

# National Transportation Safety Board

Office of Marine Safety  
Washington, D.C. 20594

## Group Chairman's Factual Report

Port State Control, Flag, Classification, and Mass  
Rescue Operations Group

*Caribbean Fantasy*

DCA16FM052

February 27, 2018

1 **1 Accident Information**

2 **Vessel:** *Caribbean Fantasy*  
3 **Accident Number:** DCA16FM052  
4 **Date:** August 17, 2016  
5 **Time:** 0725 Atlantic standard time (coordinated universal time – 4)  
6 **Location:** Atlantic Ocean, 3 miles north of San Juan, Puerto Rico  
7 18°30.2N, 66°8.7' W  
8 **Accident type:** Fire  
9 **Complement:** 511 total (387 crew, 124 passengers)

10 **2 Port State Control, Flag, Classification, and Mass Rescue Operations Group**

11 **Chairman:** Larry Bowling, Officer of Marine Safety,  
12 National Transportation Safety Board  
13 **Member:** Jim Gillette, US Coast Guard

14 **3 Accident Summary**

15 **4 Investigation**

16 *1-2 paragraphs describing the investigation, similar to the paragraph in a notation memo.*

17 **5 Vessel Information**

18 **5.1 General**

19 Construction of the *Caribbean Fantasy* was completed in 1989 at Mitsubishi Heavy  
20 Industries in Kobe, Japan, as hull number 1174, and originally named the *Victory*. From 1989 to  
21 1998, the vessel sailed with the Higashi Nippon Ferry services in Japan, and, from 1998 to 2008,  
22 with the Grandi Navi Veloci services in Italy. The vessel was purchased in early 2008 by Baja  
23 Ferries, renamed the *Chihuahua Star*, and put into service under the flag of Mexico on February  
24 8, 2008, in the Gulf of California.



1  
2 **Figure 1. *Chihuahua Star* preparing to depart Mazatlán, Mexico, on June 15, 2009. The vessel was**  
3 **later renamed *Caribbean Fantasy* and transferred to Puerto Rico-Dominican Republic service.**  
4 **Source Pedro, MC - [www.ships-photos.net](http://www.ships-photos.net)**

5           In the spring of 2011, the company began the process of shifting the operations of the vessel  
6 from Mexico to scheduled runs between the ports of San Juan and Mayaguez, Puerto Rico, and  
7 Santo Domingo, Dominican Republic, under the time charter agreement with America Cruise  
8 Ferries. On October 21, 2011, the company officially changed the name of the vessel to  
9 *Caribbean Fantasy* and changed the flag to Panama.

10           From August 8, 2011, to April 11, 2014, the *Caribbean Fantasy* was managed by  
11 V.Ships Leisure, a maritime service provider that specialized in technical ship management and  
12 outsourcing services for cruise ships, passenger ferries, and high value yachts. From April 12,  
13 2014, through the time of the accident, technical management was performed by Baja Ferries S.A.  
14 de C.V.

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1 **5.2 Vessel Particulars**

<b>Vessel Name</b>	<b><i>Caribbean Fantasy</i></b>
<b>Owner/Operator</b>	Baja Ferries, S.A. de C.V.
<b>Port of Registry</b>	Panama City
<b>Flag</b>	Panama
<b>Type</b>	Ro-ro/passenger
<b>Built</b>	1989
<b>IMO number</b>	8814263
<b>Classification society</b>	Registro Italiano Navale (RINA)
<b>Construction</b>	Welded steel
<b>Draft</b>	32.3 feet (9.8 meters)
<b>Length</b>	613.9 feet (187.1 meters)
<b>Beam</b>	91.9 feet (28.0 meters)
<b>Gross tonnage</b>	28,112

2 **6 Company Information**

3 The documented owner, technical operator, and technical manager of the  
4 Caribbean Fantasy at the time of the accident was the Mexican corporation (INC) Baja Ferries  
5 S.A. de C.V., headquartered in La Paz, Baja California Sur, Mexico.<sup>1</sup> That company has a Board  
6 of Directors and is managed by a Chief Executive Officer (CEO) who has been serving in that  
7 capacity since 2009. The Board of Directors consists of members from two different families,  
8 including the CEO's father.

9 Baja Ferries S.A. de C.V. has a US subsidiary, Baja Ferries USA, LLC, which is  
10 headquartered in Miami, Florida. Baja Ferries USA, LLC, acts as a general agent under contract  
11 to Baja Ferries S.A. de C.V. for coordination and execution of some of the company business, but  
12 the subsidiary does not make decisions on behalf of the corporation in Mexico. The CEO for Baja  
13 Ferries USA, LLC, is a partner in the Baja Ferries S.A. de C.V. A small company, France-Ferries,  
14 based in Marseille, France, is wholly owned by parent company Baja Ferries S.A. de C.V and

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<sup>1</sup> See [www.bajafferries.com](http://www.bajafferries.com), and [www.bajafferriesusa.com](http://www.bajafferriesusa.com). Also, see the information system developed by the European Commission and the French Maritime Administration known as Equasis at [www.equasis.org](http://www.equasis.org).

1 provides procurement of spare parts and technical support for the parent company and subsidiaries’  
2 vessels.<sup>2</sup>

3 The companies provide maritime cargo and passenger transportation services between the  
4 southern part of Baja California Sur and mainland Mexico, crossing the Gulf of California. Jointly,  
5 the Baja Ferries companies state that they directly employ over 600 individuals and operate two  
6 other ro-ro passenger ferries, all of which are currently in domestic service in Mexico and operating  
7 under that flag.

8 At the time of the accident, the vessel was under time charter to America Cruise Ferries,  
9 (ACF) LLC. Under that agreement, Baja Ferries S.A. de C.V was responsible for providing deck  
10 and engineering crew, as well as the technical operation of vessel. The deck and engineering crew  
11 of the *Caribbean Fantasy* were outsourced to two crew manning companies (Ship Supply of  
12 Florida, for deck crew and Midocean Limited, for engineering crew), which specialize in marine  
13 staffing, under contract with Baja Ferries S.A. de C.V. The hotel staff on board was under contract  
14 to ACF, LLC, and were also sourced through Ship Supply of Florida. Initial vetting, screening,  
15 background checks and verification of required and proper crew certifications for the crew on  
16 board *Caribbean Fantasy* were performed by the crew manning companies. Follow-on vetting,  
17 management and overall evaluation of the crew once on board, were performed by the master and  
18 the technical superintendent.

19 . ACF is based in Mayaguez, Puerto Rico, and was established to manage ferry services  
20 between Puerto Rico and the Dominican Republic. America Cruise Ferries also has a mainland US  
21 subsidiary, America Cruise Ferries, LLC, which is headquartered in Miami, Florida. As noted  
22 above, America Cruise Ferries provided hotel staff for the *Caribbean Fantasy*; however, as a time  
23 charterer, it had no involvement with marine operations on the vessel.<sup>3</sup> Baja Ferries S.A. de C.V.  
24 is not a member of Cruise Lines International Association (CLIA)

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<sup>2</sup> Relationships between owner, subsidiary, and charter companies provided to investigators in Baja Ferries USA, LLC, letter dated January 10, 2017, and subsequent e-mail dated February 28, 2017.

