

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
STATEMENT OF REAR ADMIRAL ARTHUR E. HENN
ON THE PREVENTION OF POLLUTION FROM CRUISE SHIPS
BEFORE THE
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION
COMMITTEE ON MERCHANT MARINE AND FISHERIES
UNITED STATES HOUSE OF REPRESENTATIVES
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Good morning Mr. Chairman and distinguished members of the subcommittee. I am Rear Admiral Gene Henn, Chief of the Office of Marine Safety, Security, and Environmental Protection. Thank you for this opportunity to discuss the issue of pollution from cruise ships and Coast Guard enforcement of associated pollution laws and treaties.

ENFORCEMENT

The Coast Guard is responsible for enforcing a number of pollution laws and treaties that affect the cruise ship industry. Foremost among them are the Clean Water Act, and the International Convention for the Prevention of Pollution from Ships 73/78, known as MARPOL. Provisions of section 311 of the Clean Water Act regulate oil and hazardous substances, in part prohibiting the discharge of oil into the navigable waters of the United States and onto adjacent shorelines. Three of the Annexes of MARPOL, as implemented by the Act to Prevent Pollution from Ships, as amended by the Marine Plastics Pollution Research and Control Act of 1987, set out discharge prohibitions for oil and noxious liquids (Annexes I and II), and garbage (Annex V). As so

implemented, Annexes I and II requirements and prohibitions apply to U.S. vessels wherever located, and to foreign vessels in the navigable waters of the United States. For its part, Annex V applies to United States vessels wherever located and to foreign vessels in the navigable waters and Exclusive Economic Zone of the United States.

The Coast Guard actively enforces these laws through our vessel boarding program, observation of vessel operations, and our follow-up of reports from private citizens, environmental groups and state and local enforcement personnel. No single segment of the shipping industry is singled out for specific enforcement. The cruise ship industry is one of many users of the Nation's waters and hence is subject to our scrutiny and enforcement.

With the passage of the Oil Pollution Act of 1990, new enforcement penalties were made available to us for prosecution of cases under both the Act to Prevent Pollution from Ships and the Clean Water Act. Previously, violators were subject to a maximum \$50,000 fine and possible imprisonment of five years for a willful violation of MARPOL. Now, willful violators are guilty of a Class D felony and subject to fines of up to \$250,000 per individual, or \$500,000 per organization as well as prison terms of up to 6 years. Violators are also subject to civil penalties of up to \$25,000.

The majority of the cruise ships operating out of the United States are not registered here. They are directly affected by our policies relating to Flag State, Port State, and enforcement

by Coastal States of their own regulations. Therefore, most of the cruise ship industry was affected by the Coast Guard's decision in July 1992 to carry out action on a Port State basis rather than relying on Flag State enforcement, wherever U.S. jurisdiction could be established. Previously, we forwarded MARPOL cases against foreign flag vessels to the appropriate Flag State for enforcement action. Now we take direct action under the Act to Prevent Pollution from Ships including, where appropriate, referral to the Department of Justice for criminal penalties, for all suspected Annex V violations that have occurred within the U.S. Exclusive Economic Zone. This change was driven by an apparent lack of action by Flag States on cases forwarded to them - - a situation we deemed unacceptable.

Over the past four years, the Coast Guard has initiated 102 pollution violation cases against passenger ships - 62 for oil spills and 40 for garbage discharges. Each year, the number of cases we have cited has increased. During 1989, the Coast Guard initiated a total of 17 violation cases against passenger ships - - 8 for oil spills and 9 for garbage discharges. In 1990, there were 20 cases initiated - - 12 oil and 8 garbage discharge violations. In 1991, 30 pollution cases were initiated against passenger ships - - 20 for oil discharges and 10 for garbage discharges. Last year, in 1992, 35 cases were cited - - 22 for oil and 13 for garbage discharge violations. The largest fine to date against a cruise ship involved the vessel REGAL PRINCESS for \$500,000. At present, three cases investigated by the Coast Guard against cruise ships for violations of the

discharge of garbage including plastic are being prepared by the U.S. Attorney in Florida, and the Coast Guard is preparing a fourth for possible referral to the Department of Justice for criminal prosecution.

To augment our regular enforcement efforts, the Coast Guard has recently conducted a number of specific enforcement operations targeting all possible polluters of the marine environment. For two weeks in February this year the Seventh Coast Guard District launched a major environmental enforcement effort using cutters, aircraft, and sensor technology to detect violators of the MARPOL Annex I and V discharge prohibitions off the southeastern coast of Florida. We were ably assisted by the Federal Bureau of Investigation (FBI) and the Environmental Protection Agency (EPA) in this effort. A similar operation has just been conducted in the Eleventh Coast Guard District where all types of vessels were monitored, primarily for Annex V violations, by aircraft as they entered or left port and transited the waters off southern California.

