

Department of Homeland Security **Office of Inspector General**

Marine Accident Reporting, Investigations, and
Enforcement in the United States Coast Guard





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

MAY 23 2013

MEMORANDUM FOR: Rear Admiral Stephen P. Metruck
Assistant Commandant for Resources and
Chief Financial Officer
United States Coast Guard

FROM: Anne L. Richards *Anne L. Richards*
Assistant Inspector General for Audits

SUBJECT: *Marine Accident Reporting, Investigations, and
Enforcement in the United States Coast Guard*

Attached for your action is our final report, *Marine Accident Reporting, Investigations, and Enforcement in the United States Coast Guard*. We incorporated the formal comments from the United States Coast Guard in the final report.

Based on information provided in your response to the draft report, we consider recommendations 1 through 3 and 5 through 7 open and resolved, and recommendation 4 resolved and closed. As prescribed by the Department of Homeland Security Directive 077-01, Follow-Up and Resolutions for Office of Inspector General Report Recommendations, within 90 days of the date of this memorandum please provide a written update for each open recommendation. Once your office has fully implemented the open recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Mark Bell, Deputy Assistant Inspector General for Audits, at (202) 254-4100.

Attachment



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Abbreviations

CFR	Code of Federal Regulations
CGBI	Coast Guard Business Intelligence
CY	calendar year
DHS	Department of Homeland Security
GAO	Government Accountability Office
INCOE	Investigations National Center of Expertise
MISLE	Marine Information for Safety and Law Enforcement
MSM	<i>Marine Safety Manual</i>
MSU	Marine Safety Unit
NOV	Notice of Violation
OIG	Office of Inspector General
USCG	United States Coast Guard



Executive Summary

The purpose of the investigations program in the United States Coast Guard (USCG) is to ensure the safety of mariners and vessel passengers by preventing marine accidents, protecting the environment from oil spills, and minimizing property loss and disruptions to commerce. The USCG is responsible for identifying, investigating, and enforcing reporting requirements related to marine accidents involving commercial vessels. Our audit objective was to determine whether the USCG has adequate processes to investigate, take corrective actions, and enforce Federal regulations following reported marine casualties.

The USCG does not have adequate processes to investigate, take corrective actions, and enforce Federal regulations related to the reporting of marine accidents. These conditions exist because the USCG has not developed and retained sufficient personnel, established a complete process with dedicated resources to address corrective actions, and provided adequate training to personnel on enforcement of marine accident reporting. As a result, the USCG may be delayed in identifying the causes of accidents; initiating corrective actions; and providing the findings and lessons learned to mariners, the public, and other government entities. These conditions may also delay the development of new standards, which could prevent future accidents.

We made seven recommendations to improve the efficiency and effectiveness of USCG's marine accident investigations and enforcement of reporting requirements. USCG has concurred with all seven recommendations and is implementing corrective actions.



Background

USCG is charged with preventing and responding to major marine accidents. Its Marine Safety Program is responsible for ensuring the safety of tens of thousands of U.S. mariners and millions of passengers on ferries and other vessels. Through the prevention of marine accidents, which minimizes property loss and disruptions to maritime commerce, the USCG also protects the marine environment from oil spills and the introduction of other harmful substances, and strengthens the economy.

The USCG Marine Safety Program accomplishes these goals through a multifaceted approach that includes standards development, compliance enforcement, investigation and casualty analysis, and public outreach. The program is responsible for ensuring the safe and environmentally sound operation of U.S. flagged vessels and foreign vessels operating in U.S. waters. The USCG is the lead Federal agency for operations within the nation's marine transportation system, which consists of 25,000 miles of inland, intracoastal, and coastal waterways. According to the Marine Safety Performance Plan, the majority of the Nation's food, clothing, oil, and other raw materials reach warehouses, stores, and gas tanks through use of the marine transportation system.

The USCG reported that it conducted approximately 6,200 incident investigations for reportable vessel and pollution marine accidents in 2011, using teams of inspections and investigations staff. Inspectors and investigators are required to train extensively, ensuring they have the proper knowledge to conduct investigations after accidents occur. The USCG has extensive training requirements and qualifications related to specific vessel types to ensure its staff has the requisite knowledge to identify accident causes and develop corrective actions to prevent accidents in the future.