<sup>3</sup> There are three basic types of charter in the shipping industry: time charter, voyage charter (spot charter), and bareboat charter. Time charter is described above. With a voyage charter, a vessel is contracted for a one-way voyage between specific ports with a specified cargo at a negotiated rate. On a bareboat charter, the owner provides a vessel to the charterer for a specified time without a crew, stores, insurance, or any other provisions. “Charter Party – Contract,” Encyclopedia Britannica, last updated July 20, 1998, [www.britannica.com/topic/charter-party#ref250950](http://www.britannica.com/topic/charter-party#ref250950)

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## 2 **7 Safety Management**

### 3 **7.1 Safety Management - General**

#### 4 **7.1.1 International Safety Management Code and Safety Management Systems**

5 Responsibility for the safe operation of a vessel lies with the owner, operator, and crew of  
6 a vessel. To this end, the International Maritime Organization (IMO) adopted the International  
7 Safety Management (ISM) code under the Convention for Safety of Life at Sea (SOLAS) to  
8 provide a standard for the safe management and operation of ships and for pollution prevention.  
9 Under the ISM code, companies that own or operate vessels subject to the SOLAS convention  
10 must develop, implement, and maintain a safety management system (SMS) that includes the  
11 following functional requirements:

- 12 1. a safety and environmental protection policy;
- 13 2. instructions and procedures to ensure safe operations of ships and protection of the  
14 environment in compliance with relevant international and flag state legislation;
- 15 3. defined levels of authority and lines of communication between, and amongst, shore and  
16 shipboard personnel;
- 17 4. procedures for reporting accidents and non-conformities with the provisions of the ISM  
18 code;
- 19 5. procedures to prepare for and respond to emergency situations; and
- 20 6. procedures for internal audits and management reviews.<sup>4</sup>

21 The focus of the ISM Code is on the human element, the creation of a true safety culture,  
22 and the reduction of the human error that is the leading cause of most maritime accidents.

23 Per the ISM Code, it is expected that each SMS is continuously improved after a weakness  
24 or shortcoming is identified, and that each individual involved in the system has a vital role in the  
25 implementation of the elements of the system. Although the master is responsible for safety and  
26 compliance on board the vessel, overall, the organization responsible for operating the ship—the

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<sup>4</sup> IMO, “International Management Code for the Safe Operation of Ships and for Pollution Prevention – International Safety Management (ISM) Code,” IMO Resolution A741(18), adopted November 4, 1993.

1 owner or operator—has the ultimate responsibility for the safe operation of the ship, as well as the  
2 successful implementation of the SMS.

3 As a vessel making international voyages and subject to the SOLAS convention, the  
4 *Caribbean Fantasy* was required to operate in compliance with the ISM Code. From 2011 to 2014,  
5 V.Ships Leisure was the ISM manager for the vessel. From April 12, 2014 through the time of the  
6 accident, Baja Ferries S.A. de C.V performed ISM management, including the development and  
7 implementation of the SMS.

### 8 **7.1.2 Flag State Responsibility**

9 Although ultimate responsibility for the safe operation of the vessel lies with the owner,  
10 operator, and crew of the vessel, the ISM code includes responsibilities for the flag state—the  
11 nation where the vessel is registered—to verify and certify that a company and vessel are  
12 complying with the provisions of the code, as well as other national and international laws and  
13 regulations.

14 Flag states or their designated recognized organizations (ROs) verify compliance with the  
15 ISM code by determining

- 16 1) the conformity of the SMS with the requirements of the ISM Code, and
- 17 2) that the SMS ensures compliance with mandatory rules and regulations, and that other  
18 applicable codes, guidelines and standards recommended by the flag, classification  
19 societies and maritime industry organizations are taken into account.<sup>5</sup>

20 Under the ISM code, the flag state issues a Document of Compliance (DOC) to the  
21 company operating a vessel or vessels once it has verified that the company has an SMS that meets  
22 the intent of the code. The DOC is valid for a period not to exceed five years and is subject to  
23 annual verification. An interim or short-term DOC can be issued to a company only in two  
24 instances: it is a newly established company or in the case where the company acquires and intends  
25 to manage a new ship type. The period of validity for an interim DOC is twelve months.

26 Once a DOC has been issued, the flag state may then issue a Safety Management Certificate  
27 (SMC) to a vessel operated by the company after verifying, through inspections and surveys, that

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<sup>5</sup> IMO, “Revised Guidelines on the Implementation of the International Safety Management (ISM) Code by Administrations,” IMO Assembly Resolution A.1071(28), adopted December 4, 2013.

1 the company and its shipboard management operate the vessel in accordance with the approved  
2 SMS. The SMC is valid for a period not to exceed five years and is subject to at least one  
3 intermediate verification by the flag states. DOCs and SMCs may be rescinded if there is evidence  
4 that a company or vessel is not in compliance with the ISM code.<sup>6</sup>

5 The flag state may delegate authority to an RO, such as a classification society, to verify,  
6 review and evaluate the effectiveness and efficiency of an SMS.<sup>7</sup> ROs perform this tasking by  
7 conducting audit-based assessments of the company, shoreside and shipboard management, the  
8 crew, and vessel operations. Audit findings are classified as being either a major non-conformity,  
9 a non-conformity, or an observation. The major non-conformity is considered the most significant  
10 finding. The ISM code defines a major non-conformity as any identified situation that poses a  
11 serious threat or risk to the ship, the crew, or the environment, or the lack of effective and  
12 systematic implementation of a requirement of any part of the ISM code. The definition of non-  
13 conformity is any situation where the objective evidence indicates non-fulfilment of a specified  
14 requirement of the ISM Code. Lastly, an observation is defined as a statement of fact made during  
15 a safety management audit that is based upon objective evidence. Once an RO verifies compliance,  
16 it may issue certificates on behalf of the flag state.

17 The *Caribbean Fantasy* was registered in Panama at the time of the accident. Panama is  
18 known as an open registry—a nation that will register ships owned by foreign entities—and  
19 currently has the world’s largest registry with over 8000 vessels representing 18% of the world’s  
20 fleet.<sup>8</sup> The Panama Maritime Administration requires every vessel operating under its flag to  
21 undergo an Annual Safety Inspection (ASI) to determine whether it complies with the national  
22 laws of the Republic of Panama, international regulations including the ISM Code, and other  
23 regulations in force. A representative from the Panama Maritime Administration performs this  
24 ASI, as the authority to perform that function has not been delegated to an RO.

25 The Panama Maritime Administration has delegated responsibility for other statutory  
26 inspections and the issuance of flag certificates to various classification societies. The

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<sup>6</sup> IMO, “Procedures for Port State Control, 2011,” IMO Resolution A.1052(27), adopted November 30, 2011.

<sup>7</sup> Classification societies are non-government organizations that establish technical standards for vessels, depending on their type and service, and ensure vessels are designed, constructed, operated and maintained to these standards.

<sup>8</sup> Panama Maritime Authority, “The Panama Registry – About Us,” [www.segumar.com](http://www.segumar.com), accessed March 9, 2017.



1 classification society servicing the *Caribbean Fantasy* at the time of the fire was the Italy-based  
2 Registro Italiano Navale (RINA). The *Caribbean Fantasy* entered into classification status with  
3 RINA on March 22, 2013, and, prior to that date, had been under classification by Bureau Veritas  
4 (BV). The decision to change classification societies was made by the CEO of Baja Ferries S.A.  
5 de C.V. based upon a recommendation from V.Ships Leisure, who preferred to work with RINA  
6 representatives.

7 RINA has its own classification rules and is a member of the International Association of  
8 Classification Societies (IACS). IACS has unified requirements, procedures, rules, and  
9 interpretations of the statutory requirements that all IACS members have agreed to adopt and  
10 follow. Specifically, IACS has issued procedural requirements related to ISM Code certification;  
11 the training, qualification and authorization of safety management system auditors; and responding  
12 to port state control authorities.<sup>9</sup>

13 After completing statutory survey requirements, a full-term Certificate of Classification  
14 was issued to the *Caribbean Fantasy* by RINA on February 21, 2014, with an expiration date of  
15 March 22, 2018. RINA also issued all safety certificates to the vessel on behalf of the flag of the  
16 vessel, Panama. The vessel was last attended by a RINA class surveyor on August 9, 2016, in the  
17 Port of San Juan.

