

DEPARTMENT OF HOMELAND SECURITY
US COAST GUARD

In the Matter of:

REGULATED NAVIGATION AREAS;
BARS ALONG THE COASTS OF OREGON
AND WASHINGTON

DOCKET NO. USCG-2008-1017

PUBLIC MEETING
ASTORIA, OREGON
April 14, 2009
6:00 P.M.

APPEARANCES BY: LCDR EMILY SADDLER

CAPT. BILL DEVEREAUX

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PROCEEDINGS

Tuesday, April 14, 2009, at 6:00 p.m.

CAPT. DEVEREAUX: Good evening, everybody, we're going to begin our meeting. We are scheduled to go through 9:00 tonight. My name is Bill Devereaux and I'm chief of the Prevention Division up in Seattle in the District Office. And with me in the back of the room is Andy Palmiotto, who is Chief of Inspection and Investigation Branch.

And then we have Lieutenant Commander Emily Saddler, who is the one who has been one of the main project officers for this regulation, and she'll be making a presentation shortly.

So the way we will run this is Emily is going to make a short presentation on what this proposed regulated nav area is, and what it is not.

And then we will give you about 5 to 10 minutes to kind of regroup, and based on what you see, then we will start testimony from there. And we will be going in the order as you have signed in.

So that's kind of how it's going to work. You can feel free to -- if you have a cell phone, if you could switch it to stun, that would be great. And other than that, we will get ready to go.

1 I would like to introduce Lieutenant
2 Commander Emily Saddler.

3 LCDR SADDLER: Good evening, everybody.
4 Can everybody hear me okay? Again, my name is
5 Lieutenant Commander Emily Saddler. I'm in the
6 Prevention Division, 13th Coast Guard District. I'm the
7 project officer for our proposed rule making for the
8 hazardous bars regulated navigation areas.

9 I just have a brief presentation. The
10 point of us being here tonight to is to seek public
11 comments on our proposed rule. So everyone knows, we
12 did extend our public comment period for the docket.
13 It's extended until April 19th, so there's still time to
14 submit written comments to the docket. Comments here
15 tonight, we're going to have a transcript made up. That
16 transcript will be placed on the docket as well. The
17 sign-up sheets will be placed on the docket.

18 We're going to be here in Astoria tonight,
19 and we're also doing the second one tomorrow night in
20 Newport at the same time.

21 I mentioned the sign-in sheets. Just a
22 reminder, if you do wish to make comments, please check
23 the appropriate column. We have our handouts back
24 there. We have our RNA Fact Sheets that we developed,
25 and I have a copy of the presentation.

1 If, for some reason, there's some
2 conflicting information in those, please keep in mind
3 that the proposed rule making is what takes priority.

4 When you do come up -- I will give my brief
5 presentation, then we will take a 10-minute break. When
6 you do come to make a comment, we ask that you come and
7 speak to the microphone so our court reporter can hear
8 you, and we ask that you say your name and spell it, as
9 well, so she can get the accurate spelling.

10 If you want to remain anonymous, that's
11 acceptable as well, so just say so. If you wish to
12 submit a written comment here tonight, you may do that
13 as well. If you brought written comments, I can collect
14 those and submit those to the docket on your behalf.

15 So before I start my presentation, does
16 anyone have any questions on what my process is for
17 tonight?

18 PUBLIC SPEAKER: Lieutenant Commander, on
19 today's -- on the Internet, I looked on the docket site.
20 And on the closure notification, the last day accepting
21 comments, it actually said 10, slash, 01, slash 2009.
22 Is the April 19th the absolute last day for comment?

23 LCDR SADDLER: Yes, it is right now, April
24 19th. Although I will say that the Federal Register
25 routinely accepts things after the fact, but there will

1 come a time that we, the Coast Guard, will have to stop
2 accepting comments to move forward with our process.

3 I strongly recommend if you do have written
4 comments, to get them in before April 19th. And I will
5 check with the Federal Register on that date.

6 So most people are aware, from our proposed
7 rule making, what the areas that we're looking at are.
8 There's 16 hazardous coastal river bars. These areas
9 are currently established as regulated boating areas in
10 our regulations right now. We just transferred them
11 into the RNA so it's all in one area.

12 So the first part of our Notice of Proposed
13 Rule Making talks about bar restrictions. So bar
14 restrictions is basically defined as passage across a
15 river bar will be prohibited during poor weather
16 conditions as determined by the captain of the port, or
17 his designated representative. In this case, when we
18 say designated representative, we're referring to the
19 coastal station that is located at that river area.
20 We're referencing the station's main officer or officer
21 in charge. That's the designated representative.

22 The bar restrictions, when there's
23 prohibited, only apply to recreational and uninspected
24 passenger vessels. So passage across that bar will be
25 restricted to some or all recreational vessels and

1 uninspected passenger vessels. It will not apply to
2 commercial fishing vessels, inspected passenger vessels,
3 deep draft vessels.

4 However, and we will discuss that later,
5 the bar restrictions for the recreational vessels and/or
6 uninspected passenger vessels will be used as a trigger
7 for additional safety requirements, such as wearing
8 lifejackets and checking in with the Coast Guard prior
9 to crossing the bar. That's the only element that will
10 affect those other vessels. But as far as prohibiting
11 passage across the bar under the bar restrictions, it's
12 strictly for the recreational and uninspected passenger
13 vessels. And the uninspected passenger vessels are
14 commonly referred to six-packs, six or less passengers.

15 So one change for our proposed reg as well,
16 currently -- we currently do bar restrictions and we
17 have been doing them since the '70s. The current
18 authority for the bar restrictions is the Federal Boat
19 Safety Act, and it gives authority to Coast Guard
20 boarding officers to restrict a vessel's transit across
21 the bar.

22 Our proposed regulation would be written
23 under the Port and Waterway Safety Act, which gives the
24 captain of the port or his designated representative the
25 authority to restrict the waterway to a class of

1 vessels. Again, the designated representative for bar
2 restrictions will be the station commanding officer or
3 officer in charge. So when the decision to restrict the
4 bar to the recreational vessel or the six-packs is made,
5 there's several factors taken into account by the
6 station commanding officer and/or officer in charge.

7 The first condition is -- will be what we
8 term as unsafe conditions exist as defined by the
9 formula, length of the vessel divided by ten, plus the
10 minimum freeboard gives you the maximum wave height, and
11 above that wave height would be unsafe conditions.

12 This formula was established in the
13 regulations in 1974. And it's been used, currently used
14 today together for making bar restriction decisions, and
15 it's been for three decades now.

16 In addition to this formula, the CO/OIC
17 will also use their professional judgment in making
18 these bar restriction decisions. They will use their
19 own maritime experience. They will look at the waves,
20 the height, the period, direction of the waves; swells,
21 the direction, period, how high they are; the breaking
22 surf conditions, wind direction, strength of the wind,
23 the size and types of the vessel traffic that they see
24 on the bar at a particular time.

25 They will also use their knowledge of local

1 geographic and environmental conditions that are
2 specific to that bar. As everyone knows, each bar is
3 different. So they look at the tide, currents, water
4 depth, and channel width.

5 And to clarify, the formula is not the only
6 factor that is used for making these bar restriction
7 decisions. It's just something -- it's a tool that is
8 used to assist them in the decision-making process.

9 So here's our process for implementing bar
10 restrictions. This is the same process that we have
11 used today, and the same process we have used for the
12 past several years. The CO or officer in charge will
13 make a determination using that formula I just
14 discussed, and their own professional judgment and
15 experience. Again, if they are serving as the captain
16 of the port, designated representative.

17 They will make a determination to restrict
18 the bar, and will specify a type and length of vessel.
19 For instance, it could be restricted to recreational
20 vessels 40-foot and below, or could be restricted to
21 recreational and uninspected passenger vessels, 40-foot
22 and below.

23 The Coast Guard will make public notice
24 over VHF channel 16, and 22 Alpha. They also have low
25 power AM radio stations where there's a recorded message

1 that will play. Many stations have a telephone number
2 you can call in to. Oftentimes the stations have a boat
3 out to advise mariners as well.

4 Request to cross a restricted bar will be
5 handled on a case-by-case basis. The commanding officer
6 and officer in charge will have the authority to
7 determine whether or not to allow the vessel to cross a
8 restricted bar. They will be making that determination.

9 The second part of our proposed regulation
10 is bar closures. Which is important to know, this is
11 different than bar restrictions. When the bar is closed
12 that will apply to all vessels; recreational, six-packs,
13 the inspected passenger vessels, commercial fishing
14 vessels, and deep draft vessel traffic.

15 Passage across the bar will be prohibited
16 during severe weather as determined by the captain of
17 the port. The factor that we use as our baseline will
18 be when we start considering closure of the bar is when
19 the weather conditions get so severe that it will exceed
20 our safe operations parameters for Coast Guard Search
21 and Rescue resources, and will exceed the safe
22 operational limitations. That's when we start
23 considering closing of the bars.

24 This does not automatically close the bars.
25 It's just when we start making that consideration. Our

1 process for implementing bar closures, the captain of
2 the port will consider the following factors: The
3 current and forecasted weather conditions. They will
4 consult with not only our coast -- small boat
5 station at the coast, but also with the air stations to
6 discuss capabilities of our SAR resources. That's to
7 include the 47-foot and 52-foot motor lifeboats, which
8 some stations have, and also includes Coast Guard
9 helicopters and their capabilities.

10 The captain of the port will make that
11 decision to close the bar. It will be to all vessels.
12 We'll do a public notice of the closure, broadcast
13 notice to all mariners on the AM radio stations. And
14 request to cross a closed bar will be handled on a case
15 by case basis, as authorized by the captain of the port,
16 or the officer in charge.

17 This is the same process that we use today,
18 and have been using for the past two years. Since
19 December of '06 there have been 20 different occasions
20 where the weather conditions were severe enough to
21 warrant closure of one or more of the bars. They also,
22 the captain the port will also consult with the marine
23 pilots for Gray's Harbor, Columbia River, and Coos Bay
24 in regards to the deep draft vessel traffic.

25 The next section of our proposed rule talks

1 about safety requirements for recreational vessels,
2 pleasure craft. Persons in unenclosed areas or out on
3 the deck must wear lifejackets, and lifejackets must be
4 immediately available for persons inside the vessel, or
5 in enclosed areas whenever being towed or escorted
6 across the bar by the Coast Guard. This is currently
7 common practice. We're just formalizing it in our
8 regulation.

9 Safety requirements for the uninspected
10 vessels or six-packs -- again, persons on deck must wear
11 lifejackets. Lifejackets must be immediately available
12 to those inside the vessel while crossing the bar that
13 is restricted to recreational vessels of the same
14 length, and whenever the vessel is towed or escorted
15 across the bar by the Coast Guard. An example would be
16 if the bar is restricted to recreational vessels 40 foot
17 and below, then a 32-foot six-pack that wants to cross
18 the bar won't be allowed to cross the bar, but will need
19 to have any persons out on deck wear a lifejacket. And
20 lifejackets must be immediately for those persons inside
21 of the vessel.

22 And then the one other requirement is
23 during night times, between sunset and sunrise, vessels
24 will be required to call the Coast Guard prior to
25 crossing a bar that is restricted to recreational

1 vessels of the same length, provide vessel name, their
2 current location or position, number of people onboard,
3 and where they are headed to. For the location and
4 position, it does not have to be a lat/long. It can be
5 a geographic reference or reference to a landmark. It
6 does not need to be a specific lat/long. And for
7 destination, it doesn't have to be a specific area.
8 Just if you are heading out fishing, you are heading out
9 fishing. You don't have to specify exactly where you
10 are heading out fishing.

11 These are the safety requirements that we
12 proposed for the inspected small passenger vessels, what
13 we refer to as T-Boats. Again, persons on deck must
14 wear lifejackets and lifejackets must be immediately
15 available to persons inside the vessel while crossing a
16 bar that is restricted to a vessel of the same length.

17 There's an exception for T-Boats. For
18 those vessels that have a Coast Guard reviewed and
19 accepted bar crossing, or what we commonly refer to as
20 the go-no-go plan, they must wear lifejackets in
21 accordance with their plan.

22 And then whenever the vessel is towed or
23 escorted across the bar, then the people on deck have to
24 have lifejackets. And the same check-in requirements
25 that we had for the uninspected passenger vessels

1 between sunset and sunrise, required to call the Coast
2 Guard prior to crossing the bar that is restricted to
3 vessels of the same length, and provide the same
4 information.

5 And the last part of our proposed reg is
6 safety requirements for commercial fishing vessels.

7 Again, persons on deck must wear lifejackets or
8 immersion suits, and lifejackets or immersion suits must
9 be immediately available to those persons inside the
10 vessel while crossing a bar that is restricted to
11 vessels of the same length, or whenever the vessel is
12 towed or escorted across the bar.

