

MEMORANDUM OF UNDERSTANDING BETWEEN THE NATIONAL
TRANSPORTATION SAFETY BOARD AND THE UNITED STATES COAST GUARD
REGARDING MARINE ACCIDENT INVESTIGATION

In accordance with Public Law 106-424 signed November 1, 2000, the National Transportation Safety Board (NTSB) and the United States Coast Guard (USCG) hereby revise and replace their Memorandum of Understanding (dated 28 September 1981) governing major marine accident investigation to (1) clarify the standards used to determine when the National Transportation Safety Board will lead an investigation, and (2) to develop new standards to determine when a major marine accident involves significant safety issues related to USCG safety functions.

Effective immediately, the following guidelines will apply in carrying out the provisions of the joint regulations governing "Coast Guard/NTSB Marine Casualty Investigations" (49CFR 850 and 46 CFR 4.40):

1. Upon report of a major marine casualty or a casualty involving public and non-public vessels, USCG will immediately notify NTSB of all information available regarding the casualty. Major marine casualty in this context is defined as a casualty involving a vessel, other than a public vessel, that results in:
 - The loss of six or more lives;
 - The loss of a mechanically propelled vessel of 100 or more gross tons;
 - Property damage initially estimated at \$500,000 or more; or
 - Serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials.
2. The designation of "lead" investigative agency (USCG or NTSB) will be based upon existing joint regulations and the criteria in paragraphs 3 and 4 below.
3. USCG and NTSB agree that NTSB may elect to lead the investigation of major marine casualties that risked or threatened high loss of life to innocent third parties, such as the following:
 - a passenger vessel accident that placed passengers or crewmembers at serious risk, for example, fires, collisions, sinkings or groundings;
 - a vessel accident that seriously threatened port facilities, for example, an allision with a permanently moored vessel or high occupancy waterfront facility;
 - a cargo vessel accident that involved 3 or more crew fatalities; or

- a multimodal marine accident that resulted in fatalities.

Any such NTSB election will be pursuant to communication between the Chairman and the Commandant or their designees. In each instance where the NTSB elects to lead the investigation, the Coast Guard shall participate as a party and normally shall not convene a Marine Board of Investigation. In order to not interfere with the NTSB on-the-scene field investigation when the Commandant decides to convene a Marine Board of Investigation in these cases, the Coast Guard will delay publicly announcing and convening the Marine Board of Investigation for as long as considerations of preservation of evidence, witness availability, and enforcement requirements permit, or until NTSB has concluded its field investigation, whichever is earlier.

4. The USCG will apply the attached draft bright-line chart to all major marine casualties so as to make an initial determination if significant safety issues related to USCG safety functions may warrant an independent investigation by NTSB. In cases where the bright-line indicates the need for a third party review, NTSB will be notified and may elect to lead the investigation with USCG participation as a party.
5. The accident investigation roles of the NTSB and the USCG with respect to all other casualties within the scope of the joint regulations will continue unchanged for the interim.

In general, when NTSB conducts the marine casualty investigation in the cases cited above, the procedures followed will parallel, where applicable, those described in 49 CFR 831 with respect to aircraft accidents/incidents. When NTSB conducts a public hearing in connection with the accident investigation, the procedures followed will follow those described in 49 CFR 845. The respective activities of NTSB and the USCG, within the parameters of those regulations when the investigation is conducted by the NTSB, include the following:

NTSB	USCG
<ol style="list-style-type: none"> 1. Dispatch IIC, and an appropriate number of marine accident investigators and technical personnel to the scene. 2. Direct all onscene aspects of the investigation considering recommendations made by USCG. 3. Issue necessary subpoenas, hire stenographic services, contract for other necessary services in connection with the investigative command post. 4. Upon arrival at the scene and after obtaining preliminary data, establish investigative groups as appropriate. An NTSB staff member will serve as Chairman of each group. Designate appropriate representatives of onscene parties to participate in the investigative groups. The provisions of 49 CFR 831.11 will be applied to all parties. Such parties will always include the Coast Guard. Unions may be designated as parties. 5. Hold periodic progress meetings and keep parties informed. 6. Hold periodic news media briefings on the progress of the investigation and serve as the sole public spokesman with respect to the release of information resulting from the investigation. USCG shall be consulted and will participate with regard to USCG activities, as appropriate, to the maximum extent possible in media briefings. 7. Determine and approve the timing of the release of vessels and crewmen to depart the area, either to appear later at a public hearing or to be released from further participation in the NTSB-led investigation. This provision does not affect the authority of the COTP to control the movement of vessels pursuant to 33 CFR Part 160, or the Coast Guard to investigate pursuant to 46 CFR Part 4 and 5. 	<ol style="list-style-type: none"> 1. Notify NTSB promptly. 2. Pursue the usual Coast Guard onscene activities as appropriate, such as search and rescue, pollution and fire emergency services, succoring the survivors, managing traffic in the waterway, or accommodating salvage activities of owners. Protection of life, property, and the environment are the highest priority and accident investigation needs will be properly accommodated bearing in mind their high priority. 3. Secure the accident site, as appropriate and reasonable considering all onscene activities. 4. Promptly identify eyewitnesses and make preliminary arrangements for their interviews by the witness group. 5. Detain vessels and crewmembers as appropriate and reasonable in accordance with applicable law. If unable to do so prior to arrival of NTSB investigators, perform those tasks identified by NTSB as essential to the investigation. 6. Assign appropriate personnel to participate in investigative groups and designate one person as Coast Guard liaison with the NTSB IIC. 7. Provide Coast Guard documentation of vessel inspection, certification and licensing history of vessels and persons involved as requested by IIC. 8. Designate an individual(s) to participate as the Coast Guard spokesman in media briefings, as appropriate, and at the NTSB public hearing.

