

NATIONAL TRANSPORTATION SAFETY BOARD

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 IN RE: :  
 :  
 THE EL FARO INCIDENT OFF : NTSB Accident No.  
 THE COAST OF THE BAHAMAS ON : DCA16MM001  
 OCTOBER 1, 2015 :  
 :  
 ----- :

Interview of: CAPTAIN [REDACTED] [REDACTED]

Thursday,  
January 21, 2016

U.S. Coast Guard Office  
Portland, Maine

BEFORE:

BRIAN YOUNG, NTSB  
 TOM ROTH-ROFFY, Investigator-in-charge, NTSB  
 [REDACTED] [REDACTED] USCG  
 [REDACTED], USCG  
 [REDACTED]  
 MIKE KUCHARSKI\*

This transcript was produced from audio provided by the National Transportation Safety Board.

\*Via Teleconference

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## PRESENT ON BEHALF OF THE INTERVIEWEE:

[REDACTED]

P-R-O-C-E-E-D-I-N-G-S

(1:05 p.m.)

1  
2  
3 MR. YOUNG: The time is 1305 on Thursday,  
4 January 21, 2016. This is Brian Young with the  
5 National Transportation Safety Board. We're conducting  
6 an interview at Coast Guard Headquarters of Captain  
7 [REDACTED] [REDACTED] We're going to go around the room and  
8 introduce ourselves in order for the transcription.

9 CAPT. [REDACTED] This is Captain [REDACTED] [REDACTED]  
10 I'm the commanding officer of the Coast Guard's Marine  
11 Safety Center.

12 LT. [REDACTED] Lieutenant [REDACTED] [REDACTED]  
13 attorney for the witness.

14 CAPT. [REDACTED] Captain [REDACTED] [REDACTED]  
15 I'm the chairman of the Coast Guard's Marine Board of  
16 Investigation (Inaudible) El Faro.

17 MR. O'DONNELL: Louis O'Donnell, assistant  
18 chief surveyor with ABS.

19 MR. [REDACTED] Jeff [REDACTED] U.S. Coast  
20 Guard civilian. I'm the Coast Guard member of the  
21 (Inaudible).

22 LCDR. [REDACTED] Lieutenant Commander  
23 Michael [REDACTED] I'm a traveling marine inspector,  
24 but I'm part of the nautical operations group.

25 LCDR. [REDACTED] Commander [REDACTED] [REDACTED] U.S. Coast

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1 Guard traveling marine inspectors, and I am the Coast  
2 Guard member on the (Inaudible) group.

3 MR. ROTH-ROFFY: Tom Roth-Roffy,  
4 investigator in charge, National Transportation Safety  
5 Board.

6 MR. YOUNG: On the phone?

7 LCDR. [REDACTED] You've got Commander [REDACTED]  
8 [REDACTED] with the Coast Guard, a member of the marine  
9 board of investigation, and on the NTSB's nautical  
10 operations group.

11 MR. YOUNG: Captain, thank you very much for  
12 your time today and just for your acknowledgement that  
13 we are recording this and just want to let you know.

14 CAPT. [REDACTED] Understood, thank you.

15 MR. YOUNG: Thank you very much. Again,  
16 thanks for being here today. If you don't mind just  
17 starting out maybe describing your role with the MSC  
18 and with the ACP program, what your job functions are,  
19 please.

20 CAPT. [REDACTED] Again, this is Captain [REDACTED]  
21 [REDACTED] I'm the commanding officer of the Coast  
22 Guard's Marine Safety Center. I took command of the  
23 Marine Safety Center in April of 2015. The Coast  
24 Guard's Marine Safety Center is the central technical  
25 plan review point for the Coast Guard's marine safety

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1 or prevention program. We have an office of about 70  
2 engineers spread across five different divisions that  
3 deal with hull, machinery, tank vessel and offshore  
4 issues. They deal with tonnage, and then also vessel  
5 security. We have a number of different stakeholders  
6 for the services that we provide. One of the primary  
7 stakeholders is the Coast Guard field units, the field  
8 inspectors that are out there (Inaudible) project is  
9 going through inspection by the local OCMI, the officer  
10 in charge of marine inspection.

11           There's plans that need to be reviewed for  
12 compliance with the regulations. Those plans go to the  
13 Marine Safety Center. The Marine Safety Center then  
14 reviews those plans. The engineers there draft a  
15 response and send it out to the industry and to the  
16 inspectors, and then the inspectors verify it. With  
17 regard to ACP, the Marine Safety Center is the central  
18 technical point for oversight of the plan review work  
19 that's done by authorized class societies on our  
20 behalf.

21           We liaise with the engineering offices and  
22 plan review offices within the different authorized  
23 class societies to oversee the work that they do on our  
24 behalf. On any given year, the Marine Safety Center is  
25 responsible for about 18,000 different plan reviews

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1 come through the Marine Safety Center. About 10,000 --  
2 a little more than 10,000 last year -- go through an  
3 ACS first, an authorized class society first. Our work  
4 is kind of divided into about 8,000 things that we're  
5 directly responsible -- 8,000 different plan reviews  
6 that we're directly responsible, and about another  
7 10,000-11,000 that go through an ACS (Inaudible)  
8 oversight.

9 MR. YOUNG: Could you please define and give  
10 some examples of plan reviews?

11 CAPT. [REDACTED] Sure. The regulations set  
12 out a number of things that are required to be  
13 reviewed. It could be general arrangements. It could  
14 be structural fire protection. It could be electrical,  
15 one-line diagrams, stability, structures, cargo  
16 containment, those types of things.

17 MR. YOUNG: Would that be on new  
18 construction vessels or vessels that are entering into  
19 ACP?

20 CAPT. [REDACTED] Any time a vessel needs to be  
21 inspected and there's plans that need to be developed  
22 as part of that, whether it's a modification or new  
23 construction or reflag or any of that, any time that  
24 there's plans generated and they need to be reviewed,  
25 it gets done at the Marine Safety Center, so it's not

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1 specific to just new or modifications.

2 MR. YOUNG: Typically, if there was a  
3 modification done to a vessel, the drawings and the  
4 plans would come through either the ACP first, and then  
5 through the Marine Safety Center, and your department  
6 would actually look through the drawings and ensure  
7 that they were meeting all the current regulations?

8 CAPT. [REDACTED] It's a little bit different  
9 than what you just stated, but the idea is similar. If  
10 the vessel's not enrolled in ACP and is undergoing a  
11 modification or is undergoing new construction, then  
12 what typically happens is the naval architects or the  
13 yard or the owners that are involved in the project or  
14 the engineers understand what plans they have to submit  
15 to the Marine Safety Center for review, in order for  
16 their project to get certificated.

17 The industry folks will submit their plans  
18 to the Marine Safety Center for these vessels that are  
19 under review. We take action to review those plans.  
20 We write a letter. We send it back to the submitter.  
21 We copy our field inspector, and they will take action  
22 at the field level to verify that those plans comply.

23 Under ACP, what happens is if the vessel is  
24 enrolled in ACP, then the authorized class society is  
25 responsible for doing that plan review, and then we

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1 choose what, if anything, we oversee or conduct  
2 oversight on for those plan review activities. We have  
3 an internal process that's set up to identify -- to  
4 ensure that the class societies are notifying us when  
5 they've done work on our behalf for us to review the  
6 work that's been done on our behalf and identify and  
7 select what work we want to oversee or conduct  
8 oversight on, and then to ensure that once we've made  
9 that selection, we actually get those plans that we  
10 conduct oversight on. Then we do our review, and then  
11 communicate that review back to the authorized class  
12 society. That's the way that process works when it  
13 happens.

14 MR. YOUNG: Is that a sampling of plans that  
15 are reviewed?

16 CAPT. [REDACTED] It is a sampling of plans  
17 that are reviewed. As I mentioned, 2014, for example,  
18 I think we had a little over 10,000 notifications from  
19 authorized class society of different plans that were  
20 reviewed on our behalf. We selected just about 4  
21 percent of those plans and conducted review on those  
22 plans.

23 The notification that we get from the  
24 authorized class societies, there's not a straight  
25 correlation between their notification and how we



1 divide up our work. We converted those -- I think it  
2 was about 470 and some notifications last year. We  
3 converted that into about 680 activities that we're  
4 responsible for. The activities to notifications just  
5 differ based on how we track our work internally for  
6 our accounting of staff hours and things like that.  
7 When we identify discrepancies -- I guess when we  
8 select something for oversight, we can either do no  
9 oversight on it -- and we could come up with a finding  
10 of no oversight for a number of reasons. This process  
11 is somewhat manually intensive, in that the engineers  
12 at the authorized class society that do the review,  
13 they put into a spreadsheet what they've done on our  
14 behalf.

15           That spreadsheet has a limited snapshot of  
16 information. It's got categories of what subchapter,  
17 what project, that kind of thing, what vessel. But  
18 when we actually get those plans, it might be a  
19 detailed issue that's not subject to our review. It  
20 might be dealing with material specifications that are  
21 outside the scope of our review, per the regulations.  
22 That would be a case where we do no oversight once we  
23 get the plans. Or we could have oversight with no  
24 findings, or oversight with findings. Then with  
25 findings, there's two categories of findings.

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1           There's non-conformities and major  
2 non-conformities, the difference being the severity of  
3 the issue that's been identified. When we identify  
4 non-conformities, we've instructed our staff that the  
5 first thing to do is pick up the phone and talk to the  
6 staff engineer or the engineer at the class society to  
7 make sure that before we send out a non-conformity that  
8 we understand what the review has done, how they did  
9 the review. We've got all the information that we need  
10 to support that finding. Then after they've talked to  
11 them on the phone, then if it's a non-conformity, then  
12 we issue a non-conformity to class society that goes  
13 into a database that we track, they track, and we  
14 follow it through in the process until it's been  
15 resolved. In some cases, it involves changes to their  
16 processes and procedures. In some cases, it involves  
17 corrective action on the vessel (Inaudible) vessels,  
18 themselves.

19           MR. YOUNG: How are your engineers selected  
20 and trained at the Marine Safety Center?

21           CAPT. [REDACTED] Like I mentioned, we have  
22 about 70 staff. That includes office assistants and  
23 some vessel security contractors, as well. We probably  
24 have about 60 engineers on staff. They're a mix of  
25 civilian and active-duty folks. The overwhelming

1 majority have master's degrees in engineering, many  
2 have professional engineering licenses.

3           We have a qualification process in place for  
4 our staff engineers. Obviously through our civilians,  
5 we look for people that are experienced, may have  
6 merchant mariner background or understanding of the  
7 industry or deep understanding of the discipline. In  
8 our active-duty workforce, we may get folks with  
9 experience as inspectors, and we may get folks that  
10 have no experience in inspectors, just Coast Guard  
11 officers maybe were an engineer or a deck watch officer  
12 on a ship, and then went to grad school. We have a  
13 wide variety of staff that come in at different  
14 experience levels. What we want to do is make sure  
15 that before they take final action on a plan, they have  
16 the necessary training and experience to do that.

17           We have a couple different ways by which we  
18 get at that. First is a qualification process for the  
19 review of certain plans, so they'll go through a  
20 professional qualification standard, internally develop  
21 material based on expertise, this is what you need to  
22 know in order to be able to review and sign off on  
23 these plans. Then they'll go through a board of  
24 qualified people at the unit, and then they will be  
25 qualified and able to review the plans.

1           We also try and get at that by doing a  
2 quality assurance review at different steps in the  
3 process. When a plan comes in, it gets assigned to a  
4 staff engineer. Before that plan goes out, there's a  
5 branch chief that may have between three and eight  
6 staff engineers working for him that does quality  
7 review on that submission, or some of our branches have  
8 a peer review process before it gets to the branch  
9 chief, where you're either doing your own review, or  
10 you're doing peer review on your peers. But then the  
11 branch chief is ultimately responsible to ensure that  
12 the quality of the submission -- it's been done  
13 properly. They sign out a letter in the majority of  
14 the cases for the letters that are going out to the  
15 industry or to the submitters and say what needs to get  
16 done.