13 And, again, it's the same check-in
14 requirement between sunset and sunrise -- required to
15 call the Coast Guard prior to crossing the bar that is
16 restricted to vessels of the same length, and provide
17 the same information as the other vessels.

18 So that's our brief overview of our
19 proposed regulation. I will go ahead and open it up to
20 any questions on my presentation on our proposed rules
21 right now, if there are any, or trying to clarify some
22 confusion. Yes, sir.

23 PUBLIC SPEAKER: Well, you stated the
24 conditions of -- that are necessary to close the port,
25 but what is the procedure for reopening it? There's a

1 lot of times where there may be a real short window,
2 maybe half an hour where there's a good time to cross,
3 but it seems like it takes longer than that to get
4 anything changed.

5 LCDR SADDLER: That's a good question. We
6 don't address that in our regulations, so we will have
7 to look at that. Obviously when the weather conditions
8 settle down enough, the goal would be to reopen the bar
9 as soon as possible to allow vessel traffic to cross.
10 But I will take a note of that, and we will make sure we
11 look at that as part of our proposals. Yes, sir.

12 PUBLIC SPEAKER: Well, on first blush, what
13 I read in the Federal Register, line 74, No. 28, seems
14 to have a whole lot more in terms of the requirements on
15 the different classes of vessels than what you pointed
16 out on the screen tonight.

17 LCDR SADDLER: I am sorry. What section
18 are you referring to?

19 PUBLIC SPEAKER: I am talking about what
20 was published in the Federal Register, Volume 74, No.
21 28, Thursday, February 12th, 2009, Proposed Rule.
22 Within it there seems to be quite a bit more relative to
23 regulations than what you have described. And specific
24 to that, as an example, it says, when a bar is closed,
25 the operation of any vessel within the RNA area where

1 the bar is closed, they can't operate in that RNA area,
2 period. It has nothing to do with the bar. It has to
3 do with 40-square miles outside of the bar. That's one
4 thing.

5 And the other thing -- and I think there's
6 more. I am just pointing out a couple. And maybe in
7 the testimony it will come up, but it seems to me as I
8 read the requirement for VHF call-in, you have mentioned
9 the recreational and the uninspected passenger vessel
10 will have to call in between sunrise and sunset, if
11 there's a restriction on vessels of the same length.
12 And then under the commercial safe requirements for
13 commercial fishing vessels, it says that the commercial
14 fishing vessel shall contact the Coast Guard when
15 crossing between sunrise and sunset, anytime, regardless
16 of the conditions. There's no tie-in to restrictions on
17 anything.

18 So I am just saying it seems to me there's
19 several regulations or references made within the
20 Register that seem to exceed the summary that you have
21 given us, to what it is you are doing.

22 LCDR SADDLER: Okay. In reference to the
23 first question regarding the operation of the vessel in
24 the regulated nav area, and it being a large area, we
25 will take that into consideration and specify that

1 better. The captain of the port will have the authority
2 to limit what area is closed, so we will take that into
3 consideration.

4 And you are correct, that is currently
5 written for the whole entire area, the 40-square mile
6 regulated nav area. And as far as for the check-in for
7 the fishing vessels, it is only required when the bar is
8 restricted to other vessels of the same length. The way
9 we write our regulations, it will confuse you, but if
10 you look at the reg, it states that "The master operator
11 of any commercial fishing vessel operating in a
12 regulated nav area established in paragraph a of this
13 section during the conditions described in paragraph
14 (c)(5)(i)(a)," which is a bar restriction about when
15 crossing the bar, "if a bar restriction exists for
16 recreational vessels or uninspected passenger vessels of
17 the same length, shall contact the Coast Guard."

18 PUBLIC SPEAKER: I do see that reference.
19 I stand corrected.

20 If you do plan -- and I suppose in part it
21 will be based on the testimony that is offered
22 tonight -- to revisit some of this language, I mean, how
23 in terms of the process are we, then, the users and
24 those affected by these regs, how then are we going to
25 have a chance to review, so to speak, your changes? As

1 an example, perhaps the one relating to a smaller area
2 within the RNA that is where you can't operate, but not
3 the total area. At what point will we be able to see
4 that you made that change, and then have a chance to
5 react to it?

6 LCDR SADDLER: That's a good question, and
7 I don't know the answer to that, to tell the truth. I
8 would have to talk to my legal staff. I don't have an
9 answer for you now.

10 CAPT. DEVEREAUX: I think -- I am not sure,
11 either, how that -- but I think in your suggestion, you
12 may want to suggest exact areas where that RNA should
13 be. But if you are really concerned about a specific
14 bar, and specific operating area, you may say what it
15 should be, maybe not lat and long, but a general
16 description. And they are going to go back and look and
17 say what is reasonable and what is not reasonable. But
18 I don't know how we get that back out before it passes.

19 But if you can leave a contact number, we
20 can answer that, too. You can leave me a card, or phone
21 number.

22 PUBLIC SPEAKER: I am just concerned in
23 terms of process. We are hearing you, there might be
24 changes. There should be a chance to review the changes
25 and then comment on that.

1 CAPTAIN DEVEREAUX: Right, and I'm not sure
2 how that works.

3 LCDR SADDLER: Yes, sir.

4 PUBLIC SPEAKER: You are silent in here on
5 the situation where a vessel has been out for several
6 days, and comes back, and sees the bar is closed. Is
7 there any extra consideration for that?

8 LCDR SADDLER: If the bar is closed to that
9 particular vessel? Is that what your question is?

10 PUBLIC SPEAKER: Right. Right.

11 MS. SADDLER: Is that what the question
12 is --

13 PUBLIC SPEAKER: Hey! Excuse me. Could we
14 have people speak up, or use the mic. What you guys are
15 saying, I am very interested in hearing, and it may be
16 something that --

17 LCDR SADDLER: I will repeat the question,
18 and then after this point, if we have people come up and
19 speak in the microphone.

20 The question was if a vessel has been out
21 for several days, and then comes back to port to find
22 the bar is closed or restricted to them, to that
23 particular vessel, the regulation is not specific to
24 that situation.

25 If that situation were to occur and that

1 was the case, and the bar was closed or restricted to
2 that vessel, then the vessel has two options: Wait
3 offshore until the bar is reopened or the restriction is
4 relaxed, or head to another port where the bar may be
5 open or not restricted.

6 If they truly want to cross the bar, then
7 we do have language in the reg that does allow the
8 station commanding officer to authorize vessel passage
9 across the bar on a case by case basis. So there's
10 nothing to say the vessel can't call the Coast Guard,
11 explain the situation, and request permission to cross
12 the bar to the station.

13 PUBLIC SPEAKER: In making that
14 determination, you are saying the station officer of the
15 day would make that determination as an answer to the
16 question that they may or may not come in, or would it
17 refer back to the captain of the port? And could you
18 clarify who is the captain of the port for the bar areas
19 on this coast?

20 LCDR SADDLER: Currently the captain of the
21 port for all the bar areas, with the exception of
22 Quillayute River, it's Captain Englebert in Seattle.

23 Just so I am clear, it's not -- when you
24 call the station to ask that permission to cross the
25 bar, you may be speaking to a radio watch, and you may

1 be speaking to the officer of the day, but the decision
2 will be from the commanding officer, or the officer in
3 charge of that station, not from the radio watch
4 handler.

5 PUBLIC SPEAKER: And not to the captain of
6 the port?

7 LCDR SADDLER: As the designated
8 representative, the station commanding officer can make
9 those determinations. Yes, sir.

10 RAY TOSTE: Ray Toste from the Crabbers
11 Association --

12 (Discussion re: Microphone.)

13 PUBLIC SPEAKER: Ray Toste, T-O-S-T-E.
14 Now, for some show tunes. Opening, closing, would that
15 be in Gray's Harbor? Last year we couldn't get
16 permission to cross. We couldn't get permission to
17 cross going out when the bar was relatively flat, calm,
18 other than to get it through Portland. Which we could
19 not get it out of Portland.

20 I have all the faith in the world in our
21 local officers, our local commanders right there in
22 Westport. They are the go-to guys. We really need to
23 rely on those, because the captain of the port of
24 Portland, he might as well be on Mars when you are
25 trying to get a fleet out to go fishing.

1 What the fleet did, of course, was go. And
2 what is created is a lot of -- it's creating a big wedge
3 between the fleet and the Coast Guard, is something we
4 can both live out. But we know a lot of it comes out of
5 this process. We have to be able to get that bar open
6 when it turns good, and it turns good sometimes in a
7 couple of hours. That was a real nightmare for us last
8 year. Don't want to do it again.

9 CAPT. DEVEREAUX: I want to make sure we're
10 asking actual questions on the actual regulation, and
11 not testifying. So if you have actual questions --

12 RAY TOSTE: My question is, how often and
13 what is the policy of the Coast Guard to actually send a
14 vessel out and inspect the bar?

15 LCDR SADDLER: I will probably defer to our
16 station rep here, being that he's much more --

17 LT. HOBBY: Matt Hobby, Commanding Officer
18 of Station Cape Disappointment. The rules on assessing
19 a bar actually are determined by each station commanding
20 officer or officer in charge.

21 I can tell you, for the Columbia River Bar,
22 my policy is that we're doing a first light and last
23 light report, and also every three hours in between.
24 But I have also had an order with my crew that if we are
25 contacted by any boat to say we need to update that

1 broadcast, or the conditions have changed, for them to
2 check it again. That's our policy at Cape
3 Disappointment. I don't know about the other stations.

4 PUBLIC SPEAKER: Yeah. On this definition
5 of sea state, and I am looking at the Proposed Hazardous
6 Bar Regulations for uninspected passenger vessel,
7 six-pack, it states in there, it says, sea state. It
8 states in there, sea state, waves, swells, breaking
9 surf, and parenthesis, and then goes, wind, tides, and
10 currents, nothing about domino wave period. And
11 everybody in this room knows that that means one heck of
12 a lot. So is that in consideration? And if so, why
13 isn't it in here?

14 LCDR SADDLER: My understanding is that is
15 under consideration by the stations. And I just didn't
16 put it in there in an effort to keep it to a one-page
17 quick, simple, sheet.

18 PUBLIC SPEAKER: And the second thing I
19 have, it says it will be the responsibility of the
20 mariner to know if there's a restriction or closure in
21 effect, since the Coast Guard will notify the public of
22 any bar restrictions or closure using VHF marine radio
23 broadcast, and other methods.

24 Exactly when is that going to happen?
25 Because at the beginning of the season, I am fishing for

1 an hour before there is any bar report given.

2 CAPT. DEVEREAUX: Your question is if it's
3 closed -- there will be lights on and broadcasted. And
4 if it's not, and you are out there before it's closed,
5 it's not closed. Does that answer the question?

6 PUBLIC SPEAKER: What if we're out there
7 when it's closed, and now you are saying it's closed all
8 the way from the Columbia River from the 46°12' to the
9 4618, and out as far as 124°09'? What if I am fishing
10 within that area and they close the bar? Now, I have to
11 totally quit fishing --

12 CAPT. DEVEREAUX: That was the same
13 question he had over here. We have to do a better job
14 of describing what we mean by operating area, because we
15 obviously aren't concerned -- we're concerned with
16 breaking bar, not necessarily that bar out there. And
17 that's something we took a note that we have to better
18 describe the areas.

19 PUBLIC SPEAKER: We can't go nowhere. We
20 can't go into Gray's Harbor, or south, we're stuck here.
21 And if it's going to get worse out there, and the bar is
22 shitty, and it's 12-foot and it's going to come to 18 or
23 20, I am in a 40-foot boat, I'm crossing the bar. I am
24 going to find a way in. It's what you got. You have to
25 go ride a perfect storm or cross the bar?

1 CAPT. DEVEREAUX: Exactly. And under that
2 circumstance, you would call, let them know you are
3 coming in, and they would probably escort you. They do
4 that now. They would escort you.

5 PUBLIC SPEAKER: Great.

6 PUBLIC SPEAKER: I have a couple of
7 questions here, just to get started with. And one of
8 them, I don't know if I should direct it to you or our
9 local Commander here. And I am really interested in
10 reopening these bars once they are closed, because of
11 the hassle we had in Westport here a year or so ago.

12 I think there will be some testimony here
13 tonight how much that would have cost that individual.
14 There was no economic impact claimed in this regulation.
15 I think differently. I want to know how we're going to
16 reopen this bar at 12:30 at night, 1:00 in the morning,
17 2:00 in the morning, 3:30 when it's time for us to go to
18 work.

19 I mean, are we going to send a boat down
20 there, and we're going to have to wait for a 47-footer
21 to go check out the bar and see if it's crossable? We
22 get out of bed at 12:30 to go fishing, maybe we should
23 call the Coast Guard and tell them we need a bar
24 crossing because we're leaving in an hour and a half.
25 Are you going to go down and check it?