This audit was initiated to review both the USCG's process for accident reporting and its personnel who respond to accidents once they are reported. Federal regulations mandate that mariners report marine accidents, including those that involve property damage of more than \$25,000 or injuries requiring treatment beyond first aid. Once an accident occurs that meets these requirements, mariners must immediately notify the USCG and then follow up with a written report of the accident within 5 days. Mariners failing to either immediately notify the USCG or file a written report can be cited with an enforcement action including a written warning, a Notice of Violation (NOV), or a Civil Penalty ranging up to \$35,000. The USCG is responsible for conducting accident investigations, identifying corrective actions that can prevent future accidents, and enforcing accident reporting requirements when mariners fail to immediately notify the USCG of an accident and file a written report.



Results of Audit

The USCG does not have adequate processes or sufficient personnel to investigate, take corrective actions, and enforce regulations related to the reporting of marine accidents as required by Federal regulations and USCG policy. These conditions exist because the USCG has not developed and retained sufficient personnel, established a process with dedicated resources to address corrective actions, and provided adequate training. As a result, the USCG may be delayed in identifying the causes of accidents; initiating corrective actions; and providing the findings and lessons learned to mariners, the public, and other government entities. These conditions may also delay the development of new standards that could prevent future accidents.

Coast Guard Marine Accident Response Personnel

The USCG has not developed and retained sufficient staff to perform inspections and investigations work in response to marine accidents, and does not have a sufficient number of qualified staff to train new inspectors and investigators.¹ In addition, the Director of Prevention Policy provides personnel with career management guidance that suggests they should leave this specialty to improve their promotion potential, because of the USCG's emphasis on personnel attaining a wide variety of experience. Personnel indicated that both investigations and inspections suffer from investing time and money into training people only to have them leave the specialty. The USCG has initiated development of a Human Capital Plan to revamp its career guidance and improve retention, but it has not yet finalized and implemented this plan. The *Coast Guard Authorization Act of 2010*, as amended, allows promotions by specialty in order to encourage retention and continuity to maintain sufficient, qualified personnel. However, the USCG has not implemented these provisions of the Act.

In 2011, the USCG established requirements for inspectors and investigators, which included formal training, on-the-job training, and work experience to ensure that personnel can perform their assigned duties. The USCG's Investigations Division is primarily responsible for conducting investigations into marine accidents. However, according to USCG personnel, inspectors are part of the two-person team that responds to marine accidents. To determine if staff met these requirements, we conducted testing at five sites for inspections personnel and six sites for investigations personnel. Although the USCG has made some progress in training personnel, the majority of inspectors and

¹ Qualifications were established for inspectors and investigators, with new guidance issued in October 2011.



investigators did not meet USCG’s requirements for their assigned positions, as shown in Figures 1 and 2.²

Personnel Meeting United States Coast Guard Qualifications³

Figure 1. Inspections Personnel

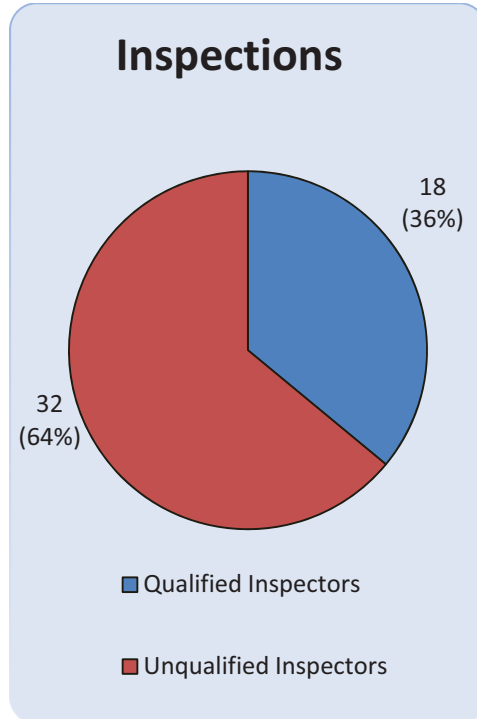
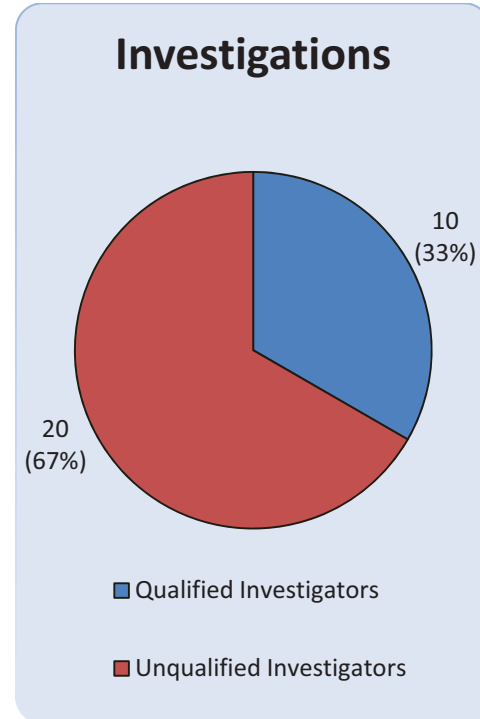


