doubt about
11 it. Right, wrong or in different.

12 In my opinion, for a critical asset or
13 in critical areas, there should be the question
14 of compulsory tug use and if that is a tool that
15 is readily available. What that does is support
16 a network that is not about the reliability of
17 any one given tow, it's about the reliability
18 when you need the aspect of a tug being there.
19 It's about that aspect. It is more being put out
20 there for discussion with the pilots to see what
21 your thoughts are on how current service is, if
22 it would be valuable to have the ability to know

1 that you're going to have tugs without questions
2 being asked, without issues, no matter what
3 company it is or what organization.

4 I think it's something that we should
5 put into perspective as a safety matter. So,
6 that's the short introduction. I know that's a
7 much larger conversation, but look at the Port of
8 Oswego, for example. That's caused the system
9 traffic that often when that cargo goes to
10 another mode, it doesn't come back. It's
11 potentially lost opportunity, and the challenge
12 is that there isn't enough throughput at that
13 particular port to merit having a tug crew there
14 full time. If tugs were required and it could
15 support a network of tug crews, it will put the
16 industry as a whole in a more reliable and
17 sustainable position, in my humble opinion.

18 CHAIR GALLAGHER: Jon?

19 MEMBER OLNEY: Jon Olney, Western
20 Great Lakes. Obviously, I have to weigh in on
21 this --

22 MEMBER LAMARRE: Yes, sir, of course.

1 MEMBER OLNEY: -- because this is my
2 district. Your comments, Paul, are spot on.
3 There is a financial component to take in a tug.
4 We had an incident earlier this season where a
5 captain was adamant he had been through here
6 before, they didn't need to take a tug.

7 MEMBER LAMARRE: Exactly.

8 MEMBER OLNEY: And the whole point is,
9 yes, Captain, you've been through here before but
10 you didn't handle the ship then and you're not
11 going to handle it today, but you're going to
12 take this tool out of tool bag --

13 MEMBER LAMARRE: Bingo.

14 MEMBER OLNEY: -- and leave it on the
15 bench getting rusty and, I don't want to say
16 handicap the operation but certainly make it more
17 complicated than it might have otherwise been,
18 all because of a financial interest. We are,
19 going back to the role of the pilot not supposed
20 to be taking those financial matters into
21 concern. Our job is to protect the safety of
22 infrastructure.

1 MEMBER LAMARRE: Precisely, Cap. My
2 thought is that not only is that forcing you to
3 assume additional liability that you didn't have
4 to, it also is putting a critical asset at risk
5 at a loss to themselves. I really believe
6 foreign vessels, okay, we're with the Coast Guard
7 here, American flag vessels, and Canadian vessels
8 for that matter, whether it's with the U.S. Coast
9 Guard, the American dealership and otherwise, are
10 held to the very highest maintenance standards
11 that exist in the global maritime world. Yet
12 some of the ships that you guys are operating
13 don't necessarily have the level of reliability
14 or failsafes in place.

15 I just, I really do believe there
16 should be a larger industry discussion at
17 critical points in the system that could
18 compromise traffic as a whole. It shouldn't be a
19 financial decision, it should be a safety
20 decision.

21 MEMBER OLNEY: If I can continue, Jon
22 Olney, Western Great Lakes Pilots, not only

1 having an asset readily available and having the
2 appropriate asset. A few years ago Great Lakes
3 Towing took the Missouri out of the Soo, and the
4 Missouri was a fantastic tug. It had power, it
5 was fairly maneuverable, it was a great asset.

6 My understanding was Great Lakes
7 Towing got a hold of, either the Army Corp or the
8 Captain of the port navy boat, I'm not sure, just
9 to say hey, if we pull that tug out of there, any
10 problems with you guys? I think the response was
11 do whatever you need to do. So, that asset went
12 to Duluth, and now we have smaller, less powerful
13 tugs available to us. Certainly if there was
14 ever an incident, the Coast Guard is going to
15 say, well, did you have a tug? Yes. Was it
16 adequate? No. Well, why did you use it?
17 Because that was the asset that was available.

18 MEMBER LAMARRE: And the challenge of
19 course is that due to those outside pressures,
20 the number of tow lines at the Soo on an annual
21 basis has diminished more and more. So, the
22 Missouri, you've got the Wyoming and the Iowa

1 there now, it's something that if you don't
2 support this network, that also, or of Oswego,
3 wherever it might be, you are not going to have
4 the talent pool to operate conventionally powered
5 tugs on the Great Lakes because the tow lines
6 aren't there to support that network. When it
7 really becomes critical, it's going to become
8 even more of an issue.

9 CHAIR GALLAGHER: Chris?

10 MR. HALL: Yes, Chris Hall, Shipping
11 Federation. Two questions. Is there, do you
12 have any accident stats going back to the
13 commencement of operation of the locks that could
14 back it up? Because you're going to need some
15 data, so that's the first question, do you have
16 any data?

17 The second question, has there been a
18 risk analysis done? I think that would be
19 important.

20 Then I guess I have a third question.
21 Where is the Army Corp of Engineers on this?
22 Have they expressed any concern?

1 MEMBER LAMARRE: What's interesting is
2 that when you're looking in the BCA that was put
3 together for the failure of the Soo Lock, and
4 it's important because nationally I think that
5 this has been relatively overlooked, I think
6 that, as you said, when asked whether or not a
7 tug made a difference at the Soo, because it's
8 outside of their scope of maneuvering let's say,
9 or operations, that didn't really make a
10 difference to them. That's why I'm bringing it
11 up here with the pilots because ultimately it's
12 tug availability and service that they require.

13 CHAIR GALLAGHER: Rick?

14 MR. LAURION: I'm curious. Is there
15 enough traffic to support competition? If there
16 isn't a competition, how do you get a reasonable
17 rate out of the towing company?

18 MEMBER LAMARRE: I think if you had
19 compulsory tug use, there is going to have to be
20 competition at some point.

21 MR. LAURION: And what port is your
22 competition? To the best of my knowledge, there

1 is almost none. Duluth I think has Heritage.

2 MEMBER LAMARRE: So, you have
3 Heritage, you have Gaelic in Detroit which my
4 father ran with for 45 years.

5 MR. LAURION: Gaelic, according to
6 your father, would have told us it's all --

7 MEMBER OLNEY: Thunder Bay has some
8 leading companies.

9 MEMBER LAMARRE: Yes, exactly.

10 MEMBER OLNEY: And they're compulsory
11 companies.

12 MEMBER LAMARRE: So, in the Soo alone,
13 of course you have MCM who has tugs up there.
14 You have, just because they won't tow a BBC ship
15 doesn't mean that they won't tow. So, that's
16 one.

17 The towing company has the lion's
18 share of the business that they do because they
19 have a contract, a customer rate, and a non-
20 contract rate. That's about providing service to
21 supporting the network of vessels and crew that
22 are readily available at a moment's notice when

1 you want them.

2 PARTICIPANT: What sort of hours'
3 notice?

4 MEMBER LAMARRE: Four hours. Let me
5 see you get a tug fired up in four hours and get
6 a crew from halfway across God's earth, and then
7 we'll talk.

8 So, you know, I honestly, I'm not
9 saying that a specific port, specific situation,
10 other than I think we should protect an asset
11 that we're investing heavily in, and I think as
12 we talk as an industry, so I'm here, Steve Fisher
13 and I kind of got into it about this issue a
14 little bit, because of course anything that
15 potentially increases cost, that's top priority.
16 But really if we're looking at the sustainability
17 of the system, in my opinion, so for Port of
18 Monroe, 90 percent of the cargo that comes to the
19 port comes through the Soo Locks.

20 Is it something where if we really are
21 talking about the level of importance and the
22 critical nature of such an asset, it shouldn't be

1 a financial decision whether or not you use that
2 safeguard. Here are all the spender guys.

3 You're the chairman.

4 MR. HALL: Danny?

5 CHAIR GALLAGHER: Chris?

6 MR. HALL: Thank you, Chris Hall,
7 Shipping Federation. Is compulsory tug usage,
8 are tugs compulsory anywhere else in the system?
9 From Montreal on through? I'm not talking ports,
10 we're talking in the locks and the seaway.
11 Because if it's not compulsory anywhere else,
12 then how can you make an argument that it's just
13 for one lock?

14 MEMBER LAMARRE: Well, I can tell you
15 for one thing, I wish tows were compulsory for
16 the Soo Locks for the Canadians. Let's talk
17 seaway tows and Canadian charges versus U.S.
18 charges, that gets real interesting.

19 PARTICIPANT: Aren't they all
20 American?

21 MEMBER LAMARRE: That's your --

22 MR. LAURION: Rich Laurion, Benchmark.

1 Are we considering making it compulsory for U.S.
2 and Canadian flags also?

3 MEMBER LAMARRE: No, I think that it
4 would only be foreign flags, and I think you
5 would have to set up certain parameters based on
6 what level of maneuvering equipment the vessel
7 has, bow thruster, stern thruster, et cetera.

8 PARTICIPANT: How about an age
9 requirement? Nothing older, anybody who's older
10 than 1975 needs a tugboat? That would take care
11 of a couple of things.

12 MEMBER LAMARRE: Those types of
13 parameters are definitely what, I mean, that's
14 how it is with Red Flag right now. I mean, if
15 you're more than 20 years old, with Red Flag it's
16 already an issue. No smiling, Todd.

17 MR. HAVILAND: I think Mr. Crowley
18 wants to speak.

19 MEMBER CROWLEY: I mean, I just want
20 to ask a basic question I guess. How does this
21 fit under our charter as we talk about a network
22 of system of tugs and a risk analysis for damage

1 to an asset owned by another agency? I'm just
2 not sure, I mean, I get the connection between a
3 pilot wanting one and then not getting it
4 available, but I'm not sure that that gets this
5 committee to focus on it.

6 MEMBER LAMARRE: What Captain Olney
7 was telling, in my opinion, that he would have
8 preferred tug and essentially received adverse
9 feedback from the master even though he's
10 ultimately responsible for moving the vessel.
11 I'd say that that's something of importance. If
12 that's the only issue, if the pilot says I want a
13 tug, it should not be a question.

14 CHAIR GALLAGHER: Mr. Haviland?

15 MR. HAVILAND: Todd Haviland, Great
16 Lakes Pilotage. I'm not sure that this
17 discussion has much to do with the Coast Guard's
18 regulation of the pilots. I believe we've got a
19 harbor safety committee that may be a better
20 venue for this discussion, and Mr. Kiefer is in
21 charge of all those harbor safety committees.

22 But I think the one question I have

1 is, you know, are you, with whatever this
2 proposal is, are you looking, like the Soo Lock
3 was funded with government money. Are you
4 looking for government subsidies to support this
5 tug industry because, there are a lot of things
6 in the Great Lakes that there just isn't enough
7 business to sustain them. I don't know if you're
8 looking at, you know, this is like, Steve Fisher
9 always talks about the snowplows at the airports,
10 you know. Is this a snowplow at the airport deal
11 then? You can't use, there may not be enough
12 demand to use them all the time, but boy when you
13 need one there's nothing that can substitute it.

14 MEMBER LAMARRE: I'm not saying that
15 there's any particular proposal. What I am
16 saying is that cost seems to be a priority over a
17 lot of other things in this discussion which is
18 supposedly about safe navigation and pilotage
19 rules and the interaction between the master of
20 the vessel and the pilot.

21 The pilot is independent of the bridge
22 team and wants to use the resources at their

1 disposal that they might have. But when you have
2 a master telling the pilot no, we don't want to
3 use a tug, that's one less tow line sustaining
4 that industry that's part of the Great Lakes.
5 So, it will affect future availability.

6 We are an enigma when you look at the
7 larger maritime world. I would actually, I'm
8 looking forward to having a discussion with the
9 APA about this because I think that nationwide
10 tug use is mandatory in a lot more places than
11 you would think. Again, I don't have a proposal.
12 I don't have an answer.

13 But Mr. Olney's comment alone when you
14 close the slide about the relationship between
15 the role of the master and the role of the pilot,
16 the role of money should not be part of that
17 equation.

18 MEMBER CROWLEY: John Crowley, I
19 categorically disagree.

20 MEMBER LAMARRE: I know, and I figured
21 you would.

22 MEMBER CROWLEY: Because I go to the

1 law itself, and it bookmarks safety with things
2 like effective use, public interest. Now, all
3 those things might invoke safety issues, I'm not
4 saying that it doesn't exist. I'm saying I
5 categorically reject the concept, and I believe
6 the Coast Guard does in its wider mission, that
7 it does not say safety at all costs.

8 The Maritime Commerce, which put out
9 a charge to Coast Guard offices under the
10 previous commandant that I believe would still be
11 in effect today, encouraged the recognition of
12 commerce, its contribution, and the economics
13 attendant to it, not to undercut safety but to
14 have it managed as a system. You know, when I
15 came into the maritime industry, it was the Coast
16 Guards go out, you don't have to come back kind
17 of attitude. That was liberally said out there.

18 That has changed dramatically over,
19 and now my lifetime in the Coast Guard is years
20 ago as well, but it changed, you know, back in
21 the 80s really and was a healthy change. So, I
22 am not saying safety is unimportant, but we

1 gather ways to be effective in our mission and
2 still consider safety at the margin. That's what
3 I think we're about and that we should be
4 encouraging.

5 But I'm going to back that I don't
6 know that this is even something to argue about
7 here. I think it is, whether it's a harbor
8 safety committee, I don't know if there is one
9 with jurisdiction over this one or not, or a
10 towing safety, or the Corp. I mean, I think
11 there's a lot of venues of which this may be a
12 more appropriate discussion. I wouldn't dismiss
13 it but I just, I guess I just want to levy my
14 statement that to disregard economics and just
15 put safety on the highest pedestal is not what I
16 see this as being done.

17 MEMBER LAMARRE: But then the Coast
18 Guard, if we are referencing the Coast Guard,
19 does not break ice at night.

20 MEMBER CROWLEY: And this is one of
21 the changes since I was breaking ice --

22 MEMBER LAMARRE: Yes.

1 MEMBER CROWLEY: -- and we can argue
2 about that but that's a different matter a little
3 bit.

4 MEMBER LAMARRE: I kind of like
5 arguing with you.

6 MEMBER CROWLEY: Well, we seem to --

7 CHAIR GALLAGHER: Todd Haviland?

8 MR. HAVILAND: Yes, that was Paul
9 LaMarre.

10 Todd Haviland, U.S. Coast Guard. I
11 think it might be relevant to ask the pilot
12 presidents, because my expectation of them is not
13 to put the ship in a dangerous situation. It's
14 the agent that orders the tug, but if that, and
15 please, you know, speak and correct me, but I
16 have a feeling that ship is going to go to anchor
17 if the pilot on board doesn't think it's safe to
18 move without a tug.

19 CHAIR GALLAGHER: Dan Gallagher. In
20 our district, if we need a tug we get a tug, and
21 that's it. No questions asked.

22 VICE CHAIR BOYCE: John Boyce. So,

1 what Paul was touching on before is that this
2 system, and Oswego is a perfect example, is
3 there's definitely evolutions that you need to
4 have a tug for. The problem is the assets don't
5 exist to accommodate it. So, I know they've lost
6 a lot of cargo out of Oswego because, there's a
7 ducktail with Project Cargo and certain types and
8 sizes of ships that you can move in and out
9 without a tug. But with the draft limitations
10 and now the size of the ship, they can't load
11 enough cargo to make it worth it to get out of
12 those drafts. So, it's just lost.

13 Conversely, if they're trying to bring
14 in a bigger ship, you can't turn a bigger ship at
15 Oswego without a tug. So, now somebody is
16 mobilizing a tug from God knows where.

17 MEMBER LAMARRE: And it costs their
18 right arm.

19 VICE CHAIR BOYCE: Yes, and it costs
20 them right out to be able to do it, you know.
21 So, we've worked with a whole bunch in trying to
22 narrow the margin as much as possible to make it

1 work, and once in a while it does, but a lot of
2 it doesn't just because there isn't enough use of
3 the asset to justify a source asset there or
4 even, you know, between here and Ogdensburg or
5 something like that. For a number of places it's
6 just not there. So, I think you're right spot on
7 with that point of view.

8 MEMBER LAMARRE: It doesn't have to be
9 up for a committee recommendation or proposal or
10 otherwise. My thing is this is an issue in our
11 industry that nobody is talking about right now.
12 If it's going to be talked about because it is
13 about maneuvering vessels, what better place for
14 the open discussion to start than within this
15 committee.

16 CHAIR GALLAGHER: All right, any other
17 questions? Public?

18 VICE CHAIR BOYCE: Just one more add-
19 on to that.

20 CHAIR GALLAGHER: What's your name?

21 VICE CHAIR BOYCE: This is John

22 Boyce. When we had the high flows at

1 Iroquois, we put in a tug for everything at
2 Iroquois. So, there is another precedent for it.

3 MR. LAVALLEY: Who required that,
4 John? Canadian Revenue?

5 CHAIR GALLAGHER: Who are you?

6 MR. LAVALLEY: Mark LaValley.

7 VICE CHAIR BOYCE: Basically, it came
8 down to, you know, what is it going to take to be
9 able to run the higher flows. I said a real tug,
10 you know. All right, let me just jump to the
11 end, we're not going to put in a substandard tug,
12 you know. I had to search for a word there. You
13 know, it needs to be a real 4,000 horse Z-drive
14 tug to be able to be effective in the current
15 down there. You know, when it came down to,
16 well, we're not sure we can do that, I said,
17 well, I'm sure we can't move tugboats without it
18 so figure it out. And they did, so that's how
19 that ran down in a nutshell.

20 MEMBER OLNEY: Well, I think that
21 agenda item accomplished some good discussion.

22 CHAIR GALLAGHER: Yes, thank you. Any

1 more discussion?

2 (No audible response.)

3 CHAIR GALLAGHER: All right, then
4 we'll move on to our next discussion.

5 Our next topic is Great Lakes Pilotage
6 Initiatives and Projects. The Great Lakes pilots
7 and districts will provide an update on the
8 various initiatives and projects. We'll begin
9 with Captain Boyce.

10 VICE CHAIR BOYCE: We've done quite a
11 lot in the last few years at our offices and
12 boats and whatnot. Right now we're in the
13 process of building another new boat. We've
14 backed off quite a bit in the last year, just not
15 sure where the economy was going and everything
16 and if it was going to be worth it or not, but I
17 think it still is.

18 It is more of a tugboat design for a
19 pilot boat to be able to go out on the lake in
20 real bad weather, and mostly to be able to break
21 ice before our pilot changes. That way,
22 depending on the year, you'll get another week or

1 two of pilot boat service from the beginning and
2 end, allowing us to get to the anchorages like
3 you're talking about before, or being able to get
4 the people on and off, you know.

5 When it comes to breaking ice, there's
6 two things: a strong hull and a heavy boat.

7 That's not necessarily something you want 24/7 as
8 your main boat. It's just too awkward to use for
9 a pilot boat all the time, but when it comes to--

10 MR. HAVILAND: Can you just explain
11 what happens if you can't make the change?

12 VICE CHAIR BOYCE: Oh, yes. If you,
13 everything stops because when the pilot boat goes
14 out of service, we end up over-carrying on both
15 sides of the pilot change at Cape Vincent. We're
16 putting lake pilots on at Iroquois Lock six hours
17 before the change point and taking the river
18 pilots off on the other end of Lake Ontario 12 to
19 14 hours later than having to bring them back.
20 So, the efficiency at the beginning and even more
21 so at the end of the season when -- start
22 happening goes right out the window as soon as

1 the pilot boat is out of service.

2 More what happens in the spring is you
3 get ice flow and even breaking up and falling in
4 from the lake. To make the efficiency and pilot
5 availability better, as soon as we can, you stop
6 putting the extra pilot on at Iroquois on traffic
7 coming outbound, but then a big ice flow comes in
8 off the lake, the ship has already left Iroquois,
9 and now you've got a problem because you've got
10 no way to get the relief pilot out there, and it
11 can't turn around and go back. So, your ship is
12 sometimes stuck for a day or day-and-a-half just
13 because you're trying to be more efficient.

14 It generally works out, but not
15 always. You never know when a big flow is going
16 to come in and jam up Cape Vincent for three
17 days. By the time we get an icebreaker up there,
18 you're already three days into it and you're just
19 crying over spilled milk at that point in time.

20 MR. HAVILAND: Thank you.

21 CHAIR GALLAGHER: Anything else over
22 there?

1 (No audible response.)

2 CHAIR GALLAGHER: All right, any
3 questions from the committee?

4 (No audible response.)

5 CHAIR GALLAGHER: Any questions from
6 the audience?

7 (No audible response.)

8 CHAIR GALLAGHER: No recommendations?

9 (No audible response.)

10 CHAIR GALLAGHER: We'll move on to
11 Captain Olney.

12 MEMBER OLNEY: Thank you. Jon Olney,
13 Western Great Lakes Pilots. This season we've
14 actually put two new boats to us into service.
15 One is the Waiska Pilot that was built out in
16 Oregon specifically for us, this is a shallow
17 draft boat. You can show the picture there.
18 Yes, that was our newest asset, the one we had
19 purposely built for service out of Brimley.

20 That's approximately a 24-inch draft
21 with outboards, and specifically we went with
22 that configuration because we have to get under a

1 bridge so we have an air draft restriction and we
2 have to get through shallows out in Whitefish Bay
3 which is a draft restriction. So, this boat is
4 purposely built for service for our Brimley
5 location.

6 MR. HAVILAND: Sorry, Todd Haviland.
7 Can you just explain to folks who may not be
8 familiar with how you used to do things before?

9 MEMBER OLNEY: I'd be glad to.

10 MR. HAVILAND: I think that would
11 really put things into context.

12 MEMBER OLNEY: In years not too very
13 long ago, our pilot boat for the northern end of
14 the St. Mary's River was actually more in Sault
15 Ste. Marie. The problem was it was more on the
16 east side of the Soo locks so that every time a
17 pilot had to go board a ship out in Whitefish
18 Bay, he had to get onto our boat, transit through
19 the Soo locks, and then on out into Whitefish Bay
20 to make the pilot change.

21 But in order to take the lake pilot
22 off that same ship, the same thing had to happen

1 in reverse, and that is, now the lake pilot gets
2 up on the pilot boat, and then once again have to
3 go through the Soo locks before they could more
4 the boat. The raising and lowering of the Soo
5 lock, depending on which of the two locks they
6 get is either 15 or 20 minutes. So, we added a
7 tremendous amount of man hours to getting pilots
8 to and from the ships.

9 So, we were able to acquire property
10 west of the locks. That property was in fact in
11 a little town called Brimley, Michigan on the
12 Waiska River, and that's spelled W-A-I-S-K-A,
13 it's not the adult beverage but that is how it's
14 being pronounced. But that is taking a trip that
15 went anywhere from an hour-and-a-half to two
16 hours from the time the pilot set foot on the
17 pilot boat until he was on the ship, so now it's
18 about a 15 to 20-minute exercise which has spun
19 the pilots around so much faster. So, now
20 they're already accumulating their rest between
21 jobs appreciably faster than days gone by.

22 So, that's how we ended up with a

1 pilot boat operation and that boat on the west
2 side of the locks. This has proven to be very
3 good. We're excited about this boat. So, far
4 it's done everything we've asked it to do. I've
5 got a video in my watch when I got up, it was
6 within the last 10 days and it was a pretty rough
7 ride but that boat handled it pretty well.

8 The other asset we have was a boat
9 that was actually built in 2004 but it had re-
10 powered engines and they just re-powered the
11 engines like it had 200 hours on it when we
12 acquired the boat. This boat came out in Maine
13 through a pilot route. So, we bought that one
14 last year, and as it would happen, the Waiska
15 Pilot was supposed to be built and delivered last
16 spring. Well, we got it in the fall which is no
17 surprise, it's just the way these things go.

18 The other asset which is named the St.
19 Mary's Pilot, actually both arrived in our
20 district on the same day last fall. So, one was
21 years in coming, the other one kind of happened
22 relatively quickly to buy the used boat, but both

1 boats ended up in our area in the same 24-hour
2 period. So, that was our excitement in getting
3 two very good assets. Even the used boat has
4 proven to be so far very nice. Vince has been up
5 there to ride it, so you know, there's a neutral
6 third party that can say this thing is performing
7 very well as well. So, we're excited about that.

8 We have a chunk of property in Brimley
9 which we purchased in 2019, and then the adjacent
10 property became available later that year. So,
11 we grabbed it without putting a whole lot of
12 thought into that. It just seemed like such an
13 obvious no-brainer. We bought the adjacent piece
14 of property, so that created a nice chunk of land
15 for us which we intend to develop in the future.
16 So, that's certainly one of the initiatives we
17 have going on.

18 Plus, we are trying to find property
19 at the south end of the river where we actually
20 rent dock space, and we'd like to acquire space
21 on the south end of the St. Mary's River as well
22 to put ourselves more in control of our own

1 destiny without depending on, you know, a lease
2 agreement that, you know, somebody could
3 ultimately break and, you know, now we have a
4 fine alternative method. Those are the big
5 things that we've got going on.

6 The two most pressing issues were two
7 new assets because we were forever trying to find
8 parts for the worn-out Coast Guard 41-footers.
9 They're becoming very tough to find parts for as
10 Vince alone could attest to because he used to
11 work on those. Those were our big initiatives.

12 CHAIR GALLAGHER: Thank you.

13 Any questions for Jon?

14 (No audible response.)

15 CHAIR GALLAGHER: Any comments from
16 the -- okay, we'll move on to our district.

17 Dan Gallagher, District 2.

18 We took delivery of our new pilot boat
19 this spring. It's a 42-foot jet drive. It'll
20 save a lot of wear and tear on the big boat
21 intended for it. It's faster. Everybody seems
22 to like it. Everywhere the boat, of course we

1 use the big one for that, but everything, we
2 couldn't be any happier with it.

3 So, a whole lot of us like it. I'd
4 say it saves at least 10 minutes per run which
5 isn't a lot but when you're doing multiple runs a
6 day it all adds up. Like I say, it will save a
7 lot of wear and tear on the new boat.