1 I think there's a little more to what is
2 going on here than just the regulation itself. The
3 government has not invested in infrastructure, like
4 buoys, weather buoys on the bar, so we can look at that
5 to know when to lift these closures. Time is money, and
6 we have to have some way of opening this bar once it's
7 closed. And we're not talking about after daylight in
8 the morning. Half of the day is gone by then. So we
9 have to have some way to do it now.

10 And I have noticed that there's been quite
11 a few questions raised here already tonight, and we
12 have -- you have been taking some notes, and looking at
13 these. I would propose, and I could form a question or
14 whatever you want to do, but that we have some type of a
15 round-table discussion in the near future before this
16 regulation is done, so we can have this discussion on
17 how these things are going to proceed.

18 Because we have noticed that the
19 navigational areas, for instance, that are multiple,
20 multiple miles that have nothing to do with bar closures
21 that we can't be in. There's hardly a day that goes by
22 in the winter time that I would cross the bar on the ebb
23 tide on the Columbia. I am outside fishing in a
24 regulated area, and that reporting requirement could
25 really get out of hand when I am going and fishing

1 across that RNA line that is several miles from the bar,
2 and I might have to report 10 or 12 times an evening, or
3 a day.

4 So how are you going to handle all of this
5 kind of thing under these circumstances?

6 And the other question I have is how are
7 you going to prevent mission creep? I've seen this
8 happen with National Weather Service where they will put
9 in a forecast scenario, and then pretty soon they get a
10 lawsuit because something happened, so the forecasts
11 seem to grow a little bit, and their front timings are
12 always way delayed.

13 So pretty soon, are we going to have
14 mission creep where this bar closure will take on a life
15 of their own sometime in the future? We can say
16 whatever we want today, but somebody down the road, we
17 have dealt with a lot of enforcement folks down the
18 road -- that have different interpretations of the
19 regulations than what they were originally intended.

20 I might have a another question later.

21 CAPT. DEVEREAUX: Basically we have already
22 talked that the description area, we have got that down,
23 that we have to -- the other area we have heard loud and
24 clear that there's concerns about reopening. Again,
25 that's something we have already taken note of. And

1 your third thing about mission creep, we probably would
2 not put that in the regulation.

3 PUBLIC SPEAKER: What about the shutdown in
4 port (inaudible) for some of the people that live this?

5 CAPT. DEVEREAUX: Let me think about that
6 for a little bit. We have asked for that, we have been
7 out ahead of time and asking. But we have never had an
8 official round-table discussion. That's true.

9 PUBLIC SPEAKER: I have another question
10 relative to the rule. One of the things that you
11 referred to earlier was that when you were describing
12 the restrictions, bar restrictions on the recreational
13 vessels and uninspected vessel, you said this was
14 basically no real change under the present -- under
15 present practice.

16 And I kind of -- well, I -- so if this is
17 no real change, I guess the question is, why are we
18 trying to capture it in language if, in practice, it's
19 already occurring?

20 And the other question relative to the rule
21 itself is, is the language that a bar will be closed to
22 all vessels whenever environmental conditions exceed the
23 operational limitations of the relevant Coast Guard
24 Search and Rescue resources, is that -- does that
25 language exist today in a traditional role of the Coast

1 Guard as Search and Rescue under almost any
2 circumstances? Is that going to be edited or abridged
3 relative to that statement?

4 CAPT. DEVEREAUX: We do not make a
5 foolhardy effort to go out where we know we're going to
6 sink our own boat in a weather situation. So even --
7 there is a tradition to go out there and rescue all you
8 can.

9 The first question you had was whether it's
10 the same or not today, why would we do it if it's the
11 same now. And that's a good question. And I will tell
12 you the exact reason is today under recreational boats
13 or uninspected passenger vessels there is this exact
14 rule in place called the Regulated Boating Area.

15 However, if Joe in the 20-footer who is
16 not -- let's say the bar is restricted to 35 feet, and
17 the 20-footer goes out there and sees the bar lights
18 flashing, and he hears the a.m. broadcast, but he's not
19 physically told by a Coast Guard that he can't go, he's
20 not in violation. Under the current rule we have to
21 tell you, and you, and you, and you, each person
22 individually that they are under 35 feet.

23 This does not -- the change here makes it
24 now where we have to broadcast it and get the word out,
25 and not individually tell every master that they are

1 restricted to go across. That was the onus of this,
2 that's why we did that.

3 But you are right, we take very great pride
4 in our Search and Rescue efforts, but it's better not to
5 send someone into a dangerous situation, so we don't
6 have to go get them. If there's somebody in the water,
7 we're going to try to send a helicopter. We're not
8 going to send a boat that is beyond its operating
9 capability, but we're going to do everything we can to
10 rescue them.

11 PUBLIC SPEAKER: Just a follow up. Why
12 would we need to put language -- again, that's the
13 established practice, and it's prudent practice, and
14 believe us -- believe me, all of us who are mariners in
15 this room, probably everyone is -- I mean, we're really
16 pleased when the Coast Guard is able to help us. I
17 mean, you are a face we're happy to see.

18 But why do you need to codify something
19 that is already an established practice, which is if
20 it's absolutely crazy, and you think it's a suicidal
21 mission, you may not go. You still may go, but under
22 this language it's almost like you couldn't go. It's
23 almost like the training that is done by the lifeboat
24 stations is negated in part by the force of this
25 language. That's my question.

1 CAPT. DEVEREAUX: And I understand that.
2 But you have to have a certain spot where you are going
3 to say we're not going to let vessels go, and that's the
4 spot. If they go there anyways, then we have to figure
5 out what's going to happen. But you have to find a spot
6 where you think it's prudent to start restricting the
7 vessels or closing the bar.

8 PUBLIC SPEAKER: The question is, why
9 codify it?

10 CAPT. DEVEREAUX: Because you are -- if you
11 are going to close the bar, you can't just willy-nilly
12 say it's closed or not closed. You have to start with
13 some kind of rationale. And that's the starting point.

14 That's all the questions. If you have more
15 questions, you can ask us during the break, but it's
16 almost 6:45 and I know people want to get going.

17 Is there any questions before we take a
18 quick ten-minute break in the testimony?

19 PUBLIC SPEAKER: Unless I missed something,
20 you gave us the formula that you are going to use to
21 determine the boats that can go, and the boats that
22 can't go. How do we apply that to our boat? I can use
23 the formula on my boat, but I can't equate it to what
24 size of the wave you are -- you guys are saying I can't
25 go over.

1 LCDR SADDLER: Well, the formula is just
2 one tool that the stations will use for the bar
3 restrictions. All you need to be aware of is whether or
4 not that restriction applies to you as either a
5 recreational boat or uninspected passenger vessel. If
6 it's 40-foot and below, and you are 40-foot or less, and
7 that's the restriction, that's restricted to your vessel
8 and you will not be allowed to cross.

9 CAPT. DEVEREAUX: We're not making you do
10 the math.

11 PUBLIC SPEAKER: That makes no sense. If I
12 have a 39-foot boat with a four-foot freeboard compared
13 to a 39-foot boat with a two-foot freeboard, I can't go
14 over water that the other boat can?

15 CAPT. DEVEREAUX: Possibly true. You may
16 have a case made to the officer in charge, "I need to
17 go, and I am in better shape than the other ships. I
18 have a higher freeboard, I think I am okay." You can
19 make that case to the officer in charge, if you want a
20 special case crossing.

21 Let's take ten minutes, and then we will go
22 in order of signups for testimony. Thank you.

23 (Brief recess taken.)

24 LCDR SADDLER: Please limit your comments
25 to five minutes. The first person on the list is

1 Mr. Jim Townley. And if I could ask people to spell
2 their name as well, when they step up.

3 JIM TOWNLEY: I am Jim Townley,
4 T-O-W-N-L-E-Y, executive director the Columbia River
5 Steamship Operators Association. The CRSOA is an
6 87-year association of ship owners, ship operators, ship
7 agents, tug assist companies, in-land towing and
8 ocean-going towing.

9 As a result of the folks I represent, our
10 comments are directed strictly at the sections of the
11 Notice of the Proposed Rule that deal with deep draft
12 vessels, and towing industry vessels. I do have written
13 comments, which I will submit. The comments have been
14 submitted earlier, but I want to make sure, in the
15 interest of completeness, that everyone in Seattle has
16 had the opportunity to see them, as well.

17 And having submitted that for the record, I
18 want to note that there was a need for, in our opinion,
19 another public hearing dealing with the subject of deep
20 draft vessels and ocean-going and in-land towing, for
21 the main reason, we would like to have it in the
22 Vancouver-Portland area, because the proposed rules as
23 currently written there have a significant adverse
24 economic impact on operations up there, and on the jobs
25 and the economy up there.

1 And the folks that have come with me to
2 testify today have given up about eight hours of their
3 day to make the trip to prepare, and, of course, to get
4 back. So it wasn't just a flippant-type, easy thing for
5 us to be down here and give the testimony.

6 And I think, had you held a public -- if
7 you hold a public hearing in the Portland-Vancouver
8 area, you are going to see a lot of ports, and a lot of
9 other aspects of the industry present to comment on
10 these rules.

11 Having said that, the rule -- our main
12 objection to the rule is the uncertainty that it
13 introduces into a system that is working and working
14 very well already. And unnecessary uncertainty leads to
15 unnecessary costs, which I don't think I have to comment
16 on that in the economy we're in. We have -- we're all
17 very well aware of how important costs are at this point
18 in time.

19 The main section of the regulations that I
20 want to address in the next couple of minutes, and then
21 I will complete, is the section that we disagree with in
22 the planning and regulatory planning, and review
23 discussion statement. Because it says, quote, "The rule
24 changes only procedures for restricting and/or closing
25 the bars, not the standards for determining when a

1 restriction and/or closure will take place."

2 Now, what we have heard already, if you go
3 to the next paragraph here, is that there needs to be
4 some rationale, those are the words that were used. We
5 don't want any willy-nilly in opening and closing the
6 bar.

7 So the question that we're putting forward
8 is if this isn't actually putting forth standards, then
9 how do you know when to close the bar, to put the
10 procedures in place? Or open the bar, as we have heard?

11 So from our point of view, this clearly is
12 a standard -- it's all about standards, and did we lose
13 the battery --

14 PUBLIC SPEAKER: No, you broke it.

15 JIM TOWNLEY: Tell you what -- I think I
16 have got a voice that will carry. Everybody hear me
17 back there. I just want to quote one paragraph from
18 this stuff that we submitted here.

19 We know of no current objective standard
20 for effective closure of the Columbia River Bar. Over
21 the past many decades accepted maritime practice has
22 been to rely on the expert assessment of licensed
23 maritime professionals for making sure determinations.
24 And the excellent safety record we have enjoyed attests
25 to the wisdom of this approach.

1 The language of the proposed regulation
2 clearly states the standard for bar closure shall now
3 be, under the proposed rules that we're addressing,
4 quote, "operational limitations of the relevant Coast
5 Guard Search and Rescue resources."

6 Other folks that are going to be
7 testifying, will talk about why commercial ships are
8 different from small boats, and why the whole system of
9 protocols for managing deep draft commercial vessels
10 over centuries of time, have led to the safe operation
11 and safe ability to make determinations on whether a bar
12 should be crossed or not.

13 There's a couple of -- two other points
14 that I want to make -- is that yours? We will try it --
15 that has to do with, is there really a need for
16 regulations that are being discussed right now for deep
17 draft vessels, and the towing vessels that operate in
18 our waterways?

19 We feel that we have already got a safe
20 system in place that has proven itself for over a
21 century now, so we see the proposed rules as actually
22 being in conflict with, and offensive to, Federalism and
23 the principles of Federalism. We have the Board of
24 Maritime Pilots with licensed maritime experts that make
25 the determination as to when it is or is not safe for

1 commercial vessels to cross bars, among a lot of other
2 things. So the need for this regulation, we feel, is in
3 question.

4 It also ignores the fact, as I indicated,
5 ships are different. There's protocols, procedures in
6 place, a whole system of internationally recognized
7 licensure of professionals who cross bars all over the
8 world. And they know to rely on the judgment of pilots.
9 That why pilots are hired by ship masters to make these
10 determinations. So we see this as duplicative,
11 unnecessary, and as I said, offensive to the principles
12 of Federalism. Thank you.