Figure 2. Investigations Personnel



The USCG established an Investigations National Center of Expertise (INCOE) to provide crucial, time-sensitive guidance for a variety of complex investigative issues. Specifically, INCOE personnel provide on-scene support for major marine accidents and assist in certifying the qualifications of local office investigators. However, testing of staff qualifications (see Figure 2) revealed that the majority of INCOE personnel did not meet the USCG requirements to be assigned as investigators. In fact, only two of eight (25 percent) of the investigations staff met those requirements.

According to the USCG, there is a shortage in the number of personnel assigned to inspections positions. This shortage will be further compounded when the regulations implementing the *Coast Guard and Maritime Transportation Act of*

² The USCG has different levels of inspectors, including apprentice, journeymen, and advanced journeymen marine inspectors. Testing results include journeymen and advanced journeymen, positions which require previous inspections experience and qualifications to inspect specific vessels.

³ Qualifications were established for inspectors and investigators, with new guidance issued in October 2011.



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2004, as amended, are phased in, which will expand the inspections workload. The Act requires the USCG to inspect approximately an additional 5,200 traditional towing vessels, 1,800 assistance vessels, and other vessels engaged in towing.

Some local USCG office staff maintain that it is difficult to complete inspections and investigations with current resources. Without sufficient qualified staff, the USCG will not be able to complete future inspections and investigations in a timely manner, which may reduce marine safety.

Corrective Actions

The USCG investigations and inspections processes do not ensure that all investigations and Traveling Inspections corrective actions are addressed and implemented. Corrective actions, in the form of safety recommendations, result from both investigations of marine casualties and reports by the USCG's traveling inspectors—very experienced inspectors stationed at headquarters who visit field units to assist with unique inspections issues. The USCG is unable to ensure that all corrective actions are addressed because it does not have complete processes and dedicated resources to track, review, and implement recommendations for all investigations and Traveling Inspections reports.

According to USCG personnel in charge of the corrective action process, no formal, written instructions or policies exist to ensure recommendations are addressed and implemented. Without a complete process, the USCG risks delays in implementing safety improvements and preventing future accidents.

The USCG's Traveling Inspectors also do not have a process for addressing safety recommendations contained in their reports. They visit local offices to provide assistance on complex inspections issues, such as inspections of complex vessels. Following these visits, they issue reports on their determinations, which include safety recommendations for preventing future inspections issues. After Traveling Inspectors issue their reports, however, they do not follow up with the associated local office or track the implementation of their safety recommendations. According to USCG personnel, each office that requests the Traveling Inspectors' assistance is solely responsible for addressing the report's safety recommendations. We notified the USCG about these deficiencies, and it already has taken action by implementing a process to ensure recommendations are tracked and implemented.



Open Investigations

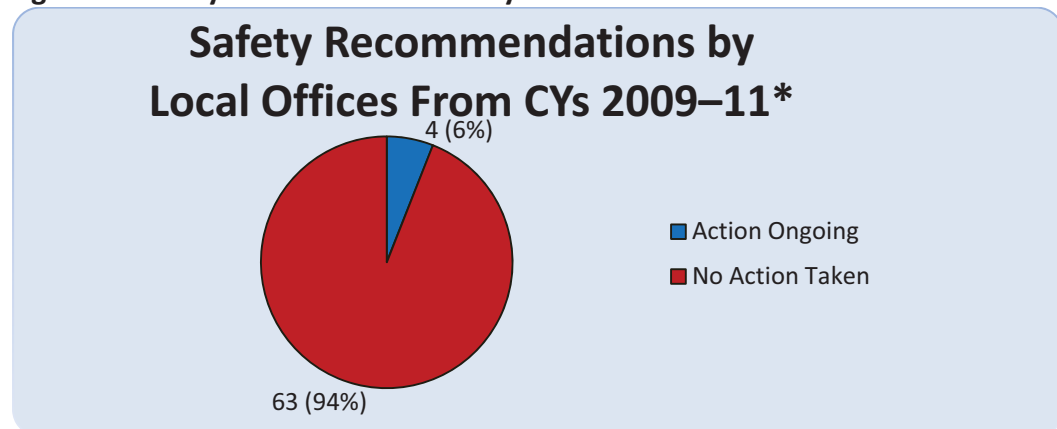
The absence of dedicated resources has caused a backlog of more than 6,000 open investigations, which include safety recommendations that need to be addressed. However, safety recommendations cannot be addressed until headquarters closes the associated investigations. Therefore, USCG will be unable to address these safety recommendations in a timely manner without dedicated resources.

