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U. S. COAST GUARD

STATEMENT OF

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ON

COMMERCIAL FISHING VESSEL SAFETY

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

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Good morning Mr. Chairman and distinguished members of the Subcommittee. I am Rear Admiral Craig Bone, Assistant Commandant for Prevention, United States Coast Guard. I am pleased to have this opportunity to appear before you today to discuss Commercial Fishing Vessel Safety and the Coast Guard's safety program and initiatives.

The Coast Guard's Commercial Fishing Vessel Safety (CFVS) Program is aimed at improving safety in the commercial fishing industry, reducing the number of vessels lost, and reducing the number of fishing-related fatalities. The thrust of the existing CFVS Program is to gain compliance with the CFVS regulations through educational, voluntary, no-fault, dockside safety examinations and other outreach efforts. Regulatory enforcement is accomplished through at-sea boardings, which complement the CFVS Program. We also balance our prevention efforts with our response capabilities to minimize the consequences of the inevitable casualties that do occur.

Historically, commercial fishing has been one of the most, if not the most, hazardous occupations, in the United States. In 2005, the Bureau of Labor Statistics found that commercial fishermen and workers aboard uninspected fishing vessels died at a rate of 118 per 100,000. For comparison, the fatality rate for the towing industry, another uninspected segment of the marine industry, was only 17 per 100,000 workers, and in the American workplace as a whole, the rate was only four deaths per 100,000 workers.

CFVS has long been a matter of concern to the Coast Guard, but limitations on regulating the safety of commercial fishing vessels have been encountered because they are classified as "uninspected vessels." From the 1930s to the 1980s, various legislative proposals were introduced to increase safety standards for commercial fishing vessels, such as requirements for periodic safety inspections, watertight compartments, and licensing of vessel operators, but none of these proposals came to fruition.

In 1971, the Coast Guard conducted a study and cost-benefit analysis of alternative safety programs for commercial fishing vessels. The report documented the fishing industry's poor safety record and attributed it to the fact that fishing vessels, with few exceptions, have traditionally been exempted from the safety regulations required of other commercial vessels. The study recommended licensing of masters, mandatory safety standards including full inspection and certification of new vessels, and mandatory and voluntary standards combined with inspection and certification of existing vessels. The report also drew parallel comparisons to the Small Passenger Vessels Safety Act of 1956, which required structural and loading standards and inspections on those vessels and led to an 80% reduction in passenger deaths.

Fishing vessel safety legislation based on the 1971 study was prepared by the Coast Guard and forwarded to the Office of Management and Budget (OMB). The National Marine Fisheries Service (NMFS) of the Department of Commerce (DOC) recommended that action to require inspection of fishing vessels be deferred until they could complete a study on commercial fishing vessel insurance. In 1975, DOC recommended an alternative proposal to OMB for a voluntary safety program for fishing vessels. The Department of Transportation (DOT) then advised OMB that the Coast Guard proposal would be held back while a study of the DOC proposal was conducted. In July 1976, the Secretary of Transportation forwarded copies of the Coast Guard's 1971 study to the Senate Committee on Commerce and the House Committee on Merchant Marine and Fisheries, but the Secretary did not recommend the Coast Guard's legislative program, citing the inflationary impact to the economy and an increased interest in a voluntary program by the commercial fishing industry. This effectively stopped this initiative for fishing vessel safety legislation.

In 1978, the Coast Guard initiated a voluntary dockside uninspected vessel examination program. The purpose of the program was to improve safety throughout the uninspected fleet, including commercial fishing vessels. A project to develop a triennial dockside educational examination program was initiated, but a budget reduction in 1981 eliminated the program.

The 1980s saw a renewed awareness of fishing vessel safety, several tragedies, and finally safety standards legislation. Three Coast Guard personnel co-authored and presented a paper entitled "Life Safety Approach to Fishing Vessel Design and Operation" to a symposium of the Society of Naval Architects and Marine Engineers. The authors suggested that training and dockside examinations would reduce casualties. Further, they recommended specific training in fire safety and personnel safety, and requirements for lifesaving equipment. They also noted that if casualties continued to increase, there would be significant pressure for the government to intervene into fishing vessel design and operation.