17           We have fits and starts on tracking and  
18 training those qualifications and all the different  
19 skills and specific classes that they should have in  
20 order to do it. We have a program under development to  
21 continuously improve that, but the core of it is the  
22 basic qualification board that they go through, the  
23 peer review, the branch chief review to oversee the  
24 work that they're doing.

25           MR. YOUNG: Does the staff and the engineers

1 rotate through, or once they're at MSC, do they kind of  
2 stick --

3 CAPT. [REDACTED] Yes. No, they absolutely  
4 rotate through. First of all, our civilians can  
5 obviously come and go as market demands dictate and  
6 their personal lives dictate. The military staff are  
7 there for about three to four years. They get a  
8 special -- if they have an advanced degree and they've  
9 been at the Marine Safety Center or they've been at the  
10 headquarters policy shop or at one of our national  
11 centers of expertise that deals with technical work,  
12 they get a special designator assigned to them, so then  
13 they're eligible to come back for branch chief or  
14 division chief or command (Inaudible) positions later  
15 on in their career. There's a standardized program  
16 that's run by the Coast Guard's Force Command that  
17 provides that officer a specialty designator that  
18 associates them with this program and allows us to  
19 track them.

20 MR. YOUNG: That's a very nice overview of  
21 plans review, but we'll go around the room, while we're  
22 on this topic, if anyone else had any questions.  
23 Captain?

24 CAPT. [REDACTED] I don't have any questions.

25 MR. YOUNG: Lou?

1 MR. O'DONNELL: No further questions.

2 LCDR. [REDACTED] Captain, Lieutenant  
3 Commander [REDACTED] Just to clarify for everybody on  
4 a couple things. Captain, does your office have any  
5 supplemental guidance, work instructions, or tactical  
6 notes that are internal to your office for the purpose  
7 of the ACP reviews?

8 CAPT. [REDACTED] Sure, we do. Externally, we  
9 have a marine technical note, MTN-0403. It's available  
10 on our website, Marine Safety Center Technical Note  
11 0403. It's available on our website. It describes how  
12 we do oversight. Internally, we have a business  
13 procedure, BP-10, that describes the process by which  
14 oversight is selected, acted on, and tracked through  
15 resolution of any issues. Then when you get down into  
16 an individual system, we have work instructions for the  
17 staff on how to review a CO2 system, how to review an  
18 engineering one-line diagram. Many of those are on the  
19 website, as well. They're plan review guides.

20 LCDR. [REDACTED] Just another question,  
21 Captain. How long have the ACSs, such as the American  
22 Bureau of Shipping, been performing delegated functions  
23 on the Coast Guard's behalf for plan review?

24 CAPT. [REDACTED] If we're talking about ACP,  
25 since just prior to 1995. I guess there were some

1 pilot programs before NVIC 295 was published. If we're  
2 talking about ABS, in particular, they had the  
3 authority to do other work on our behalf prior to 1995.

4 First of all, they had the authority to  
5 issue Load Lines on the Coast Guard's behalf, dating  
6 back to the early '80s. They had the authority to do  
7 plan review to the C.F.R. regulations for U.S. flag  
8 vessels under NVIC 1082, dating back to a little prior  
9 to 1982. Then they've had the authority to do  
10 stability reviews on the Coast Guard's behalf, I think  
11 the first one was NVIC 384, but superseded by NVIC 397.  
12 There's a number of different delegated authorities to  
13 the parties (Inaudible).

14 LCDR. [REDACTED] Another question. You  
15 mentioned, Captain, that sometimes when you do  
16 oversight of one of the ACS plan reviews, that when you  
17 bring it over to your office, then you have to split it  
18 up differently. I assume that's due to organization  
19 differences between ABS technical and the Marine Safety  
20 Center. Can you maybe talk about what those  
21 differences are and if they cause any problems for the  
22 ACP program?

23 CAPT. [REDACTED] I don't know that I have a  
24 good specific example of that, [REDACTED] Obviously, our  
25 business practices have emerged for different needs.

1 We came up with a way of classifying plans to be able  
2 to track our workload and manage our staff hours. It's  
3 different than what ABS uses. It's different than what  
4 DNVGL uses.

5           It's different than what Lloyd's Register  
6 and others use. In terms of how that affects our  
7 review, there are probably times when an authorized  
8 class society may have an offshore division looking at  
9 the majority of a project, and they're handling several  
10 of the issues, the hull issues, some of the machinery  
11 issues, some of the electrical issues. When it comes  
12 in, we've divided our work up into technical expertise.  
13 So maybe from time to time, the electrical folks have  
14 to deal with somebody else within the authorized class  
15 society organization, other than the electrical people  
16 that they're typically dealing with, but I don't have a  
17 good example that comes to mind of when that happens.  
18 It's about folks' familiarity with each other is maybe  
19 where some of the (Inaudible) points are, or the  
20 familiarity of a class society reviewer with our folks.

21           LCDR. [REDACTED] (Inaudible) one more  
22 follow-up, Lieutenant Commander [REDACTED] again. As  
23 far as the oversight of the ACS, as you mentioned the  
24 ability to issue non-conformities. Can you share with  
25 us any metrics or trends on the performance of the ACS

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1 with regard to receiving non-conformities and discuss  
2 whether that has had an ability to turn around the ACS  
3 on some plan review admissions?

4           CAPT. ██████████ As I mentioned, if you look  
5 at the total scope of the work that the Marine Safety  
6 Center's responsible for, it's about 18,000 plans per  
7 year, about 10,000 of those go through an ACS  
8 beforehand. We select, on average, about 4 percent or  
9 so of those. What we have found in the last two years  
10 is we've probably -- we've found non-conformities on --  
11 I think in 2014, I think it was around 38 percent of  
12 what we selected we found some comment on that. In the  
13 year prior to that, maybe it was in the 20s or so.  
14 Those trends are driven, in part, by a couple  
15 significant projects, where multiple non-conformities  
16 were issued, or by a particular issue which was spread  
17 over a number of vessels that caused a number of  
18 non-conformities to be issued. I think one vessel  
19 accounted for 92 of the observations -- roughly 92 of  
20 the observations on conformities -- or 92 of the  
21 comments.

22           I don't know what the breakdown, off the top  
23 of my head, between non-conformities and observations  
24 were, but 92 of the comments were due to one vessel in  
25 the year 2014. In the year 2015, 84 of the

1 non-conformities were due to one issue spread on 84  
2 different vessels. What I would say to that is that we  
3 select a very small number of the overall work that's  
4 done. We're only able to perform an oversight on a  
5 very small number of it -- a small amount of that.

6           We do have a risk-based process for focusing  
7 in on what we want to oversee. So on the one hand, we  
8 are targeting higher-risk issues, and those risks -- in  
9 our risk-based process, those could be identified  
10 either by areas that were having problems, the classes  
11 that we've detected problems with in the past, or they  
12 could be just vital safety systems, life saving, fire  
13 safety, that kind of stuff. That's what drives our  
14 risk-based targeting. We're selecting a very small  
15 number. We've seen a sizable number of problems that  
16 have broken down on it and have generated  
17 non-conformities. The work to get the class societies  
18 to address those non-conformities has generally been  
19 effective. We've put them into the process, and we get  
20 updated plan review sheets that they have, or they  
21 update their internal processes to address those, or  
22 they've taken corrective action and we're tracking  
23 through the corrective action that's taken onboard the  
24 vessels. We're looking at a small number. We're  
25 seeing error bars on that small number that we're

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1 looking at.

2 LCDR. [REDACTED] Captain, just a follow up  
3 on that. That does seem like a large number. Have you  
4 seen a trend due to the non-conformity system to  
5 decrease that percentage over the years, or has it  
6 remained high like that?

7 CAPT. [REDACTED] When I talk about the  
8 non-conformities, it's only the last three years of  
9 data that I'm talking about. I don't know what Marine  
10 Safety Center's non-conformity rate or the ACS error  
11 rate or non-conformity rate was seven years ago. We  
12 have been looking at it closely for the last three  
13 years.

14 (Inaudible.)

15 LCDR. [REDACTED] [REDACTED] [REDACTED] Captain, with  
16 regards to ACP vessels, is there any circumstance where  
17 modifications would be made to the vessels or  
18 alterations could be made that would require or trigger  
19 class to review that modification and not have that  
20 plan submitted to MSC for review?

21 CAPT. [REDACTED] I think to the first part of  
22 your question, so if modifications made to a system  
23 onboard the vessel, it affects class, SOLAS, or the  
24 supplement, in terms of the regulations, then they're  
25 absolutely responsible to review those plans and that.

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1 They're also responsible to notify us that they have  
2 conducted this review. We took a closer look at  
3 notifications starting two years ago, and we found that  
4 there was a pretty big gap in the time from when they  
5 took their action to when they notified us. So we put  
6 a lot of effort into shrinking down that gap of the  
7 time from notification -- or the time from work done to  
8 notification.

9 I think two years ago, it was around 70  
10 days. Now it's under 14 days, probably under ten days,  
11 I think. Then we also identified, as we started  
12 looking -- we also identified things where we've  
13 requested it, but because of their processes, our  
14 processes, we didn't have any record of getting it, so  
15 we wanted to make sure that we didn't run into those  
16 problems again. Within the last three years, we put a  
17 process in place so that every time something's  
18 requested, it goes on their backlog, it goes on our  
19 backlog, and we track that thing through until we've  
20 got it and logged it out. There shouldn't be a case  
21 today where they've taken action on our behalf and they  
22 haven't notified us under the policy. Under the  
23 responsibility that they have under NVIC 295, they're  
24 required to notify us when they've approved plans on  
25 our behalf.

1           But we don't have a definitive check and  
2 balance in place to ensure that happens at the Marine  
3 Safety Center because our eyes and ears on the ground,  
4 so to speak, are the field inspectors, the OCMI that's  
5 out there making sure that this process is working,  
6 too. Other ways where we might trap errors is if we're  
7 working on a vessel, we notice -- we get plans in one  
8 area, we don't get plans in another area.

9           That might prompt us to call the ACS and  
10 say, "I notice you've made this modification to the  
11 cargo hold, but you haven't submitted any plans  
12 regarding this. Have you done any of the work?"  
13 There's unknown unknowns out there, I guess is the way  
14 to put it. We don't know that they did -- the area  
15 that is, I think, our weakest, in terms of the  
16 oversight, is we don't know the plan that was reviewed  
17 on our behalf that they never told us about. We don't  
18 have a way of finding that out.

19           LCDR. ██████ But in a perfect world, they  
20 should tell you about all things (Simultaneous  
21 speaking)?

22           CAPT. ██████ By the policy, absolutely.

23           LCDR. ██████ Is there any circumstance,  
24 Captain, where, at the local level, a plan review would  
25 take place from the Coast Guard, from the OCMI or from

1 a marine inspector (Simultaneous speaking) approve  
2 something submitted to them by class?

3 CAPT. [REDACTED] Again, all different  
4 subchapters, absolutely, plan review happens at the  
5 field level. So there are cases where plans could be  
6 reviewed and approved at the field level, and there are  
7 requirements -- fire control plan's a good example of a  
8 plan that's reviewed and approved at the field level.  
9 Did that get at your question?

10 LCDR. [REDACTED] Yes, sir. Within the realm of  
11 ACP, is there any circumstance where anyone other than  
12 an ACS would review a plan or a PE (Phonetic) outside  
13 of ACS, or somebody in the local level would do it?