### 18 **7.1.3 Port State Control**

19 Prompted by concerns over the *Amoco Cadiz* disaster, in which the Liberian flagged tank  
20 ship ran aground, broke up, and released over 1.6 million barrels of crude oil in the coastal waters  
21 of France in March 1978, the maritime administrations of 14 European nations recognized the need  
22 to ensure that foreign vessels traveling within their waters were safe, properly outfitted, and under  
23 the control of skilled mariners. In 1982, delegates from these nations generated and signed the  
24 Paris Memorandum of Understanding (MOU) on Port State Control (PSC).<sup>10</sup> That MOU

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<sup>9</sup> IACS, Procedural Requirements: a) “Number 8, Procedure for Responding to Port State Control,” revised December 2010; b) “Number 9, Procedural Requirements for ISM Code Certification,” revised September 2012; c) “Number 10, Procedure for the Selection, Training, Qualification and Authorization of Marine Management Systems Auditors,” revised November 2014; d) “Number 17, Reporting on deficiencies possibly affecting the implementation of the ISM Code on Board during surveys,” revised September 2016.

<sup>10</sup> Nations signatory to the original Paris MOU were Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Norway, Portugal, Spain, Sweden, and the United Kingdom. See [www.parismou.org](http://www.parismou.org) for more detailed information.

1 established the foundation for the PSC program that is in existence internationally today. MOUs  
2 have been implemented in several regions of the world, and the ISM Code has been amended to  
3 include PSC procedures. Although the US is not a member of the Paris MOU or any other regional  
4 MOU, the Coast Guard performs PSC for the US under the SOLAS convention and ISM Code.

5         The PSC program involves the examination of foreign vessels in the territorial waters and  
6 ports of sea-going nations by qualified individuals known as PSC officers (PSCOs). PSCOs will  
7 perform examinations, varying in scope and depth, of a vessel’s hull, vital equipment, and elements  
8 of the SMS to ensure substantial compliance with applicable international laws and domestic  
9 regulations. They will also examine crew certificates and related documentation to ensure each  
10 individual has the appropriate training and competencies to serve in their respective positions on  
11 board. In addition, the PSCOs will require the crew to perform an emergency drill, such as a  
12 firefighting and an abandon ship exercise, to further validate the competencies of the individuals  
13 who are assigned safety critical functions on board.

14         If a vessel and/or its crewmembers who are assigned to safety sensitive positions are found  
15 to be non-compliant or substandard, the PSCO can take a variety of actions to ensure the condition  
16 or conditions are rectified. These actions include the stoppage of all cargo operations, formally  
17 detaining the vessel under the appropriate authority, or, in more severe situations, ordering the  
18 vessel’s departure from port and banning it from future transits upon the waters subject to that  
19 nation’s authority.

20         The ISM Code reiterates that “[the flag state] is responsible for promulgating laws and  
21 regulations and for taking all other steps ...to ensure that...a ship is fit for the service for which it  
22 is intended and seafarers are qualified and fit for their duties.” The ISM Code further states that  
23 PSC procedures are “regarded as complimentary to national measures taken by [flag states] in their  
24 countries and abroad and are intended to provide assistance to the [flag state] in securing  
25 compliance with convention provisions in safeguarding the safety of the crew, passengers and  
26 ships, and ensuring the prevention of pollution.” The PSC program is the final element in the  
27 maritime safety regime, ensuring that other entities with the primary responsibility for compliance  
28 have carried out their respective obligations.

#### 1 7.1.4 US Port State Control Procedures for Passenger Vessels

2 A foreign flag passenger vessel intending to embark or disembark passengers in a US port  
3 must complete several steps, beginning with the submission to the Coast Guard of vessel plans that  
4 address structural fire protection, fire control, and means of escape. These plans are reviewed for  
5 compliance with applicable requirements. Once this plan review process is complete, local PSCO  
6 personnel conduct an on-board examination of the vessel to validate the accuracy of the drawings  
7 and plans, assess the overall condition of the vessel and its equipment, and ensure that crew  
8 members in safety critical positions possess the minimum skill and proficiency to perform their  
9 duties. This process is known as an Initial Certificate of Compliance (ICOC) plan review and  
10 examination, and it is more comprehensive than a fundamental PSC examination that is performed  
11 on foreign flagged cargo or other vessel types.

12 Once the foreign flag passenger vessel has successfully completed the ICOC, the local  
13 Coast Guard Captain of the Port (COTP) will issue a Certificate of Compliance to the vessel,  
14 effective for 1 year, that allows it to begin passenger operations. After the ICOC, the vessel is  
15 subject to periodic examinations where PSCOs confirm that the vessel remains in substantial  
16 compliance with applicable laws and regulations.

17 To best manage the limited, qualified PSC resources of the agency, the Coast Guard uses  
18 a risk assessment methodology to identify vessels that are most likely to be substandard or non-  
19 compliant. This assessment system, called the PSC safety-targeting matrix, is used to establish a  
20 numerical score that then determines the ship's priority for PSC examinations. The performance  
21 of the vessel's management, its flag administration, and its classification society are considered to  
22 be the best indicators of overall risk.

23 Under the agency's safety-targeting matrix, vessels that are operating under flag  
24 administrations with detention-ratio scores higher than 1.67 percent or that have more than one  
25 detention in the past three years are targeted for additional PSC examinations. According to 2016  
26 Coast Guard PSC safety compliance data, the flag of Panama had a detention ratio for the years  
27 2014 to 2016 of 2.31 percent.<sup>11</sup> During the 2016 calendar year, there were a total of 32 safety-  
28 related detentions of vessels operating under the flag of Panama. The safety compliance data is  
29 also recorded for classification societies and recognized organizations, and, for the years 2014

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<sup>11</sup> Coast Guard, *Port State Control in the United States, 2016 Annual Report* (Washington DC: US Department of Homeland Security, 2016), page 7.

1 through 2016, RINA had a detention ratio of 0.10 percent, which did not warrant a heightened  
2 priority for examination.<sup>12</sup>

3 When vessels are determined to not be in substantial compliance with applicable treaties,  
4 laws, or regulations, the PSCO will recommend that the COTP impose operational controls upon  
5 the vessel until the substandard conditions have been corrected and the vessel has been brought to  
6 a level of substantial compliance. The COTP issues a legally binding document—a COTP  
7 Order—that identifies the deficiency or deficiencies discovered and outlines the expectations for  
8 resolving the matter. For tracking purposes, the document is assigned a control number that is  
9 unique to the order. In cases where a vessel has a history of non-compliance, the Coast Guard has  
10 the authority to ban the vessel from operating in US waters.

11 According to data maintained by the Coast Guard, as of May 24, 2016, there were three  
12 vessels specifically banned by the Coast Guard from operating in US waters: one vessel in service  
13 under the flag of St. Vincent and two in service under the flag of Panama.<sup>13</sup> The two Panama-  
14 flagged vessels banned from the US were the *Commander*, IMO #7703235, a 246-foot, 993-gross-  
15 ton, passenger and a cargo carrying landing craft built in 1977 classed by the Panamanian RO  
16 Macosnar Corporation, and the *Grey Shark*, IMO #7907647, a 361-foot, 4688-gross-ton, ro-ro  
17 cargo ship built in 1980 classed by the independent classification society International Register of  
18 Shipping. None of these vessels are known to be affiliated with Baja Ferries S.A. de C.V., Baja  
19 Ferries USA, or any of the individuals involved with the *Caribbean Fantasy*.

