



National Transportation Safety Board

Washington, D.C. 20594

October 11, 2017

Louis O'Donnell
ABS Americas Division
Assistant Chief Surveyor
16855 Northchase Drive
Houston, TX 77060

Re: Tech review of the Nautical Operations Group Factual Report

Mr. O'Donnell:

The NTSB investigative team has reviewed all factual comments submitted by the parties as part of the technical review and has decided on a disposition for each one, as reflected below.

All editorial suggestions have been considered and will be incorporated as appropriate.

Best Regards,
Brian Young
Investigator in Charge
National Transportation Safety Board
490 L'Enfant Plaza, S.W.
Washington, DC 20594

Party Comments by email/letter dated: July 18, 2017

NTSB Draft Factual Report for Tech. Review

Page/Line	ABS	NTSB – Disposition of Party Comments
Page 19/l. 1-4	<u>Comment/Addition</u> : Insert after line 4, “The USCG has an oversight function for the approvals granted by ABS on its behalf.”	AGREE. Added as footnote.
Page 22/f.n.’s 38 & 39	<p><u>Comment</u>: Footnote 39 states, “The container buildout section of CargoMax did not have class approval.”</p> <p><u>Requested Addition to footnote</u>: Tote was not required by the regulations to obtain class approval of its shoreside loading programs or sections of the shipboard programs that were not required.”</p>	<p>AGREE. Added.</p> <p>AGREE. Footnote revised consistent with requests.</p>
Page 39/l. 17	<u>Comment/Requested Revision</u> : Insert at ll. 18, “EL FARO had an asymmetrical arrangement based on the distribution of weight along its design centerline. Testimony has indicated that the vessel had a natural starboard list of 2 degrees due to the presence of the ramps along the starboard side. Tote indicated that this natural list was accounted for by the arrangement of cargo or tankage aboard the vessel.”	NOTED; however, Matthews, Rodriguez and Torres MBI 1 testimony was that CargoMax showed a 2-3 degree starboard list when the vessel was even keel. And according to Schilling testimony, ramps “could” cause this list. Further, MSCreport shows TCG to port.
Page 40 /l.5	<u>Requested Revision</u> : After “ ... September 29.”, insert, “There is no regulatory requirement to have any “stability margin” provided the vessel sails in accordance with the Load Line Convention and the EL FARO sailed Jacksonville, Florida with a metacentric height or “GM” in excess of what was required under the governing regulations.”	AGREE. Revised consistent with request.

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<p>Page 40 1.6</p>	<p><u>Correction:</u> The Load Line certificate does not require the owner to furnish the Master with approved stability and loading guidance.</p> <p><u>Requested Revision:</u> “Regulation 10 of the International Convention on Load Lines, 1966, requires the vessel owner ...”</p>	<p>AGREE. Revised.</p>
<p>Page 41/1.3</p>	<p><u>Comment and Requested Revision:</u> Add “allowable” between “vessel’s” and “draft”, and replace “made” with “allowed”. Moving the Load Line mark allows the vessel to operate up to and at the draft associated with the Plimsoll Mark. It did not preclude the vessel from operating at lesser drafts.</p>	<p>AGREE. Wording revised consistent with request.</p>
<p>Page 41/1.3</p>	<p><u>Comment:</u> The T&S booklet is developed based on the current condition of the vessel, which includes the current/relevant Load Line draft. Including references to non-relevant previous freeboard assignments introduces superfluous information that could confuse the Master.</p>	<p>NOTED.</p>
<p>Page 41/1.3</p>	<p><u>Comment:</u> The draft marks were never changed. The Load Line reassignment in 2006 only changed the location of the Load Line (or Plimsoll) mark. Mr. Kucharski made this same mistake in his question (May 20, 2016 Transcript, Page 7 Line 16, which Mr. Gruber corrected in his answer.)</p> <p><u>Requested Change:</u> Delete page 41, ll. 1-3.</p>	<p>AGREE. Revised, not deleted.</p>
<p>Page 43/1.9</p>	<p><u>Comment/Requested Addition:</u> Figures 21a and 21c on pages 42&43 have highlighted sections relating to free surface. The following addition is requested on page 41 at l. 10, “The stability booklet contained a conservative restriction (permitted under NVIC</p>	<p>Yellow highlighting was from another unknown source, not from the NTSB. Added a footnote consistent with the request.</p>

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	<p>3-89) to aid the Master in the calculation of free surface effects when doing the hand calculations. The stability program calculated the actual free surface in accordance with 46 CFR 170.285. Both methods ensured compliance with USCG requirements.”</p>	
<p>Page 44/ll. 8-10</p>	<p><u>Comment & Requested Revision:</u> The NTSB omits any reference to some material facts involving the Damage Control Plan.</p> <p><u>Requested Revision:</u> Accordingly, the following should be inserted at p. 44 l.10: “The Damage Control Plan (“DCP”) is required to be onboard the vessel as per SOLAS. It is, however, not required to be “approved” by ABS or a classification society. As an unapproved drawing, it was up to the OCMI to require the DCP to be placed onboard the vessel in 1993 when the lengthening was made and compliance with the SOLAS probabilistic damage stability regulations became a requirement. As the USCG did not do this, ABS was not required to revisit the USCG’s decision when the vessel entered into the ACP program in 2010. Accordingly, whether the DCP was aboard the vessel on the accident voyage is not known, but the OCMI was to ensure that it was onboard.”</p>	<p>AGREE. Revised consistent with request.</p>
<p>Page 45/ ll. 1-3</p>	<p><u>Comment:</u> Mr. Gruber’s quoted response was in reference to the first half of his statement about a very simplified statement found in most trim and stability booklets. It was not in reference to, nor did Mr. Kucharski’s question include the quote contained on Page 44, Lines 15-10 and Page 45, Line 1.</p> <p><u>Requested Revision:</u> The sentence at l. 1 starting with, “In response to a question...”, and ending with the quoted footnote (FN 73) should be stricken.</p>	<p>AGREE. Will revise with language consistent with request and will revise and footnote with cite to Mr. Gruber’s testimony.</p>

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<p>Page 56/l. 16-19</p>	<p><u>Comment:</u> Class has no inspection role or requirement to survey fixed or portable securing devices. The quote from Mr. O’Donnell as provided in this context is misleading.</p> <p><u>Requested Revision:</u> at l. 18, insert “.” After ... of the fixed securing devices. And then delete“... and ABS had no interest in surveying a repair or weld made to the devices if they were attached to a deck (buttons and D-Rings were attached to the deck.)”</p> <p><u>Insert:</u> Class has no inspection role or requirement to survey fixed or portable securing devices. If the D-Ring is repaired or freed up in the manner described, ABS has no inspection function. If there are welds to the primary structure – the deck to which the D-Ring is attached, then ABS would require certified welders and monitor the repair so far as it effects the primary structure – the deck. It has no class rule or inspections requirement for the portable lashings or portable fittings (shoes), nor does it have any role or requirement to test the lashings, or fixed securing devices. It would monitor a repair of a device from the standpoint of its effect on the primary structure – the deck to which it is secured to.</p>	<p>AGREE with overall request will revise to remove potentially misleading interpretations.</p>
<p>Page 61/ l. 14</p>	<p><u>Comment:</u> The FCC performed the referenced inspection.</p> <p><u>Requested Revision:</u> “EL FARO successfully completed its last survey by the FCC approved technician on January 26, 2015.”</p>	<p>AGREE. Revised.</p>
<p>Page 64 19</p>	<p><u>Comment:</u> Should the reference to January 10, 2017 be revised to January 10, 2015?</p>	<p>AGREE. Revised.</p>

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