INTERAGENCY COOPERATION

The Coast Guard's compliance/enforcement program is an interagency effort. The Department of Agriculture, Animal Plant Health Inspection Service, or APHIS, has played a significant role by incorporating Annex V compliance checks and education during its vessel boardings to check garbage handling procedures. This has allowed the Coast Guard to reach a much larger segment

of the merchant vessel population than would be possible with our resources alone. The Coast Guard follows up on all potential violations reported by APHIS. These reports are either processed for violations or, if U.S. jurisdiction cannot be proven, APHIS reports and any additional evidence is forwarded to the vessel's Flag State for enforcement action. Between January 1, 1990 and December 30, 1992, APHIS reported 115 potential Annex V violation cases to the Coast Guard. Fourteen of these cases were processed by the Coast Guard for civil penalties and 109 were forwarded to the appropriate Flag State since U.S. jurisdiction could not be established.

APHIS recently agreed to enter into a Memorandum of Understanding (MOU) with the Coast Guard to formalize our coordination effort. We plan to work together to draft the agreement beginning this summer. We have also agreed to reevaluate the Annex V checklist on the APHIS boarding report (PPQ Form 288) to determine whether the questions being asked are adequate or need to be revised.

In other coordination efforts, the Coast Guard recently participated in a conference in New Orleans held by the FBI to look at ways our agencies can work together in pollution enforcement.

CITIZEN PARTICIPATION

Perhaps our most valuable allies in the enforcement of pollution laws are private citizens and citizen action groups. A fine example is the positive working relationship that the Coast

Guard has developed with the Center for Marine Conservation (CMC). CMC personnel have served as liaison between witnesses of potential violations and the local Coast Guard units which investigate the cases. The CMC has also published a large amount of information dealing with marine pollution and provided pamphlets, posters, and placards to our units to augment our education efforts during vessel boardings.

The most significant cases against vessels have been initiated as the result of information received from private citizens. You have already heard about the recent settlement marking the largest fine ever imposed for a discharge of plastic from the vessel REGAL PRINCESS which occurred off the coast of Florida. Without the video tape provided by a private citizen, as well as eyewitness testimony, it would not have been possible for the Department of Justice to successfully prosecute this case. Additionally, a report from a crew member has led to a \$150,000 fine against a fishing vessel in Alaska for the discharge of plastic. Investigation, and successful prosecution of this case was a coordinated effort by Coast Guard special agents, the EPA, FBI, and the Department of Justice.

To further encourage citizen participation, the Coast Guard is expanding the capability of the National Response Center to be able to receive reports of garbage discharges, utilizing the same phone number, 1-800-424-8802, presently in service for the reporting of oil and chemical spills.

COMPLIANCE INITIATIVES

The Coast Guard has taken a number of initiatives to encourage compliance with the pollution discharge regulations, both nationally and worldwide.

We have implemented regulations that require certain U.S. vessels to post Annex V placards detailing garbage discharge restrictions, and to develop and follow shipboard waste management plans that outline procedures for handling waste properly.

We are making progress in the development of regulations requiring manned U.S. vessels 40 feet or more in length engaged in commerce, to maintain records of refuse discharge, a requirement established under the Marine Plastic Pollution Research and Control Act. A Notice of Proposed Rulemaking (NPRM) is scheduled for publication in the near future.

The recordkeeping requirements in an earlier (1989) NPRM were submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. OMB did not approve the requirements on the grounds that the Coast Guard had not adequately justified the specific recordkeeping requirements contained in that proposal. The Coast Guard has revised its original proposal by deleting the requirement that entries be made in a standard "Refuse Record Book," which was to be forwarded to Coast Guard Headquarters for periodic review. Rather, the new proposal requires that specific information about refuse disposal practices be recorded without prescribing the

format, allowing the use of existing record books. The NPRM also applies to manned oceangoing U.S. ships 40 feet or more in length, allowing us to monitor the disposal practices of many small commercial fishing vessels.

The Coast Guard is pursuing adoption of an international standard requiring refuse recordkeeping. In this regard, the Coast Guard has submitted and will present an action paper at the International Maritime Organization's Marine Environment Protection Committee session in July 1993. The paper proposes that Annex V be amended to include international requirements for certain ships to post placards, follow waste management plans and maintain records of refuse discharge operations.

EDUCATIONAL OUTREACH

The Coast Guard recognizes that no enforcement effort is ever going to be fully effective without a strong educational outreach program about marine pollution.

In an effort to educate mariners on shipboard waste discharge restrictions under Annex V, the Coast Guard developed the "pollution discharge restrictions wheel," a hand held informational device patterned after a similar reference developed by the U.S. Navy. English, Spanish, and Vietnamese versions of these wheels are being distributed through our vessel boarding and inspection programs. To date, more than 25,000 wheels have been provided to Coast Guard Captain(s) of the Port(s) for distribution. Future plans include translating the

wheels into additional languages such as Portuguese, Italian, Japanese, Korean, and Russian.

The Coast Guard is establishing environmental education and outreach programs on marine pollution (concentrating on oil pollution and marine debris) targeting the public, as well as Coast Guard members who have not traditionally been involved in pollution enforcement. We believe that providing environmental education programs to these groups can bring about a higher level of awareness of oil discharge and garbage disposal prohibitions, thus enhancing the quality of the marine coastal environment.