8 We're in the process of doing some
9 work on our docks. We haven't made a lot of
10 progress on it, just getting a contractor right
11 now. It's a little tough, but we've got all the
12 permits. We had to go through the Corp of
13 Engineers and where you get the Michigan EDQ.
14 And so, we've got those permits all in place,
15 they're good for five years. So, that was the
16 important part, so we're getting through that
17 without a problem.

18 Besides that, we've got a good office
19 and good guys. We've got everything going on
20 within our district.

21 Any questions?

22 MR. HAVILAND: Todd Haviland, U.S.

1 Coast Guard. Are you burning a lot less fuel
2 with that smaller boat?

3 CHAIR GALLAGHER: Yes, the smaller
4 boat is burning about half the fuel which is
5 really good this time of year.

6 Mr. Crowley?

7 MEMBER CROWLEY: Yes, John Crowley.
8 These are all initiatives that are underway?
9 They don't lead to any particular budget item on
10 this year's or the coming years', right? Is that
11 an accurate statement or not?

12 CHAIR GALLAGHER: Yes. We had, for our
13 pilot boat, on the Huron Spirit, we had a
14 surcharge. So, the surcharge was continued for
15 the newer boat. So, there's no additional budget.
16 Our budget with the docks, we anticipate using
17 the working capital fund for all that. So, it
18 will not be in the, it won't be in the rate,
19 right.

20 MEMBER CROWLEY: So, that's working
21 capital fund. But the surcharge, that was
22 continued in a previous year to the new boat, or

1 that's continued as of this year?

2 CHAIR GALLAGHER: We paid off the
3 other boat at the end of last year, and we've got
4 the loan for the new boat. We had a \$250
5 surcharge in Detroit, and so that's just going to
6 continue until this new one has been paid for.

7 MR. HAVILAND: Todd Haviland. Can you
8 just explain the background on that?

9 CHAIR GALLAGHER: Well, we needed
10 another boat in Detroit.

11 MR. HAVILAND: To go back to the
12 Spirit.

13 MEMBER CROWLEY: I don't think I have
14 a question about that. My question, if I can
15 focus us on this for a second, is the decision to
16 go to surcharge for the previous boat, got it.

17 MR. HAVILAND: That was made between
18 him and the shippers through the Shipping
19 Federation.

20 MEMBER CROWLEY: Okay, but, so that
21 doesn't come off the rate package at all?

22 MR. HAVILAND: It doesn't go into the

1 rate. That's one of the things that made this,
2 to make sure that those revenues --

3 MEMBER CROWLEY: That was my first
4 question was does any of these initiatives impact
5 the '23 proposed rate discussion, and that's --

6 MR. HAVILAND: His doesn't. I don't
7 think yours does. John Boyce --

8 MEMBER CROWLEY: Everything seems to
9 be in place or in progress.

10 VICE CHAIR BOYCE: Yes.

11 MEMBER CROWLEY: Okay.

12 MR. HAVILAND: Not that feature boat
13 but your current pilot boat is in the rate
14 because --

15 VICE CHAIR BOYCE: Yes, I had that
16 last year --

17 MEMBER CROWLEY: Then I don't, I mean,
18 I don't have a --

19 CHAIR GALLAGHER: At the last meeting,
20 I think -- no, I think actually Allan was the one
21 that tried to say they wanted to, they would
22 rather go with surcharges versus putting it in a

1 rate because it's more transparent. After they'd
2 seen what we had and the three reports we gave
3 them, you know, that was the recommendation.

4 Industry, again we were able to work
5 it out with industry how it was, and they had
6 seen the value in it and the transparency in the
7 reporting, and everything was good.

8 MEMBER CROWLEY: So, John, probably,
9 I endorse that and the thoughtful process, and
10 that's what I wanted just to be clear, to have
11 clarity as to how we're proceeding here and
12 would, you know, encourage this part of the
13 conversation when you all bring forth, you know,
14 your next year's ideas to have them such that
15 we're educated about them before we see a
16 proposal for something that will appear in the
17 rate.

18 That's kind of my point here. This
19 all is transparent and it's done fine. I don't
20 have any comment on it whatsoever, but I'm just
21 trying to affirm this practice of decision, you
22 know, information-decision-output.

1 MR. HALL: And just for the record,
2 I'd like to confirm what you said, Captain
3 Gallagher, it's absolutely correct. That is
4 something that we support very heavily and have
5 done in many other jurisdictions as well where we
6 support when a major capital asset is needed, the
7 use of a special surcharge to help with the
8 funding of that because it's transparent, it's
9 got a beginning and an end and it doesn't get
10 baked into the rates going forward. It's a
11 specific item. So, I can confirm that you're
12 absolutely correct, thank you.

13 CHAIR GALLAGHER: All right, any other
14 questions?

15 (No audible response.)

16 CHAIR GALLAGHER: If not, we'll go on
17 to our next topic, Pilotage Assessment. Mr. John
18 Crowley, Executive Director, U.S. Great Lakes
19 Shipping Association, and new Great Lakes
20 Pilotage Advisory Committee member.

21 MEMBER CROWLEY: I'm going to give you
22 back time, John Crowley. I mean, I kicked this

1 one forward in this morning's discussion as I
2 talked about the system and one that was framed
3 in 1960 with a proclamation that talked about
4 designated waters and a way of looking at
5 something that would enhance the utilization of
6 the pilot skills and reduce unnecessary friction
7 within the system. I think we discussed that one
8 adequately. I don't think that there's the
9 potential of a recommendation, so I give you back
10 the time, Mr. Chair.

11 CHAIR GALLAGHER: Thank you.

12 Any discussion on it?

13 MEMBER OLNEY: I'm going to jump on
14 here. I don't know if this is new to you or not,
15 but in, I believe it was 2019, this committee
16 recommended that the Straits of Mackinac become
17 designated waters. I don't know if you were
18 aware of that or not.

19 MEMBER CROWLEY: I wasn't.

20 MEMBER OLNEY: The whole trick about
21 designated and undesignated waters is there's
22 only one person that can make that happen, and

1 that's whoever sits in the office at 1600
2 Pennsylvania Avenue.

3 MEMBER CROWLEY: Right.

4 MEMBER OLNEY: So, we tried coming out
5 of this meeting to get that done. President Trump
6 was in office at that time. Congressman Jeff
7 Erdmann, the U.S. Representative who happens to
8 hold the Soo locks in his, or I'm sorry, the
9 Straits of Mackinac in his district, it seemed
10 like a good combination between a Republican
11 representative whose district was encompassing
12 the Straits of Mackinac and a Republican
13 President.

14 Well, it didn't get done because
15 suddenly getting reelected was a very important
16 thing. I shouldn't assume that he was going to
17 do it anyway just because I wanted it done. He
18 wasn't taking my calls, but regardless, then when
19 President Biden got elected, then that changed
20 the whole dynamic.

21 So, now we've got two U.S. Senators
22 that are Democrats in Michigan, so we've reached

1 out to them as well to try to push it along
2 through this channel. But with the COVID pandemic
3 and this myriad of things that have been going on
4 in the country in the last couple of years, it's
5 kind of gone to the back burner so to speak, not
6 in my mind, but in those people who won't be
7 affected in making it happen. But we're still
8 out there slogging away trying to get it to
9 happen.

10 I'm not sure if that was really what
11 you were driving at, but it seemed like since it
12 kind of came up for a second time, I wanted to
13 jump in and at least say this type of initiative.

14 MEMBER CROWLEY: This is John Crowley.
15 I think it's a worthwhile comment and I
16 appreciate it, Jon, because I wasn't aware of it,
17 number one. Number two, I'd say that in some
18 respects, you know, you take a holistic look at
19 the entire system for the same sorts of decisions
20 and be able to look at things that might be
21 lessened in terms of utilization or, you know,
22 exercise of pilotage responsibilities as well as

1 increase, that then it becomes, it's more likely
2 to become a non-partisan issue and be good
3 government. Again, it's going to be difficult to
4 find a way through the system, I mean, it's not
5 going to be, you know, like knife through butter
6 but it's, if you're going to do it, you might as
7 well do it once and not, you know, a half dozen
8 different times.

9 So, I thank you for the remark and,
10 again I'll try to turn back the time.

11 CHAIR GALLAGHER: Okay, thank you.

12 Any other questions?

13 Mr. Diamond?

14 MR. DIAMOND: Clay Diamond with the
15 American Pilots Association. Just maybe for the
16 benefit of the new members of the committee, as
17 some of you kind of pay attention to all of the
18 pilot systems in the U.S., I can tell you without
19 question that this one is the most studied system
20 in the country if not the world. I mean, there
21 was a Coast Guard study in the late 80s, the
22 Coast Guard commissioned a private organization,

1 Martin Associates, in the 90s to do a study.
2 Coast Guard updated that, had the Martin
3 Associates update that study in 2017. The GAO
4 did a review in 2019, and I would add, something
5 that's unique to this system and from everywhere
6 else in the country is every five years there's a
7 full review and opening of a rulemaking to look
8 at the full rate setting process.

9 So, yes, this idea of an assessment,
10 I would just want to, you know, kind of emphasize
11 that this is the most studied group or pilot
12 system that I'm aware of.

13 CHAIR GALLAGHER: Thank you.

14 Any other comments, questions?

15 (No audible response.)

16 CHAIR GALLAGHER: Nothing from the
17 committee?

18 (No audible response.)

19 CHAIR GALLAGHER: Okay, we'll move on
20 to the Public Comments.

21 At this time, I'd like to open the
22 floor for public comment. Please state your name

1 and affiliation clearly as this is a part of the
2 public record. Commenters will have up to five
3 minutes to present their materials.

4 Is there anybody from the public that
5 would like to speak?

6 (No audible response.)

7 CHAIR GALLAGHER: Good.

8 Mr. Haviland?

9 MR. HAVILAND: Todd Haviland. Just,
10 did we approve the minutes from the last meeting?

11 CHAIR GALLAGHER: Did we do what?

12 MR. HAVILAND: Approve the minutes
13 from the last meeting.

14 CHAIR GALLAGHER: No.

15 MR. HAVILAND: Okay, just checking.

16 CHAIR GALLAGHER: I'm always open to
17 that. It's not in my script.

18 PARTICIPANT: You need a better
19 scriptwriter.

20 CHAIR GALLAGHER: All right, well, if
21 we're going to, do we have a motion to approve
22 the minutes from the previous meeting?

1 VICE CHAIR BOYCE: I'll make a motion
2 to approve the minutes.

3 CHAIR GALLAGHER: Motion by John.

4 Second? Paul?

5 MEMBER LAMARRE: Second.

6 CHAIR GALLAGHER: Second by Paul.

7 All in favor?

8 (Chorus of ayes.)

9 CHAIR GALLAGHER: All right, the
10 motion carries.

11 VICE CHAIR BOYCE: I make a motion to
12 adjourn this meeting.

13 CHAIR GALLAGHER: No, we're not done
14 yet.

15 PARTICIPANT: Don't get excited, John.

16 CHAIR GALLAGHER: All right, I'm going
17 to turn it over.

18 PARTICIPANT: He does that at our
19 meetings, too.

20 DFO KIEFER: Thank you, Captain
21 Gallagher.

22 Thank you all for attending this Great

1 Lakes Pilotage meeting. Special thanks to Mr.
2 Paul LaMarre and the Port of Monroe for hosting
3 us here, we appreciate that. Thanks to the
4 members of the committee for your continued
5 dedication and work. Thanks to the Coast Guard
6 staff, Todd Haviland and Todd Haviland and his
7 team, and particularly Mr. Frank Levesque who did
8 a lot of the groundwork, the alternative
9 designated Federal official, for all their
10 groundwork today.

11 As I stated in my opening remarks,
12 this public meeting is being recorded for
13 permanent record. In addition, the official
14 minutes will be prepared and will appear on the
15 CG-WWM-2's website within 90 days of this
16 meeting. Thank you all. Safe travels.

17 VICE CHAIR BOYCE: Motion to adjourn?

18 PARTICIPANT: Second.

19 MEMBER KIEFER: The meeting is
20 adjourned.

21 (Whereupon, the above-entitled matter
22 went off the record at 1:55 p.m.)

A	
a.m 1:10 5:2	31:18 96:20 97:1
AAA 69:8	98:15 128:12 260:11
Aaron 2:19 16:5	accurately 12:6
abilities 154:8	achieve 35:2 38:9
ability 45:6 51:5 75:18	achieving 77:7
139:17 176:12 187:8	acknowledge 51:7 63:5
192:17 230:22	acquire 226:14 227:14
able 7:7 24:9 45:1 78:22	255:9 257:20
91:1 104:12 117:21	acquired 256:12
124:22 126:19 129:14	acquisition 221:13
134:12,16 146:6,7	227:4
147:9 150:14 159:6,8	acrimony 91:12
171:8 180:11 210:14	act 5:15 6:3,8 21:13
211:18 213:1 247:20	22:1 25:14 28:14
249:9,14 250:19,20	31:22 36:3 39:15
251:3 255:9 263:4	43:17 45:3,5,21 46:8
267:20	104:7 114:16 214:12
ably 73:21	action 27:4 58:6 181:3
aboard 139:2,11	actions 32:16 70:18
above-entitled 111:8	100:10
205:20 272:21	activities 95:11,14,21
absolutely 150:4 176:5	101:6 103:5,7
190:19 223:2 264:3	activity 96:11 107:2,19
264:12	208:15
abuse 45:7	acts 6:9 20:21
abut 24:17,22	actual 24:19 103:6
academic 30:4	adamant 232:5
accept 11:8 156:4	adapt 205:4
170:19	add 35:5 58:12 140:1
accepted 30:9 74:17	195:6 196:4 202:9
124:8	211:17 269:4
accepting 75:13	add- 248:18
accepts 170:8	added 90:22 188:13
accident 26:17 104:3	255:6
116:9 137:8 157:21	adding 176:7 203:12
160:16,18 235:12	addition 9:5 32:14 97:6
accidents 23:17 26:12	97:7 113:7 177:9
accommodate 124:22	201:7 272:13
144:21 184:18,19	additional 9:1 39:11
185:3 189:18 190:6	89:5 96:10,19 102:19
247:5	108:7 174:19 177:6
accommodations	204:5 208:2 233:3
10:16	260:15
accomplished 249:21	additionally 94:3 95:20
account 9:14 131:20	96:3 98:6
132:22 133:2,4	address 5:22 182:1
141:20 188:11	addressing 117:1,4
accountabilities 43:15	adds 131:5 259:6
accountability 44:4	adequacy 130:7
78:21 86:20 87:1,8	adequate 7:11 161:10
95:4	234:16
accounted 131:8 132:7	adequately 265:8
133:11,19 196:8	ADFO 10:4
accrual 100:3,8 107:8	adjacent 257:9,13
accumulating 255:20	adjourn 156:5 271:12
accuracy 97:3	272:17
accurate 9:14 30:5	adjourned 4:22 272:20
	272:17
	adjudicated 93:10
	adjust 96:8 188:2
	adjusted 101:21
	adjusting 188:4
	adjustment 99:8
	adjustments 97:20
	98:12,14 99:11,11
	100:8 101:15,17
	admin 10:6 187:12
	Administration 2:12
	14:1
	administrative 2:6 10:2
	11:2 14:12 36:2 39:15
	45:3,5 46:8 126:8
	administrator 26:15
	admiral 70:14
	adopting 67:3
	adult 255:13
	advance 62:11 66:3
	179:8
	advantages 88:18
	adverse 241:8
	adversely 214:12
	advice 6:17 29:15
	advise 23:3 28:16 53:13
	advises 31:1
	advisor 17:1 28:13,14
	29:3,12,15
	advisory 1:2,9 5:5,7,15
	6:1,9,15,20 11:16
	17:14 38:1 51:12
	53:18 90:16 91:15
	136:8 168:9 264:20
	affairs 44:18 70:20,21
	156:4
	affect 43:3 78:17 243:5
	affiliation 9:11 270:1
	affirm 263:21
	afford 178:1
	afraid 169:8
	afternoon 217:8
	age 161:19,22 163:7
	240:8
	agencies 61:3 96:22
	102:5
	agency 5:18 15:22
	36:17 41:7 43:7,16,19
	44:11,14 45:8,10,21
	46:2,12 71:9,10 241:1
	agency's 44:3
	agenda 7:5,6,9,13 8:22
	17:11,17 49:15,20
	62:7 64:2 108:19,21
	109:1,4,5,13,20 110:7
	110:22 112:21 144:17
	206:1,19 249:21
	agent 2:18 16:1 212:21
	246:14
	agents 32:8 137:10
	ago 42:2 61:2 90:5
	113:2 157:2 158:13
	178:7 207:4 210:17
	234:2 244:20 254:13
	agree 56:21 70:13 78:1
	84:9 172:17,17
	200:15
	agreed 94:11 95:1
	agreement 24:12 82:22
	258:2
	agrees 79:8
	aground 157:9
	ahead 59:14 134:12
	179:20 221:20
	aids 147:9
	aim 46:20
	air 254:1
	airport 143:10 242:10
	airports 242:9
	Albert 157:2
	align 44:12 56:22
	aligns 83:3
	Allan 262:20
	allotted 100:12,17
	101:1
	allow 13:18 39:18 66:6
	97:16 100:14 145:21
	161:22 188:1
	allowable 97:10 104:14
	105:1 167:19
	allowance 203:15
	allowed 48:13 50:1,2
	51:6,21 103:20
	107:11,12 139:9
	192:13 193:6
	allowing 251:2
	allows 43:18 161:14,20
	162:7,11
	Alternate 2:2 9:22 10:5
	alternative 53:1 81:2
	208:9 258:4 272:8
	alternatives 38:9 49:1
	58:6,8
	amazed 156:19
	amend 37:2
	amended 6:7 198:6
	amends 40:16
	America 13:6
	American 2:8,9,10
	13:10 15:7 16:13,15
	18:7,8,9,15 19:1
	29:18 30:8,16 90:15
	136:4,16 138:15
	200:8 229:21 233:7,9
	239:20 268:15
	Amherstburg 148:13
	151:16 152:4
	Amish 221:14

- amount** 34:9 89:17 96:6
96:8,9 104:13 107:16
216:11 255:7
- amounts** 98:15 103:9
103:10
- ample** 181:2
- amply** 25:18
- analysis** 58:21 75:21
111:18 112:1 186:12
235:18 240:22
- anchor** 138:5 172:8,12
246:16
- anchorage** 210:11,13
210:21
- anchorages** 208:2
209:19 210:17 251:2
- anchored** 208:4 210:3
- and-a-half** 123:22
175:20 187:14
- and/or** 17:20,22 31:15
- angel** 198:1
- angle** 149:17
- animated** 136:3
- announced** 7:3
- announcements** 10:6
17:16
- annual** 94:2,13,18
214:21 234:20
- answer** 50:2 73:17
79:17 88:16 104:20
105:9 125:14 127:19
128:4,20,22 146:12
182:3 184:6 195:5,15
202:15,20 205:4
243:12
- answered** 52:12 53:12
127:6 164:9 165:9
- answers** 79:15
- anticipate** 260:16
- Antwerp** 81:14
- anybody** 8:13 78:6 92:2
178:5 180:14 197:11
240:9 270:4
- anymore** 123:5,13
140:10 145:4 205:11
- anyway** 61:15 127:8
167:4 266:17
- APA** 2:8,9,10 18:22
32:5 41:7 43:5 45:18
243:9
- apart** 219:18
- apologize** 88:11,12
- appeal** 28:20,22
- appear** 9:6 53:16
263:16 272:14
- appearance** 47:16
- applaud** 138:10
- applecart** 200:6
- apples** 87:3,3 165:6,6
- applicant** 217:18 220:4
220:15
- application** 128:6
- applied** 58:20 207:9
- apply** 160:20,21,22
168:2
- appointment** 44:10
- appreciably** 255:21
- appreciate** 17:4 35:4
85:7 108:20 110:16
110:19 267:16 272:3
- appreciates** 102:10
181:8
- appreciation** 5:8
137:20
- apprentice** 217:19
220:4,16
- apprentices** 116:19
- apprenticeship** 25:22
- approached** 87:9
- appropriate** 5:19 67:18
145:3 170:21 184:14
234:2 245:12
- approval** 97:15 98:2
- approve** 38:14 115:9
270:10,12,21 271:2
- approved** 30:7 66:18
90:21 169:11 219:3
- approximate** 7:7
- approximately** 253:20
- arbitrary** 45:7,14
- arc** 159:16
- ArcelorMittal** 1:16 13:5
80:4 176:3
- area** 34:12 42:17 257:1
- areas** 34:9 77:17 83:14
89:5 126:13 142:20
148:16 230:13
- argue** 65:11 84:6 180:2
245:6 246:1
- arguing** 246:5
- argument** 78:10 152:13
207:12 239:12
- arguments** 91:12
- arm** 247:18
- Army** 234:7 235:21
- arrive** 68:9 124:17
- arrived** 65:7 67:18
68:13 256:19
- aside** 170:1
- asked** 20:2 87:18
119:19 127:7 222:14
223:7 225:14,15
231:2 236:6 246:21
256:4
- asking** 37:18 78:21
119:8 158:1 173:8,9
174:15 180:8 182:20
190:17 220:12
- aspect** 118:5 230:18,19
- aspects** 62:21 119:12
- asphalt** 204:15
- assembles** 110:2
- assessment** 4:18 8:4
74:17 112:16 264:17
269:9
- asset** 210:14 230:12
233:4 234:1,2,5,11,17
238:10,22 241:1
248:3,3 253:18 256:8
256:18 264:6
- assets** 229:13 247:4
257:3 258:7
- assigned** 143:5 169:17
- assignment** 126:11
142:5,9,22 144:3,7
186:22 187:15
- assignments** 122:9
126:3 133:16 143:6,9
176:22 194:15 198:1
- assistance** 17:12
- assistant** 70:14
- assisted** 95:2
- assists** 159:14
- Associate** 2:9 16:14
- associated** 115:4
172:20 206:14
- Associates** 269:1,3
- Association** 1:13,14,15
1:18,20 2:8,9,10,11
2:14,15,17,18,19,20
3:9,11,15 12:13,19,22
13:3,11 14:19 15:7,9
16:4,6,11,13,16 18:7
18:9,15 19:2,2 20:9
26:9 29:19 30:8,16
76:4 90:15 96:18
103:1 105:19 113:14
124:1 135:21 136:5
136:17 138:16 145:17
161:21 172:21 181:7
181:9 208:13,14
264:19 268:15
- Associations** 97:21
100:7,14 102:11
113:10 138:7 164:10
164:14 165:7 194:2
217:11
- assume** 125:13 233:3
266:16
- assumed** 126:1
- assuming** 154:1
- assure** 20:10
- astray** 128:9
- at-large** 63:20
- attack** 116:8
- attend** 20:1 136:7
- attendance** 8:16,21
- attendant** 244:13
- attending** 271:22
- attention** 137:20 138:2
138:3 214:1 268:17
- attest** 258:10
- attitude** 244:17
- Attorney** 2:5 14:11
- attrition** 116:20
- audible** 33:17 35:9,12
35:17 65:1 93:15,18
108:8,11,14 140:12
166:7 185:22 205:13
205:17 216:19,22
228:1 250:2 253:1,4,7
253:9 258:14 264:15
269:15,18 270:6
- audience** 13:19 205:15
253:6
- audio** 12:8
- audit** 50:22 94:13 96:15
97:14
- audited** 90:7,9 98:1
- auditing** 110:19,21
- Auditor** 3:13,14
- audits** 110:17
- August** 114:3 212:11
221:6
- authorities** 30:12 32:15
37:8 58:15 136:18
- authority** 6:6 15:14,17
25:9 27:13 36:21 37:4
37:5 43:2 45:17
105:21 159:22 170:14
- Authorization** 6:3,8
- authorize** 120:20
- authorized** 107:22
108:2 171:5,19,20
189:7 190:11
- autonomous** 38:4
- availability** 138:5 147:8
164:20 165:22 228:6
228:14 236:12 243:5
252:5
- available** 8:11,22 9:3
62:9,11 69:15 89:8
90:12 180:1 195:4
230:15 234:1,13,17
237:22 241:4 257:10
- Avenue** 266:2
- average** 85:21 123:13
126:18 221:8
- avoid** 42:6 161:10,15
172:6 184:4
- avoided** 26:12
- award** 99:2