13 LCDR SADDLER: Next person is Mr. Paul
14 Amos.

15 PAUL AMOS: Good evening. My name is Paul
16 Amos. I am the current president of the Columbia River
17 Pilots. We move vessels between the -- deep draft
18 vessels between Portland and Vancouver, and Astoria. I
19 was happy to see in your presentation you mentioned that
20 these closures would be made in conjunction with the
21 captain of the port talking to the captain of the
22 maritime professionals. That should include all
23 stakeholders whenever they are thinking about closing
24 the bar. I did not see that in the regulation anywhere.
25 I would like to see that (inaudible) -- requirement that

1 it would be required. The fact is that in the past that
2 has not been the practice, that since the Coast Guard
3 has been closing the bar the last couple of years, it's
4 sometimes been arbitrary and quite unexpected to us.

5 And for the river pilots, that's a very
6 dangerous thing. We move ships that take seven, eight
7 hours, maybe even ten hours to get them from the
8 Portland area down to Astoria. If you are underway when
9 one of these closings suddenly happens, we can't turn a
10 700, 800-foot long container ship around and take them
11 back to Portland for a number of reasons. One, the
12 channel is too restrictive and there's very few places to
13 turn one around that size. Vessels even smaller than
14 that with maximum draft may not be able to be turned
15 around. There's not enough availability of tugs in most
16 stretches of the river, so there's a lot of contributing
17 factors.

18 We rely on the expertise of the bar pilots
19 to watch the bar. And when we expect weather, we talk
20 closely with them. In our years and decades we have
21 worked closely with them to determine if and when a bar
22 closure may occur, and what steps we should take if they
23 do occur. And we know from that what vessels we may
24 have to delay departure in Portland, or whether we may
25 be able to get them down. And we have very few

1 occasions when it doesn't work well.

2 So I would like to encourage the RNA to
3 directly require the captain of the ports discussing
4 with the stakeholders, contacting the river pilots
5 before closing the bar. It's vital to the safety. It
6 has a compound effect. It backs up traffic clear up the
7 river. And typically when we bring these ships down, if
8 it happened during a time when we need a deep draft bar,
9 there's a very narrow window. We may bring five or six
10 ships in a convoy. If the bar closes and we don't have
11 time to deal with it, we will have a huge problem on our
12 hands.

13 So we would like to see that requirement.
14 Basically that's my biggest concern is with these
15 closures, I hope you do require a close consultation
16 with the likes of the maritime professionals.

17 I do have a problem with closing of the bar
18 based on the capabilities of 47-foot motor lifeboat.
19 That doesn't seem, when you seem to require -- if it's
20 closed to all vessels, it doesn't seem to take into
21 consideration the unique capabilities of other vessels
22 out there, the size of a commercial deep draft vessel,
23 the lifeboats they have onboard, the training of the
24 crews, and licensed mariners and professionals they have
25 onboard, as well as the local pilots that know the local

1 conditions. Thank you.

2 LCDR SADDLER: Next, Pat Grill.

3 PAT GRILL: Pat Grill, K-Line America,
4 G-R-I-L-L. We operate deep draft vessels, and we're
5 concerned that this proposal is suggesting a fix to a
6 nonexistent problem. More than 80,000 commercial vessel
7 bar crossings have occurred over the last two decades.
8 According to our records, during this period the Coast
9 Guard has never been called to assist in a bar crossing
10 situation involving a commercial vessel, its cargo, or
11 its crew.

12 Further, according to our records, only two
13 transits resulted in calls for assistance of Coast Guard
14 Search and Rescue resources in recovering a pilot who
15 slipped overboard while boarding a commercial vessel
16 using a pilot ladder at sea.

17 In my own experience, we have worked very
18 well with the bar pilots. They communicate with us
19 well. They have been able to forecast in advance when
20 they plan to close the bar, and communicate with us in
21 advance when they plan to reopen the bar. And this is a
22 huge help when we're trying to schedule vessels coming
23 and going in ports, and for labor, et cetera, in the
24 ports. I think as the old adage goes, if it's not
25 broke, don't fix it. And we request that this proposal

1 be exempt for deep draft vessels. Thanks.

2 LCDR SADDLER: Thank you. Bruce Skerry.

3 BRUCE SKERRY: You got most of it right.

4 LCDR SADDLER: I will ask you to spell your
5 name for me, please.

6 BRUCE SKERRY: Good evening. My name is
7 Bruce Skerry, S-K-E-R-R-Y. I work for Trans Navigation
8 Corporation. We're vessel agents. We handle in excess
9 of 200 vessel calls per year on the Columbia River. I
10 myself have been in the business for 43 years. I have
11 worked in San Diego, Los Angeles, Long Beach, San
12 Francisco, on the river here, New Orleans, New York, and
13 New Jersey harbors.

14 And all of those harbors, with the
15 exception of collision or spills or other severe
16 incidents, the pilots in those areas have made the
17 decision as to whether or not we would move a vessel in
18 or out, or to shift. Here on the river, we have, as you
19 know, the bar pilots and river pilots. They are very
20 communicative with us. Their timing and notification on
21 closings and openings is as previously said, allowing us
22 to forecast movement of our vessels, ordering labor, and
23 doing those things we need to do.

24 I know a reference was made to contacting
25 the captain of the port in case we want to know if a

1 vessel can move across the bar. I know that
2 particularly pertains to the vessels, smaller vessels,
3 but our experience is that sometimes you get the duty
4 communications person and it may be hours before someone
5 locates the top of the flag pole to get a response or to
6 get a decision. That has caused some problems with us
7 in the commercial areas, too. But I think it's more
8 urgent that it be looked at from the standpoint of
9 crossing the bar. Thank you.

10 LCDR SADDLER: Tony Anderson.

11 TONY ANDERSON: Tony Anderson,
12 A-N-D-E-R-S-O-N. I am an agent of 22 years here on the
13 Columbia River, and the idea of closing the bar without
14 the input of the Columbia River Bar Pilots and/or river
15 pilots, to our industry, causes a huge economic back up.
16 Vessels of 40 feet and such are restricted to when they
17 can and cannot move.

18 Now, to take the bar pilots and river
19 pilots out of that equation would cause us a great deal
20 of stress. We periodically arrange vessels to move way
21 in advance. We have a communication system in place
22 with the bar pilots and river pilots that gives you not
23 hours, but sometimes days of adverse conditions.

24 To try and stop a vessel 40 feet in draft,
25 700 feet in length on the Columbia River, once it's left

1 the berth, it's next to impossible. There's limited tug
2 access, limited location where the vessel can be turned
3 or stopped. So for the safety of our industry, to take
4 this out of the hands of the bar pilots and river
5 pilots, it's beyond our comprehension for a vessel to be
6 arbitrarily stopped.

7 It also impacts rails. Vessels are loaded,
8 cargo is moved by rails. So if you close the bar to
9 delay or stop a vessel means to stop rail, stop rail
10 movements, which is basically a domino effect that can
11 basically span as far back as the Midwest.

12 So as of now, for the last 22 years, we
13 have relied on the bar pilots and the river pilots for
14 closures, with advance notice, great communications, and
15 with quick openings. That's another point of interest.
16 When the bar is closed, they give us advance notice.
17 But they also work quickly in reopening the bar and
18 allowing us to coordinate vessel movement to keep
19 commerce moving. And at a time when we are dredging the
20 river to invite commerce, more imposed regulations make
21 the Columbia River a more unattractive area to call as
22 opposed to the rest of the Pacific Northwest. Thank
23 you.

24 LCDR SADDLER: Darus Peake. Spell your
25 name for us, please.

1 DARUS PEAKE: Not bad. D-A-R-U-S,
2 P-E-A-K-E.

3 I'm Darus Peake. I am chairman of the
4 Oregon Salmon Commission. I am here representing about
5 1100 salmon trollers in Oregon. We polled what we could
6 of the fleet, and no one, not one, agreed with the Coast
7 Guard formula on bar crossing. Most of our fishermen
8 are wondering if the salmon fleet will even be involved.
9 As far as our safety record, it is extremely good. Our
10 normal fishing season is from April to October, which
11 puts us out of any or most severe winter weather. The
12 thought of one formula fits all just does not work for
13 this fishing fleet.

14 On a personal note, as a crabber/salmon
15 fisherman out of Garibaldi, we operate a 36-foot boat
16 with a 15 knot capability. I have a skipper who has
17 fished for crabs since 1966 in vessels not larger than
18 36 feet. He's made between 3500 and 4000 bar crossings,
19 most of them in Garibaldi and none of these required
20 Coast Guard intervention.

21 With all of these factors involved, I think
22 one formula fits all is absurd. All of us would be more
23 in favor of local navigation training where experienced
24 fishermen, not so experienced fishermen, and
25 knowledgeable Coast Guard individuals sit down and

1 discuss the hows and whys of safe bar crossing.

2 Good safety recommendations and lifejacket
3 requirements would go a lot farther than trying to force
4 new laws on small commercial businesses who are already
5 struggling to survive to feed their families.

6 On page 7023 of the Federal Register they
7 say impacts on small entities. You close the bar, we're
8 unemployed. Thank you.

9 LCDR SADDLER: Gary Lewin.

10 GARY LEWIN: Gary Lewin, L-E-W-I-N. I'm
11 the administrative pilot for the Columbia River Bar
12 Pilots, and what I would say is probably somewhat
13 repetitive, but I am going to say it anyway.

14 I am going to address the bar closings for
15 commercial vessels as proposed in this regulation. But
16 before I do this, I have one comment on your
17 presentation, which I found was not quite correct. You
18 may not be aware of it, but you indicated one of the
19 tools currently in use is the Coast Guard does confer
20 with the pilot organization.

21 These last few years that has not been the
22 case, in fact. The bar closures, and particularly the
23 bar openings, have been, to say the least,
24 confrontational at times. We have -- at one time we
25 actually, when we tried to the open the bar because

1 conditions had improved and there was no problem at all
2 for us to get a vessel back and forth, we put four
3 pilots on vessels and flew them out with our helicopter.

4 The vessels started in, the Coast Guard
5 made us turn the vessels around, take them back to sea,
6 remove the pilots, bring them back to shore, and then an
7 hour later put them back on the ship. It was an obscene
8 waste of money, and less than professional in our
9 estimation. So just -- that was just a comment on your
10 regulations there.

11 And as Paul Amos mentioned, you indicated
12 in the presentation that pilots are talked to about bar
13 closures. It does not appear that way in the
14 regulations, so it's not one of the criteria.

15 Now, the restriction on the bar to all
16 vessels when the environmental conditions exceed the
17 operational limits of the Coast Guard Search and Rescue
18 resources, as determined by the captain of the port, is
19 a criteria that doesn't really make much sense. You are
20 holding a large vessel, maybe a 900-foot vessel, hostage
21 to the abilities of a 47-foot lifeboat or the
22 helicopter, and the visibility needed by the helicopter.

23 These large vessels really do not, and
24 never have needed assistance in crossing the bar. The
25 regulation itself refers to over 160 years of best

1 practices and protocols that have been refined to assure
2 safe and efficient transit for commercial vessels and
3 Columbia River Bar Pilots.

4 And in effect, what you are trying to do is
5 solve a problem that doesn't exist. If conditions are
6 severe outside and the pilot can't get off, he doesn't.
7 He stays on the vessel and goes to sea, goes to Seattle,
8 goes to Canada, goes to San Francisco. I have gone all
9 those places rather than get off in heavy weather.

10 The bar pilots have spent large
11 expenditures, and the industry has spent a lot of money
12 for equipment for the bar pilots to cross adverse bars.
13 We have two pilot boats that are rollover capable. One
14 is the most modern pilot boat in the world. It has all
15 the safety equipment on it imaginable. We have a
16 helicopter so we can fly over bad bars and get aboard or
17 disembark these large vessels. And it seems, again,
18 absurd to hold us hostage to the capabilities of a Coast
19 Guard 47-footer.

20 As previously mentioned by Tony, we have a
21 forecast system in place now where we try to alert the
22 industry to what is happening, what is going to happen.
23 We keep them advised all the time as we sense an
24 approaching storm, or conditions that are starting to
25 deteriorate. And the system works just fine, and

1 there's no reason to try a to change that system.

2 We realize that your proposals are well
3 intended, but I think they are poorly drafted as they
4 would affect large commercial vessels. And that's
5 pretty much all I have to say.

6 CAPT. DEVEREAUX: Quick question for you.
7 You say that you actually have written protocols on how
8 you open and close the bar based on your bar training?

9 GARY LEWIN: No, we don't have written
10 protocols, because to us, it's not a matrix. It's a
11 case by case basis. The question of -- one of the
12 gentlemen over here, wave period, (inaudible), the
13 length of the vessel, when we close the bar, we
14 generally have five or six pilots, each having 25 years
15 experience, sitting there in the office determining
16 whether or not the bar should be closed. So it's not a
17 written protocol because there's no defined matrix that
18 works.