The Coast Guard's MARPOL enforcement programs have been focused principally on the deep-draft commercial vessels and port communities. While we have made some progress gaining acceptance and compliance with the MARPOL requirements in these communities, we have identified a need to improve MARPOL enforcement in the commercial fishing vessel, recreational boating, and marina communities. We have initiated an external environmental education program to specifically target these constituencies. The program will provide information to them to enhance their awareness of just how they affect the marine environment.

To develop the public education and outreach program, the Coast Guard has contracted with the Center for Marine Conservation, and is finalizing an agreement with the Texas General Land Office to provide appropriate environmental education and outreach materials for recreational boaters, fishing vessel operators, and marina owners and operators. In this process, the Coast Guard has consulted the New Jersey Sea

Grant Program, the National Oceanic and Atmospheric Administration's Marine Entanglement Program, the U.S. Fish and Wildlife Service, and the Environmental Protection Agency's Gulf of Mexico Program.

The Coast Guard Auxiliary, through its Boating Safety Training Courses, Courtesy Motorboat Examinations, Fishing Vessel Examination Program and Marine Dealer Visitation Program will take the lead in carrying out the public education and outreach program. These efforts will be coordinated and supported by the District/Unit MARPOL and fishing vessel coordinators.

An internal program will focus on developing internal education for cognizant Coast Guard communities. This program will provide Coast Guard members with educational materials which enhance their understanding of Coast Guard environmental protection enforcement responsibilities.

The program goals include:

- Enhancing Coast Guard members' understanding of their regulatory role in protecting the marine environment from non-land based pollution.
- Promoting awareness and understanding of the MARPOL Convention.
- Enhancing Coast Guard member's awareness of all regulated activities affecting the marine and port environment.

INTERNATIONAL TECHNICAL ASSISTANCE

In cooperation with the Department of State, the Coast Guard will continue to develop opportunities to work with the international community to solve marine environmental protection problems. One regional issue of high priority with the Coast Guard is bringing into effect the Special Area Requirements for the Wider Caribbean Region under MARPOL Annex V. Special Areas are specific water bodies within which especially stringent discharge prohibitions have been established to protect them from various types of ship-generated pollutants, in this case ship-generated garbage. Actual enforcement of Special Area requirements cannot begin until adequate port reception facilities are in place. When the International Maritime Organization receives sufficient notice of adequate reception facilities from countries bordering the Special Area, parties to the convention will be advised that Special Area rules will be enforced after a period of 12 months.

To promote this, the Coast Guard coordinated a multi-agency MARPOL Annex V Enforcement Workshop in support of the World Bank's Organization of Eastern Caribbean States (OECS) Waste Management Project. This workshop, held in Corpus Christi, Texas from April 28-30, 1993, provided 24 ranking government officials from the OECS, and interested international and regional organizations, as well as industry, and nongovernmental organizations, with information to facilitate implementation of MARPOL Annex V. Ideas for implementing legislation and

enforcement infrastructures and the development of MARPOL Annex V port reception facilities were presented.

The demonstrated cooperation among workshop participants signaled that all affected parties (cruise lines included) recognize and acknowledge that marine debris problems are cross-border environmental problems requiring regional cooperative efforts to resolve. All participants in the workshop were anxious to pledge and commit their support to collectively mobilize technical capabilities, leverage resources, and effect resolutions to the marine debris problems in the Wider Caribbean Region.

MARPOL COORDINATION

The cruise ship industry has been a willing participant in recent Coast Guard-coordinated activities seeking to enhance their awareness of and resolve to correct certain marine debris problems.

On February 26, 1993, the cruise ship industry, represented by the President of the International Council of Cruise Lines and a Vice President of Princess Cruise Lines, participated in a Coast Guard sponsored MARPOL Summit. The purpose of the Summit was to bring Federal agencies, nongovernmental organizations, and industry together to discuss MARPOL Annex V issues and review agency initiatives associated with MARPOL Annex V. The outcome of this first summit was a realization by participants that ongoing dialogue on MARPOL implementation activities was

important and should be continued. The next meeting has been scheduled for May 19, 1993.

During the recent OECS MARPOL Annex V Enforcement Workshop held in Corpus Christi, the Florida Caribbean Cruise Association, which represents 14 cruise lines, volunteered a senior corporate officer to talk about the cruise ship industry's role in MARPOL Annex V compliance. He reviewed efforts initiated by the industry to comply with MARPOL requirements. He talked of the installation of onboard processing equipment and operational and management procedures put into place to handle ship-generated wastes. During this presentation, he pledged the industries' commitment to be a part of the solution to marine debris problems. He said the industry would commit to investing in shoreside facilities in the Caribbean, providing planning support, leadership, technical assistance, and institutional management support.

SUMMARY

In summary, I believe that the cruise ship industry is making an effort to be responsive to the needs of the marine community and to be in compliance with national and international pollution regulations. The Coast Guard will, however, remain vigilant in its enforcement against all vessels, including passenger vessels, and is ready at any time to assist the marine community in gaining a better understanding of the role they play in protecting our marine environment. This concludes my testimony -- I will be happy to answer your questions at this time.