Several fishing vessel tragedies in the early 1980s, along with fishermen's concern over rising insurance costs, renewed interest in fishing vessel safety. The Coast Guard formed a Fishing Vessel Safety Initiative Task Force in August 1984 to study how fishing vessel safety could be improved, and the Task Force recommended a two-pronged approach. One part of the program promoted vessel safety through voluntary standards written in five Coast Guard Navigation and Vessel Inspection Circulars (NVIC). These voluntary standards were revised and consolidated into a single NVIC published in 1986. The standards were written primarily for fishing vessel designers, builders, outfitters, and marine surveys, and they are still referenced today. The second part of the program promoted crew safety through a safety guide developed by the Coast Guard and the North Pacific Fishing Vessel Owners' Association (NPFVOA), and both were permanently adopted by the Coast Guard Marine Safety Program in January 1987.

The House Merchant Marine and Fisheries Committee's Subcommittee on Coast Guard and Navigation held a series of hearings on marine safety in 1984, which resulted in statutory amendments defining fishing industry vessels and clarifying inspection, licensing and manning requirements for fish processing vessels. During this same time period, hearings were held on the availability and cost of insurance for commercial fishing vessels. As a result, legislative proposals were introduced to address liability and insurance issues, but action on these issues was interrupted by another event that heightened the vessel safety debate.

In August 1985, the WESTERN SEA, a seventy-year-old purse-seiner with a crew of six, disappeared in the Bering Sea. Another vessel recovering the body of crewmember Peter Barry was the first indication of any trouble, and an intensive search by the Coast Guard failed to locate any survivors or the vessel. After the death of their son, Ambassador Robert Barry and his wife Peggy Barry worked to galvanize safety advocates, government officials, lawmakers, and survivors and loved ones of other commercial fishermen lost at sea to renew the campaign for congressionally mandated safety standards.

By 1987, bills were introduced to address fishing vessel safety and insurance liability. One bill supported by the Barrys specifically addressed vessel inspections, on-board equipment requirements, licensing and training of masters and crew, casualty reporting, and the establishment of a Fishing Vessel Safety Advisory Committee. A September 1987 National Transportation Safety Board (NTSB) study on "Uninspected Commercial Fishing Vessels" added support for the safety legislation being considered. The NTSB testified at hearings on their recommendations, to include minimum standards for: safety training, basic lifesaving equipment

to include exposure suits, approved life rafts, emergency radios, Emergency Position Indicating Radiobeacons (EPIRB), flooding detection and dewatering systems, fire detection, fixed firefighting systems, periodic inspection, prohibition of the use of alcohol or drugs when engaged in commercial fishing operations, education regarding the dangers of toxic gases in unventilated spaces, and the need for research on vessel stability.

The "Commercial Fishing Industry Vessel Safety Act of 1988 (P.L. 100-424) was signed into law by the President on September 9, 1988. The determined efforts by the Barrys and many others resulted in the first safety legislation enacted in the United States applying specifically to commercial fishing vessels, and the Act gave the Coast Guard authority to prescribe safety regulations. The Commercial Fishing Industry Vessel Safety Advisory Committee (CFIVSAC) was formed, and in 1989, it began aiding the Coast Guard in the development of these safety regulations. They were published as 46 CFR Part 28, Requirements for Commercial Fishing Industry Vessels and became effective on September 15, 1991. In 1996, some requirements for safety equipment and vessel operating procedures were modified, but actions related to immersion suit and extended stability requirements were deferred. Those pending proposals were terminated in 1998.

Pursuant to the Act, the Coast Guard began developing a plan for licensing operators of federally documented fishing industry vessels. The CFIVSAC prepared a detailed report for the Coast Guard and recommended "certification" of operators including "competency" requirements. In January 1992, "A Plan for Licensing Operators of Uninspected Federally Documented Commercial Fishing Industry Vessels" was submitted to Congress. In May 1993, a revised plan was submitted. In 1996, a request was made for authority to license operators of commercial fishing industry vessels. Despite these efforts, to date no such authority has been granted.