Open Recommendations

USCG policy describes that the purpose of safety recommendations is to propose corrective actions the USCG can implement to prevent unsafe conditions from contributing to future casualties. If corrective actions are not addressed and implemented in a timely manner, preventable marine accidents may occur, resulting in the loss of life or property, injuries, pollution, or unnecessary use of USCG resources.

To assess the USCG’s safety recommendations process, testing was conducted to determine whether it had taken any action on safety recommendations from investigations initiated in calendar years (CY) 2009–11. Review of a judgmental sample of 67 local office safety recommendations indicated that the USCG had not initiated implementation on the vast majority of corrective actions (see Figure 3). Of the 63 recommendations upon which no action has been taken, 49 have been awaiting headquarters review for more than a year.

Figure 3. Safety Recommendations by Local Offices From CYs 2009–11

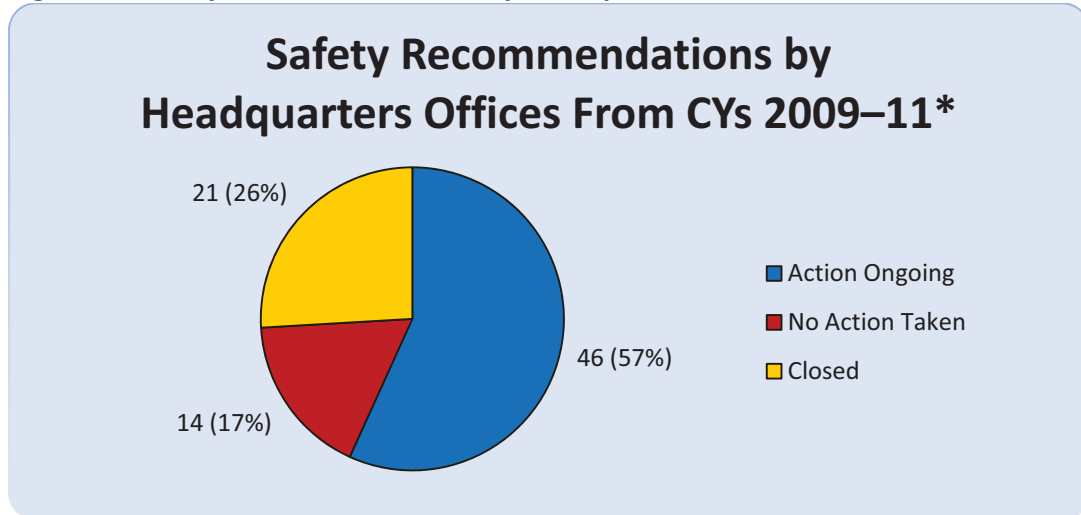


*Recommendations with action ongoing include those with statuses indicating the USCG is currently addressing them. Recommendations with no action taken include those with statuses indicating they are open pending decisions or investigations, were closed by the USCG without action, and have a status of “N/A.”



In contrast, a review of a judgmental sample of 81 safety recommendations that USCG headquarters prepared indicated that it had closed or initiated action on the majority of those recommendations, as summarized in Figure 4. The USCG has done a better job addressing headquarters safety recommendations because the investigations are larger and higher profile.

Figure 4. Safety Recommendations by Headquarters Offices From CYs 2009–11



*Recommendations with action ongoing include those with statuses indicating the USCG is currently addressing them. Recommendations with no action taken include those with statuses indicating the USCG did not concur and those that have no status. Closed recommendations have been completely addressed.

Enforcement

At the local office level, the USCG does not consistently enforce requirements related to reporting marine accidents. According to the *Marine Safety Manual* (MSM), the investigator must provide at least a formal written warning for any violation of marine accident reporting requirements. For more serious offenses, the penalty increases to a NOV, or a Civil Penalty up to \$35,000. Site visits to local offices revealed inconsistencies in how investigators handled enforcement actions. For example, some offices do not always issue written warnings as required, but rather provide verbal warnings that are not documented or tracked. Personnel do this because they believe it is more effective to engage the mariners in a discussion and educate them on reporting requirements. However, the insufficient documentation makes it difficult for USCG to track marine accident history for future enforcement. USCG’s MSM indicates that enforcement actions do not include verbal warnings.

