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COAST GUARD MISCELLANEOUS—PART 9



HEARINGS

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

ON

DRUG SMUGGLING (SAN JUAN, P.R.)
NOVEMBER 21, 1975

VIRGIN ISLAND C. G. FACILITIES (CHRISTIANSTED, ST. CROIX)
NOVEMBER 25, 1975

COAST GUARD ACADEMY ENTRANTS
H.R. 8414, H.R. 9011, H.R. 9013, H.R. 9347, H.R. 10192, H.R. 11407
FEBRUARY 11, 1976

FEDERAL BOAT SAFETY ACT—PART 2
H.R. 9375, H.R. 13585
APRIL 1, MAY 13, 1976

COAST GUARD PERSONNEL LEGISLATION
H.R. 12939, H.R. 12940
MAY 4, 1976

CHESAPEAKE BAY OIL SPILL
MAY 20, 21, 1976

COAST GUARD FOREIGN LEASING
H.R. 11408, S. 3050
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DRUG SMUGGLING
(San Juan, P.R.)

FRIDAY, NOVEMBER 21, 1975

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
San Juan, P.R.

The subcommittee met, pursuant to call, at 9 a.m., in the Old Customs House, San Juan, P.R., the Honorable Mario Biaggi, chairman of the subcommittee, presiding.

Mr. BIAGGI. The meeting of the Subcommittee on Coast Guard and Navigation is called to order. The subcommittee is meeting this morning in San Juan for the purpose of receiving testimony on a subject which has been of major concern for some time. There is no problem involving the citizens of the United States and indeed the people of the entire world more pervasive and more insidious than the widespread distribution of narcotics and the degrading effect which narcotics use has on the population.

Of course, addiction to narcotics is not the only problem. Closely attuned to addiction is the cost of maintaining the habit and the resulting crime, particularly robberies, thefts and prostitution, through which the victims of narcotics addiction acquire the necessary money to buy the drugs. Coupled with the fact that individual addicts engage in criminal activities to support their habits, the sale of drugs furnishes much of the lifeblood to organized criminal groups, and the effects of the narcotic drugs traffic permeate the fabric of our entire society.

These tentacles stretch around the globe and reach into all elements of our society, including, I am sorry to say, areas of the government itself at all levels. This overall problem of narcotics drug traffic is not one that this subcommittee can solve this morning. However, we are determined to do all that we can to contribute to that solution. As the subcommittee responsible for the operation of the U.S. Coast Guard, we have called this hearing to take a look at one small "piece of the action," the Caribbean area, which because of its geographical arrangement furnishes ideal way stations for drug movements whether from the Eastern Hemisphere or movements in the Western Hemisphere.

Because of its scattered land masses and wide expanses of water, much of the drug movement is accomplished through transportation by sea, and it is in that area that the Coast Guard becomes directly involved. We wish to assure ourselves that the Coast Guard is equipped with sufficient manpower and facilities to plug the loopholes through which drugs move, not only into Puerto Rico but also into the main-

land United States, and if we can make sea movements so difficult as to be economically unproductive for the modern-day pirates engaged in drug traffic, we can contribute our part to the suppression of this vicious activity.

In order to get some feeling for the overall problem that involves this area, the subcommittee has asked the Attorney General, the Secretary of the Treasury, the Coast Guard and the Governor of this Commonwealth to furnish witnesses who can supply information on this subject from their respective viewpoints which will be helpful to us.

We look forward to the testimony which they will supply this morning.

The first witness is Ron Seibert, special agent-in-charge of the Drug Enforcement Administration. Mr. Seibert.

STATEMENT OF RONALD U. SEIBERT, SPECIAL AGENT IN CHARGE OF THE DRUG ENFORCEMENT ADMINISTRATION, SAN JUAN DISTRICT OFFICE

Mr. SEIBERT. Mr. Chairman and members of the subcommittee, my name is Ronald U. Seibert, and I am the special agent in charge of the Drug Enforcement Administration's San Juan district office.

For the last 13 years I have been a Federal law enforcement officer, first serving in the U.S. Border Patrol. After 2½ years in the Border Patrol, I joined the Federal Bureau of Narcotics in the Treasury Department. After an executive reorganization in 1968, I served in the Bureau of Narcotics and Dangerous Drugs in the Justice Department and, following another reorganization in 1973, with the Drug Enforcement Administration, also in the Justice Department.

I have been stationed at San Antonio, Atlanta, Miami, Washington, D.C., and for the past 3½ years at San Juan, Puerto Rico.

The DEA San Juan district office currently consists of 11 special agents, 4 compliance investigators, and 4 secretaries. Three additional special agent positions are to be filled. In addition, one Puerto Rico Police Department drug agent and one agent from the Commonwealth Justice Department have been working at the DEA office in a full-time capacity for the past 2 years. These two local agents generally perform the same duties as DEA special agents.

For the past month the DEA San Juan district office has been conducting two special investigations; one a conspiracy and the other a task force operation. For these purposes the Puerto Rico Drug Division has contributed six additional agents and U.S. Customs has assigned one customs patrol officer.

The DEA San Juan district office area of responsibility is Puerto Rico and the U.S. Virgin Islands. We are in frequent contact with enforcement authorities at St. Martin, Dutch West Indies, and the British Virgin Islands. With the concurrence of the Dominican National Police and the U.S. State Department we have conducted a number of joint investigations in the Dominican Republic.

DEA intends to establish an office at Ponce, located on the south coast of Puerto Rico. It is anticipated the Ponce office will consist of two special agents and one secretary.

Puerto Rico is utilized principally as a transit point for Colombian cocaine and marihuana destined for the Continental United States.

Arrests and seizures at the San Juan International Airport as well as intelligence from several recent marihuana seizures reflect that most of the drugs which enter Puerto Rico are transshipped to New York, Miami, and California. Once on the island there are no further Customs checks required for shipment and/or passage to the United States.

One or 2 years ago the south coast of Puerto Rico was utilized extensively and almost exclusively by drug traffickers importing multitons of marihuana and multikilos of cocaine. Due to the increased presence of the Puerto Rico Police Department Maritime Division and patrols of the U.S. Coast Guard and U.S. Customs along the south coast, some traffickers have shifted their operations to the north, west, and east coasts of Puerto Rico. This movement places an additional burden on the resources of the three aforementioned agencies.

The modus operandi of the Colombian drug suppliers and Puerto Rico receiver is as follows: The Colombian drug smuggling vessel will meet the Puerto Rico vessel or vessels under cover of darkness at a predetermined rendezvous 5 to 15 miles off the coast. At that point the marihuana and/or cocaine will be transferred to the Puerto Rico vessel which will return to the island, still under cover of darkness. Once on the island the drugs are subsequently moved in most instances to within a radius of 10 to 15 miles of the San Juan area. Some of the drugs are distributed locally and the greater portion are shipped to the United States.

These traffickers are very sophisticated. They utilize walkie-talkies, signal lights, code words, and torn currency as means of identification.

Cocaine is also smuggled by couriers on commercial airline flights from South America. Most of this cocaine emanates from Colombia. There have been several seizures in which Bolivia and Peru have been the country of origin.

There are some drug organizations in South America which utilize passengers and crewmen as couriers on cruise ships. The cruise ships that call at San Juan also visit Caracas, Aruba, Caracao, and various other islands in the Lesser Antilles. In some cases cocaine is off-loaded at St. Thomas, U.S. Virgin Islands, and then flown to San Juan, New York, or Miami. The bulk of the cocaine is believed to be off-loaded at San Juan.

Drugs are also being carried by large cargo vessels which visit the cities of San Juan, Ponce, and Mayaguez. Mayaguez is a city on the west coast of Puerto Rico.

Private aircraft are also utilized in smuggling marihuana and cocaine directly from Colombia into Puerto Rico. The distance between these countries is 500 miles. The air smuggler can utilize a number of unattended landing strips on arrival. There are approximately 20 such landing strips along the south coast, and a lesser number on the north coast.

Addicts in Puerto Rico obtain their heroin from sources of supply in New York. The heroin is brown and of Mexican origin, and is usually carried to Puerto Rico on commercial airlines by couriers in quantities ranging from several decks to several ounces.

Cooperation and working relations with commonwealth agencies, specifically the police department, and all Federal agencies has been excellent.

I shall be pleased to answer any questions you may have.

Mr. BIAGGI. Thank you very much for your testimony, Mr. Seibert. We're impressed with your credentials, and we know that your career as an officer in this area has been excellent. We are personally oriented as far as the problems that confront you. I have a number of questions.

You say you now have special—11 special agents?

Mr. SEIBERT. Yes, sir.

Mr. BIAGGI. They are employed?

Mr. SEIBERT. Yes, sir.

Mr. BIAGGI. I recall perhaps a year or so ago it was the contention of the reports that I got that we had 11—I mean 8. Have you since employed 3?

Mr. SEIBERT. At that time, sir, we had eight, three have arrived onboard, we have three more coming.

Mr. BIAGGI. And you use them exclusively for Puerto Rico?

Mr. SEIBERT. Yes, sir, and the U.S. Virgin Islands.

Mr. BIAGGI. Is that a sufficient number in your judgment? To deal with the problem?

Mr. SEIBERT. Upon the arrival of the three additional agents, it will be sufficient, working in conjunction with the police department drug agents, yes, and also the U.S. Customs CPO's.

Mr. BIAGGI. In your testimony you refer to cooperation with the Dominican National Police and the U.S. State Department in joint investigations in the Dominican Republic, then you go on to make reference to other countries and islands. What formal relationship do you have with the various countries and what spirit of cooperation has been established or is there any?

Mr. SEIBERT. Yes, sir, there is. We conduct criminal record checks for suspects which are called to our attention by, for example, the Dominican Republic police, St. Martin police, British Virgin Islands enforcement authorities, and of course, the U.S. Virgin Islands as well. From time to time it has been necessary for us to travel to the Dominican Republic to negotiate with suspect traffickers and working hand in hand with the Dominican police we have conducted joint investigations over there.

Mr. BIAGGI. Who initiated those investigations, you or they?

Mr. SEIBERT. Usually we do. The investigation usually originates here, and spreads to the Dominican Republic. Either the suspect is a Dominican residing here in Puerto Rico or his source of supply may be in Santo Domingo.

Mr. BIAGGI. Has the Dominican Republic at any time initiated investigations? At any time?

Mr. SEIBERT. They are, yes, right now.

Mr. BIAGGI. They have initiated the investigation?

Mr. SEIBERT. They have one going right now.

Mr. BIAGGI. If you can—if you cannot I can understand it—if you can, could you give this committee the nature of it, generally, without disclosing any classified information?

Mr. SEIBERT. Yes. The Dominican National Police telephoned us about 3 weeks ago advising us that they had an informant who was willing to cooperate and the informant knew of a couple of traffickers of cocaine. I sent one of my agents over to Santo Domingo to meet with the informant, to debrief him and at the same time give suggestions to the Dominican police narcotics squad as to how to continue this particular investigation and further develop it.

I understand at the present time the police over there are developing the investigation. They have been in contact with my office as recently as yesterday, and things are progressing.

Mr. BIAGGI. On page 2, you state that DEA intends to establish an office in Ponce.

Mr. SEIBERT. That's correct.

Mr. BIAGGI. I get the notion that there has been a general expansion by the DEA in dealing with the narcotics problem. Is this a matter of policy or is this a result of increased activity?

Mr. SEIBERT. This is a result of increased activity here in Puerto Rico. The agents I have here in San Juan are very very busy in this area alone, so we have had little time in the past to do many penetrations in the Ponce area. We have gone down there numerous times but we believe that the traffic bears an office in Ponce.

Mr. BIAGGI. Accepting the notion that Puerto Rico is a major transshipment point, what do you believe should be done to deal effectively with the problem?

Mr. SEIBERT. Sir, when you compare Puerto Rico to other areas, I don't believe I would call it a major transit point or transshipment point. There has been seized in the Bahamas area something like 100 tons of marihuana in the past year or year and a half. Here in Puerto Rico the volume of marihuana traffic doesn't nearly approach that figure. I think this area is significant. I would estimate—and this is an estimate—that there are approximately two to four Colombian vessels coming up here per month to unload marihuana and/or cocaine into Puerto Rico, two to four per month. That's a rough estimate.

I think that my manpower is sufficient at the present time. The cooperation of all agencies whether it be Federal or local has been excellent and by working together I think we're equipped to do a satisfactory job.

Mr. BIAGGI. My experience in law enforcement has been extensive. I spent 23 years in the New York City Police Department in various capacities. My experience in the law enforcement area is that what you've said just now is pretty much what every law enforcement officer has ever said testifying before any committee in connection with other agencies. I respect your right to say that. I also respect your position. But my experience is that rather than the kind of cooperation and coordination that we should have, it's generally a competitive situation which works to the disadvantage of the objective.

Mr. SEIBERT. Sir, if I may. That's not true in Puerto Rico. It's different down here in Puerto Rico. When I first came down here I heard that agencies worked closely together and we did. Now, in the present day, the cooperation down here is just like I said, it has been excellent. If I need 50 vehicles or 50 agents, I pick up the phone and telephone the police department and I have the manpower and vehicles just like that. It has happened on numerous occasions. When I call the Coast Guard, they respond. There are times when they have other priorities, air rescue, pollution control, what have you, but in most instances they have responded. And U.S. Customs, Customs patrol officers, their cooperation has always been excellent. I call for manpower, I ask for a boat, they're always there. And I really mean it.

Mr. BIAGGI. I don't doubt that what you just said is a fact, but again my experience tells me that all of them operate their own orga-

nizations, their own sources of intelligence, keeping it in-house, and perhaps when it develops fully and requires some assistance at the critical point, then they make a request. I suggest that this is not the most productive method. What the condition almost mandates is that we have a coordinated group dealing with and discussing the problem on a day-to-day basis, not just being available for assistance at critical moments. I think a good exchange of intelligence on a day-to-day basis is vital. Well, just talking in terms of a task force, what would your comments be in connection with that suggestion?

Mr. SEIBERT. Sir, I believe this is being done to some degree. The police department is very much aware that we're interested in international intelligence. We have had occasion to interview and debrief at length several of their informants who have great knowledge in this area. We have a local drug agent assigned to a conspiracy group and we are checking police records, talking to informants, talking to local defendants, talking to U.S. defendants, in a cooperative effort.

Mr. BIAGGI. How do you deal with informants down here? Are they on a volunteer basis or are they paid?

Mr. SEIBERT. Both ways. We pay some. Some informants are defendants who are awaiting trial.

Mr. BIAGGI. In light of the geographic nature of the island, would you agree that probably the most effective way to deal with apprehension and the problem of the offshore loading would be to develop your sources of information?

Mr. SEIBERT. Yes, sir. Both here and in Colombia, South America.

Mr. BIAGGI. I don't know how much money you're given for informants, but it would seem to me the most advantageous way to obtain information would be through the professional informant in these other locations, because it's strictly a thousand-to-one shot that the Coast Guard will be out there on occasion and apprehending somebody in the light of the vast areas and the method in which they function. I'd like to talk to you later about that area of activity.

In your judgment, which is the leading agency?

Mr. SEIBERT. In what respect?

Mr. BIAGGI. With responsibility in dealing with the drug problem down here.

Mr. SEIBERT. We'd have to break down the drug problem into smuggling and on-island distribution. Smuggling of course is U.S. Customs, customs patrol officers, and U.S. Coast Guard to some degree. Once the drugs are on the island, the objective of my office is to concentrate and direct our efforts toward the major traffickers in cocaine, marihuana, and heroin here on the island. The police department is focused also on drug traffickers on the island. Part of their work is directed toward the street dealer and again much of their work is directed at the heavy violator in cooperation with my office. We are currently working several joint investigations with the police department. Some of my agents are working out of the drug division with some groups of policemen. Like I mentioned in my statement, I have six or seven or eight police agents in my office working jointly with DEA.

Mr. BIAGGI. Congressman Jones?

Mr. JONES. Thank you, Mr. Chairman. One or two questions. Since the subcommittee is the Subcommittee on Coast Guard, I would like

very much, Mr. Seibert, if you would, to furnish your own opinion as to information about the potential assistance or value of a greater participation of Coast Guard in this problem that we're discussing this morning. I am well aware of the fact that the lack of funding, the distribution of funds for search and rescue sometimes does not enable them to offer your department in cooperation the full assistance that they might, and I think, Mr. Chairman, I would like to be able to go back to the other members of this subcommittee and perhaps try to prove the point or make the point through testimony through you and others to the need for additional funds for Coast Guard in participating in this particular area. Would you perhaps give us a little colloquy on that?

Mr. SEIBERT. Yes, sir. When we receive information that a Colombian suspect vessel is enroute to Puerto Rico from Colombia, sometimes we know the departure date of that vessel from Colombia. Generally it takes 3 to 4 to 5 days for that vessel to arrive in Puerto Rico. When we know the departure date, I immediately notify U.S. Customs, the police department and the Coast Guard. At that time it would be good if the Coast Guard would be able to send a vessel to the south coast, specifically the southwest coast, and conduct patrols in that area, some distance from the coast.

I hesitate to call on Coast Guard helicopters, because they are well-marked as U.S. Government property, and if spotted by the suspect vessel or a Puerto Rico receiver on shore, they may abort their plans to rendezvous and the Colombian vessel may return to Colombia.

Mr. JONES. Then if I followed your testimony, and I hope I have correctly, you are offering in evidence the fact that the Coast Guard, if properly funded and having the necessary equipment, could be of invaluable assistance to your department as well as Customs, in a coordinated effort.

Mr. SEIBERT. Yes, sir, they could.

Mr. JONES. Of course, I think that's obvious but I just simply want to get it in the record.

One other question I might have, to show you that I have not traveled internationally on junkets too much, on page 2, you say, "Once on the island there are no further Customs checks required for shipment and/or passage to the United States." Let's suppose or assume that you had a package or an individual that you had a very valid reason to suspect. Under the present Customs laws or under your authority, how far could you go with the search and seizure?

Mr. SEIBERT. Well, sir, if we had under surveillance a drug suspect and that suspect took a package to an air freight cargo office or to the U.S. Post Office or wherever, what we would do if we had sufficient probable cause is to obtain a search warrant for that package and search the package.

Mr. JONES. Well, the thing is—I don't know how to——

Mr. BIAGGI. Well, gentlemen, let's pursue this. You're telling me that if you have someone under surveillance, that person can go right to the airport without stopping or without being checked, board a plane going to the mainland and——

Mr. SEIBERT. Yes, sir. The only check at the airport would be the U.S. Agriculture check, where you have to open your bags and the inspector searches for plants and things of that nature. He closes the

suitcase, he puts a sticker on the suitcase and you take your suitcase up to the airline counter where it's checked in.

Mr. JONES. Can you think of any area of increased Customs requirements that might be of assistance in the enforcement angle, as relates to departure from Puerto Rico?

Mr. SEIBERT. No, sir, I can't.

Mr. JONES. Mr. Chairman, I have no further questions.

Mr. SEIBERT. Sir, let me add one thing as to his last comment. I believe the Commonwealth recently passed a law which will enable the police to stop and question a suspect arriving here from the States. This is a Commonwealth law. I am not totally familiar with it, but this has recently been passed by the legislature.

Mr. BIAGGI. I want to stay with this line of questioning. We have Mr. Bazemore here, the Regional Commissioner of Customs. I am sure he will testify to this fact, but it is my understanding that at one time Customs did check and it was discontinued. Would you recommend that if possible Customs do have a check?

Mr. SEIBERT. You're talking now about passengers arriving here from the United States?

Mr. BIAGGI. No, leaving Puerto Rico.

Mr. SEIBERT. I don't think that it would really solve the problem. I think there are tremendous logistics involved there. What the traffickers would do is to utilize private vessels and private aircraft in transporting the drugs from Puerto Rico to the United States, the traffickers could circumvent that Customs check rather easily.

Mr. BIAGGI. Didn't you testify that as to transshipment, at that point couriers, once landed, would cross the island and leave the island in many cases on commercial airlines?

Mr. SEIBERT. Yes, sir, they do. They also, in the case of marihuana, the traffickers will box the marihuana and label the box "household goods" or some other item to that effect and will ship those "household goods" to the States via air freight or via the Puerto Rico Maritime Commission vessels.

Mr. BIAGGI. You testified earlier as to two shiploads of marihuana a month.

Mr. SEIBERT. I would guess approximately two to four per month coming into Puerto Rico.

Mr. BIAGGI. How do you make that judgment?

Mr. SEIBERT. Based on intelligence received from Colombia, South America; also intelligence received here from informants.

Mr. BIAGGI. Who are the people involved? Are they Colombians, Puerto Ricans, Americans?

Mr. SEIBERT. You mean here in Puerto Rico?

Mr. BIAGGI. This whole Caribbean area. To your knowledge.

Mr. SEIBERT. Congressman Biaggi, of course, there are Puerto Ricans involved, many Colombians travel from Colombia up to Puerto Rico delivering loads of drugs. We have many American citizens, young people who travel to South America and take this route: Barranquillas, Caracas, San Juan, then to Miami or New York or California. This is being done quite a bit.

Mr. BIAGGI. You make reference to numerous airstrips on the island. Are those strips licensed or just private property, unlicensed?

Mr. SEIBERT. Some of the strips I believe are private strips. For the most part they're unattended. There may be one or two that are licensed. I am really not that familiar with the airstrips on this island.

Mr. BIAGGI. Who would be most familiar with those?

Mr. SEIBERT. I believe Customs would be most familiar.

Mr. BIAGGI. Congressman Jones?

Mr. JONES. One further question. If you know, how much advancement if any in the area of scientific detection, beyond the dogs, the question of detection of the packaged heroin or marihuana, what research is being done and with how much success as to detection, beyond the use of dogs?

Mr. SEIBERT. I don't know that, sir.

Mr. BIAGGI. Mr. Heyward?

Mr. HEYWARD. Mr. Seibert, in connection with the Colombian operation, are there any formal arrangements with the Colombian Government looking to the suppression of this trade from Colombia?

Mr. SEIBERT. Looking to what, sir?

Mr. HEYWARD. The suppression of the narcotics movements from Colombia.

Mr. SEIBERT. Yes, sir. We have an office in Bogotá and the U.S. State Department is talking to the Columbian Government about marihuana, cocaine, and every investigation we conduct in Columbia is conducted jointly with the Colombian National Police.

Mr. HEYWARD. How much hard information on these estimated two to four vessels per month movement do you get from Colombia?

Mr. SEIBERT. We receive teletypes informing us of suspect vessels which may be coming to the Bahamas or Puerto Rico, and based on that information, and also on information obtained from informants in the Puerto Rico area, I have come to that guesstimate of two to four ships per month.

Mr. HEYWARD. So that this is in essence your estimate after the fact. It is not the number of vessels that are seized each month.

Mr. SEIBERT. That's correct.

Mr. HEYWARD. How many are seized per month?

Mr. SEIBERT. In the past 2 years I believe 2 vessels have been seized.

Mr. HEYWARD. I understand from your testimony that the movement from Colombia is cocaine and marihuana. The heroin is coming into Puerto Rico from New York rather than from South America. Is that correct?

Mr. SEIBERT. That's correct.

Mr. HEYWARD. You also said that although Puerto Rico is not a major way station as compared to the Bahamas that some percentage stays here of the drugs coming in from South American countries and the greater portion goes to the United States. What portion do you estimate moves on to the United States? Do you have any idea?

Mr. SEIBERT. It's very difficult to answer that. The major portion I would say may be somewhere between 70 and 80 percent. That again is a rough estimate.

Mr. HEYWARD. I understand, sir. Now, is most of that heading into the New York area by air or is some of it going by vessel to the southeast United States?

Mr. SEIBERT. Cocaine would normally be flown from here to New York by courier. Marihuana would be either sent as air freight or

there have been instances where traffickers have packed suitcases full of marihuana and shipped those suitcases via commercial airlines to New York or to Miami.

Mr. HEYWARD. How does the major part of the cocaine come in here from South America, also by air courier?

Mr. SEIBERT. A lot comes in via air courier, a lot comes in on cargo vessels, some comes in on private aircraft which fly directly from Puerto Rico to Colombia to pick it up and then return to Puerto Rico, landing at one of the small unattended landing strips.

Mr. HEYWARD. Do you know how much monitoring of the activities on these other transit landing strips there is?

Mr. SEIBERT. On the south coast, sir, I do not. I might also add one more point to your question; passenger cruise ships are utilized frequently by couriers. Either passenger couriers or crewmen couriers unload cocaine in the San Juan area.

Mr. HEYWARD. Are those passengers permitted to go ashore without going through Customs check when they visit Puerto Rican ports?

Mr. SEIBERT. This would be a question more for Customs than myself. They are required to go through some check, I believe.

Mr. BIAGGI. Mr. Olney?

Mr. OLNEY. Thank you, Mr. Chairman.

Mr. Seibert, before we came down, Admiral Perry gave us a briefing of an operation called Operation Buccaneer that took place in Jamaica. Are you familiar with that effort?

Mr. SEIBERT. I know very little about it.

Mr. OLNEY. Well, I guess that makes the answer to my next question difficult. Would that provide a model for, say, a cooperative effort with the Colombians in an attempt to suppress narcotics traffic from that country? Has your office considered such an effort?

Mr. SEIBERT. Sir, I really can't answer that, because I am not fully familiar with the operation called Buccaneer. I know they intercepted a large quantity of marihuana and destroyed many fields, but other than that I can't say a great deal about it.

Mr. BIAGGI. Let's pursue that for just a moment. Operation Buccaneer was a total effort on the part of the Government of Jamaica which enlisted the aid of the U.S. Coast Guard, as well as, I think, was a drain on the brain as well as the manpower and resources, and it was highly effective. The question that I'd like to pose in connection with that operation is, "Can we get that kind of a commitment from the countries and the islands that you mentioned; the governments of these respective locations?" I feel that a similar commitment in these other areas would produce similar results.

You talk about cooperation. My own evaluation is relatively superficial with the instant case, I am talking about a total policy commitment on the part of governments that are involved in this undertaking.

Mr. SEIBERT. That would be a good point to pursue, but I can't give you an answer now as to how the foreign governments would feel about cooperating in such an effort.

Mr. OLNEY. Do you believe that we have adequate international agreements with countries like Colombia for suppressing drug traffic? For instance, do we have a treaty of extradition with the Colombian Government?

Mr. SEIBERT. For U.S. citizens, yes. But the big problem is getting Colombian fugitives out of Colombia. Colombians, as you probably know, are very much involved in cocaine and marihuana, they're heavy dealers, heavy violators. It's extremely difficult to arrest these people, because many of them do not leave Colombia.

Mr. OLNEY. Has the State Department attempted to negotiate further with the Colombian Government on this problem to your knowledge?

Mr. SEIBERT. Yes, sir.

Mr. OLNEY. Unsuccessfully?

Mr. SEIBERT. I can't say how successful they have been. I believe the negotiations or talks have just recently commenced and I couldn't tell you how successful they have been at this point.

Mr. OLNEY. Thank you, Mr. Seibert. Thank you, Mr. Chairman.

Mr. BIAGGI. I don't have any other questions, Mr. Seibert. I want to thank you for your testimony and your presence and hopefully this committee hearing will be productive in a fashion that will assist you as well as the other agencies in solving this problem. Thank you very much.

Mr. SEIBERT. Thank you, sir.

[Witness excused.]

Mr. BIAGGI. Mr. Albert Bazemore, Regional Commissioner of U.S. Customs Service.

STATEMENT OF ALBERT BAZEMORE, REGIONAL COMMISSIONER OF CUSTOMS

Mr. BAZEMORE. Mr. Chairman, I am Albert Bazemore, the Regional Commissioner of Customs for region IV which includes the Southeast Atlantic portion of the United States, Puerto Rico, and the Virgin Islands. Prior to assuming my present position I served as the director of inspection and control for the National headquarters in Washington, and during my tenure in both of these positions I have become very acutely aware of the problems which have caused your hearing today.

I am here at your invitation and by instructions of the Secretary of the Treasury and Commissioner of Customs, and I am responsible for customs operations in Puerto Rico concerning the thrust of this meeting. I am charged with the conduct of the customs mission of enforcing customs laws and related laws related to smuggling of contraband, including narcotics and dangerous drugs; assessing, collecting, and protecting the levy of import duties and taxes and to control, inspect and examine carriers, persons, and merchandise entering or departing the United States by enforcing the Tariff Act of 1930 and other statutes and regulations which govern international traffic and trade. In addition to those areas, I am responsible not only to the Secretary of the Treasury for appropriated funds and collections but also to the Commonwealth Government of Puerto Rico and the Insular Government of the Virgin Islands of the United States.

To accomplish this mission, we principally are the principal border enforcement agency that administers the enforcement of more than 400 provisions of law and enforce the laws of 40 other Federal agencies relative to international traffic and trade. One of the principal

duties is the detection and prevention of all forms of smuggling and other illegal practices designed to gain illicit entry into the United States of prohibited articles, narcotics, drugs and all other types of contraband.

It is customs belief that border interdiction of narcotics is a key stepping stone to the building of major conspiracy cases and the immobilization of major narcotics traffickers on a worldwide basis. It is at the borders that narcotics and narcotics trafficking organizations are most vulnerable. Narcotics seized at the border are in the most concentrated form with respect to purity, in their greatest bulk and at their highest value, running into the millions of dollars with respect to the investment of the trafficking organization.

It was a common belief such as this which precipitated the founding of the "LEO" organization in south Florida a little over a year ago. The problems of drug smuggling in south Florida are very much akin to those being dealt with here in Puerto Rico. The purpose of "LEO" was primarily to get the interested law enforcement agencies together to where they could jointly complement one another and determine long range or short range, which could be utilized by each agency within its statutory limits and its capabilities to attack the problem jointly.

As a result of these "LEO" functions, we think that there has been a high success as a result of these joint efforts.

By combining Coast Guard and Customs marine capability and the Customs border search authority, "LEO" in south Florida has been able to move from the beach, waiting for the trafficker to come in, to an offensive position by conducting enforcement and interdiction efforts on the high seas.

This has been accomplished by the placement of a Customs officer on board a Coast Guard vessel while on its picket or routine functions. This has provided, in addition to an interdiction capability, a seagoing base for observation of aircraft traffic. This, when coupled with the Customs TECS computer, Treasury Enforcement Communications System, and interfaced with other intelligence gathering operations, has greatly enhanced our ability to deter smuggling.

It is a basic premise in speaking of narcotic smuggling that narcotics, namely marihuana, cocaine, and heroin, are not indigenous to the United States. They therefore must be smuggled into the country. In the 1970's Customs has become increasingly aware of narcotics trafficking in the Caribbean area. Increasing numbers of couriers are using the islands in the Caribbean as transshipment points attempting to exploit weaknesses in our present interdiction system. In an effort to gain insights in determining sources of narcotics, we held a Caribbean conference of Customs officials in Miami this past spring with representatives from 19 nations.

As a result of that conference was a confirmation of what we already knew—that traffickers were utilizing all means of conveyance available to them, namely couriers on commercial aircraft, private vessels, private aircraft, that violators are becoming more sophisticated and professional with each passing day and that they are financed to the point of ascendancy of Federal law enforcement agencies in terms of equipment.

They have state-of-the-arts aircraft, they have excellent marine capabilities as evidenced by some of the high value vessels we have

placed under seizure for smuggling. In many instances their electronic and communications equipment is equal to or superior to those of Federal agencies. They are not hampered by budgetary restrictions. In fact, they are quite affluent. Again, this is evidenced by the use of high value vessels and aircraft, all of which is considered expendable by them.

Finally, they have the upper hand, by that I mean that they know when and where they are going to make their run across our borders. It is up to Customs and other agencies and their statutory authorities to stay a step ahead of them. This brings me full circle back to the south Florida prototype "LEO" concept.

It is my belief that the success we have had in south Florida with "LEO" is applicable entirely within the Caribbean. As professionals in our respective areas, utilizing our statutory authorities in tandem, rather than as separate, unrelated functions, we have created a viable enforcement effort which provides a logistical basis for better enforcement activity.

I feel confident that given the equipment to regularly engage in the LEO concept in the Puerto Rico-Virgin Islands waters and the personnel to man it, as well as Customs personnel, which I will commit to that effort, to provide the support to the interdiction effort, a giant step would be taken toward stemming the flow of narcotics through the Caribbean funnel.

By the placement of a Customs Patrol Officer on board a Coast Guard vessel, thus utilizing the Coast Guard authority to hail American flag vessels on the high seas for the purpose of performing safety and documentation checks of vessels utilizing the various access marine passages, the first wave of the attack is launched. With the placement of the Customs officer on board and the conduct of routine patrols in the access passage areas is a visible deterrent also. The Coast Guard authorities provide the entrée and the Customs officer provides the expertise and experience in concealment techniques, drug identification and interdiction.

I might point out here that a vessel at sea with a "commercial" load of marihuana is not all that difficult to detect once access is gained to the holds or inner portions of the vessel. Marihuana, by virtue of its bulk, requires a great deal of space and does not easily afford concealment.

A majority of cocaine, a major shipment of cocaine or heroin on board a commercial vessel, or one of the more than 12,000 powered private pleasure vessels in Puerto Rico, can be easily secreted in an air duct, rope lockers or water storage tanks and many other locations. You may be aware that the conduct of a thorough ship search is a specialty unto itself for which the Customs Service has specially trained selected personnel to perform.

Boarding at sea will not usually afford an opportunity to conduct a full ship search to the extent that this method of concealment will be detected.

However, as I stated, this is the first wave of the attack whereby information can be gained which would cause the deployment of Customs land patrol units to the landing site for an extensive ship search. Another possibility is the acquisition of information to warrant the dispatch of a Customs marine unit for surveillance purposes with subsequent board and thorough ship search.

Also by placement of the Customs officer on board Coast Guard patrol vessels, the Coast Guard has available to it the many services offered by the Treasury Enforcement Communication System which has a data base of over 350,000 records including a Vessel Violation Profile System and interfaces with the National Law Enforcement Telecommunications System and the FBI's National Crime Information Center. TECS is a vessel, aircraft, and person lookout or suspect system. In addition, there is access to the Customs Radio Network which has been installed in this area since July 1974. We have spent about $125,000 in Puerto Rico alone and we believe we have one of the finest inter-island communication networks available in the Carribbean.

Since 1973 the Customs Service has been realining the Customs Patrol function to a more viable mobile tactical interdiction force which is designed for the type of operation I have described. For its maximum effectiveness it is missing that deep sea penetration capability which could be provided by working in concert with the Coast Guard pending the availability of their support.

I have not addressed myself to the problem of smuggling by commercial means such as air carriers into the islands during this hearing. I do not feel that it is appropriate to the stated purpose of the hearing. The offensive there has been mounted by Customs inspection personnel, and you may be interested in the fact that just this past Tuesday, November 18, Customs officers discovered 4.7 pounds of cocaine on a passenger arriving in San Juan International Airport. The passenger, an American, age 23, arrived on board a flight from Kingston but had been in Colombia and Panama. The discovery was a direct result of a TECS lookout, the system that I mentioned. The offender was turned over to DEA for a controlled delivery in Miami where one additional arrest was made for conspiracy.

I provide you with some statistics here and I will not bore you with those. I would say that during the last 18 months though we have seized seven vessels in Puerto Rico and we have seized two aircraft in Puerto Rico, and I would also mention that 12 percent of the seizures in region IV in the cocaine area has been in San Juan, and that about 5 percent of the drug seizures nationally has been in Puerto Rico.

The shortage of facilities, equipment and other resources cause hardships on the respective agencies during joint ventures that I have mentioned. The most recent example of this was the discovery and seizure of 43 tons of marihuana in the Bahamas by a Customs air unit. In order to assist the Bahamian Government in disposing of the marihuana, it was necessary for Admiral Wagner to—Commandant to the 7th Coast Guard District—to dispatch a vessel from as far away as Jacksonville to go to the Bahamas to pick it up, transport it to Miami for destruction and then return to Jacksonville.

I have provided you with photographs of that seizure. If you will notice in the first one if you will hold it where you are looking from the sea toward the land area, you will see a debris out in the water there, the biggest debris is the helicopter that was helping in the investigation on the air crash, you will see two dinghies which were apparently used in this operation, and then if you look up into this area we have circled you will see the airfield, as the officers, when they discovered this, that is what they saw.

The second photograph I think you will see that 43 tons of marihuana all gathered together on the land, and the third photograph shows the cooperative effort that was made by the Coast Guard, Customs, and DEA in transporting and destroying that marihuana to Miami.

I feel it is relevant here because of the working relationship it exhibits between our two agencies and because of the vast numbers of islands in this area whereby this same method of operation may be effected.

I do not portend that what I have said is the ultimate solution to the drug smuggling problem, if there is one. While we are making progress in the control of illegal narcotics entering the United States throughthe Caribbean, we still have a long way to go before we can say that we are successful. I have tried to address myself in this session to providing you with a broad overview of the problem and very superficially what is a partial solution to that problem. I feel that customs in this area has somewhat of a proprietary interest in the betterment of the resources and facilities of the Coast Guard because of the potential offensive which can be mounted through the joint enforcement posture I have described. As the situation exists today, I feel that it requires a maximum effort on the part of our two agencies to maintain a holding action and strive for an upper hand in this offensive.

This concludes my points. I would be happy to try to answer any questions that you may have.

Mr. BIAGGI. Thank you very much, Mr. Bazemore, for your statement. What I would like to do is congratulate you for your LEO operation in south Florida.

Mr. BAZEMORE. I would say that the lion's share of that is Admiral Wagner's. We have cooperated with him thoroughly, but I think he's been the nucleus of this.

Mr. BIAGGI. That makes us even more happy. Your recommendation that this concept be adopted in Puerto Rico and the Virgin Islands is exactly the notion that motivated us in these hearings. We feel, frankly, that the line of questioning directed to the previous witness indicated that, and we feel that cooperation shouldn't be a haphazard relationship, because we do have interagency relationships which should be of a more formal nature. I would like to know exactly, if you will tell us, how LEO functions on a day-to-day basis.

Mr. BAZEMORE. LEO, as I mentioned earlier, is an organization of the police, the FBI, the Coast Guard, DEA, customs, and others, and we do not have a meeting date, there's no fixed meeting date, but it's called at the request of any member of the organization, any member of the organization can call a meeting to discuss any issue they would like to discuss. It's used primarily as a planning organization and a coordinating organization rather than a social organization or a fixed meeting, you must meet whether you've got anything to discuss or not, I think too often, especially in Government, too often we schedule a meeting for every first Monday at 10 o'clock——

Mr. BIAGGI. No matter what.

Mr. BAZEMORE. No matter what. And then you find that everybody sends their second, third, and fourth in command, after awhile you have the chauffeur there.

Mr. BIAGGI. Tell this committee, if you will, about the planning phases of LEO.

Mr. BAZEMORE. Well, usually the planning phases of LEO are that usually the heads of the agencies get together and if one or more of those recognize a need for a specific type of action, then most often they will set up committees of maybe a Coast Guard officer, a customs officer, DEA agent, local policeman, like the Florida marine patrol or the county police, and they would have responsibility, one would be responsible for setting up the communications that would be utilized in the exercise. You have another group which will coordinate the up-to-the-moment intelligence that would be appropos to that organization or to that situation, and other organizations, such as who will provide what kind of vessel or what kind of aircraft at certain locations at certain times and so forth.

Then this is all brought back together to the LEO organization principals and hashed out as to whether that plan will be put into operation.

Mr. BIAGGI. Now, from what I see, LEO has great possibilities and apparently you have been sold on it. How does that contrast with the ordinary method of functioning with the various agencies who just reach out for one another on specific instances?

Mr. BAZEMORE. Well, it differs or contrasts with it in that it's not a customs-DEA, I reach out for DEA because I need them on the moment, I reach out for Coast Guard as I need them for that situation. I think it's more that each organization is aware of what's going on and that's very important I think in our business, and each organization is in a better position to contribute not only resources but information, and believe me, in the business we're talking about, information is the backbone; if you don't have information your chances are very small.

Mr. BIAGGI. No question about agreeing on that. Now, how do you get your information generally?

Mr. BAZEMORE. We get information in several ways. Primarily DEA has the responsibility for the foreign intelligence gathering and they also have the responsibility for domestic investigation, so that should be our nucleus of information. The other source of information is we have both paid and unpaid informants. We operate a little different from most agencies; I do not pay for information until it's successful; in other words, if we get an informant and he gives me information, when we get the goods and the people, we pay for the information. Otherwise, we don't pay for the information.

Mr. BIAGGI. Well, that makes good sense. Our experience is that if you don't, you get a lot of informants, if you discount prices the product will be worth the price you're paying for it.

Mr. BAZEMORE. We have a hard job keeping up with the valid information we get and this kind of sorts that down I think.

Mr. BIAGGI. You said something interesting here, that the crooks are better equipped many times than the good guys.

Mr. BAZEMORE. That's right, sir. In fact, this next week we're going to put into operation in customs an A–26 that we seized from the crooks and we're going to use it against the bad guys, maybe we can catch up in the ballgame.

Mr. BIAGGI. That's a sad commentary on Government, really, and I appreciate the handicaps you're required to work under. It's a com-

monplace situation, although we have tried to make some advancement. Some steps have been taken in connection with that.

Could you tell this committee the process for people leaving this island as far as customs is concerned and what historically was done and why the change if any?

Mr. BAZEMORE. When persons arrive from foreign countries into Puerto Rico, they are treated the same as persons arriving from foreign countries on the mainland. For example, they go through Immigration and they go through Customs inspection, the personal inspection and baggage examination, and once they're in Puerto Rico they are domestics when they move from Puerto Rico to the mainland, in other words there is no requirement, no provision for a Customs and Immigration check between Puerto Rico and the mainland.

I think I heard you speaking with the other witness about a check being made some time ago by Customs when people moved to the mainland. Some number of years ago, Agriculture delegated to Customs the responsibility for the agricultural inspection that is presently conducted by Agriculture. About 8 years ago, I understand, I guess after Agriculture got better equipped to do the job themselves, they reassumed that responsibility of this agricultural inspection.

Mr. BIAGGI. So Customs never really was doing anything else except agricultural work?

Mr. BAZEMORE. No, sir, I don't believe we have the authority, I know we don't have the responsibility, I don't believe we have the authority to do it.

Mr. BIAGGI. Perhaps being a little facetious, but also being a little curious, talking about agriculture, shouldn't they be charged with investigation of determining whether or not there is marihuana in the suitcases or packages, whichever?

Mr. BAZEMORE. Our experience, Mr. Chairman, has been that if they run across it it would be brought to our attention. I know we had this happen, not in Puerto Rico, but I remember a recent case where we had this happen in Nassau, we have a preclearance operation there which is very similar to the operation on the mainland, and frequently when other agencies, Immigration or Agriculture, or for that matter a security check, when you go through a security check aboard an aircraft, if they run across anything like this we would get the information from them and frequently get mixed egis as a result of the information they provide us based on the types of checks that they make.

Mr. BIAGGI. What type of technology do you have?

Mr. BAZEMORE. At the present time we have the physical examination of the people or their baggage or the merchandise. We also have the type of dogs which have the capability of the four kinds of drugs. And we have a very good communications system. We have some boat equipment for operating close to the mainland, I mean close to the land area, not operating on deep sea penetration, and that's about the extent of it.

Mr. BIAGGI. Suppose someone would like to ship a parcel of marihuana. Is there anything done with relation to shipment of packages?

Mr. BAZEMORE. Out of Puerto Rico or out of the mainland?

Mr. BIAGGI. Out of Puerto Rico.

Mr. BAZEMORE. No, sir, we have no authority to get involved in that. Now, if a shipment came in here from a foreign country and if there was a suspicion, we might, we would have the authority and the responsibility for surveillance of that shipment and then maybe letting it move onto the mainland or wherever it was going in the Continental United States, and we would still have the authority there to make seizures and to arrest people if there was suspicion, we do not need probable cause.

Mr. BIAGGI. Congressman Jones?

Mr. JONES. Thank you, Mr. Chairman. Mr. Bazemore, one quick question here. With reference to the Customs examination or going through Customs, not speaking necessarily for your department, but you as an individual, would you suggest that authority be granted or provided by law, to cope with this problem? Would it have any material effect?

Mr. BAZEMORE. As a personal opinion, Congressman, I think that would be a very expensive process. I think there are many other things that we could do which might have the same results which might be more economical. You're talking about an awful lot of expense. There's an awful lot of people who transit on a regular basis and there's an awful lot of merchandise that moves on a regular basis to the mainland.

Mr. JONES. Rather than try to get in the report at this time, I'd be very grateful if you, at your earliest convenience, would address to the chairman or to me those suggestions, countersuggestions, which you might deem to be more productive.

Mr. BAZEMORE. I'd be glad to.

Mr. JONES. Perhaps you can't answer this one either, but during the history of this Nation the ATU boys as they were known in those days, I believe it's ATF now, did what was considered, I think, an outstanding job. I recall, and I am not quite as old as I look, I vaguely remember about it, during the prohibition days, they engaged in what I believe they called the "rum-running business." It was apparently attractive. Of course, that's no longer needed due to the abolition of prohibition. It's my understanding that whatever expertise they may have if any, and I have a very high regard for that branch of law enforcement, that they are not utilized any way directly in the drug fight at all. Is that correct, sir?

Mr. BAZEMORE. That's my understanding, sir. They are a source of information to us, but as far as being a part of the border interdiction, they are not. One of the very good reasons for that, Congressman Jones, is that in many areas many agencies probably have some capability that could contribute to this but they are not in those locations where their resources would be useful. For example, most of your ATF on the mainland is in Kentucky, Ohio, the back hills of Georgia, some of these places.

Mr. JONES. Let me correct that, sir. They're threatening to close seven ATF agencies in my home, the eastern part of North Carolina.

Mr. BAZEMORE. Sir?

Mr. JONES. They're not going to close them all. I can assure you of that, because I'm going into Federal court and get a restraining order. Be that as it may, it does appear to me that when we talk about the drug problem—I am well aware that our chairman here is very capably talking about the international problem—it makes sense that if you can control the peddlers, the small distributors, or the large distribu-

tors, for that matter, in the hinterlands of North Carolina, Virginia, or wherever they may be, that control should obviously contribute to your problem here as it relates to illicit imports.

Mr. BAZEMORE. I agree with you wholeheartedly and I am sorry I misunderstood your first statement, I thought you meant any interdiction at the border areas. I think you are absolutely right, we ought to use all resources that might be available to us. With regard to DEA, they're primarily the street people, and I certainly don't think they could use them.

Mr. JONES. Now, I'm going back to the first question I asked, Mr. Bazemore. Since the purpose of this meeting is for the subcommittee to find out, as far as I am concerned, the Coast Guard potential in this particular area of enforcement and in coping with this very insidious problem. I wish you would, for the record, give your opinion as to the value of the Coast Guard in a most impartial way in order that we might possibly justify increased appropriations for their participation if it is justified.

Mr. BAZEMORE. I think it would be justified as a personal opinion, Congressman Jones. I can't be specific as to what they need, because I think you are or they are better equipped to do that, but I think that a person who works closely with the Coast Guard, I would like to see them have more vessels in this area which they would utilize in the southern area. It is my understanding you have one vessel here on this island and I think that that may be fine for search and rescue at one point, but what about the rest of the island, and I think also if they had more vessels of that caliber that it would be used as a deterrent to drug smuggling because one of the things the Admiral is running into is when he gets behind a drug smuggler on the high seas, whether or not he's suspicious of the guy, the guy starts throwing it overboard or he runs the vessel to sea where he throws it out. They have picked up several I think out of life rafts down near the Windward Passage, just the Coast Guard doing its normal patrol, but they have become known as a multiunit organization, as a result the smuggler wants to get rid of that if he sees a Coast Guard vessel, but I think that more Coast Guard vessels in this area would be very productive, not only for primary missions but for the other missions to support other Federal agencies.

Mr. JONES. Thank you, Mr. Bazemore, very much. That's all I have, Mr. Chairman.

Mr. BIAGGI. I think my colleague Mr. Jones must have a large Coast Guard constituency. Every time I listen to him he's trying to enlarge the appropriations for them. In any event——

Mr. JONES. Would the Chairman allow that they need larger appropriations?

Mr. BIAGGI. We have to make a case.

Mr. JONES. That's what I'm trying to do, sir.

Mr. BIAGGI. All right. Mr. Heyward?

Mr. HEYWARD. Mr. Bazemore, I notice in your statement several times you refer to references to the statutory authorities of the various agencies. You spoke of agencies' statutory limits, agencies' statutory authorities, using authorities in tandem. Have you run into any difficulties because one or more agencies were restricted in that statutory authority?

Mr. BAZEMORE. The one area I can think of right off the bat is when they revised the narcotics control laws, there was an omission of a provision that was previously in the narcotics control laws of possession of narcotics on the high seas, and I think probably our friend from the Drug Enforcement Administration can be more specific as to the provision that has been dropped from the law, but I think it is a handicap to the Coast Guard being as much of a help in the drug interdiction as they might be.

Mr. HEYWARD. You mean it's not against Federal law for U.S. vessels to have narotics on board on the high seas?

Mr. BAZEMORE. That is my understanding, sir.

Mr. HEYWARD. In connection with the Coast Guard authority, is there any limitation on Coast Guard authority in working with Customs that has caused any difficulty? I'm not speaking as to the legality of a particular act or not, but——

Mr. BAZEMORE. I know of none. In fact, all Coast Guard officers are by law also Customs officers.

Mr. HEYWARD. I wanted to be sure that everyone realized that and I wanted the record to show that.

Mr. BAZEMORE. Very well.

Mr. HEYWARD. In connection with your other statement on expertise, how much joint training is conducted as far as Coast Guard and Customs are concerned? Do Coast Guard officers train in the Customs techniques that you're referring to?

Mr. BAZEMORE. I do not believe that at the present they are. I think the admiral might address himself more to that question.

Mr. HEYWARD. Do you think it might be helpful if they were trained in connection with assisting Customs in Customs activities?

Mr. BAZEMORE. I think so, sir. But I think there may be some problems with that in that the Coast Guard has a primary mission and I think to the extent that the Coast Guard could make these people available for training. I think it would be very helpful.

Mr. HEYWARD. One of their primary missions is marine law enforcement.

Mr. BAZEMORE. That's right. I didn't mean to say that they should not be in that.

Mr. HEYWARD. I understand.

Mr. BAZEMORE. You have a primary mission and sometimes when you begin to divert so much it means that you don't have people to do your primary mission.

Mr. HEYWARD. Of course, they have many missions, but I would consider it a primary mission to assist other agencies where needed in the enforcement of marine law. Title 14 says so, in my opinion.

Mr. BAZEMORE. The 7th Coast Guard District does a very professional job of doing it.

Mr. HEYWARD. I am sure Admiral Wagner is well aware of that. I wanted to find out whether or not it would be helpful if assuming that the Coast Guard had all the equipment and all the personnel they needed—they were trained to do the things which you have at least implied that sometimes they're not qualified to do because they're not trained to do them. You refer to their platforms and your techniques.

Mr. BAZEMORE. I agree with you, sir, that that would be helpful. I believe the admiral would also agree with that, that it would be helpful, and I would endorse that.

Mr. HEYWARD. Thank you.

Mr. BAZEMORE. Yes, sir.

Mr. BIAGGI. Mr. Bazemore, if you know, could you tell this committee what the various penalties are for various offenders in different jurisdictions, Puerto Rico, Colombia, Dominican Republic, for the same offense, would there be varying penalties?

Mr. BAZEMORE. Yes; there would be varying penalties. I am not equipped, Mr. Biaggi, to give you data.

Mr. BIAGGI. Let me rephrase it in order to obtain what information I want. Is there a more lenient attitude in one jurisdiction as contrasted to another, and, if so, which jurisdiction?

Mr. BAZEMORE. I think I could contrast it between the Bahamas and the United States. In the Bahamas, if you are caught with drugs the trial is usually within hours and you usually get 2 years right away and I think your experience in reading the newspapers would contrast that for you in the United States. We've had several drug seizures there where you seize it at 2 o'clock in the afternoon and about 4 the guy would be out serving his sentence, you not only get a very swift trial, but you get a very stiff sentence in the Bahamas.

Mr. BIAGGI. How about Colombia?

Mr. BAZEMORE. Colombia, and I have to go by what I've heard from DEA, the penalties there are very severe. In fact, their method of apprehension is probably not as concerned as ours, there is a very good possibility that, if you're dealing in drugs there, you could be killed if you don't respond to the officer's commands, but they are very severe. Jamaica is also very severe on drug smugglers. Their sentences are very long and, to my understanding, the prisons aren't very pleasant either.

Mr. BIAGGI. Would you tell us about the airstrips on the island?

Mr. BAZEMORE. To my knowledge, there are two or three airstrips on the island like San Juan Airport which is licensed and regulated, I think, by the FAA, but I think the others, there are many of them, I don't have a number, but there is a substantial number of them that are on private property, like a private farm or private ranch area in the island, and there are an awful lot of those. Most of those without exception are unattended, they are just available, some of them, I was talking to some of my staff this morning and they identified several of them as well lit at night, had lighting which makes landing possible at night safely, but still unattended.

Mr. BIAGGI. Does any agency have jurisdiction over those strips?

Mr. BAZEMORE. To my knowledge they do not. I think that, presumably, like at San Juan Airport and a few of those in the military, there is control over them, but these privately owned airstrips there is no control.

Mr. BIAGGI. Now we're talking about the illegal use of those strips by traffickers in drugs. It's not likely that San Juan would have much control over those particular planes utilizing them. It seems to me that in the light of testimony that these strips are being utilized all over the island, that there should be some jurisdiction or some justification for their existence, certainly some supervision.

Mr. BAZEMORE. I agree. Now, Jamaica had the same problem a couple of years ago, I think, with the Drug Enforcement Administration and other people working with Jamaica they have plowed up all unattended, if you don't attend your airstrip, if it is not controlled, then they plow it under, whether it be macadam or whether it be

concrete or whether it be just a dirt airstrip, grass airstrip, they plowed up all of theirs about a year ago and then the people started using the highways, like they do in Florida, they do their smuggling on highways, land right on the highway, and then take off again once they get their load on board and get it back to the States or back to the islands for transshipment, and what they did there is they put telephone poles on each side of the improved highways, about a thousand feet apart, you know, staggered them, to control this, and I think DEA probably could address it more accurately.

I was there this summer and it seems to be a little bit more difficult to use aircraft to smuggle out of Jamaica. That may be one reason we're getting so much out of Colombia.

Mr. BIAGGI. Well, even if you didn't get to the poles on the highway, you'd be driving them out into the open, with more liklihood of being observed.

Mr. BAZEMORE. That's right. We do use sensor devices on some of these when we suspect them of being used for illegal purposes, there are devices you can use, we also use the method of surveillance. One problem we have in Puerto Rico is we have a very small force of patrol officers here because the island government pays for this out of their revenue that we collect and turn back to the island and we have to temper what we need to do the job with the economic situation, the economic burden put directly on Puerto Rico, and we're trying to balance that now, but I think that to the extent we can we ought to have surveillance on some of these airstrips where we have information.

Mr. BIAGGI. Do you know how many such airstrips we have on the island?

[Off the record discussion.]

Mr. BAZEMORE. Approximately a hundred, sir.

Mr. BIAGGI. Mr. Olney?

Mr. OLNEY. Thank you, Mr. Chairman; just one question, Mr. Bazemore, do you think that a concentrated multiagency operation like Operation Buccaneer, which is limited in duration, has a lasting impact on drug trafficking patterns, or do you think it just causes a temporary diversion in the normal channels?

Mr. BAZEMORE. To some aspects I think it has a lasting effect, because of the raising of the risk. For example, the operations that we have run jointly with DEA and Coast Guard in the Miami area. While they, per se, might not keep all the people from using the water lanes to smuggle, I think it makes them change their method of operation, I think it makes them have to invest more in their operations. So from that aspect I think it has some long term advantage, but I think the more they have to change their method of operation, the more probability it is for them to be detected.

Mr. OLNEY. Thank you. Thank you, Mr. Chairman.

Mr. BIAGGI. Thank you, Mr. Bazemore.

[Witness excused.]

Mr. BIAGGI. The next witness is Rear Adm. Austin C. Wagner, Commander 7th Coast Guard District, Miami.

Before you start, for the record, I would like to commend you and all of your men and all of those responsible for the magnificent job you did in apprehending, through extraordinary detective work,

because that's what it was, in the finest sense of law enforcement, the ship that was responsible for the oil spill in your jurisdiction, and I am sure that long after your passing Coast Guard service this event will be looked upon with great admiration and interest by Coast Guardsmen as well as students of law and members of law enforcement and I couldn't let this occasion go by without for the record congratulating you.

Rear Admiral WAGNER. Thank you very much, Mr. Chairman, I will be sure to pass it on to those who are responsible.

Mr. BIAGGI. Admiral?

STATEMENT OF REAR ADMIRAL AUSTIN C. WAGNER, COMMANDER, 7TH COAST GUARD DISTRICT

Rear Admiral WAGNER. Mr. Chairman, it is a pleasure to appear before your subcommittee to report on the U.S. Coast Guard 7th District's efforts to stem the narcotics traffic through the Caribbean into Florida, Georgia, and South Carolina.

This effort has been in the forefront of 7th District operations since July of 1973 when a patrol was commenced at the request of the State Department to intercept Cuban exiles enroute to Cuba for sabotage purposes.

The primary method of operation of the patrol was to stop and board U.S.-flag vessels to inspect for compliance with the shipping and navigation laws of the United States. To our surprise, we found no exiles, but did find, in a period of 4 months, 4 vessels transporting marihuana. A total of 27,000 pounds of marihuana was seized and 11 persons arrested.

From that time on we refined and expanded our drug interdiction operation while still continuing to deter exile traffic. This refinement took the form of embarking helicopters on our 210-foot cutters, embarking Customs and DEA agents on all patrols, establishing minipatrols along the U.S. coastline with 95- and 82-foot cutters, greatly expanding our intelligence operation including the establishment of direct links to the Treasury Enforcement Computer System, which we call TECS, participating in the Florida statewide grand jury empanelled to determine the extent of drug use and importation in Florida, and establishing Multi-Unit Law Enforcement Patrols, which we call MULEPATS, which consist of a helicopter-equipped 210-foot cutter as a mother ship and 2, 3, or even 4 95-foot patrol boats.

These latter units have operated most successfully in the Windward Passage and in the vicinity of Puerto Rico. In the 28 months since its inception, we have boarded over 1,000 vessels, arrested 81 persons, destroyed 36 tons of marihuana valued at $21,600,000 approximately, and confiscated over $100,000 in cash as well as 3 tons of hashish.

"Operation Buccaneer" contributed a significant number of seizures during this period. This operation was conducted between August and December of 1974 in close cooperation with the Jamaican Government and the Drug Enforcement Agency. It was directed toward eliminating the source of supply of marihuana from Jamaica.

The Coast Guard's role was to block the Windward Passage, Yucatan Channel, and Mona Passage during this period. To carry this out,

7th district units were augmented by vessels from the 8th Coast Guard district in New Orleans and high endurance cutters under Atlantic area control.

It was a highly successful operation and besides resulting in the seizure of vessels and destruction of marihuana in Jamaica itself, it clearly demonstrated the value of the LEO organization and the ability of Federal law enforcement organizations to work closely together on a mutual mission. LEO, as you heard, is an acronym for law enforcement organizations which have been established in the principal ports of this district and whose membership includes Federal agencies such as Customs, DEA, FBI, INS, that's Immigration and Naturalization Service, Border Patrol, Internal Revenue Service, and the U.S. Attorneys as well as local agencies such as State marine patrols, and local police and sheriffs departments. In this connection, the LEO organizations conduct special interdiction operations in the vicinity of a port twice a year so as to increase efficiency and cooperation between Federal and local law enforcement agencies.

Additionally, our ships and aircraft participated in a U.S. Customs Service operation labeled "Channel Cat" which was an attempt to blockade the U.S. coastline from the northeast coast of Florida around the keys to the Mexican border.

It is our belief presently that the vast majority of marihuana entering the United States comes from Colombia and to a lesser degree from Jamaica, Peru, and Bolivia. The Coast Guard role in drug importation prevention is generally restricted to marihuana because of its bulk, and because boardings are made for documentation and vessel safety purposes. Consequently, without firmly established probable cause to suspect violations of other laws the inspection must be limited to determining that the vessel and its cargo are in compliance with the purpose for which the vessel is documented.

Even where we find large quantities of marihuana, we are required to establish a link with the United States in order to prove conspiracy to import, as mere possession on the high seas no longer violates U.S. laws. I might add here, Mr. Chairman, in view of previous questions which you asked the witness from Customs, that it is not against the law to possess marihuana, but it is against the law to import marihuana, therefore if a vessel is caught with marihuana aboard, they lose the vessel, that's the end of the vessel, but whether or not we convict the owner of the vessel, the operator of the vessel, depends upon whether we can prove conspiracy since it is not against the law to possess marihuana on the high seas, or any narcotic product.

Mr. BIAGGI. That's interesting. Thank you.

Rear Admiral WAGNER. The importation of heroin and cocain by American-flag vessels is less subject to detection because valuable amounts can be easily hidden onboard and usually defy detection unless the vessel is literally torn apart, and this generally can only be accomplished in port.

Marihuana can be bought in Colombia for between $20 and $30 a pound and its retail value in the street in the United States runs between $150 and $600 a pound—the $600 a pound is in Chicago. This significant markup and resulting profits makes the risk of importation worth while to the smuggler.

Lately, the number of seizures has diminished significantly. We attribute this to the shifting of marihuana cargo to foreign bottoms,

thus exempt from Coast Guard inspection at sea, and a shift to air transportation to remote airstrips in the United States.

Rear Admiral WAGNER. The importation of heroin and cocain by the use of the Hovering Vessel Act and in cooperation with Customs and the U.S. attorney we are prepared to seize such vessels when the opportunity arises.

Nevertheless, we recognize this trend and have adjusted our patrols accordingly. The minipatrol is especially effective in this regard because it has a good chance of intercepting shipment transfers from foreign bottoms offshore to U.S.-flag vessel ferries.

Another possible reason for the recent lack of seizures is the probability that smugglers are monitoring Coast Guard frequencies. We are moving to meet this challenge by more use of secure communications and coded messages for those units not equipped with secure communications equipment.

It also appears now that remote Bahama islands are being used to stockpile large amounts of marihuana for later pickup by small but fast private vessels.

As has already been reported, recently we removed 43 tons of marihuana located by a Customs Service aircraft on Deepwater Cay to an incinerator in Fort Lauderdale at the request of the Bahamian Government, and three additional caches have since been found on other cays in the Bahamas. The 43-ton find is the largest amount of marihuana ever seized. The Bahamian Government and the interested U.S. Federal agencies have been working very closely together on this new facet of the smuggling operation.

Puerto Rico has also been determined to be a transshipment port, but primarily for the heroin and cocaine trade. We do not have good information that marihuana is being transshipped in any large quantities through Puerto Rico or the Virgin Islands. Commander Greater Antilles Section is, however, providing patrols in this area to interdict whatever contraband traffic they are capable of and right now an 82-foot patrol boat is operating out of Ponce on the south Coast to assist in meeting this threat.

We are certain that we have put a serious obstacle in the path of the marihuana smuggler and are forcing him to take extraordinary steps to circumvent our patrols. The true measure of our success, of course, is to have zero seizures since that means we have denied him the option of sea transportation for his cargo. We are not naive enough to feel we have reached that point yet, but we are convinced that we have made it more difficult for him to use U.S. watercraft. We will continue to refine and hone our operations to make it even more difficult in the future for the smuggler to continue using the sea routes in the Caribbean.

I cannot speak too highly of the cooperation the Coast Guard receives from the other Federal law enforcement agencies. A great deal of this one-team concept must, particularly in this district, be attributed to the formation of the law enforcement organizations, but even above that the resolve of all of us to work together in this common cause has contributed greatly to the success we have so far accomplished. It is a pleasure to work with each one of them.

That ends my formal statement, Mr. Chairman. I would be pleased to answer any questions.

Mr. BIAGGI. Thank you very much for your statement, Admiral. Mr. Bazemore testified with regard to the LEO organization, which he credited you with the leadership of and he also recommended that the same LEO organization be or that the same concept be applied in the Puerto Rican and Virgin Island areas. Would you comment on that recommendation?

Rear Admiral WAGNER. Yes, sir. I believe they have a law enforcement association here in Puerto Rico which has been formed in the past 6 or 7 months. They do meet, and they just met last week I understand, and they do discuss in general what we discussed in Miami or what's discussed in St. Pete or what's discussed in Jacksonville. It is a wonderful means of getting everyone together, and I think the reason that I put in the statement that I cannot speak too highly of it, is that we all have each other's home telephone numbers—I'm talking about the heads of the agencies—we're all known as Al and Fred and Jim or Bill or whatever it is, and at 2 or 3 o'clock in the morning you can get an answer without any difficulty at all, whereas that's no time to be meeting somebody, on the telephone, if you never met him before.

Mr. BIAGGI. You would suggest then by your comments that that type of approach is far better than the heretofore haphazard——

Rear Admiral WAGNER. Very definitely, Mr. Chairman. In this connection, the Commandant in Washington has sent out a Commandant's instructions to all of the districts recommending such an organization and enclosing the 7th District's organization chart to assist in forming such an organization.

Mr. BIAGGI. On page 4, you say, "Puerto Rico has also been determined to be a transshipment port, but primarily for the heroin and cocaine trade." Is that imports or exports or how would you define that?

Rear Admiral WAGNER. I think that what I'm referring to there is the smuggling in of the heroin and cocaine, and again because such small quantities are worth so much money are more easily hidden, and then transshipped out of Puerto Rico by plane or ship or any way anybody cares to go, but I don't believe that's true for marihuana, certainly not significant amounts of marihuana, because it's just too bulky. The pictures that Mr. Bazemore showed you shows you how they bale marihuana. You actually use a Sears compactor and it comes out 80 pounds, and you compact it with a nice little plastic around it. It floats so that those vessels, which did blow themselves up or tried to burn, they sank and right after they sank, up came the marihuana. So you're talking about bulky packages, you're not going to be able to drag it on the airplane.

Mr. BIAGGI. We have evidence of heroin coming into Puerto Rico for transshipment to the United States?

Rear Admiral WAGNER. My information is that, Mr. Chairman. It's primarily from the DEA source.

Mr. BIAGGI. With 300 miles of coastline, which is a very difficult situation, to patrol, notwithstanding, or I should say despite the equipment you have, some of which I've seen is moving along in years and is rather limited, coupled this problem with the advent of the 200-mile limit, would you evaluate the rather obvious consequence of additional responsibility insofar as the present equipment is concerned?

Rear Admiral WAGNER. Well, of course, it would be very difficult and I think a lot depends upon what the definition of the 200-mile limit is going to be as to does it regard mineral rights, fishing rights, or just what it does regard. Just moving our 3-mile territorial waters out to 12 miles is tremendous, and naturally moving out to 200 miles is going to require a great deal more equipment on the part of the Coast Guard and I believe that Washington Headquarters has indicated the six cutters and six wing and helicopter planes additional would be required.

It is very difficult to run across somebody who is smuggling just as it is difficult to find somebody in a search and rescue case. It is a very large ocean, people escape detection. We sometimes have as many as 10 or 12 planes out looking for somebody missing in a boat. But I think that the Mulepats, the multiple units, have a great chance of sweeping the scene so to speak. Next January we intend to sweep Puerto Rico again. The last time we were down here we captured the Double Eagle which is now at the base next door. It isn't that marihuana or cocaine or even heroin is a daily day-to-day traffic type thing. There isn't that much coming in nor does there have to be that much because it's so valuable, but I think the DEA witness suggested two to four vessels a month I think that's probably pretty accurate. I would feel the same way from our experience, that you're talking about two to four vessels a month.

Mr. BIAGGI. Let me put a more pointed question. About the 200 miles, by the way, we're talking about fishing at this point rather than resources, but I don't think we'll resolve the resources and defense question for maybe 5 or 6 years. I think that's pretty far down the pike. The 200-mile limit with regard to fisheries is just about here. Under the present circumstances, do you have sufficient equipment?

Rear Admiral WAGNER. In my district, sir?

Mr. BIAGGI. Let me rephrase it. Could you use more?

Rear Admiral WAGNER. Oh, I could do a far superior job, Mr. Chairman, if I had more equipment, naturally. If we could block everything at once it would be wonderful. But yes, we could use more equipment, we've run our equipment very hard. However, I would have to say that headquarters in Washington fully recognizes what we're doing and has made available to us many units that do not belong to me to start with, but are given to me for operational control. But there is a limit to that. I think we need a larger fleet. I think, for instance, we need a larger vessel here in Puerto Rico such as the 210-foot cutter.

Mr. JONES. Mr. Chairman, no questions.

Mr. OLNEY. One question, Admiral Wagner. We've talked about the benefits of something like Operation Buccaneer. During that operation, did your district incur any measurable cost because of the diversion of resources from other Coast Guard missions?

Rear Admiral WAGNER. I would say no, except yes, in additional fuel cost, of course. We had already run our vessels well over the 180 days a year which is what we try to keep it at, so there's no problem with that. But, otherwise, as far as additional costs go, no.

Mr. OLNEY. In other words, you didn't experience an appreciable decline in your marine pollution, marine safety inspection missions during that period?

Rear Admiral WAGNER. No, sir.

Mr. OLNEY. Thank you, Mr. Chairman.

Mr. BIAGGI. Can you tell this committee how the alleged yachtjackings relate to the total problem?

Rear Admiral WAGNER. Hijacking yachts? I've been in this district now for about 28 months. There has not been a reported instance of possible hijacking that I could definitely say is hijacking in that 28 months. I don't believe that hijacking goes on to any great extent, particularly not in this district.

Mr. BIAGGI. How do you explain—well, I think your response is—well, let me put it this way. Are you telling me that there is no hijacking of yachts or are you telling me there's no hijackings with relation to drugs, drug trafficking?

Rear Admiral WAGNER. I would say neither. I just remember now, there was one perhaps 18 months ago down the islands to the east of here which turned out to have been a hijacking and connected with it was murder. They had murdered the owner and his wife and had taken the vessel. So there was one. But it was not in the United States, it was on one of the islands. But no, I don't believe it is a large problem. There are boats stolen almost every day, boats stolen, but not to be used in the drug trade. The ones that we have seized had been bona fide vessels and were not stolen vessels.

Mr. BIAGGI. Those vessels that you say were stolen. They weren't stolen right out from under the owners who were on board?

Rear Admiral WAGNER. No, sir.

Mr. BIAGGI. Could you give us the origin of the ships that you have seized?

Rear Admiral WAGNER. Well, of course, every ship we've seized, with the exception of the last one, was an American flag vessel because that's the only ones we have the authority to board. Most of them are operated by pickup crews. The going price, I don't know what it is now, used to be $25,000. It was well worth it for young people to undertake this, people who had nothing to—nothing better to do anyway, to make the haul for $25,000.

In the beginning we had difficulty getting convictions, mostly because we would prepare our cases based on conspiracy, but lately we have not failed on a single one. This is a great deterrent too. It's one thing to get $25,000 to be picked up and taken off in handcuffs and get your picture on television and then to go free, but it's quite another thing to spend some time in jail.

Mr. BIAGGI. Is the Coast Guard making surveys of the various marinas throughout the country and islands toward the mainland as well, in relation to strange ships or ships that are not familiar to the people in the area?

Rear Admiral WAGNER. Not specifically, Mr. Chairman, but I think a vessel as you describe it, a strange vessel, one that's not familiar to the people in the area, would be reported by the marine operator. We're not specifically looking for them, that particular type of vessel. There are an awful lot of vessels on the computer list, a great many of them. And we do consult with the computer before we make a boarding, much as a police officer does before he gets out of his car. You will notice that he—well, you're a policeman, I'm telling you—but anyway, we do the same thing, we get an idea as to what we might run into in boarding this vessel.

Mr. BIAGGI. What you're really saying is this information is vital?

Rear Admiral WAGNER. Without it we'd just run around the ocean looking for vessels.

Mr. BIAGGI. What do you think the best way to get information is, very practical, not the theory or not the school, just out there in the field, like we used to say, out there in the street, the field would be out there in the water, but in any event——

Rear Admiral WAGNER. Through informants.

Mr. BIAGGI. I should have asked this question of Mr. Bazemore. While he's still in the audience, maybe he'll respond as well as yourself, and Mr. Seibert. What's the percentage, the ratio of volunteers to paid informants? I guess you can all answer, you might have varying estimates anyway.

Mr. SEIBERT. I'd say about 50–50.

Mr. BIAGGI. If you had more money, do you think you'd be more successful, or do you have enough money for informants?

Mr. SEIBERT. We do.

Mr. BIAGGI. Buccaneer we know was successful, Admiral, and I was impressed really, particularly as a total commitment to a problem and the way all of the agencies worked together and it was great police work.

Jamaica is not as large perhaps, but do you think we could be as successful with Colombia or the Dominican Republic, taking all circumstances into consideration?

Rear Admiral WAGNER. Colombia is really an enigma to me. They're very tough on drug offenders in their own country. Yet these people, the smugglers, go to Colombia and they bid openly in auction for the marihuana, not behind a closed door but out in the street. Yet if you're caught with drugs in Colombia they throw away the key. Sort of a double standard.

Mr. BIAGGI. I share the same enigma and that's why I asked the question earlier, trying to establish whether there is a little more lenient attitude. Apparently they are very severe, and yet we have an open operation. My experience tells me that if it's unlawful and it's operating in that fashion, there has to be some official condonation. My experience also tells me that official condonation isn't born of laudable purpose and is ofttimes born of corruption. I wouldn't ask you to comment on that, but I think that's where it is essential that our State Department get involved and try to resolve that in some fashion.

I think that's a salient point and I'm glad you responded in that way. I don't believe it's ever been really portrayed in that fashion.

Rear Admiral WAGNER. It's different from the Bahamas. The Bahamas is no enigma. There are no drugs and they will not tolerate transportation through the island of drugs. They're very adamant on that. We cooperate with them fully.

As for the Dominican Republic, I am not sure it's a transshipment point but I don't believe they manufactured drugs on their own. Cuba is very tough on drug users.

Mr. BIAGGI. It's difficult to believe that the Bahamas is so severe on drugs. We have testimony here, I believe from Mr. Bazemore, I'm not sure, that they have large quantities of marihuana stored in these areas to be picked up at a later date.

Mr. BAZEMORE. Yes.

Rear Admiral WAGNER. The smugglers are using the islands, there are some two thousand islands, to stash the stuff and then take it away at leisure.

Mr. BIAGGI. Again you're talking about the impossibility of dealing with such large land areas and sea areas.

Rear Admiral WAGNER. It's surely sheer luck if you run across it.

Mr. BIAGGI. Sure. That's why it's so essential that we have information. Any questions?

Mr. JONES. Mr. Chairman, I don't have any questions, except I'd like to commend Admiral Wagner for his testimony and forthrightness as well as the other witnesses. To me it's been very informative and hopefully out of these hearings will come some constructive congressional action.

Mr. BIAGGI. We want to thank you, Admiral, for your testimony. Again, congratulations on a good job.

We'll recess for 5 minutes. We're waiting to hear from a representative of the Governor's office. We requested him to provide a witness. So far he hasn't announced himself and Mr. Heyward is out checking.

[Short recess.]

[The following statement was received for the record:]

PREPARED STATEMENT OF ASTOL CALERO TOLEDO, POLICE SUPERINTENDENT FOR THE COMMONWEALTH OF PUERTO RICO

During the last seven years our Police Department has had within its organization a Drugs and Narcotics Division which, since 1972, has been increased to include over 300 agents with a full time dedication to deal with illegal traffic and smuggling of drugs to Puerto Rico.

The drugs division is supported on its operational and technical phases by our Criminal Laboratory, an Aviation Section, line legal advisor and a Maritime Division all of which, under a wider scope of employment, offer the division the assistance it requires to fulfill its duties.

Presently, we are reinforcing the Drug Enforcement Administration San Juan Office with agents on a temporary/permanent basis and six additional agents being employed in a Task Force Operation.

Our area of responsibility is clearly defined by law as an island wide enforcement agency which brings about the dispersion of our personnel and equipment assets around the island, including sea and our patrolling.

Being such our responsibility, with a wide coverage area, a close coordination is needed with concerned federal agencies such as the Drug Enforcement Administration, U.S. Custom, U.S. Immigration and the U.S. Coast Guard.

Puerto Rico, because of its geographical position and condition as an island is primarily being utilized as a transit point or "bridge" for the smuggling of cocaine and marihuana from South America, especially Colombia, to the Continental United States. Joint and separate investigations with the aforementioned federal agencies, as well as intelligence reflects that most of the drugs that enter Puerto Rico are then shipped or flown to New York, New Jersey, Miami and as far out as California. Several arrests and seizures at our International Airport are evidence of this.

Persons and baggages, once on the island are required to check with Customs for further travelling to the Continental United States. This in itself allows for a total freedom of illegal traffic into the U.S. which disables all law enforcement agencies concerned to further inquire into the possibility of smuggling into the United States. Nevertheless, and for local protection, our legislature has recently enacted a statute that enables our agents to search all baggage, cargo, and other shipments as well as persons on "reasonable grounds" inbound from and to the United States by sea and air.

A few years ago the south coast of Puerto Rico was widely used by traffickers to smuggle into the island tons of marihuana and multikilo of cocaine as our data on seizure shows. This area then heavily watched and patrolled by our boats in a joint operation with Custom and the Coast Guard bringing about a move from these traffickers to the east, west and northern coasts. Needless to

say, our resources, and those of Custom and Coast Guard are not adequate enough to sustain and effective patrolling of all four sides of Puerto Rico.

Our experience with these traffickers has been that they operate in a very sophisticated manner. The use of electronic devices, light signals, portable radios, and various means of identification are widely employed. Cargo ships would come close to shore, anywhere from 3–20 miles, and prior identification, meet at night with a local boat that will accept the cargo and bring it to the island where it will be transferred by truck to a warehouse or other suitable building. Once in storage part of it will be locally distributed and the difference (mostly the greater part) shipped to the Continental United States.

Other means of transportation have also been discovered such as passenger ships, private planes, air or sea cargo mostly under color of pleasure trips to and from San Juan, the United States and British Virgin Islands, West Indies and South American ports.

Unattended landing strips in Puerto Rico facilitate the air smuggler's job who usually work under cover of darkness. Small pleasure local and foreign boats travel easily to the above mentioned islands, sometimes meeting other crafts outside our limits to load and unload their shipment.

In the case of heroin, LSD and other pills these are brought into the island for local traffic from Miami, New York and other principal cities in the Continental United States. Heroin, as an example, is Mexican in origin and flown in mostly by commercial aircrafts by couriers in small and large quantities.

Seizures made by our Drugs Division, some in cooperation with the federal agencies in Puerto Rico are as follows:

	1973–74	1974–75
Marihuana (pounds)	16,372	33,139
Heroin (kilos)	35	10
LSD (doses)	307	290
Cocaine (kilos)	6	31

[Whereupon the hearing was adjourned, subject to the call of the Chair.]

VIRGIN ISLAND COAST GUARD FACILITIES

(Christiansted, St. Croix)

TUESDAY, NOVEMBER 25, 1975

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
St. Croix, V.I.

The subcommittee met, pursuant to notice, at 10 a.m., in the Public Library Building, Christiansted, St. Croix, U.S. Virgin Islands, the Honorable Mario Biaggi, chairman of the subcommittee, presiding.

Mr. BIAGGI. The meeting is called to order. The Subcommittee on Coast Guard and Navigation is here this morning as a result of the initiative of Congressman Ron de Lugo, delegate of the Virgin Islands. This last spring, Congressman de Lugo raised the question with Coast Guard witnesses as to the adequacy of Coast Guard personnel and equipment to meet its present and future responsibilities in the Virgin Islands area.

The subcommittee was informed at that time that a Coast Guard staff study was then underway, addressing itself to the problem. That staff study was completed and is the basis on which the subcommittee decided to hold this hearing. We wanted to hear from the Coast Guard on their plans for the area, and we also wanted to give local officials and citizens an opportunity to express themselves on the overall problem.

One of the major questions involved here is whether the Coast Guard responsibilities in the Virgin Islands relating to search and rescue, recreational boating safety, aids to navigation, marine environmental protection, commercial vessel safety and port safety and security can be handled through the concentration of forces in the Puerto Rican area, or whether it is necessary to expand on-the-scene forces in the Virgin Islands, prepared to respond, particularly in emergencies, without unnecessary delay.

It is my own belief that the Coast Guard must insure adequate protection for this area. At the same time, I think we all understand that budgetary constraints do not always permit everything that we desire. The probable solution is for adequate on-scene equipment and personnel here, with necessary backup forces at the central activity in Puerto Rico. In order that we may arrive at a proper determination of the congressional role in authorizing funding and overseeing Coast Guard implementation, we look forward this morning, not only to a discussion of Coast Guard plans but also to the reaction of the local community to the Coast Guard's proposed solution.

Before we hear from our first witness, we would certainly like to thank the wonderful people of this island. In the short period we've been here, we've been very hospitably treated, and I can understand why you take great pride in St. Croix. What little we've seen of the island has impressed us and we hope that at the termination of these hearings we will be given the opportunity to see more of it.

So without further ado, it is my pleasure to call as the first witness your delegate to the House of Representatives, and an extraordinary individual as far as advocacy is concerned, and his ability to make his views known and effectively bring about the desired result, the delegate from the Virgin Islands, Congressman Ron de Lugo.

STATEMENT OF HON. RON de LUGO, VIRGIN ISLANDS DELEGATE TO THE HOUSE OF REPRESENTATIVES

Mr. DE LUGO. Thank you very much, Mr. Chairman. First, I would like to extend to you the heartfelt gratitude of the people of the Virgin Islands, particularly the people of St. Croix, and my own gratitude for bringing this subcommittee to St. Croix for these very important hearings. I would like to welcome you and also our colleague, Congressman Walter B. Jones from North Carolina, and it's just great having you here in the Virgin Islands. Thank you very much.

Mr. Chairman, I am grateful for the decision of this subcommittee to hold field hearings on the need for increased Coast Guard operations in the Virgin Islands, and I am very pleased to have this opportunity to testify in support of the establishment of a permanent Coast Guard facility on the island of St. Croix. I believe that these hearings provide an invaluable public service for the citizens of St. Croix. They offer the members of this subcommittee, of which I am a member, the benefit of important first-hand testimony detailing the need for such a station from officials of the local government, members of our legislature, and from concerned citizens.

Mr. Chairman, I would like to direct the main thrust of my comments to the problems associated with the location of Amerada Hess Corp., the largest oil refinery in the United States, on the south shore of St. Croix, and in particular the constant threat of potentially devastating oil spills which could profoundly alter the essential character of the entire island of St. Croix. I believe that the need for increased Coast Guard activity on St. Croix in the areas of the commercial and pleasure boating industry can be better addressed by others who are present at these hearings and who will testify later.

As you know, yesterday we visited this refinery and were all impressed by the manner in which it is operated. I think the most impressive thing was its sheer size and its capacity. Now, with a refining capacity of almost 700,000 barrels a day, the Amerada Hess Corp. oil refinery located just off Limetree Bay here in St. Croix has doubled, even tripled, the capacity of the biggest refineries on the mainland. Not only is the Hess refinery the largest in the United States, but it is also the second or third largest today in the entire Western Hemisphere, a situation which not only places St. Croix in the forefront of our national efforts to achieve increased energy independence, but which also subjects the island and, indeed, the livelihood of our people to substantial risks.

Since we are a small insular territory and since we have no indigenous supply of oil, Hess must import all of its crude requirements from abroad by ship. Recent figures released by the Federal Energy Administration show that, in terms of oil imports, the harbor at Limetree Bay, St. Croix, now ranks as the fourth largest port in the United States. Only New York, Philadelphia, and New Orleans rank higher in terms of petroleum imports handled.

The point is, Mr. Chairman, that the magnitude of the Hess refinery and the sheer volume of crude oil imports needed to service its operations makes St. Croix relatively more vulnerable to oil spills and potential disaster than just about any area in the country.

Moreover, the total volume of oil loaded and unloaded off St. Croix waters is expected to increase dramatically in the near future. The Amerada Hess Corp. has developed preliminary plans which, depending on future market conditions, could result in a substantially expanded refinery capacity of its St. Croix installation.

In addition, another refinery company is in the process of gaining the necessary Federal clearances so that it can begin construction of a long-planned facility with an initial capacity of over 100,000 barrels a day. Thus, St. Croix which is already the fourth largest port in the United States in terms of oil imports, is destined to become an even bigger factor in the business of keeping America running—with all of its associated risks.

Under the provisions of the Water Pollution Control Act Amendments of 1972, the U.S. Coast Guard has major responsibility for the oversight of oilspill cleanup operations. Believing in the principle of applying resources to the areas of greatest need, I think that the absence of a permanent Coast Guard station on the island of St. Croix is a serious problem and exposes the entire area to needless danger.

In response to its mandate under the 1972 law, the Coast Guard has developed a marine environmental protection program, MEP, which establishes procedures not only to supervise the cleanup of oil spills but which also seeks to prevent them. Among the more important preventive procedures under this program are: One Coast Guard monitoring of oil transfer operations between ships and shore facilities; two, Coast Guard boardings of oil tankers and oil barges; and three, onsite Coast Guard inspections and surveys of oil storage facilities.

Because of our insularity and our obviously fragile ecological balance, an effective preventive program of marine environmental protection is absolutely critical to the future well-being of the island and the people of St. Croix. And yet the nearest Coast Guard facility equipped to handle oil spills and to implement preventive measures remains in San Juan, P.R.

As I indicated at the Coast Guard oversight hearings held by this subcommittee in Washington last winter, this may have made a lot of sense a few years ago, but the rapidly changing pattern of refining operations and oil shipments in the Caribbean and throughout the United States argues persuasively in favor of adapting resources to needs and establishing a permanent Coast Guard station on St. Croix.

At the present time, the captain of the port in San Juan sends men to the Virgin Islands for a 5-day workweek, once a month, to conduct activities in support of the marine environmental protection program and the port safety and security program.

Yet in 1974 alone, there were 996 oil tankers and 264 oil barges which loaded and unloaded 48 million tons of crude oil and petroleum products off the coast of St. Croix. Given the sheer number of transfer operations and the total volume of oil transferred, the capacity of Coast Guard resources thus far allocated to St. Croix for the MEP preventive operations is totally inadequate for the job it is required to do under the mandate of the 1972 law.

During the hearings of last spring on the Coast Guard authorization bill, the chairman of this subcommittee directed the Coast Guard to provide a study of its operations in the area and to detail the need for their possible expansion. In this study, it was acknowledged that, and I am quoting from the Coast Guard study:

> The volume of petroleum products handled on St. Croix indicates that there is a reasonable likelihood of some pollution in the area. To meet this potential problem, it is envisioned that an increase in Coast Guard activities will be effected.

The Coast Guard, however, did not indicate how much increased activity on their part would be necessary for St. Croix and how such activity should be organized. With an average of almost three oil tankers and one oil barge coming into port each day, and I mean, these are big babies, we saw three super-tankers tied up over there, I firmly believe that only a permanent facility can supply the kind of Coast Guard presence that is vitally needed in this situation.

Such a station will not only be able to provide essential support for effective marine environmental protection and port safety programs, but since St. Croix is also home to a large commercial and pleasure boating fleet, such a station will also be able to provide important support in these areas as well, including search-and-rescue operations.

Mr. Chairman, this concludes my prepared statement. I would like to again thank you for the decision of the subcommittee to hold these important hearings on the island of St. Croix.

Mr. BIAGGI. Thank you very much, Congressman de Lugo. Your statement poses a number of questions, the answers to which I am sure we should be getting from the Coast Guard officials who will be testifying here this morning. You've made a very effective and persuasive presentation which sustains our initial belief that St. Croix should certainly have some Coast Guard representation, the extent of which will be determined after we evaluate the testimony taken at this hearing today. I thank you for your most meaningful statement.

Mr. DE LUGO. Thank you, Mr. Chairman.

Mr. BIAGGI. Mr. Jones?

Mr. JONES. Mr. Chairman, I have no statement to make at this point in time, but I really would ask Congressman de Lugo, what complement, how many men do you think would be reasonable if we ever reach that point?

Mr. DE LUGO. Well, Mr. Chairman, I would prefer to defer that to the judgment of the Coast Guard, being aware of their budgetary restraints, and also that they really use their men for maximum effectiveness, they don't just throw a lot of people on the scene, as has been the case in other areas. I do know that the present situation is totally inadequate, and I do know that we need a substantial Coast Guard presence on the island of St. Croix. I think it's important for St. Croix, and I think it's important for our Nation.

[The witness was excused.]

Mr. BIAGGI. Capt. Harold W. Parker, Commander of the Greater Antilles Section, 7th Coast Guard District, U.S. Coast Guard. Captain Parker.

STATEMENT OF CAPT. HAROLD W. PARKER, JR., COMMANDER, GREATER ANTILLES SECTION, U.S. COAST GUARD

Mr. BIAGGI. Before Captain Parker testifies, let the record show that we have with us Vice-Admiral Perry of the U.S. Coast Guard as well as Captain Wood from Washington. Captain Parker?

Captain PARKER. Good morning. Mr. Chairman, I am Capt. Harold W. Parker, Jr., Commander of the Greater Antilles Section, U.S. Coast Guard, Commanding Officer of the Coast Guard base at San Juan, and Captain of the Port of Puerto Rico and the U.S. Virgin Islands, and I am pleased to have this opportunity to testify before the committee.

As you will recall, during the course of the hearings you held on the Coast Guard's fiscal year 1976 authorization bill, the Commandant was questioned by Mr. de Lugo with respect to the adequacy of Coast Guard personnel and equipment to meet the present and future operational needs of the Virgin Islands.

Of particular concern was the level of performance in the marine environmental protection, port safety and security, and commercial vessel safety program areas. A thorough study of the matter with respect to all Coast Guard programs was undertaken. A report was submitted to you on June 19, 1975, and a copy was provided for Mr. de Lugo. I would like to briefly review for you what the conclusions of that study were and to apprise you of any changes which have occurred since its submission.

The study concluded that existing and forecast search and rescue, recreational boating safety, and aids to navigation program activity is satisfactorily matched by resources; however, expected marine environmental protection, port safety and security, and commercial vessel safety workload trends will require additional resources if expected program needs are to be met. These findings remain valid. The study identified potential internal adjustments of existing resources to better aline our assets with our workloads.

I am pleased to advise you that, as a result of realinement efforts, we will establish marine safety detachments at Port Ponce, P.R.; at St. Croix and St. Thomas; and this will be in the near future.

These detachments will be one officer and five enlisted men at Port Ponce, one officer and three enlisted men at St. Croix, and one officer and four enlisted men at St. Thomas. Each marine safety detachment will have a vehicle and skiff assigned.

As you may know, our activities in the Virgin Islands are backed up by additional resources both on the mainland and in Puerto Rico. The Navy serves as a host for several Government agencies which operate from Puerto Rico. U.S. Coast Guard Air Station Puerto Rico is a major tenant at Ramey, for example. We depend heavily on the Navy for base support including extensive community support for our personnel and their dependents. We do, of course, reimburse them for identifiable elements of service which we actually use or for a pro rata

share of other general services to the extent that funds have been appropriated.

In an action which will have an effect on the Coast Guard services to the area, you should also know that we will relocate four long-range search aircraft, HC–130's from our air station at Elizabeth City, N.C. to St. Petersburg, Fla. Improved response time to this area by these forces will result. The move is scheduled to be completed by October 1976.

Mr. Chairman, this very briefly updates the report previously provided and concludes my prepared statement. I have prepared for you anud the committee a breakdown by units of the Coast Guard resources in the Greater Antilles section and I would ask you for permission to submit it for the record.

Mr. BIAGGI. Without objection, Captain Parker. At the same time, we would like to submit, for the record, the staff study which you refer to in your statement.

[The material follows herewith :]

RESOURCES BREAKDOWN FOR U.S. COAST GUARD ACTIVITIES IN THE GREATER ANTILLES SECTION

Activity	Personnel	Boats/aircrafts
PUERTO RICO		
I. San Juan:		
A. CG base	11 commissioned officers; 2 warrant officers; 77 enlisted; 26 civilians.	3 30-ft UTM's; 2 16-ft SKI's; 1 10-ft UTL.
B. Marine inspection office	4 commissioned officers; 2 warrant officers; 4 civilians.	
C. CG radio station	1 warrant officer; 18 enlisted	
D. Captain of the port	2 commissioned officers; 19 enlisted	
E. CGC Sagebrush	4 commissioned officers; 2 warrant officers; 46 enlisted.	2 25-ft MCB's; 1 16-ft SKB; 1 21-ft UTM.
F. CGC PT Warde	8 enlisted	1 14-ft CSKM.
G. CG Reserve group:		
1	4 commissioned officers	
2	45 enlisted	
2	4 commissioned officers; 46 enlisted	
H. CG recruiting station	2 enlisted	
II. Fajardo:		
A. Lorand station, Cape San Juan.	12 enlisted	1 14-ft SKB.
III. Aguadilla:		
A. CG air station	16 commissioned officers; 2 warrant officers; 78 enlisted.	3 HH3F helicopters.
B. CG LTSTA PT Borinquen	3 enlisted	1 14-ft SKB.
IV. Port Ponce:		
A. LASTA Port Ponce	3 enlisted	1 14-ft SKB.
V. Point Tuna:		
A. LTSTA PT Tuna	3 enlisted	
VIRGIN ISLANDS		
I. St. Thomas:		
A. USCG Liaison officer	1 commissioned officer	
B. CGC PT Whitehorn	8 enlisted	1 14-ft SKM.
C. LASTA Charlotte Amalie	3 enlisted	1 14-ft SKB.
Total personnel:		
Active duty	38 commissioned officers; 9 warrant officers; 280 enlisted.	
Reserve	8 commissioned officers; 91 enlisted	

COAST GUARD ACTIVITIES IN THE U.S. VIRGIN ISLANDS—A STAFF STUDY

GENERAL

The American Virgin Islands are in the Caribbean Sea approximately 30 nautical miles east of the Island of Puerto Rico. The three main islands are divided into two basic areas, St. Thomas and St. John, due east of Puerto Rico and St. Croix, 32 miles south of St. Thomas and St. John.

These tropical islands are small and lush with vegetation. They are dependent upon outside trade and transportation for the majority of their commercial

needs. Commerce consists mainly of tourism, bauxite refining and petroleum refining which results in a requirement for a considerable amount of air and marine transportation. As a result the U.S. Coast Guard has a responsibility to provide certain services in conjunction with those of the Virgin Island government to provide for marine safety in and around the Virgin Islands.

The Virgin Islands have five commercially active ports; one on St. Thomas and four on St. Croix. St. Thomas has a harbor at Charlotte Amalie while St. Croix has harbors at Christiansted, Frederiksted, Krause Lagoon and Limetree Bay.

Charlotte Amalie Harbor, located in the middle south coast of St. Thomas, is the only sheltered harbor for deep draft vessels in the Virgin Islands. The harbor's oval-shape and high hills provide ships with a well-protected and safe anchorage except from hurricanes. No facilities are available for major repairs or drydocking deep-draft vessels in the U.S. Virgin Islands. The nearest Facilities with these capabilities are in San Juan.

Christiansted Harbor, located in the middle north coast of St. Croix, is a shallow harbor unaccessible to deep-draft vessels due to its depth of 16 feet. Most vessels arriving in this port are cruise ships, recreation boats, and small fishing vessels. The harbor consists mostly of shoal water with a reef and bank extending across the entrance of the harbor except in the channel opening.

Frederiksted Harbor, located on the west coast of St. Croix, is a port of call for cruise ships and cargo vessels. Its proximity to the prevailing southeasterly trade winds and its depth of 30 to 60 feet provide ships with a good safe berth. Large vessels may dock at the long pier in the four mile wide open roadstead without any major problem.

Krause Lagoon Harbor, located on the southwest coast of St. Croix, is primarily a private port of call for ships arriving at the bauxite refining facility. This facility, known as Port Alucroix, is owned and operated by the Martin Marietta Aluminum Company. The 33 foot deep channel maintained and marked by this company leads ships through the reefs into the harbor where they off-load bauxite ore and on-load alumina, a white powder used as the principal raw material in the manufacturing of aluminum.

Limetree Bay Harbor, located in the middle south coast of St. Croix, is primarily a port of call for large oil tankers arriving at the Hess Oil Refinery Facility. The harbor channel is maintained by Hess Oil to a depth of 53 feet for the larger tanker vessels which off-load crude oil and on-load petroleum and petrochemical products.

At present the Coast Guard has two operating units and a liaison officer in the Virgin Islands. These units are under the operational and administrative control of Commander, Greater Antilles Section (GANTSEC), who is in turn under Commander, Seventh Coast Guard District.

The 82-foot patrol boat CGC Point Whitehorn (WPB–82364) is homeported at Charlotte Amalie, St. Thomas. Her officer-in-charge is a Chief Boatswainsmate with a crew of seven enlisted men. The vessel and crew are charged with responsibility for the following programs:

Search and Rescue; Enforcement of Laws and Treaties; Marine Environmental Protection; Military Preparedness; Port Safety and Security; and Recreational Boating Safety.

The vessel is normally in two-hour standby status. She can respond to cases in St. Croix within two hours of getting underway (St. Croix being approximately 30 miles distant). Response to cases in St. John takes less time in direct proportion to the distance from St. Thomas. The Point Whitehorn has a maximum speed of 23.7 knots and a range of 490 miles. She can accommodate 25–30 persons in an emergency rescue situation.

Coast Guard Light Attendant Station (LAS) Charlotte Amalie at Charlotte Amalie, St. Thomas has three enlisted men assigned. This unit's only assigned mission is Short Range Aids to Navigation. The men assigned have responsibility for the operation and maintenance of eight minor lighted aids to navigation and one daybeacon. Additionally, the unit has secondary responsibility for the fourteen buoys in the St. Thomas/St. John area. The station also serves as a minor search and rescue unit when the opportunity and necessity arise. This unit has averaged two cases per year (1972–1974) using their small skiff and/or truck.

The Coast Guard liaison officer billet (LTJG) in St. Thomas serves as a point of contact between the government of the U.S. Virgin Islands and the Coast Guard. His duties lie primarily in the areas of Port Safety and Security, Marine Environmental Protection, and Commercial Vessel Safety. Further, he serves as the immediate operational commander of the Point Whitehorn and LAS Charlotte

Amalie. He serves as housing coordinator for personnel assigned to the U.S. Virgin Islands and provides liaison between Commander, GANTSEC and the Coast Guard Auxiliary in the Islands. Further, he is expected to investigate all reported oil spills in the U.S. Virgin Islands. As a matter of routine he is required to report the arrival and departure of all commercial vessels in the major ports of the U.S. Virgin Islands.

COAST GUARD RESOURCES SUPPORTING THE U.S. VIRGIN ISLANDS

There are a number of Coast Guard operating units outside of the geographical limits of the Virgin Islands, even outside the limits of the Seventh Coast Guard District, which are required to be prepared to undertake operations in the U.S. Virgin Islands.

Search and Rescue

Coast Guard Air Station Puerto Rico located at Ramey Air Force Base, Aquadilla, P.R., has three HH–3F helicopters attached. At least one of these aircraft is always available for SAR. An HH–3F aircraft can reach the Virgin Islands in one and one half hours from the time of notification.

This type of aircraft can transport 8 to 10 persons (in addition to pilot and crew) in an emergency rescue situation. In FY 1974 the Air Station conducted forty cases (15% of their total caseload) in the Virgin Islands.

The 180 foot seagoing buoy tender Sagebrush is homeported in San Juan, P.R. While her primary function is aids to navigation maintenance, she performs search and rescue when in a position of opportunity or when her seakeeping or weight-handling capabilities are needed. She has participated in two cases in the Virgin Islands thus far this year.

Commercial Vessel Safety (CVS)

The Marine Inspection Office (MIO) in San Juan presently has four Officers and two Warrant Officers assigned. They are responsible for providing CVS support to the U.S. Virgin Islands when required. In the past year approximately one man-year has been spent in vessel inspection and investigations in the U.S. Virgin Islands. This support has been provided from the resources at MIO San Juan.

Aids to Navigation (AN)

The CGC Sagebrush (identified previously under SAR) is assigned primary responsibility for all federal aids to navigation in the Virgin Islands (less the nine aids assigned to LAS Charlotte Amalie). As such she makes periodic aid maintenance trips throughout the U.S. Virgin Islands.

Marine Environmental Protection (MEP)

At present there are no Coast Guard personnel assigned to the Virgin Islands to administer the MEP program on a daily basis.

Contingency plans which are outlined in the New York Coastal Region Multi-Agency Oil and Hazardous Materials Contingency Plan have been made to effect response in this area. The plan includes critical water use areas, cleanup and disposal techniques, equipment and services, local strike forces, potential pollution sources, scientific advisory groups and communications for local alert and notification.

Immediate action by the local source is called for as the primary response in the contingency plan. 33 CFR 154 requires that large oil transfer facilities have ready access to oil containment material and equipment. The type and amount of equipment required is based on the oil handling rate, oil capacity susceptible to be discharged, frequency of facility operations, tidal and current conditions and facility age, capability, configuration and past experience.

Coast Guard response to pollution incidents in the U.S. Virgin Islands is within the pre-designated on-scene coordinator area of Captain of the Port (COTP), San Juan. Coast Guard response would be instituted upon notification with personnel and, if necessary, equipment (boom and sorbent material) from San Juan.

Upon receiving notification of a polluting discharge or potential discharge in the coastal area, a Coast Guard representative should be on-scene within one hour of notification if the discharge is in a COTP zone and within four hours if outside such a zone. Experience has shown that the response could be effected in one to two hours by Coast Guard helicopter. Additionally, the Coast Guard Gulf Strike Team, located in Bay St. Louis, Mississippi, upon notification can be en-

route within two hours with personnel and equipment, and on-scene and operational within 24 hours. For example, on 22 January 1975 COTP San Juan, P.R., was advised of a spill in Limetree Bay, St. Croix by the tanker Michael C. Lemos. At 1615, 22 January, COTP San Juan requested assistance from the Gulf Strike Team. At 0850, 23 January 1975, Gulf Strike Team personnel and equipment arrived St. Croix and began to provide assistance.

Captain of the Port (COTP) San Juan presently sends two men to the U.S. Virgin Islands for a five day workweek, once a month. The purpose of these trips is to conduct activities in support of the MEP/PSS Programs. Activities performed in support of MEP are: Monitoring Liquid Bulk Transfer Operations; Tankship/Tankbarge Boardings; and Liquid Bulk Facility Spot-Checks, Inspections and Surveys.

It should be noted that the majority of the work performed during these visits—perhaps as much as 90%—is in support of the MEP program. The remainder is in the PSS area and will be discussed below.

The volume of petroleum products handled indicates that there is a reasonable likelihood of some pollution in the area. To meet this potential problem it is envisioned that an increase in the activities mentioned above will be effected. Past experience in performing these activities nationwide, with supporting data to aid in determining success, indicates that a minor personnel commitment would be required in an area where commercial activities are highly concentrated.

Port Safety and Security (PSS)

During the five day visits outlined above the following activities are accomplished in support of the PSS program: Dangerous Cargo Boardings; Dry Cargo Facility Spot-Checks, Inspections and Surveys.

In addition to these visits, COTP San Juan provides a minimum of four men, six to eight times a year, to act as Special Interest Vessel (SIV) boarding parties when Russian cruise ships call in St. Thomas.

WORKLOAD

The following section describes various indicators of workload in the U.S. Virgin Islands by program. It is recognized that some of the statistics are generated only as a result of present Coast Guard activities (e.g. Search and Rescue) and therefore may be biased. Best available data was utilized in every case.

WORKLOAD INDICATORS IN THE VIRGIN ISLANDS

Search and Rescue Program

St. Thomas/St. John

	Cases
Fiscal year 1974:	
CGC Pt. Whitehorn (60 cases total)	55
LASTA Charlotte Amalie (ground trans. only)	1
AIRSTA Puerto Rico (250 cases total)	27
CGC Sagebrush	8
Fiscal year 1975 (partial year data):	
CGC Pt. Whitehorn (data through Jan. 28, 1975)	36
LASTA Charlotte Amalie (data through May 19, 1975)	9
AIRSTA Puerto Rico (data through Apr. 18, 1975)	13
CGC Sagebrush (data through Dec. 20, 1974)	1
Fiscal year 1974:	
LT. STA. Ham's Bluff	27
AIRSTA Puerto Rico (250 cases total)	13
CGC Pt. Whitehorn (60 cases total)	5
CGC Sagebrush	0
Fiscal year 1975 (partial year data):	
LTSTA Ham's Bluff (automated Apr. 1, 1975 data to that date)	0
AIRSTA Puerto Rico (188 cases total) (data through Apr. 8, 1975)	9
CGC Pt. Whitehorn (data through Jan. 28, 1975)	5
CGC Sagebrush (passenger vessel escort) (data through December 20, 1974)	1

NOTE.—LTSTA Ham's Bluff averaged 13 cases per year (1972–74).

Commercial Vessel Safety Program

St. Thomas/St. John

Present average annual workload:

Inspection visits (73 8-hr man-days)	160
Casualty investigations (4 8-hr man-days)	11
Investigations of violations of law (20 8-hr man-days)	51
Personnel investigations (10 8-hr man-days)	5
Total man-days (approximately ½ man-year)	107

Trends: Solid tourism industry recovering from mild slump caused by highly publicized violent crimes on St. Croix. Expect mild growth of small passenger vessel and SOLAS inspections, probably on order of 1 to 2 %. Heavy passenger traffic between these two islands and between islands and the British Virgin Islands.

St. Croix

Present average annual workload:

Inspection visits (30 8-man-days)	40
Casualty investigations (5 8-hr man-days)	5
Investigations of violations of law (4 8-hr man-days)	8
Personnel investigation (2 8-hr man-days)	1
Total man-days (¼ man-year)	41

NOTE.—St. Croix is one of the largest U.S. tanker ports. It is served mostly by foreign tankers. If U.S.-flag tanker shipping increases, expect marked increase in inspection and investigation workload. Construction of offshore pipeline and one more tanker port is expected during the next 1 or 2 years; this will increase inspection and investigation workload to probably double present levels. A full time investigating officer in the area would probably triple violation and personnel investigations. The tourism industry presently recovering from severe slump caused by heavily publicized murders and assaults. Expect continued stability and growth. Probable increase in small passenger vessel inspections about 25 percent per year for next 2 or 3 years, then slow down to 1 to 2 percent. St. Croix averages 20 shipping commissioner appointments per year which are presently attended mostly by U.S. Customs officers. If Customs workload increases, or Customs suffers manpower reductions, this workload would have to be assumed by Coast Guard. St. Croix averages 6 vessel document endorsements annually. Present procedure is for masters to take vessel document and fly to St. Thomas for endorsement by CO, COGARDACT V.I. or vice versa. If U.S. shipping increases, this could add to workload.

Recreational Boating Safety Program

St. Thomas/St. John and St. Croix

In 1974 there were 1,148 numbered motorboats in the U.S. Virgin Islands.
This was 0.017% of all numbered motorboats in the U.S.
Fiscal Year 1973, 3 reported accidents with 1 fatality.
Fiscal Year 1974, 4 reported accidents with 0 fatalities.
The U.S. Virgin Islands have established a Marine Law Enforcement Agency and possess what the Coast Guard considers an acceptable state boating safety program.

Aids to Navigation Program

St. Thomas/St. John

Existing Federal aids to navigation:

Minor lights	8
Daybeacon	1
Lighted buoys [1]	9
Unlighted buoys [1]	5

St. Croix

Major light (automated and unmanned)	1
Minor lights	8
Daybeacons	4
Lighted buoys [1]	2
Unlighted buoys [1]	10

[1] A small number of selected buoys may be converted to fixed beacons in the future.

Marine Environmental Protection Program

St. Thomas/St. John

1974: 24 Tankbarge Arrivals or Departures; 84 Tankship Arrivals or Departures.

A Total of 102,000 tons of petroleum cargo handled at five facilities.

St. Croix

1974: 264 Tankbarge Arrivals or Departures; 996 Tankship Arrivals or Departures.

A Total of 48,085,000 tons of petroleum cargo.

These vessels were bound primarily for five facilities on St. Croix, with Hess Oil the largest by far—handling 48,000,000 tons of petroleum annually.

Trends: Current estimates indicate a slow increase in vessel movements and a resultant growth in cargo transferred through 1980. Some plans have been made for a construction of a single point mooring at the Hess Oil facility that would permit the handling of 250,000 to 400,000 dwt tankers.

PORT SAFETY AND SECURITY PROGRAM

	Arrivals/departures (1974)			
	Tank barge	Tankship	Other	Cargo in kilo-tons
St. Thomas/St. John (Charlotte Amalie):				
Texaco oil storage and distribution	0	24	0	36
Water and power authority	24	0	0	36
Shell oil storage and distribution	0	48	0	12
Esso oil storage and distribution	0	12	0	18
Break bulk	0	0	480	120
Total	24	84	480	222
St. Croix:				
Hess oil refinery, Lime Tree Bay	240	960	0	48,000
Aluminum manufacturing, Martin Marietta Alumina, Krause Lagoon	0	12	0	1
Texaco oil storage and distribution, Krause Lagoon	0	24	0	48
Water and power authority, Christiansted	24	0	0	36
Breakbulk, Fredricksted and Christiansted	0	0	204	324
Total	264	996	204	48,409

FUTURE PLANS IN GANTSEC AND/OR U.S. VIRGIN ISLANDS

Search and Rescue

The foregoing review of the existing search and rescue posture and caseload in the Virgin Islands indicates an adequate capability to handle current workload. There are presently no plans for augmentation, but the situation will be monitored for determination of future requirements.

Commercial Vessel Safety

With workload approaching one man-year in the Virgin Islands identified in the CVS program, the program manager is prepared to consider transferring one officer billet from MIO San Juan to the Virgin Islands.

Short-Range Aids to Navigation

No changes are in progress or projected for the aid system in the U.S. Virgin Islands other than some possible conversions, mentioned previously, which would not change AN workload in the area. Present service in the AN program is considered adequate.

Recreational Boating Safety

There are no problems presently perceived in the RBS operational program in the Virgin Islands. No augmentation of RBS activities are planned in the area.

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Marine Environmental Protection

The MEP program manager is in the process of identifying present and future personnel resources for GANTSEC. However, the actual levels that can be provided are not easily determined at this time.

Port Safety and Security

The PSS Program Manager (in the District as well as Headquarters) has recognized the low level of Coast Guard activity in response to the PSS (and MEP) workload in the Virgin Islands—as well as the rest of the Greater Antilles Section. Resources have been requested in the budgetary process and the following have thus far survived.

In FY 1976 seven new enlisted billets will be established at COTP San Juan whose area of responsibility encompasses the Virgin Islands. Also a new 32' PWB is scheduled for delivery to COTP San Juan. FY 1976 OE funds for establishing and operating consolidated Marine Safety Offices and Detachments will be available for the entire Greater Antilles Section.

Commander CGD7 Proposal

Commander, Seventh Coast Guard District has proposed the establishment of two Marine Safety Detachments—one at St. Thomas and one at St. Croix—to more fully meet mission responsibilities in his area of responsibility. The availability of housing and adequate schools for Coast Guard dependents has been identified as a problem in the U.S. Virgin Islands. Commander CGD7 has recommended that only married personnel *without* school-age children be assigned to St. Thomas and St. Croix. This recommendation has been concurred with by the personnel support manager in Headquarters, with the additional assertion that it may be extremely difficult to meet the personnel needs of expanded operations in the Virgin Islands given the "married, without school-age children" constraint.

SUMMARY

The foregoing indicates that the missions of search and rescue, recreational boating safety and aids to navigation are presently adequately provided for in the U.S. Virgin Islands. Analysis of workload indicators and the existing deployment of resources urge consideration of expansion in the missions of marine environmental protection, port safety and security and commercial vessel safety in the U.S. Virgin Islands.

Captain PARKER. This concludes my prepared statement, sir. I will be happy to answer any questions that you may have.

Mr. BIAGGI. Thank you for your statement, and thank you for your conclusions. One question I have is on Congressman de Lugo's statement on page 2, where he states that—

> In terms of oil imports, the harbor at Limetree Bay, St. Croix now ranks at the fourth largest port in the United States. Only New York, Philadelphia, and New Orleans rank higher in terms of petroleum imports handled.

For the record, does the Coast Guard have installations and bases at these three locations?

Captain PARKER. Yes, Mr. Chairman.

Mr. BIAGGI. So, how can we justify not having any Coast Guard base here in St. Croix?

Captain PARKER. Mr. Chairman, the study indicated that there is a need for a base here and a MEP station will be established.

Mr. BIAGGI. Do you believe that, in the light of the traffic and in light of our concern for environment, the personnel that you recommend is sufficient?

Captain PARKER. Yes, sir, I do. The New York, Philadelphia, and New Orleans ports may rank higher in the oil import than St. Croix; however, they are also servicing very many refineries there located up and down the rivers and the bays. The oil that comes into St. Croix comes into Hess, far and away the largest importer in the entire cap-

tain of the port area down here in the Caribbean Sea, Puerto Rico, and the Virgin Islands. Therefore this makes it easier to monitor the transfer operations where the biggest danger of spill occurs.

Mr. BIAGGI. Does the reassignment of personnel require some change of authorization when we have hearings next year?

Captain PARKER. Sir, I can't answer that question.

Mr. BIAGGI. Well, let me rephrase it. Will there be a need for additional personnel in Coast Guard?

Captain PARKER. Sir, we're talking in terms of reallocation of our existing resources. I would say the answer to that is no, at this time.

Mr. BIAGGI. We were out at Hess refinery yesterday and we were most impressed. For the record and for our own information, would you please tell us just exactly how the oil is offloaded. Do we have pipings or——

Captain PARKER. Yes, sir. The oil comes in in crude form from the Middle East and from Venezuela. These large tankers, the very large crude carriers that are very, very deep-drafted vessels, are first lightered off at Fredericksted in very large crude barges so that their draft will decrease and they can come up to about 55 feet draft. At that time a pilot takes the tanker in alongside of the large docks that they have in Limetree Bay at the Hess refinery and then the transfer operation is completed at that time.

Mr. BIAGGI. That's with relation to crude oil. Just to offload a tanker you have two transfer points. Is that right? From your testimony, it goes from the tanker to the lighter and is then brought into the dock.

Captain PARKER. Yes, sir. You must lighter the very large crude carrier, there would be two transfers, yes.

Mr. BIAGGI. Now, isn't this Hess installation somewhat distinguished from most other refiners that deal with the byproducts at a later date?

Captain PARKER. This is a very large refinery, sir, and they do distill more than some of the smaller refiners, yes.

Mr. BIAGGI. Well, that's true. After they finish refining, they have to load again, don't they?

Captain PARKER. Yes, sir.

Mr. BIAGGI. The point I'm making is that the number of tankers that we have is one item but the amount of traffic is multiplied.

Captain PARKER. I see your point, Mr. Chairman. It's well taken. It's absolutely true, because a load of oil comes into Hess in crude form and must go out again either as a distilled product or a byproduct of the process.

Mr. BIAGGI. So it increases the potential hazard.

Captain PARKER. That's correct, sir.

Mr. BIAGGI. I have some other questions but at this point I will relinquish it to Congressman de Lugo.

Mr. DE LUGO. Thank you very much, Mr. Chairman. I want to welcome you before the committee, Captain Parker. It's good seeing you today. I'd like to commend the Coast Guard on the excellent job that it has been doing in this area with rather limited personnel. I'm very pleased to note that the Coast Guard has decided to establish a marine safety detachment unit on both St. Croix and St. Thomas. Now, could you explain precisely what resources including personnel, craft, and equipment, will be available for each detachment and where precisely they will be located?