As mandated by the Act, the National Research Council (NRC) conducted a study on fishing vessel safety and the need for vessel inspections. Their report "Fishing Vessel Safety – Blueprint for a National Program" was published in 1991. It was reviewed by the Coast Guard and the CFIVSAC. Several of the recommendations were endorsed including the establishment of an inspection program for commercial fishing industry vessels. In November 1992, the Coast Guard submitted a report to Congress for the inspection of commercial fishing industry vessels.

Within the November 1992 report, the authority was requested to carry out inspections under a three-tiered approach: 1) Allow for self-inspection of new and existing vessels less than 50 feet in length, 2) Allow for third party examination of new and existing vessels greater than or equal to 50 feet but less than 79 feet in length, and 3) Require more extensive Coast Guard inspection and load line assignment on vessels 79 feet or greater in length. In addition, the inspection plan would have required new vessels 79 feet or more in length to be designed and built to class standards, and existing vessels of that length could have additional hull and machinery standards imposed if authority was granted. As with the licensing plan, no additional authority has been granted.

In the absence of authority to inspect commercial fishing industry vessels, the Coast Guard embarked on an outreach and education program. The most noteworthy of these efforts is our voluntary dockside examination. During these voluntary examinations, a Coast Guard examiner works with vessel owners, operators and crew to explain requirements, check compliance with all federal regulations, and when possible, assist the crew in correcting deficiencies. Any discrepancy discovered is brought to the crew's attention, but no penalties result.

In carrying out the CFVS Program, the Coast Guard established 61 new positions that were distributed across Coast Guard Headquarters, each District Office, and all Marine Safety Offices (now Sectors) throughout the country. Several additional positions were established in the program in 1996 to assist in training Boarding Officers. To provide essential training and encourage fishermen's participation in the CFVS Program, the Coast Guard placed damage control training trailers, damage stability trainers, intact stability trainers, and EPIRB test kits throughout the country.

Aggressive safety outreach initiatives are complemented by compliance boardings at sea. Enforcement of certain critical safety and survival equipment carriage requirements deter non-compliance. Vessels found to be lacking critical equipment, being operated in an unsafe manner, or otherwise characterized as having especially hazardous conditions on board, have their voyages terminated. In addition, vessels identified as high risk, as determined by regional enforcement or safety personnel, may be targeted for boardings when sighted underway. Table 1 below contains statistics on fishing vessel safety activities.

Despite the progress the Act represents, the Coast Guard believes further significant risks remain. For example, in a three-week period during January 1999, four clam-fishing vessels (ADRIATIC, BETH DEE BOB, CAPE FEAR, and ELLIE-B), one conch-fishing vessel (PREDATOR), and eleven fishermen were lost. As a result of this surge of casualties, the Coast Guard convened a Fishing Vessel Casualty Task Force on January 27, 1999, that was comprised of representatives from the Coast Guard, NOAA, NMFS, NTSB and OSHA, along with industry advisors. The Task Force was charged with evaluating the circumstances of the recent accidents, examining the incidents in context of historical data for loss of life and property, providing quick feedback to the industry on the safety issues, reviewing the current CFVS Program and past recommendations that have potential for reducing loss, recommending the most significant measures that would have great potential for reducing loss of life and property, and developing direction and an action plan to be pursued by the CFIVSAC, the Coast Guard, and industry.

The Task Force issued their report in March 1999. For this report, the Task Force examined two five-year periods – one period prior to passage of the Commercial Fishing Industry Vessel Safety Act (CFIVSA) of 1988, and the second period after the safety regulations became effective in 1991. From 1984 – 1988, 519 lives and 1,177 vessels were lost during commercial fishing operations. From 1994 – 1998, 351 lives and 699 vessels were lost in the industry. This represents approximately 37% fewer lives and vessels lost.