- awarded** 104:7,15
aware 203:8 265:18
 267:16 269:12
awareness 151:4,12
 152:18 153:15
awkward 251:8
eyes 178:16 227:21
 271:8
-
- B**
-
- B** 143:4,14 210:1
back 10:9 18:20 71:6,15
 74:6 77:8 81:13 82:9
 90:17 91:7,12 92:6
 100:2 102:13 111:6
 111:11 116:10 118:14
 118:21 120:11 121:15
 126:7,17 130:14
 142:10 144:14 158:10
 166:8 171:13,17
 174:6 175:21 189:9
 193:10 198:8 208:6
 211:6,8 219:8 231:10
 232:19 235:12,14
 244:16,20 245:5
 251:19 252:11 261:11
 264:22 265:9 267:5
 268:10
back-up 211:11
backed 250:14
backfill 178:3
background 26:21 58:2
 209:1 261:8
backs 204:19
bad 140:3 157:12
 164:21 211:14 250:20
badges 222:10
badly 123:19
bag 232:12
baked 264:10
Baker 1:17 12:15,15
 14:20,20 226:5
 227:17,17,19
balancing 114:16
 214:12
ballard 204:10
bare 122:4
barge 157:10
barn 84:5
base 176:1 188:18
based 14:9 15:14 27:17
 27:18 28:5 32:13
 47:21 84:19 89:13
 90:5 94:17 96:8,10,15
 100:5,8,9 126:15
 131:6 142:14 163:4
 165:22 175:14 187:19
 190:18 195:22 203:10
 206:10 240:5
basement 72:5
basic 178:19 240:20
basically 163:4 176:2
 177:12 188:13 190:21
 249:7
basis 39:21 40:11 87:3
 97:15,16 98:2 100:3,3
 100:8,20 101:2 107:8
 121:7 174:22 234:21
bathrooms 10:7
Bay 229:11 237:7 254:2
 254:18,19
bays 230:8
BBC 237:14
BCA 236:2
beans 150:20
bear 34:16 145:6
 196:19
beat 20:3 134:14
 153:11 186:1
beating 204:8
beauties 88:17
becoming 258:9
beg 55:2
beginning 6:5 83:12
 98:9 251:1,20 264:9
begins 52:1
behalf 15:4 75:8 93:8
belief 117:20
believe 58:3 76:7 109:5
 115:11 134:10 135:8
 136:10 167:17 171:1
 192:3 212:14 223:1
 233:5,15 241:18
 244:5,10 265:15
bench 139:18 172:11
 232:15
Benchmark 2:18 15:22
 140:16 216:2 239:22
beneficial 99:19 181:21
 182:8
benefit 67:3 134:20
 178:8 211:21 268:16
benefits 40:14
Berg 2:1 16:18,18 144:3
 169:7,7 217:8,8
 219:21 222:11,11,18
 222:20,21 223:15,15
 225:13
Berg's 217:3
Bergevin 2:13 15:12,13
berth 216:4
best 18:10,20 58:13,18
 89:4 129:7 136:2
 138:20 149:1,2 150:4
 150:9 153:22 163:16
 163:17 181:3 184:15
 236:22
better 10:20 58:20 66:6
 66:7,12 67:1 68:17
 74:16 76:16 77:7 78:9
 78:22 86:18 128:14
 146:12 159:7 166:1
 179:9 182:10,17
 218:10 241:19 248:13
 252:5 270:18
beverage 255:13
beyond 110:21 140:5
 161:22 192:16 205:5
 208:18
Biden 266:19
big 7:1 10:15 91:8
 139:8 144:15 145:13
 151:12 154:6,6
 179:16 195:14 221:9
 229:6 252:7,15 258:4
 258:11,20 259:1
bigger 205:3 224:16
 228:10 247:14,14
biggest 150:17
bill 2:11 14:18 55:7
 103:16 135:19 168:14
 168:15 176:16 193:3
 195:20 215:7
billing 94:4
billings 96:19
billion 229:2
bills 92:13 215:5
Bingo 232:13
bit 19:1 26:22 46:2 81:8
 83:4 84:4 106:18
 107:1 110:20 117:8
 122:1 126:8 130:14
 134:13 146:5 162:7
 165:3 166:1 175:12
 177:20 179:19,20
 183:3 192:3,3 196:12
 204:10 218:17 229:5
 238:14 246:3 250:14
black 68:5
blah 223:1
blind 101:14
block 137:10
blowing 152:6
board 30:8 140:21
 145:8 163:10 229:15
 246:17 254:17
boat 105:19,21 106:2
 106:11,15 126:6,7
 143:3,3 150:12 211:4
 211:8 222:20,21
 224:12 234:8 250:13
 250:19 251:1,6,8,9,13
 252:1 253:17 254:3
 254:13,18 255:2,4,17
 256:1,1,3,7,8,12,12
 256:22 257:3 258:18
 258:20,22 259:7
 260:2,4,13,15,22
 261:3,4,10,16 262:12
 262:13
boats 90:6,12 92:6
 150:18 204:8 250:12
 253:14 257:1
Bob 171:13
body 90:19 91:11 92:3
 92:4 126:13,21
bond 69:8
bones 125:6 169:21
bonus 89:2
book 224:3 225:16
bookmarks 244:1
books 223:18 224:5
border 24:8,11 25:2,4
borrow 165:20
boss 224:16
bothers 78:13
bottom 81:16
bought 256:13 257:13
boundaries 145:17
bounds 109:20 110:6
bow 240:7
box 157:8
boxes 223:14
boy 242:12
Boyce 1:13 12:17,17
 76:21 122:18,18
 150:6,6 167:6,6,22
 168:7 171:3,3,7,22
 175:8,11 177:14,14
 181:20,20 182:7,21
 183:15 184:8,17,17
 185:1 190:19 199:13
 210:10,11 221:19,19
 222:16 223:6,9
 226:13,18,22 246:22
 246:22 247:19 248:18
 248:21,22 249:7
 250:9,10 251:12
 262:7,10,15 271:1,11
 272:17
Boyce's 127:1 148:8
Brandano 3:9 15:8,8
Bray 1:15 13:4,4 80:3,4
 172:16,16 176:3,3
 177:4,4,8,11 185:8,11
 186:7,9,9,18 188:12
 189:16 190:1 191:13
 191:13 209:8,9,15
break 111:6 202:3
 245:19 250:20 258:3
breaking 112:2 228:15
 245:21 251:5 252:3

breeze 109:1
Brendan 2:9 16:12
Brian 20:7,10 119:15,19
bridge 30:3,20 32:22
 33:1,3,4,11,13 131:20
 132:18,20 133:20
 139:11 142:11,17
 154:12 155:17 159:2
 216:6,7 242:21 254:1
bridges 216:10
brief 18:16 99:16
briefly 20:18 111:9
 205:21
Brimley 253:19 254:4
 255:11 257:8
bring 34:15 62:14 80:1
 109:21 120:1 121:8
 144:18 145:6 166:8
 166:11 172:10 177:5
 189:7 197:15 225:14
 247:13 251:19 263:13
bringing 65:14 81:2
 118:8 120:15 236:10
brings 34:8 137:19
 228:10
broad 63:11 91:3,5,16
 185:8 186:8,9 206:19
broader 205:3
broadly 170:2,20
broke 150:11
broken 111:18 126:13
 137:4
brought 10:19 66:1
 67:10 117:18 120:11
 139:7
budget 39:3 44:17 71:1
 260:9,15,16
budgetary 176:4
budgets 66:18
build 169:9
building 225:15 250:13
built 122:22 150:18
 253:15,19 254:4
 256:9,15
built-in 192:16
bulk 113:4 201:4,7
bullet 75:16
bullets 77:5
bunch 114:13 119:4
 150:8 161:16 194:22
 247:21
burden 196:20,22
Bureau 69:7
burner 267:5
burning 211:7 260:1,4
business 63:18 65:16
 78:17 79:1,6 84:13
 102:13 108:1 122:15

138:12 149:7,11
 181:10 202:22 203:1
 237:18 242:7
busy 123:17
butter 268:5
buy 219:3 256:22
by-step-by-step 69:18

C

C-O-N-T-E-N-T-S 4:1
cable 204:11
CAC 218:18
CAC's 219:5
calculate 182:10
 216:16
calculating 103:13,17
calculus 127:21
call 4:4 11:19 21:5
 78:20 130:10 195:18
 198:16 215:8
called 22:22 28:20,20
 69:3 70:7 126:10
 186:21 216:4 255:11
calls 95:18 198:4
 266:18
Canada 2:14,15,16 14:9
 25:8 82:17 191:19
 206:13
Canadian 24:22 99:4
 105:20 106:3,5 113:8
 118:2,7,17 122:10
 123:7 165:2,16 195:8
 199:8,19 200:11
 202:22 225:2 233:7
 239:17 240:2 249:4
Canadians 195:12
 201:11 239:16
canal 154:17,21
cancelled 198:5
candid 6:21
canvas 26:20
Cap 233:1
capable 153:12
capacity 6:10 124:12
 124:16,21 143:15
 171:14 174:4 176:9
 178:4 188:10
Cape 187:6 210:18
 251:15 252:16
capital 260:17,21 264:6
capricious 45:7,14
captain 1:12,13,14 9:14
 12:11 17:6 18:18 28:8
 33:5 85:8 88:3 91:18
 91:22 94:22 124:10
 185:1 186:3 203:16
 228:2 232:5,9 234:8
 241:6 250:9 253:11

264:2 271:20
captains 23:1 32:9
capture 29:20,22 30:2
 34:2
captured 12:6 131:19
 141:19
car 143:10
card 218:4,13,15
 219:13,15 221:14
 222:4,5 224:6,9 225:4
 225:7 227:6,15
cards 217:14 218:18,21
 224:18 226:20
care 9:19 86:4 116:15
 124:16 172:10 240:10
cares 27:19
cargo 19:12,12 113:4
 123:9 135:5 137:19
 149:20 154:14,20
 172:14,17 209:10,17
 216:9 231:9 238:18
 247:6,7,11
cargo/passengers
 127:21
cargos 137:8
carriers 81:10 82:18,18
 85:22 86:3 201:5,8
carries 228:2 271:10
carry 62:2 223:4,6
cars 110:12,12,13
case 28:21 34:8 42:11
 125:16 153:3,17
 167:11 175:18 211:17
 213:22
cases 30:11 31:12
 129:22 230:5
cash 97:16 107:8
casualties 23:17
catch 111:3
categorically 243:19
 244:5
Catherine 2:4 14:22
 111:12,15 141:12
cause 40:3 41:16 42:3
 54:17,18,19,20,21
 55:10,13
caused 231:8
causes 113:1
causing 207:22
ceiling 119:12 128:10
 183:2 188:3
cell 10:12
center 2:5 14:16 25:5
centers 206:10
CEO 2:14,16 14:8 15:13
certain 44:14,15 112:15
 123:6 140:3 144:17
 145:12 187:3 202:7

229:4 240:5 247:7
certainly 131:16 132:10
 154:10 159:13 207:15
 232:16 234:13 257:16
certificate 51:14 224:4
certificates 224:5
certification 91:5 145:7
 223:17,17
certified 34:11,13,13
cetera 240:7
CFR 40:16,18
CG-WWM-2 8:13
CG-WWM-2's 9:7
 272:15
chain 73:15 77:19
 81:17 82:9 137:5,6
Chair's 128:13
chairman 11:3 64:18
 108:17 164:3 172:19
 173:1 194:4 239:3
challenge 45:6,16 46:2
 74:6 130:14,15
 198:22 199:1,7
 210:11 231:11 234:18
challenged 228:14
challenges 45:3 113:2
 113:15 154:6 159:19
 194:1 200:22
challenging 116:13
 156:9
chance 60:13,13 62:8
change 37:18 38:4
 42:12 49:8 58:5 88:22
 101:4 105:18 112:14
 156:22,22 189:18
 190:4,7,8 211:6
 216:13 244:21 251:11
 251:15,17 254:20
changed 113:8,22
 244:18,20 266:19
changes 38:3 52:17
 53:4 144:8 156:7
 245:21 250:21
changing 57:20 88:16
 188:13 221:10
channel 148:13 151:16
 151:17 153:8 155:16
 267:2
channels 152:4
charge 29:7 31:16 33:5
 33:6 36:12 38:13 85:4
 173:13 207:10 213:9
 214:19 241:21 244:9
charged 94:7 96:22
 106:13 171:20 212:12
charges 106:6 239:17
 239:18
chart 59:4

- charter** 6:4 12:2 240:21
chartered 196:20
cheap 199:17
cheapens 29:13
cheaper 204:15
check 28:10 31:18 44:2
 45:2 151:15 223:14
checking 270:15
cheese 204:2 222:7
chewing 132:10
Chicago 16:1
chiefs 70:7
child 116:14
Chinese 150:11
Chorus 178:16 227:21
 271:8
Chris 2:16 14:7 82:16
 85:8 164:2,5 191:19
 206:12,17 210:4
 213:21 215:14 235:9
 235:10 239:5,6
Christopher 2:17 15:19
Chuck 222:6
chunk 214:17 257:8,14
circles 66:15
circulation 127:20
circumstance 129:18
 139:3
circumstances 31:9
 127:17 128:15 146:2
 151:7
cite 191:7
cited 30:10,11
citizens 6:16 201:15
city 87:19
civil 28:21
claim 104:10
Claire 157:6
clarity 34:6 35:1 263:11
classical 156:7
Clay 2:8 16:15 18:14,17
 33:19 34:2 77:8 90:14
 144:14 155:22 158:4
 176:11 268:14
Clay's 154:5
clear 23:19 25:18 26:17
 122:16 180:9 214:2
 263:10
clearance 38:22
clearances 39:9
clearly 270:1
climate 38:4
clippings 26:8
close 12:4 125:9 243:14
closed 114:7 193:17
 199:14 201:6 209:13
closely 31:17 160:15
closer 63:2
- closes** 39:6 52:15
closure 207:5
Club 157:15
Clubs 157:15
co-pilot 169:1
coastal 19:5 158:14
 161:2 229:12
coastwise 22:2,11
coat 110:15
Code 6:6 37:2 69:16
cogs 228:16
CohnReznick 3:13,14
 15:4 94:11,17 99:17
 102:6 106:21 109:22
CohnReznick's 99:21
coincide 103:1
coincides 220:9
Colborne 151:22 213:2
collect 213:15
colonies 21:9
combination 266:10
combined 17:15 22:19
come 32:10 59:21
 60:20 79:13,17 81:3
 86:15,22 88:21,22
 92:20 94:8 102:15
 110:10 111:6 114:6
 117:20 119:6 120:5
 124:9 130:3 131:16
 154:16 155:5 160:1,4
 160:12 171:13,17
 198:8 200:14 204:9
 211:6 231:10 244:16
 252:16 261:21
comes 41:19 71:6
 89:11 92:14 102:13
 105:1 118:21 134:7
 135:17 152:6 171:22
 172:2 176:1 238:18
 238:19 251:5,9 252:7
comfort 103:9
comfortable 71:19
 143:22
coming 23:21 77:21
 87:7 121:22 128:9
 133:8 159:2 168:17
 173:10 174:6 175:3
 196:15 202:21 252:7
 256:21 260:10 266:4
command 31:2
commandant 70:15
 244:10
commence 62:6
commenced 61:1
commencement
 235:13
comment 9:17 39:5,6
 39:19 40:20,21 41:4
 41:15 42:6 43:5,11
 50:9,10 51:4,20 52:13
 52:15,20 53:16 55:13
 56:7,14,16,20 57:6,8
 57:14,20 59:7 60:11
 63:9 65:14 66:6 70:2
 71:21 74:13 80:3 84:2
 85:9 89:10 93:4
 104:22 105:6 111:13
 112:18 144:14 158:6
 166:22 190:3 191:18
 191:20 192:19 209:3
 210:7 243:13 263:20
 267:15 269:22
commentary 64:12
 82:13
commenters 74:11
 270:2
comments 4:20 7:13
 8:5 9:12 10:2,16 12:5
 18:3 33:16,21 34:22
 35:8,11 39:6 41:8,9
 42:12 49:13 52:18,21
 53:2 55:22 56:5,19
 57:3 58:9 60:5,16
 67:7 71:13,22 74:10
 82:21 83:9 84:10 93:5
 93:9,10,14,16 108:10
 108:13 112:11 134:2
 136:1 138:17,18
 139:20 141:11 164:4
 164:7 165:10 166:5
 170:19 190:9 209:6
 210:8 215:15,21
 216:18 232:2 258:15
 269:14,20
commerce 18:12 25:16
 26:16 63:19 71:12
 73:14 80:5 129:7
 136:22 137:15 139:4
 146:14 202:2 230:1
 244:8,12
commercial 74:5
commission 158:12
commissioned 268:22
commit 174:21
commitment 138:10
 205:5
committed 120:15
 137:11 138:7
committee 1:2,9 5:6,8,9
 5:15,17,18 6:2,9,19
 6:20,21 7:5 8:11,20
 11:16,20 17:14,21
 32:9 35:14,15 36:9
 38:1 51:12 53:18 60:8
 60:13,18 61:22 64:16
 64:22 75:9,11,17
 79:22 80:10 81:7
 90:16 91:15 93:17
 99:20 110:4 117:6
 119:8 136:9,10
 139:21 140:11 144:15
 166:9 168:9 178:21
 179:7 209:2,6 216:20
 241:5,19 245:8 248:9
 248:15 253:3 264:20
 265:15 268:16 269:17
 272:4
committee's 6:4 7:12
 215:16
committees 6:16
 241:21
common 99:7 150:8
 159:21
commonly 27:11
communicate 142:22
 150:12
communicating 36:16
communication 46:7
 52:3 53:6,9,10 64:7
 145:11
communications 4:7
 7:17 35:21 36:7,16
 46:9,17,19 47:6,10
 48:4 50:7,14 53:20
communities 137:16
community 9:12 13:14
 19:21 63:18,20 77:8
companies 28:8 90:11
 157:19 164:13 237:8
 237:11
company 12:1 13:6,7
 13:21 76:3 231:3
 236:17 237:17
compare 165:6 169:16
compared 145:9,10
 147:13
comparing 87:5
compel 45:21
compensate 129:1
 169:5
compensated 98:6
 105:4,5 118:19
compensation 85:16
 104:7,8,15 172:1,4
 175:3 176:1 195:19
 195:20 207:13
competition 236:15,16
 236:20,22
complaining 41:10
 122:14
complaints 114:19
complete 115:17
completely 45:8 140:22
completing 109:1

- complex** 41:3
Compliance 2:1
complicated 87:7
 232:17
comply 36:1
complying 217:11
component 71:9 232:3
components 82:7 84:8
 112:4 142:9 188:12
 189:17
comport 32:2
comprehensive 142:11
compromise 72:21
 233:18
compulsory 23:4 30:21
 32:16,19 229:11,14
 230:14 236:19 237:10
 239:7,8,11,15 240:1
concept 244:5
concern 183:9 206:11
 232:21 235:22
concerned 23:16 34:5
 169:15 196:19 205:1
 228:5
concerning 46:13
concerns 62:14 183:8
 206:13 228:7
concern 161:20
concise 20:15 76:17
concludes 11:17
condition 139:3
conditions 28:2 184:16
 184:21 189:19
conduct 52:8 103:2
conducted 97:8
conducting 44:6
confer 97:9
conference 32:6
conferring 101:11
confidence 117:21
confident 187:1
configuration 253:22
confirm 98:13 264:2,11
conflict 8:7 136:9
confused 104:21 105:7
confusion 105:8 173:7
congress 20:22 21:2
 23:15,22 26:5 36:20
 36:22 42:8 43:10,17
 43:18 44:7 45:17 48:5
 48:6 66:17 73:5
Congressional 21:12
 23:18 25:17 43:17
 44:2
Congressman 266:6
Connecticut 24:14,15
connecting 74:12
connection 241:2
- consecutive** 139:8
consensus 77:7
conservative 75:3
consider 17:22 41:4,7,9
 41:11 45:9 56:18 57:5
 57:12 58:5,7,8,10
 60:6 62:16,18 119:10
 130:16 158:2 167:21
 168:1 245:2
consideration 135:9,12
 203:14 204:20 207:1
 215:17
considered 33:1 38:10
 48:7 49:1 58:9 189:4
considering 47:20
 52:18 53:1 138:13
 240:1
consist 193:21
consisted 32:7
consistent 127:12
consists 19:4
constant 134:11
constituent 84:7
construct 21:19
construction 229:20
consult 47:3
consulting 183:12
Consumer 69:9
contacts 52:16
contain 219:10
contemplating 49:4
context 62:9 63:15
 91:20 254:11
Continental 120:19
 134:16
continue 9:18 17:21
 21:2 119:11 139:10
 233:21 261:6
continued 11:6 139:4
 260:14,22 261:1
 272:4
continues 11:5 172:14
 216:13
continuing 194:18
contract 94:17 99:13
 121:6 133:6,7 166:11
 168:18 174:22 175:4
 175:5 237:19,20
contracted 15:4
contracting 106:21
 128:15
contractor 259:10
contracts 74:4
contractual 81:14
contrary 27:10 42:15
contrasting 64:11
contribution 244:12
contributions 140:8
- control** 46:20 134:11
 192:17 208:19 257:22
controversial 32:20
convenience 95:22
convention 160:18
conventionally 235:4
conversation 46:12
 47:8 231:7 263:13
Conversely 247:13
cooler 222:9
cooperate 31:17
cooperation 165:16
cooperative 33:9
corner 201:11
Cornwall 15:14
Corp 234:7 235:21
 245:10 259:12
corporation 16:9 90:9
correct 83:21 133:21
 161:6 171:4 176:7
 246:15 264:3,12
corrected 64:7 179:3
correctly 42:7
correspondence 101:5
cost 69:10 85:3 86:4
 89:22 94:19 100:22
 104:11,14 110:12
 121:5 162:8,8 166:12
 172:10,20 175:2
 176:6 196:7 205:8
 227:8 238:15 242:16
costs 28:5 40:14 74:18
 79:3,5 84:13 97:22
 101:17 103:19 136:21
 160:8 161:16 173:14
 175:5 196:21 205:4
 208:22 244:7 247:17
 247:19
council 1:18 38:11,17
Counsel 2:8,9 16:14,17
 36:5 47:3 70:17 71:15
 109:18
count 61:15
counterproductive
 211:9
countless 134:18
country 25:10 84:1
 161:18 223:22 267:4
 268:20 269:6
couple 20:20 26:7
 28:18 58:7 98:18
 131:16 136:1 142:19
 143:7 156:15 157:10
 194:7 195:9 198:6
 199:4 240:11 267:4
course 11:9 27:4 48:8
 58:6 100:13 121:13
 147:10 195:5 203:22
- 231:22 234:19 237:13
 238:14 258:22
court 12:6 30:11 31:12
Courts 183:22
cover 163:1 208:8
COVID 59:19 87:22
 88:1 267:2
CPI 69:8
crap 152:9 153:11
create 29:21 37:1,6,16
 47:21 217:13 220:22
 221:6
created 23:14 69:11
 100:13 114:9 208:2
 210:17 257:14
creates 47:16
creating 83:4 183:7
credential 4:12 8:1
 25:21 217:3
credentialing 91:5
credentials 217:4,7
 220:10 227:13
crew 30:20 33:11 34:4
 34:13 119:17 231:13
 237:21 238:6
crew's 154:22
crews 153:12 155:1
 160:22 231:15
Criminal 8:7
crisis 130:18,18 139:16
criteria 54:16 101:10
critical 137:2 229:13
 230:12,13 233:4,17
 235:7 238:22
cross 25:2
crossed 114:5
Crowley's 82:21
cruise 7:20 20:9,12
 89:20 112:22 113:6
 117:19 121:17,21
 123:9 124:14 125:4
 130:21 131:1,4 135:2
 135:3,10 137:15,16
 137:17 138:4,9,17
 150:11 158:13,14,22
 180:20 188:18 201:9
crying 252:19
culture 163:8
curious 140:16 236:14
current 27:5 95:19 98:4
 98:21 128:6 142:14
 150:21 156:4 167:5
 181:13 189:19 217:7
 218:13 226:15 230:21
 249:14 262:13
currently 12:3 125:2
 132:13 166:21
currents 151:7

customer 27:11,12
84:22 202:7 237:19
customers 137:1,7
150:17
Customs 225:2
cut 218:7,7
cuts 138:2
CVS 220:21
cycle 126:11 142:5,9,22
144:3,7 186:22
187:15 191:6 194:17

D

D 1:17
D-2 2:19,20,21 3:10,12
3:15 106:1,2 151:22
D-3 2:17,18 15:20 106:3
D.C 14:6 19:17
daily 81:18 161:9
168:21 173:15,20
174:22 175:6,13,13
175:17
damage 134:11 240:22
Dan 3:11 12:12 16:10
89:9 110:9 119:14
121:16 122:20 125:1
130:20 156:14 209:18
212:8 246:19 258:17
danger 31:12 51:21
dangerous 122:6
246:13
dangers 161:11
Daniel's 133:5
Danny 1:10,12 106:7,10
106:13 113:18 143:17
148:11 167:9 199:15
202:16 239:4
data 58:17,17,20 72:20
126:17 146:5 165:4
180:20 188:19 213:15
214:4 215:11 235:15
235:16
date 60:4
dates 206:9
dating 100:2
day 11:17 20:14 123:21
124:4 152:8 158:11
163:7 180:6 182:15
187:9 211:6 216:8
225:11 252:12 256:20
259:6
day-and-a-half 252:12
days 9:7 40:2,22 42:1
43:18 59:17,17
118:22 120:16 124:11
157:10 169:4 207:9
211:12,13 213:6,11
252:17,18 255:21

256:6 272:15
days' 164:19
deal 68:2 70:9 73:22
76:4 114:10 116:19
116:20 124:13 144:20
218:1 221:9 230:1
242:10
dealership 233:9
dealing 116:10
Dear 136:6
death 163:11 186:2
debate 91:19 92:5
debated 229:5
debates 48:22
decade 90:22
decades 21:10,10
December 124:1
220:17 221:7
decide 27:3 43:20
59:20 115:18 143:10
deciding 167:13
decision 28:1,3,4,20
45:11 67:9 93:10 95:5
183:18 233:19,20
239:1 261:15 263:21
decision's 61:12
decisions 19:20 27:17
32:13 149:8,12
267:19
decrease 181:15
decree 20:22
dedicated 59:9 81:12
dedication 272:5
deep 153:4
Defense 71:12
define 128:22
definite 23:19 146:8
definitely 80:19 210:18
240:13 247:3
definition 171:15
definitive 128:19,21
degree 66:2
delay 40:4 86:2 113:5
120:14 121:8 131:10
164:11 165:7 172:11
174:5 208:18 212:11
213:17 214:8,18
216:7
delayed 45:22 131:10
172:5
delays 28:6 85:22 86:1
86:4 113:9 114:22
122:15,17 123:2,10
123:12 129:13 134:18
161:15 164:19 165:3
166:12 206:9,15
212:10,14,19 214:6
214:10 216:13 230:3

delegations 43:2
deliberations 7:12
delicate 114:15
delivered 64:13 256:15
delivering 201:12
delivery 149:22 258:18
demand 43:13 94:5
113:4,10 114:13
116:21 126:18 184:18
185:3 188:22 190:6
193:19 242:12
demanding 86:20
demands 177:6 213:22
Democrats 266:22
demonstrate 109:22
denies 202:11
denominator 150:8
densely 133:4
denying 201:13
department 2:7,12 6:11
25:15,15 26:16 70:16
71:7,11 200:1
depending 40:22
115:20 143:5 184:20
217:22 220:5 250:22
255:5 258:1
depreciated 100:21
deputy 2:9 16:13 70:12
describe 40:12 53:10
60:19 206:21
describing 20:6 59:12
description 20:13 30:5
design 250:18
designated 1:20 2:2 5:4
9:22 10:5 145:19
146:22 147:1,3
148:11 265:4,17,21
272:9
designed 25:18 26:4
201:4,4
desires 32:2 182:5
despite 140:2
destination 149:21
destiny 258:1
detail 9:15 65:12,13
detailed 65:6 164:18
details 49:8 104:9
169:22
deter 201:21
determination 60:21
71:6 95:6
determine 11:9,21
39:10 104:13 110:3
126:12
determines 94:1
determining 95:3
103:11
Detroit 121:17 151:14

