

**STATEMENT OF JOEL SZABAT
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**BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND
MERCHANT MARINE INFRASTRUCTURE, SAFETY AND SECURITY
UNITED STATES SENATE**

**HEARING ON MARITIME TRANSPORTATION:
OPPORTUNITIES AND CHALLENGES FOR THE MARITIME
ADMINISTRATION AND FEDERAL MARITIME COMMISSION**

MAY 9, 2017

Good afternoon, Chairwoman Fischer, Ranking Member Booker and members of the Subcommittee. Thank you for the invitation to testify on issues under the jurisdiction of the Maritime Administration, with an emphasis on the implementation of recent statutory requirements and the examination of topics relevant to upcoming reauthorization bills. This testimony will cover the current state of the U.S.-flag fleet and mariner workforce and implementation of the recent MARAD reauthorization bill, including measures affecting the U.S. Merchant Marine Academy (USMMA or Academy).

The U.S.-Flag Fleet and Mariner Workforce

MARAD is responsible for ensuring that U.S.-flag ships and merchant mariners are available to meet Department of Defense (DOD) sealift requirements. The U.S.-flag fleet of privately-owned, commercially-operated vessels, along with government-owned vessels, provide a critical public-private sealift surge and sustainment capacity to move equipment and materials for the Armed Forces and Federal agencies when needed, and where needed, during times of conflict, humanitarian crises, and natural disasters.

Three programs ensure that there are enough U.S.-flag vessels available to provide this capacity: the Jones Act, which ensures a role for the U.S.-flag fleet in domestic trade; and Cargo Preference and the Maritime Security Program (MSP) which, together, support a militarily useful, U.S.-flag fleet sailing internationally.

MARAD and DOD also rely on the commercial fleet to employ enough qualified mariners to crew all the commercial ships tasked with supporting military operations, as well as enough additional mariners to crew the “surge fleet” of Federally-owned cargo ships. As of today, the size and composition of the U.S.-flag commercial fleet is adequate to meet immediate military contingencies. However, due to the decline in size in recent years of both the domestic U.S.-flag fleet with unlimited horsepower and unlimited tonnage and the international U.S. flag commercial fleet, both the U.S. Transportation Command (USTRANCOM) and MARAD are concerned that there are not enough qualified mariners to sustain an activation of the entire sealift fleet, though there has never been a full activation of the entire sealift fleet.

The National Defense Authorization Act for Fiscal Year 2017 (FY 2017 NDAA) required the establishment of a Maritime Workforce Working Group (MWWG) to examine and assess the size of the pool of U.S. citizen mariners necessary to support the U.S.-flag fleet in times of national emergency. The MWWG has been established and has begun meeting. The MWWG is comprised of more than 50 members that include representatives from industry, labor, the USMMA, State Maritime Academies, and Federal government representatives, as well as subject matter experts from USTRANSCOM, DOD, and the Army. In addition to member meetings, a Federal Register Notice will be published to collect input from the public, as the MWWG prepares a report to Congress due in December 2017.

Maritime Training

Another MARAD responsibility is to provide funding and oversight for mariner training programs to produce highly skilled U.S. Coast Guard (USCG) credentialed officers for the U.S. Merchant Marine. Maintaining an adequate pool of American merchant mariners is vital to both the commercial success of the U.S.-flag fleet and to maintaining the capacity needed to project American sea power. The USMMA and the State Maritime Academies (SMAs) graduate nearly all USCG-credentialed officers. These are merchant marine officers who hold an unlimited tonnage or horsepower endorsement available to crew U.S.-flag ships. These graduates support our Nation as a cadre of well-educated and trained merchant mariners capable of serving in support of military emergency, national emergency, and humanitarian missions.

Addressing Sexual Harassment and Sexual Assault at the U.S. Merchant Marine Academy

The Academy is America's flagship school for educating licensed merchant mariners capable of serving our nation in peace and war. DOT, MARAD, and the USMMA take sexual assault and sexual harassment at sea and on campus very seriously. We adopted an approach to this problem similar to that used at the other Federal service academies. As best and as fast as we can, we are introducing policies to change the behavior and culture at the Academy to combat all kinds of abusive or coercive behaviors. This testimony discusses the actions MARAD has taken in conjunction with maritime industry, while testimony from Superintendent Helis will discuss actions taken to combat sexual assault and harassment on the USMMA campus.

Criteria For Vessel Operators to Participate In Sea Year

The USMMA's shipboard training program, or "Sea Year," gives Midshipmen experience of life at sea on board commercial and military vessels and provides cost-effective hands-on seamanship and engineering sea time that meets the requirements to secure USCG mariner credentials. Midshipmen are required to have 360 days of sea service during their four-year maritime education to obtain their USCG merchant mariner credentials. Shipping companies and the U.S. Navy are part of a cooperative effort to ensure that a Midshipman's shore based education is enhanced by the required on-the-job training at sea.