14 CAPT. [REDACTED] If that happened, under ACP,  
15 the ACS is still responsible for approving that plan on  
16 behalf of the Coast Guard. We do have a program where  
17 we recognize the licensure that goes with becoming a  
18 professional engineer, NVIC 1092, and under NVIC 1092,  
19 a licensed professional engineer can submit a plan to  
20 the Coast Guard or to an ACS, and the ACS can -- or  
21 class societies can also use NVIC 1092 to submit stuff  
22 to us, but the responsibility for approving the plan  
23 still rests with the Coast Guard under NVIC 1092, or if  
24 a NVIC 1092 submission went into the ACS and the ACS  
25 was acting on our behalf, it would still rest with the

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1 ACS to approve the plan.

2 LCDR. [REDACTED] Thank you. I'm good.

3 MR. ROTH-ROFFY: Tom Roth-Roffy, NTSB, just  
4 a few follow-up questions. Going back to your  
5 statistics that you provided earlier, I believe you  
6 said 18,000 (Inaudible) reviews, which 10,000 go to ACS  
7 first, of which -- of those 10,000, you do a 4 percent  
8 (Inaudible) you mentioned the number of notifications  
9 and activities. You've discussed your selection matrix  
10 for which plans you review and the number of  
11 non-conformities. What about major non-conformities?  
12 You haven't mentioned those as a percentage of the  
13 total number of errors (Inaudible).

14 CAPT. [REDACTED] I don't have those off the  
15 top of my head, Tom. That's something that we could  
16 provide if --

17 MR. ROTH-ROFFY: (Inaudible.)

18 CAPT. [REDACTED] I know we would have the data  
19 for the last three years. Prior to that, I'm not sure  
20 how accessible the data information would be.

21 MR. ROTH-ROFFY: If I understand correctly,  
22 of the 4 percent of the plans you've selected, of the  
23 ones you reviewed (Inaudible) finding between 20 and 38  
24 percent have errors?

25 CAPT. [REDACTED] In the last two years.

1 MR. ROTH-ROFFY: In the last two years.  
2 You've implemented some procedural changes to reduce  
3 that, right? What about the other 96 percent of the  
4 plans that you don't review? Can it be assumed that  
5 you would have similar error rates, non-conformity  
6 rates on those?

7 CAPT. [REDACTED] That's a difficult assumption  
8 to make because we do a targeted review of what we want  
9 to select and not all reviews and plans are created  
10 equal. For several years, now several decades, class  
11 has really been an expert in structural reviews. The  
12 level of knowledge and rule base that was developed has  
13 really derived from the work that class has done, as  
14 opposed to the Coast Guard. That would be a system  
15 where we might not find the same level of errors in  
16 that. In things that are maybe not inherently part of  
17 class, maybe they're just part of the supplement or  
18 part of SOLAS rules with flag state, with U.S.  
19 interpretations, or part of the C.F.R., in the case of  
20 1082, that might be an area where the error rate might  
21 be higher because of the need to train and for us to  
22 make sure that we're communicating the right standard,  
23 for the class society to make sure that they're  
24 training and holding the reviews accountable to that  
25 standard. I'm not so sure that you could say that it's

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1 a comparable error rate across all areas, but it's an  
2 unknown.

3 MR. ROTH-ROFFY: It's an unknown. That's  
4 what I was going to say. You really don't know. You  
5 say you've got some kind of a selection process to pick  
6 the ones that were most important to you, but you do it  
7 in 4 percent of the total number. What percent of the  
8 critical ones do you do? Is it half of them, or is it  
9 lower, if you understand the question?

10 CAPT. [REDACTED] I think I understand the  
11 question. I don't know the statistics on that. That  
12 is not something that we track in that way.

13 MR. ROTH-ROFFY: (Inaudible) perhaps I'm not  
14 asking the question properly. If you have 10,000 plans  
15 that are reviewed under the ACP by the ACS, maybe 500  
16 of them are in this critical safety area. What  
17 percentage of that 500 (Simultaneous speaking)  
18 understanding the question.

19 CAPT. [REDACTED] Sorry, that was my  
20 understanding of the question. Let's say for a moment  
21 that we identified a CO2 system as a critical area.  
22 The question is what percentage of CO2 systems are we  
23 reviewing? In our risk-based approach, we don't have  
24 any hard and fast targets for how many systems -- how  
25 many plans that we need to pull or how many systems of

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1 a particular type that we need to pull. We don't track  
2 how many of the high risk areas we have pulled. We  
3 could go back and reverse engineer an answer to that  
4 question because we have all the notifications what the  
5 systems were. We have what we pulled, but I've never  
6 looked at that metric.

7 MR. ROTH-ROFFY: Continuing on with these  
8 errors or non-conformities and the process, could you  
9 talk more about what sort of changes you've made to the  
10 process to improve or reduce the error rate?

11 CAPT. [REDACTED] Yes. My focus is on the plan  
12 review. The error rate that we're talking about is  
13 dealing with plan review. You talked with Captain  
14 [REDACTED] earlier today, so I just want to separate those  
15 two programs a little bit. We're both operating under  
16 the same NVIC, but we're executing a little bit  
17 different responsibility. There are a number of things  
18 that we've done to improve our oversight of ACS. First  
19 is getting better control over the data and the  
20 information. If you went back to the late '90s, into  
21 the early 2000s, we were actually getting hard copies  
22 of the plans that were reviewed and approved on our  
23 behalf. Just stacks of plans would be coming in to the  
24 unit on a regular basis. Then the process between  
25 entering those into some sort of tracking system or

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1 entering them into a record-keeping system was not as  
2 easy as it is today with the controls that we can put  
3 in place.

4           Around 2007 time frame, we worked to put an  
5 improved notification system in place, and selection  
6 system, so that we could make sure -- again, make it  
7 easier for the ACSs to notify us of work done on our  
8 behalf and make it easier for us to track the results  
9 of that. We put out an instruction to them, NTN-0403  
10 talks about it, as it's been updated to talk about it.  
11 They put together a spreadsheet, and they put all their  
12 information in the spreadsheet.

13           Once that spreadsheet comes in, we have an  
14 oversight coordinator that takes that information and  
15 manipulates into a way that our database can handle it  
16 and farm it out to everybody to do their work. At each  
17 step of the way, it tracks that information. Now the  
18 gaps that we've been trying to close, and that we have  
19 closed over the last few years, is the gap from  
20 notification to -- or from completion of work to  
21 notification to selection to action taken on it, so  
22 shrinking down that time. That's a big part of making  
23 sure when we do take action, we have a better handle  
24 over the work that's done. Then the other part of that  
25 tracking process, by automating that system and by

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1 having the better recordkeeping, we've also been able  
2 to, when we identify non-conformities, track them  
3 through to completion.

4           Then I think what your other question -- or  
5 what maybe the meatier question was getting to is  
6 what's happening on that back end? You've identified  
7 something. What are some of the steps that have been  
8 taken to resolve it? First thing is we meet quarterly  
9 with the ACSs to review their performance and discuss  
10 problems that have come up either through the  
11 non-conformities, or just through communications. We  
12 have a quarterly meeting with them to go over their  
13 performance and statistics.

14           We do staff exchanges, so that our staff  
15 engineers go on site to the class societies and work  
16 for a week, so that they can better understand how we  
17 do our work, we can better understand how they do their  
18 work. We bring the class society reps -- I don't think  
19 we did any last year. I might be wrong about that,  
20 though. We bring a class society rep into the Marine  
21 Safety Center, do a similar staff exchange. When it  
22 gets to a specific issue, all the class societies have  
23 processes by which they manage their business and  
24 corrective actions are identified and reviewed by the  
25 appropriate person and resolution is taken. That's all

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1 part of their overall quality management system. What  
2 we have strived to do is make sure that our issues get  
3 input into their quality management system, and we see  
4 some tangible result out of their quality management  
5 system before we close our issue.

6 So in some cases, these non-conformities  
7 might just be resolved by updating their instructions  
8 to their engineers. In other cases, like I said, it  
9 involves making modifications to the vessel, so we have  
10 gone through -- where it's the first case, once we get  
11 -- their quality management system provides feedback  
12 that says, "This is how we've updated our plan review  
13 guides to address this issue," we close it out on our  
14 end. If it involves modification to the vessel, once  
15 we get our inspector out there or notification from the  
16 surveyor that it's been addressed on the vessel, then  
17 we close it out on our end. Does that help?

18 MR. ROTH-ROFFY: Yes, very much, thank you.

19 CAPT. [REDACTED] Does that answer your  
20 question? Okay.

21 MR. ROTH-ROFFY: I think I just have one  
22 more. (Inaudible) any process at the MSC to audit the  
23 ACS, their plan review processes?

24 CAPT. [REDACTED] We don't conduct formal  
25 audits of the ACS. We get insight into their quality

1 processes through our oversight work. Then as we track  
2 through resolution of non-conformities, we get insight  
3 into their quality management system, as well, but we  
4 don't conduct audits of the ACSs.

5 MR. ROTH-ROFFY: How do you capture these  
6 insights and record it as a learning (Inaudible)? Do  
7 you have some sort of an internal process to track  
8 performance? I know you (Inaudible) quarterly, but do  
9 you have reports that you generate internally to  
10 (Simultaneous speaking)?

11 CAPT. [REDACTED] Absolutely. We have the  
12 metrics that we track. At the quarterly basis, we  
13 review the metrics. "This is how many plans you  
14 notified us on. This is the number of notifications  
15 that we received. This is the timeliness of those  
16 notifications. This is what we selected. These are  
17 the results of those findings." Then we look at last  
18 quarter we identified these problems, and then the  
19 managers each report on what they're doing to resolve  
20 those problems. My engineers report on how that  
21 process is going, and that's done. For the last two  
22 years, the Marine Safety Center's also produced an  
23 internal oversight report that describes to internal  
24 Coast Guard leadership what's been going on with the  
25 process.

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1 MR. ROTH-ROFFY: If we're interested in  
2 seeing some of those reports, those oversight type  
3 performance reports (Inaudible)?

4 CAPT. [REDACTED] The Marine Safety Center's  
5 annual oversight report for the last two years.

6 MR. ROTH-ROFFY: That would be okay to ask  
7 for that?

8 CAPT. [REDACTED] Sure.

9 MR. ROTH-ROFFY: Okay, thank you. That's  
10 all I have, Brian.

11 MR. YOUNG: [REDACTED] [REDACTED] on the phone.

12 LCDR. [REDACTED] No, I don't have any  
13 specific questions on this topic.

14 MR. YOUNG: Okay, thanks. We'll go around  
15 the room again. I think Lou has something.

16 MR. O'DONNELL: Yes, Louis O'Donnell, ABS.  
17 Coming back to non-conformities, you spoke of the  
18 numbers of 38 percent, 20 percent in the last couple  
19 years. You did say that one of those was related to  
20 one specific vessel, and another was related to one  
21 problem on multiple number of vessels. Not speaking  
22 directly to those problems, but would you say those  
23 problems, those non-conformities were attacked and  
24 addressed very quickly? I'm trying to (Inaudible) how  
25 do I want to ask this? Would you say they were

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1 addressed in the manner they should have been for  
2 non-conformances, and have they been working themselves  
3 toward a satisfactory resolution?

4 CAPT. [REDACTED] Lou, on the one vessel that  
5 was identified that had a number of non-conformities  
6 that --

7 MR. O'DONNELL: For one specific  
8 (Simultaneous speaking)?

9 CAPT. [REDACTED] Right, for one specific  
10 vessel, that pre-dates my time at the helm of the  
11 Marine Safety Center. I don't think that we're still  
12 carrying over any of those issues. I think that  
13 they've all been closed out, so it was closed out over  
14 a period of about a year. For the other issue that has  
15 carried over, one issue, 84 different instances, we  
16 have worked very closely with the ACS, in this case, to  
17 make sure that issue gets resolved. So the ACS has  
18 been responsive and has been taking all necessary  
19 action, including notifications and oversight of  
20 corrections onboard the vessels.