151:15 152:1,3 197:3
197:8 237:3 261:5,10
develop 24:12 33:9
38:7 83:18 257:15
developed 34:10 47:22
65:16,17 84:3 101:5
developing 94:12
development 16:9
83:11
develops 83:14
devoted 59:3
DFO 5:3,14,17 9:22
11:4 12:10 13:12 17:3
20:4 55:5 64:19 175:4
175:10 212:5 271:20
DHS 39:2 46:18 47:1
dialing 165:14
dialog 87:2
Diamond 2:8 16:15,15
18:14,18 20:5 33:18
90:13,14,14 156:1,12
158:5 268:13,14,14
Diamond's 77:9 144:14
dictates 119:16
difference 96:8 148:2
193:13 236:7,10
differences 145:19
147:15
different 21:15,16 27:4
39:1 52:9 55:22 61:4
64:14 66:2,20 82:6
83:4 92:8 97:20
117:11 118:18 127:17
127:20,21 128:1
129:4 134:2,8 140:22
145:9 147:7,11,13,22
151:6,8 160:11
164:13 167:7 175:9
211:12 213:21 228:16
230:11 246:2 268:8
differently 124:15
difficult 149:16 153:8
268:3
digging 80:10
diligent 11:7
diminish 205:7
diminished 234:21
diminishing 140:8
direct 28:16 80:21 81:6
136:21 213:13
directing 44:14
direction 32:18 217:15
directly 95:14 96:4
186:13
Director 1:15,16,19,21
2:8,9,13,15 12:21
13:5,9 14:1,4 15:17
16:13,16 18:14 70:11

78:8 92:16 97:9
113:12,20 121:3
130:15 136:4 138:15
159:20 161:7,20
171:2 179:7 184:9
185:2 188:20 189:12
191:21 192:6 213:13
217:16 228:5 264:18
Directors 120:20
152:14,14
directs 30:22 31:1
disagree 130:11 166:22
243:19
disasters 163:9
disclose 47:20 53:19
discounted 106:12
Discounts 222:6
discourage 202:20
discouraged 47:7,10
discourages 47:17
discretion 42:11 45:7
117:9 171:2 181:2,22
182:11,14,18 183:3,5
183:14 184:11,11
185:2 191:21 192:2,7
192:9,12,16 193:7,13
discretionary 92:19
discuss 17:18,19 36:15
47:5 48:19,22 50:10
51:6,22 62:13 94:19
110:5
discussed 18:2 54:11
59:14 203:8 265:7
discussing 228:19
discussion 17:7,21
18:4 35:14,14 61:22
62:2,21 63:14,21
64:10 66:4,13,21
67:14 68:2 73:20 92:1
108:18 109:2,9
110:18 130:5 136:11
156:21 158:9,20
166:18 185:20 205:11
205:14 209:2 213:4
222:2 225:15 229:17
230:20 233:16 241:17
241:20 242:17 243:8
245:12 248:14 249:21
250:1,4 262:5 265:1
265:12
discussions 53:21 61:5
66:17 68:5 82:10 83:6
92:3,7 183:6
disease 164:6
dismiss 245:12
displace 31:9
disposal 243:1
dispute 78:20 207:15

disputing 211:20
disregard 245:14
disrespect 154:7
disruption 4:11 7:22
206:8 209:9
disruptive 118:4
dissection 65:7
distinguished 222:4
district 1:18 12:14,16
12:18 13:3 15:9,11
16:3,6,11 88:6 122:2
123:3 131:5,14,22
132:13,19,19,19,20
132:22 141:13 143:7
143:21,22 148:8,9,12
162:15 170:14 189:3
202:18 209:19,21
210:16 212:20 224:9
224:10,11 232:2
246:20 256:20 258:16
258:17 259:20 266:9
266:11
districts 19:7 125:4
132:21 175:12 210:8
250:7
diversification 187:20
divide 145:16 175:16
divisions 69:20,21
Dixie 1:9
DMV 219:4
dock 125:7,8 204:7
257:20
docket 47:8 48:18
49:13 50:16,20 51:17
52:1,5 53:8,13,14
54:1,4,5,10 60:2,6
61:11,16 71:20 85:16
docks 259:9 260:16
document 30:4
documentation 42:9
98:16,22 104:9
documented 95:8
documents 28:19 49:11
doing 40:10 44:6,19
45:13,13 75:21 96:20
113:19 132:11 141:16
144:4,5 154:4 155:13
155:19 156:11,19
171:14 176:12 195:17
200:9 225:5 259:5,8
dollar 89:14 90:3
dollars 229:2
domestic 85:2 113:8
118:2,7,17 123:8
160:19 199:8 200:4
201:11
domestically 81:3
doors 82:9

DOT 2:12
doubt 230:10
Dover 152:2
dovetail 68:22 122:19
168:7 183:18
downtime 118:13
downward 101:16
dozen 91:21 268:7
dozens 25:3
draft 247:9 253:17,20
254:1,3
drafted 38:21
drafting 38:14 39:7
69:3
drafts 247:12
dragging 175:21
dramatically 244:18
drawbridge 216:5
drive 81:21 224:12
258:19
driven 130:1
driver's 218:15,20
driving 267:11
dry 113:4 201:4,7
ducktail 247:7
due 136:9 138:5 164:19
206:10 209:9,10
214:8,18 234:19
Duluth 132:1 234:12
237:1
durable 218:5 219:9
220:2,11 226:20
duration 96:21
duties 32:19
duty 31:8
dynamic 66:17 74:3,6
78:2 266:20
dynamics 60:18 75:11

E

E 222:6
e-mails 191:5
earlier 82:20 83:6 84:10
112:7 121:16 130:5
144:14 149:9 232:4
early 119:19 124:5
earn 107:13
earned 96:7 107:3,18
earning 107:10
earth 238:6
easier 75:2 179:5,19
180:12
easily 97:8 112:16
east 254:16
easy 119:2 143:18
169:19 178:17 200:7
202:6 208:7,7 210:13
215:3
economic 27:22 69:22
77:18 137:18
economics 32:13 77:16
163:4 244:12 245:14
economist 15:1 38:17
76:1
economists 40:15 68:7
70:8 71:16 75:19
76:11 77:22 83:22
economy 87:5 229:22
250:15
ECTA 157:16,19
EDQ 259:13
educated 263:15
Edyvean 2:17 15:18,19
effect 244:11
effective 40:1,3 55:11
77:12 176:6 227:8
244:2 245:1 249:14
efficiency 97:3 165:11
251:20 252:4
efficient 19:12 115:12
129:9 137:7 145:21
150:19 176:6 210:2
214:13 252:13
effort 34:5 73:22,22
74:2,2,15 75:4 83:10
efforts 11:12 34:7,22
74:15
eight 24:4,8 116:10
120:13 122:9 174:12
211:7 212:12
eighteen- 175:19
Eighth 8:1
either 29:4 34:18 37:14
44:7 56:9 77:5 92:15
118:2 124:8 133:4
164:10 197:8 200:16
210:18 211:19 219:7
234:7 255:6
elected 266:19
electronically 221:2,3
electronics 156:17
157:5,22 159:10
elements 67:4 74:22
75:2
eleventh 8:4
eligibility 103:11
eligible 97:10 98:17
100:12 126:10 197:16
eliminated 120:6
eliminating 148:10
else's 219:6
eluded 160:6
embarrassed 206:5
emergencies 55:17
175:1
emergency 10:10,12

- 55:16
emphasize 88:3 111:17
 269:10
employ 182:18 199:9
employed 68:9 125:15
 192:12
employee 46:12
employees 181:11
employing 184:11
 185:2 190:5
employment 69:10
enables 103:4
encompassed 104:6
encompassing 266:11
encountered 134:17
encourage 181:22
 184:9 185:1 205:1
 214:13 263:12
encouraged 244:11
encouraging 192:17
 245:4
endeavor 25:11
ended 255:22 257:1
endorse 263:9
endorsements 223:20
 223:21 224:1
endorsing 75:13
ends 85:2 175:17
enforce 42:21 43:8,9
enforceable 43:6
engaging 32:18
Engineers 235:21
 259:13
engines 256:10,11
English 153:7 155:16
enhance 265:5
enigma 243:6
enjoy 115:2
enjoyed 82:13
enlightening 80:12
ensure 5:18 7:11 11:12
 12:4 19:11 34:18 94:3
 94:7 95:10,13,15,20
 96:5,9,13,14,19,21
 97:3,9 129:7 147:9
ensures 18:10
ensuring 5:14 95:6
 98:14 139:4
enter 25:9,22
enterers' 202:11
entering 157:6
entire 196:18 217:6
 267:19
entirely 124:15
entities 74:5
entity 85:2
entrance 202:11
entry 201:21
- environment** 11:13
 18:13 83:19 163:22
 188:13
environmental-friendly
 19:13
environmentalist 38:18
eons 145:9
equal 89:14 93:3
equation 243:17
equipment 148:21
 159:16 162:20 240:6
Erdmann 266:7
Erie 26:9 152:10 193:20
erroneous 128:8
escort 197:4,8
Especially 52:4
essentially 23:2 107:9
 133:7 139:17 229:21
 241:8
establish 51:1 73:6
 94:2,14
established 6:2 35:22
 208:12
establishes 6:15
establishing 141:21
estimate 127:13
estimated 131:4
et 240:7
ethics 5:19
evaluate 37:20 40:14
 57:7
evaluated 57:7
event 10:11 73:2
 209:13
events 41:22
eventually 39:4 61:6
 77:20
Everbright 118:16
everybody 8:17 17:4
 18:21 27:19 89:12
 93:3 157:13 174:5
 195:21 202:10 204:14
 211:21 219:6 258:21
everybody's 17:11
 180:4 196:2 203:12
everyone's 70:3 181:12
 208:19 214:12
evidence 56:21
evident 68:4
evolution 167:5
evolutions 247:3
ex 7:17 35:21 36:7,15
 46:6,17,18 47:5,10
 48:3 50:7,14 53:5
 60:10 64:6
exact 7:8 56:13 127:19
exactly 72:6 82:4 108:4
 147:16 148:16 173:7
 190:22 232:7 237:9
Examination 14:16
example 21:7 63:3
 74:19 106:1 132:1
 138:20 151:5 157:1
 158:19 176:15 187:7
 231:8 247:2
examples 22:11,12
 24:11,16 98:18,21
 99:2
exasperation 79:19
exceed 96:6 178:4
excellent 34:2
exception 31:14 79:10
exceptions 22:1
excess 45:17
exchange 62:22 64:11
 74:6
exchanging 66:13
excited 156:13 256:3
 257:7 271:15
excitement 257:2
excluded 95:22
exclusive 95:10,12
Excuse 108:16 191:17
executive 1:19 2:8
 12:21 16:16 18:14
 44:13 78:8 136:4
 138:14 264:18
exemptions 43:11
exercise 27:15 29:21
 182:14 183:14 184:11
 255:18 267:22
exercised 183:4
exhausted 155:12
Exhibit 191:6
exist 63:4 65:18 233:11
 244:4 247:5
existing 29:22 95:9
 96:14
exit 10:9
exits 10:10
expand 134:4 184:13
expanding 89:22
expect 6:20 135:18
 198:20 207:16 212:18
expectation 84:17
 246:12
expectations 39:12
expected 27:15,16
 31:21 32:12 33:8,13
 109:8
expects 84:15
expense 95:1 98:20
 99:1,3,9 102:16
 104:10,22 105:4
 108:2 120:11 121:12
 166:13 167:19 171:17
- 171:20 174:16 175:6
 176:18 193:9 196:16
 197:16
expenses 4:8 7:18
 85:13 90:5 93:22 94:1
 94:8 95:3,7,9,10,12
 95:13,15,22 96:3,6,9
 97:17 98:7,11 99:8
 100:15 101:15 102:7
 102:12,14,16 103:8
 103:14,17 106:12,22
 107:5,11,11,13,14
 110:2,6 173:16
 175:15 197:20
expensive 56:9 171:5
experience 63:7 65:14
 79:11 115:21 179:5
 194:2 199:4
experienced 23:13
 151:8 172:12
expert 38:17 40:9
expertise 11:6 34:9
explain 51:9 55:21 56:6
 70:4 89:4 94:11,21
 106:16 186:16 194:11
 217:6 251:10 254:7
 261:8
explained 94:22
explanation 45:12 65:8
 72:9 76:18 224:19
exponentially 135:6
exports 113:3
exposure 80:7
express 5:8
expressed 235:22
expressing 43:8
extend 42:9
extends 51:15
extent 180:2
extra 28:4 46:1 106:14
 174:20 176:13,13
 252:6
extreme 43:13
extremely 9:13 83:7
 88:7
eye 101:14
-
- F**
-
- FACA** 5:16 48:8 50:16
 50:18 51:16 52:10
 53:20 60:15 75:11
face 127:17 149:10
faceless 84:21
facilitate 18:12 73:14
facing 27:22
fact 31:8 62:5 84:19
 91:18 132:8 133:2
 171:16 196:20 214:10

255:10
factors 65:18,22 66:2
66:22 87:6 89:13
facts 45:12
failed 45:8 120:3
fails 116:7
failsafes 233:14
failure 34:18 236:3
fair 67:18 100:7 101:9
fairly 159:4 187:1 234:5
faith 93:7
fake 225:8
fall 114:2 123:16 256:16
256:20
falling 252:3
falls 219:18
familiar 97:21 210:6
254:8
families 118:14
family 116:13
fantastic 234:4
far 12:7 92:10 120:13
173:14 256:3 257:4
fashion 67:19 129:17
146:10 154:1 156:10
fast 210:2
faster 255:19,21 258:21
father 237:4,6
fatigue 115:6,6 123:14
123:19 129:19,20
130:7 160:14,17
161:4,11
faults 157:19
favor 178:15 180:13
185:7 227:20 271:7
feasibility 76:2
feature 262:12
fed 186:12
Federal 1:20 2:2 5:4,15
7:4 10:1,5 17:16 22:5
24:20 25:10 30:12
32:15 37:2 48:18
53:17 59:10 60:2
69:17 71:10 73:11
97:6 218:19 229:1
272:9
Federation 2:16 14:9
82:17 164:5 183:10
191:19 206:13,18
235:11 239:7 261:19
feedback 6:22 119:9
241:9
feel 71:18 110:8 128:5
130:11,12 135:13
152:12 172:18 175:2
204:18 221:17
feeling 192:4 246:16
feelings 192:5

feels 20:11 67:15
fees 4:11 7:21 206:8,9
206:11,14
fellow 64:15
female 10:8
field 139:18 150:16
fifth 7:20 102:20
fight 152:13 158:2
figure 79:14 89:7
161:15 216:15 249:18
figured 243:20
figures 129:12
figuring 165:17
file 191:6
filings 119:17
fill 171:14
filling 12:3,22
final 39:7,10,20 42:7
49:22 50:5 55:11
60:20 72:2 77:6 83:15
84:5,6,22 92:10 94:14
97:6 111:21 120:5
finalized 183:20
finally 8:4 94:6
financial 94:12 96:16
97:14 98:1,8 100:5
181:5 230:9 232:3,18
232:20 233:19 239:1
find 88:16 142:19
145:18 155:9 257:18
258:7,9 268:4
finding 98:19
findings 98:18
fine 12:9 144:1,12
181:16 258:4 263:19
fingers 114:5
finish 72:12
finished 18:5
fired 119:7 152:20
153:1 238:5
first 7:16 15:19 18:6
19:15 20:21,22 23:16
34:15 89:21,21 99:17
148:12 156:17 158:22
164:8 171:4,12
183:12 200:22 212:9
235:15 262:3
Fisher 117:15 135:20
136:2,4 138:14
238:12 242:8
fishing 163:10
fit 148:16 178:4 219:12
219:17 240:21
Fitzgerald 153:3
five 13:13 51:15 152:21
187:8,17 195:2
217:20 218:2 220:3
230:6 259:15 269:6

270:2
five-year 42:10 220:8
fix 162:4 176:10 183:20
fixed 81:14
flag 22:2 23:9 215:17
233:7 240:14,15
flags 240:2,4
flagships 22:3,8,8
fleet 84:15 113:8 118:2
118:8,17 199:8 200:4
201:11
fleets 199:20 200:9
flex 141:9
flexibility 112:6 162:11
flexible 141:9
flight 118:16 157:3
floor 17:19 18:3 269:22
Florida 24:15 158:12
flow 139:4 167:12
172:14 252:3,7,15
flows 248:22 249:9
FMC 32:8
focus 44:14 54:11 64:5
75:3 90:17 241:5
261:15
fog 27:5
folks 76:11 78:15
149:10 162:16 254:7
follow 36:13 39:13 43:5
44:15 47:2 50:3 82:9
92:18,19 135:22
150:22
following 7:14 45:18
97:1 150:21
follows 83:21
food 81:17 82:9 140:20
207:19
foot 255:16
for-profit 208:15
forced 79:13
forcing 233:2
foreign 22:8,9 23:9
82:18 84:15 85:6
118:16 139:2,11
144:21 151:18 196:21
233:6 240:4
forever 118:3 258:7
forget 9:16 140:7
form 51:13 98:10
100:13
formalities 5:22
format 76:17
formed 69:2
former 136:10
formerly 157:13
formulating 62:19
forth 62:14 74:7 91:12
144:18 211:8 263:13

forum 19:16,22 52:11
60:16 92:8,9 136:11
forward 11:16 146:10
171:9 178:20 180:11
243:8 264:10 265:1
found 21:7
foundation 29:4
foundations 61:6
four 85:19 117:3 118:22
124:18 189:2 216:10
230:6 238:4,5
Fourth 7:19
frame 146:12
framed 265:2
framework 127:10
FRANCIS 2:2
Frank 9:21 10:2,4 11:4
20:3 272:7
Franklin 3:11 16:10,11
89:9,9 121:16 156:14
156:14 212:8,8
frankly 108:1 159:22
free 173:4 204:2
freight 80:19,20 81:11
85:4 141:1
fresh 146:3
friction 265:6
front 42:14 124:4 178:2
194:7 206:3 219:8
front-loaded 178:22
fuel 260:1,4
full 7:5 17:11 29:7
67:14 75:21 80:2 96:1
101:2 120:10 138:4
162:8 170:19 176:19
203:11 231:14 269:7
269:8
full- 131:5
full-size 229:20
fully 9:8 47:22 101:12
120:22 170:5 220:3,7
fund 260:17,21
funded 92:17 170:5
242:3
funding 264:8
funds 80:17
fur 110:15
further 21:1 82:3 103:5
201:20
future 102:9,13 174:17
183:21 188:9,14
243:5 257:15

G

GAAP 100:20
Gaelic 237:3,5
gain 103:4
gal 149:4

gales 212:16 213:8
Gallagher's 91:18
 106:7 148:12
GAO 269:3
gap 178:1
Gateway 14:2
gather 51:6 69:6 245:1
gathered 61:10
geeky 144:4,5
general 2:8 8:10,20
 14:20 16:14,16 36:18
 47:3 60:19 70:17
 71:15 96:17 167:9
 169:18 182:9 184:10
generally 125:15 213:8
 252:14
generate 212:1 215:9
generates 106:10
generating 132:9 133:9
generously 11:12
geography 210:7
George 2:18 16:3
 162:13,14 224:20
Georgia 24:16
get-go 180:9
getting 37:22 72:17
 81:8 111:2 130:22
 132:3,7,11 133:12,13
 134:21 140:3 141:15
 143:2,3 149:2 152:9
 153:11 179:9 201:1
 202:18 219:2 232:15
 241:3 255:7 257:2
 259:10,16 266:15
Gibraltar 153:7
give 9:20 20:18 36:10
 41:15 42:16,22 46:21
 47:13 48:16 49:7
 52:22 56:15 69:4 71:5
 87:20 113:13 119:9
 130:22 150:5 159:5
 168:21 177:17 264:21
 265:9
given 17:18 46:11
 47:15 60:17 62:5
 65:20 126:13,16
 127:16 128:6 132:16
 217:14,15 230:17
gives 40:4 43:10 45:5
 45:15 53:3 103:9
 117:8
giving 9:11 11:12 55:12
 58:5,7 99:16 112:11
 218:22
glad 19:22 254:9
global 129:10 216:12
 233:11
GLPA 2:13,14

GLPAC 1:12,13,14,15
 1:16,17,19 10:22 11:1
 12:2 13:14 17:17
 90:17,18,22 91:20
 136:10 138:19
GLS 2:7
goal 29:21 35:1 210:1
goals 38:5,8 44:21
 69:12
God 139:2 247:16
God's 238:6
goods 201:12
government 6:15 44:3
 66:15,16 71:10 74:2
 93:7,8 107:22 218:19
 229:1 242:3,4 268:3
Governors 161:2
GPS 159:3
grab 114:7 138:3
 200:15
grabbed 257:11
grade 226:16,18
grader 221:21 227:1
grain 113:3 114:7
 122:21 123:4
grandma 70:4
grant 74:1
granted 101:10 196:1
greater 66:2 135:6
 205:8
Gretchen 2:5 14:15
groundwork 272:8,10
group 69:2,15,20 75:18
 76:6 88:4,5 103:19
 106:7,8,13 116:7
 120:12 127:1 181:8
 199:13 269:11
groups 86:7
grown 115:14
growth 134:4
guarantee 157:17
Guard's 17:1 63:7 64:6
 68:15 72:3 241:17
Guarding 35:21
Guards 227:14 244:16
guess 34:17 57:9 64:1
 66:9 105:6 109:11
 125:11 128:2 129:2
 130:13 166:19 186:1
 186:12 190:14 213:18
 235:20 240:20 245:13
guidance 39:11 43:4,6
 43:9 50:1 161:8
guidelines 97:2
guidelines/bar 129:21
Gulf 160:17
guys' 133:2

H

half 13:13 175:22 260:4
 268:7
halfway 238:6
Hall 2:16 14:7,8 82:12
 82:16,16 164:3,5
 191:17,19 206:12,16
 206:17,17 209:12,16
 210:4,4 215:14,14
 235:10,10 239:4,6,6
 264:1
Hamilton 154:20
hammer 86:8
hammers 204:9
hand 82:20
handicap 232:16
handicapping 123:1
handle 16:1 121:1
 150:13,20 152:8
 232:10,11
handled 134:19 256:7
handling 50:13 204:7
 230:6
hands 148:17 205:2
happen 78:1 116:3
 123:2 139:16 150:16
 177:18 187:15 210:6
 219:22 254:22 256:14
 265:22 267:7,9
happened 120:2 256:21
happening 153:21
 207:20 209:21 251:22
happens 30:2 45:22
 59:6 63:3 71:14 86:14
 105:22 116:22 122:12
 150:16 159:11 194:11
 251:11 252:2 266:7
happier 259:2
happy 54:14 64:15
 72:21 86:5 112:19
 181:12
harbor 241:19,21 245:7
hard 5:8 56:11 57:20
 59:20 87:4 129:21
 190:20 204:19 213:6
harder 46:2 75:1 84:6
harvests 114:8
haste 77:4
hate 56:8,9 63:11
 111:15 114:22
Haynes 2:18 16:2,3
 162:14,14 224:21
head 42:1 82:4
headed 151:13
health 116:5 139:3
healthy 244:21
hear 12:5 114:18,21
 209:3
heard 62:3 107:21
 138:17 190:10
hearing 64:6
hearings 44:2
heart 116:8
heaven 102:17
heavily 238:11 264:4
heavy 27:5 251:6
height 138:22
held 233:10
hell 152:7
help 7:1 39:11 51:13
 64:12 74:15 128:14
 128:22 158:8 162:16
 162:17 203:4 264:7
helpful 57:22 88:7
 112:11 127:20 130:7
 164:11 170:17 174:1
 181:17 206:3 213:18
helping 144:19
helps 11:8 50:15 56:7
 110:2 120:21 126:11
Heritage 237:1,3
hey 52:22 53:14 70:15
 71:18 72:18 88:5
 117:20 143:19 198:4
 234:9
Hi 10:4 12:20 140:15
high 56:10 163:7
 208:15 212:15 225:9
 248:22
higher 165:3 249:9
highest 233:10 245:15
highlight 97:12
highlighted 10:11
Highway 1:10
hill 150:20
hire 119:4
hired 76:3
Hirthe 2:7 16:7,7
historic 126:17 140:18
historical 22:13 58:2
historically 29:4 136:19
 193:16
history 20:19 99:16
hit 117:22,22 122:13
 142:17 151:16 205:10
hold 12:4 106:17 128:4
 209:10 234:7 266:8
holders 219:13,17
holding 23:13
holistic 267:18
home 156:5
Homeland 6:11 70:16
 71:7
homes 81:22 139:1
honest 73:22
honestly 104:5 238:8

Hook 21:6
hope 102:10,13 126:3
 127:5 168:11 181:7
horse 84:4 186:2
 249:13
hospital 116:15
hospitalization 103:19
 103:22
hosting 17:10 272:2
hotel 10:16,18 126:8
hour 132:3 142:17
hour-and-a-half 255:15
hourly 169:16
hours 120:14 126:9
 131:20 132:10,18,20
 133:1,20 141:15,16
 142:11 143:7,8 187:2
 187:10,11,14,14
 193:5 211:8,13
 212:12 238:4,5
 251:16,19 255:7,16
 256:11
hours' 238:2
house 44:8 110:14
howling 76:9
HR 200:1
Hubbard 2:5 14:14,15
huge 80:7 83:15 123:16
 133:4 151:12 215:6
hull 251:6
humble 231:17
hundreds 139:9
Huron 105:22 106:5
 193:20 260:13
hybrid 97:13