Sea Year is critical to the education and training of Midshipmen at the USMMA, and all training must be conducted in a safe and respectful environment. In the wake of a series of studies and surveys that indicated problems with sexual misconduct and other coercive behaviors, both on campus and at sea, DOT and MARAD leadership suspended commercial Sea Year so we could

develop a better understanding of the problem and a strategy to ensure the safety of the Midshipmen. An independent external consultant assessed the organization and made recommendations in December 2016¹.

Last year, Secretary Foxx's decision to stand down commercial Sea Year over concerns about Midshipmen being subjected to sexual misconduct stirred vocal disagreement from industry leaders. Those same leaders, including many USMMA alumni, worked with MARAD through an extended stand down of Sea Year while the cultural audit was conducted. A consortium of 14 leading maritime companies came together with MARAD to examine ways to ensure that Sea Year training is conducted in a safe and respectful environment. Just two weeks after the stand down, the consortium brought forth a proposal to address sexual assault and harassment prevention and response. MARAD and DOT subsequently created the Shipboard Climate Compliance Team (SCCT) to establish standards and collaborate with industry, labor and the consortium, and lay out workable criteria for the companies to achieve those standards. The SCCT is led by a MARAD Senior Executive Service leader, who is a USMMA graduate. The team is made up of 10 experienced mariners and sexual harassment and sexual assault prevention experts and civil rights professionals. The SCCT has established stringent new requirements that companies must meet to be eligible to participate in Sea Year training. This strong working relationship between MARAD and these maritime leaders resulted in six companies, representing 75 percent of the commercial Sea Year training provided prior to the stand down, being reinstated to accept Midshipmen as of today. The SCCT standards meet the requirement in Section 3514 of the FY 2017 NDAA for MARAD to establish, in consultation with operators of U.S.-flag vessels, criteria that vessel operators must meet to participate in Sea Year and a process for verifying compliance with the criteria.

MARAD's "Sea Year Eligibility" criteria include the following:

Company-Wide Zero Tolerance Message – Shipping company CEOs will issue an annual company-wide message outlining specific rules for the workplace, strongly stating that sexual assault and sexual harassment, including any retaliation based on a complaint, are unacceptable, and committing the company to eradicate such behavior and enforcing a zero-tolerance policy.

Annual Sexual Assault and Sexual Harassment Prevention Training Requirement for Crew Annual sexual assault and harassment prevention training will ensure that crewmembers clearly understand what constitutes sexual assault and sexual harassment, its negative impact, the importance of prevention, and the penalties for engaging in prohibited behavior.

Mentors with Enhanced Selection Criteria and Duties – Mentors for each ship play a crucial role in the success and development of cadets. Per enhanced mentor qualifications, a mentor must certify that he/she does not have any pending complaints or history of violations of any other company's Sexual Assault Sexual Harassment policies. The mentor must be of good character, and know, support, and advocate for the company's sexual assault sexual harassment prevention and response policies.

Verify Annual Sexual Assault and Sexual Assault Prevention and Response Training –

¹ Logistics Management Institute (LMI). December 2016. "Department of Transportation U.S. Merchant Marine Academy Culture Audit." Available at: <https://www.usmma.edu/sites/usmma.edu/files/docs/USMMAReport%20508.pdf>

Each company will provide MARAD documents describing company-specific training protocols; the company's anti-discrimination, harassment, retaliation and sexual misconduct policies, including complaint reporting policies and procedures; a description of the company's investigation process and enforcement procedures; and, a mechanism for verifying their understanding of the issue.

Zero-Tolerance Policy Regarding Romantic or Sexual Relationships – Companies will actively support the USMMA Sea Year Conduct policy for Midshipmen, which prohibits romantic or sexual relationships between Midshipmen and crewmembers, and the consumption of alcohol by Midshipmen under 21 years old. Companies will immediately report known Midshipmen violations to the USMMA. A violation of the USMMA Sea Year policy may result in counseling or punishment pursuant to the Midshipmen Regulations.

MARAD Will Maintain a Record of all Relevant Company Policies – Companies will submit all relevant policies and documentation to MARAD, and MARAD will verify compliance annually. Required documentation includes, but is not limited to, sexual assault and harassment prevention and response policies; a description of company's complaint reporting process and procedures; policies related to confidentiality, enforcement, and retaliation and investigation procedures; and, the location of sexual misconduct prevention policies onboard the vessel.

Company Debrief – Currently, both Midshipmen and the Vessel Masters evaluating them provide a report to the USMMA upon completion of an individual's Sea Year training. In addition to these reports, the new criteria require the company to provide the Academy a sexual assault and sexual harassment debrief at the completion of the Midshipmen's Sea Year time with the company.

The requirements outlined above will be reviewed in September this year, and annually thereafter. The SCCT has implemented a company-by-company review process to recommend eligibility for carrying USMMA Midshipmen aboard their commercial ship. The SCCT will review documents provided by carriers to ensure compliance with the criteria. Once that process is complete, the USMMA Superintendent may issue an eligibility letter. MARAD Headquarters will coordinate with USMMA to board vessels and visit companies to conduct Shipboard Climate Compliance Team (SCCT) audits. The audit priority will be driven by review of company documentation that pertain to sexual misconduct. Additional feedback from the companies will be provided in accordance with the SCCT requirements. This is in addition to current reporting from the Midshipmen to the USMMA Department of Shipboard Training Academy Training Representative Midshipman Assignment Report, which provides feedback from the cadet about the company and Sea Year experience. Each of these reports and opportunities for feedback will specifically address sexual harassment and sexual assault.

