



Log M-336

National Transportation Safety Board

Washington, D.C. 20594

Safety Recommendation

Date: March 1, 1988

In reply refer to: M-88-1

Admiral Paul A. Yost, Jr.
Commandant
U.S. Coast Guard
Washington, D.C. 20593-0001

About 1920 central standard time on October 28, 1986, the 615-foot-long Hong Kong bulk carrier PETERSFIELD and a tow of eight tank barges, which were being pushed by the U.S. towboat BAYOU BOEUF, collided on the Mississippi River in Avondale Bend at Twelve Mile Point near New Orleans, Louisiana. At the time, both vessels were proceeding upriver and the PETERSFIELD was overtaking the BAYOU BOEUF tow. The overall length of the towboat and barges was about 1,140 feet. The small U.S. towboat, the HARRY MCNEAL, and a fuel barge, the S-20, were secured on the port side of the tow, and diesel oil was being transferred to barges in the tow. The PETERSFIELD sustained damage to its starboard bow and port side. One tank barge sank, two tank barges capsized and were pushed ashore, and four other tank barges and the S-20 sustained damage. The BAYOU BOEUF and the HARRY MCNEAL were not damaged. Total damage resulting from the accident was estimated to be \$3 million. No one was injured. ^{1/}

Since 1981, the State-licensed pilot who was piloting the PETERSFIELD at the time of the accident has been involved in five other accidents. In four of the accidents, the pilot's performance either caused or contributed to the cause of each accident. The pilot failed to reduce his speed in view of reduced visibility conditions (APHRODITE) and traffic congestion (RAYNA/BEKER and PALM PRIDE), and he failed to provide adequate separation while overtaking another vessel (ARKAS). Further, it is clear that the pilot failed to recognize the danger of collision in time to take action. In one accident, the master of the vessel involved testified that he took over conning the vessel when the pilot ordered hard right rudder shortly before colliding with barges on the vessel's starboard side while the vessel was supposed to be negotiating a left turn in the river (PALM PRIDE). The Safety Board believes that the pilot's accident record clearly indicates a lack of adequate diligence or competence, or both, to pilot seagoing vessels on the Mississippi River.

Early during the investigation, the Safety Board determined that neither the president of the New Orleans-Baton Rouge Steamship Pilots Association (NOBRA) nor the president of the Board of New Orleans and Baton Rouge Steamship Pilot Commissioners (BOC) was aware that the accident pilot had been involved in five other accidents since

^{1/} For more detailed information, read Marine Accident Report--"Collision Between the Hong Kong Flag Bulk Carrier PETERSFIELD and the U.S. Towboat BAYOU BOEUF and Tow, New Orleans, Louisiana, October 28, 1986" (NTSB/MAR-88/01).

1981. The apparent lack of knowledge of the pilot's accident history suggests that oversight by the State of Louisiana over the performance of its State pilots was ineffective or nonexistent. The Safety Board believes that if the State oversight system had functioned effectively, the pilot would have been removed from service or action would have been taken to correct his deficiencies, and the collision between the PETERSFIELD and the BAYOU BOEUF would have been avoided.

Today, nearly all mariners on U.S. flag vessels are licensed or certificated by the U.S. Coast Guard, except for some crewmembers on small vessels. The only mariners operating large vessels who are not required by the Federal government to be licensed by the Coast Guard are State-licensed pilots.

