



U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

Washington, DC 20515
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The Honorable Janet Napolitano
Secretary
Department of Homeland Security
3801 Nebraska Avenue, NW
Washington D.C. 20393

Dear Secretary Napolitano:

On April 15, 2010 I read with alarm the President's statement that the tragic deaths of 29 miners in the Upper Big Branch mine were the result of "A failure first and foremost of management, but also a failure of oversight and a failure of laws so riddled with loopholes that they allowed unsafe conditions to continue."

I am reminded of the President's words when I consider that the *Deepwater Horizon* has been the worst environmental disaster in our nation's history and it is being viewed by the media and the American people as another dreadful example of inadequate government oversight and a failure of government to live up to its responsibilities. Therefore, I am writing to you with the greatest urgency to avoid such charges being leveled against your department. My concern involves safety in the operation of U.S. towing vessels on America's waterways.

Public Law 108-293, the Coast Guard and Maritime Transportation Act of 2004 (the "Act") added towing vessels to the list of vessels that must be inspected under Section 3301 of title 46, United States Code. The Act also directed your department to prescribe maximum hours of service for individuals engaged on towing vessels. These provisions in PL 108-293 were driven by two terrible accidents involving uninspected towing vessels.

On September 15, 2001 the uninspected towing vessel *Brown Water V* struck the Queen Isabella Bridge at South Padre Island, Texas. The bridge collapsed, and 8 people died when their vehicles plunged into the water.

On May 26, 2002, the uninspected towing vessel *Robert Y. Love* struck the I-40 highway bridge over the Arkansas River at Webber Falls, Oklahoma. Fourteen people were thrown into the Arkansas River and killed when that bridge collapsed.

In the spring of 2002 issue of Coast Guard *Proceedings*, the Coast Guard published the results of a review of the towing industry. The review found that most casualties aboard uninspected towing vessels involve crewmembers falling overboard during routine

Secretary Napolitano
June 22, 2010
Page Two

operations – most often crewmembers under the age of 25. Contributing to the accidents were several factors such as lack of training, lack of skill assessment, poor communication, unsafe work practices, inadequate supervision, and a lack of teamwork.

In 1999, nearly 11 years ago, the National Transportation Safety Board issued Marine Safety Recommendation M-99-1 which called upon the Coast Guard to, “Establish within 2 years scientifically based hours-of-service regulations that set limits on hours of service ...”.

The NTSB rates the Coast Guard’s response to M-99-1 as “unacceptable”.

In 2007, the NTSB issued Marine Safety Recommendation M-07-6 which calls for the “... the new towing vessel inspection regulations and require the establishment of safety management systems appropriate for the characteristics, methods of operation, and nature of service of towing vessels.

The NTSB rates the Coast Guard’s response to M-07-6 as “unacceptable”.

In a letter that I wrote to the Coast Guard Commandant, Admiral Thomas Collins in March 2005, I pointed out that between 1992 and 2005 towing vessels had been involved in 607 sinkings, 593 floodings, 494 fires, 115 capsizings, 41 explosions, and 103 abandonments.

Given these appalling statistics and NTSB’s “unacceptable” ratings regarding important safety recommendations in the towing industry, it is time for your department and Coast Guard to act.

I understand that towing vessel inspection regulations are now on your desk, but have yet to be released and implemented. These regulations would set standards for several items to be regulated to secure the safety of individuals and property including design, construction, alteration and repair of the superstructures, hulls, fittings, equipment appliances, propulsion equipment, machinery, lifesaving equipment, firefighting equipment, and vessel stores and other supplies of a dangerous nature.

Please regard my urgency as my strongest warning that unless the Department of Homeland Security releases and implements its rulemaking, the towing industry, the mariners who serve it, and the public will continue to face the increased risk of still more tragedies like the ones that prompted Congress to act in 2004.

Sincerely,



James L. Oberstar
Chairman