

DEPARTMENT OF  
TRANSPORTATION  
U.S. COAST GUARD  
CG-4229 (Rev. 5-97)

# DIGEST

APPROVAL   
SIGNATURE   
INFORMATION

FROM: G-MOC

TO: G-M

VIA: G-MO

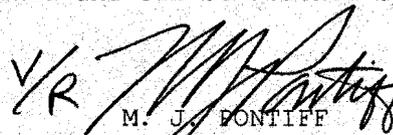
10 February 1999

1. Upon recommendation by the G-C/G-O aides, I recently contacted Mrs. Rita Hutton, mother of a commercial fisherman who lost her son on an East Coast clam vessel in 1992. Mrs. Hutton is supportive and appreciative of the Coast Guard's efforts to save fishermen's lives, but she is also quite critical of our efforts to push for further legislative authority in order to make commercial fishing vessels (CFVs) safer places to work.

2. According to Mrs. Hutton, she has repeatedly attempted to contact Admiral Loy during the past month and wishes to encourage him to argue for further legislative authority on Capitol Hill. Mrs. Hutton was recently interviewed by the news media and has previously presented her case to the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC). Moreover, Mrs. Hutton most recently drafted a letter with an attached petition signed by 82 supporters suggesting that Congress pass stricter safety standards for both CFVs and their operators.

In light of (1) the recent rash of East Coast Clam vessel casualties with associated losses of lives, (2) the high fatality rate in the commercial fishing industry and elevated level of news media coverage, (3) establishment of the CFV Casualty Task Force, and (4) Admiral Loy's upcoming Editorial Board with the Washington Post, I respectfully recommend that Admiral Loy consider taking the opportunity to contact Mrs. Hutton and provide her with the Coast Guard's current stance regarding our intentions to solicit/push for further legislative authority. I have attached two digests, in addition to Mrs. Hutton's letter and petition, to serve as background information. The first digest outlines the evolution of the vessel inspections and operator licensing mandates pursuant to the Commercial Fishing Industry Safety Act of 1988. The second digest highlights our most recent activity and recommendations pertaining to vessel inspections and operator licensing.

Mrs. Rita Hutton lives in Melfa, Virginia and can be reached by telephone at (757) 787-7216.

  
M. J. PONTIFF

**SIGNER'S COMMENTS**

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FROM: G-MOC-3/FISH

TO: G-MOC

VIA: G-MOC-3d  
G-MOC-3

12 January 1999

1. The below paragraphs describe the evolution of the licensing and inspection mandates pursuant to the Commercial Fishing Industry Vessel Safety Act of 1988 (P. L. 100-424), as well as what I believe to be the Coast Guard's current position regarding this matter.
2. The Commercial Fishing Industry Vessel Safety Act of 1988 (Act) required that the Coast Guard submit a plan to Congress to license operators of federally documented commercial fishing vessels (CFVs) between 5 net tons and 200 gross tons. This plan was submitted on January 13, 1992. The licensing plan passed review by the DOT and OMB, and was placed in the House of Representatives version of the Coast Guard Authorization Bill. The Coast Guard and Maritime Transportation Subcommittee, however, did not place this bill proposal in the Coast Guard's Authorization Act that was passed by Congress in 1996. The Senate also decline to include the licensing plan in their version of the Bill.
3. The Act also required that the Department of Transportation conduct a study of the safety problems on CFVs and make recommendations as to whether a vessel inspection program should be implemented. The study was conducted by the Worcester Polytechnic Institute in consultation with the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC). The study recommended that a compulsory inspection program be instituted to ensure vessel fitness for the intended service. The Coast Guard recommended a mandatory tiered inspection program for CFVs.
4. Although we have continued to support both the licensing of CFV operators and the inspection of CFVs, and though we believe that no major advances in CFVS can be made without such measures, we nonetheless lack the legislative support to pursue these efforts further. The Coast Guard does not intend to resubmit the proposals to Congress, but is aggressively pursuing voluntary efforts to promote CFVS in the absence of further legislative authority.