#### 20 **7.1.5 Safety Management Oversight Summary**

21 The historical results of flag surveys and PSC examinations, along with external and  
22 internal SMS audits findings, serve to measure the effective implementation of the ISM Code on  
23 board any vessel. The identification of the root cause of each observation, non-conformity, or  
24 major non-conformity, and the recorded corrective action to prevent a reoccurrence of the event,  
25 serve as validation that the SMS is effective and functioning as intended. According to Coast Guard  
26 Marine Safety Information Bulletin number 16-15, issued on December 17, 2015, SMS failures

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<sup>12</sup> Coast Guard, page 11.

<sup>13</sup> Commandant CG-CVC-2 list of vessels banned from operating in the United States, in accordance with Commandant CG-543 Policy Letter 10-03, dated September 1, 2010.

1 related to the maintenance of the ship and its equipment was the top deficiency area that lead to  
2 the formal detention of foreign vessels.<sup>14</sup>

3 In both the *Port State Control in the United States, 2015 Annual Report* and the Spring  
4 2016 *Proceedings of the Marine Safety and Security Council*, the Coast Guard Assistant  
5 Commandant for Prevention Policy emphasized that since the implementation of the ISM Code  
6 over 20 years ago, SMSs have become the maritime industry’s primary means of mitigating risk.<sup>15</sup>  
7 He noted that effective SMSs are not only well developed with regard to the processes and  
8 procedures contained within each system, but more importantly, each SMS must be successfully  
9 implemented and deployed as evidenced by a strong safety culture in both the company ashore and  
10 the vessel afloat. The Assistant Commandant encouraged PSCOs and ISM auditors to ensure that  
11 each SMS is properly implemented, and he warned maritime stakeholders to be aware of the false  
12 sense of security that can come with an SMS that exists only on paper and does not serve to prevent  
13 adverse incidents as intended.

## 14 **7.2 Port State Control Examination Record of the *Caribbean Fantasy***

15 In March 2010, PSC personnel at Coast Guard Sector San Juan learned that the  
16 Mexican-flagged ferry *Chihuahua Star* was intending to start regular operations between Puerto  
17 Rico and the Dominican Republic. However, the Coast Guard had not received any direct contact  
18 from the vessel owner, operator, or other vessel representatives. On January 21, 2011, the Chief,  
19 Preventions Department, Coast Guard Sector San Juan discovered an online news article which  
20 stated, “A new ferry service between Puerto Rico and the Dominican Republic will launch in mid-  
21 March with schedule sailings from both San Juan and Mayaguez.” The article went on to report  
22 that the *Caribbean Fantasy* would make its inaugural trip on March 16 of that year.<sup>16</sup> Based upon  
23 information contained in the online article, the chief directed his staff to begin gathering  
24 information on the vessel and to contact vessel representatives in order to facilitate the Coast  
25 Guard’s ICOC examination.

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<sup>14</sup> Coast Guard Office of Commercial Vessel Compliance, “USCG Port State Control Detention Deficiency Areas,” MSIB 16-15 (December 2015)

<sup>15</sup> a) Coast Guard, page I; b) Coast Guard, *Proceedings of the Marine Safety and Security Council* no. 73, issue 1 (Spring 2016).

<sup>16</sup> <http://www.cbnews@caribbeanbusinesspr.com> on line article dated January 21, 2011.

1           After contact was made with the owner, it was determined the vessel's classification  
2 society, at the time BV, had submitted plans on January 4, to the Coast Guard's Marine Safety  
3 Center (MSC) to begin the formal review ICOC process. Then, on February 9, BV requested that  
4 Sector San Juan personnel attend a test deployment of the vessel's Marine Evacuation System  
5 (MES) and schedule the ship's ICOC examination in early March.<sup>17</sup> Since the plan review process  
6 had not yet been completed by MSC, Sector San Juan personnel declined to attend the test  
7 deployment of the MES or schedule the examination. As the initial plan review process continued  
8 into March, the vessel had yet to receive an ICOC or any other approval from the Coast Guard that  
9 was needed to operate in US waters in any capacity.

10           On March 9, Coast Guard personnel at Sector San Juan learned that the vessel was  
11 intending to enter the port of Mayaguez and at that time issued COTP Order 3960384 directing the  
12 vessel to remain no less than 12 nautical miles offshore until the agency had received a Non-tank  
13 Vessel Response Plan (NTVRP). On March 11, Sector San Juan personnel rescinded the COTP  
14 Order and issued a second COTP order, numbered 3961832, that allowed the vessel to enter the  
15 port but prohibited it from engaging in passenger or cargo operations until the appropriate  
16 examinations were completed and the vessel provided the appropriate documents indicating it was  
17 in substantial compliance with applicable treaties and regulations for the particular service.

18           On March 15, 2011, a Coast Guard Sector San Juan PSCO conducted a PSC examination  
19 and determined that the vessel met the minimum requirements to operate as a cargo vessel. The  
20 following day, COTP Order 3961832 was amended to allow the *Caribbean Fantasy* to perform  
21 cargo operations, but the vessel was still prohibited from carrying passengers or hazardous  
22 materials.

23           Coast Guard officials returned to the vessel on March 18 to verify that deficiencies found  
24 on March 15 were rectified, and, at that time, they discovered that the vessel's marine sanitation  
25 device (MSD), a system used to treat, process, and store sewage, was in a state of disrepair. This  
26 prompted the issuance of COTP Order 3964187, which required the vessel to remain in port until  
27 repairs were made to the MSD. That order was rescinded, and under another COTP order,  
28 numbered 3967319 and issued that same date, the Coast Guard expelled the vessel from the port

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<sup>17</sup> Plans submitted to the Coast Guard Marine Safety Center included (1) General Arrangement Plan dated October 2010; (2) Structural Fire Protection Plan dated November 2010; (3) Means of Escape Plan dated November 2010; (4) Fire Control Plan dated November 2010; (5) Life Saving Appliances Plan dated November 2010; (6) Fire Fighting and Safety Plan dated December 2010.

1 of Mayaguez and directed it to remain outside of US waters until the MSD was repaired and  
2 examined. In response, the operating company proposed temporary measures, such as the retention  
3 of sewage on board and disposal ashore, as well as permanent repairs to the MSD, and this was  
4 accepted by the Coast Guard. COTP Order 3967319 was rescinded on March 21, allowing the  
5 vessel to return to US waters and resume cargo operations.

6 In May 2011, the MSC completed the plan review process. The review identified numerous  
7 areas where structural fire protection was inadequate and would need to be either installed or  
8 upgraded. Between May 10 and May 13, Sector San Juan PSC personnel visited the vessel multiple  
9 times to perform the ICOC examination. The team validated that the plans submitted to and  
10 approved by the MSC were accurate, ensured all structural fire protections concerns raised by the  
11 MSC were addressed, assessed the overall condition of the vessel and its equipment, and ensured  
12 that the crew members in safety critical positions possessed the minimum skill and proficiency to  
13 perform their duties. - The PSC team, which was being led by the Marine Inspection Training  
14 Officer (MITO) at Sector San Juan, concluded the examination by providing a 174-item worklist  
15 to the vessel, and did not issue an ICOC. Approximately 80 of the worklist items were corrected  
16 or cleared by the end of examination cycle, and the remaining items were outstanding.

17 Among the worklist items, the PSC team noted that the cargo hold fixed firefighting  
18 drencher system failed when they attempted to test zones 1-18 on cargo decks two, three, and four  
19 (known as garage A, B and C). During those tests, multiple pipe runs burst and multiple discharge  
20 nozzles clogged due to rust and corrosion. The vessel was prohibited from conducting further cargo  
21 operations until the system was repaired and functioned as originally designed. The Sector San  
22 Juan PSC team returned to the vessel on May 16 and again on May 19 to continue the ICOC and  
23 attempt to clear worklist items. They found that the vessel was still not in substantial compliance  
24 with the applicable regulations. The cargo hold drencher system was retested on both days and  
25 failed. The Coast Guard issued a letter to a company representative that noted the three failures of  
26 the drencher system and urged the company to “make any and all necessary repairs.” That letter  
27 also warned the company that if the system failed again during future testing, the vessel would be  
28 formally detained.