19 CAPT. DEVEREAUX: Okay. Thank you.

20 LCDR SADDLER: Steve Davis.

21 STEVE DAVIS: Hi. I am Steve Davis,
22 commercial fisherman. I would like to know the average
23 age and average bar crossings of the officer in charge.
24 I have been doing this for about 28 years from Kodiak to
25 Los Angeles, and probably I would say about 3000 bar

1 crossings. Are the people that are going to be making
2 the -- call the shots have as much experience as I do?

3 LCDR SADDLER: I have no idea. I don't
4 have an answer for you on that.

5 STEVE DAVIS: I think that's a big factor
6 in this. A lot of it has been -- we've been doing this
7 all our lives. We know how to do this. We know these
8 bars. Someone comes in for a couple of years, gets
9 transferred out, comes in, doesn't know what is going
10 on, I think I have got a lot more experience than they
11 do. And I call my own shots. I don't see why anything
12 has to be changed that has worked well for as long as I
13 have been in the business.

14 LCDR SADDLER: I will say I don't know what
15 their average age is, but the majority of our training
16 officers and officers in charge have spent most of their
17 careers up and down the Oregon Coast at various stations
18 and have received numerous hours of surf and bar
19 crossing training. I don't know how many hours. I
20 don't know how many crossings. I couldn't venture to
21 guess that.

22 STEVE DAVIS: If you can assure me that
23 they have more experience than I do, then I can go for
24 this, but I don't see how that can be done. Thank you.

25 LCDR SADDLER: Butch Henry. Dan Jordan.

1 DAN JORDAN: Hello. Dan Jordan,
2 J-O-R-D-A-N. I am a Columbia River Bar Pilot. I would
3 like to relay the last experience I had with bar closure
4 where it was actually a temporary change to the CFRs.
5 We had a pretty good working relationship with the
6 secretary of the port, Portland, when the bar was closed
7 by a temporary rule change, the CFR.

8 I was on the phone with the commander and
9 the secretary of the port arranging ships to come in and
10 out of the river. And as we had pilots board the ship
11 moving, the US Coast Guard said the bar is closed. You
12 can't cross. So we had to turn the ships back around,
13 and get the commander from the Astoria area and the
14 commander from Central Portland to talk to each other on
15 a conference call before we could continue on with the
16 ships.

17 The concern with this regulation, is if we
18 have a working relationship with one Coast Guard
19 officer, that officer rotates around, the way the
20 regulation is worded now, the next one may read it
21 differently and interpret it differently. And we
22 request the regulation of the bar closure include more
23 verbiage to clarify that for future officers. Thank
24 you.

25 LCDR SADDLER: Mick Buell.

1 MICK BUELL: Mick Buell, B-U-E-L-L. And I
2 operate a charter boat out of Garibaldi. And my main
3 concern is, as I asked earlier, the procedure to reopen
4 or close the bar. There could be, and many times there
5 are, cases where there's an opening of half an hour or
6 an hour long. And I know that the Coast Guard can't be
7 running out there every 15 minutes to look at the bar,
8 but if we miss that opportunity, then it might be five
9 or six hours before we can do anything. And at that
10 time, it's too late. We're not able to make a trip that
11 day. And its financial impact could be pretty severe.
12 Thank you.

13 LCDR SADDLER: Linda Buell.

14 LINDA BUELL: Linda Buell, B-U-E-L-L.
15 There have been a lot of comments made today, and I
16 agree with a lot of them so I am not going to go over
17 that. But I do own a charter business, and I would like
18 to address your assessment of the impact, the economic
19 impact. And you say there isn't going to be one on
20 small businesses, but every boat out there is a small
21 business, even if it's only a 36-foot charter boat. You
22 know, not the recreational, but all the other boats.

23 And when a bar -- if the bar is closed, or
24 even restricted, and we're not allowed to go out in the
25 morning, we can't ask those passengers to wait around.

1 Not only that, but it's not usually good for the winds
2 at Garibaldi, coming back in the afternoon. So we leave
3 it between 4:30 and 6:30, and we're back by noon.

4 And if you don't have somebody there, the
5 economic consequences for small business entities need
6 to be addressed. And charter boats, when we leave the
7 docks at daybreak to get to the fishing grounds, fish
8 for the allotted time, and return before the afternoon
9 winds pick up, we already cancel many trips each year.
10 We can't afford to lose any more than necessary. And
11 the bars are often not reopened, at least not
12 recreational -- you can ask any of them -- in a timely
13 manner.

14 Frequently the bar reports that we do get
15 often come late, and they are usually from the day
16 before by the time when we're going out. So we have to
17 make our own assessments, and I think we do a pretty
18 good job.

19 We are worried about the timely reopening,
20 and the officer in charge is not always available, and
21 especially at 4:30 in the morning. And then it's too
22 late for us to go. For us, any day that we lose because
23 you might close the bar and not reopen it in a timely
24 manner, that's \$1,000 a day.

25 So I know you are trying to save lives, but

1 you need to consider the unintended consequences of what
2 you are doing, and the economic hardships that these
3 could make if you don't have the resources to open the
4 bar in timely manner.

5 LCDR SADDLER: Joe Ockenfels. And if you
6 could spell that for us.

7 JOE OCKENFELS: My name is Joe Ockenfels,
8 O-C-K-E-N-F-E-L-S, one L. I operate a charter boat out
9 of Garibaldi. My concern is that the already stressed
10 resources of the Coast Guard would be stressed even more
11 with the implementation of these regulations.

12 And the question I would have to the
13 persons that are saying let's implement this, is the
14 Coast Guard ready, willing, and able to be supported by,
15 financially, the increased pressure this is going to put
16 on the already stressed resources of the Coast Guard, to
17 perform or to implement the plan, and to effectively
18 take -- effectively let it happen for the stakeholders.

19 So that's a big concern at this time of
20 stressed resources, how is that going to happen? Yes,
21 let's say it's a great plan. Okay. You have a great
22 plan, but you are not going to have the ability to put
23 that -- make that plan effective if the resources aren't
24 there. Meaning man hours, coxswains on duty, vessels
25 available, increased communications, coms, et cetera.

1 Thank you.

2 CAPT. DEVEREAUX: You mean in all events,
3 not just closed bar, but even in restricted time?

4 JOE OCKENFELS: Yes, exactly. The added
5 effort, knowing that we deal directly with our local
6 station and do it, I think, quite well. But knowing
7 that the resources, as far as like I said, it's going to
8 bump up the coms, it's going to bump up somebody being
9 in the tower all the time. I don't know if that's taken
10 into consideration. If they are not there all the time,
11 how the heck can it be effectively implemented? If
12 there isn't a commander, someone in charge right there
13 on the spot, how can it effectively be managed? So,
14 yes.

15 LCDR SADDLER: Ron Rasmussen.

16 RON RASMUSSEN: I can't hear half of what
17 is going on, so I want to talk into the speaker. I am
18 just -- okay. I am just a dumb old fisherman, and a
19 boat operator. I do not -- unfortunately, I do not feel
20 I have enough facts to properly make statements at this
21 hearing. However, also unfortunately, I feel this is
22 probably the only opportunity I am going to have, so I
23 am just going to go by my personal knowledge, and common
24 sense.

25 Right now I have been running across the

1 Columbia River bar since 1966. Today I found out I am
2 ten years before the rules. I was in a 17-foot boat for
3 years and years and years. 17-foot. Okay.

4 This meeting apparently was called because
5 of -- and I will quote -- 39 vessels capsizing resulting
6 in 66 fatalities. Well, that's unfortunate that 66
7 people had to die. It's unfortunate there were 39
8 vessels capsized.

9 But let's take a look at that. 1992,
10 16 years there was only 39 vessels that capsized, and
11 only 66 people that died because of it? Okay. The
12 newspaper made that quota. They came in here today, and
13 that quote is what starts this whole thing off. I don't
14 feel that's even anywhere reasonable about anything, and
15 the whole criteria is the size of the boat.

16 I would be willing to bet -- and I don't
17 have the facts and the figures, because nobody made the
18 facts and the figures available. Why did these 39 boats
19 capsize? Why did these 66 people die? Was it because
20 of the size of their boat? I don't think so. What
21 about human error? And what is this new law change
22 going to affect, or how is this new law going to affect
23 human error?

24 You know, if you go out there and make
25 mistakes and capsize your boat and die because of it,

1 that's very unfortunate, but it shouldn't happen. And I
2 would be willing to bet that the majority of these
3 capsizes fall in that category.

4 And the State of Oregon recently, five
5 years now, started in the right direction by making
6 people take tests in order to run their boats. And I
7 think that was the right direction, not this. Thank
8 you.

9 LCDR SADDLER: Larry Thevik. Am I
10 pronouncing that correctly? If you could spell that.

11 LARRY THEVIK: T-H-E-V-I-K. Thank you for
12 the opportunity to speak to all fellow mariners, and the
13 Coast Guard, especially. I have submitted written
14 statements, and this oral testimony is an edited version
15 of that written statement.

16 My name is Larry Thevik. I have been a
17 commercial fisherman for 38 years. I have owned and
18 operated vessels ranging from 36 to 63 feet in length
19 from Morro Bay, California, to Cordova, Alaska. I have
20 crossed numerous bars from Eureka, California, to
21 Strawberry Bar in the Copper River Delta area of Alaska.

22 My primary operation area is Gray's Harbor.
23 During my fishing career I have crossed the Gray's
24 Harbor Bar literally thousands of times. I estimate
25 over 7,000 times in 38 years. In fact, this year I have

1 already crossed the bar since January 12th, another 80
2 times.

3 As is the case for most commercial
4 fishermen who fish out of Gray's Harbor, I know as much
5 about crossing that bar as anyone in this room. In my
6 opinion, the proposed rule changes regarding bar
7 closures do little to ensure the safe crossing of our
8 Northwest bars, while greatly increasing the
9 complications of our fishing operations and hindering
10 our ability to make a living on the sea.

11 No one is more interested, or more aware of
12 the dangers of making it home from work than a
13 commercial fisher, especially a Dungeness crab fisher in
14 the dead of winter.

15 As treacherous as these bars can be, I
16 reiterate what the previous speaker spoke. I would be
17 curious to know how many bar crossings by small vessels,
18 commercial and recreational, have occurred under
19 existing safety rules over the past decades without
20 incident or fatality.

21 While the Coast Guard claims this rule will
22 have no significant impact on small entities, I
23 disagree. The days lost of fishing time, especially
24 during the peak of crab season, due to an unnecessary or
25 ill-conceived rules, means thousands of dollars lost to

1 that individual vessel, and hundreds of thousands of
2 dollars lost for our coastal fishing communities.

3 I have specific comments relative to the
4 specific rules, and the first one is -- and we have
5 already heard from the Coast Guard that it's going to be
6 looked at. And that is, the areas of compliance far
7 exceed the recognized areas of hazardous sea conditions
8 unique to Northwest bars. And I won't go into it much
9 more than that, just saying that's an area that I think
10 we agree on, we need to look at it closer. We need to
11 discuss it, and identify what truly are these areas, if
12 we need new rules.

13 I believe that the proposed rule is unclear
14 as to the meaning of the bar and crossing the bar, that
15 the references are made for activities within the RNA
16 that have been triggered by actions relative to the bar.
17 I don't know at what point in time and place a vessel is
18 actually crossing the bar in a legal sense. Is a vessel
19 fishing inside the RNA close to the bar, say within
20 one-half mile of Buoy 9, for example, in Gray's Harbor?
21 Is he crossing the bar, or is he fishing? That's
22 another area I believe we need some clarification on.

23 The VHF radio call-in requirement, it seems
24 innocuous on its face, but how does this requirement
25 benefit the commercial fishing fleet, or improve the

1 safety of a bar crossing? I just don't see the
2 connection.

3 And how will a single Coast Guard operator
4 handle 70 to 80 calls on one frequency when the entire
5 crab fleet may leave the docks at the same time at
6 Westport on the opening of a new crab season, as it did
7 last year, New Years Eve, 2008. The sheer volume of
8 calls generated by this requirement during the early
9 part of the winter crab season will, in effect, increase
10 safety risks by clogging the VHF emergency channel.

11 The fourth specific issue that I take -- I
12 have question about, and I wonder about is the procedure
13 for reopening the bars. You have heard that over and
14 over again. There's very little language in the
15 proposed rule addressing the reopening of a closed bar
16 and reauthorization of the activity within the RNA. Bar
17 conditions can and do change hourly.

18 Previous years' experience with bar
19 closures include slow captain of the port and Coast
20 Guard response to improving bar conditions, and thus
21 unwarranted restrictions on local fishing fleets and
22 their access to their fishing grounds. This slow
23 response can have a negative impact on fishing vessels.
24 Such slow response will erode Coast Guard credibility
25 with local mariners, and can place experienced mariners

1 at odds with emergency rules in place when no emergency
2 exists.