Civil Penalties are one tool available to the USCG investigators to ensure compliance with statutes and regulations. For all violations, “it is imperative that



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penalties exceed the benefits of noncompliance.”⁴ For example, the penalty assessed on an individual or company that has spilled oil must be high enough to encourage the entity to take steps to prevent spills. If the penalty assessed does not exceed the economic benefits of noncompliance, there is little incentive for future compliance. For violations of marine casualty reporting requirements, the USCG Commandant’s Instructions on Civil Penalty Procedures specifically indicate that a violation “warrants the initiation of a Civil Penalty and/or other remedial action.”

When the USCG initiates a Civil Penalty, investigators should comply with case development guidance issued by the USCG Hearing Office. The Hearing Office is responsible for reviewing and making the final determinations on Civil Penalty cases. Guidance issued by the Hearing Office stipulates that a Civil Penalty is not a punishment and that the amount recommended by the local office should be only that which is necessary to achieve compliance and deterrence. When investigators assemble a Civil Penalty case, they must provide evidentiary support for each element of the charged violation(s), and may include evidence of factors that influenced the penalty amount they recommended. A Hearing Officer reviews the case to verify allegations; he or she considers local office recommendations, but makes a determination on the appropriate penalty amount. Hearing Officers consider a number of factors in making a determination on the appropriate penalty, including prior violation history, extenuating or mitigating circumstances, and the gravity of the offense.

USCG guidance requires Hearing Officers to provide the local office with feedback to facilitate the submission of better cases in the future. However, USCG field personnel stated that the Hearing Office does not always provide sufficient feedback. Even though the Hearing Office may also provide general training on the Civil Penalty process and the role of the Hearing Officer, USCG personnel indicated it has done so only once. Providing additional feedback and training to investigations personnel may improve the civil penalty process and case development.

When Civil Penalties are used, those penalties are often reduced. Between CYs 2009–11, the Hearing Office reviewed 66 Civil Penalty cases, which included 81 citations alleging violations of marine casualty reporting requirements. Of the 81 citations reviewed, the Hearing Office found 62 (77 percent) to be proven.

USCG should provide more training to investigation personnel on the Civil Penalties process. The Investigating Officer Course at the USCG Training Center

⁴ Civil Penalty Procedures and Administration, Commandant Instruction 16200. 3A, issued October 16, 1992.



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in Yorktown, Virginia, dedicates only 4 hours of a 4-week course to instruction on the Civil Penalty process. The training center has identified enforcement training as a particular area of weakness. It stated that the administrative enforcement case preparation and investigative process is a vital skill set that USCG personnel need to have to ensure that evidence required to support an alleged violation of law or regulations is properly supported. Currently, the USCG has no formal or informal training process for personnel preparing enforcement cases. As result, this training gap has fostered broad inconsistencies in how these cases are prepared and has had a negative effect on the ability of USCG personnel to exercise investigative and enforcement responsibilities. Therefore, personnel have requested that USCG headquarters consider adding a course geared specifically toward enforcement.

Enforcement actions are the USCG's method of ensuring compliance with marine reporting requirements. Without consistent application of the enforcement requirements, there is no effective deterrent to mariners' failure to report accidents. As a result, mariners may not be reporting marine accidents to the USCG, potentially reducing marine safety. At the same time, many USCG offices proactively seek to make mariners aware of reporting requirements through Industry Days, which are educational outreach events covering a variety of topics. According to one USCG official, one local office has even reached out to area hospitals to make them aware of reporting requirements.

Although the USCG has conducted significant outreach, more needs to be done to ensure compliance with accident reporting requirements. It must properly enforce regulations outlined in statute to enhance marine safety.

Conclusion

The USCG has not developed and retained sufficient staff, ensured all corrective actions are addressed and implemented, and needs to enforce requirements related to reporting marine accidents consistently. As a result, it may be delayed in identifying causes of accidents; initiating corrective actions; and providing the findings and lessons learned to mariners, the public, and other government entities. These conditions may also delay the development of new standards, which could prevent future accidents.



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Recommendations

We recommend that the USCG Assistant Commandant for Resources and Chief Financial Officer implement the following recommendations to improve the efficiency and effectiveness of the USCG's marine accident investigations and enforcement of reporting requirements:

Recommendation #1:

Implement an investigations and inspections retention plan to ensure qualified personnel are retained within the inspections and investigations specialties.

Recommendation #2:

Revise and strengthen its personnel management policies by implementing provisions of the *2010 Coast Guard Authorization Act*, which allows promotions by specialty for marine inspectors and investigators to foster retention and continuity.

Recommendation #3:

Develop a complete process with sufficient resources to review, track, and address all recommendations resulting from investigations reports.

Recommendation #4:

Develop a formalized process with sufficient resources to review, track, and address all recommendations resulting from Traveling Inspections reports.