Captain PARKER. I can't answer that question at this time because we have not gotten any real estate or buildings on St. Croix to establish the station as yet.

Mr. DE LUGO. Well, you did mention the number of personnel that would be assigned to each island. Could you give me those numbers again?

Captain PARKER. Yes, sir.

Mr. DE LUGO. And the craft and equipment that will be available to them.

Captain PARKER. The detachments will consist of one officer and three enlisted men at St. Croix, one officer and four enlisted men at St. Thomas. Each marine safety detachment will have a vehicle and a skiff assigned. A skiff would be a 16-foot outboard.

Mr. DE LUGO. You've just answered my question. As a layman, I was wondering exactly how we were defining a skiff.

Captain PARKER. A skiff, sir; it would be important that it would be a trailerable boat, trying to get a large boat from one side of St. Croix to the other without taking it across the island by vehicle would be an extremely difficult thing to do and very time consuming.

Mr. DE LUGO. Is this already provided for in the fiscal year 1976 budget.

Captain PARKER. If it isn't, sir, there are resources within the Coast Guard to provide a boat.

Mr. DE LUGO. Can you detail more precisely the responsibilities which this detachment will have on St. Croix and exactly how it will be organized?

Captain PARKER. Its main purpose here will be marine environmental protection, port safety, and security, but all Coast Guard units have additional responsibilities in accordance with the Coast Guard missions. We're a multimission service, as you well know. Therefore, any search and rescue calls that come in, they will either handle or they will get hold of my base, the rescue center at San Juan, and we'll dispatch the necessary assistance to them. Also they would be given a secondary responsibility for being sure that the aids to navigation for which the Coast Guard is responsible in and around St. Croix and St. Thomas are relighted, if they are extinguished.

Mr. DE LUGO. Well, Captain, I am sure that you've already gotten the impression from the questions that were directed toward the Coast Guard by our distinguished chairman that there seems to be some concern on the part of the committee relative to the numbers being assigned in relation to the sheer volume of oil and potential for an accident on the island of St. Croix.

I'd like to ask some specific questions. Perhaps you may not have the answers available to you today, and I would like to ask you to make them available for the record, as a part of the record. Now, how will this operation compare to the Coast Guard resources allocated to smaller ports in terms of oil imports such as, for example, how will we compare in terms of the Coast Guard resources assigned to St. Croix in comparison with the smaller ports such as Miami, Los Angeles, and Seattle? Also could you provide for the record of this hearing a brief comparative study of the major ports in the United States in terms of oil tanker traffic, volume of oil transferred, and the amount of Coast Guard resources including personnel assigned to implement marine environmental protection programs in these ports?

I think that this sort of comparative analyses will be most helpful to the committee. Could I make that request, Mr. Chairman?

Captain PARKER. I am sure you understand, Mr. de Lugo, that I do not have that information available at my San Juan, my captain of the ports district, but I would be happy to provide it.

Mr. DE LUGO. I am sure you didn't have it sticking in your pocket this morning, but that's the type of thing that we'd like to have for our record so we can really take a good hard look at what we're facing here.

Offhand, Captain, and we won't hold you to this, but just offhand, How do you think St. Croix would rank in such a study?

Captain PARKER. Again, Mr. de Lugo, we are back to the number of facilities in and around a given port. St. Croix has one major facility, it's Hess.

Mr. DE LUGO. We may have two soon.

Captain PARKER. Yes, sir. Right next door to it almost, as a matter of fact. I think at that time it will be time to take a reappraisal of the number of forces that we have here.

Mr. DE LUGO. Don't I understand that the other refinery will have a separate channel?

Captain PARKER. I don't know about a separate channel. I would think they would have to have one.

Mr. DE LUGO. I believe they are going to have a separate channel, using a mono buoy?

Captain PARKER. They're going to use a single point mooring, but it wouldn't be economically feasible to use a single point mooring for just small tankers.

Mr. DE LUGO. Would you proceed?

Captain PARKER. That was the question.

Mr. DE LUGO. In previous testimony by officials of the Coast Guard before this subcommittee, it was stated that the monitoring of oil transfers between ships and shore was the most effective procedure yet devised to prevent possible oil spillage. Precisely how does the Coast Guard oversee such operations?

Capitain PARKER. By being on-scene and making sure that the tankermen who actually make the transfer operations are in communication with each other, both at the transfer point and at the receiving point. This is very necessary just in case a spill occurs.

For example, a blown gasket or a packing lets go on a pump, if they are not in communication, one man sees it and perhaps he is not able to get it shut off at his end and we end up with a large spill. Where they are in communication, we will probably have a small spill in a case like that, we can shut down in time, so the communications is important. Also we inspect the glands and the packing and the gaskets and all of those particular parts of the pipe, the corrosion of the pipe itself, the condition of the tanks, and they have a complete checkoff list for the facilities. These men are trained in this work.

Mr. BIAGGI. Will the gentleman yield?

Mr. DE LUGO. Certainly, Mr. Chairman.

Mr. BIAGGI. I appreciate your response, Captain Parker. It indicated to me how sorely lacking in assigned personnel the Virgin Islands are, epsecially with relation to St. Croix and the Hess refinery, to date. We're happy about the recommendation that the Coast Guard makes

as to assigning some personnel here, because obviously there is almost a day-to-day need rather than the present system of assignment which is sadly lacking, to be generous. But it appears to me that the people of the Virgin Islands have been neglected in the supervision that is so essential in the transfer of oil from the tankers to the lighters to the dock.

We're satisfied that the Hess refinery is doing a good job, but we also are familiar with human behavior. In order to assure that that job continues or even improves, we feel that considerable supervision and expert supervision would be essential.

Thank you.

Mr. DE LUGO. Thank you very much, Mr. Chairman, you just made the point that is so obvious from the captain's reply. It is accepted by the Coast Guard that the safest or the best way to monitor these things is on the spot during the transfer whether you're unloading or loading. Yesterday when we were at the Hess refinery, we spoke to Hess personnel, too, and they said that that was the point where the greatest danger lies.

Many of these tankers, in fact most of them, have foreign crews. A private company does not have jurisdiction over these crews, so when Hess tries to monitor this they are limited; but the U.S. Coast Guard does have jurisdiction over any ships that enter our waters, so it's far more persuasive when the U.S. Coast Guard says you will operate under these conditions.

Commander, your statement just doesn't square with the presence of the Coast Guard in the Virgin Islands, because at the present time you assign two men to the Virgin Islands for a 5-day workweek once a month, and yet during the past year to do the very job that you just outlined, Hess alone in 1974 had 996 oil tankers and 264 oil barges which loaded and unloaded 48 million tons of crude oil and petroleum products off the coast of St. Croix.

Now, in light of that, can we possibly say that two men, no matter how well trained, could have monitored this huge operation and safeguarded the island of St. Croix from potential hazard?

Captain PARKER. We certainly did not monitor all the transfer operations, Mr. de Lugo, during that period of time.

Mr. DE LUGO. Captain, wouldn't you say that there is a need for more personnel, even more than the three that are going to be assigned to St. Croix, to do an adequate job? When you take a look at the sheer number of transfers taking place, wouldn't the Coast Guard agree that the Hess refinery is of some importance to the United States at this point when there is such a shortage of petroleum products?

Captain PARKER. Yes, sir. Monitoring an oil transfer, which takes quite some time to dump down a large VLCC, or for that matter a large tanker, does not necessarily have to be the full time that the tanker is unloading, they can check the tankermen, make sure that they have the proper communications between them, check the line, and spot check them from time to time, and they will be doing their duty, just out of concern that a Coast Guardsman will appear on scene.

Mr. DE LUGO. Captain, perhaps you could tell me what sort of special equipment, if any, is needed to monitor these transfer operations that we're talking about.

Captain PARKER. No, sir, I can't answer that question.

Mr. DE LUGO. Would you provide for the record, Captain, under its present monthly visits to St. Croix from San Juan, how many such transfers are actually monitored by the Coast Guard, and how many total transfers actually took place during the past fiscal year?

Captain PARKER. That is in our reports and I can provide that. Now, you want that for fiscal year 1975, Mr. de Lugo?

Mr. DE LUGO. I'd like it up to the present time, if possible, Captain.

Captain PARKER. All right, sir.

Mr. DE LUGO. Thank you very much.

Captain PARKER. Fiscal year 1975 up until the present time, fiscal year 1976?

Mr. DE LUGO. As recent as your records are.

Captain PARKER. All right, sir.

Mr. DE LUGO. Thank you, Captain. Captain, just one or two more questions. What other activities would this detachment be able to undertake pursuant to the various Federal statutes which govern the Coast Guard?

Captain PARKER. I think the most important single thing in terms of public safety of the people of St. Croix is, it would be a contact point for our search and rescue forces, and if the 16-foot trailable boat was not available, there would be rapid communication between St. Croix and the Coast Guard in San Juan, and adequate assistance could be dispatched in the search and rescue field. Again, in "Aids to Navigation," were a buoy out, any Coast Guard unit would be able to go out and temporarily get the buoy relighted until the cutter from San Juan could arrive on scene and properly take care of the aid.

Mr. DE LUGO. Captain, one thing that bothers me a bit is the adequacy of this 16-foot skiff for the purposes of really doing the job here on St. Croix. How many search and rescue missions were conducted in the St. Croix area in the last fiscal year?

Captain PARKER. Just St. Croix, Mr. de Lugo?

Mr. DE LUGO. Yes; the St. Croix area, because I'm aware that we have adequate facilities on the island of St. Thomas.

Captain PARKER. Forty-five, sir.

Mr. DE LUGO. Forty-five. Thank you very much, Captain.

Two final questions. One, I wonder if you could provide for the record what percentage of the Coast Guard's work in the past fiscal year was devoted in the immediate Lesser Antilles including the Puerto Rico area, Virgin Islands area, to search and rescue missions.

Captain PARKER. Would you want that measured in man-years? This is very difficult, sir, because of the many missions that the Coast Guard has to perform, for example a Coast Guard buoy tender goes out with 50 men on board and tends a buoy 150 miles away, it has to steam for 12 hours to get there, work the buoy for 1 hour, steam 12 hours back, yet that's 50 people times that. A search and rescue case would be perhaps one helicopter with four men aboard, going out for half an hour and pulling two men off a boat. Therefore, I am not sure exactly how to measure it if I didn't actually do it in man-years, and I think, Mr. de Lugo, that that wouldn't be a very meaningful——

Mr. DE LUGO. Captain, I'm going to leave this to you, you're a better judge of how to give this committee the more accurate picture of what

percentage of importance is a search and rescue mission, the saving of human lives, given by the U.S. Coast Guard. I know it's probably your highest priority, but I would like to see that measured, because it seems to be played down constantly when we talk about St. Croix. What we're going to get out of this whole thing is a 16-foot skiff. We know that there are boats in St. Thomas and in Puerto Rico, but I think that given the total picture here in St. Croix we have got to have more adequate equipment. We have got to have really an effective Coast Guard station here, and if the Coast Guard cannot find the money in their budget I suggest that they push for it in the next hearings when we work on your budget. I am sure that we'll go to bat for you, because it's needed here, as is clear from these hearings.

The final question, Captain, what type of men and equipment and what would the response be if there was an oil spill, let's say 50 miles east of St. Croix?

Captain PARKER. We're talking now, sir, in terms of high seas containment, which we are just beginning to get the art developed in the Coast Guard. An oil spill 50 miles east of St. Croix would probably not be able to be contained or collected.

Mr. DE LUGO. In other words, it would end up here in St. Croix and Puerto Rico and Vieques, Culebra. It would be a pretty catastrophic event, wouldn't it?

Captain PARKER. If I may compare for a second, sir——

Mr. DE LUGO. Certainly.

Captain PARKER. The question again is a hard one to get hold of, what kind of oil, for example, gasoline, diesel, heavy Venezuelan crude or the light Iranian crude and so forth. These are hard questions to put a handle on the answer for you. But in the Michael C. Lemas spill of January of this year, we had rather a major spill, almost a third of a million gallons was dumped in the Caribbean Sea, of which quite a bit was dumped right in Limetree Bay, because the vessel was entering the harbor when it struck something on the bottom, opened the hull, they brought it into the harbor leaking badly, turned it around and sent it back out again, but not before it had spilled quite a bit of crude oil right there in Limetree Bay and the lagoon.

The oil that was spilled in Limetree Bay and in Kraus Lagoon was collected, the other oil was out in the Caribbean Sea and the oil stream was 50, 60, 100 miles long, streaming into the Caribbean Sea, very thin, very spread out, and we just don't have enough boom to collect something like that, it dissipated and it's gone and did not come up on the shores of Nicaragua, Costa Rica or the Panama Canal, at least they didn't report it if it did, sir. It dissipates and also to a certain extent it's biodegradable, too.

Mr. DE LUGO. Well, I don't think our good friend Jacques Cousteau would agree with us on this point.

Captain PARKER. No, sir, but you know, there are things that you cannot do in our present state of the art and that is collect an oil spill of that magnitude.

Mr. DE LUGO. I certainly realize that, Captain. I want to commend the Captain, Mr. Chairman, on his forthright and helpful testimony here today. My point is certainly there are things that we're not technologically prepared to handle, but I think we can underline very clearly here the potential for disaster and that we've got to have the

resources and give it our very best shot to protect these islands and the people of the Virgin Islands.

Thank you, Mr. Chairman, for the patience of the committee. You're welcome to the balance of my time if I have any left.

Mr. BIAGGI. Congressman Jones.

Mr. JONES. Thank you, Mr. Chairman. Captain, I think it's developing here—first, let me say I am grateful for the announcement you've made about some Coast Guard activity here on the island, because I'm quoted in a St. Croix paper by Associated Press as saying there would be an excellent chance of this being made a reality, so you've verified my statement. Thank you very much. But I sort of detect here that this is one of the few true statements I've ever made. [Laughter.]

I detect on the part of Mr. de Lugo that perhaps even with your one officer and three men stationed here, somehow or other with the danger that exists in the tremendous operation of the Hess refinery, perhaps it's not quite all that they want or perhaps even need. Now, along that line, it's been mentioned that under the 1972 act, the Coast Guard has the responsibility of monitoring the refineries throughout the Nation, and I believe Ron mentioned the fact that Miami, for example, is a much smaller oil port than the local port. How do you monitor other ports under your responsibility? How many men do you assign for example to the Miami port?

Captain PARKER. I would like to point out, Mr. Jones, here, that the captain of the port personnel, although here in St. Croix they would be zeroed right in on marine environmental protection, because of the Hess refinery here, they have duties over and above that, and port safety and security falls into that area, too, so there are other vessels, other docks in and around Miami, so the captain of the port people who are involved in the oilspill and the transfers would have other duties than that, yes, sir. This is the situation we have in San Juan now, my captain of the port people, we have a very small refinery in San Juan, the chairman has overflown it and——

Mr. JONES. But they have other duties whereas here, if I follow your statement, the four men that you assign here would basically be concerned with the refinery. Of course, they would be available for search and rescue and other activities in cases of emergency. Is that correct in essence?

Captain PARKER. If someone in the Coast Guard, Mr. Jones, if someone was monitoring a transfer operation, or for that matter an oilspill cleanup and there was a search-and-rescue case involving safety of life at sea, that coastguardsman would be gone, he would be on his way.

Mr. JONES. That of course takes priority.

Captain PARKER. Yes, sir.

Mr. JONES. Well, sir, thank you very much. I can't let this go by without getting some comment from you. You have stated that we will relocate four long-range search aircraft HC–130's from our air station in Elizabeth City, N.C. What's that going to do to me in my district? [Laughter.]

Captain PARKER. Mr. Jones, when that paragraph from my statement was given to me——

Mr. JONES. I didn't know I was going to be here at all.

Captain PARKER [continuing]. I said "Why me?"—I can't answer that, sir.

Mr. JONES. In all seriousness, I don't think it will have any great adverse effect at Elizabeth City base, but I'm sure I'll get a few telegrams asking "Why are they doing this?" I think maybe I'd like to have some answer and I think maybe I've got it.

Mr. DE LUGO. I don't think they'll say why they are doing it, they'll say "Why have you done it?"

[Off the record.]

[Statement off the record by Mr. Jones.]

That's all the questions I have, Captain Parker. Thank you very much.

Captain PARKER. Thank you, sir.

Mr. BIAGGI. You say you're going to assign four men here.

Captain PARKER. Yes, sir.

Mr. BIAGGI. What tours of duty will they be working?

Captain PARKER. These things are set up in our personnel manual, Mr. Chairman. If they come over here with their wives, it will be a 3-year tour of duty. That's an accompanied tour. Otherwise it's 18 months, if they come as single men.

Mr. BIAGGI. What would their schedule be, their workaday schedule?

Captain PARKER. That would depend on the needs, workaday and workanight, it depends on when the transfer operations are coming about. They will be very busy. I would say for example my captain of the port people in San Juan, if you base it on an 8-hour workday, they work about 138 percent of the time.

Mr. BIAGGI. But the port will always be covered, when necessary?

Captain PARKER. Yes, sir.

Mr. BIAGGI. Let's put it that way "when necessary."

Captain PARKER. Yes, sir.

Mr. BIAGGI. With a skiff, which frankly I think is meager equipment. We're talking in terms of oil spills. Wouldn't a superior way of locating oil spills be by helicopter?

Captain PARKER. Sir, we at the present time have oil pollution helicopter overflights throughout the entire captain of the port zone, which is Puerto Rico and the U.S. Virgin Islands. Also oil spills are required to be reported when they're spilled within the U.S. waters.

Mr. BIAGGI. Well, assuming that everyone doesn't report them when they spill, then the policing activities on the part of Coast Guard come into operation and they can start their whole magnificent detective work which they've done recently, to determine the offender, the identity of the offender, but I think it's important that the overflights be maintained. How often do they fly over currently?

Captain PARKER. They're sporadic, but they fly about once a week, at random inspections.

Mr. BIAGGI. Well, I don't believe that once a week is sufficient. Let me pose this question. Do you think our purpose would be better served by more frequent flights?

Captain PARKER. In the case of Hess in St. Croix, I would say no. The Hess management is the most conscientious oil spill reporting organization that we have throughout the entire section. If they will spill a pint they'll report that they have spilled a pint.

Mr. BIAGGI. Fine. Now, let's talk about the tankers coming in that, for whatever reason, don't come under the jurisdiction and supervision of Hess.

Captain PARKER. Hess will report them, sir.

Mr. BIAGGI. If they know it.

Captain PARKER. They know when there's oil spills. It depends on where we're talking about. In the harbor, they know when there is an oil spill.

Mr. BIAGGI. Well, let's talk about outside of the harbor.

Captain PARKER. That's the reason for the overflights.

Mr. BIAGGI. Then we come back again, one overflight a week is hardly——

Captain PARKER. Your spills at sea, if I may, are not generally speaking, spilled in close to the beach where they can be seen, they're usually dumping their slops and they'll be in the middle of the Caribbean Sea and they are not American flag vessels, other flag vessels, dumping their slops at sea and making their spills out there. Now, sometimes at night they will be cleaning their tanks going through places like the Mona Passage or Vieques Channel, where there would be a hazard to our particular area around here. These are why we have our helicopter flights up, again spot-checking. We can't stop all oil spills, Mr. Chairman, the intentional ones especially.

Mr. BIAGGI. Do we have a Coast Guard cutter in St. Thomas?

Captain PARKER. Yes, sir, we have the *Point Whitehorn* at St. Thomas.

Mr. BIAGGI. How often is that laid up during the course of a year?

Captain PARKER. I would say some 30 days. She'd be operational 11 months of the year, at varying times.

Mr. BIAGGI. When it's laid up, what do we have covering the islands?

Captain PARKER. We will bring the *Point Ward* in which is stationed at San Juan. We bring her from time to time over to St. Thomas. That's a sister ship incidentally, sir, of the *Point Whitehorn.*

Mr. BIAGGI. Mr. Heyward?

Mr. HEYWARD. I have no questions.

Mr. BIAGGI. Mr. Olney?

Mr. OLNEY. No questions.

Mr. BIAGGI. Thank you very much, Captain Parker, for your testimony, and also for letting us know what the Coast Guard recommends in connection with St. Croix. I think from the line of questioning and the responses that Congressman de Lugo is happy that you acknowledge the need and that there will be some Coast Guard facilities here, but I share his concern about the size of the facility and the number of personnel planned. That's a matter that the committee will take up further with you.

Captain PARKER. Yes, sir.

May I for the record say this, Mr. Chairman, that the responsibility for cleaning up the oil is not the Coast Guard if we know who the spiller is, it's up to the facility, in the case of Hess they have the finest booms and more absorbent material for picking oil out of the water and a pool of people that just seems to be inexhaustible. Yesterday they were talking in terms of 5,000 people going down to the beach when they had that spill about 4 years ago, and they cleaned

the beaches up so nicely, and this of course is the name of the game, there's no way that the Coast Guard can get that many people in, so all we do in the cases of cleanup is monitor, we do work and do some cleanup, but we monitor and we bring in contractors, or we have the facility itself clean it up.

Mr. BIAGGI. That's right, but the time they sent 5,000 people down is the time they had 5,000 people in construction. Construction is decreasing in size, and the numbers employed have been substantially reduced. I don't believe that in the event we have a spill in the future that we'll have those numbers available, but we appreciate that numbers are essential in cleaning up.

Mr. DE LUGO. May I make one point, Mr. Chairman?

Mr. BIAGGI. Yes.

Mr. DE LUGO. Thank you very much, Mr. Chairman. Again I come back, Captain, to the main thrust of our concern. It has been established that the most dangerous part of the operation, the part of the operation where you have the highest percentage for accident as acknowledged yesterday by Hess officials and by the Coast Guard, is during the unloading and loading. If these are foreign flag vessels, foreign crews, they do not come under the jurisdiction of a private company such as Hess, so it is in the monitoring of the loading and unloading of the oil, that is one of my primary concerns. That's where the U.S. Coast Guard can do a tremendously effective job of preventing the oil spill, and we want to see some good preventive medicine here. I want to thank you again for being such a fine witness.

Captain PARKER. Thank you, Mr. de Lugo.

Mr. BIAGGI. Thank you.

[Witness excused.]

Mr. BIAGGI. Representing the Governor of the Virgin Islands will be Commissioner Virdin Brown who is accompanied by Louis P. Terrell, Deputy Director of Civil Defense. Commissioner Brown?

Mr. DE LUGO. Mr. Chairman, I would appreciate it if you would yield for just a moment. I would like to say a word of welcome to my good friend, Commissioner Virdin Brown who served with distinction in the Legislature of the Virgin Islands. I am sure he makes an equally distinguished Commissioner of Conservation. I wish that our Governor could personally have been here today. As you know, he was invited by the committee but he's a very busy man and I can assure you that he is well represented by the Commissioner of Conservation and Cultural Affairs. Welcome to this committee, Virdin.

STATEMENT OF VIRDIN C. BROWN, COMMISSIONER OF CONSERVATION AND CULTURAL AFFAIRS, GOVERNMENT OF THE U.S. VIRGIN ISLANDS

Mr. BROWN. Thank you, Ron. Mr. Chairman, members of the committee, it is my pleasure to be here. My name is Virdin C. Brown. For the record, I am Commissioner of Conservation and Cultural Affairs, and I am here representing the Governor and the views of the administration on the matters considered by the Subcommittee on Coast Guard and Navigation.

Also joining with me is Mr. Louis Terrell, who is the deputy director of the Office of Civil Defense.

Mr. Chairman, it gives me great pleasure to testify to the adequacy of the Coast Guard facilities and personnel to carry out Coast Guard responsibilities in the U.S. Virgin Islands, and particularly St. Croix. I feel that this occasion is unique since the founder of the Coast Guard, Alexander Hamilton, grew up on these islands, particularly St. Croix.

A little statistics: St. Croix encompasses 84 square miles of land area. It's coastline measures some 64 miles of land area. It's coastline measures some 64 miles, of which about 5.5 miles or 8.6 percent is allocated to marine or marine-related uses. The Virgin Islands on the whole, and particularly St. Croix, has experienced significant growth in population and economy. St. Croix population increased from 14,900 in 1960 to approximately 32,000 in 1971, and some other estimates would place that higher, somewhere in the vicinity of 40,000 to 45,000 persons.

For the Virgin Islands as a whole, gross domestic products increased in volume from $25 million in 1960 to $340.5 million in 1972. Imports for the same period increased from $42 million to $596 million.

Being an island with very limited raw materials, particularly all manufactured goods and raw materials for consumption and processing, enters the Virgin Islands in general and St. Croix in particular by ships. Ships also bring in large numbers of visitors to our shores. Local fishermen depend on the sea for their livelihood. And the beautiful waters around the island have caused the growth of a sizeable pleasure craft fleet and other watersports activities. That fleet encompasses some 1,600 registered small craft, as we know it today.

In short, the sea and the shore areas have been, are presently, and will even more so in the future, be an important and crucial factor in the life of the people and the economy of the Virgin Islands.

The Coast Guard station on St. Thomas has performed a commendable service. However, its effectiveness varies inversely with the distance, and St. Croix north shore is located 40 miles from St. Thomas. Consequently, the response time for the Coast Guard vessel is significantly longer for any problem situation around St. Croix than for St. Thomas. The time element for a rescue vessel to reach a vessel in distress or lost is critical. It may mean a difference of life or death.

I might inject here that the Governor has indicated he had a long desire of seeing that a Coast Guard facility be established on St. Croix for the very same reasons.

Along with other agencies, the Department of Conservation and Cultural Affairs, through its Bureau of Fish and Wildlife, and more recently with the addition of the Bureau of Shoreline and Land Management, has been of assistance to vessels in distress. Since August of 1974 through September of this year, the Bureau assisted in 13 cases where boats and persons were in distress, and these were recorded cases, there have been others.

At present, only two 22-foot outboard boats without radio, and I emphasize, without radio, are in service. Due to their size and lack of communication, they are effective only in near shore areas. This force will soon be increased by two additional boats, equipped with marine radios, and will become part of a joint interagency law enforcement group comprised of Federal and local agencies.

Through the increased communication capability and information exchange, the effectiveness of the Bureau of Fish and Wildlife, boats will be significantly increased in carrying out their mandated law en-

forcement role and to be of assistance to vessels and persons in distress.

However, any problems occurring further at sea, in bad weather or involving foreign vessels at sea, can only be effectively dealt with by a Coast Guard unit or some other sizable volunteer craft, as Mr. Terrell will point out.

Aside from the Coast Guard's function in promoting orderly and safe maritime operations, its role in oil and other hazardous substance pollution control in navigable waters is of special significance to St. Croix. The south shore of St. Croix is the site of the major industrial activity in the Virgin Islands; included are Martin Marietta's bauxite processing plant; Hess Oil with a daily capacity of, as we put it, Mr. de Lugo, 610,000 barrels per day; Texaco fuel storage facilities nearby; the Virgin Islands water and power fossil fuel powerplant; Virgin Islands rum distillery and molasses storage and unloading facility.

In addition to those potential pollution sources, the industrial complex may grow to include an additional oil refinery, specifically the Virgin Islands Refinery Corp., with a process capability of 200,000 barrels daily. And I might point out here for your information. Congressmen, that there will be no channel dredge for the Virgin Islands Refinery Corp., offloading facility will be a platform built about 2 miles offshore, so there will be no channel for ELCC's to run in.

Mr. DE LUGO. May I ask a question?

Mr. BROWN. Yes, sir.

Mr. DE LUGO. And then from that platform there will be a pipeline under the sea?

Mr. BROWN. That's correct.

Mr. DE LUGO. Thank you.

Mr. BROWN. In addition to these other facilities mentioned, there is a new major port facility which would handle the over 300,000-annual tons which presently pass through the port facilities of Christiansted and Fredericksted, and as you will see, all of this concentration of facilities in this area will increase the boat traffic in and around the south central portion of St. Croix.

It is estimated that the port will handle over 500,000 annual tons 5 years after its completion. At present, the two major items in terms of tonnage are gasoline and cement, both of which are possible pollution sources. One addendum in here is that, not mentioned here, is that Hess has also applied for a permit to establish a single point mooring system which is barely a mile, at least contemplated to be barely a mile from the platform that is proposed by the Virgin Islands Refinery Corp. Of course, this points to the fact that we are concentrating a great amount of shipping traffic and much of it with oil in, again, the south central area of St. Croix.

St. Croix, primarily the south shore, has been subjected to oil spills and other environmental insults. Major oil spills occurred on June 12, 1971, when perhaps some 200,000 barrels of light crude were spilled, and again on January 22, 1975, this year, when between 250 to 1,000 barrels of light crude oil were spilled. There has been a number of lesser spills throughout the territory, some of them reported and some not reported.

Not only is that pollution destructive to the marine environment and interferes with our enjoyment of our sea and beaches, but it also is a

serious threat to our other major industry, tourism, which is based in part on the concept of clean pristine beaches and clear emerald waters.

This ideal is rapidly diminishing along St. Croix' south shore and will be further threatened by the anticipated increase in marine-related industrial activity. A contingency plan for the control of oil and other hazardous materials has been prepared by this Department as mandated under VI law at No. 3538, which amended title 12 which is the Conservation Code section of the Code.

Necessary funds are being requested through the local appropriations to activate this plan. Needless to say, based on the magnitude of the potential oil pollution problems to the island of St. Croix, its people and economy, the presence of a Coast Guard station on this island will undoubtedly be of significant help in dealing with the problem, especially with proposed Federal law such as H.R. 9294, dealing with liability and compensation in case of oil spills.

One thing not pointed out in writing here, Mr. Chairman, and I would like to bring it to your attention, is that we are, like Puerto Rico, in a zone of heavy smuggling, narcotics traffic, and the Department of Conservation and Cultural Affairs has joined with the other local and Federal law enforcement agencies in trying to stem the tide of this onslaught of narcotics, other booty, and including human beings, and we have been of assistance, but because of our very nature, because we are broad, we're spread out, we have many isolated coves, many places that are easily accessible, and the ingenuity of those who would smuggle using airplanes and boats or a combination of the two, we find that smuggling continues and with a Coast Guard station on St. Croix the surveillance can probably be increased to the extent that we will be able to at least minimize the flow of narcotics in and through this area and which quite often ends up in the United States.

Mr. BIAGGI. Thank you, Commissioner.

Mr. BROWN. That's the end of my testimony, and I think Mr. Terrell would like to make some comments, some oral comments.

Mr. BIAGGI. Before we get to Mr. Terrell, your closing remarks related to narcotics, booty and human beings. We're familiar with the narcotics problem and we've been addressing ourselves to it. We understand the nature of the entire undertaking, and we realize that Puerto Rico and perhaps the Virgin Islands, as you state, are conduits used by smugglers to facilitate entry into the United States where their big market is.

I share with you the notion that the presence of the Coast Guard would have a deterrent effect, or at least a suppressing effect, but I am not impressed by the numbers that we have in relationship to the narcotics problem.

You said booty, but you also said human beings. Now, what did you mean by human beings?

Mr. BROWN. Well, it has been established that there are persons brought in illegally into the territory and landed at places where they can have access to the shore and come into a U.S. territory illegally; that, circumventing the immigration procedures, and this has been done, the present level has diminished somewhat but it has been, and to the best of my knowledge, at this time, I don't think it has stopped, but it has abated somewhat.

Mr. BIAGGI. Is it your testimony that people are trafficking in this illegal alien business—that's what we're talking about—illegal aliens? They're trafficking in this human commodity in the same fashion that they might be trafficking in narcotics, for profit?

Mr. BROWN. As it has been opportune for them to do so, it has occurred.

Mr. BIAGGI. I am sure it has. I'm glad you raised it. This committee would appreciate any sustaining data or documents you might have for its consideration. Currently in the Congress, the Judiciary Committee has reported a bill which has as its purpose the suppression of smuggling of illegal aliens, and any documentation we might get from you to sustain it even further could be used by us while the bill is being considered by the Congress in debate.

Mr. BROWN. On one occasion, earlier this year, we had occasion to join with the British Virgin Islands Government and the local department of public safety in surveilling a craft that had been suspected of importing or smuggling in liquor both ways, and human beings, individuals who could circumvent the immigration procedures.

Mr. BIAGGI. I see you're aware of H.R. 9294. This committee is currently holding hearings on that legislation which deals with liability and compensation. We would appreciate it if, after you review it, if you haven't already, you would forward any comments you might have. If you would send it to us we will submit it for the record with your comments and recommendations.

It's our judgment that this legislation will provide very substantial answers to the liability and compensation question in connection with oil spills.

Mr. BROWN. We are reviewing that in depth at this time and we will prepare comments on it.

Mr. BIAGGI. Thank you, Commissioner.

Congressman de Lugo?

Mr. DE LUGO. Thank you very much, Mr. Chairman. I want to commend Commissioner Brown on an excellent statement, most helpful to the committee and to this member. I want to also commend you on raising the point of the VIRCO platform vis-a-vis the mono buoy that will be installed by Hess. As I understand it, VIRCO's platform will be located 2 miles offshore and it would be approximately or only 5,000 feet from the Hess mono buoy. That seems very close. Of course that would increase the chances of an oil spill or some problem of that nature. I also understand that the Interior Department recognized this prior to the passage of my legislation on the submerged lands bill which your department administers, and that in fact counsel for the Interior Department suggested a joint facility, but this was rejected. Thus, if both permits are granted, the danger of oil spills, complicated by the proximity of the mono buoy and the platform, greatly increases our problems. Would you agree with that statement?

Mr. BROWN. Yes, I would, Congressman. We have had discussions the function of interior in issuing submerged lands permits.

the function of interior in issuing submerged lands permits.

We did have discussions with both parties concerned. One seemed to be interested in such a joint venture, but the other didn't. There are understandable reasons why the other party would not, that being Hess. They would not want to enter into such a joint venture and we

have to recognize that. In either case, the Hess permit will have to be considered in light of, and the VIRCO permit will have to be considered, in light of the location of each of the facilities. As it is, the VIRCO permit is much further along in consideration than the Hess permit at this time, and it's possible for a realignment of the location, the single point mooring system.

Mr. DE LUGO. At the present time who grants these permits, Commissioner?

Mr. BROWN. The Government of the Virgin Islands through the Department of Conservation and Cultural Affairs and the Army Corps of Engineers, and the party must have both permits before he can begin any kind of work or construction.

Mr. DE LUGO. Well, obviously I am impressed by your concern, and I can assure you that I am deeply concerned about the potential here and I hope that your department and the Army Corps of Engineers will study this very carefully before reaching a final determination.

Thank you, Mr. Chairman.

Mr. BIAGGI. Congressman Jones?

Mr. JONES. Thank you, Mr. Chairman. Mr. Brown, if I followed you, I believe that you said that your department and the Corps of Engineers had final authority to issue these permits for the new refinery or Hess?

Mr. BROWN. That is correct. In terms of submerged lands.

Mr. JONES. In other words, the U.S. Department of Interior has authorized you to act as their agent or——

Mr. BROWN. This is by act of Congress, passed in 1974, it's Public Law 93–435, which took effect—it was signed by the President on October 5, 1974, and it took effect January 1 of this year, and our subsequent law, local law, title 12, chapter 15 of the VI Code, which vested the authority for the issuance of submerged lands permits under the department of conservation.

Mr. JONES. Congratulations. I'm glad to know the President signed some bills.

[Laughter.]

Mr. JONES. But seriously, if you know, what amount of land taxes or property taxes does the Hess Corp. pay in this jurisdiction?

Mr. BROWN. Land taxes, I'm not certain that Hess is paying any land taxes. I think by its agreement with the government of the Virgin Islands back in 1964 or 1965, whatever the case was, they were exempted from those taxes or a portion of those taxes. However, on the submerged lands permit, they do pay permit fees.

Mr. DE LUGO. I think that the record should show that that is for a limited period. That's not forever.

Mr. BROWN. That's right, 16 years.

Mr. DE LUGO. Sixteen years, I believe.

Mr. JONES. Then they become taxpayers, corporate citizens.

Mr. BROWN. Right. If they are not given any other extension.

Mr. JONES. How far along are the plans for the new refinery? Is it in the foreseeable future or a couple of years away or what?

Mr. BROWN. I can speak in terms of the submerged lands permits, and from our side, and to a certain extent my familiarity with the Army Corps efforts, it seems that within this coming year, within the month, before the end of the year, there will be final action at least by

the department of conservation, and perhaps the Governor will have reviewed it by early or mid-December; that is, the permit for VIRCO. The Army Corps procedure is spelled out in such a way that they have a time limiting factor which is built in before they can issue a permit, and it will probably be some time in late January or February before they issue a permit, if at all.

Thereafter it's up to VIRCO to take action. I think they have to clear their financing, which is a major factor, and once they do that, then I presume they will proceed.

Mr. JONES. Thank you, Commissioner, very much. No further questions.

Mr. BIAGGI. Questions, Mr. Heyward?

Mr. HEYWARD. In connection with the Army Corps permit, that is basically on obstruction to navigation?

Mr. BROWN. No, not only that, but it's also in fact something occurring on the submerged lands. Of course, it's under the Rivers and Harbors Act, section 10 of that act, that they are authorized to do this, but that's one factor in it, the factor of navigation.

Mr. HEYWARD. I would say that's probably the primary factor, but the question I was getting to was whether the Department of Conservation is familiar with the proposed regulations of the Coast Guard in connection with deepwater ports. That, of course, is not applicable within the territorial waters of the Virgin Islands, but they have issued proposed regulations for offshore ports under the Deepwater Port Act. If the department personnel haven't done so, I think it would probably be helpful to take a look and see whether their parameters of safety on distances and that sort of thing might be of some assistance in determining the question.

Mr. BROWN. We have recently received some information for review related to this, and that's subject to the review.

Mr. HEYWARD. But it's not applicable within the territorial waters.

Mr. BROWN. Right.

Mr. HEYWARD. Still it might be a good guide to assist in coming to decisions on safety distances as between these two facilities.

Mr. BROWN. Yes.

Mr. HEYWARD. Thank you, Commissioner. Thank you, Mr. Chairman.

[Witness excused.]

Mr. BIAGGI. Mr. Tirell.

STATEMENT OF LOUIS P. TIRELL, DEPUTY DIRECTOR, OFFICE OF CIVIL DEFENSE AND EMERGENCY SERVICES, GOVERNMENT OF THE VIRGIN ISLANDS

Mr. TIRELL. Mr. Chairman, for the record, as deputy director of Civil Defense for St. Croix, I have been called upon by the Coast Guard to coordinate many small craft sea rescues encompassing the area around the island of St. Croix with the cooperation of the U.S. Coast Guard in St. Thomas and the RCC in San Juan. It appears that the Coast Guard, rather than send a cutter out to assist any of these lesser distress signals of emergency that we may receive on St. Croix, the Coast Guard has made a practice of contacting me at the Office of Civil Defense or at my home if an emergency should occur during the night or on weekends.

They have consistently requested our assistance, particularly in communications, in aiding them to feedback any information we may obtain relevant to the emergency in order that they may make decisions pertinent to the mission. Civil Defense and the Coast Guard have worked closely together in developing a fairly comprehensive communications system, however, it is still extremely time consuming since the Whitehorn is anywhere from 3 to 4 hours away, and any other larger cutters out of RCC are approximately 5 to 6 hours away, depending on weather conditions and whichever side of the island the sea rescue is located. The Coast Guard have required Civil Defense to coordinate, along with other volunteers and available resources within the island since there is such a time lapse for the Coast Guard to arrive on the scene. If we have a known fix on a distressed vessel that is possibly sinking or on fire, they will send a helicopter out of San Juan for a more expeditious rescue, however, even though they can get here in 50 minutes, and have been involved in a number of such rescues, especially in dropping sonar in order to assist Civil Defense in locating the vessel, this is still, in my opinion, not the solution to our problems. We have great cooperation with the U.S. Navy tracking station in Frederiksted who have been able to give us a fix if the disabled vessel have communications on board where they can get direction as to turning to the port or to the starboard in order to get a fix on the disabled vessel.

The U.S. Navy has also been very cooperative in some of the other work. You will note from this report that the persons involved here on St. Croix include a varied and considerable amount of local expertise, particularly the port authority pilots and the harbor men down at our cargo harbor here at Gallows Bay, also TraCor Marine which is a private organization who is doing research work here, and Hess refinery, they have all cooperated 100 percent where we could not get Coast Guard to come in to assist in these rescues, mainly because of the time limit involved between the islands, we're 40 miles away from St. Thomas, and a lot of times the Whitehorn is out on another mission, and this happens quite often. There are numerous times when the small, independent commercial fisherman who makes his living go out many times at dusk and runs into problems when his motor becomes inoperable. He will then send up a few flares and the police of the Public Safety Department here on St. Croix will alert the Office of Civil Defense to see what we can do about the situation. Civil Defense has endeavored to cooperate but our biggest drawback is lack of adequate communications between the Office of Civil Defense and other volunteers since Civil Defense have the only radio communications here and with the cooperation of WAH in St. Thomas they can contact the Coast Guard by marine radio.

The St. Croix Yacht Club and also some of the expertise from the power squadron have been great assistance in coordinating and helping in any way with information about the missing vessels or boats that are within the limits of St. Croix.

As Commissioner Brown brought up, as far as the human cargo was concerned, we had an instance some time back where 28 persons aboard a distressed vessel which had run aground during a rainstorm on the south shore of St. Croix. This a pretty far distance away. The helicopter out of RCC came in and the *Whitehorn* came from St. Thomas, it's probably in their records, to patrol the vessel since the

disabled vessel from Dominica and bound for Tortola had aliens aboard. Immigration and Customs authorities were called to the scene as well as the police who had first notified Civil Defense and had already taken several aliens into custody. Customs were also looking for contraband and Immigration authorities were on the lookout for illegal aliens entering U.S. territory. There was also a big question as to how many had swam ashore after it had been reported to the police. Civil Defense, even though it is making efforts to coordinate such emergencies have no facilities whatsoever to cope with a situation as stated above, even to an adequate communications system between departments and agencies involved in sea rescues. I think we do need some sort of facility as far as SAR is concerned here on the island.

Mr. BIAGGI. Well, you were here while we were questioning Captain Parker, and the purpose of the questioning obviously was to determine whether or not the Coast Guard plans are sufficient in the light of distance and of total circumstances. What you are saying is that you advocate the presence of some larger equipment than a 16-foot skiff. I'm sure that will be given consideration, and the points that are raised here will be discussed further by the committee. I would like to thank you very much for your testimony, Mr. Terrell, and also Commissioner Brown.

Mr. DE LUGO. Mr. Chairman, I believe that in the record at an appropriate spot, I have an editorial that underlines what was brought out here. It appeared in a distinguished local newspaper, the St. Croix Avis, which has been publishing since—well, for 131 years. The editor and the publisher and reporters don't go back that far, I assure you, but it's a very forward-thinking newspaper. They have an editorial on search and rescue, and I'd like to ask unanimous consent that this be made a part of the record at this point.

Mr. BIAGGI. Without objection.

SEPTEMBER 18, 1972.

The Editor,
St. Croix Avis,
P.O. Box 750,
Christiansted.

DEAR SIR: Somebody should do something about the oil discharge in the waters around St. Croix.

On the morning of September 8 my wife and I were having coffee on our terrace at the eastern point of Protestant Cay when at approximately 6:45 a large freighter arrived and, after maneuvering around, backed into the dock at Gallows Bay. Suddenly there appeared a large oil patch right by the freighter and slowly commenced to spread and drifted in the Protestant Cay direction.

I received no reply from a call to the Harbormaster until 9 a.m. when I had to speak to one of his staff and gave them all the details of name and line of the freighter.

By mid-afternoon, the filthy, black, bad-smelling oily mess had now settled along the east coast of Protestant Cay.

I was finally able to speak to the Harbormaster who said I should know it was nothing to do with him. This his staff did not appear to know. He told me to contact the U.S. Coast Guard at St. Thomas.

On phoning St. Thomas, an officer requested a written statement. One was sent air mail at that time. I called on the visiting Coast Guard vessel that arrived that afternoon and an officer and a photographer inspected damage but it was too late to photograph it.

Nothing has been done to rectify the damage. Surely the Harbormaster should be responsible for the behavior of vessels in the harbor and the Harbor patrol

boat should be outfitted with equipment for spraying the oil patch, when still floating. Such information should be available from Hess Oil.

Yours sincerely,

DEREK PERRY.

Mr. DE LUGO. Thank you very much, Mr. Chairman. Also I would like to ask one question of the Commissioner. I saw that in today's St. Croix Avis there is a great concern that the fishermen seem to be having a tremendous time with people who are stealing their traps. I think this is an outrageous thing because no one works harder than a fisherman. That's thievery.

Under whose jurisdiction would this come?

Mr. BROWN. That comes under conservation.

Mr. DE LUGO. That would come under your department.

Mr. BROWN. Right. We are aware of it and we have a fairly good idea who the people are, for the most part, but as in all cases in law they have to be caught and we have not been able to do just that. Being on the sea, this is really the major problem, it's easy to see another boat coming.

Mr. DE LUGO. Let me just wish you all the luck in apprehending them, Commissioner.

Mr. BROWN. Right. We're working hard at it.

Mr. BIAGGI. I'd like to make one comment, and I'm sure Congressman de Lugo will pursue it, but in your testimony you stated that you had two boats without radios. Frankly, that's an intolerable situation. I know you have fiscal problems, but let me suggest that perhaps application to the LEAA might be productive inasmuch as you have law enforcement responsibilities, and it's just this type of request that might find a sympathetic ear.

Mr. BROWN. Right. Well, we have discussed this in a joint law enforcement meeting, which I am happy to say that the chief of the Coast Guard station in St. Thomas, Lieutenant Young, who is here, is the chairman of that committee, and the delay in getting a communications setup within this year has been primarily because we wanted to work out a common communications unit for all law enforcement agencies. However, the new boats that we are acquiring will have marine radios in them.

Mr. BIAGGI. Thank you very much, Commissioner, for an excellent statement, and your candor, which is most informative. Thank you very much.

Mr. BROWN. Thank you, sir.

Mr. BIAGGI. Please give our best to the Governor and our regrets that he was unable to appear here.

Mr. BROWN. Will do, sir. Thank you.

Mr. BIAGGI. Thank you.

[Witnesses excused.]

Mr. BIAGGI. The next witness, Senator Eric Dawson, senate commerce committee, accompanied by Senator Alex Moorhead, Jr., and Senator Britain Bryant, vice president of the 11th legislature. Senator Moorhead, Jr., is the minority leader.

Mr. DE LUGO. Mr. Chairman, I would like to take this opportunity to welcome three very good friends before this committee. We have representing the president of the legislature the chairman of the senate commerce committee, and one of the hardest working members, Senator

Eric Dawson. Now, I think that Senator Dawson this morning is not going to be longwinded because he wears many hats, he's a man of God also, he's a deacon in his church, he has not come in his robes today, he has come in wearing the hat of an outstanding legislator, but he's got to rush away from here in a few minutes to get into his uniform because he's also an officer in the National Guard.

Also, flanking Senator Dawson is the minority leader, a very good friend of mine, goes back many, many years, and a distinguished legislator having the respect, I think, of people of all political persuasions. Its' a pleasure to welcome Senator Alex Moorhead, Jr., here before this committee.

Another good friend of mine, one of the outstanding attorneys in the Virgin Islands, he's from St. Croix, we've got two Cruzians and St. Thomian right in the middle, Frank told him to make sure he behaves himself while he's on this island, Senator Brit Bryant, who is also the vice president of this legislature.

Thank you, Mr. Chairman.

Mr. BIAGGI. You're welcome. Senator?

STATEMENT BY SENATOR ERIC E. DAWSON, MEMBER, VIRGIN ISLANDS LEGISLATURE

Mr. DAWSON. Thank you, sir. Good morning, Mr. Chairman and members of the Subcommittee on Coast Guard and Navigation. My name is Eric E. Dawson. With me here this morning is Senator Alex Moorhead, minority member of the 11th legislature, and Senator Brit Bryant, vice chairman or vice president of the legislature.

As a member of the Virgin Islands Legislature and chairman of the standing committee on commerce, and the standing committee on government operations, I bid you a warm welcome to the Virgin Islands along with our able congressional delegate, the Honorable Ron de Lugo. I want to express also that hospitality which you have seen in a short time is the hospitality of the Virgin Islands and St. Croix 365 days of the year.

Mr. BIAGGI. The committee has been the beneficiary of that hospitality.

Mr. DAWSON. Very good, I'm happy.

Mr. Chairman, the people of the Virgin Islands are very happy that you were able to take time out of your busy schedule to be here to see first hand St. Croix' need for a Coast Guard station. It has been 7 years since a congressional subcommittee has sat in the Virgin Islands to receive testimony on a problem area and allow the residents to actively participate.

For several years now, the need for a Coast Guard station on St. Croix has been under discussion because of the increasing maritime activities centered on St. Croix.

St. Croix now has four active ports at present. The fifth and sixth are expected in the near future. First, there is the Port of Christiansted. It received over 184,000 tons of cargo in 1974 and at least that much is expected in 1975.

The next port is Fredericksted which accommodated over 87,000 tons of cargo in 1974.

The port at Martin Marietta's plant shipped 149,000 tons of alumina to the continental United States in 1974. Hess Oil Refinery, for which

exact figures are not available, received hundreds of thousands of gallons of crude oil and shipped out a like quantity in byproducts in 1974. Looking to the near future, there is a chance for a third public port as well as a port for a second oil refinery, if that project receives all the sanctions and permits now being sought.

Aside from the activities of vessels of 100 gross tons and over, there are many smaller inter-island vessels needing surveillance and protection.

It is likely that the island of St. Croix will soon be handling more than 600,000 tons of cargo of all kinds in a calendar year. This, Mr. Chairman, justifies a fully operational Coast Guard station for St. Croix entirely independent of the St. Thomas operation.

I am convinced that a station on St. Croix will be needed not only for search-and-rescue operations but also for the policing of oil spills, for they require immediate action so evidence can be preserved.

Additionally, if the committee in its wisdom recommends a station for St. Croix, it will give the Coast Guard a valuable southeastern position for search and rescue, thus providing an 8- to 10-hour advantage over the Puerto Rican station. It is extremely uncomfortable for mariners from St. Croix——

Mr. BIAGGI. Excuse me, Senator. Lest we lose that point, "thus providing an 8- to 10-hour advantage over the Puerto Rican station." I think the preceding witness testified to a 5- to 6-hour span. Captain Parker, what's the response time from Puerto Rico?

Captain PARKER. Mr. Chairman, it depends on what we're sending out of Puerto Rico. If we send our 82-footer, it can make about 20 knots, again depending on the weather; if we send our buoy tender, for a larger case we've had to do that, the best it can do is 12 knots; but if we send a helicopter out of Puerto Rico, of course, the time is much less.

Mr. BIAGGI. Why don't you give me some respective estimates for those three?

Captain PARKER. I would say, sir, that this number is valid for the buoy tender, the 82-footer could get here in about 5 to 6 hours; after she was underway, I might add.

Mr. BIAGGI. And the helicopter?

Captain PARKER. The helicopter, from the time it got under way, about an hour.

Mr. BIAGGI. Thank you, Captain.

Mr. DAWSON. Mr. Chairman, I might add that the real danger is on the eastern end of St. Croix so that we wouldn't compute on the western end of St. Croix, so that there would be some hour or more added to 6 hours.

Mr. BIAGGI. Eight to 10 hours is a long period, and so is 5 to 6, when you're in distress.

Mr. DAWSON. Yes, sir. Quite right, sir.

It is extremely uncomfortable for mariners from St. Croix to know that response to their distress calls cannot be answered by water craft in less than 3 hours form St. Thomas traveling at 46 miles at 13 knots, or 8 hours from Puerto Rico, 100 miles at 13 knots.

Another cause for discomfort is the fact that there is only one cutter on St. Thomas. When there is more than one distress call, someone must then suffer.

The island of St. Croix is suited for industrial activity, as you have probably seen, and it is assumed that new industries will be attracted by our recently liberalized industrial development law.

And still another and I feel very urgent need for a St. Croix Coast Guard station involves interisland air-bus service. I hope you had an opportuntiy to ride on Antilles air boats, and you can appreciate the span of water between St. Thomas and St. Croix, and this necessitates some ready activity in the event, God forbid, one of those Antilles air boats should have to ditch mid between St. Thomas and St. Croix.

Antilles has a fabulous safety record, gentlemen, I'll admit, but air boats are machines subject to breakdown over the open sea, and they don't last very long once they're at the mercy of the waves.

Mr. Chairman and members, my appeal to you today is for consideration of a service the island of St. Croix really needs. It is my earnest hope, therefore, that you gentlemen will favor the establishment of a Coast Guard station on St. Croix.

In closing, I want to express my sincere thanks on behalf of the people of the Virgin Islands and more especially St. Croix for your taking the time to come to the islands where you can see for yourselves our real need for a St. Croix Coast Guard station.

Thank you very much.

Mr. BIAGGI. Thank you very much, Senator. You pointed out some very salient points, and these are the points that we raised earlier in our hearings. I am sure they will be taken into consideration by this committee in evaluating the request of Congressman de Lugo. I might say you did point out the fact that we haven't had a congressional hearing here in 7 years, which again is testimony to the efficacy of your intriguing representative in arranging for this hearing.

Mr. DAWSON. Very good.

Mr. BIAGGI. When Congressman de Lugo came to the committee he was very persuasive, and we responded by our presence. We're grateful because it obviously highlighted a need and we're focusing attention on it. Even more satisfactorily, there has been some response.

Thank you for your testimony, Senator. If you have to leave by press of business, you may be excused.

Mr. DAWSON. I appreciate the committee's indulgence and the Chairman's permission to leave. Thank you very much.

Mr. BIAGGI. Thank you.

Mr. DE LUGO. Thank you, Senator.

[Witness excused.]

Mr. BIAGGI. Senator Moorhead. Is that right? Am I dealing in the proper protocol.

Mr. MOORHEAD. Mr. Chairman, I think I ought to yield to the Vice President.

Mr. BIAGGI. Well, I knew by that look in your eye that there might have been a question of protocol.

Mr. BRYANT. Thank you.

Mr. BIAGGI. Senator Bryant.

STATEMENT OF HON. BRITAIN H. BRYANT, VICE PRESIDENT OF THE VIRGIN ISLANDS LEGISLATURE

Mr. BRYANT. Thank you, Mr. Chairman.

Mr. Chairman, committee members, Admiral Perry. There has been, as you have heard, a longstanding need on St. Croix for a multi-purpose Coast Guard station with rescue and law enforcement capability.

Over the past decade there have been many appeals from private citizens for the establishment of this type of facility on St. Croix. Additionally, almost each year, a Coast Guard officer, unlike some of the testimony you've heard today, in surveying the territory's marine protection needs, has suggested that such a facility ought to be established on St. Croix.

As a matter of fact, on April 21, 1971, Lt. Kenneth Morris, U.S. Coast Guard COMGANTS RCC, while in St. Croix on a facts and figures gathering assignment, expressed his conviction that a permanent Coast Guard facility ought to be established on St. Croix, and strongly urged St. Croix residents to contact the authorities regarding this important need.

As I understand it, the main functions and responsibilities of a permanent Coast Guard station include those mentioned, search and rescue, enforcement of boating safety and other maritime laws, maintaining a lighter tending station, giving aid to navigation where and when necessary, enforcing antipollution laws and enforcing antismuggling laws.

For years, the Coast Guard station on St. Thomas upon receiving distress calls for search and rescue in St. Croix waters, would, and still does, call upon the St. Croix marine division of the Virgin Island Government's Port Authority to respond, as you have heard today. The reason for this, of course, is that the St. Thomas based Coast Guard unit is too far away from St. Croix waters, and certainly San Juan is even further. So they do the next best thing, which is to call the St. Croix marine division.

However, even the St. Croix marine division does not have the equipment necessary for search and rescue, as you have also heard today. The harbor office in St. Croix is equipped with only 1 small boat with a 5 mile radius and one-half hour fuel consumption. This boat is open, hazardous and totally inadequate for search and rescue operations. I might add, a 16-foot skiff wouldn't be any better, Mr. Chairman.

As a consequence, more than half of the search and rescue distress calls in St. Croix waters are responded to by private citizens, as you have heard, in volunteer roles.

I realize, Mr. Chairman and committee members, that the Coast Guard labors under the same fiscal restraints that all of the branches of the Federal Government, as well as our local government are. However, I urge you, in balancing your need for fiscal responsibility with the protection of the property and lives of Virgin Islanders, to consider our pressing need for a Coast Guard cutter to be stationed

on the island of St. Croix. It is imperative that we consider not only the Coast Guard's traditional function of search and rescue, but that we consider the fact that it has the primary and in fact exclusive obligation for the monitoring and enforcement of laws concerning oil spills and tanker operations.

We are the easternmost point, as Senator Dawson mentioned, of any territory, possession or part of the United States. As a result of one of the world's largest refineries, we have tanker traffic and supertanker traffic, such as you have heard about, off of the eastern coast of our island in far greater numbers than in St. Thomas, 40 miles northwest of us, and it is impossible for a Coast Guard station in St. Thomas or in San Juan for that matter, 80 miles away, to police this tanker traffic and the oil spills.

In St. Croix with an oil refinery on the south shore and another planned in the same area, as you have also heard, plus ships coming in the Gallows Bay and Frederiksted docks, there is a constant danger of oil spills and other serious pollution of our harbors and waters. Already there are, or have been incidents which went without action due to the distance of the nearest Coast Guard unit. On Monday, September 13, 1972, Derek Perry wrote a letter to the editor of the St. Croix Avis reporting just such an incident right off Protestant Cay. A copy of Mr. Perry's letter is attached hereto.

The workload and seriousness of so many lives in the balance demanded that a Coast Guard station be established on St. Croix, and I might add that this need is of an urgent and emergency nature, which truly calls for immediate action.

The 9th Legislature, 2 legislatures ago, Mr. Chairman, of the Virgin Islands recognized this important territorial need, and on July 22, 1971 adopted a resolution petitioning the U.S. Department of Transportation to establish a sea rescue station on the island of St. Croix.

The resolution noted that the island of St. Croix has been experiencing, even at that time, a large volume of marine traffic, both commercial and noncommercial. It also stated that it is in the interest of thousands of people who sail the seas around St. Croix or fly in an aircraft over these same seas that a full-time sea rescue force be stationed on St. Croix to eliminate the sometimes long and critical wait for the arrival of a rescue team at the scene of a mishap at sea.

The measure resolved that on behalf of the many thousands of residents of and visitors to the island of St. Croix, the legislature hereby petitions the Secretary of the U.S. Department of Transportation and the Commandant of the U.S. Coast Guard to establish a sea rescue force on the island of St. Croix at the eariest possible date.

A copy of that resolution is attached to this statement, Mr. Chairman.

[Resolution No. 586, Bill No. 5160]

NINTH LEGISLATURE OF THE VIRGIN ISLANDS OF THE UNITED STATES

REGULAR SESSION—1971

Resolution Petitioning the United States Department of Transportation to Establish a Sea Rescue Station on the Island of St. Croix

Whereas the Island of St. Croix is experiencing a large volume of marine traffic, both commercial and non-commercial: and

Whereas it is in the interest of thousands of people who sail the seas around St. Croix, or fly in aircrafts over these same seas, that a full time sea rescue force

be stationed on St. Croix to eliminate the sometimes long and critical wait for the arrival of a rescue team at the scene of a mishap at sea ; and

Whereas no sea rescue force is now, full time or otherwise, in operation on the Island of St. Croix ; and

Whereas the United States Department of Transportation provides such a service to other islands through the United States Coast Guard : Now, Therefore, be it

Resolved by the Legislature of the Virgin Islands :

That on behalf of the many thousands of residents of and visitors to the Island of St. Croix, the Legislature hereby petitions the Secretary of the United States Department of Transportation and the Commandant of the U.S. Coast Guard to establish a sea rescue force on the Island of St. Croix at the earliest possible date ; and be it

Resolved further, that a copy of this Resolution be forwarded to the Department of Transportation, to the Secretary of the United States Department of the Interior, to the Presiding Officer of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the Chairman of the Committee on Interior and Insular Affairs of the Senate of the United States, to each member of said Committee, to the Chairman of the Committee on Interior and Insular Affairs of the House of Representatives of the United States, and to each member of said Committee.

Thus passed by the Legislature of the Virgin Islands on July 22, 1971.

Witness our Hands and the Seal of the Legislature of the Virgin Islands this 22nd Day of July, A.D., 1971.

JOHN L. MADURO,
President.
PERCIVAL H. REESE,
Legislative Secretary.

I would conclude by requesting and recommending very strongly that a multi-purpose Coast Guard station with a rescue and law enforcement capability be established on St. Croix and be adequately staffed and equipped, not with a skiff, but with an 82-foot cutter and a lighter tender station. Such a station would be able to deal effectively with pollution control, enforcement and all maritime laws, and also deal with any narcotic smuggling or traffic in illegal aliens which might develop in the future, as you have heard testimony has developed in the past.

Thank you, Mr. Chairman and committee members, for your patience.

Mr. BIAGGI. Thank you very much.

Mr. BRYANT. And very frankly, thank you for your sympathetic nature which you have evidenced throughout these hearings to our plight on St. Croix.

Mr. BIAGGI. Thank you very much, Senator Bryant. We'd like to have the resolution that you referred to, Resolution 586, bill No. 5160 of the Ninth Legislature of the Virgin Islands of the United States, introduced into the record together with your statement.

Mr. DE LUGO. Mr. Chairman, I believe that that is going to be made a part of the statement of the next witness, Senator Moorhead.

Mr. BIAGGI. Senator Bryant has it too. But I would like to go back for just a moment. Commissioner Brown testified to some spills, both reported and unreported. I should have questioned him while he was present, but perhaps you can inform this committee——

Mr. BROWN. Beg pardon.

Mr. BIAGGI. Oh, Commissioner, you're still here.

You testified as to some spills that were both reported and unreported. On page 3 of your testimony, you state, "Major oil spills occurred on June 12, 1971, and also January 22, 1975, when 250 to 1,000 barrels of oil, light crude oil . . .", then you have written in by hand,

"There has been a number of lesser spills." If I remember your comments, some of those were not reported. I'd like you to comment on that. I think that's important.

Mr. BROWN. Mr. Chairman, your indulgence. There have been a number of oil spills that have been unreported where we have found oil washed up on beaches, in some cases it probably could have come from a tanker running through Anegada Passage far out at sea. However, in some cases it can be identified with perhaps some boat traffic within the area, the confines not only of St. Croix but of St. Thomas as well. I note on one occasion there was a ship passing through between St. Thomas and St. Croix that left a stream of oil. It was noted by Antilles air boat and reported. But this is the kind of thing that happens often and it floats in either to St. Croix or to St. Thomas whichever would be closer.

We have by virtue of the fact that we have to police and protect the shorelines and waters, we often go out on patrol to see what is there and what has not been done and we find evidence of oil spills. Now, whether we can pinpoint or tie this to a particular vessel is the difficult part, but we find them, we find evidence of it and we know it has occurred, and these are things that were unreported except for the fact that we do find them.

Mr. BIAGGI. I wanted to elaborate on the point for the record, because our own experience is that there isn't any such thing as a perfect reporting system in any field. That's why it becomes essential that we have as many personnel as possible giving attention to the problem. I am sure that with the presence of the Coast Guard on St. Croix, there will be a closer, constant relationship between the officials of St. Croix and the Coast Guard that will increase the capability to monitor and determine fault. If H.R. 9294 is enacted into law, there will be some adequate mechanism for providing for compensation where necessary.

I thank you very much, Commissioner.

Mr. BROWN. Thank you, sir.

Mr. BIAGGI. Senator Moorhead.

STATEMENT OF HON. ALEX MOORHEAD, JR., SENATOR IN THE LEGISLATURE OF THE VIRGIN ISLANDS

Mr. MOORHEAD. Mr. Chairman, in the interest of time, I will, in my oral remarks, abbreviate my written testimony. Senator Bryant referred to Resolution 586 which was also part of my testimony. Back in 1971, when I first entered the Legislature, it was my privilege to be able to introduce that resolution for the body, before the body for consideration, and I was prompted to do so by the numerous incidents which we have had as to distress signals that had to wait for response from St. Thomas or from San Juan.

Just a year before we had a pretty serious aircraft accident off the eastern end of St. Croix in which one person was reported dead, 40 were survivors, and 20 were reported missing. I don't know, I could not suggest what effect the lack of Coast Guard services might have had on that and I am sure the committee might be in a better position to determine that by checking into the reports of the FAA as they may be available. I believe it was a charter flight on the way to

St. Martin that became lost in inclement weather and tried to return to St. Croix but ran short of fuel and was lost.

I believe that there are now at least three reasons for the establishment of a Coast Guard vessel station on St. Croix. And briefly, they are as follows: One, we have a very substantial amount of tonnage moving in and out of this island. Added to that is a large number of aircraft flights which cross our waters, one of which, as I mentioned, ended in a crash off the eastern island of this island 5 years ago. I believe that the many millions of dollars worth of cargo and the thousands of passagers who move through the ports of this island merit improved Coast Guard service.

Second, this island has one of the largest oil refineries on this side of the globe, as has been stated earlier. Hundreds of millions of barrels of crude oil and finished products annually travel in and out of the port at that refinery to several foreign points, as well as to consumers on the mainland. From time to time, in spite of the best efforts of the operators of the refinery, accidents do occur, and oil is spilled in our waters. While the Coast Guard has a responsibility to insure or guard against such spills and, when they do occur, to insure and supervise their cleanup, the Coast Guard has neither the personnel nor the equipment available on this island to carry out this important function.

For reasons of economic needs, many of us on this island have been looking with increasing favor at plans for the construction of a second oil refinery. If this becomes a reality, the total refinery capacity on this island will be in excess of 800,000 barrels a day, but whether or not this additional capacity becomes a reality, I respectfully suggest that the traffic in petroleum, in crude form and finished products, as well as the storage capacity that presently exists on the waterfront, merit improved services for the protection of our fragile environment and for the safety of those who work and live on this island.

Third, not far off from our shores are regularly traveled international marine shipping lanes. These lanes are used by freighters and tankers traveling between points south of us and the continents of Europe and Africa. Unfortunately, as in every other phase of life, these vessels have waste to dispose of; garbage and ballast water, the evidence of which is becoming increasingly apparent on our beaches and shores.

I had a recent occasion to find evidence of this on a beach that fronts the Grapetree Beach hotel on the eastern end of this island. That beach is permeated with plastic material which I have been told is a regular situation, evidence is that this plastic material is the remnants of bags that are used by commercial vessels to dispose of their garbage. I also had the personal misfortune of discovering a globule of congealed oil on that beach.

We need the help of the Coast Guard to contain this pollution which is deteriorating the quality of our coastal waters and the beauty of our beaches.

I might add that recently you had a hearing in San Juan to probe into the unpleasant and I might say also unwilling part that Puerto Rico has played in the traffic of narcotics. I would like to emphasize that we have our own share of drug addicts and pushers on this island, and in spite of the best efforts of the Bureau of Customs and our local police department, there has not been a noticeable dent in the narcotics

traffic in these islands. There have been rumors, and I emphasize rumors, that the vessels calling at the large industrial installation on this island have been engaged in this trafficking. We feel that the Coast Guard can be helpful in pinpointing the source of this problem and in containing it.

I would like to emphasize, gentlemen, that we have been trying to help ourselves. Our port authority, our department of conservation, and the local commercial and pleasure boaters all respond to marine distress calls whenever their men and equipment are available and sea conditions permit their use. However, I must acknowledge to you that none of our local agencies is properly equipped for operations on the high seas, and frankly with our limited and our diminishing financial resources, it will not permit us to acquire the equipment and manpower for such operations.

In the last year or two, we have established a limited marine patrol force primarily to enforce our fishing, boating, and environmental laws. Commissioner Brown referred to that in his testimony. We may here, perhaps, be hard pressed to sustain even this limited function due to our Government's acute financial crisis.

In summary, gentlemen, we are in a precarious position, as I have briefly outlined. To date we have managed with very limited local marine patrol service, supplemented by Coast Guard service dispatched on call from a distant port, but we have barely managed, and I fear that we will court disasters and severe losses unless we improve Coast Guard services on this island now. I urge you good gentlemen to take a hard look at our situation and to give us your valuable assistance and support.

I thank you very much for this opportunity to make this presentation before the distinguished panel.

Mr. BIAGGI. Thank you very much, Senator. We will submmit your statement and the attached resolution for the record. We appreciate your very clear statement which reinforces our contention and the contention of the preceding speakers, that the needs are here, and that they should be met.

Hopefully, we will meet them in an adequate fashion. But at least we are taking a very substantial first step. I think that is very significant. It may seem like I'm gilding the lily, but without your Congressman you wouldn't have had that first step. Thank you very much.

Mr. MOORHEAD. I appreciate it.

Mr. DE LUGO. Mr. Chairman, I would just like to commend the members of the legislature. I think Senator Bryant, Senator Moorhead, and Senator Dawson, have made excellent statements. You have certainly strengthened my position in urging a more adequate Coast Guard presence. Thank you very much.

Mr. BRYANT. Thank you, Mr. de Lugo, Mr. Chairman, gentlemen.

Mr. BIAGGI. Mr. Al Hayes from the St. Croix Chamber of Commerce. Mr. Hayes, will you identify the gentleman accompanying you for the record?

Mr. HAYES. Yes, I am accompanied by Capt. Cliff Ives of Tra-Cor Marine.

STATEMENT OF MR. AL HAYES, ST. CROIX CHAMBER OF COMMERCE

Mr. HAYES. I am here this morning to testify as to the position of the chamber on the Coast Guard installation on St. Croix, and the chamber, of course, in its general interest in St. Croix here runs into two areas, our commercial boating and our recreational boating. In our commercial boating, as has been pointed out to you, St. Croix is a navigational target for the largest ships in the world. There are ships that come into St. Croix here that cannot get to any port of the east coast or the gulf coast of the United States. We have ships here that the Coast Guard never runs into in any other port.

For these reasons, we feel that it is important that the Coast Guard be represented here and to help us on this.

In the area of commercial traffic, there are a number of facilities we are short that the presence of the Coast Guard would bring about their implementation, we feel. It has been pointed out that the rollon-rolloff container port in the Hess area will become a fact in the next few years. When that comes into effect, there will be additional traffic down here, beyond any of this anticipated growth of petroleum products in and out of there. Additionally all the navigational aids that are there that are now privately maintained will presumably become Coast Guard maintained, for no other reason there would be need for Coast Guard facilities here.

Off the eastern point of St. Croix for 9 miles is Lang Bank, and it is only 5 fathoms under, there's 30 feet of water over it and we have ships coming in here that draw 90 feet. As Congressman de Lugo pointed out earlier, were we to have a serious oil spill here it would inundate St. Croix and Puerto Rico and other islands to the west of us here. It is felt that an aid to navigation on the east end of Lang Bank would be a constructive installation and one that were the Coast Guard here they would see the need of it.

Another installation that the Coast Guard would, we hope, bring about, would be another aid to navigation on one of the hills from the VOR station east that would allow more accurate anchoring bearings for ships anchoring off Hess, taking cross-bearings from the light at the airport and this other light, they then would know exactly where they're anchored. At the present time, when they anchor off Hess there is no way except eyeballing it as to where you are.

On the small craft, we feel that the Coast Guard statistics are inadaquate so far as search and rescue are concerned, that there are a great number of search and rescue operations that go on here every week that nobody is aware of except the people involved in it. I know that myself as a boatman here for over 20 years that perhaps, and only a weekend boater, in the last 4 or 5 years I have been involved in individual rescues of perhaps 16 to 18 times.

I wanted to bring with me this morning Captain Ives because his vessels at Tra-Cor Marine have been involved specifically in a great number of these. He, in many respects, has been acting as the Coast Guard SAR here in Christiansted. Before I introduce him, I would like to comment that the 16-foot skiff may be all right for harbor op-

erations but certainly on the north shore of St. Croix we need at minimum a 40-foot Coast Guard boat. The airline ditching that was mentioned earlier which, incidentally, I mean so far as I know, is the only commercial jetliner that ever ditched in the open ocean and happened off St. Croix here. A 16-foot skiff couldn't have done anything. A 40-footer would have been the only thing that could get out to those people, there were people that got out to that area with small boats from here.

With that I would conclude my statement and turn it over to Captain Ives.

Mr. BIAGGI. Captain?

STATEMENT OF CAPT. CLIFFORD IVES, TRA-COR MARINE, ST. CROIX, V.I.

Captain IVES. Mr. Chairman, I'm Cliff Ives, I work for Tra-Cor Marine, I'm a captain of one of our small boats, we have boats working out of Christiansted and Fredericksted, and on an occasion we're called upon to help in the search and rescue operations. To give you some of my experiences, I've been called out or called while at sea in the daytime and in the nighttime, and I run the smallest of our boats, I run a 40-foot personnel boat, about 450 hp., and of course, during the daytime my obligation is to my company and to our customers, so sometimes it's impractical, sometimes physically impossible to go and help someone out who is in distress.

A lot of folks around here got to depend on some of the people here on the island with small boats to come out and help them out when they run out of gas or break down or have a legitimate complaint. However, like I said, in my case a lot of times I'm just not physically capable of breaking away from our customers and helping people out.

Some of the things I've been involved in are, I have been called out night and day regardless of how many hours I already have in during that day, by individuals with pleasure craft, perhaps ignorant in the sea, that is, people, there are more boats coming around the island all the time and we need someone, it seems, to give them more information and more training. I'm not—well, training, if somebody asked me I'd answer their questions, but I'm just called out on emergencies, we need someone to do a little preventive maintenance in training people in the ways of the sea. I think it's already being done to some extent but they need more of it.

I've also been out to downed seaplanes and I have gone out in cases where there is calm seas to sea state III which is normal and I have been out in sea state IV and sea state V, we pulled in a plane one time in sea state V with 10 people aboard, one little baby, pulled them into the closest place which was Salt River at the time, and unloaded the plane and took the people on in to the shore. I've been called out by the port authority to offload injured seamen off of passing freighters and tankers.

I have run across people in distress at sea while I'm out there working. Sometimes I've put them off for a few hours until I get done whatever I'm doing and then bring them in. Of course, the Coast Guard knows this is always a nasty job, if someone breaks down they're embarrassed and they're mad at you for bringing them in to the wrong place or not bringing them in quick enough.

So I'd like out of the rescue business and give it back to the Coast Guard, except in emergency when someone's life is in danger of course.

Mr. BIAGGI. That seems like this is a commonplace occurrence. Is there any single place on the island where these rescues are reported? Do you report them to anyone when you perform them?

Captain IVES. I call the Coast Guard in San Juan and report what's going on so they know.

Mr. BIAGGI. Captain Parker, do we have the statistics on the number of such rescues?

Captain PARKER. Sir, we would have those statistics in San Juan at our rescue center. All these reports going to San Juan at any time are at the rescue center.

Mr. BIAGGI. If you would, would you submit for the record the number of such occurrences?

Captain PARKER. Yes, sir.

Mr. JONES. Thank you.

Mr. BIAGGI. Thank you very much, Captain Ives and Mr. Hayes. We undertook these hearings with the specific purpose of dealing with what seemed to be a single problem, a very important single problem, but it appears that you have the same multidimensional difficulties that others have in ports of this size. We'll simply have to address ourselves to it. Thank you very much for your contribution.

[Witnesses excused.]

Mr. BIAGGI. Mr. Russel Sunderlin, St. Croix Yacht Club, and Mr. Fredrick Harwood of the St. Croix Power Squadron.

Mr. DE LUGO. I want to say that Al Hayes who was the previous witness is one of those that has been most actively pressing for additional Coast Guard assistance, and particularly I think he made some excellent statements on the markers that could be placed and navigational aids that could be established.

I would like to welcome before the committee at this time Mr. Russel Sunderlin of the St. Croix Yacht Club which has grown tremendously here and is very active, and also Mr. Fredrick Harwood of the St. Croix Power Squadron which is rendering quite a service and a number of very good friends of mine are very active in that power squadron.

Thank you, Mr. Chairman.

Mr. BIAGGI. Mr. Sunderlin.

STATEMENT OF R. S. SUNDERLIN, COMMODORE, ST. CROIX YACHT CLUB

Mr. SUNDERLIN. I am Russel Sunderlin, Commodore of the St. Croix Yacht Club. Mr. Chairman, members of the committee and of the Coast Guard. We sincerely appreciate the opportunity to present our views to this hearing on the question of need and scope of service to be provided by the U.S. Coast Guard on the island of St. Croix.

The St. Croix Yacht Club has an important and real interest in the availability of Coast Guard services—it represents by its own facilities a year-round, in the water population of 40–50 boats in sizes 20 to 60 feet. Adjacent to the club facilities also in Teague Bay, is Fairleigh Dickinson Marine Biology Laboratory with five boats both small and large. Miscellaneous boats in Teague Bay number 5–10, just west of Teague Bay is Cotton Valley where there are 5 to 10 yachts kept year-round. We leave it to others to report on the boat population of the

balance of St. Croix, but the point is, this small area of our particular knowledge can and does put to sea a large number of people of varying degrees of seamanship capability in boats of widely varying quality and condition.

Sea conditions and shorelines at the east and northeast of St. Croix are often vicious and are beset with sudden squalls which not infrequently and in a matter of moments produce winds of 35–45 knots. Lang Bank, Buck Island and the north shore reefs are vicious in squally or generally bad weather. Only a few weeks ago a 36-foot yacht was driven ashore in a squall at night. Was there any prompt help available? Sadly the answer is no. The skipper was a veteran of these waters and fortunately there were no personal injuries. The yacht was towed off the next day but one side will need substantial repairs.

About a year ago a native sloop was driven on the reef in daylight by a driving rain. Again no major injuries or loss of life, but there could have been. The Coast Guard helicopter arrived at the scene a couple of hours later. The Coast Guard cutter was 2 or 3 hours away in St. Thomas. Before that another native sloop went on the reef on the south shore and of course the major commercial aircraft ditching east of St. Croix points to a major loss of life. How many lives could have been saved with the closer location of a Coast Guard cutter? How many lives were risked by the several local boatmen who went to the rescue primarily because they knew prompt and practical Coast Guard help was so far away?

The St. Croix Yacht Club is concerned about the safety of all boatmen and toward this end it has installed a VHF shore station to cover the Buck Island and north shore of St. Croix. It is operated on weekends, Mondays, Wednesdays, and Fridays during the hours of 0900 to 1700, later on Saturdays and Sundays. Members making longer voyages to the other islands can arrange check times for radio contact. This is all very well but we know it is not enough. A few members are working to get a Coast Guard Auxiliary under way on St. Croix. This too is not enough. Leadership offered by Coast Guard personnel on St. Croix would be of great value. And I am glad to hear now from this morning that they are going to be here.

On weekends it is common for Buck Island to have a boat population of 50 to 60 boats with a combined human population of several hundred. What happens when a storm similar to the one in January of 1968 hits on one of these weekends? This storm had winds exceeding 100 knots and it hit Teague Bay without warning in a matter of minutes. Fortunately, it occurred in the evening and there were no people involved, only expensive boats littering the shore.

So much for the human life and property aspects of professional service to the boating public. Let's look at pollution. Several years ago Teague Bay was invaded by crude oil or Bunker "C" coming in from the northeast. The moored and docked boats took the usual beating. Fortunately, the amount was small enough that there was no severe shore damage. The incident was properly reported to the Coast Guard in St. Thomas. There was no visitation and as far as the reporter knew there was no investigation. The reason given was that the pollution was small and St. Thomas was so far away.

Attempts have been made to get the Coast Guard to show even a little interest in improvement in the aids to navigation around the northeast end of St. Croix. We get miniscule response. The excuse?

Buoys are costly and our buoy tender draws 12 feet of water—and then there is the maintenance, liability—and so on. All very real considerations, I am sure, but the many people involved in the pleasure boating to say nothing of the commercial marine interests are a real consideration too.

The Coast Guard based on its frequent publications is making a big campaign on PFD's and safe boating inspections. In my 8 years of intensive boating around St. Croix I have been boarded once for inspection. Visitations of Coast Guard inspection vessels to St. Croix are almost nonexistent. No doubt there would be loud complaints if the Coast Guard inspected more frequently but the budget money would be much better spent that way than on an endless stream of booklets and newsletters that all too often find their way into the wastebasket.

In summary the St. Croix Yacht Club believes that the boating population as well as the general population is entitled to a small Coast Guard unit equipped with a relatively fast rescue boat. It goes almost—I might add, this doesn't mean a 16-foot skiff—it goes almost without saying that appropriate 24 hour VHF radio coverage is required. We have deliberately avoided going into detail on the need for smuggling and pollution service. That can be left to others.

Thank you for giving us this opportunity to express our views on this serious matter.

Mr. BIAGGI. I want to congratulate you, Commodore, not simply for your statement but also for the action taken by the yacht club which you lead. The installation of a VHF shore station is an indication of genuine concern and a reflection of your civic interest. We understand that it isn't your responsibility, but the need obviously was sufficiently compelling for you to take action. You also anticipated a question by stating that a 16-foot skiff wasn't the type of boat that you were thinking about. What size boat would be adequate?

Mr. SUNDERLIN. Well, it depends on the design of the boat. For the rescue type operation, I'm talking about within a range of say 20 to 30 miles, I would say could be had in the area of 30 feet, 40 feet would be fine but when you get over 30 feet your draft begins to go up and you would have to get in—some of our hazards here are—they require approach into pretty shallow water, it's one of the most serious places where we have mishaps, a cut, what we call a cut in the reef, and it's used by almost all the boats in the yacht club, and there's about 10 feet of water there and it's about 50 feet wide. For a rescue boat to maneuver up close enough to a boat in that area, I would question whether 40 feet or larger would be adequate for that kind of service.

Mr. BIAGGI. You make reference to a Coast Guard Auxiliary unit. We understand how difficult it is to get one organized, but the presence of this new unit should be encouraged and probably it will develop rapidly. My own thinking is that it might well encourage some recruitment on the part of the Coast Guard from this area. This might indicate to the people on St. Croix that we do have a Coast Guard, that there are possibilities and there are good assignments.

Mr. SUNDERLIN. I'd like to add that Lt. Young and others of the Coast Guard in San Juan have been here to help us get started with this Auxiliary but the point I was trying to emphasize was that if they were here all the time the leadership offered would be of inestimable value.

Mr. BIAGGI. There's no question about that. I want to thank you very much, Commodore, and congratulations to you and your club.

Mr. SUNDERLIN. Thank you.

Mr. DE LUGO. I want to state, Commodore, that I concur with the chairman in lauding you for the installation of the VHF shore station. I am aware of the tremendous civic role that you are playing in the protection of the boating interests here in St. Croix in particular, and I want to thank you for the quality of your statement. I want to thank you and I want to thank all of the people that have appeared here this morning, because there hasn't been emotionalism, you've dealt in facts, and I think that very persuasive facts have been presented here that are going to help this subcommittee to help St. Croix. Thank you very much, Commodore.

Mr. SUNDERLIN. Thank you.

Mr. BIAGGI. Congressman Jones?

Mr. JONES. No questions.

Mr. BIAGGI. Mr. Harwood?

STATEMENT OF FREDERICK HARWOOD, ST. CROIX POWER SQUADRON

Mr. HARWOOD. Mr. Biaggi, Mr. Jones, Admiral Perry, Mr. de Lugo. I am Fred Harwood, commander of the St. Croix Power Squadron. I have been on the island just about 5 years. During the last 5 years St. Croix has seen the arrival of a variety of larger and larger vessels, carrying cargoes which, if spilled, could cause irreparable damage from pollution, as well as vessels carrying general cargo and lately, fortunately, an increasing number of cruise ships.

We have seen pleasure boating grow by leaps and bounds to where cove after cove on the north shore particularly, has filled with moored craft. There are also a greater and greater number of pleasure boats visiting Buck Island, particularly on weekends.

Increasing numbers of people are fishing these shores, both for pleasure and commercially.

All of the statistics are obtainable from the harbor master's office as to arrivals and tonnage, and from the Department of Conservation and Cultural Affairs as to registration. These agencies, along with Public Safety and Civil Defense, can supply data on accidents of pleasure boats that have occurred. At best, it is estimated that the registration is only partial and does not give the complete picture of the number of pleasure boats. There are two men, as I understand it, provided with policing powers and they are not, I am informed, on duty on weekends. It is impossible that they can be expected to police pleasure boating activities and be game wardens as well.

The harbor master's office has no power, except as to pilots and the immediate harbor area, and then it would seem, mainly for commercial carriers.

The St. Croix Power Squadron is a fraternal group of boatmen. We give, as a civic service, a boating course twice a year. However, classroom space is one of our biggest problems and we are limited to some 50 students at one time. To date we have a waiting list. We can only hope to make boatmen aware of the problems they face and how experience from the past might be used to surmount these perils; safe boating through education.

The power squadron is not search and rescue, except as it applies to the code of the sea: "To render assistance whenever possible to anyone afloat who is disabled or in distress."

We don't have police power, but are only pledged, as members, to abide by the laws and regulations relating to navigation and to be cooperative with the agencies of the United States of America.

Now the agency in question is the U.S. Coast Guard who is charged with and can supply the immediate needs of the area.

They can save lives and property:

One: By search and rescue—based to be immediately available, not hours away.

Two: By a complete communication system on Government channels to call on additional aid as needed.

Three: By boarding, examining, inspecting and searching to enforce the laws of the United States.

Four: By making the public aware of applicable laws.

They can prevent marine casualties by policing recreational boating, particularly on weekends, when it is most needed.

They can educate the boating public as to the applicable laws and enforce these laws.

They can protect our ports and harbors from illegal acts of vessels reaching our shores.

They can make repairs and establish needed navigational aids.

They would be on hand to protect the marine environment from pollution, both at sea and along the shores.

We stand in need of an agency with these powers, the time and manpower to be effective.

True, these are but the missions of the U.S. Coast Guard, but we are definitely in need of every part of their powers and capabilities.

Without the U.S. Coast Guard stationed on St. Croix we can only foresee that the increase in boating, recreational and commercial, as well as over water aircraft causing an ever increasing number of accidents on the water with the accompanying loss of property and lives.

We can only ask, how great must this cost be, particularly lives, before a suitable Coast Guard facility is stationed on St. Croix.

Thank you, gentlemen. That's the end of my statement.

Mr. BIAGGI. Thank you very much, Mr. Harwood and through you to the power squadron. We're aware of what power squadrons do and what they contribute. It's this type of selfless activity that helps the entire community.

I have one question. To your knowledge, has there been any loss of lives in distress situations because of the absence of capability to respond?

Mr. HARWOOD. There were two fishermen lost on the north side of Buck Island, I believe, in the last year, if time doesn't get away, there it's probably a question of communications, whether somebody could have been called in time. Under the circumstances, I believe somebody finally became aware on Buck Island Beach that these men were in trouble and by the time it was relayed ashore or before anybody could reach them, they were gone.

Mr. BIAGGI. Do the fishermen have the ability to communicate?

Mr. HARWOOD. I'm afraid that most of them are without any radio. This is true of many of the pleasure boats as well. There's one thing

that I would like to add. There is a new small craft chart prototype that was developed, I believe, in about the last year and a half, this scale is 1 to 40,000. Such a chart would be, I believe, of great advantage to the boatmen, both commercial and pleasure, probably even the Coast Guard when they're stationed here, and could show in much greater detail the hazards, navigational aids, that are in and around this particular island. I will write Mr. de Lugo concerning this chart and if there is anything you could do to push our getting a better chart for our immediate waters. Charts of a different type already exist for St. Thomas, at least for the most of St. Thomas and part of St. John. Here we have a very small scale chart. I believe the number of the boats that have gotten into trouble, pleasure boats particularly, boats that are on bare boat charter from the other islands, they try to come into our harbors here without harbor charts and they immediately get in trouble on the reefs.

Mr. BIAGGI. What's your reaction to the suggestion that we have a 16-foot skiff as part of a unit?

Mr. HARWOOD. Well, I would go to their aid with my 6-foot boat. [Laughter.]

Mr. DE LUGO. Oh, that's cruel, but very effective.

Mr. HARWOOD. That's the way I feel about a 16-foot open skiff, it can do a lot with knowledgeable people handling it but I think it is highly inadequate for our waters and sea conditions. We can have quite a chop running out there in a very short space of time.

Mr. BIAGGI. Mr. Sunderlin suggested a 30-foot boat as a more practical vessel than a 40- or 50-foot boat or a full-sized cutter as some have suggested. What would be your comments?

Mr. HARWOOD. Well, I would almost feel, though I am sure it's not in the budget, we should have both. Say 25-, 30-foot boat in and around the reefs, that is powerful enough to aid, towing boats off rocks, reefs, wherever they're stranded, but for your open sea rescue, particularly in bad weather, a boat of this type is going to take a terrific pounding, it would be pretty busy taking care of itself, where a larger boat might be more effective.

Mr. BIAGGI. Assuming a cutter is not available, what would your alternative suggestion be?

Mr. HARWOOD. Well——

Mr. BIAGGI. To deal with the usual problems.

Mr. HARWOOD. The usual problems—I am not altogether familiar with the craft that the Coast Guard has available, but I believe they have some powerful launches in and around New York Harbor area that are—what are they, around 20 or 25 feet?

Captain PARKER. About 30.

Mr. HARWOOD. I know that they have done yeoman duty in that area with these craft.

Mr. BIAGGI. Congressman de Lugo.

Mr. DE LUGO. Thank you very much, Mr. Chairman, and Mr. Harwood, I want to congratulate you and commend the work that's been done by the St. Croix Power Squadron. I look forward to the establishment with great enthusiasm of the Coast Guard Auxiliary here in St. Croix and I want to assure you that I am well aware of all the good things you're doing with the St. Croix Power Squadron, because Mr. Sam Bough who runs my district congressional office here

in St. Croix was a very active member of your group. He made sure that I am aware of all the good things you do. I want to just commend you as I have the other witnesses on your very excellent testimony. I want to say for the record that we discussed the matter of the charts prior to this meeting this morning. I think that's an excellent, sound request. I look forward to receiving the communication from you, at which time I shall bring it to the attention of the chairman of our subcommittee and my good friend from North Carolina, Mr. Jones. Thank you very much.

Mr. BIAGGI. Congressman Jones?

Mr. JONES. No questions.

Mr. BIAGGI. Thank you very much, Mr. Harwood.

Mr. HARWOOD. Thank you, gentlemen.

[Witnesses excused.]

Mr. BIAGGI. I believe Mr. Harwood was the last witness. Before adjourning, the committee will leave the record open for 2 weeks for anyone who would like to supplement their statements or would like to submit a statement. I would suggest that the statements be given to Congressman de Lugo's office who in turn will turn them over to the committee in Washington. We are grateful to all of the witnesses who testified. In my judgment it was a very productive hearing, as expressed by Congressman de Lugo and Congressman Jones. As I said earlier, we're satisfied that it's a very significant first step that will be taken. Hopefully it will be embellished upon as we deal further with the problem.

There being no further witnesses, the hearing stands adjourned.

[Whereupon the hearing was adjourned, subject to the call of the Chair.]

COAST GUARD ACADEMY ENTRANTS

WEDNESDAY, FEBRUARY 11, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
Washington, D.C.

The subcommittee met at 9:45 a.m., in room 1334, Longworth House Office Building, Hon. Mario Biaggi, chairman of the subcommittee, presiding.

Mr. BIAGGI. The meeting is called to order.

The subcommittee is meeting this morning for the purpose of receiving testimony on two subjects related to the Coast Guard Academy.

The first of these involves a proposal submitted by the Secretary of Transportation, transmitted by his letter of October 20, 1975, and subsequently introduced as H.R. 11407.

In brief, the bill would amend section 195 of title 14, United States Code, to consolidate existing authority for the admission of foreign nationals to receive instruction at the Coast Guard Academy, and to expand the number of such foreign nationals that may be admitted.

The second subject involved relates to the nondiscriminatory appointment of cadets to the Coast Guard Academy.

Several bills on that subject have been introduced, including H.R. 10192, H.R. 8414, H.R. 9011, H.R. 9013, and H.R. 9347. The basic intent of each of these bills is to require the admission of females on the same basis as males.

H.R. 10192 is somewhat broader in scope in that it not only requires equal treatment for females, but also requires that cadet appointments shall be made without regard to race, color, or religious beliefs, as well as without regard to sex.

Since we have only one witness scheduled to testify on H.R. 11407, I believe that it would be expeditious to receive the testimony on that bill first. Let the bills and any agency reports appear at this point in the record.

[The bills, agency reports, and Executive Communication No. 1928 follow herewith:]

[H.R. 8414, H.R. 9011, H.R 9013, H.R. 9347, 94th Cong., 1st sess.]

BILLS Relating to the admission of female individuals to the Coast Guard Academy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 182 and 183 of title 14, United States Code, are each amended by inserting "or her" immediately after "his" place it appears therein.

(b) Such section 182 is further amended by inserting "or herself' immediately after "himself" in subsection (a) thereof.

SEC. 2. In the administration of chapter 9 of title 14, United States Code, the Secretary of the department in which the Coast Guard is operating shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy and that the academic and relevant standards for appointment and admission of female individuals shall be the same as those required for the appointment and admission of male individuals.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., January 19, 1976.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

DEAR MADAM CHAIRMAN: Your request for comment on H.R. 8414, a bill "Relating to the admission of female individuals to the Coast Guard Academy," has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The general purpose of the bill is insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy and that academic and other relevant standards for admission of females shall be the same as those required for male applicants.

Since H.R. 8414 applies only to the Coast Guard Academy, the Department of the Navy, on behalf of the Department of Defense, defers to the views of the Department of Transportation in regard to the merits of the proposal.

Enactment of H.R. 8414 would not result in any additional expenditures by the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

T. F. HAIRSTON,
Captain, JAGC, U.S. Navy,
Director, Legislation.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 25, 1975.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

DEAR MADAM CHAIRMAN: Reference is made to your request for the views of the Department of Transpotration concerning H.R. 8414, a bill "Relating to the admission of female individuals to the Coast Guard Academy."

The bill would amend sections 182 and 183 of title 14, United States Code, to make clear that those sections apply equally to male and female cadets at the Coast Guard Academy. Additionally, the bill requires the Secretary of the department in which the Coast Guard is operating to ensure that female individuals are eligible for appointment and admission to the Coast Guard Academy, and that relevant standards for appointment and admission of females are the same as for males.

We support the recent Congressional declarations concerning the admission of women to the service academies and are taking the necessary administrative steps to admit females, effective July, 1976, to the Coast Guard Academy on an equal basis with males. In view of these developments we do not feel that the legislative changes proposed in H.R. 8414 are required.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN HART ELY,
General Counsel.

[H.R. 10192, 94th Cong., 1st sess.]

A BILL To amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the United States Coast Guard Academy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 182 of title 14, United States Code, is amended—

(1) by inserting after the second sentence thereof two new sentences as follows: "All such appointments shall be made without regard to the sex, race, color, or religious beliefs of an applicant. In the administration of this chapter, the Secretary shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals.";

(2) by inserting the phrase "or her" immediately after the word "his" each place that that word appears in the subsection; and

(3) by inserting the phrase "or herself" immediately after the word "himself" where that word appears in the subsection.

SEC. 2. Section 183 of title 14, United States Code, is amended by inserting the phrase "or her" immediately after the word "his" each place that that word appears in the section.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., December 18, 1975.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Reference is made to your request for the views of the Department of Transportation concerning H.R. 10192, a bill "To amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the United States Coast Guard Academy."

The bill is essentially the same as H.R. 8414 on which we commented to you by letter dated September 25, 1975. We support the recent congressional declarations concerning the admission of women to the service academies and are taking the necessary administrative steps to admit females, effective July, 1976, to the Coast Guard Academy on an equal basis with males. We continue to believe, therefore, that the legislative changes proposed in H.R. 10192 and similar bills are unnecessary.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN HART ELY,
General Counsel.

[H.R. 11407, 94th Cong., 2d sess]

A BILL To amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 195 of title 14, United States Code, is amended to read as follows:

"§ 195. ADMISSION OF FOREIGN NATAONALS FOR INSTRUCTIONS; RESTRICTIONS; CONDITIONS

"(a) A foreign national may not receive instruction at the Academy except as authorized by this section.

"(b) The Secretary may permit a person designated by the President to receive instruction at the Academy as follows:

"(1) not more than four at any one time from the Republic of the Philippines;

"(2) not more than twenty at any one time from Canada and the American Republics other than the United States; and

"(3) not more than twelve at any one time from other foreign countries friendly to the United States.

"(c) A person from the Republic of the Philippines receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriation, as any other cadet at the Academy. Funds are not authorized for the travel, pay, or allowances of any other person receiving instruction under this section.

"(d) A person receiving instruction under this section is—

"(1) not entitled to an appointment in the Coast Guard by reason of his graduation from the Academy; and

"(2) subject to those regulations applicable to the Academy governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, except as may otherwise be prescribed by the Secretary.".

[Exec. Comm. No. 1928]

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 20, 1975.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill, "to amend title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy."

The Secretary of Transportation is currently authorized to admit to the Coast Guard Academy four persons from the Republic of the Philippines (14 U.S.C. 195) and 20 persons from the American Republics (52 Stat. 1034, as implemented by E. O. 7964). This bill would amend section 195 of title 14, United States Code, to consolidate the existing authority in one section. It would also authorize the Secretary to admit 12 additional persons from other foreign countries friendly to the United States and to include citizens of Canada within the total number of persons authorized from the American Republics. The maximum number of foreign nationals at the Academy at any one time would thus be 36.

Under existing law, a person from the Republic of the Philippines is paid as is any other cadet at the Academy. The American Republics are required to furnish the pay, allowances, emoluments, and travel of persons from those countries attending the Academy. This proposal would continue to authorize the payment of pay and allowances to persons from the Republic of the Philippines, but would not authorize funds for travel, pay, or allowances for any other foreign national receiving instruction at the Academy. It is anticipated that those costs would be paid by each foreign national's own government pursuant to negotiated agreements. Therefore, enactment of the proposed legislation would incur no additional costs to the United States Government.

It is recommended that the proposed legislation be enacted by Congress.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation to Congress.

Sincerely,

WILLIAM T. COLEMAN, Jr.

Enclosures.

DEPARTMENT OF STATE,
Washington, D.C., March 11, 1976.

Mrs. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.

DEAR MADAM CHAIRMAN: The Secretary has asked me to reply to your letter of January 21 enclosing for comment a copy of H.R. 11407 which would amend the appropriate provisions of Title 14, United States Code, to authorize the admission of additional foreign nationals to the Coast Guard Academy.

This proposal would authorize the Secretary of Transportation to admit 12 additional persons from other foreign countries friendly to the United States. Although H.R. 11407 does not specify the countries from which the 12 additional foreign nationals would be taken, but leaves this to the decision of the Secretary of Transportation, we would expect that prior consultation be conducted with the Secretary of State prior to the selection of these countries.

The cost for travel, pay, or allowances of the 12 additional foreign nationals would be paid by each foreign nation's own government pursuant to nego-

tiated agreements. The proposed bill, however, would continue to authorize the payment of pay and allowances to persons from the Republic of the Philippines. The Department of State would not expend any funds, or would not incur any administrative expenses by enactment of this legislation.

It is our view that permitting an additional number of foreign nationals from other nations to benefit from this country's military undergraduate systems would be beneficial to our relationship with the participating nations. Thus, the Department of State recommends that the legislation be enacted by Congress.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Mr. BIAGGI. I will ask the Commandant of the Coast Guard to come forward and present his testimony on that bill at this time.

Upon completion of any questions on that bill, I would then intend to have Admiral Siler express his views on H.R. 10192 and the similar bills on the subject of female admissions to the Coast Guard Academy.

I am delighted to call the Commandant of the Coast Guard, Adm. Owen W. Siler.

STATEMENT OF ADM. OWEN W. SILER, COMMANDANT, U.S. COAST GUARD, ACCOMPANIED BY REAR ADM. R. A. RATTI AND CAPT. P. E. SCHROEDER

Admiral SILER. Thank you, Mr. Chairman.

It is a pleasure to appear before you today on behalf of the Coast Guard Academy four persons from the Republic of the Philippines—of foreign nationals from other than the Philippines and the American Republics to the Coast Guard Academy.

As you know, we are currently authorized to admit to the Coast Guard Academy four persons from the Republic of the Philippines—14 U.S.C. 195—and 20 persons from the American Republics—52 Stat. 1034, as implemented by Executive Order 7964.

H.R. 11407 would amend section 195 of title 14, United States Code, to consolidate the existing authority in one section. It would also authorize the Secretary of Transportation to admit 12 additional persons from other foreign countries friendly to the United States and to include citizens of Canada within the total number of persons authorized from the American Republics.

The maximum number of foreign nationals at the Academy at any one time would thus be 36.

The bill is similar to, and would accomplish the same purpose as, legislation that the Department of Defense has previously submitted to Congress concerning the other service academies.

We asked that this bill be introduced in response to Department of State interest to be responsive to a request from the Iranian Government to enroll cadets in the Coast Guard and Merchant Marine Academies.

Under existing law, a person from the Republic of the Philippines is paid as are cadets who are citizens of the United States. The American Republics are required to furnish the pay, allowances, emoluments, and travel of persons from those countries attending the Academy.

H.R. 11407 would not authorize funds for the travel, pay, or allowances of any of the additional 12 foreign nationals authorized to receive instruction at the Academy. These costs will be borne by each foreign national's own government pursuant to negotiated agreements.

The U.S. Government would only continue to fund the pay and allowances of Philippines cadets receiving instruction at the Academy.

Enactment of H.R. 11407 would, therefore, incur no additional direct costs to the United States.

I will be happy to answer any questions you might have.

Mr. BIAGGI. That is the briefest statement that I have heard, and I thank you for it.

If I understand correctly, this bill would enlarge the numbers of foreign nationals in the Academy.

Admiral SILER. Yes, sir.

Mr. BIAGGI. What is the purpose of that?

Admiral SILER. The purpose is to be responsive to requests that the foreign countries have made to the United States to train their personnel in the technologies of the Coast Guard.

Mr. BIAGGI. What criteria is used for the different applications by the various countries?

Can we distinguish from one country to the other, and if so, how and why?

Admiral SILER. I would like to ask Captain Schroeder, our Chief of Training and Education, to answer that, if he would, please.

Captain SCHROEDER. Annually the State Department publishes the availability of attendance at all of the service academies to the embassies throughout the world, and up to the present time, of course, it has been to the American Republics and to the Philippines.

The foreign governments that are interested then nominate individuals to the Academy for selection.

The individuals that are nominated and selected are competitive with the other American nationals that do attend the academy.

I do not know if that is responsive to your question.

Mr. BIAGGI. Well, partially, but I am not getting exactly what I want here.

I am concerned, and let us say you have been advertising throughout the embassies of the world. Just what is to preclude a hostile country from applying?

Captain SCHROEDER. I would have to defer to the State Department on that, Mr. Chairman.

Admiral SILER. Let me pose it this way. The possibility of a hostile country applying is very likely, or at least it is not precluded. The hostile country is not precluded from submitting its application to the Coast Guard Academy.

Mr. Chairman, those applications are forwarded to the State Department by the Embassy of the nation.

I do not believe our State Department would forward that to the Coast Guard. We have not received any from countries of a nature that there would be any question, and I do not believe that the State Department would forward them to us.

I am speaking for the State Department, and I think that they might want to answer that themselves, but we have not experienced

any applications coming from nations which are questionable in any way.

Mr. BIAGGI. How long has this policy been in effect?

Admiral SILER. The first cadet came to the Coast Guard Academy in 1971.

Mr. BIAGGI. That answers my question.

In relation to the cost, if I understand this properly, it is that only for the Philippine cadets would the allowances for the cadets be paid by the U.S. Government.

Admiral SILER. That is the arrangement we have proposed.

Mr. BIAGGI. And not any other cadet from any other foreign country?

Admiral SILER. The other countries would be paid by their host nation under agreements with the United States.

It may be that this could be simplified, and we understand that the Department of Defense, in a similar bill, has proposed another arrangement.

In their arrangement we would pay each of the cadets at exactly the same rate as the U.S. Coast Guard Academy cadets, and the host nation for the cadets would reimburse the United States.

Our proposal would be that if this were followed that the nation would reimburse the Coast Guard for the cost of the cadet's salary while he is at the Academy.

Mr. BIAGGI. So, in effect, permitting cadets of foreign nations to be trained at the academy will not cost the American taxpayers a penny in additional money?

Admiral SILER. Not directly. There are obviously some additional expenses that would be necessary if a large number of cadets go to the academy, we would need a few more instructors; we would need some more books, but the direct costs would be reimbursed by the nation.

The General Accounting Office has estimated that the total cost of educating a young man at the Coast Guard Academy is $65,500 for the 4-year course.

The foreign national governments, other than the Philippines, at the present time are presently paying the United States $4,696 per year for those cadets, which covers their salaries and allowances, food and uniforms, but nothing more.

Mr. BIAGGI. This program started in 1971, and it is now 1976. Have we had any graduates in these academies?

Admiral SILER. Yes, sir.

Mr. BIAGGI. When?

Admiral SILER. We had a graduate from the Philippines in the last class.

Mr. BIAGGI. So it is too early to determine just what impact that training might have had on the Philippines?

Admiral SILER. On the Philippines we cannot measure yet. We have at the present time five cadets in attendance.

There are four Philippine cadets, Mr. Chairman, and one Venezuelan in the Academy at the present time.

Mr. BIAGGI. Thank you.

Mr. DuPont?

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

I have no problem with either bill, as a matter of fact.

I am glad to see the Commandant again, and the rest of his staff.

Mr. BIAGGI. Mr. Heyward?

Mr. HEYWARD. Admiral, for the record, would you provide the subcommittee with a list of the number of cadets that have been appointed over the last 5-year period, and from the countries in which they come?

Admiral SILER. Yes, sir.

[The information referred to follows:]

FOREIGN NATIONALS APPOINTED AS CADETS AT THE U.S. COAST GUARD ACADEMY, 1971–75

1971—One Philippine
1972—One Philippine
1973—One Philippine
1974—One Philippine, one Venezuelan
1975—One Philippine

Mr. HEYWARD. In connection with the costs involved, that is, the reimbursement for pay and allowances, is there any reason that this section in the Code should not be sufficiently flexible, so that while the present state of the law in paying for the Filipinos could be continued, at the same time in the future it might be changed if the foreign policy of the United States, for instance, required it. If we treat all three groups alike, and simply provide in the statutory language that payment of allowances to these appointees would be subject to reimbursement by their governments, at the same time permitting a waiver of that requirement, after consultation with the Secretary of State, would you consider that workable?

Admiral SILER. Yes, sir, I think it is quite possible. We have some language that might be used in this regard, if we stated a person receiving instruction under this section is entitled to the same pay and allowances to be paid from the same appropriations as a cadet appointed under section 182 of this title. The person may receive instruction under this section only if his country agrees in advance to reimburse the United States at a rate determined by the Secretary, and that aspect of it would be important, for the cost of providing that instruction, including pay and allowances unless waiver therefrom has been granted to that country by the Secretary.

With a waiver, or a special rate determined by the Secretary we could give any considerations that might be necessary to the Philippines or to other countries.

Mr. HEYWARD. Well, that certainly answers my question, but would you have any objection to putting in a phrase requiring consultation with the Secretary of State so we are sure that his views are represented?

Admiral SILER. Certainly.

Mr. HEYWARD. Do you know if the State Department would have any objection to that approach?

Do you have any idea?

Admiral SILER. We have not contacted the State Department. We do not know at the present time.

Mr. HEYWARD. Is there a particular reason in the draft bill why the three types of appointees were treated differently? Any basic reason why the numbers, for instance, are not lumped together?

Admiral SILER. I think we simply built on what was in the law to begin with, which was a certain number from the Philippines, and then a certain number from other American Republics, and we have built on that.

Mr. HEYWARD. And I gather that the Coast Guard, at least in the past, has not had the authority to permit appointees from Canada. Is that correct?

Admiral SILER. That is correct.

Mr. HEYWARD. And the other service academies have—I think in their law they do have such authority.

Admiral SILER. I think that is true.

Mr. HEYWARD. Thank you.

Mr. BIAGGI. Mr. Olney?

Mr. OLNEY. Thank you, Mr. Chairman.

Admiral Siler, in your draft proposal, subsection (3) of section B, it refers to "foreign countries friendly" to the United States.

Friendly to the United States is not a term of art, I do not think, and perhaps for the record you could amplify on what the intentions are behind the use of that terminology.

I think it would be useful to our committee report, at least, to have that statement.

Admiral SILER. I think Mr. Biaggi made it rather clear what our intent was, that the countries that we had no problem with in a diplomatic arena, however, since the proposal specifies that a persons from a foreign country attending the Academy would be one designated by the President, he obviously would be cleared by the State Department, and I think limiting the eligibility to the countries friendly to the United States is not necessary, as other language covers it.

Mr. OLNEY. So if it is a Presidential determination, this language is not necessary.

Admiral SILER. I do not believe it is necessary.

Mr. OLNEY. Thank you, Mr. Chairman.

Mr. HEYWARD. In that connection, it is true that the language of the other academies does use that phraseology, does it not?

Admiral SILER. I am not certain what the other academies use.

Mr. HEYWARD. Well, certainly, if they do not, there is no reason to put it in here, and if they do, perhaps we should include it to be consistent with the other service academies.

Admiral SILER. I think we should be consistent with the other service academies to the extent we can.

In a quick check of their proposed language we do not see the language friendly to this country.

Mr. BIAGGI. Thank you, Admiral, for your statement as far as 11407 is concerned.

Now, we will deal with H.R. 10192.

Admiral, you may proceed.

Admiral SILER. Thank you, Mr. Chairman. It is also a pleasure to appear before you today on behalf of the Coast Guard to testify on H.R. 10192, a bill to provide for the nondiscriminary appointment of cadets to the U.S. Coast Guard Academy.

H.R. 10192 and other similar bills are aimed at securing the admission to the Coast Guard Academy, of women cadets, on an equal basis with men, and for their training and commissioning according

to the same standards as men, except where physiological differences require adjustment of those standards.

As you are aware through our correspondence with the committee concerning these bills, there exists no statutory impediment to the admission of women at the Academy; and we have taken the necessary steps to insure the admission of women at the Academy, on an equal basis with men, beginning with the 1976 school year for the class of 1980.

The admission procedures that we have established for women are identical to those which we use for men. I will briefly run through the admissions process.

The Academy has received 10,000 applications, approximately 700 of which are from women. Of the 10,000 applications, we expect that 50 percent, or 5,000 will be completed, that is, the applicant will submit the necessary test scores, transcripts, and other documentation required in the admission process.

Having no better data, we currently estimate that approximately 350 of the applications from women will be completed. The scholastic aptitude test scores and the high school academic rank of each applicant are weighted and combined. Those applicants with combined scores higher than our historically determined cutoff score become finalists. About 2,500 of the 5,000 applicants are expected to become finalists in this way.

I must emphasize that, up to this point, the sex of the applicant has been in no way connected to the data used in the initial screening.

Once the initial screening has been completed, the entire file of each of the finalists is referred to the Cadet Candidate Evaluation Boards. The Board members are instructed to review the "whole person," for example, school activities, community activities, employment, academic achievement, academic aptitude, awards or recognition, and to integrate those factors into their evaluation.

Once the evaluations are complete, appointments are offered by starting with the applicant who has ranked the highest and working down in rank order. We conjecture at this point that the percentage of women appointed will approximate the percentage of women who are finalists.

This is the procedure we have followed in the past, and which we shall use for the class of 1980 and future classes. As you can see, this process should meet the intent of H.R. 10192.

Once we have appointed women and they have reported to the Academy, they will embark upon a training and education program which is identical to that given to the male cadets. The women will live in the cadet barracks. They will be integrated totally into the brigade, and will live in the same area as the male members of their companies and platoons. Women will have female roommates in their own rooms, and their own separate bathroom and shower facilities. The women will be full participants in the fourth class—freshman—indoctrination program.

The academic portion of the Academy program will be unchanged. We will make minor changes in the physical education syllabus to allow for the physiological differences between men and women.

The women will participate fully in all the summer training programs including the cruises. Our high endurance cutters are presently

capable of berthing a limited number of female cadets. Eagle, our sailing vessel, is presently being altered to provide berthing for women.

Upon graduation the women officers will be assigned to Coast Guard units on the same basis as other graduates, though, under present policy, they would not be assigned to ships or isolated duty stations.

Women will be able to select any career field and pursue any postgraduate education on an equal basis with their male counterparts. As you are aware, this includes duty as Coast Guard aviators and flight training.

Our women officers presently compete for promotion on the same basis as their male counterparts. This will continue to be true for female Academy graduates.

Mr. Chairman, members of the committee, I trust that I have been able to illustrate for you in this brief time that the Coast Guard is operating in a manner which satisfies the intent of the legislation.

For that reason, we do not consider H.R. 10192 to be necessary, but have no objection to it. I will be pleased to answer any questions which you may have.

Mr. BIAGGI. Thank you, Admiral.

I have only one comment to make with relation to your closing comments.

It has been my experience over a lifetime that administrative policies vary very quickly, and I do not suggest that the Coast Guard would become an unstable unit in Government, or that it is very likely to fall in its position, but as a matter of policy and security if we have legislative enactment all of us who have had experience in the past with instability of administrations, and the altering of philosophies, would feel much more comfortable.

We are thankful for your statement, and take note you have no objection to the legislation.

Be assured that those in the advocacy of equal rights for all, among which the Coast Guard obviously is included, have no objection to this very moderate proposal, and, on the more enthusiastic side, strongly support this legislation.

In addition to that, it has a psychological value for those out in the vineyards who are trying to work for equal rights for all.

Even more perhaps it legislatively becomes consistent with the policy of the services.

There is, as a result of legislative enactment, in the first session of this Congress, if I recollect correctly, a firm legislative policy.

It is to your credit, and the Coast Guard's credit, that you have no objection to it.

Admiral SILER. There is one difference, if I may. They had a prohibition against women at the Academy, and it required the legislation before they could admit at the Academy.

We did not require the change in the law to admit them, and we proceeded without the law even being enacted to allow the women in.

Mr. BIAGGI. We take note of the Coast Guard's attitude, and I have spoken to them, and their contention is women are troublemakers.

That was a difficult point to dispute, but on a more serious note, we are thankful for your comments.

Mr. DuPont?

Mr. DUPONT. Thank you, Mr. Chairman.

I have been an enthusiastic supporter of this kind of legislation for some years in the Congress now, and it is with a little bit of pride I think I can say the Coast Guard Academy is way ahead of its counterparts at West Point and Annapolis in terms of attitude on this question.

I am pleased to have your enthusiastic support for the program, and will look forward to seeing it put into effect.

Thank you, Mr. Chairman.

Mr. BIAGGI. Mr. Heyward?

Mr. HEYWARD. Admiral Siler, the only question that occurs to me in connection with admission is that, in considering the cadets that are applying for appointment, I am sure that the Academy, at some point in the process, looks with interest on the athletic ability of the applicants.

Has that had any effect in the treatment of women applicants?

Admiral SILER. I think it is important that we do look at the athletic ability, or the athletic adaptability to some extent.

After all, these cadets, male or female, are going to be serving on ships, and will be given the opportunity, on the *Eagle*, to climb the highest point on the rigging.

We do not want to have someone who is not physically capable of adapting to shipboard life. This will be looked at, but it is only one of the aspects that we consider, and if someone is not an athlete, it still does not preclude someone from going to the Academy.

There are a good many cadets at the Academy at the present time who are not true athletes. They have coordination, and if they are not well coordinated, we work with them at the Academy to try to insure that they are well coordinated before they go to sea.

However, shortly after arrival at the Academy they will be going on the *Eagle* for indoctrination in the ways of the sea.

Yes, we are looking at it. It is just one of the many things we consider.