There are about 1,100 State pilots in the United States. Nearly all hold Federal licenses since holding a Federal license is often required by various States and is a Federal requirement for piloting domestic (enrolled) vessels. Today's concurrent system of State and Federal licensing of pilots operating on U.S. navigable waters is confusing and can result in a disparity in the corrective actions imposed on most mariners and those imposed on State pilots. For example, a U.S. vessel carrying cargo from a foreign port or loading cargo intended for a foreign port is operating under registry, and it must employ a State pilot even though the master may hold a Federal pilot license for the port and may operate frequently from the port. If the U.S. master's vessel is involved in an accident while under pilotage by a State pilot, the Coast Guard will take steps to suspend or revoke the master's and/or watch officer's license if the vessel is found to be at fault, even though the action of the State pilot may have directly caused the accident. However, the Coast Guard has no authority over the pilot's State license. Similarly, in the case of a collision in which one vessel is being piloted by a Federal-license holder and the other vessel is being piloted by a State pilot, the Coast Guard will initiate suspension or revocation procedures against the Federal-license holder if the evidence indicates that person was partially at fault. However, the evidence indicates that the Coast Guard lacks any authority to suspend or revoke the license of the State pilot to prevent him from operating even if he was clearly incompetent and caused or contributed to the accident.

The Safety Board believes that if pilots on all vessels were subject to Coast Guard authority, it would be highly unlikely that a pilot whose actions caused or contributed to five serious accidents still would be permitted to continue piloting without some appropriate corrective action being taken. ^{2/} Marine transportation, which involves vessels of increasing size and the carriage of increasing amounts of hazardous materials, requires that pilots be competent and uniformly accountable for their actions. The Safety Board believes that the near total immunity from Federal control enjoyed by State pilots prevents the Coast Guard from carrying out its congressional mandate to ensure safety on all Federal waterways.

The various State pilotage programs usually ensure the availability of pilots who can work cooperatively to facilitate the movement of vessels. The various apprentice pilot programs produce skillful pilots in most instances. However, an apprentice program alone is not necessarily sufficient to prevent persons from becoming pilots who should not be. Nor can an apprentice program ensure that a pilot will always perform properly. Entry into a pilot association, which is a State-protected monopoly, is effectively controlled by the members of the association and usually not by State officials accountable to the citizens of the State. Thus, it is very possible for entry into such apprentice programs to

^{2/} Information available to the Safety Board indicates that the pilot involved in the accident is still piloting and that little corrective action has been taken.

be based on kinship rather than merit or qualifications of the applicant. Regardless of background or affiliation, when pilots do not perform properly or are involved in accidents, their actions should be subject to the same degree of scrutiny as that given to any other U.S. mariner. Accordingly, the Safety Board believes that all pilots should be required to qualify for and operate under a Federal license, the retention of which is contingent upon continuous satisfactory performance.

The Coast Guard has authority to conduct a variety of programs but delegates the management and operation of certain programs, like load line assignment, cargo handling equipment design and testing, and bulk grain loading on oceangoing vessels, to other associations. In accidents resulting in pollution, the Coast Guard monitors the effectiveness of the cleanup operation, and if such efforts are not adequate to protect the environment, the Coast Guard will exercise its authority and take operational responsibility for the cleanup operation. A notable partnership between the Coast Guard and the States is the boating safety program which is managed according to State laws. A similar arrangement could allow the States to continue to train and accredit pilots that the States approve to pilot vessels in foreign commerce. Under such an arrangement, States could continue to set pilotage rates, to have the prerogative of monitoring the performance of pilots accredited by the States, and to take corrective action against State-accredited pilots except for specified reportable accidents and incidents for which the Coast Guard would act pursuant to the administrative procedures for suspension and revocation.

As a result of its investigation of the ramming of the Sunshine Skyway Bridge in Tampa Bay, Florida, by the bulk carrier SUMMIT VENTURE on May 9, 1980, 3/ the Safety Board recommended that the Coast Guard:

M-81-14

Seek legislation to allow the Coast Guard to act against a pilot's Federal license for acts committed while serving under the authority of his State license.

On September 22, 1981, the Coast Guard responded that it:

... concurs with this safety recommendation. Legislation to this effect was considered by the House Merchant Marine and Fisheries Committee in July 1978. At that time, Public Law 95-474, which amended 46 USC 214, was under consideration. (See 78 U.S. Congressional and Administrative News, page 3286, for a complete discussion.) The Committee declined to approve the recommended amendment with the following comment:

It is the present intention of the Committee to review this situation further and to permit proponents and opponents of expanded federal jurisdiction over state licenses to furnish the Committee with the detailed information necessary to make a final evaluation of an appropriate change, if any.

