

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

The National Transportation Safety Board (NTSB) and the United States Coast Guard (USCG) hereby revise and replace their previous Memorandum of Understanding (dated 12 September 2002) governing marine casualty investigations. The Chairman of the National Transportation Safety Board and the Commandant of the United States Coast Guard jointly affirm that interagency cooperation and mutual assistance in marine casualty investigations and swift implementation of safety improvements is essential for efficient and effective agency operations and for the public welfare.

In accordance with 49 U.S.C. § 1131, the National Transportation Safety Board is authorized to investigate any major marine casualty as defined in 49 C.F.R. Part 850 and 46 C.F.R. Subpart 4.40 (except a casualty involving only public vessels) occurring on, or under, the navigable waters, inland waters or territorial sea of the United States, or involving a vessel of the United States, or involving a public vessel of the United States and any other vessel.

In accordance with 46 U.S.C. § 6301, the USCG is authorized to investigate any marine casualty involving death, serious injury, material loss of property, material damage to vessels, or significant harm to the environment occurring on the navigable waters or territorial sea of the United States, or involving a vessel of the United States, or involving a public vessel of the United States and any other vessel. The USCG is also authorized to investigate certain marine casualties outside the territorial sea.

The intent of this agreement is to ensure interagency communication, cooperation, and coordination, and to engender the development of marine safety investigation processes that will best serve the maritime community and the public at large. This agreement is not intended to limit the statutory jurisdiction of either agency or to prevent thorough investigation of marine casualties.

MARINE CASUALTY INVESTIGATIONS

NTSB and USCG agree that upon report of a major marine casualty, a significant marine casualty as defined in Appendix 1, or a casualty involving public and non-public vessels, each agency will immediately notify the other of all information received regarding the casualty, and both agencies will quickly coordinate the appropriate investigative response.

Additionally, if either agency is notified of a marine casualty where the United States is a substantially interested state under the International Maritime Organization (IMO) code, “Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident,” each agency will immediately notify the other of all information received regarding the casualty, and NTSB and USCG will expeditiously coordinate the appropriate investigative response. When the United States is invited to participate or decides to conduct an independent casualty investigation, USCG and NTSB may each participate in the investigation.

NTSB and USCG anticipate that when NTSB and USCG both decide to investigate a marine casualty, one agency will be designated as the lead Federal agency for the investigation. The Chairman of the National Transportation Safety Board and the Commandant of the United States Coast Guard, or their designees, will determine which agency will lead the casualty investigation; the NTSB may lead the investigation of “significant marine casualties” as defined in Appendix 1; and the USCG may lead the investigation of all other marine casualties

NTSB and USCG agree that regardless of which agency leads an investigation, the other agency may participate as an equal partner in gathering evidence and establishing facts, with due consideration to keeping their analysis and conclusions separate and independent. In those cases where the public interest demands on-scene live media engagements or written press releases, the parties agree that the lead investigative agency will act as the sole spokesperson for casualty investigation information and activity, and press conferences and press releases will identify the lead and supporting investigating agencies. Participation by the non-lead investigative agency in any press conference is encouraged. Once the on-scene portion of the investigation is complete, both agencies may issue independent press releases and conduct any press conferences as necessary.

NTSB and USCG agree that an NTSB Board Member will not attend the scene of an investigation led by USCG and that NTSB may hold a public hearing on any casualty that it investigates.

NTSB and USCG agree that USCG may conduct a Marine Board of Investigation on any casualty it investigates, and will generally avoid convening the Marine Board until after NTSB has completed the on scene portion of any NTSB led investigation.

GENERAL PROVISIONS

Close continuing liaison and cooperation will be maintained between the two agencies so that common objectives can be achieved efficiently with cooperation and coordination, so that problems and differences can be minimized and resolved expeditiously. The Chairman and the Commandant agree to meet at least annually to review the previous year's investigations, and to consider improvements to this agreement, the USCG/NTSB joint regulations, marine casualty investigation procedures, status of NTSB recommendations to the USCG, or other matters relating to marine casualty investigations and marine safety.

NTSB will provide to USCG, as resources permit, investigative support for casualty investigations, such as voyage data recorder information retrieval and materials properties analysis, typically conducted by the NTSB laboratory staff. USCG will provide to NTSB, as resources permit, logistical assistance at the scene of a casualty, such as air or water transportation and office facilities. NTSB and USCG agree to establish, sponsor, and conduct joint training opportunities for their investigators with each encouraged to make courses and training facilities available on a reciprocal, no cost basis.

Investigative information is that information obtained or generated for purposes of a casualty investigation. NTSB and USCG agree to share all information, testimony and evidence obtained during marine casualty investigations, consistent with 49 U.S.C. § 1131(a)(3). When investigative information is released to the public, it will be the responsibility of the releasing agency to comply with the provisions of the Privacy Act, the Freedom of Information Act, and associated federal regulations.

USCG will invite NTSB to participate as a member of the U.S. delegation to all IMO meetings where marine safety issues of interest to NTSB are expected to arise, and consult with NTSB in developing the U.S. position at IMO regarding matters related to marine casualty investigation.

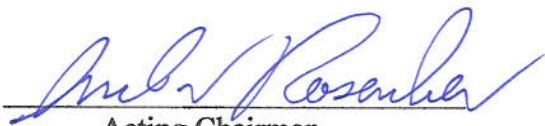
This agreement is authorized under the provisions of 49 U.S.C. § 1131, 49 U.S.C § 1113, 46 U.S.C. § 6301, 46 C.F.R. Part 4. 14 U.S.C. § 93, and 14 U.S.C. § 141.

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

This agreement may be modified at any time upon written agreement of both agencies. Appendices to this agreement may be modified at any time by written agreement of the Chairman of the National Transportation Safety Board and the Commandant of the United States Coast Guard. This agreement may be terminated at any time by either agency by 45-days written


notice to the other party.

Jointly agreed and signed:



Acting Chairman
National Transportation Safety Board
19/Dec/08

(Date)



Commandant
United States Coast Guard
19 December 2008

(Date)

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APPENDIX ONE

SIGNIFICANT MARINE CASUALTY

For the purpose of this Memorandum of Understanding:

Significant marine casualty means a casualty involving a vessel, other than a public vessel, that results in--

- (1) The loss of three or more lives on a commercial passenger vessel;
- (2) Loss of life or serious injury to twelve or more persons on any commercial vessel;
- (3) The loss of a mechanically propelled commercial vessel of 1600 or more gross tons;
- (4) Any marine casualty with loss of life involving a highway, bridge, railroad or other shore side structure;
- (5) Serious threat, as determined by the Commandant and concurred in by the Chairman, or their designees, to life, property, or the environment by hazardous materials;
- (6) Significant safety issues, as determined by the Commandant and concurred in by the Chairman, or their designees, relating to Coast Guard marine safety functions.