I

ice 27:5 212:15 213:11
 228:15 245:19,21
 250:21 251:5 252:3,7
icebreaker 252:17
ID 217:14 218:13,21,21
 219:3 220:13 221:21
 225:9 226:14,20
 227:15
idea 68:17 92:8 157:6
 269:9
ideal 129:17
ideas 162:21 263:14
identified 100:6
identify 9:10,16 55:1,3
 78:22 147:18 178:21
 213:16
IDs 219:6
ignored 29:15
Ill 1:16
ILA 2:11 12:16 14:21
imagine 107:1 147:14

147:20
immaterial 151:2
immediate 31:11
 116:13
immediately 163:13
impact 38:5 40:13 41:5
 59:20 67:11 77:18
 79:18 80:17,18,18,20
 80:21 81:6,16,18 82:4
 112:1,15 136:21
 137:19 198:3 206:21
 262:4
impacted 82:1 125:3
impacts 77:20 81:16
 118:20 167:8,15
 201:14
impasse 134:3
imperative 9:10
implement 40:5 50:5
 57:1 168:10
implemented 74:9
 207:3
implements 40:17
importance 63:13 66:3
 112:21 130:8 137:21
 238:21 241:11
important 9:13,21
 19:16,18,22 27:8 30:2
 45:9 63:4,9,16 73:13
 136:11 137:13 139:13
 139:14,19 146:14
 149:6 159:14 179:18
 203:22 214:7 227:1
 229:16 235:19 236:4
 259:16 266:15
imports 113:3
impracticable 41:17
impressions 105:3
impressive 68:13
improve 208:6
improved 119:13
improving 216:17
inadequacy 129:15
 130:18
inadequate 128:5,8
incapacitated 31:11
inception 37:13
incident 149:19 154:2
 210:5,9 214:3 232:4
 234:14
incidents 97:19
include 39:21 50:14
 61:14 97:22 100:15
 101:2 112:13,16
 188:9
included 95:19 97:17
 97:18 98:4 99:9
 100:16,19,20 112:10

136:15 170:12 173:19
 174:16 197:20
includes 77:14 93:1,2
 141:5
including 6:13 9:12
 95:12 112:18 129:8
 132:11
income 73:8
incompetent 31:10
incorporated 144:2
incorporates 126:2
increase 76:10 78:10
 78:14,14 79:3 84:15
 89:11,13,14 90:4,5
 101:18 112:3 119:5
 180:21 181:14 199:12
 202:9 268:1
increased 79:3,4 84:13
 85:3,3
increases 80:16 82:5
 84:12 238:15
incur 107:12 193:10
incurred 96:5,10 98:20
 103:8 107:5,17,17
incurring 102:12 107:2
 107:10 161:16
independent 27:10,16
 28:9 32:1 34:10 101:9
 101:13 110:1 242:21
index 69:9,10
Indian 155:3
indifferently 89:3
individual 68:20 75:18
 84:7 120:6,20 121:5
 166:12
indulgence 136:13
industry 38:3 48:5 78:5
 83:5,16 84:12 86:20
 86:22 87:9,11,17
 92:12 93:2 113:5
 130:3 132:16 133:9
 137:15 140:1 164:12
 164:12 173:13 192:8
 192:10,15 231:16
 233:16 238:12 242:5
 243:4 244:15 248:11
 263:4,5
industry's 192:16
ineffective 74:12
inefficiencies 123:2
inefficient 160:8
inexpensive 229:7
inflation 77:18 89:15
inflationary 89:13 90:3
 90:4
influence 69:13
influences 229:4
inform 64:12

informal 22:21 23:4,7
information 8:10 9:1,17
 44:17 46:20,21 47:17
 47:20 48:1,13,17 49:9
 49:10 50:15 51:6,7
 52:20,22 54:1 58:3
 61:10 66:7,10,14
 70:18 75:21 110:20
 127:11 128:1,5,8
 129:6 167:2 179:1,22
 186:12 213:14 215:2
 219:7,10
information-decision...
 263:22
informed 27:16 62:22
infrastructure 91:4
 164:1 232:22
inherent 192:15
inherently 47:11
initial 24:2 54:17 82:21
 100:2,4
initially 17:17
initiate 37:14
initiative 267:13
initiatives 8:3 44:21
 250:6,8 257:16
 258:11 260:8 262:4
Initiatives/Projects
 4:16
input 83:18 88:14 92:14
inputs 69:14,14 84:20
 88:9,12
instance 6:18 80:19
 96:14 164:17
instances 98:17 105:20
insulated 27:21 28:7
insurance 157:17,19
 229:7
intelligent 62:22
intend 43:8 51:9 257:15
intended 26:5 60:10
 93:12 258:21
intentional 62:20
intentionally 27:21
 62:18
inter-agency 92:22
inter-government
 92:22
interaction 242:19
interconnected 81:19
interest 8:8 27:13 31:7
 31:22 35:3,3 42:5,16
 59:13 77:13 88:20
 136:19 149:20 181:6
 232:18 244:2
interested 198:13 209:3
 228:20
interesting 82:7 164:15

165:4 218:6 236:1
239:18
interests 32:8,21
internal 24:22 48:22
92:16
internally 44:8 214:20
international 1:18 2:11
13:6 14:18 20:9 25:4
31:15 82:18
internationally 11:10
interpret 188:7
interrupt 226:1
intervene 31:9
introduce 11:20,22
13:19
introduces 192:9
introduction 4:2 231:6
Introductions 4:5
intuitively 224:18
investigations 44:4
investing 229:1,2
238:11
investment 148:21
invited 20:1
invoices 95:8 96:17
99:1
invoke 244:3
involve 45:10
involved 83:13
Iowa 234:22
iron 229:22
Iroquois 249:1,2 251:16
252:6,8
Islands 161:3
isolated 27:21,21 210:5
213:22
issue 36:3 37:22 39:11
39:17,20 41:13,18
42:4,5,19,20 43:4
45:9 51:5 87:9 115:4
116:5,11 137:2
148:14 177:15 179:10
206:20 228:10 230:4
235:8 238:13 240:16
241:12 248:10 268:2
issued 49:22
issues 6:18 7:2,15 8:6
27:13 38:5 41:21
44:13 45:18 52:19
63:17 67:14 101:20
129:19 130:7 136:12
148:2 217:4 230:3
231:2 244:3 258:6
it'll 189:11 199:5 258:19
item 64:2 98:3 108:19
108:21 109:1,4,6,13
109:20 111:1 112:20
144:17 205:22 209:1

249:21 260:9 264:11
items 17:17 85:19
196:8

J

jam 252:16
January 120:3,3
Jeff 266:6
jet 258:19
job 64:20 78:9 87:12
126:5 132:3,12
133:10 140:20 145:6
145:21 146:4 159:8
159:15 173:11 212:1
226:12 232:21
jobs 77:20 118:7 121:9
131:17 255:21
Johansson 16:20,20
John 1:13,17,19 12:15
12:17,20 14:20 33:22
34:1 58:22 64:20
72:10 73:19 77:3 79:7
104:19 107:20 108:17
122:18 125:10 127:1
133:18 135:6 139:22
143:18 144:13 146:15
146:17 147:5 148:7
150:6 152:22 154:8
166:19 167:6 168:7
169:13 170:7 171:3
171:18 177:14 181:20
184:17 199:13 201:19
204:21 213:12 221:19
222:3 226:3 227:17
227:19 243:18 246:22
248:21 249:4 260:7
262:7 263:8 264:17
264:22 267:14 271:3
271:15
John's 82:21 84:10
join 64:11
joint 63:19
jointly 25:15
Jon 1:14 13:1 106:8
131:12,14 141:17
146:16 148:6 194:10
199:15 202:17 210:10
212:5,6 231:18,19
233:21 253:12 258:13
267:16
Jorge 2:10 15:6
joy 230:7
Jr 1:17 12:15
judgment 27:16 32:1
judicial 44:22
juggling 27:2
JULIE 3:14
July 7:4 114:3

jump 131:13 133:5
249:10 265:13 267:13
June 114:3
jurisdiction 165:21
245:9
jurisdictions 264:5
justify 57:20 177:8
229:20 248:3

K

Kate 2:6 14:10 36:4
61:19 183:19
Kate's 69:1 109:18
keep 5:12 7:7 44:1 45:2
52:15 92:7 111:22
164:18 165:14 175:1
175:21 199:16,18
204:17 208:12,21,21
208:21 226:1
keeping 52:2
keeps 38:19 203:5
212:3,4
Kevin 1:20 5:4 175:5
key 35:4 80:14 136:12
142:8 218:9
kick 102:4
kicked 264:22
Kiefer 1:20 5:3,4 11:4
12:10 13:12 17:3 20:4
55:5 64:19 175:4,5,10
212:5 241:20 271:20
272:19
kinds 82:6
Kinko's 227:8,10
knew 126:1 211:11
knife 268:5
knots 124:18
knowing 78:10
knowledge 65:17
161:17 163:5 236:22
known 25:13
knows 52:6 54:11 84:12
139:2 155:22 247:16
Konieczny-Kells 2:4
14:22 15:1 58:12
59:11,15 60:12 61:8
61:20 111:14,15
141:12,13

L

labor 23:1 69:7 74:4
91:20 93:2 140:4
lack 138:5 163:10
164:20 182:9,17
214:8
lag 189:11
laid 116:9
lake 1:13 2:18,19,20 3:9

3:11,15 5:7 12:21
15:9,11 16:3,6,11
24:13 26:9 106:4,4,4
124:19 131:14 151:20
151:21 152:6,10
156:14 157:6 162:14
162:17,18 181:9
193:20,20,20 204:12
212:8 216:3 250:19
251:16,18 252:4,8
254:21 255:1
Laker 199:20
Lakers 122:10 165:2
202:22
LaMarre 1:16 13:8,8
17:10 65:4,5 67:20
68:1,21 72:4,8 75:15
76:22 77:1,2 78:4
79:9 80:1 86:19
117:14 134:1,1 151:3
151:3 154:7,11
166:14,16,18 167:20
168:12 172:9,9 185:5
185:7,14,17 196:13
196:17 199:19,22
200:18 201:16 203:16
203:20,21 206:2
213:10 221:12,12
228:5,8,9,11 231:22
232:7,13 233:1
234:18 236:1,18
237:2,9,12 238:4
239:14,21 240:3,12
241:6 242:14 243:20
245:17,22 246:4,9
247:17 248:8 271:5
272:2
LaMarre's 83:8 199:11
lamine 219:16
laminated 219:9
laminating 218:8
land 131:18 144:20
257:14
language 180:3
large 19:9 22:7,18 23:9
23:20 27:1 66:21
100:18 137:18 140:2
158:14
largely 158:16
larger 213:20 231:7
233:16 243:7
largest 13:6,7
lastly 44:22
late 29:19 268:21
latitude 182:18
Laurion 2:18 15:21,22
140:15,15 216:2
236:14,21 237:5

239:22,22
LaValley 3:15 249:3,6,6
law 2:6 14:12 31:15
 33:6 67:8 244:1
Lawrence 1:14 2:7
 12:18 16:9 187:5
laws 36:22
lawsuits 86:12,13
lawyer 76:2
lawyers 70:12 71:16
lay 40:10
laying 161:4
lead 44:11 58:3 177:17
 179:2 260:9
lead-up 79:17
leaders 38:12
leadership 11:5,11
 37:21
leading 130:17 237:8
learn 109:12
learned 117:16
learning 83:10
lease 258:1
leave 10:20 74:11 213:1
 219:14 232:14
led 23:10 128:9
ledger 96:17
left 21:13 24:3 75:4
 150:15 154:20 157:8
 225:22 252:8
legal 17:1 30:1 67:17
 69:22 70:7,8
legally 29:5 30:5
legislation 25:12
legislative 21:1,22
legitimate 183:8
lessened 267:21
let's 18:5 42:13 103:18
 149:10 152:1 176:15
 184:4 236:8 239:16
letter 57:5 61:16 117:14
 135:20 136:14
letters 161:1
letting 52:22 60:3 170:2
level 65:20 70:6 83:10
 103:9 126:19 145:13
 233:13 238:21 240:6
levels 67:16
leverage 165:15
Levesque 2:2 9:22 10:4
 10:5 272:7
levy 245:13
liability 233:3
liberally 244:17
license 26:3 27:14
 222:17 223:5,12,16
licensed 19:4 31:21
licenses 218:16,20

licensing 32:14
Lieutenant 157:3
life 100:22 116:22
 140:21
lifetime 244:19
lift 139:8 183:1
light 151:15 152:4
 157:9 207:2
Lighthouse 21:13 22:1
likes 210:3
limit 115:8 126:22
 183:4,11
limitations 67:17 247:9
limited 31:14 113:5
 154:22 198:16 211:1
limits 187:22
line 43:16 44:20 81:16
 139:11 142:15 151:1
 158:22 204:11 243:3
lined 115:16
lines 20:9,12 158:14,14
 204:7,8 234:20 235:5
lion's 140:2 237:17
liquid 204:15
list 53:9 54:9 68:8
 223:19
listen 85:22 212:22
listens 93:5
lists 49:16
literally 204:8 218:7
little 19:1 26:22 40:4
 46:2 61:1 72:13 73:7
 81:8 84:4 104:21
 106:18 107:1 110:20
 117:8 126:8 130:14
 134:13 146:5 149:9
 157:7 162:7 163:8,12
 163:15,21 165:3,18
 166:1 177:20 179:19
 179:20 183:3 196:11
 208:22 214:16 218:17
 238:14 246:2 255:11
 259:11
live 180:6
lives 81:18
Livingston 152:4
LLC 1:16
load 247:10
loan 261:4
lobbying 95:11 99:8
local 21:15 41:19 55:15
 163:5
locally 81:3
location 59:21 60:4
 254:5
lock 4:14 8:1 150:21
 207:6 228:6,17,22
 229:18,21 230:2

236:3 239:13 242:2
 251:16 255:5
Lock's 228:4
locks 114:6 187:7
 193:17 199:14 201:5
 201:6 209:13 210:20
 235:13 238:19 239:10
 239:16 254:16,19
 255:3,5,10 256:2
 266:8
lodging 173:19
logical 163:5
logistics 1:16 13:5
 143:15
long 21:5 40:21 48:20
 64:8 72:19 99:21
 107:4 123:15 124:9
 132:20 156:20 194:10
 194:18 196:22 197:5
 207:17 211:5 215:6
 254:13
long-term 116:15
longer 41:2 93:11 102:5
 177:20
longshoremen 2:11
 55:8 103:17 137:10
 168:16 193:4
Longshoremen's 1:18
 14:19
look 11:16 57:16 58:16
 69:7,8,10 70:1,12,12
 70:21 72:19 76:13
 81:5 85:15 89:3,17
 92:17 94:20 110:10
 117:12 121:21 122:3
 126:17 129:3 131:15
 132:18 140:17 146:6
 146:11 151:19,22
 160:2 176:21 177:20
 180:14,19 188:22
 191:11 196:14 199:7
 201:3 215:12 218:12
 218:16 219:7 222:9
 223:18 224:5 229:10
 229:12 231:7 243:6
 267:18,20 269:7
looked 64:2 74:21
 197:14
looking 65:6,21 66:10
 70:3 81:5,9 87:21
 102:6 115:3,5 127:5
 132:5 144:16,22
 154:5 167:18 170:14
 171:8 191:11 196:15
 204:6 215:4 218:14
 219:1 227:5 236:2
 238:16 242:2,4,8
 243:8 265:4

looks 73:15 85:14
 137:5 225:11
lore 28:12
losing 78:15
loss 96:10 107:3 233:5
lost 120:2 189:13
 231:11 247:5,12
lot 20:10 24:7 41:19
 56:8 64:14 65:17 84:6
 87:17 90:10 91:1
 100:7 102:5,5 107:21
 112:5 125:5 128:1
 129:4 143:1,11
 147:11,12 153:1
 155:12 159:7 169:5
 194:16 195:8 202:19
 212:17,21 218:3
 219:12 242:5,17
 243:10 245:11 247:6
 248:1 250:11 257:11
 258:20 259:3,5,7,9
 260:1 272:8
lots 24:10 79:4
loudly 9:10 13:20
love 86:17 111:15 146:5
loves 161:7
low 91:14 218:9
lower 190:18
lowering 255:4
lowest 26:17
LPA 2:18,19,20 3:9,11
 3:15 212:8
Luckily 157:11
lucky 154:18
lunch 18:1 205:19
lynchpin 229:21

M

ma'am 188:15
Mac 230:2
machine 152:19 218:8
Mackinac 265:16 266:9
 266:12
magic 68:5
main 39:15 211:4 251:8
Maine 256:12
maintain 31:17,22 33:9
 135:10
maintained 87:16
maintaining 115:5
 144:6
maintenance 233:10
major 78:20 230:3
 264:6
majority 21:20 22:7
 43:19 90:20 229:22
making 26:10 28:4
 34:21 36:12 43:15

- 53:7 90:11 95:4,11
98:14 106:14 111:11
114:19 115:1 135:7
149:11 152:3 161:9
170:21 180:10 212:9
217:11 221:7 240:1
267:7
male 10:8
man 76:5 132:10 255:7
managed 244:14
management 39:3
44:16 71:1 115:6
149:8 153:19 204:4
manager 38:19 94:10
managing 130:9 141:14
mandate 36:2 37:15
119:3
mandatory 161:18
243:10
maneuverable 234:5
maneuvering 236:8
240:6 248:13
manifestly 31:10
manner 129:9
manpower 134:6
141:15 148:22
MARAD 2:12
March 35:22 37:7
119:20
margin 245:2 247:22
Marie 132:2 254:15
marine 15:22 18:12
38:10 41:22 70:11
140:16
mariner 25:22 116:1
222:5
mariner's 115:20 220:9
mariners 229:8
mariners' 11:13
maritime 2:12 11:7 14:1
19:12 32:3 63:18,20
140:1 146:14 202:1
233:11 243:7 244:8
244:15
Mark 3:15 249:6
market 114:8 137:1
184:15,21 201:22
202:4,12
marketability 80:21
marketplace 80:18
Marriott 1:9
Martin 269:1,2
Mary's 254:14 256:19
257:21
Maryland 24:14
Massachusetts 24:15
master 28:16 29:3,8,10
29:15 30:17,20 31:5,8
31:15 33:10 34:3
77:10 140:18 145:3
157:14 200:11 223:19
241:9 242:19 243:2
243:15
master's 31:2
masters 23:1,11,14
34:11,12 153:12
material 81:2
materials 270:3
matter 8:7 19:21 21:15
38:17 40:9 57:10 67:9
111:2,8 112:6 142:20
205:20 231:2,5 233:8
246:2 272:21
matters 6:12 63:4,9,10
95:13 232:20
max 128:9 190:21
maximum 119:17 127:2
187:22
MCM 237:13
mean 60:12 77:10
80:17 81:9 86:5 88:17
88:21 93:5 108:19
109:18 128:2 133:15
134:19 143:6,17
145:5,9 147:7 153:5
155:11 158:3 169:18
170:5 176:5 181:2
182:4,5 183:13 186:8
186:10 189:5,12
190:4 194:16 198:15
199:10 200:8 203:3
204:22 213:18 218:12
225:17 237:15 240:13
240:14,19 241:2
245:10 262:17 264:22
268:4,20
meaning 22:3 64:4
meaningful 80:8
means 8:8 32:12 41:17
45:8 61:4 150:19
meant 30:3,4 145:22
162:4,5,6,6
measure 97:3 208:11
meat 169:21 180:3
mechanics 146:11
mechanism 171:21
208:20
mechanisms 83:5
208:1
media 138:3 163:14
medical 51:14 91:4
116:8
meet 21:17
meeting 1:4 4:3,22 5:7
5:10 7:3,14 8:22 9:4,8
11:19 13:15 17:15
18:4 52:9,10 53:21
54:2,11 59:9,18 60:7
62:4,12 63:1,14 65:8
83:3 91:9 117:15
136:8,15 138:19
158:12 159:3 170:19
262:19 266:5 270:10
270:13,22 271:12
272:1,12,16,19
meetings 19:19 38:2
52:11 53:18 59:2,22
60:9,15 61:3 62:13
63:4 87:18 88:1 103:2
271:19
members 5:9 6:19,22
8:20 9:12 11:1,20
13:13 17:17,18 19:8
29:11 31:7 33:22 35:8
36:10 47:4 48:5,8
61:22 63:17 64:4,10
64:16 66:6,12 82:11
99:20 108:10 164:18
268:16 272:4
membership 13:14
19:4
memorandum 53:8
54:4
memorandums 24:12
men 141:3
Menominee 216:4
Menough 2:19 16:5,5
mention 10:15 28:19
134:9 135:15
mentioned 51:12 135:2
213:21
merchant 25:21 220:9
mere 29:3
merit 231:13
messed 73:15
met 1:9 5:16 18:22
meter 212:3
method 258:4
methodology 69:12,16
89:4 97:13 111:20
112:15 142:12 170:11
170:20
metrics 112:14 129:13
130:4,6,16
Michael 206:19
Michelle 2:13 15:12
106:8
Michigan 1:10 193:21
216:3 228:22 255:11
259:13 266:22
Mickey 203:20
microphone 12:4
middle 151:1,17 162:18
Mike 2:12 13:22
military 218:21
milk 252:19
million 80:6 88:21
229:1
mimic 26:5
mimicking 26:2
mind 44:1 86:1 99:16
105:9 110:22 267:6
mine 191:2,3
minimal 69:13 175:2
minimize 63:13 215:19
minimum 52:16 59:17
122:4
minute 111:6 135:13
minutes 9:6 11:1 20:20
83:9 95:9 111:7
187:11 194:7 255:6
259:4 270:3,10,12,22
271:2 272:14
mis- 190:12
misconception 29:2
missed 150:7
missing 98:22 112:8
mission 19:14 154:4
156:8 244:6 245:1
missions 37:9 57:1
Missouri 234:3,4,22
mistaken 191:22
MITCHELL 3:14
mitigator 178:9
MMC 225:16
MMCs 218:1
mobilizing 247:16
mode 231:10
model 114:9 115:7
117:7,9 119:11,16
121:16 122:2,20
123:1,11 125:12,14
125:14,18 126:2
127:4,10,13,18 128:7
128:11,21 129:5,15
130:14 131:15 140:17
141:5,8,21 142:13
158:6 161:13 162:12
170:17 171:8 181:13
183:2,7 184:12 185:3
187:5,21 188:5,10,17
189:18 190:4,6,7,9
191:8 194:20,21
198:15 199:2
models 132:6 159:19
modern 225:11
modernize 217:6
modification 117:7
moment 141:10
moment's 237:22
money 90:2 102:12
106:10,14 108:2

114:20 115:1 121:11
 163:18 211:14 220:13
 220:20 242:3 243:16
money-making 149:10
monitor 225:19
monitors 176:20
Monroe 1:10,17 13:9
 16:21 17:9 134:18,19
 135:4,17 139:6 197:9
 228:5 238:18 272:2
month 118:11 121:10
 174:11,13 203:12
 215:10
month- 123:21
months 49:17 80:11,11
 115:16,22 116:10
 118:10 121:9 122:10
 122:11 174:9,12
 176:16,17 193:19,22
 194:3,13 199:9
 203:10,22 204:12
Montreal 14:9 23:2
 239:9
Moody's 69:8
moon 76:9
Moore 2:20 15:10,10
morning 5:3,21 8:16
 14:3,7,10,14 15:12,15
 15:18,21 16:2,10
 55:19 68:18 94:16
 109:16 113:17 125:22
 168:6 173:3 181:1
morning's 265:1
motion 168:16 184:9
 227:2,12 228:2
 270:21 271:1,3,10,11
 272:17
motions 178:22
mouse 203:20 204:2
mouth 12:4 146:18
move 19:8 27:5 35:19
 38:21 46:6 93:20
 126:14,15 127:14
 142:16 143:13,16,19
 146:10 152:19 187:8
 187:16,17 191:15
 197:5 200:12 204:15
 205:18 217:1 246:18
 247:8 249:17 250:4
 253:10 258:16 269:19
moved 221:17
movement 19:12 31:19
 127:22 129:7
moves 37:12 221:20
moving 132:8 149:17
 153:9 185:20 192:20
 228:3 241:10
MSI 142:13

multiple 70:8 172:12
 259:5
mutually 33:9
myriad 267:3
mystery 151:1

N

NAFTA 80:6
naive 84:14
name 5:3 10:4 12:1
 13:20 14:3 15:3 16:2
 53:15 55:5,6 68:12
 82:15 103:15 152:21
 203:18 206:3 219:20
 248:20 269:22
named 256:18
names 68:20 221:10
narrow 230:8 247:22
Nate 3:13 15:3 69:4
 94:10,15 105:12
 106:9,20
nation 140:6
nation's 229:22
national 19:2 55:14
 59:20 63:10
nationalities 153:10
nationally 11:10 236:4
nationwide 243:9
natural 158:7
nature 110:17 238:22
nav 158:17
navigating 148:14
 230:7
navigation 4:10 7:21
 23:20 28:17 29:7
 30:18,22 31:1 135:13
 156:21 193:16,16
 199:1 242:18
navigational 31:16
 32:17 33:6 147:8
navy 234:8
nearly 23:12 91:2 113:3
 114:3
necessarily 51:8 57:9
 68:11 125:14 127:19
 167:11 229:14 233:13
 251:7
necessary 7:18 9:16
 74:17 93:21 94:1,8
 98:11 99:10 108:18
 109:9 115:11 142:18
 157:1 165:22 197:21
Necessary/Reasona...
 4:8
necessity 110:4
need 5:22 9:20 10:1,22
 11:2 22:18 24:1 39:11
 42:2 43:21 48:9 51:7