29 The Coast Guard PSC team visited the vessel on May 26 and returned on May 30, 2011  
30 and, at the end of that examination, determined the vessel was in substantial compliance. The  
31 Coast Guard issued an ICOC, allowing the vessel to begin carrying passengers for hire. COTP

1 Order 3961832 was rescinded. After consultation with the program manager at the Seventh Coast  
2 Guard District, the Chief, Inspections Department, and Chief, Preventions Department, at Sector  
3 San Juan placed the vessel on a quarterly re-examination schedule to ensure the vessel remained  
4 in compliance.

5 In March 2014, the *Caribbean Fantasy* experienced a fire in its transitional power battery  
6 bank, causing significant damage to the space where the equipment was installed. During an  
7 emergency, the transitional battery bank supplies electrical power to all of the vessel's vital loads  
8 from the time the main generators are stopped or fail until the vessel's emergency generator is  
9 brought on line. The *Caribbean Fantasy* was provided with special dispensation from Panama  
10 which allowed it to continue operations until June 5, 2014, at which time the vessel was to proceed  
11 to a shipyard for repair.

12 From July 17 to 18, 2014, Coast Guard PSCOs performed an examination and renewed the  
13 vessel's COC for a one-year period. The team discovered and issued 17 deficiencies at the  
14 completion of that examination. Two of those deficiencies were related to the emergency power  
15 source and the transitional source of emergency power, which were not powering all the required  
16 vital systems that those power sources were required to supply.

17 On August 20, 2014, Coast Guard PSCOs boarded the vessel to follow up on outstanding  
18 items from the July 2014 examination and found two serious deficiencies that warranted formal  
19 detention of the vessel. Specifically, they found the vessel's transitional source of emergency  
20 power was still not fully functional. The PSCOs also discovered the vessel's automatic sprinkler  
21 system was not capable of being discharged because the tank that held firefighting water was not  
22 pressurized. The vessel's crew rectified both conditions that day and a PSCO returned to the vessel  
23 later that same evening to verify the repairs. The vessel was subsequently cleared to resume  
24 operations. As a result of this detention, on December 5, 2014, the head office of RINA in Genoa,  
25 Italy, placed the vessel on an unscheduled survey scheme. According to RINA representatives, the  
26 program requires that a RINA surveyor perform an unscheduled survey on the vessel each quarter,  
27 and these surveys had the same scope as a regular annual survey.

28 On January 21, 2015, Coast Guard PSCOs boarded the vessel to complete a quarterly  
29 examination and found three deficiencies, one of which noted concerns with the vessel's voyage  
30 data recorder (VDR). The VDR displayed multiple error codes, including a failure to synchronize  
31 with one of the vessel's global positioning system (GPS) receivers.



1           On October 21, 2015, while performing a quarterly examination, Coast Guard PSCOs  
2 found 21 deficiencies, three of which were serious enough to substantiate a formal detention of the  
3 vessel for a second time. The PSCOs found a significant amount of oil in the vessel's bilge and on  
4 deck surfaces in the engine room that presented a fire hazard. The Sector San Juan MITO told  
5 investigators that the PSC team found all the deck plates slippery and coated with oil. The bilges  
6 in the engine room had a layer of oil estimated at 1 inch thick on the surface of the water. The  
7 PSCO also discovered that the second engineer's credentials indicated that he was not properly  
8 certificated to serve upon the vessel, and similarly, the third engineer's credentials were missing  
9 an endorsement by Panama. Within the 18 lesser deficiencies recorded during this PSC  
10 examination, the PSCOs determined that the "general lack of upkeep and maintenance of the  
11 vessel" was enough objective evidence to conclude that the SMS was not fully implemented.  
12 Accordingly, the Coast Guard issued a requirement for the vessel to undergo an external ISM audit.

13           The following day, PSCOs returned to the vessel to verify the three significant deficiencies  
14 that warranted the vessel's detention were rectified and to begin clearing other deficiencies. The  
15 COTP and his deputy commander also visited the vessel that day to see it firsthand. According to  
16 the COTP, the vessel was a concern for the command not only from a safety perspective, but from  
17 a law enforcement perspective as well due to the potential for carriage of illicit goods. PSCOs  
18 subsequently cleared the three significant deficiencies, and the vessel was allowed to resume  
19 operations at 1330.

20           A surveyor from RINA was also on board the vessel October 22, to perform a survey  
21 following up on the findings of the Coast Guard. At that time, the RINA surveyor issued multiple  
22 recommendations of class and submitted an IACS procedural report, form number 17, "reporting  
23 on deficiencies possibly affecting the implementation of the ISM code on board during surveys".  
24 The RINA surveyor that issued the IACS procedural report, form number 17, was the same  
25 individual that had performed the interim audit of the SMS on board the vessel in April 12, 2014,  
26 and the subsequent initial audit on board on September 13, 2014, and issued the full-term SMC.  
27 Additionally, that same individual had performed the initial audit of the SMS at the Baja Ferries  
28 company headquarters on December 18, 2014, in La Paz, Mexico, and issued a full-term DOC.

29           Per the requirements of the IACS procedural report, once completed, the report was to be  
30 submitted to the responsible department within the surveyor's classification society for review.  
31 The responsible department was required to judge whether the reported deficiencies were affecting

1 the implementation of the ISM code on board. If the responsible department judged that the  
2 reported deficiencies were not affecting the implementation of the ISM code, the report was to be  
3 filed. However, if the reported deficiencies were judged to be affecting the implementation of the  
4 ISM code, the report was to be sent to the flag administration of the vessel, and the RO who audited  
5 the SMS system (in this case RINA) was required to review the report and decide what action, if  
6 any, was to be taken.

7 When investigators asked RINA representatives in Fort Lauderdale to provide information  
8 related to the outcome of this IACS procedural report submission, they indicated that the principal  
9 surveyor in the RINA Fort Lauderdale office had performed an additional external ISM Code audit  
10 on the vessel, and the organization continued with the unscheduled survey scheme which the vessel  
11 had been subjected to since December of 2014. Senior RINA officials from the Fort Lauderdale  
12 office met with the CEO of Baja Ferries S.A. de C.V and the Designated Person (DP) afterwards  
13 to discuss the need for improvement on the vessel.

14 After completing a shipyard period in Bizerte, Tunisia, in July 2016, the  
15 *Caribbean Fantasy* made an unscheduled stop in the Port of Gibraltar (overseas territory of the  
16 United Kingdom) while en route back to San Juan. While there, British PSCOs examined the vessel  
17 on July 6 and returned on July 8 for a more detailed examination. During that second examination,  
18 PSCOs discovered three deficiencies, one of which warranted the vessel's detention under the  
19 Paris MOU. The PSCOs found that the *Caribbean Fantasy*'s numbers 1, 2, and 3 auxiliary engines  
20 were not operational, and the vessel's only source of electrical power was its emergency generator.  
21 This was reportedly caused by poor quality fuel. The other deficiencies noted were a seawater feed  
22 pump that was not operational and the overall engine room cleanliness was insufficient. This was  
23 the vessel's third formal detention for non-compliance in three consecutive years. PSCOs in the  
24 port carried out a follow-up examination on July 14 and released the vessel from detention.