The results of this Task Force indicated that the Coast Guard's CFVS Program coincided with a reduction in fishing vessel casualties. Several other factors are also believed to have contributed to the reduction in fatalities, in addition to the imposition of safety requirements. First is the reduction in the number of vessels and commercial fishing effort due to the distressed nature of the industry. Secondly, many fisheries management practices overseen by the National Marine Fisheries Service (NMFS) have changed to give increased emphasis on safety. The third factor contributing to reduced fatalities is partnerships with those organizations that are also concerned with safety within the commercial fishing industry. Most prominent among these partners is the National Institute for Occupational Safety and Health (NIOSH.). NIOSH opened a field station in Anchorage, Alaska shortly after passage of the Act to focus on improved safety within the industry. Working with the Alaska Department of Fish and Game has resulted in a significant improvement in some Alaskan fisheries as well.

The Task Force also concluded that most casualties could be prevented and that the continued high loss rates and risk to fishermen was not acceptable. The Task Force believed it was time to go beyond the minimal standards and strive for breakthrough levels of loss reduction in the fishing industry. The report, "Living to Fish Dying to Fish," contained 59 safety recommendations divided into seven categories: Coordinate Fishery Management with Safety; Establish Operator and Crew Standards; Ensure Vessels Comply with Standards; Establish Safety and Stability Standards; Improve Program Management; Conduct Research and Development; and Inform Fishermen.

Subsequent to the Task Force findings, the CFIVSAC met at Coast Guard Headquarters to review and evaluate the Task Force recommendations. At the same time, CFVS Coordinators from each Coast Guard District, the CFVS Program Manager, and fisheries law enforcement representatives met to discuss the Task Force report. Both groups provided recommendations for implementing the immediate and short term initiatives to improve safety in the fishing industry. Many of those actions were taken, others have been initiated over the following years, and others are still being pursued. The following are key actions that have been taken since 2000.

- The Coast Guard expanded training of NMFS agents and observers on the dockside examination program and fishing vessel safety matters and now sends representatives to Regional Fisheries Management Council meetings to promote safety concerns.
- The Coast Guard increased promotional activities on safety and survival and included fishing vessel safety programs in industry day-type activities.
- The Coast Guard expanded the role of the Auxiliary in the CFVS Program. In some areas, Auxiliary examiners account for approximately one third of examinations conducted.
- The Coast Guard established 24 new positions in the CFVS Program and a Fishing Vessel Safety Division at the Headquarters level. The positions added CFVS personnel at each of the Regional Fisheries Training Centers, the CFVS Program staff, and numerous Marine Safety Offices (now Sectors) throughout the country.
- The Coast Guard improved casualty investigation and data analysis to support risk based decision making and examines casualties for "lessons learned" to provide feedback to the industry to improve safety. We send monthly articles on consequences to a national industry magazine.
- The Coast Guard has developed better lines of communication with the commercial fishing industry and established a web site (www.fishsafe.info) dedicated to fishing vessel safety-related information.
- The Coast Guard publishes safety information fliers, quick reference cards, and equipment requirement pamphlets for distribution to the fishermen during dockside contacts and other outreach programs. These items are being translated into Spanish and Vietnamese.
- Coast Guard examiners now emphasize emergency preparedness drills as part of the voluntary dockside vessel safety examinations.
- The Coast Guard initiated "Safe Catch" programs in several regions where certain types of fisheries are known to be high risk, such as Alaska, the Pacific Northwest, and the Northeast. Under these programs, several examiners visit those port areas prior to the season opening offering safety examinations and drill training to ensure the fishermen and their vessels are ready to get underway. Vessels that do not participate can expect to be boarded during the fishery and checked for full safety and survival equipment compliance.
- The Coast Guard has submitted proposals to conduct a pilot project for mandatory dockside safety examinations in at least two regions of the country where data shows fatality rates are the highest.