Recommendation #5:

Provide training and guidance to all investigations personnel on all enforcement options.

Recommendation #6:

Develop Civil Penalty enforcement training guidelines for preparing and supporting Civil Penalty cases for all investigations staff. USCG should consider using officers with previous experience in the Hearing Office to complete this task.



Recommendation #7:

Instruct the Hearing Office to provide feedback in accordance with existing policy.

Management Comments and OIG Analysis

The USCG provided formal comments to our report. A copy of the USCG's response in its entirety is included as Appendix B. The USCG also provided technical comments and suggested revisions to our report in a separate document. We reviewed the technical comments and made changes in the report when appropriate.

The USCG concurred with all seven recommendations, and has formulated plans to implement the recommendations contained in the report. A summary of the responses and our analysis follows.

Response to Recommendation #1: Concur. The USCG has already taken action and is pursuing additional measures. It is currently developing a Maritime Prevention Enhancement Plan that will continue and refine improvement efforts, including a consistent focus on retaining prevention professionals. It expects to complete this plan in fiscal year 2014.

OIG Analysis: The USCG's response addresses the intent of our recommendation. The recommendation will remain open and resolved until we can verify, through review of supporting documentation, that the USCG has completed the development of a Maritime Prevention Enhancement Plan that provides a consistent focus on retaining prevention professionals.

Response to Recommendation #2: Concur. The USCG anticipates establishing policies which allow for the utilization of Enhanced Status Quo, as authorized in the *Coast Guard Authorization Act of 2010*. The USCG expects to initiate its corrective actions during 2014.

OIG Analysis: The USCG's response addresses the intent of our recommendation. The recommendation will remain open and resolved until we can verify, through review of supporting documentation, that the USCG has established policies which allow for the utilization of Enhanced Status Quo, as authorized in the *Coast Guard Authorization Act of 2010*.

Response to Recommendation #3: Concur. The USCG will establish national policy to track all actions on safety recommendations. In the interim, the USCG will develop an aide/tool to assist USCG Headquarters program offices and other



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units in the tracking of safety recommendations for which they are responsible. In the long term, Marine Information for Safety and Law Enforcement (MISLE) and Coast Guard Business Intelligence (CGBI) system functionality will be developed to provide the means to carry out requirements of the national policy. The anticipated implementation date is end of CY 2013 for interim aide tool development and CY 2014 for long-term MISLE/CGBI functionality.

OIG Analysis: The USCG's response addresses the intent of our recommendation. The recommendation will remain open and resolved until we can verify, through review of supporting documentation, that the safety recommendation process has been strengthened based on the interim actions, national policy, and long-term plans.

Response to Recommendation #4: **Concur.** The USCG has implemented a database and process to track, follow up, and address Traveling Marine Inspector Report recommendations. The USCG considers Recommendation #4 closed as of October 2012.

OIG Analysis: The USCG's actions satisfy the intent of the recommendation and it has provided documentation to support full implementation of the necessary corrective actions. The recommendation is closed.

Response to Recommendation #5: **Concur.** The USCG is working to develop an Enforcement Course, which will provide education and training on how to properly investigate and document NOV and Civil Penalty enforcement actions. This course will include violation selection and analysis, casework write-up, and documentation in the MISLE database. The anticipated implementation date is fiscal year 2014, pending the availability of training funding.

OIG Analysis: The USCG's response addresses the intent of our recommendation. The recommendation will remain open and resolved until we can verify, through review of supporting documentation, that the enforcement course has been developed and all investigations staff have received the training.

Response to Recommendation #6: **Concur.** The USCG will ensure the training guidelines for preparing and documenting a Civil Penalty are included in the curriculum developed for the Enforcement Course. Course development includes soliciting recommendations from accomplished performers in the field to include within the curriculum. The anticipated implementation date is fiscal year 2014.



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OIG Analysis: The USCG's response addresses the intent of our recommendation. The recommendation will remain open and resolved until we can verify, through review of supporting documentation, that the enforcement training guide and course has been developed and all investigations staff have received the training.

Response to Recommendation #7: Concur. The USCG's Judge Advocate General will instruct Hearing Officers to provide feedback in accordance with Chapter 2.C of Commandant Instruction MI6200.5A, consistent with their assigned duties. The anticipated implementation date is fiscal year 2014.

OIG Analysis: The USCG's response addresses the intent of our recommendation. The recommendation will remain open and resolved until we can verify, through review of supporting documentation, that the Judge Advocate General has instituted a new instruction requiring feedback to the field on cases reviewed by the Hearing Office.