25 Just prior to the accident, on August 9, 2016, Coast Guard Sector San Juan PSCOs  
26 performed a COC renewal examination of the vessel. The PSCOs reported seven deficiencies,  
27 three of which remained outstanding at the time of the incident, according to both Coast Guard  
28 and RINA documentation.<sup>18</sup> Two of those deficiencies were firefighting related: dampers in two

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<sup>18</sup> At the Coast Guard's formal hearing into the matter held from March 20 - 25, and March 27 - 28, 2017, the company claimed all three deficiencies had been properly corrected or addressed, and had yet to be examined and cleared by RINA or the Coast Guard.

1 ventilation ducts in the vehicle spaces were not shutting properly and a section of the overhead on  
2 cargo deck B was missing insulation that was required to stop the spread of flames for at least 60  
3 minutes. The electrical deficiency noted that a 120 VAC outlet in a crewmember's cabin was not  
4 properly installed and had been modified for service as a 240 VAC outlet. At the completion of  
5 the examination, the *Caribbean Fantasy* was issued a COC that was valid for one year.

6 Since the vessel's cargo loading ramp was located on the starboard side of the vessel, the  
7 *Caribbean Fantasy* always moored with its starboard side to the pier. This mooring arrangement  
8 and the existing safety protocol found in both IMO guidance, as well as the Coast Guard's Marine  
9 Safety Manual, prohibited the Coast Guard Sector San Juan PSCOs from requiring the vessel's  
10 crew to demonstrate the launching, and in water operation of the two lifeboats located on the  
11 starboard side, specifically lifeboat #1 and lifeboat #3, during PSC examinations where an abandon  
12 ship drill was performed. All PSC examinations performed by the Coast Guard Sector San Juan  
13 PSCO's where an abandon ship drill was required, was performed using the port lifeboat #2. The  
14 responsibility for the lowering, and in water operation of the two lifeboats located on the starboard  
15 side, per that same IMO circular, was the crew's responsibility. Lowering of these lifeboats was  
16 required to take place quarterly, with an annual requirement for operation of each in the water,  
17 with these events required to be recorded in the vessel's log book and made available for review.  
18 The entries in the *Caribbean Fantasy*'s log book indicated the required testing of lifeboat #1 and  
19 lifeboat #3 had been conducted.

### 20 **7.3 Panama Maritime Authority and RINA Oversight of *Caribbean Fantasy***

21 The flag of Panama delegated authority for certification of ISM Code compliance to RINA,  
22 who also served as the RO for the vessel and the company.

23 On April 12, 2014, after technical management of the *Caribbean Fantasy* had shifted from  
24 V.Ships Leisure to Baja Ferries S.A de C.V., RINA performed an interim audit of the SMS on the  
25 vessel in the Port of San Juan. Rina auditors determined there was objective evidence that the  
26 elements of the ISM Code were met, and an interim SMC was issued to the ship valid through  
27 October 11, 2014.

28 After the *Caribbean Fantasy* was detained by Coast Guard PSCOs on August 20, 2014 the  
29 PSC section of the Panama Maritime Authority (PMA) authorized RINA to perform an additional

1 ISM audit due the nature of the deficiencies discovered by the Coast Guard. RINA performed the  
2 audit, which was classified as both an initial audit and an additional audit, on September 13. The  
3 auditor identified nine non-conformities that required corrective action, but determined that the  
4 SMS met the overall requirements of the ISM Code. On September 14, RINA issued a full-term  
5 SMC to the vessel with an expiration date of September 13, 2019. The auditor recommended that  
6 the next required audit, an intermediate audit, take place within a 6-month window centering on  
7 March 13, 2017.

8 On January 13, 2015, the PSC section of the PMA authorized RINA to perform a second  
9 additional ISM audit on board the vessel because of continued concerns related to PSC  
10 examination findings. RINA performed the audit on January 14 and determined that the SMS met  
11 the requirements of the ISM Code. The auditor identified two non-conformities that required  
12 corrective action. One non-conformity noted that checklists for the engineering officers were being  
13 completed using items referenced which were not actually on board the vessel. The other non-  
14 conformity noted the company did not provide a timely response to spare part requests, or shore  
15 side support requests from the vessel.

16 Following the *Caribbean Fantasy*'s second detention by Coast Guard Sector San Juan  
17 PSCOs on October 21, 2015, and based upon PSCO's written deficiency for the vessel to complete  
18 an external audit of its SMS, as well as the RINA surveyor's submission of the IACS procedural  
19 report the following day, an additional SMS audit was performed by RINA on November 19. At  
20 that time, the RINA auditor attended the vessel in the port of Santo Domingo, and once again the  
21 auditor determined that the SMS overall was adequately implemented and met the requirements  
22 of the ISM Code. The auditor identified two non-conformities that required corrective action.

23 One non-conformity noted that the procedure to identify corrective actions to prevent  
24 further PSC deficiencies was not being duly carried out on board. The other non-conformity noted  
25 the procedures to identify maintenance needed on safety and machinery items was not being  
26 fulfilled. The full-term SMC issued to the vessel in September 2014 remained valid and in force  
27 through the entire duration of these audits. The RINA auditor did not identify any major non-  
28 conformities in any of the audits.

#### 1 **7.4 Panama Maritime Authority and RINA Oversight of Company**

2 In anticipation of changing the technical ship management and ISM management services  
3 of the *Caribbean Fantasy* from V.Ships Leisure back to Baja Ferries S.A. de C.V., the company  
4 submitted its SMS manual (version 1, revision 0, dated January 2014) to RINA on March 19, 2014,  
5 and requested a review for compliance with the ISM Code. Eight days later, RINA completed the  
6 review and issued a letter to the company which stated that the manual complied with the ISM  
7 Code.

8 From April 9 to 10, 2014, RINA performed an interim audit of Baja Ferries S.A. de C.V.  
9 at company offices in La Paz, Mexico, and Miami, Florida, and found evidence the SMS met the  
10 objectives of the ISM Code. RINA issued an interim DOC on April 3, 2014, that was valid through  
11 April 2, 2015.

12 On December 18, 2014, RINA performed an initial audit of Baja Ferries S.A. de C.V. in  
13 La Paz, Mexico, and determined that the SMS met the overall requirements of the ISM Code. The  
14 auditor identified two observations and three non-conformities that required corrective action. The  
15 non-conformities noted that the auditor found no objective evidence that identified risks were  
16 periodically reviewed by the company, there was no defined process established to ensure  
17 compliance with mandatory rules and regulations, and there was no evidence that the company  
18 investigated and analyzed identified non-conformities, accidents, or hazardous situations with the  
19 objective of continuous improvement.

20 At that time, the RINA auditor issued a short-term DOC to the company with an expiration  
21 date of May 17, 2015. The auditor recommended that the next required external audit, an annual  
22 audit, take place within a 3-month window centered on December 18, 2015. The audit was  
23 reviewed by RINA quality assurance personnel in Newark, New Jersey, who on July 3, 2015,  
24 issued the full-term DOC with an expiration date of December 18, 2019.

25 From March 17 to 18, 2016, RINA performed the first annual audit of Baja Ferries S.A. de  
26 C.V. in La Paz, Mexico, and determined that the SMS met the overall requirements of the ISM  
27 Code. According to the audit records, the CEO was not present for that audit. When asked by  
28 investigators to explain why he did not attend that audit, he stated that he wasn't sure of the reason  
29 for his absence. The auditor identified one observation and one non-conformity that required

1 corrective action. The non-conformity noted that the company had not carried out its responsibility  
2 to perform an internal audit on the ro-ro passenger vessel *Baja Star*. At that time, the RINA auditor  
3 endorsed the DOC for the company, recommending that the next required external audit, an annual  
4 audit, take place within a 3-month window centered on December 18, 2017.

5 The full-term DOC issued to the vessel in July 2015 remained valid and in force through  
6 the entire duration of these audits. The RINA auditor did not identify any major non-conformities  
7 in any of the company audits.