52:20 84:10,12 85:12
 86:22 94:20 116:14
 116:19 117:22 120:16
 120:17 121:7 122:2,3
 125:1 128:5 134:13
 138:11 146:3 152:16
 153:17,18 155:4,6,7
 155:10 156:21,22
 158:21 159:6 161:5
 162:16,17 163:5
 165:5,5 166:14 169:8
 169:10 174:22 179:15
 180:16,19 187:18
 188:6 189:4 191:7
 198:11 203:13 212:17
 216:15 221:13 224:17
 226:8 230:18 232:6
 234:11 235:14 242:13
 246:20 247:3 270:18
needed 42:21 127:14
 261:9 264:6
needing 90:2 171:11
needs 8:13 21:17 32:2
 75:4 84:18 87:9
 124:12 141:9 146:13
 165:12 182:13,13
 240:10 249:13
negative 138:3
negotiate 74:5
negotiates 74:4
nervous 192:11
nest 20:17 46:5
network 229:8 230:16
 231:15 235:2,6
 237:21 240:21
neutral 257:5
never 72:4 86:14 87:22
 88:1,10,12 102:17
 131:8 142:21 189:3
 194:14 252:15
Nevertheless 77:5
 138:1
new 21:6 24:15 38:4
 49:4 69:11 80:9
 122:15 137:1 138:12
 144:21 169:9 177:15
 218:15,21 228:17,22
 229:20 250:13 253:14
 258:7,18 259:7
 260:22 261:4,6
 264:19 265:14 268:16
newer 260:15
newest 137:14 253:18
nice 64:20 130:21
 134:12 157:7 225:9
 257:4,14
night 151:11 154:21
 155:18,18 245:19

nine 122:9 174:12
 203:10
nine-month 195:22
Ninth 8:2
NMC 223:21
NMCs 223:18
no-brainer 257:13
non- 237:19
non-governmental
 6:16
non-partisan 268:2
non-passenger 141:6
non-significant 71:5
noon 194:7
norm 140:6
normally 130:2
North 1:9
northeast 152:7
northern 254:13
note 8:17 139:14,15
 167:16
noted 7:8 192:6 215:22
notice 38:14 39:18 40:7
 41:14,15,18 42:1,6,16
 42:22 43:11 46:10
 47:7 54:3 59:10 60:1
 60:11 83:2 237:22
 238:3
noticed 10:7
notices 59:16
notified 120:4 126:4
November 6:2 124:2,5
 212:15 213:8
NPRM 39:5 40:12 42:4
 46:19 51:5,14 52:2
 55:10 60:11,22 61:17
 62:9 67:6 74:19
 166:20 167:5,12
NTSB 32:8 129:22
 160:15,17 161:1,8
nuance 111:17
number 24:6 25:5 26:11
 54:5 61:15 68:10
 72:16 83:13,15 84:5,7
 85:12,21 89:18 92:20
 100:1 115:10 116:7
 116:18 119:18 121:20
 126:20 127:2,5,14,14
 128:10 133:1 134:7
 134:19 141:4,20
 158:12 160:2,4,5,6
 164:21 176:14,14,19
 181:6,15,18 187:21
 187:22 191:22 207:11
 215:11 228:16 229:12
 234:20 248:5 267:17
 267:17
numbers 51:3 57:22

65:18 66:21 68:13
69:6,6 83:18 84:3
87:8 88:5 102:9 112:9
115:14 142:17 144:6
146:7 147:16 164:16
164:18 165:8 182:1
184:14 188:3,5
190:18,21 191:12
194:19 197:22 198:3
numerous 85:10,17
168:8
nut 179:10
nutshell 249:19

O

O'Shea 2:9 16:12,12
object 192:5
Objectives 4:3
observation 178:20
180:10 204:22
observe 103:1
obsolete 117:10
obvious 179:2 224:18
257:13
obviously 44:9 58:14
76:5 208:16 215:20
231:20
occasionally 45:22
224:22 225:1,6
occasions 208:12
occur 48:4,5 84:12 87:2
occurred 95:18 101:6
129:15 157:21
occurring 134:22
occurs 53:6
ocean 8:12 151:7,9
ocean-going 145:8
oceangoing 19:9 22:7
22:18 23:9,20
odd 76:5 149:17
off-the-record 46:11
offboard 211:3
offer 41:3 45:12 87:16
88:2 92:7
office 2:1 8:11 14:11
16:19 17:1 39:3 44:4
44:16,17 69:22 70:7
70:17,18,22 71:15
119:15 126:7 217:3
217:10 259:18 266:1
266:6
officer 1:20 2:1,2 10:6
31:16 33:5 156:21
officers 44:11
offices 19:19 70:8
244:9 250:11
official 5:5 9:5 10:1
19:10 61:16 72:7

159:1 272:9,13
officials 5:18
Ogdensburg 248:4
oil 163:11
old 90:6 122:20 201:2
204:1 225:8 240:15
older 240:9,9
Olney 1:14 13:1,1
131:13,14 133:18,18
141:17,17 146:15,16
146:21 148:4,6,6,20
178:14 194:4,6
199:15 211:16 212:6
212:6 231:19,19
232:1,8,14 233:21,22
237:7,10 241:6
249:20 253:11,12,12
254:9,12 265:13,20
266:4
Olney's 106:8 243:13
OMB 39:3 44:16 49:14
66:17
on- 46:13
on-call 200:2
on-point 62:4
On-site 104:3
onboard 120:1 156:18
207:5,8,22
once 11:15 38:21 46:19
52:14 94:7 169:20
174:10,11 195:10
219:17 220:5,7 248:1
255:2 268:7
ones 24:5 44:18 60:15
75:20 83:16 155:16
195:3 197:21 202:18
ongoing 36:17 60:14
166:21
Ontario 15:14 124:19
251:18
open 17:19 18:3 53:18
61:2 65:2 73:16 125:8
140:13 151:21 166:21
175:12 248:14 269:21
270:16
opened 23:8,16 26:9
201:5
opening 4:4 5:12 11:17
22:15 26:18 63:21
114:2,10,12 269:7
272:11
operate 124:14,22
196:22 224:6,8 235:4
operating 158:17
233:12
operation 78:11 199:17
230:10 232:16 235:13
256:1

operational 217:5
operations 2:1,15 4:14
5:16 8:2 15:17 16:19
32:18 44:5 103:1
137:19 154:21 199:10
199:18 217:10 228:4
236:9
operator 12:22 151:19
operators 137:10,11,17
opine 228:7
opinion 17:13 72:2,3
86:22 230:12 231:17
238:17 241:7
opportunities 6:21
opportunities 64:4
100:17 150:3 215:19
opportunity 39:19
41:15 47:13 53:3
55:12 62:20 84:2 85:7
85:15 93:4 101:1
112:13 138:10 231:11
opposed 34:14 75:11
86:9 92:2 107:3
227:22
option 37:16 46:4 60:5
oral 46:9
order 4:4 9:8 11:19
18:11 36:1 43:11
109:4 170:1 189:18
198:19 254:21
ordered 198:21
orders 44:13 246:14
ore 229:22
Oregon 253:16
organization 13:21
18:8 73:12 186:13
231:3 268:22
organized 22:16 24:1
Organizer 14:21
original 91:7
Oswego 231:8 235:2
247:2,6,15
ought 58:10
outboards 253:21
outbound 252:7
outcome 67:17
outdated 227:16
outlets 46:1
outlier 215:6,7
outline 18:16 206:9,13
outlined 198:19
outlines 38:8
outnumbers 132:20
outside 10:9 19:17 64:5
91:19 92:3 109:19
110:1,6 182:5 224:16
229:4 234:19 236:8
over- 101:20

over-carrying 251:14
overall 29:8 31:2 63:18
overarching 201:14
overland 132:1 141:14
overlap 60:14
overlooked 236:5
overs 131:6
oversee 217:9
oversight 30:12
overturn 200:6
overview 20:3 36:6
113:14 217:5
overwhelming 21:20
owned 241:1
owner/operator 149:20
owners 148:20 229:4
owns 6:19

P

P-R-O-C-E-E-D-I-N-G-S
5:1
p.m 272:22
package 261:21
paid 98:3 105:4 134:21
151:4 168:18 261:2,6
painful 180:12
pandemic 138:22 267:2
pants 130:10,11
paragraph 31:20
paragraphs 30:16
parameters 50:10 71:3
129:21 240:5,13
paramount 117:17
165:13
pardon 55:2
park 210:12
paroles 160:20
parse 64:15
part 13:7 27:2 45:9
53:10 57:13 64:9
65:13 66:4 74:3,10,13
79:16 83:5,17 91:8
97:4 107:7 111:11
142:4,7 144:19
149:11 151:2 165:19
169:14 170:16 177:14
197:22 198:14 199:12
200:1 201:9 210:11
214:21 225:17,21
227:1 230:8 243:4,16
259:16 263:12 270:1
parte 4:7 7:17 35:21
36:7,15 46:6,17,18
47:5,10 48:3 50:7,14
53:5 60:10 64:6
PARTICIPANT 105:14
172:18 184:15 199:21
219:19 222:6 223:10

226:6,8,10,11,12,16
 227:7,9,10 238:2
 239:19 240:8 270:18
 271:15,18 272:18
participate 47:18
participation 11:6
 17:13
particular 8:6 19:17
 34:7 61:4 65:20 79:11
 207:6 231:13 242:15
 260:9
particularly 60:18
 137:13 143:8 149:5
 272:7
parties 34:21 46:11
 47:16 61:4 66:5,20
 75:1 192:19
partners 181:10
parts 37:10 62:7 111:18
 205:9 258:8,9
party 34:8 110:1 257:6
Passage 152:2
passed 84:22 193:5,9
 197:17
passenger 137:17
 140:19,22 141:6
passengers 129:8
 138:4
passes 185:14
Pat 142:13
patrolling 157:10
patterns 127:18
Paul 1:16 13:8 17:10
 65:5 76:21 77:1 80:15
 82:2 134:1 151:3
 166:17 172:9 185:6
 196:10,17 199:11
 200:17 203:20 221:12
 228:4,11 232:2 246:8
 247:1 271:4,6 272:2
Pavilionis 2:5 16:22,22
pay 89:18 97:17 135:18
 140:21 175:12,15
 268:17
paying 83:17 84:1,20
 110:11,15 152:17
 173:12 176:2
pays 84:11 92:13
peace 170:3
peak 126:18
pedestal 245:15
peers 229:16
Pelee 152:2
penalize 196:11
penalty 28:21 196:13
Pennsylvania 266:2
penny 172:13 212:13
people 23:12 24:7

42:16 44:12 48:9,9,15
 49:12 50:20 51:3
 52:22 53:14 56:3 57:4
 57:10 59:21 60:3
 65:19 68:8,12,16 70:9
 76:9,12 78:21 83:13
 90:10 115:15 118:8
 119:4 120:16 124:3,3
 138:22 139:9,18
 141:2 143:12 146:3
 149:2,3,21 153:10
 154:12,19,20 155:11
 156:13 163:22 171:12
 174:1,6 194:22 195:4
 196:3 202:20 211:10
 219:16 251:4 267:6
percent 19:8 78:15
 83:20 103:20 104:11
 104:14 123:5,7
 238:18
percentage 81:11
 103:21 104:12 112:3
perception 113:9
 192:14
perfect 108:6 151:5
 152:18 153:15 247:2
perfectly 122:16 142:15
perform 94:18 95:2
 96:12
performance 65:19
 66:22 89:1 221:5
performed 103:6 107:2
 156:9
performing 39:17 99:17
 99:22 257:6
period 39:5,6 40:20,21
 42:10,10 50:8,9,10,13
 51:4,14,15,19,20
 52:13,15,21 59:7
 60:20 61:2,3 71:21
 95:16,17 100:19
 121:19 126:12,14,16
 126:21 143:16,20
 147:8 151:7 181:16
 187:17 211:2 257:2
periods 212:15
permanent 9:5 120:21
 162:4 176:7,10
 272:13
permission 144:11
permits 259:12,14
person 33:7 47:12,15
 154:19 155:17 161:21
 193:5 265:22
personal 95:12 136:9
 182:5 192:4
personally 180:13
 222:10

personnel 8:19
perspective 115:10
 135:1 138:21 156:16
 159:5 204:3 228:21
 229:15 231:5
Peter 2:7 16:7
petition 37:17
petroleum 113:6 201:8
phase 53:19 166:13
phases 50:7
Phil 120:19 134:16,16
 134:19
Phil's 173:11
phone 159:1
phones 10:12
phrase 29:12 32:10
 35:4
phrases 31:13
physical 103:7,8
pick 103:18
picture 145:13 154:6
 220:19 221:2 229:7
 253:17
pictures 218:7 220:22
piece 257:13
pilot's 27:14 116:15
 187:14 198:1 211:17
pilotage 1:2,22 2:1,13
 2:14 4:16,18 5:5,7 6:1
 6:13,14,20 8:2,3,13
 11:16 12:13 14:5
 15:13,16 17:2,14 18:7
 18:9 21:3,4,8,14,14
 21:20 22:11,17 24:1,2
 24:5,14,18 25:6,14
 26:10,11,22 30:18
 36:5 37:5 49:21 54:6
 60:19 63:12 69:22
 70:10 78:11 81:12
 82:6 88:18 90:16
 95:21 96:4,11 97:9
 101:7,12 105:21
 113:7,13,21 115:18
 116:21 119:15 136:8
 136:13,20,20 138:8
 144:4,5 186:20 200:4
 200:7,12 205:3
 217:10 221:17 224:17
 241:16 242:18 250:5
 264:17,20 267:22
 272:1
piloted 20:19
piloting 19:3 27:2 28:14
 29:12 30:10 95:14
 115:12 118:15 126:6
 143:2 159:17,17
pilots' 18:10 105:1
 228:21

pissed 131:11
place 18:20 21:5 22:22
 24:5 25:13,17 26:14
 42:2 150:4 161:18,19
 171:12 188:17 209:20
 210:12 214:11 233:14
 248:13 259:14 262:9
placed 9:2 134:10
places 19:19 153:2,8
 191:22 243:10 248:5
placing 31:11
plan 49:15 114:1 176:5
planning 38:6 49:5,16
 49:18 156:20
plans 47:12,14 48:6,10
 48:16 51:9 217:6
play 79:16 131:17
playing 202:7
please 7:5 8:17 9:21
 10:11,12,18 11:22
 12:3 13:19 36:8,20
 37:11 39:14 40:7,19
 41:12 43:14 45:4 46:5
 46:15 47:1,9 48:3,12
 49:3 50:6,12 51:11,19
 52:14 53:2,5,17 54:13
 55:6 57:15 80:4 89:6
 112:17,17 125:21
 186:4,17 246:15
 269:22
plenty 123:14
plug 73:7
plus 89:15 90:4 119:22
 211:7 257:18
PNI 157:15,15
pocket 220:20
pockets 133:8
point 26:10 27:8 31:6,6
 34:17 82:2 85:1 91:18
 91:22 92:6,11 102:19
 109:4,13 118:1 129:3
 133:6 142:6 143:3,4
 143:14,14 145:15
 146:4 150:7 155:20
 155:20 156:3 158:10
 159:18 166:2 171:4
 199:11 210:1,1 212:9
 232:8 236:20 248:7
 251:17 252:19 263:18
pointed 29:6
pointless 92:5
points 105:18 147:17
 151:20 156:15 233:17
Polaris 121:22
policies 6:14 46:7
policy 8:12 43:4 46:17
 47:2,22 48:22 104:2
pool 235:4

- pools** 25:20
popped 178:2
popular 29:2 229:15
port 1:17 13:9,9 16:20
 17:9 21:15 22:9
 105:22 132:3 134:18
 135:1,4,17,18 136:16
 136:17 139:6,9
 151:22 152:2,13,14
 160:12 197:9 201:13
 204:4 213:2 216:3
 228:5 229:10 231:7
 231:13 234:8 236:21
 238:9,17,19 272:2
portage 89:20
portion 99:3 100:4
 133:12,13 183:1
 199:16
portrayed 92:12
ports 13:10,11 16:1
 22:3 76:4 78:5 93:2
 117:22,22 132:9
 133:3 135:21 136:5
 136:22 137:3,9,22
 138:15 140:3 228:13
 229:12 239:9
posed 125:11
position 12:2,22 26:15
 31:18 68:16 72:7 81:6
 134:11 169:19 231:17
positive 137:19 148:15
possible 11:14 24:6
 142:16 154:3 247:22
possibly 148:1 189:17
post 49:12 52:5 54:3
 61:11
potential 188:8 265:9
potentially 231:11
 238:15
pounded 152:9
pounds 80:6
power 113:5 234:4
powered 235:4 256:10
powerful 234:12
powers 44:10
practical 55:18 156:15
practice 167:9,17
 263:21
practices 18:10
pre-comment 50:8,12
precedent 249:2
Precisely 233:1
precluded 64:8
predecessor 26:15
 206:19
predict 207:21
preface 200:21
preferred 241:8
- premium** 135:9
prep 179:20
preparation 59:14
prepare 62:8 179:8
prepared 9:6 25:14
 117:15 170:1 272:14
preparing 5:9
present 1:11 2:3 7:1
 13:14 58:17 60:16
 118:5 270:3
presentation 36:10
 54:14 59:1 62:5 69:1
 69:4 77:9 78:2 87:20
 108:20 109:6
presentations 7:11
 78:3 179:1 180:1
presented 183:19
presently 230:2
presents 23:19
president 1:12,14,17
 2:16 12:13,16,18 13:2
 13:10 14:8 15:6 26:8
 42:19 43:21 44:9
 103:2 206:12 266:5
 266:13,19
president's 44:21 90:8
 145:14
presidential 42:17
presidents 246:12
presiding 1:10
press 140:3
pressing 258:6
pressure 28:7 162:2
 177:11
pressures 27:22 230:9
 234:19
pretty 84:14 85:11
 106:1 143:18 155:9
 185:8 186:2 209:19
 256:6,7
prevent 32:17 153:21
 207:20,21
preventing 72:16
prevention 70:15
preventions 157:21
previous 244:10 260:22
 261:16 270:22
previously 68:3
price 69:9 90:8 175:6
 202:3,3
pride 101:8
primarily 183:10 215:4
primary 135:16
prime 157:1
principal 169:19
principals 81:13
principle 200:16
printer 219:3 220:13
- 221:21 226:14 227:15
prior 22:15 46:10 60:21
 65:7 95:18 97:7 98:12
 99:12 183:7
priority 238:15 242:16
private 46:12 65:15
 66:15,19 79:12 90:11
 197:4 268:22
privileged 47:17
probably 63:6 76:15
 90:22 104:6 122:9
 128:12 163:13 189:8
 192:18 211:16 217:17
 217:20 221:7 263:8
problem 23:14 38:4
 45:10 58:4 61:20
 88:15 107:8 110:7
 160:14 161:5 172:6
 176:10 195:14 213:20
 247:4 252:9 254:15
 259:17
problems 145:12 203:6
 234:10
procedure 39:15 45:3,5
 46:8 95:1
procedures 36:3 43:1,5
 45:19 94:4,12 95:2
 97:1
proceed 13:16
proceeding 263:11
proceedings 9:14
process 7:17 35:20
 36:7,11,18 37:2,12
 39:9,16 48:20 51:8
 59:3,7,9 62:15,18,19
 66:8,11 67:16 68:6
 72:1 73:5 83:1,4,22
 85:11 86:21 92:11,16
 92:18 96:1,2 102:3
 166:20 168:10 179:6
 180:12 182:11,12
 192:1 198:18 213:16
 217:6 218:6,6 219:2
 220:12 250:13 259:8
 263:9 269:8
Process/Ex 4:7
processes 36:14 38:22
 44:15 67:4
proclamation 144:22
 145:15 265:3
produce 217:17 219:3
 220:15 221:3 226:19
produced 63:19
produces 94:4 157:12
 223:12
producing 204:17
product 38:19 67:6
 204:16
- production** 221:14
productive 11:17
profession 18:11 29:13
 30:10
professional 32:1
 34:13 218:5,18 220:2
 220:11 226:14,20,21
 227:5,15
professional-looking
 221:11
professionals 19:3
 34:11
profit 87:5
program 111:2 186:20
 220:6 221:15
programs 38:13 44:4
progress 7:8 259:10
 262:9
prohibited 46:16
prohibition 36:19
project 36:4 38:7,17
 109:18 123:8 221:22
 227:1 247:7
projections 113:9
projects 8:3 250:6,8
promise 20:20 148:11
promote 18:11
pronounced 255:14
proper 95:8 98:16
properly 95:7 100:9
property 110:13 255:9
 255:10 257:8,10,14
 257:18
proportional 94:5
proposal 38:7 54:17
 79:14 146:9 224:15
 242:2,15 243:11
 248:9 263:16
proposals 79:13,14
propose 99:11
proposed 6:13 38:15
 39:18 40:8,11 41:14
 41:18 46:14 60:3 61:7
 61:9 262:5
prospect 198:6
prospective 178:21
protagonists/antago...
 79:21
protect 163:16,17,21
 232:21 238:10
protecting 18:12
proud 137:5 162:10
proven 256:2 257:4
provide 6:17,21 13:20
 18:15 35:1 36:6 37:20
 53:2 57:18 66:7 71:12
 73:3 89:5 91:16 98:9
 105:19 106:2,15

112:18 113:13 127:3
 127:18,22 128:21
 133:7,8 149:1 179:1
 180:20 187:3 198:21
 215:1 221:18 250:7
provided 7:11 96:18
 129:16 188:20
provides 105:21 127:13
 129:6 133:10 136:11
providing 106:10
 118:15 126:6 132:14
 138:8 143:2 237:20
provisions 5:15 21:1
public 4:20 5:6 7:12 8:5
 8:20 9:4 17:13,20
 18:3 27:13 31:22 35:3
 35:3,11 36:17 37:17
 39:12,19 41:4,15
 42:16,18 43:3,7 45:1
 45:5,21 46:9,13 47:4
 47:8,13 48:4,7 50:15
 52:3,5,9,10,11,15
 53:3,12,19 54:3 55:12
 56:2 59:2,9,13 60:11
 61:13 62:13 63:3,8,13
 63:14 64:4,10,12 65:3
 65:15 66:5,6,12,19
 69:15 77:13 79:11
 83:2 93:1,8,14 99:20
 108:13 136:17 137:20
 138:2 140:14 163:9
 244:2 248:17 269:20
 269:22 270:2,4
 272:12
publication 37:13 40:2
 47:6
publish 39:4,9 41:1
 46:19 49:19 59:16
 60:1 68:19 71:19
published 48:17 49:10
 49:11 52:2 68:8 69:16
 92:21 163:13
publishers 72:22
publishes 49:14
Puerto 161:3
pull 200:14 225:3 234:9
pulled 140:2,4 159:1
 225:1
punctually 7:9
purchased 257:9
purchases 100:18
pure 209:11,12
purely 83:19
purpose 38:8 39:22
 40:11 94:22 98:7
 109:21 180:4 225:3
purposefully 26:2
purposely 25:18 253:19

254:4
purposes 8:7 48:8
 59:14 97:16 99:10
 100:16 107:12,15
 226:21
push 267:1
put 18:20 24:5 25:13,17
 26:14 28:11 32:4,6
 42:2 50:19,22 51:16
 51:22 53:8 54:1,9
 67:6 71:2 112:12
 126:20 138:21 141:15
 141:18 142:13 143:10
 143:12 145:1 146:18
 152:5 153:19 158:10
 166:20 167:4 176:17
 183:11 188:17 189:6
 193:7,10 196:22
 198:1 201:10 206:18
 207:18 213:2 214:11
 214:17 219:7 221:5
 224:2 225:16 230:19
 231:5,15 236:2 244:8
 245:15 246:13 249:1
 249:11 253:14 254:11
 257:22
putting 76:16 169:21
 204:4 230:5 233:4
 251:16 252:6 257:11
 262:22

Q

quadrupled 216:12
qualification 23:7
qualifications 115:21
qualified 149:2
qualitative 109:10
quality 55:22 56:5
 57:14 58:18 140:21
quantifiable 189:17
quantified 81:8
quantify 145:12 147:18
quantity 56:1,13
quasi 97:16
quasi-cash 100:3
quasi-rate-setting
 91:11
Quenneville 2:14 15:15
 15:16
question 65:6 66:10
 67:12,21 78:9 104:21
 117:5 125:11 127:6
 127:16 128:3,13,13
 128:18 133:15 141:13
 142:1 146:16 164:4,7
 164:8 166:4 182:4
 184:7 186:4 187:19
 201:20 202:6,15

209:8 213:13,19
 224:14 225:5 230:13
 235:15,17,20 240:20
 241:13,22 261:14,14
 262:4 268:19
questions 17:20 33:15
 35:11 50:2 52:12,17
 53:12 54:15 56:13
 64:17 71:17,18 73:17
 78:22 80:14 99:14
 103:12 108:7,9,13
 166:6 214:22 216:1
 225:12 231:1 235:11
 246:21 248:17 253:3
 253:5 258:13 259:21
 264:14 268:12 269:14
quick 20:2 44:20 49:19
 55:21 102:1 125:20
 133:15 165:10 168:4
 180:5 191:15 208:8
 224:21
quicker 138:3
quickly 30:13 43:12
 256:22
quite 23:19 75:10 108:1
 122:1 218:6 229:5
 250:10,14
quorum 11:22 13:15,17
quoted 141:4