Mr. HEYWARD. Well, I agree that physical capability is a proper consideration.

You will have physical examination of the women applicants, but I was really thinking in terms of whether you would be interested in getting a good quarterback, in preference to a female of equal capability in other fields. I just suggest that that probability should be recognized, because maybe one of the women applicants could have been a quarterback too, if they let her play in high school.

Mr. DU PONT. If counsel would yield there on that point, I think the record ought to show that the last visit of the Congressional Board to the Academy, I discussed that very question with the football coach there in some detail, and he, too, is an enthusiastic supporter of this program, feeling he will pick up, at worst, a place kicker, and perhaps something better than that.

Mr. DE LA GARZA. If the gentleman would yield, while counsel is all tied up in football, I would like to insert in the record that we have the best softball catcher in my neighborhood, and she was the envy of her two brothers.

Do not limit it to football. There are some good softball players also.

Mr. HEYWARD. I was merely using that as an illustration.

Admiral SILER. Mr. Chairman, I think we will find, again in the athletic area, in gymnastics, in tennis, and in swimming and in sailing many women, so I think we are going to have some very definite pluses in the athletic area here.

Mr. HEYWARD. Is it not true that you recently offered appointments to women in your advance appointments?

Admiral SILER. As many of the universities do at the present time issue advance appointments, advance acceptances, I think they call them in the universities, the academies now are using advance appointment systems, and we have issued just 50. I believe it is, at the present time, with 50 more being prepared at the present, and of the first 50 appointments issued to cadets across the country, 3 were women.

Mr. HEYWARD. How does that compare with the overall applications, percentagewise? Do you have any idea?

Admiral SILER. It is almost exactly the same, 6 percent.

Mr. HEYWARD. Thank you.

Mr. BIAGGI. While we are talking about athletics, and the manner in which women participate, I would also like to take note, and have the record show that we have a baseball umpire, at least we did, Bernice Garrett, who was the first woman in organized baseball to be umpire, and that became possible as a result of my personal efforts over 4 years in which she attended school and graduated from school with her male counterparts, all of whom received employment in baseball, and she was sitting on the bench, so to speak, and notwithstanding all of the opposition going to the various agencies, and going into court, right up to the court of appeals, we were ultimately successful in getting her a position in minor league baseball, and she played. At least she umpired one game. But there may be an umpire there some place.

Mr. de la Garza?

Mr. DE LA GARZA. Let me ask on the foreign nationals, Admiral.

Is that just perfunctory, or because you have had more applications, or why that specific additional number?

Admiral SILER. I think the original reason was that the Iranians were anxious to train some of their young men at the Coast Guard Academy.

Mr. BIAGGI. Excuse me, Admiral.

Mr. Lennon, before you leave, I saw you quietly stealing out of the room.

I would like to acknowledge the presence of a former chairman of the Oceanography Committee who served in this committee for many, many years, and I welcome him as he departs, and I am sure it is just a habit. Once you have been in the building you must come to the room, and we are delighted to see you looking so well, and perhaps your retirement, which was voluntary, was an exercise of good judgment, and it might serve as an example for all of us to consider.

Mr. LENNON. Mr. Chairman, if I may be permitted to address the Chair, I am very grateful for those remarks.

Admiral SILER. To go back to the question of why we are introducing this legislation, I think the Iranians wanted to train some of their young men at the Coast Guard Academy and at the Merchant Marine Academy, and the law does not permit those young men to attend the Federal academies at the present time.

Because of that they are attending State Merchant Marine Academies at the present time, and we feel that it would be in the national interest to have them attending the Coast Guard Academy, and believe it would also broaden the interests of our cadets at the academy.

Mr. DE LA GARZA. I appreciate that. I was just wondering as to the number, if that number is just a figure out of the air.

Admiral SILER. We followed the Department of Defense for numbers.

We cannot assimilate a large number of foreigners obviously in our small academy.

Mr. DE LA GARZA. I think that is a very good program, and I certainly commend you for it.

Thank you.

Thank you, Mr. Chairman.

Mr. BIAGGI. No further questions.

I want to thank you very much for your testimony.

The next witness will be Ms. Pat Leeper, legislative office, National Organization for Women.

STATEMENT OF PAT LEEPER, LEGISLATIVE OFFICE, NATIONAL ORGANIZATION FOR WOMEN

Ms. LEEPER. Mr. Chairman, I also wear two hats. I head our National Committee for Women in the Committee. Counsel called me Monday and told me they were having these hearings, so I quickly threw something together.

Mr. Chairman, for the past 6 months we have been working with the DOD departments for equal opportunity—as well as those in the Navy and Army on plans for admitting women into the service academies. Despite a great deal of hand-wringing and teeth-gnashing from some of the Old Grads, we have been generally impressed with the efforts made by the various services to implement their programs.

We understand that the Coast Guard Academy is making some shipboard adjustments to accommodate women on their training yacht. We applaud this effort, and hope such training can be extended to other working vessels before the first women graduate, 4 years hence.

In the training at all the academies, we realize the standards are very high. There is no difficulty establishing the academic ability of female applicants, and the women should certainly be physically fit.

In our view, in the practical sense, as far as the physical education programs are concerned, is that the women participate in the sports for which they have interest and talent—other training would take into consideration the lesser upper arm and body strength.

We do not really see the need for much of the fuss over total strength—as it is necessary only that women have the strength to do the job—not to be as strong as the men performing the same job. Few men work at occupations which require their full strength in any case.

We anticipate that the Coast Guard will face some of the same problems posed by the Navy. This, of course, pertains to sea duty

for women, as well as placing them in isolated duty stations—this is generally called the "privacy problem"—although the Navy also calls it a "combat problem"—we at NOW refer to it as the "there is too much sex in sex discrimination problem." To elaborate, the usual excuse for keeping women out of certain duty billets is that they will distract the men.

We do admit to certain practical difficulties in this area, but it needs to be faced squarely. Men and women have always distracted each other—they always will—and there has never been a law, penalty, or regulation made that has effectively kept men and women in any situation from getting together sexually if determined to do so.

This is simply human nature, and human nature is never tidy in any area—even the military.

However, the Coast Guard and the Navy must sooner or later realize that the problem is not solved simply by forever barring women from certain jobs. As long as there is one occupation or job billet closed to women—for whatever reason—we have a situation where the careers and desires of female servicewomen will be forever determined by male policymakers.

A commonsense view of this is to assign women who are capable and desirous of certain jobs the same as men. If there are problems, they should be handled on a case-by-case basis as they arise. The military spends a good deal of time processing personnel problems as it is judging from the complaints NOW gets from servicewomen—many of these problems arise from an inability to live and let live—again, attempts to overregulate human nature.

We realize that some ideas take getting used to—particularly in career areas that have been traditionally male for so long. We have great faith, however, that the military, as other areas of society, will, in fact, adjust nicely in good time.

We frankly despair at getting the military to stop imposing quotas and setting higher standards for women than men. However, we cannot but hope that the first women attending all the academies will be facing skeptical—and in some cases, hostile instructors. As all women who have broken new ground, the human mistakes they make are bound to be blamed on their sex.

NOW has a chapter at West Point which includes a number of male cadets. We therefore are well aware that some of the attitudes prevailing there differ somewhat from the good stuff coming out of West Point Public Relations Office. We feel confident that this will be less of a problem at the Coast Guard Academy.

We would like the Coast Guard to know that we would be glad to advise or assist them in any way we can. We try to work out any problems of sex discrimination within the military channels—and although our view of what constitutes equal opportunity for servicewomen is a bit more ambitious than the services—we have had some success in this area.

Thank you for the opportunity to present this short statement.

I would be happy to answer any questions the committee may have.

Mr. BIAGGI. Thank you very much for your statement, and responding as quickly as you did, on such short notice. It happens to be a good statement, and a realistic approach.

I like your reference to "human behavior." I think what we are doing is making it a little more comfortable.

Ms. LEEPER. Yes, I think so.

Mr. BIAGGI. But I am also of a mind that the Coast Guard is more progressive in their approach to this problem.

As far as hostile instructors are concerned, be assured it is not confined to women. You do have instructors who have prejudices. You have them everywhere, in every educational system.

Ms. LEEPER. I am sure that is true.

Mr. BIAGGI. They are multiple and varied, and students always suffer as a result of that.

I would like to believe that most of the instructors in our educational systems are academically motivated and objective, and I am confident if there is any hostility, eventually, and I think very quickly it will break down, because women have that quality, to beguile, if you will, simply by being women and neutralizing.

I also think women have a beneficial effect on men, of course, as well as all mankind, and I am sure that their presence in any academy will have a temporizing reaction.

I am an advocate of all rights for women, and what I am wary of, and I hope you share that view, is that women, if they are to be appointed to the academies, must be appointed on merit, and strictly on merit.

Ms. LEEPER. Yes. As a matter of fact, I wish there was some way I could spread the word, but we have had some complaints from people in the Army, that some Members of Congress, in fact, have been appointing women who really were not that well qualified, which leaves the burden up to the Army to weed them out, and you could spread that word to screen them fairly well yourselves before you send them back, and I am sure they would be grateful.

Mr. BIAGGI. I have nominated, as a principal nominee, to the Naval Academy a young lady in my last series of appointments, who is an excellent candidate, and I nominated her simply because she was an excellent candidate.

Ms. LEEPER. Right.

Mr. BIAGGI. I did not lean over backward at all, although I was happy that I had one, very frankly, but I assure you I would never have nominated her unless she measured up.

That is what I am concerned about in the services, whether we subconsciously establish quotas, and I do not think the fact that we have 3 out of 50, which is commensurate with the total population, should have any bearing whatsoever on the policy and practice of the services.

What is your comment on that?

Ms. LEEPER. Well, the military does not call them quotas. They call them goals, and we spend a good deal of time educating them on the differences between quotas and goals.

We have a problem with the military. We are not just dealing with women concerned with equal opportunity, but equal responsibility, and this is very tricky.

As you may know, the opponents of the equal rights amendment tend to use this military issue against us saying it will draft women, and that is a problem, and it is not just the academies. It is the whole problem.

If you have read over the past years some testimony against admitting women to the academies, that in our view, it does no good to train them the same as men, to put them on the cutters, and train them and then deny them the opportunity to work on the cutters when they graduate.

You are either going to do it or you are not going to do it, and to say they are competing equally with men, that is once they graduate, is a little bit silly, because if a selection board comes up and a male fitness report came up and he had never been to sea, and in the Coast Guard, or never been in an isolated duty station, I do not think his chances would be very good.

I do not think they will be competing very equally until they put the women in the same positions.

Mr. BIAGGI. That becomes a question of policy, and that can be determined over a period of time, where the pattern of conduct that has developed that leads you to that one conclusion, and that is discrimination, and that is what we look at.

We have been dealing with that over the last several decades.

Ms. LEEPER. A lot has to do with the so-called protective or emotional feelings men have toward women.

When it gets into areas of combat we tend to export our wars, and we tend to forget that the wars are going on.

Where there are wars there are, in fact, women, and if you are a woman in a war-torn country you are a victim or combatant, and you have no choice.

It is very easy for us to say we are going to keep our service women safe from these roles, but I think that is part of the problem. It has to do with the attitudes, and how long it takes to change them.

Mr. BIAGGI. Well, you are right on target as far as that is concerned.

I have every confidence it will work out, but again I would like to stress that goals and quotas, in my judgment, are a question of semantics.

Ms. LEEPER. True.

Mr. BIAGGI. And I am not misled by it. I think it works to the disadvantage of the agency involved, not simply the services.

This is an across-the-board policy, and it is a philosophy that has been espoused by many people in many areas, in order in what I feel is the wrong way, to correct an inequitable problem.

I think if we have an honest approach to dealing with the problem it can be worked out.

I am satisfied that the attitude toward women shared by the Coast Guard is the proper one, and by their conduct so far it has proven it.

It comforts me to know that they are so far ahead and prepared to deal with it, and I have every reason to believe that at least in this service our mutual interests will best be served.

Mr. de la Garza?

Mr. DE LA GARZA. No questions.

Mr. BIAGGI. Mr. Heyward?

Mr. HEYWOOD. No questions.

Mr. BIAGGI. Mr. Olney?

Mr. OLNEY. No questions.

Mr. BIAGGI. Thank you very much.

Ms. LEEPER. Thank you.

Mr. BIAGGI. There are no further witnesses, and the meeting is adjourned, subject to the call of the Chair.

[The following was received for inclusion in the record:]

STATEMENT OF HON. LESTER L. WOLFF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I am happy to submit testimony to your subcommittee as it considers legislation to formally authorize the appointment of women to the Coast Guard Academy. I am equally pleased to note that my name appears as the sponsor or co-sponsor of all but one of these bills.

Permit me to discuss some of the background of these measures. Last Fall, the House approved an amendment that would have mandated that the Air Force, Naval and Military Academies accept the appointment of women. Unfortunately, due to a procedural matter, this did not include the Coast Guard Academy. In response to this, you introduced H.R. 10192, which would insure that women would be eligible for appointment to the Coast Guard Academy. Shortly after you introduced this bill, the Coast Guard acted on its own and announced that women would be accepted.

I applaud the Coast Guard's decision to admit women but feel that it would be beneficial for the Congress to formalize this by passing legislation that would legally require the Coast Guard to open, and keep open, its Academy's doors to women. I feel that any of the bills before the subcommittee would accomplish this and I urge my Colleagues to give a measure of their approval.

STATEMENT OF HON. EDWARD I. KOCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

An historic event is to take place this July 1976—the admission of women to our service academies. The new policy is the direct result of legislation for the Army, Navy and Air Force Academies. The Merchant Marine Academy has admitted women since 1974 by order of the Secretary of Commerce.

This summer the Coast Guard Academy will also admit women for the first time, by order of the Secretary of Transportation. As I understand it, some 10,500 young people have applied for the 300 places available in the Academy's class of 1980. Of those, approximately 700 applicants are women. According to a Coast Guard Academy spokesman, there is no quota on the number of women to be admitted to that class, and three early appointments of women have already been made.

I believe that the Secretary of Transportation should be praised for having taken the initiative in calling for the admittance of women to the Coast Guard Academy, and I am pleased that applicant response has been strong. Equally important however is that, once admitted, the female cadets should be treated in a non-discriminatory fashion. Also, as the new policy is the result of regulation I believe that a statutory back-up should be provided to assure the continuation of that policy. Legislation now pending before the Committee on Merchant Marine and Fisheries addresses itself to those ends. Congressman Lester L. Wolff's bill, H.R. 9013, relates to the admission of women to the Coast Guard Academy and Congressman Mario Biaggi's bill, H.R. 10192, would provide for the non-discriminatory appointment and treatment of cadets to that Academy. I commend both bills to your attention, and I hope the committee will incorporate them in a bill that will be reported out. The Department of Transportation has taken the first step; it is now up to us to assure the continuation and integrity of that policy.

MARCH 4, 1976.

Adm. OWEN W. SILER,
Commandant, U.S. Coast Guard, Washington, D.C.

DEAR ADMIRAL SILER: As you are doubtless aware, there are now pending in the Subcommittee on Coast Guard and Navigation several bills relating to the admission of female individuals to the Coast Guard Academy, H.R. 8414, H.R. 9011, H.R. 9013, and H.R. 9347. In addition, there is also pending H.R. 10192, a bill to provide that the appointment of cadets to the United States Coast Guard Academy shall be made without regard to sex, race, color, or religious beliefs.

I am aware that you testified before the Subcommittee on February 11, 1976, and that your testimony was directed primarily to H.R. 10192. I understand that

during that testimony you reviewed your present plans for admitting female candidates to the Academy and explained the manner in which they would be handled as cadets. At the end of your prepared remarks, you stated that you did not consider H.R. 10192 to be necessary but that you have no objection to it.

While I can appreciate the argument that in theory certain rights should be specifically covered in statutory law, rather than being left to administrative determination, I also hold the firm belief that there are too many bills enacted into law which are not absolutely necessary. In order that I may resolve these two issues in my own mind as they relate to H.R. 10192. I would appreciate your having your Chief Counsel prepare a legal opinion as to the total ramifications of the enactment of H.R. 10192, including legal reasons in support of, as well as in opposition to, that enactment. It would be helpful in the drafting of his opinion if he would address himself to the admission of females to the other academies (including the Military Academy, the Naval Academy, the Air Force Academy, and the Merchant Marine Academy), and how the requirements of those academies might have an impact in relation to the desirability of enacting H.R. 10192.

Your early compliance to this request would be appreciated.

Sincerely,

LEONOR K. (Mrs. John B.) SULLIVAN,
Chairman.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., April 1, 1976.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: As requested by your letter of March 4, 1976, enclosed please find the opinion of my Chief Counsel as to the desirability of enacting H.R. 10192, a bill "To amend title 14, United States Code, to provide for the nondiscriminatory appointment of cadets to the United States Coast Guard Academy."

My position remains that in view of the Coast Guard's present policy of admitting women to the Academy H.R. 10192 is unnecessary although I have no objection to it.

Sincerely,

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

Enclosure.

MEMORANDUM

Subject: H.R. 10192, admission of women to Coast Guard Academy, opinion regarding.
From: Chief Counsel.
To: Commandant.

1. The following opinion as to the necessity for, and the ramifications of, H.R. 10192 is submitted as requested pursuant to the 4 March 1976, letter of the Chairman, Committee on Merchant Marine and Fisheries.

2. Section 1 of the bill amends subsection (a) of section 182 of Title 14, United States Code, which authorizes the appointment of cadets to the Coast Guard Academy, by inserting the following provision: "All such appointments shall be made without regard to the sex, race, color, or religious beliefs of an applicant. In the administration of this chapter, the Secretary shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals."

Section 1 further provides that the phrases "or her" and "or herself" be inserted immediately after the words "his" and "himself", respectively, wherever those words appear in the subsection.

Section 2 of the bill amends section 183 of Title 14, United States Code, which provides for the initial clothing allowance of cadets, by inserting the phrase "or her" immediately after the word "his" each place that that word appears in the section.

3. Insofar as H.R. 10192 requires that appointment to the Coast Guard Academy be made without regard to race, color, or religious beliefs, the bill is unnecessary as it is well-established that discrimination of this nature violates equal protection rights afforded by the Constitution. The bill in that respect merely reiterates law already enunciated by the Supreme Court. See, *Loving v. Virginia*, 388 U.S. 1 (1967) ; *Oyama v. California*, 332 U.S. 633 (1948) ; *Sherbert v. Verner*, 374 U.S. 398 (1963).

4. The case law with regard to classification based on sex is less decisive. Although in *Frontiera v. Richardson*, 411 U.S. 677 (1973), a 5–4 majority invalidated a statute which denied female members of the uniformed services the right to claim their spouses as dependents on the same basis as could male members, only four members of the court categorized sex as an inherently suspect classification.

In the more recent case of *Kahn* v. *Shevin*, 416 U.S. 351 (1974), the majority implicitly rejected the idea that sex is a suspect classification, holding that a Florida statute giving widows but not widowers a $500.00 exemption from property taxation does not violate equal protection rights because the differing treatment of the sexes rested upon "some ground of difference having a fair and substantial relation to the object of the legislation." (at page 355)

As pointed out by Justices Brennan and Marshall in their dissent, in order to justify a suspect classification a state must bear the much heavier burden of demonstrating that the challenged classification serves overriding and compelling state interests which cannot be achieved by less drastic means.

Since case law regarding classifications based on sex is still fluctuating, H.R. 10192's provision that appointment to the Academy be made without regard to sex is not on its face legally superfluous.

5. There is no statutory impediment to the admission of women to the Coast Guard Academy. Although only masculine pronouns are used in Sections 182 and 183 of Title 14 of the United States Code, Section 1 of Title 1 of the Code provides that in determining the meaning of any Act of Congress words importing the masculine gender may be applied to females as well. (It is noted in passing that Section 1 of Title 1 of the Code also makes Section 2 and subsections (2) and (3) of Section 1 of H.R. 10192 unnecessary.)

6. But, although current statutory law does not prohibit women from the Academy, neither does it require that they be admitted. As a matter of fact, the statute in effect today, at which time women are being admitted, is the same statute which was in effect when the Coast Guard was refusing to admit women. Thus, the Coast Guard's policy of admitting women to the Academy is merely an administrative decision which could conceivably be reversed. For this reason, if the Congress wishes to ensure, with as much legal certainty as possible, that the Coast Guard Academy will not discriminate against women in the future, H.R. 10192 is necessary.

7. In enacting Public Law 94–106 which requires that females be eligible for appointment and admission to the three Department of Defense service academies. Congress made clear its intention that women be admitted to those academies. That statute did not apply to the Coast Guard. Thus, under the present state of the law, there is a statutory requirement that women be admitted to the other academies but there is no such requirement as to the Coast Guard Academy. Based on this fact, an argument could be made that since the applicable statutes are different, Congress intended a different result as between the Coast Guard Academy and the other academies. Enactment of a statute such as H.R. 10192 would effectively eliminate this possible argument and would clarify the Congressional intent on this subject.

8. Although not relevant in determining whether the bill is necessary at present,, a contingency which would make H.R. 10192 unecessary is the ratification of the Equal Rights Amendment, which would compel the Coast Guard to admit women despite the absence of any specific legislation requiring it to do so.

9. Another consideration with regard to the future is the anticipated result of litigation which would probably be instituted by women applicants if the Coast Guard were to resume a policy of barring women from the Academy. The following factors make it unlikely that the Coast Guard would prevail in a lawsuit challenging its right to bar women from the Academy.

First, since the other military academies will have begun training women as of this year, any Coast Guard argument as to the impracticality, unfeasibility, or

undue expense of admitting women to a service academy would be fatally weakened.

In addition, the Coast Guard has even less justification than the other services for barring women from its academy. Unlike the Navy and Air Force, the Coast Guard is no longer statutorily prohibited from assigning women to combat roles (except when the Coast Guard is serving as part of the Navy). Public Law 93–174 repealed former Section 762 of Title 14, United States Code, which had prohibited women members of the Coast Guard from being assigned to combat duty; to duty onboard combat vessels or aircraft; to duty other than in the United States, its territories, and possessions; and, unless requested by the member, to duty outside the continental limits of the United States.

Furthermore, since waging war is not the Coast Guard's primary mission, the Coast Guard Academy, unlike the other military academies, is not training its cadets primarily to assume roles as combat officers.

Although current Coast Guard policy does not permit women to serve at sea or at isolated duty stations, this is not statutorily mandated. The experience of the Merchant Marine Academy would weaken any Coast Guard argument that women should not be trained at the Academy because it is not feasible to allow them to assume roles as sea-going officers upon graduation. It should be noted that the admission of women to the Merchant Marine Academy is based not on statute but upon regulation. In 1974, the Merchant Marine Academy's regulations were amended to eliminate any requirement that an applicant be male in order to qualify for appointment. 39 Federal Register 2759. No women have as yet graduated from that Academy, but its women cadets have successfully participated in the required training at sea onboard merchant vessels.

10. The foregoing considerations might seem to make legislative action unnecessary because of the likelihood of judicial intervention if the Coast Guard were to revert to a policy of barring women from its Academy. However, the judicial process moves slowly, especially when several levels of appeal are involved as could be expected here. Thus, if Congress wants to ensure that the Coast Guard could not—even for a temporary period while a lawsuit was in progress—exclude women from its Academy legislative action is necessary.

11. Although from a strictly legal viewpoint, H.R. 10192 is necessary to ensure that the Coast Guard will not revert to a policy of barring women for its Academy, Congress could adopt an approach of inaction until the contingency about which it is concerned actually occurs. In other words, Congress could refrain from legislation until it appeared that the Coast Guard intended to change its current policy of admitting women to the Academy.

If Congress were to adopt this approach, the need for legislative action would probably never arise since for several reasons the Coast Guard is not likely to attempt to resume a policy of barring women from the Academy. First, because of Public Law 94–106, which requires the other military academies to admit women on an equal basis with men, the Coast Guard would be the only military service denying women the opportunity to train at its Academy. Adopting such a maverick position would hardly be in our best interest, especially in view of the unfavorable public image it would no doubt create.

In addition, as has already been discussed, reversion to a policy of excluding women from the Coast Guard Academy would probably result in protracted litigation. In view of the expected outcome of such a lawsuit, the Coast Guard would be ill-advised to attempt to re-establish an all-male Academy.

Finally, history demonstrates that once the opportunities of any group of citizens have been expanded, reversion to previously-unchallenged discriminatory practices will not be tolerated. Once women are admitted to the Coast Guard Academy, are accepted as part of Academy life, and graduate in every-increasing numbers, it is unlikely that the Coast Guard would want to revert to an all-male Academy or that we would realistically be able to resume this discriminatory practice even if desired.

12. It is thus my conclusion that while enactment of H.R. 10192 is not necessary as a practical matter, it is necessary from a legal point of view if the Congress wants to remove from the Coast Guard any discretion or opportunity to reverse its present policy. If the Congress does enact H.R. 10192, I recommend that it amend the bill by deleting paragraphs (2) and (3) of Section 1 and all of Section 2 of the bill. They are not legally necessary to achieve the desired result.

R. A. RATTI.

[Whereupon, at 10:27 a.m., the subcommittee adjourned, subject to the call of the Chair.]

FEDERAL BOAT SAFETY ACT

THURSDAY, APRIL 1, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE COAST GUARD AND NAVIGATION,
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:35 a.m., in room 1334, Longworth House Office Building, Hon. Mario Biaggi (chairman of the subcommittee) presiding.

Mr. BIAGGI. The meeting is called to order.

The Subcommittee on Coast Guard and Navigation is meeting today to receive testimony on the operation of the Federal Boat Safety Act of 1971.

Last fall, the subcommittee held hearings primarily intended to consider the question of extending section 30 of the Federal Boat Safety Act, the section providing for Federal assistance to State boating safety programs. At that time, we received testimony on both H.R. 5630 and H.R. 9375. At the conclusion of the hearings, the subcommittee decided that it would be the best solution to act on H.R. 5630 immediately, in order to provide the necessary authorization for appropriations for the assistance to the State programs. That bill subsequently passed the House in November, and is now pending in the Senate. The other bill before the subcommittee was H.R. 9375, and in the course of the testimony received from the Coast Guard, State boating law administrators, and industry representatives, various recommendations were made for amending the basic act in several particulars.

The subcommittee decided to postpone consideration of those proposals until it could receive an overall report from the Coast Guard on the operation of the act since its enactment in 1971. That is the purpose of these hearings today.

First, we will receive testimony from the Chief, Office of Boating Safety, representing the Coast Guard, who will review the entire program and will address himself to any recommended changes in the law which the Coast Guard considers desirable. Hopefully, he will also comment on other proposals which were made during the hearings last fall. We intend to conclude these hearings with an additional day of testimony in early May, at which time State and industry representatives will have an opportunity to express their views.

We are using H.R. 9375 as the vehicle for beginning these hearings, but I should point out that at least a part of the provisions of that bill have been superseded by the action taken on H.R. 5630. In view of that development, it is entirely possible that a new revised bill will be introduced and that the subcommittee action will be addressed to the new bill.

[The bill and Executive Communication No. 1630 follow:]

[H.R. 9375, 94th Cong., 1st sess.]

A BILL To amend the Federal Boat Safety Act of 1971 to extend the authorization of appropriations for financial assistance for State boating safety programs beyond fiscal year 1976, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Boat Safety Act of 1971 (85 Stat. 213, 46 U.S.C. 1451 et seq.) is amended as follows—

(1) Section 5(b) (1) is amended by striking the word "eighteen" and inserting in lieu thereof the words "twenty-four".

(2) Section 8 is amended by redesignating the existing paragraph as (a) and adding at the end thereof a new subsection (b) as follows—

"(b) The Secretary may conduct research, testing, and development necessary to carry out the purposes of this Act, including procuring (by negotiation or otherwise) experimental and other boats or associated equipment for research and testing purposes.".

(3) Section 15(g) is amended by striking the period and inserting in lieu thereof the following: ", including procedures to be followed by dealers or distributors to assist manufacturers in obtaining the information required by this section; however, a regulation promulgated hereunder may not relieve a manufacturer of any obligation imposed on him by this section.".

(4) Section 7 is amended—

(A) in the first and second sentences of subsection (c) by adding the word "eligible" between the words "applying" and "States" where they appear therein; and

(B) by adding a new subsection (e) as follows:

"(e) The Secretary may expend funds appropriated for the program of financial assistance to the States under this Act for audit expenses incurred by him in the administration of that program. Expenditures made in any fiscal year under this subsection shall not exceed 1¼ per centum of the total funds appropriated for that fiscal year.".

(5) Section 8(a) is amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ", for the transition period of July 1, 1976, to September 30, 1976, and for each of the fiscal years 1977 and 1978.".

(6) Section 30 is amended by striking the phrase "1972, and $7,500,000 for each of the four succeeding fiscal years" and inserting in lieu thereof the phrase "1976, $1,500,000 for the transition period of July 1, 1976, to September 30, 1976, and $7,500,000 for each of the fiscal years 1977 and 1978".

[Exec. Comm. No. 1630]

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 12, 1975.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill, "To amend the Federal Boat Safety Act of 1971 to extend the authorization of appropriations for financial assistance for State boating safety programs beyond fiscal year 1976, and for other purposes."

Under the Federal Boat Safety Act of 1971, Federal financial assistance to the States for the purpose of encouraging and assisting State boating safety programs will expire at the end of fiscal year 1976. Statistics from the first three years of this program show that it has encouraged the States to increase boating safety budgets. The level and quality of boating safety programs has consequently improved.

The Federal Boat Safety Act of 1971 authorized the U.S. Coast Guard to establish safety standards for the construction of recreational boats. In addition, it authorized a program of Federal financial assistance to help States improve existing boat safety programs and to encourage others to develop new programs in this area.

Utilizing the authority granted by this Act, the Coast Guard has made substantial progress in the regulation of boat construction to assure high levels of safety. Moreover, the financial assistance program has had the intended effect

of encouraging many states to expand the level and improve the quality of their boat safety programs.

Boating accident statistics show that in 1974, the lowest rate of boating fatalities per 100,000 boats occurred since we began keeping these statistics in 1961. In our view, the improved State boating safety programs have materially contributed to this decline.

When the 1971 Act was enacted, the financial assistance provisions were conceived by the Executive Branch and by the cognizant Congressional Committees as a five-year program designed to induce States to start boat safety programs or to increase activity in this field. This was the basis for providing that the Federal matching share for grants received would be phased down over the five-year authorization period from 75% to 33⅓%.

Because of the phasing of the authorization and budget cycles, the grant program has for practical purposes been in extensive operation for only three years. To provide the full test of this financial assistance concept envisaged by the original Act, the proposed bill authorizes the extension of the Federal financial assistance program for an additional two fiscal years at the currently authorized level of $7,500,000. The present requirement of one-third Federal, two-thirds State would also be continued.

During this two year extension, the Coast Guard will assess carefully the results of this program to provide the Executive Branch and the Congress with more complete guidance on appropriate future directions for this effort. In addition, the Department will also continue its efforts to develop a strong and well-defined Federal-State partnership in the execution of a comprehensive boating safety program.

Although the primary purpose of this proposed legislation is to extend the authorization for the Federal financial assistance program, the bill also contains amendments to the Federal Boat Safety Act to clarify ambiguities or resolve problems which have arisen over the last four years. These amendments clarify which States are eligible to receive financial assistance; provide for limited audit expenses, auditing being essential to the proper administration of the financial assistance program; provide the Secretary with increased discretion in establishing the effective date of regulations or standards which require major product redesign, retooling, or change; and authorize the Secretary to require dealers and distributors to assist manufacturers in obtaining first purchaser information to make the defect notification program more effective.

Enactment of the proposed bill would cost $1,500,000 for the transition period of July 1, 1976 to September 30, 1976, and $7,500,000 for fiscal years 1977 and 1978. It is recommended that the proposed legislation be enacted by Congress.

The Office of Management and Budget has advised that this proposed legislation is consistent with the Administration's program.

Sincerely,

WILLIAM T. COLEMAN, Jr.

Enclosures.

A BILL To amend the Federal Boat Safety Act of 1971 to extend the authorization of appropriations for financial assistance for State boating safety programs beyond fiscal year 1976, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Boat Safety Act of 1971 (85 Stat. 213, 46 U.S.C. 1451 *et seq*) is amended as follows—

(1) Section 5(b)(1) is amended by striking the word "eighteen" and inserting in lieu thereof the words "twenty-four".

(2) Section 8 is amended by redesignating the existing paragraph as (a) and adding at the end thereof a new subsection (b) as follows—

"(b) The Secretary may conduct research, testing, and development necessary to carry out the purposes of this Act, including procuring (by negotiation or otherwise) experimental and other boats or associated equipment for research and testing purposes.

(3) Section 15(g) is amended by striking the period and inserting in lieu thereof the following: ", including procedures to be followed by dealers or distributors to assist manufacturers in obtaining the information required by this section; however, a regulation promulgated hereunder may not relieve a manufacturer of any obligation imposed on him by this section.".

(4) Section 27 is amended—

(A) in the first and second sentences of subsection (c) by adding the word "eligible" between the words "applying" and "States" where they appear therein; and

(B) By adding a new subsection (e) as follows—

"(e) The Secretary may expend funds appropriated for the program of financial assistance to the States under this Act for audit expenses incurred by him in the administration of that program. Expenditures made in any fiscal year under this subsection shall not exceed 1¼ per centum of the total funds appropriated for that fiscal year.".

(5) Section 28(a) is amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ", for the transition period of July 1, 1976, to September 30, 1976, and for each of the fiscal years 1977 and 1978.".

(6) Section 30 is amended by striking the phrase "1972, and $7,500,000 for each of the four succeeding fiscal years" and insterting in lieu thereof the phrase "1976, $1,500,000 for the transition period of July 1, 1976, to September 30, 1976, and $7,500,000 for each of the fiscal years 1977 and 1978".

Mr. BIAGGI. With that background, the subcommittee will now hear from Rear Adm. David F. Lauth, Chief, Office of Boating Safety, U.S. Coast Guard Headquarters.

Admiral Lauth, good morning and welcome.

STATEMENT OF REAR ADM. DAVID F. LAUTH, CHIEF, OFFICE OF BOATING SAFETY, U.S. COAST GUARD, ACCOMPANIED BY CAPT. RAYMOND H. BAETSEN, CAPT. GILBERT L. KRAINE, AND CAPT. CLARENCE HALBERG

Admiral LAUTH. Good morning, sir.

Mr. Chairman and members of the committee, I have with me Capt. Gilbert L. Kraine, my deputy, Capt. Clarence Halberg, who is the Deputy Chief Counsel and Capt. Raymond Baetsen, my technical staff assistant.

It is my pleasure to be before you today.

Mr. BIAGGI. Excuse me a moment, Admiral. I think for the record I would like to make note of the fact that Mr. D'Amours, a member of the full committee, is invited to sit with the subcommittee today and we are delighted to have you with us.

Mr. D'AMOURS. Thank you, Mr. Chairman.

Admiral LAUTH. Mr. Chairman, I am aware you have a copy of the rather lengthy testimony I have prepared and with your permission I will submit it for the record and cover the highlights in my verbal testimony.

Mr. BIAGGI. Fine, without objection.

[The full prepared testimony of Admiral Lauth follows:]

STATEMENT OF REAR ADM. D. F. LAUTH, CHIEF, OFFICE OF BOATING SAFETY, U.S. COAST GUARD

Mr. Chairman and members of the committee, I am Rear Admiral David F. Lauth, Chief, Office of Boating Safety, U.S. Coast Guard. It is a pleasure to appear before you today to testify concerning H.R. 9375, Amendments to the Federal Boat Safety Act of 1971 and to review the Federal Boat Safety Act, our implementation, results, and the reasons for the changes submitted in H.R. 9375.

The Federal Boat Safety Act of 1971 was enacted to create a coordinated safety program to protect the increasing number of people who were attracted to boating as a form of recreation. Since a large number of organizations are involved with boating safety; Federal, State and local governments; the boating industry, and concerned voluntary groups, a coordinated program was necessary not only to effectively utilize the available resources but also to insure that

boatmen could move about the waters of the nation without being confronted by a bewildering array of conflicting requirements.

While such a fully completed program is still in the future, we have made substantial progress in many areas. Except for a few relatively minor items for which we have proposed amendments, the Federal Boat Safety Act is generally regarded as an excellent piece of legislation. The Act provides effective authority to the executive branch for consumer protection, yet is not unfairly burdensome to the industry. While it calls for strong leadership from the Federal government it also stresses and supports increased activities at the state and local government levels.

To provide an overview of our actions to implement PL 92–75, I propose to go through the various sections of the law highlighting what we have done and pointing out the results of our efforts. Additionally, I will point out those few areas where we believe amendments are appropriate.

I feel that the law and the resulting regulations are carrying out the declared policy of the Congress. There is an increasing awareness of a need for safety by the public; a good acceptance by the manufacturers of their responsibility, and an improved involvement of state and local governments in safety programs. In spite of an increasing number of boats the fatalities in the past two years have not risen proportionally with the number of boats. We are cautiously hopeful that the accidents and fatalities will decrease.

Under the authority granted in Section 5 we have issued ten regulations to date. These regulations include:

Specifying additional conditions for applying the especially hazardous conditions rule.

Procedures for Manufacture Defect Notification.

Manufacturerer Requirements for certifying compliance with standards.

Boat and Associated Equipment Standards for loading, powering and flotation.

Standard Vessel Numbering and Accident Reporting procedures for the States.

Personal Flotation Device carriage requirements.

Designating certain Hazardous Bars on the West Coast.

Manifestly Unsafe Voyages under the hazardous condition rule.

I have enclosed a more detailed explanation of these regulations for the record.

In the process of developing these regulations we have determined that a problem area exists. The 18 month maximum delay in establishing the effective date of a standard which requires major redesign on the part of the manufacturer is not sufficient. This should be expanded to a maximum of 24 months and H.R. 9375 includes this amendment. We feel that the total interest of the boating public would benefit from this extension since a substantial reduction in product cost will result from the manufacturer's ability to perform the necessary product modifications coinciding with their established retooling cycle. As the regulations apply only to new construction, this minimal delay will not adversely affect safety. The regulations I have described were developed by a careful procedure which we believe considers the interests of all involved. Let me describe the procedure which we followed in the development of one of our regulations.

The initial stage is the investigation of boating accidents to define the underlying causes of accidents.

In the development of our proposed level flotation standard we knew that an earlier regulation required a minimum amount of flotation to be installed in most boats. This was intended to keep them afloat if they were swamped or capsized. But our research showed three areas of concern:

1. Most boats equipped with the minimum flotation required by our regulation would capsize, when filled with water, and float with just the bow above water. This leaves a very small, slippery surface for survivors to hang on to.

2. As the swamped boat rolls over it often traps life jackets and people underneath.

3. Finally, survivors of the initial capsizing who are wise enough to stay with the boat by hanging onto its side, suffered from exposure to the cold water which medically is called hypothermia; a potentially fatal condition when the body is losing heat to the surrounding water faster than it can be generated.

At this stage we felt we had defined a problem and began a research effort.

As specified in Public Law 92–75, our research effort considered industry voluntary standards, industry technology, research sponsored by other U.S. Federal, and foreign agencies and includes an economic analysis of the effect of the pro-

posed regulation. Our total current research effort in the Recreational Boating Safety program is on the order of 1.2 million dollars annually. Given a defined problem, the Coast Guard Office of Research and Development searches the known and unknown for possible solutions. I enclose for the record a summary of our current R&D activities in the boating safety field.

I want to highlight at this time the invaluable participation of the National Boating Safety Advisory Council which was established by Public Law 92–75. They participate in the various steps of any proposed regulation and insure that we, in the Coast Guard, do our homework thoroughly. Believe me, when the Council gives a final recommendation on the need, technical content, and regulatory merit of a safety standard, it has been thoroughly examined.

I think that it is significant that the activities of the National Boating Safety Advisory Council have been recognized as an example for other agencies to follow in providing public input to rulemaking procedures.

The law further requires that we analyze and consider applicability of a particular regulation to various types of boats or associated equipment. In the case of our level flotation regulation, we propose to provide exceptions for sailboats, canoes, kayaks, inflatable boats, submersibles, certain air boats, inboard boats, traditional wooden boats, and manually propelled boats as fits their particular usage.

The need for some of these exceptions is obvious, others are the reult of exhaustive research which showed that the changes we proposed would not provide sufficient additional safety to the boating public to justify the costs involved.

I have gone to some length to analyze this one particular section of the Act, because I feel that it demonstrates that we have put into practice what we believe the Congress intended; that is, carefully developed regulations which are beneficial to the American boating public but which would not price boating out of reach.

To establish a system indicating compliance with our standards, we require that manufacturers of every boat subject to the Act install a unique identification number and that the manufacturers of boats to which standards apply display a label which certifies that their boat does comply.

We have found one problem in this area with our definition of a "boat manufacturer" which presently requires the factory or first stage manufacturer to certify the boat. This is not applicable when a dealer, for example, buys an uncompleted hull, an engine package and a steering system from various sources and performs the final assembly in his own shop. This is an economicaly sound practice which benefits the industry and the consumer but does not conform to our current regulations regarding certification.

We are proposing a regulation which will alleviate this problem by requiring each stage or component manufacturer to certify only his part of the whole package. He may also define the limits of his certification. For example, a steering system manufacturer may certify his equipment for compliance with safety standards when used with engines of a prescribed horsepower rating. While only one label will appear on the final boat itself, the intermediate certification will be handled by other means.

To insure that the manufacturer certification is valid, Section Eight of the law authorizes the Coast Guard to test boats for conformance with applicable regulations. Our original goal was to purchase boats at random from the showroom floor without prior notification to anyone in the manufacturing community. Due to budget limitations, we found a true, random selection process was impractical. Instead, we have developed a pre-selection process which includes an analysis of probable manufacturer compliance.

We have also selected models of boats for testing which have been involved in accidents. For example, if we found a boat that capsized and sank in an actual incident when it should have floated, we would test a similar model.

The proposed amendment to Public Law 92–75 contained in H.R. 9375 clarifies the Secretary's authority to purchase boats for testing.

The exemption authority contained in Section Nine has been used to correct non-safety related oversights in our first generation standards.

The next major portion of PL 92–75 is related to enforcement of its provisions. Section 10 provided Federal preemption of State boating laws and regulations that are not identical to Federal requirements. Several states had requirements that departed from Federal regulations. The problem has been approached in two ways:

1. To enable States a reasonable period to change their laws, a general exemption authorized under Section 9 of the Act was issued in March 1973 which ex-

empted State requirements for associated equipment in effect prior to the effective date of the Act. This exemption is still in effect but we believe that it has served its purpose and expect to withdraw it in the near future.

2. Those States which have promulgated regulations since the date of the Act, requiring equipment that differed from Federal requirements, are being notified that such requirements are subject to Federal preemption.

Section 11 requires steps to be taken to ensure that all foreign made boats comply with the Federal Boat Safety Act of 1971. The U.S. Customs Service in cooperation with the U.S. Coast Guard has issued a Notice of Proposed Rulemaking which would require a declaration form to be filed when a product subject to PL 92–75 enters the U.S. We will use this information to contact the importers and explain their responsibilities under the Federal Boat Safety Act. This procedure will fill an existing void in our law enforcement program.

A system for a Canadian Hull Identification Numbering system that is both compatible with, but distinguishable from ours has been prepared and a draft agreement is under review by the Canadian Government.

The format and procedures for an International Hull Identification Number has been devised. A draft proposal has been prepared for submission by the U.S. Delegation to the International Standards Organization.

Section 12 prescribes Prohibited Acts. We have had no problem with this Section to date. However, as construction standards become more technically complex, we may have difficulties with small or "backyard built" boats.

Section 13 is one of the outstanding provisions of the law. This Section authorizes a Coast Guard boarding officer to "act before the fact" in avoiding accidents by directing an operator to correct certain obviously hazardous conditions. In addition to three unsafe conditions which were specified in the legislation: insufficient lifesaving devices, insufficient firefighting devices, and overloading, seven additional specific unsafe conditions have been defined. These are: improper navigation light display at night; fuel leakage or accumulated fuel in bilges; improper ventilation; improper backfire flame control; certain hazardous bar conditions on the Washington-Oregon coasts; and manifestly unsafe voyages.

This termination authority has been exercised approximately 3,500 times with almost no adverse public reaction.

We do not plan any further expansion of unsafe conditions.

In carrying out the authority of Section 14 we have tried to combine enforcement with an eduactional effort.

When we become aware that a company is intending to manufacture recreational boats for sale, a Coast Guard representative provides a copy of our construction standards and the procedures necessary to comply with the law.

For established firms, Coast Guard representatives make routine visits to see that their boats are complying with applicable standards. A special visit to manufacturers who will be affected by a forthcoming regulation will be made within plus or minus six months of the effective date.

When a manufacturer is believed to be violating a standard, a Coast Guard representative may make a special visit to the factory to determine the full scope of the problem including an audit of the manufacturer's records.

Operating in this maner, we expect to effectively monitor over 2,500 boat manufacturers. Our goals in this program are to visit all new manufacturers during their first year of operation, and to visit all established firms at least once every 2½ years. Manufacturers who build boats which are not presently covered by our current regulations, are visited only as the opportunity permits.

Section 15 has given us the authority to require correction of serious isolated safety defects that relate to a particular group of boats or equipment but not to the industry as a whole.

Typical examples include resin mixing problems which may cause premature hull failures in a series of boats, or to improper installation of through hull fittings causing them to fail from overstress or deterioration.

When safety problems of this nature are brought to our attention we require the manufacturer to locate all probable boat owners and correct the problem. This correction is, as required in PL 92–75 to be accomplished at the sole cost and expense of the manufacturer.

This Section provides us with a quick response capability, and equally important, the ability to correct serious safety problems without excessive general regulations.

To be completely effective this section should be amended to expand the requirement to locate first purchasers not only by the manufacturer but the

distributors and the many dealers. As presently written, the manufacturer is the only one required to maintain purchaser records. In several instances distributors and dealers have refused to cooperate with responsible manufacturers who are honestly trying to locate an individual boat owner.

While the manufacturer may know which distributor or dealer he sold his product to, he may not know who purchased the product from the next level in the channel. This problem would be corrected by modifying the Act, as outlined in H.R. 9375, to authorize regulations to require dealers and distributors to assist in gathering first purchase information.

Another significant portion of PL 92–75 is Section 16 which provides civil suit protection for persons rendering assistance in casualties. The Nationwide Boating Survey for 1973 indicated that almost 48 percent of the approximately 782 thousand "rescue situations" involved assistance by another recreational boat. Although no information is available on actual use of this provision, the very large number of assistance incidents indicates that this "Good Samaritan" Section of the Act is most desirable. It affords the private citizen a necessary degree of protection to go with the requirement to render assistance.

Section 17 prescribes a requirement for the numbering of all undocumented vessels propelled by machinery in all 55 jurisdictions specified under the law. Some state officials have expressed concern about documented pleasure vessels being exempted from the requirement to be numbered as a means to avoid local taxation. We have introduced legislation to terminate documentation of yachts.

In accordance with Section 18 we have established a standard numbering system for vessels to be used by the States. Presently, fifty-one of fifty-five jurisdictions have numbering and casualty reporting systems approved under this provision. The Coast Guard still acts as the number issuing authority for four jurisdictions not having approved numbering systems; Alaska, Washington State, New Hampshire, and American Samoa.

Section 19 provides for exemption of a vessel or class of vessels from numbering requirements. We have issued regulations which exempt racing and tender-type vessels from the requirement to be numbered and permit State-number-issuing authorities to exempt these vessels as well.

Section 22 provides that a state, as issuing authority, may require an operator of a numbered vessel to hold a valid safety certificate issued under prescribed terms and conditions. Several states have legislation under this Section directed toward educational safety requirements for youthful operators.

The District of Columbia requires all operators under the age of 16 to possess a Certificate of Completion from an approved boating course. Twenty other states have restrictions on youthful boat operators. These restrictions vary between jurisdictions but generally require possession of a Certificate from an approved boating course or an adult chaperone for young boat operators. Age requirements also vary but there are no restrictions on persons 16 years of age or older. Other states are considering similar legislation. I am enclosing a summary of these various state requirements for the record.

Section 23 authorized us to establish regulations and fees for numbering and boating safety programs. We have only issued regulations covering the terms and conditions a state number issuing authority may impose in issuing a boat number and have not attempted to regulate the amount of fee that can be charged. These vary and in some states depend on boat size.

Section 24 allowed furnishing of information from vessel numbering records for boating safety purposes. Lists of registered boaters are provided upon request for valid, boating safety related purposes, and a user fee is generally charged for this service. States are required to provide these lists as a condition of approval of their systems.

The next major portion of PL 92–75 authorizes financial assistance to states to assist in their boating safety activities. It also provides for limited expenditures of Federal funds for special projects by national non-profit organizations in support of boating safety. Under this program, state agencies have been able to increase the number of safety patrols, purchase necessary equipment such as boats and vehicles and expand their boating education programs. In some cases states have been able to initiate programs where none previously existed. An example of the program effectiveness can be found in the level of State financial participation.

In 1969 only twenty states had programs that could identify specific expenditures for boating safety activities. Our records indicate these 20 states increased their funding from $6M in FY 1969 to over $12M in FY 1975. FY74 was the

first year it became necessary for all the states to identify state boating safety funding to fully share in these grant funds. Total expenditures were shown as $25.7M. By FY75 this increased 38% to $32.9M. We have also revised reporting requirements to better identify the areas in which the state money is being spent.

In the past 5 years a total of $945 thousand has been allocated to national non-profit organizations. Some of these are the American National Red Cross, National Association of State Boating Law Administrators, National Water Safety Congress, and the National Safety Council. Boating educational programs, safety films, and an accident investigators' manual for training state personnel are examples of valuable work that has been accomplished with these funds.

Section 26 defines broad criteria for acceptance of a State's boating safety program. We have expanded this to include specific criteria covering the various elements of boating program content in order to focus attention upon weak areas of state programs and to provide an incentive for states to further develop their programs.

Fifty-one state jurisdictions have met all the established criteria for an acceptable boating program. Four jurisdictions do not meet the basic criteria since they lack an approved numbering system. Two of these states, New Hampshire and Washington, do have boating programs and participate partially in the financial assistance program. The other two jurisdictions, Alaska and American Samoa, do not participate due to an inability to meet matching fund requirements.

Section 27 provides a formula for allocation of appropriated funds which allows a state to receive an equal share of one-third of the available funds, without having an acceptable program under the criteria set forth in Section 26. This reduces the incentive of those jurisdictions noted previously who are not eligible for full funding to improve their existing programs. We have proposed a change which would allow only "eligible" states to receive financial assistance.

In order to properly allocate Federal funds and to manage the financial assistance provisions of the Federal Boat Safety Act it is necessary to audit the State programs. At the present time these audit functions are dependent upon operating expense appropriations. To more accurately reflect program cost and to insure that necessary audits can be conducted, we have proposed an amendment which would allow up to 1.25 per cent of the total funds to be used for audit expenses.

Section 28 provides state matching funds provisions which have been incorporated in grant agreements.

A few states have not participated because of an inability to indentify matching funds: Alaska returned most of its FY 1972 allocation and did not apply in subsequent years; New Mexico did not apply in FY 1975; and American Samoa has never participated. Idaho, Nebraska, and North and South Dakota have indicated potential problems with matching funds. We are working closely with these states and are optimistic they can overcome their difficulties. The 33⅓ percent limitation of the federal share is considered to be reasonable.

We have specified allowable costs to be used in determining state expenditures and defined authorized expenditures of federal funds. Minor problems that have arisen have been resolved.

Section 30 authorized an annual appropriation of $7.5 million for fiscal years 1972 through 1976.

The following amounts have been appropriated:

Fiscal years:	
1972	$3,000,000
1973	4,500,000
1974	3,500,000
1975	5,790,000
1976	5,790,000

While we feel that additional time is necessary to fully evaluate the effectiveness of the state grant program and therefore a legislative proposal was submitted by the Department of Transportation to extend the financial assistance for two additional years, with an authorization of $1.5 million for the 3-month transition period, and $7.5 million for fiscal years 1977 and 1978. I recognize that the House has taken action by passing H.R. 5630 and we are hopeful the Senate will shortly consider this matter.

In accordance with Section 31, procedures for computation, payment of allocations, and grant application and administration have been issued as the Boating

Safety Financial Assistance Program Policy and Procedural Guide (CG–430). The procedures contained in this guide are in accordance with current Office of Management and Budget (OMB) directives.

Section 32 encourages consultation with the many states, public and private entities involved in boating safety. It also provides for agreements between State and Federal authorities to insure complete cooperation in promoting boating safety, including in particular, the utilization of the services of members of the Coast Guard Auxiliary on State waters.

The Coast Guard has concluded cooperative agreements with forty-seven jurisdictions. We have also received the assistance of the National Association of State Boating Law Administrators (NASBLA) in collecting and tabulating data on state programs.

To further assist the growth of State capabilities, we encourage the attendance of state officials at the Coast Guard National Boating Safety School, including travel funding as required. Coast Guard field personnel also conduct, upon request, similar training for state and county officials throughout the country. We approved a grant request to provide travel money to allow the major NASBLA committees, such as the education and uniform boating law committees, to meet on a regular basis with Coast Guard members present in an advisory capacity.

We have initiated Federal Interagency cooperation in developing uniform regulations. Other agencies who have responsibility over recreational waters, such as the National Park Service, the Corps of Engineers, the U.S. Forest Service and the Bureau of Land Management are working with us in this regard.

Through the National Safe Boating Council, Inc., we meet regularly with other organizations involved in water and boating safety such as the American National Red Cross, the U.S. Power Squadrons, the National Safety Council, the National Water Safety Congress, the National Boating Federation, and many other similar organizations.

In March 1976 the Coast Guard hosted the first National Boating Education Seminar which was attended by the top people in the many organizations and agencies involved in boater education. The meeting was productive and we hope this will be the first of many. Education is a vital link in boating safety and coordinated programs will insure the maximum usage of limited resources.

As an example of the input to a state program by volunteer organizations, the Coast Guard Auxiliary in 1975 conducted 5,712 safety patrols on sole state waters; this represented about 17% of all Auxiliary patrols. Additionally, an estimated 78,000 persons were taught state boating courses by Coast Guard Auxiliary instructors. This was about 15% of the 522,000 who received boating safety instruction from Auxiliaries. The problem of patrol cost reimbursement by states to the Coast Guard is being studied.

Section 33 authorizes the establishment of a Ntaional Boating Safety Advisory Council. As I stated earlier this Council is, in the opinion of many, a model of successful public, industry, and government cooperative involvement in the regulatory process. The Department of Transportation's Consumer Representation Plan encourages such techniques to solicit the participation of the consumer in developing programs and regulations.

The Council meets three times a year. Mr. Edward J. Heine, President of United States Lines, has served very capably as Chairman of the Council since its inception. The members have participated in the formulation of every standard, regulation or piece of legislation considered by the Office of Boating Safety.

Section 34 provides for criminal penalties for persons who willfully violate Section 12(c) of the Act or regulations issued thereunder. No implementing regulations were necessary. The Coast Guard has prosecuted less than half a dozen cases under this Section.

Section 35 provides for civil penalties for persons who violate provisions of the Act, or the regulations issued thereunder. Implementing regulations were issued in June 1974.

Section 35(a) deals with civil penalties for non-complying manufacturers. The Coast Guard in 12 instances has notified manufacturers of violations of the Act and of our intention to take penalty action. Eleven of these cases have been completed. Eight were assessed letters of warning, three were assessed monetary penalties which were paid, and one case pends final action. Four additional cases are pending final corrective action by the manufacturer before penalty action is initiated.

Section 35(b) deals primarily with violations by the boat operator. About 30 thousand penalty cases are processed each year. Letters of warning are issued in about thirty-six percent of the cases. A collection rate of eighty-four percent of assessed penalties is realized by the Coast Guard under this section.

The Federal Magistrate provision (Section 35(d)) has not yet been fully implemented, due primarily to procedural questions. The Department of Justice is now drafting internal procedures which will allow us to take full advantage of this provision. Because this system has not been used to any significant extent to date, we are unable to assess its effectiveness.

Section 36 provides authority to restrain interstate commerce or importation of boats or associated equipment determined not to be in conformance with Federal boat safety standards. We are involved in our first case with the injunctive proceedings authorized under this section. While it is still too early to judge, we do feel that this section gives us the necessary power to prevent the sale of unsafe boats if a manufacturer is uncooperative and fails to take corrective action.

Section 37 of the Act directs that the Secretary prescribe a uniform vessel casualty reporting system. All states with approved numbering systems have instituted reporting systems in accordance with our regulations with the exception of two states that require accident reports to be completed by an officer of the law. Boating accident reports are reviewed by the States and forwarded to Coast Guard Headquarters through the Coast Guard District offices. We feel that the accurate analysis of accident information is a necessary part of developing future regulations if we are to reduce fatalities. We estimate that over 95% of all fatal accidents are reported but only 10% of non-fatal accidents. Efforts are underway to make the boater more aware of his responsibilities under the law to report accidents. Accident statistics are published annually for each calendar year. Liaison is maintained with the states in the compilation and publication of statistics. In-depth analysis of these statistics is performed and the results of these analyses highlight potential problem areas.

One-third of all fatal accidents occur on sole state waters. The Coast Guard has no jurisdiction in these areas and must rely on investigations conducted by state and local officials. Many of these officials have had little training in boating accident investigations. Accordingly, the Coast Guard provided a grant to the International Association of Chiefs of Police to develop a Boating Accident Investigator's Manual, designed for law enforcement officers without prior boating training. It is being used as a training tool in seminars conducted for State personnel and as a guide for investigators. These efforts should improve the quality of the reports for accidents occurring in sole state waters.

That, Mr. Chairman, completes my review of applicable sections of Public Law 92–75 and the actions we have taken to comply with this Law. I or members of my staff will be happy to answer any questions you may have or to provide you any material desired for the record.

Admiral LAUTH. I testify today concerning H.R. 9375, amendments to the Federal Boat Safety Act of 1971 and to review the Federal Boat Safety Act, our implementation, results, and the reasons for the changes submitted in H.R. 9375.

The Federal Boat Safety Act of 1971 was enacted to create a coordinated safety program to protect the increasing number of people who were attracted to boating as a form of recreation. Since a large number of organizations are involved with boating safety, Federal, State, and local governments, the boating industry, and concerned voluntary groups, a coordinated program was necessary not only to effectively utilize the available resources but also to insure that boatmen could move about the waters of the Nation without being confronted by a bewildering array of conflicting requirements.

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To provide an overview of our actions to implement Public Law 92–75, I propose to go through the various sections of the law highlighting what we have done and pointing out the results of our efforts. Additionally, I will point out those few areas where we believe amendments are appropriate.

I feel that the law and the resulting regulations are carrying out the declared policy of the Congress. There is an increasing awareness of a need for safety by the public; a good acceptance by the manufacturers of their responsibility, and an improved involvement of State and local governments in safety programs. In spite of an increasing number of boats the fatalities in the past 2 years have not risen proportionally with the number of boats. We are cautiously hopeful that the accidents and fatalities will decrease.

Under the authority granted in section 5, we have issued ten regulations to date. These regulations include:

Specifying additional conditions for applying the especially hazardous conditions rule; procedures for manufacturer defect notification; manufacturer requirements for certifying compliance with standards; boat and associated equipment standards for loading, powering and flotation; standard vessel numbering and accident reporting procedures for the States; personal flotation device carriage requirements; designating certain hazardous bars on the west coast; and manifestly unsafe voyages under the hazardous condition rule.

[The regulations follow:]

RULEMAKING UNDER FEDERAL BOAT SAFETY ACT OF 1971 (PUBLIC LAW 92–75)

(In chronological order of issuance)

1. *Especially Hazardous Conditions, 33 CFR 177.* Described specific boating conditions that are considered unsafe and in which use of a boat could be especially hazardous. Section 13 of the Act empowers Coast Guard Boarding officer to terminate use of boat in especially hazardous condition or otherwise order corrective measures to be taken. Issued 7–7–72; Effective 8–7–72.

2. *Defect Notification, 33 CFR 179.* Prescribes requirements applicable to manufacturers to notify retail purchases of safety defects in boats or associated equipment. Issued 8–4–72; Effective 9–3–72.

3. *Manufacturer Requirements, 33 CFR 181.* Prescribes certification of compliance requirements for manufacturers subject to standards; also, prescribes requirement for manufacturer to assign hull identification numbers to boats he produces. Issued 8–4–72; Effective 11–1–72.

4. *Boat and Associated Equipment Standards, 33 CFR 183.* Prescribes basic load and outboard horsepower capacities and flotation requirements for boats under 20 feet length. Issued 8–4–72; Effective 11–1–72 (except flotation standard effective 8–1–73).

5. *Vessel Numbering and Accident Reporting, 33 CFR 173, 174.* Established uniform system for registering and numbering boats with propulsion machinery; established procedures for reporting boating accidents. Issued 10–7–72; Effective 7–1–73.

6. *Personal Flotation Devices, 33 CFR 175.* Established new requirements for carriage of personal flotation devices (PFD's); also established new terminology (Type I, Type II, Type III, Type IV, and Type V) for PFD's to more clearly indicate general level of performance. Issued 3–28–73; Effective 10–1–73.

7. *Hazardous Bars, 33 CFR 177.* Describes or defines unsafe boating conditions which can exist in certain coastal bars and inlets in Oregon and Washington. Issued 1–23–74; Effective 2–22–74. (Expands authority of 33 CFR 177).

8. *Manifestly Unsafe Voyages, 33 CFR 177.* Describes or defines unsafe conditions that can exist for recreational boats in undertaking of prolonged, open ocean voyages. Section 13 termination or correction authority would be limited to Coast Guard District Commander. Issued 3–18–74; Effective 4–17–74.

9. *Amendment to Inboard Safet Loading Standard, 33 CFR 183.* Relaxes or liberalizes the safe loading standard for inboard boats, particularly as applies to

high performance boats. Issued 8–13–75; Effective 2–9–76. (Note: Manufacturers may voluntarily comply with amendment prior to its effective date).

10. *Amendment to Safe Loading and Safe Powering Standards, 33 CFR 183.* Clarifies certain terms in the standards that have been open to differing interpretations (e.g. "level", "beam", "length", etc.) Issued 9–23–75; Effective 3–23–76. (Note: Manufacturers may voluntarily comply with amendment prior to its effective date).

SUMMARY OF CURRENT BOATING SAFETY RESEARCH AND DEVELOPMENT EFFORTS

The fiscal year 1976 recreational boating safety research and development program includes—

(a) Continuation of research aimed at the development of a new, more effective regulatory approach for the approval of personal flotation devices (PFDs). Physical effectiveness, wearability and reliability are all being studied so that devices approved in the future will provide optimal life saving potential.

(b) Completion of the first phase of fire hazard avoidance designed to reduce the likelihood of fires and explosions on inboard powered boats. Deficiencies in ventilation systems will be identified so that needed regulations can be developed. Test procedures for the fuel and electrical safety standards will be developed to implement those regulations.

(c) Research into the specific causes behind numerous recreational boating collision accidents. The effects of heat, glare, noise, vibration and alcohol which can result in stress on boat operators are being studied so that solutions may be developed.

(d) The development of new solutions for capsizings, swampings and falls overboard which are loading related in nature. A revised safe loading standard to improve the stability of new boats and improved public education programs are envisioned. Proposed design criteria have already been developed for the "John-Boat" class which is inherently unstable.

(e) Development of the methodology to evaluate the effectiveness of regulations, education and enforcement efforts, and eventually the complete boating safety program. Mathematical models for each major accident type or risk are anticipated. This will give us the capability for examining predicted benefits for alternative types of solutions.

(f) Continued examination of possible alternative methods of enhancing survivability for victims involved in capsizings and swampings of boats now exempt from the proposed level flotation standard.

(g) The identification of the risks associated with canoes, kayaks, and inflatables, used in both calm and white water environments.

(h) Development of preliminary specifications for visual distress signals to ensure the carriage of safe devices which will improve chances of detection.

(i) Analysis of the Inter-Governmental Maritime Consultative Organization (IMCO) Convention technical criteria for navigation lights and their applicability to recreational boats. Safety hazards such as loss of night vision from navigation light glare will also be addressed.

STATE LAWS REGARDING MANDATORY EDUCATION AND LICENSING OF RECREATIONAL MOTORBOAT OPERATORS

Because of the steady growth of recreational boating, state authorities are becoming increasingly more cognizant of the need to educate the boating public in order to prevent accidental property damage, injury and death as a result of recreational boating activities.

The enclosed compendium lists those states that have, to this date, enacted legislation directed towards the alleviation of this problem.

New Jersey is the only state that, at the present time, requires a license for all all motorboat operators. This requirement applies only to state waters and the only prerequisite is the payment of a fee.

The District of Columbia is the only jurisdiction which requires that all operators under the age of 16 possess a certificate of completion from an approved boating course.

Twenty other jurisdictions have restrictions on youthful boat operators. The restrictions vary between jurisdictions but generally require that a youthful operator possess a certificate from an approved boating course or be chaperoned

by an adult in order to operate a boat. The age requirements also vary, but there are no restrictions on persons 16 years of age and older.

The State of Oregon has recently placed the requirement on the State Boating authorities to develop an educational system which will be available to the state youth at no cost to them.

The U.S. Coast Guard strongly favors state administration of any mandatory education or operator licensing program.

Several states now have boating education requirements for young operators.

Alabama: Persons under 12 years of age must have a boating safety certificate, or chaperone 12 years or older.

Arkansas: Persons under 12 years of age must be accompanied by an adult.

Connecticut: Persons under 16 years of age need a boating safety certificate to operate a boat over 5 h.p. alone.

District of Columbia: Persons under 16 years of age must have a certificate from a boating course.

Indiana: Persons under 14 years of age must pass an approved boating course or be with an adult in order to operate a boat over 10 h.p. unless supervised by someone over 18 or someone having a certificate.

Iowa: Persons under 12 years of age must be accompanied by someone at least 18 years of age to operate a boat over 6 h.p.

Kansas: Persons under 12 years of age must be accompanied by someone over the age of 17.

Maine: Persons under 12 years of age must be accompanied by someone over the age of 16 to operate a boat over 10 h.p.

Maryland: Persons must be at least 12 years of age before he may tow a skier behind a boat.

Michigan: Persons under 12 years of age must be accompanied by someone over 16 to operate a boat over 6 h.p. Persons from 12 to 16 years of age may operate a boat over 6 h.p. alone if they have a safety certificate.

Minnesota: Persons under 13 years of age must be accompanied by someone over 15 to operate a boat over 24 h.p.

Mississippi: Persons under 12 years of age must be accompanied by someone over 17 to operate a boat over 10 h.p.

Missouri: Persons under 12 years of age must be accompanied by someone over 16 to operate a boat over 7½ h.p.

Nebraska: No person under 14 years of age may operate a motorboat.

New Hampshire: Persons under 12 years of age must be accompanied by an adult when operating a boat in excess of 25 h.p.

New Jersey: Persons must be at least 13 years of age to obtain an outboard operators license required for non-tidal waters of the state. Sixteen years of age for in-board operators license.

New York: Persons between the ages of 10 and 14 must be accompanied by someone over 14 except if they have a safety certificate they may operate alone. Persons under 10 must be accompanied by someone 14 years or older.

Ohio: Persons under 12 years of age must be supervised by someone over 16.

Utah: Persons under 16 years of age must be accompanied by someone over 16.

Wisconsin: No person under 10 years of age may operate a motorboat. Persons between the ages of 10 and 12 must be under the supervision of someone 18 years or older. Persons 12 to 16 may operate alone if having a safety certificate or under the supervision of a person 18 years or older.

Admiral LAUTH. In the process of developing these regulations we have determined that a problem area exists. The 18-month maximum delay in establishing the effective date of a standard which requires major redesign on the part of the manufacturer is not sufficient. This should be expanded to a maximum of 24 months and H.R. 9375 includes this amendment. We feel that the total interest of the boating public would benefit from this extension since a substantial reduction in product cost will result from the manufacturer's ability to perform the necessary product modifications coinciding with their established retooling cycle. As the regulations apply only to new construction, this minimal delay will not adversely affect safety. The regulations I have described were developed by a careful procedure which we believe con-

siders the interests of all involved. Let me describe the procedure which we followed in the development of one of our regulations.

The initial stage is the investigation of boating accidents to define the underlying causes of accidents.

In the development of our proposed level flotation standard we knew that an earlier regulation required a minimum amount of flotation to be installed in most boats. This was intended to keep them afloat if they were swamped or capsized. But our research showed three areas of concern:

1. Most boats equipped with the minimum flotation required by our regulation would capsize, when filled with water, and float with just the bow above water. This leaves a very small, slippery surface for survivors to hang on to.

2. As the swamped boat rolls over it often traps lifejackets and people underneath.

I want to highlight at this time the invaluable participation of the National Boating Safety Advisory Council which was established by Public Law 92–75. They participate in the various steps of any proposed regulation and insure that we in the Coast Guard do our homework thoroughly. Believe me, when the Council gives a final recommendation on the need, technical content, and regulatory merit of a safety standard, it has been thoroughly examined.

I think that it is significant that the activities of the National Boating Safety Advisory Council have been recognized as an example for other agencies to follow in providing public input to rulemaking procedures.

The law further requires that we analyze and consider applicability of a particular regulation to various types of boats or associated equipment.

To establish a system indicating compliance with our standards, we require that manufacturers of every boat subject to the act install a unique identification number and that the manufacturers of boats to which standards apply display a label which certifies that their boat does comply.

We have found one problem in this area with our definition of a "boat manufacturer" which presently requires the factory or first stage manufacturer to certify the boat. This is not applicable when a dealer, for example, buys an uncompleted hull, an engine package, and a steering system from various sources and performs the final assembly in his own shop. This is an economically sound practice which benefits the industry and the consumer but does not conform to our current regulations regarding certification.

We are proposing a regulation which will alleviate this problem by requiring each stage or component manufacturer to certify only his part of the whole package.

We have also selected models of boats for testing which have been involved in accidents. For example, if we found a boat that capsized and sank in an actual incident when it should have floated, we would test a similar model.

The proposed amendment to Public Law 92–75 contained in H.R. 9375 clarifies the Secretary's authority to purchase boats for testing.

The exemption authority contained in section 9 has been used to correct non-safety-related oversights in our first generation standards.

1. To enable States a reasonable period to change their laws, a general exemption authorized under section 9 of the act was issued in March 1973 which exempted State requirements for associated equipment in effect prior to the effective date of the act. This exemption is still in effect but we believe that it has served its purpose and expect to withdraw it in the near future.

2. Those States which have promulgated regulations since the date of the act, requiring equipment that differed from Federal requirements, are being notified that such requirements are subject to Federal preemption.

Section 11 requires steps to be taken to insure that all foreign made boats comply with the Federal Boat Safety Act of 1971. The U.S. Bureau of Customs in cooperation with the U.S. Coast Guard has issued a Notice of Proposed Rulemaking which would require a declaration form to be filed when a product subject to Public Law 92–75 enters the United States. We will use this information to contact the importers and explain their responsibilities under the Federal Boat Safety Act. This procedure will fill an existing void in our law enforcement program.

The format and procedures for an international hull identification number has been defined. A draft proposal has been prepared for submission by the U.S. delegation to the International Standards Organization.

Section 12 prescribes prohibited acts. We have had no problem with this section to date. However, as construction standards become more technically complex, we may have difficulties with small or "backyard built" boats.

Section 13 is one of the outstanding provisions of the law. This section authorizes a Coast Guard boarding officer to "act before the fact" in avoiding accidents by directing an operator to correct certain obviously hazardous conditions. In addition to three unsafe conditions which were specified in the legislation, insufficient lifesaving devices, insufficient fire fighting devices, and overloading, seven additional specific unsafe conditions have been defined. These are improper navigation light display at night; fuel leakage or accumulated fuel in bilges; improper ventilation; improper backfire flame control; certain hazardous bar conditions on the Washington-Oregon coasts and manifestly unsafe voyages.

This termination authority has been exercised approximately 3,500 times with almost no adverse public reaction.

We do not plan any further expansion of unsafe conditions.

In carrying out the authority of section 14 we have tried to combine enforcement with an educational effort.

When we become aware that a company is intending to manufacture recreational boats for sale, a Coast Guard representative provides a copy of our construction standards and the procedures necessary to comply with the law.

Operating in this manner, we expect to effectively monitor over 2,500 boat manufacturers. Our goals in this program are to visit all new manufacturers during their first year of operation, and to visit all established firms at least once every 2½ years. Manufacturers who build boats which are not presently covered by our current regulations, are visited only as the opportunity permits.

Section 15 has given us the authority to require correction of serious isolated safety defects that relate to a particular group of boats or equipment but not to the industry as a whole.

Typical examples include resin mixing problems which may cause premature hull failures in a series of boats, or to improper installation of through-hull fittings causing them to fail from overstress or deterioration.

When safety problems of this nature are brought to our attention we require the manufacturer to locate all probable boat owners and correct the problem. This correction is, as required in Public Law 92–75, to be accomplished at the sole cost and expense of the manufacturer.

This section provides us with a quick response capability, and equally important, the ability to correct serious safety problems without excessive general regulations.

To be completely effective, this section should be amended to expand the requirement to locate first purchasers not only by the manufacturer but the distributors and the many dealers. As presently written, the manufacturer is the only one required to maintain purchaser records. In several instances, distributors and dealers have refused to cooperate with responsible manufacturers, who are honestly trying to locate an individual boat owner.

While the manufacturer may know which distributor or dealer he sold his product to, he may not know who purchased the product from the next level in the channel. This problem would be corrected by modifying the act, as outlined in H.R. 9375, to authorize regulations to require dealers and distributors to assist in gathering first-purchase information.

Another significant portion of Public Law 92–75 is section 16, which provides civil suit protection for persons rendering assistance in casualties. The Nationwide Boating Survey for 1973 indicated that almost 48 percent of the approximately 782,000 "rescue situations" involved assistance by another recreational boat. Although no information is available on actual use of this provision, the very large number of assistance incidents indicates that this "Good Samaritan" section of the act is most desirable. It affords the private citizen a necessary degree of protection to go with the requirement to render assistance.

In accordance with section 18 we have established a standard numbering system for vessels to be used by the States. Presently, 51 of 55 jurisdictions have numbering and casualty reporting systems approved under this provision. The Coast Guard still acts as the number issuing authority for four jurisdictions not having approved numbering systems; Alaska, Washington State, New Hampshire, and American Samoa.

The next major portion of Public Law 92–75 authorizes financial assistance to States to assist in their boating safety activities. It also provides for limited expenditures of Federal funds for special projects by national nonprofit organizations in support of boating safety. Under this program, State agencies have been able to increase the number of safety patrols, purchase necessary equipment such as boats and vehicles and expand their boating education program. In some cases States have been able to initiate programs where none previously

existed. An example of the program effectiveness can be found in the level of State financial participation.

In 1969 only 20 States had programs that could identify specific expenditures for boating safety activities. Our records indicate these 20 States increased their funding from $6 million in fiscal year 1969 to over $12 million in fiscal year 1975. Fiscal year 1974 was the first year it became necessary for all the States to identify State boating safety funding to fully share in these grant funds. Total expenditures were shown as $25.7 million. By fiscal year 1975 this increased 38 percent to $32.9 million. We have also revised reporting requirements to better identify the areas in which the State money is being spent.

Section 26 defines broad criteria for acceptance of a State's boating safety program. We have expanded this to include specific criteria covering the various elements of boating program content in order to focus attention upon weak areas of State programs and to provide an incentive for States to further develop their programs.

Fifty-one State jurisdictions have met all the established criteria for an acceptable boating program. Four jurisdictions do not meet the basic criteria since they lack an approved numbering system. Two of these States, New Hampshire and Washington, do have boating programs and participate partially in the financial assistance program. The other two jurisdictions, Alska and American Samoa, do not participate due to an inability to meet matching fund requirements.

Section 27 provides a formula for allocation of appropriated funds which allows a State to receive an equal share of one-third of the available funds, without having an acceptable program under the criteria set forth in section 26. This reduces the incentive of those jurisdictions noted previously who are not eligible for full funding to improve their existing programs. We have proposed a change which would allow only "eligible" States to receive financial assistance.

The following amounts have been appropriated: fiscal year 1972—$3,000,000; fiscal year 1973—$4,500,000; fiscal year 1974—$3,500,000; fiscal year 1975—$5,790,000; fiscal year 1976—$5,790,000.

While we feel that additional time is necessary to fully evaluate the effectiveness of the State grant program and therefore a legislative proposal was submitted by the Department of Transportation to extend the financial assistance for 2 additional years, with an authorization of $1.5 million for the 3-month transition period, and $7.5 million for fiscal years 1977 and 1978. I recognize that the House has taken action by passing H.R. 5630 and we are hopeful the Senate will shortly consider this matter.

The Coast Guard has concluded cooperative agreements with 47 jurisdictions. We have also received the assistance of the National Association of State Boating Law Administrators (NASBLA) in collecting and tabulating data on State programs.

To further assist the growth of State capabilities, we encourage the attendance of State officials at the Coast Guard National Boating Safety School, including travel funding as required. Coast Guard field personnel also conduct, upon request, similar training for State and county officials throughout the country. We approved a grant request to provide travel money to allow the major NASBLA committees, such as the education and uniform boating law committees, to meet on a regular basis with Coast Guard members present in an advisory capacity.

Section 35(a) deals with civil penalties for noncomplying manufacturers. The Coast Guard in 12 instances has notified manufacturers of violations of the act and of our intention to take penalty action. Eleven of these cases have been completed. Eight were assessed letters of warning, three were assessed monetary penalties which were paid, and one case pends final action. Four additional cases are pending final corrective action by the manufacturer before penalty action is initiated.

Section 35(b) deals primarily with violations by the boat operator. About 30,000 penalty cases are processed each year. Letters of warning are issued in about 36 percent of the cases. A collection rate of 84 percent of assessed penalties is realized by the Coast Guard under this section.

One-third of all fatal accidents occur on sole State waters. The Coast Guard has no jurisdiction in these areas and must rely on investigations conducted by State and local officials. Many of these officials have had little training in boating accident investigations. Accordingly, the Coast Guard provided a grant to the International Association of Chiefs of Police to develop a Boating Accident Investigator's Manual, designed for law enforcement officers without prior boating training. It is being used as a training tool in seminars conducted for State personnel and as a guide for investigators. These efforts should improve the quality of the reports for accidents occurring in sole State waters.

That, Mr. Chairman, completes my review of applicable sections of Public Law 92–75 and the actions we have taken to comply with this law. I or members of my staff will be happy to answer any questions you may have or to provide you any material desired for the record.

Mr. BIAGGI. Thank you, very much, Admiral.

I am especially pleased to have you report on the work of the Advisory Council and the manner in which it works.

I have always believed that, in order for the industry which you are dealing with to prosper as well as to observe the objectives of Government, it is essential that all components of the industry work together before the fact rather than after the fact.

The notion that you are having substantial input from every segment of the recreational boating business is, to me, very salutory.

I am sure in the end it will minimize the amount of the problems and certainly create a better relationship between those components and the Coast Guard.

Admiral LAUTH. We feel it has been a very effective program, sir.

Mr. BIAGGI. Fine. Prior to the proposed changes of the act, have you initiated any special programs to increase the field of participation in boating safety?

Admiral LAUTH. Yes, sir; we feel that the marine dealer is the one who comes in contact with every recreational boatman either when he is buying a new boat or some marine equipment. We are undertaking a program using members of the Coast Guard Auxiliary to visit all of the marine dealers and solicit their voluntary cooperation in an educational program for the boating public.

So far, all the indications have been that the marine dealers welcome this means for them to participate in a boating safety program.

This will be initiated this summer and come to full activity this coming fall.

Mr. BIAGGI. You mentioned the problem of the States reimbursing the Coast Guard for Auxiliary patrol costs.

Will you please expand on that statement?

Admiral LAUTH. Under the act, there is authority for the Coast Guard Auxiliary at the request of a State to patrol on State waters.

At the present time, this is funded by the Coast Guard, there are no provisions for the States to reimburse the Coast Guard for the costs related to these patrols. Since these funds come out of Coast Guard operating expenses, budgetary limitations have reduced our ability to respond fully to State needs.

This is a subject we are looking into and we will propose changes in the future.

Mr. BIAGGI. You have discussed many aspects of the boating safety programs.

Will you tell this committee for the record the extent of boating activities in this country?

Admiral LAUTH. From a survey we ran in 1973, we found there were approximately 8.3 million recreational boats operated on the waters of the United States with approximately 16.5 million operators.

From our estimates, from the industry estimates, and also from the Department of Interior, we estimate there are somewhere between 48 million and 50 million Americans who annually participate in recreational boating. Further, only about 25 percent of the boat operators had any type of boat safety training.

Mr. BIAGGI. I have owned a boat for many years, and my experience is that very few people get involved in any kind of instruction with boats.

Witness a beautiful Sunday afternoon on the Long Island Sound, if you will, as well as many other places where it is worse than Times Square on New Years Eve.

How extensive and how effective are the notification of recall campaigns for recreational boats and engines?

Admiral LAUTH. Since the initiation of the act, 142 defect recall campaigns have been pursued involving 323 units.

I note with pleasure that the majority of these campaigns have been undertaken voluntarily by the manufacturers.

Twenty-three thousand five hundred boats have been recalled in 134 campaigns for noncompliance with Federal construction standards.

These campaigns are usually activated as a result of our compliance testing program.

Our campaigns have been moderately successful with 63 percent of the potentially defective units either being inspected or repaired. This has been hampered by the manufacturer's lack of first purchaser records which we hope to improve by our proposed amendment which would bring the dealer and distributor into the recordkeeping circuit.

Mr. BIAGGI. Talking about records, there has been a great deal of concern recently about the Department's proposal to terminate the program for documentation of pleasure boats.

The boatowners and organizations feel that rather than terminate the program they would welcome an increase in fees to cut the program's cost.

From their point of view, this seems to be a better proposal than elimination of the program.

Would you give me your comments in connection with this and you might expand on those comments for the record at a later date, but we would appreciate some response to that.

Admiral LAUTH. I think if we were to reevaluate our proposal, the possibility of charging a fee for the documentation of yachts would certainly be a consideration.

This proposal was sponsored by the Office of Merchant Marine Safety and I am not prepared to comment on it, but I will expand on it for the record.

Mr. BIAGGI. I think that would be most helpful for the committee for our consideration, because my thoughts in connection with it is that it would create a great deal of difficulty and confusion as contrasted to the present system. We would like further consideration by the Coast Guard and would appreciate a rather comprehensive response.

Admiral LAUTH. Yes, sir.

Mr. BIAGGI. Thank you. I have no further questions.

[The following letter was subsequently received in response to the foregoing:]

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 26, 1976.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

DEAR MADAM CHAIRMAN: On November 18, 1975 the Department of Transportation transmitted to the Congress a package of four proposed bills related to the modernization of laws dealing with the documentation and measurement of vessels and with the documentation of seamen. The bills were subsequently referred to your committee. One of the bills, which was introduced in the House as H.R. 11411, would eliminate an option presently enjoyed by owners of pleasure vessels of 5 tons or more allowing them to document their vessels under Federal law in lieu of numbering pursuant to the laws of a State.

Since its introduction, H.R. 11411 has received considerable criticism manifested by published articles, letters to this Department and to the Congress and in testimony presented to the House Committee on Appropriations, Subcommittee on Transportation. Although we retain our original belief in the need for modernization and reform of the laws pertaining to documentation of vessels, including pleasure vessels, we do recognize the merit of the arguments raised in opposition to H.R. 11411. Therefore, we have re-evaluated our position and we are willing to consider the suggested alternatives. We have no fundamental objection to Federal documentation of pleasure vessels, but we believe that continued Federal involvement must be conditioned on several basic understandings.

The United States, as a maritime power, has an interest in the well being of its merchant fleet, and this interest is substantial since the merchant fleet is crucial to the security and economic welfare of the entire country. Therefore, regulation and documentation of commercial vessels is a justified Federal concern. Federal documentation of pleasure vessels, on the other hand, is not a necessity.

Federal documentation of pleasure vessels does benefit vessel owners and persons involved in the pleasure vessel industry by enhancing their ability to finance sales, improving property and title security, and by facilitating identification in foreign ports. We concede these results can best be obtained through Federal documentation. Therefore, some involvement is justified. However, we must not lose sight of the fact that this involvement benefits relatively few citizens. Therefore, if this service is to be provided, there must be room for administrative flexibility and those receiving the privilege should pay for it. Even opponents to H.R. 11411 agree that this is a reasonable position.

With the above principles in mind, we recommend that no further action be taken on H.R. 11411. We also recommend that improved provisions for continued Federal documentation of pleasure vessels be incorporated into H.R. 11412, a bill

to modernize the documentation of commercial vessels, which is also pending before your committee.

The documentation provisions for pleasure vessels should be modernized versions of the provisions found in present law. In addition, they should include power to set fees which fairly represent the cost of documentation, recording mortgages, renewals, transfers and other similar transactions. Further, there should be simplified procedures to aid in the administration of the laws. For example, the administrator should have the power to identify vessels which qualify for documentation by virtue of class or model design without wasting resources on admeasurement. If you find these suggestions acceptable, members of our staff can provide technical and drafting assistance.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this letter for the consideration of the committee. A similar letter has been sent to the Senate Committee on Commerce.

Sincerely,

WILLIAM T. COLEMAN, Jr.

Mr. BIAGGI. Mr. Studds, any questions?

Mr. STUDDS. Thank you, Mr. Chairman.

Admiral, I do not know what you folks are doing under some of these regulations, but I never thought I would see the day when I was getting my constituency asking me to cut the Coast Guard's budget since they are so angry and our response has been the reverse of that.

What I would like to do is read you some excerpts from mail I have received from coastal communities in Massachusetts, and a couple of other things, and ask for your comments because I am not personally familiar enough to know exactly what these people are speaking of.

I assume you are familiar with a series of comments over the years that the National Fisherman has been highly critical of some of the nonpowered smaller craft.

Admiral LAUTH. Yes, sir.

Mr. STUDDS. I just want to, among other things, read you a few lines from the Traditional Small Craft Association, which went out in January of this year, and the rhetoric is a little emotional. Anyone who knows and loves the dory is apt to be fairly emotional, as you can understand.

The traditional small boats that workmen developed in the 18th, 19th and early 20th Centuries are facing extinction. This is at a time while high powered outboard boats go screaming through our waterways.

They go on to say:

We see a very real threat to basic individual freedom of the water, though we would not in any way quarrel with the need for standards and safety in recreational boating or the need for the U.S. Coast Guard to enforce those standards on behalf of the boating public.

They go on to say:

We are becoming aware of the trend of regulations which limit our individual abilities to understand and appreciate the sensitivity of the relationship between man, boat and sea. As individuals, we are no more part of the Massachusetts boating market and the boats are, as we face regulations, designed for that market.

Have you seen that excerpt?

Admiral LAUTH. Yes, sir, we have.

Mr. STUDDS. And it talks about the series of events with initial standards promulgated which I gather, after a tortuous process, were eventually changed. I gather your original standards said an 8-foot Grand Banks fishing dory would be limited to a peak load capacity of 460 pounds, which flies in the face of, among other things, many centuries of experience.

They say insistence on the general application of ill-conceived standards would exclude from use many excellent small-powered craft.

If you do not mind, I just want to pick a few things here and get your general response to them.

The articles in the "National Fisherman"—there was one referring to that early controversy in 1973 called "Coast Guard Safety Standards Are Unfair to Proven Traditional Rowboats." And in the last one, April of last year, "Big Brother in the Boatyard."

Mr. Chairman, I would like to ask unanimous consent that these appear in the record.

Mr. BIAGGI. Without objection.

[Documents referred to follow:]

[From the National Fisherman, September 1973]

A WARNING OF WHAT'S TO COME—CG SAFETY STANDARDS ARE UNFAIR TO PROVEN TRADITIONAL ROWBOATS

(By John Gardner)

Everyone is for safety, of course. Safety is a 100% sure-fire issue, guaranteed to swing the crowd every time. Like motherhood—everyone in favor, nobody opposed—safety in principle, that is, safety in the abstract.

Safety in actuality is more elusive. Considering the unanimity of sentiment for safety, this country is not quite the safe place that might be expected. Millions continue to be slaughtered and maimed on the highway. A murderous little device called the "Saturday night special" still spits out death. Our city streets are not places to walk at night. And so on.

One of the safest places you can be today is out on the water in a boat. Notwithstanding, the Federal Boat Safety Act of 1971 was passed by Congress, presumably with the laudable intent of making the water even safer, and to the end of greater safety, power was given to the Coast Guard to regulate the design, construction, and use of boats.

The gasoline engine, regardless of its admitted positive and beneficial contributions, is also an instrument of death and destruction—that is, when it is misused, and so far we have not been able to prevent its misuse. At least three-quarters of the fatalities on the water in recent years in which boating accidents were involved, are attributable to outboard motors either directly, or indirectly. And the lethal potential is directly proportional to the amount of horsepower.

With enough horse power you can drive anything. With a big enough motor, almost any contraption with a bottom, ends and sides becomes a boat. People who may never have seen a boat before, who scarcely know the bow from the stern, will pile into some misbegotten abortion with a big motor hanging over one end, and go roaring off in a smother of fuss and foam. Quickly the land drops behind. What if the wind picks up? Or the fog shuts in? What if a big one hits them—or they run out of gas?

Rowing boats of time-tested design are infinitely safer. To begin with, it takes a certain amount of skill only acquired through practice on the water to row, during which time a few elementary things are learned, such as the need for sitting in the middle to trim the boat.

Besides, rowing is much slower. It takes longer to get out of sight of land, long enough to have second thoughts about the weather, for judgment to set in, long enough to turn around and go back in while this can still be done. But more than that, the boats which row best and easiest are the seakindly, time-tested types which over generations of use have had the ultimate in small craft safety built into them.

SKILL REQUIRED

This is not to say that it does not require skill to handle such skill to ride a horse, ski, drive a car or to walk even, as some have found who were obliged to learn all over again in recovering from a serious illness. The inescapable fact is that safety on the water requires certain minimums of skill and judgment which must in part be learned. There is no other way.

An element of treachery and danger is always lurking in the sea. There is not now, nor than there ever be, a fool's boat that is wholly and absolutely safe in and of itself under all conditions, and it is foolish to think that absolute safety can ever be guaranteed on the water by rules and regulations, however rigorous.

One sure way to cut boating accidents would be to reduce the amount of horsepower permitted, but the reduction would have to be really substantial, and there is little chance of that at this time. Yet if this were a possibility and horsepower could be brought down to safe and sane levels, it would not only cut down acidents, but it would save a lot of gasoline, reduce pollution and benefit boat and engine design no end.

Coast Guard safety regulations currently in effect do limit outboard power for small craft to some degree, but nowhere near enough. At least there is some limitation on horsepower relative to the dimensions and design characteristics of a given boat, and that is all to the good as far as it goes.

But what we can neither understand nor approve is the regressive stance of the Coast Guard with regard to boats under 20′ not powered with outboard motors, boats designed by the Coast Guard "as not designed or intended to have mechanical propulsion," in a word, rowboats, although rowing and oars are not once mentioned in current rules and regulations.

The net effect of the safety standards now in force—whether the Coast Guard intended it or not, or are even aware of it—is to discriminate against our heritage of traditional rowing craft, to discourage their use, and to impede and set back current efforts to receive and to extend the use of these fine boats.

At this point, let it be clear that we cannot understand why rowboats are not entitled to the same exemption from capacity regulation as was granted to sailboats, canoes, kayaks and inflatable boats. Instead, rowboats are consigned to a separate regulatory category closely similar to, and obviously derived from, the regulations established for outboard motor craft, which, as we shall see, makes no sense at all.

Regulations with the force of law now provide that every rowboat under 20′ in length, the construction of which was started after Aug. 1, 1973, must be clearly marked with its persons capacity in pounds, and boats may not be loaded in excess of this weight subject to stringent penalities. Persons' capacity is equal to the maximum weight capacity or the live load capacity, whichever is the lesser, and formulas, and directives are given for calculating these two values.

For boats whose construction was started before Aug. 1, 1973, the persons capacity can be as much as the maximum weight capacity provided that permanent labels of a prescribed size and design carrying cautionary directions and warnings are conspicuously attached to the interior of the boat. These labels direct the occupants to sit in the middle and warn them that the boat can capsize, and that it should be used with care. The assumption is that the occupant can read, and that he speaks English.

Maximum weight capacity equals one-fifth of the difference between a boat's maximum displacement and its weight, which is the sum of the weight of the hull and "all of its permanent appurtenances." Maximum displacement is defined as "the weight of the volume of water displaced at its maximum level immersion in calm water without water coming aboard . . . a boat is level when it is transversely level and the points where the sheer intersects the stem and the stern (transom) are equidistant above the water surface."

CALM WATER

Live load capacity is also figured in calm water. "(a) Float the boat with all its permanent appurtenances. (b) Gradually add weights along one outboard extremity of each passenger carrying area at the height of the seat nearest the center of that area and distributed forward and aft of that center in a plane parallel with the floor boards until the boat assumes the maximum list or trim, or both, without water coming aboard." The sum of the weight so added divided by a factor of 0.6 equals the live load capacity.

It should be noted that these tests to determine safe loading capacities are carried out in calm water, although safety in boats principally depends upon their performance in rough water. No attempt is made to determine combinations of live and dead weight in determining safe loading. This would apply particularly to work boats, one specific example being a loaded Grand Banks dory with two fishermen and a catch of codfish.

Maximum weight capacity can be computed to the design stage from the lines and offsets. Live load capacity on the contrary cannot be determined as directed until after the boat has been built. This could have an inhibiting effect on the

development of new designs, as a designer might well hesitate to commit time and money if he can obtain no positive assurances in advance of building, that a boat will be acceptable.

In considering the Coast Guard's new safety standards at Mystic Seaport's Small Craft Laboratory, the question naturally arose as to how traditional American rowing craft of proven ability—such as dories, Maine peapods, Adirondack guideboats, Whitehalls, St. Lawrence skiffs and others—would fare when put through the new formulas. It appeared that the Coast Guard Office in Washington had performed no experimental tests in setting up their safety standards for rowing craft, but had derived these standards by extrapolation from various formulas for power craft originating with the American Boating & Yacht Council, the Boating Industry Association, and the International Council of Marine Industry Associations, and possibly had simply picked some of their figures out of thin air.

Furthermore, on the face of it, the static test for live load capacity seemed ill-suited to measure a boat's performance in rough water. There was no doubt in our minds as to what boats like dories, peapods and Whitehalls were capable of, and what loads they could safely carry, but there was considerable doubt as to the validity of the Coast Guard's formulas, so we decided to test the tests.

Prior to the Fourth Annual Small Craft Workshop held at Mystic Seaport last June 9 and 10, we determined by Coast Guard formulas the maximum weight capacities and the live load capacities for four traditional rowing boats of standard design, selected because of their proven excellence as seaboats and their ample load-carrying capacity. The boats chosen were (1) a standard Grand Banks fisherman's dory from the Gloucester fishing schooner, L. A. Dunton, 18'4" x 5'2½" x 2'1" (14' bottom length) ; (2) a Maine peapod with moderately slack bilges, built at Mystic Seaport, 14'1" x 4'3" x 1'6½" ; (3) a 50-year-old lobster fisherman's peapod, 14'3" x 4'2½" x 1'7" ; (4) a small Rangeley Lakes boat, 14'7" x 3'3" x 10½".

In all cases capacity as computed by Coast Guard formulas fell appreciably below proven safe working capacity as established by continued performance under exacting conditions over years of use. Most farcical were the values derived for the fisherman's dory, well-known for reliability in rough water and seakindly ability when heavily loaded. Yet this 18' L.O.A. dory with a maximum displacement of 4,980 lbs. rated a maximum weight capacity of only 893 lbs. obtained by subtracting 512 lbs., weight of hull and appurtenances, from maximum displacement, and dividing by a factor of 5, as prescribed by the Coast Guard. Incidentally there is little or no scientific justification for this factor, which first appeared something like 150 years ago in British lifeboat specifications and has been kicking around in various theoretical contexts ever since.

But the culminating absurdity was the 460-lb. live load capacity obtained by using the Coast Guard formula for figuring this dory which is quite capable of carrying a ton. According to the regulations now in force, a dory such as this, upon which construction was started after Aug. 1, 1973, would be restricted to a persons capacity of only 460 lbs. Yet an exactly identical dory started before Aug. 1, or just one day earlier, would be permitted a persons capacity of 893 lbs., provided the required red labels were affixed inside directing the occupants to sit in the center of the boat, and warning against possible capsize. How the presence of two labels can justify raising the permissible live load capacity from 460 lbs. to 893 lbs. if the former is all the boat can safely take otherwise, is hard to understand. It is fortunate that similar restrictions on the loading of dories did not go into effect 100 years ago, or Gloucester fishermen would have been obliged to turn to farming or shoemaking.

The lobster fisherman's peapod tested is a burdensome boat with flat floors, and is capable of carrying heavy loads of traps, bait and gear. A Rockport, Me., fisherman got his living with his boat for upwards of 20 years, and on occasion this pod had taken as many as four adults and three children easily and safely. Yet, according to the Coast Guard formulas, maximum weight capacity figured at 598 lbs. and live load capacity at 460 lbs.

At the Saturday afternoon session of the Small Craft Workshop on June 9, six boats selected from those participating in the Workshop were tested at the main float for live load capacity according to Coast Guard formulas and procedures. These were a standard 16' Adirondack guide-boat, a 14' New York Whitehall, two fiberglass dory skiffs by Van Dine (one 16', the other 12'), an 18' pulling boat newly designed and built by Shew & Burnham of South Bristol, Me., and "Otter," Capt. R. D. (Pete) Culler's 16' "gentleman's gig."

The live load capacity of the 16' guideboat came to 183 lbs. or one adult. Yet over a period of 50 to 60 years, hundreds—if not thousands—of such standard guideboats were in use on Adirondack lakes and rivers. The guideboat normally

carried a guide, a passenger and his baggage, and sometimes two passengers. Guideboats used for hunting had two hunters, guns, dogs, and usually brought back the deer if one was shot.

Running through the other boats briefly, the live load capacity of the Whitehall came to 330 lbs., although the boat is quite capable of taking three or even four adults. Van Dine's 12′ dory skiff, rated at 133 lbs., has transported four persons safely in smooth water when used as a yacht tender. Three persons could hardly be considered a full load for Shew & Burnham's new 18′ pulling boat, yet a person's capacity of 250 lbs. was all the boat was allowed by the Coast Guard formula. Capt. R. D. Culler's 16′ "gentleman's gig" came off worst of all with only 125 lbs. allowance, although according to the designer-builder this craft does nobly with an oarsman and two passengers.

By this time the pattern should have become quite clear. These new Coast Guard safety standards are definitely weighted against traditional rowing craft of proven performance and safe design, to a most unfair and unreasonable extent. Such may not have been the intention, but it is a fact, nevertheless. If these safety standards as they are now formulated, are allowed to stand, the current wide-spread degeneration in small craft design is bound to spread and to deepen.

The maximum list or trim test in smooth water for live load capacity, as now promulgated by the Coast Guard, equates the safety of a given boat with the initial stability of its hull, which is absurd and contrary to elementary facts of small craft dynamics. The current maximum-list-or-trim formula favors a wide, square-ended, flat-bottom hull which is practically unmanageable in rough water, an awkward box that is easily capsized by large waves—an unsafe contraption if there ever was one.

Already there is indication that the safety regulations so far brought forth by the Coast Guard, are but a slight foretaste of those under consideration and yet to come, especially as regards floatation, involving the type, amount and placement of approved foam. There are already in print hundreds of pages of Coast Guard regulations, specifications and detailed procedures applying in this general area of safety—some so technical and complicated as to be comprehensible only to graduate engineers and naval architects.

One foreseeable result is the virtual elimination of the small, traditional boatshop, and the growing harassment of amateur and backyard builders. Already a number of builders of skiffs and dinghies have thrown in, or are at the point of throwing in, the sponge, on the assumption that you can't fight city hall, at least not when city hall is located in Washington, D.C. and barricaded behind an Act of Congress.

It is not that there weren't warnings of what has since transpired, just as there are now warnings of what is yet to come, but nobody paid much attention or did anything. The big manufacturing concerns of mass-produced fiberglass could have made their influence felt, but they stood aside, apparently figuring they had the design facilities and the technical resources for easy compliance with any new regulations likely to be imposed.

They must have been aware that the main thrust of the proposed legislation was not aimed at them. And in any case they could always pass on the cost to the consumer. The elimination of competition from the small independent builder as a possible spin-off probably did not enter into their considerations, for competition from this source hasn't amounted to much for some time, anyhow.

The probable outcome is clouded. Frankly, things don't look good for old-time rowboats. The return of recreational rowing and the revival of some of the fine old craft associated with it, which had seemed so promising of late, has received a severe setback, possibly a setback from which we shall not soon, nor easily, recover. In that event, the price of safety—or what has been sold to the American boating community as safety—would be high indeed.

[From the National Fisherman, April 1975]

TRADITIONAL CRAFT ARE IN BAD TROUBLE—IT'S TIME TO FEND OFF BIG BROTHER IN THE BOATYARD

(By John Gardner)

At its quarterly meeting in New York City on Jan. 8–9, the Boat Safety Advisory Council, established under the Federal Boat Safety Act of 1971 to advise the Secretary of Transportation, directed the Coast Guard to develop regulations for small craft, principally unpowered boats under 20′.

Excepted were sailboats, kayaks and canoes. All others would be required to carry visual distress signals, and second, to have the capability of floating submerged in an upright position high enough to support seated occupants with their bodies out of the water from the waist up.

Distress signals if required for rowboats would be one thing more to clutter up a small boat, and one thing more to buy. Provided distress signals were not too bulky and didn't cost too much, they might be accepted as a minor annoyance, and they might be useful on occasion in case, let us say, one's oars happened to float away out of reach.

But level and upright flotation with the boat's occupants sitting waist high out of the water, that is something else. A bonanza for manufacturers of plastic foam, such a requirement would almost certainly outlaw the Adirondack guide-boat, and such proven craft as the St. Lawrence River Skiff, the Rangeley boat, and Maine peapods might end up half full of foam or other flotation.

There can be no doubt that a requirement of this sort would require drastic changes in design and construction of heritage small craft, and would work hardship and financial damage on small boatshops building traditional wooden small craft.

Would it save lives? Not many. Certainly not the 25% of deaths in recreational boating accidents as forecast by the Coast Guard's Capt. Ray Baetsen last summer. Sitting quietly in a submerged boat in the summer time waiting for the Coast Guard to arrive, might work in calm weather. In a storm with winds of gale force and breaking seas it would be quite different.

At first it was live-load capacity and cockamamy loading standards. Now it is upright and level flotation and visual distress signals. Last July Capt. Baetsen, Chief of the Standards Division, said, "We hope to bring canoes under portions of the present regulations not later than Aug. 1, 1977." And reports have reached us that the Coast Guard is working on regulations for small sailboats. Where will it all end?

ONE-SIDED APPROACH

Why this persistent and one-sided attention to safety for rowboats, canoes and small sailboats? There is no special safety crisis for such craft. In fact there are few places safer today than in small unpowered boats of proven traditional design.

According to Coast Guard statistics as reported for 1973, unpowered small craft of all types were involved that year in only 495 accidents out of a total of 6738, and 46 injuries out of 1559.

On the other hand, motorized craft, of which the greater part were outboard powered, were involved in 1191 fatalities out of a reported total of 1754, in 5835 accidents out of 6738, and in 1497 reported injuries out of 1599.

Provided these figures can be trusted, it would seem that the larger safety problem lies with motorized craft, and particularly those powered by outboards. Motorized craft were responsible for over four times as many deaths in 1973 as nonpowered craft.

But statistics are not required to support the well-established fact that high speeds in the water as well as on the highways, maim and kill, especially when the operation of powerful motors and high-speed craft remains almost completely unregulated. If the primary purpose of the present program is boating safety, is it not a little strange that its main thrust should be toward the regulation of rowboats, canoes and small sailboats, rather than outboard and other motorized craft?

But what if the concern for boating safety is secondary, and the primary objective behind the Boat Safety Act is something quite different?

The Boat Safety Act of 1971 did not materialize out of thin air, nor is it the distilled essence of pure altruism. On the contrary, the organized boating industry drafted this act and supported it in its passage through Congress, to protect and to further its own business interests. It would be enlightening, I am sure, to trace the progress of this bill step by step through legislative channels.

However, a revealing synopsis of what took place is provided for us in an article by Susan Toscani in the October 1973 issue of "The Boating Industry," a monthly publication which represents itself as "The Business Magazine of Boating . . . *For The Trade Only*" (italic added, J.G.).

The several branches of Big Boating Industry, that is to say, large-scale manufacturers of fiberglass and aluminum boats, marine engines, outbroad motors, boat trailers, boating accessories, life jackets, distress signals, holding tanks and so forth, all have trade organizations, the two most influential of which are the Boating Industry Associations (BIA) and the National Association of Engine

and Boat Manufacturers (NAEBM). To keep abreast of developments in government and to promote and protect boating industry interests with respect to regulatory legislation—in a word, for lobbying—there is the BIA–NAEBM Joint Government Relations Committee, the co-chairmen of which are Howard F. Larson, vice president, Outboard Marine Corp., for BIA, and David Shoemaker, Pacemaker Corp. for NAEBM. Larson, it should be noted, is also a leading member of the Boat Safety Advisory Council (BSAC).

Acting as legal counsel and legislative advisor to the BIA–NAEBM Government Relations Committee is the Washington law firm of Parton, Blow, Verill, Brand and Boggs.

GETTING IN THE ACT

Perhaps because she was writing for a trade publication with restricted circulation and not intended for the general public eye, Ms. Toscani held little back in explaining how the Federal Boat Safety Act became law.

"According to Attorney Gordon Arbuckle," Toscani relates, "there was a great deal of advance planning on the Boat Safety Act to cultivate the industry's point of view. The end of '67 and the beginning of '68 saw the start of the consumer wave in Washington, and the BIA foresaw the coming of stringent consumer legislation. The industry realized it would be better off if it had its own particular legislation rather than be subject to sweeping laws (such as the OSHA act of 1970), and decided to take the planning initiative before outsiders did it for them.

"The BIA–NAEBM-supported bill went through many drafts, and there was concerted effort on the part of committee members and council to get the bill enacted. The end result was a series of reasonable, practical safety standards that manufacturers could comply with, plus only one regulatory agency, the U.S. Coast Guard, that the industry has to deal with.

"The Boat Safety Advisory Council of the USCG was set up to assist the Coast Guard in implementing and enforcing the Boat Safety Act. BSAC's 21 members represent the boating industry, and the states."

If we accept Toscani's account, it is as plain as the nose on one's face that boating safety, per se, was not the overriding concern of the representatives of the organized boating industry when they drafted this law. Rather it was to head off anticipated interference in their business by outsiders, and to get a law on the books they could live with.

Because of their Washington experience, not to say, connections, they were able to write their own law and push it through the legislative mill. The result, as Toscani says, was "a series of reasonable, practical safety standards that manufacturers could comply with." How these would affect boatowners and users, small traditional boatshops, amateur builders, and the public as a whole, seems not to have entered the picture.

The Boat Safety Act of 1971 turns over the regulation of recreational boating including the construction of recreational watercraft, lock, stock and barrel to the Secretary of Transportation, with severe penalties, both fines and imprisonment, for noncompliance. The act became law when the Nixon regime was at its peak of power, with Congress groveling at the feet of the Executive Branch.

The Secretary of Transportation holds an appointive office, and secretaries come and go according to the dictates of political expediency or Presidential pleasure. But the massive administrative bureaucracy of which the secretary is the nominal head, grinds on regardless, subject, of course, to directives from time to time from the White House and the Oval Office.

Somewhere within the penetralia of this organ of invisible government resides the mechanism which selects appointees to the Boat Safety Advisory Council. How this works is obscure, but apparently the organized Boating Industry has enough clout to pack the board. Nominations for the council are handled for the Secretary of Transportation by the Coast Guard. Candidates are required to supply comprehensive background information of a personal nature, including details of professional experience and connections, financial interests and political affiliation.

Interestingly enough, on the final sheet of the form the following note appears:

"Information on this sheet is NOT a Coast Guard requirement, but is ultimately obtained in the membership clearance process EXTERNAL to the Service."

"EXTERNAL" WHAT?

What "external" agency conducts this clearance investigation, whether the FBI, the CIA, the Secret Service, or whatever, we are not told, or why security clearance is required for dealing with boating safety. Apparently the Coast Guard's disclaimer of any part in the investigative process indicates some embarrassment on its part.

There are indications that the Coast Guard is not altogether happy with the role which the Boat Safety Act has imposed upon it. There can be no doubt but that the Boat Safety Advisory Council calls the shots, and that the final word in all cases is theirs.

One instance will suffice. At the meeting of New England boatbuilders and designers in Portsmouth, NH, in September 1973, Capt. R.H. Baetsen, Chief, Boating Standards Division, U.S. Coast Guard, agreed that existing weight capacity allowances for boats of traditional design with less than 2 h.p. and non-powered boats were unrealistic and unjustified, and guaranteed Coast Guard support for a substantial increase in the weight capacity allowance for such boats.

However, when Capt. Baetsen recommended this increase to the BSAC at its meeting at Seattle in June 1974, his proposal was turned down and returned for further study, in effect killing it. At the time Capt. Baetsen was heard to express his disappointment by saying in effect, "Well, I guess all we can do is to go on granting exemptions."

The 21 members of the BSAC meet four times a year, usually for two days, at sites widely distributed throughout the country. Members are paid at the rate of $100 per day while traveling and attending council meetings, are provided transportation, and are reimbursed for meals and lodging at a rate of $40 per day. Although small change for corporation executives who should be writing it off as business expense, still this is a drain on the public's tax dollars.

The council's membership as it was in June 1974 and as revised for 1975 is as follows: Willian D. Gaston, Executive Vice President, Glastron Boat Co., Austin, TX; Howard F. Larson, Vice President, Outboard Marine, Milwaukee; Donald A. Milton, General Manager, Marine & Industrial Products Operations, Chrysler Corp., Detroit, reappointed 1975; Maurice H. O'Link, President, Sterns Manufacturing Co., St. Could, MN; George H. Page, President, Marmac Products Inc., Cleveland, replaced 1975 by William Sanford, Vice President of Engineering, AMF-Hatteras; Ralph Thacher, Vice President; Burr Bros. Boats, Marion, MA, replaced 1975 by B.J. Ferguson, President of the Marine Retailers Association of America; Edward J. Heine Jr., Chairman BSAC, President of the United States Lines Inc., New York City; William A. Getz, President, Williams, White & Co., Moline, IL; John R. Rigglemen Jr., Sears Roebuck & Co., Marine Development Lab., Fort Myers Beach, FL; David L. Gamble, Harper Woods, MI; Marianne Napier, Marketing & Dealer Services Director, International Marine Exposition Inc., Chicago; Robertson Ross, Vice President and General Manager, Lake Washington Yacht Basin Inc., Seattle, replaced 1975 by Bill Robinson, Editor of "Yachting Magazine"; F. Ritter Shumway, Chairman & Chief Executive officer, Sybron Corp., Rochester, NY, replaced 1975 by Mrs. Bolling Douglas, marine surveyor, Georgia; Alvin Simon, President, Sodibar Systems of D.C. Inc., Washington, DC; Ray Downing, Superintendent, Waters Section, State Conservation Commission, IA; Robert Dyke, Administrator, Marine Safety Section, Dept. of Natural Resources, MI; Alfred F. Nataloni, Director, Marine and Recreational Div., Boston; James J. O'Brien, Director, Div. of Marine & Recreational Vehicles, Albany, NY; Tom Shackelford, Chief, Div. of Water Safety, Dept. of Conservation, Montgomery, AL, replaced 1975 by Tom Alexander, state boating administrator, AZ; Edward Tuttle, Boating Chief, Division of Parks and Recreation, Salt Lake City, UT; Florence B. Wade, Supervisor, Boating Registration, VA, replaced 1975 by Leonard L. Bouler, state boating administrator, MS.

HEAVILY WEIGHTED

An examination of the foregoing list will reveal just how heavily weighted it is with Big Boating Industry top brass, and highly placed executives closely tied in with Big Boating. Although the public has been given token representation on the council, its representatives are so heavily outnumbered they could not take an effective role, even provided they wished to do so.

Just as this was about to go to press, I received a letter from a well-known builder of traditional small craft on Cape Cod. He wrote in part:

"Seems the Coast Guard, small boat division, is now visiting all builders in this area, later in Maine, to see what we are up to. A young Lieutenant JG has been staying in a local motel (at taxpayers' expense, of course), and making appointments by phone for friendly visits . . . JG showed up on time, and wanted to see what I had built. We chatted pleasantly about the problems of small wood classic builders and the new rules. Naturally I gave my own opinions, which you know well. He had a form to fill out, and being geared to over-powered Clorox jugs, it did not fit me. I had no model numbers or other crap, so he scrawled 'Custom' across the sheet . . .

"We discussed the whole thing as it affects classic boats, which he, not knowing anything about, simply agreed in principle, so long as we go by the unworkable rules. We were good friends by now, so my parting shot was that at my age I am not about to change my ways, and he assured me he certainly would not put me out of business. However, he's got a worry too, Baetsen and Thompson (Rear Admiral John F. Thompson, Chief, Office of Boating Safety) will retire next summer, and what happens then? He frets about it. I pretty well know what will happen. Big Boating Industry will work over the new men, or try to."

Builders of small wooden boats throughout the country, as well as those who own and use them, had better start worrying, had better wake up to what is being cooked up in Washington. It is already late in the day.

ENDANGERED SPECIES

Small wooden boats are an endangered species. Big Boating Industry is about to eliminate classic wooden boats, not so much because they offer a sales threat at this time, but because Big Boating Industry can't afford to have them around as a reminder of what clean, inexpensive fun boating could be without the over-priced, over-mechanized, over-styled, gas-guzzling junk which Big Boating Industry, by lavish advertising in the boating slicks and boat show extravaganzas, has brainwashed the public into accepting.

As evidence that builders of heritage small craft are beginning to wake up, we cite the resolution unanimously adopted at the Guide-Boat Builders Conference held at the Adirondack Museum, Blue Mountain Lake, NY, on Jan. 24–26, calling for an amendment to the Federal Boat Safety Act of 1971 to exempt classic small wooden boats from the provisions of this act.

(There is no way that builders of Adirondack Guide Boats can comply with regulations now in force under this act yet no drownings nor accidents involving guideboats have occurred in Adirondack waters within memory.)

Mr. STUDDS. If I may share a couple of comments from the Massachusetts small boaters. Let me see what you have to say about them.

One said, "I am thoroughly disgusted and frustrated by the attack on traditional small rowing craft by the U.S. Coast Guard. It is, I am sure, not intended, but nevertheless, in effect.

"Most of the regulations thus far imposed and those soon to be imposed are irrelevant and irresponsible when applied to a traditional small rowing craft."

That is a mild one, Admiral Lauth.

Here is an example from someone on Cape Cod, what we are talking about. It says, "I witnessed a U.S. Coast Guard courtesy patrol boat stop a 7-foot dinghy last summer and ask to see the man's life-preservers and horn. He said his wife had just gotten into the dinghy from a fully equipped 45-foot sloop. The poor guy just spread his hands and smiled." It does not go on to say whether he was jailed.

Now, let me read you my favorite one. It says, "I design and build boats and am dismayed by recent proliferation of inane Coast Guard regulations all done in the interest of safety, making the formerly respected U.S. Coast Guard just another inept Government agency to be ridiculed and evaded."