3/ Marine Accident Report--"Ramming of the Sunshine Skyway Bridge by the Liberian Bulk Carrier SUMMIT VENTURE, May 9, 1980" (NTSB/MAR-81/3).

Currently, an amendment to R.S. 4450 which would incorporate safety recommendation M-81-14 is under consideration by the Coast Guard as Item 97-87 in the Coast Guard Proposed Legislative Programs for the Second Session, 97th Congress.

On April 13, 1987, the Coast Guard responded further to the Safety Board, as follows:

The Coast Guard does not concur with this recommendation. The Coast Guard has determined that a legislative initiative is not the proper course of action. The House Merchant Marine and Fisheries Committee declined to take action in July 1978. "States Rights" considerations make such a legislative proposal controversial. As an alternative, the Guard is making greater use of existing penalty procedures, maintaining closer liaison with the state pilot licensing organizations and providing investigation reports to the appropriate pilot licensing organization. Therefore, no further action on this recommendation is anticipated.

The Safety Board has classified Safety Recommendation M-81-14 as "Closed--Unacceptable Action/Superseded."

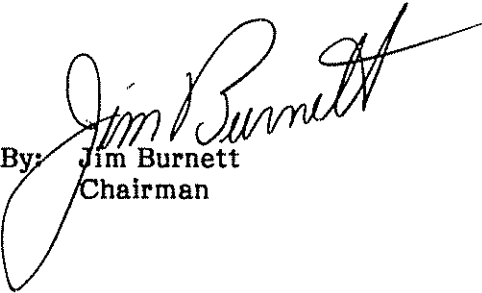
The Safety Board has reviewed carefully the legislative history of State and Federal licensing of pilots and other mariners. During a significant portion of the time when the U.S. Congress displayed support for State control over pilots, the country was young and the Federal government was not in a position to take the responsibility of overseeing domestic pilotage. However, the Federal government's responsibilities under the Commerce Clause of the Constitution have not diminished, and in the Lighthouse Act of August 7, 1797, Congress clearly indicated possible future legislation affecting pilots. In fact, Congress subsequently reduced the scope of State pilotage and for brief periods required nearly all U.S. vessels to be piloted only by federally-licensed pilots. Thus the Safety Board does not believe there is anything in congressional legislative history of State pilotage to preclude Congress from providing to the Coast Guard greater oversight and enforcement authority over State pilots. Accordingly, the Safety Board believes that the Coast Guard should seek legislation to require all pilots of commercial vessels on the navigable waters of the United States to have a Federal pilot's license which would be legally superior to all State-issued documents, licenses, or commissions that a State may continue to employ to accredit those pilots it desires to pilot vessels engaged in foreign commerce. Such legislation would provide the Coast Guard with the greater level of oversight and enforcement authority needed to enhance the level of safety of piloting vessels in the lower Mississippi River and elsewhere in the United States. Also, it would eliminate the unjustified disparity which now exists in the oversight and enforcement of safety regulations for all mariners and pilots navigating commercial vessels on the navigable waters of the United States.

Therefore, the National Transportation Safety Board recommends that the U.S. Coast Guard:

Seek legislation to require all pilots of commercial vessels on the navigable waters of the United States to have a Federal pilot's license which would be legally superior to all State-issued documents, licenses, or commissions that a State may continue to employ to accredit those pilots that it desires to pilot vessels engaged in foreign commerce.
(Class II, Priority Action) (M-88-1)

Also, the Safety Board issued Safety Recommendations M-88-2 through -8 to the State of Louisiana.

GOLDMAN, Vice Chairman, and LAUBER, NALL, and KOLSTAD, Members, concurred in this recommendation. BURNETT, Chairman, did not participate.


By: Jim Burnett
Chairman