3 In January 2008 the captain of the port
4 closed the Gray's Harbor Bar during the first week of
5 our crab season. And while the closure may have been
6 warranted, the seas did approach 24 feet at night,
7 overnight those conditions improved. Although wave
8 heights diminished to less than 12 feet, the bar was
9 still closed. A flood tide and favorable swells, the
10 fleet was told they still could not go. Most went
11 anyway. To any experienced mariner it was obviously
12 safe to cross the bar. I went. Had I not gone, I would
13 have missed the chance to catch and deliver \$17,000
14 worth of crab that day. So when it said there's no
15 economic impact, I disagree.

16 The area that concerns me the most is the
17 definition of unsafe conditions. Prior to this proposed
18 rule, unsafe conditions, as described by the formula,
19 length divided by ten, plus freeboard equals the wave
20 height was used under rules specific to recreational
21 vessels and uninspected passenger vessels, in 33 CFR
22 Part 177.07. Although I question the validity and
23 origin of this unsafe definition within the present
24 context, that aside, I am extremely concerned about
25 including this definition within the much broader

1 context of the proposed rule.

2 This reference is a very troubling part of
3 the proposed rule. Great care must be taken by the
4 Coast Guard to ensure that no new or unintended
5 connection is made between the present definitions
6 within Part 177, which applies specifically to
7 recreational and uninspected vessels, with the larger
8 class of vessels within the proposed rule. If continued
9 reference to this unsafe definition is included within
10 these revised rules under Part 165, which I believe is
11 where they are going to go, a specific exemption to
12 vessels other than recreational and uninspected vessels
13 must be made very clear. And the present references in
14 33 CFR Part 177.07 to unsafe conditions only applying to
15 recreational and uninspected vessels must be maintained
16 within the changes proposed to 165.

17 And one of the places where this becomes
18 apparent or expanded, that class of vessels, even though
19 it may not be intended, is the VHF radio call-in, as an
20 example. Under the VHF radio call-in requirements, if a
21 recreational vessel of a certain length is restricted,
22 then a commercial vessel has to call in because the
23 recreational vessel was restricted. Yet it was
24 restricted on a definition that applies only to
25 recreational vessels under Part 177 now.

1 If the Coast Guard does intend to use this
2 definition of unsafe conditions on the larger class of
3 vessels, then more scrutiny of this definition is
4 warranted.

5 I have spoken to marine architects on the
6 East Coast and West Coast, and the Commander of Marine
7 Safety Division in Washington DC, and none of them had
8 heard of, let alone understood, the basis of this
9 definition.

10 As the owner and operator of a 42-foot
11 commercial fishing vessel, by this formula, this would
12 be unsafe in my vessel in any sea greater than five
13 feet, nine-ish. Based on 38 years of fishing
14 experience, I can tell you over 50 percent of the time
15 my operation would have been deemed unsafe. If I had
16 fished only when it's safe, I would have been broke
17 decades ago. I will wrap it up.

18 In conclusion, some conditions in this
19 world can be codified. The sea cannot be made safe by
20 rules. A loss of life is regrettable, but the only way
21 to ensure the safety of persons and vessels operating in
22 those areas -- and I say that because it's quoted under
23 Background and Purpose in the rule -- in order to ensure
24 that, the only way you can do that is to not allow any
25 vessels to operate at all.

1 Before we tamper with existing rules and
2 present practice, I believe it would be helpful to take
3 a closer look at the number of safe bar crossings and
4 productive activities occurring without incident within
5 the RNAs before or since 1992. We all want to improve
6 safety at sea.

7 Perhaps the best way to improve the safety
8 of bar crossings is to provide more realtime sea
9 condition data. One of the most helpful things the
10 Coast Guard can do is to advocate for more at sea wave
11 and weather buoys, and to continue what they do best, to
12 provide well-trained crews and well-maintained vessels
13 to help us, to help mariners when the rules cannot.
14 Thank you.

15 CAPT. DEVEREAUX: One quick question. I
16 completely understand the cost when the bar is closed,
17 and it's safe to go across. I understand the large
18 cross it. Other than those situations, what other is
19 the costs that are involved in this rule that I haven't
20 written down yet?

21 LARRY THEVIK: First of all, that is a huge
22 cost. You recognize that up front. So if we have a
23 closure, it's got to be reopened right away, as soon as
24 it's safe.

25 Or but the other question becomes, we have

1 a highly regulated business as it is. The commercial
2 fishing industry is one of the most regulated businesses
3 in the country. It's another layer of rules that may or
4 may not help us, yet it's another hoop or step. Every
5 time you add another rule, you add another layer, you
6 add another hoop. It's time. Someone said time is
7 money. All of those things add up. I might have a more
8 specific answer to your question if given a chance to
9 think.

10 CAPT. DEVEREAUX: Thank you.

11 LCDR SADDLER: Dwight Eager. Would you
12 spell your name, please -- there's that knob halfway
13 down, too. That will lower it as a whole.

14 DWIGHT EAGER: My name is Dwight Eager,
15 E-A-G-E-R. I am a commercial crab fisherman, and have
16 been for about 35 years, out of the Columbia River. I
17 am also the president of a small seafood company in
18 Chinook, Washington.

19 I would like to start by saying that we
20 really do love the Coast Guard. All of us that have
21 done this for many years, like myself, have seen many,
22 many times where these folks have risked their lives to
23 save our friends, and helped ourselves out in a few
24 instances.

25 But I am afraid this regulation is just a

1 train wreck heading down the tracks. I can't see how
2 it's going to help anything. I don't think it will make
3 us any safer. From all of the testimony that I have
4 heard here today, I think what I would have to say would
5 probably just be a duplicate, but I will do a little bit
6 of it.

7 To me it seems like most of the problems
8 that I have seen over the years have been caused by
9 mechanical failure, human error, situations like that.
10 Not necessarily, as one fellow said, a person operating
11 too small a boat in too tough of weather. That's
12 usually not the situation. It's a flooding, a fire,
13 they go in too shallow water with too big a swell, all
14 of these different reasons that can cause problems.

15 I would propose that this industry, over
16 the years, has evolved a very good system of checks and
17 balances on whether or not it can go in safe weather.
18 And I don't think the Coast Guard could be nimble enough
19 to do that good a job.

20 Now, our friends in the bar pilots have
21 talked here about what they go through moving ships up
22 and down the river, and opening the bar and closing the
23 bar. It takes a lot of work. I mean, for them to just
24 coordinate all of that, and to communicate with each
25 other, and for an agency like the Coast Guard to be able

1 to bring themselves into that loop, I just don't see how
2 they could do it in a timely fashion that would actually
3 help anyone.

4 Now, in our industry, and especially in our
5 Port of Chinook, we're small crab boats. So we fish
6 small weather windows all winter long. When the season
7 starts, we might get up in the morning, and the morning
8 high tide is no good. But by 10:00 in the afternoon
9 it's coming down, and by noon we're going out, and we
10 might come in at 6:00 in the afternoon, or 6:00 the
11 following morning, depending on the sea conditions.

12 Or we might go out, and it appears to be
13 fine, but there was a squall off shore that came in and
14 started to change the complexion of it. Well, we rely
15 on boats that are bigger boats a lot of time that are
16 farther off shore for information, boats that are on the
17 ground, or the bar pilots, we call them lots of times
18 and ask them what the current conditions are, and they
19 are very helpful with that.

20 So I just don't see how the Coast Guard
21 could improve on this system that we use with a written
22 regulation. I think it's going to be overburdensome.

23 And there's a situation I was also thinking
24 of just a minute ago, we go out in the morning, and say
25 you have a ten-foot high tide, and we go out, and it's

1 going to go down to a minus tide, and the bar is
2 uncrossable maybe an hour after we go out. Is that
3 conditions for a bar closure, because the bar, the swell
4 will go up on the up tide a lot of times, and it won't
5 be crossable, but then it will lay down again at the low
6 tide and be crossable again.

7 So are we going to open and close every
8 time the up tide creates a condition on the bar where
9 it's unpassable? And, of course, the area that we fish
10 is that 46°18', which is about North Head, or what we
11 call the line up. 46°12' is about the Red Line,
12 roughly, on that side of the river. And I think 09'
13 must be about 15th out, or something like that, out
14 there about Buoy 1.

15 So that's the whole area that we fish all
16 the time. This whole small fleet fishes that area. It
17 will get across the bar sometimes, the bar will get bad,
18 you can't come back in, but you know you will be able to
19 when the tide stops and it starts to flood. But in the
20 meantime, you are fishing your crab pots in that area
21 out of the up current, where you can.

22 So I just -- I think this thing would be a
23 train wreck, and it would take a long time, and a lot of
24 tweaking to ever get it to the point where it would
25 work.

1 Now, many of us that have done this for a
2 living know what your life is like during the crab
3 season. I move out into my apartment, and don't even
4 talk to company when they come at the start of the crab
5 season, because you are living this 24 hours a day.
6 That's how intense it is. I don't know that the Coast
7 Guard would be able to manage it that quick, and that
8 timely. I just don't think it could happen.

9 But one more point with the Coast Guard, I
10 thought of an incident before I came up here, and I was
11 in the 8th grade in Chinook. And I was riding a school
12 bus back from a grade school basketball game from Grays
13 River, Washington, and I remember looking out the school
14 bus windows at the flares that the Coast Guard had
15 dropped for the MERMAID, during the MERMAID tragedy.
16 And Bergman's boys were on the school bus with me. They
17 were my classmates, and we were all looking out the
18 windows wondering what the flares were all about.

19 So that's how closely tied we are to the
20 Coast Guard here in this whole area. And I would be
21 afraid to think that this might cause some adverse
22 relationships between, perhaps, the shipping industry,
23 the commercial fishing industry, the charter boaters,
24 all of us that have good working relationships with the
25 United States Coast Guard over the years. And with

1 that, I will close. Nice to meet you, Emily.

2 LCDR SADDLER: Nice to meet you.

3 Dale Beasley.

4 DALE BEASLEY: My name is Dale Beasley,
5 B-E-A-S-L-E-Y. I am president of the Columbia River
6 Crab Fishermen's Association. First time I crossed this
7 bar was 1958. I was ten years old, and I have been
8 crossing it successfully since that time -- without
9 incident I might add. Except for a minor tow or two I
10 have had from the Coast Guard, which we have been very
11 fortunate that they were there, and are very grateful
12 for that.

13 I can see that this regulation is going to
14 cause our industry a lot of grief before it's over with.
15 It's going to cost us a lot of money. I don't agree
16 that there's not going to be an economic impact from
17 this regulation for our industry. And I have tried to
18 figure out why the Coast Guard is trying to expand this
19 regulation, and I have heard it mentioned here before
20 that there were a number of capsizings and some deaths
21 associated with this.

22 And let me assure you that I have a feeling
23 for that that probably no one in this room can have. I
24 have been that end of the bar. I doubt if there's
25 anyone in this Coast Guard that I am speaking to tonight

1 that has been 15 feet under water in an upside down boat
2 wondering if you could get out, and knowing damned well
3 if you didn't get it right immediately, you weren't
4 going to get out. I know what that feeling is like.

5 So I am not standing up here tonight to try
6 to relax a regulation. I know what those 66 people went
7 through, every last one of them. So let's get that
8 straight when I start talking here this evening. You
9 have heard a lot of testimony tonight that says that
10 there are a lot of things that are haywire in this
11 regulation that is going to impact the community a lot.

12 I have sent in approximately 20 pages of
13 written testimony to supplement what I am going to say
14 here tonight, and I have asked for a continuation of the
15 discussion on this regulation if it's deemed that it has
16 to go forward. I don't think this public hearing
17 tonight, and in Newport is going to be the answer for
18 how this regulation moves forward. There are too many
19 nuances to this thing to ever get it right from one
20 two- or three-minute talk -- I guess I have five
21 minutes. I have probably used up three and a half, and
22 I haven't even got my mouth open yet.

23 So obviously I can't say everything
24 tonight, and I obviously couldn't say everything in the
25 20 feeble pages I sent to you already.

1 But I appreciate, Emily, that you sent me
2 some statistics which I asked for. I reviewed those
3 statistics. And it appears to me, from what I saw, that
4 the majority of those fatalities occurred in vessels 30
5 to 35 feet and under, at least half of them. I know
6 that NEW JANET ANN was on that list, and those people
7 were unfamiliar with this Columbia River Bar. And they
8 were strangers to this bar.

9 For three years we requested the Coast
10 Guard to move the number 1 outside of the dredge site B.
11 That didn't happen. NEW JANET ANN died, those people on
12 that boat died because No. 1 was in the wrong place.
13 For 10 or 12 years we have been trying to get the Coast
14 Guard to put some regulation on their brothers, the US
15 Army Corps of Engineers, on wave identification.