Another is, "The latest horror is a regulation stating that after October 10, 1977 any person using a canoe or kayak must wear a personal flotation device. We used to call these life-preservers," it says.

Since 1938, another says:

I have designed, built and used kayaks without benefit of the mandatory life-preserver. I intend to continue to do so. Please vote to decrease the Coast Guard's authorization at the next opportunity. They do not need all that money to harass us.

It goes on to say:

I would like to see you introduce legislation to require all U.S. Coast Guard personnel to wear a life-preserver every time they go down the hall to use the bathroom.

We have not gotten around to drafting the legislation, but I think you get the gist of what these folks are concerned about.

Can you respond to any of this?

Admiral LAUTH. Yes, sir, I can. And if I may start with the last one first. That is an error. We do not have any requirement or propose any that requires the wearing of a personal flotation device.

We speak of wearable devices as compared to seat cushions and that is probably the misconception.

I think the basic problem is one of communication. Since the article that you referred to about big brother in the boatyards, we had a meeting at the boatyard at Mystic, Conn., with the people involved and I think established some very clear lines of communication which have resolved many of their concerns. And there was an article that followed that meeting in the National Fisherman which explained their changed feelings toward the Coast Guard after we had an opportunity to explain what we were doing.

Basically, when we started implementing the act, we were faced with the fact a large number of fatalities occur in small craft.

Mr. STUDDS. A small percentage of the overall fatalities, is that not correct? Most overwhelmingly they occur, as I understand it—and that is about three-quarters—involving powerboats.

Admiral LAUTH. Excuse me, sir. The number of powerboats is certainly the largest number of recreational boats, but the ratio is about the same. But it is in the small craft where most of these fatalities occur.

Mr. STUDDS. Small, unpowered craft? Surely, canoes and kayaks and dories are not being threatened at sea.

Captain BATESEN. The ratio of accidents is what we are talking about per number of boats. Granted, the largest proportion of accidents occur in powerboats because powerboats represent the largest number of boats in the country.

Mr. STUDDS. To say nothing of maniacal drivers.

Captain BATESEN. I will not comment on that, sir.

When we talk about unpowered boats in terms of your dories, the canoes and the kayaks, the ratio of number of accidents that they have to the number of boats in existence is high. Many of them are low-powered boats and also the small fishing boat category, so that the ratio of accidents is still relatively high.

As South Carolina recently reported, 34 percent of their accidents for last year—fatalities for last year—were unpowered boats.

Mr. STUDDS. So what are you going to do? Are you going to require canoes and kayaks not to be tippy?

Admiral LAUTH. What we have done is approach this area of boats with our general regulations. In order to write a regulation that was fair and equitable to everyone, it had to cover all areas. We would then seek to exclude from the regulations those traditional boats to which it did not apply.

We have been working with the boat builders and have established a series of exemptions to meet their particular needs.

One of the problems is there is no way to define the group of boats they are talking about so they could be excluded from the basic regulations. We have to almost exempt them on a boat by boat basis.

Based on the experience we have found in granting these exemptions, we are proposing regulations which will generally exempt them from the requirements or permit them to operate in the manner they traditionally have.

Mr. STUDDS. By "them" to whom are you referring?

Admiral LAUTH. Dinghies, the dories, the traditional boats that are represented by the constituency that spoke in the National Fisherman.

Mr. STUDDS. Is Captain Batesen one of you fellows at the table?

Captain BATESEN. Yes; I am, sir.

Mr. STUDDS. Do you hope to bring canoes under the present regulation not later than August 1977?

Are you still doing that?

Captain BAETSEN. There is a reason for the bringing of canoes under the regulation and that is we do desire all boats to float when they are full of water like an old traditional boat made of wood.

The regulations that we would contemplate which require an aluminum canoe to have some amount of flotation so if it is swamped in a lake or white waters, that at least the boat would float and not sink to the bottom.

When we speak of bringing them under the regulations we mean at the present time there is no requirement for a canoe to float at all.

We would desire to provide some rescue platform for the person in a canoe if he swamps it.

Mr. STUDDS. How do you suppose the Indians ever made it all the years they did?

Captain BAETSEN. They had birch bark canoes which floated when they swamped. We are going back to the traditional concept of a wooden boat floating very well with people in it when it is swamped. We are trying to return to that type of tradition with the regulatory process.

Mr. STUDDS. What kind of thing is the Coast Guard talking about when you come to things like a two-man dory?

Admiral LAUTH. We design regulations which apply to boats of a certain length.

Mr. STUDDS. All boats of a certain length, whether it is a Chris-Craft yacht or a Grand Banks fishing dory?

What is the rationale about that?

Admiral LAUTH. That is right. To have done it any other way would be so complex and unreadable I doubt we could ever put it in effect.

We felt there was some urgency and the Congress felt there was some urgency in passing the bill to establish these basic regulations to cover the majority of boats to which they apply.

We have exempted those to which they obviously should not apply, but it is extremely difficult to define a Grand Banks dory in a legal term that could be exempted from a regulation.

Mr. STUDDS. Amen. Maybe I am becoming a conservative old so-and-so, Mr. Chairman, but I am glad it is impossible to define a Grand Banks dory in Government regulation. I really am. Maybe we are raising some philosophical questions and I suppose behind this there are.

I have a quote here which somebody wrote in and said if the man wants to go out in an unsafe boat at the risk of drowning himself, he should be permitted to do so, but he should not be permitted to run me down with a high-speed outboard.

Philosophically, how do you respond to that?

Admiral LAUTH. In looking at what our regulations state, they do not prohibit the man from putting the people in the boat. It merely requires a plate be placed there to advise him what we feel the safe number of people is.

If he chooses to ignore the warning on the plate, then he is free to take that risk, as far as any Federal requirements are concerned.

Mr. STUDDS. Are you really going around stopping 7-foot tenders coming into the dock from their yacht and asking for their personal flotation devices and their horn?

Admiral LAUTH. I could not speak on the particular case of enforcement.

Our boarding teams do board a certain number of boats and look for required safety items.

Mr. STUDDS. They are not boarding 7-foot tenders that only have two people, are they?

Admiral LAUTH. It may have been in that particular case the boat may have been overloaded for the sea condition. It is difficult to say what was going on at the time.

Mr. STUDDS. Mr. Chairman, I do not want to take any more time than I should. I think it raises some questions. It is easy to understand why fishermen or people who spend their lives kayaking or canoeing or in dories want to know why the Federal Government does not have better things to do than to draft Federal regulations to prohibit something that has been going on for centuries.

Admiral LAUTH. May I give some of my philosophy?

Mr. STUDDS. Please.

Admiral LAUTH. In facing the problem, we try to approach it by providing the people with the knowledge and information they need to safely go boating.

For everyone who is an experienced boatman in New England, there are a great number who are boating for the first time in the inland areas, and for everyone who feels that his right to challenge the sea is being infringed on by the Coast Guard, we feel there are a great many people who are going out with their families who should be protected.

Mr. STUDDS. I agree with you, but I suggest more often you find those people driving around in those enormous God-awful boats that they think are automobiles and you go find them in a Grand Banks dory or kayak or some other little boat being swamped.

Admiral LAUTH. Along with our safety boating, we also have safe power regulations which require a plate listing the maximum capacity of the outboard that can be put on.

Mr. STUDDS. I would urge you to try to distinguish in your regulations between an enormous power boat and a dory.

Admiral LAUTH. We feel exemption for particular cases is the proper way to go.

Having discussed this with the people who represent that group, I think we had good understanding from them, and they are working in a very cooperative way.

Mr. STUDDS. I hope that is the case.

I would like to, if I may, Admiral, share with you and get your response in specifics to some of these complaints we have had from my constituents.

Admiral LAUTH. I will be glad to respond.

Mr. STUDDS. Thank you, Mr. Chairman.

Mr. BIAGGI. Mr. D'Amours?

Mr. D'AMOURS. Thank you, Mr. Chairman.

Thank you for your hospitality.

I have spoken to Mr. de Lugo before this meeting and I had notified you I was not going to ask many questions. I will try not to impose on your hospitality, but I do have questions and I shall be brief.

Admiral Lauth, you are familiar with the recent goings on in New Hampshire. The DOT decided that the Coast Guard, under the Federal Boating Safety Act of 1971, had jurisdiction over a few of New Hampshire's lakes, notably, Lake Winnipesaukee and Lake Winnisquam.

That order, was rescinded yesterday by Secretary Coleman who indicated that he was not quite sure whether or not the Coast Guard should have any jurisdiction over those lakes because of the factual location, geographical location, of the lakes, and because of historical considerations which he says the Attorney General told him and nobody else.

We brought these facts to Mr. Coleman's attention, and your attention, several months ago that, in fact, these lakes were not navigable and should not be considered as being navigable under any definition of navigable waters of the United States.

My interest is not so much in your safety regulations, or their applicability to small or large boats, but the waters over which you are claiming jurisdiction and the right to enforce these regulations and the practicality of doing that.

I just have a few questions since you are people who have some expertise or general knowledge about this act.

First of all, you say the act is preemptive. Does that mean that if a State, like New Hampshire, with an inland body of water totally surrounded by the State, promulgated standards that were stricter than yours, those standards would not apply?

Admiral LAUTH. If this is a legal question, I would like to have Captain Hallberg, our Deputy Chief Counsel, respond.

Captain HALLBERG. Thank you. The presumptive effect of the Boating Safety Act relates specifically to the numbering provisions and minimum standards as they relate to the construction of boats.

There is a common misconception that it relates to operational provisions in a given water body and that certainly is not true.

There are many areas throughout the United States that have restrictions on the operation of these vessels and things of that nature.

Mr. D'AMOURS. Which are stricter than yours?

Captain HALLBERG. Well, for example, we do not have any relating to hours of operation or eliminating boating in an area where there is swimming and things of that nature.

Mr. D'AMOURS. Discharging waste?

Captain HALLBERG. Now, you are talking about an entirely different statute. There, you are talking about the Federal Water Pollution Control Act.

Mr. D'AMOURS. I see.

Captain HALLBERG. Which is entirely different in its jurisdictional basis from the Boating Safety Act.

Mr. D'AMOURS. But the fact is if a State has safety standards stricter than yours, they would be able to apply them?

Captain HALLBERG. The idea is to promote uniformity throughout the United States.

Mr. D'AMOURS. I appreciate that. That is why I am asking the question.

What is the answer?

Captain HALLBERG. The answer is no. The idea is to permit a boat from, we will say, New Mexico to be able to be used in any other State in the United States the same way as is true with automobiles.

Mr. D'AMOURS. So the answer to my question is no, that is, if a State does have safety standards that are stricter than the Coast Guard's, those standards are preempted and are not applicable?

Captain HALLBERG. Well, I believe that the definition of the term "safety standards" is far too broad.

I am not quite sure what you mean.

Mr. D'AMOURS. You did say no.

Is that in answer to my question?

Captain HALLBERG. With regard to those safety measures which are dictated in the Boat Safety Act, that is correct.

Mr. D'AMOURS. And the State is limited to those and cannot go beyond?

Captain HALLBERG. Generally speaking, yes.

Mr. D'AMOURS. How does the Coast Guard get to a lake like Winnisquam or Winnipesaukee to enforce the standards?

You do not boat out there, that is for sure. How do you get there?

Captain HALLBERG. May I just ask one question?

Are you talking about the recreational boating aspect?

Mr. D'AMOURS. Yes.

Admiral LAUTH. In enforcing Federal laws on navigable waters, we use what are called boating safety teams, and they use trailerable boats that travel around the waterways of the United States providing assistance to the State officials. But it is our policy that to the extent possible, on waters of joint jurisdiction that the States exercise the primary law enforcement rule.

Mr. D'AMOURS. As a matter of fact, Admiral, in all fairness. you do not have the manpower to enforce those rules, do you?

Admiral LAUTH. Well, we certainly are limited in our capabilities.

We feel that we have sufficient to provide the role of basic guidance, but we do not intend to have full enforcement capability on all navigable waters.

Mr. D'AMOURS. If the State of New Hampshire cannot enforce its standards, and if they do not enforce your standards, in fact, there are no standards enforced?

Admiral LAUTH. Well, that is why we gave the exemption from the preemption to enable the States to bring their laws and regulations into conformance with the Federal requirements.

Mr. D'AMOURS. Suppose the State decides it does not want to do anything once the Coast Guard takes jurisdiction.

Suppose the State packs up and closes the boating safety division and says "they have taken over our jurisdiction and let them enforce the regulations."

Would you be in a position to take over?

Admiral LAUTH. I would feel the States have a responsibility for the citizens.

Mr. D'AMOURS. I agree with you. But you are not letting them enforce their standards which are better than yours.

I am asking what would happen if they decided not to enforce yours.

Is there anybody around to do it?

Admiral LAUTH. Within the limits of our operating capabilities. This is a preemption established in the law passed by the Congress that desires this uniformity so that people could move from one navigable water to the other.

Mr. D'AMOURS. I have no quarrel with the law, but with how it is being applied to every body of water in the United States. I know the sea has its traditions.

It may be that the Coast Guard has a strong sense of tradition, and I suspect one of your traditions is the belief that anything composed of H_2O primarily, belongs to the Coast Guard.

I am wondering how one distinguishes between what the Coast Guard can take jurisdiction of and what it cannot. And Secretary Coleman seems to be confused also.

Secretary Coleman claimed jurisdiction of our lakes in September, and decided yesterday that perhaps these waters were not navigable.

I am wondering, in all fairness—and I am not here to impose upon the chairman's generosity or to abuse you, but I am looking for an answer.

Would we not be doing you a favor if we made it perhaps a little more definite as to whether you are supposed to be and where you are supposed to enforce your standards?

Admiral LAUTH. These are waters that are navigable waters under a great deal of legal background.

Mr. D'AMOURS. What waters?

Admiral LAUTH. I would like to let Captain Hallberg describe them.

Mr. D'AMOURS. Excuse me.

You said "these." What "these"?

Admiral LAUTH. Navigable waters of the United States under definitions we operate under. And Captain Hallberg can describe what the rules are.

Mr. D'AMOURS. Before you do that, can I ask you are you familiar with Lakes Winnisquam and Winnipesaukee in New Hampshire.

Admiral LAUTH. Yes, sir.

Mr. D'AMOURS. Are they navigable, in your opinion?

Captain HALLBERG. May I answer the question?

It is a lawyer's question.

Mr. D'AMOURS. Fine.

Captain HALLBERG. And a lawyer's answer, and Admiral Lauth is not a lawyer.

My Canadian friends find that the area of American law—that they are completely incapable of understanding—is the term "navigable waters of the United States."

Mr. D'AMOURS. They are not alone.

Captain HALLBERG. And this is because it is a jurisdictional matter between the Federal and the State Governments.

The ultimate resolution of the issue with regard to any water body, I believe, is vested in the Congress.

In the absence of the Congress making a declaration one way or the other, the function has been basically performed by the Federal judiciary making decisions in given cases.

Unfortunately for the operating administrations, there are many, many water bodies which have not been tested by the trial court method nor has the Congress chosen to indicate these waters are within the Federal Government's jurisdiction or not.

This leaves the various operating administrations, such as the Corps of Engineers, the Coast Guard, Department of Interior, and others, to apply the tests which have been set forth in judicial decisions going back a very long period of time and come up with or a best estimate as to whether these waters are subject to the jurisdiction of the particular statutes that we have to enforce.

In many ways, this is the same kind of a decision on a more formal basis that a policeman makes when he decides he is going to have to arrest you.

The policeman has to determine whether he is within his precinct, whether he can arrest, and so on.

Mr. D'AMOURS. I understand.

Captain HALLBERG. So the system that has evolved over the years is to gather up as many facts and apply the test.

This applies to the individual agencies as a basis for determining whether the particular statute or group of statutes that they are dealing with apply to a given water body.

Mr. D'AMOURS. Would you agree with me then, in lawyer's talk, if you will, that there is some or considerable room in the judicial determinations thus far for doubt?

There is considerable confusion. There is much room for uncertainty, and perhaps some clarification of what the Congress intends as navigable is called for.

Captain HALLBERG. Yes, sir.

And I would invite your attention, not just to the application of the Boating Safety Act, but all of the Federal statutes which use the phrase "navigable waters of the United States" as the jurisdictional basis.

Mr. D'AMOURS. Well, that is true.

But if we could do one little thing here, if we could clear up for the purposes of the 1971 Federal Boat Safety Act, we would be accomplishing something, would we not?

Captain HALLBERG. You must recognize that the underlying purpose, as I understand it, behind the Federal Boat Safety Act was to induce the States of the Union to apply essentially the same State legislation on waters, which there is no question that they have sole State jurisdiction, so that the boater would have to comply with the same set of rules, the same standards, no matter where he is at.

The concept is one of uniformity.

Mr. D'AMOURS. Let me understand, sir.

So you are telling me, regardless of whether or not waters are navigable, they should be regulated by the Federal Government?

Captain HALLBERG. No, no.

Mr. D'AMOURS. That is, in the interest of uniformity.

Captain HALLBERG. No, sir.

I am saying that the States should regulate, or at least this appears to be the intent of Congress in the legislation that the States should enact legislation which is in conformity.

Mr. D'AMOURS. All right.

So the State agency should seek to achieve a uniformity satisfactory to the Federal Government. That is really what it comes out to because the Federal Government has been telling the States, "We, the Fed, want uniformity, and you shall enact laws that accomplish thus and such."

Is that not what you are really talking about?

Captain HALLBERG. Well, the purpose of the Federal Boat Safety Act is the one stated by the Congress, for uniformity of boating laws throughout the United States.

To that extent, yes. But you say the Federal Government.

Mr. D'AMOURS. One final question, and I thank you, Mr. Chairman, for being no patient with me.

I understand at a meeting with a few of the people from DOT and one of your representatives—and correct me if I am wrong—but do you have a section of law that would apply to any waters over which the Coast Guard takes jurisdiction that limits the recovery in a civil suit to the value of the boat in a death case or a serious injury case?

Captain HALLBERG. There is a Federal statute limiting the liability of a shipowner in the case of an accident, injury, damage, or something like that, to the value of the vessel after the incident, plus pending freight.

This is the statute that was enacted in the mid 1850's and applies with regard to waters that we would call navigable waters of the United States.

Now, that is not a Coast Guard statute.

Mr. D'AMOURS. I understand.

Let me follow up on that.

Does that mean that if the Coast Guard, Mr. Coleman, or either or both, decide to take jurisdiction of Lake Winnepesauke, that if somebody runs over somebody in my family, with a $200 dinghy, and kills that person, that damage is limited to $200?

Captain HALLBERG. No, sir.

It means that the incident occurs. Whether or not the Secretary of Transportation or the Chief Engineers of the Corps of Engineers, or any administrative official makes that determination, what it means is that if the individual that you sue attempts to limit his liability by bringing action in a Federal court, that Federal court will then make a determination as to whether those waters are navigable.

If they are navigable, they will determine whether the individual is entitled to exoneration from or limitation of his liability.

In other words, it will be a judicial decision on the basis of the incident. And our opinion in the matter is purely extraneous.

Mr. D'AMOURS. But the fact is that if the court determines that the waters are navigable and, of course, that determination has already been made by DOT and the Coast Guard pursuant to the court's prior decrees; are you following me?

If that is not clear, I will be glad to rephrase it for you.

Captain HALLBERG. I am clear on what the decision of the energy has, what the impact that has on the court.

Mr. D'AMOURS. I am just saying, once the suit gets to court, gets to the Federal court, you say the Supreme Court is going to determine whether or not the law is adequate. And the reason the Coast Guard is on that lake enforcing the numbering system and standards is it has already determined, on the basis of Federal court decisions, that the waters are navigable.

You are saying that is extraneous.

If the court determines that waters are navigable, that this person who has caused injury has at his disposal a defense, and he is not liable for any damage other than the cost of the boat that caused the damage.

Is that right?

Captain HALLBERG. It is much more complicated.

The shipowner is entitled to limit his liability unless fault or privity is involved.

Mr. D'AMOURS. Is what?

Captain HALLBERG. The issue of fault and privity is involved in this matter.

Let me make a simple illustration.

There was a case some years ago on Lake Tahoe where the operator of the boat, a motorboat, killed a person. He was a young man and had no money, but his father, who owned the boat, did.

Obviously, the suit was brought to try and get the money out of the father who was the owner of the boat.

He was able to limit his liability, the father's liability, to the value of the motorboat.

The operator of the boat was liable. He was just judgment proof. He had no money.

Mr. D'AMOURS. I understand.

Mr. Chairman, I want to thank you again for your patience, and thank you, Admiral, and your staff also.

Mr. BIAGGI. Thank you, Mr. D'Amours.

I would like, for the record, to submit a statement by the Secretary of Transportation, Mr. Coleman, which indicates his reconsideration of the determination by the Commandant of the Coast Guard with regard to the lakes.

Mr. D'AMOURS. I appreciate your doing that.

[Document referred to follows:]

RECONSIDERATION OF THE DETERMINATION BY THE COMMANDANT OF THE U.S. COAST GUARD THAT THE WATERS OF LAKES WINNIPESAUKEE AND WINNISQUAM, N.H., THE MERRIMACK RIVER, AND INTERCONNECTED WATERWAYS ARE NAVIGABLE WATERS OF THE UNITED STATES—DATED SEPT. 2, 1975

On September 2, 1975, in connection with the construction of two bridges by the State of New Hampshire, the Commandant of the United States Coast Guard determined that the waters of Lakes Winnipesaukee and Winnisquam, the Merrimack River, and all their interconnecting waterways in New Hampshire and

Massachusetts were navigable waters of the United States under the Constitution and laws of the United States.

Subsequent to that determination, the Attorney General of the State of New Hampshire raised new historical and geographic facts that are material and relevant to the Coast Guard's determination of navigability. The State Attorney General also raised certain pertinent legal questions. After meeting with the Attorney General, the Commandant and I have decided that it is in the interest of a just and fair resolution to this issue that the question of navigability be reopened in order to assess these new facts and evidence and to review further the applicable law in light of these new facts.

Because it is in the interest of all parties concerned that these questions be resolved on the basis of full and fair consideration of all relevant information, the Commandant has decided to reconsider his determination. The Commandant will undertake a thorough review of all the historical and geographic facts that are relevant to a determination of navigability. The Commandant will invite the Attorney General of the State of New Hampshire to submit whatever facts, views, and recommendations are appropriate. The Commandant will consult with me before making any final determination.

The Commandant has informed me that he therefore has revoked his determination of September 2, pending completion of his *de novo* review. As a result, the Coast Guard will not undertake any further action under the Federal Boat Safety Act until after the final resolution of this issue.

WILLIAM T. COLEMAN, Jr.

Dated: March 31, 1976.

Mr. BIAGGI. Mr. Heyward?

Mr. HEYWARD. I would like to make just one comment in connection with the last question and answer which I think should be clarified. In the Limitation of Liability Act, and I think Captain Hallberg made a proper statement, a negligent operator is not in any way protected from liability under the Limitation of Liability Act.

It is the absent owner, who has not contributed to the situation who may limit his liability. So in the ordinary case, Mr. D'Amours, you can sue the operator. If the operator is negligent, he is liable. If the negligent operator is not the owner, the owner can limit his own liability.

Mr. D'AMOURS. Thank you for the clarification.

Mr. HEYWARD. Admiral Lauth, I would like to go through your statement fairly hurriedly to clarify a few statements. In connection with the statement, on page 2, that there has been an increasing number of fatalities in the past 2 years, could you provide for the record a historical summary of your casualty information and particularly in relation to the cause of those accidents, particularly as to the division assigning personnel error, boat equipment, boat construction, or whatever breakdown you may have, say, for the past 5 years, since the Federal Boat Safety Act went into effect, and perhaps the year before?

Admiral LAUTH. We will submit that for the record.

[Information to be supplied follows:]

Enclosed for the record are extracts from Boating Statistics (CG–357) reflecting principal causes of accidents for the years 1970 to 1974. Also enclosed is a 5-year summary of boating accidents by type of casualty.

ACCIDENT DATA SUMMARY

1970–1974

FIVE YEAR SUMMARY OF SELECTED ACCIDENT DATA BY STATE

	Total Number of Reported Accidents					Fatal Accidents					Fatalities				
	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974
TOTAL	3803	3909	3942	5322	5104	1132	1219	1152	1418	1170	1418	1582	1437	1754	1446
Alabama	83	91	109	111	117	40	37	47	36	40	45	46	53	41	50
Alaska	64	64	42	71	53	13	38	13	30	21	21	60	18	35	33
Arizona	48	51	57	109	92	10	7	10	8	12	13	12	12	8	17
Arkansas	24	15	29	53	25	18	11	21	38	16	24	13	27	45	20
California	556	566	555	696	648	82	101	89	99	95	116	138	115	128	125
Colorado	15	21	19	15	17	3	7	4	12	4	3	8	6	13	4
Connecticut	42	51	41	67	62	10	17	13	15	11	12	19	15	18	16
Delaware	8	5	11	13	20	5	3	5	7	2	7	4	6	9	2
District of Columbia	1	5	7	5	7	1	2	4	3	4	1	3	4	5	8
Florida	219	284	179	374	473	59	73	65	91	65	71	90	99	124	82
Georgia	35	48	30	72	84	24	19	16	33	28	29	28	19	36	34
Hawaii	36	15	37	27	63	1	2	7	1	5	1	2	9	1	5
Idaho	9	18	24	20	39	6	9	5	4	10	9	18	5	5	12
Illinois	77	80	82	127	78	27	31	36	51	29	31	33	45	69	43
Indiana	38	16	46	30	9	11	14	15	15	9	14	21	16	19	11
Iowa	30	42	35	54	61	8	11	6	16	15	8	15	7	16	18
Kansas	30	39	31	28	35	10	7	10	12	5	14	8	12	14	7
Kentucky	55	13	65	100	59	22	6	22	35	23	25	6	27	48	27
Louisiana	89	81	85	125	91	51	42	39	65	66	65	53	41	72	79
Maine	57	63	95	59	49	19	23	15	13	23	26	36	16	14	28
Maryland	127	145	149	196	188	29	38	30	41	37	35	50	34	44	47
Massachusetts	29	62	57	92	92	21	23	17	31	25	24	42	20	45	31
Michigan	217	191	194	392	320	66	67	63	79	58	79	77	72	94	69
Minnesota	74	76	83	107	97	34	32	25	32	36	38	37	34	35	42
Mississippi	23	41	33	45	39	16	30	20	19	14	18	40	27	26	18
Missouri	89	106	89	114	187	28	34	15	18	26	38	37	20	21	31
Montana	14	11	15	18	10	11	10	10	12	6	15	12	10	15	9
Nebraska	21	17	22	18	25	8	4	7	9	2	11	5	8	12	2
Nevada	32	53	66	87	52	3	8	7	4	2	4	11	7	5	2
New Hampshire	3	4	4	7	7	2	3	2	6	7	4	3	2	9	9
New Jersey	191	188	183	238	211	25	29	34	21	18	33	35	47	27	21
New Mexico	7	5	8	6	12	2	2	1	1		2	2	3	3	
New York	293	318	301	349	318	58	71	63	104	71	76	90	72	132	89
North Carolina	115	83	142	132	129	28	34	41	41	31	33	42	50	51	37
North Dakota	3	3	4	5	11	2		2	2	6	2		3	2	7
Ohio	84	97	97	145	138	31	21	26	54	34	34	35	35	73	36
Oklahoma	33	32	22	23	32	13	18	13	12	14	16	24	16	14	21
Oregon	68	68	60	83	146	27	23	17	15	30	35	31	23	17	33
Pennylsvania	71	80	86	86	79	25	28	40	26	25	33	31	46	32	28
Rhode Island	37	28	24	36	29	5	2	4	5	3	5	2	5	6	3
South Carolina	92	78	54	111	115	37	32	39	54	43	41	41	47	58	56
South Dakota	6	12	2	12	3		6	2	4	2		12	4	7	2
Tennessee	36	18	48	72	61	18	17	22	36	31	27	22	25	47	37
Texas	183	201	195	231	236	76	91	66	78	60	98	113	87	95	70
Utah	11	53	43	65	25		3	8	6	7		3	15	6	8
Vermont	3	1	8	8	2	3	1	7	8	2	6	1	9	13	2
Virginia	90	84	79	110	89	39	25	27	35	35	50	30	33	44	41
Washington	121	121	116	153	190	37	47	31	14	20	49	73	50	19	26
West Virginia	20	12	20	17	19	10	7	15	12	8	12	7	15	12	9
Wisconsin	152	122	127	166	112	49	46	44	43	27	56	53	50	52	32
Wyoming	28	23	24	36	39	6	4	8	10	7	6	4	9	15	7
Guam	5		2			3					3				
Puerto Rico	3	3	5	3	5		1	4	1			1	7	2	
Virgin Islands	6	5	1	3	4		2		1			3		1	
American Samoa 1/															

1/ American Samoa was not required to report boating accidents until 1973.

BOATING ACCIDENTS

TYPES OF CASUALTY	TOTAL					FATAL					INJURY					PROPERTY DAMAGE				
	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974
Grounding	190	209	240	283	284	6	11	12	17	11	20	14	38	39	28	164	184	190	227	245
Capsizing	591	639	613	874	778	434	474	432	603	455	20	28	18	71	39	137	137	163	200	284
Flooding	219	173	151	149	154	93	64	62	35	30	3	4	5	8	9	123	105	84	106	115
Sinking	132	124	200	335	351	35	39	44	66	61	3	7	8	15	13	94	128	148	254	277
Fire or Explosion of Fuel	339	337	293	370	366	18	15	15	14	10	70	78	53	101	58	251	244	225	255	298
Other Fire or Explosion	68	49	47	101	85	4	2	4	3	4	6	2	3	20	3	58	45	40	78	78
Collision with Another Vessel	1007	1051	1191	1444	1500	34	50	55	52	45	144	196	143	266	160	829	805	993	1126	1295
Collision with Fixed Object	408	415	337	599	573	51	53	46	60	62	64	91	58	132	112	293	271	233	407	399
Striking Floating Object	197	164	171	190	155	18	15	31	18	15	18	20	11	29	21	161	129	129	143	119
Other Casualty to Vessel	79	67	56	96	189	15	35	20	21	32	7	8	6	21	51	57	24	50	54	106
Falls Overboard	358	352	374	433	362	327	314	317	364	312	30	32	49	62	37	1	6	8	7	13
Falls Within Boat	9	10	3	36	39				5	10	9	8	3	30	24		1		1	5
Struck by Boat or Propeller	58	46	71	108	100	12	13	16	15	21	46	24	55	93	69		9		2	10
Other Personnel Casualty	148	223	195	304	168	85	133	98	145	102	59	67	68	127	55	4	23	29	12	11
TOTAL	3803	3909	3942	5322	5104	1132	1219	1152	1418	1170	499	574	518	1032	679	2172	2116	2272	2872	3255

VESSELS INVOLVED IN ACCIDENTS

TYPES OF CASUALTY	TOTAL					FATAL					INJURY					PROPERTY DAMAGE				
	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974
Grounding	190	210	240	283	284	6	11	12	17	11	20	14	38	39	28	164	185	190	227	245
Capsizing	592	641	615	874	778	435	474	434	603	455	20	28	18	71	39	137	139	163	200	284
Flooding	220	173	152	149	154	94	64	62	35	30	3	4	5	8	9	123	105	85	106	115
Sinking	133	127	203	335	351	35	40	44	66	61	3	7	8	15	13	95	130	151	254	277
Fire or Explosion of Fuel	375	350	309	372	366	18	15	15	14	10	70	78	53	101	58	287	257	241	257	298
Other Fire or Explosion	73	77	48	105	85	4	2	4	3	4	6	2	4	20	3	63	73	40	82	78
Collision with Another Vessel	1915	2009	2261	2853	2845	57	87	97	100	80	284	378	270	537	307	1574	1544	1894	2216	2458
Collision with Fixed Object	411	415	338	599	573	51	53	46	60	62	64	91	58	132	112	296	271	234	407	399
Striking Floating Object	198	164	173	190	155	18	15	31	18	15	19	20	11	29	21	161	129	131	143	119
Other Casualty to Vessel	80	67	59	96	189	15	35	20	21	32	8	8	8	21	51	57	24	33	54	106
Falls Overboard	359	352	375	433	362	328	314	317	364	312	30	32	49	62	37	1	6	9	7	13
Falls Within Boat	9	10	3	36	39		1		5	10	9	8	3	30	24		1		1	5
Struck by Boat or Propeller	57	46	72	109	100	12	13	17	15	21	45	24	55	92	69		9		2	10
Other Personnel Casualty	150	224	196	304	168	85	133	98	145	102	61	65	69	147	55	4	28	29	12	11
TOTAL	4762	4915	5044	6738	6449	1158	1257	1197	1466	1205	642	757	647	1304	826	2962	2901	3200	3968	4418

RESULTS OF BOATING ACCIDENTS

TYPES OF CASUALTY	FATALITIES					INJURIES					AMOUNT OF DAMAGE (DOLLARS)				
	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974
Grounding	7	15	15	20	14	28	20	53	70	37	590,000	1,040,000	867,000	1,752,200	817,600
Capsizing	569	659	574	796	602	52	74	80	137	79	348,000	692,000	350,000	429,100	692,900
Flooding	128	82	81	48	38	7	8	13	11	14	418,000	323,000	355,000	264,300	406,700
Sinking	60	63	68	89	80	6	12	15	34	26	260,000	534,000	720,000	901,600	789,800
Fire or Explosion of Fuel	21	18	16	18	12	160	123	97	186	96	3,044,000	2,704,000	1,884,000	3,765,900	2,448,000
Other Fire or Explosion	5	2	4	4	5	11	4	6	27	7	965,000	1,767,000	315,000	869,100	647,700
Collision with Another Vessel	55	83	64	67	53	232	350	237	449	272	1,148,000	987,000	1,636,000	1,947,200	1,728,300
Collision with Fixed Object	62	61	55	65	73	99	120	107	238	165	686,000	568,000	410,000	1,021,400	1,054,800
Striking Floating Object	25	20	37	21	17	24	22	26	37	32	505,000	280,000	326,000	255,800	287,500
Other Casualty to Vessel	24	55	43	37	53	9	13	6	23	65	177,000	44,000	136,000	71,300	182,500
Falls Overboard	348	336	337	390	330	36	38	58	85	43	25,000	17,000	9,000	25,200	19,200
Falls Within Boat		1		9	10	9	10	3	34	26				11,600	6,800
Struck by Boat or Propeller	12	33	16	16	21	46	24	57	97	73		9,000		1,900	6,000
Other Personnel Casualty	102	174	127	175	138	61	79	72	171	58	6,000	57,000	99,000	60,200	93,900
TOTAL	1418	1582	1437	1754	1446	780	897	829	1599	993	8,173,000	9,022,000	7,107,000	11,376,600	9,181,500

1974

RESULTS OF BOATING ACCIDENTS

	DROWNINGS	OTHER DEATHS	INJURIES	PROPERTY DAMAGE
TYPE OF CASUALTY				
Grounding	11	3	37	818,000
Capsizing *(with or without sinking)*	583	19	79	693,000
Flooding *(without sinking)*	37	1	14	407,000
Sinking	75	5	26	790,000
Fire or Explosion of Fuel	8	4	96	2,448,000
Other Fire or Explosion	3	2	7	648,000
Collision with Another Vessel	23	30	272	1,728,000
Collision with Fixed Object	57	16	165	1,055,000
Striking Floating Object	14	3	32	288,000
Disappearance of Boat	7		3	1,000
Other Casualty to Vessel	39	7	62	182,000
Disappearance of Person	3	2		10,000
Falls Overboard	320	10	43	19,000
Falls within Boat	9	1	26	7,000
Burns and Scalds			2	31,000
Struck by Boat or Propeller	5	16	73	6,000
Crushing or Pinching			3	
Other Personnel Casualties	120	13	53	51,000
TOTAL	1314	132	993	$9,182,000
CAUSES				
Fault of Operator	620	64	543	4,528,000
Fault of Other Person	13	14	96	636,000
Fault of Hull	3		3	70,000
Fault of Machinery	2	1	16	817,000
Fault of Equipment	2		12	155,000
Weather Conditions	112	8	24	447,000
Hazardous Waters *(Includes submerged objects)*	197	13	105	1,005,000
Wake of Passing Vessel	21		40	212,000
Causes Peculiar to Water Skiing	3	8	82	23,000
Slippery Deck	7		4	
Insecure Mooring	2		3	144,000
Excessive Drinking	30	3	13	34,000
Natural Causes	1			
Other Known Causes not Specified	18		18	465,000
Cause Unknown	283	21	34	646,000
TOTAL	1314	132	993	$9,182,000

Note that three of the following nine statistical tables list boat accidents and casualties by operator fault. Accidents, fatalities, and injuries listed on these tables were those that were caused by an act of the boat operator or owner. This does not mean that there were no other factors associated with the accident. There were several accidents that occurred to boats with potentially defective components or pieces of equipment. However, many of these accidents were determined to be the fault of the operator, as it was an overt act on his part that directly caused the accident. (For example, if an operator deliberately overloaded his boat, and the boat had potentially defective flotation, the accident may be classed as either operator fault or fault of boat or equipment, depending on the specific facts of the case.) In addition, the Coast Guard has determined that several operator caused accidents may have been prevented if certain standards were required on particular types of boats.

1974

VESSELS INVOLVED IN ALL ACCIDENTS BY PRINCIPAL CAUSE

NUMBER OF VESSELS INVOLVED

		TOTAL VESSELS INVOLVED	FAULT OF OPERATOR[1]	FAULT OF OTHER PERSON	FAULT OF HULL	FAULT OF MACHINERY	FAULT OF EQUIPMENT	WEATHER CONDITIONS	HAZARDOUS WATERS (INCLUDES CURRENT OR TIDE)	WAKE OF PASSING VESSEL	CAUSES PECULIAR TO WATER SKIING	SLIPPERY DECK	INSECURE MOORING	EXCESSIVE DRINKING	NATURAL CAUSES	OTHER KNOWN CAUSES NOT SPECIFIED	CAUSE UNKNOWN
TOTAL VESSELS INVOLVED		6449	3225	1021	25	140	41	268	721	199	123	11	60	62	1	189	363
AGE OF OPERATOR	Under 12 years	16	8	5					1								1
	12 to 18 years	511	331	69		11	3	12	35	11	17	1	1	5		8	7
	19 to 25 years	856	465	100	6	18	5	39	116	20	24	3	5	7		21	27
	26 to 50 years	2872	1464	393	13	81	24	108	387	93	62	2	17	29		80	119
	Over 50 years	979	485	144	5	23	5	43	116	37	6	3	8	16	1	29	58
	Unknown	811	390	156		3	2	29	52	15	13	2	6	5		22	116
	No operator	404	82	154	1	4	2	37	14	23	1		23			29	34
OPERATOR'S EXPERIENCE	Less than 20 hours	414	266	28	4	9	3	15	52	8	5	2	2	4		7	9
	20 to 100 hours	992	578	120	4	27	7	38	108	27	23	2	5	10		15	28
	100 to 500 hours	1551	801	225	9	42	13	59	196	42	43	3	5	19		39	55
	Over 500 hours	2001	988	330	5	54	15	78	255	79	31	3	18	14	1	73	57
	Unknown	1087	510	164	2	4	1	41	96	20	20	1	7	15		26	180
	No operator	404	82	154	1	4	2	37	14	23	1		23			29	34
TYPE OF BOAT	Open motorboat	3203	1667	473	14	79	19	115	368	117	104	4	18	35		67	123
	Cabin motorboat	1175	548	170	4	43	10	49	173	51	4	3	14	14		30	62
	Auxiliary sail	543	278	119	2	10	5	33	28	7		1	12			41	7
	Sail	256	127	49	1	1	4	30	11				5			21	7
	Rowboat	195	110	22	2	1		4	17	6	1	2	1	3		4	22
	Canoe	146	65	12				6	40	1			2	1	1	1	17
	Other	317	146	46	2	4	2	11	54	12	4	1	2	3		8	22
	Unknown	614	284	130		2	1	20	30	5	10		6	6		17	103
CONSTRUCTION OF BOAT	Wood	1349	655	212	1	19	3	62	199	41	12	4	19	15		40	67
	Aluminum	680	348	80	2	4	1	34	85	32	6	3	3	14		9	59
	Steel	84	41	17		1		4	8	3	1		2			3	4
	Fiberglass	3649	1891	584	22	113	36	143	374	115	95	4	27	27	1	116	101
	Other	51	19	2		1		4	21	1			1				2
	Unknown	636	271	126		2	1	21	34	7	9		8	6		21	130
LENGTH OF BOAT	Less than 16 feet	1475	800	193	4	20	5	73	146	52	29	3	9	25	1	24	91
	16 feet to less than 26 feet	3001	1498	467	17	80	26	120	381	92	80	5	20	23		78	114
	26 feet to less than 40 feet	948	454	158	2	25	4	41	110	32	2	3	14	8		51	44
	40 feet to less than 65 feet	281	133	55	1	9	3	18	21	13			9	2		7	10
	65 feet and over	27	14	4		2			1	2			1			2	1
	Unknown	717	326	144	1	4	3	16	62	8	12		7	4		27	103
PROPULSION OF BOAT	Outboard	2587	1312	401	11	54	14	115	288	102	65	4	16	31		60	114
	Inboard-gasoline	1319	662	193	8	33	10	47	169	40	20	2	12	11		57	55
	Inboard-diesel	444	228	88		15	3	21	37	15		1	10	3		13	10
	Inboard-Outboard	771	400	117	4	33	7	20	92	24	20	3	10	5		13	23
	Other	551	286	67	1	3	5	36	77	7	2		4	5	1	21	36
	Unknown	777	337	155	1	2	2	29	58	11	16	1	8	7		25	125
HORSEPOWER OF BOAT	10 hp or less	528	272	94	2	3	3	38	40	15		1	4	10		18	28
	11 to 25 hp	360	185	59	1	3	1	15	41	15	2		3	3		15	17
	26 to 75 hp	1317	708	209	4	29	3	61	125	48	29	2	16	9		35	39
	Over 75 hp	2834	1390	446	16	100	26	92	366	97	77	5	21	26		71	101
	Unknown	886	409	156	1	5	4	28	61	20	15	2	11	9		30	135
	No engine	524	261	57	1		4	34	88	4		1	5	5	1	20	43
OPERATION AT TIME OF ACCIDENT	Cruising	2772	1567	315	12	60	19	96	451	78	5	6	2	34		39	88
	Maneuvering	451	262	72	1	13	2	27	27	10	1	2	1	3		13	17
	Water-skiing	440	222	61	1	7	2		31	7	101		1			4	3
	Racing	167	65	27	1	2	1	7	6	1						56	1
	Towing	42	27	4				2	3	2	3					1	
	Being towed	47	24	5			1	2	7	3		1				1	3
	Drifting	475	234	73	4	18	6	18	68	9	3	1	5	2		8	26
	Fueling, underway	38	22	3				3	2	5			1			1	1
	Fishing, underway	344	151	28	4	7	2	26	47	13	1		1	4	1	6	53
	Hunting, underway	18	7					5	4								2
	Other, underway	361	183	59		12	2	11	37	11	1		4	10		4	27
	At anchor	352	106	98	2	12	1	29	17	19			26	4		29	9
	Docked	426	127	166		6	4	24	9	35	1		12	1		9	32
	Fueling, not underway	17	12	2		1				1							1
	Fishing, not underway	22	12	3			1		1					1		1	3
	Hunting, not underway																
	Skin-diving, or swimming	5	3					1	1								
	Other, not underway	35	12	4		1		2	2	3	1		3			3	4
	Unknown	437	189	101		1		15	8	2	6	1	4	3		14	93

[1] A breakdown of this category may be found in additional tables.

1972

RESULTS OF BOATING ACCIDENTS

	DROWNINGS	OTHER DEATHS	INJURIES	PROPERTY DAMAGE
TYPE OF CASUALTY				
Grounding	12	3	53	867,000
Capsizing *(with or without sinking)*	566	8	80	350,000
Flooding *(without sinking)*	80	1	13	355,000
Sinking	67	1	15	720,000
Fire or Explosion of Fuel	10	6	97	1,884,000
Other Fire or Explosion		4	5	315,000
Collision with Another Vessel	38	26	237	1,636,000
Collision with Fixed Object	43	12	107	410,000
Striking Floating Object	31	6	26	326,000
Disappearance of Boat	36			19,000
Other Casualty to Vessel	7		6	117,000
Disappearance of Person	2		1	
Falls Overboard	322	15	58	9,000
Falls within Boat			3	
Burns and Scalds				
Struck by Boat or Propeller	2	14	57	
Crushing or Pinching				
Other Personnel Casualties	102	23	71	99,000
TOTAL	1318	119	829	$7,107,000
CAUSES				
Fault of Operator	836	68	489	3,520,000
Fault of Other Person	22	14	176	694,000
Fault of Hull	5		3	173,000
Fault of Machinery	3	2	11	165,000
Fault of Equipment	3		5	110,000
Weather Conditions	31		3	162,000
Hazardous Waters *(Includes submerged objects)*	66	5	31	615,000
Wake of Passing Vessel	17	1	10	90,000
Causes Peculiar to Water Skiing	5	6	49	1,000
Slippery Deck	12		4	
Insecure Mooring	8			38,000
Excessive Drinking	37	1	2	16,000
Natural Causes	1	1		
Other Known Causes not Specified	2	10	13	1,080,000
Cause Unknown	270	11	33	443,000
TOTAL	1318	119	829	$7,107,000
OPERATOR'S FAULTS				
Excessive Speed	9	4	62	116,000
Overloading	92		6	8,000
Improper Loading	257	9	31	26,000
No Proper Lookout	23	7	83	209,000
Carelessness - Recklessness	48	10	39	219,000
Disregard of Weather Conditions	205	4	21	215,000
Non-Compliance with Rules of the Road	8	3	38	426,000
Unsafe Fueling Practices	3	1	39	289,000
Lack of Operating Experience	21	1	13	63,000
Unfamiliar with Area	8		5	46,000
Improper Installation or Maintenance	45	18	81	1,028,000
Bad Judgment	28	1	17	163,000
Proceeding in Unseaworthy Craft	11	1	1	157,000
Starting Engine with Clutch Engaged	15		3	2,000
Other Faults of Operator	63	9	50	553,000
TOTAL	836	68	489	$3,520,000

1972

VESSELS INVOLVED IN ALL ACCIDENTS BY PRINCIPAL CAUSE

NUMBER OF VESSELS INVOLVED

		TOTAL VESSELS INVOLVED	FAULT OF OPERATOR[1]	FAULT OF OTHER PERSON	FAULT OF HULL	FAULT OF MACHINERY	FAULT OF EQUIPMENT	WEATHER CONDITIONS	HAZARDOUS WATERS (Includes submerged objects)	WAKE OF PASSING VESSEL	CAUSES PECULIAR TO WATER SKIING	SLIPPERY DECK	INSECURE MOORING	EXCESSIVE DRINKING	NATURAL CAUSES	OTHER KNOWN CAUSES NOT SPECIFIED	CAUSE UNKNOWN
TOTAL VESSELS INVOLVED		5044	2756	1018	17	53	21	95	314	101	65	16	35	51	3	82	417
AGE OF OPERATOR	Under 12 years	22	12	7								1				1	1
	12 to 18 years	509	324	114	1	4	1	4	7	3	15			2		7	27
	19 to 25 years	578	354	86	1	7	4	7	36	13	15	2	1	8		3	41
	26 to 50 years	2073	1139	380	12	24	12	26	161	55	28	5	7	25	2	25	152
	Over 50 years	769	429	120	2	8	2	13	70	17	4	7	5	7	1	4	80
	Unknown	737	462	111	1	7	1	6	20	6	3	1	2	9		24	84
	No operator	356	36	200		3	1	39		7			20			18	32
OPERATOR'S EXPERIENCE	Less than 20 hours	292	213	27	1	1		5	8	7	4	1		4		4	17
	20 to 100 hours	660	418	90	1	6	5	10	51	9	13		3	6	1	3	44
	100 to 500 hours	1120	658	204	4	11	3	10	104	21	19	1	4	9	1	9	62
	Over 500 hours	1552	770	375	8	27	11	21	124	48	25	7	5	12	1	17	101
	Unknown	1064	661	122	3	5	1	10	27	9	4	7	3	20		31	161
	No operator	356	36	200		3	1	39		7			20			18	32
TYPE OF BOAT	Open motorboat	2619	1499	513	8	35	13	31	151	63	61	8	12	28	3	34	160
	Cabin motorboat	997	440	199	6	13	6	31	125	21	1	2	12	5		16	120
	Auxiliary sail	291	140	100	2	1		12	5	5		2	4			11	9
	Sail	163	77	61			1	7	2	3		1	2			2	7
	Rowboat	275	177	45		1	1	2	8	1	2		1	4		5	28
	Canoe	96	64	5				1	9	2			1	2			12
	Other	142	79	19	1	2		6	8	2		1	2	4		6	12
	Unknown	461	280	76		1		5	6	4	1	2	1	8		8	69
CONSTRUCTION OF BOAT	Wood	1294	635	256	4	8	3	39	132	24	4	2	21	10		18	138
	Aluminum	580	355	82		3	1	6	31	17	5		2	8	1	3	66
	Steel	71	42	10	1	1	2	3	3					3		2	4
	Fiberglass	2505	1387	573	12	40	15	39	135	57	56	9	10	21	2	46	103
	Other	13	7	4						1							
	Unknown	581	330	93		1		8	13	2		5	2	9		13	105
LENGTH OF BOAT	Less than 16 feet	1329	807	230	1	6	5	16	63	30	22	1	7	20	1	11	109
	16 feet to less than 26 feet	2115	1157	444	11	34	10	41	163	48	39	7	11	19	2	29	120
	26 feet to less than 40 feet	683	308	165	3	8	4	22	58	11		5	10	2		22	65
	40 feet to less than 65 feet	173	83	46	2	3	1	6	7	3		1	2	1		1	17
	65 feet and over	25	7	6				1	3	3							5
	Unknown	719	414	127		2	1	9	20	6	4	2	5	9		19	101
PROPULSION OF BOAT	Outboard	2256	1273	472	8	12	7	35	132	54	44	7	16	25	2	30	139
	Inboard-gasoline	1123	554	231	5	13	7	24	112	27	8	4	10	5		20	103
	Inboard-diesel	175	74	40	1	3	2	10	12	4			3	1		5	20
	Inboard-Outboard	447	238	92	2	23	2	7	30	8	11	2	2	3	1	4	22
	Other	416	246	74			3	11	16	4		1	2	6		6	47
	Unknown	627	371	109	1	2		8	12	4	2	2	2	11		17	86
HORSEPOWER OF BOAT	10 hp or less	396	238	77				8	14	11		2	5	6	1	3	31
	11 to 25 hp	282	157	60	2			10	11	7	1		3			5	26
	26 to 75 hp	1066	586	234	3	6	3	18	75	29	27	1	8	12		15	49
	Over 75 hp	2094	1075	447	11	46	16	39	177	44	32	9	11	16	2	26	143
	Unknown	810	462	129	1	1		11	21	7	5	3	7	11		27	125
	No engine	396	238	71			2	9	16	3		1	1	6		6	43
OPERATION AT TIME OF ACCIDENT	Cruising	2299	1362	371	14	26	11	21	247	52	3	5		31	1	20	135
	Maneuvering	378	256	58		5	2	4	19	4		4	1	3		3	19
	Water-skiing	367	232	54		2		1	7	2	59				1	1	8
	Racing	89	41	28	1	2	1	2								13	1
	Towing	31	23	1			1		1	1	1			1			2
	Being towed	51	11	8		1		2	3	1	1						4
	Drifting	375	210	98		4		5	12	6			2	9		6	23
	Fueling, underway	14	9	1		1							1				2
	Fishing, underway	254	149	30	1	2	4	8	8	4			1	4		3	40
	Hunting, underway	27	19						2								6
	Other, underway	72	47	7					6	2	1					3	6
	At anchor	331	97	119		2	1	35		12		1	23	1		14	26
	Docked	320	49	178		4		15	1	12		4	6	1		10	40
	Fueling, not underway	35	21	4		2	1			1							6
	Fishing, not underway	52	27	13		1				3		2					6
	Hunting, not underway																
	Skin-diving, or swimming																
	Other, not underway	67	39	18	1	1		1	2							2	3
	Unknown	302	164	30				1	6	1			1	1	1	7	90

[1] A breakdown of this category may be found in additional tables.

1973

RESULTS OF BOATING ACCIDENTS

	DROWNINGS	OTHER DEATHS	INJURIES	PROPERTY DAMAGE
TYPE OF CASUALTY				
Grounding	17	3	70	1,752,000
Capsizing *(with or without sinking)*	765	31	137	429,000
Flooding *(without sinking)*	48		11	264,000
Sinking	85	4	34	901,000
Fire or Explosion of Fuel	9	9	186	3,766,000
Other Fire or Explosion	2	2	27	869,000
Collision with Another Vessel	47	20	449	1,947,000
Collision with Fixed Object	50	15	238	1,021,000
Striking Floating Object	19	2	37	256,000
Disappearance of Boat	14	17	2	1,000
Other Casualty to Vessel	4	2	21	70,000
Disappearance of Person	13	4	3	
Falls Overboard	379	11	85	25,000
Falls within Boat	9		34	12,000
Burns and Scalds	1	1	7	9,000
Struck by Boat or Propeller	11	4	97	2,000
Crushing or Pinching			22	8,000
Other Personnel Casualties	131	25	139	45,000
TOTAL	1604	150	1599	11,377,000
CAUSES				
Fault of Operator	913	59	1003	7,400,000
Fault of Other Person	32	6	175	613,000
Fault of Hull	1		6	63,000
Fault of Machinery	6	3	33	214,000
Fault of Equipment	2		9	24,000
Weather Conditions	87	2	32	290,000
Hazardous Waters *(Includes submerged objects)*	154	3	99	391,000
Wake of Passing Vessel	23		63	138,000
Causes Peculiar to Water Skiing	8	1	111	27,000
Slippery Deck	11		7	
Insecure Mooring	9		1	150,000
Excessive Drinking	29		10	44,000
Natural Causes	3	6	1	1,000
Other Known Causes not Specified	25	5	16	1,055,000
Cause Unknown	306	65	33	967,000
TOTAL	1604	150	1599	11,377,000
OPERATOR'S FAULTS				
Excessive Speed	45	6	55	144,000
Overloading	94		9	9,000
Improper Loading	296	2	73	25,000
No Proper Lookout	55	23	332	1,771,000
Carelessness - Recklessness	50	12	58	179,000
Disregard of Weather Conditions	62	4	16	109,000
Non-Compliance with Rules of the Road	2	2	61	196,000
Unsafe Fueling Practices	1		39	1,603,000
Lack of Operating Experience	41		23	42,000
Unfamiliar with Area	7		18	61,000
Improper Installation or Maintenance	78	3	184	2,694,000
Bad Judgment	85	6	62	257,000
Proceeding in Unseaworthy Craft	20	1	5	16,000
Starting Engine with Clutch Engaged	16		9	8,000
Other Faults of Operator	61		59	286,000
TOTAL	913	59	1003	7,400,000

1973

VESSELS INVOLVED IN ALL ACCIDENTS BY PRINCIPAL CAUSE

NUMBER OF VESSELS INVOLVED

		TOTAL VESSELS INVOLVED	FAULT OF OPERATOR[1]	FAULT OF OTHER PERSON	FAULT OF HULL	FAULT OF MACHINERY	FAULT OF EQUIPMENT	WEATHER CONDITIONS	HAZARDOUS WATERS (Includes submerged objects)	WAKE OF PASSING VESSEL	CAUSES PECULIAR TO WATER SKIING	SLIPPERY DECK	INSECURE MOORING	EXCESSIVE DRINKING	NATURAL CAUSES	OTHER KNOWN CAUSES NOT SPECIFIED	CAUSE UNKNOWN
TOTAL VESSELS INVOLVED		6738	3829	1038	16	64	16	223	578	207	130	18	90	58	10	80	381
AGE OF OPERATOR	Under 12 years	19	13	4					1								1
	12 to 18 years	573	404	66	1		1	7	28	10	26			2		2	26
	19 to 25 years	845	511	91	1	7		23	88	29	32		2	8	1	10	42
	26 to 50 years	2818	1640	357	10	46	9	107	297	98	53	8	30	23	3	22	115
	Over 50 years	1017	557	163	1	7	5	32	99	27	8	8	5	12	5	14	74
	Unknown	1124	653	171	2	3	1	29	61	28	11	2	21	11	1	22	108
	No operator	342	51	186	1	1		25	4	15			32	2		10	15
OPERATOR'S EXPERIENCE	Less than 20 hours	387	276	31	1	4		11	26	7	9		2	6		2	12
	20 to 100 hours	905	589	85	2	4	3	26	88	28	31	1	8	11	3	8	18
	100 to 500 hours	1543	910	230	5	17	3	49	166	50	36	4	18	12	2	9	32
	Over 500 hours	1986	1126	335	7	33	9	56	186	76	42	7	15	9	2	22	61
	Unknown	1575	877	171		5	1	56	108	31	12	6	15	18	3	29	243
	No operator	342	51	186	1	1		25	4	15			32	2		10	15
TYPE OF BOAT	Open motorboat	3456	2050	479	11	36	7	93	279	124	115	4	41	25	6	44	142
	Cabin motorboat	1227	654	208	2	20	5	42	154	48	6	5	26	11		8	38
	Auxiliary sail	380	199	107	1		2	19	20	10		2	4			6	10
	Sail	198	102	47		1		19	6	3		1	4		1	2	12
	Rowboat	225	147	22		1	1	8	14	3			1	10	1	4	13
	Canoe	145	84	4				4	37	1					1	1	13
	Other	299	159	48	2	3	1	11	44	5	2	1	4	2		1	16
	Unknown	808	434	123		3		27	24	13	7	5	10	10	1	14	137
CONSTRUCTION OF BOAT	Wood	1486	789	259	4	9	5	51	179	50	9	7	31	14	3	20	56
	Aluminum	733	463	79	3	3	1	24	68	24	6		1	12	4	6	39
	Steel	120	70	22				5	11	1	1		2	2			6
	Fiberglass	3435	1997	555	9	50	10	110	268	119	109	5	45	21	2	39	96
	Other	28	15	3				1	6	1		1		1			
	Unknown	936	495	120		2		32	46	12	5	5	11	8	1	15	184
LENGTH OF BOAT	Less than 16 feet	1642	976	204	3	10	2	55	143	52	30	4	17	21	4	17	104
	16 feet to less than 26 feet	2851	1636	445	8	36	6	101	251	89	86	2	45	17	4	35	90
	26 feet to less than 40 feet	858	454	179	4	11	8	32	82	27	1	7	9	6		9	29
	40 feet to less than 65 feet	234	117	56		2		6	19	17		1	7			1	8
	65 feet and over	46	31	5		1		3	2				2				2
	Unknown	1107	615	149	1	4		26	81	22	13	4	10	14	2	18	148
PROPULSION OF BOAT	Outboard	2839	1626	427	10	23	8	91	239	106	84	3	37	24	6	39	116
	Inboard-gasoline	1339	754	227	5	20	6	45	133	49	21	4	17	8		14	36
	Inboard-diesel	297	155	69		2	1	11	27	18		1	7				6
	Inboard-Outboard	696	414	121	1	13	1	16	60	14	14	1	9	4		6	22
	Other	513	306	53		4		18	62	3	1	2	6	12	3	6	37
	Unknown	1054	574	141		2		42	57	17	10	7	14	10	1	15	164
HORSEPOWER OF BOAT	10 hp or less	532	289	89	2	1	1	28	40	25		2	4	9	3	8	31
	11 to 25 hp	327	188	55	1		1	14	25	15	3	1	5	1		2	16
	26 to 75 hp	1314	757	214	3	15	5	31	120	43	39	2	19	7	3	14	42
	Over 75 hp	2821	1637	456	10	39	8	81	258	101	74	6	39	20		28	64
	Unknown	1290	687	174		8	1	46	82	20	14	5	19	11	1	22	200
	No engine	454	271	50		1		23	53	3		2	4	10	3	6	28
OPERATION AT TIME OF ACCIDENT	Cruising	3020	1944	312	9	33	10	99	367	99	10	8	1	17	4	11	96
	Maneuvering	555	384	58		5	3	16	40	7	1	1	7	7	1	10	15
	Water-skiing	573	374	43		4		2	23	14	104			1		3	5
	Racing	119	76	19				2	5	5	1			1		7	3
	Towing	41	24	11				1	1	1	2		1				
	Being towed	45	17	9		1		3	9	1	1		1			1	2
	Drifting	489	291	77	1	8		14	44	7	1	4	8	11		4	19
	Fueling, underway	30	24	1		1				2							2
	Fishing, underway	343	189	29	1	3		15	32	3			1	5	3	5	57
	Hunting, underway	31	17			1			7								3
	Other, underway	117	55	16		1		5	18	2	1		1	3		1	14
	At anchor	365	105	129	3	3		26	10	20		2	33	3		16	15
	Docked	511	110	271	1	2	1	23	4	32		2	28	4		12	21
	Fueling, not underway	46	24	13			1		1	3			2			1	1
	Fishing, not underway	55	22	16	1			2	2	4			3			1	4
	Hunting, not underway	6	2					1	1							1	1
	Skin-diving, or swimming	6	3						2								1
	Other, not underway	67	33	17		1	1	2	7	4						1	6
	Unknown	319	135	17		1		9	10	3	9	1	4	6	2	6	116

[1] A breakdown of this category may be found in additional tables.

RESULTS OF BOATING ACCIDENTS

1971

	DROWNINGS	OTHER DEATHS	INJURIES	PROPERTY DAMAGE
TYPE OF CASUALTY				
Grounding	13	2	20	1,040,000
Capsizing *(with or without sinking)*	646	13	74	692,000
Flooding *(without sinking)*	81	1	8	323,000
Sinking	60	3	12	534,000
Fire or Explosion of Fuel	11	7	123	2,704,000
Other Fire or Explosion		2	4	1,767,000
Collision with Another Vessel	55	28	350	987,000
Collision with Fixed Object	48	13	120	568,000
Striking Floating Object	19	1	22	280,000
Disappearance of Boat	20			11,000
Other Casualty to Vessel	33	2	13	33,000
Disappearance of Person	9			
Falls Overboard	325	11	38	17,000
Falls within Boat	1		10	
Burns and Scalds				
Struck by Boat or Propeller	3	10	24	9,000
Crushing or Pinching			1	
Other Personnel Casualties	148	17	78	57,000
TOTAL	1472	110	897	$9,022,000
CAUSES				
Fault of Operator	877	67	492	4,274,000
Fault of Other Person	22	16	180	626,000
Fault of Hull				77,000
Fault of Machinery	6	1	10	137,000
Fault of Equipment	2		2	14,000
Weather Conditions	65		12	269,000
Hazardous Waters *(Includes submerged objects)*	64	2	28	630,000
Wake of Passing Vessel	9		25	58,000
Causes Peculiar to Water Skiing	19	8	53	9,000
Slippery Deck	25		1	
Insecure Mooring	10		4	90,000
Excessive Drinking	23		4	4,000
Natural Causes	9	3		6,000
Other Known Causes not Specified	13	6	12	225,000
Cause Unknown	328	7	74	2,603,000
TOTAL	1472	110	897	$9,022,000
OPERATOR'S FAULTS				
Excessive Speed	13	7	34	116,000
Overloading	135	2	5	10,000
Improper Loading	244	5	38	20,000
No Proper Lookout	25	12	133	339,000
Carelessness - Recklessness	67	17	34	392,000
Disregard of Weather Conditions	145	2	13	161,000
Non-Compliance with Rules of the Road	23	5	62	155,000
Unsafe Fueling Practices	1	1	25	190,000
Lack of Operating Experience	39	1	14	149,000
Unfamiliar with Area	9	1	9	98,000
Improper Installation or Maintenance	44	5	70	2,205,000
Bad Judgment	21	3	4	23,000
Proceeding in Unseaworthy Craft	30	3	3	35,000
Starting Engine with Clutch Engaged	18		5	1,000
Other Faults of Operator	63	3	43	380,000
TOTAL	877	67	492	$4,274,000

1971

VESSELS INVOLVED IN ALL ACCIDENTS BY PRINCIPAL CAUSE

NUMBER OF VESSELS INVOLVED

		TOTAL VESSELS INVOLVED	FAULT OF OPERATOR[1]	FAULT OF OTHER PERSON	FAULT OF HULL	FAULT OF MACHINERY	FAULT OF EQUIPMENT	WEATHER CONDITIONS	HAZARDOUS WATERS (INCLUDES CURRENTS & EDDIES)	WAKE OF PASSING VESSEL	CAUSES PECULIAR TO WATER SKIING	SLIPPERY DECK	INSECURE MOORING	EXCESSIVE DRINKING	NATURAL CAUSES	OTHER KNOWN CAUSES NOT SPECIFIED	CAUSE UNKNOWN
TOTAL VESSELS INVOLVED		4915	2623	910	12	37	20	134	284	110	74	26	50	35	15	103	482
AGE OF OPERATOR	Under 12 years	22	16	3		1		-									2
	12 to 18 years	493	320	101		5		6	8	4	15			3	1	7	23
	19 to 25 years	568	332	91	1	5	1	14	28	14	17	1	2	4	2	8	48
	26 to 50 years	2068	1164	349	7	16	10	61	168	53	29	8	9	13	6	29	166
	Over 50 years	705	382	116	3	6	2	14	57	12	2	4	4	7	5	6	85
	Unknown	693	406	75		4	6	10	23	7	10	13	7	8	1	25	98
	No operator	366	23	175	1		1	29		20	1		28			28	60
OPERATOR'S EXPERIENCE	Less than 20 hours	225	163	19		1	1	5	10	5	2	1	2	4	1	1	10
	20 to 100 hours	592	366	87	3	5	4	13	36	15	16		1	7	7	7	25
	100 to 500 hours	1166	632	245		15	4	34	83	30	24	2	8	5	2	11	71
	Over 500 hours	1507	818	303	8	13	6	33	130	31	21	3	6	6	2	21	106
	Unknown	1059	621	81		3	4	20	25	9	10	20	5	13	3	35	210
	No operator	366	23	175	1		1	29		20	1		28			28	60
TYPE OF BOAT	Open motorboat	2460	1413	444	8	20	4	64	131	69	63	4	16	18	5	44	157
	Cabin motorboat	1010	457	188	1	9	10	17	115	27	4	15	15	4	3	18	127
	Auxiliary sail	276	133	84	1	1	1	12	9	2		1	4		1	9	18
	Sail	193	85	54		2		25	1			1	2	1	1	4	17
	Rowboat	183	119	23				3	3	5		2		1	2	4	21
	Canoe	73	43	5				3	8					1	1		12
	Other	304	154	60	2	4	2	9	14	5	4	1	3	2		12	32
	Unknown	416	219	52		1	3	1	3	2	3	2	10	8	2	12	98
CONSTRUCTION OF BOAT	Wood	1376	671	251		5	6	42	122	40	9	9	19	5	4	37	156
	Aluminum	508	320	69				16	20	8	4	4	2	9	2	3	51
	Steel	88	40	20	1	1	2	1	4		1	1		2		1	14
	Fiberglass	2284	1241	495	10	29	10	67	124	60	55	4	18	8	7	44	112
	Other	28	11	7				2	6			1				1	
	Unknown	631	340	68	1	2	2	6	8	2	5	7	11	11	2	17	149
LENGTH OF BOAT	Less than 16 feet	1257	745	191	1	8	3	54	48	37	27	6	5	14	6	22	90
	16 feet to less than 26 feet	2036	1084	419	9	21	8	45	157	49	36	4	16	9	4	46	129
	26 feet to less than 40 feet	686	304	157	1	5	6	21	54	15		9	13	1	2	13	85
	40 feet to less than 65 feet	176	67	41	1	1	2	6	11	5	1	3	4	1		7	26
	65 feet and over	19	9	5									1	1			3
	Unknown	741	414	97		2	1	8	14	4	10	4	11	9	3	15	149
PROPULSION OF BOAT	Outboard	2132	1194	423	6	13	3	66	104	58	49	7	17	17	7	35	133
	Inboard-gasoline	1127	543	218	3	13	9	20	103	32	6	9	11	5	2	35	118
	Inboard-diesel	181	77	42	1	1	3	8	18	3		1	1			5	21
	Inboard-Outboard	464	248	90	1	7	2	11	33	10	14	2	6	2	1	6	31
	Other	428	246	66	1	1	1	25	17	2	1	3	4	3	3	7	48
	Unknown	583	315	71		2	2	4	9	5	4	4	11	8	2	15	131
HORSEPOWER OF BOAT	10 hp or less	417	233	84		1		21	11	8	2	3	1	5	2	7	39
	11 to 25 hp	261	145	39		1	1	14	12	8	4	1	5	2		5	24
	26 to 75 hp	1056	591	224	2	7	1	40	50	31	28	2	9	10	4	22	35
	Over 75 hp	2042	1024	430	9	25	15	26	175	52	35	12	20	5	2	44	168
	Unknown	709	385	74		1	3	9	21	10	3	5	9	10	2	17	160
	No engine	430	245	59	1	2		24	15	1	2	3	6	3	5	8	56
OPERATION AT TIME OF ACCIDENT	Cruising	2314	1388	352	9	21	7	48	233	49	7	6	3	19	4	17	151
	Maneuvering	347	244	37	1	2	8	12	10	3		2		4	4	3	17
	Water-skiing	349	207	62		2			8	4	61						5
	Racing	79	33	17	1			6	1	1		1				18	1
	Towing	17	9	5						1		1					1
	Being towed	23	11	4			1	3					1				3
	Drifting	286	154	70		1		9	8	5	1	3	9	3	2	4	17
	Fueling, underway	15	11	3													1
	Fishing, underway	296	170	25		1	1	13	11	3	2	5			1	4	60
	Hunting, underway	28	21						1								6
	Other, underway	145	82	21				5	10	2	1		1	2	1	10	10
	At anchor	258	56	87	1			21	1	14	1	3	24		1	19	30
	Docked	348	47	130		6	3	11		23		2	7	1		16	62
	Fueling, not underway	52	29	11		3						1					8
	Fishing, not underway	64	24	20				1		2			1	1	2	1	12
	Hunting, not underway	2	2														
	Skin-diving, or swimming	6	2	1												2	1
	Other, not underway	119	61	22		1		2		3		2	4	1		5	18
	Unknown	167	72	3				3	1		1			4		4	79

[1] A breakdown of this category may be found in additional tables.

Mr. HEYWARD. In that connection, it might be helpful if you could make a comment now if you know as to how much operator experience or speed is involved in casualties concerning boating accidents.

Admiral LAUTH. That is an area that we do not have a great deal of information on as yet, but we are seeking through our improved accident evaluation programs.

There is a general trend, though, that a few years ago the major cause of fatalities were capsizings, and accidental falls overboard, but there seems to be an increase of accidents due to high speed traffic.

We are continuing to analyze our accidents and will be glad to put in the record what information we have. We have no clear or firm indications as yet.

Mr. HEYWARD. Has the Coast Guard considered any minimum requirements on operator experience for State programs?

Admiral LAUTH. That is a subject that has been left to the States under the Federal Boat Safety Act.

There is authority for a State, as a precondition of numbering, to require a safety certificate.

Some of the States under this have put limitations on the age of operators in that they cannot operate a boat without either having taken some sort of a training course or having an adult with them.

Mr. HEYWARD. Some of these State limitations which you furnish and the State laws are very low, are they not?

Admiral LAUTH. Yes, sir, they are as compared to an automobile, but really not compared to what the boating population is.

Mr. HEYWARD. In your evaluation of accidents, do you make a point of age in analyzing particular accidents?

Admiral LAUTH. Yes, we do.

Mr. HEYWARD. Does the Coast Guard have any program for establishing speed of either recreational boats or other vessels, or is that up to local authorities?

Admiral LAUTH. That is correct. We leave that to the States or the local activities, or in some cases the Corps of Engineers in protecting their dredged waterways.

Mr. HEYWARD. There are a few areas, I believe, where speed regulations have been issued, however, which apply to all boats, but not specifically addressed to safety, more to protection of shoreline erosion and that sort of thing. Is that not true?

Admiral LAUTH. I believe that is true as far as the Corps of Engineers is concerned.

However, under our general rule of negligent operation even though a posted speed limit was not established, speed would be taken into consideration in any citation.

Mr. HEYWARD. If you do not have a speed limit, how do you take it into account?

Admiral LAUTH. Judgment of the officer that the boat was being operated negligently.

Mr. HEYWARD. It is a subjective judgment on his part?

Admiral LAUTH. Under the terms of negligent operation, yes, sir.

Mr. HEYWARD. Would that include the surrounding topography or is that based entirely on the weather and other unique conditions?

Admiral LAUTH. Well, I think if it was an area where swimmers were in the water or small craft, that is sailing craft, and someone was operating in an excessively high speed in the judgment of the

reporting officer, be it State or Federal, the speed and circumstances would be taken into consideration.

Mr. HEYWARD. As to your recommendation in connection with the delay in putting new requirements or standards into effect, you recommend that it be expanded to a maximum of 24 months.

I am referring now to page 3 of your statement. Is this major redesign? Is this sufficient time or should it possibly be left to some flexibility as to whether it should be a maximum?

Admiral LAUTH. From our experience in administering the law, we feel that 24 months is adequate time for any of the proposed regulations that we see coming.

One of the problems with arbitrary establishment by the Secretary is that it leaves the industry in a bit of limbo as to when they really should be adapting to the regulation.

In effect, during the year it takes to promulgate a regulation, the industry has a fair knowledge of what the intent of the regulation will be, and we feel they have adequate time to fit into their 3-year retooling program.

We feel the 24 months is adequate.

Mr. HEYWARD. Well, I think the real question is whether or not the Secretary might have some authority to relax this requirement in individual cases. You talk about arbitrary dates. You are suggesting that the Congress set an arbitrary date rather than the Secretary. Is there flexibility in the Secretary's regulations which could relax the 24-month requirement in individual cases if it appeared desirable?

Admiral LAUTH. I would like to discuss that with our legal people and submit a response for the record.

[The following was received:]

AUTHORITY UNDER SECTION 5(b) AND SECTION 9

The Secretary does not have flexibility under Section 5(b) to extend the period beyond the stipulated time which presently is 18 months. Section 5(b) balances economic considerations against safety requirements. The Congress has chosen to retain this authority. Section 9 of the Federal Boat Safety Act grants waiver authority provided boating safety is not adversely affected. Section 9 does not authorize the Secretary to balance economic factors against safety factors in making a determination whether or not boating safety will be adversely affected. The proposal to extend the maximum period for a regulation to become effective from eighteen to twenty-four months is, in fact, a balancing of economic and safety factors, and is a determination properly vested in the legislative branch.

Mr. HEYWARD. All right, sir.

In connection with the Safety Advisory Council, the Commandant submitted a list of the current council last fall. Would you submit for the record any changes that have occurred since that list was submitted.

Admiral LAUTH. We will look at the previous submission and if there are any changes we will send it in.

There are seven new members appointed each year.

[The following was received:]

NATIONAL BOATING SAFETY ADVISORY COUNCIL—JANUARY 21, 1976

STATE OFFICIALS

Mr. Tom Alexander, Boating Coordinator, Arizona Game and Fish Department, 2222 West Greenway Rd., Phoenix, Ariz. 85023 (602) 942–3000, Ext. 259: Term expires 1977.

Mr. Leonard L. Bouler, Director, Boat and Water Safety Commission, Suite 240, 720 North President St., Jackson, Miss. 39201 (601) 354–7281: Term expires 1977.

Mr. Roy Downing, Superintendent of Waters Section, State Conservation Commission, Des Moines, Iowa 50319 (515) 281–3448: Term expires 1976.
Mr. Robert H. Johnson, Director, Bureau of Watercraft Registration and Safety, State Office Building, Augusta, Maine 04330 (207) 289–2766: Term expires 1978.
Mr. Dale P. Morey, Boating Law Administrator, Department of Natural Resources, Box 450, Madison, Wis. 53701 (608) 266–8840: Term expires 1978.
Mr. James J. O'Brien, Director, Division of Marine and Recreational Vehicles, South Mall, Albany, N.Y. 12226 (518) 474–0411: Term expires 1976.
Mr. Edward (Tedd) Tuttle, Boating Chief, Division of Parks and Recreation, 1596 West North Temple St., Salt Lake City, Utah 84116 (801) 553–6011: Term expires 1976.

INDUSTRY

Mr. B. J. Ferguson, executive director, Marine Retailers Association of America, 3003 West Alabama, Houston, Tex. 77006 (713) 526–6361: Term expires 1977.
Mr. Kenneth A. Hopen, president, Glas-Ply Boats, Inc., 14525—40th Ave., NE., Marysville, Wash. 98270 (206) 659–5841: Term expires 1978.
David R. Loveless, president, Boston Whaler, Inc., 1149 Hingham St., Rockland, Mass. 02370 (617) 871–1400: Term expires 1978.
Mr. Donald A. Milton, General Manager, Marine and Industrial Products Operations, Chrysler Corp., P.O. Box 2641, Detroit, Mich. 48231 (313) 497–3360: Term expires 1977.
Mr. Maurice H. O'Ling, president, Stearns Manufacturing Co., St. Cloud, Minn. 56301 (612) 252–1642: Term expires 1976.
Mr. John R. Riggleman, Jr., Sears Roebuck & Co., Marine Development Laboratory, 2500 Main St., Fort Myers Beach, Fla. 33931 (813) 463–5717: Term expires 1976.
Mr. William M. Sanford, Director of Mfg. Engineering, Pacemaker Box 337, Egg Harbor City, N.J. 08215 (609) 965–3000 Ext. 334: Term expires 1977.

BOATING ORGANIZATIONS/PUBLIC

Mrs. Bolling F. Douglas, 187 Valley Rd., Norcross, Ga. 30071 (404) 448–2593: Term expires 1977.
Mr. Edward J. Heine, Jr., Chairman, National Boating Safety Advisory Council, president, U.S. Lines, Inc., One Broadway, New York, N.Y. 10004 (212) 344–5800: Term expires 1976.
Mr. Barry R. Labow, executive vice president, California Marine Parks and Harbors Association, 5259 Kester Ave., Van Nuys, Calif. 91411 (213) 995–0270: Term expires 1978.
Dr. Cecil Mackey, president, University of South Florida, Tampa, Fla. 33620 (813) 974–2791: Term expires 1978.
Mr. William W. Robinson, editor and vice president, Yachting Magazine, 50 West 44th St., New York, N.Y. 10036 (212) 682–3214: Term expires 1977.
Mr. Ray W. Scott, Jr., president, Bass Anglers Sportsman Society, No. 1 Bell Rd., Montgomery, Ala. 36190 (205) 272–9530: Term expires 1978.
Mr. Alvin Simon, president, Sodibar Systems of D.C., Inc., 1222 First St., NE., Washington, D.C. 20002 (202) 737–2851: Term expires 1976.

Mr. HEYWARD. How is the agenda for the National Safety Advisory Council established?

Does the Coast Guard establish that agenda?

Admiral LAUTH. Yes, we establish the basic agenda which has to do with the rules and regulations which are pending in various stages, either need for the regulation or in the various stages of the regulatory process.

Also in our notification of holding a meeting anyone who wishes to may correspond with the chairman to bring additional items through him. On each agenda there is a chairman and members session when they are able to bring in items which are not on the formal agenda.

We do have a procedure whereby contacting the chairman agenda items can be added to the meetings.

Mr. HEYWARD. Are items requested sometimes which are not approved for addition to the agenda?

Admiral LAUTH. Not that I know of.

Mr. HEYWARD. Are Council members allowed to bring up items?

Admiral LAUTH. The members are allowed to bring up anything they feel should be discussed.

Items are occasionally received from the general public which the Chairman weighs and decides whether or not they are in the jurisdiction of the Council's ability to advise the Commandant, or if they are really relevent to boating safety.

Mr. HEYWARD. Who is the chairman of the Council?

Admiral LAUTH. Mr. Ed Heine, president of the United States Lines.

Mr. HEYWARD. Not a Coast Guard officer?

Admiral LAUTH. No. The chairman is selected from the 21 members.

Mr. HEYWARD. By the membership or selected by the Coast Guard?

Admiral LAUTH. Selected by the Coast Guard.

Mr. HEYWARD. In connection with your comments concerning the testing of models, you say that a proposed amendment to the law clarifies the Secretary's authority to purchase boats and test them.

Does that mean you are purchasing boats for testing right now?

Admiral LAUTH. Yes, we are.

Mr. HEYWARD. So, as far as you are concerned, this amendment is really an endorsement of your present policy, rather than a needed change, is that correct?

Admiral LAUTH. In effect, yes.

Mr. HEYWARD. Are you worried about whether you have that authority?

Admiral LAUTH. No, sir.

Mr. HEYWARD. As to the question that came up last fall concerning the testimony on the international convention on collision regulations, there were several issues raised concerning the potential impact on recreational boating.

I see that you have at least under consideration the terms of that convention and how they are going to affect the recreational boating group.

Are you working closely with the other elements of the Coast Guard in connection with that convention implementation by regulation?

Admiral LAUTH. Yes, sir, we are.

Mr. HEYWARD. The report on that bill, incidentally, was published yesterday. If you will take a look at that report, you will see that the committee stated that it expected the Secretary in issuing regulations implementing that convention to take into account his other responsibilities under the Federal Boat Safety Act to be sure, in effect, that they meshed with the standards under sections 5 and 6, where navigational lights are also contained.

As to the recommendation concerning bringing in the dealers, I think your proposal here is somewhat different from the approach that we received from the public witnesses on this issue.

You propose an amendment which would authorize the Secretary to put certain requirements on dealers and distributors to assist the manufacturers, but you do not intend in this amendment to relieve the manufacturer of that basic responsibility. Is that correct?

Admiral LAUTH. That is correct.

Mr. HEYWARD. You do not think that it is practical to shift part of this responsibility to the dealers in the absence of appropriate dealer action to thereby, in effect, exonerate the manufacturer from the violations. How do you feel about it?

Admiral LAUTH. I would ask Captain Baetsen to comment on that.

Captain BAETSEN. The proposal is to include the dealer and distributor in the requirement to obtain the first purchaser information and provide it to the manufacturer.

The act itself right now does not require the manufacturer to maintain first purchaser lists.

It requires him to notify as many as practical in the case of a defect a notification campaign.

Our actions would require the dealers to provide information to the manufacturer, where possible to alleviate some of the problems associated with not having this information if a campaign should arise.

Under the present act and even under the regulations, the manufacturer of recreational boats or associated equipment does not have to, at the time of manufacture, maintain the list.

Mr. HEYWARD. Well, if there is a defect and if there is an attempt on the part of the manufacturer to ascertain the purchasers and if he does not receive the information which you are going to require the dealer to give to him, is he thereby in any way relieved of any responsibility under the regulation?

I think that is the point I am trying to get to.

Captain BAETSEN. We have not prosecuted anyone for not having the information because we cannot do so under the act.

We can only go to the limit of the act and that is due diligence on the part of the manufacturer to obtain the information.

Mr. HEYWARD. Would it be your interpretation that due diligence would be satisfied with an effort to obtain the information from the dealers that had sold the equipment?

Captain BAETSEN. Yes, sir. The intent of the proposed amendment is to have the regulatory system be approximately the same as that for the motor vehicles section which includes tire manufacturers, which has the very significant problem, the same as the boat and engine dealers.

Mr. HEYWARD. Another point raised last fall was in connection with the maintenance of records for indefinite periods.

In effect, the statement was made that your requirements on maintenance of records on equipment required a permanent warranty which would exist forever.

Is that your interpretation of the requirements?

Admiral LAUTH. No, sir. The definition that we operate under, the defect is a manufacturer's error at the time of manufacture, not something that gradually wears out, but something he did wrong at the time of manufacture.

We fell that if he did create a defect, then he is responsible for correcting it when it becomes apparent.

Mr. HEYWARD. At any time in the future?

Admiral LAUTH. Our indications are, so far, that most of them come up within the first 3 years.

Occasionally, one will come up 5 or 6 years later. We do not feel that should be limited.

However, we are talking with the industry on what is a reasonable amount of time the dealer would be required to keep the records. But if a defect came up 8 or 9 years later, it might be necessary to go to a public notification.

Mr. HEYWARD. Do they have certain periods of warranty in their manufacture or sales programs?

Admiral LAUTH. I do not have that information.

Mr. HEYWARD. They suggested, I believe, in the testimony, that the maximum period of time for retention of the records should be 3 years, or the period of warranty if it was different from 3 years.

It seems to me they must have a period of warranty of something less than the total future.

Admiral LAUTH. This is something that we are working with the industry on to reach a reasonable agreement.

I feel 3 years is a bit too short.

Mr. HEYWARD. In connection with the exemption authority of the Secretary under the act, which you refer to as the traditional craft that Mr. Studds was talking about, have you considered whether there should be exemption of small boats which are ordinarily not used with outboard motors but which occasionally are used for small fishing expeditions?

In essence, we have a complaint which was referred to us by a member from Louisiana, who wanted the subcommittee to address this problem. The correspondent stated that, last year, Louisiana had put in a numbering requirement for all boats that were motor propelled. Is that correct?

Admiral LAUTH. Yes, sir. That was the change from the 1958 act which established the uniform numbering system.

That only required boats over 10 horsepower to be numbered.

The 1971 act changed that to require that all powered boats should be numbered, and we have gone to several of the States suggesting that they change their laws to conform.

Louisiana was one which recently did that.

Mr. HEYWARD. This particular constituent, I suppose, does not like the idea of numbering a boat on which he occasionally puts a 4- or 5-horsepower motor.

Has there been any consideration for permitting the States to relax the requirement on numbering in special situations of that nature, or do you insist that the States in their programs cover all boats?

Admiral LAUTH. The law requires they cover all boats.

Mr. HEYWARD. But the law also authorizes the Secretary to make exemptions.

I am suggesting that maybe you might consider whether or not some parts of these things which are not absolutely necessary for safety purposes, that is, numbering, should be left to the discretion of the States.

Admiral LAUTH. One of the safety related issues of numbering is that it brings the person into the State system where they are able to reach him with safety information and also to require that he submit accident reports.

We have seen no reason to feel that boats that are occasionally used with outboard motors should be exempted from this requirement. The need of putting a number on is very minimal, but it does bring them to the State's ability to reach this very important segment of the boating population.

It would be very difficult to state how many days' use of this motor would be before it required numbering and it would be impossible for an enforcement agent, Federal or State, to determine whether or not he came under this exemption.

In other words, it has not been proved to us that it is such a burden that they should not have that safety privilege.

Mr. HEYWARD. Well, I certainly accept that answer, but I wonder whether or not some of the States might have different ideas.

After all, when the Federal Boat Safety Act of 1958 was in effect, that act did not require numbering under 10 horsepower. Some States required the numbering of all boats, but others did not.

They evidently found some reason for making different application, and I do not think the statute here absolutely requires the Coast Guard to insist upon the numbering of every boat with an outboard motor on it for States that have indicated any desire to relax that requirement.

Admiral LAUTH. States have only indicated they desire not to change existing laws to meet the requirements of the Federal Boat Safety Act of 1971.

We have had no basis in safety related matters to grant an exemption to this, but certainly you are correct that we do have the authority and if a case is presented we would certainly consider it.

Mr. HEYWARD. In connection with the allocation of your State assistance support, what is the effect of this change of adding the word "eligible," as to the States of Washington and New Hampshire?

Admiral LAUTH. At the present time, the allocation formula breaks down into three parts. One-third provides funds equally to all applying States, which includes all of the jurisdictions covered under the Federal Boat Safety Act, the 50 States and the 5 territories. The other two-thirds speak of moneys which are divided up, depending on the number of boats registered within the State and on the amount of money that a State contributes to the program.

Those two sections refer to applying eligible States which we have determined means that the State has an approved program under our Coast Guard regulations.

To change or remove the word "eligible" from the first third would delete New Hampshire and the State of Washington from any eligibility or grant funds.

Mr. HEYWARD. I believe you are suggesting adding it, though, are you not?

Admiral LAUTH. Excuse me, adding the word "eligible"?

Mr. HEYWARD. So, in effect, what you are saying is in this allocation that that one-third will not be divided among States that do not have approved boating programs.

Admiral LAUTH. That is the intent of the change.

Mr. HEYWARD. How is the formula established on the distribution of that one-third now?

Admiral LAUTH. Equally among all applying States.

Mr. HEYWARD. Thank you.

Mr. BIAGGI. Mr. Olney?

Mr. OLNEY. Thank you, Mr. Chairman.

Admiral, last fall, one of the witnesses from the National Association of Engine and Boat Manufacturers suggested that the States were using their State registration authority to enforce State statutes other than those which related to boat safety, and that witness recommended that there be some language changes in section 23 to make it clear that State registration should not be used for purposes other than those relating to boating safety.

What is your reaction to that recommendation?

Has this been a problem that the Coast Guard has been able to discern?

Admiral LAUTH. No, sir, we have not and the problem comes that the States financing arrangements in their tax laws and the use of those funds for support of various programs, including boating safety, are so very complex that we feel it would be extremely difficult to put such legislative change into any reasonable form.

Mr. OLNEY. So, you do not feel an amendment to section 23 is appropriate at this time?

Admiral LAUTH. No, sir.

Mr. OLNEY. Thank you.

On page 7 of your testimony you stated that some States have been notified that they have regulations which conflict with the Federal regulations.

Could you provide for the record which States have been notified and the nature of the State regulations that would probably have to be preempted?

Admiral LAUTH. Yes, sir.

[Information to be supplied follows.]

STATE LAW PROTECTION

Two States have been given notification that certain provisions of their laws are subject to preemption. New York and Illinois have provisions in their laws concerning equipment carriage requirements which differ from Federal requirements.

Mr. OLNEY. Thank you, sir.

Another item that has come up during the fall hearings was this question of complicated test procedures.

Apparently, it is not uncommon for a small boat manufacturer, the so-called backyard boat builder, to have a 150-page test manual to comply with.

Is the Coast Guard taking any steps to simplify these testing procedures?

Admiral LAUTH. Yes, sir, we are. We have issued an informational pamphlet for the backyard builder which gives him a simplified test procedure, and in our most current proposed regulation requiring level flotation of boats under 20 feet, we are also working with simplified testing items.

One of the problems is, though, that if we ever expect to bring a manufacturer to court for failure to comply, the test procedures must be engineeringly sound so that they can be established under the law.

We do understand the problem of the backyard builder and are working in that direction.

Mr. OLNEY. It is my understanding that your initial intent was to apply some empirical formula that the backyard builders could use.

Is that what your aim is in these manuals?

Admiral LAUTH. Captain Baetsen will answer that.

Captain BAETSEN. Yes, the simple techniques are shown to the backyard builder in cartoon form so he can accomplish the test with people and weights to determine what his safe loading conditions are for his boat.

Mr. OLNEY. Thank you.

Admiral, on page 8 of your testimony, you are describing your section 13 authority to prevent someone from going out under unsafe conditions.

You describe some of those unsafe conditions therein and you stated that you plan no expansion of these unsafe conditions.

Have you given consideration to the requirement of flares and daytime distress signals, and things like that that may be used to assist the Coast Guard in carrying out a search and rescue mission?

This has been a problem in the Great Lakes which Mr. Ruppe has raised before in an instance where there was a capsizing and the vessel was so small that the Coast Guard had difficulty detecting it through the use of radar.

What is your reaction to that, sir?

Admiral LAUTH. That is one of the subjects we have been studying for sometime and it raises a great deal of concern as to what should be required and under what circumstances they should be required; our intention is to come out with an advanced notice of proposed rulemaking, laying out what we feel the problems are in distress signals and seeking very wide public input into the question.

As a result of that, and as a result of our research and development program, we will, if we can justify it, proceed with a regulation.

Mr. OLNEY. One last question initially raised by Chairman Biaggi, relating to the vessel documentation.

I believe this was in your prepared statement and not in your oral statement, that State officials have expressed concern about documented vessels being exempted from the requirement to be numbered, and using that as a means of avoiding taxation. They are not suggesting that they lack the authority to tax that vessel, are they, simply because it is documented under a Federal system?

Admiral LAUTH. No, sir, it is my understanding they do not have the information readily available for tax purposes.

Mr. OLNEY. Can you distinguish the situation where a vessel from another State, using the State numbering system, comes into, let us say, the State of Maryland, from the situation where a documented vessel comes into Maryland?

Cannot the State officials, if they want to tax that vessel, with some sort of property tax to go to either the State and find out who the owner is and assess some sort of property tax based on the time the vessel is in their waters, just as they could go to the Federal documentation office and determine the owner?

What is the problem with documentation under the Federal system as opposed to numbering under the State system for purposes of assessing the State property tax?

Admiral LAUTH. We do not see there is a problem. I said this has been expressed by some of the States, that they feel they need the numbering information for their tax purposes.

Mr. OLNEY. So the point I am getting at is that the State officials do have the ability, do they not, to go to the Federal Government to determine the ownership of that vessel, though it does not bear numbers on the bow the way a State-numbered vessel does?

They do have the access to information to determine ownership, is that not correct?

Captain HALLBERG. Yes, sir, they do.

As a matter of fact, taking the State of New York as a "for instance," the State officials are in our documentation office almost every day.

The information is made available to the States. The problem, I guess, is one of facility of acquisition. It is not within their system and that is what makes it at times a little more difficult, but the information on documented vessels is available to the States.

Mr. OLNEY. So, to draw some sort of a conclusion the issue of documentation, whether or not a pleasure vessel should be documented, it seems to me should not be considered part of the issue of the State's ability to get to that documented vessel for tax purposes.

Thank you, Mr. Chairman.

Mr. BIAGGI. Mr. de la Garza?

Mr. DE LA GARZA. No questions.

Mr. BIAGGI. Mr. de Lugo.

Mr. DE LUGO. I have a problem which I would like to address to the admiral. I will address it to him in writing and would like to request his response in a similar manner. If there is no objection, it can be made a part of this record, Mr. Chairman?

Mr. BIAGGI. Certainly.

Thank you, very much, admiral and gentlemen.

The meeting is adjourned.

[The correspondence mentioned above was not supplied for the record.]

[Whereupon, at 11:45 a.m., the subcommittee adjourned, subject to the call of the Chair.]

FEDERAL BOAT SAFETY ACT

THURSDAY, MAY 13, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
Washington, D.C.

The subcommittee met at 10 a.m., in room 2257, Rayburn House Office Building, Hon. Walter B. Jones, acting subcommittee chairman, presiding.

Mr. JONES. The subcommittee will please come to order.

Today the Subcommittee on Coast Guard and Navigation is meeting to continue its review of the Federal Boat Safety Act of 1971, and to consider various proposals to amend the act, the first of which is contained in H.R. 9375.

The subcommittee first held hearings on H.R. 9375 last fall when it also received testimony on H.R. 5630. The latter bill, restricted to an extension of the appropriation authorization for Federal assistance to State boating safety programs, was favorably reported by the subcommittee and the full committee, and was passed by the House on November 17, 1975. That bill is now pending in the Senate Committee on Commerce, which ordered it reported, amended, earlier this week.

As to H.R. 9375, the subcommittee elected to defer action until it had an opportunity to receive information concerning the overall operation of the Federal Boat Safety Act, and to give all interested parties an opportunity to propose specific amendments to the act. As a result of various proposals which were received by the subcommittee, the subcommittee chairman, on May 6, 1976, introduced H.R. 13585, which incorporated in a new bill all of the proposed changes which had been received prior to that date. Let the bill appear at this point in the record.

[The bill, H.R. 13585, and the report from the Department of Transportation, follows:]

[H.R. 13585, 94th Cong., 2d sess.]

A BILL To amend the Federal Boat Safety Act of 1971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451 et seq.) is amended as follows:

(1) Section 5 is amended by striking the word "eighteen" in paragraph (1) of subsection (b) thereof, and by inserting in lieu thereof "twenty-four".

(2) Section 8 is amended by inserting, immediately after "8," the subsection designation "(a)", and by adding a new subsection to read as follows:

"(b) The Secretary may conduct research, testing, and development as necessary to carry out the purposes of this Act, including the procurement (by negotiation or otherwise) of experimental and other boats or associated equipment for research and testing purposes.".

(3) Section 15 is amended, in subsection (a), by striking, at the end thereof, "defect.", and by inserting in lieu thereof "defect: *Provided*, That the manufacturer's duty of notification under this subsection applies only to defects or failures of compliance discovered by the manufacturer within three calendar years after the year in which the boat or associated equipment involved is first offered for sale by the manufacturer or within the life of the warranty on the boat or associated equipment involved, whichever period is longer.".

(4) Section 15 is amended, in subsection (e), by striking, at the beginning of the third sentence thereof the word "Upon", and by inserting in lieu thereof "If the manufacturer receives notice from the Secretary within the time in which he would be required to make notification under subsection (a), upon".

(5) Section 15 is amended, in subsection (g), by striking "this section.", and by inserting in lieu thereof "this section, including, but not limited to, procedures to be followed by dealers and distributors to assist manufacturers in obtaining the information required by ths section: *Provided*, That a regulation promulgated hereunder may not relieve a manufacturer of any obligation imposed on him by this section.".

(6) Section 18 is amended, in subsection (a), by inserting, following the second sentence thereof, a new sentence to read as follows: "In implementing and administering its numbering system, a State shall adopt any definitions of relevant terms, including, but not limited to, 'model year' and 'date of manufacture' established by the Secretary by regulation.".

(7) Section 23 is amended by inserting at the end of the first sentence a new sentence to read as follows: "The fees established pursuant to authority granted by this section shall apply equally to residents and nonresidents of the State.", and by striking, at the end of the section, "taxes.", and inserting in lieu thereof "taxes designed to raise revenues for purposes related to recreational boating.".

(8) Section 27 is amended, in subsection (a), by striking "July 1", and by inserting in lieu thereof "October 1".

(9) Section 27 is amended, in subsection (c), by inserting in the first and second sentences thereof, after the word "applying", the word "eligible".

(10) Section 27 is amended by adding a new subsection to read as follows:

"(e) The Secretary may expend funds appropriated for the program of financial assistance to the States under this Act for audit expenses incurred by him in the administration of that program. Expenditures made in any fiscal year under this subsection shall not exceed 1¼ per centum of the total funds appropriated for that fiscal year.".

(11) Section 28 is amended, in subsection (a), by inserting, immediately after the first sentence, a new sentence to read as follows: "Thereafter, the Federal share of the total cost of a State's boating safety program may not exceed 50 percentum in any fiscal year for which funds are appropriated under section 30 of this Act.".

(12) Section 28 is further amended by adding a new subsection to read as follows:

"(d) For the purposes of this section, the transition period of July 1, 1976, to September 30, 1976, shall be treated as a fiscal year.".

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., August 26, 1976.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Reference is made to your request for the views of the Department of Transportation concerning H.R. 13585, a bill "To amend the Federal Boat Safety Act of 1971." H.R. 13585 contains twelve proposed amendments to the Federal Boat Safety Act of 1971 (FBSA). Of the twelve amendments, six are identical to amendments proposed by the Department in H.R. 9375. Therefore the Department favors amendments numbered (1), (2), (5), (9), (10) and (12) for reasons outlined in the Secretary's letter of transmittal to the Speaker dated August 12, 1975, a copy of which is enclosed. It should be noted, however, that amendments to the FBSA which correspond to amendments (10), (11), and (12) of H.R. 13585 have already been enacted in P.L. 94-340.

Amendments (3) and (4) of H.R. 13585 propose that the manufacturer's duty to notify purchasers of defects be limited to a period of "three calendar years after the year in which the boat or associated equipment involved is first offered

for sale by the manufacturer or within the life of the warranty on the boat or associated equipment involved, whichever period is longer."

The Department proposes that, if the manufacturer's duty to notify purchasers is to be limited, that it should be limited to a period of (a) 5 years from the date of certification for boats or associated equipment required by regulation to have a certification date affixed or (b) 5 years from date of manufacture for boats or associated equipment not required to have a certification date affixed.

This proposal has the advantage of establishing the expiration of the duty to notify by using a date that is permanently affixed to the boat or associated equipment. All boat hulls must have permanently affixed hull identification number (HIN) containing the certification date, and certain associated equipment may be required to have an affixed certification label with the date of certification. For that equipment not required by regulation to have an affixed date of certification, the date of manufacture, as determined by serial number or other means, would initiate the five year notification period. If the Committee feels it necessary to include definitions of the date of certification and date of manufacture in the FBSA, the current working definitions of these terms are found in 33 CFR 181.3(d) and 181.15(b) (date of certification) and 33 CFR 181.3(e) (date of manufacture) and could be incorporated verbatim into section 3 of the FBSA.

A five year duty to notify purchasers is proposed because experience has shown that after this period purchaser address lists are of limited utility due to resales and changes in address. Furthermore, our data demonstrate that of the total number of defect campaigns conducted by the Coast Guard, virtually all have been completed within five years. This limitation of the manufacturer's duty to notify purchasers would not appreciably hinder the boat safety program and would provide reasonable relief to the manufacturers.

However, even accepting the manufacturers' argument that maintaining purchaser lists for defect notification purposes for many years after the date of manufacture is ineffectual and burdensome, there is not a similar burden in maintaining current a list of dealers and distributors to be notified of a defect under section 15(b)(3) of the Act. The dealers and distributors could serve a valuable function by posting and publicizing defect notification bulletins or by informing owners of models with a known defect. Many dealers may also have an economic incentive to notify regular customers and to repair the defect. The Department opposes relieving the manufacturer of his duty to notify dealers and distributors of safety related defects.

In order to eliminate the expense and ineffectuality of requiring the maintenance of outdated purchaser lists, while at the same time maintaining the manufacturer's duty to publicize and correct, at his sole expense, a defect or a failure of compliance, the following substitute for proposed amendment (3) is suggested:

"Section 15 is amended in subsection (a) by striking at the end thereof, "defect." and by inserting in lieu thereof "defect: Provided that the manufacturer's duty of notification under subsection (b)(1) and (b)(2) of this section, applies only to defects or failures of compliance discovered by the manufacturer within one of following periods, as appropriate: (1) in the case of a boat or associated equipment required by regulation to have a date of certification affixed, 5 years from date of certification, or (2) in the case of a boat or associated equipment not required by regulation to have a date of certification affixed 5 years from date of manufacture."

This amendment to section 15 of the Act would limit the manufacturer's duty to notify to that period which is administratively effective and would maintain the duty to notify all leaders or distributors to which the boat or equipment was delivered. If the proposed substitute for amendment (3) is adopted, the Department recommends passage of proposed amendment (4) of H.R. 13585.

Because the FBSA establishes the manufacturer's duty to correct defects in section 15(c) through the medium of the manufacturer's notification to purchasers, any limitation in the manufacturer's duty to notify purchasers may, by implication, limit the manufacturer's duty to correct defects. Should the Committee agree to limit the manufacturer's duty to notify consumers, we suggest an additional amendment to section 12 or 15 or both, to clarify that the termination of the manufacturer's duty to notify does not terminate or limit the manufacturer's duty to take measures to correct a defect or a failure of compliance, whenever discovered, at his sole expense.

The Department strongly supports amendment (5) of H.R. 13585 which would give the Secretary the authority to issue regulations to require boat dealers and

distributors to assist the manufacturer in obtaining information concerning boat defects and purchaser lists. This important Administrtation proposal, contained in H.R. 9375, will greatly increase the effectiveness of the defect notification program.

The Department opposes proposed amendment (6) of H.R. 13585. The Coast Guard uses the "model year" and the "date of manufacture" on the Hull Identification Number of a boat only to establish the safety regulations which apply to the boat. The definitions are not designed for, and have no relation to, the needs of the states in the administration of their approved boat numbering systems. The Department opposes imposing on the states a requirement that has no safety implications, and for which there has been no demonstrated need.

The Department concurs in thet first clause of amendment (7) which would amend section 23 of the Act to require that boat numbering fees apply equally to residents and non-residents. This amendment is in accordance with the Coast Guard's position that a state may not discriminate between resident and nonresident applicants for boat numbers.

However, the second clause of proposed amendment (7) of H.R. 13585 (page 3, lines 15–17 of the bill) will cause more confusion than clarification. Many states operate their boating safety programs out of a general fund; numbering fees in these states are payable to the general fund. If the proposed language is added, states with a general fund would not be able to require proof of payment of state or local taxes as a condition of numbering, though a direct fee-funded state program could continue as under the present statute. It was the intent of Congress in the FBSA, that states be able to require proof of payment of applicable state and local taxes as a condition to renumbering. The Department recommends that the second numbered clause of the second sentence of section 23 of the Act not be changed.

The Department supports amendment (8) of H.R. 13585 which conforms the timing of the allocation of Federal boating safety funds to the new fiscal year. The FBSA provided for allocation of the Federal share as soon as possible after the first day of the fiscal year then in effect. The proposed amendment would maintain that timing.

With the exceptions noted above, the Department endorses H.R. 13585. It contains all of the substantive proposals of the Administrative bill, H.R. 9375, that have not been enacted previously in P.L. 94–340.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

DONALD T. BLISS,
Acting General Counsel.

Mr. JONES. Today, the subcommittee will receive testimony from several organizations representing boating interests, including the National Association of Engine and Boat Manufacturers, the Boating Industry Associations, the National Association of State Boating Law Administrators, and the Boat Owners Association of the United States. While all witnesses were specifically requested to comment on the provisions of H.R. 9375, copies of H.R. 13585 have also been made available, and I would ask each witness, to the extent that he is prepared to do so, to express his views on the various amendments proposed in that bill.

Our first two witnesses are Mr. David R. Parker, president, National Association of Engine and Boat Manufacturers, and Mr. Jeff W. Napier, general counsel, Boating Industry Associations. I will ask Mr. Parker and Mr. Napier to come to the witness table together. After hearing their testimony, the subcommittee will be able to address questions to either or both of them, as may be appropriate.

STATEMENTS OF DAVID R. PARKER JR., PRESIDENT, NATIONAL ASSOCIATION OF ENGINE AND BOAT MANUFACTURERS, AND JEFF W. NAPIER, GENERAL COUNSEL, BOATING INDUSTRY ASSOCIATIONS, ACCOMPANIED BY E. BRUCE BUTLER, PARSON, BOGGS & BLOW, COUNSEL TO NATIONAL ASSOCIATION OF ENGINE AND BOAT MANUFACTURERS AND BOATING INDUSTRY ASSOCIATIONS

Mr. JONES. Which is Mr. Parker?

Mr. PARKER. I am.

Mr. JONES. I believe you have the wisdom to be from the great State of North Carolina?

Mr. PARKER. Yes, sir.

Mr. JONES. Congratulations.

Mr. PARKER. Same to you, Congressman Jones.

It is a pleasure to see you.

Mr. JONES. Am I correct in understanding that you have some installations in my district?

Mr. PARKER. New Bern, N.C. You visited that plant, if I am not mistaken.

Mr. JONES. Yes, I did. I had a delightful visit and I was very impressed with what I saw. You do a wonderful job.

You may proceed.

Mr. PARKER. Mr. Chairman, and members of the subcommittee, my name is David R. Parker, Jr., president of the AMF Hatteras Yachts, High Point, N.C. I am appearing here today as president of the National Association of Engine and Boat Manufacturers and am accompanied by Mr. Jeff W. Napier, general counsel of the Boating Industry Associations and E. Bruce Butler, Patton, Boggs & Blow, Washington counsel to both associations. The combined membership of our two associations exceeds 800 members and includes virtually every substantial U.S. manufacturer of the boats, motors and associated equipment to which the 1971 Boat Safety Act is applicable.

Our two associations have appeared before this subcommittee on a number of occasions, both before and after the enactment of the Boat Safety Act. We are appearing again today for two reasons. First, we want to commend the subcommittee and the Coast Guard for the establishment and implementation of a workable boat safety law which offers appropriate protections to the boating public without unduly burdening private industry. Second, we would also like to discuss a number of items of concern to our industry which we believe should be corected through appropriate amendments to the Boat Safety Act. We believe many of these suggestions are effected in H.R. 13585 introduced May 6, 1976, and recommend that this bill be adopted by the subcommittee. Mr. Napier will have specific comments on a number of these amendments in his statement.

Because these are oversight hearings, we first would like to give the subcommittee our views on the initial 5 years of operation of the Boat Safety Act of 1971.

As Rear Admiral Lauth indicated to you in testimony given this subcommittee on April 1, 1976, the Coast Guard has issued 10 regulations pursuant to its authority under the act. While we manufacturers do not necessarily agree with the need for some provisions in these regulations and although we recognize that dissatisfaction exists with the application of some regulations to specific types of boats, the U.S. boat, motor and associated equipment manufacturers do recognize the fairness with which the Coast Guard has approached its obligations under the act and believe that the regulations promulgated fulfill the mandate given to the Coast Guard by this Congress to increase the safety of U.S. waters for recreational boating.

One reason for the smooth functioning of the act in our opinion is the existence of the National Boating Safety Advisory Council, established under section 33 of the 1971 act. As a result of the deliberations of this Council, the four groups with potentially different perspectives on boat safety issues—State boating law administrators, the boating public, industry, and the Coast Guard—are able to discuss both the need for a particular type of regulation and the scope and form of that regulation at each stage in the administrative process. In this way, unintended practical problems can be avoided before the administrative process has progressed to the point where their elimination is a difficult and time-consuming matter. This subcommittee is to be commended for its wisdom in establishing the Advisory Council under the 1971 act.

I do not, however, want to suggest that industry is completely satisfied with the current regulatory situation, for we are not.

The issue of greatest concern to us is the openended exposure which we curretnly face under the act with respect to notification and recordkeeping obligations imposed under section 15 of the act. While we recognize and readily accept reasonable repair and notification obligations, we do not believe that a manufacturer should be required to maintain first purchaser records forever. We support the amendment to section 15 of the Boat Safety Act of 1971 designed to meet this problem which is contained in H.R. 13585.

Another issue which our two trade associations raised during prior hearings before this subcommittee was our belief that test procedures established by the Coast Guard with respect to promulgated standards were too complicated and beyond the technical capability of some smaller manufacturers. We were pleased to note during Rear Admiral Lauth's testimony last month that the Coast Guard is taking steps to alleviate this problem. Accordingly, we will withhold comment on this issue until we have had time to evaluate Coast Guard efforts to develop simplified test procedures for smaller manufacturers.

We also have several comments which relate to the need for specific Federal preemption to avoid discriminatory or contradictory State laws. In testimony presented by Mr. George Page on behalf of NAEBM and BIA last September, concern was expressed over the efforts of some States to use boat registration programs to enforce laws having no relation to boat safety such as insurance, titling, and sanitation laws and to use State boat regulation programs to collect taxes unrelated to boating safety. Section 23 of the act prohibits a State from using its federally approved boat registration system as a vehicle for enforcing any law, other than a tax law, which is not specifically prescribed under the act.

We believe that the use of registration programs to collect taxes unrelated to boating safety can be prevented by addition of the clause at the end of section 23 made by H.R. 13585 indicating that the only taxes permitted under this act are those whose purpose is the collection of revenue for use in a recreational boating program.

We also are pleased to note that section 23 is amended by H.R. 13585 to provide that registration fees imposed by States are to apply equally to residents and nonresidents of a State. This provision will eliminate the problem now caused by States which impose higher fees for nonresidents.

In closing, I would like to commend the subcommittee for the manner in which it resolved the potential conflict between the Boat Safety Act and the Convention on the International Regulations for Preventing Collisions at Sea. The report of the committee on this Convention, House Report 94–973, provides that implementation of this so-called rules of the road convention with respect to navigational lights is to be undertaken in a manner consistent with the Coast Guard's obligations under the Boat Safety Act. This is a very reasonable requirement which avoids potentially overlapping and inconsistent standards for navigational lights. We are working with the Coast Guard in developing the necessary standards and are hopeful that it will not be necessary to raise this issue again in the future.

While the issue is not directly related to the Boat Safety Act, we also would like to reiterate our position to the elimination of Federal documentation for pleasure vessels. We believe that institution of a fee system for such documentation is far more preferable than elimination of the documentation since elimination would seriously disrupt current financing relationships for large pleasure boats and would jeopardize the status of U.S. boatmen in foreign waters.

It is our understanding that the Coast Guard no longer will seek to have the documentation program for pleasure vessels eliminated. We congratulate the Coast Guard for this step and would like to thank the subcommittee for its assistance in resolving this dispute. We shall assist the Coast Guard in every way possible to develop a fair system of fees for documentation, recording of mortgages, and renewal or transfer of certificates of title.

Thank you for this opportunity to testify on these important matters.

Mr. JONES. Thank you, Mr. Parker.

Do either of the two gentlemen with you plan to testify?

Mr. PARKER. Mr. Napier.

Mr. JONES. I apologize for mispronouncing your name.

Mr. NAPIER. It is quite all right.

Mr. JONES. If your name is Jones, you have no problem.

Mr. NAPIER. Mr. Chairman and members of the subcommittee, my name is Jeff W. Napier. I am general counsel of the Boating Industry Associations, a general partnership of associations, including the Outboard Motor Manufacturers Association, Boating Manufacturers Association, Trailer Manufacturers Association, and Marine Accessories and Services Association.

As Mr. Parker has indicated, my purpose in appearing here today is to discuss a number of specific amendments to the Federal Boat Safety Act of 1971 which we believe to be desirable both from the standpoint of boating safety and from the standpoint of eliminating undue regulatory burdens on manufacturers.

First, we support an increase in the time authorized in the act for delay in establishing the effective date of a standard which requires major redesign on the part of a manufacturer from 18 to 24 months. As Admiral Lauth pointed out in his testimony before this subcommittee last month, such a procedure will better enable a manufacturer to perform the necessary product modifications in a manner coinciding with its established retooling cycle. In order to give the Coast Guard additional flexibility, we would suggest that this provision also include authorization for the Secretary of Transportation to extend the time period beyond the 24 months for reasonable cause and after setting forth his reasons for such extension in the public notice on the regulations in question.

Second, we support the amendment to the act provided in H.R. 13585 authorizing the Coast Guard to establish regulations to require dealers and distributors to assist in gathering first purchaser information. We have previously pointed out that a mechanism was needed to assure that the dealers would obtain, maintain, and send to the manufacturer the first purchaser and other information which it required for a manufacturer to carry out his notification responsibilities under the act. In testimony submitted to this subcommittee last August by George Page, the provision in section 5 of H.R. 13585 to the effect that the dealer information procedures would not release the manufacturer of any obligation imposed by section 15 of the act was questioned.

We believe that this provision should be clarified to state that the manufacturer's due diligence obligations under section 15 may be satisfied by reliance on a recordkeeping system which is dependent upon dealer maintenance of first purchaser information. The Boat Safety Act clearly sets forth the manufacturer's obligations and no attempt is made here to reduce those obligations. We do suggest, however, that it be made clear, in adopting the proposed amendment, that reliance on dealer recordkeeping, which is the most appropriate point for maintenance of first purchaser information, is clearly reasonable and constitutes "due diligence" under section 15.

Third, we strongly support the new amendment to section 15 of the Boat Safety Act added by H.R. 13585 to establish time limits for the recordkeeping and defect notification obligations established under the act. The current notice and recordkeeping obligations, which continue in perpetuity, are extremely burdensome to all manufacturers and particularly burdensome to the smaller manufacturer. We believe that the 3-year period for recordkeeping provided by H.R. 13585 is appropriate and that the longer of 3 years or the warranty period established by a manufacturer is the appropriate timeframe for defect notification.

Admiral Lauth in his testimony before the subcommittee last month indicated that most defects appeared within the first 3 years after manufacture. Thus, we have suggested that a limitation to this time period or to the warranty period, if the manufacturer has voluntarily chosen to grant a warranty longer than 3 years duration, is reasonable. We would respectfully urge the committee to adopt H.R. 13585.