G. J. PAILL, JR.

SIGNER'S COMMENTS

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FROM: G-MOC

Via: G-MO

TO: G-M

24 April 1998

1. The attached summary regarding commercial fishing vessel safety (CFVS) was faxed to our office yesterday. We have reviewed the summary and, in preparation for Monday's meeting at 1530-1630 with Assistant SECDOT John Lieber, have forwarded the summary for your review with some general comments. Monday's meeting was originally scheduled for the purpose of addressing safety issues in Puget Sound, WA. However, according to Mr. Robert Clark of DOT, they (DOT) suggested that CFVS issues be addressed as an add-on. Mr. Clark conveyed to LT Joe Paitl of my staff, during a telephone conversation this morning, that DOT's offer to address CFVS issues is merely an offer of support, not a mandate, and subject to your approval.

2. Overall, I agree with the DOT summary assessment of CFVS and recommend that we accept DOT's gracious offer for support in order to improve safety in the commercial fishing industry. Although the licensing plan and inspection plan are separate documents, they have been submitted together for the past several years. The idea of separating these plans into separate, more digestible portions and gaining ground through incrementalism is certainly a worthwhile venture.

3. The casualty data contained in the DOT summary is somewhat questionable. According to the USCG CASMAIN data, there were 648 commercial fishing fatalities from 1982-1987, an average of 108 fatalities per year. In 1986, the number of commercial fishing fatalities was 98, not 57 as indicated by the summary. LT Paitl is working with Mr. Clark on this matter.

4. I recommend that we concentrate our DOT/CG consolidated efforts, first, on licensing of commercial fishing vessel operators, as the more palatable of the two plans. This effort, if successful, would certainly enhance safety through professional training and competency. In addition, the chemical testing provisions contained in Title 46, CFR, Part 16 would be introduced into the commercial fishing industry.

  
J. E. SCHRINNER

SIGNER'S COMMENTS

## **Commercial Fishing Vessel Safety**

A summary of the current situation and actions that the Secretary might take  
10 February 1998

**BACKGROUND:** Commercial fishing is one of the most dangerous occupations in the U.S. with an estimated 110,000 vessels currently operating from U.S. ports. Last year 63 fishermen were reported killed - nearly half in accidents involving vessel capsizing, flooding and sinking. A major problem is that many fishing vessels are old and/or are in need of major structural improvements to assure their seaworthiness. A significant percentage carry only the minimum in safety equipment. The problem has persisted because the industry has steadfastly maintained that it cannot afford the expense that improved safety requirements would place on vessel owners. Although some improvements have been mandated during the past decade, more stringent safety initiatives have been shunned by the industry's friends in Congress.

**DEPARTMENTAL ACTIONS TAKEN:** The Coast Guard currently has regulations aimed at fishing vessel safety that address equipment requirements for life saving, dewatering and fire fighting gear. EPIRBS (emergency transponders) are required on all vessels operating more than three miles from shore. Further, the Guard does have a voluntary dockside fishing vessel exam program that was instituted to check the adequacy of safety equipment and make recommendations to captains. (But even if a vessel flunks, it can still go to sea.) It also hosts meetings of the Fishing Vessel Advisory Committee that explores various safety issues including, human factors issues and lessons learned. But in terms of more meaningful matters, namely a legislative proposal that would require licensing of captains and vessel inspections, the sea service has been stymied by the political power of the vessel owners which has scared off any potential floor sponsors. Four such proposals have died since 1990. Last year, with rejection once more considered likely - and Administration policy clearly favoring non-regulatory approaches - Coast Guard deleted controversial fishing vessel safety measures from its appropriations bill.

**A RECENT BREAKTHROUGH:** Notwithstanding the considerable opposition to safety proposals that will cost the industry money, Congress passed the Commercial Fishing Vessel Act of 1988. This legislation requires, among other things, that fishing boats be equipped with survival craft and EPIRBS. Coast Guard readily admits that the main reason this bill saw the light of day was because Ms. Peggy Barry, mother of a drowned fisherman, and wife of a U.S. Ambassador, took up the cause and together with fishermen's wives committees, successfully lobbied Congress for passage.