16 And that last letter I sent you, to the
17 Coast Guard, I put an invitation for someone to come
18 from the Coast Guard to the technical forum that we were
19 putting on on the 27th and 28th of April, at Cape
20 Disappointment and Lewis and Clark Interpretive Center.
21 We're going to bring people in that are knowledgeable
22 from around the country. We are consulting heavily with
23 Jim Kirby from the University of Delaware. We have
24 hired him before when we sued the US Army Corps of
25 Engineers to stop this insane mounding. We are bringing

1 in Robert A. Dalrymple from John Hopkins University to
2 help explain some of the rationale used in these
3 mounding situations.

4 Quite a few of the people on that list of
5 66 people died because of these mounds. They were my
6 friends. I am speaking with emotion tonight, because
7 one of those folks had a dog that ended up at my house.
8 And for 17 years I have had to get up every morning and
9 look at that dog, and I see a dead man's face staring
10 back at me, for 17 years. And that was because the
11 Coast Guard failed to take action on those mounds.

12 I have made at least three trips to
13 Washington DC -- excuse me, to Silver Springs, Maryland,
14 to the National Oceanic and Atmospheric Administration,
15 National Weather Service, and requested them to put
16 buoys, weather buoys close to all of these bars for
17 helping you with bar crossings.

18 Not once have I heard that people get up
19 and try to do this. I know for a fact the bar pilots
20 have offered to pay to put weather tacking on navigation
21 buoys here on the Columbia River, and they have been
22 doing this for quite some time.

23 The United States Coast Guard and other
24 government agencies -- I am not putting this all on the
25 Coast Guard. There's other government agencies, the

1 Weather Service, and US Army Corps of Engineers, and
2 others, that need to address their own -- for a least
3 cost option here. And place a regulation, pretty damn
4 cheap to put a few words on a piece of paper and tell
5 someone else how to run their business, when they won't
6 invest in the infrastructure to prevent these fatalities
7 from happening.

8 And if you look at those 66 boats, and you
9 take out the vessels under 30 or 35 feet, and you look
10 at other incidents that happened, there's probably a
11 good reason for most of them, and those 66 numbers will
12 go down dramatically.

13 In fact, I have never brought this up
14 before, and I am going to do it tonight so everyone in
15 this room can hear it. And my five minutes is probably
16 gone, and you can stop me now if you want, but these
17 folks need to hear this.

18 In 2001 when we took the US Army Corps of
19 Engineers to court for the second time to get those
20 mounds reduced that are causing wave amplification and
21 causing potential bar closures in our area, and other
22 places on this coast -- go down to Coos Bay and see why
23 the NEW CARISSA ended up on the beach. They tried to
24 anchor too close to one of those mounds, and their
25 anchor dropped.

1 We wanted to get a congressional
2 investigation into why this happened. Well, Congress
3 remanded it back to the Corps and the Coast Guard. The
4 Coast Guard put out a report that was felonious. It was
5 incomplete.

6 To some of these accidents that happened in
7 2001, I am speaking specifically of the two recreational
8 crafts that happened on the 2nd of September. The
9 official report showed both of those accidents happened
10 just north of the North Jetty. One of those accidents
11 happened halfway up Ensign Beach. The recreational boat
12 came into the beach, they grounded on the beach, and
13 decided to go back out and their anchor dropped off the
14 bow, turned them sideways, and rolled them over in the
15 breaks. Didn't say anything. That's insane. You can't
16 regulate something like that.

17 And the other vessel happened on the north
18 edge of Dump SITE E where we have a mound from the US
19 Army Corps that didn't have --

20 COURT REPORTER: You are fading and I
21 didn't hear that. I need you to slow down and speak up,
22 please.

23 DALE BEASLEY: I don't remember what I
24 said. I am sorry about that.

25 But what I am saying, trying to say is this

1 regulation is spawned by an amount of fatalities that I
2 don't believe this regulation could prevent. And a lot
3 of things that happened wouldn't have happened if some
4 of the actions that our organization had worked on for a
5 decade or decade and a half, without support from the
6 Coast Guard -- and we need to get that support in the
7 future. We can't allow it to continue to go on the way
8 it is.

9 The fact that we can't even get a wave
10 gauge on a navigation buoy on the Columbia when someone
11 else has offered to pay for it is not representative of
12 how we should be working together to solve these
13 problems.

14 It's real easy to put words on a piece of
15 paper. It's a lot harder to take the other actions that
16 need to be done, especially if you have to take on your
17 peers in another branch of the military. I understand
18 that situation. I know what the code is for protecting
19 yourself at all costs.

20 I don't know what else to say. There's a
21 lot of things I could say, and a lot of things that I
22 put into the letter. In fact, there's a lot of other
23 things I could say, but what I am doing is No. 1, to
24 have you initiate some round-table discussions before
25 this regulation goes into effect. There's a lot of

1 people in this room that said there's a lot of things
2 that need to be looked at, and I don't think it's going
3 to be taken care of tonight or tomorrow night.

4 And the second thing is that we need to get
5 the Coast Guard support to get a lot of these other
6 agencies moving. We need some more weather buoys on
7 this coast. If you are going to have a bar closure, the
8 reopening of it -- it is unrealistic to send your boats
9 out there every half hour to look at it when we want to
10 go out in middle of the night.

11 You have to invest and put some
12 infrastructure, put some buoys on the bar, (inaudible)
13 swell height, but might as well put a few current meters
14 on as well, so we know what the current is running at so
15 we can anticipate what to expect. And you might as
16 well -- it's windy so you may have to redesign your
17 buoys to get this done, but it's time that this action
18 is taken. Not only in this port, but all up and down
19 the whole coast.

20 Any questions? I would like to thank you
21 for holding this hearing, because without this hearing
22 tonight this rule would have probably went forward and
23 it wouldn't have been near as good as it can be in the
24 future if it has to go forward. Thank you.

25 LCDR SADDLER: Doug Fricke get a chance? I

1 skipped over you. I apologize for that.

2 DOUG FRICKE: I just --

3 LCDR SADDLER: Spell your name.

4 DOUG FRICKE: F-R-I-C-K-E. Doug Fricke. I
5 am primarily here on behalf of the Coalition of Coastal
6 Fisheries. We're made up of coastal crabbers, trawlers,
7 long liners, trollers and various inside oysterers,
8 gillnetters groups.

9 We circulated a letter that endorsed the
10 comments of the Columbia River Crab Fishermen's
11 Association. Everybody -- and Dale, pretty impressive
12 all the work and research he's done into this, and the
13 sincere feelings he just presented to you.

14 Couple of other things that we mentioned in
15 our letter was the issue of the returning vessels.
16 Nobody has particularly addressed that in the public
17 comments here. How can a guy in an office really know
18 whether a vessel should return across the bar if he's
19 been out for a few days? There has to be some
20 exceptions written into the regulations. I can see
21 where you call in and maybe talk to the guy on the
22 beach, but only the guy in the ocean really knows what
23 the conditions are out there.

24 There has to be some consideration for
25 that. The absolute authority that this regulation

1 presents -- we have got several speakers here tonight
2 that have been across these bars their whole life.
3 Nothing against the Coast Guard. Boy, I have been glad
4 to see them a few times. I was out 150 miles and I was
5 damned glad to see you come over the horizon, so it's
6 not that we don't appreciate you.

7 But let's face it. The guys that have been
8 on these bars their whole life are going to have more
9 knowledge than a guy in an office. My personal
10 reflections based on what I have heard tonight, what is
11 the definition of a bar closure? Who is going to decide
12 that? It's totally absent in the regulation. Maybe
13 there's another regulation someplace that isn't referred
14 to that defines that.

15 Obviously it's different for an 80-foot
16 boat than it is for a 30-foot boat, or as you heard from
17 the deep draft guys, obviously different from a 900-foot
18 boat.

19 So just in conclusion, I think it's
20 absolutely necessary to get a working group of industry
21 folks to define workable, and what would be in my idea
22 guidelines, rather than absolute regulations, that work
23 for both the Coast Guard and the industry. And I hope
24 you guys go forward along those lines. Thank you.

25 LCDR SADDLER: Ray Toste, you have a

1 question mark here. Would you like to make comments?

2 RAY TOSTE: That's because I get confused
3 easily. Pretty hard to follow what these last three
4 fellows said.

5 LCDR SADDLER: Can you spell your name real
6 quick?

7 RAY TOSTE: My name is Ray Toste,
8 T-O-S-T-E. President and general manager of the
9 Washington Dungeness Crab Fishermen's Association,
10 Westport, Washington, representing over 400 families.

11 I concur with Mr. Thevik, as a board member
12 of the Washington Dungeness Crab Fishermen's
13 Association. WDCF also concurs with the written
14 testimony of Dale Beasley of the Columbia River Crab
15 Fisherman's Association. He is my counterpart to the
16 south.

17 I was part of the process Mr. Fricke, with
18 Mr. Fricke, our executive director and president of the
19 Coalition of Fishermen, which represents 12 commercial
20 fishing groups, which all have voted to concur with the
21 Columbia River Crab Fishermen's Association written
22 testimony.

23 I feel we need a round-table type
24 discussion. Also we need to invite the local commanding
25 officers. Working from the bottom up, the guy with

1 their feet in the water, I think, gets you the best
2 results.

3 I have a little bit of a problem -- I am
4 sure I will get over it -- with only certain size
5 vessels seeking exemptions. I think we need to stay
6 with the standard procedures, and I am really asking
7 myself, is our process broken? Thank you.

8 LCDR SADDLER: I have two quick questions
9 for you, please. You mentioned you have a problem with
10 only certain size vessels seeking exemption. What is
11 that in reference to?

12 RAY TOSTE: I think I heard some of the big
13 ship people talking about an exemption. I can
14 understand it, but it doesn't mean that only they should
15 have the exemption.

16 LCDR SADDLER: Thank you. Thanks. Michael
17 Baldwin.

18 MICHAEL BALDWIN: My name is Michael
19 Baldwin, B-A-L-D-W-I-N. And my first bar crossing was
20 in 1951 with my father. And I have been learning about
21 bar crossings ever since. I have made a lot of them,
22 all up and down the West Coast.

23 There's one thing that hasn't been
24 addressed here tonight. These ports that were on the
25 board up here that will be affected by these rules, they

1 don't even have Coast Guard presence; Willapa, Netarts,
2 Nehalem, and I don't know if the Siletz was mentioned or
3 not.

4 And the other thing is, if this is such a
5 good deal, why is it restricted to the 13th District?
6 There's bars on the whole Pacific Coast, and I don't
7 know anything about the East Coast, but there's only a
8 couple of bars on the West Coast that I haven't crossed
9 at one time or another.

10 And there's another thing I would like to
11 mention. Chances are if I am in port and there's a bar
12 closure call, I will abide by it because fighting your
13 way out across a rough bar is crazy. However, if I am
14 in the ocean, there's nobody that is going to tell me
15 that I am going to stay in the ocean except for me, and
16 I don't care what the penalties or consequences are. If
17 I think I can cross the bar and come in, I will do it.
18 Thank you.

19 LCDR SADDLER: David Quashnick? We have a
20 maybe here. Kevin Dunn. Neil Carlson. Scott McMullen.

21 SCOTT MCMULLEN: Scott McMullen,
22 M-C-M-U-L-L-E-N. I want to thank you, Lieutenant
23 Commander Saddler, for having this hearing, having an
24 opportunity for us to speak here, and for our
25 counterparts in Newport to speak. I think these

1 proposed regulations may make the bars on the Oregon and
2 Washington Coast safer. I think we could also make our
3 highways safer if we prohibited all driving when the
4 roads were wet.

5 But there's got to be a balance. There's
6 got to be some semblance of reasonableness to these
7 regulations. And I know in practice these regulations
8 could have a severe economic impact to the commercial
9 fishermen that fish on the Oregon Coast and Washington
10 Coast. I have to reiterate some of the points made
11 previously. The proposed regs don't allow the vessel
12 operator who is at sea to use his best judgment on
13 whether it is safer for his vessel and crew to remain in
14 the ocean, or to come in across the bar. And that's
15 essential.

16 The proposed rules use a simplified formula
17 to determine an unsafe condition. This formula is so
18 simplistic that it creates, by definition, an unsafe
19 condition, when most of the cases in which it could be
20 applied are, in fact, safe and normal operating
21 conditions for our fleet. Many tug boats, fishing
22 vessels and even Coast Guard motor lifeboats have
23 operated for years safely without incident in conditions
24 that, with a stroke of a pen, could now be officially
25 declared unsafe conditions.

1 The implications of this are huge, and will
2 have a significant economic impact on a large number of
3 small entities. Trial lawyers will have a new tool to
4 use against vessels whenever there's an injury, even
5 though the cause may be totally unrelated to the weather
6 conditions. Insurance companies will likely add
7 requirements to require vessels to operate inside the
8 parameters of the new definition of what is safe,
9 restricting our ability to operate on days that we
10 traditionally fish now without incident.