Fourth, we are concerned with a problem which has appeared recently where the Coast Guard or a contractor of the Coast Guard which has obtained boats for use in standards compliance testing has completed its testing and then has wholesaled those boats in a particu-

lar location to the detriment of marine dealers in the vicinity of the sale.

The Coast Guard's present program involves the purchase, on the open market, of several hundred boats each year for testing by a contract laboratory in Huntsville, Ala. Typically, a brandnew boat is finished with its tests after a few weeks—having sustained, in most cases, cosmetic damage or at least damage easily and inexpensively repaired.

This is somewhat akin to dumping which you have by foreign countries sometimes. The boat is virtually brand new.

In order to recover money for the Government, the GSA auctions the test boats at periodic intervals in the Huntsville area according to its normal procedures. The boats are offered for a minimum bid of roughly half the price paid a few weeks earlier. Not surprisingly, this is quite a bargain for people in the Huntsville area. Also not surprisingly, the Government's auctions are severly impacting the local marine retailers. It is no small irony that, although other laws protect domestic industry from foreign product dumping in the U.S. market, no one is protecting the Huntsville small businessman from Government dumping and "unfair" competition in the sale of boats.

Estimated new boat sales in the Huntsville area went from 1,460 in 1973 to 1,410 in 1974 to 910 in 1975. The GSA sold almost one-fifth of what Huntsville dealers sold in 1975. The most recent auction was 85 boats. Another 30 are scheduled for GSA sale this month.

We feel that an amendment to the Boat Safety Act is needed to allow the Secretary, acting through the Coast Guard or other designee, to sell the test boats as well as to buy them. This would keep intact the Government cost recovery program but would provide greater flexibility in disbursing the sales of used test boats beyond Huntsville or any other test area the Coast Guard may use. There is precedent for this approach in the National Traffic and Motor Vehicle Safety Act of 1966. Section 106 of that act permits the Secretary of Transportation to buy and sell vehicles and test equipment.

Thank you very much Mr. Chairman for the opportunity to make these suggestions to the subcommittee. Mr. Parker and I would be happy to answer any questions that you may have.

Mr. JONES. Thank you.

I have one question. You refer to the National Boating Safety Advisory Council. Do you have any specific suggestion as to how the Council members might be selected, how the selection could improve the operation of the Council? You touched on it in your testimony briefly.

Mr. PARKER. Not specifically. I think there is a certain amount of controversy, about as you would expect, with respect to representation from the various segments of the industry. I think the emphasis should be on quality of people in this group because of their expertise, rather than necessarily the numbers in each segment or group.

Mr. JONES. All right, sir.

Do either of you two gentlemen have any comment on the manner in which the Coast Guard handles its rulemaking responsibility? I think you have been rather complimentary to the Coast Guard in your testimony.

Mr. NAPIER. Mr. Chairman, I would like to say that we are generally happy with the way they do it. I guess this is more of a personal observation. As far as the standards are concerned, the Coast Guard is increasingly getting into cost-benefit analysis which I wish the rest of the Government would do. People in our industry are wondering why the Coast Guard is promulgating standards, since the Coast Guard statistics indicate that faulty machinery and equipment account for less than 5 percent of all accidents and a smaller percent of all injuries and a still smaller percent of fatalities. In some cases, we are not sure of fault. It may be a maintenance problem rather than a manufacturer's defect. So when the manufacturers know they are not responsible for the accidents and yet they are responsible for meeting these standards, they question this situation.

The reason we have these standards is that it is the Coast Guard's belief that whatever the cause of the accident, it might be mitigated or prevented by redesigning the product. That is the reason we have the standards. I think the cost-benefit analysis is necessary to, first of all, improve the accident rate, which is good, but can and should be made better. If an accident rate can be improved, the cost-benefit method is the only way to go at it. We encourage that. We are pleased with the direction in which they are going.

Mr. JONES. On page 5, you referred to the resale of test boats in Huntsville, Ala. What would your suggestion be? A fixed percentage of the original cost, or something of that nature?

Mr. NAPIER. No. The problem is concentration of boats at a discount price. It is really a three-county metro area. There are not that many dealers and the sale by GSA accounts for a very high percentage. First of all, this can be accomplished by letting the Coast Guard do it. I don't suggest that this one narrow problem necessitates changing GSA regulations regarding Government property sales. What we seek is an exemption and an alternate procedure which would let the Coast Guard, rather than the GSA, do this. Probably the Coast Guard would let the manufacturer take the boats back, keeping in mind it has only cosmetic defects as a result of testing, and they could remanufacture and sell the boat and put a warranty on it. Then the manufacturer can sell it wherever he wants in the regular channels. That would be the way to do it. Doubtless there are other ways. You need enabling provisions to take it out of the GSA and put it in the Coast Guard hands. I think that is what we are suggesting here.

Mr. JONES. Thank you, sir.

I don't believe the Chair has any further questions.

Mr. Bowen, do you have any questions?

Mr. BOWEN. I would like to have the later witnesses comment on some of the observations of the earlier witnesses.

Mr. JONES. The Chair recognizes the Majority Counsel.

Mr. HEYWARD. In connection with your statement about the Secretary of Transportation's authority under the National Traffic and Motor Vehicle Safety Act procedure for sale of boats, would that be accomplished in this act simply by adding in the amendment No. 2 the word, "Resale," or should we go into more detail on the specific manner of getting rid of it?

Mr. NAPIER. Basically, that could be accomplished by adding either that word or perhaps one or two others, a very minimal additional language change.

Mr. HEYWARD. Could you suggest some specific language to accomplish that?

Mr. NAPIER. We will be delighted to.

Mr. HEYWARD. In connection with the amendment to section 15, I must admit that I am somewhat confused as to what the effects of these proposals is going to be. You talk about the obligation of the manufacturer in maintaining records and making notification. You asked, in effect, to be relieved of some obligations for a period of time which is openended at the present time; is that correct?

Mr. NAPIER. Right; yes, sir.

Mr. HEYWARD. Does that have any impact, or is it intended to have any impact, at all, on the basic obligation of the manufatcurer to correct defects which are discovered after that period?

Mr. NAPIER. No, sir.

Mr. HEYWARD. It does not?

Mr. NAPIER. The obligation would always remain both under this act and also the common law and, in most cases, the State law.

Mr. HEYWARD. So, when there is a basic defect, there would still be an obligation to repair it or to have it repaired?

Mr. NAPIER. Yes.

Mr. HEYWARD. Would there be some value if the committee saw fit to terminate the recordkeeping period to require some sort of public notification of the discovered defect, even though you had no record of the actual purchaser?

Mr. NAPIER. I don't know that that would be particularly valuable. I think I understand what you wish to achieve. I don't think that any prudent manufacturer who discovered a defect would let it go and keep silent.

Since many of the boats change hands after a period of a few years, keeping a record of the first purchaser is not productive. A manufacturer who discovered a defect would go through his normal distribution channels and would attempt to reach as many of the dealers where his boats are as possible. That is the most probable way they would do it. I think almost all manufacturers would do that.

Mr. HEYWARD. I am not saying they wouldn't, but most of the laws are written to catch those who don't fulfill their obligations. I am wondering if some requirement of at least an attempt to publicize the defect to give the owner of the boat an opportunity to be notified before he has an accident would be feasible.

Mr. NAPIER. I think that the act itself does require, first of all, that the manufacturer notify the Coast Guard when he discovers a defect that creates a substantial risk of personal injury, or if the boat is not in compliance with a standard, so there is that obligation.

Also, the Secretary has the authority to make whatever announcement he wishes to make regarding product defects. You have that already in the act. That would simply be unchanged.

Mr. HEYWARD. So it would go through the Coast Guard or the Secretary's authority to publicize rather than going to the news media, for instance?

Mr. NAPIER. That is right, go to the media the Secretary could if he wished, or he could require the manufacturer to do it.

Mr. HEYWARD. All right, sir. Thank you.

Mr. JONES. Does minority counsel have any questions?

Mr. OLNEY. Thank you, Mr. Chairman.

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I would like to receive some clarification on the statement you made about section 15. Actually, Mr. Parker made a similar statement about section 15 imposing both a burden and an open-ended exposure. You were talking about recordkeeping and liability, two different things. What is the nature of this burden?

Mr. NAPIER. The burden, first of all, is recordkeeping as such.

Mr. OLNEY. That is the first one. Are you talking about the liability you face under section 35, the penalty provisions for violations of section 15?

Mr. NAPIER. I think, yes, in part, Mr. Olney. I would say keeping records of first purschasers, particularly when you know that the great proportion are not in fact first purchasers after each additional year, the people simply don't own the craft any more, is a meaningless burden, having intact records of information that is no good to you.

Mr. OLNEY. They are burdens under section 15 that go beyond recordkeeping. Are members of your association facing liability?

Mr. NAPIER. In some cases, yes.

Mr. OLNEY. Has there been an experience of civil penalties assessed against you?

Mr. NAPIER. No. There may have been one or two civil penalties, but I offhand can't recall any, and I think that they were not associated with the recordkeeping in any event.

Mr. OLNEY. Therefore, you are prepared to say that the primary problem of section 15 has been the recordkeeping and not the liability aspects?

Mr. NAPIER. Yes, there is a potential liability problem in terms of product liability litigation.

Mr. OLNEY. To your knowledge, has the violation of section 15 been used in, say, products liability to prove negligence on the part of the manufacturer? Has that been used commonly?

Mr. NAPIER. I can't cite any yet. One of the reasons is that the act is sufficiently new so that such cases that would come up under the act suggesting that noncompliances have occurred and suggesting further that they amount to negligence are only now coming into court. There has not been enough passage of time for a lot of litigation under this act.

Mr. OLNEY. Thank you.

Mr. JONES. I thank each of you gentlemen for your appearance here this morning.

Mr. JONES. At this time, the Chair recognizes the Congressman from Mississippi.

Mr. BOWEN. I would like to welcome Mr. Leonard L. Bouler who is a friend of long standing from Mississippi. He served for 7 years as executive director of the Mississippi State Boat and Water Safety Commission. He holds an unlimited tonnage master's license on steam and motor vessels. He has been a former career Coast Guard officer. In addition, he is qualified with a 1st class pilot's license for the major portion of the Western River system. That kind of experience and background we found, in our State, to be of great value to us.

He is here today serving as the chairman of the Federal Boat-Safety Act Committee of the National Association of State Boating Law Administrators.

Mr. Bouler was the recipient of the "Governor's Outstanding Mississippian Award." We are very proud and pleased to have Len Bouler here with us.

STATEMENT OF LEONARD L. BOULER, CHAIRMAN, FEDERAL SAFE BOATING ACT COMMITTEE, NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS, ACCOMPANIED BY MORRIS VICTOR ROSENBLOOM, EXECUTIVE DIRECTOR OF THE NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS

Mr. BOULER. Thank you, Congressman Bowen. I certainly appreciate those kind remarks. I hope I am worthy of them.

Mr. Chairman and members of this subcommittee: As you heard, I am Leonard L. Bouler, Boating Law Administrator for the State of Mississippi, and I am here today representing the National Association of State Boating Law Administrators to testify on their behalf, concerning possible amendments to the Federal Boat Safety Act of 1971—Public Law 92–75.

The National Association of State Boating Law Administrators, or NASBLA as we refer to it, is an organization of State boating law officials who have joined together for purposes best described in article II of their constitution, from which I quote:

> The purpose of the association shall be to promote boating safety by providing a medium for the exchange of views and experiences; by fostering Interstate and Federal-State cooperation and coordination in boating problems; by promoting greater uniformity in laws and regulations; and, to the extent feasible and desirable, by promoting consensus of State views on any subject within the purview of the association, including the effective presentation and dissemination of such views.

The Association was a strong force in shaping the provisions of the Federal Boat Safety Act of 1971—Public Law 92–75 of the 92d Congress. Not only did its members work closely with the U.S. Coast Guard in the drafting of the measure, but they also cooperated with their various State congressional delegations in securing its adoption. As a result of this activity, the Association closely identifies itself with both the legislation and the goals of that legislation.

There have been many meetings of the National Association of State Boating Law Administrators since implementation of the act in 1971. The act has consistently been a main topic drawing a considerable amount of attention and discussion. The Association has appointed a committee to study the Federal Boat Safety Act and to gather data pertaining to its effectiveness at the State level.

I am honored to serve, Mr. Chairman, as chairman of that committee. We have worked hard to derive recommended changes that will be uniformly beneficial to the several States and would improve upon the general aid and purpose of the act. The Federal Boat Safety Act of 1971 was and still is the most effective tool the several States boating authorities have to work with. The guidelines set forth have been generally effective in promoting uniformity and comity and have served as a basis for most States to implement boating safety programs. We now must improve upon these basic programs. We believe that our recommendations will be a major accomplishment toward that goal.

Mr. Chairman, we do not wish to burden you and this subcommittee with long essays on the sections of the act that have previously proven their value to the States and should be continued. Accordingly, our remarks are brief and directed to the specific section.

SECTION 10.—FEDERAL PREEMPTION

Obviously, there must be a standard set of rules and regulations whereby vessels transversing from one State to another on navigable waters can do so without being in violation from one jurisdiction to the other. Preemption does create problems, however, for the States which must regulate boats on all territorial State waters. Although section 9 of the act provides for exemption in some cases, the Coast Guard is thinking of discontinuing the policy, leaving nothing except those rules and regulations specified by the Coast Guard to govern all types of water craft. We can see the logic for this reasoning on waters over which interstate commerce is conducted.

States must exercise control over boat safety on waters that are classified as Federal waters that are not navigable for purposes of interstate commerce and cannot be used by vessels passing through one jurisdiction to another. State authorities need special rules and regulations on such waters to control heavily congested areas and unique hazards. Many States territorial waters consist of well over 50 percent concurrent Federal/State jurisdiction. With total Federal preemption on these waters, States cannot promulgate a standard set of rules with statewide uniformity and at the same time make special rules for unique hazardous areas of the State. More often these are areas where there are no Coast Guard units or personnel and no out-of-State transit boats.

To further compound the dilemma, there are several Federal agencies that operate Federal impoundments wholly within a State with regulatory powers over vessels operated on such impoundments. Apparently, regulations issued by these agencies—Corps of Army Engineers, Tennessee Valley Authority, U.S. Forest Service, National Park Service, etc.—are not preempted by the act. We believe that boating on these impoundments should be subject to, and uniform with, State laws. We do not believe that the sovereignty of a State should be preempted while Federal agencies operating within that State are immune to the same restrictions.

We therefore recommend that section 10 be amended to read:

Unless permitted by the Secretary under section 9 of this act, no State or political subdivision thereof may establish, continue in effect, or enforce any provision of law or regulation which establishes any boat or associated equipment performance or other standard, or which imposes any requirement for associated equipment, which is less stringent or in conflict to a Federal regulation issued under section 5 of this act.

We believe that uniformity should be second to safety and that the States must have room to address specific problems not generally common to other areas. The above proposal would provide for both safety and uniformity and will provide the authority for a State to exercise its options in combating special safety problems.

SECTION 17.—NUMBERING OF CERTAIN VESSELS

There is much controversy over vessel documentation at this time. It is the general opinion of State authorities that all vessels not engaged in interstate commerce and not subjected to international travel should be numbered in the State of principal use.

Documented vessel owners enjoy the services and facilities provided by the State and Federal Governments and pay no user fees as do the other 8-million-plus pleasure boat owners.

A recent survey in one State found that many small documented vessels were actually landlocked with no access to the open sea. These vessels can hardly be classified as vessels of the United States. It is obvious that some owners are using the documentation privilege to evade the local tax systems.

While the Federal Boat Act does not prohibit the States from requiring documented pleasure craft to be numbered by the States, it does not specifically authorize the States to do so. This creates much confusion and poor relationships between the State authorities and vessel owners.

It is therefore recommended that section 17 be amended as follows:

(*a*) An undocumented vessel equipped with propulsion machinery of any type shall have a number issued by the proper issuing authority in the State in which the vessel is principally used.

We offer the proposal of the new language under (b).

(b) Where the State is the issuing authority, such State may require a documented vessel to be numbered in accord with that State's approved numbering system.

SECTION 20.—DESCRIPTION OF CERTIFICATE OF NUMBER

Under the present guidelines, a rented or leased noncommercial vessel of less than 26 feet in length need not carry the certificate of number on board if it is away from the place of berthing for less than 24 hours. This serves no specific purpose and places a burden on vessel owners renting their boats by the week. We believe that the owner of a properly identified vessel should be permitted to retain the permanent certificate of number at his place of business for a longer period of time, thereby eliminating unnecessary handling and greatly reducing the loss factor of the certificate.

We therefore suggest that section 20(a) be amended to read as follows:

A certificate of number granted under this Act shall be pocket size, shall be at all times available for inspection on the vessel for which issued when the vessel is in use, and may not be valid for more than three years. The certificate of number for vessels less than twenty-six feet in length and leased or rented to another for the latter's non-commercial use of less than seven days may be retained on shore by the vessel's owner or his representative. A vessel which does not have the certificate of number on board shall be identified while in use, and comply with such other requirements, as the issuing authority prescribes.

If I might note, the only change would be substituting the words "seven days" in lieu of "twenty-four hours" of that section.

SECTION 27.—ALLOCATION OF FUNDS

Section 2 of the Federal Boat Safety Act declares it to

* * * be the policy of the Congress and the purpose of this Act to improve boating safety and to foster greater development, use, and enjoyment of all the waters of the United States by encouraging and assisting participation by the several States, the boating industry, and the boating public in development of more comprehensive boating safety programs * * *

To better develop this policy, the National Association of State Boating Law Administrators was organized in 1960. The Association has proven its value many times over in promoting uniformity and comity among the several States.

Funding of the Association has been of major concern. Many States' fiscal systems do not provide ways and means for each State to carry its fair share of the cost for administration of the Association.

The National Association of State Boating Law Administrators is presently qualified for grant-in-aid assistance under section 25 and section 27(a) of the act as a nonprofit public service organization. Grants are made at the will and pleasure of the Secretary or his representative in such an uncertain manner that it is extremely difficult to plan activities to realize the Association's full potential.

The importance of NASBLA to all the States in coordinating uniform boating laws, water safety education, accident reporting procedures, and numbering systems cannot be overly emphasized. Accordingly, we propose that sufficient operating funds be authorized through the Federal Boat Act grant-in-aid provision by adding the following language to section 27 of the act:

Not less than one per centum of funds appropriated in any fiscal year shall be allocated to help support the activities of a national organization of State boating law administrators.

The adoption of the above proposal would insure a continuous efficient national organization dedicated to uniformity and improvement in recreational boating programs throughout the Nation. This we believe is in keeping with the Declaration of Policy and Purpose of the Congress in enacting this legislation.

SECTION 30.—AUTHORIZATION FOR APPROPRIATIONS FOR STATE BOATING SAFETY PROGRAMS

Congress provided in section 30 of the act for grants to the several States to assist the States in establishing and maintaining boating safety programs. Although grants made under this act to date have tended to stimulate the States in responding to the purposes of the act, the responses have been much more limited than they need be because of the Administration's failure to seek from Congress the full funding authorized.

The purpose of the grant-in-aid provisions of that act, at least in the judgment of NASBLA, was to stimulate States to either initiate or expand local efforts in the field of boating safety.

In the first year of grants, all 50 States participated to some degree in the program.

We believe that the sponsors and advocates of the act envisioned its grant-in-aid provisions as a means of initiating and fostering growth of boating safety programs in the various States. The idea was to start the program off with a large infusion of Federal funding as seed money and to gradually reduce the Federal grants to determine whether or not the programs could be continued at a satisfactory level with State funds alone.

This was not the result, however, because of the lowered levels of appropriations made by Congress. Many States had great needs in this area and the funds available were simply not enough to meet

these needs. Where this occurred, States tended to invest the funds in equipment and materials rather than establishing other more beneficial programs due to the uncertainty of future levels of appropriations. Undoubtedly in some instances, States did not increase expenditures at all but utilized the Federal funds to offset previously appropriated State funds. A greater continuity and commitment to adequate appropriation levels by Congress is required if this situation is to be materially improved.

If the funds provided by the Federal Boat Safety Act are to be effectively utilized, they must be consistently appropriated at or near the top level authorized to cause material expansion of the State boating safety effort. It is the belief of NASBLA that the life of the act's grant-in-aid provisions must be extended and legislation to accomplish that goal has already been introduced (H.R. 5630). However, the attack must be two-pronged in nature and the cause of boating safety would be greatly enhanced by appropriation of the full amount authorized. We, therefore, strongly urge Congress to appropriate the full authorized funding for assistance to the States.

The Federal Boat Act does not address itself to search and rescue. However, a considerable amount of State efforts and funds are utilized for this purpose. Most States assume the majority of close-to-shore search and rescue responsibilities on Federal waters. This action by the States results in a major saving to the Federal Government. The States do not advocate a takeover of the Coast Guard's responsibility in search and rescue operations, but it does seem appropriate that a fair share of the current cost to States should be borne through the grant-in-aid program authorized by the Federal Boat Safety Act. The cost of this service should be a considered factor to further inspire the administration to seek full funding as authorized for the grant-in-aid program.

SECTION 33.—NATIONAL BOATING SAFETY ADVISORY COUNCIL

The National Boating Safety Advisory Council is probably one of the most effective groups of its sort in the Nation today. Its work has contributed to development of safer boats, associated equipment and other elements of water safety. Through the Council's efforts, our waters are safer today relatively than ever before. While NASBLA recognizes the successful performance of the Council, we point out that many persons from the public sector are closely alined with the boating industry and frequently make their living from that source. For this reason we believe that closer scrutiny of nominees being considered from this sector could prevent the possibility of inadvertently appointing a majority of industry-related members. In our opinion, this recommendation could provide for a more balanced Council.

The present chairman of the Advisory Council has in the past and is continuing to do an outstanding job of presiding over the Council. NASBLA holds this chairman in very high esteem and commends his efforts.

Since members of the Council are appointed for specific terms that terminate at staggered intervals and allowing for termination due to disability, resignation, et cetera, it stands to reason that the chairman's position could be vacated at any time.

In absence of specific guidance by the act to select a chairman, and in view of the above, NASBLA proposes that a more democratic procedure would be for the chairman to be nominated and elected by the members of the Council. This could be accomplished by adding the following language to section 33 of the act:

> The chairman shall be nominated by a member and shall be elected by a majority vote of the members present. The chairman so elected shall preside over the Council for the remainder of his or her tenure, unless removed from office by the Council in similar fashion as elected.

It is our understanding that H.R. 5630, a bill that would amend the Federal Boat Safety Act of 1971, has passed the House and will soon be considered by the Senate. This association is steadfastly in support of that legislation and its member States are cooperating with their various individual members of the U.S. Senate in encouraging its adoption.

Mr. Chairman, it has come to our attention that H.R. 13585, a bill to amend the Federal Boat Safety Act of 1971, was introduced on May 6.

We have reviewed the bill and concur in general with its content. We are concerned over the provision to amend section 18, whereby the requirements to show both the model year and the year of manufacture could exceed 12 digits in the hull identification number. Most States' data process systems cannot handle more than 12 digits. Should implementation result in exceeding this number, then we must disagree with that particular provision of the proposed amendment.

The amendment to section 27 of the act by adding the word "eligible" would in NASBLA's opinion have a very adverse effect on two or three States. Apparently this amendment eliminates eligibility to receive any Federal funds for those States of Alaska, New Hampshire and Washington and perhaps some others that do not meet the criteria for eligibility by having an approved numbering system. Without Federal assistance it would be most difficult for these States to finance efforts to promote water safety education and to obtain data necessary to convince their respective State's legislatures that a State program is more beneficial to the State's people. We urge the committee to delete this amendment allowing the present eligibility for funding to continue for a reasonable period, allowing the effected States the opportunity to comply with the full provisions of the act.

Mr. Chairman and members of this subcommittee, we urge you to include the proposals made by NASBLA here today by subcommittee amendment to H.R. 13585 or by such other procedure that would insure their inclusion in the revised version of the Federal Boat Safety Act.

In conclusion, we would like to commend the U.S. Coast Guard for their interest and efficiency in administering the Federal Boat Safety Act. Through their guidance and supervision, we feel that water safety programs throughout the Nation have shown great improvement. We look forward to continued progress with a true spirit of cooperation.

On behalf of NASBLA, I appreciate the opportunity to testify here before you today. I will be pleased to respond to any questions you may have. Thank you.

Mr. Chairman, I must apologize for not recognizing Mr. Morris Victor Rosenbloom who is executive director of the National Association of State Boating Law Administrators.

Mr. JONES. The Chair would like to recognize you, Mr. Rosenbloom. Mr. Bowen was called to meet an emergency. It happens to all of us at one time or another. He will try to return, if possible, before this meeting is over.

Mr. BOULER. Yes, sir.

Mr. JONES. Mr. Bouler, how was your association created?

Mr. BOULER. It was an act by the States itself in the interest of promoting the intent of the Federal Boat Safety Act.

Mr. JONES. Then I will assume, on the basis of that, that your organization is responsible for the individual States, basically?

Mr. BOULER. Yes, sir, it is composed of the individual State boating law administrators.

Mr. JONES. How many States participate?

Mr. BOULER. Fifty States, and I believe there are five other associations. I am not sure how many memberships are paid up to date, but basically all participate.

Mr. JONES. You alluded to funding. Are you now funded?

Mr. BOULER. We are qualified under section 27 of the act to receive a portion of the 5 percent set aside for nonprofit public service organizations.

Mr. JONES. I believe in your testimony you requested that this subcommittee consider fixing the amount of 1 percent. That 1 percent would come out of the 5 percent?

Mr. BOULER. Not necessarily, sir. It was the intent of the statement that the States are willing to forfeit that portion of the State's allocation in the interests of NASBLA. The problem of the States first getting the money and then returning it in dues to NASBLA is that some States have fiscal systems whereby they are not permitted to do so, we would like to see in the act the provisions so that the Secretary would be able to set aside 1 percent of the appropriations for that respective fiscal year to go to the operation of NASBLA.

Mr. JONES. Does that relieve the States of all fiscal responsibility, the organization?

Mr. BOULER. I am not sure I understand your question.

Mr. JONES. Would that, then, relieve the States of all fiscal responsibilities?

Mr. BOULER. So far as the financing of the National Boating Law Administrators, I might add we have a State membership fee which is insufficient for the operation of the organization. We feel, Mr. Chairman, that this organization, so far, is performing with uniformity and comity throughout the Nation. It is probably the most important water safety organization in the Nation, since it is the State law administrators for each of the 50 States.

Mr. JONES. What is your annual budget now at the present time?

Mr. BOULER. I believe this year was $75,000.

Mr. JONES. Does majority counsel have any questions?

Mr. HEYWARD. I have several I would like to go through in connection with this statement.

Mr. JONES. Proceed.

Mr. HEYWARD. To carry on with what Mr. Jones has asked in connection with the funding, let me get this clear: What money are you talking about? The 5 percent that is available to public service organizations or a part of the money which is used to support State programs?

Mr. BOULER. We would hope, Mr. Chairman, that a portion of the 1 percent to which we refer would come from the 5 percent which is set aside for nonpublic service organizations. We are now receiving a portion of that money, but, as an alternative to insure a continuity and for planning purposes, the States are willing that a prorated amount of the 1 percent allocated for State use go to this particular purpose, rather than going to the States and then coming back to NASBLA in the form of dues.

Mr. HEYWARD. Do you think it would be any problem for the States whose fiscal procedures do not permit it that we could in this act, in effect, direct it as part of the funds that the Coast Guard allocates to the States under section 30?

Mr. BOULER. Yes, sir, that is correct. We can see no problem.

Mr. HEYWARD. It seems to me, frankly, that would be a better approach than to get it out of the 5 percent. I think that public service organization was really directed at national general organizations, rather than organizations of State officials.

Mr. BOULER. I believe the States would agree with that statement, sir.

Mr. HEYWARD. It seems to me that would be a logical place for the support.

Mr. BOULER. What we are after is not seeking the additional moneys from the 5-percent set-aside, but to insure it by taking a prorated amount of 1 percent of each State's allocation and directing it to a fund to support the activities of NASBLA.

NASBLA, Mr. Chairman, is very important to the various States in the interests of uniformity and comity.

Mr. HEYWARD. In connection with your comments on Federal preemption, are you suggesting in here that the States be permitted to have more rigid requirements on waters which are covered by the act or on their own waters which are not covered by the act?

Mr. BOULER. Well, we directed the remarks to the Federal-State concurrent jurisdictional waters which are not used for interstate commerce, meaning that they do not have navigable channels, such as heads of waters, bayous, coves, areas where there is a heavy concencentration of residents and heavy use of recreational-type craft.

One problem we are having is the over-transom discharge exhaust system where the noise level is something like 95 to 96 decibels and it annoys everybody in the country and there are many complaints by the general public, and we have not authority to do anything about it.

Mr. HEYWARD. Would not this create a lack of uniformity if each State went its own way?

Mr. JONES. Would the gentleman suspend just a minute? The Chair is going to declare a 5-minute recess for personal reasons which I will explain later, so if everybody will relax and have a cup of coffee, we will resume in about 5 minutes.

[A short recess was taken.]

Mr. JONES. Come to order, gentlemen.

By way of explanation, previously I had an appointment to meet two constituents, one of whom is a prominent supporter down in my district. I looked at this audience and I did not see a single soul who could vote for or against me, so I thought it the better part of wisdom to recess and say hello to them [laughter].

Counsel, you may continue.

Mr. HEYWARD. I talked about the problem created by States in adding on additional requirement that might affect boats coming in from outside the State.

Mr. BOULER. I do not think it would interfere with uniformity. In another section of the act, which I do not have at the tip of my tongue, it exempts transit vessels for a period of 60 days from one jurisdiction to another for compliance with the numbering requirements. This could be remedied very easily by exempting the vessels entering into that State's jurisdiction for equipment requirements, should there be any difference. We would be quick to point out that we do not want to change any standard laws on waters over which Interstate commerce is conducted—in other words, marked channels. We are interested in the safety aspects of Federal waters which are not generally termed navigable, where there is a heavy congestion of residents and popular boating recreation areas.

Mr. HEYWARD. Your proposal would not apply to them at least for a reasonable period of time?

Mr. BOULER. For a period of 60 days.

Mr. HEYWARD. If they come in to stay, of course, they would have to comply?

Mr. BOULER. Yes. That is right.

Mr. HEYWARD. When do they have to get a number if they come in?

Mr. BOULER. Within 60 days.

Mr. HEYWARD. So that in effect this would apply, then, to boats that are numbered by the individual States that would be involved and not boats that are not numbered by those States?

Mr. BOULER. Yes, sir.

Mr. HEYWARD. Your comment about the other Federal agencies is an interesting one. It has created problems before, and I am sure the subcommittee will address its attention to it.

Now, as to the documentation problem, I do not quite understand why a documented vessel is not subject to taxes if the owner is a resident of your State? Can you not tax him if you want to?

Mr. BOULER. Yes, sir, we didn't mean to imply that he was not subject to the taxes, but it is very difficult to detect that he is actually there. For instance, a person can purchase a yacht, we will say theoretically, anywhere in the State of Texas for $60,000. Texas does not levy a State tax or user tax on him because he is an out-of-State resident. He can document his vessel and bring it into another State and nobody knows he is there, unless they would take the Federal Register and go down it step-by-step. We are saying that these vessels that are not subject to international travel, meaning 6- or 7-ton vessels that can be put on a trailer and hauled from one place to another, perhaps, should not be documented at all, but if they are documented, these States that own landlocked water, we feel that the States should have the prerogative that although he may be documented, to displace the State numbers on his boat and become part of the State record of the vessels within the State.

Mr. HEYWARD. Would notification by the document officer serve the same purpose?

Mr. BOULER. Mr. Heyward, yes, sir, it would, but at the same time——

Mr. HEYWARD. Is there some practical way that we can communicate to the State that this vessel is there? If they don't want to tax it, that is their problem, is it not?

Mr. BOULER. We get a Federal registry of documented vessels. We have this. But if the vessel were documented, we will say, in Wilmington, Del., and it shows up in Mississippi, this Federal registry does not show that he is a moored vessel in the State of Mississippi for a period of 20 years. His port of record would be Wilmington, Del., and he can come into the State of Mississippi and we never even know he is there.

Mr. HEYWARD. There is nothing to prevent the State of Mississippi from taxing the personal property within the State?

Mr. BOULER. No, sir; there is nothing to prohibit him from taxing it, except that we do not know that it is there. Unless we physically go out and see it and make a record of it, we do not know that it is there.

Mr. HEYWARD. Do you have the same problem if numbered vessel from another State comes to your State?

Mr. BOULER. No.

Mr. HEYWARD. How do you find out he is there?

Mr. BOULER. If he is there for more than 60 days, he has to register his boat within that State.

Mr. HEYWARD. How do you know he is there? It is the same as a documented owner being obligated to meet the tax laws?

Mr. BOULER. You see, a water patrolman or a marine policeman of one State, he checks numbered vessels.

Mr. HEYWARD. Perhaps it does not show the number, but it does show the port of call?

Mr. BOULER. It is very difficult to check a documented vessel. We cannot get immediately an identification on the documentation.

Mr. HEYWARD. It is generally the same on any out-of-State boat. You get a documented boat and if it stays there for 20 years with Wilmington, Del., on its stern, and you do not know he is sitting there?

Mr. BOULER. He can be sitting there, but he can say this is a vessel of the United States. He may be subject to taxes in Delaware.

Mr. HEYWARD. I am sure the State of Mississippi can tax personal property if the tax laws authorize it for any personal property within the State?

Mr. BOULER. I believe they could, once it was proven that he was there. But what we are referring to, generally, are the Mississippi residents; we are using our State. I am referring to the State resident who goes out of State and buys a boat. The State that he bought it in does not levy a user-tax against him. Then he brings the boat into Mississippi and he has not paid any taxes at all on it.

Mr. HEYWARD. I did not know the tax authorities are that easy. They are not with me.

Mr. BOULER. We had, by way of illustration, this year in our State Legislature a bill introduced for that purpose which was defeated because they could not identify which boats were actually subject to tax and which ones were not.

Mr. HEYWARD. Of course, I am sure that some States and localities do not bother to levy personal property taxes. They get the tax revenues elsewhere.

Mr. BOULER. Yes, sir. Our remarks were not necessarily directed for tax purposes, but more for the accountability of vessels in the area and,

particularly those documented vessels which are landlocked and not subject to the other State boating laws.

Mr. HEYWARD. On this recent proposal to do away with yacht documentation, I can assure you that the furor that it caused was unbelievable. We spent most of our time answering letters from people claiming that we were proposing to take away rights that were guaranteed in the Constitutional Convention, so that this area is certainly not an easy one to get agreement on how you handle it.

Mr. BOULER. I believe that some States now are requiring certain documented vessels to be numbered within that State. I believe our remarks were that the act did not prohibit it, but it did not authorize it, and what we are saying is that it would keep down confusion if the proposed amendment were included in the Boating Act that the States could—where the State was the issuing authority—require a documented vessel to be numbered in accordance with that State's numbering system. I do not think a documented boatowner would object to that at all.

Mr. HEYWARD. They object to putting the numbers on the bow because it spoils the appearance of the yacht.

Mr. BOULER. That could be remedied at the State level without physically establishing the numbers. It would still be in the State records.

Mr. HEYWARD. It would be on the State's numbering system?

Mr. BOULER. The State's record would show the vessel's name and State number assigned to it. He would not have to actually display it on the yacht itself.

Mr. HEYWARD. In connection with the National Boat Safety Advisory Council, the only proposal I see that you are making is that you are changing the procedure by which the chairman is selected. Do you have any suggestion on amending the basic provisions of section 33, I think it is, as to the division of types of persons who are appointed?

Mr. BOULER. No, sir, we have no specific recommendations in that regard. During our committee study and in the comments received from several State officials egarding the members of the public sector, there were some who were quick to point out that some of the public sector members were very closely related to industry by way of occupation. For instance, there is one who is a marine surveyor. There is another who is head of a profitmaking organization of boat members and also, allegedly, anyway, a coowner or closely affiliated with a boat manufacturing company. These are things that were pointed out to me as the committee chairman.

Mr. HEYWARD. It seems to me the way the act was devised was that there was an intention here to insure representation of several groups. One was the boating industry. That is the people who were in the business of making money in connection with boating, and another was a State boating administrators group and the third was the boating public, boatowners. If the third category includes people in the first category, it does not seem to me that they are really following the intent of the act.

Mr. BOULER. This is the point we were trying to make. I am quick to point out that our remarks toward what was said were most likely done inadvertently. We do not mean to say there was collusion in

selecting or appointing someone, but a circumstance where appointing a member to the Council from the public sector makes it very difficult to find a lady or gentleman in the public sector who is not in some degree related to the industry of boating in some way or another. We are not complaining about the present setup of the Council. We are simply calling attention to the fact that unless the nominees are reviewed, their applications are reviewed beyond that which is listed in their nominations to the Council, that we could inadvertently get a group of people who were industry related—not necessarily of industry, but who had stronger interests toward industry than they did toward the public.

Mr. HEYWARD. I can furnish a list of 400 or 500 yacht owners. I do not know if they are connected with the industry. In connection with the provision about the State taxes in H.R. 13585, you did not address yourself to this. One was a restriction in connection with using the numbering system for tax purposes. It was proposed to be limited to taxes relating to boating safety. Do you have any comments?

Mr. BOULER. I believe the States would have no objection to the amendment. We, for one, do not want to have the burden of saying, "You can't register your boat in our State because you haven't paid taxes someplace else." This would play havoc with the registration or the numbering system. We, as State Boating Law Administrators, do not want this provision. We do not want to be limited in setting the fees which are necessary to administer the Boating Act by way of collecting user fee taxes to register the boat. I do not think any of us are in favor of that.

Mr. HEYWARD. And as to personal property taxes on the boat itself; you do not think the State should have the right to withhold its number until the personal property tax is assessed?

Mr. BOULER. I have not heard a State Boating Law Administrator voice approval for collecting taxes for the tax commissioner of the State.

Mr. HEYWARD. You brought up the "model and year of manufacture" amendment. You view this as a requirement, or is it a continuation of a requirement to put the model year in the present contract?

Mr. BOULER. As I interpreted the statement in section 18, it would imply that should the Coast Guard require that a State display a hull identification number, on the boat certificate of number, consisting of the years of construction as well as the model year, assuming that the two are different, in most cases they are, then this would exceed the 12-digit number now required in the hull identification number.

Mr. HEYWARD. Do you now require it?

Mr. BOULER. The year constructed, not the model year. It is one or the other now. But the hull identification number is comprised of not more than 12, or less than 12, digits. Most States' computer systems which are as old as ours will not handle more than 12 digits—if my memory serves me correctly, we had nine States comment on this particular provision.

Mr. HEYWARD. How about fees being equal for nonresidents as for residents? Do you have any comment on that?

Mr. BOULER. No, sir.

Mr. HEYWARD. Do you have any objection?

Mr. BOULER. No objection.

Mr. HEYWARD. That is all.

Mr. JONES. Mr. Olney, do you have any questions?

Mr. OLNEY. No questions.

Mr. JONES. Thank you very much for your appearance. You have made some very constructive suggestions which will be studied by the subcommittee at a later date.

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

Mr. JONES. The final witness is Mr. Richard Schwartz, executive director of the Boat Owners Association of the United States.

The Chair wishes to recognize Mr. Richard Schwartz.

STATEMENT OF RICHARD SCHWARTZ, EXECUTIVE DIRECTOR, BOAT OWNERS ASSOCIATION OF THE UNITED STATES, PRESENTED BY NICHOLAS DUNTEN, LEGISLATIVE AFFAIRS DEPARTMENT OF THE BOAT OWNERS ASSOCIATION

Mr. DUNTEN. Mr. Chairman, my name is Nick Dunten. Mr. Schwartz had a death in the family and he was not able to attend.

Mr. JONES. What is your name, again, sir?

Mr. DUNTEN. Nick Dunten, D-u-n-t-e-n.

Mr. JONES. The Chair is happy to see you, Mr. Dunten. I am sorry to hear about Mr. Schwartz' misfortune.

Mr. DUNTEN. Mr. Chairman and members of the subcommittee, I am speaking for Richard Schwartz, executive director of Boat Owners Association of the United States, generally known as "BOAT/U.S." with our Washington national headquarters at 5261 Port Royal Road, Springfield, Va.:

BOAT/U.S. is the only national full-service organization of boat owners in the nation today. We are not affiliated with any manufacturer, industry or private group. Over 45,000 recreational boat owners located in all 50 States have joined BOAT/U.S. We firmly believe our membership represents a national cross-section of the more serious boatmen in this country.

It is a particular pleasure to have this opportunity to comment before this subcommittee because we apparently are one of the few representatives in these hearings who can state unequivocally that our only interest is the ordinary "man on the water"—the boat owners for whom, in the end, all this consideration is for and who will be most affected by the conclusions and recommendations arrived at by this subcommittee.

Now that Coast Guard regulations are beginning to flesh out the Boat Safety Act's framework, we are beginning to see more clearly the advantages and results of the Act as well as the potential yet unfulfilled. Thanks to the Act, the boating public is now getting a handle on the causes of boating accidents and fatalities and solutions can be sought. Thanks to the hard work of the Coast Guard and others in boating education and manufacturers standards the incidence of boating accidents appears to be peaking out, and hopefully the future will see a continuing decline in the figures.

But as I mentioned, there is a potential unfulfilled. We see numerous safety problems yet to be acted on. For example, each year we hear of a number of boats which sink at the dock because the flush water intake line to the toilet doesn't have a seacock and water is syphoned aboard. For that matter, seacocks should be installed on all through-hull fittings. We have one sad case of a boat with a deteriorated fuel hose because it turned out that the manufacturer used ordinary radiator hose instead of the correct fuel resistant line—it turned the boat into a floating bomb.

"We have seen a number of boats with lifeline stanchions too low to keep a man from falling overboard; or stanchions without backing plates which rip out of the deck under strain; also standing sailboat rigging with the same problem. Then there are boats with fiberglass hulls too thin and flexible to be safe under any but the calmest conditions; engine mounts that tear loose under vibration

or strain; swing keel sailboats with unsafe cable fittings; pop rivets subject to corrosion holding the deck to the hull in many production fiberglass boats—and the list goes on.

"Many of these examples of cost-cutting in boat construction are not "defects" under the current Coast Guard interpretation of the Act, but they can be extremely dangerous under the right circumstances. Although most companies are reputable and do not cut corners to the extent of needlessly endangering the boat or her passengers, there are all too many cases of poor construction where accepted construction methods are sacrificed for a price conscious market—too many to be ignored any longer.

We feel that the Coast Guard should significantly increase its research and development of construction standards and speed up its regulation in this area. If more Boat Safety Act money is needed for this vital development, we would hope that this subcommittee would expedite its authorization.

Our boating consumers are running into another serious problem. Manufacturers of boats are begging off responsibility under their warranties for all the component parts they use in their boats. They claim only the hull itself is covered by their warranties. If there is a problem with the engine, the lights, a broken stanchion, a faulty bilge pump, or any of hundreds of other items of "associated equipment," the purchaser is told to take his problems to the particular component manufacturer instead of the boat builder who purchased and installed the device and included it in the original bill of sale for the boat. We have cases on file where the boat builder says the product is defective and the purchaser must seek out the original manufacturer of the component for warranty repair, and that manufacturer, on the other hand, disavows responsibility because the boat builder failed to install the item correctly. The consumer boat owner is trapped in the middle and faces insurmountable obstacles in obtaining recourse.

BOAT/U.S. proposes that the Boat Safety Act be modified to place responsibility for defect correction (and warranty repairs, if feasible) of all components on the manufacturer/seller of the boat.

Gentlemen of the Subcommittee, BOAT/U.S. is strongly opposed to paragraphs (3) and (4) of H.R. 13585 which would set a 3-year limit on the defect notification and recall responsibilities prescribed by the Act. We do not feel a manufacturer's responsibility to the consumer to produce a defect-free boat should be relieved after three years.

Many of the defects covered under the Act may not turn up for years after a type of boat is launched. For example, a weak spot in the hull due to either too thin fiberglass or glass that is resin starved could operate properly for years on the Chesapeake Bay before the weakness in the hull would reveal itself. We have vivid illustrations in our files.

To use another example, the fiberglass roving and layup at the area where the keel of a sailboat meets the hull could be laid up too thin by a design fault. Years later, after the ballast in the keel has flexed the area, the hull could give way.

We could, however, go along with a cutoff date for record retention of however long these records were kept before the Act or at least five years. Thereafter we could depend on public notice to alert the consumer of the defects. This, we feel, would be an equitable compromise as long as it is clear that the manufacturer continues to be responsible for his product's safe performance.

Another fact of boating which we feel this Subcommittee should consider is boat theft. Because the insurance industry is tight-lipped about the dollar amounts of theft losses, we cannot offer this Subcommittee an annual national loss. But certainly it is in the millions, BOAT/U.S. intends to raise this issue and offer specific proposals to the Crime Subcommittee of Judiciary in the near future. There is, however, an important area which more appropriately could be handled with the boat numbering requirements.

Possibly the major problem in dealing with boat theft is the lack of a nationwide, standardized titling system for boats and motors similar to that used for automobiles. Until we get to a point where the manufacturer can deliver a single title form with a boat to any State, we are not going to be able to efficiently stop the theft problem.

We urge that the boat numbering requirements be turned into a titling system.

Finally, I would like to tell this subcommittee how pleased we are with the proposed paragraph 7 of H.R. 13585 which would equalize the boat registration fees for residents and non-residents in a State and would require any taxes directly tied to boat registration to be used for recreational boating purposes. It was not the purpose of the Boat Safety Act to give the States and localities

another easy means to tax a minority to support unrelated State programs. We urge you pass this amendment to Section 23 of the Act as it is proposed.

Thank you for the opportunity of speaking to you today and if you have any questions, I will be happy to answer them.

Mr. JONES. Thank you, Mr. Dunten.

Do you have the figures before you or can you give me the number of boater fatalities in the last year?

Mr. DUNTEN. No, sir, I do not have it with me.

Mr. JONES. Well, to your knowledge, is the rate of fatality increasing or decreasing?

Mr. DUNTEN. It has been holding steady, pretty much. We have a year, like 1972, where it dropped way down, possibly because of the bad storms of Agnes. After that, it came up a little bit. It is not decreasing, but the number of boat owners is increasing. We feel it is holding its own. We feel the influx of more funds into this program could bring that figure down. Right now, we are not reaching as many of the boat owners as we could; for example, small boat fishermen.

Mr. JONES. Do you have a figure satisfactory to yourself as to how many fatalities might be due to the lack of knowledge of the boat owner or faulty construction?

Mr. DUNTEN. Sir, that would be very difficult to come up with. I think most boat owners believe themselves to be knowledgeable and capable. However, when they make a stupid error, they may or may not report it on the accident report forms, and this is the only source of information we have.

Mr. JONES. Most of the accidents occur on the first trip.

Mr. DUNTEN. So they tell me.

Mr. JONES. Are you suggesting, in your testimony, that the construction standards, as now promulgated, are not adequate?

Mr. DUNTEN. Some are not. We think a lot of the standards are adequate, but possibly they are not being followed up on. Exactly where these division lines are, I don't know. For example, the swing keel in the sailboat I was referring to is nothing more than a cable that goes from the keel box down to the keel and hooks through the keel and has a nicropress fitting. One manufacturer puts the fitting too close to the keel so he can pull it completely up inside the boat and get another boat on the shipping trailer. However, there is no play between the cable and the keel. and this cable will break. The keel dropping makes only a loud thump, but if the boat goes on the ground after that the keel box is twisted. The box is not made to take that kind of flexing. The boat is made where the keel should be pulled up in shallow water. There is ultimate danger of the keel box breaking away from the hull if the owner should hit something or not take adequate care after that.

Mr. JONES. You said you have about 45,000 boatowners as members in this organization? Is your membership increasing or decreasing?

Mr. DUNTEN. It is increasing.

Mr. JONES. Radically?

Mr. DUNTEN. Yes, sir.

This year we have had—I will have to speak off the top of my head—somewhere around 10,000 members so far.

Mr. JONES. Business is good?

Mr. DUNTEN. Very good this year.

Mr. JONES. Counsel, do you have any questions?

Mr. HEYWARD. How do you propose to set up a nationwide titling system?

Mr. DUNTEN. Well, sir, we will have to check into exactly how it is done for automobiles. I am not sure about the procedures of that. We feel if the boat manufacturer, engine manufacturer, and trailer manufacturer could put together a common numbering system on the boat and offer a title, that could be registered in the State under normal procedures. I believe this is the same way the automobile industry works it. It needs to be a nationally uniform title. The boat manufacturer cannot print up 50 different titles and drop one into a boat because he does not know which boat is going where.

Mr. JONES. Would you yield, sir?

Mr. HEYWARD. Yes.

Mr. JONES. Would you include all vessels or in what capacity would you limit the title process?

Mr. DUNTEN. That, sir, would take some study and statistics, which, unfortunately, are not available. There is no reporting system that is really adequate. If someone steals a car or aircraft, it goes into a central computer. It has its own category. A boat does not have its own category, so it goes in with the dresses and whatever else is stolen.

Mr. HEYWARD. States do not have uniform titles in connection with automobiles, do they?

Mr. DUNTEN. I am not familiar with that. I know the problem we were told about in talking with one of the manufacturers was that they needed a standard title. They could ship a boat to anywhere in the country then.

Mr. HEYWARD. Has this problem been addressed to the State boating law administrators? Has it been brought up with the boating advisory council?

Mr. DUNTEN. No; we only recently became associate members of NASBLA. We have not had an opportunity to get our more detailed proposals together.

Mr. HEYWARD. Do you have representatives on the advisory council?

Mr. DUNTEN. Advisory council? No.

Mr. HEYWARD. I do not mean your organization, but I mean members of your organization. Are any of them members of the advisory council?

Mr. DUNTEN. At one time. Mr. Ritter Shumway was a member of the organization. He is on our National Advisory Council. He is off the Boating Safety Advisory Council now. Mr. Schwartz has an application in for a BSAC position. I do not know the status of it.

Mr. HEYWARD. I was not speaking of officers. Do you have a channel through which you can take these things up with the Coast Guard, if you cannot take them up directly?

Mr. DUNTEN. We have no problem.

Mr. HEYWARD. The problem of whether the standards are adequate should be addressed to the Coast Guard, and I assume they have been.

Mr. DUNTEN. Yes, sir, we have mentioned on occasion, some of these problems that we have been having. The usual reply is that they have no statistical proof that there is a substantial risk of a personal injury.

Mr. HEYWARD. If you have statistics, can you furnish them to us?

Mr. DUNTEN. We are involved in insurance, for one thing. I am not sure of the confidential classification of that information. Mr. Schwartz is the expert. Actually, we have two areas where we receive complaints. The first, would be our insurance files which Mr. Schwartz is more familiar with. The second would be the Consumer Protection Bureau which is very active. We have a very good working relation with the industry in solving many of these problems that boatowners have. We would be happy to work with you in gleaning statistics from these files.

Mr. JONES. Is there anyone present who would like to be heard?

If not, we thank you for your attendance. You have given us some constructive testimony. It will challenge us and give us something to think about.

I, therefore, will declare the subcommittee adjourned.

[Whereupon, at 11:40 a.m., the subcommittee adjourned, subject to the call of the Chair.]

COAST GUARD PERSONNEL LEGISLATION

TUESDAY, MAY 4, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
Washington, D.C.

The subcommittee met at 10 a.m., in room 1302, Longworth House Office Building, Hon. Mario Biaggi, subcommittee chairman, presiding.

Mr. BIAGGI. The meeting is called to order.

This morning, the Subcommittee on Coast Guard and Navigation is meeting to receive testimony on two bills which were introduced at the request of the Secretary of Transportation. The first of the bills is H.R. 12939, a bill to amend certain laws affecting personnel of the Coast Guard, and for other purposes. The second bill is H.R. 12940, a bill to revise the laws relating to the Coast Guard Reserve.

Copies of the two executive communications are included in each member's folder. In connection with H.R. 12939, the material includes a comparative type showing the changes in existing law. In connection with H.R. 12940, the material includes a discussion explaining the effect of the various changes on the sections involved.

[The bills, executive communications, and agency reports follow:]

[H.R. 12939, 94th Cong., 2d sess.]

A BILL To amend certain laws affecting personnel of the Coast Guard, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 14, United States Code, is amended as follows:

(1) In section 1 by striking in the second sentence the words "Treasury Department" and inserting in lieu thereof the words "Department of Transportation".

(2) In section 3 by striking in the first sentence—

(a) the word "executive" and inserting in lieu thereof the word "Executive"; and

(b) the words "Treasury Department" and inserting in lieu thereof the words "Department of Transportation".

(3) In section 81 by striking in clause (3) (c) the word "Agency" and inserting in lieu thereof the word "Administration".

(4) In section 82 by striking in the first sentence the word "Agency" in both places where it appears and inserting in lieu thereof the word "Administration".

(5) In item (section) 82 in the analysis of chapter 5 and in the catchline of the section by striking the word "Agency" and inserting in lieu thereof the word "Administration".

(6) Section 87 is repealed.

(7) Item (section) 87 in the analysis to chapter 5 and the catchline of the section are repealed.

(8) In section 90 by striking in subsection (b) the word "Agency" wherever it appears and inserting in lieu thereof the word "Administration".

(9) In section 93 by striking in subsection (n) the words "covered into" and inserting in lieu thereof the words "deposited in".

(10) In section 144—

(a) by striking in subsection (a) the words "of the Treasury"; and

(b) by striking in subsection (c) the words "Chief of Ordnance" and inserting in lieu thereof the words "Secretary of the Army".

(11) In section 145—

(a) by striking in subsection (a) the words "of the Treasury"; and

(b) by striking in subsection (c)—

(i) in the first sentence the words "Treasury Department" and inserting in lieu thereof the words "Department of Transportation"; and

"(ii) in the second sentence the words "the Treasury" and inserting in lieu thereof the word "Transportation".

(12) In item (section) 146 in the analysis of chapter 7 and in the catchline of the section by striking the words "Post Office Department" and inserting in lieu thereof the words "United States Postal Service".

(13) In section 147—

(a) by striking the words "Weather Bureau" between the words "the" and "of" and inserting in lieu thereof the words "National Oceanic and Atmospheric Administration"; and

(b) by striking the words "Chief of the Weather Bureau" whenever they appear and inserting in lieu thereof the words "Administrator, National Oceanic and Atmospheric Administration".

(14) In section 186 by striking in subsection (a) the third sentence in its entirety and inserting in lieu thereof the following "Leaves of absence and hours of work for civilian faculty members shall be governed by regulations promulgated by the Secretary, without regard to the provisions of title 5.".

(15) In section 188 by striking in the last sentence the word "rank" between the words "the" and "in" and inserting in lieu thereof the word "grade".

(16) In section 193—

(a) by striking in the fourth sentence the word "Chairman" and inserting in lieu thereof the word "chairman"; and

(b) by striking the last sentence in its entirety and inserting in lieu thereof the following "Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5.".

(17) By adding after section 256 the following new catchline and section:

"§ 256a. Promotion year; defined

"For the purposes of this chapter, 'promotion year' means the period which commences on July 1 of each year and ends on June 30 of the following year.".

(18) By inserting in the analysis of chapter 11 following item (section) 256, the following new item, section):

"256a. Promotion year; defined."

(19) In section 257—

(a) by striking in subsection (a) the word "fiscal" and inserting in lieu thereof the word "promotion"; and

(b) in subsection (d)—

(i) by inserting the word "and" following the semicolon in clause (1);

(ii) by striking the word "; and" at the end of clause (2) and inserting in lieu thereof a period; and

(iii) by striking clause (3).

(20) In section 273 by striking in subsection (b) the figures "16" and inserting in lieu thereof the figures "3331".

(21) In section 282 by striking in clause (1) the word "fiscal" and inserting in lieu thereof the word "promotion".

(22) In section 283 by striking in clause (1) of subsection (a) the word "fiscal" and inserting in lieu thereof the word "promotion".

(23) In section 284 by striking in clause (1) of subsection (a) the word "fiscal" and inserting in lieu thereof the word "promotion".

(24) In section 285 by striking in clause (1) the word "fiscal" and inserting in lieu thereof the word "promotion".

(25) In section 288 by striking in the first sentence of subsection (a) the word "fiscal" and inserting in lieu thereof the word "promotion".

(26) In section 289—

(a) by striking in subsection (a) the word "fiscal" wherever it appears and inserting in lieu thereof the word "promotion"; and

(b) by striking in subsection (g) the word "fiscal" and inserting in lieu thereof the word "promotion".

(27) In section 290—

(a) by striking in the last sentence of subsection (a) the word "fiscal" and inserting in lieu thereof the word "promotion";

(b) by striking in subsection (e) the word "fiscal" and inserting in lieu thereof the word "promotion";

(c) by striking in subsection (f) the word "fiscal" and inserting in lieu thereof the word "promotion"; and

(d) by striking in subsection (g) the word "fiscal" wherever it appears and inserting in lieu thereof the word "promotion".

(28) In section 373 by striking in subsection (a) the figures "6023(b)" and inserting in lieu thereof the figures "2003".

(29) In section 461 by striking the words "of the Treasury".

(30) In section 475—

(a) by striking in subsection (a) the phrase "of the Department in which the Coast Guard is operating" wherever it appears; and

(b) by striking in subsection (f) the phrase "of the Department in which the Coast Guard is operating", and the phrase "commencing April 1, 1973,".

(31) In section 500 by striking in subsection (a) the words "of the Treasury".

(32) In section 511 by striking the phrase "head of the department in which the Coast Guard is operating" and inserting in lieu thereof the word "Secretary".

(33) In section 631—

(a) by striking the words "of the Treasury" wherever they appear; and

(b) by striking the phrase "of the Coast Guard" between the words "Commandant" and "any".

(34) In section 647—

(a) by striking preceding the first sentence the subsection designation "(a)";

(b) by striking the words "of the Treasury" wherever they appear;

(c) by striking in the third sentence the words "covered into" and inserting in lieu thereof the words "deposited in"; and

(d) by striking in the last sentence the word "title" and inserting in lieu thereof the word "section".

(35) In section 650 by striking in subsection (b) the words "Bureau of the Budget" and inserting in lieu thereof the words "Office of Management and Budget".

(36) In section 651 by striking the word "January" and inserting in lieu thereof the word "April".

(37) In section 655 by striking the words "United States".

(38) In section 829 by striking the word "Title" and inserting in lieu thereof the word "title".

[Executive Communication No. 2875]

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 22, 1976.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill "To amend certain laws affecting personnel of the Coast Guard, and for other purposes."

The proposed bill would make numerous changes to title 14, United States Code. The most important changes are necessitated by that provision of the recently enacted Congressional Budget Act of 1974 (P.L. 93-344) which redefined the fiscal year of the United States. The new definition, effective October 1, 1976, provides that the fiscal year will run from October 1 of each year to September 30 of the following year.

Several provisions of the officer personnel laws of the Coast Guard would be affected by the redefinition of the fiscal year since they use the term "fiscal year" in prescribing when certain personnel actions occur. For example, sections 282, 283, 284, 285, 288, and 289 of title 14 prescribe "June 30 of the fiscal year" as the effective date for involuntary discharge or retirement of commissioned officers. June 30 has long been the established date for these discharges and retirements. We have found that the June 30 date works well for both the

service and the individual. We believe it should be retained as the date of involuntary retirements and discharges. However, the new definition of the fiscal year would have the practical effect of changing that retirement or discharge date in many instances or would require the Coast Guard to make undesirable changes in its administrative practices to prevent those discharge and retirement date changes. Another effect would be to make many of the above sections of title 14 internally inconsistent in some circumstances or difficult of administration.

To avoid these undesirable results, the proposed bill substitutes a new term "promotion year" for the term "fiscal year" now found in those sections of title 14 relating to personnel. The new term is defined identically to the present fiscal year definition. The net result is that the change in the fiscal year definition under the Congressional Budget Act will not result in any substantive changes to Coast Guard personnel laws. The proposed amendments will thus enable the service to continue its present administrative practices without disruption.

An additional amendment would eliminate the provision that officers twice passed over for selection to the next higher grade are no longer eligible for consideration for promotion. This would primarily affect officers in the grade of lieutenant commander and would provide those officers with an incentive and an opportunity for promotion as long as they remain on active duty.

One substantive amendment is not related to personnel. It would repeal an archaic provision setting forth required colors for buoys. All of the remaining amendments in the bill are technical in nature and update or correct various provisions of title 14.

It is recommended that the proposed legislation be enacted by Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to Congress.

Sincerely,

WILLIAM T. COLEMAN, Jr.

Enclosures.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., April 22, 1976.

B–123777.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.

DEAR MADAM CHAIRMAN: Further reference is made to your letter dated April 5, 1976, requesting our views and recommendations on H.R. 12939, 94th Congress, a bill to amend certain laws affecting personnel of the Coast Guard, and for other purposes.

Under the terms of the captioned bill, the General Accounting Office would not be required to expend funds or incur any administrative expenses.

The bill's main purpose is to update existing laws of the Coast Guard by making certain technical amendments and repealing obsolete sections of title 14, United States Code.

We have carefully reviewed the bill and find the technical amendments and the repealing of obsolete sections in the proposed legislation to be in order. Therefore, it is our view that in light of changes in other laws since the last general revision of title 14, United States Code, the updating of Coast Guard laws as proposed would be appropriate and beneficial and we recommend passage of the bill.

It does not appear that this legislation will result in any increased expenditures.

We have no other comments or recommendations to offer in the matter.

Sincerely yours,

PAUL G. DEMBLING.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., May 4, 1976.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Your request for comment on H.R. 12939, a bill "To amend certain laws affecting personnel of the Coast Guard, and for other

purposes," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

The purpose of the bill is to make essentially technical changes to title 14, United States Code. The term "promotion year" is substituted for the term "fiscal year" now found in sections of title 14 relating to personnel. The new term is defined identically to the present fiscal year definition. This change is necessitated by that provision of the Congressional Budget Act of 1974 (P.L. 93–344) which redefined the fiscal year of the United States. Substantively, the bill would also eliminate the provision that officers twice passed over for selection to the next higher grade are no longer eligible for consideration for promotion.

The Department of the Navy, on behalf of the Department of Defense, has no objection to the proposed legislation.

Enactment of H.R. 12939 would result in no additional expenditures by the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 12939 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

T. F. HAIRSTON,
Captain, JAGC, U.S. Navy,
Director, Legislation.

[H.R. 12940, 94th Cong., 2d sess.]

A BILL To revise the laws relating to the Coast Guard Reserve

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 14, United States Code, is amended to read as follows:

"Chapter 21.—COAST GUARD RESERVE

"SUBCHAPTER A

"Sec.
"751a. Organization.
"752a. Authorized strength.
"753a. Coast Guard Reserve Boards.
"754. Grades and ratings; military authority.
"755. Benefits.
"756. Temporary membership; eligibility; compensation.
"757. Exemption from military training and draft; exclusiveness of service.
"758a. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade.
"759a. Wartime appointment or promotion; retention of grade upon release from active duty.
"760. Disability or death benefits for a temporary member.
"763. Certificate of honorable service of a temporary member.
"764. Active duty for emergency augmentation of regular forces.
"765. Enlistment of members engaged in schooling.

"SUBCHAPTER B

"COMMISSIONED OFFICERS

"770. Definitions.
"771. Applicability of this subchapter.
"772 Authorized number of officers.
"773. Constructive credit upon initial appointment.
"774. Eligibility for promotion.
"775. Selection boards; appointment.
"776. Grade on entry upon active duty.
"777. Recommendation for promotion of an officer previously removed from an active status.
"778. Suspension of this subchapter in time of war or national emergency.
"780. Promotion; recommendations of selection boards.
"781. Precedence.
"782. Running mates.
"783. Placement in promotion zone; consideration for promotion.
"784. Date of rank upon promotion; entitlement to pay.
"786. Qualifications for promotion.
"787. Failure of selection and elimination.
"787a. Excessive number; elimination from an active status to provide a flow of promotion.
"788. Effect of removal by the President or failure of consent of the Senate.
"789. Maximum ages for retention in an active status.
"790. Type of promotion; temporary.
"791. Promotion of officers on active duty.
"792. Appointment of a former Navy or Coast Guard officer.
"793. Recall of a retired officer; grade upon release.

"794. Regulations.
"795. Effect of this subchapter on retirement and retired pay.
"796. Failure of selection for promotion.
"797. Promotion ; acceptance ; oath of office.
"798. Rear admiral ; maximum service in grade.

"SUBCHAPTER A

"§ 751a. Organization

"The Coast Guard Reserve is a component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant.

"§ 752a. Authorized strength

"(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

"(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without his consent, a member of the Reserve shall not be reduced in his Reserve grade because of the Secretary's determination.

"§ 753a. Coast Guard Reserve Boards

"(a) The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to him in Reserve policy matters. At least one-half of the members of the Board shall be Reserve officers.

"(b) The Secretary may convene any other Reserve Board he considers necessary.

"§ 754. Grades and ratings; military authority

"The grades and ratings in the Reserve, including cadets but not grades above rear admiral, are those prescribed by law or regulation. A member of the Reserve on active duty has the same authority, rights, and privileges in the performance of that duty as a member of the Regular Coast Guard of corresponding grade or rating.

"§ 755. Benefits

"(a) A member of the Reserve on active duty, on inactive-duty training, or engaged in authorized travel to or from that duty, is entitled to the same benefits as a member of the Naval Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to a member of the Regular Coast Guard.

"(b) Chapter 13 of this title applies to a member of the Reserve under the same conditions and limitations as it applies to a member of the Regular Coast Guard.

"(c) A member of the Reserve who suffers sickness, disease, disability, or death is entitled to the same benefits as prescribed by law for a member of the Naval Reserve who suffers sickness, disease, disability, or death under similar conditions.

"(d) A member of the Reserve on active duty or when retired for disability is entitled to the benefits of section 253(a) of title 42. A member of the Reserve when on active duty (other than for training) or when retired for disability is entitled to the benefits of sections 1071 through 1087 of title 10.

"(e) A member of the Reserve, except an enlisted member retiring on the basis of years of active service, is entitled to the same retirement rights, benefits, and privileges as prescribed by law for a member of the Naval Reserve, and wherever a law confers authority upon the Secretary of the Navy, similar authority is given to the Secretary of Transportation to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. An enlisted member of the Reserve who retires on the basis of years of active service is entitled to the same retirement rights, benefits, and privileges as prescribed by law for an enlisted member of the Regular Coast Guard.

"§ 756. Temporary membership; eligibility; compensation

"A citizen of the United States, its territories, or possessions who is a member of the Auxiliary, an officer or member of the crew of a motorboat or yacht placed at the disposal of the Coast Guard, or a person (including a Government employee without pay other than the compensation of that person's civilian position) who by reason of special training and experience is consid-

ered by the Commandant to be qualified for duty may be enrolled by the Commandant as a temporary member of the Reserve, for duty under conditions he may prescribe, including part-time and intermittent active duty with or without pay, without regard to age. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as provided for members of the Reserve. When performing active duty with pay as authorized by this section, temporary members of the Reserve are entitled to receive the pay and allowances of their rank, grade, or rating.

"§ 757. Exemption from military training and draft; exclusiveness of service

"A member of the Reserve, other than a temporary member, is exempt from registration and liability for military training and service under any other law. No member of the Reserve, other than a temporary member, may be a member of another military organization. A temporary member of the Reserve who is a member of another military reserve shall, if ordered to active duty therein, be released from active duty with the Coast Guard and that person's status as a temporary member of the Reserve terminated.

"§ 758a. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade

"(a) Under regulations prescribed by the Secretary an enlisted member of the Reserve may be designated as a student aviation pilot.

"(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless the member agrees in writing, with the consent of parent or guardian if a minor, to serve on active duty for a period of two years after successful completion of flight training, unless sooner released. A student aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

"(c) A student aviation pilot who is a qualified civilian aviator may be given a brief refresher course in flight training.

"(d) A student aviation pilot undergoing flight training is entitled to have uniforms and equipment provided at Government expense.

"(e) Under regulations prescribed by the Secretary, a student aviation pilot may be designated an aviation pilot upon the successful completion of flight training.

"(f) In time of peace, an aviation pilot obligated under subsection (b) to serve on active duty for two years may, with his consent, serve for an additional period of not more than two years.

"(g) An aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

"(h) If qualified under regulations prescribed by the Secretary, an aviation pilot may be appointed as an ensign in the Reserve.

"§ 759a. Wartime appointment or promotion; retention of grade upon release from active duty

"(a) A member of the Reserve on active duty, who is appointed or promoted under section 214 or 275 of this title, is entitled upon release from that duty to the highest grade satisfactorily held by reason of that appointment or promotion. The Secretary shall determine the highest grade satisfactorily held.

"(b) Unless otherwise entitled to a higher grade, a member recalled to active duty shall be recalled in the grade in which released under subsection (a).

"§ 760. Disability or death benefits for a temporary member

"(a) If a temporary member of the Reserve is physically injured, or dies as a result of physical injury, and the injury is incurred incident to service while performing active duty, or engaged in authorized travel to or from that duty, the law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, applies, subject to this section, and shall be administered by the Secretary of Labor to the same extent as if the member was a civil employee of the United States and was injured in the performance of that duty. For benefit computation, regardless of pay or pay status, the member is considered to have had monthly pay of $600.

"(b) This section does not apply if the workmen's compensation law of a State, a territory, or another jurisdiction provides coverage because of a concurrent employment status of the temporary member. When the temporary member or a dependent is entitled to a benefit under this section and also to

a concurrent benefit from the United States on account of the same disability or death, the temporary member or dependent, as appropriate, shall elect which benefit to receive.

"(c) If a claim is filed under this section with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor shall notify the Commandant who shall direct an investigation into the facts surrounding the alleged injury or death. The Commandant shall then certify to the Secretary of Labor whether or not the injured or deceased person was a temporary member of the Reserve, the person's military status, and whether or not the injury or death was incurred incident to military service.

"(d) A temporary member of the Reserve, who incurs a physical disability or contracts sickness or disease while performing a duty to which the member has been assigned by competent authority, is entitled to the same hospital treatment afforded a member of the Coast Guard.

"(e) In administering section 8133 of title 5, United States Code, for a person covered by this section—

"(1) the percentage applicable to payments under that section are—

"(A) 45 per centum under subsection (a)(2) of that section, where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that subsection;

"(B) 20 per centum under subsection (a)(3) of that section, for one child, and 10 per centum additional for each additional child, not to exceed a total of 75 per centum, where the member died fully or currently insured under title II of the Social Security Act; and

"(C) 25 per centum under subsection (a)(4) of that section, if one parent was wholly dependent for support upon the deceased member at the time of the member's death and the other was not dependent to any extent; 16 per centum to each if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

"(2) payments may not be made under subsection (a)(5) of that section; and

"(3) the Secretary of Labor shall inform the Secretary of Health, Education, and Welfare whenever a claim is filed and eligibility for compensation is established under subsection (a)(2) or (a)(3) of section 8133 of title 5, United States Code. The Secretary of Health, Education, and Welfare shall then certify to the Secretary of Labor whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of the member's death.

"§ 763. Certificate of honorable service of a temporary member

"In recognition of the service of a temporary member of the Reserve during World War II, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to a person following disenrollment under honorable conditions from service as a temporary member during the period from December 7, 1941, to July 1, 1946, inclusive. Issuance of a certificate of honorable service to a person under this section does not entitle that person to a right, privilege, or benefit under any law of the United States.

"§ 764. Active duty for emergency augmentation of regular forces

"(a) Notwithstanding any other law, and for the emergency augmentation of Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe, the Secretary may, subject to approval by the President and without the consent of the member affected, order to active duty of not more than fourteen days in any four-month period and not more than thirty days in any one-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.

"(b) Under the circumstances of the domestic emergency involved, a reasonable time shall be allowed between the date when a Reserve member ordered to active duty under this section is alerted for that duty and the date when the member is required to enter upon that duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

"(c) Active duty served under this section—

"(1) satisfies on a day-for-day basis all or a part of the annual active duty for training requirement of section 270 of title 10;

"(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

"(3) entitles a member while engaged therein, or while engaged in authorized travel to or from that duty, to all rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which the member would be entitled while performing other regular active duty.

"§ 765. Enlistment of members engaged in schooling

"The initial period of active duty for training required by section 511(d) of title 10, may be divided into two successive annual periods of not less than two months each, to permit the enlistment of a Reserve member without interrupting any full-time schooling in which the member is engaged.

"SUBCHAPTER B

"COMMISSIONED OFFICERS

"§ 770. Definitions

"As used in this subchapter—

"(1) 'Reserve officer' means a commissioned officer in the Reserve, except an officer excluded by section 771 of this title or a commissioned warrant officer; and

"(2) 'discharged' means released from an appointment as a Reserve Officer.

"§ 771. Applicability of this chapter

"This subchapter applies only to the Reserve; except that it does not apply to a temporary member of the Reserve.

"§ 772. Authorized number of officers

"(a) The authorized number of officers in the Reserve in an active status is five thousand. The actual number of Reserve officers in an active status at any time shall not exceed the authorized number unless the Secretary determines that a greater number is necessary for planned mobilization requirements, or unless the excess results directly from the operation of law.

"(b) The authorized number of Reserve officers in an active status below the grade of rear admiral shall be distributed in grade in the following percentages, respectively: captain, 1.5; commander, 7.0; lieutenant commander, 22.0; lieutenant, 37.0; and in the combined grades of lieutenant (junior grade) and ensign, 32.5. When the actual number of Reserve officers in an active status in a grade is less than the number authorized, the difference may be applied to increase the authorized number in a lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law. The authorized number of Reserve officers in an active status in the grade of rear admiral is two.

"§ 773. Constructive credit upon initial appointment

"Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be placed in a position on the Reserve lineal list which reflects his experience, education, or other qualifications. For the purpose of this subchapter only a person appointed for the purpose of assignment or designation as a law specialist in the Reserve shall be credited with a minimum of three years service in an active status. A person holding a doctor of philosophy, or a comparable degree in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed in the latter instance for an assignment comparable to that of an officer in the Navy Medical Department.

"§ 774. Eligibility for promotion

"A Reserve officer is eligible for consideration for promotion and for promotion under this subchapter, if he is in an active status and has performed the minimum training prescribed by the Secretary. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under section 787a of this subchapter, is not eligible for consideration for promotion.

"§ 775. Selection boards; appointment

"(a) A selection board under this subchapter shall (1) be appointed and convened by the Secretary, (2) to the extent practicable, consist of at least 50 per centum Reserve officer membership, (3) consist only of members, Reserve or Regular, senior in grade to any officer being considered by that board, and (4) be composed of not less than five members which number constitutes a quorum.

"(b) A selection board serves for the length of time prescribed by the Secretary, but no board may serve longer than one year. No officer may serve on two consecutive selection boards for the same grade when the second of those boards considers an officer who was considered, but not recommended for promotion, by the first selection board.

"(c) Officers appointed as members of a selection board shall swear or affirm that without prejudice or partiality, having in view both the special fitness required of officers and the efficiency of the Coast Guard, they shall perform those duties imposed on them as members of the board. Not less than a majority of the total membership of a selection board shall concur in each recommendation made by the board.

"(d) An officer eligible for consideration for promotion by a selection board may forward, through official channels, a written communication inviting the attention of the board to any matter in the officer's record in the Armed Forces which, in the opinion of the officer concerned, is important to the board's consideration. A communication forwarded under this subsection shall arrive in time to allow delivery to the board prior to its convening, and shall not criticize or reflect upon the character, conduct, or motive of any officer.

"§ 776. Grade on entry upon active duty

"A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may, in his discretion, authorize a higher grade.

"§ 777. Recommendation for promotion of an officer previously removed from an active status

"A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be recommended by a selection board subsequent to returning to an active status in order to be placed on a recommended list of selectees for promotion. A Reserve officer to who this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.

"§ 778. Suspension of this subchapter in time of war or national emergency

"In time of war or national emergency declared by Congress, the President may suspend the operation of this subchapter or any part hereof. If this subchapter or any part hereof is suspended by the President, prior to placing the suspended provision in operation, he shall by regulation, insofar as practicable, adjust the grades of Reserve officers in the same manner as adjustments in grade are made for Regular officers.

"§ 780. Promotion; recommendations of selection boards

"(a) Except as otherwise provided by law, a Reserve officer shall be promoted pursuantly only to the recommendation of a selection board.

"(b) A selection board shall be convened from time to time so that a Reserve officer in the promotion zone for a particular grade will receive consideration for promotion. A separate board may be convened to consider officers in one or more grades; or one board may be convened to consider officers in all grades.

"(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

"(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

"(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

"(d) Before convening a selection board to recommend Reserve officers for promotion to a grade above lieutenant (junior grade), the Secretary shall determine the total number of Reserve officers to be selected for promotion to that grade. The number to be selected shall normally be equal to the number of vacancies existing in that grade, plus the number of vacancies anticipated over the next twelve months, minus the number of officers on the list of selectees for that

grade. However, the Secretary may prescribe regulations which provide for the establishment of promotion opportunity percentages for each grade to insure that equitable promotion opportunities exist among successive groups of Reserve officers being considered for promotion. The number so determined may not cause the number of Reserve officers in an active status in a grade to exceed that authorized for the grade concerned.

"(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grade of rear admiral apply to a Reserve officer.

"(f) The report of a selection board shall be submitted to the Secretary for review and transmission to the President for approval. When an officer recommended by a board for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

"(g) The recommendations of a selection board, as approved by the President, constitute a list of selectees from which the promotion of a Reserve officer shall be made. An officer on a list of selectees remains thereon until promoted unless removed by the President under section 788 of this subchapter. If an existing list of selectees has not been exhausted by the time a later list has been approved, all officers remaining on the older list shall be tendered appointments prior to those on the later list.

"(h) The Secretary shall determine the procedure utilized by a selection board.

"(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless his promotion is lawfully withheld, be tendered an appointment in the next higher grade at the same time, or as soon thereafter as practicable, as his running mate is tendered a similar appointment.

"§ 781. Precedence

"(a) Reserve officers rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with their dates of rank. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, they take precedence as determined by the Secretary.

"(b) Notwithstanding any other law, a Reserve officer shall not lose precedence when transferred to or from the active duty promotion list, nor shall that officer's date of rank be changed due to the transfer.

"(c) A Reserve officer shall, when on the active duty promotion list, be promoted in the same manner as any other officer on the active duty promotion list regardless of the length of active duty service of the Reserve officer.

"§ 782. Running mates

"(a) The Secretary shall assign a running mate to each Reserve officer in an active status not on the active duty promotion list. The officer initially assigned as a running mate under this section shall be that officer on the active duty promotion list of the same grade who is next senior in precedence to the Reserve officer concerned. An officer who is not on the active duty promotion list, who is not of the same grade, who has twice failed of selection, or who has been considered but has not been recommended for continuation under section 289 of this title shall not be assigned as a running mate under this section.

"(b) A Reserve officer in an active status not on the active duty promotion list shall be assigned a new running mate as follows:

"(1) If a previously assigned running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers a loss of numbers, fails of selection, fails to qualify for promotion, or declines an appointment ater being selected for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, for the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

"(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

"(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected

for promotion, or has his name removed from a list of selectees for promotion, and his running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

"(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

"(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to him, who are in an active status not on the active duty promotion list, and who had a running mate in common with him just prior to the time he was placed on the active duty promotion list.

"(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active dunty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay and allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

"§ 783. Placement in promotion zone; consideration for promotion

"Subject to the eligibility requirements of this subchapter, a Reserve officer shall be placed in a promotion zone when his running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as his running mate or as soon thereafter as practicable.

"§ 784. Date of rank upon promotion; entitlement to pay

"(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of his appointment thereto.

"(b) Notwithstanding any other law and when his running mate is so entitled, a Reserve officer in the grade of rear admiral is entitled to the pay and allowances of the upper half for duty performed.

"§ 786. Qualifications for promotion

(a) A Reserve officer shall not be promoted to a higher grade unless he has been found to be physically qualified and the character of his service subsequent to the convening of the selection board which recommended him for promotion has been verified as satisfactory.

"(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is promoted.

"§ 787. Failure of selection and elimination

"(a) The Secretary—

"(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

"(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral.

"(b) A Reserve officer not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

"(c) Subject to section 1006 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

"(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which his second failure of selection occurs; or

"(2) if removed from an active status under subsection (a)(2) of this section, on June 30 next following the date on which he completes thirty years of total commissioned service as computed under this section.

"(d) For the purpose of this section, the total commissioned service of an officer who has served continuously in the Reserve following appointment in the grade of ensign shall be computed from the date on which that appointment was accepted. A Reserve officer initially appointed in a grade above ensign is considered to have the same total commissioned service as an officer of the Regular Coast Guard who has served continuously from an original appointment as ensign, who has not lost numbers or precedence, and who is, or was, junior to the Reserve officer; or, the actual total commissioned service of the Reserve officer above the grade of commissioned warrant officer, whichever is greater.

"§ 787a. Excessive number; elimination from an active status to provide a flow of promotion

"(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of officers in an active status in any grade to provide a steady flow of promotions or that there is an excessive number of Reserve officers in an active status in any grade, he may convene a board to consider all of the Reserve officers in that grade in an active status not on active duty. When a board is convened under this section, the Secretary shall direct the board to select and recommend a specified number of the officers under consideration by the board for retention in an active status. Each member of the board shall be senior in rank to any officer being considered by the board.

"(b) Subject to section 1006 of title 10, a Reserve officer who is not recommended for retention in an active status under this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged on June 30 next following the date on which the retention board's report is approved.

"§ 788. Effect of removal by the President or failure of consent of the Senate

"(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 780 of this subchapter.

"(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 780 of this subchapter, that officer's name shall be removed from the list.

"(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected by the next selection board or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

"§ 789. Maximum ages for retention in an active status

"(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes sixty-two years of age, except that an officer initially appointed prior to January 1, 1953, who cannot complete twenty years of satisfactory Federal service for retirement purposes prior to reaching age sixty-two, may be retained in an active status not longer than the day upon which that officer becomes sixty-four years of age.

"(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral in an active status not longer than the day on which the officer concerned becomes sixty-four years of age.

"(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day he becomes sixty-two years of age.

"§ 790. Type of promotion; temporary

"Notwithstanding any other law, if a Reserve officer is promoted when his running mate is promoted and the promotion of his running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for

reasons of discipline or incompetence, or at his own request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

"§ 791. Promotion of officers on active duty

"(a) A Reserve officer on active duty, other than for training, other than for duty on a board, or other than for duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 11 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted. Upon release from active duty the officer shall be included in the grade distribution authorized by this subchapter.

"(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 11 of this title.

"(c) A Reserve officer who has been selected for promotion to the next higher grade under the law applicable to a Reserve officer serving on active duty at the time the officer is released from active duty, shall be promoted to that grade subject to this subchapter.

"(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 11 of this title shall count for all purposes.

"§ 792. Appointment of a former Navy or Coast Guard officer

"A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission within one year of resigning his Regular commission, and who is appointed in the same grade previously held by him in the Regular Navy or Coast Guard, shall be given the same date of rank in that grade as that previously assigned to him while a member of the Regular Navy or Coast Guard.

"§ 793. Recall of a retired officer; grade upon release

"(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, he shall be recalled in a manner similar to the recall of a Regular retired officer.

"(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) his performance has been satisfactory in the higher grade.

"§ 794. Regulations

"The Secretary may prescribe necessary or appropriate regulations consistent with this subchapter.

"§ 795. Effect of this subchapter on retirement and retired pay

"Except as provided in section 793(b), nothing in this subchapter authorizes the retirement of a Reserve officer or the payment of retired, retainer, or severance pay to a Reserve officer; or affects in any manner the law relating to the retirement of, or the granting of retired or retainer pay or other benefits to a Reserve officer.

"§ 796. Failure of selection for promotion

"(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for that officer's grade, fails of selection if not selected for promotion by the selection board which considered the officer; or having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

"(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been recommended for promotion by the selection board which originally would have considered the officer but for the error.

"§ 797. Promotion; acceptance; oath of office

"(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.

"(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon his appointment in a higher grade.

"§ 798. Rear admiral; maximum service in grade

"Unless retained in or removed from an active status under any other law, a Reserve rear admiral shall be removed from an active status on the day he completes four years of service in that grade.".

SEC. 2. Sections 779 and 785 of title 14, United States Code, and their corresponding chapter analysis items, are repealed.

[Exec. Comm. No. 2380]

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 11, 1976.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a sectional analysis, and a draft of a proposed bill "To revise the laws relating to the Coast Guard Reserve."

The basic purpose of the proposed legislation is to amend chapter 21 of title 14, United States Code, to update various provisions of that title which concern the administration and organization of the Coast Guard Reserve. The last major revision of chapter 21 was accomplished in 1970, (84 Stat. 838, P.L. 91–402). The amendments contained in the proposed legislation would clarify ambiguities which have arisen since that time; would revise in a minor fashion the Coast Guard Reserve officer promotion and retention laws; would resolve inconsistencies between the sections pertaining to a Reserve officer and those pertaining to a Regular officer found elsewhere in title 14; and would in general improve the terminology of the sections amended.

The substantive changes contained in the proposal relate to the revision of the Coast Guard Reserve officer promotion and retention laws and are contained in the amendments to sections 774, 780, 783, 787, and 798.

The amendment to section 774 authorizes the Secretary to prescribe the minimum amount of training required by a Reserve officer to be eligible for consideration for promotion, rather than simply requiring him to obtain a minimum number of "points". This section has also been amended to provide that a Reserve officer is no longer eligible for consideration for promotion if he was considered but not recommended for retention in an active status by appropriate board action.

The amendment to section 780(d) gives the Secretary regulatory authority to establish promotion opportunity percentages to ensure equitable promotion opportunities among successive groups. This needed flexibility will allow the Secretary to adjust the vacancies on a yearly basis to provide a reasonably consistent promotion pattern for successive groups of officers being considered for promotion. The amendment to section 780(e) eliminates the requirement that a Reserve captain, to be eligible for selection to the grade of rear admiral, must have a minimum of twenty years total commissioned service in the Regular or Reserve components of the Coast Guard.

A minor substantive change has been made to section 783. The section, as amended, authorizes the Secretary to exercise some flexibility as to when a Reserve officer may be considered for promotion to the next higher grade, by addition of the phrase "or as soon thereafter as practicable" to the current requirement that he be considered "at approximately the same time as his running mate."

The amendments to section 787 impose a date certain for the removal from an active status of Reserve officers twice having failed of selection for promotion to the next higher grade and not retained by Secretarial discretion, and for Reserve captains who have completed 30 years of total commissioner service. Removing these latter officers from an active status will help the promotion flow

and corrrespondingly enhance the career opportunities of those officers in the grades below that of captain. A new subsection authorizes the Secretary, if he exercises his discretion to retain a Reserve officer who has twice failed of selection to the next higher grade, to prescribe the period for which that officer should be so retained. Finally, section 798 is amended to reduce the tenure of Reserve rear admirals from 5 to 4 years to provide Reserve captains with a greater selection opportunity to that grade.

This proposal will result in a negligible increase in cost to the Federal Government. It is, therefore, recommended that the proposed legislation be enacted by Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

WILLIAM T. COLEMAN, Jr.

Enclosures.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 7, 1976.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives.

DEAR MADAM CHAIRMAN: Further reference is made to your letter dated April 5, 1976, requesting our views and recommendations on H.R. 12940, 94th Congress, a bill to revise the laws relating to the Coast Guard Reserve.

Under the terms of the above-captioned bill, the General Accounting Office would not be required to expend funds or incur any administrative expenses.

The basic purpose of the proposed legislation is to amend chapter 21 of title 14, United States Code, to update various provisions of that chapter which concern the administration and organization of the Coast Guard Reserve.

We have carefully reviewed the bill and find the technical amendments to be in order. We have no information which would enable us to comment on the substantive changes relating to Coast Guard Reserve officer promotion in amendments to sections 774, 780 and 783 of title 14, United States Code. With regard to the proposed amendments to sections 787 and 798, we understand that questions have recently been raised by members of Congress and others on the merits the advisability of continuing the "up-or-out" promotion practice of the Armed Forces merely to aid promotion flow and correspondingly enhance career opportunities of junior officers. See, for example, Hearings on H.R. 12405, Defense Officer Personnel Management Act (DOPMA), before Subcommittee No. 4 of the House Committee on Armed Services, 93d Cong., 2d Sess., 176 (1974). Also, in this connection, the Committee may wish to consider the recommendations of the Defense Manpower Commission as stated on page 261 of their report of April 1976.

Although the last major revision of chapter 21, title 14, United States Code, occurred in 1970 (Public Law 91–402, 84 Stat. 838), it appears that a technical updating of the Coast Guard Reserve laws as proposed would be appropriate and beneficial. As indicated we have no comment with regard to the substantive changes proposed.

It does not appear that this legislation will result in any appreciable increased expenditures.

Sincerely yours,

ROBERT F. KELLER,
Deputy Comptroller General
of the United States.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., May 4, 1976.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Your request for comment on H.R. 12940, a bill, "To revise the laws relating to the Coast Guard Reserve," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

The Department of the Navy, on behalf of the Department of Defense, has no objection to the proposal, which has as a basic purpose the updating of various provisions of chapter 21 of title 14, United States Code, which concern the administration and organization of the Coast Guard Reserve. Substantively, the proposal would authorize the Secretary of Transportation to prescribe the minimum training requirements for Reserve officer promotions rather than hinging promotion on a "point system", and would eliminate from consideration for promotion those Reserve officers not recommended for retention in an active status. Additionally the Secretary would be given authority to establish promotion opportunity percentages to ensure equitable promotion opportunities among successive groups. The requirement that a Reserve captain, to be eligible for selection to the grade rear admiral, must have a minimum of twenty years total commissioned service in the Regular or Reserve components of the Coast Guard is eliminated. The proposal also provides for the removal from an active status of Reserve officers twice having failed selection for promotion to the next higher grade and not retained by Secretarial discretion, and for Reserve captains who have completed 30 years of total commissioned service. The Secretary is authorized, if he exercises his discretion to retain a Reserve officer who has twice failed of selection to the next higher grade, to prescribe the period for which that officer should be so retained. Finally, the tenure of Reserve rear admirals is reduced from 5 to 4 years to provide Reserve captains with a greater selection opportunity to that grade.

Enactment of H.R. 12940 would not result in any additional expenditures by the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 12940 for the consideration of the committee.

For the Secretary of the Navy.

Sincerely yours,

T. F. HAIRSTON,
Captain, JAGC, U.S. Navy,
Director, Legislation.

Mr. BIAGGI. The witnesses this morning, representing the Coast Guard, are Rear Adm. Ricardo Ratti, chief counsel, who will testify on H.R. 12939, and Rear Adm. William S. Schwob, chief, Office of Reserve, who will testify on H.R. 12940.

STATEMENT OF REAR ADM. RICARDO RATTI, CHIEF COUNSEL, U.S. COAST GUARD, ACCOMPANIED BY CAPTAIN FUECHSEL, CHIEF, OFFICER, PERSONNEL DIVISION

Admiral RATTI. Good morning, Mr. Chairman and members of this subcommittee.

I am Rear Adm. Ricardo Ratti, chief counsel, U.S. Coast Guard. It is a pleasure to appear before you today to testify concerning H.R. 12939, a bill to amend certain laws affecting the officers of the Coast Guard.

The primary impetus for this bill was the passage of the Congressional Budget Act of 1974, which redefined the fiscal year of the United States effective October 1, 1976. After the passage of the Congressional Budget Act, we examined the officer personnel laws of the Coast Guard, which are found in title 14, United States Code, to determine the effect of the new fiscal year definition. We discovered that the new fiscal year definition would result in disruptions in our present officer personnel management system. The new definition would make several sections of title 14 internally inconsistent at worst, and difficult of administration at best.

I can best illustrate the difficulties by an example. Sections 282, 283, 284, and 285 of title 14 describe "June 30 of the fiscal year" as the effective date for involuntary discharge or retirement of certain commissioned officers who fail twice of selection. If a lieutenant commander, for instance, with 20 years of service were passed over for promotion a second time on August 1, section 285 of title 14 would require his retirement "on June 30 of the fiscal year in which his second failure of selection occurs * * *" Under the present law, he would be retired on the June 30 following his second passover. Under the new fiscal year definition, however, his retirement date would be June 30 preceding his second passover—an obvious impossibility, since he could not be required to retire prior to the date of the event requiring his retirement.

To avoid this legal quandry and still maintain the 6-month notice before involuntary retirement or discharge required by section 287 of title 14, the Coast Guard would have to compress all of its officer selection and continuation boards into the 3-month period of October 1 to December 31. For the Coast Guard to consider approximately 1,800 officers by five boards in 90 days would be an administrative burden of great proportions. But even more injurious to the Coast Guard officer corps would be a selection process that would not allow careful deliberation on the qualifications of each officer eligible for consideration for promotion.

A similar anomaly could develop under section 288 which requires the retirement of captains on June 30 of the fiscal year in which they complete 30 years service. If a captain completed 30 years of service during July, August, or September, the effect of the new fiscal year definition would be to require him to retire on June 30 before he completed 30 years of service rather than on June 30 after he completed 30 years of service as is now the case. This would be contrary to our long practice and the intent of the statute that these officers not be involuntarily retired before completing a full 30 years of service. Also, it would make the section, as it presently reads, internally inconsistent since the captain would not in fact complete 30 years of service.

It is apparent that these problems are caused by the fact that the specified statutory retirement date—June 30—will, under the new fiscal year definition, no longer come at the end of the fiscal year as it does now. This suggested one possible solution—legislation to move the mandatory retirement or separation date from June 30 to September 30 which would again put it at the end of the fiscal year. After considerable study, we rejected this solution because of the conveniences offered by the June 30 date. June 30 separations and retirements allow personnel transfers to take place during the summer months and less disruption of dependents' educational schedules.

Furthermore, there is an infusion of younger officers each summer from a Coast Guard Academy graduating class, an Officer Candidate School class, and the graduates of civilian educational institutions under the direct commission program. The arrival of new officer personnel during the summer months makes June 30 a convenient date around which to center many personnel actions such as promotions, transfers, and retirements. The small size of the Coast Guard requires, in many cases, immediate replacement of officers involuntarily removed from active duty. The administrative burden of concentrating transfers and separations around June 30 is one that we have been able

to absorb in the interest of greater operational benefits and personal convenience to the persons involved.

We have, therefore, proposed in this bill a solution which retains the June 30 separation date and which substitutes a new term "promotion year" for "fiscal year" in the officer personnel laws of title 14. The term "promotion year" would be defined in section 256a, as the year commencing July 1 and ending June 30 of the following year. The effect of this change would be to allow the Coast Guard to retain the existing rotation, promotion, separation, and retirement schedules that have worked well since 1963. We are reluctant to make any basic changes to the present officer personnel system that are not absolutely necessary because we have found that changes in personnel policy often have undesirable and unforeseen side effects. The proposed "promotion year" concept is designed to maintain our present officer personnel system with no substantive changes.

One substantive change to the officer personnel laws which the bill would make is the deletion of section 257(d)(3) which removes officers from promotion eligibility if they have been twice passed over. This proposed amendment would primarily affect officers in the grade of lieutenant commander and would provide an incentive for those officers to excel by providing an opportunity for promotion while they remain on active duty awaiting involuntary retirement at 20 years service.

The bill also contains a number of stylistic changes to title 14. Many of them correct the laws to reflect organizational changes in the executive branch in the last decade. References to the Treasury Department have been deleted in favor of the Department of Transportation. Likewise, where governmental functions have been shifted to another agency or the name of an agency has been changed, amendments have been proposed for clarity without any substantive changes in Coast Guard responsibilities or interagency relationships.

One substantive amendment is not related to personnel. Section 87 of title 14—which specifies the colors of right hand, left hand, and midchannel buoys in bays, harbors, sounds, and channels—was originally enacted in 1850. The Coast Guard has been required by this archaic statute to employ buoy colors premised upon a technology 125 years old.

In the course of research and development of more efficient aids to navigation, the Coast Guard has given considerable attention to the conspicuity of daymarks and has determined that colors other than black and red are more visible over a broader range of conditions. Green, for example, is much more satisfactory than black, and on those internal waterways where section 87 does not apply, we have used that color on aids to navigation very successfully. Repeal of the statutory constraint will permit the Coast Guard to utilize the best current technology relating to conspicuity of aids to navigation throughout the United States.

In conclusion, Mr. Chairman, we are hopeful that this bill can be enacted during this fiscal year. If it is not, we will, as a practical matter, be unable to hold any officer promotion boards during July, August, or September.

I will be glad to entertain questions on any matters that may require further clarification. Thank you.

Mr. BIAGGI. Thank you.

I have no question with the fundamental thrust, especially with relation to the fiscal aspects of it. Your proposed statement in support of the bill makes sense.

I will just refer to areas very briefly; page 5, the first paragraph refers to the deletion of section 257(b)(iii), which removes officers from promotion eligibility when passed over twice.

Do I understand it correctly that if they are passed over twice in the interim period, in the intervening period between that time and the time of retirement, that they would be provided wih an opportunity to again be considered for promotion?

Admiral RATTI. Yes; they would be under this bill. They do not now have an opportunity to be considered.

Mr. BIAGGI. For my own information, why was the section in there in the first place?

Admiral RATTI. I think it was a case of overreaction when the Coast Guard adopted this promotion system, a best-qualified system from a fully-qualified system and the fact that we had a large hump of excess officers at that time. I think we went a little too far and said two failures of selection and that is it, never anymore. This brings us more in line with the other services and I think it is a good provision.

Mr. BIAGGI. In relation to the restraints placed upon the Coast Guard as far as the colors of the buoys are concerned, it would be for internal waterways alone, the change?

Admiral RATTI. Well, the statute presently applies to buoys along the coast, bays, harbors, sounds and channels. I don't think we have interpreted that to mean all internal waterways, but to mean those coastal waterways. This would remove that constraint which now applies to some of the waters and, therefore, there would be no such constraint to any of them. In other words, we would then have a more uniform statutory framework.

Mr. BIAGGI. Assuming that it is enacted into law, what is the objective of the Coast Guard as far as applications are concerned—universal or selective application of these changed colors?

Admiral RATTI. Well, I don't think that we have made any decision on any immediate application. We feel that this would give us an opportunity, however, to look at different colors and marking systems and to test them, and if we come up with a better system or better colors, then to look at implementing them universally, I would think. I think, in general, we would rather have a system that is uniform than several different systems.

Mr. BIAGGI. How does it affect the vessels that engage in international travel?

Admiral RATTI. Well, I would think that if we change the color of the black buoy to green, they would, of course, have to be informed of that and know about it, but I don't think it would have any serious effect. It is my understanding that not all countries use the same system that we do now, so vessels have to adjust to different systems depending upon what ports they are visiting.

Mr. BIAGGI. You don't see a state of confusion created as a result of this?

Admiral RATTI. We try to avoid confusion, Mr. Chairman. I think we would try to implement this in a way to avoid confusion.

Mr. BIAGGI. Thank you.

Mr. HEYWARD. In that connection, Admiral Ratti, would you have any objection to changing the provisions in the section, rather than repealing to relax the requirements of specific colors, but to require uniformity in application with perhaps some waiver possibility?

Admiral RATTI. No; I don't think we would have any serious objection to relaxing the requirements, but we would like those specific requirements removed so that we are more free to experiment and to introduce the best system that we can.

Mr. HEYWARD. In connection with the promotion year, do you foresee any problems that may arise in connection with authorization and appropriations which will be put under present law on September 30th?

Admiral RATTI. No; I have discussed this with people in personnel and they feel that the change in the fiscal year will actually make life a little easier for them. In other words, we have the influx of officers from the Academy and from other sources in the summer, in June, and that makes it difficult to meet an end-year strength on June 30. When the end-year comes on September 30, it makes it a little easier to plan and adjust. I think the net result is that we would not have to be short by carrying empty billets for a good number of months to cover those people that come in in June.

Mr. HEYWARD. So that you might have a slight hump at the June 30 level, but that could be taken care of before the end of the fiscal year?

Admiral RATTI. Yes, sir, that is correct. I think it really would make things a little easier with the new fiscal year definition.

Mr. HEWARD. Thank you.

Mr. BIAGGI. All right, Admiral Schwob.

STATEMENT OF REAR ADM. WILLIAM S. SCHWOB, CHIEF, OFFICE OF RESERVE, U.S. COAST GUARD, ACCOMPANIED BY HARRY M. RAMBO, STAFF ASSISTANT TO CHIEF, OFFICE OF RESERVE, U.S. COAST GUARD

Admiral SCHWOB. Good morning, Mr. Chairman, I am Rear Adm. William S. Schwob, chief, Office of Reserve, U.S. Coast Guard. I am pleased to be here today to speak with you concerning H.R. 12940, a bill to revise the laws relating to the Coast Guard Reserve.

While this bill revises chapter 21, title 14, U.S. Code, extensively, it makes only a few substantive changes other than those which correct defects and inconsistencies. I would like to describe the more important of these changes, but before doing so I thought it might be helpful to briefly explain the inactive duty Reserve officer selection, promotion, and retention procedures since the substantive changes deal with this area.

An inactive duty Reserve officer is essentially any officer who is not on active duty. Normally these are officers who have completed a tour of active duty of 3 or more years with the regular Coast Guard and have continued to participate in the Reserve on a part-time basis—by performing monthly drills and an annual 2-week training period. It is these inactive duty or part-time officers who are affected by this proposed legislation.

Each inactive duty Reserve officer is assigned a running mate who is a regular officer on the ADPL (active duty promotion list). The Reserve officer moves into a promotion zone when his running mate is placed in a zone; is considered for promotion as soon after his running mate is practicable; and if selected for promotion, is promoted as soon as a Reserve vacancy becomes available after his running mate has been promoted.

Mr. Chairman, in the following discussion I will be referring to active status and inactive status which are not to be confused with active duty but refer to categories within the inactive duty Reserve.

The opportunities for promotion to the more senior grades are lower in the Reserve than in the regular service. Reserve officer strength authorizations are based on mobilization requirements with the result that comparatively fewer senior Reserve officers are needed. The competition for selection which is comparable with the regular service at the more junior levels is successively more difficult at the lieutenant commander, commander, and captain levels because of fewer vacancies. For this reason, a number of qualified and capable officers fail of selection for promotion to these grades. After twice failing of selection, unless otherwise retained, he is removed from an active status. Depending on his years of service, he would be retired, placed in an inactive status, or discharged.

Each year the promotion flow begins by holding a retention board for captains. The vacancies created by removing captains from an active status in this manner, when added to those resulting from retirements or other reasons, provide opportunities for the selection of commanders for promotion to captain. The promotion of commanders creates opportunities for the selection of lieutenant commanders for promotion to commander, and so on.

When an officer twice fails of selection and is not retained by Secretarial action or is not continued by a retention board, unless that officer has completed 18 satisfactory years for retirement, he will be removed from an active status. This means that he can no longer earn retirement points or be promoted. Thus, an officer in this situation cannot complete the 20 satisfactory years that are required to assure retirement with pay and other benefits, beginning at age 60.

The Regular Coast Guard adopted a "best qualified" promotion system in 1968. The Reserve adopted a similar system in 1970. At that time, a number of changes were made in Reserve law to implement that significant change. Although made in good conscience, the experience of the past few years under a "best qualified" system has pointed out inconsistencies and defects in some sections and the need for improvements in other sections of the present law.

For instance, section 774 of the present law states that an officer excluded from promotion by section 787 is not eligible for consideration for promotion. But if you look at section 787 you will not find the exclusion from promotion which section 774 says is there. Section 787 does not exclude any officers from promotion. Thus, the second sentence of section 774 is ineffective. While the intention of the law was apparently to exclude officers from eligibility for promotion after two failures of selection, the present law does not accomplish that objective.

Another inconsistency in the present law is found by comparing sections 787 and 796. Section 787 by its terms applies to captains who fail twice of selection. However, section 796 says in effect that captains do not fail of selection. It is impossible to harmonize the differing provisions of these two sections. There is also an internal inconsistency in section 787. Subsection (a) describes what happens to officers who are not retained in an active status after a second failure of selection. Subsection (b) of that section describes essentially the same consequences for the same class of officers but in different language and in a different format. Subsection (b) thus appears redundant.

These and other similar inconsistencies and defects in the present law led us to draft legislation to correct them. In the process, we discovered other areas where the language could be clarified and improved. We, therefore, undertook a complete revision of chapter 21 of title 14, which contains the laws governing the Coast Guard Reserve. The result is the bill you have before you. The most important of the changes contained in this bill are:

Section 774.—As presently constituted, this section contains two eligibility requirements for the selection and promotion of Reserve officers. The first of these, which requires that an officer be in an active status, would be retained. The second requirement, that an officer shall not have been excluded from promotion by the provisions of section 787, is ineffective as previously indicated, since section 787 contains no such exclusion, and would, therefore, be eliminated.

Section 774 would be further revised by adding two new eligibility requirements. One of these, a modification of the "minimum points" requirement of section 785, which would be repealed, would permit the Secretary to prescribe minimum training requirements as a condition of eligibility for selection and promotion. This authority is desired for future use. Currently, no minimum training requirements are prescribed. The other eligibility requirement would exclude from consideration for promotion an officer not continued in an active status as the result of retention board action under section 787a. This exclusion is necessary if retention board action is to be a final action, which it should be. Otherwise, an officer not continued would be required to be considered for promotion by a selection board convened prior to the date that officer is scheduled to be removed from an active status.

Section 780. Subsection (e) presently requires that:

> No officer in the grade of captain shall be eligible for consideration—for promotion to rear admiral—who has not completed a minimum of 20 years of total commissioned Coast Guard or Coast Guard Reserve service.

This same subsection permits the counting of constructive service for this purpose by those officers who were initially appointed above the grade of ensign on or before January 1, 1963.

However, the requirement is considered to be unnecessarily restrictive in that it operates to preclude from consideration for promotion to rear admiral those officers entitled to constructive service who entered the Coast Guard after the 1963 cutoff date. It also discriminates against those officers with prior commissioned service in another of the Armed Forces. Every inactive duty Coast Guard Reserve captain should have an equal opportunity to compete for selection to rear admiral. The elimination of this inequitable requirement would ac-

complish this and make the eligibility requirements consistent with those for active duty officers.

Section 785. The requirement to attain a minimum number of points as a condition of selection and promotion eligibility has not been implemented since 1970, when "best qualified" promotion legislation was enacted. This section is, therefore, unnecessary and would be repealed. Authority for a broader eligibility provision in terms of minimum training requirements is considered to be desirable for future use and has been incorporated into section 774 which contains other eligibility requirements.

Section 787. This section currently provides authority for the Secretary to retain in an active status officers who twice fail of selection; requires the discharge of officers not retained upon completion of a specified number of years of total commissioned service; and provides general guidance concerning officers who are eliminated from an active status. The proposed revisions would accomplish several desirable changes.

First, the authority of the Secretary to retain officers twice failing of selection would be modified to include a requirement to designate the specific period of retention. This would eliminate any possible interpretation under present law that retention is open ended.

Second, the requirement to discharge officers not retained in an active status upon completion of a specified number of years of total commissioned service would be eliminated. As previously stated, this is a confusing provision since under this same section being discharged is only one of the options these officers would face at time of removal from an active status.

Third, a new provision has been added which would require the removal of captains from an active status upon completion of 30 years total commissioned service. Currently, other than by reaching the mandatory age for retirement, retention board action pursuant to section 787a is the only method of involuntarily removing captains from an active status, and this is necessary to start the promotion flow each year. This change would reduce the number of captains that are required to be removed annually by a retention board, which undeservedly is interpreted by some officers as implying that they are "least qualified."

The substitution of the more impersonal requirement for removal upon completion of a full, 30-year service career is a preferred method and is consistent with the law applicable to active service officers. Finally, June 30 would be established as the specific date for removal of officers twice failing of selection who are not retained by the Secretary.

Section 787a. The revision to this section would establish June 30 as the date for removal of officers from an active status who are not recommended for continuation under this section. No specified time period of date for removal is contained in current law.

Section 791. This section currently excludes inactive duty reserve officers performing active duty for training or active duty on a board from consideration for promotion and promotion under laws applicable to active duty officers. To do otherwise would place these inactive duty officers in the inequitable position of being required to compete for promotion with full-time active duty officers. To broaden and

clarify the intent of this section, active duty of a limited or temporary nature would be added as a condition of exclusion together with language specifying applicability of these exclusions to officers assigned to active duty from an inactive duty status.

Section 798. This section would reduce the tenure of reserve rear admirals from 5 to 4 years. Since only two rear admirals are authorized in an active status, this reduction of tenure would increase the opportunity for selection among captains from 1 chance in 2½ years to 1 in every 2 years. Four years is an adequate tour of duty in this grade consistent with providing a reasonable opportunity for selection for the captain population.

The enactment of this proposed legislation would both benefit the members of the Coast Guard Reserve and improve the overall management of the Coast Guard Reserve program. Confusing language in current law would be eliminated; the relatively small number of substantive changes would assist in more effectively managing the program; and more equitable opportunity for selection, promotion, and retention would be afforded to Reserve officers. The general effect would be to make inactive duty Reserve officer promotion and retention legislation more similar to legislation applicabe to active service officers. The increased cost to the Federal Government would be negligible.

Mr. Chairman, this concludes my statement. I will be pleased to answer any questions the committee may have.

Mr. BIAGGI. Thank you, for a very extensive and clarifying statement. I have no questions and at this point I am required somewhere else.

My colleague, Mr. Jones, will assume the Chair. There will be some questions, and I am sure the record will show it.

Mr. JONES [presiding]. Thank you for your testimony.

Personally, I have no questions and I will yield to counsel to see if he has any questions.

Mr. HEYWARD. Will you please describe the difference between active status and inactive status in the Reserve?

Admiral SCHWOB. Yes, sir. The main difference between active status and inactive status is that officers or enlisted personnel in an active status are eligible to be paid, to be promoted, and to earn points for their eventual retirement with pay at age 60 if they complete 20 satisfactory years.

Mr. HEYWARD. And inactive status?

Admiral SCHWOB. Those in an inactive status are still subject to mobilization, but are not eligible, and therefore not permitted to earn points for retirement, to be promoted, or to receive pay. They are not in a training status.

Mr. HEYWARD. In connection with points, will that be continued?

Admiral SCHWOB. Yes, sir; there will be no changes in the effect of being in an active or inactive status.

Mr. HEYWARD. How would the points be used? I understand from your proposal that you are doing away with a number of points as to eligibility.

Admiral SCHWOB. I understand. We have a provision in the present law that permits us to set as a standard for promotion the number of points a Reserve officer must earn. We have not used this requirement since 1970. We propose to do away with this requirement to accumu-

late points as a measure of capability and performance as a Reserve officer. Instead, we propose to substitute a measure of training achievements. For example, in the future, to measure the capability for promotion of a Reserve officer, we might wish to set as a requirement, completion of certain service schools—something of that nature.

Mr. HEYWARD. But this would not apply to inactive status?

Admiral SCHWOB. No, sir.

Mr. HEYWARD. What would be left for them at all?

Admiral SCHWOB. At present in the new proposed bill, the inactive status people are retained on a list of those that have a potential mobilization capability, but do not participate in any training in the Reserve program.

Mr. HEYWARD. So they are simply there as a mobilization group?

Admiral SCHWOB. Yes, sir; they are considered to be a mobilization resource in the event of a national emergency to be called after those who are in an active status; we would then under certain conditions proceed to call them.

Mr. HEYWARD. How long do people remain in an inactive status? Is there a limit? Can they stay until they are 85 years old?

Admiral SCHWOB. No, each year we screen those on the inactive status list. Normally an officer remains on the inactive status list approximately 3 years. Some remain beyond this time if they have special skills we feel would be of value to us in mobilization. Those who are eligible for retirement at age 60 would request retirement and move to the retired list at age 60. We try to keep those listed on our inactive status list who would be of value to us in a mobilization condition.

Mr. HEYWARD. What method do you use to carry out decisions to remove personnel from your inactive list?

Admiral SCHWOB. The authority that the Secretary has to establish boards—we have regulations that set forth the conditions whereby we have a board approximately every year to look over our inactive status list.

Mr. HEYWARD. So you have separate boards in connection with people on inactive status?

Admiral SCHWOB. Yes, sir.

Mr. HEYWARD. In connection with the proposal for a continuation board, I notice there is no restriction comparable to those in the Regular service. Is there a reason for not putting a limitation on the Secretary as to frequency?

Admiral SCHWOB. There is none in the present law. The basic reason is that to start our promotion flow each year in reserve, we have to have a captain continuation board to create the vacancies that will then open up spots for commanders to move to captain and lieutenant commanders to commander and so forth. It has been a procedure we have used successfully over the last several years. We have a continuation board each year to start the promotion flow process.

Mr. HEYWARD. But under the language, you are not limited to one a year. Under this language, you can have 10 a year?

Admiral SCHWOB. Yes, sir, there is no limitation on it.

Mr. HEYWARD. The same officer could face 10 continuation boards in 1 year?

Admiral SCHWOB. Theoretically, yes. Our procedure has been to have one a year to create the vacancies that will start——

Mr. HEYWARD. Don't the Reserve officers object to this possibility even if you haven't done it in the past? There are limitations in the present code in connection with a captain, for instance, who faces a continuation board in the Regular service. The Coast Guard gets one shot at him and he doesn't have to face that board again. You don't think that that is a problem?

Admiral SCHWOB. No, sir, I have not heard any complaints.

Mr. HEYWARD. Have you heard any other complaints from the Reserve officers on these proposals, on any features?

Admiral SCHWOB. From some of the officers that have completed 30 years commission service and would be subject to mandatory retirement as proposed by the new bill, I have heard some complaints—perhaps complaints is too strong a word. I have heard some comments that this would mandatorily end theier active status.

Mr. HEYWARD. The chairman has heard at least one complaint.

Mr. JONES. The acting chairman has had a complaint, too.

Mr. HEYWARD. Is this the same provision as far as the Regular officers are concerned?

Admiral SCHWOB. Yes, sir, also the other Reserve Officer Corps basically have the same requirement.

Mr. HEYWARD. I guess I am leading to the point that as long as you treat the Reserve officers similar to the Regular officers in the promotion selection system, there is less logic in complaints, but when you treat them differently, such as in the continuation board, I wonder why you do it. That is my basic question.

Admiral SCHWOB. The problem would be if we did not have the continuation boards each year and each——

Mr. HEYWARD. I am not arguing about each year. I am talking about the flexibility that you can do it as much as you want to do it.

Admiral SCHWOB. Well, as I say, we have only done it once a year. We have no objection to a once-a-year provision.

Mr. HEYWARD. Thank you, I guess that is the answer I was looking for.

In connection with the revision of the entire chapter, several of the sections are ignored and there are former sections I assume that were repealed. Was there a reason in not renumbering so that you got a single list of numbers in the chapter? In other words, you skip several sections which are skipped in the present title because in the past they were repealed. I haven't looked at each one.

Admiral RATTI. It was the intention that those sections that do not appear are in fact repealed. The bill has an error in that it has a section 2 which specifically repeals two sections. I don't think that section 2 is necessary because those two sections and at least one other are repealed by the failure to include them in the revised chapter.

The numbering system we try to follow as much as possible consists of using just the present numbers without adding new ones unless it becomes absolutely necessary.

Mr. HEYWARD. I assume that if you changed all the numbers, you might have to go back to change all your regulations to reflect the proper numbers?

Admiral RATTI. Yes, sir. I understand that this is the way that the code people want to do it when the United States Code is amended.

Mr. HEYWARD. Is there any objection on your part, assuming it is consistent with the rulings, to list these vacant sections and show them as vacant, for instance, in the title, so that there is no question?

I assume you have no objection, as long as we show, for instance, in the analysis and the list of titles for the sections, simply a vacancy?