**HOW LARGE IS THE INDUSTRY?** One of the biggest problems facing regulators is that there is no good set of data as to how many vessels actually fish and how many people regularly make their living onboard - and how many people suffer as a result of mishaps. A principal source of this information comes from the states, but since many

have different systems for documenting commercial fishing operators and issuing permits to fish, the results are often a matter of apples and oranges. The system is further complicated by the fact that one vessel owner could have as many as five or six fishing permits. This not only makes measuring the safety of the industry difficult but creates considerable doubts in the minds of legislators regarding the magnitude of the problem. Coast Guard is also concerned about the industry's size. If new analyses indicate that the industry is larger than originally thought, additional resources and manpower may have to be committed.

**WHO'S PRO and CON:** The important players in favor of more stringent fishing vessel safety requirements are the Coast Guard, insurance companies, vessel/equipment manufacturers and various state and local public safety and emergency response organizations. It should be pointed out that while insurance companies have a stake in fishing vessel safety, they are not currently major players simply because most commercial fishing vessels are not insured. Those opposed are a large percentage of commercial fishermen together with their Congressional representatives.

**STRATEGIC GOALS & MEASURES:** The current Coast Guard Business Plan indicates that the sea service is presently meeting its GPRA goals for mishap and fatality reductions. As previously stated, in 1997 there were 63 reported deaths resulting from uninspected fishing vessel mishaps. This represents something of a general decline - if trend for the past thirteen years is considered. But the fact is that on an individual year basis the number of reported fatalities has bobbed up and down during this period. For instance, in 1986 there were 57 reported fatalities and only 50 in 1990. Coast Guard's principal GPRA fishing safety goal is to reduce fatality rates aboard uninspected fishing vessels half-way toward the fatality rate for the fleet of U.S. inspected vessels - which includes almost no fishing vessels. Since inspected vessels have a relatively good safety record it was thought that this would be a reasonable bench mark of progress. Efforts are also being made to improve field reporting of fishing vessel mishaps.

**NTSB RECOMMENDATIONS:** The NTSB has weighed in with three major recommendations that date back to 1985. These seek to: 1) require licensing of captains in navigation and safety procedures; 2) require stability tests to be conducted on all fishing vessels and the information provided to their captains, and 3) base the requirements for load lines for fishing, fish tender and fish processing vessels on the hazards involved. All three are classified as "Open-acceptable Action" principally because the Board recognizes that the Guard has made a serious effort to achieve the same results. The Board met on 10 February to review a staff report on fishing vessel safety but rejected its findings and recommendations. The principal complaints centered on a failure to relate the U.S. commercial fishing experience to that of other countries, and the issue of where one might draw the line on who is considered a commercial fisher person - i.e., who would be licensed.

**OST's ROLE:** The Department will likely continue to initiate letters, press releases and demonstration programs to support and encourage fishing vessel safety. Partnering with the members of the fishing vessel industry, insurance companies, and vessel and equipment manufacturers offers another important opportunity to demonstrate and promote best practices. But more to the point, the Secretary and the Commandant must deal directly with Congressional leaders, especially those from major fishing states, to craft a compromise position. It should be apparent to most observers that Congress will not accept legislative proposal that call for a drastic change in the way the industry does business. However, important safety goals, such as licensing and inspection, might be accomplished if they were offered in a more palatable fashion.