21 MR. O'DONNELL: Louis O'Donnell again, ABS,  
22 continuing on a little bit with non-conformancies.  
23 With the quarterly meetings and the openness in  
24 communication between the ACSs, do you say, since maybe  
25 in your tenure, or just prior to your tenure, the

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1 communication and sharing information -- as Mr.  
2 Roth-Roffy asked about the auditing, do you seem to  
3 think there's a better process of that here in the last  
4 couple years, since you've had your controls that you  
5 spoke about in place? The Marine Safety Center's doing  
6 a better job of auditing the ACSs?

7 CAPT. [REDACTED] I would just like to stay  
8 away from the term auditing because I don't --

9 MR. O'DONNELL: Oversighting (Simultaneous  
10 speaking).

11 CAPT. [REDACTED] Oversighting, yes.

12 MR. O'DONNELL: They're kind of one and the  
13 same a little bit.

14 CAPT. [REDACTED] Okay. I think that both the  
15 ACSs and the Coast Guard have put in a number of  
16 process improvements -- the Marine Safety Center and  
17 the ACSs have put in a number of process improvements  
18 over the course of the last several years, two to three  
19 years, to improve our ability to oversight the work in  
20 an effective manner. I think that there's been good  
21 cooperation to make that happen, and there's some  
22 tangible results, in terms of dropping the time from  
23 notification, ensuring that things are closed out and  
24 following them through to the end. I think that there  
25 have been several improvements over the course of the

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1 past three years.

2 MR. O'DONNELL: Thank you, and you answered  
3 my last question. No further questions.

4 LCDR. [REDACTED] [REDACTED] [REDACTED] Captain, with  
5 regards to making a revision to a plan, would the  
6 authorized class society be able to revise a plan that  
7 had been approved without notifying the MSC? Is there  
8 any leeway in there for them to make revisions without  
9 knowledge of the Coast Guard or Marine Safety Center?

10 CAPT. [REDACTED] I can't think of a case when  
11 that would happen. Again, our focus is on -- I can't  
12 think of a case when that would be permitted under the  
13 policy. Our focus is on -- they are required by the  
14 policy to notify us when they have taken approval  
15 action on our behalf. If a plan has been modified,  
16 such that the approval is no longer valid, then they  
17 would be required to re-notify us. I don't mean to  
18 introduce any subjectivity on when a plan would be  
19 modified, such that the approval's no longer valid, but  
20 I don't have a good hard and fast answer for you on  
21 that one.

22 LCDR. [REDACTED] Thank you. Regarding the plan,  
23 itself, once that plan is approved, the OCMI is  
24 notified that the plan -- or copied on that plan  
25 review, do they have any obligation under the plan

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1 review process to execute anything (Simultaneous  
2 speaking)?

3 CAPT. [REDACTED] No. If you're talking about  
4 ACP, the ACS approves the plan on our behalf. Again,  
5 they notify the Marine Safety Center that they've taken  
6 action on our behalf. We decide what we're going to do  
7 with the oversight. The inspector's responsibility, at  
8 that point, is still to do everything that they need to  
9 do to issue the certificate to the vessel. There's no,  
10 I guess, hard and fast requirement that I'm aware of  
11 with regard to how to handle each plan that they get  
12 notified about. Their ultimate goal is to issue a  
13 valid COI to the vessel based on a thorough review that  
14 the as-built arrangements comply with the regulations.

15 LCDR. [REDACTED] Under ACP (Inaudible) a  
16 responsibility to ensure that the plan is correct and  
17 what is on the plan is on the vessel, or (Inaudible)  
18 under ACP, would that be the marine inspector or the  
19 ACS (Inaudible)?

20 CAPT. [REDACTED] Under the ACP -- this is  
21 probably a question for Captain [REDACTED]. Under ACP, my  
22 understanding is --

23 PARTICIPANT: Do you want to put him on  
24 mute?

25 PARTICIPANT: He needs to put his on mute,

1 yes.

2 PARTICIPANT: [REDACTED] do you want to put your  
3 phone on mute?

4 LCDR. [REDACTED] Yes, my phone's been on  
5 mute.

6 CAPT. [REDACTED] Okay, sorry. We picked up  
7 somebody else. Sorry, this is Captain [REDACTED] Did  
8 somebody else join the call?

9 MR. KUCHARSKI: Sorry, Mike Kucharski.

10 MR. YOUNG: Thank you for identifying  
11 yourself. Mike Kucharski has joined the interview and  
12 is now on mute.

13 PARTICIPANT: Sorry about that.

14 CAPT. [REDACTED] Mike, sorry, do you mind  
15 asking me --

16 LCDR. [REDACTED] No, so we were talking about  
17 the responsibility for -- once your office approves the  
18 plan, who is responsible to verify that plan is, in  
19 fact -- been properly installed (Simultaneous speaking)  
20 plan? Is it the ACS or (Simultaneous speaking)?

21 CAPT. [REDACTED] I would just take a quick  
22 step back, Mike. Under ACP, the ACS is responsible to  
23 approve the plan. If we conduct oversight, we conduct  
24 oversight on it. But once the ACS has approved the  
25 plan, the surveyor is responsible to make sure that the

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1 ship matches the plan, and our inspector may or may not  
2 conduct oversight on it, per the ACP rules.

3 LCDR. [REDACTED] To follow that on, we talk a  
4 lot about OCMI responsibilities. Each sector commander  
5 is the OCMI. Again, this might have been better  
6 (Inaudible) by Captain [REDACTED], but if you could help us  
7 out here -- OCMI authority, what qualifies the  
8 individuals that have that authority at the sectors to  
9 be an OCMI? Do they have to have a background from the  
10 MSC (Inaudible) marine inspections or could, in theory,  
11 somebody from an aviation background hold that  
12 authority, and then could you also -- if you can share  
13 do they have the authority, as an OCMI, to delegate  
14 that to somebody else at the command?

15 CAPT. [REDACTED] That would be a question for  
16 Captain [REDACTED] Sorry.

17 LCDR. [REDACTED] That's all right.

18 CAPT. [REDACTED] I don't oversee the OCMI's, so  
19 PC or CVC.

20 LCDR. [REDACTED] I'm good.

21 MR. YOUNG: This is Brian Young, again, with  
22 the NTSB. I know you said you review about 4 percent  
23 of the total number of plans. Do you have access to  
24 all of the plans, if needed?

25 CAPT. [REDACTED] We can request any of the

1 plans. Everything that they notify us that they've  
2 issued an approval on our behalf, we can request all  
3 those plans, but the way that we have to do that is we  
4 actually have to notify them and request the plans. We  
5 don't have our own -- there's not a central site where  
6 we can just go grab those plans ourselves.

7 MR. YOUNG: Do the ACS maintain those?

8 CAPT. [REDACTED] Yes.

9 MR. YOUNG: They do?

10 CAPT. [REDACTED] Yes.

11 MR. YOUNG: So you could request them  
12 through the ACS?

13 CAPT. [REDACTED] Yes.

14 MR. YOUNG: On the phone, [REDACTED] [REDACTED]  
15 anything?

16 LCDR. [REDACTED] No, Brian, no further  
17 questions right now.

18 MR. YOUNG: Okay. [REDACTED] Kucharski, anything  
19 for you?

20 MR. KUCHARSKI: No, thank you.

21 MR. YOUNG: Okay, thank you. Anyone else  
22 with general questions on plan reviews, while we're at  
23 it? If I could maybe shift the discussion specifically  
24 to El Faro. Do you know -- this could have been a  
25 question for Captain [REDACTED] -- when the El Faro

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1 actually entered ACP?

2           CAPT. ██████ It would be a question for  
3 Captain ██████ or CVC to confirm. There's got to be a  
4 matter of record on this in the MISLE case file. My  
5 understanding is around 2006.

6           MR. YOUNG: There has been some discussion  
7 about some of the modifications that were conducted  
8 aboard the ship with the lengthening of the vessel, as  
9 well as changing her form RORO to ROLLO. Considering  
10 those conversions, who would make the determination  
11 whether they were considered major conversions or not?

12           CAPT. ██████ The Marine Safety Center's  
13 responsible for making major conversion or major  
14 modification determinations.

15           MR. YOUNG: What is the major effect on that  
16 decision?

17           CAPT. ██████ What that decision does is  
18 the way that regulations are structured is a vessel  
19 that is built generally is required to comply with the  
20 regulations that were in effect at the time of its  
21 build date or keel laying (Phonetic) date. There's a  
22 number of different triggering criteria, depending on  
23 the different regulations of what you use as the date.

24           It will remain under those regulations  
25 unless it undergoes -- those regulations will remain in

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1 effect unless the vessel undergoes a major  
2 conversion/major modification. That's described, as  
3 well, in the regulations. It's, as you know, unless a  
4 vessel's been -- these regulations apply to a new  
5 vessel or a vessel that's undergone a major conversion,  
6 major modification, that kind of thing. The impact is  
7 that when a major conversion or major modification  
8 determination is made, the vessel then needs to be  
9 evaluated against different standards, and a decision  
10 needs to be taken whether it needs to comply with those  
11 standards, as well. There is some guidance in one of  
12 the early NVICs on major modification/major conversion  
13 that explicitly states -- I think it's NVIC 1081, but  
14 it explicitly states that a vessel that undergoes a  
15 major conversion or major modification must be brought  
16 up to the current standards, where it is reasonable and  
17 practicable to do so.

18 MR. YOUNG: On the lengthening of the El  
19 Faro, do you know if that was considered a major  
20 conversion?

21 CAPT. [REDACTED] Our records indicate -- this  
22 was a lengthening right around 1992 time frame, and our  
23 records indicate that was considered to be a major  
24 conversion. Marine Safety Center, at that time, was  
25 not responsible for major conversion determinations.



1 We were responsible for overseeing stability review.  
2 That was done on our behalf, and we have records from  
3 that time about the stability review that would  
4 indicate that it was a major conversion.

5 MR. YOUNG: Who would have determined it at  
6 that time?

7 CAPT. [REDACTED] It would have been what was  
8 the predecessor to now CVC, so it would have been  
9 Commandant Office of Commercial Vessel Compliance. It  
10 would've had a different name, probably MVI at the  
11 time, merchant vessel inspections, I think.

12 MR. YOUNG: They would have made that  
13 determination at the time?

14 CAPT. [REDACTED] Yes, they would've made that  
15 determination at the time.

16 MR. YOUNG: Then the second conversion, when  
17 they went from RORO to ROLO, do you know if that was  
18 considered a major conversion?

19 CAPT. [REDACTED] That was not considered a  
20 major conversion. This was roughly 2002-2003 time  
21 frame?

22 MR. YOUNG: Yes.

23 CAPT. [REDACTED] Yes, that was not. Marine  
24 Safety Center made that decision.

25 MR. YOUNG: What are the determining factors

1 that differentiate between a major conversion -- what  
2 would --

3 CAPT. [REDACTED] Sure. Those factors are set  
4 out in the law. There's four factors associated with  
5 it, substantially changes dimensions or cargo-carrying  
6 capacity, changes vessel type, substantially prolongs  
7 the life of the vessel, or otherwise changes the  
8 vessel, such that it would be considered a new vessel.  
9 The law was intentionally vague. There is some  
10 congressional record about major conversion -- about  
11 that portion of the law dealing with fishing vessels,  
12 where Congress expressed their intent about how those  
13 things should be evaluated. Requests can be initiated  
14 by the OCMI or the OCMI's representative. They can be  
15 initiated by the vessel owner. It can be initiated by  
16 an ACS. It can be initiated by one of my staff  
17 engineers looking at the project. But each one of  
18 those requests is evaluated against those four criteria  
19 on its own merits, based on the facts (Inaudible) at  
20 that time.