NTSB	USCG
<p>8. Identify and interview eyewitnesses and all crewmembers at the earliest time. Those with information pertaining to the accident should be deposed, or their statements taken and reduced to writing, as appropriate (in preparation for or in lieu of being a witness at a public hearing).</p> <p>9. Arrange for any tests, research, readout of recorded data, transcription of radio recordings, and similar activity and the preparation of exhibits for later use.</p> <p>10. Set the time and place and make all arrangements for the public hearing including the hearing room, the preparation of exhibits, subpoenaing of witnesses, and designation of parties to the hearing and their spokesman (Coast Guard will always be designated as a party to the hearing).</p> <p>11. Conduct public hearing in accordance with 49 CFR 845.</p> <p>12. Prepare an accident report based upon the investigation.</p>	<p>9. Provide water/air transportation if needed onscene, subject to operational requirements.</p> <p>10. Prosecute enforcement activities as a clearly separate activity from the NTSB accident investigation.</p>

Close continuing liaison and cooperation will be maintained between the two agencies so that the common objective can be achieved with maximum harmony, and problems and differences can be minimized and resolved as expeditiously as possible.

An ongoing joint working group will be formed and will consider additional recommendations, which may evolve into a further realignment of investigative responsibilities ultimately leading to a revised interagency memorandum of understanding and revision of the joint regulations as appropriate. USCG and NTSB will continually evaluate the draft brightline chart to determine if it satisfactorily identifies accidents involving significant safety issues related to USCG safety functions and will propose any needed changes.

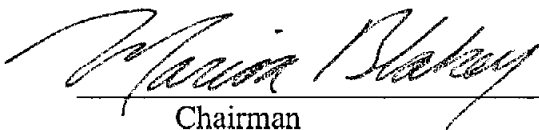
USCG will ensure that NTSB is invited to participate as a member of the US delegation to all IMO meetings where marine accident investigation issues are expected to arise.

Both agencies will, upon approval of this agreement, officially notify their respective OMB, Congressional and potentially affected private sector organizations of this agreement.

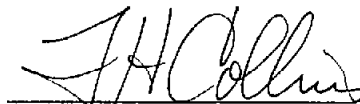
Nothing in this agreement is intended to conflict with current law or regulation or the directives of the USCG or the Department of Transportation or the NTSB. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

This agreement is effective upon signature by both parties, and shall continue in effect until terminated. This agreement may be modified at any time upon written agreement of both parties. This agreement may be terminated by either party by written notice to the other. The terminating party will provide the other party and the Congress with at least 30 days notice.

Signed by:



Chairman
National Transportation Safety Board



T. H. COLLINS

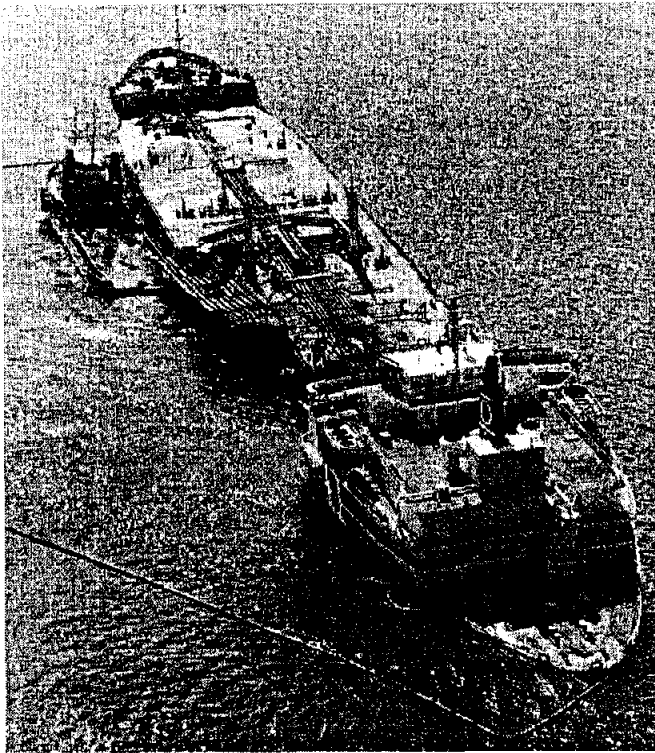
Commandant
United States Coast Guard

(Date) September 12, 2002

(Date) SEP 12 2002

Coast Guard/NTSB Bright-line Test

MSIS Case No.: _____	Reviewer(s): _____	Vessel: _____
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Scoring Breakdown

Recency	
Inspections	
CG Control	
Total Score	
Proposed Lead Agency	
NTSB Decline: Y / N	
Lead Agency	

<i>Recency</i> <small>(Note: Inspections only)</small>	Level 1	Level 2	Level 3	Level 4	Score
Inspection of U.S. certificated vessel	Within 61 to 90 days 10	Within 46 to 60 days 40	Within 31 to 45 days 70	Within 0 to 30 days 100	
Exam of foreign passenger vessel	Within 61 to 90 days 60	Within 46 to 60 days 80	Within 31 to 45 days 100	Within 0 to 30 days 100	
Port State Control boarding	Within 61 to 90 days 10	Within 46 to 60 days 30	Within 31 to 45 days 60	Within 0 to 30 days 90	
Exam of U.S. uninspected vessel			Within 31 to 45 days 20	Within 0 to 30 days 40	
CG LE/safety boarding (CG-4100)			Within 31 to 45 days 20	Within 0 to 30 days 40	

<i>Inspection</i>	Level 1	Level 2	Level 3	Level 4	Score
Not inspected/ boarded /examined when required by reg. or policy.	Deficiency follow-up of a vital system. 10	Periodic inspection/ Boarding /exam. 70	Deficiency follow-up of a system was not performed <u>and</u> the system was associated with the casualty. 90	CG failed to examine a system <u>and</u> that system was associated with the casualty. 100	
Failure of CG examined/inspected vital equipment or system.	Failure of: <ul style="list-style-type: none"> • Bridge navigation or communication system. • Main propulsion system on U.S. inspected vessel. 10	Failure of: <ul style="list-style-type: none"> • Main or auxiliary steering systems. • Emergency power. • Bilge system (US). • Vessels hull (US). 40	Failure of primary fire fighting system. 70	Failure of primary lifesaving equipment. 100	

CG Control	Level 1	Level 2	Level 3	Level 4	Score
Under COTP order				COTP order associated with the casualty. 100	
Under OCMI order	<ul style="list-style-type: none"> • Non-overdue CG-835 for non-vital system. • Non-overdue requirement for non-vital system. <p style="text-align: center;">10</p>	<ul style="list-style-type: none"> • Waiver or extension for compliance granted • Non-overdue CG-835 for vital system • Non-overdue requirement for vital system <p style="text-align: center;">40</p>	<ul style="list-style-type: none"> • Non-overdue CG-835 for vital system <u>and</u> that system is associated with casualty. • Non-overdue requirement for vital system <u>and</u> the system is associated with the casualty <p style="text-align: center;">70</p>	<ul style="list-style-type: none"> • Permit to Proceed. • Temporary load line certificate. • Waiver/extension for compliance granted <u>and</u> the system is associated with the casualty. <p style="text-align: center;">100</p>	
VTS	Vessel not properly checked in with VTS and no radio contact made. <p style="text-align: center;">10</p>	Vessel properly checked in (sailing plan filed) to VTS but not provided any traffic information or given any direction. <p style="text-align: center;">40</p>	Vessel requested VTS traffic information prior to casualty, but not under direction at the time of casualty. <p style="text-align: center;">70</p>	Vessel under required direction of or given misinformation by VTS, or granted deviation from rules by District or VTS CO. <p style="text-align: center;">100</p>	
SAR	SAR case number assigned. <p style="text-align: center;">10</p>	Death, serious injury, loss of vessel before CG unit on scene. <p style="text-align: center;">20</p>	Serious injury or loss of vessel after CG unit on scene. <p style="text-align: center;">40</p>	Loss of life after CG unit on scene. <p style="text-align: center;">60</p>	
ATON			Navigational casualty occurs where ATON off position or not lit. <p style="text-align: center;">50</p>		

March 28, 2000