Admiral RATTI. I think they haven't ordinarily done that in amendments to the United States Code. We had a few that were listed that way in title 14 previously and we have had those listings specifically repealed, so that the code only shows effective sections and the analysis and index only shows that also.

Mr. HEYWARD. I suppose in the report we could specifically mention all the omitted sections to indicate that they were intentionally omitted?

Admiral RATTI. Yes, sir.

Mr. HEYWARD. And I agree with you. I don't think section 2 is needed.

Admiral RATTI. No.

Mr. HEYWARD. In connection with the provision in section 765 and its relationship to which you called our attention in title 10, section 511, which says that a person enlisted under a new version of that section shall perform an initial period of active duty of not less than 12 weeks, is section 765 inconsistent from the standpoint that you have an amendment to that section?

Admiral SCHWOB. Yes; it provides authority for the Coast Guard to split the initial training period required by 10 U.S.C. 511(d) into two successive annual periods of not less than 2 months each. This permits us to enlist full-time students and spread their initial training over two successive summers without interfering with their schooling. The initial training requirement of section 511(d) was recently reduced from 4 months to 12 weeks. This occurred after our proposal had been sent on for clearance. Although the Coast Guard does not intend to reduce the initial training provided to these reservists, for purposes of consistency between the two laws, it probably would be better to amend 14 U.S.C. 765 to read "not less than six weeks each."

Mr. HEYWARD. Would that occur within 180 days?

Admiral SCHWOB. The initial period would start within 180 days; yes, sir.

Mr. HEYWARD. What you are saying is that you are going to have two 2-week training periods within the 180-day period that is required under title 10?

Admiral SCHWOB. Both periods would not be completed within 180 days. The training that they get now is two, 2-month periods. We would change the wording to read "not less than six weeks each." We would not change our present plans which call for two, 2-month training periods during successive summers.

Mr. HEYWARD. That would make it consistent with the type of training required?

Admiral SCHWOB. Yes; it would make it consistent with the change in title 10.

Mr. HEYWARD. There was one other problem in section 777 in connection with "The selection board shall recommend." I understand you have a proposal to change that.

Admiral SCHWOB. Yes, sir, we propose that the word "recommended" be changed to "reconsidered." This way it would make it clear that the

selection board would not be required to select the officer returning to active status. The officer would have to compete again for promotion.

Mr. HEYWARD. Does that clean up the entire thing "... shall be reconsidered by a selection board subsequent to returning to an active status in order to be placed on a recommended list of selectees for promotion?"

It would seem to me that he would have to be again recommended, would he not?

Admiral RATTI. I think the language could be improved.

Mr. HEYWARD. You want to make it clear that a new board must consider him and recomemnd?

Admiral RATTI. That is right.

Admiral SCHWOB. That is right.

Mr. JONES. Does other counsel have questions?

Mr. OLNEY. Is there a Reserve officers association?

Admiral SCHWOB. Yes, sir, Reserve Officers Association of the United States.

Mr. OLNEY. Did you submit this proposal to the association for their review and comment?

Admiral SCHWOB. Yes, sir, we had the director for Naval and Coast Guard Affairs over to my office and we presented about an hour's briefing on the bill and the ramifications and effects it would have on the Coast Guard Reserve Force.

Mr. OLNEY. Do they support this legislation?

Admiral SCHWOB. Their verbal indications at the time were that they did. They have not indicated any official support in writing. Their verbal indications were that they saw the bill as reasonable and as having some good features.

Mr. OLNEY. You do not know of any objections that they would have at this point?

Admiral SCHWOB. I have not had any objections from them as yet.

Mr. OLNEY. Thank you, Mr. Chairman.

Mr. JONES. My problem was not with commissioned officers, but with a petty officer. He had been very active in the Reserve for 12 or 14 years as I recall the situation. Then the fifth district decided he would become on inactive status due to the fact they had a surplus. So he is still in an inactive status. How does that affect him as to retirements and other benefits which the active Reserves has?

Admiral SCHWOB. If he was not able to complete a total of 20 satisfactory years in participation as a Reservist, then he would not be eligible for any retirement at age 60. One of the problems we have with the Coast Guard Reserve, something that tends to make my job more difficult, is that at the senior ranks in our Reserve force, our active status is limited by the number of senior officers we can have because our requirements are based on our mobilization needs, and we don't need for mobilization as many senior officers as we do junior ones. It means that we have to have a competitive system to provide a promotion flow and I have the difficult task of sometimes seeing very well qualified officers move to an inactive status and yet they are very capable. We just do not have the openings for them in an active status.

It is possible that the petty officer you might be referring to was not actually removed from an active status, but just from a pay billet. He could still remain in an active status and participate in training and earn points so that if he earns his minimum number of points

to qualify for a satisfactory year, he can do this on his own and still build up his potential for retirement at age 60.

Mr. JONES. In other words, he is put on inactive status, but he remains active with no compensation?

Admiral SCHWOB. No; he could stay on an active status, but not be paid. If you would like, I could look into this particular case and look into the details on it.

Mr. JONES. All right.

Admiral SCHWOB. Generally, our enlisted personnel are able to stay in active status to build up enough points if they are interested in participating. We don't have enough money to pay for all this training. Some of the training he would have to do while he was building up these points might be on a no-pay status. I would be very happy to check into this case and advise on it.

Mr. JONES. Thank you very much.

Mr. HEYWARD. For the record, the Reserve Officers Association was contacted. They did not indicate a desire to testify, but I expect them to file a statement for the record.

[No statement was received at the time this hearing went to press.]

Mr. JONES. Any further witnesses to be heard this morning?

If not, then the subcommittee stands adjourned.

[Whereupon, at 11 a.m., the subcommittee adjourned.]

CHESAPEAKE BAY OIL SPILL

THURSDAY, MAY 20, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
Washington, D.C.

The subcommittee met at 10:40 a.m., in room 1334 Longworth House Office Building, Hon. Mario Biaggi, presiding.

Mr. BIAGGI. The meeting is called to order.

This is the first of at least two hearings on oversight of the oil spill in the Chesapeake Bay on February 2, 1976.

In the early morning hours of February 2, 1976, the Coast Guard duty officer in Norfolk, Va., was notified that the Steuart Transportation Barge No. 101, which had been under tow by the Allied Towing Corp. tug *Falcon*, was submerged 3½ miles south of the mouth of the Potomac River in the Chesapeake Bay.

Although no request for Coast Guard assistance was received at the initial call, shortly thereafter a request was received from the tug, *Falcon*, for Coast Guard assistance in grounding the vessel in shallow waters to prevent the barge from sinking completely.

Immediate arrangements were made to dispatch a Coast Guard cutter, but before the vessel was actually underway, information was received that a commercial tug was close to the scene and that the Coast Guard cutter assistance was not necessary.

From that early, rather routine beginning, the incident developed into a pollution problem of major proportions. The first indications were that there was minimal oil spill involved in the barge casualty, and consisted primarily of leakage from the vents on the partially submerged barge.

Later developments demonstrated that the situation was substantially different. The ultimate estimate of the amount of oil spilled from the barge cargo was approximately 250,000 gallons and the shorelines on the western side of the bay between the Potomac and York Rivers were polluted, as well as the opposite shorelines on the Eastern side of the bay.

The oil consisted of No. 6 heating oil being transported from the Amoco Refinery at Yorktown, Va., to the Amoco terminal at Baltimore, Md.

The incident has raised many serious questions. The purpose of this hearing, which was called pursuant to the request of the Honorable Thomas N. Downing, will seek some answers to those questions. Mr. Downing's interest is obviously not only in the overall problem, but is connected with the fact that the impact of the oil spill was felt primarily in the waters and shorelines of his district. Today, we will

hear from witnesses representing the Coast Guard and the Fish and Wildlife Service.

The Coast Guard's involvement flows not only from its responsibility in connection with vessel inspection for vessels carrying oil in bulk, but also in connection with its role as the responsible agency, under the National Oil Pollution Contingency Plan, to coordinate necessary Federal efforts for the removal of oil and hazardous materials which are spilled in our coastal waters.

The subcommittee will also hear today from a representative of the U.S. Fish and Wildlife Service, which is involved under the National and Regional Contingency Plans, in connection with the mitigation of damages to wildlife resources.

The subcommittee has been furnished with a copy of the report of the Coast Guard investigating officer who investigated the casualty of the tank barge, STC–101, as well as with a copy of the on-scene coordinator's report, based upon the actions taken under the National and Regional Contingency Plans. At an appropriate point, I will ask unanimous consent for the inclusion of parts of those two reports in the hearing record.

And now, I would like to recognize members of the subcommittee for any remarks that they may wish to make at this point.

With their indulgence, however, I will first recognize the gentleman from Virginia, Hon. Thomas N. Downing, at whose request this hearing was originally scheduled.

STATEMENT OF HON. THOMAS N. DOWNING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. DOWNING. Thank you very much.

Mr. Chairman, I would like to take this opportunity to commend you and your subcommittee for the leadership role it is taking here today in addressing a problem of significant proportions—oil pollution of the Nation's waterways.

The incident that precipitated these proceedings, the spillage of 250,000 gallons of oil into the Chesapeake Bay early last February, has implications that reach far beyond the shores of the bay. I think there are too many people in this Nation who all too often dismiss occurrences of this type as fodder for hysterical environmentalists. In reality, though, the economic side effects of a major oil spill such as the one in question can be pervasive and disastrous.

By no means secondary is the loss of wildlife and destruction of valuable water and marsh areas necessary to maintain an ecological balance.

I believe the Coast Guard will tell us today that 249,838 gallons of bunker C fuel oil seeped into the bay from the Steuart Petroleum Co.'s barge STC–101 and that the efforts to recover that oil and repair the damage have cost $395,385.84 as of yesterday afternoon.

I think what we are going to hear today will be a carefully reconstructed chronology of what happened during the early morning hours of February 2. We shall hear how the barge STC–101 was loaded at the Amoco refinery in Yorktown, Va., and proceeded up the bay toward Baltimore carrying 19,531 barrels of oil. The barge encountered heavy weather on the voyage which caused it to take on water and sink. What happened as a result of that needs no elaboration from me.

I requested these hearings, Mr. Chairman, because of many nagging questions that kept coming back to me day after day as the story of this spill and its magnitude unfolded and advanced.

For the record, I am told that this spill is the largest ever in the history of the Chesapeake Bay and certainly one of major proportions on a national scale.

One of the things that has troubled me about this occurrence is the question of immediacy of response and effectiveness of on-the-spot containment and cleanup efforts.

I want to make it clear that I am not going to sit here and impugn or take pot shots at any particular agency, whether Federal, State, or local, but I feel there might be some type of general communication problem among some of the agencies that responded. It appeared at first that through some confusion, or lack of communication, word that an oil-laden barge had gone down in the bay did not spark immediate, appropriate response.

I am well aware that the weather conditions at the time the barge sank created quite a problem in locating the oil because the density of the oil was greater than that of the water, forcing it to float just below the surface and keeping it virtually invisible, even from helicopter overflights. When I asked about this last February I was told that the techonology simply does not exist whereby cleanup crews and containment crews could detect the oil under the conditions that existed.

I am interested in finding out if it is feasible, technically and economically, to develop whatever devices or methods that would be needed to locate underwater patches of oil.

I do not know whether this could be done through some type of photosensitive device or radar or sonar, but it seems to me that if we can locate hidden enemies from the air or underwater, we should be able to locate an oil slick.

Two weeks ago a very expensive hydraulic model of the Chesapeake Bay began operating at Kent Island, Md. The 9-acre model, now beginning a year of final tuning and testing will be able to duplicate almost foot-for-foot the tides, currents, and salinity of the bay itself. I am told it may be feasible to develop some type of material with the characteristics of oil that could be spilled onto the model at any point corresponding with an actual spill, allowing salvage and cleanup experts to see where tides and currents might take the oil.

Cleanup crews could then anticipate the arrival of spilled oil at any point around the bay. I would be most interested in seeing this possibility pursued.

Turning from the technical considerations, Mr. Chairman and gentlemen, I want to point out that while there was no loss of human life in this incident, more than 50,000 wildfowl died from the effects of oil. The implications of this type of wholesale slaughter need no amplification here, I am sure.

Beyond that, I am concerned with the apparent absence of any legal method to affix responsibility for the loss of wildlife. Perhaps that could be explored here as well.

Also threatened, of course, were the extensive shellfish beds and fish resources of the bay. The Cheasapeake Bay is the largest estuary in this Nation, and maintaining it without the continual insult of man's polluting activity is absolutely necessary for its survival. As a

source of fish and shellfish, and as a spawning and nursery ground for fish that are caught elsewhere, the value of the bay is unparalleled.

Illustrative of this is an observation made during a recent tour of the bay by a high-ranking Japanese official who said that if his nation had a body of water comparable to the bay, Japan would never again have to worry about food supplies.

The scientific study and analysis of the impacts on the bay of everyday activities which will be made available by the model at Kent Island will have little value to us if we can't do something about preventing major transportation incidents on the bay itself, which result in massive pollution.

It seems to me that we should address our attention not only to the question of how we can prevent a repetition of incidents of this type, but also to assure that when, despite the most complete preventive program, incidents do occur through accident or negligence, that the appropriate resources are available and instantly ready to respond, in order to contain and remove the spill before it can do substantial damage.

Furthermore, we must assure ourselves that the persons responsible for oil spill incidents are held accountable for their acts and that the innocent parties damaged can receive prompt compensation for those damages without the necessity of long drawn-out litigation.

In the latter respect, Mr. Chairman, there is pending before this subcommittee proposed legislation to create an oil pollution liability and compensation fund. I understand that markup sessions will begin on that legislation next week. I urge the subcommittee to take action on those proposals at the earliest possible date, so that this void in our present protection is filled.

I look forward to hearing the testimony today from the agency witnesses, and I hope that they will be prepared to make recommendations to improve the situation in oil spill prevention and detection as well as the cleanup aspects.

I also look forward to hearing testimony tomorrow from Virginia State officials and Chesapeake Bay interests for their reactions to this incident and any proposals they may have to offer.

Thank you again, Mr. Chairman, for arranging for these hearings and further, for permitting me to take part in them, although I am not a member of this subcommittee. I know that you and members of the subcommittee share with me the concern I have that incidents of this type not reoccur.

Thank you.

Mr. Biaggi. Thank you, Mr. Downing.

Your interest in the overall problems is reflected in the records of this committee and, certainly, the Congress, and it is understandable how more acutely that interest is developed when it touches on your own district. For that reason, we have responded out of respect for your general interest in the orderly and rational, reasoned approach to these things.

It is the intent of this subcommittee to pursue with diligence this type of problem.

As I said earlier, there are obviously some important questions, and answers must be found.

Mr. de la Garza, do you have any questions?

Mr. DE LA GARZA. No questions.

Mr. BIAGGI. Mr. Studds?

Mr. STUDDS. I would just very briefly like to congratulate Mr. Downing for asking for these hearings.

As Mr. Downing points out, this incident raises precisely and dramatically the issues that this subcommittee has to address itself to—the adequacy of liability, with or without limits.

I would like to hear the comments of the State officials from the States of Virginia and Maryland.

This subcommittee holds a heavy responsibility to resolve this problem, particularly with the advent of major offshore drilling in the offshore areas.

The effect of a spill on marine life can be devastating.

We don't even remember it, but we had a relatively small spill years ago and scientists are still trying to calculate the damage done to society.

Thank you.

Mr. BIAGGI. The first witness today is Hon. Gilbert Gude, a Member of Congress from the 8th District in the State of Maryland.

STATEMENT OF HON. GILBERT GUDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GUDE. Good morning, Mr. Chairman.

I certainly appreciate the opportunity to testify before your committee and I want to thank Congressman Downing because I know, through his concern and his interest, these hearings have come about.

I am not a newcomer to the concern about these oil spills in the Chesapeake Bay and its tributaries.

In the early 1970's, following several oil spills, some of which occurred in the estuary of the Potomac River, I did a detailed study and I was pleased at that time that there were efforts going forward to limit oil spills and also to prevent oil spills.

It doesn't look like the activities were enough, though.

The controversy surrounding the action taken by Federal officials in responding to the Chesapeake Bay spill is indicative that the Federal response was not all that it should have been, particularly in that the various agencies had been working for several years developing ways to control and stop spills altogether.

The fact that the spill occurred at all was, of course, a disappointment as Mr. Downing has pointed out to those who treasure the queen of America's estuaries for its esthetic and biological resources.

Hopefully, these hearings will lead to a full examination of why the spill occurred and how the Federal Government can better cope with future accidental spills either on the bay or in other estaurinne waters. We cannot undo what has been done, but we can act competently to improve our future response to similar situations. This, I believe, is a worthy goal for this committee to pursue.

My remarks will be confined to three areas of concern.

First, I shall address the question of the effectiveness of the Federal response to the spill; the record shows there are many points that should be thoroughly examined. Second, I will discuss several needed changes in law and policy which will improve environmental protec-

tion of the bay. Third, I wish to briefly discuss the relevance of the bay spill to oil spill liability and compensation legislation pending before the Coast Guard Subcommittee, a topic which I have previously addressed in a letter to subcommittee members.

My review of the Coast Guard's on-scene coordinator's report has raised a number of disturbing questions about the Coast Guard's competence in handling the spill and about the National Oil and Hazardous Substances Pollution Contingency Plan as a reliable blueprint for spill identification, containment and cleanup. Although it is easy to assess errors in judgment after the fact, it is nevertheless this committee's responsibility to do so, if the Coast Guard and other Federal agencies are to fulfill their legal mandate of protecting America's environment from oil spills.

I think it is now obvious that the Coast Guard made serious errors in assessing the nature of the threat posed by the sunken barge. A barge with a capacity of 20,000 barrels sunk vertically in a heavy storm must be characterized as a potential major discharge under the National Contingency Plan (40 CFR 1510.5). As such, the on-scene coordinator is required to activate the regional response team automatically (40 CFR 1510.34(d)). In fact, the regional response team was not activated until February 10—8 days after the spill was reported and only then at the request of EPA.

Although it is speculative how the regional response team might have changed the course of events, at least the opinions and expertise of other team members as to the gravity of the situation may have been forthcoming.

I understand that EPA in its work with a spill of bunker C fuel oil in San Francisco Bay in 1972, has some knowledge and expertise and I believe would have been very helpful in dealing with this particular spill in the Chesapeake Bay.

As it was, the Coast Guard officials exhibited a remarkable lack of curiosity about whether any oil might have spilled in the progress of the barge's sinking in a severe storm; whether spilled oil might possibly be dispersing just below the water surface rather than on the surface; if beneath the surface, where and under what conditions the oil might appear; and what resources might be threatened. Instead, the Coast Guard was content with the fact that no oil was seen leaking from the sunken barge nor visible on surface waters. At no time during the course of the spill did the Coast Guard evidence any understanding of the nature of the oil with which they were dealing nor its behavior under various temperatures and weather conditions, either in the barge, or in the bay. This seems strange in view of the fact that the National Contingency Plan requires the establishment of a technical library of pertinent pollution (annex XV–2500) control documents at the National and Regional Response Control Centers' and that No. 6 fuel oil is a major petroleum product shipped on tankers and barges.

We know now through painful experience that No. 6 fuel oil evidently floats out of view under the right water temperature conditions. If this information was known beforehand, then someone failed to get it down to the operating level. If it wasn't known beforehand, then it seems mandatory that a field manual be prepared immediately which will catalog the nature and behavior of the most common petroleum products and other hazardous substances shipped in bulk. I am

also curious as to what research is being done by the private sector or Government in order to increase our understanding of oil and hazardous products in a spill situation.

I find it equally disturbing that no Coast Guard official evidently appeared at the sunken barge until February 4; that Steuart Transportation Co. aircraft could make two over-flights of the barge and surrounding area on February 2, but the Coast Guard couldn't get airborne until February 3; that on February 4 when salvage began, the salvage company diver neglected or deliberately failed to notify the Coast Guard that he closed four cargo tank expansion trunk hatches on the barge, and tightened others found loose, nor did the Coast Guard evidently ask the diver whether any hatches were open; that the Coast Guard did not use the divers of its own strike team established under the National Contingency Plan to verify the condition of the barge; and that it took 12 days after sinking to accurately determine how much oil had actually been lost.

I hope this committee will take a closer look at each of these actions.

Another major concern is the course of events regarding wildlife protection after the spill. Provisions of the National Contingency Plan are inconsistent and incomplete regarding protection measures to be followed and should be revised by the Council on Environmental Quality. Phase III "Containment and Countermeasures" (40 CFR 1510.43), for example, does not mention the goal of wildlife protection. On the other hand, phase IV "Cleanup and Mitigation" (40 CFR 1510.44) does refer to "special treatment techniques to protect * * * wildlife resources from continuing damage."

This seems to be a misplacement of emphasis. It is clearly recognized that the best way to protect wildlife is to scare them away from areas threatened with contamination with noise making or other devices. Once birds are coated with oil, their chances for recovery are slim.

Furthermore, the Fish and Wildlife Service has no current research program to discover better ways of savings birds once coated with oil. Consequently, I hope this committee can explore the state of the art regarding bird dispersal technology and methods; whether these should be part of the contingency plan; and whether or not further research is needed in this area.

The actual performance of Federal and State agencies with regard to wildlife protection after the spill seems abysmally poor.

The National Contingency Plan requires Department of Interior representatives and State liaison to the regional response team to "arrange for and coordinate actions of professional and volunteer groups that wish to establish bird collection, cleaning and recovery centers."

It also requires that "Regional Contingency Plans, shall to the extent practicable, identify organizations or institutions that can and are willing to establish and operate such facilities" under phase IV of the Regional Contingency Plan (40 CFR 1510.46(b)). Furthermore, annex XI–2130 of the national plan requires that the regional plan establish procedures prepared with State assistance to organize and employ volunteers arriving at the scene of a spill in worthwhile fashion.

What actually happened? The Coast Guard report states that "Contingency planning conferences prior to this spill addressed the water-

fowl problem but specific pre-planning to deal with the waterfowl situation was not formulated" (p. 94).

In other words, the regional plan did not comply with Federal regulations.

The result, according to a Washington Post report of February 13, 1976 ("Birds a Cause to Some * * *" by Jane Seaberry) was disorganization and confusion. Few birds brought in by volunteers survived. "The major problem," stated M. E. Johnson of the Norfolk SPCA, "is that nobody knows what to do."

According to the Coast Guard report—P–94—the appropriate State of Virginia officials were notified of the magnitude of the spill and potential threat to waterfowl on February 6. State and Federal officials were notified on February 8. I leave it to this committee to evaluate the effectiveness of the State and Federal responses to these notifications.

Compounding its errors of judgment and failures to comply with certain provisions of the national contingency plan, the Coast Guard has done little to objectively evaluate the performance of all agencies in the bay spill and to present meaningful recommendations as to how the regional and national plans can be improved.

Appendix V–1504 of the national plan lists a number of highly specific requirements that the Coast Guard report must fulfill. While the report does make some recommendations, it is virgually silent on requirements to evaluate the effectiveness of response and removal actions by the discharger, State and local forces, Federal agencies, and special forces.

Without such evaluation, the national response team can hardly meet its requirements under the national plan to recommend needed policy changes in the response organization, revise the national plan as needed, and evaluate the preparedness of agencies and plans relevant to oil spill control—Annex II–1203.1.

I hope this committee will do what it can to insure the current report is revised to comply with the requirements of the national contingency plan so that we may learn effectively from this incident.

If the Coast Guard is incapable of adequately performing this function, then I suggest the committee give serious consideration to requesting a GAO investigation of the spill with the objective of making specific recommendations for national plan revision and management improvement. We simply cannot lose this opportunity to learn from the mistakes of the past.

With regard to needed changes in the law to provide better oil spill prevention, and I think this committee will agree that prevention should be our major goal, I direct the committee's attention to two areas of investigation.

First, I was startled to learn from the Coast Guard report that STC–101 after being fully loaded at Yorktown, Va., set sail with a freeboard of 1 foot or less—P5. Although I am not a design expert it is obvious that in rough weather a barge with such little freeboard is subject to wave action over the deck and may be swamped more easily than if the freeboard were greater.

It is my understanding that there are Federal laws which regulate cargo loadlines for foreign vessels, but not for nonoceangoing barges on inland waters. Consequently, I believe the committee should explore the potential spill hazard posed by barges with unregulated loadlines.

Second, I cannot help but wonder why a nonself-propelled barge with a freeboard of 1 foot or less, should be allowed to transit the bay under adverse weather conditions which greatly increase the potential for a spill. I realize that the weather became rougher than expected at the time of sailing.

It would be interesting to know whether the tug could or should have found safe harbor until the storm has passed. Steuart Transportation Co. did suggest that Allied Towing Co. may have been negligent in proceeding on a voyage despite gale warnings—P 58.

The question I raise is, why shouldn't the transport of oil and other hazardous products be more stringently regulated by the Coast Guard during adverse weather conditions?

In my opinion, the situation is analagous to regulation of air traffic during bad weather for safety purposes. If our goal is to protect the bay and other U.S. waters from future spills, then I think we must get serious about what types of cargo can be shipped across the bay in various types of vessels and under what weather conditions.

The Coast Guard has broad authority to effect such regulation now under section 101(3) of Public Law 92–340 but has failed to promulgate final regulations for tank vessels or barges.

Furthermore, Coast Guard district commanders and port captains have this regulatory authority delegated to them—33 CFR 160.35. Such regulation need not unduly restrict commerce, and would undoubtedly lessen the risk of future spills.

I hope this committee will closely examine the need for stricter vessel regulation in the bay during adverse weather conditions.

In closing, I once again call this committee's attention to the fact that current oil spill liability legislation does not adequately place the burden of cleanup costs on the spiller of oil, but rather on the public at large.

In this instance, the barge is liable for $122,300 or one-third of the cleanup costs of $380,000. Who pays the balance? The American taxpayer.

H.R. 12347, now pending before the Coast Guard Subcommittee, requires the discharger of oil to pay full cleanup costs and establishes no fault damage liability of $150 per gross ton of vessel.

I support this bill because it most competently addresses the issue of preventing environmental damage by placing maximum incentives on potential dischargers to prevent oil spills.

If the administration proposal H.R. 9294, were applied to the Bay spill, spiller liability would be limited to $183,450 for both cleanup costs and damages, or roughly half the Bay spill cleanup costs alone. While it is true that a general fund estabished by H.R. 9294 would pay the balance of cleanup costs and damages not covered by the discharger, I believe it is bad policy to remove pollution control costs from the discharger.

The Federal Water Pollution Control Act Amendments of 1972—Public Law 92–500—established the principle that the costs of preventing pollution were to be assumed by industrial polluters as another cost of doing business.

I see no reason why the maritime industry should be treated differently.

Thank you.

And, Mr. Chairman, I would like to submit correspondence that I have had with the Coast Guard in regard to this incident and also correspondence from the Fish and Wildlife Service, in regard to this matter.

I should like to submit these for the record.

Mr. BIAGGI. That correspondence will be entered into the record.

[The correspondence referred to above follows:]

APRIL 7, 1976.

Adm. OWEN W. SILER,
Commandant, U.S. Coast Guard,
Washington, D.C.

DEAR ADMIRAL SILER: The recent spillage of 250,000 gallons of No. 6 fuel oil in the southern half of the Chesapeake Bay legitimately has raised numerous questions regarding the effectiveness of the National Contingency Plan for containing and removing oil spills, and the competency of the Coast Guard in dealing with this particular spill. In addition, the circumstances surrounding the sinking of the barge have led me tentatively to conclude that the Coast Guard should control more rigorously the shipment of oil and other hazardous materials in U.S. waters during adverse weather. Spills such as that which occurred in the Chesapeake are too environmentally detrimental to be tolerated.

It is my understanding that the House Merchant Marine and Fisheries Committee will be holding hearings on the Chesapeake Bay spill sometime in May. In connection with that hearing, I have asked the Committee to examine three major concerns:

(1) The adequacy of spill identification techniques utilized by the Coast Guard.

(2) The adequacy of the wldlife protection portion of the National Contingency Plan and its implementation.

(3) Use of the Ports and Waterways Safety Act (PL 92–340) to more stringently control the transit of oil on the Bay and other inland water bodies during adverse weather conditions.

To better prepare for these hearings, I would appreciate receiving a report from the Coast Guard no later than April 28, which addresses the following points:

(1) Spill identification techniques.

a. Enumerate the basic steps the Coast Guard follows in locating and identifying reported oil spills and the techniques used.

b. What were the exact steps taken by the Coast Guard and all other persons involved in the Chesapeake Bay spill to search for, locate, and identify oil from the sunken barge? What was the effectiveness of these steps? Why did it take so long to determine that oil had spilled in large quantities?

c. Does the Coast Guard have a manual which describes the nature and behavior of various petroleum products in marine waters under various conditions of temperature, wind, wave and tidal action?

d. Would the existence of such a manual facilitate the location and identification of suspected or reported oil spills? How might such a manual be useful in more quickly locating and identifying a spill similar to that which occurred in the Bay?

(2) Wildlife Protection.

a. Describe the National Contingency Plan program for protecting wildlife, particularly waterfowl, from contact with spilled oil. Include a description of the roles various federal, state, local, and private agencies play in this plan. Also, describe available technologies for frightening birds away from oil contamination areas.

b. Once birds have been coated with oil, what are the techniques for cleaning them, and how successful are these techniques? Which agencies are responsible for the bird rescue operations? Who pays for oil removal operations?

c. What is the final estimate on bird deaths from the spill, by species? What is the estimate on additional probable deaths?

d. In light of the Coast Guard's experience with the Chesapeake Bay spill, what recommendations for change would you make regarding wildlife protection and oil removal operations? Do you have the funds to implement these changes?

(3) Regulating the shipment of petroleum products under adverse weather conditions.

a. What action has the Coast Guard taken under Sections 101 and 201 of PL 92–340 to regulate the shipments of oil and other hazardous materials in bulk by U.S. vessels during conditions of adverse weather? What actions have been taken to regulate foreign vessels?

b. Do you construe PL 92–340 to give the Coast Guard authority to prohibit or regulate the movement of vessels carrying oil, etc., in America's water's estuaries during adverse weather conditions? If you do not believe that such authority is given by PL 92–340, would you recommend that new legislation be passed in view of the Chesapeake Bay spill and other spills which have occurred in adverse weather?

c. What other laws and regulations give the Coast Guard authority to prohibit or regulate vessel movements of any kind other than PL 92–340. Under what conditions are such movements regulated or prohibited?

d. What specific regulations peculiar to Chesapeake Bay have been promulgated or proposed to protect it from oil spills?

In providing the requested information, please be as specific as possible. I would also appreciate your citing all pertinent legislation, regulations, and documents upon which your answers are based.

Your prompt response to this request is appreciated. Please have your staff contact my assistant, Mr. William Chandler (225–4244) for further information.

Sincerely,

GILBERT GUDE,
Member of Congress.

MAY 19, 1976.

Subject: Reply to Congressman Gude's letter of April 7, 1976 concerning Chesapeake Bay Oil Spill.

Hon. GILBERT GUDE,
House of Representatives,
Washington, D.C.

DEAR MR. GUDE: This is in reply to your letter of 7 April 1976 requesting information on the recent Chesapeake Bay Oil Spill, spill identification techniques, wildlife protection under the National Contingency Plan and use of the Ports and Waterways Safety Act (PL 92–340).

Specific information on the Chesapeake Bay Oil Spill is detailed in the enclosed On-Scene Coordinator's report and the Casualty Investigation Findings. The report includes the steps taken to locate and identify the oil after the discharge was reported. It should be noted that the initial report to the Coast Guard was a request for assistance which was later cancelled. A subsequent notification stating that a discharge had resulted from the incident prompted an investigation to determine the extent of the discharge.

Studies have been conducted for the Coast Guard to determine the fate and behavior of oil on water in wind, wave and tidal conditions but they have not been promulgated to Coast Guard field units in a manual format. The studies have been used for information in the development of response equipment and surveillance and monitoring techniques. Rather than the development of numerous weather condition models requiring very specific and highly variable on scene information to determine the movement of oil, the Coast Guard has directed its efforts at the development of electronic equipment to locate and monitor discharged oil. Reports outlining these efforts are enclosed.

The National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 1510) does not outline a program for protecting wildlife from contact with oil spills. However, it must be understood that the purpose of the plan as developed by the Council on Environmental Quality is only to provide for a pattern of coordinated and integrated response by Departments and Agencies of the Federal Government to protect the environment from the damaging effects of pollution discharges. In recognizing the authorities of many Federal agencies the plan requires that these agencies make their specific expertise available to the On-Scene Coordinator on a regional level. The plan also invites and encourages non-Federal and private agencies to make resources available on a regional level. Under the plan the Department of Interior, having authority for wildlife protection, is required to provide this expertise to the On-Scene Coordinator.

In order that your specific questions on wildlife protection be answered, a copy of your letter has been forwarded to the Department of Interior, Office of Migratory Bird Management, Fish and Wildlife Service, for direct reply to you.

Under Section 101 of PL 92–340, no regulations have been issued or proposed that are specifically intended to govern the shipments of oil and other hazardous materials in bulk, by U.S. or foreign vessels, during conditions of adverse weather. The Coast Guard does construe PL 92–340 to contain such authority. Nevertheless, the efficacy of such action is highly questionable. As a practical matter, it is not possible to establish a system of review, wherein every vessel movement is evaluated by the Coast Guard with respect to the ability of the vessel to cope with the weather conditions forecast to be encountered along the vessel's proposed route. This always has been, and must remain, the primary responsibility of the vessel's master. Even if this responsibility were shifted from the master to the Coast Guard, it would not account for those situations where the hazardous weather conditions are not forecast. In the case of the STC–101 sinking on Chesapeake Bay, the weather conditions actually experienced were far more severe than those forecast by the National Weather Service. Nevertheless, the vessel left port during favorable weather conditions, and the forecast at that time was for winds of 15 to 30 knots with stronger gusts—conditions that should have been well within the normal sea keeping capabilities of the tug FALCON and tank barge STC–101.

Consequently, the approach to preventing oil spills occasioned by hazardous weather lies not in the direction of traffic management techniques under the provisions of Section 101, but by using the provisions of Section 201 that address the construction standards of tank vessels, and the operating procedures followed.

Under Section 201 of PL 92–340 the Coast Guard requires that vessels be suitably built, equipped, and manned for the environmental conditions which are likely to be encountered on the trade route on which the vessel operates. This has been the traditional thrust of safety regulations, classification society requirements, and insurance underwriter's efforts. The enclosed Report to Congress on "Activities relating to Title II, Ports and Waterways Safety Act of 1972" dated January 1976 outlines the actions taken by the Coast Guard under the provisions of Section 201 of the Act. None of the rules proposed to date relate directly to the question of restricting movement of vessels carrying oil during adverse weather. The various categories of factors involved in improving system performance and the idea of restricting vessel traffic locally during periods of limited visibility are discussed on pages 12–14 of the report. Regulations published to date have been aimed at reduction of oil outflows from routine operations, such as tank cleaning, deballasting, cargo transfer, and improvements to stability and damage resistance requirements for tank vessels. The most recent regulations may be found in Appendix I of the report; these regulations are discussed at greater length on pages 49–50 of the enclosed "Final Environmental Impact Statement, Regulations for Tank Vessels Engaged in the Carriage of Oil in Domestic Trade."

In addition to PL 92–340, the Magnuson Act (50 USC 191) as implemented by Executive Order 10173 authorizes the Coast Guard Captain of the Port to supervise or control the movement of any vessel in the territorial waters subject to his jurisdiction in order to prevent damage or injury to any vessel, waterfront facility or waters. The regulations are contained in 33 CFR Parts 6, 124–126.

Vessel movements are controlled under authority of the Magnuson Act and Executive Order 10173 whenever the COTP determines an area is hazardous, or that hazardous circumstances exist. Examples are: closing a pier or ordering vessels away from a pier in case of a vessel or facility fire, or leaking of hazardous cargo on the pier; authorizing a vessel to load a hazardous cargo only at a particular anchorage or pier; terminating cargo operations whenever a vessel or pier facility is found to have on board, or be loading, incompatible cargoes of particular hazard or hazardous cargoes; and, closing a portion of a waterway due to a vessel casualty, pollution incident, or threat of terrorist activities.

In addition, a special case exists regarding the St. Marys River. 33 USC 474 is "an act relating to the anchorage and movement of vessels on the St. Marys River" (MAR 6 1896, C.49, 29 STAT 54–55). The regulations are contained in 33 CFR 92 "Anchorage and Navigation Regulations; St. Marys River, Michigan." These apply to such items as the routing of traffic through channels; communications with visual stations; anchorages; closure of a channel or channels by reason of ice, visibility, or other impediment to navigation; and, facilitation of lockage. These regulations apply to all vessels at all times using the St. Marys River and are enforced specifically by the Captain of the Port, Saulte Ste. Marie, Michigan through the St. Marys River patrol.

No specific regulations peculiar to Chesapeake Bay have been promulgated or proposed to protect it from oil spills.

If we may be of further assistance, please do not hesitate to ask.

Sincerely,

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, D.C., May 19, 1976.

Hon. GILBERT GUDE,
House of Representatives,
Washington, D.C.

DEAR MR. GUDE: The U.S. Coast Guard has referred your letter of April 7, 1976 requesting information on the Chesapeake Bay oil spill to the Service for response to the questions concerning wildlife protection. I apologize for the delay in this response, but unfortunately did not receive the letter from the Coast Guard until Friday, May 14. Due to the imminence of the oversight hearings on May 20 and the volume of information requested, this response will be somewhat abbreviated with several attachments for your information and use. This will be followed up with more detailed information that will require additional time to compile. The following information addresses each of your specific questions under (2) Wildlife Protection:

a. Describe the National Contingency Plan program for protecting wildlife, particularly waterfowl, from contact with spilled oil. Include a description of the roles various Federal, State, local, and private agencies plan in this plan. Also, describe available technologies for frightening birds away from oil contamination areas.

Sections 1510.22(f), 1510.22(m) and 1510.46(b) of the national plan summarize the responsibilities of various agencies, particularly Federal agencies with regard to fish and wildlife protection. These sections are reproduced below:

Section 1510.22(f)—Federal responsibility

"The Department of Interior, through the USGS, supplies expertise in the fields of oil drilling, producing, handling. . . . Additionally, the Department of the Interior will provide, through its Regional Coordinators, technical expertise to the OSC (On-Scene Coordinator) and RRT (Regional Response Team) with respect to land, fish and wildlife, and other resources for which it is responsible."

Section 1510.22(m) states that

"All Federal agencies are responsible for minimizing the occurrence of discharges and for developing the capability to respond promptly in cases of discharges from facilities they operate or supervise, and for making resources available for Federal pollution response operations."

Section 1510.46(b)—Special Considerations, Waterfowl Conservation

"Oil discharges, particularly in estuarine and near-shore areas, often cause severe stress to resident migratory bird species. The DOI representatives and the State liaison to the RRT shall arrange for and coordinate actions of professional and volunteer groups that wish to establish bird collection, cleaning and recovery centers. Regional contingency plans shall, to the extent practicable, identify organizations or institutions that can and are willing to establish and operate such facilities."

Basically, the Department of Interior, through the Fish and Wildlife Service, is responsible for providing expertise to the Coast Guard or EPA On-Scene Coordinator (OSC) on matters pertaining to protection of fish and wildlife resources, and, with the State liaison, coordinating the efforts of professionals and volunteers who wish to salvage and attempt to rehabilitate affected waterfowl. According to the plan, the State has a similar function which, in the case of the Chesapeake spill, the Virginia State Water Control Board and State Game and Inland Fisheries Commission assumed these responsibilities. Private agencies and organizations play a major role through involvement of volunteers, particularly during bird rescue and rehabilitation operations. The Norfolk and

Northampton chapters of the Society for the Prevention of Cruelty to Animals (SPCA) were the leaders in the bird rescue and cleaning program on the Chesapeake spill.

In order to expedite the transmittal of this information, I am enclosing several publications which describe techniques for frightening birds from spill sites and techniques and materials available for cleaning oiled birds, as well as relative effectiveness of various techniques.

b. Who pays for oil removal operations?

The national plan provides for a revolving contingency fund to reimburse agencies for oil removal operations. We understand that the responsible party is required to reimburse this fund if it is utilized during a spill. The Fish and Wildlife Service has been reimbursed for at least a portion of its expenditures during cleanup operations. However, the fund is not available to agencies for stockpiling equipment for use in case of a spill. We assume the Coast Guard has responded in greater detail as to the payment for oil removal efforts.

c. What is the final estimate on bird deaths from the spill, by species? What is the estimate on additional probable deaths?

According to reports from various reputable observers, approximately 10,000 affected waterfowl were picked up, most of which were either dead or died soon after, another 10,000 or 20,000 waterfowl and other waterbirds may have died but were not found or picked up due to the difficulty in finding such birds in inaccessible locations. Dr. Marvin Wass, ornithologist at the Virginia Institute of Marine Science, provided information to us on the species composition with numbers of birds affected by the spill including both those found dead and those picked up alive but oiled. This information is contained in Attachment 1.

d. In light of the Coast Guard's experience with the Chesapeake Bay spill, what recommendations for change would you make regarding wildlife protection and oil removal operations? Do you have the funds to implement these changes?

In dealing with future oil spills and discharges of other hazardous substances, the Service believes that much greater emphasis should be placed on preventive actions—prevention of spills initially and, in the event a spill occurs, prevention of serious impacts to fish and wildlife resources. Salvage and rehabilitation of birds and other wildlife after the fact is generally not an effective solution to protecting and maintaining these resources, although such actions have high visibility and are likely to be readily noted by the public. Therefore, from a public relations standpoint particularly, bird collection and rehabilitation operations are a necessity and should continue to be incorporated into national and regional contingency plans.

The following suggestions are provided for your information and use concerning future oil-related mishaps:

1. Petroleum transportation corridors should be routed to avoid ecologically sensitive areas where possible and to avoid certain areas during certain seasons of the year, e.g., areas where large concentrations of waterfowl occur during the winter period, or islands supporting large numbers of colonial nesting migratory birds.

2. Improve inter- and intra-agency communication and coordination in the event of a spill to provide for more rapid deployment of equipment and personnel. This should include improved methods of communication among participants during cleanup operations.

3. Maintain stockpiles of supplies in strategic locations needed for rapidly cleaning up spills and affected wildlife. This is currently done to some degree; however, proper facilities and supplies for salvaging and rehabilitating contaminated birds, for example, are not generally included in current stockpiles.

4. Develop and/or employ non-toxic oil dispersants that will rapidly disperse oil yet not seriously affect fish, wildlife, or vegetation in the process. It is our understanding that such materials have been developed but are not generally available or approved for this purpose.

5. Develop and employ improved techniques for repelling birds from contaminated sites.

6. Develop and employ improved techniques for rapidly recovering discharged oil before serious damage to fish, wildlife, or habitat occurs.

7. Develop improved technology for collecting and rehabilitating oiled birds under various conditions and types of petroleum products involved.

8. Develop and train a mobile force of volunteers that could carry out bird cleanup and rehabilitation operations.

9. Clarify funding sources and availability for use during spill incidents. We understand that confusion often exists as to whether or not an agency will be

reimbursed for expenditures related to a spill, a situation which may restrain or delay deployment of adequate equipment and manpower in the event of a serious spill. Grants to the States earmarked for activities related to oil spills may be desirable in order to achieve the necessary level of preparedness and deployment.

10. The public should be informed as to the probable success of bird salvage and rehabilitation efforts anticipated during various types of spills.

We hope this brief report will be useful to you and the Committee during the upcoming oversight hearings and future reference. We are pleased to have the opportunity to address this serious incident. If I or my staff may be of further assistance in this matter, please feel free to contact us.

Sincerely yours,

WALTER R. MCALLESTER,
Acting Associate Director.

Enclosures.

ATTACHMENT 1

SPECIES COMPOSITION AND NUMBER OF WATERFOWL AND OTHER WATERBIRDS KNOWN TO HAVE BEEN AFFECTED DURING THE FEBRUARY 1976 CHESAPEAKE BAY OIL SPILL INCIDENT[1]

Species	Found dead	Found alive but oiled
Eastern Shore:		
Grebe (horned)	4,123	295
Oldsquaw	2,405	795
Ruddy duck	96	10
Bufflehead	82	11
Loon (common)	174	15
Goldeneye	16	0
American coot	1	0
Surf scoter	352	193
White-winged scoter	7	1
Common scoter	20	0
American widgeon	2	0
Canvasback	9	2
Common merganser	10	5
Whistling swan	42	17
Black duck	3	0
Blue-winged teal	3	0
Pintail	1	0
Canada geese	8	0
Red-breasted merganser	2	0
Oystercatcher	1	0
Ring-billed gull	2	1
Herring gull	5	38
Great blue heron	1	0
Black brant	0	2
Redhead	5	35
Scaup	19	5
Eastern Shore—Continued		
Green-winged teal	1	0
Rails	0	2
Subtotal	7,390	1,382
Western Shore:		
Oldsquaw	554	361
Grebe (horned)	224	44
Loon	21	6
Black duck	9	0
Cormorant	10	7
Scoter (3 species)	33	8
Whistling swans	4	0
Ruddy duck	11	0
Goldeneye	62	33
Bufflehead	84	0
Mallard	1	0
Gulls	2	0
Great blue heron	1	0
Canvasback	1	0
Merganser	1	0
Unidentified	61	0
Subtotal	1,079	459
Grand total	8,469	1,841

Mr. BIAGGI. I would like to thank you and commend you for a very, very comprehensive statement which raises many questions and points out many areas of inaccuracy.

In connection with those questions, I get a general overall impression that there is a rather casual attitude adopted here.

It seems to me that the Coast Guard has the responsibility to respond, notwithstanding the presence of another tug.

I am sure that questioning in these areas will highlight some of the problems, and perhaps we will find again some of the answers.

You point out very graphically the notion that in adverse weather conditions there might be, or should be, some tighter control in regulations.

You point out the inadequacy of the regional plans and the absence of evaluation.

Mr. Gude, your statement is an excellent statement.

I am not a boat expert, but a 1-foot freeboard would frighten me in any circumstances, even in good weather.

These are questions we will be posing, and I hope we will get some expert and professional response to them.

I want to thank you very much for your statement.

I think it is appropriate at this time to at least express my views, and I am sure the members of the committee will do likewise today or for the record: We will regret your departure from the House of Representatives.

I am sure you will enjoy your more relaxed life in the future, but your contributions and your continued interest even in the twilight of your career indicates your interest in your people which has been legendary.

I think in the end the constituents will have lost as well as the House.

The House of Representatives will be less for your departure.

I was privileged to have been associated with you and to have served with you.

Mr. GUDE. Thank you, Mr. Chairman.

Let me just say that I hope I won't be idle.

If it is a twilight, I hope it will be the dawn and not an evening twilight.

Mr. DOWNING. You are recognized here as a Congressman's Congressman.

We will certainly miss you.

I would also like to compliment you on a very excellent and provocative statement, and I want to thank you for the role you played in bringing this to a hearing today.

Thank you very much.

Mr. GUDE. Thank you.

Mr. BIAGGI. Mr. Studds?

Mr. STUDDS. Mr. Gude, as a junior member, or in-between member—I am not sure what you are supposed to call sophomores—I want to join all but 21 members of your constituency who deeply regret the decision you have made.

It will be an enormous loss.

I envy you.

Perhaps having served your time in the nether region, you now will have a calmer time ahead.

All my questions are for the Coast Guard and owners and operators of the barge.

Mr. Gude, we are going to miss you.

Mr. GUDE. I will be close by.

I thank the committee and I certainly appreciate those very kind words.

I have just one last statement.

It seems to me that while I do not know whether the Coast Guard team was fully apprised of what they could do, what the officers and men could do, down the line; but if someone had done what was supposed to have been done, that is activate the regional response team early—and they very clearly in the law have that responsibility—in the regulation it says the regional response team should be activated automatically in the event of a major or potential major discharge, and with the load on this boat, and sunk in the water, there is a potential major discharge.

If nothing more had been done, if nothing more could have been done, at least we know all the other Federal agencies and State and local agencies could have been mobilized as a team, adding their expertise and technology to the situation.

There is evidence that EPA had some technology that could have helped.

Mr. STUDDS. You point out at the very end what I obviously believe is important legislation which you and I are offering and the administration is opposing, with respect to unlimited liability for cleanup.

It is absolutely critical. There should be an incentive not to spill in the first place.

We will pursue that later.

There is an indication that the Steuart Co. actually looked into contracting for cleanup, realized it would cost more than their liability and said: "The hell with it."

If anything like that should be the case, clearly there is a need for an approach to prevent it.

Thank you.

Mr. GUDE. Thank you.

Mr. BIAGGI. The next witness is Rear Adm. Robert I. Price, Chief, Office of Marine Environment and Systems, U.S. Coast Guard.

STATEMENT OF REAR ADM. ROBERT I. PRICE, CHIEF, OFFICE OF MARINE ENVIRONMENT AND SYSTEMS, U.S. COAST GUARD, ACCOMPANIED BY CAPT. FREDERICK P. SCHUBERT, CHIEF, MARINE ENVIRONMENTAL PROTECTION DIVISION; CAPT. R. V. CASSANI, CHIEF, MARITIME AND INTERNATIONAL LAW DIVISION; CAPT. M. H. EATON, COTP HAMPTON ROADS, VA.; COMDR. J. R. BLANCHARD, SENIOR INVESTIGATING OFFICER, MARINE INSPECTION OFFICE, BALTIMORE, MD.; AND COMDR. R. A. SUTHERLAND, CHIEF, MARINE SYSTEMS EVALUATION BRANCH

Admiral PRICE. Good morning, Mr. Chairman, and members of the committee.

I am Rear Adm. Robert I. Price, Chief of the Office of Marine Environment and Systems, U.S. Coast Guard.

I am accompanied by Capt. Frederick P. Schubert, Chief, Marine Environmental Protection Division, my office; Capt. R. V. Cassani, Chief, Maritime and International Law Division; Capt. M. H. Eaton, COTP Hampton Roads, Va.; Comdr. J. R. Blanchard, Senior Investigating Officer, Marine Inspection Office, Baltimore, Md.; and Comdr. R. A. Sutherland, Chief, Marine Systems Evaluation Branch of the Office of Merchant Marine and Safety.

I am pleased to appear before you on behalf of the Coast Guard to discuss activities relating to the recent oil pollution last February on the Chesapeake Bay involving the tank barge, STC–101, although no one anywhere takes any pleasure in the occurrence of that unhappy incident. As in most marine casualties, this incident involved a wide range of responsibilities assigned to the Coast Guard within our search and rescue, commercial vessel safety and marine environmental protection mission areas.

However, I am going to focus my remarks on the interrelated environmental and safety issues which have emerged from this incident.

We welcome your investigation because, before operating from hindsight, it seems important to determine whether those involved behaved responsibly and rationally from the information available to them.

First, I have been assured that the committee has copies of the two reports prepared within the Coast Guard concerning the events and actions surrounding the February 2, 1976 partial sinking of the tank barge STC–101, while in tow of the tug *Falcon*.

Mr. BIAGGI. At this point, Admiral, I would like to submit for the record one report, beginning "Action by the Commandant," which has as its subject, "Tank Barge STC–101—tug *Falcon*—partial sinking in the Chesapeake Bay on February 2, 1976, with no personal injuries or loss of life," and excerpts of the on-scene coordinator's report of the same incident.

Those excerpts shall consist of sections 2, 5, 6, and 7.

[The reports follow:]

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., May 18, 1976.

TANK BARGE STC–101—TUG FALCON—PARTIAL SINKING IN THE CHESAPEAKE BAY ON FEBRUARY 2, 1976 WITH NO PERSONAL INJURIES OR LOSS OF LIFE

ACTION BY THE COMMANDANT

The findings of fact, conclusions and recommendations of the investigating officer are approved subject to the following comments.

The foundering of the STC–101 appears to have occurred in the following way. The barge was initially loaded with cargo to an average freeboard of about 15 inches, trimmed 6 inches by the stern. Ordinarily, this loading should not be regarded as unusual. The vessel, built in 1956, very likely made a great number of voyages in the Chesapeake Bay under similar loaded conditions. In 1971 the 18 inch high coaming around the cargo tank trunks was added. Under most conditions the four, 4 inch diameter drains which were fitted should have been sufficient to release water entrapped by the coaming, however, on this occasion the drain ports were left closed by responsible operating personnel. This coupled with the heavy weather permitted boarding seas to partially fill the containment area within the 18 inch high coaming. Further trimming by the stern was caused by the flooding of the pumproom most probably, initially, through the unsecured vent and later, through the deck opening when the port pumproom vent was carried away. As the stern of the barge submerged increasing external pressure caused the internal bulkheads to rupture leading to flooding of the voids in the after rake. The combined loss of reserve buoyancy aft was sufficient to sink the stern of the barge to the bottom.

The Commander, Fifth Coast Guard District has initiated further investigation under the administrative penalty procedures concerning the evidence of violation of 33 USC 1321.

With respect to recommendation 2, an amendment to the Code of Federal Regulations to include requirements for ensuring that all hatches, vents and other closures on tank barges are properly secured while underway will be proposed.

With respect to recommendation 3, a contributing cause of the structural failure of the port pumproom vent was due to the hidden deteriorated condition of the bolts used to secure the vent to the deck. Additionally, the dogs to both the port and starboard vent covers were poorly maintained. In this regard information concerning the necessary maintenance and potential hazards associated with compartment ventilation and attendant closure devices will be disseminated to Coast Guard personnel and the marine industry.

With respect to recommendation 4, reserve freeboard needs and, specifically, general survivability criteria for inland barges are being considered as part of an overall evaluation of construction and design standards of these barges. It

is noted that the Barge STC–101 possessed greater compartmentation in the stern area than is typical of inland barges.

With respect to the 18 inch high coaming the Coast Guard is in the process of drafting regulations limiting the height and volume of the cargo spillage containment area to preclude trapping large amounts of water on deck as well as avoiding large free surface areas which can impair stability.

With respect to recommendation 5, a copy of this report was forwarded to the Marine Safety Office, Norfolk, Virginia.

W. M. BENKERT,
Rear Adm., U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

SECOND ENDORSEMENT ON OCMI BALTIMORE LTR 5943/C–06496/BB OF 23 MAR 1976

From: Commander, Fifth Coast Guard District.
To: Commandant (G–MVI/83).
Subject: Tank Barge STC–101, O.N. 271896; partial sinking in the Chesapeake Bay while in tow of the Tug Falcon, O.N. 282134, on 2 February 1976, with no personal injuries or loss of life.

1. Forwarded, approved.

G. N. WOOD.
By direction.

FIRST ENDORSEMENT ON INVESTIGATING OFFICER, BALTIMORE REPORT 5943/C–06496/BB OF 23 MARCH 1976

From: Officer in Charge, Marine Inspection, Coast Guard Marine Inspection Zone, Baltimore.
To: Commandant (G–MVI/83).
Via: Commander, Fifth Coast Guard District (mvs).
Subject: Tank Barge STC–101, O.N. 271896; partial sinking in the Chesapeake Bay while in tow of the Tug FALCON, O.N. 282134, on 2 February 1976, with no personal injuries or loss of life.

1. Forwarded, approved.
2. Further investigation under the Suspension and Revocation Proceedings has been initiated in the case of James Gates, tankerman, concerning his part in the casualty.

THOMAS W. POWERS.

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Baltimore, Md., March 23, 1976.

From: Investigating Officer.
To: Commandant (G–MVI/83).
Via: (1) Officer in Charge, Marine Inspection, Coast Guard Marine Inspection Zone, Baltimore; (2) Commander, Fifth Coast Guard District (mvs).
Subject: Tank Barge STC–101, O.N. 271896; partial sinking in the Chesapeake Bay while in tow of the Tug Falcon, O.N. 282134, on 2 February 1976, with no personal injuries or loss of life.

FINDINGS OF FACT

1. The Tank Barge STC–101, loaded with more than 19,500 barrels of No. 6 fuel oil, partially sank sometime between 0330 and 0605 EST on 2 February 1976, about 3¾ miles south of Smith Point Light in the Chesapeake Bay while in tow of the Tug FALCON. There were no injuries or loss of life; however, nearly 6,000 barrels of oil escaped from the barge and spread along the eastern and western shores of the Lower Bay. The STC–101 suffered severe hull damage in the after portion of the vessel.
2. Vessel data:
   Name: STC–101, FALCON
   Official number: 271896, 282134
   Service: Tank Barge, Towing

Gross tons: 1,223 Tons, 96 Tons
Net tons: 1,223 Tons, 65 Tons
Length: 240.1 Feet, 70.3 Feet
Breadth: 50.1 Feet, 22.1 Feet
Depth: 12.2 Feet, 8.9 Feet
Hull: Steel, Steel
Year built: 1956, 1960
Place built: Wilmington, Delaware, Savannah, Georgia
Home port: Wilmington, Delaware, Savannah, Georgia
Horsepower: N/A, 600
Owners/operators: Steuart Trans. Co., Star Route Box 227, Piney Point, Md. 20674, Allied Towing Corp., P.O. Box 717, Norfolk, Va. 23501
Route: Lakes, Bays and Sounds, N/A
Cargo: Certificated for Grade "B", N/A
Capacity: 20,000 Bbls., N/A
Crew: Unmanned, 7 persons on board (total)

Master: N/A, Donnie Allen Williams, Frisco, N.C. 27936. License: N/A, Operator, Uninspected Towing Vessels, No. 20980. USMMD: N/A, Z–1215012. Date certificated: 22 Nov 74, MSO Hampton Roads, Norfolk, Va. N/A. Mid-period reinspection: 5 Dec. 75, MIO Balto, Md., N/A. Date last drydocked: Jul 75, MSO, Hampton Roads, Norfolk, Va. January 1976.

3. The T/B STC–101 recently underwent repairs of minor hull damage. This damage involved a fracture approximately 24 inches long and a small set-in area of the side shell plating in way of No. 2 starboard cargo tank. The internal structural members in way of this damage side shell also required repair. These repairs were inspected, tested, and accepted on 31 January 1976 under the cognizance of the MSO Hampton Roads, Virginia. This inspection was limited, however, to the repair and testing of this particular area.

4. Enclosures 6 and 7 are drawings showing the deck plan and outboard profile of the T/B STC–101. This barge is compartmented as follows: a forward rake compartment; eight cargo tanks numbered 1 through 4, port and starboard; and an aft rake divided into three compartments—a port and starboard void and a center compartment used as a pumproom. Two diesel-driven cargo pumps are located on the deck over the aft rake, port and starboard. A 500-gallon fuel tank is located on deck aft for the diesel pump engines. At the time of the casualty, this tank contained approximately 50 gallons of diesel fuel. The volume of the pumproom is approximately 50% of the entire aft rake. The pumproom contains only cargo piping and valves. Access to the pumproom is through a hatchway with a watertight door. Access to the port and starboard voids is through manholes fitted with dogged covers. There are vents on either side of the pumproom hatchway which ventilate the pumproom. Each of these vents consists of a 14''x14'' opening in the deck, fitted with an "L"-shaped hood. The openings in these ventilator hoods face outboard and were reportedly fitted with dogged, watertight covers. The vent hood on the port side is secured to the deck by a bolted flange connection. The starboard vent hood is similar to the one on the port, except that it is welded rather than bolted to the flange connection. See Enclosures 8 and 9 for a detailed drawing of these vent hood assemblies. The center portion of the deck area is enclosed by an 18'' high coaming. This coaming is located 8' 3'' inboard of the port and starboard deck edges, 66' 4'' aft of the forward deck edge, and 40' 6'' forward of the aft deck edge. This spill containment area is drained by one 4'' threaded drain port located in each corner of the coaming. This drain port is closed by a 4'' pipe plug. These drain ports were closed at the time of the casualty. Cargo tank expansion trunk Nos. 1, 2, and 3 (port and starboard) are located at the aft end of their respective tanks; but Nos. 4 (port and starboard) are located at the forward end of their tanks. Each expansion trunk has a small ullage opening, a pressure-vacuum relief valve for venting the cargo tank, and a manhole-type opening to provide access to the cargo tank. These manhole openings are fitted with watertight covers which are hinged on the outboard side and are secured in the closed position by four dogs on each cover.

5. The Tug FALCON is equipped with a magnetic compass, radar, radio, and fathometer. The fathometer was inoperable at the time of the casualty. The engines are operated by pilot house controls. The tug has no anemometer.

6. The T/B STC–101 was chartered by Allied Towing Corporation for one trip from the Amoco Refinery at Yorktown, Virginia, to the Amoco Terminal at Baltimore, Maryland, to carry No. 6 fuel oil. The charter arrangements were made by telephone between Mr. Joseph Smith of Allied Towing Corporation and

Mr. J. R. Buchanan of Steuart Transportation Company. The tankerman was provided by Steuart Transportation Company.

7. The weather conditions prior to and during the period when this casualty is thought to have occurred were quite variable. The barometric pressure ranged from 28.94 inches to 29.45 inches during the period from 0100 to 0700 on 2 February 1976. The wind speed reportedly varied from 20 knots to gusts of 80 knots during that time. The air temperature varied from 29° F to 50° F. The water temperature was 37° F. to 39° F. The general weather condition varied from partially clear to heavy snow. The National Weather Service forecast at 1200, 1 February 1976, for the Lower Chesapeake Bay was a small craft advisory to go into effect at 1700 that date. Winds were predicted to be gusty, shifting to northwest and increasing to 15 to 30 knots with stronger gusts. At 0100, 2 February 1976, the forecast was changed to gale warnings for the Chesapeake Bay with northwest winds at 25 to 35 knots with stronger gusts.

8. The T/B STC–101 was first taken in tow by the Allied Towing Corporation Tug FALCON at Colonna's Shipyard, Norfolk, Virginia, on 1 February 1976, and taken to Yorktown, Virginia, Amoco Refinery, arriving there at 0950 the same date. Upon arrival, the tug and barge separated as the tug is not permitted within 200 feet of the barge during loading. Prior to loading, the tug master went aboard the barge for a brief period. Loading commenced at 1050 and was completed at 1400 the same date. The full amount of No. 6 fuel oil loaded at 85° F, API 14.3, Specific Gravity .9705, Flashpoint 180° F. was:

Tank	Ullage		Amount (gallons)
	Feet	Inches	
1 port	3	6	102,642
2 port	3	6½	104,285
3 port	3	4¼	106,274
4 port	3	7¾	103,107
1 starboard	3	7	101,648
2 starboard	3	5¾	104,680
3 starboard	3	6¼	104,066
4 starboard	3	10½	101,010
Total: Gallons at 85° F			827,512
Barrels			19,702.66

The following figures cover subsequent offloading at Baltimore, Maryland, and are certified by E. W. Saybolt & Company, Inc., Petroleum Inspectors, Philadelphia, Pennsylvania, Report dated 14 February 1976 (See Enclosure 7).

Net Loaded—19,531.26 Barrels, 820,313 Gallons at 60° F.

Water and Oil offloaded—17,307.93 Barrels, 726,933 Gallons.

Amount of Water Separated from Oil—3,725.67 Barrels, 156,478 Gallons.

Oil Received—13,582.26 Barrels, 570,455 Gallons.

Oil Missing—5,949 Barrels, 249,858 Gallons.

9. At 1505 on Sunday, 1 February 1976, the T/B STC–101, towed by the Allied Towing Corporation Tug Falcon, departed Yorktown, Virginia, for Baltimore, Maryland. On board were Donnie A. Williams, Master, Z–1215021, licensed operator of uninspected towing vessels, Serial No. 20480; Raymond M. Hill, Mate, Z–733584–D2, licensed operator of uninspected towing vessels, Serial No. 02597; two deckhands—John Becker, Z–471–32–8433–D1, and Douglas Zimmerman; Lester Tetterton, engineer; and James Cox, cook. Also on board was James L. Gates, a Steuart Transportation Company employee, Z–220–38–0889, a tankerman certificated for Grade B and all lower grades.

10. The Master's watches were from 0600 to 1200 and 1800 to 2400. The Mate stood watch from 0000 to 0600 and 1200 to 1800. Mate Hill was on watch at the time of getting underway. The weather getting underway was clear and calm. Tankerman Gates stated that prior to getting underway, he inspected the barge and ascertained that it was ready to proceed and that it was seaworthy. All hatches had been opened during loading to determine the amount of oil in each tank. These hatches were reportedly secured at the conclusion of the loading and were dogged using one hand only. All dogs, with the possible exception of a few scattered stiff or frozen dogs, were thus secured in place. Tankerman Gates could not recall which of the dogs were stiff and frozen and consequently were

not made secure. Void manholes were dogged tight. All ullage openings were secured. The pumproom watertight door was closed and dogged, and the port and starboard pumproom vent closures were closed and dogged. Mr. Gates considered all equipment in apparent good condition. Mate Hill looked the barge over from the tug. He saw that all hatches were closed and everything appeared in readiness to him. The draft forward was 10'6" and 11' aft, giving a freeboard of a foot or less.

11. The barge was moved out into the York River and put on a short hawser. Tankerman Gates assisted in this operation. At this point, he considered himself relieved of his responsibilities to the barge, except for being available to the master for advice concerning the cargo. The vessels proceeded out the York River to the York River Entrance Channel; and at 1800, the watch was changed as the vessel turned into the Back Channel to head up the Bay.

12. Captain Williams continued up the Back Channel to the open Bay. When he cleared the Back Channel, the rest of the towing hawser was paid out, and the barge was towed approximately 1,000 feet astern of the tug. The vessels continued up the Bay on an approximate course of 008 to 010° Magnetic, (002° to 004° True). The remainder of the 1800 to 2400 watch was uneventful. At 2045, Wolf Trap Light (LL2705) was abeam to port, and the water was logged as fog and rain with winds southeast at 15 MPH and seas at 1½ feet. At 2250, Rappahannock River Junction Lighted Bell Buoy R (LL2709) was abeam, and the weather was recorded as clearing. The tug's speed was approximately 4.8 knots, as determined by radar fixes. Normal speed with a loaded barge of this type varies from 4 to 6 knots. At this time, the tug was experiencing a favorable wind and fair tide. At 2350, the weather was logged as wind shifting to the northwest at 25 MPH and seas at 1 to 2 feet. The weather was as predicted for the Bay. At 2130 on 1 February 1976, the National Weather Service Forecast had the Small Craft Advisory remaining in effect on the Bay; however, along the Atlantic Coast, between Cape Henlopen and Virginia Beach, the Small Craft Advisory was changed to Gale Warnings.

13. At 2400, Mr. Hill relieved Captain Williams at a position approximately 5 miles northeast of Windmill Point Light (LL2708). Mr. Hill has approximately 25 years experience on inland waters, most of which has been on the Chesapeake Bay. Upon relieving, Mr. Hill checked the barge visually. It was riding well and running lights were visible. The tug was also riding well. There were no seas coming over the bow, and no ice had formed. Visibility was good. The weather was as forecast. The early portion of the watch was uneventful. At 0230, Chesapeake Channel Lighted Bell Buoy 48 (LL2722) was abeam. The weather was then worsening with heavy snow, and visibility was reduced to 1/4 to 1/2 mile. At 0300, the barge was checked by Mr. Becker, deckhand, by looking out the engine room scuttle hatch. At that time, the barge was not riding directly behind the tug. Mr. Becker attributed this to the weather conditions. At this same time, some spray was coming over the bow of the tug. A little while later, Mr. Becker again attempted to check the barge; however, visibility was almost zero due to the heavy snow. At 0330, Mr. Hill logged, "Last I seen barge lights;" however, the barge was still visible on radar. The weather continued to worsen. At 0100 on 2 February 1976, the National Weather Service revised the forecast for the Lower Chesapeake Bay to Gale Warnings to be effective at 0500 on the Bay. Winds were to be 25 to 35 knots northwest with stronger gusts. Between 0330 and 0400, Mr. Hill heard the forecast by radio. Just before 0400, he awoke Captain Williams and informed him of the weather. At this time, spray was coming over the bow of the tug and freezing. Seas were 5 to 6 feet. There was no ice in the water. Captain Williams and the Mate decided to head in toward the western shore to get in the lee of the land, rather than cross the mouth of the Potomac River. Mr. Hill then changed to a generally northwesterly course. Captain Williams did not come to the wheelhouse at this time. The 0400 position was logged as 3-¾ miles from Smith Point Light (LL2725). At approximately 0430, Mr. Hill mentioned to Mr. Becker that they were not making headway. He was not sure what the problem was and attributed it to high winds and heavy seas. Engines remained on full throttle. At 0540, logbook entries stated, "3-¾ miles from shore and 3-¾ miles from Smith Point, heavy seas and snow," which indicated that the vessel was making little or no headway.

14. At 0600, Captain Williams came on watch and was informed that no headway was being made. At 0605, the snow lessened and Captain Williams directed the tug's searchlight onto the barge and saw that the bow was high out of the water. He realized that the barge was either sinking or had already sunk by the stern. The Captain immediately called his office by radio and asked for

instructions. He was informed to keep the barge on the hawser. MSO Hampton Roads received a call from Mr. Bruce Law of Allied Towing Corporation at 0625 informing the Coast Guard of the situation. Assistance was requested. The position was given as 37° 49′ North and 76° 10.8′ West. The depth of water was approximately 105 feet. The water temperature ranged from 34° to 38° F in this area at the time of the casualty. The barge was sitting at approximately a 30° angle with only about 30 to 40 feet of bow above the water and was facing in a westerly direction. At 0735, Allied Towing Corporation advised the Coast Guard that assistance was not required since a Moran tug was enroute to assist. A short time later, the Moran tug was diverted, as it was then believed that it could not have been of any assistance. At no time during the night was Tankerman Gates informed of the situation. He became aware of it at about 0600 when he came to the wheelhouse.

15. At 0900, the tug logged the wind as northwest at 20 to 25 with 3-foot seas. At approximately 0900, a Steuart Transportation Company helicopter surveyed the barge and the area. Some oil was noted, and the Coast Guard at Hampton Roads was informed. Cleanwater, Inc., 204 Horner Street, Post Office Box 1002, Toms River, New Jersey 08753, was hired by Steuart Transportation Company for cleanup operations. At 1500, gale warnings were discontinued. At 2030, a Coast Guard investigator from MSO Hampton Roads met with Cleanwater representatives at Reedville, Virginia. The Coast Guard remained in the area monitoring the salvage operations and supervising the cleanup operation.

16. The logbook of the Tug FALCON for 3 February 1976 reads in part as follows: "0650—Everything still the same. 1220—put white light on barge. Oil slick around barge is lube oil and diesel. No black oil." At 1315, a pollution survey was completed by Coast Guard helicopter. An investigator from MSO Hampton Roads was on the helicopter and he noted a sheen in the vicinity of the barge. At 1800, the tug FALCON again logged "everything still same."

17. On the morning of 2 February 1976, the McLean Construction Company, 2001 Benhill Avenue, Baltimore, Maryland 21226, was hired by Steuart Transportation Company to salvage the barge. Mr. George Mitchell of McLean acted as salvage master. The Derrick ANNAPOLIS, 50 ton capacity, was brought from Yorktown, Virginia; and the Derrick CAPE FEAR, 150 ton capacity, was brought from Baltimore, Maryland. Immel's Marine Service, Grimstead, Virginia, was hired by McLean to carry out an underwater survey of the barge. Cleanwater had 1,500 feet of containment boom available in the area.

18. At 1230 on Wednesday, 4 February 1976, Mclean released the hawser that had connected the tug and barge. An oil boom had been set around the bow of the barge that morning. At about 1600 that afternoon, Jerald Immel began his first dive. The water temperature at the surface was then 38° F.; air temperature was approximately 40 to 50° F.; there was 1½ to 2 knots of northerly current; and the bottom pressure was 45 PSI. This limited the diving time to 25 minutes without decompression. The visibility was 3 to 4 feet near the surface, but dropped to zero below 50 feet. No diving lights were used. Survey diving was by the hard hat method, with voice communications to a speaker on deck. The bottom was hard, mostly sand and some mud. On the first dive, Mr. Immel descended along the centerline pipe, checking all barge openings, as McLean was depending upon the buoyancy of the oil to assist in the raising operation. As he descended, he found cargo tank expansion trunk hatches 1, 2, 3 and 4 (port) undogged and wide open; cargo tank expansion trunk hatch 4 (starboard) was undogged but closed; and cargo tank expansion trunk hatches 1, 2, and 3 (starboard) were closed, but not all dogs were in place. At this time, he closed all open hatches and secured all dogs in the proper securing position. Mr. Immel found it necessary to loosen the dogs prior to fitting them on the hatch cover. All dogs which were in place were checked, as slight amounts of oil were noted seeping past the gaskets of some of the closed hatches. Several of the dogs were found not completely tight, and Mr. Immel tightened these securely. He does not recall the position of the ullage opening covers. No oil was seen coming from the tanks which were wide open. After the dive, Mr. Immel's diving suit was covered with heavy oil from feeling his way around. On the scene at this time were Mr. George Mitchell, McLean salvage master, and Mr. Edson Whitaker of Searle Consultants, 808 Timber Branch Parkway, Alexandria, Virginia, representing Travelers Insurance Company. The tankerman did not become aware that some of the cargo tank hatches were found open until the morning of 5 February 1976. The Coast Guard was not informed of this fact until 20 February 1976 in an interview with Mr. Immel. A second dive was made by Mr. Immel on Thursday morning, using a descent line to the stern of

the barge. This line had previously been rigged by his tender, who had made an earlier dive. At this time, Mr. Immel checked the hatches to the void in each corner of the stern rake and the watertight door to the trunk leading into the pumproom. All were closed and dogged tight. During this time, the vent to the port side of the pumproom was found missing, leaving a 14" x 14" opening into the pumproom from the deck. This vent was found lodged under some of the piping near the vent hole. Mr. Immel noted damage to the barge at this time. The deck port side aft was set down, the port deck knuckle near the stern was crimped, the port side shell in way of the stern void was set in approximately 1 foot. Mr. Immel was of the opinion that this damage was recently incurred. Mr. Immel's examination further revealed that the barge was grounded along the entire breadth of the after rake, and the deck at the stern was only about 3 to 4 feet off the bottom. At 1300, a chain sling was placed under the stern of the barge. The Derrick CAPE FEAR began lifting operations at 1700. At 1710, as a strain was taken, a shackle failed and operations were secured for the night.

19. At 0800 on Friday, 6 February 1976, wire rope slings were passed around the bow and lowered to the stern. This sling caught on the port cargo hose handling boom, damaging it. As lifting began, the barge began to move, and it was immediately set back down and the Derrick CAPE FEAR repositioned. On the second attempt, the barge came up. By approximately 1440, the stern of the barge was near the water's surface. At 1500, the derrick moved the barge to shallower water in the Great Wicomico River, grounding the bow of the barge intentionally at 1730, off Fleet Point. There was then 18 to 19 feet of water at the stern of the barge. At approximately 1800, voiding of the pumproom began. An opening into the top of the hatchway had been cut to facilitate pumping. A plywood patch was clamped over the ventilator opening. The starboard void was opened around 1845 for pumping. The port void was opened about 1930. It still had some air in it, and was immediately closed. A pumping watch was set for the night. At approximately 0400, Saturday, 7 February 1976, pumping was secured. At this time, the barge was listing to starboard, with the deck on the starboard side slightly awash.

20. Saturday morning, 7 February 1976, all tanks were opened and gauged. The level of the contents of all tanks appeared unchanged from completion of loading at Yorktown, with the exception of No. 4 port tank which was ¼ full of an oily water mixture. Oil temperature at this time was between 50 and 60° F. Oil was gravitated from No. 1 starboard tank to No. 4 port tank to help correct the list. It was found that the internal bulkhead from No. 4 port cargo oil tank to the port void was ruptured and leaking. Also, port and starboard pumproom longitudinal bulkheads were bowed into each void and were ruptured and leaking. The after transverse bulkhead of No. 4 port tank was bowed into the port rake. The deck on the starboard side aft was set down. An underwater survey was conducted by Mr. Immel using scuba gear, and a small crack was noted in the port void bilge knuckle. This crack was plugged with oakum and wedges. The bottom plating, port side aft in way of the port void and No. 4 port tank was set up 2 to 3 feet. It was similarly set up several inches on the starboard side aft. All on-scene observers agreed that none of the damage was caused by the salvage operation. Saturday afternoon, the barge was afloat and the final inspection was made. Everything appeared satisfactory. Throughout the entire operation, little oil was seen on the surface of the water; however, the barge was boomed during this entire operation.

21. At 1620 on Saturday, 7 February 1976, with the wind at 10 to 15 knots, calm sea and predicted good weather, the Tug FALCON took the STC–101 in tow for Baltimore. Clearance was obtained from the Coast Guard before the barge was permitted to proceed. The Derrick CAPE FEAR, under tow by two tugs, followed the barge up the Bay. Hourly location and situation reports were made to the Coast Guard enroute. The convoy arrived at 1240 on Sunday, 8 February 1976, at the McLean Yard, Baltimore, Maryland. No oil leaked from the barge enroute, nor was any lost in the harbor at Baltimore during subsequent offloading. At this time, the port pump engine was removed for repairs. This engine, which had been mounted transversly on the stern, had been bent back on its foundation. The radiator and exhaust manifold had also been damaged. The starboard engine was flushed out with fresh water and the oil was changed. It was then ready for operation. At 1955 on 9 February 1976, the STC–101 was shifted from the McLean Yard to the Amoco Terminal, Baltimore, for offloading. At this time, there was approximately 3 to 4 feet of oil and water in each stern rake compartment. Some difficulty was experienced in heating the oil to the required tempera-

ture for offloading due to cold weather and damaged heating coils. The oil, however, was eventually transferred to shore tanks, and the oil and water were separated. Prior to offloading, Coast Guard Captain of the Port (COTP), Baltimore, took barge oil samples. The final amount of oil discharged was certified by Saybolt Company, as previously noted. After offloading, the barge returned to the ginia, for drydocking and survey. The amount of steel required for repair was issued by Coast Guard Marine Inspection Office (MIO) at Baltimore, Maryland, on 20 February 1976. The barge was taken to Colonna's Shipyard, Norfolk, Virginia, for drydocking and survey. The amount of steel required for repair was estimated at 160,000 pounds. The repair contract was awarded to Norfolk Shipbuilding and Drydock Company at an estimated cost of $240,000. Repairs are being made under the cognizance of MSO Hampton Roads, Virginia.

22. Examination of the port pumproom vent hood indicates that it was bolted at the flange, not welded. A piece of one wasted bolt was found in the deck portion of the flange in the second from aft, outboard bolt hole. The matching hole on the vent hood flange was not damaged. Another piece of a bolt was found on deck which was the same type as the one found lodged in the flange. As this second bolt was found on the deck of the barge many days after the barge had been raised, it could not be definitely ascertained where this bolt came from. However, it was identical in appearance even to the areas of corrosion to the first bolt which was found in the deck portion of the flange. Both of these bolts are brass and are extensively deteriorated. This deterioration occurred at about midlength of the bolt. This section would have been inside the holes in the flanges when the bolt was installed. Some wastage was noted on the outboard side of the port vent flange, but the wastage on the remaining three sides was not significant. The cover for the open end of the vent hood was missing and was not found. This cover was hinged at the top and secured by four dogs. Examination of the dogs showed the two upper ones serviceable; however, the lower aft wing nut is now missing and the lower forward wing nut is broken in half and frozen. The corners of the vent hood flange are now damaged. It is not known when or how they became damaged. Prior to departing Baltimore under the Permit to Proceed, all openings were required to be shut. At this time, the starboard pumproom vent hood cover was noted to be undogged. Difficulty was experienced in attempting to close it at all dogs were stiff.

23. Reports of actual weather conditions for 2 February 1976 between 0000 and 0600 have been received from other vessels which were in the vicinity of the casualty as the front came through. These vessels were the ATLANTIC PRESTIGE, MARACAIBO, Tug CAPTAIN CG, and Tug SEA EAGLE. These reports indicate the actual weather to be much more severe than predicted. Between approximately 0400 and 0500, there was a sudden sharp drop in the barometric pressure, with winds increasing to approximately 70 to 80 knots for a short period of time.

24. Subsequent to the Coast Guard's investigation of this casualty at Baltimore, the Merchant Marine Technical Branch in the Office of the Commander, Fifth Coast Guard District, Portsmouth, Virginia, performed calculations on buoyancy and stability for the STC–101. The initial calculations performed indicated that with the barge loaded as it was when it left Yorktown, flooding the pumproom and filling the oil pollution prevention spill rails would cause the barge to sink by the stern until the stern came to rest on the bottom or until equilibrium was reached with the barge floating with the bow almost vertically above the stern. More refined calculations, however, using a standard Coast Guard computer program indicated that the above condition would cause the barge to assume a position of equilibrium with the stern just beneath the surface. Additional impetus would be required to sink the barge. This could have been provided by the sea state. The effects of the static weight and dynamic forces of boarding waves cannot be quantified; however, calculations show that increasing the draft of the barge (i.e., increasing the weight) just 2.5 inches beyond the draft attained by flooding the pumproom and filling the spill rails would cause the barge to be unstable. Additional calculations performed by the Merchant Marine Technical Branch indicate that when the barge is trimmed by the stern to an angle of about 7° from the horizontal, cargo contained in Tanks 1, 2, and 3 (port and starboard) would reach the top of the hatch coamings on the expansion trunk. This would permit cargo to flow through any open hatches.

25. Mr. Clarence Horton, 28 Bittersweet Trail, Welton, Connecticut, an independent consulting naval architect, was employed by Steuart Transportation Company to perform similar calculations. After preliminary calculations, he

stated during the investigation at Baltimore that his tentative conclusions were that with a full pumproom, the barge would sink. Mr. Horton was the Chief Marine Engineer at Dravo Corporation at the time the STC–101 was built by that company.

26. During actual salvage operations, independent interviews of Tankerman James Gates were made by Mr. Edson Whitaker of Searle Consultants of Alexandria, Virginia, for Travelers Insurance Company; and by Mr. Amos Bagley of U. S. Salvage Association, underwriters for Steuart Transportation Company, about the survey conducted during salvage operations. Mr. Whitaker and Mr. Bagley stated that in questioning Tankerman Gates, Mr. Gates admitted that he had secured only one dog on each hatch. Mr. Gates maintains that this procedure was common practice. (See Enclosures 17 and 19)

27. The guidelines in the Manual for Safe Handling of Inflammable and Combustible Liquids (CG–174) indicate that, "all tank top covers must be checked for tightness, and the ullage covers should be dogged." (Paragraph 3.5.5). There are no specific requirements in this regard in the Tank Vessel Regulations applicable to Grade B tank barges.

28. Oil which, by chemical analysis, was determined to have been the same as that on board the T/B STC–101 was found along both the eastern and western shores of Chesapeake Bay. Oil was scattered in heavy deposits on the eastern shore beaches from Powell's Bluff to Smith Beach, a linear distance of 15 miles. Deposits of varying concentrations were found on the western shore from just north of Fleeton, Virginia, to the southern end of Rigby Island, a linear distance of approximately 24 miles.

CONCLUSIONS

1. From the foregoing, it is concluded that:

a. The cause of the sinking of the barge's stern was the entry of water into the pumproom coupled with the entrapment of large amounts of water inside the pollution prevention coamings on deck. These factors reduced the stability of the barge to the extent that the static and dynamic effect of boarding seas caused the vessel's stern to sink to the bottom.

b. The water entered through the pumproom port vent either because of a missing pumproom vent hood cover or because the entire pumproom vent had been carried away, or a combination of both.

c. The severely adverse sea conditions consisting of 5 to 6′ boarding seas may have been sufficient to dislodge a poorly dogged pumproom port vent cover, thus exposing the pumproom to flooding. If the cover had been torn away, the resultant exposed area would have allowed tremendous quantities of water to enter the space quickly.

d. It cannot be established exactly when the port pumproom vent hood carried away. This could have occurred before, during, or after the actual sinking of the barge's stern. If it carried away before the sinking, the failure of the somewhat deteriorated bolts which fasten the hood to the deck flange may have been a contributing factor. Had this deterioration been detected and the bolts replaced, the potential for the hood carrying away would have been reduced. On the other hand, a visual inspection with the bolts installed in the flange would not have revealed the deterioration, and removal of such fastenings for inspection is not normal practice.

e. The freeboard and stability of the barge would be decreased during periods of boarding seas because of the entrapment of a large amount of water inside the oil pollution prevention coamings on deck, whether or not the associated drain plugs were in place.

f. The bending back of the port pump engine may have happened either before or during the sinking of the barge.

g. The severe weather conditions encountered are directly related to the sinking. They were much more severe than had been forecast and arrived well ahead of the predicted time.

h. The structural damage to the hull of the barge was caused by a combination ow hydrostatic and dynamic pressure as the barge sank and eventually struck the bottom.

i. The testimony of Tankerman Gates at the formal investigation conducted by this office to the effect that the cargo hatches were securely dogged, with the exception of 2 or 3 dogs which were in need of repair, is rejected as being self serving. Tankerman Gates told Travelers Insurance Company representative, Mr. Whitaker, and U.S. Salvage Association Surveyor, Mr. Bagley, that he secured only one dog per hatch, as is customarily done. This admission, made many days

before the convening of the Coast Guard investigation, is considered to be much nearer the truth. It is therefore concluded that the cargo hatches were not completely secured whmen the barge left Yorktown, Virginia, and that this condition led to the spillage of a considerable amount of cargo.

j. As indicated by the calculations of the MMT staff at the Fifth Coast Guard District, the barge's stern may have sunk to a point at which the angle of the barge was greater than 7° but at which the stern was not actually in contact with the bottom; and, the barge could have been towed for some distance in this attitude. It is also possible that the barge's stern did sink to the bottom and was dragged along for some undetermined distance before it completely stopped the forward progress of the tug. These possibilities could explain the wide dispersal of oil along the eastern and western shores of Chesapeake Bay for linear distances of as much as 23 miles. In other words, the cargo could have started leaking when the angle of trim reached 7° from the horizontal and could have continued to leak intermittently or continuously as the tug and barge progressed some distance up the Bay.

k. There is evidence that James Gates, Z–220–38–0899, was negligent in that he did not secure the cargo hatches by closing and tightening all four dogs on each hatch. This probably did contribute to the resulting oil spill.

1. There is evidence of violation of law, 33 USC 1321, in that oil entered the Chesapeake Bay as a result of this casualty.

m. Whether Allied Towing Company or Steuart Transportation Company is responsible for the spill is a conclusion of law outside the scope of this investigation.

2. Except as noted above, there is no evidence of any actionable misconduct, incompetence, negligence, or violation of law or regulations.

3. There is no evidence that any personnel of the Coast Guard or any other governmental agency caused or contributed to this casualty.

RECOMMENDATIONS

1. It is recommended that further investigation be initiated under the Suspension and Revocation Proceedings in the case of James Gates, Z–220–38–0889, concerning his part in this incident.

2. Since the tank vessel regulations are silent with respect to securing hatches and vents on a Grade "B" tank barge before leaving a loading dock, it is recommended that those regulations be reviewed for adequacy in this regard.

3. It is recommended that the necessity for close examination of venting arrangements on tank barges be further emphasized within the Coast Guard as well as industry.

4. It is recommended that the Coast Guard re-evaluate the need for reserve freeboard requirements on inland barges with routes involving large bodies of water. It is also recommended that the effects of free-surface water in the enclosed oil prevention coamings on tank barge stability and reserve buoyancy be evaluated.

5. It is recommended that a copy of this investigation be provided to MSO Hampton Roads for use in the investigation of the pollution aspect of this case.

6. It is recommended that the casualty investigation be closed.

BRIAN G. BASEL.

Enclosures.

NARRATIVE

For the purposes of this narrative, all times indicated are Eastern Standard Time.

Throughout the evening of 1 February 1976 and the early morning hours of 2 February 1976, the U.S. Coast Guard Marine Safety Office Hampton Roads (MSO) Duty Officer at Norfolk, Virginia, received several reports of very high winds and deteriorating weather conditions from vessels transiting the Port of Hampton Roads. In addition, warnings by the Weather Bureau were broadcasted advising of gale force winds.

February 2, 1976

At approximately 0625 on 2 February 1976, the MSO Duty Officer received a telephone call from Mr. Bruce Law of Allied Towing Corporation, who reported that the Steuart Transportation Barge Number 101 (STC–101), which was being towed by the Allied Towing Company Tug FALCON, was partially sunk in a "vertical" position 3.5 miles south of Smith Point Light in the Chesapeake Bay.

The approximate coordinates of the STC 101's position were given as Latitude 37° 49′ N. Longitude 76° 11′ W. The barge was carrying number 6 industrial oil, but the quantity was not immediately known to Mr. Law. Mr. Law also stated that no Coast Guard assistance was requested. The Duty Officer questioned Mr. Law concerning his intentions, and if there was any oil escaping from the barge. Mr. Law stated that he would keep MSO advised as information was received. After Mr. Law's telephone call, the Duty Officer immediately notified the MSO Commanding Officer, Capt. M. H. Eaton, and the Fifth Coast Guard District RCC Duty Officer of the reported situation. The MSO Duty Officer assumed operational control of the incident due to the fact that the potential for a major oil spill existed.

At approximately 0635, Mr. Bruce Law again contacted the MSO Duty Officer, and stated that he had received a request from the master of the Tug FALCON for Coast Guard assistance to help ground the vessel in shallow waters along the western shore of Chesapeake Bay. The purpose of this request was to prevent the barge from sinking completely at a reported depth of 107 feet. Capt. Eaton could not be immediately informed of this development because he was enroute to the office.

At 0640, RCC was informed by the MSO Duty Officer of Mr. Law's request. RCC advised MSO that the nearest available Coast Guard cutter was at Little Creek, Virginia. All other suitable Coast Guard vessels nearer to the Smith Point location were involved in search and rescue missions. Shortly after arrangements had been initiated to dispatch an 82-foot Coast Guard Cutter to the scene, CAPT Eaton arrived at the office. CAPT Eaton questioned the suitability of an 82-foot cutter, and initiated action to obtain a large tug or a 180-foot Coast Guard buoy tender. The previous request for an 82-foot cutter was cancelled and RCC was requested to furnish a larger vessel.

At approximately 0735, Mr. Law again contacted the MSO Duty Officer and advised that a Moran Corporation tug was 2–4 miles from the scene, and that this vessel would be more suitable for the intended mission. Mr. Law also stated that he had been informed by the Tug FALCON that a small rainbow sheen was observed in the vicinity of the vessel, which probably was being produced by deck machinery diesel and lube oil. The MSO Duty Officer requested Mr. Law's intentions concerning pollution abatement, and discussed the possibility of utilizing a boom to surround the barge to entrap any escaping pollutant. He also requested that Mr. Law consider the option of pumping the cargo off the barge. After the telephone conversation with Mr. Law, the MSO Duty Officer cancelled the earlier request for the assistance of a larger Coast Guard Cutter.

At 0800, the regular MSO staff arrived at the office. The STC–101 incident was divided into two main areas of concern. LTJG Solomon, Chief of the Operations, Communications and Vessel Status Branch, was assigned the responsibility to insure that the "menace to navigation" problem was resolved. LT Adams, Chief of the Marine Environmental Protection Branch, was assigned the responsibility to deal with the potential pollution threat. CAPT Eaton, the predesignated Federal On Scene Coordinator for the area in question, assumed overall control of the situation assisted by LCDR Vedder, Chief, Port Safety Division.

At 0815, LTJG Solomon called Mr. Bruce Law of Allied Towing and requested the owner's salvage intentions. Mr. Law stated that salvage was the responsibility of Steuart Transportation Company, as they were the owners of the barge, and that it was merely being towed by the Allied Towing Company's Tug FALCON. At this time, the main concern of LTJG Solomon was to insure that the barge, in its present status, was not a menace to navigation, and for the owner to follow the prescribed rules and regulations for marking and removal of the vessel. In addition, Mr. Law stated that Steuart Transportation was intending to conduct a helicopter overflight of the barge as soon as possible.

At 0826, LT Abrams requested a Coast Guard helicopter for a survey of the barge. Due to high wind and sea conditions, it was determined that a boat survey of the area would be ineffective and any attempt to board the tug or barge would be unsafe for Coast Guard personnel. Shortly after making arrangement for an aerial survey, LT Abrams called Mr. Law concerning the status of Steuart's overflight. Mr. Law stated that the information was not immediately available, but that he would inquire and call back. At 0910, Mr. Law reported that the Steuart overflight had been completed and that the following information was noted: the bow section was 40 feet out of the water, the stern of the vessel was believed to be aground, and that a small oil sheen was observed in the vicinity of the vessel. The on scene weather was reported to be 40 knot winds with 5 feet high seas. Mr. Law went on to say that present plans were for Steuart

to contract McLean Construction Company of Baltimore, Md. to salvage the barge, and that the Tug FALCON was to remain on scene with the towing hawser attached to monitor and report any change in vessel or pollution situation.

Based on Mr. Law's information, LTJG Solomon contacted Mr. Saul, President of Steuart Transportation to determine the particulars of the salvage operation. Mr. Saul referred LTJG Solomon to Mr. Bill Cunningham of McLean Construction Company. Mr. Cunningham informed LTJG Solomon that he intended to lift the stern section of the barge with the use of floating cranes and chain slings. Present intentions were to prepare two crane barges, one 250-ton and one 350-ton capacity, and dispatch them to the scene. Mr. Cunningham estimated that two days of preparation would be required.

At 0915, Mr. Kirby Tillett of Steuart Transportation Company called CAPT Eaton and informed him that he had just completed the helicopter flight over the STC–101 and that the barge was not leaking. Only a slight sheen was noted in the vicinity. Mr. Tillett advised that he would keep MSO informed of any leaks from the barge, or of any appreciable change.

At 0945, MSO was informed that the Coast Guard helicopter was recalled to the Elizabeth City Air Station. Another flight was not launched due to reports of severe turbulence in the Norfolk area. The Coast Guard Air Station planned to send another flight when the weather improved.

At 1100, CAPT Diersen, Chief of the Fifth Coast Guard District Environmental Protection Branch informed LT Abrams that he had received a telephone call from Mr. Paul Preus of Clean Water Inc. advising that they had been contracted by Steuart Transportation to stage pollution abatement equipment near the scene in the event of an oil spill, and to assist in the salvage operations. Clean Water intended to send 1,000 feet of high seas boom, and 1,000 feet of harbor boom and associated equipment to Reedville, Virginia. At 1430, Mr. Preus contacted LT Abrams to confirm his earlier conversation with CAPT Diersen.

At 1500, CAPT Jack Buchanan of Steuart Transportation called CAPT Eaton to confirm that Clean Water Inc. was enroute to Reedville, Virginia, and that McLean Construction was enroute to the scene from Baltimore, estimated time of arrival 4 February 1976. CAPT Buchanan also restated the results of the Steuart overflight that morning, and indicated that another flight was in progress. He stated he would inform CAPT Eaton if any oil was detected leaking from the vessel.

At 1530, a telephone conversation between CDR Williams, Commanding Officer of the Coast Guard Atlantic Strike Team, and LT Abrams confirmed that the Strike Team had personnel and equipment standing by if needed.

By 1640, the weather had cleared sufficiently to allow a Coast Guard reconnaissance flight over the scene. Shortly after departure from Norfolk, Virginia with MSO personnel on board, the flight was aborted due to mechanical failure. Another flight was not scheduled due to approaching darkness, but arrangements were made for a flight the next morning.

On the evening of 2 February 1976, the OSC representative, who had been dispatched to the scene, met with Mr. Jim Mathis of Clean Water Inc. at Reedville, Virginia. A conference was conducted to discuss Clean Water's plans as to the rigging of an oil containment boom around the barge. The OSC representative informed Mr. Mathis that the purpose of the Coast Guard's presence, at that time, was to monitor the activities of Steuart Transportation Company and the preparations for cleanup being made by Clean Water Inc. if pollution occurred.

February 3, 1976

On the morning of 3 February 1976, the OSC representative arrived at Fleeton Point Marina to continue monitoring the progress of Clean Water Inc. The staging area had been moved from Reedville to Fleeton Point to allow for better access to the barge location. In order to deploy high seas containment boom, it was necessary to assemble and inflate each section and then rig it for towing to the vessel.

At 1300, the Coast Guard helicopter overflight was completed, and the MSO representative onboard reported the following observations: a light sheen, which was iridescent at the edges, was noted on the water approximately 5 miles due east of Reedville, Virginia. The sheen was in a horseshoe shape emanating from the vicinity of the barge in a southerly direction for approximately 200 yards, then west for 150 yards, and then north for 700 yards towards Smith Point with an average width of 100 yards. The barge was pointing in a westerly direction with approximately 30 feet of the forward end exposed at a 45° angle. No oil was seen leaking from the barge, and the brownish colored sheen observed supported

earlier theories that the light sheen was caused by the loss of a small amount of oil from deck machinery when the barge sank.

At 1430, the OSC representative at Fleeton Point reported to MSO that the salvage barges with divers were to arrive on scene 4 February 1976. An underwater survey of the barge will be conducted by the salvage divers upon arrival to determine the condition of the vessel, noting in particular any indications that the barge is breaking up or that any oil is being discharged. The high seas boom was to be deployed around the barge prior to commencing salvage operations. Clean Water had rigged and staged 500 feet of the boom, the remainder was estimated to be ready by late 4 February 1976. Since it appeared that Steuart Transportation was taking the necessary actions with regards to pollution abatement, the OSC determined that Coast Guard actions for the time would continue in the form of active monitoring.

February 4, 1976

At approximately 1315 on 4 February 1976, the McLean Construction Company salvage barges and equipment arrived on scene. Shortly after their arrival salvage divers commenced an underwater survey of the barge. At 1430, the OSC representative completed a boat survey of the STC–101 and vicinity.

No oil was seen emanating from the barge; however, while enroute to and from the barge, small patches of oil were seen in the vicinity of Wicomico River Light headed in the direction of Fleeton Point. The OSC representative estimated the total quantity of oil detected to be approximately fifty gallons. It was assumed by the OSC representative that the oil was from the STC–101. Clean Water prepared to remove the oil when it reached the beach, since the water was too shallow for operation of vessels for boom containment. At 2100, the OSC representative reported that Clean Water had completed rigging the boom, and it was ready to be transported to the barge and deployed. He further stated that the oil earlier reported had not yet reached the beach at Fleeton Point.

February 5, 1976

At approximately 1015 on 5 February 1976, a MSO representative departed Norfolk, Virginia to conduct an aerial survey of the scene. He observed several areas of light sheen on the water between Bluff Point and Smith Point Light. These sheens were very scattered and irregular in shape. Approximately 8–10 miles due south of the STC–101, a sheen estimated to be 1 mile by 3 miles was sighted. This sheen contained widely scattered patches of black oil approximately 1 foot in diameter.

At 1330, the OSC representative at Fleeton Point reported that small patches of oil were observed emanating from the barge and headed in a southerly direction. He also reported that Clean Water had deployed the boom around the barge and would remove any oil that accumulated.

At 1410, CAPT Eaton telephoned Mr. Saul of Steuart Transportation concerning the recent report of oil emanating from the barge and the progress being made on salvage. Mr. Saul reconfirmed earlier reports to LT Abrams that the diving surveys had revealed no signs of fractures or oil leaking from the barge. Furthermore, he stated that he had just returned from the barge and that only a light sheen was visible near the barge.

At 1710, the OSC representative notified MSO that the salvors had attemped to raise the barge, but a connecting shackle had parted. Upon repair of the chain sling, a second attempt was planned for 6 February 1976. No additional oil was accumulated in the boom, and it appeared that the barge was holding with no known leaks or cracks.

February 6, 1976

At approximately 0800 on 6 February 1976, Mr. Saul of Steuart Transportation called CAPT Eaton and restated the earlier OSC representative's report of the aborted salvage attempt. He explained in detail how every attempt was being made to avoid any damage to the barge during salvage. Mr. Saul promised to inform CAPT Eaton of any leaks from the barge.

At 0830, CDR Sawyer, Executive Officer of MSO, arrived on scene to monitor the salvage of the STC–101. CDR Sawyer accompanied the OSC representative on a beach survey starting at Windmill Point and spot checked areas as they moved north to Fleeton Point. No oil was sighted.

At 0945, MSO notified John Roland of Virginia State Water Control Board of waterfowl that had been affected by oil in the vicinity of the barge. Mr. Roland stated that all interested parties would be notified of the situation. Also at 0945,

the OSC representative advised MSO that one of the Clean Water work boats had discovered some oil at Dameron Marsh. Clean Water was in the process of cleanup.

At 1056, the previously scheduled Coast Guard helicopter overflight was aborted when adverse weather conditions forced the plane to return to Elizabeth City Air Station.

At 1308, CDR Sawyer telephoned MSO and advised that the STC–101 had been refloated and would be moved to shallow water for the purpose of lowering the barge to the bottom to enable the salvors to get a better lead on the cables. This was necessary so that the barge could be fully raised and pumped off. The barge was observed by CDR Sawyer when refloated, and it was noted that all cargo hatches where closer.* The STC 101 and the two salvage cranes were towed into shallow water by three tugs. The containment boom was deployed in a "U" shape position around the south side of the barge by two fishing vessels contracted by Clean Water Inc. during the entire salvage operation and while the barge was being moved to shore.

At 1530, Mr. Saul of STC telephoned CAPT Eaton and advised it was his intention to effect temporary repairs to the barge, and then tow it to Baltimore, Maryland. Due to deteriorating weather conditions, the salvor decided to ground the barge in Ingram Bay. At 1730, the barge was grounded in Ingram Bay approximately one mile south of Fleeton, Virginia and dewatering operations commenced.

February 7, 1976

After the vessel was dewatered on the morning of 7 February, a complete survey of accessible areas of the barge was made by an MSO marine inspector. The exterior hull damage noted included a three inch crack in way of the port void space and a missing ventilation hood on the port side of the pump room. Interior damage between the port void space and number 4 port cargo tank, was also noted. Temporary repairs were made in these areas and the barge was subsequently towed to Batlimore, Maryland by the tug FALCON in convoy with the crane barges which were towed by McLean Construction tugs. This transit was accomplished without incident.

The OSC representative returned to the Fleets Island/Windmill Point area to check out a report of oil soaked ducks that had been received by MSO the previous evening. A survey of the Windmill Point Marina area revealed no traces of oil, but upon surveying the area east of the marina, a large concentration of number six oil was discovered. The OSC representative estimated that the concentration of oil was 750–800 gallons. Clean Water immediately began moving containment boom into the area and commenced cleanup.

February 8 thru 19, 1976

The afternoon of 8 February 1976, Coast Guard Station Cape Charles advised MSO of oil being washed ashore south of Mattawoman and Hungar's Creek area. An aerial survey of the eastern shore of the Chesapeake Bay was completed by 1615 that day. This survey showed heavy deposits of oil along the shore line with numerous birds covered with oil. At 1645, MSO advised the Virginia State Water Control Board to relay to appropriate state agencies that oil covered fowl were sighted. A water survey conducted by Coast Guard Station Cape Charles confirmed reports of oil washing ashore and samples were obtained. Steuart Transportation Company was contacted by MSO at 2005 informing them of the oil on the eastern shore; however, Steuart refused to accept responsibility. A Federal Spill was declared by MSO with Industrial Marine Services contracted for cleanup.

The overflight of east and west shores of Chesapeake Bay on 9 February showed various concentrations of oil from Cherystone inlet to Nandua Creek on the eastern shore. A small concentration of oil was sighted in the vicinity of Sandy Point and Gwynn Island, and a heavy concentration at Fleet Island on the western shore. In view of the heavy concentration of oil on the eastern shore, Clean Water Inc. was contracted to supplement IMS in the cleanup.

At 1715, MSO requested the Atlantic Strike Team to dispatch the mobile command post and personnel to the eastern shore. Steuart Transportation Company notified MSO of their intentions to secure from cleanup operations on

*NOTE.—During the later marine casualty investigation proceedings, the first diver to survey the barge found cargo hatches nos. 1, 2, 3, and 4 port side wide open and no. 4 starboard closed, but not dogged. The diver stated that he closed and dogged all cargo hatches.

the western shore. Upon this notification, MSO declared a Federal Spill on the western shore, and Clean Water, Inc. was contracted to continue cleanup operations.

At the conclusion of the day's events, available information disclosed that oil had affected the shoreline on the east and west shores of the Chesapeake Bay; however, at this time there was no proof that the oil on the eastern shore was from the tank barge STC–101. Cleanup operations on the western shore was continued under MSO Case Number 2–4–6S, while cleanup on the eastern shore was conducted under MSO Case Number 2–7–6S. The estimated quantity of pollutant spilled was unknown at this time; however, a survey of affected areas indicated the quantity of oil to be much more than originally anticipated. MSO requested COTP Baltimore to take soundings from the barge so that a determination of the amount of oil that was lost from the barge could be established.

A command post was established on the eastern shore at Birdsnest, Virginia by the OSC representative on 11 February 1976. Preliminary ullage readings taken from the barge by COTP Baltimore showed an estimated 75,000 gallons of pollutant presumed missing. Clean Water and Industrial Marine Services continued cleaning affected beaches on the eastern shore, and Clean Water continued cleanup operations on the western shore.

Mr. Allen Levitt, U.S. Fish & Wildlife Service, Washington, D.C. contacted MSO relative to the lost waterfowl. He was advised by CAPT Eaton that many conservation groups were seeking advice on cleaning wild fowl that were covered with oil, and that the media was giving this activity a lot of attention. CAPT Eaton also pointed out that the National Contingency Plan requires the Department of Interior representative to arrange for cleaning of migratory birds.

Mr. Levitt stated that it is unlawful for such volunteer groups to handle wild game; however, the U.S. Fish & Wildlife Service would not prosecute bird handlers in this case. Virginia SWCB office at Cape Charles (Ms. Cynthia Ackers) advised that the State Game and Inland Fisheries was not performing liaison with volunteer bird cleaning groups. In view of this, CAPT Eaton appointed Mr. Johnson of the SPCA of Norfolk who agreed to act as liaison for all bird cleanup groups. The U.S. Fish & Wildlife Service estimated 5,000 fowl were lost.

At 0715 on 12 February 1976, the OSC shifted his command to Birdsnest, Virginia. The Environmental Protection Agency (EPA) conducted an aerial photographic survey on the eastern and western shoreline of the lower Chesapeake Bay on 12 February 1976. Personnel at EPA laboratory, Annapolis, Maryland, advised MSO that oil samples taken from deposits on the western shore matched those taken from the cargo tanks of the STC–101. The Regional Response Team consisting of EPA, Department of Interior, and USCG was activated this date. EPA personnel arrived at the command post in Birdsnest, Virginia at 1900 on 12 February 1976. Cleanup operations continued on affected shorelines by contractors as shown in the enclosed POLREPS.

On 13 February 1976, further aerial low altitude surveys were made by the OSC and EPA representative, Mr. Howard Lamp'l. At 1515 this date, a telex was sent to Steuart Transportation Company requesting their intentions concerning cleanup after positive identification that the oil on the western shore came from the STC–101.

Photographs taken by EPA on the overflight of 12 February 1976 were delivered to the command post at Birdsnest, Virginia at 0950 on 14 February. On the same day, the eastern shore cleanup sites were visited by RADM Johansen and CAPT Wood of the Fifth Coast Guard District.

Normal cleanup operation continued through 15–16 February 1976.

By 17 February, 45,265 gallons of oil had been recovered from the western shore and 79,965 gallons from the eastern shore. The contractors had 35 personnel on the western shore and 96 on the eastern shore. EPA laboratory analysis confirmed oil samples from the western and eastern shore of the bay matched samples taken from the STC–101. At 1500, MSO received a report from Mr. Watson of the Amoco Terminal, Baltimore, Maryland, and he stated that according to his calculations, an estimated 5,988 BBLS (251,496 gallons) were unaccounted for when the STC–101 reached Baltimore, Maryland. MSO Case 2–4–6S and MSO 8–7–6S were combined into MSO Case 2–15–6S and updated to a major spill.

On 19 February 1976, at 1622, final figures were received from the Amoco Terminal in Baltimore, Maryland, indicating 5,959 BBLS (249,838 gallons) of oil missing from the STC–101. At 1730, Steuart Transportation Company advised MSO in writing that they refused to accept responsibility for cleanup.

February 20, thru March 21, 1976

Normal cleanup operations continued during this period. Details of the daily cleanup operations are contained in POLREPS Section of this report.

Comments By the OSC

I. FIRST IMPRESSIONS OF THE OSC

When the barge owner reported that the barge was "vertical", my impression was exactly as the barge was found, the bow above water and the stern on the bottom; however, I did not visualize the barge in more than 50′ of water due to the generally shallow depth of the Chesapeake Bay.

My first reaction was to take immediate steps to determine if the barge was holding together and not cracking or splitting in way of the cargo tanks. I assumed that all cargo tank hatches were closed and that all PV valves were holding. Sheen from slight leakage around the PV valves, or possibly a worn gasket on the hatch covers was anticipated. Pollution from the diesel oil tank on deck due to leakage from the tank vent was also expected.

When the first reports were received stating that there were no leaks around the barge and only a slight sheen, I was somewhat relieved. When Mr. Kirby Tillett from Steuart Transportation called and told me that he personally flew over the barge and that there were no leaks, only a sheen, possibly from PV valves or the diesel oil tank vent, we agreed that the vessel was intact and we were very fortunate.

The first concern was whether or not the vessel would continue to contain oil when the lifting process commenced. My thoughts were that if we survived the salvage operation, our major problems were over. Therefore, our efforts were concentrated on having a large seagoing oil containment boom at the scene before the lift commenced and the equipment to remove the oil from the boom as it was collected. Clean Water Inc. personnel assured us that they could do this and we were satisfied that proper preparations were being made.

II. MONITORING IN THE BEGINNING

When the offender has contracted for cleanup, one of the most difficult decisions the OSC of a large spill has to make is to determine if the contractor's efforts are adequate and timely. We were monitoring Clean Water's efforts and it appeared that their efforts were both timely and adequate. We knew that additional forces could be dispatched to the scene by other available commercial contractors and that we had personnel and equipment of the Coast Guard Atlantic Strike Team on standby.

III. WHY WAS THE OIL NOT DETECTED EARLIER?

A reasonable person would wonder how the barge could partially sink and remain in one position for several days while the major portion of the 250,000 gallons of oil spilled was not detected until it reached the shore.

In addition to the many negative reports from aircraft searches, several vessels transited the area during the night of the spill and afterwards; none of these vessels reported sighting oil in the water.

There is considerable evidence contained in this report that the heavy No. 6 oil was submerged just below the surface of the water. Obviously, the submerged oil and partially submerged oil would be more difficult to detect from the air than a solid oil slick. In the beginning, I believe that all persons searching were looking for heavy concentrations of oil on the water's surface.

The heavy turbulent weather during the barge sinking and the turbulent water for several days after the sinking made it difficult to detect an oil slick or globules of heavy oil submerged deeper than they would have been in calm water.

From the evidence in this report it appears that much of the heavy oil floated in submerged globules just below the surface. When these globules

were carried into shallow water they became more elongated and touched bottom. The unseasonably hot weather warmed the shallow waters and increased the elongation and spreading of the heavy oil. As the elogated globules touched bottom they sank and remained on the sandy bottom, forming large patches of oil under water. Even then, the heavy oil emitted little or no detectable sheen.

I believe that the oil was lost before the barge came to its final resting place in the vicinity of Smith Point Light. The oil must be heated to be transferred as a liquid; when cooled it congeals. After the oil transfer at the Amoco Refinery at Yorktown, Virginia on the night of 1 February, the oil was hot and fluid. When the barge was proceeding up the Chesapeake Bay, in heavy weather, water leaked into the after pumproom causing the barge to be trimmed down by the stern. There was approximately one foot of freeboard on the barge when fully loaded. The added trim and heavy seas could easily have allowed oil to come out of the hatch openings, if they were not secured, and be displaced by water. If the hatch covers were loose and came open hot oil could have poured out while the barge was transiting the Chesapeake Bay. I believe that hot oil poured out of the cargo hatches and oil was scattered over a course of about 15 miles. The strong westerly winds then pushed the partially submerged oil, in the 40 odd degree temperature water, toward the eastern shore of the Chesapeake Bay.

When the diver was interrogated during the Coast Guard investigation he stated that he found four hatch covers open, one not dogged, and that he closed them.

As the barge proceeded further north it sank deeper and dragged on the bottom. Very little headway was made in the final hours of towing and a blinding snow storm made sighting of any leakage impossible. During this time, I believe that the remainder of the oil spilled, leaked from the tanks and several days later came ashore on the western side of the bay at Windmill Point and nearby areas. When the barge reached its final resting place the cold water had chilled the oil and very little, if any, leakage occurred.

IV. WHERE IS THE MISSING OIL?

There has been considerable speculation concerning the difference between the 250,000 gallons that was missing and the 167,000 gallons that has been recovered.

The news media makes frequent reference to the large amount of oil on the bottom of the Chesapeake Bay and has quoted from concerned citizens that we should prepare for another spill. I do not believe there is a large concentrated amount of oil on the bottom of the bay. If there is any sunken oil, it would probably be attached to scattered grass in the shallows or it would be on the bottom in shallow water areas. Many aerial and surface searches have failed to confirm this speculation.

There is a large amount of oil scattered in the grass areas of the marsh on the eastern shore. The oily grass was cut and removed, but the roots were not disturbed as requested by the various state and scientific agencies (further explanation is furnished in "Unique Problems" contained in the report). I believe that a large portion of the "missing" oil is on the marsh grass roots on the eastern shore.

V. THE OSC AT THE SCENE

Should the pre-designated OSC take his post at the field office or remain in command at his usual office, and dispatch a trained officer in oil spill cleanups to the scene?

The person in charge that goes to the scene should remain on scene until completion. Whether the CO is more effective in the field or with his staff in his own office would vary with the individuals and other circumstances. In this particular case I feel that we had a better response by the CO remaining on the scene. The main reason is that a very competent XO and staff held the office together where the heavy administrative burden was felt and provided excellent logistic support for the OSC. The CO should be at the scene to coordinate efforts, deal with other agencies in problem areas, and maintain good public relations.

VI. ORGANIZATION AT COMMAND POST

A basic problem is turning the trained Coast Guard enlisted personnel into effective on scene supervisors. When the oil spill offender is financing the contractor, the Coast Guard monitors the cleanup; but, when the funding is from the Pol-

lution Revolving Fund, the same Coast Guard monitors become supervisors. The contractor's foreman is inclined to resent this outside supervision. There were certain recommended cleanup procedures that the OSC wanted enforced and he relied on the enlisted supervisors to enforce the OSC's policy.

Each evening a meeting was held with all principals, including advisors, present. There was a tendency for the advisors to crowd around the OSC thereby pushing the Coast Guard supervisors to the background. We found that by seating the Coast Guard supervisors at the table with the contractors and leading foremen on the opposite side, the OSC could moderate the daily actions, plans, and differences. If advice was needed from an advisor, he was asked to step forward. At cleanup sites, the OSC and officer representatives dealt with the Coast Guard supervisor directly on each visit. Our Coast Guard supervisors, which included strike force personnel, responded in an outstanding manner.

VII. FINANCE PERSONNEL ASSISTANCE

The District Comptroller dispatched a finance officer and team to the command post. This team set up a record keeping system and left a storekeeper in charge. The contractor's daily invoices were compared with the Coast Guard supervisor's records and all discrepancies were corrected on the spot. This system was very effective and I strongly recommend that it be followed in future major pollution cases.

RECOMMENDATIONS

I. NEWS MEDIA

One of the first phases of setting up the field command post should be the installation of a nearby news office adjacent the OSC. The news office should have its own communications and office equipment. All news media inquiries should then be directed to the one news center.

Poor relations with the news media develops when the reporter must obtain part of his report from a downtown office and then gets the on scene color from many miles away. Frequently, the reporter expects to obtain the background history at the OSC's location on scene, but is often referred to a downtown office due to the OSC's preoccupation with more pressing matters.