**A POSSIBLE APPROACH:** The two main issues - licensing and inspection - should be separated because they represent two distinctly different impacts for fishermen. First, tackle the lesser issue, that of licensing, because it's an easier nut to crack and could be accomplished in the course of about five years. Public education programs, together with assistance from the Coast Guard and Auxiliary could ease resistance. The licensing process would provide captains with a better understanding of small vessel safety hazards and ways to avoid them. Thus, if licensing could be accomplished first, it would likely reduce the resistance to a vessel inspection program - providing that the latter is not viewed as confiscatory in nature. One possibility to accomplish this would be a program that phases in vessel inspections over time. This may be unavoidable inasmuch as a large number of fishing vessels are old and incapable of meeting statutory seaworthiness requirements. Existing vessels would be grandfathered with some provision that owners make best efforts toward understanding and, to the extent possible, addressing serious deficiencies. Eventually, however, these boats will be retired. A phase in program provides the Department with an opportunity to gain compliance over, say, a fifteen to twenty year period (similar to the OPA 90 provisions for double hulling tankers). But at the same time all new vessels entering the fleet after a certain date would have to comply with the same standards now in effect for other U.S. inspected vessels and undergo periodic inspections.

**ASSESSMENT:** Commercial fishing vessel safety is a politically contentious issue - one in which the Department has made incremental, but not dramatic progress in the past. Decoupling the two most contentious elements - vessel inspections and licensing of captains - is in our view the best option for achieving a balance that may be politically saleable and which would incrementally improve safety in this industry. A possible strategy would be to discuss this approach first with Admiral North to ascertain whether, in his judgement, pursuing this it would be worthwhile and successful. If he agrees, and wishes our support, the next step could be to prepare a brief synopsis of the proposal, and later, a draft legislative proposal that could eventually be used to brief key Hill staffers as the basis of a joint OST-Coast Guard commercial fishing vessels safety strategy. It is our view that discussions with the key committee staffers aimed at discovering first hand their concerns - and what they might be willing to accept - is critical to achieving success. The issue of Commercial fishing vessel safety presents OST with a meaningful opportunity to show solidarity with the Coast Guard.

Dear Sir,

I am writing this letter after long and careful consideration. I believe your program is the best way to make the public aware of a very dangerous and unnecessary loss of lives which occurs on a frequent basis.

Let me explain,

On October 27, 1992 my son Michael Hutton and three other crew members went out on a commercial clam boat, the Mae Doris. Sometime between October 27/92 to October 29/92 the boat was lost at sea. After searching for five days, the U.S. Coast Guard terminated the search, leaving all the crew's family members with no answers and saddened hearts.

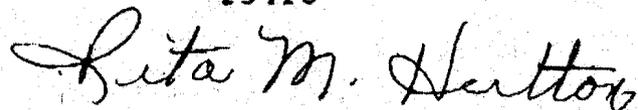
This is only one instance of a common occurrence which occurs on these clam and fishing vessels, on the average of four to five times a year. These boats are lost with each boat carrying four to six crew members and most of the time no survivors. After a visual inspection of these boats you do not need an education or have to be an expert on boats to see that these boats are tragedies waiting to happen. Most of these boats are in poor condition, yet knowing the unsafe conditions of these boats the owners send men out to make them money, and in many cases literally to their deaths. Since Jan 6/99 five boats went down everyone is wondering why. Some of the reason may be no mandatory inspections or regulations imposed on these boats. Yes they are supposed to be inspected, yet seldom are due to the fact that there are no inspectors. Knowing this the owners of many of these boats cut costs and send these boats out in conditions that would not pass inspection.

I know to put a fence around your house, you need a permit, to go fishing you need a license. To drive a car you need a license and your car must be inspected annually. There are inspections and regulations for every imaginable thing. Why not these boats? As for the regulations that there are, why are they not enforced.

What we need now is for Congress to do something if they don't it's going to get worst. Please I know I will never get my son back nor will the other family that are going through what I did. We will never get over it. I'm hoping you will pass these laws and see to it that they are enforced.

Sincerely

Mrs. Rita M Hutton  
POBOW 484  
MELFA, VA.  
23410



WE THE UNDERSIGNED RESPECTFULLY REQUEST CONGRESS TO PASS STRICTER SAFETY  
CEDURES ON DEEP SEA CLAM AND FISHING VESSELS AND HIGHER QUALIFICATIONS  
AND STANDARDS FOR CAPTAINS OF SUCH VESSELS + TRAINING FOR THE MEN..

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