21 MR. YOUNG: Based on that decision whether  
22 there's a modification that's major or minor, if you  
23 will, does that change any inspection regime on ACP  
24 vessels?

25 CAPT. [REDACTED] It doesn't change the

1 inspection regime. Irrespective of whether or not  
2 you're a major conversion, the ACS still carries out  
3 their authorities in the same manner that they would do  
4 if you were not a major conversion. But what it does  
5 is it changes the -- it potentially changes the scope  
6 of the work that is needed to be completed prior to  
7 getting the certificates.

8 MR. YOUNG: One follow-up question. This  
9 may go back to the previous discussion, when you were  
10 talking about non-conformities, and now that we're  
11 talking about El Faro. Were there ever any  
12 non-conformities based on any plan reviews from your  
13 office on El Faro?

14 CAPT. [REDACTED] I would defer to our record  
15 on that. I do not think that there are, but our  
16 records probably didn't track -- we didn't track  
17 non-conformities the same way in 1991-1992 time frame.  
18 I would just ask maybe if there's a -- if you guys want  
19 to look at the record or whatever of the action that  
20 we've taken, that will show what the answer is there,  
21 but I don't think that there are any non-conformities  
22 identified in that record.

23 MR. YOUNG: In terms of plan reviews?

24 CAPT. [REDACTED] In terms of plan review, yes.

25 MR. YOUNG: Okay, thank you. That's all I

1 have. Captain?

2 CAPT. [REDACTED] This is Captain [REDACTED]  
3 [REDACTED] Coast Guard. Captain, when your staff  
4 engineers find the non-conformities during the 4  
5 percent overview, are those put into MISLE, so that the  
6 field can -- field inspectors and our people can see  
7 those?

8 CAPT. [REDACTED] No, because it may or may not  
9 be a non-conformity that requires corrective action  
10 onboard the vessel. It may just require corrective  
11 action by the class society to update their procedures  
12 or work that they're doing on our behalf. In the cases  
13 where it does require corrective action on the vessel,  
14 I can only speak to probably the last two years' worth.  
15 I know in one case, though, they were entered into  
16 MISLE as a special note to make our inspectors aware.  
17 They're routinely not entered into MISLE, but we do  
18 have MISLE as a tool to be able to use it.

19 CAPT. [REDACTED] A follow-up question on the  
20 plans that we do full approval on, the 8,000, do those  
21 fall under certain subchapters, or would you say those  
22 are mostly deep draft, or what --

23 CAPT. [REDACTED] They're primarily small  
24 passenger vessels, Subchapter T-boats and barges.

25 CAPT. [REDACTED] Do you think, with the

1 majority of our full work being those types of vessels,  
2 that it takes away from the experience of our engineers  
3 on deeper draft, more complex systems?

4           CAPT. ██████ That's a difficult question  
5 to answer because we don't always have the same people  
6 working the same issues. There is no doubt that the  
7 world of shipping is much more complex today than it  
8 was ten years ago, much in the same way that my car is  
9 now -- all the special features in it, including my  
10 driving preferences, my radio, where my seat is, all  
11 that stuff is keyed to my key. When my wife gets in  
12 the car with her key, or if she takes my key by  
13 accident, she thinks the car's broken because it  
14 doesn't do what she expects it to do. Just how cars  
15 have gotten more complex, shipping has gotten more  
16 complex. We are challenged to keep up with that  
17 complexity. You see that complexity more often in the  
18 larger ships. This has increased automation in novel  
19 designs, in the offshore oil and gas industry. You  
20 don't see it as frequently in the small passenger  
21 vessel industry.

22           I wouldn't say that we are challenged  
23 because our folks know small passengers, they don't  
24 know freight vessels. I would say we're more  
25 challenged just because of increasing complexity in the

1 industry. That said, there are some areas -- and  
2 earlier, I mentioned structures -- where we  
3 historically have not been strong, and we continue to  
4 not be strong in the latest techniques to evaluate  
5 structures. We educate our people. We give them a lot  
6 of experience.

7 We go through and give them opportunities to  
8 develop those special skills, but it's not something we  
9 do many, many times throughout the year, like a class  
10 society might. So there are areas where we are less  
11 capable, but I wouldn't say it's just (Inaudible)  
12 because most of our work is (Inaudible). Maybe it is.  
13 I'm not sure, [REDACTED] sorry.

14 CAPT. [REDACTED] Then one last question that  
15 -- does the MSC have a criteria in place that would  
16 require a full stability or inclining (Phonetic) of a  
17 vessel over time? Do you make that determination if a  
18 new stability (Inaudible) will be required?

19 CAPT. [REDACTED] Yes, we absolutely do. We  
20 have an MTN out there on light ship changes that  
21 provide our expectations for when a new stability test  
22 is required. It's based on aggregate weight changes  
23 that can't be scientifically accounted for, where you  
24 can't know the TCG/VCG of those weight changes. So if  
25 the aggregate gets above 2 percent, I believe, then a

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1 new stability test is required.

2 CAPT. [REDACTED] Do we rely on the ACSs to  
3 track the aggregate?

4 CAPT. [REDACTED] The ultimate responsibility  
5 for that is on the owner/operator, but that information  
6 is probably -- yes, so the ultimate responsibility's on  
7 the owner/operator. How the ACSs make those  
8 determinations, how we make those determinations, it's  
9 through questioning and asking and stuff like that. We  
10 would expect, under work done on our behalf, that ACSs  
11 would be asking those questions and determining if a  
12 new stability test is required.

13 CAPT. [REDACTED] Thank you. That's all I  
14 have.

15 LCDR. [REDACTED] Captain, Lieutenant  
16 Commander [REDACTED] I have a few questions. One is,  
17 just because we just brought it up, the weight change  
18 MTN on, I believe it's 495, just for matter of  
19 discussion, are you aware, have there been any  
20 discussions between ABS and the Marine Safety Center,  
21 or another ACS with the Marine Safety Center, with  
22 regard to a difference of opinion with regard to when  
23 weight changes should be evaluated for potential change  
24 in weight shift, i.e. minor changes (Inaudible) exclude  
25 them, things like that?

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1           CAPT. [REDACTED] I'm not personally aware,  
2 [REDACTED] My staff may have had conversations about that,  
3 but I'm not personally aware of any of those  
4 conversations.

5           LCDR. [REDACTED] Just more on the history  
6 of the El Faro. I'm not sure what you'd be able to  
7 answer, but I'm just going to try. Can we talk about  
8 the rationale behind the decision to take the  
9 conversion from RORO to RORO and ROLO and not call it a  
10 major conversion?

11           CAPT. [REDACTED] That decision was made during  
12 the 2002-2004 time frame. We have a few letters on  
13 that decision in our records. My involvement with that  
14 has just been reviewing those letters prior to this  
15 interview. I wasn't personally involved in the  
16 discussions at that time. But that time frame starts  
17 with a letter from a law firm representing TOTE and  
18 providing information about the conversion. The Marine  
19 Safety Center then responded at that time to that  
20 letter and deemed it to be a major conversion. Then  
21 there was another letter from the company that provided  
22 additional information, and the focus of the  
23 conversation was on the evaluation of increase in cargo  
24 carrying capacity. The discussion is characterized in  
25 those letters -- and I can repeat a little bit of it

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1 here today, based on what I've read, but I'll move on  
2 just a little bit.

3           Then there was another determination, I  
4 think, from the Marine Safety Center that re-affirmed  
5 their earlier decision that deemed it to be still a  
6 major conversion, despite the differences in how the  
7 owners felt cargo carrying capacity should be viewed  
8 and what the Marine Safety Center, their arguments were  
9 about how cargo carrying capacity should be reviewed.

10           Then there was a final letter -- there was  
11 another letter, and I believe it to be the final  
12 letter, from the owners that reiterated the argument  
13 about cargo carrying capacity and pointed to sister  
14 vessels that had undergone a similar review, where  
15 those reviews had not been characterized as a major  
16 conversion/major modification. Then the Marine Safety  
17 Center reversed its decision, it appears, based  
18 primarily on precedents that these sister vessels had  
19 undergone similar conversions and were not deemed to be  
20 a major conversion, so the Marine Safety Center then  
21 reversed our decision and said that it wasn't a major  
22 conversion/major modification. The issue of cargo  
23 carrying capacity that was discussed, again, the law in  
24 this case is broad. Congressional intent in this area  
25 is broad. There's a recognition that major

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1 conversion/major modification determinations balance  
2 two factors at opposite ends of the spectrum.

3           On the one hand, if you have everything's a  
4 major conversion/major modification, then that reduces  
5 -- then that eliminates any incentive for  
6 owners/operators to effect significant repairs to their  
7 vessel to address problems with the vessel. Because if  
8 they know every time they're going to go into a yard  
9 it's going to be deemed to be a major conversion/major  
10 modification, they're just going to run with the  
11 problems and find ways around it.

12           On the other hand, if you never call  
13 something a major conversion, major modification, then  
14 you don't take the opportunity at the appropriate time  
15 to bring the vessel up to newer standards. So the  
16 Marine Safety Center balances that spectrum in  
17 accordance with the law. They issue on cargo carrying  
18 capacity. At the time that this decision was taken, it  
19 seemed that the Marine Safety Center heavily valued the  
20 importance of the cargo unit as a factor. So if you  
21 switched from a container ship that was carrying 500  
22 units to a container ship that was carrying 700 units,  
23 that was a 35-40 percent increase in carrying capacity.  
24 The owners argued that the determination should be  
25 based on the Load Line, and that if you carry -- that

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1 there's a number of factors that restrict the cargo  
2 carrying capacity of a container ship, in particular.

3           You can max out on the total number of boxes  
4 that you have guides for, and they can all be filled  
5 with ping-pong balls, they say in their letter, but  
6 you've not submerged your Load Line, so the ship still  
7 has cargo carrying capacity, or you could max out on  
8 the number of containers that you have by filling them  
9 with bowling balls or something heavy, and you get to  
10 the point where you still have room in the guides, but  
11 now the ship is submerged to the Load Line, so you  
12 can't carry anymore.

13           Then we also know that you can max out on  
14 HAZMAT and other areas for container ships. What the  
15 owners argued, at that point, was that the real measure  
16 for cargo carrying capacity should be whether or not  
17 you change the vessel such that you alter its buoyant  
18 volume and the Load Line assignment to the vessel.

19           LCDR. [REDACTED] To your recollection,  
20 you're saying that you think the Load Line wasn't  
21 changed?

22           CAPT. [REDACTED] No, I'm just saying that's  
23 what the argument was in the letters that were  
24 presented to the Marine Safety Center.

25           LCDR. [REDACTED] I think I might recall a

1 two-foot increase in the Load Line mark at that point  
2 in time, but we'll check on that.

3 CAPT. [REDACTED] With regard to the major  
4 conversion/major modification, this is the arguments  
5 that were laid out in the letters. I don't think that  
6 those letters were happening at the same time review  
7 was going on for other issues. I think we're aware of  
8 modifications or a new Load Line assignment that was  
9 done by the ACS. I don't think that we have anything  
10 in Marine Safety Center records that show any review  
11 that we did on that time. I don't know the timing of  
12 when those two things happened, compared to the letters  
13 that we got.

14 LCDR. [REDACTED] Thank you, sir. Just a  
15 few more. You mentioned along the lines of making  
16 improvements on tracking for the ACS (Inaudible). Some  
17 things happened on the El Faro after that. I'm curious  
18 if a notification was received, or any review conducted  
19 by the Marine Safety Center. In 2014, there were six  
20 18,000-gallon (Inaudible) added on the El Faro in the  
21 first hold, the forward hold on the tank tops. They  
22 were plan reviewed by ABS. We've seen those now. Do  
23 you know if you were notified of that in any way?