If the news team were located at the OSC's field office, OSC representatives could lead the reporters to areas where favorable publicity could be obtained. Daily on scene press releases should be prepared and ready for the arrival of the media personnel.

The reporters and photographers usually request an interview with the OSC. This request should be granted. The OSC should not be shielded from the press, especially for current releases. However, the news team should be present to answer historical or non-specific questions, and to guide the OSC.

The news team should have one or more professionals on the staff. There is usually a side issue that captivates the news interest. The news team should take advantage of this and relate cleanup functions to this interest. For example, in the Chesapeake Bay spill, the media was concentrating on the heroic efforts of the volunteers who were cleaning ducks. The media stated that the volunteers were even cleaning the beaches. Press releases should have related to this in order to show the Coast Guard's assistance to the bird cleaners and also to show that cleanup efforts were protecting the birds from further coverage with oil.

II. SUPPORT AGENCY PERSONNEL

Any major oil spill in U.S. waters will involve response by federal and state agencies. For example, a major oil spill automatically activates the Regional Response Team, which will usually include such agencies as the EPA, USCG, USN, DOI, and Army Corps of Engineers. In addition, state and local agencies such as the Water Control Board, Health Department, and Wildlife Department may be team members, or be asked to provide assistance.

With a large number of personnel, each having diversified backgrounds, the problem of maintaining continuity to enable the OSC to initiate and direct effective response action comes to the foreground.

During the course of the cleanup operations for this spill state and federal agency personnel were rotated to and from the scene on a regular basis. In order to maintain continuity of policy, eliminate the need for continuous briefing and training of different personnel, and to obtain effective interagency liaison, it is

recommended that once an agency has responded to the spill that the original personnel who responded remain on scene until their assistance is no longer required. By maintaining continuity of personnel, policy for response action can be quickly formulated and more effectively implemented. The Coast Guard personnel were not rotated and other agencies have agreed that the continuity of personnel is the best procedure.

III. OIL AFFECTED WATERFOWL

The problem of oil affected waterfowl should take a very high priority in the initial response action in any spill. In accordance with SECTION 1510.46(b) of the National Contingency Plan, the Department of Interior's representatives and state liaison to the RRT are assigned the task of waterfowl conservation. In the initial phase of this spill reports of oil affected waterfowl were received as much as three days before the magnitude of this spill was discovered. Oil affected ducks were noted in the area of the barge on the afternoon of 5 February 1976. Notification of appropriate state officials was effected during the early morning hours of 6 February. Assurance was made that all interested parties would be notified and appropriate action would be taken. By 8 February, the full impact of the oil spill was discovered and state and federal officials were again notified. By the morning of 9 February, the magnitude of the waterfowl situation was clearly understood by the OSC. Several phone inquiries from the general public and the press were received asking "What is the Coast Guard doing to prevent further harm to waterfowl?" Contingency planning conferences prior to this spill addressed the waterfowl problem but specific pre-planning to deal with the waterfowl situation was not formulated.

This information is not presented to criticize any particular agency but to place emphasis on a problem that should be given immediate consideration. The Coast Guard predesignated OSC is not responsible for waterfowl conservation. During cleanup operations of this spill the OSC was severely hampered by public outcry over this situation at the very time when critical decisions concerning cleanup operations had to be formulated.

It is strongly recommended that pre-planning include a detailed policy concerning which agency is designated for response action and that this action should be immediate upon proper notification. Cleaning stations equipped with all necessary materials should be immediately established on scene with a full staff to organize all volunteer efforts and to answer any questions.

UNIQUE PROBLEMS

Eastern Shore

I. DISTRIBUTION OF OIL ALONG THE SHORELINE

The oil collected in scattered heavy deposits on the eastern shore beaches from Powell's Bluff to Smith Beach (a linear distance of fifteen miles). Within the boundaries of these two points there are approximately seventy-one miles of creeks, marshes, and meandering shoreline. Extensive survey of this area indicated that twenty-seven miles of this shoreline had evidence of oil pollution Only negligible concentrations of pollutant were sighted outside these boundaries.

This area of the Chesapeake Bay shoreline consists of highly eroded, sand/clay beaches. Several creeks are located along this stretch of shoreline and the shoreline of these creeks consists mainly of low lying marsh.

Travel to the cleanup sites was severly hampered by the marshes, access to private property, and insufficient roads. It was not unusual to make a twenty-five mile trip back to the main highway and then return along winding narrow roads to view a site which has actually only one mile south from the starting point.

II. POLLUTION REMOVAL PRIORITIES

The oil affected areas were so extensive in this spill that the OSC was required to assign oil removal priorities. The determination of priorities was based on the results of aerial, boat, and foot surveys. Each area had to be evaluated as to the quantity of pollutant and immediate environmental impact. Oil removal priority was applied to various areas as follows:

a. Pools of oil on sandy beaches which could become transient during fluctuations of wind and tide.

b. Marsh areas were given a high priority because of the importance of this environment to wildlife.

c. Finishing or polishing cleanup operations, which involved the final removal of all remaining oil, where possible, was given last priority in all cases.

III. SITE EVALUATION IN ECOLOGICALLY SENSITIVE AREAS

Very careful consideration had to be given to ecologically sensitive areas to prevent the oil removal operations from inflicting additional long term damage to these locations. These areas presented special problems such as erosion control, potential destruction of shellfish beds, and damage to marsh grassroot systems.

Pollution removal criteria was formulated jointly by USCG, EPA, U.S. Fish and Wildlife Service, and the Virginia State Water Control Board representatives on scene. This team conducted joint surveys of these areas and obtained all available information from varied sources ranging from landowners to biological scientists in order to arrive at a list of recommendations for the OSC. The criteria established to deal with the problems consisted of nine variables which had to be weighed when determining the method or feasibility of cleanup. Note the Pollution Removal Criteria interagency letter of 20 February 1976 which follows:

FEBRUARY 20, 1976.

Re MSO Case 2–15–65, Chesapeake Bay Spill—February 2, 1976

POLLUTION REMOVAL CRITERIA

In determining feasibility of clean-up a number of criteria must be addressed. These include:

1. Volume (concentration).
2. Wildlife.
3. Recreational Value (Beaches).
4. Exposure (Aesthetics).
5. Biological Effects.
6. Erosion after Clean-up.
7. Access.
8. Use of heavy equipment.
9. Sensitivity to clean-up crews.

Another important factor, but one which is constant, is the toxicity of the oil (No. 6—low toxicity).

When addressing an area of beach, all of the above must be considered. However, each separate area will require emphasis to be placed on different items, and the decision whether clean-up is necessary must be made on a case-by-case basis.

Special emphasis *must* be placed on the effect clean-up will have on shoreline erosion. In their report of February 14, 1976, VIMS emphasized the importance of erosion control and stated their evaluation of erosion control versus the cleaning up of the oil.

After it has been decided to clean a beach area, close control must be kept on the contractors work crews so that only the appropriate areas are cleaned up. Many of the affected areas must be cleaned up in specific spots and not in continuous sections. No unaffected grass should be cut or raked. At no time should the roots of the unaffected grass be touched. If necessary, the oily grass should be cut, but the roots are not to be disturbed. From close observations, it appears a number of areas can be cleaned by small, well-informed crews. This type of operation will help eliminate criteria 6 through 9 while adequately handling criteria 1 through 5.

Whenever possible all areas will be inspected on foot jointly by the concerned parties both before and after clean-up operations.

The above, which has been arrived at jointly by the United States Coast Guard, the Environmental Protection Agency and the Virginia State Water Control Board, is to be used as a basic guideline on a case-by-case basis. Each affected area will represent a new set of problems and different considerations.

M. H. EATON,
Captain, OSC,
United States Coast Guard.
HOWARD LAMP'L,
Environmental Protection Agency.
GLENN E. MOORE,
Virginia State Water Control Board.
F. NELSON SWINK,
U.S. Fish and Wildlife Service.

IV. ON SCENE SUPERVISION

Due to the wide expense of oil polluted areas and poor road systems, monitoring if cleanup operations became a very unique problem. Furthermore, unreliable communications were experienced due to the long distances involved. Coast Guard enlisted men were assigned the bulk of the supervising responsibility. These men were well experienced in marine environmental protecton work and were required to take an active decisionmaking role at the cleanup sites. This delegation of authority insured that the OSC's priorities and instructions for cleanup were complied with by contractor personnel at the work sites. Thus, the majority of the responsibility for management of the physical cleanup operations was borne by these supervisors.

In order to insure a smooth flow of communications between the OSC and the various cleanup sites the following procedures were followed:

a. Nightly OCS meetings were conducted with all Coast Guard supervisors and key contractor personnel present. Daily progress, problems, and future plans were discussed in detail.

b. Frequent work site visits were conducted by the OSC and the officers as sisting him.

c. The same Coast Guard supervisors and officers assisting the OSC were on scene throughout the entire course of the cleanup operations to insure continuity.

V. VISCOSITY AND SPECIFIC GRAVITY OF POLLUTANT

The physical properties of Number 6 oil presented some very unusual removal problems. Although certain spill sites had large pools of concentrated oil, the early utilization of a vacuum truck revealed that the oil was too viscous and promptly plugged the suction hose. Even though sunny, relatively warm weather prevailed during the cleanup operations, the oil could be literally sliced with a shovel. Manpower armed with shovels were the predominant tools of cleanup.

High pressure water washing was initially attempted to remove oil from marsh grass. This method was quickly abandoned, because the high specific gravity of the oil caused the washed oil particles to break up and sink in the water, making recovery nearly impossible.

VI. MARSH CLEANUP

A large quantity of the spilled oil accumulated in the many marsh areas along the eastern shore. The soft, moist peat soil of these marshes contains the roots of dormant marsh grass. The Virginia Institute of Marine Sciences, the EPA, the State Water Control Board, and the U.S. Fish and Wildlife Service were in common agreement that it was highly inadvisable to attempt the removal of oil at the risk of damaging the root system of this marsh grass. The OSC concurred with this recommendation and decided to cut and remove the oily grass, but preserve the root system.

This was accomplished by cutting the grass either by hand or by utilizing power mowers. In locations where thick oil remained in the root system, dry grass was spread over the oily soil and was walked on to compact it into the oil. The bulk of this oil was absorbed by the dry grass, and was then removed utilizing four-wheel drive vehicles. In some of the most sensitive areas, oily grass could only be removed at high tide utilizing boats, in that the use of vehicles would severly damage the marsh.

VII. EROSION

Erosion was a severe problem on the eastern shore. Bulkheads and groins exist at most beachfront residences as an erosion deterrant. Utmost care had to be taken to avoid increased erosion problems. Beach grass was carefully preserved and the use of vehicles on the shoreline was avoided if they would significantly aggravate the erosion problem. High pressure water washing of marsh grass

areas was not feasible because of the erosion it would cause. These precautions, although necessary, greatly increased the overall cleanup time and expense.

VIII. DISPOSAL

As is the case in all major spills, disposal of oil and oily debris was the predominant problem which had to be addressed immediatley or cleanup operations would grind to a halt. The Virginia State Air Control Board permitted recovered oil to be burned at county landfills on the eastern shore. The Virginia Health Department permitted the oil to be hauled to either of the two sanitary landfills available, but all of the oil had to be burned. Any substantial concentration of buried oil would contaminate the existing high water table of the area.

Attempts were made to find a method other than burning to avoid the air pollution factor, but only very limited progress was made. No economical and feasible method to recycle the oil was available, but a limited amount of oily sand was accepted by the highway department to be used on roadways.

The Coast Guard, particularly CWO P. Brunk of the Atlantic Strike Team spent much time and effort to find an acceptable method to burn the oil. The heavy Number 6 oil would not pour out of the drums, which meant that the burning process was accomplished with the oil in the drums. Several methods of burning the oil were tried, but even with the use of gasoline, diesel fuel, and acetone, a fire could not be maintained. The solution to the problems was the utilization of a very simple machine that is used to burn brush and tree stumps.

The device is basically a gasoline-powered forced draft blower which is hooked to a tractor to allow for re-positioning during the burn. The recovered oil was carried to the landfill in drums which were then placed in a rectangular shape, six to ten drums wide by twenty to twenty-five drums long and stacked two high. Many old tires were placed around, between, and on top of the drums to provide a long term source of heat. The brush burner was then positioned to blow through the length of the stacked drums and a small amount of diesel fuel was used to prime the fire. The forced air produced an inferno that turned the drums red hot and hardened the unburnable products into a rock-like residue of debris and charcoal.

IX. COMMUTING AND HAULING DISTANCES

The oniy available acceptable living quarters were about twenty-five miles north or south of the command post. A limited number of rooms at the small motel adajacent to the centrally located command post were occupied.

The Accomac landfill site was located about sixteen miles from the nearest cleanup site and about thirty-five miles from the most distant site.

Western Shore

I. SUBMERGED OIL

The bulk of the oil removed from the western shore lay in bottom troughs within fifty feet of the mean low water line at Windmill Point sites. Oil removal required that personnel stand in waist-deep water shoveling the submerged oil into drums. Near the shoreline, the oil displaced surface water to depths of approximately two feet. Diving operations by members of the Atlantic Strike Team revealed no significant quantity of oil further offshore.

Patches of oil approximately the size and shape of a cucumber surfaced during a week when the air temperature rose to 80°. After exposure to sunlight, the patches were gradually reduced and dissipated into a sheen. The appearance of the oil patches ended during a subsequent drop in air temperature for a 3–4 day period. The oil patches began to reappear still later when the air temperature rose to the sixties. Cleanup personnel were able to use dip nets to remove the surfacing oil from the water.

Diagrams I and II graphically illustrate the behavior of the oil as observed by on scene personnel.

DIAGRAM I

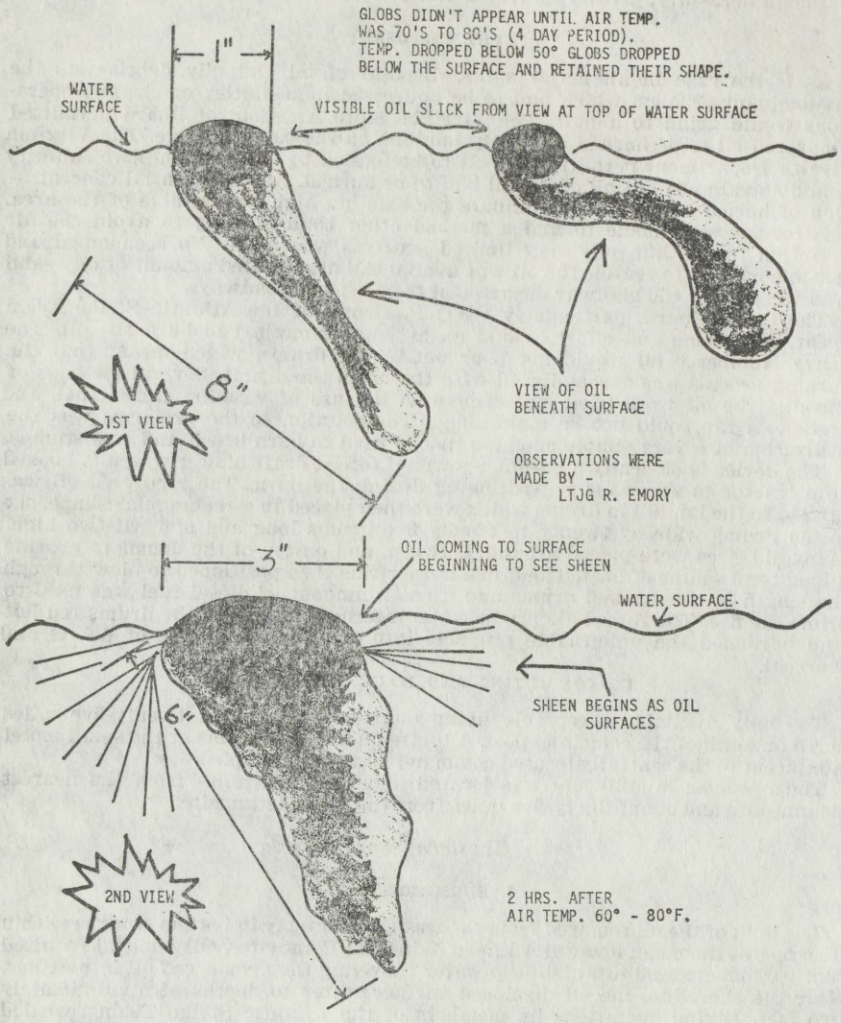
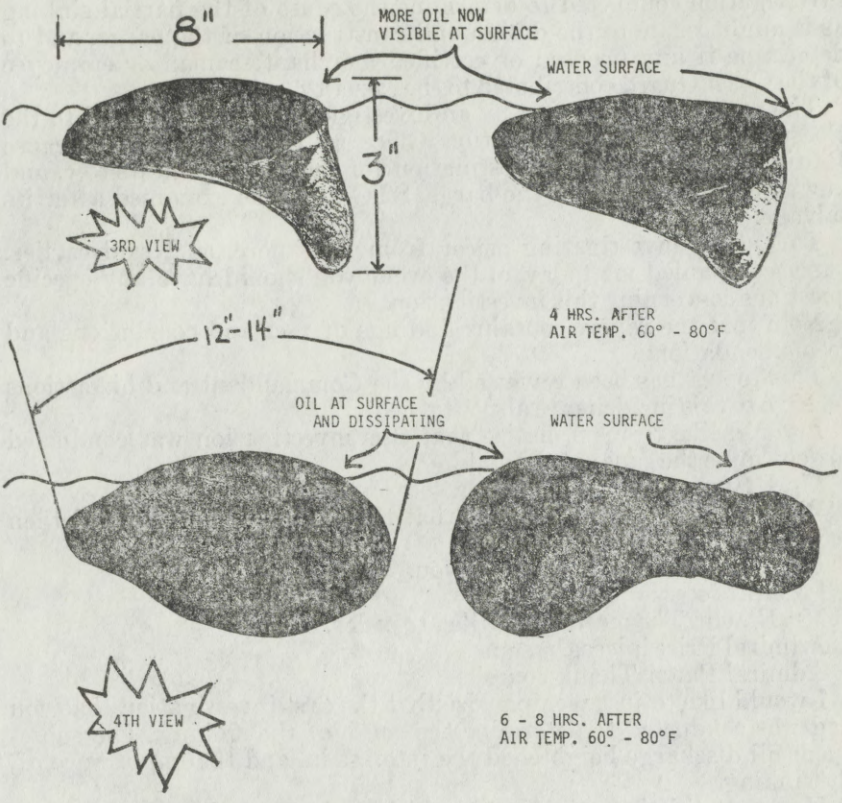

GLOBS DIDN'T APPEAR UNTIL AIR TEMP.
WAS 70'S TO 80'S (4 DAY PERIOD).
TEMP. DROPPED BELOW 50° GLOBS DROPPED
BELOW THE SURFACE AND RETAINED THEIR SHAPE.
1"
WATER SURFACE
VISIBLE OIL SLICK FROM VIEW AT TOP OF WATER SURFACE
8"
1ST VIEW
VIEW OF OIL BENEATH SURFACE
OBSERVATIONS WERE MADE BY -
LTJG R. EMORY
3"
OIL COMING TO SURFACE BEGINNING TO SEE SHEEN
WATER SURFACE
SHEEN BEGINS AS OIL SURFACES
6"
2ND VIEW
2 HRS. AFTER
AIR TEMP. 60° - 80°F.

DIAGRAM II



II. REMOTE CLEANUP SITES

In the Rigby Island vicinity, cleanup was tedious due to restricted access to cleanup sites presented by the characteristics of the shoreline. A sand bar one quarter of a mile wide surrounded the shoreline where oily grass was being cut and loaded into drums. The drums were placed in a Boston Whaler which had been walked across the sand bar to the shore. When the drums were full, the Whaler was walked back across the bar and sent out to a waiting sixty-five foot oyster boat. A boom on the oyster boat removed the drums from the Whaler, and the Whaler returned to the shore. Several trips by the Boston Whaler were required to load the oyster boat, which then had to make a forty-five minute trip through a meandering channel to Milford Haven to off-load the oily grass onto a truck.

III. DISPOSAL

The oil removal methods utilized on the western shore were very similar to that of the eastern shore. The oil was collected in drums and these drums were removed to one storage area. There was no problem with immediate disposal, but some means had to be found to dispose of the pollutant upon the completion of the spill.

The Stafford County landfill was willing to accept the oil, but the logistics of transportation over a considerable distance were an enormous undertaking. After further research, it was discovered that a nearby racetrack owner was willing to accept the entire quantity of recovered oil. This proposal was approved by the State Health Department and the State Water Control Board and the oil was subsequently transported to the raceway.

Admiral PRICE. The first report is a report of the marine casualty investigation conducted to determine the cause of the partial sinking as it might relate to the design and construction of the barge, and to determine if any licensed or certified merchant seaman or employee of the Coast Guard contributed to the casualty.

The report was prepared by an investigating officer assigned to the Coast Guard Marine Inspection Office at Baltimore, Md., because Baltimore was the port of destination for the *Falcon* and its tow, and is where the structure of the barge, STC–101, was examined after its salvage.

The senior investigating officer from Baltimore, as I said earlier, has accompanied me today in the event you should have any specific questions concerning this investigation.

Note that the report contains findings of fact and conclusions and recommendations.

This report has been reviewed by the Commandant and his actions relative to this incident are also attached.

I would like to reemphasize that this investigation was conducted to determine the cause of the sinking.

Mr. BIAGGI. Admiral, we have a vote on the floor.

We will recess at this time so that the members can vote and then return.

I am sorry to have to interrupt you.

[A brief recess was taken.]

Mr. BIAGGI. The meeting is called to order.

Admiral Price, please, resume.

Admiral PRICE. Thank you, sir.

I would like to just reemphasize that the first investigation that you had was conducted to determine the cause of the sinking. The subsequent oil discharge heightened the interest in, and the importance of, the sinking.

However, this investigation would have been conducted even if no spill had resulted.

The second report was prepared in accordance with the provisions of the national oil and hazardous substances pollution contingency plan by the Federal on-scene coordinator for this incident, who normally serves as the marine safety officer, Hampton Roads, Va., and captain of the port.

He is also here with me today and available to answer any questions on this incident.

His report provides information concerning the events of the oil discharge and the actions taken to contain and recover this discharge from the waters and shoreline of the bay.

The report discusses the organization and effectiveness of response actions taken by the Coast Guard and other Federal, State, and local agencies which includes a discussion of resources committed, the unique problems encountered and provides recommendations as required toward improving response action if a similar event were to occur in the future.

These two reports provide a complete presentation of the facts as we know them relating to the sinking of the barge STC–101, and the oil discharge resulting therefrom.

I would now like to address certain issues which have emerged from this incident relating to the adequacy of the overall reaction, and the corrective action being considered.

For perspective, it is useful to briefly review the sequence of events leading to this casualty.

The barge was loaded to an average freeboard of 15 inches with a 6-inch trim by the stern. This barge was constructed in Delaware in 1956 and undoubtedly traversed Chesapeake Bay many times in a similarly loaded condition which is typical for inland barges.

En route Baltimore, the stern of the barge sank from a number of events, a combination, I should say, of events, all of which were necessary to precipitate the partial foundering.

In proceeding up the bay, the spill coaming installed as a pollutant preventive measure in 1971, trapped significant quantities of water on deck, increasing the displacement of the barge.

The pumproom aft flooded through failed vent closures and/or structural failure of the vent duct connection. The dynamic wave action coupled with the free surface action of the water within the coaming was sufficient to overcome the remaining longitudinal stability of the barge.

Now, as to the weather. The tug *Falcon* with the STC–101 in tow departed Yorktown, Va., en route Baltimore, Md., at approximately 3 p.m. February 1, 1976. The noon National Weather Service forecast for that date covering the area to be transited was for small craft advisory to go into effect at 5 p.m. Winds were predicted to be gusty, shifting to northwest and increasing to 15 to 30 knots with stronger gusts. This is rather usual weather for Chesapeake Bay at this time of year.

At 1 a.m. February 2, 1976, when the *Falcon* was well up into the Bay, the forecast was changed to gale warnings for Chesapeake Bay with northwest winds at 25 to 35 knots with stronger gusts. The frontal system, in fact, arrived earlier than forecast and with much stronger winds than predicted. The visibility was reduced by snow to a point where the barge could not be seen by the naked eye from the *Falcon*.

Without this combination of events, the barge would likely have completed the voyage without incident. Further, any oil spillage would likely have been negligible had barge been properly prepared for sea by tightly closing all deck openings in accordance with good seamanship practice.

We cannot state with certainly when or where the oil began escaping from the barge. It now appears very likely that it began leaking while the barge was still under tow. The first concern of the on-scene coordinator, once having received the report of the barge sinking and after insuring there were no lives in danger, was for the integrity of the barge.

Based on reports from the scene of the sinking, all indications were that the barge was intact, though semisubmerged, and all hatches and valves were holding.

While we understand it to be conceivable under certain conditions for spilled oil to sink, virtually all our studies and experience tell us to look for oil on the surface. In this incident the report from the

scene was that there was only a very light sheen visible around the barge, and this was clearly not the usual indication of a catastrophic release of oil.

The barge was successfully raised at 1 p.m. February 6, 1976. The combined events of raising and sounding the barge, and oil being reported on the Eastern Shore of the bay were the first indications of a massive release. Prior to the oil being reported on the Eastern Shore several overflights of the bay were made by the Coast Guard and civilian helicopters, but no large slicks of oil were sighted, nor were any oil sightings reported by commercial vessels or aircraft traversing the bay area.

All of this served to reinforce the conclusion that the barge was intact as to cargo and that no significant amount of oil had been released.

Shortly after the barge was refloated, the oil lost from the barge was grossly estimated at 75,000 gallons by taking ullage readings, that is, measurements of the difference between the top of the tank and the top of the cargo. Ullage readings were taken in lieu of soundings because of the thickness of the unheated oil, which becomes very, very viscous.

After heating and settling of the cargo in Baltimore it was found that a considerable amount of seawater was mixed and suspended in the oil and the initial estimate was revised to slightly less than 250,000 gallons.

Once the magnitude of the discharge became apparent from the initial estimate, the Federal efforts to cleanup the oil on the Eastern Shore were augmented to include overflights by the Coast Guard, EPA and NASA using infrared, ultraviolet and satellite high resolution sensing and photographic equipment to map the location of the oil.

These techniques provide a pictorial representation of the extent of the oil but they do not yet enable a calculation of the quantity of oil detected. However, some valuable lessons were learned concerning the use of sensors.

For example, the experience in this incident with these techniques clearly underscored the superiority of photographic observations over visual observations under the conditions that prevailed.

This became evident when high altitude aerial photographs taken and analyzed by EPA photo interpretation experts on February 12, revealed the location of substantial amounts of oil in the water off the Eastern Shore of Md., whereas low altitude visual surveillance of the same area at approximately the same time failed to detect the presence of oil.

The Coast Guard is planning to install oil detection sensor systems including high altitude photographic capability in selected fixed-wing aircraft. The first of these installations is planned for January 1977. The services of these specially equipped aircraft will be available to on-scene coordinators upon request.

In the interim we will continue to seek assistance from the EPA when such photographic services are required.

When considering the judgments related to this sequence of events it is pertinent to note that the Coast Guard did not learn that the cargo hatches had not been dogged properly until the casualty investigation uncovered this fact well after the sinking. We have analyzed the events

and actions of this incident, not from hindsight, but based on the facts as they became known to the decisionmakers and we are persuaded by this analysis that response action was taken appropriate to the situation as it was known at the time.

Several types of corrective action are contemplated to prevent repetition of this casualty and to improve our reaction to these types of incidents. First, consideration will be given to codifying in regulations the essentials of what constitutes good practice in preparing barges for sea. Second, information concerning this casualty will be widely disseminated to the marine industry with emphasis upon information regarding necessary inspection maintenance and potential hazards associated with compartment ventilation and attendant closure devices.

The reserve freeboard needs and more specifically general survivability criteria for inland barges are being considered as part of an overall evaluation of construction and design standards for those barges.

Also, new regulations are being drafted limiting the height and volume of cargo spillage containment areas. And finally, we are directing our field forces to review, refine and expand their existing contingency planning to insure that detailed planning tailored to meet the specific requirements of each predesignated on-scene coordinator's area of responsibility is in hand.

These local plans should include detailed information on such items as locally available pollution control and surveillance resources, highly vulnerable areas requiring special consideration such as wildlife refuges and shellfish beds, routes of access for response action, points of local community contact and geographical peculiarities of the locality including the optimum points for containment and recovery of a pollutant.

The objective of this effort will be to enhance the level of preparedness of the on-scene coordinator to more effective cope with potential or actual incidents occurring in his area.

Before undertaking to answer any questions, which we will be pleased to do, I would like to draw your attention first to this photograph which we brought so that you may have a visual appreciation of STC–101.

This photograph is taken from a quartering position off the port quarter. You may be able to see around the middle of the deck, the 18-inch coaming which I mentioned.

The purpose of that, as I said, is to entrap any spills of oil which may escape in the loading or discharging process.

I don't think you can see too well, the fittings with respect to the afterpump room.

They are concealed by the push joint located dead aft of the barge. You can see, just forward of that, a large tank which contained originally diesel oil which drives the engine which drives the pump—a small quantity compared to the total quantity of the barge itself.

Forward, you can see the two running lights of the barge which, even though the barge was in a sunken state, remained illuminated.

They are driven by batteries and they appear illuminated still in the photograph in the on-scene coordinator's report.

We also have, sir, the results on a TV-type tape of some research carried out at our R. & D. center in Groton upon this type of oil.

I hope you are in a position to see this.

May we be assured that you can see the screen before we turn it on?

What you will see, and I think it is adequately explained, is the characteristic of this oil, when it is released into the water.

It helps to explain the difficulties of detection.

[A television tape of research carried out by the Coast Guard Research and Development Center in Groton was shown.]

Admiral PRICE. The point of exhibiting this is to try to offer some rational explanation, and there is a rational explanation, for those things which always seem to be inexplicable at the time, why there was no substance, we believe, to this conjecture that was going around at one stage that the oil was sunken and sitting on the bottom of the bay waiting for the summer months to surface.

It also explains, since we found no sheen associated with this in conducting aerial surveillance, why the oil went undetected until it began to accumulate and cluster against the shoreline.

There is a rational explanation for physical things, sooner or later.

We also have on the stand a diagram to give you a better appreciation of the barge configuration.

It contains a forward rake compartment which is the bouyancy in the forebody and an afterrake compartment which is the buoyancy in the after space.

In these respects, there is very little difference conceptually from a supertanker, which is buoyed up to a considerable degree by compartments located in much the same distribution.

The barge is compartmented in the afterrake in three chambers, independent of each other, the central pumproom and the two wing compartments.

In this it is somewhat better than your average barge which usually only contains one such space, which is all one space.

The cargo is divided in eight chambers, eight tanks—four port and four starboard.

And the expansion trunks are all on centerline as you see, within the enclosed green area, which represents the coaming to which I had reference earlier.

In its submerged state, as shown by the photographs which, of course, only show the stem sticking out of the water, it was in this attitude and so remained until salvaged.

Sir, this is by way of laying out the scale of the event and the circumstances and the information which was available to the people who had to make decisions as to what to do about this event.

We are at your disposal, sir, for any further questions.

Mr. BIAGGI. One question that troubles me is that, in the light of all of the circumstances—but before I go to that, what part of the bay did the barge at first have difficulty in?

Admiral PRICE. Sir, this gets us into an area of conjecture.

We have a chart that we can put up and show that.

Mr. BIAGGI. Let me see if I can refine it to facilitate an answer.

Where was the barge located when it was first reported?

Admiral PRICE. It was aground off at Smith's Point in the Chesapeake, which is, essentially, the entrance to the Potomac, at the time of the report.

The reason I started to answer your question in a different way is that it appears to us possible that the barge was in some difficulty well

before that, and that the oil was being released unbeknownst to the tug *Falcon* well before he found the barge had foundered.

Mr. BIAGGI. Where was it when the Coast Guard was notified?

Admiral PRICE. It was off Smith's Point at the position being indicated on a chart.

Mr. BIAGGI. Tell me in terms of miles or yards, or whatever, how far it was from the shore.

Admiral PRICE. Three and a half miles south of Smith's Point.

Mr. BIAGGI. How close was it to shallow water?

Captain SCHUBERT. Approximately a mile and one-half.

Mr. BIAGGI. I would like to know, in light of all the conditions, first the request for assistance and two, the extremely bad weather as it had developed at that point, whether, once the Coast Guard was notified, it should have relied upon a commercial vessel to assist the barge.

I think it, in fact, had a responsibility to respond to assist.

Admiral PRICE. Sir, the track record for this, as indicated in the on-scene coordinator's report, the request for assistance was first made and then withdrawn by the party submitting the request.

I think that is offered in the chronology.

Mr. BIAGGI. Because they didn't need assistance or because there was another vessel there?

Admiral PRICE. I believe it was withdrawn because they had commercial assistance en route and in proximity.

I believe that is also mentioned in the report.

Mr. BIAGGI. How far was the Coast Guard cutter from the area at the time?

Admiral PRICE. I would have to check it out, but Captain Eaton advises me he believes the closest available assistance was in the form of an 82-footer located at Crisfield, which was across the bay from the site.

Mr. BIAGGI. How long would it have taken for it to respond?

Admiral PRICE. I would venture about 4 hours considering the weather.

Mr. BIAGGI. For the record, let us repeat—how bad was the weather?

Admiral PRICE. Well, at the time of this—the indication is wind velocities up to the 55 knot range along with snow.

Whether that was still the prevailing condition at 6:30 in the morning when the first concerns were raised, we would have to confirm.

Mr. BIAGGI. Do you think a Coast Guard cutter would have been of assistance?

Admiral PRICE. If you had a commercial tug which had the necessary capability to provide the assistance, then it seems to me that it is rather the same as our technique in handling distress cases.

If we can divert another vessel which has the competence to the scene in a timely fashion, then we try to do that.

Mr. BIAGGI. You were relying on a commercial vessel to do the job of the Coast Guard?

Admiral PRICE. Sir, if it is a salvage problem, the Coast Guard is not responsible for a salvage problem.

Mr. BIAGGI. Had we reached that stage?

Admiral PRICE. I don't think we knew precisely what we had, but there is a criminal penalty of $10,000 for failure to report a pollution

event and, I am sure that the people who operate Steuart Petroleum are well aware of that.

They had not indicated that they had a pollution problem.

Mr. BIAGGI. I am not going to pursue it.

In light of all the circumstances, Admiral, I think it was incumbent upon whoever was charged with the responsibility of the Bay at the time to make more diligent inquiry into the conditions and respond, in any event. He certainly should have made more diligent inquiry.

I feel they would have responded.

You are talking about gale wind conditions, where additional assistance was required.

Admiral PRICE. With respect to that, Mr. Chairman, I think there is a point which just seems somehow to be missed.

The Coast Guard is not in charge of cleaning up oil spills. We are in charge of seeing that oil spills are cleaned up.

If a competent and responsible action is being taken to cope with the problem, and it is adequate, then there is no reason to drain off Federal moneys in order to cope with that problem.

I think that following the chronology of this incident through, there may have been erroneous information that was being received or inadequate information that was being received, but, on the basis of the information being received, responsible actions were taken.

The agency that was called in by the company to clean up the spill is one of the foremost commercial cleanup contractors on the Eastern Coast.

Mr. BIAGGI. You are talking about after the fact?

Admiral PRICE. Yes, sir, that is after the fact.

Mr. BIAGGI. I don't quarrel with what you say, Admiral. We recognize that.

But when the call was made for assistance, what type of assistance was requested and why was the call made?

Admiral PRICE. I will ask Captain Eaton if he can supply the answer.

Captain EATON. The call was made for assistance from the owner-operator of the tow vessel.

First he reported that the barge was vertical or was stuck by one end.

Then, no assistance was needed.

Correction. He later called and said he would like to have assistance.

Then, he called and said that a commercial tug is on the way in the nearby vicinity and no assistance was needed.

The only reason he wanted assistance at that time was to tow the barge into shallow water. But he decided not to do this.

During this time, the tow boat was still attached to the barge.

Mr. STUDDS. Was the sea still heavy at that time?

Captain EATON. Pardon?

Mr. STUDDS. Was the storm still in progress at that time?

Captain EATON. It was reported that there was a heavy sea condition by the operator of the tow boat.

Mr. STUDDS. Is it a wise policy in that instance to head for shallow water or ride it out in deeper water?

Captain EATON. I don't follow the question, sir.

Mr. STUDDS. You said he was calling for assistance to be towed to shallow water.

Wouldn't that perhaps be the wrong direction at a time like that?

Captain EATON. I don't think it would be too wise under any circumstances, to tow a barge.

Admiral PRICE. I don't think it would be advisable under those conditions to do anything to attempt to move it, because whatever you do is likely to be the wrong action.

If he goes into deeper water, he runs the risk of losing the barge entirely.

If he goes into shallow water, he runs the risk of holing it. Apparently, he came to that conclusion on his own.

Mr. BIAGGI. Obviously there needs to be some change in design.

As I recall, you suggested or recommended a reevaluation of design on the freeboard and the like?

Admiral PRICE. I would like to elaborate on that a little bit.

Mention has been made in some of the remarks earlier about load lines.

Load lines, and I now rely upon my personal training as a Naval architect, was a concept brought forth in England in the last century by Samuel Plimsoll to control freeboard to prevent downflooding of cargo ships which have large openings in their decks.

When applied to tankers, freeboard is much less because the deck openings are smaller and capable of being secured tightly against the sea—the business of securing cargo ships which used to have timbers and canvas and the like over their hatch openings is a technique which has been improved with time. In any event, as long as the barge is intact and has sufficient reserve buoyancy, it will float.

The barge form is very efficient and the demonstration of success is the 20-years experience with this barge. I may say we have also had, in times past, although no one has every really carried it onward, proposals for barges which were characterized as submergible barges, which were a form which could be towed behind a conventional ship, so it was entirely possible to carry a large quantity of oil in a teardrop body, submerged beneath the waves.

All of this by way of saying, as long as the barge is intact and sealed and has a sufficient amount of reserve buoyancy, it will float.

What we are looking at in our review of the barge construction are the larger questions of how to deal with barge design for the future, taking account of today's awareness of the environmental factors, for the barge to have sufficient residual buoyancy, not to endure the waves, but to endure the kind of manhandling it receives in ordinary treatment.

We have barges that operate on our bays and sounds. We have barges that operate on our river system. They are rather like boxcars in the way in which they are maneuvered, and they are susceptible to injury from—not so much grounding, but from the tow boat itself, from the lock walls through which they operate and from fendering systems in poor condition on bridges beneath which they pass.

This is the kind of thing we are reviewing from the standpoint of improved criteria for the design of barges for future construction. We have this study well advanced.

Mr. BIAGGI. What are the present requirements of the law as to admeasurement of barges?

Admiral PRICE. Admeasurement is a function by which to determine what cargo-carrying capacity of any vessel actually is. It comes from

those days when a charterer, having never laid eyes upon the craft in attempting to charter it, wanted some measures of how much it could carry in the way of a cargo he wanted to transport. So it is a gross measure of the interior cargo-carrying capacity and is determined as approximately 1 gross ton per 100 cubic feet, I believe.

Mr. BIAGGI. What was the cargo-carrying capacity of the ST–101?

Admiral PRICE. Twenty-thousand barrels of oil.

Mr. BIAGGI. Twenty-thousand?

Admiral PRICE. Yes, sir, barrels.

That is 840,000 gallons, if you want to go to that measurement, or we can give it to you in tons.

Mr. BIAGGI. How much was lost?

Admiral PRICE. 250,000 gallons, approximately a little less than a third unaccounted for.

Mr. BIAGGI. Was the barge fully loaded at this time?

Admiral PRICE. The barge was about 500 barrels short of being fully laden.

Mr. BIAGGI. What is gross tonnage and net tonnage?

Admiral PRICE. These are those admeasurement criteria of which I was speaking, they are interior volume translated from cubic feet into tons as a means of demonstrating the capacity.

Net tonnage is gross tonnage minus certain allowed deductions. They are largely used, that form of admeasurement, as far as we are concerned today, as a means of establishing safety measures.

Mr. BIAGGI. I have a series of questions to ask you, but before I continue, Mr. Studds, do you have any questions?

Mr. STUDDS. Mr. Downing?

Mr. DOWNING. Thank you.

At what point in time was the barge sunk?

Admiral PRICE. The barge was clearly known to sink at the time the man made the report at 6:30 in the morning.

Mr. DOWNING. Did it sink at 6:30 in the morning?

Admiral PRICE. We believe it was in a sinking condition from sometime, and this is purely speculative, from sometime perhaps as early as 3 o'clock, possibly even a little earlier than that.

Mr. DOWNING. At what time was the Coast Guard first notified?

Admiral PRICE. 6:25.

Mr. DOWNING. What was the wording of the message which the Coast Guard received?

Captain EATON. The Coast Guard received a telephone call from the operator and owner of the towing vessel, who stated that the barge was vertical and that there was only a slight sheen around the barge which he assumed to be lubricating or diesel oil from pump machinery.

Mr. DOWNING. Well, a barge sank in the bay. Isn't that a flag to alarm the Coast Guard?

That instance, in itself, without oil being involved?

Admiral PRICE. Yes, sir.

Mr. DOWNING. What would be your normal response to that?

Admiral PRICE. We attempted to put an investigator on scene shortly after that.

Mr. DOWNING. At what time?

Admiral PRICE. At 6:25 we had the phone call.

At 6:30, according to our log here, Captain Eaton was advised.

At 6:35 we got the request for assistance.

At 7:35 we got a cancellation of the request for assistance.

At 8:15, we called back requesting information on the salvage intentions.

At 8:25, the duty officer requested an aircraft for an overflight of the area.

At 8:40, we called back to Allied Towing Co., to the man who was making the phone calls, requesting the results of the overflights which were then being conducted by the Steuart Transportation Co.

That was returned at 9:10.

At 9:15, Mr. Tillett, of the Steuart Transportation Co. spoke with Captain Eaton and advised that he had made two flights over the vessel.

Would you like to elaborate on that, Captain Eaton?

Captain EATON. Mr. Tillett called me at 9:15 and stated that he had just made a flight over the barge and another flight was going to be made later.

That is how the two flights came into the testimony.

Mr. DOWNING. At what time did the Coast Guard first take affirmative action?

Captain EATON. We were attempting to get airborne and the flight was canceled at 9:45.

Mr. DOWNING. Why, Admiral Price?

Captain SCHUBERT. I would like to cover the sequence of events in requesting the airplane.

A helicopter was at Air Station Oceana, Va. It remained overnight after completing several arduous flights in this storm and heavy weather on other search and rescue cases.

Prior to the aircraft being dispatched on this investigation mission, the decision was made by the commanding officer of the station to change the crews because of the crew rest factor.

As the aircraft was proceeding back to Elizabeth City, to get another crew, he encountered extremely heavy turbulence.

The decision was made at that time to cancel the flight for the time being, until the weather dissipated.

Mr. DOWNING. This was so even though Steuart had two overflights during the same period of time, Captain Shubert?

Captain SCHUBERT. Yes; the front was between the Coast Guard station and Elizabeth City, whereas Steuart brought their helicopters from behind the front where the weather had already cleared substantially.

Mr. BIAGGI. Will the the gentleman yield?

Mr. DOWNING. Yes.

Mr. BIAGGI. Was the barge in a navigable channel?

Admiral PRICE. The bay is open, sir, to navigation over a considerable portion of it.

Mr. BIAGGI. When you get a report of a barge having sunk, or a report that it was in the attitude that it was, wouldn't it be the responsibility of the Coast Guard to notify all other vessels in the area then of that condition?

Wouldn't it be a hazard?

Admiral PRICE. The action to put ships on notice of the difficulties by way of Notices to Mariners, those actions were taken.

Mr. BIAGGI. They were taken, Admiral?

Admiral PRICE. Yes, sir.

Mr. BIAGGI. Do you think it was proper for the Coast Guard cutter to be dispatched, notwithstanding the presence of the commercial vessel?

Admiral PRICE. Well, at this time, sir, we are still dealing with what appears to be not a pollution case, but a salvage problem.

Mr. BIAGGI. After all, I think you responded to a question proposed by Mr. Downing who asked: "Isn't it the responsibility of the Coast Guard when you have a vessel submerged in that fashion, whether it would be oil pollution or salvage—or just an ordinary vessel?"

Admiral PRICE. If there is no loss of life involved, but it is a salvage problem, it is a question of priority as to what else is competing for those resources at that particular time.

Mr. BIAGGI. How do we know that the flight wasn't——

Admiral PRICE. That was the first thing that Captain Eaton attempted to establish.

Mr. BIAGGI. How do you do that?

I haven't heard anybody speak to that.

Captain EATON. The flight——

Mr. BIAGGI. Admiral Price, getting back to the information you received in report as to the state of affairs, was your concern for safety of life, or the vessel?

Admiral PRICE. Our first concern, of course, was whether there were lives in danger.

We learned quickly from the second telephone call from the towing company that there was a sunken vessel and no assistance was required.

Mr. BIAGGI. Excuse me.

If I understand it correctly, first there was a request for assistance?

Captain EATON. Yes, sir.

Mr. BIAGGI. Then, subsequently, the request was withdrawn because of the presence of a commercial vessel being there and it could have provided the assistance for them?

Captain EATON. That is correct.

Mr. BIAGGI. What about that initial request for assistance?

Captain EATON. A vessel was ordered, sir.

We requested a vessel through the Search and Rescue Coordination Center in the 5th District.

We turned around 10 minutes later and canceled the request for a Coast Guard vessel.

Mr. DOWNING. One last question.

At what time did the Coast Guard take direct action?

I realize you had to cancel your 9:30 flight.

When was your next physical-visual contact with the barge?

Admiral PRICE. Well, there were telephone calls that went on all day attempting to establish exactly what the state of things were at the scene and there were several efforts to get an investigator to the location by helicopter throughout the day.

Finally, it got into late afternoon and it was apparent that our investigator was not going to be able to get there by helicopter and he was dispatched by road.

They say that he arrived the following morning.

Mr. DOWNING. He arrived on the scene the following morning?

Captain EATON. May I answer the question?

Admiral PRICE. Yes.

Captain EATON. Our investigator arrived at Reedville, Va., that afternoon or that evening, and his primary concern at that time was to monitor the cleanup of the clean-water operation which was in the process of preparing to put out a boom around the barge.

Mr. DOWNING. At what time did the Coast Guard arrive at the scene?

Captain EATON. At Reedville, at 2000 that evening.

Mr. DOWNING. It is 10 miles away.

Captain EATON. He did not go to the barge at that particular time. He was getting records from the barge and personnel at the barge at that time.

He arrived out there—he made a complete survey at 1400 on the 4th of February.

Mr. DOWNING. On the 3d of February?

Admiral PRICE. We are skipping the fact that there was an overflight and a survey conducted the preceding day and that the investigator was in contact with the office that dispatched him throughout the day of the 3d.

Mr. BIAGGI. Admiral, we will recess for 1 hour for lunch.

We will resume at 1:45.

[Whereupon, a recess for lunch was taken at 12:45 p.m., the hearing to resume at 1:45 p.m.]

AFTERNOON SESSION

Mr. BIAGGI. The meeting is in order.

Admiral PRICE. Can we review the bidding armed with the narrative account, because we are presuming the availability of the Crisfield vessel when, according to the account, all of those vessels available were essentially involved in search and rescue missions, and the closest available vessel was at Little Creek, Va. This appears on page 9 of the narrative report.

Furthermore, it appears that we ought to look at the events in light of the fashion in which they were perceived. A request was made for assistance. A vessel was asked for. On the basis of the information which was by then available when Captain Eaton, the later designated on-scene coordinator arrived, he questioned the suitability of an 82 footer which was all we had to put to this task when it was established that there were no lives in danger. He then, presuming that some heavier vessel was going to be called for, asked for a large tug or a 180-foot buoy tender which were still at a further distance.

And, at that, the request for the 82 footer was canceled.

In the meantime, the information comes in from the man who has made the request that no further assistance is necessary, that what he has is not a safety of life problem, but essentially a salvage problem, and that he has ready a commercial tug to assist in that kind of undertaking.

Now we are down to a case of the degree of pollution involved and, based on the best information which we could get from those who have been able to get up in the area and conduct some surveil-

lance, there was no tangible evidence of anything more than a loss of perhaps the oil that was in the diesel tank.

Throughout the day, as illustrated on page 10 of the narrative report, and on page 11, the Coast Guard took the event seriously enough to make several efforts to get airborne with its own flight equipment. Unfortunately, the weather was progressing from the North in that direction. It was not possible to become airborne, but constant dialogue was going on with those on the scene, and it was quite clear to us that in line with the requirements of the law, the spiller was taking positive actions to try to deal with the problem.

Finally, when we were not able to get airborne for various reasons, a man was dispatched by road and arrived in the location of the event that evening, confirmed that competent cleanup contractors had been engaged and were engaged at the time in coping with the situation associated with the recovery of the barge.

I point all this out to try to pull into perspective that even on the next day when the on-scene coordinators' representative arrived at the staging point, and being able to observe what was going on from the helicopter overflight, it still did not appear—and we certainly agree that there was a potential for pollution—that there was pollution of any significant character, sufficient to cause alarm, and that the measures necessary to cope were being taken.

I want to try to at least lay that out. I think it is covered in considerable depth in the narrative account which I submit is factual, and it would appear that the actions taken were reasonable under the circumstances.

Mr. BIAGGI. Thank you. I know it does in fact put a little perspective on it. I haven't had an opportunity to read the narrative, but it is in the record. In light of what you say, my initial concern as to proper response has been allayed substantially.

In the Coast Guard's investigative report, it is said that the cause of the sinking of the barge's stern was the entry of water in the pumproom and that that resulted from either the missing pumproom vent hood cover or the fact that the entire pumproom vent was carried away.

Admiral PRICE. Yes.

Mr. BIAGGI. How much impact on this situation resulted from the deteriorated bolts that were discoverd later?

Admiral PRICE. Well, I think there is a relationship. It is speculative on my part to try to answer up to that. The flange has 14 holes in it. It is very difficult for me to believe that if the vent had actually been bolted up with bolts in first-class condition, the vent could have carried away under those weather conditions, so it is apparent that they were in a deteriorated condition.

In fact, it might even be remarked that possibly there were bolts in place with no nuts on them because the underside might not have been seen.

The difficulty in detecting such a condition, I think, speaks for itself. If people paint over something like that, you aren't going to be able to see it, and I guess what we are really engaged in is finding in retrospect or hindsight that horseshoe nail which contributed to the loss of the battle.

Mr. BIAGGI. What are the requirements for reinspection of the barges?

Commander BLANCHARD. This tank barge was required to be inspected for a new certificate once every 2 years. Once during the life of that certificate, between the 10th and 14th months, there was a requirement for a reinspection to determine if the conditions were being maintained.

Mr. BIAGGI. When was this last inspected?

Admiral PRICE. The last inspection was the 5th of December 1975. That was a reinspection, not an inspection for recertification.

Mr. BIAGGI. That was 2 months before the occurrence?

Admiral PRICE. Yes, sir.

Mr. BIAGGI. Shouldn't this condition have been discovered or disclosed at that point?

Admiral PRICE. Well, sir, it is evident that it wasn't. As to what conditions the inspector actually found on that occasion, I can't say. It appears to me now as it appears to everyone, that any condition which may impair the buoyancy of these critical spaces should be called into question. But the ability to detect that sort of thing, I think, is certainly problematic. You have conditions in almost any piece of operating equipment that, unfortunately, go undetected for a long time. Most of them are detected before something unfortunate occurs as a consequence. In this case, it wasn't so.

Mr. BIAGGI. Then it is fair to conclude that if you had had a proper inspection, this condition would have been revealed and recertification would have been denied?

Admiral PRICE. Let us suppose the bolts are seen by the inspector, but the portion that is wasted is concealed because it is compressed or it is located in the space between the two pieces of metal that are being joined by the bolt. You cannot see the wasted location with the eye and to the observer it would appear that all is in good repair. I would just say that it is a very difficult condition to detect and it is also a very difficult thing to gage the potential impact of that condition.

Mr. BIAGGI. We will have to recess again because we have a vote, but in light of the condition, the condition that we found here, is the Coast Guard prepared or able to address itself to this problem in the future?

Admiral PRICE. I think the answer has to be yes. We are going to focus not on bolts per se, but on any condition which would lead to the potential for losing the buoyancy essential for keeping the barge afloat.

Mr. BIAGGI. I trust you will indulge us, but we have to recess for a brief period so we can go to the floor and vote.

[A brief recess was taken.]

Mr. BIAGGI. Mr. Studds, would you defer to Mr. Downing?

Mr. DOWNING. Now I defer to Mr. Studds.

Mr. STUDDS. I don't know if I have the seniority to defer to you, but if you want to proceed, go ahead.

Mr. DOWNING. I defer to you.

Mr. STUDDS. I was trying to look at some of the photographs and charts in the on-scene coordinator's report. As I look at the chart, all of the spills and discoveries of oil seem to be south of the site where the barge sank. Does that indicate prevailing currents or does that indicate that the spillage was occurring as the barge was in transit all along?

Admiral PRICE. Well, this is speculation, of course. Let me go back to why I think the barge was in a sinking condition sooner. We haven't established this conclusively. It appears to us from trying to piece this together a little better that the rate of advance of the tug and the barge was slowing steadily. In fact, in the last couple of hours before the report came in, if the positions are to be credited, the tug made virtually no headway which would indicate that he was dragging the vessel. How long he had that condition is a little hard to establish. If we come up with a better, more dependable answer to that, we'll be glad to include it.

With respect to which way does the oil go, we have a tidal condition in the bay which means that the current is alternately north and south with the tendency over the long term to make any object that is floating and subject to those forces go seaward.

However, since we are dealing with oil which was on the surface, you have to look at the history of the prevailing winds as well.

Mr. STUDDS. On the surface or just below the surface?

Admiral PRICE. It was like an iceberg with a bit of it protruding through the surface. What happens to the surface layers has a governing effect on where it goese.

Mr. STUDDS. Now what were the prevailing winds immediately thereafter?

Admiral PRICE. The winds were northwesterly at the time.

Mr. STUDDS. What conclusions, if any, can one draw from the fact that apparently all the instances of oil coming ashore are from 2 to some 25 miles of South of the incident itself, of the passage earlier transited by the vessel? Is that explainable simply by tidal and wind factors, or does that indicate that spillage was occurring all along on route?

Admiral PRICE. I would say that it indicates a combination of effects. Sometime in the night, about 3 a.m. or so, according to the record, the *Falcon* had what he called a fair tide, which means it was behind him. Within 6 hours the tide went to slack condition and then reversed and went the other way. All during that period, the winds were out of the Northwest and very strong.

Mr. STUDDS. And yet we have oil also on places on the Western Shore?

Admiral PRICE. That is true, sir. But you will notice that there is a fairly significant time gap in all of this between the time of the event in the early morning hours of the second until the first oil begins to appear further down the bay. The first showing actually, according to this chart, on the fourth, it is up almost abeam of the grounding site.

Mr. STUDDS. I take it there were no instances of oil ashore north of the grounding site?

Admiral PRICE. I believe that is correct.

Mr. STUDDS. I just wondered what conclusions the Coast Guard drew from this pattern. The photograph you have, the first one in the rear, shows a sheen being emitted from the barge on February 3. Is that sheen not such as to cause some alarm, or was that interpreted as some routine kind of thing?

Admiral PRICE. No, sir, that was attributed to the diesel tank located at the after end and contains diesel oil, a very light product, for the purpose of powering the pump machinery.

Mr. STUDDS. That is what you thought it was?

Admiral PRICE. Yes.

Mr. STUDDS. Let me ask you some questions taken directly from Congressman Gude's testimony this morning.

He says:

A barge with a capacity of 20,000 barrels sunk vertically in a heavy storm must be characterized as a potential major discharge under the National Contingency Plan (40 CFR 1510.5). As such the On-Scene Coordinator is required to activate the Regional Response Team automatically.

Again with a precise citation.

In fact, the Regional Response Team was not activated until February 10, eight days after the spill was reported and only then at the request of EPA.

Would you comment on that?

Admiral PRICE. Well, let us take a couple of these things. First of all, the On-Scene Coordinator does not have the responsibility for convening the Regional Response Teams. It would appear to me that that is an error. It is the Regional Response Team chairman which in this case is the Commander of the Fifth Coast Guard District.

Mr. STUDDS. Do you agree with the CFR that he is required automatically to do that?

Admiral PRICE. Now we get into the question of whether or not there is a clear indication of a major pollution event, and you have to apply some review of the particulars as they were coming forth that indicated that there was no visible oil having been released from the barge.

On the other hand, I would like to make the point that the message traffic on almost any pollution event involves a number of people quite automatically, regardless of whether the Regional Response Team is activated or not.

The first and all subsequent pollution reports prepared on this incident included among the addressees the Environmental Protection Agency of region III, along with the Atlantic Strike Team and so on, and the National Response Center at headquarters which services a number of agencies that have responsibilities in the environmental sector.

Mr. STUDDS. Let me ask you: Was it known to the Coast Guard prior to this incident that No. 6 fuel oil floats largely out of view under certain conditions?

Admiral PRICE. I am sorry; would you repeat it?

Mr. STUDDS. Was it known to the Coast Guard prior to this incident that No. 6 fuel oil floats largely out of view under certain conditions, floats in iceberg-like condition as described earlier?

Admiral PRICE. I don't think so, sir. If I could elaborate on that a little because a couple of people in the room asked me some questions having seen this tape, what is this attempting to convey. We have flown many missions and we have undertaken many surface missions in search of oil, and we generally find it or virtually always find it by using the criterion which the Environmental Protection Agency has evolved, that is the sheen test, by which they are saying: If you can see it, it is too much.

In this particular instance, there was too much, and you couldn't see it which is an interesting change of things. We had our people out

and they were looking and they couldn't see this stuff. This is what we were trying to illustrate. It became manifest once it hit the beach, and it began to accumulate in sufficient quantities to be quite obvious.

Mr. STUDDS. OK, let me ask you just one more question. You indicate in your testimony, Admiral, that any oil spillage would likely have been negligible had the barge been following good seamanship practice.

It is possible that the failure to do that is a violation of law or regulations of any kind, or is it just lousy seamanship? Does it bring with it any potential legally liability?

Admiral PRICE. Well, I don't want to become too deeply involved here, sir, largely because there is a hearing into the conduct of the tankerman who secured the barge, and I wouldn't want to compromise the factfinding in that situation. We would give you the instruction manuals which governs the assignment of tankermen.

Mr. STUDDS. I notice that you were shaking your head in the back of the room to something I said to Congressman Gude this morning. I will give you a chance to shake it on the record if I am incorrect. It was my understanding from one or two sources, other than witnesses before the committee, that the Steuart Transportation Co. had initially contracted for having the cleanup done and when it was informed of the likely cost, they said: The heck with it, it exceeds our liability. Let the Government do it.

When I said something like that, I thought you looked rather pained.

Admiral PRICE. What you said, sir, that caused me the visible anguish (as contrasted with visible sheen) was that you left the impression, or I got the impression, that you feared that the corrective measures were at any time interrupted, and they were not. It appeared that it was a case of Steuart saying: Call off the cleanup effort. The cleanup effort was never interrupted.

Mr. STUDDS. When did it begin?

Admiral PRICE. It began from the first time.

Mr. STUDDS. Which day?

Admiral PRICE. I am sorry; they brought in a cleanup contractor the first day.

Mr. STUDDS. Which day? February 2?

Admiral PRICE. Yes, sir.

Mr. STUDDS When did he proceed to work, on that day?

Admiral PRICE. Yes. On whatever assumption the measures were taken to deal with a potential pollution case because there was a salvage problem associated with it. In the course of the salvage operation, it was recognized there was going to be a need to boom off the area in which the recovery was taking place, so that any ensuing release would be captured.

Mr. STUDDS. So it was Steuart that called in the cleanup?

Admiral PRICE. Yes, sir.

Mr. STUDDS. At what point did the position change? This is the Coast Guard on page 58 of the report of your on-scene coordinator's. "Steuart's position is that there is no responsibility for Steuart to clean up since the spill was caused by either an act of God, mainly heavy weather of the storm of February 2 or the negligent act of a third party, Allied Towing Co. Their negligence being in proceeding on voyage despite gale warnings."

This was signed by the president of Steuart Transportation Co. At what point did they take the position that they had no responsibility at any time? When calling the cleanup company, they were acknowledging that they did have some responsibility.

Admiral PRICE. We are making a distinction, I think, somewhere in here between when did he call him in and have them in place where the recovery operations were going on. They were there up through the recovery of the barge on the 6th.

Mr. STUDDS. Presumably being retained by and paid by Steuart?

Admiral PRICE. Yes, sir, and doing the job in a proper form. We later got into the actual cleanup of the mess along the shore and it was not until apparently the 19th as indicated by this message traffic that this kind of attitude was taken.

Mr. BIAGGI. Will the gentleman yield? In pursuit of this line of questioning, is it possible that Steuart engaged a cleanup contractor to prevent the spilling of the oil at that time? They obviously weren't aware of the fact that oil was spilled—aside from that shown that was visible.

Admiral PRICE. I can't say precisely.

Mr. BIAGGI. There is a very substantial difference in time. I think the Coast Guard got the first report on the 9th.

Admiral PRICE. No, sir, if you go back and follow this from the very outset, it is clear that they were engaging Clean Water on the very first day.

Mr. BIAGGI. On the Western Shore?

Admiral PRICE. No, this was in the place where the barge was sunk, sir. The barge was in its partially sunk condition from the time it went down until the 6th when it was recovered. That is one phase. After the 6th, as you see by the disclosures here, you began to get oil coming ashore.

Mr. STUDDS. What about the 4th?

Admiral PRICE. And the cleanup efforts were continuing all through up until the 19th when apparently, it is speculation on my part to be sure, the magnitude of this thing began to come home upon us. As to just exactly what motivated the actions on Steuart Co.'s part, I leave that to them to answer.

Mr. STUDDS. Is it conceivable that the dawning upon Steuart that the magnitude of the spill affected them as to whether or not they were responsible?

Admiral PRICE. It is certainly conceivable.

Mr. STUDDS. Would it be pushing overly to suggest that this is perhaps an awful good argument for unlimited liability for cleanup costs?

Admiral PRICE. The price of spilling oil, sir, is going up regularly. It costs much more to clean it up than it costs to get it from the Middle East these days, and we all know the price of crude has gone up.

Mr. STUDDS. Even allowing for human error, is it not a reasonable assumption that far greater care would be taken that the hatches would be completely closed if the company knew it had unlimited liability for cleanup costs?

Admiral PRICE. It would certainly give additional incentives, to be sure. I am out of my department here, but there is a problem with the insurance community that you will have to look to if you try to follow that course too far.

Mr. STUDDS. The problems of the insurance community are with us all the time. Thank you.

Mr. HEYWARD. In connection with the cleanup limitation, is it not true that there is no limitation on the cleanup liability in the event of willful misconduct and, as the statute describes it, willful negligence—whatever that is?

Admiral PRICE. Yes, sir, I believe that is the case.

Mr. HEYWARD. Has any conclusion been reached by the Coast Guard as to whether this spill was caused by gross negligence?

Admiral PRICE. Not at this particular point, sir.

Mr. HEYWARD. Is that point being reviewed so that the owner-operator would be responsible for the full cost of the cleanup in this case?

Admiral PRICE. I would venture that it was under review and it depends upon certain actions which are presently being considered.

Mr. HEYWARD. Is the potential party liable there? Does that include Allied Towing as well as Steuart Transportation? The statute speaks in terms of "owner-operator." I'm asking whether a tug with an unmanned barge becomes the operator of the barge. I assume the Coast Guard has reached no conclusion on that particular issue.

Admiral PRICE. Being only an engineer, sir, not a lawyer, I can't answer to the relationship between the tug and——

Mr. HEYWARD. I am not asking what the answer ought to be, but whether or not the Coast Guard has arrived at any answer.

Admiral PRICE. No, sir, not yet.

Mr. HEYWARD. In connection with the pollution reports and pursuant to Mr. Gude's comment on the convening of the regional team, in Polrep four dated February 5, item B says, "Due to large quantity of oil on board, potential for major oil spill exists." It seems to me that somebody down there was recognizing the potential. Would this not have been a good time to call the regional team? That is right in the pollution report to all of the agencies, and all agencies were alerted of the major oil potential. None of the agencies asked for the regional team to be convened?

Admiral Price. I am not aware that any action was taken at this particular time. This is the 5th.

Mr. HEYWARD. Is a copy of the national contingency plan and the regional plan available to the committee? Could you furnish us with a copy?

Admiral PRICE. Yes, sir, we would be pleased to.

[The plans referred to were placed in the files of the subcommittee.]

Mr. HEYWARD. I think the record should show that this committee does not have specific jurisdiction over the law which requires the plan, but as part of an oversight responsibility, I think it is necessary to take a look at the plan itself and whether there are any deficiencies in which this committee ought to make recommendations to the Committee on Public Works. But at least it seems to me, from the reports, that the people in the Marine Safety office at Hampton Roads had taken cognizance that there was a potential involved even though only a sheen had yet been observed.

I think that is all.

Mr. OLNEY. I would like to reserve the right to submit questions in writing to Admiral Price that the minority members might have.

[No questions were supplied.]

Admiral PRICE. We have reviewed the actions taken as critically as we can. We are not going to leave without giving you a clear understanding that we are as critical of ourselves in this as any participant because we have to learn from such an event so that we may have the benefit of the lesson and prevent its happening twice. Those actions we feel essential we will take as mentioned in my statement. We will not be backward in so doing. Thank you, sir.

Mr. BIAGGI. Thank you very much.

The Honorable Lynn A. Greenwalt, Director, U.S. Fish and Wildlife Service, Department of the Interior.

STATEMENT OF LYNN A. GREENWALT, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY NELSON SWINK, STATE SUPERVISOR, DIVISION OF WILDLIFE SERVICES, U.S. FISH AND WILDLIFE SERVICE, AND WILBUR LADD, OFFICE OF MIGRATORY BIRD MANAGEMENT, U.S. FISH AND WILDLIFE SERVICE

Mr. GREENWALT. Mr. Chairman, I am Lynn A. Greenwalt, Director of the U.S. Fish and Wildlife Service, Department of the Interior. I have with me, to my right, Mr. Nelson Swink, who is the State supervisor of the Division of Wildlife Services, and Services employee most intimately associated with the affairs of the Chesapeake Bay oil spill.

To my left is Wilbur Ladd, who is in our Office of Migratory Bird Management.

Mr. Chairman, I appreciate this opportunity to appear here today to describe the Fish and Wildlife Service's involvement in the recent Lower Chesapeake Bay oil spill, some of the ecological impacts of oil pollution and the state of the art of cleaning oil-fouled birds.

I would like to begin, Mr. Chairman, by outlining the Department of the Interior's, specifically the Fish and Wildlife Service's, role in preparing for and partaking in Federal activities related to a pollution discharge.

In response to requirements of the Federal Water Pollution Control Act Amendments of 1972 (sec. 311(c)(2)) and Executive Order 11735 of August 2, 1973, the Council on Environmental Quality developed a contingency plan for discharges of oil and other hazardous pollutants. Published in the Federal Register in August 1973 the plan provides a Federal framework for coordination and action to minimize danger from oil and hazardous substance discharges, including containment, dispersal, and removal. Among other provisions, the plan provides for assignment of duties and responsibilities among the various Federal agencies in coordination with State and local agencies.

The Department of the Interior has been assigned major responsibilities under the contingency plan and is one of the primary agencies represented on NRT, the national response team, established by the plan. NRT is the national body responsible for planning and preparedness actions prior to a pollution discharge, and for coordination and advice during a pollution emergency. The plan also directed the establishment of regional response teams (RRT) and on-scene coordinators (OSC). The Department of the Interior provides expertise in the fields of oil drilling, producing, and transportation as well as on matters relating to land, fish, and wildlife.

In the event of a discharge of oil or other hazardous substances, the first official on the site for an agency having responsibility under the contingency plan assumes coordination of activities outlined in the plan until arrival of the predesignated on-scene coordinator. In the bay area the Coast Guard designates the OSC.

With regard to wildlife, the contingency plan directs that in the event of an oil discharge the Department of the Interior representatives, in this case the Fish and Wildlife Service, and State liaison persons are to arrange for and coordinate actions of professional and volunteer groups that wish to establish bird collection, cleaning, and recovery centers.

It is this aspect of the Chesapeake Bay oil spill that has received extensive and, I might add, extremely critical public reaction. This was one of the worst oil spills in the Chesapeake Bay in recent history, killing a minimum of 10,000 waterfowl and dumping some 250,000 gallons of heavy, viscous, partially refined oil into the bay about 5 miles southeast of Smith Point, Va., near the mouth of the Potomac River.

No one likes to see wildlife die needlessly. Oil on water, beaches, and birds has a very high visibility. It disrupts recreation, is esthetically obnoxious, and can be ecologically and commercially devastating.

There is no question that damage, direct and indirect is caused by oils in a marine or estuarine environment. The immediate impact of an oil spill is very obvious as it affects waterfowl and shorebirds in the vicinity. It may apparently disappear from the water surface only to reappear at a later date or at some other place. It may apparently disppear from beach surfaces or be superficially cleaned and restored and still be a nuisance to anyone digging in the beach sands as well as an environmental problem to the organisms inhabiting the substrate of the littoral zone. Some oils apparently seep below the surface and soak the substrate, having largely unknown effects on organisms living there. The impact of oil spills on lower forms of marine invertebrates is far less understood than the impact on birds and shellfish such as oysters, crabs, shrimp, and clams.

While there is considerable research ongoing, more research and long-term monitoring is needed before we can fully understand and interpret the environmental impacts of oil spills. In the Chesapeake Bay, we are fortunate to have two exceptionally well qualified organizations—the Virginia Institute of Marine Science and the Virginia Water Control Board—investigating oyster beds and other marine and estuarine life to determine the severity and scope of the contamination resulting from the February oil spill. Some information is already available. We understand VIMS's investigations have found oyster spat gaping or dead in the impact area. On the other hand, marsh vegetation and algae appear to be making a rapid recovery.

With regard to cleaning oiled birds, our experience and that of others working in this area has been generally unsatisfactory. Research on cleaning and rehabilitating oiled birds is in its infancy. Salvage efforts have been made in different parts of the world and involved many different species of birds of widely divergent habitats, different tolerances to captive conditions and different degrees of contamination. A variety of procedures and chemicals have been used in salvage

efforts. To our knowledge, none of these efforts have resulted in salvaging more than a small fraction of the treated birds.

Removal of the oil from a bird's plumage is just one aspect of a salvage operation. Cleaning the plumage has been attempted with many different chemical agents. Some have proved quite effective in removing the contaminating oil, but unfortunately, to date little success has been achieved in restoring the natural waterproofing and insulation qualities of the plumage. The few successful attempts have involved rather extensive, time-consuming efforts for only a handful of birds. In addition, oil is frequently ingested by the birds and, depending on the kind and amount of oil ingested and the physiology of the species affected, may result in death regardless of how well it is cleaned and sheltered.

With regard to the Chesapeake Bay spill, the Norfolk SPCA and the Northampton SPCA assumed leadership of a large number of volunteers attempting to save birds that could be picked up on or near the shore. Pleas on local radio stations and in local newspapers resulted in a large number of untrained volunteers showing up at various sites, particularly on the Eastern Shore, but little or no equipment or materials was on hand to initiate oil cleanup and a bird rescue program. Once organized and supplied, there was little success in rehabilitating the birds. Obviously, this was very discouraging to the volunteers. Because of the location there were no facilities readily available to maintain cleaned birds; hence, many were released into the wild and subsequently drowned from loss of natural waterproofing or died from exposure due to loss of natural insulating capability or from toxic effects of the oil.

It is difficult to state conclusively the number of birds killed by the spill for a variety of reasons. It is presumed that some birds drowned. Much of the area affected by the oil is inaccessible or composed of marshes where affected birds were not readily visible. Surveillance as well as access to those areas affected was hampered by severe weather conditions. The oil came ashore over a wide area.

The first report of oil-fouled birds was a sighting in Dameron Swamp on February 6, 4 days after barge STC–101 foundered. Cleanup actions commenced at Windmill Point, south of Reedville on the western shore of the bay. Two days later on February 8, the Coast Guard reported oil deposits on the Eastern Shore between Nandua Creek and Mattawoman Creek, approximately 20 miles of coastline comprised of beach, salt marsh, and swamp area. At that time, there was no reason to connect this oil with that on the western shore. No pollution sightings had been made in the bay to indicate the oil had drifted to the Eastern Shore.

Only after analysis of oil samples from the barge and from the impacted areas was there conclusive evidence that the oil had crossed the bay. One would assume that the oil would have been sighted drifting across the bay. Different oils react differently to different conditions. This oil apparently submerged, and due to the tides and weather was moved some 20 miles across the bay.

All of the oil has not yet been recovered. Virginia Institute of Marine Science investigators believe much of the oil not now on the shore or collected has dispersed naturally. There is still oil on some beaches and

marshes which is too difficult to get to or remove and some has been covered over naturally by sand.

To date, 8,469 birds have been actually counted as dead in the cleanup areas. The Virginia Water Control Board and the State Game and Inland Fisheries Commission counted some 1,850 birds as having been affected, but still alive at the time of observation. These birds are probably dead by now; however, their fate is really unknown. In addition to these figures, we estimate some 10,000 to 20,000 birds have either drowned at sea or died in unknown locations throughout the bay area. An oil-fouled bird was reported as far away as Pea Island National Wildlife Refuge on the Outer Banks of North Carolina. Two to three weeks after the spill, there were many sightings of oily birds, particularly Canada geese and swans, in fields on both sides of the bay. Oiled swans were reported on Chincoteague National Wildlife Refuge and similar sightings of birds were made on Fisherman's Island National Wildlife Refuge. Although oiled to various degrees, most of these sightings involved birds still mobile. Obviously, their survival is unknown.

At the time of year of this spill, the bay area has a heavy concentration of migratory waterfowl. It is one of the most important wintering areas in the Atlantic Flyway for canvasbacks, oldsquaws, scoters, black ducks, whistling swans, and Canada geese. The oil affected a variety of birds but mainly the open-water species involving grebes, oldsquaws, and scoters. In January, there were large concentrations of canvasback and redhead ducks in the area impacted by the spill. We can be thankful that many of these birds had moved into other portions of the bay prior to the spill. It could have been devastating to canvasback ducks and other species whose populations are below desirable levels.

Beside cleanup of captured, oiled birds, there was an effort made by the Service to disperse birds from affected areas. Exploders and other scare devices were activated at strategic points. The most effective way to reduce bird mortality from an oil spill is to move the birds out of the area and keep them out until the oil can be removed or it disperses naturally. This can be achieved only by getting to the site of a slick immediately. On open water, birds can be harassed by aircraft. On land mechanical scare devices can be employed. As I previously stated, once a bird is contaminated, there is little hope for its survival. Generally, less than 10 percent of treated birds survive. Thus, from the standpoint of wildlife the important factor in an oil pollution disaster is to get to it fast and with appropriate equipment and technical expertise to disperse the birds beore they become contaminated. The mechanism for accomplishing this exists through the NRT, but was carried out in this instance with varying degrees of adequacy.

The Fish and Wildlife Service was first notified of the spill on Februrary 6, 4 days after the incident began. Notification was received from the Virginia Game and Inland Fisheries Commission of oiled birds on the Western Shore. According to the contingency plan, the Coast Guard's OSC designate should have contacted us immediately upon discovery of the accident if it appeared there may be significant fish and wildlife involved. Due to the severity of the weather and the fact that much of the oil was never observed on the surface, it is likely that little could have been done to disperse the birds from the area during the first few days after the spill occurred. However, had we been

notified in the proper manner, it might have been possible to assemble equipment, materials and experienced personnel, and implemented coordination at State, local and private levels appropriate to achieving a state of readiness.

While the Fish and Wildlife Service has, in the past, taken a lead role in dispersing unaffected birds from a spill area and participated in cleaning up the contaminated environment, it has generally not taken an active role in cleanup and rehabilitation of oiled birds. We have had to reassess our posture on this matter and are now taking steps to improve our capabilities in this regard.

While we continue to believe that preventive and combative actions are far superior to after the fact treatment, we are preparing to assume a more active role as coordinator of others in bird cleanup operations. There is a danger here, however, in leading people to believe that bird salvage and rehabilitation is the most important action that can be taken. Prevention of spills, avoidance of sensitive areas, bird dispersal during a spill and decontamination of the habitat must assume a higher priority in order to make the most effective use of limited financial and manpower resources.

The Service will be developing guidelines for handling oiled birds and will be identifying and working with groups and individuals who want to get involved in cleanup activities. We will be identifying sources of materials and equipment that can be used in cleanup operations as well as identifying critical areas where such materials and equipment are lacking or should be stockpiled. The Coast Guard has recently requested from us a similar listing of materials and equipment which might be stockpiled with other strike force supplies. We are revising our regional contingency plans to better address coordination of cleanup efforts. The American Petroleum Institute has contracted for a state-of-the-art review of bird cleaning techniques which should provide a wealth of information we can use in revising our regional contingency plans and in development of guidelines on cleanup.

The Service has long been involved in activities related to the impact of oil on wildlife. We are presently involved in oil toxicity studies. Under contract, studies are being conducted on the potential impact of offshore oil production and transportation on marine birds in Alaska. A survey is being conducted of colonial nesting birds on the Atlantic Coast which will identify critical areas in offshore oil development and transportation. Soon we will be initiating a state-of-the-art review on techniques of dispersing birds and developing an atlas of sensitive areas.

In summary, Mr. Chairman, we are preparing to assume a more active role as coordinator of others in bird cleaning and rehabilitation activities; however, we continue to believe that preventive and combative actions are far superior to after the fact treatment. We will continue to take a lead role in dispersing unaffected birds from spill areas and participate in cleanup of the area affected. We believe that priority should be placed on prevention of spills, avoidance of sensitive areas and dispersal of birds in a spill area.

Thank you, Mr. Chairman. I will be pleased to answer any questions that you or the committee members might have.

Mr. BIAGGI. Thank you, Mr. Greenwalt. I have several questions. You commented that the Coast Guard functioned in varying degrees with respect to the function of dispersing the birds. Will you explain in detail what you mean?

Mr. GREENWALT. The adequacy of the Coast Guard operation was not in relation to dispersal of the birds, but in carrying out responsibilities under the contingency plan of notifying us of what was going on, where the oil was turning up and other information. Such contact would have allowed us to have that kind of information necessary to determine where oil was likely to impact the well-being of birds.

The Coast Guard is not ordinarily involved in the dispersal of the birds. This is where our skill lies and where we like to apply our techniques.

Mr. BIAGGI. Are you telling the committee that the Coast Guard kept you informed?

Mr. GREENWALT. We were not informed, as a matter of fact, of the occurrence of the oil spill by the Coast Guard until sometime after the accident. Our first contact was from the Virginia Game and Inland Fisheries Commission who had discovered oil emerging on beaches south of the incident site. We did not get formal notification from the Coast Guard until several days after the oil spill, occurred, as I recall, on the 12th of February—11 days afterward. By that time we had long since learned of the incident and had taken action to disperse birds.

Mr. BIAGGI. Would it be the best conclusion to arrive at if we say that had the Coast Guard notified you earlier, you might have saved some birds?

Mr. GREENWALT. I think that is a fair conclusion assuming that the circumstances were such that dispersal, for example, would have resulted in moving birds away from the contaminated area. That is a fair statement, yes, sir.

Mr. BIAGGI. This is the normal procedure for the Coast Guard to notify you?

Mr. GREENWALT. Ordinarily, the Coast Guard does, and in other circumstances with which I am familiar, they do so very diligently and very effectively. Under the contingency plan the onscene coordinator, the Coast Guard's designate in coastal waters, is suppose to notify members of the Regional Response team.

Mr. BIAGGI. I just want to know one thing for my own information and perhaps some subsequent consideration. Would you tell this committee just what point the state of the art of decontamination is in for the birds?

Mr. GREENWALT. Yes, sir, stated in its simplest terms, it is not difficult to clean oil from a birds' plumage. However, it is extremely difficult to assure the survival of the bird for a number of reasons. An oil-soaked bird is immediately in distress and attempts to clean itself by preening. During that process, it may ingest quantities of oil, and that brings on the complication of oil toxicity. However, if the bird is captured and the oil can be removed, then there remains the problem of making the bird capable of sustaining itself once it is released. In order to get the oil out of the plumage, one must use a solvent or chemical that will dissolve the oil.

This in itself may be extremely toxic to the bird, so one must remove the solvent. The best way to do that is to use a detergent. The detergent, which is technically known as a surfactant, removes the natural oils in the bird's plumage as well as the solvent used to remove the contaminating oil. A bird which has been cleaned of oil, cleaned then of the solvent which removed the oil, is then returned to the water and it will sink within a few minutes, certainly within an hour or two, because its feathers are no longer waterproof. When that happens, the bird gets to shore, and attempts to dry itself. It starts the preening process, then gets back into the water and the surfactant is activated and the bird sinks again within a few minutes.

Once the bird's plumage is soaked, the bird is exposed to the elements. It can no longer maintain its body heat. The bird will continually attempt to preen itself. In this state of distress, it may go for long periods of time without feeding and the bird's body heat continues to decrease. Death by exposure or starvation is very likely. Failing these, the bird is under physiological distress and subject to disease. Thus, the survival ratio of cleaned birds is not very good. I am aware of an incident where a volunteer—this was in a Delaware spill—collected 40 birds.

She took them into her home and very diligently cleaned them, kept them in warm water in the bathtub and warm air in the house for many days. Finally she asked the Fish and Wildlife Service to take them. It becomes a burden to have 40 ducks running around the house. She asked the Service to take the birds and return them to the wild. In the process, several of these birds were taken by the Service into a controlled outdoor situation. Weeks later, those same birds continued the routine of going into the water, sinking, going to the shore, drying off and then going back into the water.

The key is to find something that will negate the effects of the surfactant. Most people are ill-equipped to maintain the equipment necessary to insure survival of the birds—warmth, shelter and feed for long periods of time. I am told that many of the detergent manufacturers feel that they can help us find a chemical which will negate the effect of the surfactant. In order to be successful, the process must allow for return of a bird to the wild within hours after cleaning which is essential if it is to survive. Under the present circumstances, the bird is subject to great stress and disease. So far the success of these bird salvage efforts have been extremely limited.

Mr. BIAGGI. What research is going on in order to find a new solvent?

Mr. GREENWALT. At this moment, the Service is not carrying on active research in this particular area. As I mentioned in my testimony, the American Petroleum Institute has become interested and is gathering the latest data, much of which comes from Europe where some significant oil spills have occurred. Depending on the results of the API study, the Service will work with detergent manufacturers and related groups to ascertain if there is a practical and reasonably economic way to break this insidious chain—the surfactant problem—so a bird, once cleansed, can be returned to the wild with reasonable chances of survival.

Mr. BIAGGI. Is there any reason to believe that the data from Europe will improve the situation?

Mr. GREENWALT. Not with absolute certainty. The experience in Europe is far greater than ours. They have worked with these problems for a long time owing to the poor record with oil spills in that part of the world.

Mr. BIAGGI. In light of that, might it be more appropriate for the Service to work with the detergent manufacturers immediately?

Mr. GREENWALT. Yes, and I appreciate that comment fully. We will pursue the matter. One of our problems, as I am sure you understand, is that our resources for indepth research are very limited. However, I will assure the committee we will make contact immediately with whatever sources are available in the detergent industry to see what can or is being done that would help overcome the problems of counteracting the wetting qualities of detergents.

Mr. BIAGGI. You have knowledge of how much money is allocated to research?

Mr. GREENWALT. The Fish and Wildlife Service gets something on the order of $20 million annually for research, not all of which is appropriated for migratory bird research. That research, in fact, is very limited. Those funds are on the order of $3 million annually. Migratory bird research involves a host of studies not related to the kind of research needed for cleaning and rehabilitating oiled birds.

Mr. BIAGGI. Do you recall when your agency made a request for specific funds for migratory birds?

Mr. GREENWALT. We have made such requests and have been appropriated funds for certain kinds of migratory bird research for a great many years. Funds to undertake research in connection with cleaning oil-soaked birds has not been specifically requested. Obviously, it will not take much in the way of money to ascertain what experts in the field can do for us and, very likely, we can get this done at no cost. Once we find out that there is a chemical that may break the surfactant chain, we can employ it in an experimental way and see how it works. I see no problem.

Mr. BIAGGI. May I suggest that you address yourself to the problem with special emphasis?

Mr. GREENWALT. I shall.

Mr. BIAGGI. Because, frankly, the sight of oil-covered birds to America is repulsive and it is sad. It is one of the tragedies. I think we don't respond to the degree in which the situation requires, and it leaves me a little surprised, to say the least.

Mr. GREENWALT. Mr. Chairman, I would like to make it abundantly clear that none of us who have been professionally involved in oil spill management enjoy seeing oil-soaked birds. Our goal is to keep them from being oil soaked in the first place. If we cannot achieve the goal of a no oil-soaked bird, then we should strive to determine whether it is practical or economically feasible to decontaminate birds and return them successfully to the wild.

Mr. BIAGGI. Mr. Downing?

Mr. DOWNING. Thank you, Mr. Greenwalt, for a very fine statement. Tell me, have you any evidence of oil in fish, oysters, clams, and crabs in the vicinity of the spill?

Mr. GREENWALT. My information, Mr. Downing, is that there is some evidence of this. This is a matter presently being examined by VIMS and others. The preliminary information we have is that there is evidence, particularly in oyster beds.

As you know, the effects of oil contamination are frequently insidious and take a long time to manifest themselves. We are not at all certain exactly what form this impact may take over time, except that it is very likely to be long lasting. I am unaware, specifically, of the magnitude of the effect of the Chesapeake Bay spill on shellfish other than the preliminary information we have received concerning oysters. Perhaps others representing the State institutions involved can give you greater detail. I cannot at this time.

Mr. DOWNING. How much money does Fish and Wildlife spend on cleanup?

Mr. GREENWALT. I am told it was about $15,000, for our effort.

Mr. DOWNING. It was reported to me that the clam dredge in the vicinity of the sunken barge reported no oil damage to the clam beds. I hope that continues to be true.

You said in your statement that the oil submerged traveled across the bay to the Eastern Shore. The Coast Guard studies said that the oil did not submerge, but went straight to the surface to form a glob.

Mr. GREENWALT. I said it apparently submerged, but in any event, it got to the Eastern Shore and Western Shore without apparently being observed on the surface.

Mr. Swink flew the area several times and from my conversations with him, it was apparent that the oil was only seen when it came ashore or was among the marsh vegetation in the intertidal zone.

Mr. DOWNING. Thank you.

Mr. HEYWARD. In connection with the contingency plan, Mr. Greenwalt, is the Department of the Interior represented on the national response team?

Mr. GREENWALT. Yes; the principal Department of the Interior representative is the Geological Survey, not the Fish and Wildlife Service.

Mr. HEYWARD. How many representatives do they have? Just one?

Mr. GREENWALT. Just one, sir.

Mr. HEYWARD. Is it his responsibility to disseminate information that becomes available to the team?

Mr. GREENWALT. You mean in terms of information in advance of a spill or after a spill occurs?

Mr. HEYWARD. Whatever information. I was really talking about after a spill occurs. There is likely a wealth of material, and there are many varied interests. An individual on the team might not necessarily be cognizant of the problems associated with other bureaus in his department. I am wondering how the information gets through?

Mr. GREENWALT. In the sense of representation, the Department is represented by one person. However, for the Fish and Wildlife Service, Mr. Ladd is present at all the NRT meetings and makes those contributions necessary for Fish and Wildlife Service interests. This is true of other agencies in Interior.

Mr. HEYWARD. When notices arrive at the National Response Center, can you tell me how they are disseminated to members of the national team?

Mr. GREENWALT. Notice should be forwarded to the principal departmental representative, in this case the Geological Survey. Mr. Ladd tells me that as our representative and presumably the person to whom these notifications come from the departmental representative, he has never received a notification from the National Response Center on

any oil spill. The Service does, however, rely heavily on regional notification in the event of a spill and subsequent communication between the region and Washington office in order to keep the central office advised of the situation and actions taken.

Mr. HEYWARD. But if he is the representative of Interior in the National Response Center, has it never concerned him that some arrangements should be made that he should get information?

Mr. LADD. Yes, sir; it has concerned us. As a matter of fact, our regional representatives to the regional teams are those that are generally most directly involved in an emergency and in that regard, they have not been notified properly in a number of cases.

Mr. HEYWARD. I will get to that in a minute.

Mr. LADD. Yes, sir.

Mr. HEYWARD. I am just trying to determine whether or not there is adequate communication at the national level when information is received at the National Response Center. You apparently don't believe there is proper communication?

Mr. LADD. That is correct, sir.

Mr. HEYWARD. Has anything been done to communicate your concern to the National Response Center so that in the future you are advised?

Mr. LADD. Contingency plans are being formulated in order to improve communications.

However, on August 15, 1975, I sent a letter to the Department's representative on the NRT, Mr. Richard Krahl of the Geological Survey, expressing our concern over lack of communications when an oil spill occurs. The letter contained a list of regional contacts as well as our Washington office contact and a request that we be notified in the event of a spill. On September 4, I personally addressed the NRT at its quarterly meeting, expressing our concern over the communications problem and requesting that the Service be notified in case of a spill. A copy of my August 15 letter was given to the chairman of the NRT for proper distribution.

Mr. HEYWARD. I think that is excellent, but I was really talking about the present situation.

Mr. GREENWALT. I want to say in Mr. Ladd's behalf——

Mr. HEYWARD. So you consider my questions on attack on him?

Mr. GREENWALT. I am not suggesting that. He has only recently been assigned to this duty, in the course of which he has made me aware of some deficiencies which concern me. There is some difference between his stature and mine, and I intend to use my stature to achieve these changes to which he has drawn my attention.

Mr. HEYWARD. Mr. Greenwalt, he represents the Secretary of the Interior. I don't think any more stature is needed to resolve the problems involved. This National Response Center has been in existence for several years?

Mr. GREENWALT. Yes; it has but Mr. Ladd does not represent the Secretary. He is not the Department's representative on the NRT. An employee of the Geological Survey is the Secretary's representative.

Mr. HEYWARD. And in connection with the regional teams, in the region affected here, is Fish and Wildlife represented or is this another agency of the Interior Department?

Mr. LADD. The Fish and Wildlife Service has an employee in each region represented on the regional response teams.

Mr. GREENWALT. As a member of the Fish and Wildlife Service.

Mr. HEYWARD. We are going to have to adjourn, but I have just one more question in connection with this particularly incident. You said that you were notified on the 6th; was that your national office or regional office?

Mr. GREENWALT. It came directly to Mr. Swink.

Mr. HEYWARD. From the Virginia people, not from the regional team?

Mr. GREENWALT. That is right.

Mr. BIAGGI. What action was taken?

Mr. SWINK. I immediately contacted the Maryland people because the spill had occurred at the mouth of the Potomac River. They contacted Steuart Petroleum Co. who advised Maryland that they did have a spill in the magnitude of about a thousand gallons, and that there were people on the scene initiating cleanup operations, so all I could do was to stand by until I got further word which was 2 days later. At that time, the service pilot flew the spill area. The following day he took me up to take a look at the spill. From there on we initiated dispersal efforts.

Mr. BIAGGI. We are going to adjourn the hearings today, but continue them tomorrow morning at 9:30, and we would appreciate it, if it is convenient for you to return to do so. You will be first up and we will continue the hearings as far as your participation for a short period to conclude this questioning.

Mr. GREENWALT. Very well, sir, we will be here.

Mr. BIAGGI. The meeting is adjourned until 9:30 a.m. tomorrow morning.

[Whereupon, at 3:20 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Friday, May 21, 1976.]

CHESAPEAKE BAY OIL SPILL

FRIDAY, MAY 21, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
Washington, D.C.

The subcommittee met at 9:35 a.m., in room 1334, Longworth House Office Building, Hon. Thomas N. Downing presiding.

Mr. DOWNING. The subcommittee will come to order.

The subcommittee this morning is continuing its oversight hearings on the oil spill which occurred in the Chesapeake Bay in early February 1976.

Yesterday, we heard testimony from representatives of the Coast Guard concerning the cause of the spill and the actions taken in clean-up. We also received a statement from the Hon. Lynn A. Greenwalt, Director, United States Fish and Wildlife Service of the Department of Interior, concerning problems associated with the protection of fish and wildlife resources and the plans for improving capability to respond in this area.

When the subcommittee adjourned yesterday afternoon, we were questioning Mr. Greenwalt on his statement, and he has kindly agreed to be with us again this morning so that we can complete that part of the testimony.

After completing questions to Mr. Greenwalt, the subcommittee will receive statements from representatives of the State of Virginia, and from private individuals who are concerned with this problem of oil polution. Since time will be a factor this morning, as it was yesterday, I hope that we can move forward expeditiously.

And now, Mr. Greenwalt, if you will please resume the witness chair.

STATEMENT OF HON. LYNN A. GREENWALT, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY NELSON SWINK, STATE SUPERVISOR, DIVISION OF WILDLIFE SERVICES, U.S. FISH AND WILDLIFE SERVICE, AND WILBUR LADD, OFFICE OF MIGRATORY BIRD MANAGEMENT, U.S. FISH AND WILDLIFE SERVICE

Mr. DOWNING. Counsel, do you have any questions?

Mr. HEYWARD. Mr. Greenwalt, we were discussing the problem of the national response team yesterday, and I believe we came to the conclusion that it needed a review to be sure that adequate representation was on it, and that communications to the interested agencies were handled in a complete manner, not only when a massive spill occurred,

and the national response team itself is activated, but also in cases of regional responses where the national agencies should be kept advised and, in fact, more importantly, alerted to the potentialities of the problems that might be occurring from the pollution.

I assume from what you said yesterday that you are actively pursuing an initiative to be sure that that is done, so that your agency does receive advance information and can be prepared to respond when needed?

Mr. GREENWALT. That is correct, sir.

Mr. HEYWARD. I understand that last year Mr. Swink did prepare a potential plan for handling oiled birds.

Can you briefly tell me what happened to that proposal?

Mr. GREENWALT. Mr. Counsel, I would prefer to let Mr. Swink describe the state of that proposal. I have had the opportunity to see it only recently personally and very briefly. I would prefer that Mr. Swink discuss it.

Mr. SWINK. It was discussed on two occasions with Virginia. It was adopted by Maryland and Delaware.

At this point in time, however, the State of Virginia has not adopted the tristate cooperative plan.

Mr. HEYWARD. Do you know what the objection was?

Was it not complete enough?

Did it not cover the proper liaison or what was the problem?

Mr. SWINK. No, sir, I really do not know.

I do know that they did object to having a part in bird cleaning. They were quite vehement on that point.

Mr. HEYWARD. They felt that your agency should be the one who should coordinate without their direct involvement?

Mr. SWINK. I think possibly that is it, sir.

Mr. HEYWARD. There is another article which, with your permission, I would like to insert in the record at this time. That is a paper entitled "Rehabilitating Oiled Aquatic Birds," by David C. Smith, which was presented at last year's Conference on Prevention and Control of Oil Pollution.

It discusses the methods used by the International Bird Rescue Research Center, and I think it would be appropriate to put it in the record.

Mr. DOWNING. Without objection, it will be made part of the record.

[The document referred to follows:]

REHABILITATING OILED AQUATIC BIRDS

ABSTRACT

In the 1971 San Francisco oil spill, $900.00 was spent per successfully released bird, with 95% of the 4,686 treated birds dying in captivity. Through continuing research and development, those figures are improving. In 1973, the International Bird Rescue Research Center (IBRRC) treated 523 oiled birds with a 41% survival rate at a cost of approximately $15 per successfully released bird. The history, population effects, and physiological effects of oil pollution on birds are described here, and recommendations are given for treatment. The problems of maintaining aquatic birds in captivity are also discussed. Advance preparations of instructional materials, equipment and supplies have been made by the IBRRC in anticipation of future oiled-bird incidents. Additional research is indicated.

INTRODUCTION

The decision to clean or to euthanize oiled aquatic birds has been a most controversial issue. Most past rehabilitation efforts have been negligibly successful and expensive, both in terms of money and manpower. The controversy is abating, however, as survival rates improve and costs diminish. Serious efforts by chemists, pathologists, veterinarians, zoologists, and nonprofessionals demonstrate that the problems do, in fact, yield to inspection and analysis. As a result, a technology of oiled-bird rehabilitation is emerging, and the result has been an increase in the percentage of treated birds being successfully reintroduced to their natural habitat.

In the 1971 San Francisco oil spill, approximately $900 was spent per successfully released bird, with 95% of the birds dying in captivity. This situation has changed remarkably. In 1973 the International Bird Rescue Research Center treated 523 oiled birds with a 41% survival rate at a cost of approximately $15 per successfully released bird (see Appendix I). These figures are likely to improve with further development of techniques and further advances in our knowledge of seabird physiology and pathology.

History

One writer has pointed out that oil pollution of birds is at least as old as the La Brea Tar Pits in Los Angeles. More relevant to us historically would be the wreck in 1907 of the *Thomas W. Lawson*, a seven-masted schooner which released 2 million gallons of crude oil. The incident occurred in the British Isles in the vicinity of extensive seabird rookeries. At the time, there were reported in excess of 100,000 puffins in the area. Many died then and many have since succumbed to oil pollution incidents. One hundred puffins are all that remain there today. It is likely that oil pollution is largely responsible for this devastation.

Both world wars of this century have caused widespread destruction of seabirds through oil pollution, though the most noteworthy disasters have occurred during peacetime accidents. Human error and mechanical failures continue to be the prime causes for oil pollution of birds.

In 1937, a passenger ship struck the oil tanker *Frank H. Buck* at the Golden Gate in San Francisco resulting in 2.7 million gallons (U.S.) of spilled oil. The *Torrey Canyon* ran aground in 1967 spilling nearly 100,000 tons of oil when the captain selected a treacherous shorter route to save time. A valve was inadvertently left open on a barge near Anacortes, Washington, in 1971 allowing nearly 200,000 gallons of #2 diesel fuel to flow out. Also in 1971, two tankers collided under the Golden Gate Bridge in a heavy fog. One wildlife agent, after reviewing the 1971 San Francisco oil spill incident, wryly recommended that the occurrence of accidental oil spills be prohibited.

The incidents are too numerous to list here, but a summary of birds killed by oil pollution in North America in 1970 serves to illustrate the high number of bird casualties.

Date (1970) and location:	*Number birds dead on shore*
February:	
Martha's Vineyard, Mass	728
Chedabucto Bay, Nova Scotia	7,300
February 13: Tampa Bay, Fla	"thousands"
February-March:	
Kodiak Island, Alaska	10,000
Chesapeake Bay, Md. and Va	4,780
April 25: Alaska Peninsula	86,600
November: Schuykill River, Pa	200

Also, during January and February of that year, some 12,856 oiled birds were found dead or dying on the English coast.

It is reasonable to estimate that 6 to 25 times more birds may have been involved in the above incidents (excluding the Pennsylvania spill) than could be accounted for through beach surveys. It is probable that over 50% of seabirds killed by oil pollution sink to the ocean floor.

Table 1 lists a number of oiled-bird rehabilitation attempts. Given the low survival rates for oiled birds, it is not surprising that many authors and organizations have recommended euthanizing all oiled birds or all but the least oiled of them.

Effects on populations

It is common for terrestrial perching birds to reach breeding age within a year of hatching and to produce clutches of several eggs more than once a year. Following an unusually high mortality, these species can normally replace their numbers in just a few breeding seasons. For seabirds, the situation is quite different. The pattern for alcids (auks, murres, puffins) is as follows:

1. long-lived;
2. few, if any, predators once they are at sea;
3. larger alcids do not breed until 3 or more years old;
4. most have only a single egg per year;
5. not all adults breed every year; and
6. on the average, only 1 chick for every 5 breeding adults survives to the age where it goes to sea.

After a chick enters the water, the parents must continue to care for it, diving to catch fish and feeding a share to the juveniles. Every year we receive a number of murres that are found standing on the beaches too young to fend for themselves. Presumably, they were accidentally separated from the adults in spite of their ability to vocalize very loudly.

With all of these factors, it is surprising that alcids have sufficient reproductive potential to maintain their numbers even without unnatural mortalities such as those caused by oil pollution. C. L. Boyle states that "Nature compensates by giving auks a long life, and few hazards after maturity." It is calculated that murres require 53 years to double their population size given optimal conditions. "In other words," according to R. B. Clark "if an oiling disaster halved the number of birds in a colony it would take over half a century for it to recover its original numbers by natural growth."

It is highly unfortunate that the birds suffering the greatest losses in marine oil spills are the alcids—the very birds least able to afford inflated mortalities. In a table representing several oil spills in England, it is reported that of 10,186 oiled seabirds, fully 10,028 were alcids.

On the other hand, gulls are only minimally affected. Apparently when healthy gulls meet oil, they are able to take wing before becoming seriously involved. Following the 1971 San Francisco oil spill, I observed that as many as 20% of the gulls flying overhead had black stains on their breast feathers. These oil stains gradually faded until they were hardly noticeable a month after the spill. Minor oil stains during the nesting season, however, can have severe consequences since a small quantity of oil smeared on an incubating egg will kill the embryo.

Most diving birds, including alcids, seek escape when alarmed by plunging below the surface and resurfacing some distance away. This has been the observed response when murres (*Uria aalge*) meet oil. With a large oil slick, such action could result in their surfacing through the slick which may account for a thorough degree of oiling observed when many diving birds are brought to bird-cleaning stations.

All factors and data considered, there is considerable circumstantial evidence that oil pollution has seriously reduced populations of certain seabirds in England and elsewhere.

Effects on individual birds

The effects of oil on individual birds vary with the properties of the oil, degree of contamination, quantity ingested, environmental factors, and the original condition of the bird. Even a small patch of oil on the feathers of an aquatic bird, however, means that without care it will perish.

The insulatory ability of plumage when oiled is reduced, thus allowing body heat to be lost to the surrounding cold water at a greatly increased rate. The oiled bird must increase its metabolic rate by as much as a factor of 3 in order to maintain its normal body temperature. Oiled birds cease to forage for food resulting in catabolism of subcutaneous fat stores, and eventually catabolism of the pectoral muscles in order to supply needed energy.

In some oil spills where the oil deeply coated the water's surface, birds may have simply suffocated after surfacing through the slick.

Oil that has aged, that is, lost some of its more valuable constitutents through evaporation, is generally less toxic than fresh oil. Fresh bunker oil is more topically irritating to aquatic birds than old bunker oil spilled with ballast water. This is not to say that one kind of oil is less fatal to the bird than another. The loss of body heat through contaminated feathers is more than sufficient to kill seabirds. Most aged heavy oils, however, are not significantly irritating to bird skin over a period of up to 3 days but may be irritating to soft mouth tissue and conjunctivae.

Oiled birds usually abandon all other activities and attempt to clean off their feathers by preening; they ingest oil in this process. Oiled seabirds commonly suffer from an inflammation of the lining of the gut. Blood seeping into the lumen from the hyperemic intestinal walls may take on the appearance of black oil or tar, which may also be present. Bleeding may, in some cases, be controlled with an intestinal antispasmotic and demulcent.

Seabirds drink seawater. This requires an active transport of sodium ions through the intestinal wall. It has been found that domestic ducks (*Anas platyrhynchos*) are able to drink a hypertonic seawater solution (60%) indefinitely and therefore demonstrate active sodium transport. This has also been demonstrated in vitro. Some oils are able to block this active transport mechanism resulting in the dehydration of ducks drinking a hypertonic saline solution. Should this effect be at work in seabirds that have ingested oil, and it is likely, then acute dehydration is a serious problem as long as the birds only have access to seawater. Oiled birds have been observed going inland and seeking out fresh water. It is interesting to note that none of these birds are a fully pelagic species, but they are birds that spend a portion of each year (breeding season) on fresh water. Fully pelagic birds, such as alcids, cannot be aware of the existence of fresh water or how to locate it. The fact that recently oiled birds often show considerable weight loss and appear emaciated may, in part, be due to dehydration of the pectoral muscles and other tissues. Also, dehydration exacerbates acidosis, i.e., abnormally low plasma pH, that is caused by the catabolism of fat stores and other tissues.

Another effect that may be important in the oiled seabird is that hypoglycemia, or low blood sugar, may cause the inability of the nasal salt gland to function fully, allowing a fatal increase in the tonicity of body fluids. Certainly oil-covered birds would be expected to be hypoglycemic after several hours of increased metabolism and reduced food intake.

Birds that ingest oil, whether artifically introduced by catheter or consumed as a result of preening, often demonstrate some loss of equilibrium and depressed activity due to toxic effects on the nervous system. Respiratory depression is a common symptom in mammals suffering toxic effects of oil ingestion and may very well be a problem with oiled birds.

Liver tissue suffers fatty degeneration, and kidneys, likewise, show pathologic changes following ingestion of some oils by birds. Some investigators found damage but did not report fatty degeneration of the liver, while another investigator found no internal pathology whatever using Santa Barbara crude oil.

Aspiration of oil into the lungs, even in small quantities, causes lipid pneumonia. This has been true in 24% of ducks fed oil in a laboratory investigation. Pulmonary disorders are reported routinely in birds caught in oil spills, but it is not clear whether these are cases of lipid pneumonia or the result of other factors.

Oiled birds suffer from stress. They are stressed by cold, toxic effects of the pollutant, starvation, dehydration, electrolyte imbalance, and, if they are captured for treatment, people. (It is well to remember that the only contact that seabirds have with larger animals is due to territorial behavior or predation.) Long-term stress is evidenced by enlargement of the adrenal gland, heightened vulnerability to infections, kidney and liver damage, shock, and death. Manifestations of stress have been found routinely by investigators in connection with oiled birds.

Dispersants used to control oil slicks are often more damaging to birds than the oil. Some dispersants are very irritating both topically and internally while all chemical dispersants will cause feathers to readily soak up water. The use of dispersants increases the area of ocean that is lethal to aquatic birds.

TABLE 1. REHABILITATION ATTEMPTS (PARTIAL LIST)

Reference	Date	Location	Number of species treated	Released
84	November 1941	California	1 murre (Uria aelge)	1.
80	1953	England	500 swans	Unknown.
54	July 1965	South Africa	8 penguins (udyptuls abborignate)	8.
17, 73	March 1967	England and France	7,849 mostly alcids	Unknown, under 400.
17	1967	England	58 mostly alcids	26.
11	June–August 1968.	South Africa	1,700 penguins (Sphniscus demersus).	UnKnown.
1	January–February 1969.	California	1,731 mostly ducks	Unknown, under 50.
441	February 1969	Holland	1,282 mostly ducks	Unknown, under 352.
44	1969–1970?	Sweden	UnKnown, anaidae (ducks, geese, swans).	75.
19	November 1970	South Africa	523 penguins (S. demersus)	Unknown, 200–300.
31, 43	December 1970	Holland	About 100 mostly Anaidae	Unknonwn (14?).
21, 45, 81	January 1971	California	4,686 mostly grebes and ducks	220.
47, 12	April 1971	Washington	360 mostly alcids and ducks	0.
78	January 1972	England	18 murress	11.
78	February 1972	do	247 mostly ducks	About 100.
55'56, 70	January 1973	California	308 coots, ducks, and grebes	143.
69	May 1973	do	77 surres	41.
27	June 1973	England	4 surres	0.
27	October 1973	do	110 mostly murres	Unknown, under 19.
7	December 1973	California	105 mostly murres	26.

Secondary problems and husbandry

There is a whole series of problems encountered in an oiled-bird rehabilitation effort that are not directly related to the original problem of oil contamination. The problems are mostly because confined species do not adapt well to being held in captivity. Robert W. Lassen states that "murres, western grebes and scoters are exclusively aquatic, and as such are unable to cope with the terrestrial environment except for short periods of time. . . . Long-term care challenges your capacity to innovate a dry environment in which an aquatic bird can be sustained until able to repel water."

Stress is a major problem that can, by itself, be fatal. Judicious administration of corticosteroids such as dexamethasone or corticosterone can be helpful in controlling physiological stress. It is also essential to avoid subjecting the birds to stressful stimuli any more than necessary. Threatening visual stimuli, such as an approaching human, are very stressing and can be minimized by the use of opaque barriers.

One study indicates that dexamethasone facilitates a stressed animal to extinguish nonproductive responses, e.g., continuous defense or escape activity. In agreement with that study, we have noticed that dexamethasone apparently helps the bird learn to adjust to its radically new environment and more readily begin to eat, drink, and preen.

Dehydration and hypoglycemia may be controlled by oral administration with syringe and catheter (intubation) of a 2.5% dextrose solution or the hydrating solution described in Appendix II. 40 ml/kg is a suitable dose to be given every hour initially. Many seabird species cannot be expected to drink out of a container but will drink copiously when placed in a pool. Dehydration of aquatic birds held in captivity has undoubtedly been a major cause of mortality.

The feet of aquatic birds easily dry out and provide an entry for pathogenic bacteria which may lead to the infection of joint capsules. An infrequent light coating of vasoline or diaper rash ointment helps to control this problem.

Decubitus ulcers, or pressure sores, will develop along the keel of fully aquatic species when maintained on a surface that is not deeply cushioning. A thick layer of clean rags on the enclosure floor provides for sufficient distribution of weight to avoid this condition.

Bacterial infections will occur if a bird is kept in less than ideally healthful surroundings. The sites of infection and species of bacteria are numerous. Septicemia was encountered in many long-captive seabirds following the 1971 San Francisco oil spill. The four most common pathogenic bacteria found in that study were: *Erysipelothrix* spp., *Salmonella* spp., *Pasturella multocida*, and *Staphylococcus aureus*. As is the case with human medicine, we do not recommend broad-spectrum antibiotic treatment in anticipation of bacterial infection but believe that antibiotics should be reserved for proven infections. Proper diet and a clean, healthful, nonstressful environment are the best prevention.

Aspergillosis, an infection by the common fugus *Aspergillus fumigatus*, is the greatest cause of mortality among aquatic birds when their ability to resist disease is compromised by stress or malnutrition. Normally, the respiratory system is initially infected, but other tissues may become involved before the bird dies. Straw, hay, or moldy material must never be used in a rehabilitation center because of the chance of elevating the *A. fumigatus* spore concentration. Some control over this disease might be possible with Pimaricin®, a relatively new drug that has no deleterious side effects that we have observed during our minimal experience with it.

It is possible that the fish selected for feed birds may contain thiaminase, an enzyme that destroys thiamine (Vitamin B_1). To insure against this possibility, a vitamin supplement is recommended. Multiple vitamins used in moderation are probably not harmful and possibly even beneficial.

Post-mortem examinations have revealed impaction of the cloaca in grebes and loons kept out of water. Merely lifting these birds off the ground by hand, however, will cause them to void. There may be an inhibitory mechanism associated with nesting in these species that would account for these observations.

The plumage of water birds will deteriorate when kept out of water because of contamination, mechanical disruption, and diminished care by the bird. Seabirds in the wild depend upon the impeccable conditions of their plumage for protection from cold air and water, and when kept in warm and dry surroundings, they neglect their plumage to some extent. Putting a weakened bird immediately into a harsh environment is not the answer because exposure adds to the bird's state of exhaustion and stress. Intermediate steps are needed such as lightly spraying the bird occasionally or placing it into a pool that is somewhat protected from the weather and from which the bird can easily leave. In practice, a properly cleaned bird may be put into a protected artificial pool 8 hours after cleaning and then be put into an unprotected environment (with plenty of food) within two or three days. An interesting effect that we have observed is that many aquatic birds refuse to remain in the water of a small pool (1.2 meters square) but will more willingly remain in the water of a larger pool (2 m x 3 m). Loons refuse to stay in the water of our larger pool, but we are hoping that they will be content to remain afloat in the sizeable pool (3 m x 6 m) planned for our new facility.

The final physiological factor to be considered before releasing a waterproof seabird concerns salt metabolism. Murres suffer dehydration when suddenly introduced to seawater following several weeks in fresh water pools. This problem might not exist if murres were kept for shorter periods in captivity, but that has not been proven. Gradually raising the salinity of the pools to seawater levels over a period of 4 days had no deleterious effects on the murres. This problem does not exist with grebes.

Feathers and cleaning

The rehabilitation of oiled aquatic birds must not only be concerned with rectifying the considerable physiological problems discussed above but also must solve the problem of cleaning the feathers and restoring them to a water repellent status. To date, there has been no completely satisfactory method found for accomplishing this. Numerous cleaners and methods have been tried, yet each has its drawbacks and most are totally unsuitable.

Many authors have regarded water repellency of feathers to be largely dependent on feather waxes and oils and have therefore concluded that the waxes and oils must not be removed or, if removed, they must be replaced before the bird is released. Some authors have attributed water-repellency to a combination of the feather waxes and the microscopic grid structure characteristic of feathers.

At present, the water-repellent property of a bird's plumage appears to be dependent on the following:

1. hydrophobic property of keratin (feather protein) surface;
2. imbrication or interlacing of the microscopic feather barbules;
3. directional watershedding (determined by the pattern and sizing of imbrication); and
4. absence of foreign matter.

The feather oils and waxes may aid the surface keratin to remain hydrophobic, as well as play a minor part in the direct repulsion of water. Certainly it has been well established that a bird's plumage does not immediately lose its water-repellency following complete removal of all waxes and oils by solvent. It has been shown, however, that the feathers of ducks become rough, dry, brittle, and non-water-repellant several weeks following removal of the preen gland by

surgery. Frayed feathers lose their fine imbrication and, therefore, their water-repellency. Apparently, the preen gland oils are necessary for long-term maintenance of the suppleness and integrity of feather material.

Feathers have a marked tendency to shed water in the direction of the tip, which in a live bird would be away from the body and out from between the overlying layers of feathers. It may be possible for individual feathers to be waterproof when considered singly although the plumage may contain a considerable quantity of water between the feather and adjacent to the skin.

Foreign matter can interrupt the surface geometry of interlacing or may cause feather barbules to abandon their proper alignment. In either case, the water repellency is compromised Oil, for example, tends to clump barbules together leaving larger than normal interstices through which water can seep.

Detergents are, by their very nature, hydrophobic, actively attracting water molecules. Unfortunately, it is very difficult to completely rinse detergent residues out of a bird's plumage and detergent residues prevent feathers from being waterproof. Detergent solutions also cause the swelling of feather keratin which may have detrimental effects on feather structure and integrity. Investigations have shown that some detergents are less tenacious than others and rinse out of the plumage somewhat more readily, leaving the bird with a watertight plumage. Thorough rinsing requires large quantities of clean warm water dispensed under pressure for many minutes. In practice, detergents are unable to clean birds efficiently that are soiled with aged heavy oils or oils such as lubricating oils that are principally straight-chain hydrocarbons.

Hydrocarbon solvents are able to clean quickly any type of oil from a bird without any detectable damage to feathers. The plumage of a solvent-cleaned bird would doubtlessly be fully waterproof except for previous disruptions in barbule alignment caused by rough handling, attempts at preening by the bird while matted with oil, and barbule clumping caused by viscuous oil. In practice, however, the toxic properties of solvents become one more factor to add to the already severe health problems experienced by the bird. Birds cleaned in solvent show temporary severe loss of equilibrium and abnormal behavior, often stupor. It is likely that birds are affected both by inhalation of solvent fumes and direct cutaneous absorption. Therefore, it is absolutely essential that solvent-cleaned birds be quickly and thoroughly dried with warm-air blowers. Although this is time consuming, it does not require handling of the bird because warm air can be directed upward through a perforated polypropylene box where the bird is placed until dry. This method requires protection for the feet because they blister and burn easily.