## 8 **7.5 Designated Person and Company CEO**

9 The role of the Designated Person (DP) in the ISM Code is to ensure the safe operation of  
10 the ship and to serve as a communication link between the ship and the highest levels of company  
11 management. The DP should have significant responsibility and authority to monitor all aspects of  
12 ship operations, and to ensure adequate resources and shore-based support are available as needed.  
13 Baja Ferries S.A. de C.V. formally assigned an individual based in Mexico to serve in the role of  
14 DP. The company also provided another individual as an alternative contact.

15 When investigators interviewed the DP for Baja Ferries S.A. de C.V., he indicated that he  
16 was not aware that a RINA surveyor had submitted the IACS procedural report in October 2015  
17 that documented concerns regarding the implementation of the ISM Code on board the *Caribbean*  
18 *Fantasy*. He also stated that, since he assumed the role of DP in April 2014, he had performed  
19 internal audits on the *Caribbean Fantasy* on an annual basis, and he did not increase the frequency  
20 of the audits at any time preceding the incident. He claimed to visit the *Caribbean Fantasy* on a  
21 quarterly basis.

22 The CEO indicated that he met 4-6 times a year with the DP, and they jointly reviewed the  
23 SMS 7-10 days each year. He stated the company structure and job descriptions for all personnel  
24 should be outlined in the SMS. The CEO said that he had no direct involvement in the day-to-day  
25 operations of the *Caribbean Fantasy*. That function was performed by the technical director, with  
26 the DP serving as the conduit between the CEO. He also stated that he did not review the minutes  
27 of the safety meetings conducted by the masters on board the vessels.

28

## 1 **8 Mass Rescue Operations**

### 2 **8.1 Mass Rescue Operations - General**

3 The International Maritime Organization (IMO) defines a mass rescue operation (MRO)  
4 as that which “involves the need for immediate assistance to large numbers of persons in distress  
5 such that capabilities normally available to search and rescue authorities are inadequate.”<sup>19</sup>  
6 Moreover, although these events are infrequent in the marine sector, when they occur, they are  
7 high profile events with the risk for significant loss of life. The most recent example of a maritime  
8 MRO is the stranding of the passenger vessel *Costa Concordia* off Giglio Island, Italy, on January  
9 13, 2012. The vessel carried 3,229 passengers and 1,023 crew, and the accident resulted in 32  
10 deaths. In all MROs, the success of the response depends on immediate action, coordination, and  
11 effective communications between resources and assets from all organizations involved, including  
12 any civilian or Good Samaritan vessels that may be nearby.

13 In fiscal year 2002, the US Congress authorized the Coast Guard to create permanent  
14 positions within the agency to develop and maintain an MRO program. The program, now called  
15 the Passenger Vessel Safety Program, requires the Coast Guard to plan and prepare for MRO  
16 events, and includes periodic exercises incorporating the agency’s many federal, state, and local  
17 emergency response partners. Personnel in Coast Guard headquarters manage the program and  
18 provide MRO planning guidance and other tools needed to prepare for a large-scale SAR.<sup>20</sup> Each  
19 of the Coast Guard districts has an individual passenger vessel safety specialist (PVSS) assigned  
20 to execute the elements of the program. A full-scale exercise must be conducted by each District  
21 every 5 years. There is currently no requirement which mandates participation by large passenger  
22 vessel owners or operators, regardless of flag.

23 Coast Guard Sector San Juan, unlike other sector commands, has its own PVSS assigned  
24 (a sector is subordinate to a district). This is due to the significant number of large passenger  
25 vessels that operate within that command’s area of responsibility, which includes a large portion  
26 of the eastern Caribbean and the US Virgin Islands. Sector San Juan’s PVSS maintained and  
27 exercised the elements of the unit’s *Mass Rescue Operations Plan for Puerto Rico and U.S. Virgin*  
28 *Islands*. The Sector San Juan MRO plan was last revised in January 2016.

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<sup>19</sup> IMO, *Guidance for Mass Rescue Operations*, COMSAR Circular 31 (February 2003).

<sup>20</sup> Coast Guard, *Mass Rescue Operations Planning Guidance* (Washington DC: US Department of Homeland Security, 2004).

1 The PVSS at Sector San Juan exercised the MRO plan at least 2 to 3 times a year by either  
2 a tabletop or field exercise. On May 6, 2015, Sector San Juan conducted a full-scale, two-day  
3 exercise that involved federal, state, and local stakeholders responding to a simulated emergency  
4 on an actual vessel crewed by volunteers playing the role of accidents victims. The sector also  
5 performed a single-day, tabletop exercise that involved many of the same stakeholders on March  
6 15, 2016.

## 8 **8.2 Shoreside Response to the *Caribbean Fantasy* Request for Assistance**

9 The Sector San Juan Command Center contacted the *Caribbean Fantasy* after hearing radio  
10 traffic from the vessel regarding it being not under command in a position outside of the port of  
11 San Juan at 0741 local time. The officer of the watch on the *Caribbean Fantasy* notified the Coast  
12 Guard watchstander that the vessel had experienced an engine room fire and had discharged its  
13 CO<sub>2</sub> fire suppression system. The watch officer confirmed that at that time the vessel was not under  
14 command. The watchstander utilized Coast Guard form SAR-00, “Initial Search and Rescue Check  
15 Sheet,” to collect information from the vessel.<sup>21</sup>

16 When Sector San Juan’s PVSS was informed of fire on board the vessel, he proceeded to  
17 the Command Center to assist. Upon arrival, he discussed with the commanding officer; the Chief,  
18 Preventions Department; and other senior command representatives about the preferred landing  
19 site for the survivors to be taken ashore. It was decided that Pier 6 in the Port of San Juan was  
20 preferred because it had a lower height above water than most of the other nearby locations, and a  
21 floating section that was accessible by the small rescue vessels with low freeboard that were  
22 responding to the distress call, as well as the *Caribbean Fantasy*’s lifesaving craft. The PVSS  
23 proceeded from the Command Center to Pier 6, which was approximately 1 mile from the unit,  
24 assumed the role as landing site manager, and began to coordinate with other emergency  
25 responders to clear access routes and assist with the setup of staging areas to accommodate the  
26 survivors. Earlier in the year, San Juan’s PVSS had held a MRO planning meeting with emergency  
27 response personnel in the San Juan area, and the attendees at that meeting had agreed that Pier 6,  
28 was the preferred landing spot for survivors during an actual MRO.

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<sup>21</sup> Form SAR-00 is appendix G to Coast Guard, *U.S. Coast Guard Addendum to the National Search and Rescue Supplement (NSS) to the International Aeronautical and Maritime Search and Rescue Manual (IAMSAR)*, Commandant Instruction M16130.2F (Washington, DC: US Department of Homeland Security, 2013).



1 Other organizations responding shoreside included US Customs and Border Protection  
2 (CBP); the Puerto Rico Emergency Management Agency (PREMA); the Puerto Rico Joint Forces  
3 of Rapid Action (FURA); and the City of San Juan’s emergency operations center (EOC),  
4 emergency medical services (EMS), police, and fire department. The various organizations  
5 established an incident command post and reception facility on Pier 6 to manage the response.  
6 According to the San Juan’s PVSS, during the initial stand up of this site, there were some tense  
7 moments amongst the first responders about who was in charge and how the process of receiving  
8 the survivors would flow, but these details were worked out on site.

9 Initially, there was some confusion among the responders about the landing site that would  
10 be used for the survivors, but according to the PVSS and Chief, Response Department, this was  
11 resolved by multiple communications via radio to all assist vessels and person-to-person voice  
12 communications with key individuals from other response agencies.