24 CAPT. [REDACTED] We could check the records on  
25 that one, [REDACTED] I think that we have two notifications

1 from 2014-2015 time frame. I don't know that either of  
2 those notifications involved cargo tank.

3 LCDR. [REDACTED] Along those lines, just  
4 for purposes of understanding the oversight program, if  
5 you did see the ABS -- the way they planned and  
6 reviewed this particular fructose tank installation,  
7 they looked at just the local structure. They didn't  
8 do anything on the stability or Load Line or anything  
9 along those lines or look at the underdeck hold  
10 structure under those tanks. I'm curious, in the  
11 oversight process, if you saw or your staff saw an  
12 installation of six 18,000-gallon fructose tanks and  
13 you didn't see that follow-up stability, would that  
14 normally trigger a question or an oversight, or would  
15 you have to be really attentive to notice that?

16 CAPT. [REDACTED] That's a difficult question  
17 to answer because I think that it would fall in the  
18 latter category, that you would have to be really  
19 attentive to notice that. We don't have a single point  
20 of contact that's responsible for everything that  
21 happens on a vessel that aggregates all that  
22 information and looks and identifies where there might  
23 be gaps. We receive a plan; we review that plan to the  
24 standards; and we respond to that plan. In some cases,  
25 our staff are working the same issues over a period of

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1 time, and they may identify gaps based on their review  
2 and notify ACSs or notify owners or notify the field.  
3 But we're not set up to look at a project across the  
4 whole spectrum and see what's going to be done. There  
5 is a process through both the ACP enrollment -- when we  
6 do an ACP enrollment, they'll list the plans that are  
7 required to be submitted and providing that information  
8 when they're going through a modification or shipyard  
9 work or whatever, then it's up to the surveyor or the  
10 OCMI, as well, to question the work that's being done.

11 LCDR. [REDACTED] Captain, just a couple  
12 more. Was the Marine Safety Center made aware of any  
13 modifications going on on the El Faro basically at the  
14 time of the casualty modifying the vessel for the West  
15 Coast trade, adding things to change its service?

16 CAPT. [REDACTED] This would've been done under  
17 ACP, and we would've been notified through the PAS  
18 (Phonetic), which is our internal plan review process  
19 for oversight notification, picking oversight. Like I  
20 said, we have two plans from the 2014-2015 time frame  
21 that we were notified of by the ACS. We'll have to  
22 just pull out the record and see what those two plans  
23 were.

24 LCDR. [REDACTED] This is kind of a reach,  
25 but just wanted to see if you were aware of it at any

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1 point, or your staff was. There was a (Inaudible)  
2 structural failure documented on a vessel called the  
3 Lurline, which was another Sun Shipbuilding vessel,  
4 built with the same bottom plate thickness and  
5 (Inaudible) as the El Faro. I'm curious was there ever  
6 evidence of a notification from ABS or Coast Guard, as  
7 far as that happening on a potential (Inaudible)?

8 CAPT. [REDACTED] I don't know, [REDACTED] We'd  
9 have to check the vessel record on that.

10 LCDR. [REDACTED] Some process questions.  
11 One of the things that also took place on the El Faro  
12 is they have a loading computer supplement called Cargo  
13 Max for their Load Line and stability. ABS was asked  
14 to review just the stability of the load computer to  
15 approve conformance to the TNS (Phonetic) booklet.

16 That meant that there were some components  
17 on the Cargo Max computer, such as flooding analysis  
18 and maximum still water bending moment analysis that  
19 were done by that Cargo Max computer that went  
20 unreviewed by Coast Guard or ABS that the crew would  
21 rely on. As far as if the Marine Safety Center was to  
22 review a supplemental software piece like that for a  
23 Load Line, do you have a stance on whether we should  
24 review all items that the crew uses, or just stick to  
25 specific contracted items that we're asked to do?

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1           CAPT. [REDACTED]    What I would offer on that  
2 one is we could address that question to one of the  
3 naval architects.  It's above my level of technical  
4 expertise, in terms of the details of that.

5           LCDR. [REDACTED]    Just one more question.  
6 Another practice that we're seeing frequently on the El  
7 Faro and sisters is there were times that the  
8 scantlings were released on some of the decks, so there  
9 are ABS correspondence from the technical offices  
10 allowing reduced still water bending moments from the  
11 original designs, in order to allow those reduced  
12 scantlings for corrosion.  I'm curious; is that  
13 something that the Coast Guard also does, or is that an  
14 ABS-only practice?

15          CAPT. [REDACTED]    The question, to me, is would  
16 the Coast Guard allow reduced scantlings for corrosion  
17 over the life of a vessel?

18          LCDR. [REDACTED]    By reducing design  
19 bending moments.

20          CAPT. [REDACTED]    I could envision scenarios  
21 where that would be proposed and accepted to the Coast  
22 Guard, directly or through an ACS.

23          LCDR. [REDACTED]    If you are aware, if we  
24 did allow that, would there be any kind of limit to how  
25 far we'd allow it to reduce, in terms of how would we



1 feel comfortable that the crew could check still water  
2 bending moments versus the designs to ensure they're  
3 still in their limits?

4 CAPT. [REDACTED] This is probably a question  
5 that's better addressed by one of our naval architects,  
6 as well, so I'd be happy to refer you to them or take a  
7 question for the record or whatever needs to happen. I  
8 guess maybe a point of clarification, [REDACTED] I'm not  
9 sure how the change and the derating would be verified  
10 differently than the original approval would be  
11 verified.

12 LCDR. [REDACTED] Obviously, I think what  
13 normally takes place is trying to ensure any existing  
14 known load conditions are going to stay within those  
15 parameters. That's the normal way. But their load  
16 computer, as I said, has some ability to check those  
17 bending moments in, perhaps, a load condition that they  
18 weren't expecting. That doesn't get reviewed normally,  
19 so that's what I'm asking. Do we care if we get that  
20 bending moment close to a normal load condition, and  
21 they might not have a review analyzing it?

22 CAPT. [REDACTED] That would certainly -- let's  
23 take that one for a naval architect.

24 LCDR. [REDACTED] We briefly discussed  
25 before, Captain, NVIC 384, NVIC 397, and NVIC 295. Are

1 you aware, during the lifespan of the El Faro, how  
2 those NVICs came into play with our interaction with  
3 ABS on plan review?

4 CAPT. [REDACTED] I'm generally aware, from the  
5 time frame. We have a record of our different  
6 involvement, and we can make that available. That  
7 describes when we did oversight or took action.  
8 Because in some cases, ABS did the review. When we're  
9 looking back at 384, ABS was responsible for doing the  
10 review, but we were responsible for issuing the  
11 stability letter. So we have a record that shows our  
12 involvement under those different programs.

13 LCDR. [REDACTED] Thank you, sir. That's  
14 it for me.

15 LCDR. [REDACTED] [REDACTED] [REDACTED] Captain, just a  
16 couple of questions. What you described with the  
17 letters going back and forth between TOTE with regards  
18 to the major modification and the determination that  
19 was made sounds a lot like an appeal. Is there an  
20 appeal process for that?

21 CAPT. [REDACTED] There is an appeal process.  
22 There's requests for reconsideration, which goes back  
23 to the signing authority, and then there's also an  
24 appeal. The appeals go to commandant. I think it's  
25 5PS (Phonetic) right now.

1           LCDR. ██████ Had that major modification  
2 determination been made to be a major modification, and  
3 you say that triggers bringing the vessel into  
4 compliance with current regulations (Inaudible) the age  
5 of the El Faro, what would that have changed with  
6 regards to the vessel's systems? Would the entire  
7 vessel had to have come up to the current regulations,  
8 or just the area affected by the major modification, or  
9 a specific example, would that change the lifeboat  
10 arrangement or the firefighting arrangement or anything  
11 like that on the vessel?

12           CAPT. ██████ In this case, a major  
13 modification determination wasn't made, so I don't have  
14 the specifics on what would have changed differently  
15 there. I take it kind of as an opinion question about  
16 -- and maybe a little bit of a policy question about  
17 how folks would be guided. You put a couple things out  
18 there.

19           First of all, irrespective of a major  
20 modification determination, when modifications are made  
21 to the vessel, there's either a replacement in kind,  
22 which is much more limited, or new stuff, new rules,  
23 new equipment, new rules. Replacement in kind, maybe  
24 you have to repair part of the lifeboat, or maybe you  
25 have to replace a part of the falls (Phonetic) or

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1 something like that, that's replacement in kind.  
2 You're doing a modification where you add a new  
3 generator set to the vessel with some automation on it  
4 for cargo operations, that generator set generally  
5 required to meet the latest rules in effect at the time  
6 that you put it onboard. Under Coast Guard policy, the  
7 major modification/major conversion determination says  
8 that this is a major modification determination, but  
9 it's still on the OCMI to determine what parts of the  
10 vessel need to come up to the latest standards, based  
11 on the standard of reasonable and practicable to do so.

12           That's in Coast Guard policy. It's not in  
13 the law about that. There is a very subjective  
14 decision, had that been a major modification/major  
15 conversion at the time, back in 2004, that the next  
16 question would have been to the OCMI, what is  
17 reasonable and practicable for them to do as part of  
18 this major modification/major conversion?

19           LCDR. ██████ Thank you, Captain. One other  
20 question. Outside of the major modification, if a  
21 vessel goes out of service and goes into a layup status  
22 like the El Faro did for a while, and then loses their  
23 certificate of inspection and re-enters service and  
24 gets a new certificate of inspection issued, does that  
25 trigger any review on behalf of the Marine Safety

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1 Center for it to re-enter service, and would that also  
2 trigger any new regulations coming into play with the  
3 vessel in upgrading its (Inaudible)?

4 CAPT. [REDACTED] I don't know the specifics  
5 with regard to El Faro, so I'll talk about a  
6 generality. If a vessel goes into layup status and  
7 gives up its certificate of inspection, in order to get  
8 a new COI back, it's generally regarded as a new  
9 vessel, and it must meet the latest standards at the  
10 time. That may trigger plan review activity to take  
11 place and certainly trigger additional inspection  
12 survey and that stuff.

13 LCDR. [REDACTED] With regards to the El Faro  
14 being in layup status and re-entering service, are you  
15 aware of any review that took place on the El Faro as a  
16 result of that (Simultaneous speaking)?

17 CAPT. [REDACTED] I'm not aware of that at all,  
18 [REDACTED]

19 LCDR. [REDACTED] All right. Thank you. I'm  
20 good (Inaudible).

21 MR. ROTH-ROFFY: Tom Roth-Roffy, NTSB.  
22 Going back to the MSC determination of a major  
23 modification for the El Faro during the lengthening  
24 review that we reviewed, if that same --

25 CAPT. [REDACTED] Sorry, that was during the

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1 ROLO --

2 MR. ROTH-ROFFY: Correct, 2003, whatever  
3 (Simultaneous speaking).

4 CAPT. [REDACTED] Right, the lengthening was  
5 determined to be a major conversion/major modification.  
6 Sorry. That's fine. Go ahead.

7 MR. ROTH-ROFFY: It originally was, then it  
8 was reversed, right?

9 CAPT. [REDACTED] The lengthening, as far as I  
10 know, 1992 time frame, was a major conversion right  
11 from the start, as far as I know. The only records we  
12 have on that is that the lengthening was a major  
13 conversion. It was the conversion from RORO to  
14 container service that was in the 2000 --

15 MR. ROTH-ROFFY: My apologies.

16 CAPT. [REDACTED] Okay, sorry.

17 MR. ROTH-ROFFY: I got it mixed up in my  
18 mind. You described very well the interaction that  
19 went back and forth on that. That was based on some  
20 precedents that it was brought forward by the  
21 owner/operator. If that were to happen today, would  
22 MSC still maintain its same position, or if there's  
23 been other precedents that have occurred since then  
24 that perhaps would change the way you would respond to  
25 that kind of a (Inaudible)?

