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The Honorable Cliff Bentz
Chairman, Water, Wildlife and Fisheries Subcommittee
Committee on Natural Resources
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Bentz,

On behalf of the Georgia Ports Authority, I would like to thank you for the opportunity to testify before your committee last week. I appreciated the discussion and certainly hope I was able to clarify any questions you may have had on how NOAA's proposed Vessel Speed Rule will negatively affect the port industry in America and all of the nation's economic sectors – like agriculture, manufacturing, and retail – that rely upon the efficient flow of commerce.

During the hearing, it became clear that some committee members have been misinformed about the proposed rules' changes to existing practices when it comes to deviating for the purposes of navigational safety. I appreciate the opportunity to extend my remarks and offer some clarity.

NOAA's Proposed Deviation Clause Criminalizes Real-time Navigational Decisions

Each pilotage assignment normally begins with a conference between the pilot and the master, often referred to as the Master-Pilot Exchange or MPX. The MPX is an opportunity not only to exchange information that the pilot and master each need, but also for the pilot and the master to establish an appropriate working relationship that will continue throughout the pilotage assignment. A mutually supportive and trusting relationship between the pilot and the ship's master/bridge crew is a critical component of navigation safety in pilotage waters.

NOAA's language describing the navigation safety deviation clause will, however, negatively impact the dynamics of the critical Master/Pilot Relationship. The language overtly criminalizes real-time decisions about safe navigation that vessel masters and pilots must make. Specifically, the proposed new regulatory language states, "it is unlawful for any person subject to the jurisdiction of the U.S. to commit, to attempt to commit, to solicit another to commit, or to cause to be

committed any speed violation with a vessel subject to the restrictions." This pronounced emphasis on criminality will undoubtedly strain the relationship between the pilot, in charge of directing the ship's navigation and protecting the marine environment, and the master, responsible for the overall safety of the vessel and responsible to the shipping company.

If this relationship is damaged or compromised, there will be negative consequences. The proposed changes to the navigation safety deviation clause will cause masters and pilots, at a critical point when they are considering whether to increase speed for the safety of the ship - and its crew, passengers, and cargo - to be worrying about whether their decision could subject them to criminal penalties, including imprisonment.

Because the proposed regulation envisions the master and pilot agreeing upon the need to deviate from the speed limitation and concurring on all the details to be submitted in the Safety Deviation Report, a lack of understanding, hesitation, or unwillingness on the part of masters to invoke the deviation clause can create tension between the master and pilot. This would negatively impact what should be a mutually supportive and cooperative relationship.

The proposed "Safety Deviation Report" is Unworkable

NOAA wants to better monitor the use of the navigation safety deviation clause in its new proposed amendment. However, the proposed alternative is both dangerous and unworkable. The changes to the reporting requirements in the 2008 rule would jeopardize navigational safety by distracting pilots and masters - at precisely the wrong time - from focusing squarely on safely navigating large ocean-going vessels in the constricted waters of FNCs.

Additionally, the proposed amendments to the deviation clause are unworkable as drafted. Rather than create a new, unwieldy, and dangerous new regulatory scheme, NOAA should instead require the submission of relevant sections of the ship's log within 30 days of invoking the navigation safety deviation clause. This will not only allow NOAA to gather, in a timely manner, the information it requires, but it will also not unnecessarily distract professional mariners from the duties to navigate large merchant vessels safely.

Furthermore, the requirement for the vessel operator to submit a "Safety Deviation Report" to NMFS within 48 hours of using the deviation clause is impracticable, and the detailed reporting requirements are lengthy, detailed, and extremely cumbersome. The proposed recordkeeping and reporting requirements will require considerable time to gather the information (if it, in fact, is even available in some offshore waters), compile it, fill out the form, and transmit it to NMFS. Further, if the vessel is under pilotage, "the pilot must attest to the accuracy of the information contained in the report." Even though NMFS proposes to allow 48 hours for the Safety Deviation Report to be submitted, the only practical way to comply with the rule would be for the master to complete the Report in near real-time and the pilot to remain on the ship to review and "attest" to the information on the form.

It is unrealistic to expect that the pilot could depart the ship to service other ships, the ship would transit off to the next port of call, and then the pilot and master would correspond electronically over the next two days to complete, agree upon, and submit the form to NMFS. It is simply not realistic to expect such a process to be practical or workable.