13 A triage station was set up on the pier to assess each passenger’s medical conditions. When  
14 passengers began arriving ashore, EMS transport units took individuals needing medical treatment  
15 beyond first aid to one of nine different medical facilities in the area. America Cruise Ferries, LLC,  
16 could not provide the Coast Guard with a total number of crew and passengers who required  
17 medical treatment beyond first aid, as only the individuals taken to either the Puerto Rico Medical  
18 Center or the Ashford Presbyterian Hospital were tracked by name. Four crewmembers and  
19 thirteen passengers were taken to the Puerto Rico Medical Center and six passengers were taken  
20 to the Ashford Presbyterian Hospital. On May 11, 2017, with the assistance of the Caribbean Office  
21 of the Federal Emergency Management Agency (FEMA), investigators obtained the Computer  
22 Aided Dispatch (CDA) records from the municipality of San Juan, the Puerto Rico Emergency  
23 Medical Services (EMS), and Puerto Rico Emergency Management Agency (PREMA). The  
24 information contained in those records has been summarized in the Group Chairman, Survival  
25 Factors report on this accident.

### 26 **8.3 On-Scene Response to the *Caribbean Fantasy* Request for Assistance**

27 The Coast Guard cutter *Joseph Tezanos* was a brand new fast response cutter that had  
28 recently arrived in its homeport of San Juan. It was not yet fully commissioned on the day of the  
29 accident. When the *Caribbean Fantasy*’s request for assistance was received at the Sector San  
30 Juan Command Center, the *Joseph Tezanos* was moored at the facility and the crew was preparing

1 for a final readiness for operation (RFO) inspection that was intended to prove both the cutter and  
2 its crew were fit for service.

3         Around 0730, the Chief, Response Department, who served as the search and rescue  
4 mission coordinator for this response, was on the bridge of the *Joseph Tezanos* participating in the  
5 pre-departure navigation briefing when she received information about the fire on the  
6 *Caribbean Fantasy*. At that time, one Coast Guard small boat had been launched by Station San  
7 Juan in response and had passed the moored location of the *Joseph Tezanos*. Multiple towing  
8 vessels and other Good Samaritan vessels were also observed heading out of the harbor to assist.  
9 The Chief, Response Department, told investigators that she knew there would be a need for a  
10 cutter on scene to coordinate and communicate with all the assets responding. The nearest  
11 commissioned cutter was underway in the Mona Pass and was unable to respond in a timely  
12 manner. Therefore, the Chief, Response Department, asked the commanding officer of the *Joseph*  
13 *Tezanos* if he and the crew were ready for this tasking. The response was affirmative.

14         At 0815, the *Joseph Tezanos* received approval and tasking from Sector San Juan to  
15 respond to the fire on the *Caribbean Fantasy*. The vessel departed its berth at the Coast Guard  
16 facility at 0828, arrived on scene at the *Caribbean Fantasy* at 0850, and assumed the duties as on  
17 scene commander (OSC). There was no radio communication or announcement made over VHF  
18 or the other radio frequencies that formally conveyed the establishment of the cutter as OSC for  
19 the SAR activity. However, the commanding officer stated that he felt the assets on site understood  
20 the *Joseph Tezanos* was coordinating the SAR.

21         When *Joseph Tezanos* arrived on scene, Coast Guard small boats CG45751, CG22114, and  
22 CG33139 were near the *Caribbean Fantasy*. Additionally, a small boat from CBP, two San Juan  
23 pilot boats, five commercial towing vessels, and several Good Samaritan vessels were nearby.

24         The *Joseph Tezanos* was outfitted with an integrated command, control, computers,  
25 communications, intelligence, surveillance, and reconnaissance (C4ISR) system that provided  
26 improved situational awareness and decision-making capability. The commanding officer assigned  
27 dedicated personnel to perform radio guard on the internal Coast Guard frequency, VHF radio  
28 channel 113 in both encrypted and unencrypted mode for afloat Coast Guard asset and certain  
29 other agency vessels, VHF radio channel 16 for commercial and afloat resources, and UHF radio  
30 channel 409 for air assets.

1           The commanding officer also assigned an individual to record the event using the vessel's  
2 surveillance camera system and established a 15-minute communications schedule with the Sector  
3 San Juan Command Center using a Coast Guard cell phone. The Sector San Juan Command Center  
4 was also monitoring all radio communications between the OSC and SAR assets.

5           Using VHF channel 16, the *Joseph Tezanos* crew communicated with the master, and other  
6 crew members of the *Caribbean Fantasy* in English while communicating with some of the other  
7 response vessels in Spanish. The cutter commanding officer stated that he had suitable  
8 communications with the Coast Guard assets, as well as the commercial towboats and pilot boats  
9 on scene. However, communications with the San Juan fire department asset were intermittent,  
10 and communications with the San Juan police department asset, which had also arrived on scene,  
11 were limited to either diverting a Coast Guard small boat over to the unit or hand signals. On VHF  
12 radio channel 16, the crew member assigned to that radio guard on the *Joseph Tezanos*, referred  
13 to Coast Guard small boats by the last three digits of each hull number, Coast Guard air assets as  
14 "rescue" with the last two digits of each tail number, and the cutter as "Joseph Tezanos".

15           The initial plan by the OSC was to get all individuals off the *Caribbean Fantasy* and onto  
16 the *Joseph Tezanos*, so the Coast Guard small boats began removing survivors from the  
17 independent buoyant apparatus at the bottom of the stricken vessel's marine evacuation system  
18 and other survival craft and relocating them to the aft deck of the cutter. After several evolutions  
19 of transferring survivors to the cutter, the commanding officer felt the operations were taking too  
20 much of his focus from management of the on-scene response. Thus, he modified the initial plan  
21 so that survivors were transferred to the towing vessels, pilot boats, and other Good Samaritan  
22 vessels on scene for further transport to the shore reception site.

23           The smooth deck and engineering log of the *Joseph Tezanos* noted at 0851 that 30  
24 passengers were reported to be on "the first raft," and others were observed going down the  
25 *Caribbean Fantasy*'s aft, starboard MES. At 0906, *Joseph Tezanos* took its first group of survivors  
26 on board from the CG33114. As passengers came on board, the cutter crew were attempting to  
27 capture each survivor's name, and making an initial assessment of each individual's medical needs.

28           Other response vessels, including a small boat operated by FURA, arrived on scene to assist  
29 with the recovery of passengers, along with more Coast Guard small boats: CG55115, CG33137,  
30 CG26255, and CG26257. Air assets were CG6569 and CG6572 from Air Station Borinquen. The  
31 FURA police helo was a Bell 429. Some survivors were removed from the vessel by one of the

1 Coast Guard helicopters and were dropped at the Fernando Luis Ribas Dominicci (also known as  
2 Isla Grande) airport.

3 At 1320, the *Joseph Tezanos* established a 1000-foot security zone around the perimeter of  
4 the *Caribbean Fantasy* to prevent unauthorized vessels or aircraft from approaching the vessel. At  
5 1422, the Coast Guard cutter *Richard Dixon* arrived on scene and assumed the role of OSC from  
6 the *Joseph Tezanos*. The *Joseph Tezanos* returned to its mooring at the Coast Guard facility where  
7 it moored at 1514.

8 The commanding officer of the *Joseph Tezanos* stated to investigators that he had never  
9 participated in a MRO exercise, nor had he experienced a SAR case of this nature previously. The  
10 Coast Guard crew member on the *Joseph Tezanos* that was assigned VHF radio channel 16 also  
11 indicated that he had no formal training related to the MRO, or the lifesaving systems such as the  
12 marine evacuation slide (MES) onboard the *Caribbean Fantasy*. The *Joseph Tezanos* was  
13 officially commissioned into service on August 26, 2016.