Appendix A Objectives, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

We conducted this audit to determine whether the USCG has adequate processes for investigating and taking corrective actions following reported marine casualties, and for enforcement of reporting requirements outlined in 46 CFR 4.05-1 and 46 CFR 4.05-10. We conducted site visits to—

Coast Guard Headquarters	Sector Puget Sound – Seattle, WA
Coast Guard Hearing Office – Arlington, VA	MSU Morgan City – Morgan City, LA
Sector Boston – Boston, MA	MSU Chicago – Chicago, IL
Sector Delaware Bay – Philadelphia, PA	Marine Safety Detachment Peoria – Peoria, IL
Sector Houston/Galveston – Houston, TX	INCOE in New Orleans – New Orleans, LA
Sector New Orleans – New Orleans, LA	National Mariners Association – New Orleans, LA
Sector Upper Mississippi River – St. Louis, MO	Three law enforcement agencies – Boston, MA
Sector San Francisco – San Francisco, CA	Two marine industry companies – Boston, MA

We based our site visit selections on marine accident investigation numbers reported in the USCG system, and identified the locations with the largest number of accidents and sites with varying areas of responsibility and waterways. At these site visits, we interviewed employees and officials, made direct observations, and reviewed applicable documents. We also interviewed officials at USCG’s headquarters in Washington, DC.

We performed testing to verify whether marine inspectors and marine investigators had the qualifications, training, and experience required by the USCG to conduct investigations. We identified the USCG’s current Marine Inspector Performance Qualification Standards and Marine Investigations Standards, and conducted testing of all personnel assigned to either a domestic inspector or investigation position at the time of our visit to determine if staff met the standards for their assigned position.



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We conducted this testing at the six sites we visited: Sector Delaware Bay, Sector Houston/Galveston, Sector Puget Sound, Sector San Francisco, Marine Safety Unit Chicago, and the National Center of Expertise.

We performed testing to determine if USCG was reviewing, addressing, and tracking corrective actions identified in investigation reports. We reviewed a judgmental sample of corrective actions identified by the field and corrective actions identified by USCG headquarters from CYs 2009–11. We also performed testing to determine if the field was enforcing accident reporting requirements and if the Hearing Office was upholding field enforcement actions. We reviewed all enforcement actions from CYs 2009–11.

We conducted this performance audit between January and December 2012 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B
Management Comments to the Draft Report




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7501

APR 23 2013

MEMORANDUM

From: 
S. P. Metruck, RDML
COMDT (CG-8)

Reply to: Audit Manager
Attn of: Mark Kulwicki
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To: A. L. Richards
Assistant Inspector General for Audits
Department of Homeland Security (DHS)

Subj: DHS OIG DRAFT REPORT: "MARINE ACCIDENT REPORTING,
INVESTIGATIONS, AND ENFORCEMENT IN THE UNITED STATES COAST
GUARD"

Ref: (a) OIG Project No. 12-027-AUD-USCG, dated March 21, 2013

1. This memorandum transmits the Coast Guard's response to the findings and recommendations identified in reference (a).
2. The Coast Guard concurs with the report's recommendations.
3. If you have any questions, my point of contact is Mr. Mark Kulwicki who can be reached at 202-372-3533.

#

Enclosure: (1) USCG Response



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**UNITED STATES COAST GUARD RESPONSE ON DHS OIG DRAFT REPORT OIG
PROJECT NO. 12-027-AUD-USCG – MARINE ACCIDENT REPORTING,
INVESTIGATIONS, AND ENFORCEMENT IN THE UNITED STATES COAST
GUARD**

RECOMMENDATION AND USCG RESPONSE UPDATES

Recommendation #1: *Implement an investigations and inspections retention plan to ensure qualified personnel are retained within the inspections and investigations specialties.*

USCG Response: Concur with the intent of this recommendation - keeping in mind the Coast Guard has already taken action and has the intention of pursuing additional measures. The Coast Guard implemented a plan to improve competency and capacity in marine inspections and investigations - including specific measures to retain personnel in these fields. The Coast Guard Marine Safety Enhancement Plan (MSEP) issued in 2009 and other action taken since then improve retention in inspection and investigations billets by: establishing apprentice, journeyman and master journeyman tours; providing for back-to-back field tours for officers assigned as inspectors and investigators; requiring investigators to first be qualified inspectors; increasing the number of civilian inspector and investigators in the workforce; and enhancing the inspections and investigations training facilities and curriculum. The Coast Guard also initiated a prevention curriculum at the U.S. Coast Guard Academy to bring new officers into the program, and issued career guides that assist personnel in planning their careers, as well as showing junior officers that repeated tours in inspections and investigation may lead to positions of progressively greater responsibility within the program.