- The Coast Guard is considering options for developing appropriate fishing vessel operator and crew competency standards that directly addresses casualty risk.
- The Coast Guard is considering options for developing appropriate fishing vessel safety and stability standards that directly address casualty risk. We are currently working on a regulatory project to extend stability and watertight integrity standards to new fishing vessels 50 feet or greater in length.

These improvements to the Coast Guard's CFVS Program have increased safety and have contributed to lower fatality and vessel loss rates in the commercial fishing industry. Through increased Coast Guard presence on the docks, risk-based and regionally focused compliance boardings, and other agencies' requirements for safety examinations, fishing vessel safety and awareness have improved.

In 2000, the number of fatalities dropped to 37, over 50% from the 77 fatalities in 1999. We believe this was a direct result of the findings, recommendations, and safety awareness generated by the Task Force subsequent to the multiple deadly sinkings in January of 1999. In 2001, fatalities spiked to 58. Much of this, however, can be attributed to one incident, the sinking of the ARCTIC ROSE which claimed 15 lives.

The terrorist attacks in September 2001 prompted the Coast Guard to reallocate personnel and resources to security initiatives. As a result, the number of dockside safety examinations dropped in 2002 and 2003. As resources were gradually returned to the CFVS Program, examinations returned to their prior levels and then began to increase due to safety requirements initiated by the NMFS on vessels carrying observers. The number of compliance boardings began to increase significantly after 2003. With the exception of 2001, the number of fatalities and vessel losses held fairly steady at rates lower than before the Task Force recommendations were implemented. Again, we believe this is a result of increased awareness, greater emphasis on safety, and the CFVS Program initiatives, but it does not necessarily account for dynamic variables that can affect safety, such as the number of fishermen, number of fishing vessels, fisheries management decisions, weather conditions, and level of fishing activity.

Table 1 Commercial Fishing Vessel Safety (CFVS) Statistics 1992-1999

	1992	1993	1994	1995	1996	1997	1998	1999
Voluntary Dockside Exams	3,662	7,162	7,212	7,808	6,843	6,351	5,652	7,225
Safety Decals issued	1,661	3,432	3,545	3,929	3,719	3,451	3,485	3,992
CFV Fatalities (Operational)	95	90	75	62	82	61	71	77
Vessel Losses (Operational)	172	161	153	117	166	138	125	123

Commercial Fishing Vessel Safety (CFVS) Program Measures 2000-2006

	2000	2001	2002	2003	2004	2005	2006
Voluntary Dockside Exams	7,193	6,527	5,817	5,619	7,011	7,383	7,799
Safety Decals issued	3,286	3,683	1,849	1,872	2,513	2,486	3,137
Compliance Boardings	3,883	3,610	3,845	4,650	5,984	6,157	7,163
CFV Fatalities (Operational)	37	58	37	43	37	42	42
Vessel Losses (Operational)	85	133	127	114	117	118	81

The impact of the safety legislation and regulations, and subsequent safety initiatives can be seen in the reduction of fatality averages but are not as significant for vessel losses. Prior to the Act passage in 1991, fatalities averaged around 120 per year. After the Act and until the Task Force in 1999, the fatality average dropped to about 76 per year. Following the Task Force to present, the fatality average has been approximately 42 per year. For the same time periods, the averages for vessel losses fell from approximately 225 to 144 to 110.

The Coast Guard is considering a proposed rule for Commercial Fishing Vessel Safety. The Notice of Proposed Rulemaking (NPRM) would be a significant rulemaking that includes numerous new requirements including, but not limited to, stability on vessels 50-79 feet; maintenance and self-examination; safety and other training; drill conductors on board; survival suits in seasonally cold waters, and documentation of maintenance, testing, and training performed.

In summary, the Congress, Commercial Fishing Industry Vessel Safety Advisory Committee, commercial fishing industry, and the Coast Guard have all worked to improve safety on commercial fishing vessels, but there is still much work that can be done. We are continuously improving our response posture and capabilities so as to minimize the consequences when vessel casualties do occur.

Thank you for this opportunity to discuss commercial fishing vessel safety. I will be pleased to address any questions that you may have.