11 This new standard would dramatically alter
12 the economic efficiency of many small entities, because
13 insurance rates would likely go up as claims that are
14 made against vessels that suffered some injury or loss
15 during, quote, unquote, unsafe conditions.

16 And with regard to that definition, the
17 length and minimum freeboard of a vessel are only two
18 factors in considering the ability of a vessel to
19 navigate across the bar in marginal conditions. The
20 vessel's construction, flare of the bow, size and
21 construction of the windows in the wheelhouse, size and
22 number of scuffers are all important factors that have
23 to be considered.

24 None of this is in the regulations. Most
25 sea-going tug boats have small windows, and the ability

1 to de-water -- de-water off the deck rapidly because
2 they shift a lot of water in the winter. They have low
3 freeboard. They would be severely hampered by this
4 regulation. The height of the wave is only one factor.
5 Wind, current, period of swells are all very, very
6 important, and those aren't mentioned in this reg.

7 So I see only one place in this rule where
8 the word unsafe condition is used as it's defined, and
9 it is simply a tool that the captain of the port uses,
10 and I would like to ask that that definition be removed
11 from this.

12 The captain may still be able to use some
13 of those factors, but he needs to use those and a lot
14 more, and take this definition out of the proposed
15 regulation. It will only create economic hardship on
16 our industry.

17 And I want to reiterate that the Coast
18 Guard has not always been responsive to rapidly changing
19 conditions to reopen the bar, particularly after a
20 weather front passes through. It seems like in some
21 cases the bar is closed more on forecast than on actual
22 conditions.

23 Finally, this is from written testimony
24 from the Columbia River Crab Fishermen's Association,
25 but they have noted that Executive Order 12688 states

1 that "An agency shall provide the public with meaningful
2 participation in the regulatory process, particularly
3 before issuing a notice of proposed rule making." And I
4 don't feel like that has been done here.

5 Respectfully, we should have had a chance
6 to work together with the Coast Guard to develop
7 regulation. It's not too late, and I would like to
8 strongly urge the Coast Guard to delay this. Postpone
9 it. Take it off. And sit down with the men and women
10 of the fishing fleets, the towing industry, the bar
11 pilots, the stakeholders who use this bar, and the other
12 bars on the coast, sit down and have a working group,
13 round-table, whatever you want to call it, and come up
14 with regulations that work.

15 The goal of saving lives is admirable.
16 We're all for that. This rule isn't the answer. The
17 answer is working out rules that will work for our
18 fleet, and our mariners that cross these bars. Thank
19 you.

20 LCDR SADDLER: Theodore Beese -- sorry if
21 I --

22 THEODORE BEESE: Usually gets messed up
23 more than that.

24 LCDR SADDLER: If you could spell your name
25 when you get the microphone.

1 THEODORE BEESE: Theodore Beese, B-E-E-S-E.
2 I have been on the ocean for 43 years. Four years of
3 that was in the Coast Guard. I have seen the roughest
4 oceans in the world off of Antarctica. I have been
5 commercial fishing for 39.

6 The first thing I would like to addresses
7 is the VHF radio issue. I travel to Southeast Alaska
8 every year. And we have to check in with the Canadian
9 Customs as we go through, or the Canadian Coast Guard,
10 and they have had to move us off the regular channels
11 because the channels have become too jammed.

12 Most of the time when I travel from
13 Victoria BC to Port Hardy I turn 16 off. It's a
14 nightmare. There's too much traffic on that channel.
15 If you were to have check-in times for when we make bar
16 crossings, I can guarantee you may lose a life out
17 there, because you won't hear them.

18 Most accidents happen within one minute,
19 and that's through all of your safety trainings. I have
20 been through them. I would suggest, as far as if you
21 want to spend money well spent, I think it would be
22 better to inform the public, especially a lot of people
23 that don't know these bars -- to either -- set up an
24 open class for them. I don't think tests is the answer.
25 I think safety being taught. Because I know last year

1 when I had to take the safety test -- I mean, the safety
2 course for our boat, and it was required, it was quite a
3 few years I took that class.

4 Last spring I was air lifted off my boat by
5 the helicopter. And it was just like yesterday I had
6 taken it. I knew exactly what to do, how to climb into
7 the basket, and up and away I went. The Coast Guard
8 does a very good job. I think safety at sea trainings
9 work very well.

10 As far as bar conditions can go, I have
11 fished since 1986 above the harbor, Gray's Harbor. I
12 fished from Chehallis Rock (phonetic) up to Elizabeth
13 until the American Navy problem closed the area. My
14 most reliable resource was weather buoys.

15 There's been very, very poor maintenance of
16 these buoys. It's like when I fish above Chehallis Rock
17 (phonetic) if I knew a storm -- I even went out on gale
18 warnings and storm warnings. If you listen to the buoys
19 you can tell when it's coming. Some of these storms
20 don't necessarily track all the way up. They will move
21 in, they are very temperamental about how they move up
22 and down the coast. And buoys are the most critical
23 thing. If you want to spend the money, make sure those
24 work. There's too many times in the winter when those
25 buoys fall through these storms, even like the year

1 before, they are not replaced immediately. They should
2 be. That is neglect.

3 I believe that working with the fishermen
4 is far better. As far as bar experience, it takes a lot
5 of local knowledge. Yes, you have people who have been
6 in the service for many years, but it still takes that
7 person who has local knowledge to know that bar.

8 And as far as Westport Bar and the Columbia
9 River, they are far easier bars to cross than the
10 Garibaldi Bar or Newport, or the Humble Bar that
11 somebody brought up, they are dangerous. There's
12 different tide conditions, different swell conditions.

13 Army Corps of Engineers is not maintaining
14 these jetties. They are deteriorating. They cause a
15 great problem. I think part of the problem in Garibaldi
16 is that there's no dredging and the jetties are not
17 maintained anymore. They are sinking and going out of
18 sight, and many different things. There are many
19 different ocean conditions out there, and the only one
20 that knows it is the person on the boat.

21 It's no different than driving down the
22 highway. Somebody is going to have a wreck. Somebody
23 is going to have an accident on the ocean, too. It's
24 unfortunate, but it does happen. But I don't believe --
25 I believe the system you have right now works fine. I

1 do not believe that you need to put this new system in.
2 I think it's wrong.

3 But I know boats that are even bigger than
4 me, I have a 46-foot. I know some 58-foot boats that
5 don't have that much waterline. Are you going to take
6 them out of the ocean? They are stable. Some ride
7 high, some ride low. It's the person's knowledge that
8 gives you the experience in the ocean.

9 And, you know, my life depends on it. I
10 have been in it for 39 years. I know the ocean can take
11 my life, and it can give me my life. I saved lives in
12 the ocean. I think there should be more relationship
13 between the Coast Guard and commercial fishermen in this
14 industry, not to be in between us and make us not like
15 you. We don't need extra regulations down our neck. I
16 think safety training and stuff like that is far greater
17 than these extra regulations. Thank you.

18 LCDR SADDLER: Steve Gray.

19 STEVE GRAY: Steve Gray, G-R-A-Y. One of
20 my partners spoke earlier. As a matter of fact, Dwight
21 Eager and I have both probably fished 40 years. We're
22 involved in a seafood cannery.

23 I don't know where to start. These guys
24 have said it all. You people in the Coast Guard have to
25 ask yourself a couple of things. There hasn't been one

1 person come up here and say this is a great idea. Let's
2 do this. Let's put another layer of regulations in
3 here. Not one.

4 And what have you listened to, you have
5 listened to 30, 40 years of experience over and over and
6 over. People from associations. What did you people
7 learn tonight is probably the most important thing? I
8 think the first thing you should learn is it's great to
9 have a meeting. Maybe it's a good thing you did,
10 because I think if you would have taken this thing and
11 created another layer it would be a heck of a mess.

12 So you have learned that there's no one in
13 any one of these industries supportive of creating that
14 layer. Many people -- the last gentleman, I thought,
15 did an excellent job. Work with the Coast Guard. I
16 wouldn't be here if it wasn't for the Coast Guard. I
17 owe them my life. Believe me. Work together. Don't
18 get between us.

19 The charter people will work with you.
20 Dragers, the trollers, the crabbers, right on down the
21 line. The commercial people live this. Like you have
22 heard people tell you, this is my life. When we're crab
23 fishing, who do we call? We call the bar pilots. Those
24 guys are tough. Your Coast Guard is tough. We work
25 together. Takes you about 20 seconds on that radio, and

1 we better damned well turn around and go the other way.
2 There's knowledge. There's experience.

3 If I had to pick one area that I feel
4 there's probably need to work in, it's the novice
5 recreational guy. And Mr. Beasley talked about the
6 fellow that came in on the north side of the North
7 Jetty. I was there that day. Came in in about a
8 20-foot boat, and there's a 12-foot swell. And when he
9 got through -- I couldn't take my crab rig through
10 there. He got to the beach. Why he didn't get off and
11 kiss the ground, go get a trailer and put it on it -- he
12 turned around. He couldn't win the lottery with his
13 chances, and drowned himself.

14 Those are maybe the people that we should
15 try and help to get to. I don't know exactly how, but
16 they don't have any knowledge. But, obviously, today,
17 tonight, you have listened to the whole commercial
18 gamete and not one of them has said, go on with this.
19 But most of them have said, like I watched this
20 gentleman a little while ago, step over to Mr. Beasley
21 and hand him his card, that's the relationships we want
22 to foster. Those are the things we want to get together
23 with.

24 Maybe he's got a better weather fax than we
25 have, the bar pilots. I doubt it, but maybe he does.

1 And he's looking at that thing saying, holy smokes,
2 there's a 70-foot swell coming. Pick up the phone and
3 call the Bar Pilots Association. Make a courtesy call.
4 Are you guys watching your fax? We have a 70-foot swell
5 coming in here. These are the things that are
6 important. Do the same with the Crab Association.
7 Build those relationships.

8 And I won't repeat all the things that
9 these guys have been through tonight, but they have been
10 right on target. Don't continue with this. Build those
11 relationships.

12 LCDR SADDLER: That's all I have on my
13 list, but it is possible I may have skipped somebody.
14 So is there somebody out there who did not get an
15 opportunity to comment that would like to make a
16 comment?

17 JOHN LESTER: John Lester, L-E-S-T-E-R. I
18 have heard everybody from commercial, bar pilots,
19 everybody. And the only thing I can see that this thing
20 would really do good is keep a guy like me, who has a
21 25-foot boat, off the water. I come here about nine
22 years ago, been across the bar not once with my boat,
23 because I am scared of it. Maybe I am dumber than the
24 rest of them, but there's nothing in here to stop you
25 folks from making a pleasure craft stay in. And that's

1 one thing.

2 We have asked for a round-table, but not
3 one pleasure craft guy has been here to speak his mind.
4 And if you are going to have a round-table, somebody
5 needs to talk to the pleasure boat guy. They say it's
6 economically feasible for us to come down here, spend
7 our money, stay in the motel, stay in a hotel, these
8 guys coming in from Portland, and they come out here to
9 go fishing, and they close the bar on them. They have
10 been here 6:00 in the morning, just like that crabber
11 getting up early. He wants to go out there, too, but he
12 goes down there and they say, well, we can't go.

13 The main thing that that sportsman is going
14 to do, and those people over in those hotels and motels,
15 and those guys that are -- have a little six-pack, they
16 have a real problem, because it costs them. But it
17 still costs the pleasure boat, too. So if you close
18 that bar, we want it open pretty quick so we can go out
19 and go fishing for the day. That's all.

20 LCDR SADDLER: Anyone else? Okay. Thank
21 you very much for the comments. I will definitely take
22 that into consideration and appreciate you all coming
23 tonight. Thank you very much.

24 ENDING TIME: 8:30 p.m.
25

1 STATE OF OREGON)
2) Ss.
3 COUNTY OF YAMHILL)
4

5 I, Deborah L. Cook, RPR, Certified Shorthand
6 Reporter in and for the State of Oregon, hereby
7 certify that at said time and place I reported in
8 stenotype all testimony adduced and other oral
9 proceedings had in the foregoing hearing; that
10 thereafter my notes were transcribed by computer-aided
11 transcription by me personally; and that the foregoing
12 transcript contains a full, true and correct record of
13 such testimony adduced and other oral proceedings had,
14 and of the whole thereof.

15 Witness my hand and seal at Dundee, Oregon,
16 this 5th day of May, 2009.

17
18
19 _____
20 DEBORAH L. COOK, RPR
21 Certified Shorthand Reporter
22 OREGON CSR #04-0389
23 CALIFORNIA CSR #12886
24 WASHINGTON CSR #2992
25