R

rail 81:4 112:9
raise 89:12,16 190:18
raised 202:4
raising 35:4 255:4
ramps 123:20
ran 237:4 249:19
randomly 225:1
range 157:9
rare 193:18
rarely 43:22 55:14
rash 23:17
rate 26:17 35:22 36:3
 65:7 69:8 72:22 73:1
 73:4 76:8,10 77:6
 78:10 79:1 80:16
 81:11 82:5 85:4 89:11
 89:12 95:3 97:18 98:5
 103:21 111:11 115:9
 117:2 120:6 130:13
 133:11 167:8 168:19
 168:21 169:16 170:15
 170:19 173:21 175:6
 175:14,16,17,22
 183:19 193:6,10
 197:21 198:14 199:12
 201:17,21 202:9
 207:9 208:11 236:17
 237:19,20 260:18
 261:21 262:1,5,13
 263:1,17 269:8
rate-setting 92:11
ratemaking 4:8 7:19
 36:13 49:6,21 53:22
 54:6,8 62:15,21 66:7
 66:20 74:20 83:2
 93:22 96:1,1 97:5,16
 99:10 107:15 131:19
 183:21 188:9
ratemakings 37:7,16
 51:1,18
rates 40:17 51:2 56:9
 60:20 65:16 66:1
 72:18 73:6,7,13 74:22
 77:15 80:19,20 81:15
 83:9,11 84:17,22
 91:13,19 92:5 94:2,14
 96:22 105:5 111:20
 111:21 113:19 119:5
 157:17 173:19 196:19
 264:10
ratified 148:19
rating 107:11 132:15
rational 57:17 67:9
re- 256:9
re-calculate 96:20
re-jockey 145:17
re-open 52:20
re-powered 256:10
reach 131:6
reached 13:15 266:22
reactionary 83:19
read 71:15 110:22
 117:14 135:21 182:12
 190:5 191:1
reader 40:9
readily 230:15 234:1
 237:22
ready 139:18 146:3
real 23:10,14 30:13
 35:1,1 55:20 84:19
 125:20 180:5 191:15
 210:22 239:18 249:9
 249:13 250:20
realistic 30:5
realize 94:19
realized 23:22
reason 21:3,11 22:13
 24:19 57:19,21 73:3
 76:20 77:4 119:1
 122:7 134:21 209:14
 223:13
reasonable 7:18 32:16
 74:17 84:18 93:22
 94:2,8 101:9 108:19
 109:7,9 121:11

197:21 236:16
reasonableness 110:3
reasons 24:6 47:9
 76:14,17
REC 2:5 223:21
REC's 223:22
recall 210:9
receive 46:21 56:7 67:3
 168:8
received 133:13 215:21
 241:8
receivers 72:22
receiving 85:3 87:10
recency 114:18 115:5
 160:11
recessionary 77:19
recognition 33:11 75:9
 244:11
recognizable 85:13
 109:6
recognize 121:5
recognized 33:2 160:18
 171:16
recognizing 128:20
recommend 173:4
recommendation 6:10
 17:22 50:16,19,21
 51:16,17 56:17,21
 57:2,10,11 62:17
 63:22 86:16 90:19,21
 166:9,10 167:3,14
 168:1 169:10,20
 170:1,10,22 178:12
 178:19 179:13,16
 180:15,17,19 181:21
 182:6 185:1 189:21
 190:2 191:2 192:3
 193:4 197:14 205:15
 221:13,18,20 226:3
 227:6,14 248:9 263:3
 265:9
recommendations 6:17
 35:15,18 37:20 38:3
 51:12 58:9 62:14 91:2
 91:16 93:17,19
 101:18 111:5 168:8
 178:22 182:4 216:21
 253:8
recommended 50:18
 170:14 265:16
recommending 167:18
reconcile 96:17
reconciled 96:16
reconciliation 164:15
record 6:1 8:15 9:5
 11:22 21:12 23:18
 25:17 46:10 52:2 53:8
 53:20 54:4 55:6,6

64:19 82:22 111:9
 135:22 136:15 191:5
 191:18,20 193:3
 205:21 264:1 270:2
 272:13,22
recorded 9:4,8 100:9
 164:19 272:12
recoup 121:11
recuperative 118:9
 161:10
red 151:13 240:14,15
reduce 29:14 184:13
 196:21 265:6
reduced 107:16,18
reduces 58:15
redundant 192:4
reelected 266:15
reference 125:17 127:9
referencing 245:18
referred 113:1
refinery 204:16
reflect 168:22
reflected 214:3
reflects 206:4
refrigerators 81:22
refueling 155:18
regard 62:15
regarding 5:16 113:9
 206:11,14
regardless 229:2
 266:18
regimented 111:19
reginfo.gov 49:20
Regional 14:16 16:8
register 7:4 17:16 48:18
 59:10 60:2 97:6
 161:21
registered 4:12 7:22
 19:6 27:3 30:21 116:1
 173:17 193:8 198:17
 217:3,4,14,21 220:3,8
 222:15 227:13
registration 26:1
 223:17
regret 136:7
regular 168:19 225:22
regularly 159:12
regulate 21:2 24:18
 88:18
regulated 21:21 22:10
regulation 21:13 40:17
 224:7 241:18
regulations 2:4,6 5:19
 6:14 14:12 22:4 37:1
 37:3,19 41:20 43:2,9
 55:14 69:17 198:19
 206:8 217:12 222:13
regulatory 23:5 32:14

44:18 70:18 101:19
reimburse 102:14
reimbursement 103:11
reinforce 165:11
reiterate 49:11 170:18
reiterating 162:15
reject 244:5
relate 53:22
related 54:7,8 68:3
 95:14,16 96:4,11 99:4
 99:14 136:21 228:12
relates 134:5
relating 6:12 136:12
relationship 243:14
relationships 33:10
relative 212:18
relatively 236:5 256:22
relayed 78:7
release 162:7 214:21
relevant 41:8,11 56:19
 56:19 57:6,8 58:9
 62:3 145:4 246:11
reliability 7:20 112:22
 117:17,18 120:15
 137:2,12,13 139:15
 165:11 228:10 230:16
 230:17 233:13
reliable 115:12 138:8
 138:11 139:17 229:6
 231:16
reliance 61:12
relief 162:2 165:20
 252:10
relies 172:21
rely 51:1,15,18 61:9
 88:10 101:11 137:7
relying 88:11
remain 188:4 193:21
 207:5
remains 11:14
remark 268:9
remarks 5:12 11:18
 272:11
remedies 60:10 183:20
remedy 53:6
remember 84:11 105:2
remind 8:15 9:15 29:11
 81:20 82:8
remove 44:10 100:15
 182:11
removed 99:12
removing 99:12 101:16
renewals 218:2
renewed 6:4 218:1
 220:2
rent 257:20
repetition 160:11
replace 226:15,21

227:15
replacing 117:4
report 44:7 61:11 98:10
 102:8 215:1,9
reported 96:15 97:22
 98:8,20 100:9 189:14
reporter 12:6,9
reporting 103:10 263:7
reports 50:22 69:3
 91:21 94:12 163:2
 263:2
represent 13:21 73:21
 80:5
representative 16:8
 158:13 266:7,11
representatives 86:6
representing 13:11
 82:17
represents 136:17
reproduceable 58:14
 58:18,19
reproduced 223:2
reproducing 220:18
Republican 266:10,12
request 9:17 188:21
 193:18
requested 81:10
requests 37:21
require 32:15 47:7
 143:15 236:12
required 40:8 42:13
 43:4 45:19 55:18
 56:18 59:16 77:11
 157:4 231:14 249:3
requirement 35:22
 37:15 40:20 41:6
 56:15 148:16 240:9
requirements 36:12
 40:6 50:13 95:4 147:5
requires 31:15 37:14
 44:7 73:6 102:20,21
reservations 10:17
resolution 32:4 136:12
resource 191:10 198:17
resources 68:9,12
 242:22
respect 30:17 46:10
 63:17 165:2
Respectfully 172:14
 194:6
respective 33:12 158:7
respects 267:18
respond 47:14 52:16
 53:3 65:5 71:17 79:13
 128:14 148:4 152:11
response 33:17 35:9,12
 35:17 52:18 65:1
 93:15,18 108:8,11,14

140:12 166:7 185:22
 205:13,17 216:19,22
 228:1 234:10 250:2
 253:1,4,7,9 258:14
 264:15 269:15,18
 270:6
responsibilities 33:12
 34:3 267:22
responsibility 19:11
 29:8 30:19 31:3 34:12
 34:21
responsible 5:14
 129:17 241:10
responsive 129:9
rest 18:22 115:17 118:9
 123:22 126:9 129:18
 129:20 131:6 132:11
 160:19 161:9,10
 173:10 187:10 192:18
 205:9 211:19 255:20
rested 124:10
resting 85:6
restorative 123:22
restriction 254:1,3
result 63:19 67:1 77:12
 137:9
resulting 207:10
retained 207:8
retains 29:8
retire 175:21 176:15
 178:6
retired 23:1 168:17
 171:13 218:21
retiree 120:8
retirees 120:12
retirement 161:19,22
 196:16 197:16
retires 177:16
retiring 178:5
revenue 94:4 96:5,7,13
 96:15 99:13 107:4,10
 107:14,16,18 108:3
 132:9 133:10 171:19
 175:15 203:4 212:1
 249:4
revenues 94:9,19
 106:22 107:3 262:2
reverse 255:1
review 6:13 39:4,6
 43:17 44:18,20 45:1
 92:22 95:19 96:3,12
 97:13 98:9,12 100:4
 101:3,9,14 269:4,7
reviewers 90:6
reviewing 7:14
reviews 39:1 94:18 97:8
 97:11 99:13 100:1,14
 101:12 102:20 103:3

221:5
Rich 216:2 239:22
Richard 2:14,18 15:16
 15:21
Rick 140:15 236:13
Rico 161:3
rid 204:16
ride 256:7 257:5
rightly 127:9
risk 149:7 153:18 192:9
 233:4 235:18 240:22
river 106:6 151:14,15
 152:3 162:18 187:6
 200:13 251:17 254:14
 255:12 257:19,21
rivers 25:5
roads 81:21
Rob 2:20 15:10
robust 87:16
role 4:6 5:17 7:16 18:6
 18:16 19:10 20:7,15
 20:18 26:22 27:9
 29:17,20 30:6 195:3
 232:19 243:15,15,16
roles 30:17 34:3 142:15
 170:6
roll 42:7
rolled 32:3
rolling 175:1
room 13:18 68:7 92:2
 145:20 173:7 181:8
 211:22
rotate 124:3
rotation 196:3
rough 149:18 256:6
round 91:8
route 27:6 156:18
 256:13
routes 157:16 212:2
routine 5:22
rudder 150:19
rule 37:14 38:6,8 39:7
 39:10,13,20 40:1,5,11
 40:12,13,16 41:1 42:7
 44:10 46:14 47:21
 49:22 50:3,5,15 52:9
 55:11 56:8 60:3,22
 61:7,9,15 70:5 71:2,3
 71:4,8 72:2 88:9
 102:4 120:5 207:3,10
 229:3
rule-making 168:10
 188:1
rulemaking 4:7 7:17
 35:20 36:6,11,14,18
 36:22 37:1,8,12,17
 38:7,13,15 39:16,18
 39:20,22 40:8 41:3,14

41:18 43:16,19,20
 45:6 46:22 47:5 48:10
 48:15 49:5,11 50:18
 51:8 52:7 59:3,9
 60:14,16 61:1 62:6
 63:5 68:16 100:11,16
 102:3,10 214:21
 269:7
rulemakings 38:1 44:3
 44:6,11,15,19 45:2
 48:7,19 49:16 51:13
 52:11
rules 43:5,12 67:21
 110:21 129:22 130:2
 198:12 202:8 214:11
 242:19
ruling 93:6
rulings 97:7
run 26:4 77:19 160:13
 162:22 194:18 211:6
 215:1 218:8 220:17
 249:9 259:4
running 21:10,11 44:5
 120:10 122:1 163:10
 199:17,18 212:4
runs 25:4 259:5
rush 23:9 114:1,10,11
 114:12,14
rusty 232:15
Ryan 142:13

S

safe 11:14 19:11 23:20
 35:2 77:12 115:11
 147:10 242:18 246:17
 272:16
safeguard 239:2
safely 149:19 208:4
safest 19:13
safety 18:11 27:17,18
 28:5 31:4 32:3,13
 37:9 38:11 41:21 42:2
 42:5,6,20 55:15 56:22
 58:16 65:21 72:21
 73:13 87:5 88:9 115:4
 117:17 149:9 163:8
 231:5 232:21 233:19
 241:19,21 244:1,3,7
 244:13,22 245:2,8,10
 245:15
sail 162:19
sailed 153:1,2
sailing 22:8,22 23:11
 23:14 140:18 151:6
 153:12
sale 145:3
Salerno 20:7,10
salt 141:1

sample 218:14
Sandy 21:6
sat 85:9
satisfied 5:20
sauce 74:9
Sault 132:2 254:14
save 143:11 258:20
 259:6
saves 259:4
saving 163:18
saw 108:21 157:15
saying 27:19 57:4
 58:15 72:18 90:1
 112:7 122:20 125:1
 125:17 141:22 147:2
 150:1 167:9 168:8
 189:22 192:14 197:9
 238:9 242:14,16
 244:4,4,22
says 46:8 47:2 50:16
 57:17 88:5 106:9
 127:1 177:19 215:10
 222:12 224:10 241:12
scale 13:6,7 75:21
scales 77:16
scary 183:15,17
schedule 17:12 18:1
 38:20 87:17 130:22
 131:1 141:3,3 203:11
 203:12
scheme 23:5,6,7
school 154:13 225:9
scope 55:14 236:8
scratch 148:1
screaming 86:2
scribe 26:1
script 270:17
scriptwriter 270:19
se 196:14
seamless 165:18
SEAPRO 141:19 177:2
 186:15,21
search 249:12
seas 149:17
season 97:18 114:2,10
 114:11,12,14 116:4
 116:17 123:18 139:7
 193:17 196:1,1 232:4
 251:21 253:13
seat 130:10,11
seaway 1:14 2:7 12:18
 16:9 22:16 23:8,16
 26:9,18 122:19
 136:22 137:1,14,21
 239:10,17
second 7:16 31:20
 35:20 51:19 57:13
 131:21 134:10 166:14

- 166:16 178:13,14
185:4,5,6 222:1 226:4
226:5 227:17,19
235:17 261:15 267:12
271:4,5,6 272:18
seconds 152:21 163:14
secret 74:9
Secretary 6:10
Section 6:6,7 97:5
sector 66:15 79:12,12
137:14 138:9 197:3
security 6:11 37:9
38:11 56:22 70:17
71:7
seeing 74:7
seen 102:17 125:15
167:19 223:20 263:2
263:6
segment 123:10
self-certify 118:4
semi-annual 221:4
Senators 266:21
send 70:16 71:8 119:16
220:19 221:2
senior 2:5 37:21 38:12
94:10
sense 67:5,10,13 74:11
77:8 104:1 107:21
108:6 127:4 129:10
sent 161:1
sentence 32:11,11
separate 8:18,19
198:11,14
September 1:6 114:4
136:7
sequence 65:19
Sergeant 2:6 14:10,11
36:4,8,9 54:18,21
55:9 56:12 57:16 59:6
70:20 170:9 171:6
191:4,10
serious 161:5
seriously 37:19 93:9
206:2
served 66:12 67:13
76:16 179:9 212:18
serves 35:2
service 66:19 87:10
90:10 94:5 99:18
106:2,11,15 115:12
118:15 122:13 126:6
127:3 138:11 143:2
149:1 154:5 187:3
198:21 205:5 210:22
211:19 213:6 228:12
230:21 236:12 237:20
251:1,14 252:1
253:14,19 254:4
- services** 105:19,21
135:17 136:20 138:8
172:21 193:20
set 105:17 110:22 150:2
169:11 198:11 205:2
206:9 212:14 240:5
255:16
sets 115:7 126:22
setting 24:21 202:21
269:8
seven 116:10 121:9
155:17 169:4
Seventh 7:22
shallow 152:1 253:16
shallows 254:2
shape 50:15
share 38:10 47:12
48:10,13,14 49:4,9
51:5 58:19 136:14
140:2 175:22 237:18
shared 30:19 165:5
sheet 8:19
sheets 8:16,18 10:13
ship 23:2,17 27:10,12
27:22 28:6,17 29:8,9
30:3,18,22 31:2,3,11
32:9 119:1 121:22
124:10 125:7,8 135:3
135:16 137:16 138:4
138:18 139:12 141:1
143:13 148:12,14,20
149:4 150:11 158:17
172:7,11 193:18
207:11 208:16 210:3
210:13 211:19 212:22
216:8 232:10 237:14
246:13,16 247:10,14
247:14 252:8,11
254:17,22 255:17
ship's 31:18 34:4
ship-owner 84:21
shipowner 149:3
shipper 89:18
shippers 94:7 114:21
140:4 183:9 261:18
shipping 1:19 2:16
12:21 14:8 28:8 31:7
32:8,8,21 82:17
127:18 144:21 164:5
172:4 173:13 183:10
191:19 206:10,12,18
235:10 239:7 261:18
264:19
ships 4:9 7:20 22:5,6,7
22:10,11 23:9 27:4
28:15 32:17 88:21,22
89:20 112:22 113:6
114:6 117:19 121:18
- 123:9 124:14 125:4
126:14,15,20 127:14
127:20 130:21 131:1
131:4 135:2,10 139:2
140:19,20,22 141:6,7
142:15,16,20 143:16
143:19 154:16 155:4
160:12,22 180:20
187:8,17 188:18
201:9 212:17 216:6
233:12 247:8 255:8
shock 159:11
shop 202:21
shore 85:6 155:3,8
short 141:2 159:4 231:6
shortage 23:11
shorten 41:1
shortly 131:1
show 194:12 222:13
223:3 253:17
showed 48:20
showing 218:11,13,14
shown 137:4
shows 197:7 225:4
shut 155:21 156:2
199:10,13
shuttered 138:22
side 65:16 87:9,10
88:19 106:14 116:2
123:14 124:4 136:18
155:8 157:9 167:16
171:17 210:18 216:4
254:16 256:2
sides 219:9 251:15
sign 8:21 43:21
sign-in 8:16,18 10:13
signed 8:17 34:15
223:10
significance 63:10
significant 71:3,4 83:12
144:8 199:16 207:11
214:17 216:14
significantly 153:9
Silence 10:12
silver 75:15 77:5
similar 197:14
simple 85:11 218:4,9
simplify 107:1
simplistic 34:22
simply 74:22 77:16
Simultaneous 172:22
Sincerely 138:14
singularly 135:18
sir 12:10 54:22 133:22
139:19 156:1 173:2
231:22
sit 85:17 86:7,15 114:5
210:3
- site** 102:21,21 103:3
sits 266:1
sitting 81:1 118:22
147:21
situation 55:17 130:18
150:9,10 238:9
246:13
situational 151:4,11
152:18 153:14
situations 153:16,18
156:8
six 115:22 121:9,18,19
185:13 195:2 251:16
Sixth 7:21
size 219:15 247:10
sizes 247:8
skill 150:2
skilled 146:2
skills 33:14 34:7,16
149:15 265:6
skimping 163:19
sledge 204:9
slide 20:17 22:15 23:15
25:12 26:7,13,20
28:11 29:17 30:15
31:20 33:15 36:20
37:11 39:14 40:7,19
41:12 43:14 45:4 46:5
46:15 47:1,9 48:3,12
49:3 50:6,12 51:11,19
52:14 53:5,17 54:13
243:14
slightly 189:18
slogging 267:8
slow 123:20 124:18
135:2,10
slower 28:2
slump 123:16
small 55:16 198:16
216:3
smaller 75:5 234:12
260:2,3
smiling 240:16
Smith 135:6
snowplow 242:10
snowplows 242:9
sobered 138:1
soft 147:17 204:8,10
solely 27:17,18 28:4
59:3 95:17
solicit 52:21
Solis 33:3
solution 53:7 144:19
165:20 205:2 208:8
213:21
solves 145:12
somebody 33:4 57:17
152:5 163:1 171:10

176:14,15 177:16,19
210:15 211:3 247:15
258:2
someone's 115:17
116:14
somewhat 134:3 199:1
Soo 4:14 8:1 187:6
228:4,6,17,22 229:18
234:3,20 236:3,7
237:12 238:19 239:16
242:2 254:16,19
255:3,4 266:8
soon 155:9 251:22
252:5
sooner 40:3
soonest 102:8
sophisticated 158:16
159:14
sorry 82:16 93:12
102:22 106:20 126:1
164:4 186:18 190:12
207:6 212:6 222:21
225:13 226:1 254:6
266:8
sort 24:17 74:6 207:2
207:12 238:2
sorts 24:16 153:10
267:19
sound 218:3
sounds 184:19
source 36:21 48:1,9
49:17 58:17 61:10
73:8 248:3
south 257:19,21
southeast 155:8
southwest 152:7 155:3
space 121:12 174:16
176:18 257:20,20
speak 9:9,9 13:20 40:10
125:20 148:7 214:15
240:18 246:15 267:5
270:5
speaking 12:3 172:22
179:6
special 264:7 272:1
specific 6:17 21:11
47:4 48:5 64:17 65:9
167:8,15 214:22
238:9,9 264:11
specifically 32:22
60:10 78:11,16 79:1
253:16,21
specificity 170:17
specify 170:10
speculating 65:13
speed 27:6 206:20
spelled 255:12
spend 100:22 144:4

spender 239:2
spending 102:12
118:14 198:10
spends 144:5
spent 148:8
spill 157:11
spilled 163:11 252:19
Spirit 260:13 261:12
spoke 190:13
spoken 230:8
sponsor 42:1
sponte 75:8
spot 29:1 151:13 232:2
248:6
spouse 116:14
spring 60:20 132:15,16
252:2 256:16 258:19
spun 255:18
St 1:13 2:7 12:18 16:8
132:2 157:6 187:5
254:14 256:18 257:21
staff 123:12 126:19
170:16 272:6
staffed 120:22
staffing 112:21 113:11
113:14 114:9 115:7
117:7,9 119:11,16
121:15 122:2,20
123:11 125:12,13,18
126:2 128:7 129:4
131:15 132:5 140:16
141:21 142:18 158:6
159:19 161:5,13
171:8,10 181:13
183:1,7 184:12 185:2
187:4,21 188:5,10,17
190:6 191:8 194:20
194:21 198:15 199:2
200:1
staffing/importance
7:19
Staffing/Reliability/C...
4:9
stage 48:21,21 179:22
stakeholders 72:17
73:3
stakes 163:7
stand 18:19 64:7
standard 29:22 30:1,7,9
standards 233:10
standby 118:22 195:22
196:15 197:15
standpoint 63:11
153:19 176:4 192:8
start 5:11 12:11 38:6,14
39:7 61:9 72:1 115:5
115:19 117:1,3 118:8
143:6 169:21 248:14

251:21
started 23:13 81:9
99:17 113:19 119:15
147:11 157:5 158:20
201:5
starting 100:4 131:1
148:1 150:18
starts 116:4,4
state 9:11 12:1 19:4
22:10,11 24:20 25:15
25:19 26:2,5,21 30:12
30:21 31:21 32:15
55:6 82:14 156:4
191:4 228:22 269:22
stated 7:13 21:12 61:14
272:11
statement 4:4 19:14
20:15 28:22 30:17
39:21 102:1 179:2
245:14 260:11
statements 17:20 20:6
52:4 53:11 54:7,9
96:16 97:14 98:1,8
100:5
states 1:1,19 7:22 18:9
19:5 20:22 21:2,4,9
21:14,21 24:3,4,8,11
24:13,17 25:8 73:9
161:2 217:2 227:13
station 207:17
statistics 58:1 69:7
164:9
stats 164:13 235:12
status 44:3 52:17
statute 8:8 39:15
statutes 41:13
statutorily 46:16
statutory 35:22 36:11
37:15 40:20 45:17
stay 177:20 199:3
207:22
staying 17:12
stays 43:16 123:17
STCW 33:2 160:18
Ste 254:15
steam 124:18
steaming 135:3,11
steel 113:3 122:21
123:4
step 111:20 139:11
170:10,13 179:16
192:1 213:15
step- 69:17
stepping 139:2
steps 39:17 88:11,13
186:21 192:12
stern 240:7
Steve 117:14 135:20

136:2,3 138:14
238:12 242:8
stifled 110:8
stop 203:11 221:21
252:5
stopgap 208:11
stopped 87:22 88:1
201:6
stops 211:2 251:13
story 211:12
straight 55:11 124:5
straight-forward 179:4
187:7
straighten 105:8
strained 134:6
Straits 153:7 265:16
266:9,12
stranded 138:4
strength 116:6,18
stress 138:11
stripping 148:18
strive 7:10
strong 47:5 136:19
251:6
strongly 47:7
structure 120:7 145:1
stuck 213:10 252:12
studied 268:19 269:11
study 29:6 76:3 142:11
268:21 269:1,3
stuff 144:5,6 203:15
style 193:16 225:8
sua 75:8
subject 22:4 31:2 38:16
40:9 60:9 166:22
subjective 109:11
submission 37:18
98:10 100:13
submit 60:5 107:14
submits 66:18
submitted 95:7,16 96:6
99:4,6,9 104:10
subsection 75:5
subsequent 52:19
95:18
subsidies 242:4
subsidized 73:9,10,11
subsistence 173:18
196:7 203:14
substance 46:13
substandard 249:11
substantial 29:4
substantiated 98:16
substantive 54:6
substitute 242:13
success 34:19 138:12
successful 139:7
succinct 20:6 106:19

sucking 202:10
sudden 122:12 213:7
 215:5
suddenly 266:15
sufficient 129:7 180:22
suggest 64:3 77:15
suggested 104:13
suggesting 146:17,21
 156:6
suggestion 91:7 152:15
 206:22
suit 184:15
Suites 1:9
Sullivan 2:12 13:22,22
summarizing 53:9
summary 49:19 54:9
summer 123:15 203:22
summertime 203:4
Suncore 196:20 204:15
super 90:20
Supervisor 14:16
supply 73:15 77:19
 137:5,6
support 11:7 45:11
 68:15 76:20 95:8 99:1
 104:9 108:22 129:14
 168:16 221:13 222:9
 230:15 231:15 235:2
 235:6 236:15 242:4
 264:4,6
supported 56:20 57:17
 72:20
supporting 104:9 229:8
 237:21
supportive 33:10
supposed 28:6 40:10
 91:10 118:13 141:8
 222:15,17 232:19
 256:15
supposedly 242:18
surcharge 260:14,14
 260:21 261:5,16
 264:7
surcharges 262:22
surge 171:14 174:4
 176:9 188:9
surprise 53:15 256:17
Susan 1:15 13:4 80:4
 85:1 112:7 172:16
 176:3 177:4 186:9
 191:13 209:8
suspect 129:22 216:12
sustain 242:7
sustainability 238:16
sustainable 231:17
sustaining 243:3
switch 44:12
system 7:20 20:19