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1           CAPT. ██████████ Difficult for me to answer  
2 because we have not reviewed it. We review each case  
3 on the facts presented at that time. We do factor in  
4 precedents on similar vessels, similar conversion  
5 projects into our decision, but I've not evaluated that  
6 for today.

7           MR. ROTH-ROFFY: You don't have any general  
8 opinion?

9           CAPT. ██████████ I don't.

10          MR. ROTH-ROFFY: Just for the record, I  
11 believe we're going to probably ask for these records  
12 on this (Inaudible) determination, if we haven't  
13 already, the back-and-forth interchange (Inaudible)  
14 submit that through Captain (Inaudible). Just so I  
15 understand, is it true that only MSC can make the  
16 determination on whether or not a proposed conversion  
17 is major or not?

18          CAPT. ██████████ As of 1996, yes. There is  
19 some discrepancy still in the Marine Safety Manual,  
20 which has been updated since '96. It says it's the  
21 responsibility of -- doesn't even say CVC, I think.

22          PARTICIPANT: (Inaudible.)

23          CAPT. ██████████ It's been updated recently.  
24 There was a delegation memo, 1996, from, then, the  
25 Office of Commercial Vessel Compliance to the Marine

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1 Safety Center. Unfortunately, I don't have a copy of  
2 that delegation memo in our records, but we have record  
3 that there was a delegation memo. In practice, it  
4 hasn't mattered because every major conversion  
5 determination has come in to the Marine Safety Center.  
6 I think since early '90s, there's been almost 400 major  
7 conversion determination requests, probably about --  
8 not quite 50/50 on whether it's been a major conversion  
9 or not.

10 MR. ROTH-ROFFY: The El Faro accident in  
11 which a vessel sank for largely unknown reasons, has  
12 the MSC gone back and done some sort of a review of its  
13 records to see if there's anything that perhaps was  
14 overlooked or some problems with any of the records as  
15 a result of the accident?

16 CAPT. [REDACTED] We have records management  
17 requirements that are issued by commandant and  
18 described in the Marine Safety Manual, as well. We  
19 have some electronic files, and we have some paper  
20 files. We have things that were at the federal records  
21 center. After the casualty, we requested those files  
22 be returned to the Marine Safety Center, so we got back  
23 what was in the boxes that we had there and looked at  
24 the electronic records.

25 We have not done a review for -- we've not



1 done a review or analysis of those records for plan  
2 review gaps or things like that. We've just done an  
3 inventory, so that we can accurately describe what we  
4 have. We have engineers that are on the investigation,  
5 as well, that are working on analysis and review, based  
6 on some of the information that was in our records,  
7 based on some of the information that's been collected  
8 through the investigation. I think when we did the  
9 inventory of our records, because of information that  
10 was available to us working on the investigation, it's  
11 identified that there were things that were done that  
12 we did not know of.

13 MR. ROTH-ROFFY: How is that information  
14 going to be made available to the investigation? Is  
15 there going to be a report written, or is it just going  
16 to be part of the investigation, or do you know?

17 CAPT. [REDACTED] What I would say for any of  
18 the casualty analysis work that's going on that Dr.  
19 [REDACTED]s (Phonetic) been a part of, my impression is  
20 that at some point, the Coast Guard would give a report  
21 to the investigation that would say that these are our  
22 findings or recommendations or whatever. In terms of  
23 the Marine Safety Center's review of the vessel file,  
24 that kind of thing, I think that you could request the  
25 records that we have and the documentation of the

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1 records that we have.

2 MR. ROTH-ROFFY: That's all I have for now.

3 Thank you.

4 MR. YOUNG: On the phone, [REDACTED] [REDACTED]

5 LCDR. [REDACTED] I do have a couple of quick  
6 follow-up questions, thank you. Captain, regarding the  
7 major modification determination, you spoke to the  
8 lengthening. You spoke to the conversation from RORO  
9 to containerized cargo. What about the addition of  
10 fructose tanks? I know that you said MSC may not have  
11 been aware of those additions, but do you believe that  
12 would have triggered another major modification  
13 determination?

14 CAPT. [REDACTED] [REDACTED] unfortunately, I would  
15 just say that we've got to have a full set of facts for  
16 each one of those determinations that we make, so I  
17 have no opinion on that at this point.

18 LCDR. [REDACTED] Understood. Okay, Captain,  
19 then I just want to clarify, in my mind -- this is a  
20 follow-on to Commander [REDACTED] question about if a major  
21 modification determination is made that it is, in fact,  
22 a major modification, the whole ship versus just  
23 certain systems, you mentioned replacing (Inaudible)  
24 versus new equipment, new rules.

25 If a major modification determination is

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1 made, I'm still just a little bit unclear as to whether  
2 that would affect all the systems or just the systems  
3 that were affected by the modification. For example,  
4 addition of certain weights would probably require new  
5 stability review. Would it apply to other systems,  
6 such as lifeboats? I'm just still a little bit unclear  
7 on that.

8           CAPT. ██████████ ██████████ whenever a vessel's  
9 doing modification, if it's not a major modification,  
10 they're still obliged, unless excluded, to put in the  
11 equipment that meets the newest standard. If they're  
12 replacing a CO2 system, they don't get to put in a  
13 30-year-old CO2 system onboard the vessel. If they're  
14 changing out a component, but still keeping the system  
15 in place, then it's more of replacement-in-kind stuff.

16           For any modification, the general premise is  
17 you're making that modification to the newest standards  
18 that are in effect at that time. That's the one part  
19 of it. The other part is if it is a major  
20 modification, then do you have to go back and modify  
21 the whole vessel or other parts of the vessel to bring  
22 that all up to the latest standard?

23           The answer to that is that's the  
24 presumption, but by Coast Guard policy, there has to be  
25 a decision about whether or not it's reasonable or

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1 practicable to go back and make all those modifications  
2 to bring it up to the latest standard. The Coast Guard  
3 has told everybody publicly that we're going to use  
4 reasonable and practicable as a condition for making  
5 that determination on a system-by-system basis of what  
6 need to then be updated. Does that help?

7 LCDR. [REDACTED] It does. Thank you, sir.

8 MR. YOUNG: Mike Kucharski?

9 MR. KUCHARSKI: Yes, I do, thank you. Hi,  
10 Captain [REDACTED] Mike Kucharski here. Did you say  
11 earlier that none of the other (Inaudible) class  
12 vessels, when they were converted to ROLO service, were  
13 considered major conversions?

14 CAPT. [REDACTED] If I said that, that's not  
15 exactly what our record shows. Our record shows that  
16 based on what TOTE submitted to us in the 2002-2004  
17 time frame, there were two other vessels in the class  
18 that had gone through the modifications that were not  
19 determined to be a major modification determination. I  
20 don't know what the results are for the whole class. I  
21 don't actually even know how many vessels are in the  
22 class. There were two sisters that were precedents. I  
23 don't know the name of them off the top of my head, but  
24 their names are in the letters that we have.

25 MR. KUCHARSKI: Okay, great, thank you.

1 Could you tell us what would be considered -- or maybe  
2 in your work here at the MSC what you would consider --  
3 or what the Coast Guard would consider as departing  
4 from previous interpretations, what they would look at  
5 to make them say, "It wasn't considered in the past,  
6 but it would be in the future"?

7 CAPT. [REDACTED] I don't know that I have a  
8 good answer for that. We evaluate each individual fact  
9 pattern on these decisions and the facts that are  
10 before us. Externally, I guess things could change,  
11 precedent could change. Slight adjustments could come  
12 out with a different decision. But I can't think of a  
13 good example right at the moment of what would be a  
14 definite change. The law regarding major  
15 conversion/major modifications, if that changed, then  
16 we would evaluate it differently.

17 MR. KUCHARSKI: Great, thank you. A slight  
18 variant to that question. At your time at the MSC, are  
19 you aware of any departure from the MSC guidelines  
20 which talk about previous decisions and  
21 interpretations? Are you aware of any deviation from  
22 that?

23 CAPT. [REDACTED] I'm not aware of any, Mike.

24 MR. KUCHARSKI: Okay, thank you. Is there  
25 any guidance for any of the four prongs of this major

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1 conversion -- you talked about substantially changes  
2 the dimensions or carrying capacity, if it changes the  
3 type of vessel, substantially prolongs the life, or  
4 otherwise changes the vessel that it is essentially a  
5 new vessel. Do you have any guidance for any of those  
6 four prongs?

7 CAPT. [REDACTED] There is some congressional  
8 intent. It's a statement in the record there that  
9 provides some guidance from Congress on that. There  
10 were some existing policies -- I think it's 1081, but I  
11 could be wrong about that -- that talk about how to  
12 make major conversion/major modification  
13 determinations. We have an internal guidance that we  
14 give to our staff on how to process a major  
15 conversion/major modification determination.

16 MR. KUCHARSKI: Okay, great. That  
17 congressional intent you're talking about, is a fishing  
18 vessel a congressional intent?

19 CAPT. [REDACTED] Yes.

20 MR. KUCHARSKI: But to your recollection, is  
21 there any other congressional intent, besides fishing  
22 vessels?

23 CAPT. [REDACTED] Not that I'm aware of.

24 MR. KUCHARSKI: You mentioned letters from  
25 owners in weighing against considering it a major

1 conversion. Is that correct?

2 CAPT. [REDACTED] The case that I talked about  
3 specifically was kind of 2002-2004, maybe 2006 time  
4 frame, or 2002-2004 time frame, somewhere in there,  
5 where there were a number of letters that presented  
6 facts. In the first case, it was signed by a law firm,  
7 and the second two letters were signed by the owners,  
8 requesting reconsideration. That's what we have in our  
9 record, and then our responses, as well.

10 MR. KUCHARSKI: Does class have any input on  
11 this?

12 CAPT. [REDACTED] Not formally. The major  
13 conversion/major modification determination is outside  
14 the scope of ACP, so it's something that they come  
15 directly to the Coast Guard for. In some cases, when  
16 class is acting on our behalf and has information, a  
17 plan or something like that that we might need for our  
18 review, we may ask them, but this particular issue is  
19 set up for the owner/submitter/requester to deal  
20 directly with the Coast Guard, with the Marine Safety  
21 Center, in particular.

22 MR. KUCHARSKI: Thank you, nothing further.

23 MR. YOUNG: Going around the room one last  
24 time. Any further questions?

25 MR. ROTH-ROFFY: Sorry, Captain. Tom

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1 Roth-Roffy. Just a follow-up on this feasible and  
2 practical guidance. That goes to the OCMI that makes  
3 those sorts of determinations. That sounds pretty  
4 subjective to me. Is there any internal guidance or  
5 external guidance that is more objective than  
6 subjective, for example cost? I don't know what other  
7 sorts of objective metrics you could put on these kinds  
8 of subjective terms.

9 CAPT. [REDACTED] If I understand, if the  
10 Marine Safety Center decides that it is a major  
11 conversion, as I've described it in Coast Guard policy,  
12 then the OCMI has to decide what gets updated, what  
13 it's reasonable and practicable to do. I'm not aware  
14 of any guidance beyond what's in the MSM or what was in  
15 the original NVIC that tells the OCMI -- provides to  
16 the OCMI on how to make that decision.