The Coast Guard is currently developing a Maritime Prevention Enhancement Plan (MPEP) that will continue and refine our improvement efforts, including a consistent focus on retaining prevention professionals.

Note that the Coast Guard has closed out the recommendations associated with OIG Report: *Revisions to the Marine Safety Performance Plan and Annual Update Supplement will Facilitate Improved Management* (OIG-11-22).

Recommendation #2: *Revise and strengthen its personnel management policies by implementing provisions of the 2010 Coast Guard Authorization Act, which allows promotions by specialty for marine inspectors and investigators to foster retention and continuity.*

USCG Response: Concur. The Coast Guard anticipates establishing policies which allow for the utilization of Enhanced Status Quo (ESQ), as authorized in the *Coast Guard Authorization Act of 2010*.

In order to utilize ESQ, several actions are being taken:

- (a) Identify each position with a talent need. The initial designation has been completed, and the positions are under continual review. This approach establishes the requirements which each talent area, or specialty, will be evaluated to determine the annual need for ESQ.
- (b) Identify the existing talent available. Approximately 3,900 active duty and 550 reserve officers were assigned officer specialty codes in the summer of 2012. This list requires validation from the officer corps, which will begin when the Officer Specialty Management System policy is published.

Enclosure (1)



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- (c) Establish a means for new officers to earn a specialty designation. Policy and procedures for assigning officer specialty codes are pending approval. Specialty Program Managers have established and documented criteria for earning officer specialty codes.
- (d) Promulgate Polices. Currently, the Officer Specialty Management System Manual is pending approval. The specific selection modification policy is under development.

Once these initiatives are fully implemented, then the Commandant will determine which specialties, if any, to apply the retention capability permitted by ESQ on an annual basis.

As provided in the *Coast Guard Authorization Act of 2010*, ESQ is not specific to the Marine Accident Investigation/Marine Inspector workforce. Needs within this workforce must be evaluated against all workforce requirements of the Coast Guard.

The anticipated implementation date is dependent upon successfully validating assignment of specialty codes for individual officers. OPM will begin sampling data during Promotion Year 2014 to build confidence in data accuracy. Once a reasonable confidence level is achieved, implementation will proceed.

Recommendation #3: *Develop a complete process with sufficient resources to review, track, and address all recommendations resulting from investigations reports.*

USCG Response: Concur. The Coast Guard will establish national policy to track all actions on safety recommendations. In the interim, the Coast Guard will develop an aide/tool to assist USCG Headquarters program offices and/or other units in the tracking of safety recommendations for which they are responsible. In the long-term, Marine Information for Safety and Law Enforcement (MISLE) and Coast Guard Business Intelligence (CGBI) system functionality will be developed to provide the means to carry out requirements of the national policy. The anticipated implementation date is end of calendar year 2013 for interim aide/tool development and calendar year 2014 for long term functionality in MISLE/CGBI.

Recommendation #4: *Develop a formalized process with sufficient resources to review, track, and address all recommendations resulting from Traveling Inspections reports.*

USCG Response: Concur. The Coast Guard has implemented a database and process to track, follow-up, and address Traveling Marine Inspector Report recommendations. The Coast Guard considers Recommendation #4 closed as of October 2012.

Recommendation #5: *Provide training and guidance to all investigations personnel on all enforcement options.*

USCG Response: Concur. The Coast Guard is working to develop an Enforcement Course which would provide education and training on how to properly investigate and document all Notice of Violation and Civil Penalty enforcement actions. This course would include violation selection and analysis, case work write-up, and documentation in MISLE database. The anticipated implementation date is fiscal year 2014, pending availability of training funding.

Recommendation #6: *Develop Civil Penalty enforcement training guidelines for preparing and supporting Civil Penalty cases for all investigations staff. USCG should consider using officers with previous experience in the Hearing Office to complete this task.*



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USCG Response: Concur. The Coast Guard will ensure the training guidelines for preparing and documenting a Civil Penalty are included in the curriculum developed for the Enforcement Course. Development of the course includes soliciting recommendations from accomplished performers in the field to include within the curriculum. The anticipated implementation date is fiscal year 2014.

Recommendation #7: *Instruct the Hearing Office to provide feedback in accordance with existing policy.*

USCG Response: Concur. The Coast Guard's Judge Advocate General will instruct Hearing Officers to provide feedback in accordance with Chapter 2.C of COMDTINST M16200.5A, consistent with their assigned duties. The anticipated implementation date is fiscal year 2014.



Appendix C

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Appendix D

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