22:16,20,21 23:4,7,10
 23:21 24:1,2,20 25:1
 25:6,16,19 26:3,6,11
 26:14 75:14 77:11
 78:6 79:4,5 85:5
 92:14 105:17 112:22
 117:19 120:19 121:4
 121:14 127:15 129:3
 129:8 131:7 134:4,5
 137:1,12,21 138:13
 139:5 140:8 141:19
 141:20 142:16 146:14
 147:12 150:10 152:19
 160:1 161:19 162:3,7
 162:9 164:1 166:1
 170:2 174:5 176:11
 176:21 177:2 183:12
 194:18 195:22 196:18
 197:1,12 200:7 201:1
 201:3 202:1,12
 203:10,21 204:19
 205:3 213:17 214:4
 228:11,17,21 229:9
 231:8 233:17 238:17
 239:8 240:22 244:14
 247:2 265:2,7 267:19
 268:4,19 269:5,12
systematic 91:3,5,16
systems 21:4,8,17 24:5
 70:11 157:16,20
 158:17 268:18

T

Tab 49:19
table 111:21 128:16
 130:5
tables 9:1
tackle 7:1 194:8
tagged 160:17
tailor 219:6
tailored 21:17
tailspin 124:21
taken 74:14,16 76:13
 133:4 204:20 207:16
 208:3
takes 102:5 116:22
 117:2 177:15 178:9
 187:2,13 211:5 225:4
talent 235:4
tales 77:19
talk 22:14 26:22 30:13
 125:18 134:8 135:12
 139:15 144:10 151:5
 156:16 159:6 165:5
 205:19 212:21 228:15
 228:15 230:5 238:7
 238:12 239:16 240:21
talked 10:13 20:10

121:3 248:12 265:2,3
talking 148:3,9 151:10
 158:11 171:11 173:15
 194:21 238:21 239:9
 239:10 248:11 251:3
talks 145:2 242:9
tankers 113:6 123:5,7
 125:5 195:9,10,13
 201:8
target 150:4
targeted 62:4,13,20
 63:3 77:6,7,17 144:20
tasks 11:8
taxed 197:11
taxes 110:13
taxing 197:11
taxpayer 224:14
teach 122:5
team 18:22 32:22 33:1
 33:4,4,13 38:16 69:3
 155:17 242:22 272:7
teams 34:18
teamwork 33:14
tear 204:5,13 258:20
 259:7
technical 38:18
technology 145:5,8
 152:16 158:21 162:20
 163:17
Ted 157:2
tee 135:7
tell 40:8 42:18 47:11
 48:6,9,15,20 49:6,12
 49:18 50:4,20 51:3,22
 75:18 80:13 88:15
 89:6 105:12 109:19
 115:1 119:3 153:6
 155:4,7 157:8 158:15
 160:21 187:16 197:3
 215:6 224:17 239:14
 268:18
telling 241:7 243:2
tells 37:6 39:16
temporarily 161:21
temporary 173:17
 193:8 199:6 217:20
 217:21
Tenth 8:3
term 182:10,17
terminals 137:9
terminology 175:7
terms 40:10 65:21
 109:10,11 125:17
 127:9,22 128:8
 129:18 145:10 267:21
text 40:16
thank 11:11 13:12,16
 17:3,8 19:15 33:19

35:6,7 36:9 58:22
 61:18,19 64:20 65:4
 73:18 82:12 85:6 89:8
 93:11,13 104:17
 108:6 119:13 127:8
 138:13,19 162:13
 164:3 166:4,5,17
 190:1,2 206:17 209:5
 215:13,14,22 239:6
 249:22 252:20 253:12
 258:12 264:12 265:11
 268:9,11 269:13
 271:20,22 272:16
thanks 11:4 12:10
 18:18 33:18 34:2
 102:18 113:18 272:1
 272:3,5
the- 48:19
theirs 74:5 205:7
theme 165:11
theoretical 30:4
they'd 263:1
things 11:2 43:3 44:14
 45:16 49:1,3 55:16
 59:13 64:5 82:1 85:10
 86:8 87:21 91:3,6,21
 100:9 117:2 119:10
 124:13 130:9 131:16
 142:12 144:2,15
 147:16 148:18,22
 150:9 152:17 156:17
 158:7 167:7 175:1
 179:21 204:20 214:22
 217:13 229:19 240:11
 242:5,17 244:1,3
 251:6 254:8,11
 256:17 258:5 262:1
 267:3,20
thinks 89:12
third 7:18 110:1 221:21
 226:16,18,22 235:20
 257:6
through 7:12 68:6
thought 24:3 67:1
 72:11 105:15 108:21
 109:11 111:1 116:5
 142:6 185:18 198:9
 201:1 207:19 233:2
 257:12
thoughtful 179:19
 263:9
thoughts 64:14,18 83:1
 118:19 136:14 144:18
 179:11 209:4 228:21
 230:21
thousand 57:4
threat 23:19
three 19:7 50:6 70:2

- 80:11 85:19 89:20
90:5 118:22 120:8
121:12,17 122:8
124:11 125:2 138:7
143:21 157:2 164:10
175:9,12 178:7
184:10 195:6 217:20
252:16,18 263:2
three-and-a-half 131:5
131:7 141:3 189:2
three-year 42:10 220:6
throughput 78:17
231:12
throw 123:7 154:3
throwing 211:14
throws 124:20
thruster 240:7,7
Thunder 229:10 237:7
tied 89:2,14 121:19
132:8 211:18
ties 83:8
tight 130:12 216:5
till 212:3
Tim 2:5 16:20,22
Timbuktu 84:21
time-to-time 9:2 195:9
215:20
timeline 48:19 202:8
timely 129:16 137:7
149:22
times 7:6,8,11 25:3
42:15 63:8 66:1 72:16
85:10,17 91:19 117:4
128:17 129:16 131:4
134:18,19 152:17
164:11 172:13 174:12
198:7 203:3 212:15
212:21 268:8
timing 83:2 91:8
tiny 150:20
title 97:4,4
to-- 251:9
today 7:1,5 10:21 13:16
17:5,10,15 34:13
99:18 102:12 110:20
127:17 129:4 145:4,8
147:16,22 149:15
158:3 164:6 232:11
244:11 272:10
today's 7:3 145:18
Todd 1:21 14:4 55:19
67:20 68:18 73:21
87:14 99:15 101:22
105:13 109:16 113:12
113:17 125:11,22
128:3 129:6 133:14
136:6,6 142:2,4,8
173:3 174:14 181:1
182:19 185:11 186:6
186:16,19 189:20
190:16 197:19 200:19
214:5 221:16 240:16
241:15 246:7,10
254:6 259:22 261:7
270:9 272:6,6
toe 139:10
told 119:21 181:17
237:6
Toledo 2:5 14:17
tolerance 131:9 163:9
163:12,15,21
tolerated 124:8
Tom 168:6
tomorrow 119:7 196:5
ton 78:17
tons 56:20
Tony 3:9 15:8
tool 125:19 128:14
167:1 230:14 232:12
232:12
tools 129:1
top 83:22 123:8 238:15
topic 17:18 18:6 35:19
35:20 68:3 93:20,21
185:21 206:7 217:2
228:4,18 250:5
264:17
topics 17:15,19 18:2
54:7
Toronto 154:20
totally 41:9 117:11
175:22
touched 149:9
touches 204:14
touching 247:1
tough 258:9 259:11
tourism 137:15,18
tours' 170:6
tow 230:17 234:20
235:5 237:14,15
243:3
towing 234:3,7 236:17
237:17 245:10
town 255:11
TownePlace 1:9
tows 239:15,17
track 178:3 214:7,10,20
trackable 177:3
tracked 216:7
tracking 141:21
tracks 186:21
trade 18:7
traffic 89:19 90:1
102:15 112:5 113:1
113:21 114:2 119:5
121:1 123:5,15 125:3
126:17 151:8 160:3
187:20 190:18 211:1
231:9 233:18 236:15
252:6
train 177:15
trained 116:1 149:3
159:8,8,15
trainees 119:22 120:8,9
220:5,16
training 23:6 91:4
115:18 195:1,3
trainings 189:8
transcript 206:4
transferred 211:22
transit 23:3 34:19 35:2
151:22 187:9 254:18
transition 221:14
transits 144:20 146:6
181:15 198:2 230:1
transparency 54:12
67:15 68:4 89:6 263:6
transparent 51:3 181:4
213:14 263:1,19
264:8
transport 173:16
transportation 2:7,12
70:11 71:11 137:8
196:8
transporting 131:18
trap 204:2
travel 87:17 126:4
132:1 133:3,16,19
142:5,8 187:11
194:12
traveling 87:22 143:8,9
travels 272:16
treaty 25:7,9 33:2 34:14
tremendous 34:9 255:7
tremendously 113:22
trick 265:20
trickles 85:5
tried 85:10,17 86:10,10
262:21 266:4
tries 182:10
trim 219:14,16
trip 255:14
trips 96:21 114:18
trouble 81:8
true 24:10 84:16 128:1
158:16 205:4
Trump 266:5
trust 93:7
Trustees 30:8
truth 80:13
try 29:18 46:20 52:12
86:7 155:22 183:20
184:4 211:10 213:4
219:16 267:1 268:10
trying 9:19 29:19 91:21
92:4 109:3,14 145:16
146:18 149:1 150:21
153:22 172:6 175:7
211:14 247:13,21
252:13 257:18 258:7
263:21 267:8
Tuesday 1:6 7:4
tug 28:3,4 228:6,12,14
229:11,14 230:14,18
231:13,15 232:3,6
234:4,9,15 236:7,12
236:19 238:5 239:7
241:8,13 242:5 243:3
243:10 246:14,18,20
246:20 247:4,9,15,16
249:1,9,11,14
tugboat 240:10 250:18
tugboats 249:17
tugs 229:5 231:1,14
234:13 235:5 237:13
239:8 240:22
turn 17:6 91:10 130:5
152:3 247:14 252:11
268:10 271:17
Turner 3:13 15:3,3
94:10,16 99:22
102:18 103:22 104:3
104:5 105:11 106:17
106:20,20 107:9
108:4,7
tweeting 138:4
twice 49:15 106:13
198:5 221:4
two 6:4 21:22 30:15
56:4 66:20 79:20
80:11 111:18 115:16
118:11 119:22 121:10
122:8,11 132:21
143:9 154:19 157:2
164:4,6 165:10 166:4
167:7 176:16,17
177:15 178:6 187:10
194:15 195:6 198:10
199:10 207:4,8
210:16 213:6,11
220:6 224:17 235:11
251:1,6 253:14 255:5
255:15 257:3 258:6,6
266:21 267:17
two-and-a-half 177:17
207:9
two-tiered 141:5
tying 213:5
type 83:19 85:21
208:15 209:9 214:3
267:13
types 82:1,5 134:9

160:11 240:12 247:7
typically 40:22 85:2

U

U.S. 4:12 6:6,15 12:21
14:5 15:1 16:1,18
19:6,9 20:19 21:20,21
22:2,3,3,8,9,10 24:22
25:8 26:1 27:2 29:5
30:10,18,21 31:21
36:5 55:20 80:6 87:14
88:19 95:21 105:18
109:17 113:18 116:1
136:18 138:7 157:3
160:19 164:20 165:16
195:10 197:19 198:17
201:13,15 214:5
217:4,9 225:2 233:8
239:17 240:1 246:10
259:22 264:18 266:7
266:21 268:18
U.S./Canadian 25:2
U.S.C 37:5,10
ultimate 31:3
ultimately 67:8 68:3
80:21 81:17 82:8
84:20 176:4 177:5
196:17 229:7 236:11
241:10 258:3
unable 136:7
unaccounted 133:16
unanimous 91:2
unavailable 207:14
214:9
uncertainty 192:10
unconstitutional 45:16
under-adjusted 101:21
undercut 244:13
undercuts 91:14
underestimate 34:20
underlying 25:21
understand 6:22 7:6
39:12 57:22 70:5
73:12 75:10 83:12
88:8 99:20 109:3
127:11 130:8 143:13
145:14 151:19 153:16
153:18 165:12 183:17
186:11 191:13 192:5
209:12 224:19
understandably 28:7
understanding 65:18
101:6,8 103:5 130:17
234:6
understands 102:2
understates 29:16
understood 9:9 27:11
174:1

undervalue 34:6,20
underway 119:1 260:8
undesignated 145:2,19
147:2 265:21
unexpected 139:3
unfair 47:11 50:4
unfolding 77:17
unified 49:14,20
unimportant 244:22
unique 24:21 81:7
113:1 128:15 161:13
162:3,9 230:6 269:5
uniquely 21:15
United 1:1,19 7:22 18:8
20:22 217:2 227:13
units 159:14
unloading 154:14
unnecessary 42:8,12
55:18 160:8 161:16
265:6
unpredictable 203:3
unreasonably 45:22
unregistered 193:7
unreliable 137:4
unsafe 32:18
unspoken 230:9
update 36:3 250:7
269:3
updated 269:2
updating 43:1 157:5
upgrade 188:6
upper 115:8 126:22
uproar 163:15
upset 214:16
uptick 116:20
upward 101:16
urgency 40:22
usable 226:20
usage 239:7
USC 37:4
USCG 1:20,21 2:1,2,4,5
2:5,6
use 10:11 28:3,3 29:11
33:13 34:6 54:16 55:9
55:13 58:20 73:5 89:3
92:4 100:21 102:9
121:6 126:2 130:6
162:21 171:2,9 173:5
173:6,6 174:10
181:22 186:20 189:16
214:14 218:11 219:19
222:12 223:13 224:12
224:22,22 225:7
229:5,12,14 230:14
234:16 236:19 239:1
242:11,12,22 243:3
243:10 244:2 248:2
251:8 259:1 264:7

useful 165:9
user 197:17
users 165:13
uses 69:15 94:13
159:13
usually 59:7 60:15 79:2
123:19 143:11 177:16
215:6
utilization 265:5 267:21
utilize 97:2,6,7 98:7
121:7 128:14 172:3
174:7,8 195:11
utilizing 78:6 120:18
135:16

V

vacation 198:10 200:13
200:14
valid 83:21 128:18
validated 83:22
validity 51:14
valuable 83:8 130:16
146:13 179:18 230:22
value 11:5 17:13 29:16
75:13 89:17 90:2,18
91:1,15 135:5 140:18
159:9 263:6
values 44:13 89:15
valve 162:2 165:20
177:11
variable 201:10
various 69:21 78:2
105:18 192:12 214:6
250:8
vast 22:7
venue 241:20
venues 245:11
verb 28:15
version 227:16
versus 42:10 56:1
100:3 107:8 149:10
204:11 239:17 262:22
vessel 12:22 118:17
137:10 149:19,20
154:11 173:18 196:21
197:10 200:5,12
204:14 207:5 208:3,3
222:14 229:4 230:10
240:6 241:10 242:20
vessel's 34:19
vessels 19:9 22:2,12,18
23:20 38:4 81:15
134:9,17 139:8 145:8
153:9 218:11,12
230:7 233:6,7,7
237:21 248:13
vested 88:20 181:6
vet 156:18

viability 136:22
viable 176:5
Vice 1:13 12:17 76:21
122:18 150:6 167:6
167:22 171:3,7,22
175:8,11 177:14
181:20 182:7,21
183:15 184:8,17
190:19 210:10 221:19
222:16 223:6,9
226:13,18,22 246:22
247:19 248:18,21
249:7 250:10 251:12
262:10,15 271:1,11
272:17

Vice- 13:9
Vice-Admiral 20:7
Vice-President 14:19
15:19 16:3
video 256:5
view 63:8 110:11 115:9
248:7
viewed 167:10
viewing 225:9
views 48:15 63:1 64:11
138:14
Viking 121:22
Vince 2:1 16:18 144:3
144:10 169:6,7
176:21,21 215:4
217:3,8 222:11,21
223:15 257:4 258:10
Vincent 187:6 210:18
251:15 252:16
Virgin 161:3
Virginia 24:14
virtue 77:21
vision 112:4
visit 42:17 44:8 102:21
102:21
Viso 2:10 15:6,6
visual 159:17
void 43:18,20
voluntary 23:5 25:20
113:7 199:21
vote 43:20 185:10
votes 179:3
voting 13:13

W

W-A-I-S-K-A 255:12
wage 77:16
wages 173:15
Waiska 253:15 255:12
256:14
wait 86:12,13 208:5
waiting 135:4 216:7,11
walk 180:7

walking 124:12
wall 41:10
wanted 35:5 82:22
 85:13 110:10 111:17
 142:21 159:18 166:2
 169:12 182:8 203:7
 206:20 207:18 208:8
 208:18 214:13 215:17
 262:21 263:10 266:17
 267:12
wanting 170:11,15,16
 241:3
wants 94:3,6 104:20
 123:10 134:3,4
 144:10 175:20 202:13
 240:18 242:22
Washington 14:6 83:14
wasn't 22:16 23:4 24:6
 30:3 59:4 91:22,22
 105:3,5 110:21 124:2
 133:11 180:9 265:19
 266:18 267:16
waste 204:16
watch 31:16 256:5
water 81:3 126:13,21
 141:1 152:2 159:3,4
waterfront 28:12 77:21
waters 24:22 30:19
 145:2,20 146:22
 147:2 148:11 224:10
 265:4,17,21
waterway 21:16 126:16
 137:22 187:3
waterways 8:11 19:10
 21:18
wave 151:5
way 19:13 20:11 25:6
 27:18 34:14 37:22
 57:7 74:15 75:12
 77:14 84:19,19 90:20
 92:18 102:3 105:17
 121:13 123:6 135:14
 144:17 145:18 146:8
 150:15 153:5 156:7
 159:11 165:17 171:5
 171:14 175:14 177:21
 178:2 179:19 188:7
 191:1 196:14 199:7
 207:20 210:22 216:16
 221:7 223:13 228:12
 250:21 252:10 256:17
 265:4 268:4
ways 132:20 138:2
 161:15 245:1
weaker 57:19
wear 204:5,13 258:20
 259:7
weather 4:11 7:21 28:2

118:21 151:7,13
 206:8,10,14 207:21
 208:6,18 209:11,13
 212:10,11,14,18
 213:17 214:10,18
 216:12,13 250:20
website 8:12,14 9:7,7
 272:15
week 61:2 76:8 169:4
 198:10 250:22
weeks 70:2 118:12
 122:8
weigh 118:6 231:20
weight 56:4,16
welcome 4:2 5:6 11:15
 17:4,9,12 113:2
 122:14 202:21,22
welcomed 137:16
well-oiled 152:19
went 61:5 68:17 73:21
 111:9 205:21 234:11
 253:21 255:15 272:22
weren't 23:12 123:19
 211:18
west 137:3 151:14
 255:10 256:1
Western 1:15 2:17 13:2
 15:20 131:14 133:18
 141:17 146:16 148:6
 231:19 233:22 253:13
WGLPA 2:17
whatnot 57:5 123:13
 250:12
whatsoever 263:20
wheel 228:16
wherefore 68:14
whipped 154:17,18
Whitefish 254:2,17,19
widely 77:22
wider 244:6
wife's 110:15
willing 86:15 139:10
 183:13
willy-nilly 162:22
Wilsonhill 210:21
wind 27:5 149:16 151:5
 216:11
window 251:22
winds 216:17
winnings 149:21
winter 4:10 7:21 118:10
 135:13 193:15,19,21
 194:3,12,15 195:7
 197:4 198:4,10,12,14
 198:22 199:9 201:17
 201:21 204:1,12
wiped 151:17
wish 8:15 17:11 239:15

woke 164:6
wonder 155:13
wondering 65:9 155:6
word 78:14 105:2
 153:15 249:12
word-for-word 169:10
words 34:6 146:18
 154:5 173:5,6
work 5:9,11,18 9:21
 11:7,13 12:2 14:6
 24:9 25:7 33:7 73:22
 74:1,8 75:5 76:11
 77:11,21 83:20 85:10
 106:3,4,5 107:19
 110:17 111:22 120:17
 120:20 121:9 123:13
 126:9 129:1 136:22
 138:12 142:21 146:8
 146:12 153:17 155:19
 156:7 160:15,19
 162:1 163:21,22
 164:1 170:2 173:14
 177:6,21 181:14
 182:14 188:4 195:18
 204:5 207:14 208:7
 213:5 228:17 248:1
 258:11 259:9 263:4
 272:5
worked 68:7 106:7
 147:16 157:13 193:5
 210:19 212:12 247:21
Worker's 104:6,8,15
working 20:12 33:10
 99:21 121:9 124:5,8
 139:10 154:22 155:5
 156:16 157:14 174:6
 176:22,22 195:21
 196:2 198:12 260:17
 260:20
works 69:17 102:3
 137:6 186:14 204:19
 252:14
world 13:7 128:22
 145:18 159:22 162:19
 233:11 243:7 268:20
worn-out 258:8
worse 212:11
worst 146:2 150:10
 153:17 216:8
worth 164:19 172:13
 228:19 247:11 250:16
worthwhile 267:15
wouldn't 24:9 100:20
 176:17,17 224:3,3
 227:7 245:12
wounded 124:12
wrap 30:14
wreck 80:20

wrestling 159:21
writer 38:18 226:10
written 7:9 46:9 226:7,9
wrong 64:8 75:19 88:14
 88:15 105:14,16
 155:8 157:9 230:11
wrongly 127:10
Wyoming 234:22

X

X 116:6 126:20 127:14
 153:21

Y

year 36:1 37:7,16 49:15
 51:2 80:7 84:15,16
 89:1,14,15 90:3,4
 91:8 95:18,19,19 98:4
 98:21 100:21 101:1,2
 102:4,7,8,20 104:8,16
 111:16,19 114:13
 117:1 119:20 120:13
 122:1 131:2 132:15
 132:17 137:3 144:9
 170:18 189:2,6,9,13
 191:7 194:18 195:1
 196:22 207:3 217:19
 218:2 220:5,7 221:4,8
 250:14,22 256:14
 257:10 260:5,22
 261:1,3 262:16
year's 98:5 260:10
 263:14
year-and-a-half 189:10
year-end 167:15
year-round 199:17
 212:10
year-to- 144:8
yearly 90:7
years 6:5 26:13 51:15
 90:5 97:7 100:1 113:2
 117:3,16 121:13
 123:6 157:2 158:13
 177:15,17 178:7
 193:19 194:14,14,16
 199:4 210:17 216:10
 220:3 234:2 237:4
 240:15 244:19 250:11
 254:12 256:21 259:15
 267:4 269:6
years' 60:22 260:10
yesterday 121:17
Yockey 2:11 14:18,18
 54:16,19 55:2,7,7
 103:13,16,16 104:2,4
 104:17 168:15,15,22
 192:22 193:2,3,12
York 21:6 24:15

younger 23:11,12

Z

Z-drive 249:13

zero 84:15 164:22

zone 42:2,5,20 51:21

zones 41:22 55:15

0

0600 124:17

1

1.2 80:5

1:55 272:22

10 11:1 88:11,13,22

100:21 120:13 126:9

132:2 187:10,18

218:2 256:6 259:4

10- 111:19 191:22

10-and-a-half-hour

187:9

10-step 69:16 73:5

83:21 92:17 182:12

186:11

10-steps 88:10

100 83:20 103:20

104:11,14

100,000 107:5,13,14,15

107:17

11 4:4 7:14 17:17

160:16

112 4:9

12 4:5 49:17 251:18

12-month 196:1

12th 7:4

13 1:6

13th 6:2 136:8

14 120:8 139:8 251:19

140 197:6

1440 1:9

15 59:17 111:6,7 217:18

255:6,18

15th 221:6

16 119:18,22 120:10

189:7,7 191:6

1600 266:1

1690s 21:7

17 143:8

1789 21:13 22:2

17th 6:5

18 4:6 127:1,2,5 175:19

1800 124:17

1884 19:3

19 132:15

193 4:10

1960 25:14 34:14 145:1

145:9 147:13 265:3

1975 240:10

1989 29:5

1997 30:9

1998 6:2,3

1st 36:1 120:3

2

2 12:14 15:9,11 16:3,6

16:11 125:4 132:19

143:21 162:15 224:11

258:17

20 154:12 155:17 216:6

240:15 255:6

20-minute 255:18

200 256:11

2004 256:9

2007 216:5

2010 6:8 113:20 160:16

2013 113:21 142:10

2016 69:12 214:11

2017 269:3

2019 257:9 265:15

269:4

2020 138:20 139:6

2021 6:5

2021/2022 119:21

2022 1:6 7:4

2024 49:6

206 4:11

21 132:14,16

217 4:12

228 4:14

23 61:2 62:6 187:13

262:5

23- 187:13

24 19:5 115:22 161:2

24-hour 126:12,14,16

126:21 143:16,19

181:15 187:17 257:1

24-inch 253:20

24/7 169:4 200:3 251:7

25 56:3 187:14

250 4:16 261:4

264 4:18

270 4:20

271 4:22

29th 124:2

3

3 13:3 125:4 131:14

132:19,20 141:14

143:7 224:9,10

30 40:2,22 42:1 59:17

71:21 123:6 187:11

30-day 40:4

30th 124:2

31st 220:17 221:7

35 4:7 221:8

36-hour 121:18

365 200:3

3d 33:2

4

4,000 249:13

40 221:8

404 97:5

41-footers 258:8

42-foot 258:19

45 221:8 237:4

46 6:6 37:5 97:4

5

5 4:2 97:5

5.25 164:19

50 78:15 123:4

50,000 107:5,13,18

6

6 4:3

6:1 91:2

60 43:18 71:21 225:18

229:1

621(a) 6:7

7

7:1 91:2

70s 147:12 163:20

8

8:00 1:10

8:10 5:2

80s 244:21 268:21

9

90 9:7 19:8 40:22

238:18 272:15

90-day 71:21

90s 29:19 269:1

93 4:8

9303 37:6,15

9307 6:6

98,000 207:11

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