Hydrocarbon solvents are readily available with varying properties. Fortunately, some have been formulated for tasks requiring low toxicity and fairly rapid evaporation. Solvents suitable for cleaning birds must have absolutely no aromatic compounds as they are extremely toxic. Flammability is of prime importance and is usually measured in terms of flashpoint (the lowest temperature at which a spark will cause combustion). For the above reasons, we can easily rule out the use of gasoline, kerosene, paint thinner, or lighter fluid (British equivalents: petrol, paraffin oil, turpentine, lighter fuel). In other words, there are no solvents available in retail stores that are suitable. One is forced to acquire a proper solvent by the barrel through industrial distributors.

Another agent that can be used to clean oiled birds is mineral oil (British equivalent, medicinal paraffin). Mineral oil is, in essence, a heavy-weight, nontoxic hydrocarbon solvent with low volatitity. It can be used most effectively, especially when warmed, on birds coated with a highly toxic and irritating fuel or fuel oil. At present, it is the only suitable cleaner for oiled mammals and other-than-aquatic birds since it is completely nontoxic and nonirritating. For aquatic birds, however, it leaves them with neither a water repellent nor thermally insulating plumage. A healthy, active murre requires about 3 weeks of bathing and preening before the plumage is returned to normalcy after being cleaned in mineral oil. It is possible that the application of some absorbent powder might shorten this time period but only at the risk of acting as an abrasive while the bird preens or as a particulate contaminant acting to reduce water-repellency. A better solution would be to wait 2 to 4 days after cleaning with mineral oil and then reclean with a solvent such as Shell Sol–70.

Recommended Treatment

Our recommendations are listed below for the treatment of oiled birds at this time (October 1974).

1. Loosely wrap body of captured bird in cloth (rags, towels, or diapers), place in a covered ventilated cardboard box (one bird to a box), and immediately

transport to a treatment center. This prevents further ingestion of oil, slows heat loss, and minimizes visual stress.

2. Band the bird when it arrives at the center and begin individual records. This allows a biologist to establish differential treatment for purposes of research.

3. Introduce 40 ml/kg hydrating solution (see Appendix II) into the proventriculus (upper stomach) with a size 14–18 (French) catheter on a large disposable syringe. Repeat every hour for the first 3 hours and then four times a day thereafter.

4. Administer intravenously or intramuscularly 3 mg/kg dexamethasone or corticosterone and 1 ml/kg 50% dextrose. Place a poncho on the bird and delay further treatment for 30 minutes.

5. Introduce 10 ml/kg heavy medicinal mineral oil into the proventriculus. Wipe the exterior of the catheter dry before intubation to minimize the possibility of aspiration of the mineral oil. Delay further treatment for 30 minutes.

6. Provide suitable food, deep bedding (except for alcids), and an ambient temperature between 24°C and 27°C (75–80°F).

7. Decide which birds are ready to be cleaned and with what cleaning agent. A decision key is provided in Appendix III.

8. Before cleaning, check the bird's record to determine whether it has had an injection of dextrose and dexamethasone or corticosterone within the previous 4 hours. If not, it should receive another dose and be given 40 ml/kg 5% dextrose. Then the cleaning begins.

Cleaning with solvent.—The first requirement is for human safety. Shell Sol–70 has produced fair results and does not ignite easily (flash point 40°C or 104°F), but once burning, burns fiercely. Therefore, it is necessary to ban smoking and provide adequate fire extinguishers. The area should be well-ventilated and everyone should wear a suitable respirator. Some people find the solvent irritating to their skin and perhaps should not participate in the cleaning.

Warm solvent (35° C or 95° F) is placed in 3 to 5 basins and the bird is given serial baths, taking care not to damage feathers.

Following the baths, the plumage needs to be rinsed out with flowing solvent. We have built a portable unit that dispenses warm solvent under pressure to 12 nozzles arranged to 6 stations. For lightly-oiled birds this rinsing unit is all that is needed for cleaning. When the bird is clean, it is blotted with clean diapers and thoroughly dried with a warm-air dryer such as those used for show dogs.

Final steps in the process involve hydration and rest in a "drunk tank" for 6 to 9 hours until the bird recovers from its intoxicated state caused by the solvent. The bird can then be immediately placed in a pool with easy egress where it can swim, preen, drink, and eat. An audiovisual teaching package is available to train volunteers in the details of this cleaning technique.

Cleaning with mineral oil. When cleaning with mineral oil, use all the techniques used for cleaning with a solvent except for warm air drying. Respirators, fire extinguishers, and the drunk tank are unnecessary. The bird must be kept warm and introduced to water gradually as its plumage will neither be waterproof nor provide effective thermal insulation for some days after cleaning.

Cleaning with detergents. We simply have not been able to effectively clean aquatic birds in excellent condition using detergent. Those who have been successful recommended serial baths of a 1% detergent solution warmed to 40–45° C (104–113° F). Thorough rinsing with jets of warm water (40–45° C) is necessary to remove hydrophilic detergent residues.

The reason for our lack of success with the method is probably related to the types of polluting oil we have been encountering. Most of the birds we have received were covered with either very aged heavy oils or lubricating oils, neither of which can be readily emulsified by detergents.

Recoveries

The banding (ringing) of birds released after rehabilitation has provided some information for evaluating the success of treatment. Information from banded birds released following the 1971 San Francisco oil spill has not yet been fully compiled, but the following data are available. Of the 218 banded birds, 14 were found dead by December 1971; a canvasback (*Aythya valisineria*) was shot by a hunter January 5, 1972, 10 months after release; a western grebe (*Aechmophorus occidentalis* was found in March 1972, 11 months after release; and another western grebe was found January 26, 1973, 21 months after release, in Washington 650 miles from point of release. These last band recoveries

demonstrate that at least some rehabilitated oil aquatic birds were able to survive in the wild quite nicely.

Feasibility

It is not possible to put a price tag on the life of an aquatic bird, yet at the same time, it is hardly reasonable to expect oil companies to spend $900 for each rehabilitated bird in every oil spill. Mortality rates can only be kept low by efficient and proper treatment that will ultimately minimize the length of time that the birds need to be held in captivity. Coincidentally, these factors also minimize the cost involved. Inexperience, poor advice, misinformation, or the lack of proper facilities and equipment can very quickly turn an oiled-bird rehabilitation effort into a nightmare of dying birds and runaway costs. With this in mind, the International Bird Rescue Research Center was founded in 1971 as a nonprofit corporation to research the problems of oiled-bird rehabilitation. Instructional materials, specialized equipment, and supplies (record forms, veterinary paraphernalia, and thousands of numbered aluminum bands) are kept in readiness at our center to be taken to the scene of an oil spill whenever and wherever needed.

At present, however, there are numerous speices of birds that cannot be treated with a significant probability of survival, and there are simple but crucial questions that have not yet been investigated. Without additional research, the emergent technology of rehabilitating oiled aquatic birds could very conceivably become bogged down on a pathetically low plateau of its learning curve. Such a situation would inevitably result in the continuing significant losses of aquatic birds treated for oil pollution, irrespective of money and manpower expenditures.

CONCLUSIONS

An oil or chemical dispersant on an aquatic bird's plumage is usually fatal unless the bird is promptly and properly treated. For uncatpured birds, toxicity of the soil substance is often not as important a factor as is its ability to compromise the waterproof status of the plumage. Toxicity of the contaminant is of considerable importance, however, when rehabilitation is attempted.

Mortalities of oiled birds during attempted rehabilitation usually result from one or more of the following conditions:

1. exhaustion (hypoglycemia, hypothermia);
2. dehydration;
3. poisoning by the pollutant, the cleaner, or both;
4. chronic stress;
5. chronic malnutrition; and
6. viral, bacterial, or fungal infections.

Most contaminated birds are probably never found after an oil spill along open coastline. These spills, therefore, destroy a large portion of local aquatic bird populations regardless of the degree of success attained with the rehabilitation of captured birds.

Recent improvements in rehabilitation methods mean that the destruction of aquatic birds by oil can be mitigated through the use of properly equipped cleaning centers staffed by trained personnel. This may require a modest amount of regional planning and preparation, keeping in mind that persons with expertise may be flown in with specialized equipment to lend assistance when needed.

Many aspects of oiled aquatic bird rehabilitation need additional study in order to maximize the number of successfully treated birds for the amount of effort and funds expended. Promising areas of research include: cleaning agents, cleaning methods, plumage maintenance, behavior, electrolyte metabolism, blood chemistry, nutrition, antibotic therapy, steroid therapy, and endocrinology.

Oil spills continue in spite of technological improvements and incerased efforts aimed at prevention. Aquatic birds become soiled and die in spite of improved equipment and contingencies designed to control oil slicks. Conceivably, oil spills will continue to wreck havoc as long as there is oil to transport. It is right and proper that we do whatever is necessary in the meantime to mitigate damage to wildlife caused by oil spills. Only with this level of commitment can our legacy to future generations be an undiminished and dynamically stable wildlife community which inhabits our precious and irreplaceable biosphere.

Appendix I

1973 OILED BIRD SUMMARY—INTERNATIONAL BIRD RESCUE RESEARCH CENTER

	Number received	Number surveyed	Percent surveyed
Western grebe (Aechmophorus occidentalis)	40	10	25
Horned grebe (Podiceps auritus)	14	0	0
Eared grebe (Podiceps caspicus)	11	1	9
Pied-billed grebe (Podilymbus podiceps)	26	2	7
Red-throated loon (Gavia stellata)	2	0	0
Rhinoceros auklet (Cerorhinca monocerata)	1	0	0
Common murre (Uria aalge)	190	67	35
Glaucous-winged gull (Larus glaucescens)	1	0	0
Western gull (L. occidentalis)	3	2	66
Herring gull (L. argentatus)	1	0	0
California gull (L. californicus)	1	1	100
Mallard (Anas platyrhynchos)	25	19	76
Canvasback (Aythya valisineria)	12	9	75
Scaup (A. marila and A. affinis)	32	22	68
Goldeneye (Bucephala clangula and B. islandica)	22	8	36
Scoter (Melanitta deglandi and M. perspecillata)	5	2	40
Ruddy Duck (Oxyura jamaicensis)	17	1	5
Black-crowned night heron (Nycticorax nycticorax)	1	1	100
Clapper rail (Rallus longirostris)	6	3	50
American coot (Fulica americana)	113	70	61
Total	523	218	41

Appendix II

Medication and Solutions

Corticosteriod—azuim solution® (dexamethasone) (Schering)—3 mg/kg intramuscularly or intravenously once or twice only.

Intestinal antispasmotic:

Biosol-M® (Upjohn)— 3 drops/kg orally every 6 hours.

Darbazine® (Beecham-Massengill)—As directed.

Gastric demulcent—Kaopectate® (Upjohn)— 10 mg/kg stomach tube every 4 hours.

Hydrating solution (hypotonic, for dehydration and hypoglycemia)—Mix: 5 g (1 level teaspoon) table salt; 25 ml 50% dextrose *or* 12 g. table sugar (3 level teaspoons) ; 1 liter (or 1 quart) fresh water, 40 ml/kg by stomach tube.

Isotonic sugar solution (approximately 5%)—Mix: 100 ml 50% dextrose *or* 50 g table sugar (4 level tablespoons) ; 1 liter (or 1 quart) fresh water. 40 ml/kg by stomach tube.

Appendix III

Cleaning Key For Oiled Aquatic Birds

1.a. If oil is nearly solid and caked on, proceed to step 2.
b. If oil is fairly fluid, proceed to step 4.
2.a If a bird is energetic, alert, and its cloacal temp is 39–41° C, proceed to step 10.
b. If bird is weak or hypothermic, proceed to step 3.
3. Feed and water for 2 days. Maintain clean enclosure at 24–27°C. Go to step 2.
4.a. If oil is easily emulsified by detergents, go to step 5.
b. If oil is *not* easily emulsified by detergents, go to step 6.
5.a. If oil is apparently non-toxic, go to step 2.
b. If oil is apparently toxic, go to step 7.
6.a. If bird is showing severe toxic effects, go to step 8.
b. If bird is showing mild toxic effects, go to step 9.
c. If bird is showing minimal or no toxic effects, go to step 10.
7.a. If bird is showing severe toxic effects, go to step 8.
b. If bird is showing some toxic effects, go to step 11.
c. If bird is showing no toxic effects, go to step 10 or 11.
8. Euthanize.
9. Clean in warm mineral oil. Go to step 2.
10. Clean in warm solvent.
11. Clean in warm detergent solution.

Mr. HEYWARD. Who is the representative in the Interior Department on the regional response team for this area?

Mr. GREENWALT. The area concerned with the Chesapeake Bay, it is Mr. Ray Oberst, who is in our regional office in Boston.

Mr. HEYWARD. Your northeast region covers all the way from Maine to Virginia?

Mr. GREENWALT. That is right, through Virginia.

Mr. HEYWARD. On the regional response team in the Chesapeake Bay area, do you have an alternate who is closer to the scene than Mr. Oberst?

Mr. GREENWALT. There is Mr. Swink who is responsible in a local sense. He is stationed in Annapolis.

Mr. HEYWARD. What happens when the team is activated?

Does Mr. Oberst come down from Boston to join the team?

Mr. GREENWALT. It depends on the circumstances.

In many instances, he would do so. In this instance he did not. He relied on Mr. Swink, the local representative to follow through.

In other instances with which I am familiar, most particularly on the west coast, frequently the regional team representative does appear on the scene. Much depends on the circumstances.

Mr. HEYWARD. When you review the plan, I think it would be a good idea if you would consider, because of the broad spread of your northeast region that you might focus on representatives closer to the scene rather than putting it all together.

Mr. GREENWALT. I agree with this in principle, Mr. Counsel.

Also the service is equipped with a number of people like Mr. Swink who are capable of responding quickly because of their proximity to coastal areas. We do have competent biologists stationed all up and down the coast.

Mr. HEYWARD. I am sure of that.

If the regional response team is passing out the word, and if the person to pass out the word to is listed on the list as your man in Boston, then the notification as this process grinds through would be to send word to him in Boston, and he has to get back down to your people. So I hope that information addresses on these messages would include the local man so that he could move promptly without awaiting directions from Boston.

Mr. GREENWALT. Yes, sir, this can be readily done.

Mr. HEYWARD. In connection with your comments with respect to notification, you stated it was 4 days after the actual sinking, and after the first oiled birds were found on the west shore.

Had you received notice earlier, what could you have actually done as far as your plan to disperse these birds?

Was your equipment available on the Eastern Shore so you could have set up your explosive devices or put up your aircraft, or whatever devices you were going to use?

Mr. GREENWALT. Let me ask Mr. Swink to respond. He is much more familiar with it, obviously.

Mr. SWINK. The equipment was available. Some of the equipment was in my office and some of the equipment was in the Maryland Regional Game and Fish offices. It was a matter of making some telephone calls and picking it up and taking it over to the Eastern Shore.

Mr. HEYWARD. Do you keep enough equipment stockpiled so you

could take care of this, particularly in view of the heavy bird population for that time of the year?

Mr. SWINK. I doubt it, sir.

Mr. HEYWARD. That might be another area for you to look in, particular times of the year when massive areas are covered by the birds in the flyway.

For those circumstances the equipment needs are going to be different than ordinary needs.

I have no other questions.

Mr. DOWNING. The subcommittee thanks you and your colleagues for your contribution.

Mr. GREENWALT. Thank you, sir.

Mr. DOWNING. Our next witness is the Honorable Robert E. Quinn, a member of the Virginia House of Delegates, and a person who is intimately familiar with the Chesapeake Bay.

Mr. Quinn's family has been associated with the waters of the bay for well over a hundred years, and he qualifies as an expert on the bay.

Mr. Quinn, we are delighted to have you here this morning.

STATEMENT OF HON. ROBERT E. QUINN, MEMBER OF THE HOUSE OF DELEGATES, STATE OF VIRGINIA

Mr. QUINN. Thank you.

Mr. DOWNING. Will you proceed?

Mr. QUINN. It is a great pleasure to be here with you today and with members of the Subcommittee on Coast Guard and Navigation.

Of course, I consider it an honor and a privilege to have this opportunity to present some of my views here today concerning the oil spill in the Chesapeake Bay in February of this year. Of course, that is of great concern to the Chesapeake Bay and, more generally, the ongoing problem of pollution of our waterways.

If I might simply comment, it would appear to me that our waterways are simply valuable to us, not only for their esthetic and recreational qualities, which is so prevalent in our areas, but also for economic reasons which is one of my great concerns.

The seafood industry is a vital part of our economy in Virginia, as in many other States, and increasingly, in my view, we must look to our waters as a source of food for our people.

In my formal statement, which has been filed with the committee, I have made a number of recommendations as to revitalizing the seafood industry and, in the interest of brevity, I will certainly not take your time today to read the testimony to you.

Mr. DOWNING. Without objection, your entire statement will be made a part of the record.

Mr. QUINN. Thank you, Mr. Chairman.

[The statement referred to follows:]

STATEMENT OF DELEGATE ROBERT E. QUINN, VIRGINIA HOUSE OF DELEGATES

Mr. Chairman and members of the Subcommittee on Coast Guard and Navigation, I am greatly honored to have an opportunity to present my views here today concerning the oil spill in the Chesapeake Bay in February of the year . . . and more generally the ongoing problem of pollution of our waterways.

Our waterways are important not only for their aesthetic and recreational qualities but also for economic reasons. The seafood industry is a vital part of our economy in Virginia as in many other states, and increasingly, in my view, we must look to our waters as a source of food for our people.

The seafood business has always been a part of my life. For well over 100 years my family was involved actively in both inland shell fishing and deep sea commercial trawling. In fact, we are still involved through the ownership of one deep sea trawler . . . the Trawler Hampton. Additionally, I have served the past three years as a member of the Atlantic States Marine Fisheries Commission . . . as well as serving for the past five years as a member of the Committee on the Chesapeake and its Tributaries of the Virginia House of Delegates.

OIL SPILLS

The oil spill which occurred in the southern portion of the Chesapeake Bay on February 2 was a disaster in a number of regards: the death of 20,000 water fowl; the destruction of untold numbers of fish and shell fish; and an estimated $500,000 in costs to the taxpayer for cleanup operation.

The Coast Guard has made a report as to the source nad cause of the oil spill and you heard yesterday from a number of Federal agencies on that subject. I am not here to rehash the event itself. Rather my concern is with how we might act to more effectively prevent the reoccurrence of such disasters.

We must recognize two salient facts:

1. For the foreseeable future we are required to transport a large amount of petroleum products by our waterways. Approximately 1,125 shipments of petroleum products are made up the Potomac as far as Washington, D.C. annually by tankers and barges. In fact 25% of all water borne commerce landed or loaded in the Chesapeake Bay consisted of petroleum products. These shipments include aviation gas, jet fuel, asphalt and No. 2 and No. 6 fuel oil.

2. As long as human beings are involved in the transportation process there will be some accidents due to bad judgment, negligence, and acts of nature.

Thus we very clearly must move in two directions: strengthen our law to prevent such disasters; and take action to develop the technology required to more effectively deal with the cleanup of spills.

1. The Coast Guard needs to update and strengthen its regulations in respect to securing hatches and vents on tank barges, the inspection of venting arrangements, and the requirements for reserve freeboard on inland barges. The Coast Guard's investigation of the February spill pointed to a need to evaluate these areas . . . the time to strengthen these regulations and inspection procedures is now.

2. The Congress needs to clearly delegate the responsibility for rescuing water fowl trapped in any future spills. The Coast Guard as I understand it says it isn't responsible. Responsibility needs to be clearly and quickly delineated.

3. There is potential in the area of research and development for dealing with spills of this sort on a more rapid basis. The Congress should act quickly to adequately fund the development of alternative technologies. We don't have adequate technology now . . . it is possible to develop it, and I feel we need it desperately.

4. I endorse the principles embodied in H.R. 9294 and urge favorable consideration by this Subcommittee. My understanding is that markup on this legislation will occur next week. While detail modification may be needed, the basic principles embodied in that legislation are sound. It is not fair for the American taxpayer to bear the major portion of cost connected with clean-up and damages associated with oil spills. In the situtation under consideration here, the taxpayer ended up paying for approximatey $377,000 of the $500,000 required for cleanup program. On the other hand . . . based on my own experience with the shipping industry . . . it is not fair to require the shipper to assume total liability due to the posibility of sabotage for example. Thus I oppose H.R. 12347. H.R. 9294 which would establish a fund for paying for oil pollution damages financed in part by the oil spiller and in part by a fee charged to owners of refineries and terminals would seem to be, on balance, the best approach. Since not just the transportation industry but also the producers and others who handle oil will have an incentive to prevent oil spills.

SEAFOOD INDUSTRY

As I indicated initially, my concern over pollution of our waterways arises in part from my concern for the seafood industry. Oil spills such as this one, as well as industrial pollution such as the pollution of the James River by kepone which closed that river for an indefinite time to shad fishing certainly have a negative effect on an industry that is beset with a myriad of other problems. I am sure you share my concern and so briefly I would like to indicate for the record my recommendations in that area.

The seafood industry plays a vital role in the economy of Virginia . . . but it stands a chance of almost complete destruction if present trends are not reversed. The future of the industry given the need for increasing productivity of food should be of vital concern. If we act wisely and with due speed we can revitalize the industry and expand its potential drastically.

Only 10 short years ago, over 30 commercial deep sea trawlers operated out of Hampton, Virginia. Now there are approximately one-third of that number sailing from the city. This is not a unique occurrence.

It is the result primarily of the inability of commercial fisherman . . . due to factors beyond their control . . . to operate at a reasonable profit margin. Recent years have seen the cost for marine repairs, net and gear, navigation equipment, maintenance and upkeep, and hull and liability insurance sky-rocket. The price to the fisherman for his product has lagged far behind . . . just as in the comparable situation of farmers and ranchers.

Cost goes up . . . vessels get older and older . . . financing is extremely difficult or impossible to obtain.

My recommendations for immediate action by the Congress includes:

1. Giving serious consideration to removing the seafood industry from the jurisdiction of the Department of Commerce . . . placing it instead within the Department of Agriculture which administers programs for the agriculture industry very similar to those required by the seafood industry.

2. Develop a realistic program . . . and fund it adequately . . . for direct federal low-interest loans to restore or replace aging vessels. Similar programs exist for those involved in agriculture. The seafood industry deserves comparable attention.

3. Development of federally subsidized and guaranteed libility insurance and hull insurance through private insurance companies at costs affordable by the operators of commercial fishing vessels . . . similar to the concept of federally subsidized flood insurance. All too many operators are now forced by economic considerations to operate without insurance.

4. Development of a low-cost direct loan program to enable operators to purchase modern navigational equipment as well as nets and other gear.

In addition to the above the shell-fishermen need special help:

1. In agriculture we provide assistance when natural disaster destroys a crop. When similar tragedy strikes the waterman, such as in the kepone pollution of the James River, we do nothing. Similar assistance at times such as this—unless we wish our seafood industry to be destroyed—is essential.

2. We also need new programs and more adequate funding to replenish shell fishing beds. Our states have the facilities but need more funding if we are to continue to harvest what projected food requirements show is necessary.

One of our problems in the seafood industry is that we are basically fishing in 1976 as we did 200 years ago. With adequate funding for research and development, our waterways could produce a comparable result to the Green Revolution which so drastically increased agricultural productivity. It is in our material interest to see that this is accomplished.

Mr. QUINN. Instead of reading the statement, I would like to dwell exclusively on the question of oil spills, if I might, Mr. Chairman, just to give the members some background.

The seafood business has certainly been a vital part of my life since my being, so to speak. For well over 100 years, my family has been involved actively in the seafood industry, both in the inland shell fishing and deep sea commercial trawling. In fact, we are still involved through the ownership of one deep sea trawler—the trawler *Hampton*.

Additionally, I have served for the past 3 years as a member of the Atlantic States Marine Fisheries Commission, as well as serving for the past 5 years as a member of the Committee on the Chesapeake and its Tributaries of the Virginia House of Delegates.

For just a moment, I would like to talk about oil spills generally as we see them from this standpoint.

The oil spill, Mr. Chairman, which occurred in the southern portion of the Chesapeake Bay on February 2, was a disaster, as we see it, in a number of regards—the deaths of 20,000 waterfowl, the destruction of untold numbers of fish and shellfish, and an estimated $500,000 in costs to the taxpayer for cleanup operations.

The Coast Guard has made a report as to the source and cause of the oil spill. You gentlemen heard yesterday from a number of Federal agencies on that subject. I am not here, and I certainly would not take your time to rehash the event itself. I think my prime concern is how we might act to more effectively prevent the reoccurrence of such disasters that occurred on February 2.

I would feel we must recognize two salient facts:

1. For the foreseeable future we are required to transport a large amount of petroleum products by our waterways. Approximately 1,125 shipments of petroleum products are made up the Potomac as far as Washington, D.C., annually by tankers and barges. In fact, 25 percent of all waterborne commerce landed or loaded in the Chesapeake Bay consisted of petroleum products. These shipments include aviation gas, jet fuel, asphalt, and No. 2 and No. 6 fuel oil.

2. As long as human beings are involved in the transportation process there will be some accidents due to bad judgment, negligence, and acts of nature.

Thus, we very clearly must move in two directions—strengthen our laws to prevent such disasters, and take action to more effectively deal with the cleanup of spills.

With your permission, Mr. Chairman, I would like to make the following recommendations:

1. The Coast Guard needs to update and strengthen its regulations in respect to securing hatches and vents on tank barges, the inspection of venting arrangements, and the requirements for reserve freeboard on inland barges. The Coast Guard's investigation of the February spill pointed to a need to evaluate these areas—the time to strengthen these regulations and inspection procedure is now.

2. The Congress needs to clearly delegate the responsibility for rescuing waterfowl trapped in any future spills. The Coast Guard, as I understand it, says it is not responsible. Responsibility needs to be clearly and quickly delineated.

3. There is potential in the area of research and development for dealing with spills of this sort on a more rapid basis. The Congress should act quickly to adequately fund the development of alternative technologies. We do not have adequate technology now. It is possible to develop it, and I feel we need it desperately.

4. I endorse the principles embodied in H.R. 9294, and urge favorable consideration by this subcommittee. My understanding is that markup on this legislation will occur next week. While detail modification may be needed, the basic principles embodied in that legislation are sound.

It is not fair for the American taxpayer to bear the major portion of cost connected with cleanup and damages associated with oil spills. In the situation under consideration here, the taxpayer ended up paying for approximately $377,000 of the $500,000 required for cleanup program.

On the other hand—based on my own experience with the shipping industry—it is not fair to require the shipper to assume total liability due to the possibility of sabotage, for example. Thus, I oppose H.R. 12347.

H.R. 9294, which would establish a fund for paying for oil pollution damage, financed in part by the oil spiller and in part by a fee charged to owners of refineries and terminals, would seem to be, on balance, the best approach, since not just the transportation industry but also the producers and others who handle oil will have an incentive to prevent oil spills.

Mr. Chairman, this concludes my brief comments, and I am very grateful to you for the privilege of being here today.

Mr. DOWNING. Thank you, Mr. Quinn.

I think you have made a significant contribution.

As I understand it, you would oppose the pending bill which puts complete liability on the spiller, and you favor the bill which would create a fund for cleanup purposes?

Mr. QUINN. Yes.

Mr. DOWNING. Thank you very much.

Your entire statement has been made a part of the record.

Mr. Snyder, do you have any questions?

Mr. SNYDER. I have no questions, Mr. Chairman.

Mr. DOWNING. Counsel?

Mr. HEYWARD. I appreciate the recommendations, and I think they are all supported by the information that we have received from the agencies.

With respect to the delegation of responsibility for the rescue of waterfowl, would you agree, as long as this delegation is clear cut and there is good administration in the contingency plan, it would not be necessary for Congress to pass any legislation?

Mr. QUINN. I would feel that comment has much merit.

Mr. HEYWARD. Since the President has authority to amend the plan, this will be a matter that will be submitted—I am sure it already has been—to the Council for Environmental Quality which is responsible for keeping the plan up to date. Any deficiencies can be corrected there rather than to have specific legislation.

Mr. QUINN. Just as a brief comment, just a problem that we ran into earlier in my area, it was to try to truly get a feeling that the plan is effective and that those charged with completing the plan knew exactly when to move and the posture that they should take.

This is from the lay standpoint, and I simply want to share that with you, sir.

Mr. HEYWARD. In this particular problem area, do you have any recommendations as to how volunteers can assist in this cleanup?

Mr. QUINN. I will be perfectly truthful with counsel. I have not given it a great deal of study.

I know that the volunteers in our area came to the rescue of the fowl. I would hope not only in this area but in many areas that we

would have the volunteers in more of the programs of this type in the State. They are concerned and interested.

I think they should be an integral part of any program that this committee or subcommittee, or other committees, might develop. They want to be involved.

Mr. HEYWARD. And certainly with their willingness to contribute their time and labor, it is going to require a careful preplanning operation to insure that their activities are productive rather than helter-skelter, so to speak?

Mr. QUINN. Absolutely, sir.

Mr. HEYWARD. Thank you.

Mr. DOWNING. Thank you very much, Mr. Quinn.

Mr. QUINN. Thank you.

Mr. DOWNING. Our next witness is Mr. Michael Bellanca.

I understand this is your first appearance before a Washington committee.

With your expertise, I hope it is not your last appearance.

STATEMENT OF MICHAEL A. BELLANCA, DIRECTOR, BUREAU OF SURVEILLANCE AND FIELD STUDIES, VIRGINIA WATER CONTROL BOARD

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

It is my pleasure to be here to represent the agencies of the Commonwealth.

By way of background information, let me say, Mr. Chairman, that I was graduated in 1961 from Manhattan College in New York with a civil engineering degree, and from Cornell with a master's degree in sanitary engineering.

Subsequently, I was employed by the Virginia Department of Health in the engineering division and, in 1969, I came to the Water Control Board in which I now serve as a director of the Bureau of Surveillance and Field Studies.

Mr. Chairman, I would like, with your permission, to submit the complete statement which you have before you for the record and, in the interest of time, to attempt to paraphrase the remarks which I have on paper.

Mr. DOWNING. Without objection, your entire statement will be made a part of the record, and you may proceed.

[The statement referred to follows:]

STATEMENT OF MICHAEL A. BELLANCA, DIRECTOR, BUREAU OF SURVEILLANCE AND FIELD STUDIES, VIRGINIA WATER CONTROL BOARD

One of the functions of the Virginia Water Control Board and the Bureau of Surveillance and Field Studies is to investigate pollution complaints of any kind 24 hours a day and for this purpose we have our Pollution Response Program PReP). As an example of our activities we investigated approximately 800 pollution complaints in calendar year 1975 which included 162 fish kills and 330 oil spills. With respect to the latter it should be noted that this does not represent the sum total of all the oil spills which occurred in Virginia. In 1975 the United States Coast Guard received reports on over 800 spills within their area of jurisdiction which, by agreement with the United States Environmental Protection Agency, is the area east of Interstate 95.

Although more than 1100 oil spills occurred in the Commonwealth in 1975, we recognize that oil and energy are fundamental to the economy of Virginia

and feel that the environment can be protected and exist in harmonious union with the oil industry. This we feel, even in the aftermath of the Chesapeake Bay oil spill; and are convinced, that the key to success lies in prevention and in the utilization of the Spill Prevention Clean-up and Countermeasures (SPCC) plans which are required pursuant to Title 40, Part 112, printed in the Federal Register on December 11, 1973, Volume 38, Number 237. However, these are applicable to land based facilities and therefore address only one aspect of potential oil spillage. The subject of these hearings covers another aspect and the cause(s) and consequences of the largest spill ever to have occurred in the Chesapeake Bay.

On February 1, 1976, a barge was towed from the Amoco Refinery in Yorktown on the York River, turned northward up the Chesapeake Bay and ran aground and partially sunk approximately 3¾ miles off Smith Point early in the morning of February 2 in the midst of a storm.

The events which followed are perplexing and confusing since it was several days before oil was sighted on the Eastern and Western Shores and still more time before the full extent of the spillage was known.

Notification of the sinking was received by the State Water Control Board at 9:00 a.m. on February 2 from the United States Coast Guard. According to the Coast Guard On-Scene-Coordinator Report, the divers first on the scene did not report finding any oil in the vicinity of the sunken barge. It was not until February 6 that oil and oil-soaked waterfowl were noticed on the Western Shore and a few days later on the Eastern Shore.

It was not until this time that the true impact of the incident was realized and even then there were conflicting and inaccurate reports of the amount of oil spilled. These estimates ranged from an initial "few hundred" gallons to the final total of approximately 260,000 gallons. Even the actual condition of the barge, as it lay on the floor of the Bay, was not known until the marine casualty investigation. We have not seen the marine safety report but the On-Scene-Coordinator Report refers to it and states that "the first diver to survey the barge found cargo hatches numbers 1, 2, 3 and 4 port side wide open and number 4 starboard closed, but not dogged. The diver," (who was employed by the Salvage Co.) "stated that he closed and dogged all cargo hatches".

Upon receipt of the reports of oil on the Eastern and Western Shores, the staffs of the Water Control Board and the Commission of Game and Inland Fisheries began their activities in the affected areas and continued for several weeks until approximately the middle of March when clean-up activities ceased. The Commission of Game and Inland Fisheries was primarily involved in hazing operations to keep waterfowl from landing in contaminated areas and in counting dead and affected birds.

The Water Control Board staff participated in the counting and in the coordination of the clean-up activities with the Coast Guard. Several other state and federal agencies became involved in short order. The Bureau of Solid Waste and Vector Control of the State Health Department, assisted in the location of suitable landfill sites for disposing of the oil and oil-soaked sands obtained from beaches and marshes as they were cleaned. The Air Pollution Control Board rendered assistance and advice during the burning operations by which some of the oil was ultimately disposed. The Virginia Institute of Marine Science provided guidelines by which the sensitive marsh areas were cleaned by hand. Marine Resources Commission assisted through routine aerial surveillance.

Of all the activities undertaken during the clean-up operation, the one which was the most difficult to undertake was the clean-up of affected, live waterfowl. The activities of the state agencies were aimed at preventing further contamination to waterfowl and to locate and remove the oil as quickly as possible. It was felt that the hazing approach, through the use of propane guns would be the most productive and would prevent contamination of additional waterfowl. A great deal of assistance was proffered by private individuals who wished to assist in the bird clean-up but adequate facilities, know-how, and equipment were not available or known to those immediately involved. We recognize this as a failing and through the Oil Spill Task Force have established a mechanism by which the proper assistance can be obtained in the event it is ever needed. The Commission of Game and Inland Fisheries is currently involved in the development of a contingency plan which addresses the subject of waterfowl clean-up specifically. They are coordinating their activities with the United States Fish and Wildlife Service and other appropriate federal agencies.

On February 24, 1976, Earl J. Shiflet, Secretary of Commerce and Resources, announced the formation of the Chesapeake Bay Oil Spill Task Force. Its primary responsibilities were: Clean-up and environmental damage assessment, and determination of preventive measures which may be taken to prevent or mitigate future occurrences. Thrust of the Task Force is not investigation into the cause of the spill but rather points to prevention.

Our clean-up activities have been completed and the techniques are under review for refinement in the future. The environmental damage assessment is underway and consists of periodic inventory of the affected marsh areas, sampling of shellfish grounds and benthic samples from the Eastern and Western Shore areas which were contaminated.

An initial review of the benthic data indicates that little damage to bottom organisms occurred on the Western Shore. The Virginia Institute of Marine Science has a study underway in the heavily hit areas of the Eastern Shore and this data is not yet available.

The affected marsh areas are currently exhibiting new growth but this may be only a short-term growth and will have to be viewed over the next few years to determine if there are any long-term effects.

Our shellfish damage assessment is underway and it appears that such damage was confined to the Eastern Shore. We do not have any knowledge of shellfish damage on the Western Shore.

PRELIMINARY RECOMMENDATIONS

Based upon the information presented in the On-Scene-Coordinator's Report, in which it was related that the source of the spill was oil which escaped from open hatches, we feel that several items should be investigated.

A review of the regulations covering the seaworthiness of liquid carriers and loading procedures.

Increased surveillance of these vessels for compliance with the applicable regulations.

Incorporation of environmental safeguards into the design and operation of barges.

There is a great deal of traffic of all types within the Chesapeake Bay and it is our feeling that the question of the transport of oil and other hazardous materials should be addressed simultaneously. We feel that it would be advisable for the appropriate federal agencies to investigate the utilization of a traffic control system for commercial activities within the Bay. Such a system would enable one to know precisely where each vessel is within the Bay at any given time and the relationship of one vessel to another. We believe it would not be unreasonable to seek a traffic control system similar and as reliable as that which is employed for controlling aircraft at major airports.

The maximum fine which can be levied as a result of a spill from a vessel is the lesser of $14,000,000 or $100 per gross ton. In the case of the Chesapeake Bay oil spill, as in other similar instances, the cost of clean-up far exceeds the fine which can be imposed on a gross tonnage basis and consequently, the United States Coast Guard's oil clean-up contingency fund may be depleted as a result of inadequate replenishment. In the case of the major oil spills, access to the contingency fund is not only desirable but necessary since it allows immediate expenditure for all necessary manpower and equipment and provides it on a rapid basis. We feel that steps should be taken to address the imbalance which exists between the fine which may be imposed and clean-up costs. We suggest that the owner be responsible for clean-up costs and replacement costs for fish, wildlife, etc. The fines should be a punitive measure independent of clean-up and damage costs. The fish kill section of the Virginia Water Control Law has a provision which enables the Agency to recover costs of investigation and damages to fish, shellfish and wildlife.

A major deficiency was found to be in the availability of devices which may be used to contain and/or collect oil in the open seas. We urge accelerated investigation and research into this area. As many of the spills which we and the Coast Guard have investigated in the past occur from transfer operations, we urge the use of oil containment devices around vessels during transfer operations.

Marketability of shellfish becomes a prime consideration when determining the damage to these shellfish areas. Gross damage which can result from the physical covering of the beds by oil and the resultant death of the shellfish can be detected quite easily. However, marketability is determined as well by the taste of the product and if the product is tainted, it will not sell. Further, tainting

does indicate that some substances have been taken up by the subject shellfish and suggest that there may be a problem of public health significance. Research has indicated that certain oil or petroleum fractions can be classified as carcinogens and we need more such information if we are fully prepared to protect the public health.

What has been related is a summary of the involvement of the Commonwealth's agencies in the oil spill investigation; the subsequent clean-up operations, and the work of the Oil Spill Task Force. While these recommendations are preliminary in nature, we would stress to you that it is our unanimous view that prevention is the key to any program which seeks to mitigate the effects of spills of oil and toxic materials on the environment.

Mr. BELLANCA. Thank you very much.

One of the functions of the Virginia Water Control Board and the Bureau is to man a 24-hour a day, day in and day out, pollution response program.

As an example of these activities, we investigated over 800 pollution complaints in calendar year 1975, of which 162 were fish kill investigations. And in order to give you an idea of the amount of involvement we have in the oil spill area, we had 330 such incidents. This, however, does not represent the sum total of oil pollution or spill incidents in the Commonwealth since, the Coast Guard investigated approximately 800 plus spills in their area of jurisdiction which, by joint agreement with the U.S. Environmental Protection Agency, is in the area east of Interstate 95 generally, the coastal area of the Commonwealth.

Although we had more than 1,100 oil spills in 1975, we recognize that oil and energy are fundamental to the economy of the Commonwealth, and we feel that the environment can be protected and exist in harmonious union with the oil industry.

This, we feel, even in view of the aftermath of the oil spill, and we are convinced that they key to success lies in prevention and, principally, in the utilization of the spill prevention cleanup and countermeasure plans the SPCC plans which are currently in use. These are applicable to land-based facilities and, therefore, address only one aspect of the oil spillage problem.

The subject of these hearings covers another aspect. We have heard numerous times during this hearing the consequences of the spill and the incidents which led to it. I might add that for 2 hours the tug *Falcon*, as I understand it, from the tug log and from the report of the on-site coordinator, was at approximately the same location for 2 hours. They were 3¾ miles off Smith Point at 0400 on the 2d of February, and they were still there at 0605 on that same date, at which point in time they recognized that the barge had sunk.

Mr. DOWNING. The crew did not realize that they had stalled for 2 hours?

Mr. BELLANCA. Sir, I have only what is in the log and, evidently because of the conditions at that time, snow and the gale, they were unware that the barge had sunk.

Now, it seems strange at this point that the situation which subsequently followed could have gone on for as long as it did without an identification of the major problem. The events which followed are indeed very perplexing to us and very confusing.

The Water Control Board was notified at 9 a.m., on the 2d of February. The divers first on the scene did not report finding any oil in the vicinity of the sunken barge. It was not until February 6 that the

oil and the oil-soaked waterfowl were noticed on the Western Shore, and then, a few days later, on the Eastern Shore.

The actual condition of the barge as it lay on the floor was not known until actually the marine casualty investigation. We had a false sense of security.

We have not seen the report of the marine safety investigation, but the on-scene coordinator report refers to it and states that "the first diver to survey the barge found cargo hatches Nos. 1, 2, 3, and 4 port side wide open, and No. 4 starboard closed, but not dogged." The diver—who was employed by the Salvage Co.—stated "that he had closed and dogged all the cargo hatches."

This, in itself tends to support the confusion that follows and why many people took it as a simple matter of fact that here was a barge fully laden, but contained.

Upon receipt of the reports of oil on the Eastern and Western Shores, the staffs of the Water Control Board and the Commission of Game and Inland Fisheries began their activities in the affected areas and continued for several weeks until approximately the middle of March when the cleanup activities ceased. The Commission of Game and Inland Fisheries was primarily involved in hazing operations to keep waterfowl from landing in contaminated areas and in counting dead and affected birds.

The Water Control Board staff participated in the counting and in the coordination of the cleanup activities with the Coast Guard. Several other State and Federal agencies became involved in short order.

The Bureau of Solid Waste and Vector Control of the State Health Department assisted in the location of suitable landfill sites for disposing of the oil and oil-soaked sands obtained from beaches and marshes as they were cleaned.

We had a problem of potential contamination of low lying ground water that might be very close to the surface in terms of its water table level.

The Air Pollution Control Board rendered assistance and advice during the burning operations by which some of the oil was ultimately disposed. The Virginia Institute of Marine Science provided guidelines by which the sensitive marsh areas were cleaned by hand and the Marine Resources Commission assisted through routine aerial surveillance.

We come now to the area in which we ourselves find our greatest failing, and that is in the area of the bird cleanup; the cleanup of live affected waterfowl.

Our activities were mainly aimed at preventing further contamination to waterfowl and to locate and remove the oil as quickly as possible.

In order to facilitate this, a great deal of assistance was lent by private individuals but, I might say that know-how, adequate facilities and equipment were not available or known to those immediately involved. And by saying "those immediately involved," I would have to say the representative of the Water Control Board and perhaps even the Commission of Game and Inland Fisheries.

We recognize this as a failing.

The Commission of Game and Inland Fisheries is currently involved in the development of a contingency plan which addresses the subject of waterfowl cleanup specifically. They are coordinating their activities with the U.S. Fish and Wildlife Service and other appropriate Federal agencies.

On February 24, 1976, Earl J. Shiflet, Secretary of Commerce and Resources, announced the formation of the Chesapeake Bay Oil Spill Task Force. Its primary responsibilities were:

Cleanup and environmental damage assessment, and determination of preventive measures which may be taken to prevent or mitigate future occurrences.

The thrust of the task force is not investigation into the cause of the spill but rather points to prevention.

Our cleanup activities have been completed, and the techniques are under review for refinement in the future. The environmental damage assessment is underway and consists of periodic inventory of the affected marsh area, sampling of shell-fish grounds and benthic bottom samples from the Eastern and Western Shore areas which were contaminated.

An initial review of the benthic data indicates that little damage to bottom organisms occurred on the Western Shore. You heard testimony that clam tongers have found little or no consequences of the spill.

The Virginia Institute of Marine Science has a study underway in the heavily hit areas of the Eastern Shore, primarily Hungars Beach, Smith Beach, and the gulf area. It should be available by the end of June.

The affected marsh areas are currently exhibiting new growth, but this may be only a short term growth and will have to be viewed over the next few years to determine whether or not irreparable damage has been done.

Our shellfish damage assessment is underway, and it appears that such damage was confined to the Eastern Shore. We do not have any knowledge of shellfish damage on the Western Shore.

Based upon the information presented in the on-scene coordinator's report and the recapitulation of events by the task force and the agencies involved, we have several recommendations.

We feel that the following items should be investigated:

A review of the regulations covering the seaworthiness of liquid carriers and loading procedures.

Increased surveillance of these vessels for compliance with the applicable regulations.

Incorporation of environmental safeguards into the design and operation of barges.

There is a great deal of traffic of all types within the bay system, and it is our feeling that the question of the transport of oil and other hazardous and toxic materials should be addressed simultaneously. We do not feel that oil should become the totally dominant issue.

I can relate a number of incidents that we have had of sulfuric acid spills, phosphoric acid spills and other chemical spills. We feel that it would be advisable for the appropriate Federal agencies to investigate the utilization of the traffic control system for commercial

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activities within the bay. Such a system would enable one to know precisely where each vessel is within the bay at any given time and the relationship of one vessel to another. We believe that it would not be unreasonable to seek a traffic control system similar to and as reliable as that which is employed for controlling aircraft at major airports and along the flyways.

On the matter of fines, the maximum fine which can be levied as a result of a spill from a vessel is the lesser of $14 million, or $100 per gross ton.

In the case of the Chesapeake Bay oil spill, the cleanup cost far exceeds the fine which can be levied and, as a consequence of that and other similar spills, we find in our conversations with the Coast Guard and the Environmental Protection Agency that there is a possibility that the Federal cleanup contingency fund created pursuant to Federal Law 92–500 can be depleted.

We feel this should not be allowed and we feel that access to the contingency fund by States, by the Federal agencies, is very important insofar as rapid reaction to a spill is concerned. The faster you can get to it and apply corrective measures, containment measures, the much less damage is likely to occur.

We feel that steps should be taken to address the imbalance which exists between the fine, which may be imposed, and the cleanup costs. We respectfully suggest that the owner be responsibile for cleanup costs and replacement costs for fish, wildlife, et cetera.

The fines should be a punitive measure independent of cleanup. The fish kill section of the Virginia water control law has a similar provision. We are able to recover the damages to fish, shellfish, and wildlife resources. That sort of approach is not without precedent.

A major deficiency was found to be in the availability of devices which may be used to contain and/or collect oil in the open seas. We urge accelerated investigation and research into this area. As many of the spills which we and the Coast Guard have investigated in the past occur from transfer operations, we urge the use of oil containment devices around vessels during the transfer operations.

Marketability is another consideration. Marketability is affected by tainting, tainting suggests that there are foreign bodies present. One of the consequences of an oil spill is the possible uptake by shellfish and other aquatic organisms of compounds which can be carcinogenic.

We feel that there should be much more accelerated research into the area of carcinogenicity and the uptake by shellfish of substances which may be ingested by humans. This is a prudent course to take if we are to protect the public health. This is our involvement and some of our recommendations.

We feel, as many who have preceded me, that the key to the entire question is basically one of prevention. While oil might cost so much a gallon, the cost can be anywhere from $20, $50, or $75 a gallon to clean it up once it makes its way into our environment.

We will be pleased to answer any questions which you and the subcommittee may have.

Mr. Downing. Thank you for excellent testimony. I am shocked to learn that there were more than 1,100 oilspills in the Commonwealth of Virginia in the year 1975.

What was the basic cause for these spills?

Mr. BELLANCA. Sir, many of those spills are a result of transportation-related accidents. I do not have the percentage figures before me, but we have a vandalism, transfer operations, transportation-related accidents and others. The Coast Guard does investigate many 4- or 5-gallons spills in the Tidewater area.

We also have had many other toxic chemical spills as a result of transportation-related accidents.

Mr. DOWNING. Would you say that most of them were human error spills?

Mr. BELLANCA. A great deal of them are human error spills. I would suggest that perhaps the large number of spills that we are called upon to investigate sometimes leads us again into that false sense of security.

Mr. DOWNING. We have a vote on the floor, so the subcommittee will recess for 10 minutes and then we will resume the questioning of Mr. Bellanca.

[Short recess.]

Mr. DOWNING. Mr. Bellanca, you said the diver who went down on February 2 did not report any oil around the sunken barge.

Is it reasonable to assume that the oil had been released during its trip up the bay?

Mr. BELLANCA. Mr. Chairman——

Mr. DOWNING. Where did the oil go?

Mr. BELLANCA. That certainly is a possibility.

I listened to the testimony from the Coast Guard yesterday and I would assume—I would think that the bulk of the oil probably was laid overboard while the barge traversed the bay. That is my own opinion. I do not have any facts other than perhaps deduction to come to that conclusion, however.

Mr. DOWNING. Mr. Bellanca, at least one of your recommendations is being implemented at the present time. The Coast Guard is directing itself to a traffic system for the entire Chesapeake Bay, and we are looking forward to that being announced in the very near future.

Mr. BELLANCA. I was unaware, but I am grateful for that.

Mr. DOWNING. Counsel?

Mr. HEYWARD. In connection with the spill of the oil, due to the fact that there were like contaminations in the upper and western side and heavy contamination on the Eastern Shore, well below the location of the sunken barge, it would appear that at least a part of the spill occurred, as you suggest, while the barge was traversing the bay, and also during the time that it was grounded while the tug was attempting to tow it, without realizing that it was already aground.

In connection with the statement that the Department of Game and Fisheries is involved with the preparation of the contingency plan with the Fish and Wildlife Service, do you know what the response was of the Virginia representatives to the proposal of the Fish and Wildlife Service?

Was there a concept in that plan that Virginia could not accept?

Mr. BELLANCA. It would be a little difficult, Mr. Counsel, to speak to that question since I do not work for the commission, but I will do my best to answer it.

The statements to me and my representatives were that they felt their best activities could be directed to deployment of the necessary de-

vices for prevention, and I think they felt, as Mr. Swink stated, the U.S. Fish and Wildlife Service could more appropriately address that particular question of cleanup than they could.

They do feel, however, they can perform a very valuable function so far as acting as liaison with appropriate Federal agencies in the future and in the case of another occurrence similar to what we had.

Mr. HEYWARD. I assume they would also play a major role in helping to coordinate volunteer activities?

Mr. BELLANCA. Precisely.

Mr. HEYWARD. Coordinate volunteer activities of local residents in assisting the Fish and Wildlife Service to carry it out?

Mr. BELLANCA. That is precisely what they feel.

Mr. HEYWARD. The study that the Virginia Institute of Marine Science in making on the Eastern Shore impact, do you have any idea when that might become available, or is it going to be 1-year or 2-year process?

Mr. BELLANCA. The preliminary information, as I stated during my testimony, sir, will probably be available by the end of June.

Mr. HEYWARD. We did invite Dr. Hargis to testify, but I understand he is ill or unable to come. We will be in communication with him to see if we can obtain a copy.

Mr. BELLANCA. We are in constant communication with his staff also.

Mr. HEYWARD. In connection with the damage of the fish, shellfish, and wildlife, under Virginia law are you aware if the State of Virginia has filed any claims against the barge owner?

Mr. BELLANCA. The Commonwealth has not asserted any claims at this particular time. However, the matter is now resting within the hands of the attorney general's office and, in due time, the appropriate action will be taken.

I would rather not reply any further to that other than to say that I think the appropriate information could be obtained through the attorney general's office, sir.

Mr. HEYWARD. I have no further questions.

Mr. DOWNING. Mr. Sarbanes.

Mr. SARBANES. No questions.

Mr. DOWNING. I have no questions.

I regret I cannot stay. I will read the statement of Mr. Russell Scott, and Mr. William Mullins, and Mr. Robert A. Champine, my neighbor.

I now turn the chair over to Mr. Sarbanes who, as you recall, had a stunning victory at the polls in his race for the Senate in Maryland last Tuesday.

Mr. SARBANES. Mr. Scott, if you will come forward and take a seat, I think we can proceed.

STATEMENT OF RUSSELL C. SCOTT, CONSERVATION COUNCIL OF VIRGINIA

Mr. SCOTT. I am Russell C. Scott of Richmond, Va. I represent and am speaking for the Conservation Council of Virginia, a federation of some 40 Virginia conservation organizations.

By way of qualifying myself to prepare and present testimony on the sinking of the tank barge STC–101 and the related major oilspill,

I hold baccalaureate and graduate degrees in engineering. I have 25 years experience in engineering research and development, including 10 years with a major oil company. I served 26 years in the Naval Reserve and retired with the rank of commander. Currently, I am a member of the Virginia Marine Resources Commission, the agency charged with regulating and developing Virginia's tidal fisheries, regulating dredging and marine construction, and protecting tidal wetlands. I have owned boats for many years and actively cruise and fish the areas of Chesapeake Bay affected by the oil spill. I am legislative officer of the Richmond power squadron, I operate an operational facility for the Coast Guard auxiliary, and I am a trustee of the Chesapeake Bay Foundation and chairman of its Richmond chapter.

My reaction to the sinking of the tank barge STC–101 and to the Coast Guard reports of the facts surrounding the incident and related oilspill is one of shock and dismay. This incident, it is hard for me to say accident though I know the sinking was not deliberate, was avoidable. It did not have to happen. That it could happen at all in these days of safety consciousness and regulated transportation seems almost inconceivable.

The fact that the incident did occur leads me to believe that there is something wrong with the body of related law and regulation, and something wrong about the procedures of the persons and agencies whose responsibility it is to respond to the various phases of such an incident.

The Coast Guard reports by the onscene coordinator and by the Marine Inspection Office, Baltimore, brought out, either directly or indirectly, a number of factors that cause me concern.

I will list these concerns and then follow them with a list of the recommendations that seem to me to flow from the concerns.

I am concerned that it is possible for a loaded tank barge to put to sea with cargo hatch dogs in need of repair, that it is possible for a tank barge, especially an unmanned barge, to put to sea with cargo hatches not completely and securely dogged down.

I am concerned that responsibility for properly securing a tank barge for sea seems to rest entirely on the barge's tankerman.

I am concerned that there are no winter load limits for tank barges transiting Chesapeake Bay in the same way that different loads limits or marks are used by tank ships depending on season and ocean traveled to account for expected or probable sea conditions.

I am concerned that bolts securing vents or covers whose loss could affect the trim, stability, or watertight integrity of a tank barge are not withdrawn for regular inspection.

I am concerned that a towboat is apparently not required to communicate directly with the Coast Guard about a casualty to its tow or a need for assistance, but can filter its communication through its company office. In this same regard, I am concerned that, after a report of the partial sinking of a loaded tank barge with its obvious potential for a major spill and after a request for Coast Guard assistance, the Coast Guard could accept a subsequent communication that no Coast Guard assistance was needed because commercial help was on the way.

Here I would like to add that yesterday we heard testimony that commercial help was on the way. That was true, but according to

the report of the Marine Inspection Office, Baltimore, on page 6, I will read:

> At 0735, Allied Towing Corporation advised the Coast Guard that assistance was not required since a Moran tug was en route to assist it. A short time later the Moran tug was diverted as it was then believed that it could not have been of any assistance.

So the commercial assistance we heard about did not arrive until 2 days after the accident, and then it was the salvage group from McLean Construction Co.

I am concerned that the report of the sinking or partial sinking of a tank barge carrying enough cargo to present a potential for a major spill would not elicit a more effective response from the Coast Guard. I am not suggesting that the Coast Guard did not respond quickly to the sinking report, but I am suggesting that the effectiveness of this response was woefully low. As an illustration, Steuart Transportaion conducted a helo overflight between 0830 and 0900 on the morning of the sinking. The Coast Guard's first overflight was not until 1300 the next day—after two aborted attempts. As a second illustration, McLean Construction, by 1315 on February 4, 2 days after the sinking, had towed in a crane barge from Yorktown, a crane barge from Baltimore, and had transported to the scene a crew of hardhat salvage divers. This was about the time of the first Coast Guard boat survey of the STC–101, and the site of the sinking is within about 25 miles of 3 Coast Guard stations: Piney Point, Crisfield, and Milford Haven. I believe it is within 30 miles also of the Coast Guard station at Taylor's Island.

I am also concerned that, though the salvage diver on February 4 found the cargo hatches of all 4 port tanks wide open and the cargo hatch to No. 4 starboard tank closed but undogged, these facts were not communicated to the Coast Guard by the diver, the salvage company, or the barge owner until February 20, 18 days after the sinking and 1 day after the originally defined minor spill had been upgraded to a major spill. It seems reasonable to me that had the open hatch condition been reported immediately to the Coast Guard onscene coordinator—OSC—he would have known that with 5 out of 8 cargo hatches open or undogged it was possible that the sunken barge had already lost five-eighths of its cargo, or about 517,200 gallons. Armed with information, I feel sure the OSC would have called immediately for activation of the regional response team, initiated a more widespread and careful search for the missing oil, and stood a good chance of reducing the impact of this environmental tragedy.

Mr. SARBANES. Mr. Scott, if I could interrupt you, those bells mean a vote. We will take a very short recess and respond to the vote and come back. I think this would be the best time to do that and then we will pick up on your recommendations upon our return.

Mr. SCOTT. Yes; thank you, Mr. Chairman.

[Brief recess.]

Mr. SARBANES. Mr. Scott, if we can resume.

Mr. SCOTT. Thank you, Mr. Chairman.

I gave earlier my concerns about the incident and the consequent oil-spill, and I will follow up now with recommendations.

My recommendations follow:

One: That tank barge regulations be amended to require all tank closures to be in working order before the barge may be loaded. Per-

haps the fuel terminal loadmaster should be required to obtain the written certification of this fact in his loading log by the barge tankerman before he begins to load.

Two: That tank barge regulations be amended to require the securing of all hatches and vents on a grade B tank barge before leaving a loading terminal. It is my understanding that the current regulations are silent in this respect.

Three: That the penalty clauses of the tank barge regulations be amended to make the failure of a tankerman to comply with the regulations for securing his tank barge a criminal offense, perhaps with a mandatory prison sentence.

Four: That the barge tankerman be required to certify in writing in his towboat's log that his barge is secured in compliance with regulations and ready for sea. Further, that the captain or mate of the towing vessel endorse the certificate with his own certification that he has personally made an onboard inspection of the tank barge and that it appears to him secured and in all ways ready for sea.

Five: That winter load marks giving greater than the usual freeboard be established for the various types of tank barges transiting Chesapeake Bay and, perhaps, other large bays and sounds in order to reduce the chances of topside damage by boarding seas. The mouth of the Potomac River is well known as a rough spot, and under conditions of a strong northwest wind and an incoming tide, and these were the conditions that existed the morning of the incident, winter sea heights of 5 to 6 feet are reached fairly often. Indeed, winter storm sea heights of up to 10 feet are reported about once a year.

Six: That inspection procedures be amended to require the withdrawal and inspection of all bolts whose failure could endanger the watertight integrity of the tank barge. It is a well-known fact that galvanic corrosion occurs where dissimilar metals are in contact with one another in salt water or in a moist salt environment. We heard testimony yesterday that this corrosion occurs where it is out of sight, between the bolt and the sides of the hole into which it fits. There is no way to check the corrosion of the bolt unless the bolt is withdrawn. Such an inspection requirement would probably encourage the use of rivets or welds instead of bolts.

The withdrawal of bolts for inspection is a fairly common requirement in other areas of the transportation industry. Certain aircraft bolts are withdrawn for inspection as are bolts in certain sections of railway cars and locomotives. It is nothing unusual.

Seven: That a report of a marine casualty or request for Coast Guard assistance be communicated directly from the vessel in difficulty to the Coast Guard whenever possible rather than through the vessel's company office. This use of a company office as a filter in the communication link seems to fly in the face of the personal responsibility of a captain for the safety of his vessel.

Eight: That procedures be changed so that, once a report of a casualty to a marine petroleum carrier is received by the Coast Guard and it has been determined that the potential for a major spill exists, the Coast Guard would automatically send a vessel and an aircraft to investigate, even if assistance had not been requested or even if the casualty report indicated that there had been no spill. In other words,

I do not think it is in the public interest for the Coast Guard to accept a statement from a vessel involved in the casualty that no oil is leaking. When an experienced and unquestionably competent towboat captain cannot tell when his tow is sinking or even when it sank and when he and qualified salvage operators have assured the Coast Guard that only a minor spill had occurred, when in fact ¼-million gallons had been spilled, it seems to me that the Coast Guard must investigate immediately every casualty with the potential for such a spill. To me a casualty with such potential would be any loaded tank barge or vessel that was flooding, had sunk, had grounded, had been in collision, or was afire.

Nine: That communication between repair or salvage crews and the Coast Guard on matters affecting the containment of the tank cargo be formalized or regulated. In this case, I am nonspecific because I am uncertain how my recommendation could best be carried out. I do believe that had the salvage diver who found the cargo hatches of the STC–101 open so advised the Coast Guard, either directly or through the salvage company or tank barge owner, the resulting environmental impact could have been substantially reduced. I am groping for the most effective procedure and I call on you, members of the subcommittee, for help.

It may be possible for a salvage or repair company working on a tank vessel casualty to be made responsible to the Coast Guard for information on the integrity of the vessel's cargo tanks independent of its responsibility to the company purchasing its services. Or it might be as simple as instituting a procedure under which the OSC or his representative would interview the salvagemaster and appropriate crewmembers daily to insure that no important bits of information on the tank vessels had gone unreported. In any event, we must make absolutely certain that a loss of critically important information such as we have just experienced be allowed to occur never again.

Thank you very much for your attention, gentlemen.

Mr. SARBANES. Thank you, Mr. Scott, for your very helpful statement.

Mr. Emery?

Mr. EMERY. No questions.

Mr. SARBANES. Counsel?

Mr. HEYWARD. Your recommendations should be extremely helpful to the agencies who are responsible in this case. They are specific, to the point and generally cover the entire subject. Frankly, my only personal reservation is in connection with the loadline problem. Since the tank barge is designed to be a closed container, the loadline problem doesn't seem to be a major one. Obviously it becomes one if the integrity of the closure is threatened, so if you have low freeboards, it behooves the Coast Guard to be even more certain that its inspection of all the potential openings through which water could come, or through which the oil could leak, be very specific and very complete.

The question of the tankerman's operation and the regulations for the loading terminal are extremely important to insure that the vessel is in condition to go to sea. If there are wasted bolts that are not discernable by a routine inspection, then a more thorough inspection is needed to determine that those bolts are not wasted. Otherwise we do not have a vessel with the integrity to perform its mission.

Mr. SCOTT. Yes, sir.

Mr. HEYWARD. Thank you very much.

Mr. SARBANES. Your recommendation No. 8, I find very helpful. It says that when a casualty occurs involving a petroleum carrier, then in effect, all the alarm bells ought to go off and that is the kind of response the Coast Guard ouhgt to make under those circumstances.

In other words, in this instance, it is very difficult for me to understand simply accepting the assurances that they received from the private parties involved that there was no difficulty when, in fact, you have the potential and as it turned out, the actual realization of tremendous damage.

Mr. SCOTT. Yes, sir.

Mr. SARBANES. On recommendation No. 9, I take it you would establish a direct reporting system between the salvage and repair company and the Coast Guard with respect to what they were undertaking.

Mr. SCOTT. I am uncertain what the obligation of a salvage operator is to the firm that employs him, whether what he finds is privileged only to his employer. This is why I was stumbling over this particular item. I felt that somehow the information that the salvage people discover that affects the integrity of the cargo should be communicated directly to the Coast Guard.

Mr. SARBANES. Thank you very much.

Mr. Olney?

Mr. OLNEY. I would like to look at your recommendation at No. 6. Even though the Coast Guard has said that the issue of inspection goes beyond bolts alone, I think it is quite clear from what Capt. Heyward was saying that the bolts are an integral part of making sure the whole system works and the tank maintains its integrity. I was wondering how you can detect fatigue in metal parts without subjecting them to electronic analysis. I guess it is called microflex or something like that.

Mr. SCOTT. You cannot detect fatigue, but you can detect fatigue-caused cracks. If you withdraw the bolt, you can inspect it ultrasonically. This is nondestructive. You can also use magnaflux, a method in which a magnetic powder is drawn into cracks that are normally invisible to the eye.

Mr. OLNEY. You believe the regulations, in order to be complete, would have to use these types of processes. So if the Coast Guard were to have a midinspection or periodic inspection, it would have to include this type of analysis?

Mr. SCOTT. I do not believe the inspection details are covered in the regulations. It is more of a procedure that the Coast Guard has. I think their inspection procedures should be expanded to include the inspection of the bolts.

Mr. OLNEY. Through this process?

Mr. SCOTT. Yes, sir.

Mr. OLNEY. Thank you.

On recommendation No. 9, ou are probably aware that there is a duty to report spills and that duty is imposed on the person in charge of an operation. Would you think it wise for this committee to pursue a course which would expand that duty to get persons in charge to report information that could lead to discovering a spill—a duty to report factors that would indicate the presence of a spill or potential presence of a spill?

Mr. SCOTT. Yes, I do.

Mr. OLNEY. Do you think that would be along the lines that you were looking for in your recommendation?

Mr. SCOTT. Yes, sir.

Mr. SARBANES. Thank you very much, Mr. Scott.

Mr. SCOTT. Thank you, sir.

Mr. SARBANES. Mr. Champine from the Chesapeake Bay Foundation, York Chapter, Inc., Yorktown, Va.

Is Mr. Mullins going to do a separate presentation?

Mr. CHAMPINE. Yes.

Mr. SARBANES. Very well, proceed.

STATEMENT OF ROBERT A. CHAMPINE, CHESAPEAKE BAY FOUNDATION, YORK CHAPTER, INC., YORKTOWN, VA., ACCOMPANIED BY H. A. ROSS-CLUNIS, PRESIDENT

Mr. CHAMPINE. I have Mr. H. A. Ross-Clunis with me who is the president of our organization. He was not planning to come with me, but the circumstances allowed that he could.

Mr. SARBANES. We are very pleased to have you here.

Mr. CHAMPINE. My name is Robert A. Champine and we are here representing the Chesapeake Bay Foundation, York Chapter, Inc. We are a citizens' environmental group with membership throughout southeastern Virginia. We thank you very much for this opportunity to appear before you.

We believe there is much to be learned from this incident. From what we have been able to learn, the U.S. Coast Guard, operating in conjunction with various other Federal and State agencies, reacted to the situation as well as can be reasonably expected. There were delays in recognizing the severity of the oil spill, but these are understandable in light of the lack of evidence for the first few days indicating that a release of heavy oil had occurred and had no effect on the ultimate cleanup operations.

We are of the opinion that once the barge sank, or partially sank while still underway, a completely irreversible and largely uncorrectable chain of events was set in motion. From that moment forward an environmental disaster was inevitable. All that even Herculean efforts could accomplish would be to reduce the scale of the disaster.

We shall focus our attention on the cause of the disaster, since we simply cannot allow it to occur again.

It could be said that with so many oil barges and tankers transiting the bay occasional incidents such as this are bound to occur. While this may statistically be a provable point, even a brief examination of the circumstances involved in this case reveals that too many factors were present tending to cause the sinking of the barge. After all, this was not a once in 5 year or once in 10-year storm. This was an ordinary several times a year winter gale, and vessels the size of ST–101 should be expected to survive it. The simple fact is that the barge left the Amoco dock in an unseaworthy condition.

The low freeboard, entrapment of water in the spill containment area, disruption of watertight integrity by wave damage, failure to properly secure hatches, et cetera, are all evidence of a basic weakness in the body of regulations that apply to this type of vessel.

The fact that a vessel with almost twice the displacement of a World War II destroyer could sink without anyone even being aware of its doing so is simply incredible. The physical presence of water in a space that should be dry, or mostly so, is extremely easy to detect. It seems basic to us that an unmanned barge should have some form of flooding alarm capable of indicating on the bridge of the towing vessel. Certainly such an alarm could be provided for a very nominal cost, especially as compared to the costs of the sinking. Its use would have allowed the tugboat skipper to exercise any of several options—seeking a lee, turning to run with the seas, coming alongside, deliberate grounding, calling for help, et cetera—which may have prevented the sinking. If nothing else, it would have prevented the barge being dragged along the bottom for miles, causing some $240,000 in damage to the barge alone. This dragging also probably contributed to the wide distribution of the oil, complicating the cleanup operations.

To those of us who are accustomed to the degree of regulations which exist in the aircraft industry, the regulations applicable to barges are medieval indeed. We cannot comprehend a situation where hatches can be left open or improperly secured, hatch dogs allowed to rust to the extent that they cannot be turned, and where structures which exist within 1 foot of a vessel's loaded waterline are not capable of withstanding the impact of green water.

As compared to aircraft or railroads, watercraft are our oldest means to transport. They have existed since long before there were governments, much less regulations to be issued and enforced.

From the earliest days of organized governments, watercraft and their owners and operators have been thoroughly recognized as a powerful economic interest. As such, they never have been subjected to even a significant fraction of the degree of regulation of rail or air transport, both of which emerged long after the creation of strong central governments. We feel it is time that the maritime industry joined the modern world in terms of facing its responsibility to the public.

Most maritime regulations seem to be oriented toward providing for the safety of crew and passengers. We believe that we, the people, have a vested interest in the environment, too, and this should be recognized in the makeup of the regulations.

We have not had the opportunity to perform an extensive review of existing statutes and regulations, nor do we have experience in coping with the problems involved in the day-to-day operations of inland barges. However, we do tentatively propose certain areas in which a revision of the regulations may be applicable.

(*a*) Operating instructions. We feel that the operators of the barge should be required to provide operating instructions, including the specification of periodic maintenance and the provision for maintenance logs which would be available for inspection by the Coast Guard. We also feel there should be a predeparture check list, countersigned by the master of the towing vessel.

(*b*) Load limits. It is obvious that the matter of load limits needs to be examined. It should be pointed out, however, that freeboard and reserve buoyancy requirements are only important as they relate to other aspects of design, such as structural integrity and stability. The barge could be towed completely underwater if so designed.

(*c*) Alarms. On an unmanned barge, as in a vacant house, it is possible for many things to go wrong without possibility of corrections. We feel that it is entirely reasonable for regulations to require that barges be equipped with remote indicating alarms which would give warning of flooding, fire, assumption of unusual angles of heel or of trim, et cetera. This could be done very inexpensively.

Remote control systems are in current use on ocean-barge operations and these may be adapted for such uses as the inland-barge operations.

(*d*) Compartmentation. Accidental flooding of a single compartment should not cause the sinking of the vessel.

(*e*) Limits of liability. The limits of the owner's liability are grossly below probable costs incurred.

(*f*) Structural integrity. This portion of the regulations needs to be reviewed perhaps more from the point of view of inspection than of specification or scantlings. In this case, the pumproom vent, which is obviously going to be exposed to solid water in any seaway is carried away.

(*g*) Stability. There must be an examination of those portions of barge design or operating regulations which impact stability. In this case the entrapment of water in the spill containment area could have degraded a situation which was marginal to start with due to upward movement of the Coast Guard, loss of freeboard and free surface effect.

In summary, we are of the opinion that there must be a complete review and revamping of regulations effecting the U.S. inland-barge-transport industry. To that end we recommend that a committee or commission be appointed, with representatives from the public, industry, and government, to review existing regulations and laws and make recommendations relating thereto to this committee. We pledge our support and open cooperation with such a committee.

Again, thank you very much for this opportunity to appear before you. We will be glad to answer any questions that you may have.

Mr. SARBANES. Thank you very much for a very helpful statement. I think your suggestion on the alarm system is a particularly helpful one and one that needs to be pursued carefully by this committee.

I am not sure that I altogether agree with the opinion that the Coast Guard and other agencies reacted as well as they should have. That differs a bit from what Mr. Scott had to say just before you, in terms of treating the situation much more as an emergency, I do not share the view that they should not move more quickly, although I appreciate your point that it is obviously better to prevent the occurrence from ever happening than to take steps to diminish damage once it has happened.

Mr. CHAMPINE. Yes, sir. Our group in discussing the details of this incident felt as though the weather had a great deal of contribution to these delays—the snowstorm, high winds, the fact that no one realized at the time that the oil was probably spilled en route and, therefore, not very much oil was on the surface. I do not think anyone realized the change in density in oil and the relationship of the

density of the oil to water at that time of the year. They did not realize, perhaps, that a lot of the oil was under the surface and was not easily seen. There were a lot of ramifications.

Mr. SARBANES. Well, thank you very much for your testimony here.

Mr. CHAMPINE. Thank you, sir.

Mr. SARBANES. There is another vote on, and we must recess the the meeting again for a few minutes.

Mr. Mullins, you can come forward and take a seat. When we return, we will hear your testimony. We will be back very shortly.

[Brief recess.]

Mr. SARBANES. The committee will come to order.

Mr. Mullins, please proceed.

STATEMENT OF WILLIAM MULLINS, ASSISTANT DIRECTOR, CHESAPEAKE BAY FOUNDATION, ANNAPOLIS, MD., ACCOMPANIED BY NANCY G. KELLY, STAFF BIOLOGIST, CHESAPEAKE BAY FOUNDATION

Mr. MULLINS. Thank you, very much.

My name is William Mullins. I am the assistant director of the Chesapeake Bay Foundation, a private, nonprofit organization of 4,000 members, located in Annapolis, Md.

I want to say, Mr. Sarbanes, I am delighted to find you in the chair today, and I would like to take this opportunity to thank you on behalf of the Chesapeake Bay Foundation for the interest and the helpfulness that you have shown to the bay over the past number of years, and we certainly look forward to continuing to work with you in whatever capacity that might be.

Mr. SARBANES. Thank you.

Mr. MULLINS. Also I would like to pay tribute on behalf of the Chesapeake Bay Foundation for almost 20 years of dedicated service to the Chesapeake Bay by Mr. Downing. We are going to miss him very much.

The ports and waterways of the United States, in general, and the Chesapeake Bay, in particular, will long bear his mark and be better for it. And I just wanted to say that.

I do not want to take up the committee's time by duplicating the testimony that has already been given, and by restating facts that have already been stated here, but we submitted a report written by Nancy G. Kelly, our staff biologist, and I will ask her to summarize that report for you in a moment.

I would just like to make one or two observations, Mr. Chairman.

First of all, as counsel wisely pointed out in his questioning yesterday, in one of the first messages that the Coast Guard sent out on February 3 from the marine safety officer in Hampton Roads, it was stated that, due to the large quantity of oil onboard the barge, a potential for major oil spill exists and, yet, it was a number of days before the regional response team was put into action and even longer before the Atlantic strike force of the Coast Guard was called onto the scene.

We believe that there must be some automatic trigger established so that this will not happen in the future.

If I may use the analogy, the time to call in the bomb squad is before the bomb goes off and not after it goes off. And when the threat of a

major spill existed, we certainly hope that in the future the response will be automatic.

The second observation I would like to make, Mr. Chairman, is that the fifth district of the Coast Guard has had under study the possibility of establishing a vessel transit system for the Chesapeake Bay. Over 1½ years ago, the General Accounting Office issued a report to Congress in which it strongly urged the establishment of a vessel transit system for the bay. And while I understand that the Coast Guard has some reservations about the effectiveness of those systems, I think we should get their report as soon as possible. Procrastination is not going to help in that regard, so I would urge that that record be completed as soon as possible.

Third, I would like to support H.R. 12347, a bill before this subcommittee, as a means of more equitably assessing the cleanup costs and as serving as an incentive to get shippers to institute preventive measures.

My final observation is that while it is outside of the jurisdiction of this committee, the Chesapeake Bay Foundation strongly feels that there should be no new oil refineries built on the Chesapeake Bay.

The Council on Environmental Quality has issued a report which says there is adequate refining capacity on the east coast of the United States; that that capacity is mainly located in the Delaware area and around Bayonne, N.J. It is adequate to take care of the future needs of the refining of petroleum products. And because the Chesapeake retains its great biological productivity which we believe the oil is a direct threat to that productivity, to the seafood industry as it exists in the bay, we urge that no new refineries be built.

Now, I would like to ask Mrs. Kelly, if I could, to summarize her report which has been submitted to the committee.

Mr. SARBANES. Fine.

Mrs. Kelly.

Mrs. KELLY. Thank you.

Mr. Chairman and members of the committee, my name is Nancy G. Kelly. I am the staff biologist for the Chesapeake Bay Foundation.

We have long been concerned about the transport of oil on the Chesapeake Bay, as Mr. Mullins has just indicated.

With reference to this concern, about 1 year ago, we began a research project which was designed to answer the questions of what would happen if we had an oil spill of a major proportion in the Chesapeake Bay. This was to serve as an illustration of the kind and magnitude of problem.

I have submitted to you, and I think it is before you, this paper entitled: "The Estimated Impacts of a Hypothetical Oil Spill Off Smith Point, Virginia."

Ironically, this location was selected over 1 year ago as the location for a hypothetical oil spill. Little did we realize that we would have an actual oil spill within a few miles of that location.

Within this paper we selected a set of circumstances. Because the impact of an oil spill will vary, depending upon the time of year, the type of oil, the amount, the weather conditions, and a number of other factors, we selected those circumstances within known possibilities of the Chesapeake Bay.

Potential impacts of the oil spill were estimated, based on data currently available on oil pollution, and portrayed what could reasonably be expected to occur. Many worse situations and circumstances could occur causing greater damage than is outlined in this paper, but it was our intention to illustrate a reasonably probable situation instead of a worse case situation.

This paper will illustrate the general magnitude of the problem and can serve as a basis for estimating the impact from an oil spill under a different set of circumstances.

The summary of the paper, which I will briefly review for you, defines the hypothetical situation as 120,000 gallons of medium weight crude oil was spilled when a tanker collided with a freighter off Smith Point, Va., at 1:30 a.m. on November 22, 1975.

Within the body of the paper, the basis for selecting these factors is expanded.

Using wind data and adjusted tidal current data, the path of the oil slick was estimated. This is by using a vector summation of the wind speed and direction and the tidal current speed and direction.

The resultant direction is then plotted on the chart and can actually be projected.

With the northwest and north winds which were prevailing at the time, the oil would have first impacted on Tangier Island. It would then have traveled to Watts Island before heading south along the Eastern Shore. By the end of the first day, it would be off the mouth of Onancock Creek.

By noon of the following day, the major portion of the oil would have entered Nandua Creek and been held there because of the northerly winds. Portions of the oil that had leaked out after the collision would have traveled on down the coast, contaminating Onancock, Nassawadox, and Westerhouse Creeks as well as the entire bay shoreline.

It was calculated that, by the end of the third day, the oil slicks would have reached as far south as Hungars Creek.

As an expansion on that, since there has been considerable interest in the movement of the oil in this actual spill in February, I would like to say that the distance, the linear distance that was covered, would have been projected to be covered by our hypothetical oil spill for a distance of 42 miles by the end of the third day. It is possible that the oil could have traveled that far.

The average wind speed and direction for November 22, our hypothetical situation, was 7 knots and 300 degrees, being a northwesterly course.

On November 23, the second day of the bill in our hypothetical situation, the winds were at 8 knots and coming from approximately the north or slightly north-northwest at 330 degrees.

At November 24, the wind was almost 9 knots, and the course shifted to the west of north at 350 degrees.

The oil was located by the end of the third day. The southernmost portion of the oil was located 27 nautical miles due south of the hypothetical release point and 7½ miles east of the original spill location.

Now, I will be glad to answer further questions on that portion if you would like.

Oil would have been estimated to contaminate 90 miles of shoreline by the end of the third day, including all of the tributaries and bays along those creeks that were contaminated. Oil movement was not calculated beyond the end of the third day, although a large oil slick was calculated still to exist at that time and could have continued to coat an estimated 130 additional miles of shoreline with a 20-yard wide band of oil—a thin coating.

Containment of oil from the leaking vessel was assumed accomplished within 6 hours of the collision, but location and containment of the oil slick at Nandua Creek did not occur in our hypothetical situation until late the following day. It was assumed that the rest of the oil was not contained during the first 3 days.

Cleanup was estimated to take a month to complete at a cost of $300,000. The marshes which fringe most of the shorelines could not have been adequately cleaned and would still contain oil.

Research concerning the natural resources of those areas which were projected to be impacted by the oil showed extensive, productive wetlands in many areas, and fringing marshes covering almost all the shorelines.

Associated invertebrate populations included ribbed mussels, snails, marine worms, fiddler and other small crabs, and oysters. Small fish live around the edges and channels, and muskrat and other mammals live and feed in these wetlands.

Large populations of wintering waterfowl, such as whistling swan, Canadian geese, canvasback, goldeneye, oil squaw, and scoter feed on the lower bay.

A more complete list of these and other species are located in the body of the report.

Juvenile fish in the open bay at that time of the year include bay anchovy, spot, summer flounder, and croaker. Hard clam beds exist off the Eastern Shore.

Research on the effect of oil on these and similar organisms showed that oil is toxic to all types of organisms. Its effects vary from direct kill through coating, asphyxiation, poisonous contact, or exposure to toxic soluble fractions; to the sublethal alteration of habitat, food availability, interference with chemoreception involved in feeding, sexual behavior, and migration.

Mr. SARBANES. Mrs. Kelly, let me just interrupt there because the bells have rung and there is another vote about to take place.

We have the report and that has been submitted to the committee, so we have it available to us, and it might serve, I think, to ask some questions now because we will probably terminate the hearing.

Mrs. KELLY. Certainly.

[The report referred to was placed in the subcommittee files.]

Mr. SARBANES. I notice the date on the report is May 1976. In other words, it has just been completed?

Mrs. KELLY. That is right.

Mr. SARBANES. Was it carried throughout on a hypothetical basis, or did you allow the occurrences in February to shape this?

Did you continue to treat it as a hypothetical model despite the occurrences in February?

Mrs. KELLY. What we did, in that regard, we used the hypothetical situation and that remained the same, and the calculations remained the same. The impact of oil on the shoreline was carefully examined,

and I was in touch with the Federal, State and various agencies involved in assessing the impact of the oil from the February spill, so that a comparison could be made.

My report was essentially complete at the time this occurred. I was in the process of writing it, so I did make some adjustments based on that.

You must understand that this was a different type of oil. The oil in the hypothetical spill is crude oil. The oil on this particular spill in February was a very heavy industrial oil with a very low solubility.

Mr. SARBANES. Mr. Mullins, I would like to ask you whether you agree with the Yorktown chapter of the Chesapeake Bay Foundation with respect to the performance of the Coast Guard and other Government agencies?

Mr. MULLINS. Mr. Chairman, I agree in the sense that once they got started, their performance was fine. I do wish to point out, however, that the regional response team was not activated immediately. Once it was activated I do not have any qualms about their performance.

My point is that it should be activated immediately.

Mr. SARBANES. So you make the point of the delay before they started to act?

Mr. MULLINS. Yes, sir.

Mrs. KELLY. Excuse me, Mr. Chairman. I do have one comment I would like to make.

As a result of our conversations with the various agencies involved in their investigation of the oil spills, I have become quite concerned with one aspect.

When an oil spill occurs, in order to determine the extent of the damage to the system, that damage must be carefully and scientifically evaluated immediately. This was not done. It does not seem to be clear in the law who is responsible for evaluating the total biological impact of the oil on such things as shellfish beds and other biota water are identified.

The Fish and Wildlife Service has done a wonderful job. If this is not assessed immediately, the small animals which exist along the shoreline which may have been killed will disintegrate and disappear, and there will be no information on the extent of that kill.

Mr. SARBANES. Thank you, Mrs. Kelly.

Counsel?

Mr. HEYWARD. I have only one question or comment, and that is in connection with this study.

Obviously, you did an excellent job. I wonder whether or not the Chesapeake Bay model might not be of significant help to refine this type of thing in the future and make it helpful for the cleanup?

Mrs. KELLY. I hope so. I asked questions of people like myself. They indicated to me they could not duplicate an oil spill.

We heard testimony yesterday contrary to that, that they could duplicate an oil spill situation. The primary problem is that they cannot duplicate or do not feel they can duplicate wind direction and intensitiy which has a great deal to do with movement of oil.

I think it is possible that they could do so, however.

Mr. HEYWARD. Mr. Chairman, before closing, I would like permission to insert a letter from the president of Allied Towing Corp. with a statement for the record.

He could not appear.

I would also like to insert in the record a tristate wildlife protection and rescue contingency plan which was prepared in 1975 by the Fish and Wildlife Service.

Mr. SARBANES. Without objection, it is so ordered.

[The documents referred to follow:]

MAY 17, 1976.

Hon. MARIO BIAGGI,
Chairman, Subcommittee on Coast Guard and Navigation, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR SIR: I would like to extend my most sincere thanks for your invitation to appear before the subcommittee hearing scheduled for May 20th/21st relative to the oil spill which occurred in the Chesapeake Bay in early February, 1976.

Due to prior commitments, I will be unable to attend, in person, and therefore, at your suggestion, I am submitting herewith a statement for the record.

Very truly yours,

ALLIED TOWING CORP.,
WILLIAM E. LAW,
President.

MAY 17, 1976.

STATEMENT OF ALLIED TOWING CORP. TO THE SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Re Tank Barge STC–101, Oil Spill, Chesapeake Bay, February 2, 1976.

On the early morning of February 2, 1976, the Tank Barge STC–101 laden with a cargo of #6 oil sank in the Chesapeake Bay south of Smith Point Light. At the time of the sinking, the Barge STC–101 was in tow of the Tug FALCON, bound from Yorktown, Virginia to Baltimore, Maryland.

Barge STC–101 is owned and operated by Steuart Transportation Corporation, Piney Point, Maryland. On February 2, 1976, she was under time charter to Allied Towing Corporation, Norfolk, Virginia. Under the terms of the oral agreement, Steuart Transportation provided its own tankerman to maintain the Barge and handle all cargo operations. The tankerman was responsible for inspecting the Barge, closing hatches and ullage openings, and handling lines on the Barge. Steuart was responsible for the seaworthiness of the Barge and provided the marine insurance coverage.

Allied Towing Corporation owned and operated the Tug *Falcon*. Allied Towing was responsible for the proper manning and equipping of the *Falcon*, and had a duty to exercise reasonable care in the towage of the Barge STC–101. Allied provided the marine insurance coverage for the tugboat.

Following the sinking on February 2nd, the *Falcon* stood by with a line on the Barge. No cargo was observed to be leaking from the tanks of the Barge while in a sunken condition. On February 6, 1976, the Barge STC–101 was raised by McLean Contracting Company and subsequently towed to Baltimore, Maryland for survey and discharge of cargo. This was completed on February 9, 1976.

On February 11th the Coast Guard convened a formal Marine Board in Baltimore to investigate the circumstances of the casualty. The testimony of the Steuart tankerman, the Allied tug crew, the McLean salvors, and various other witnesses was taken under oath. The Coast Guard released its report of investigation on April 7, 1976. The report includes Findings of Fact, Conclusions and Recommendations. In summary, the Coast Guard found that the Barge sank due to flooding of the pump room through the pump room port ventilator, under ad-

verse weather conditions. The ventilator hood, which was secured by bolts, broke off due to deterioration of the securing bolts, and the wasted condition of the flange. The oil spill, or a substantial portion thereof, was caused by the fact that the tankerman had failed to properly secure the cargo hatches at the time the Barge left Yorktown. At the time the Barge was salvaged, four of the cargo hatches were found open, and a fifth hatch was found to be closed, but not secured.

Based upon the Coast Guard investigation, the Barge STC–101 sank due to its own unseaworthy condition, and the resulting oil spill was caused or contributed to by the negligence of the tankerman in failing to properly secure the cargo hatches. The casualty occurred under extremely adverse weather conditions, including gale force winds and rough seas, which had not been forecast, and which were not reasonably foreseeable under the existing circumstances.

In an effort to avoid occurrence of a similar casualty involving tank vessels owned and operated by Allied Towing Corporatiton, Allied has taken immediate steps to ascertain that all openings to cargo tanks and void spaces on ATC Barges are fully and properly secured prior to the commencement of each voyage, and that Allied's own tankermen are fully charged with their duties and responsibilities in this regard.

Respectfully submitted.

ALLIED TOWING CORP.,
WILLIAM E. LAW,
President.

TRI-STATE WILDLIFE PROTECTION AND RESCUE CONTINGENCY PLAN: CHESAPEAKE BAY WITH ITS TRIBUTARIES AND OCEAN FRONT AND BAYS

SCOPE

This plan is designed to augment those *Contingency Plans for Spills of Oil and Hazardous Materials* of the Environmental Protection Agency—Region II and the United States Coast Guard—Port of Baltimore.

Its aim is specifically the protecttion and rescue of wildlife that may become endangered during such spills in the Chesapeake Bay area and ocean fronts in Delaware, Maryland and Virginia.

The Tri-State Contingency Plan has been developed as an action guide to the United States Fish & Wildlife Service and the fish and game agencies of Delaware, Maryland and Virginia.

I. ALERT

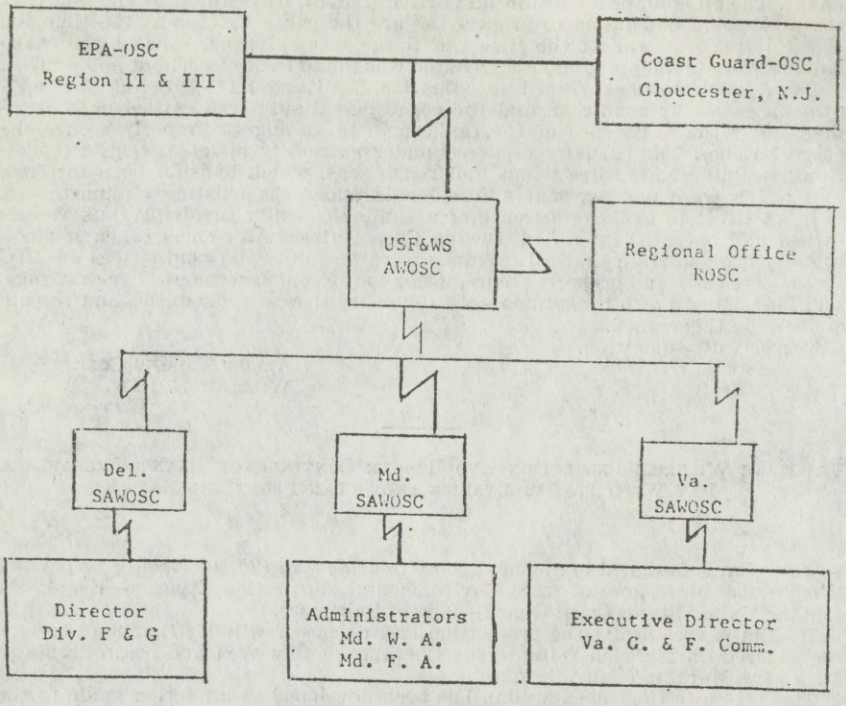
By executive Order, the EPA and Coast Guard have been assigned primary responsibility for federal action when spills occur. These two agencies are usually on-scene first and both have designated On-Scene-Coordination (OSC). The OSC is responsible for notifying support and advisory agencies concerning the possible effect of a spill.

Therefore, the OSC will notify the Area Representative of the U.S. Fish & Wildlife Service as soon as possible when wildlife may be endangered due to a spill.

The Area Widlife Oil Spill Coordinator (AWOSC) for the U.S. Fish & Wildlife Service under the direction of the OSC and when sufficient information is received will activate the Tri-State Wildlife Protection and Rescue Cooperative (TSWPRC).

The TSWPRC will consist of one state Area Wildlife Oil Spill Coordinator (SAWOSC) from the fish and game agencies of Delaware, Maryland and Virginia.

ALERT AND NOTIFICATION CHART



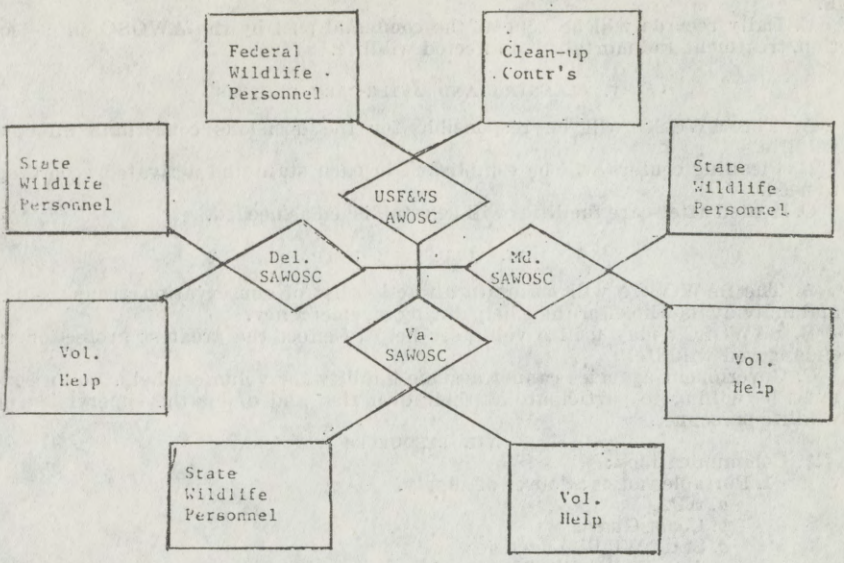
II. OPERATIONS

Upon notification by the AWOSC the SAWOSC's will meet at the command post set up by the EPA or the Coast Guard. All wildlife protection and rescue operations will be conducted from this command post.

(NOTE.—For most of the spills occurring in the upper Chesapeake area the Baltimore Coast Guard Base will be used as the command post. An additional site will be selected for the lower Chesapeake area.)

The AWOSC will call a conference with the SAWOSC's. During this first conference the members will decide what action will be taken to protect and rescue endangered wildlife.

TRI-STATE COORDINATION CHART



III. WILDLIFE PROTECTION

A. Aerial wildlife surveys:

1. The first survey will be conducted to determine the wildlife population using the spill area.
2. Subsequent flights will be used to monitor specific wildlife populations.
3. The number of monitor flights will be determined by the AWOSC.
4. The same observers will be used each time, if possible.
5. The observers will obtain the following information:
   a. A species breakdown of the general population using the area.
   b. Numbers of affected birds and their specific locations.
   c. Oil build-up areas.
   d. Potential trouble areas.

B. Devices such as scare guns, Avi-Alarm, balloons, pyrotechnics and boats will be used in an attempt to keep wildlife out of affected areas. Other acceptable techniques may be used to protect the wildlife.

C. Clean-up contractors will be directed to place protective devices at or on each diversion and containment boom.

D. The AWOSC and SAWOSC's will have the authority to call upon additional personnel within their agencies to help in the wildlife protection and rescue operation.

IV. RESCUE

A. Wildlife collection points will be established in each state. These collection points will be advertised through the media so the public will have a place to take affected wildlife and to give or receive information.

B. Collection points will be heated when air temperatures fall below 40 degrees F.

C. Daily records will be kept at the command post by the AWOSC on collection, treatment and mortality of affected wildlife.

V. CLEANING AND AFTER-CARE CENTERS

A. The AWOSC will be responsible for the decisions concerning affected wildlife.

B. Cleaning centers will be established in each state and activated according to need.

C. Heated after-care facilities will be established as needed.

VI. VOLUNTEER HELP

A. The SAWOSC's will maintain an active list of conservation groups, clubs and individuals who offer their help during an emergency.

B. SAWOSC's may utilize volunteer help to effect the greatest protection to endangered wildlife.

C. Government agencies cannot assume liability for volunteer help. Volunteers must be willing to participate at their own risk and under the supervision of wildlife personnel.

VII. RESOURCES

A. Communications:

1. Portable radios: Source of supply.
   a. EPA
   b. Coast Guard
   c. State Wildlife agencies
   d. U.S. Fish & Wildlife Service
   e. Contract rentals—see Coast Guard Contingency Plan for list of rental companies.

B. Motor Vehicles: 1. Each state and federal agency should be able to supply the necessary vehicles. If not, the AWOSC will make arrangements with the OSC for additional vehicles.

C. Boats: 1. At least one boat should be available from the AWOSC and each SAWOSC.

D. Nets: 1. Each agency should have capture nets available for immediate use.

E. Transfer containers: 1. Each agency should have a small stockpile of containers suitable to transfer affected wildlife.

F. Cleaning supplies: The following list of stocked materials are recommended to operate each cleaning facility:

1. Chemicals: 500 gal. Shell Sol 70; 110 gal. Polycomplex A–11; 30 gal. Basic H Concentrate; 10 gal. Energy Plus; and 55 gal. Foresight.
2. 100 pairs rubber gloves.
3. 100 aprons, rubberized.
4. 30 portable tables, approx. 4′ x 10′.
5. 15 double laundry portable sinks or equiv.
6. 90 plastic dish pans 12″ x 14″ x 6″ or larger.
7. 20 galvanized buckets, size 2½ gal.
8. 5 bales of rags.
9. Wire, 2″ x 4″ plastic coated mesh, 11 gauge (2) 100′ rolls.
10. 10 bales of salt hay, survel or equiv.
11. 1 case cotton swabs and 50 bags of cotton balls.
12. 5 boxes rubber bands.
13. Leg bands, assorted color-coded.
14. 100 mats, spongy.
15. 100 large sponges.
16. 5 large milk of magnesia or gizzard bulb cleaners.
17. Case of plastic bags, 30 gal. size.
18. Case of waterproof tags.
19. Five 100-foot rolls of PVC, 6 mill.
20. Hog rings and pliers.
21. 20 plastic garbage cans, 30 gal.
22. 10 large tubs for Foresight.
23. 5 electric hot dryers.
24. 3 first aid kits.
25. Terramycin.
26. Bird food: Purina trout chow—laying mash, corn and wheat non-medicated, etc.
27. 20 empty 55 gal. drums.

28. 10 large plastic funnels.
29. Box of black markers or equivalent.
30. Forms for records.
31. Spray cleaning equipment.
32. Hand cleaner, medicated, 5 gal.
33. Petroleum jelly for waterfowl foot dressing.
34. Safety goggles.
35. 5 Respirators.
36. 100 Eye droppers.

VIII. TRI-STATE WILDLIFE PROTECTION AND RESCUE COOPERATIVE

Decision Team

Area Wildlife Oil Spill Coordinator—AWOSC

F.N. Swink, wildlife biologist; U.S. Fish & Wildlife Service, 1825–B Virginia Street, Annapolis, Md.

Delaware—State Area Wildlife Oil Spill Coordinator—SAWOSC

H. Lloyd Alexander, Jr., Wildlife Biologist; Department of Natural Resources and Environmental Control, Dover, Del.

Maryland—State Area Wildlife Oil Spill Coordinator—SAWOSC

V. D. Stotts, program director (waterfowl); Maryland Wildlife Administration, Tawes State Office Bldg., Annapolis, Md.

B. M. Florence, fisheries biologist; Maryland Fisheries Administration, Tawes State Office Bldg., Annapolis, Md.

Virginia—State Area Wildlife Oil Spill Coordinator—SAWOSC

C. P. Gilchrist, supervising game biologist (waterfowl); Game Division, Commission of Game and Inland Fisheries, Tappahannock, Va.

R. V. Corning, fish management field coordinator; Fish Division, Commission of Game and Inland Fisheries, Tappahanock, Va.

G. FIELD REPORT FORM—CLEANING CENTER

Cleaning location: _____

Date: _____

Received by: _____

Species	Band No.	Pick up - Location	Treatment

Final disposition:

Release location:

Remarks:

All birds will be given a band and band number. Temporary bands may be easily made using adhesive tape and numbering with a water-proof marking pen. Band prefix letters will be assigned, e.g., M–75–1, M–75–2, etc., for Maryland birds.

Mr. SARBANES. We want to thank you very much for your presentation. It was very helpful to the committee.

Mr. MULLINS. Thank you.

[Whereupon, at 12:45 p.m., the subcommittee adjourned, subject to the call of the Chair.]

COAST GUARD FOREIGN LEASING

TUESDAY, AUGUST 3, 1976

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:25 a.m., in room 1334, Longworth House Office Building, Hon. Mario Biaggi, chairman of the subcommittee, presiding.

Mr. BIAGGI. The meeting is called to order.

The subcommittee is meeting this morning to receive testimony on H.R. 11408, a legislative proposal of the Secretary of Transportation, which would authorize the Secretary, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes, structures and their associated real property located in a foreign country.

Under present provisions of law, contained in 10 U.S.C. 2675, the secretaries of military departments may acquire certain real properties in foreign countries by leases up to periods of 5 years. Under that section, when the Coast Guard is operating as a part of the Navy, such leases involving Coast Guard needs may be entered into by the Secretary of the Navy.

However, when the Coast Guard is not operating as a part of the Navy, there is no parallel authority in the Secretary of Transportation to enter into such leases. This bill, H.R. 11408, and its companion bill, S. 3050, would extend the authority to the Secretary of Transportation, on behalf of the Coast Guard—the same authority now in the secretaries of the military departments.

[The bills, executive communication No. 2028, and the report from Defense follow:]

[H.R. 11408, 94th Cong., 2d sess.]

A BILL To authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2675 of title 10, United States Code, is amended as follows:

(1) The first sentence of subsection (a) is amended by striking the words "of a military department" between the words "Secretary" and "may", and inserting in lieu thereof the word "concerned".

(2) Subsection (b) is amended—

(a) by striking the words "on Armed Services" between the words "Committees" and "of"; and

(b) by inserting the word "appropriate" between the words "the" and "Committees".

[Executive Communication No. 2028]

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 7, 1975.

HON. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill, "To authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country."

The purpose of the draft bill is to authorize the Secretary of Transportation, on behalf of the Coast Guard, to enter into multi-year leases to acquire, for military purposes, structures and their associated real property which are located in foreign countries. Under section 2675 of title 10, United States Code, the Secretaries of the military departments within the Department of Defense already have this authority. Therefore, the bill amends that section in a manner which extends its authority to the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy. The existing conditions and limitations applicable to the Secretaries of the military departments would also apply to the Secretary of Transportation. However, section 2675(b) has been amended to require Coast Guard leases with an annual rental in excess of $250,000 to be submitted to those committees of the Senate and House of Representatives which generally have jurisdiction over Coast Guard matters, without divesting the Armed Services Committees of the Senate and House of Representatives of their current authority under this section.

The lack of overseas leasing authority has its greatest impact on the Coast Guard's ability to adequately provide housing for its members and their dependents who are stationed overseas. Currently the Coast Guard is occupying leased family housing in Singapore, the Republic of the Philippines, the United Kingdom, and West Germany. Twenty-five leases have been obtained in these countries for the benefit of the Coast Guard, on a reimbursable basis, by the Secretaries of the military departments within the Department of Defense exercising their authority under section 2675 of title 10. The amendments proposed by the bill would obviate this necessity by authorizing the Secretary of Transportation to negotiate directly for needed structures and their associated real property which are located in a foreign country.

Enactment of this proposed bill will not impose any additional personnel or budgetary requirements upon this Department. Rather, it will authorize the Secretary of Transportation to make direct payments for future leases in lieu of the present system of obtaining needed overseas leases through the Secretaries of the military departments within the Department of Defense on a reimbursable basis. For fiscal year 1976, the Coast Guard has already budgeted for $288,000 to reimburse the Department of Defense for overseas leases. We anticipate no substantial change in this level of utilization over the next five years.

It would be appreciated if you would lay this proposed bill before the House of Representatives. A similar bill has been transmitted to the President of the Senate.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to Congress.

Sincerely,

WILLIAM T. COLEMAN, Jr.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., August 6, 1976.

HON. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Your request for comment on H.R. 11408, a bill "To authorize the Secretary of Transportation, when the Coast Guard is not oper-

ating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

The Department of the Navy, on behalf of the Department of Defense, has no objection to the enactment of H.R. 11408.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 11408 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

T. F. HAIRSTON,
Captain, JAGC, U.S. Navy, Director, Legislation.

[S. 3050, 94th Cong., 2d sess.]

AN ACT To authorize the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy, to lease for military purposes structures and their associated real property located in a foreign country

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2675 of title 10, United States Code, is amended as follows:

(1) The first sentence of subsection (a) is amended by inserting immediately after the words "of a military department" the following: "or of the Department in which the Coast Guard is operating.".

(2) Subsection (b) is amended—

(a) by striking the words "on Armed Services" between the words "Committees" and "of"; and

(b) by inserting the words "appropriate" between the words "the" and "Committees".

Passed the Senate June 25 (legislative day, June 18), 1976.

Attest:

FRANCIS R. VALEO,
Secretary.

Mr. BIAGGI. The lack of overseas leasing authority has had its greatest impact on the ability of the Coast Guard to provide adequate housing for its members stationed overseas. It has been necessary to enter into such leases, on a reimbursable basis, through one of the secretaries of the military departments. The bill would change this indirect, reimbursable method, and would allow the Secretary to enter into such leases directly without the delays and redtape inherent in the reimbursable process.

I understand that the present level of overseas leases, for family housing in Singapore, the Republic of the Philippines, United Kingdom, and West Germany is about $288,000 per year. The Coast Guard anticipates no substantial change in this level over the next 5 years.

This morning we will hear from Comdr. Garald H. McMannus, acting chief, Personnel Services Division, Office of Personnel, U.S. Coast Guard, to explain the need for the legislation.

I will ask Commander McManus also to address himself to the technical amendment made by the Senate in the passage of S. 3050, on June 25, 1976.

Commander McManus?

STATEMENT OF COMDR. GARALD H. McMANUS, ACTING CHIEF OF THE PERSONNEL SERVICES DIVISION, U.S. COAST GUARD, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY LT. ROBERT B. BOWER, CHIEF, FAMILY HOUSING BRANCH

Commander McMANUS. Good morning, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am Garald H. McManus, Commander, acting chief of the Personnel Services Division, U.S. Coast Guard.

On my left is Lt. Robert B. Bower, Chief of the Coast Guard Family Housing Branch.

I have a statement which I will read for the record.

I am pleased to appear before you today to discuss H.R. 11408, a bill to authorize multiyear leasing in a foreign country.

The Coast Guard's family housing leasing program is authorized by 14 U.S.C. 475(a) and delegated to the Commandant by virtue of title 49, Code of Federal Regulations, section 1.46. The Coast Guard has leased housing on a yearly basis under this law since 1967. Succeeding Congresses have periodically amended and added to this law in an effort to meet changing conditions.

H.R. 11408 amends existing law in a concise manner to allow the Coast Guard to contract for multiyear leases for family housing units in foreign countries. This bill would provide the Secretary of Transportation with the same authority as currently exists for the secretaries of other military departments.

I would like to point out a few of the problems under existing law and outline some of the improvements that could be made under H.R. 11408.

Since the Coast Guard is restricted to single-year leasing under 14 U.S.C. 475(a), a problem has arisen in foreign countries where multiyear leases are desired by lessors and are economically advantageous to the Coast Guard. Multiyear leases can only be obtained by the Coast Guard overseas through the secretaries of the military departments under section 2675 of title 10, U.S.C.

In areas such as the Shetland Islands where there is no other U.S. military presence, the process is awkward and time consuming. H.R. 11408 would amend 10 U.S.C. 2675 to give the secretary of the department in which the Coast Guard is operating the same authority as the secretaries of the military departments to negotiate for leases up to 5 years in duration in foreign countries. It would thus give the Coast Guard the necessary flexibility to obtain adequate housing for Coast Guard families overseas.

While H.R. 11408 provides for procedural improvements and increased flexibility, it does not change the purposes or objectives of the leasing program.

Mr. Chairman, thank you for the opportunity to speak in behalf of H.R. 11408.

This concludes my statement. Members of my staff and I will be pleased to respond to any questions you or members of the committee may have.

Mr. BIAGGI. Thank you, Commander.

Would you address yourself to the technical amendment made by the Senate in S. 3050?

Commander McMANUS. Yes, Mr. Chairman.

The technical amendment inserted the words "or of the department in which the Coast Guard is operating" after the words "of a military department" and it would not in any way change the authority as we see it. It would be acceptable to us.

Mr. BIAGGI. It would accomplish the purposes?

Commander McMANUS. It would accomplish the purposes, yes, sir.

Mr. HEYWARD. Commander McManus, in connection with the leasing overseas, does the Coast Guard utilize 10 U.S.C. 2675 through the Navy, or otherwise, to lease other properties than housing? How about bases or installations?

Commander McMANUS. There are no other properties leased under that authority, to my knowledge.

Mr. HEYWARD. What does the Coast Guard have, for instance, in the Shetland Islands, that you referred to?

Commander McMANUS. Those are Coast Guard loran monitor stations in the Shetland Islands.

Mr. HEYWARD. Is that leased property?

Commander McMANUS. I do not know the answer to that, sir.

Mr. HEYWARD. Title 10 U.S.C. 2675 is not a housing leasing program. It involves an overall real property leasing authority.

I am wondering whether there is anything involved in here, other than housing, as far as the Coast Guard is concerned?

Commander McMANUS. It is not our intended purpose to utilize this for other than family housing purposes.

Mr. HEYWARD. But with the amendment that you are proposing, it would be available for other uses, if you wanted to use it?

Commander McMANUS. Yes, sir, it would.

Mr. HEYWARD. In connection with 14 U.S.C. 475(a), on which your housing program in this country is based, where does the 1-year limitation come in? Is there some other law which prohibits more than a 1-year lease?

This section says "authorized to lease housing facilities at or near Coast Guard installations wherever located."

Is there some legal interpretation of this which restricts it to the United States, and restricts it to 1 year, if this is a housing problem you are talking about?

Commander McMANUS. It is my understanding that there is other legislation prohibiting the use of funding for more than a 1-year purpose for the leasing of family quarters.

I cannot cite the authority at this time, sir.

Mr. HEYWARD. Would you furnish the committee with that limitation language?

Commander McMANUS. Yes, sir.

[The following was received:]

LIMITATION ON CONTRACTS

The Coast Guard cannot enter into contracts for more than one year unless authorized by law or authorized under a specific Congressional appropriation. Appropriations for Coast Guard leased housing are for one fiscal year only. The following sections of the U.S. Code are applicable to the Coast Guard: 31 U.S.C. 665(a); 41 U.S.C. 11.

Mr. HEYWARD. Do you have a list of the properties and locations in the annual rental overseas housing, and the rental costs?

Commander McMANUS. Yes, sir.

Mr. HEYWARD. Will you furnish that also for the record, and for the committee?

Commander McMANUS. Yes. I will.

[The following was received:]

U.S. COAST GUARD OVERSEAS LEASING PROGRAM

Area	Actual leases in effect [1]	Actual projected cost per year [2]
Manila, Republic of the Philippines	7	$37,448.21
Singapore, Singapore	3	29,249.64
Saipan	2	3,450.00
London, United Kingdom	1	7,440.00
Shetland Island, United Kingdom	5	16,560.00
Sylt, Germany	6	16,152.00
Total	24	110,299.85

[1] As of the end of 3d quarter fiscal year 1976.
[2] Actual through 3d quarter fiscal year 1976 and projected rate for 4th quarter.

Mr. HEYWARD. There is one other question in connection with the amendment of title 10. Title 10 speaks to the secretaries of the military departments renting property overseas for military purposes.

Would Coast Guard housing overseas be for a military purpose, in your view?

Commander McMANUS. Yes, sir. Any functions that we are performing would be associated with our need as an armed service to be located in overseas locations.

Mr. HEYWARD. Is that a military purpose?

Commander McMANUS. Yes, sir.

Mr. HEYWARD. So that that does not create a problem in going into 2675, so far as you are concerned?

Commander McMANUS. No, sir, it does not.

Mr. HEYWARD. I have no other questions.

Mr. BIAGGI. Mr. Oberstar?

Mr. OBERSTAR. Thank you, Mr. Chairman.

How much money is involved in the total amount of leases that are now outstanding overseas, and how many countries are we talking about?

Commander McMANUS. We are currently leasing in six locations, five countries are involved, and the total dollars are approximately $200,000.

Mr. OBERSTAR. So it is not an enormous amount of money. How many families are involved?

Commander McMANUS. It varies between 24 and 33.

Mr. OBERSTAR. These are people who are rotated. How long is their duty assignment?

Commander McMANUS. Normally on a 2-year basis.

Mr. OBERSTAR. Now, you have a 1-year lease for a family who is assigned on a 2-year basis?

Commander McMANUS. Yes, sir.

Mr. OBERSTAR. That does not seem to make much sense.

Commander McMANUS. Well, currently, we are using other armed services as our intermediary to negotiate for longer than the 1-year

term. Primarily we are using Air Force administrative services to provide this service.

Mr. OBERSTAR. And this is for housing only; it is not for other facilities of the Coast Guard, other operations, radar stations, or anything like that?

Commander MCMANUS. Family housing only.

Mr. OBERSTAR. What is the practice of the other services?

Commander MCMANUS. I am most familiar with the Air Force, and their practice has been to contract for us for up to a 5-year lease, using their authority.

Mr. OBERSTAR. So the Air Force could ordinarily operate on a 5-year lease basis?

Commander MCMANUS. Yes.

Mr. OBERSTAR. How did the Coast Guard get stuck with a 1-year lease authority?

Commander MCMANUS. I cannot cite the legislation that limits us to 1 year.

Mr. OBERSTAR. Well, I know it is in the law, but what I am inquiring about is how did you get into that act in the first place?

If the Air Force, for example, operates on a 5-year lease basis, was there some reason for the Coast Guard being limited to 1 year, or did it just happen by accident?

Commander MCMANUS. Well, our basic appropriations legislation limits us to the 1-year expenditure of funds, and without the authorities given to the military departments in title 10, we cannot go more than the 1 year.

Mr. OBERSTAR. So it would be your intention then with this legislation not to set a period of time. This legislation does not set a period of time. It gives you authority to enter into a 2-year or 5-year or 10-year lease.

What would be your intention in the Coast Guard? To lease on the same basis as the other military departments?

Commander MCMANUS. I believe this would limit us to the 5-year authority, and it would be our intention to use it in a 2-year, 3-year, or a 4- or 5-year lease as necessary to house a family.

Mr. OBERSTAR. Are the other military dependents limited to 5 years?

Commander MCMANUS. Yes, sir.

Mr. OBERSTAR. Is that what you are suggesting?

Commander MCMANUS. Yes, sir.

Mr. OBERSTAR. Are they limited by law?

Commander MCMANUS. Yes.

Mr. HEYWARD. This section which is being amended has a 5-year ceiling on it.

Mr. OBERSTAR. So we are talking about a 5-year ceiling in a situation where personnel are assigned on a 2-year assignment basis.

It seems to me to make good sense. I certainly could support that.

Thank you, Mr. Chairman. No further questions.

Mr. HEYWARD. One further question?

Mr. BIAGGI. Yes.

Mr. HEYWARD. Can you tell me why the Coast Guard did not propose an amendment to 14 U.S.C. 475 which would authorize a lease for more than 1 year as the answer to this housing problem?

Do you have any idea?

Commander McMANUS. No, sir, I do not. Other than this would bring us in line with the other military departments, by amending title 10, and give us a similar period of time.

Mr. HEYWARD. I understand that, but if you are only interested in using it for housing, I wonder why an amendment to title 14 would not have been adequate, simply by removing the apparent bar?

Commander McMANUS. It would appear that that would have been satisfactory.

Mr. HEYWARD. Could you get an answer from the chief counsel, or somebody in the Coast Guard?

Commander McMANUS. Yes, sir.

[The following was received:]

AMEND TITLE 10 VICE TITLE 14

The Coast Guard is seeking to amend Title 10 so that the multi-year leasing authority for all military branches will be located in one section of law. Secondly, it seems consistent to continue to obtain our leases under the section of law that they are now obtained.

Mr. HEYWARD. That is all.

Mr. BIAGGI. Thank you, Commander.

The meeting is adjourned.

[Whereupon, at 10:40 a.m., the subcommittee adjourned, subject to the call of the Chair.]

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