Our industry strongly recommends NMFS reconsider its criminalization of the decision to use a safety speed deviation, especially for vessels operating in areas of restricted maneuverability like FNCs and pilot boarding areas. We also believe that NOAA should instead require that when a ship opts to exercise the navigation safety deviation clause and exceed 10 knots, the shipping interests must submit the relevant portions of the ship's log (e.g., the log entry information currently required by 50 CFR § 224.105) to NMFS within 30 days. Requiring the prompt submission of relevant portions of the ship's log, which is an official document with significant legal standing both in the U.S. and internationally, will provide NMFS with timely access to information pertaining to the use of the navigation safety deviation clause by large ocean-going vessels.

Federally-Required Speed Rules Preclude Safe Passage in Georgia Harbors

Every port in America is served by harbor pilots who are charged by their state with preventing vessel operations that might pose a danger to navigation or to the state's environment and economy. The official responsibility of these state-licensed pilots is to protect the marine environment as they ensure the safe and efficient movement of maritime commerce. To fulfill that mission, pilots are required to not only have detailed knowledge of local waters, but also expected to be world-class ship handlers, and to understand how ships and their pilot boats interact with each other and the elements. Pilots along the East Coast are intimately familiar with the oceanography, hydrographic, and meteorological conditions of Federal Navigation Channels (FNCs) and waterways in which the speed restrictions would apply.

Unlike airline pilots who experience more uniform approaches to airport runways, seaport runways or Federal Navigation Channels are all unique. The diversity of our nation's FNCs dictates distinctive challenges to the safe and efficient operation of commercial vessels at every port. Since this rule affects the speed of vessels offshore, a review of the dimensions of the entrance channels at key ports is appropriate.

California and Georgia Port Entrance Channel Dimensions – A Comparison

PORT	WIDTH	DEPTH	LENGTH
SAVANNAH	570'	49'	18.5 miles
BRUNSWICK	500'	38'	10.7 miles
LOS ANGELES	1300'	80'	3 miles
LONG BEACH	1200'	76'	3 miles
SAN FRANCISCO	2000'	55'	3 miles

The data above shows the dimensions of the three California ports – San Francisco, Los Angeles and Long Beach have very wide and very short entrance channels with ample available depth. Georgia's port entrance channels are much narrower, longer, and shallower than their West Coast peers. Navigational challenges where speed becomes a critical consideration are more prevalent along the Georgia coast due primarily to FNC dimensions at these ports.

The maneuverability of large, deep-draft ocean vessels is already restricted by the depths and width in Georgia's much longer entrance channels. The vessels are limited in how far they might be able to turn or alter course based on their deep drafts and other tidal considerations. The NARW

vessel strike rules compound the dangers of navigating these large vessels by limiting the ability of pilots to use the necessary speed to maintain safe navigation in these waters.

These entrance channels are perpendicular to the high winds and currents that are prevalent in the winter months. The perpendicular winds and currents often demand increased speed to keep these vessels on track. It is in these offshore, unsheltered, and restricted channels – with the challenging combination of strong currents, confused winds, heavy vessel traffic, and proximity to dangerous shoal waters – where Savannah and Brunswick’s state-licensed pilots ply their trade. Due to the rapid growth in length, width, sail area, and draft of vessels calling at Georgia’s ports, our concerns about the ability of pilots to safely navigate in narrow and challenging FNC waters have only increased since mandatory NARW speed restrictions began in 2008.

Furthermore, California’s voluntary Vessel Speed Reduction Program (VSRP) was crafted to reduce diesel particulate matter, nitrous oxides, and other greenhouse gas emissions from ocean-going vessels, not to reduce impacts on sea life. This program was established in partnership with the Environmental Protection Agency and various California-based air quality regulatory agencies and offers financial incentives to encourage participants to comply.

Conversely, a federally required speed reduction rule will have the opposite effect in Georgia, where air quality is not subject to EPA-mandated remediation efforts. Requiring harbor pilots to delay ship movements due to safety considerations created by this proposed rule will cause ships to remain at anchor offshore and unnecessarily emit additional particulates into an otherwise pristine environment. Cargo that diverts to other ports will be required to travel further to or from inland destinations, creating additional emissions throughout the Southeast.

Thank you again for allowing us to testify before your committee and for including this additional information into the record.

Sincerely,



Jamie McCurry