17 MR. ROTH-ROFFY: So there is some guidance  
18 (Simultaneous speaking) refer to?

19 CAPT. [REDACTED] There is some discussion.  
20 It's a few sentences of discussion.

21 MR. ROTH-ROFFY: Might have to look at that.  
22 That's all I have, thank you.

23 CAPT. [REDACTED] Captain [REDACTED]  
24 Coast Guard. One question I have is in regards to a  
25 new stability or incline test. Does it have to be a



1 major conversion before that would be required? Are  
2 there any cases where MSC may say that a test needs to  
3 be conducted based on other factors, like a change in a  
4 Load Line? Are there any hard and fast rules that  
5 would require --

6 CAPT. [REDACTED] Sure. We talked about light  
7 ship determinations earlier and the 2 percent weight  
8 changes, aggregate weight changes. This isn't apropos  
9 to this vessel, but a small passenger vessel decides to  
10 change out all their carpet and all their chairs, you  
11 could easily get a greater than 2 percent aggregate  
12 weight change on that. It certainly wouldn't be a  
13 major modification/major conversion, but it would  
14 require a new stability test. You could get into a  
15 situation on different types of vessels, where you  
16 could require a new stability test without having  
17 undergone a major conversion or major modification.

18 CAPT. [REDACTED] How about a change in Load  
19 Line? Is there anything beyond the 2 percent rule that  
20 would necessitate a stability review?

21 CAPT. [REDACTED] If you alter the Load Line,  
22 part of that determination that the Load Line issuing  
23 authority has to do is review the stability of the  
24 vessel. I'm not sure which drives which, though. We  
25 could ask a naval architect that one.

1           CAPT. ██████ That's right (Inaudible)  
2 that opportunity. That's all I have.

3           MR. YOUNG: Anyone else? Are there any  
4 questions we forgot to ask you?

5           CAPT. ██████ I don't think so.

6           MR. YOUNG: (Simultaneous speaking.) We  
7 appreciate your time, and you have our contact and we  
8 have yours, if there were any further questions, we may  
9 contact you --

10          CAPT. ██████ Please.

11          MR. YOUNG: -- through Captain ██████  
12 There will definitely be some document requests that  
13 we'll forward through Captain ██████ but on behalf  
14 of the NTSB, thank you very much for your time. We  
15 appreciate you fielding our questions.

16          CAPT. ██████ Sure thing. Thanks.

17          MR. YOUNG: We'll conclude the recording.  
18 It's 1458.

19                 (Whereupon, the above-entitled interview was  
20 concluded at 2:58 p.m.)

21

22

23

24

25

C E R T I F I C A T E

MATTER: El Faro Incident on  
October 1, 2015  
NTSB Accident No. DCA16MM001  
Interview of Capt. [REDACTED] [REDACTED]

DATE: 01-21-16

I hereby certify that the attached transcription of page 1 to 75 inclusive are to the best of my professional ability a true, accurate, and complete record of the above referenced proceedings as contained on the provided audio recording; further that I am neither counsel for, nor related to, nor employed by any of the parties to this action in which this proceeding has taken place; and further that I am not financially nor otherwise interested in the outcome of the action.

[REDACTED]

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Office of Marine Safety  
Transcript Errata

Matter: El Faro  
Ref #: DCA16MM001

CAPT [REDACTED]:

Enclosed with this letter is a copy of the transcript of interview for CAPT [REDACTED] taken on 1/21/2016. Kindly review this transcript for accuracy and provide corrections, if any, in the attached table.

Thank you in advance for your attention to this matter.

2/1/2016  
Date

Brian Young  
Major Marine Accident Investigator



LIST OF CORRECTIONS TO TRANSCRIPT OF INTERVIEW FOR

CAPT [REDACTED]

TAKEN ON

1/21/16

Page 1:

- The location of the interview is listed as U.S. Coast Guard Office, Portland, Maine. The interview actually took place at U.S. Coast Guard Headquarters, Washington, D.C.

Page 3:

- Line 21: (Inaudible) should be “Structures and Stability Group.”

Page 4:

- Line 2: (Inaudible) should be “Engineering”

Page 5:

- Line 8: (Inaudible) should be “and so as”
- Line 24: sentence should start with “During” vice “On”
- Line 24: missing word after reviews, should read “reviews that”

Page 6:

- Line 1-6: I misspoke about the facts during this section and carried that mistake onto page 17 lines 7 and 8 and page 23 lines 6 and 7. The Marine Safety Center reviewed over 18,000 plans in 2014 and over 19,000 plans in 2015. In each of those years, the Authorized Class Societies sent us an ADDITIONAL 10,000-11,000 notifications for plans they approved on our behalf. Thus the work performed by the Authorized Class Societies is IN ADDITION to the plans that Marine Safety Center reviewed. Marine Safety Center can provide the exact statistics for the record, if requested. Please note that although there is not a constant correlation between the number of notifications and the number of plans reviewed by an ACS (one ACS notification might include multiple plans) for the purposes of understanding the difference in work volume, the comparison is still useful. Text should read:
  - Line 1: “About 10,000 --” should be “In addition, about 10,000 reviews --”
  - Line 4: “8,000” should be “18,000”
  - Line 5: “8,000” should be “18,000”
  - Line 7: (Inaudible) should be “first, and we do”

Page 7:

Line 22: Clarification of my statement so that it is not misperceived in future readings... “at the field level to verify that that those plans comply.” should be “at the field level to verify that that the vessel construction complies with the approved plans.”

Page 8:

Line 9: Clarification of my statement for future readings... “plans that we” should be “plans that we decided to”

Line 18: The Marine Safety Center received 11,370 notifications from Authorized Class Societies in 2014.

LIST OF CORRECTIONS TO TRANSCRIPT OF INTERVIEW FOR

CAPT [REDACTED]

TAKEN ON

1/21/16

Page 9:

Line 7 - 10: Clarification of my statement for future readings...  
“When we identify discrepancies – I guess when we select something for oversight, we can either do no oversight on it – and we could come up with a finding of no oversight for a number of reasons. This process” should read “When we select something for oversight, we can either do oversight or no oversight on it – and we could come up with a finding of no oversight for a number of reasons. The oversight reporting process”

Page 10:

Line 8: change review to reviewer

- Line 17: reads “vessel (inaudible) vessels, themselves.” Should read “vessel itself or vessels themselves.”

Page 11:

- Line 11: “officers maybe” should read “officers that maybe”
- Line 20: “develop” should be “developed”

Page 12:

- Line 17: “We have” should be “We have had”
- Line 22: I misspoke about the facts, “qualification board” should be “qualification process”. Some of the Marine Safety Center’s internal qualifications do not go through a board process and are instead determined by the responsible Branch Chief.

Page 13:

- Line 14: (Inaudible) should be “cadre”

Page 14:

- Line 9: “0403” should read “04-03”
- Line 11: “0403” should read “04-03”

Page 15:

- Line 1: “295” should be “02-95”
- Line 8: “1082” should be “10-82”
- Line 11: “384” should be “03-84”
- Line 11: “397” should be “03-97”
- Line 12: “the” should be “third”

Page 16:

- Line 19: (Inaudible) should be “rub”
- Line 21: (Inaudible) should be “Thank you, Captain.”

Page 17:

- Line 7-8: Per page 6 line 1-6, I misspoke about the facts. “year, about 10,000 of those go through an ACS beforehand.” Should be “year, an additional 10,000-11,000 reviews go through the ACS each year.”
- Line 20: “on conformities” should be “or non-conformities”

LIST OF CORRECTIONS TO TRANSCRIPT OF INTERVIEW FOR

CAPT [REDACTED]

TAKEN ON

1/21/16

Page 20:

- Line 23: "295" should be "2-95"

Page 21:

- Line 12: "of the" should be "other"

Page 22:

- Line 18: "1092" should be "10-92"
- Line 18: "1092" should be "10-92"
- Line 21: "1092" should be "10-92"
- Line 23: "1092" should be "10-92"
- Line 24: "1092" should be "10-92"

Page 23:

- Line 6: (Inaudible) should be "plan"
- Line 6-7: See misstatement on page 6 regarding characterization of quantity of work performed by ACS. "which 10,000 go to ACS first, of which—of those 10,000" should be "an additional 10,000-11,000 are reviewed on your behalf by an ACS, of which—of those 10,000-11,000"
- Line 8: (Inaudible) should be "review on"
- Line 13: (Inaudible) should be "you find."
- Line 23: (Inaudible) should be "you are"

Page 24:

- Line 20: "1082" should be "10-82"
- Line 24: "reviews" should be "reviewers"

Page 25:

- Line 6-7: "you do it in 4 percent" should be "you are doing 4 percent"

Page 26:

- Line 4: "modifications what" should be "modifications of what"

Page 27:

- Line 9: "NTN-0403" should be "MTN 04-03"

Page 29:

- Line 22: (Inaudible) should be "Do you have"

Page 30:

- Line 8: (Inaudible) should be "meet"
- Line 10: (simultaneous speaking) should be "kind of track?"

Page 31:

- Line 3: (Inaudible) should be "what would those be called?"

Page 35:

- Line 1-2: (Simultaneous speaking) should be "on the approved plan?"
- Line 15: (Inaudible) should be "the OCMI, the marine inspector doesn't have necessarily"
- Line 19: (Inaudible) should be "responsibility."



LIST OF CORRECTIONS TO TRANSCRIPT OF INTERVIEW FOR

CAPT [REDACTED]

TAKEN ON

1/21/16

Page 37:

- Line 6: (Inaudible) should be “served”
- Line 10: (Inaudible) should be “or from”

Page 40:

- Line 3: “It’s, as you know,” should be “It says, you know,”
- Line 13: “1081” should be “10-81”

Page 42:

- Line 19: (Inaudible) should be “before us”

Page 44:

- Line 20: See page 6 line 1-6, “8,000” should be “18,000”

Page 45:

- Line 23-24: Clarification of my statement so that it is not misperceived in future readings... “because our folks know small passengers they don’t know freight vessels.” should be “because our folks work more with small passengers vessels than freight vessels.”

Page 46:

- Line 4: “be strong” should be “be as strong”
- Line 18: (Inaudible) should be “or inclining”

Page 47:

- Line 18: “495” should be “04-95”
- Line 24: “weight shift” should be “light ship”
- Line 24: (Inaudible) should be “being able to”

Page 50:

- Line 17: “They” should be “The”

Page 52:

- Line 11: “on” should be “at”
- Line 16: (Inaudible) should be “plan reviews.”
- Line 20: (Inaudible) should be “fructose tanks that were”

Page 54:

- Line 7: “PAS” should be “PRAS”

Page 55:

- Line 1: (Inaudible) should be “Class 1”
- Line 5: (Inaudible) should be “stiffening”
- Line 7: (Inaudible) should be “sister?”
- Line 15: “TNS” should be “T&S (Trim and Stability)”

Page 56:

- Line 8: “released” should be “reduced”
- Line 23: “If you are aware” should be “Are you are aware”

LIST OF CORRECTIONS TO TRANSCRIPT OF INTERVIEW FOR

CAPT [REDACTED]

TAKEN ON

1/21/16

Page 57:

- Line 25: "NVIC 384, NVIC 397, and NVIC 295" should be "NVIC 3-84, NVIC 3-97, and NVIC 2-95."

Page 58:

- Line 9: "384" should be "3-84"
- Line 25: "5PS" should be "5-PS"

Page 59:

- Line 4: (Inaudible) should be "knowing"

Page 60:

- Line 13: "There" should be "That"
- Line 15: "that" should be "then"

Page 61:

- Line 3: (Inaudible) should be "recency with the regulations"

Page 62:

- Line 25: (Inaudible) should be "application"

Page 63:

- Line 12: (Inaudible) should be "MSC"
- Line 14: (Inaudible) should be "[REDACTED]"
- Line 21: "responsibility of – doesn't even say CVC" should be "responsibility of CVC – doesn't even say MSC"

Page 65:

- Line 19: "[REDACTED]" should be [REDACTED]

Page 66:

- Line 23: (Inaudible) should be "in kind"

Page 68:

- Line 11: (Inaudible) should be "Ponce"

Page 70:

- Line 10: "1081" should be "10-81"