At present, six companies have met compliance requirements and resumed hosting Midshipmen on their vessels. MARAD is also reviewing the packages of several other companies which have applied to meet the Sea Year requirements. Collectively, the companies that have been approved, or are applying, represent 84 percent of the commercial Sea Year training provided before the suspension.

Sexual Assault Prevention and Response Working Group

Section 3517 of the FY 2017 NDAA required MARAD to establish a Sexual Assault Prevention and Response Working Group (SAPR WG) to examine methods to improve the shipboard climate during Sea Year, including prevention and response to sexual assault, sexual harassment, and other inappropriate conduct. The SAPR WG had its first formal meeting on January 31st, 2017. With over 50 members, the WG includes members from industry, labor, the USMMA, SMAs, and Federal government representatives in accordance with the FY 2017 NDAA requirements. In addition to member meetings, public input is being sought through a Federal Register Notice which was published May 1, 2017. The WG will report its findings to Congress by September 25, 2017 as required by the FY 2017 NDAA.

In an additional effort to work with industry to address the problems of Sexual Harassment and Sexual Assault, MARAD has entered a cooperative agreement with the Ship Operations Cooperative Program (SOCP) to develop computer-based sexual assault prevention and response training that will be made available for companies to train their vessel crews. SOCP is a trade association made up of maritime industry professionals focused on safety. MARAD is also working with SOCP to roll out management ‘best practices’ this summer. These efforts will especially benefit smaller companies without the resources to develop robust programs of their own.

School Ships

In addition to providing oversight of the USMMA, MARAD provides funding assistance to six State Maritime Academies (SMAs), which collectively graduate more than two-thirds of the entry-level Merchant Marine officers annually.² Approximately 972 Cadets are expected to graduate from the SMAs in 2017. Assistance provided to the SMAs also includes funding for maintenance and repair costs for training ships on loan from MARAD. Unlike the USMMA Midshipmen, the SMA Cadets receive most of their sea time on these training ships, under the instruction of each school’s faculty.

The maintenance and repair projects are particularly important as the training ships age and approach or exceed their designed service life. Two training ships have been in service over 50 years, which is twice the standard service life. Accordingly, MARAD is using the funds to address priority maintenance across all the training vessels, with emphasis on the Training Ship EMPIRE STATE, to ensure that they all meet safety and functional requirements and remain in service as long as necessary.

OTHER FY 2017 NDAA REQUIREMENTS

Ship Disposal Program

MARAD is responsible for the disposal of obsolete Federal government, merchant-type vessels that are 1,500 gross tons or greater. A portion of the funds generated by the sale of these vessels is dedicated for maritime heritage preservation, including funding the National Park Service’s

² The six SMAs are: California Maritime Academy in Vallejo, California; Great Lakes Maritime Academy in Traverse City, Michigan; Texas A&M Maritime Academy in Galveston, Texas; Maine Maritime Academy in Castine, Maine; Massachusetts Maritime Academy in Buzzards Bay, Massachusetts; and State University of New York (SUNY) Maritime College in the Bronx, New York.

National Maritime Heritage Grant Program. Section 3507 of the FY 2017 NDAA established a new formula for distributing these sales proceeds to increase the amount of funds available for the NPS grant program. MARAD is prepared distribute any new funds received from ship recycling sales pursuant to this allocation. In addition, MARAD will provide a report to Congress on the management of MARAD's ship disposal program as required under Section 3507.

Workforce Plans and Onboarding

In a December 2015 audit³, the DOT OIG made recommendations for improvements in MARAD's management controls related to workforce development and uniform policy. Sections 3519, 3520, and 3521 of the FY 2017 NDAA set deadlines for completing the actions recommended in this audit. MARAD is committed to meeting these deadlines. The MARAD Workforce Analysis, Leadership Succession Plan, and Strategic Human Capital Plan are currently being updated. MARAD expects completion of this requirement by the deadline set in the FY 2017 NDAA. MARAD has performed the review related to new hire orientation, training, and misconduct, and the OIG recommendation regarding onboarding policies and procedures was closed on January 10, 2017.

Drug and Alcohol Policy

In compliance with Section 3520 of the FY 2017 NDAA, MARAD has reviewed its drug and alcohol policies, developed training, and established a system to track training sessions. The OIG recommendation to address these issues was closed on August 1, 2016.

Vessel Transfers

As recommended by the OIG, MARAD conducted a review and revised its Vessel Transfer Office (VTO) procedures to reflect the current range of VTO responsibilities and processes. This recommendation was closed on May 10, 2016. In accordance with Section 3521 of the FY 2107 NDAA, MARAD will submit a report to Congress in September 2017 detailing the updated VTO procedures to process vessel transfer applications.

DOT and MARAD are committed to implementing the changes outlined in the NDAA and we intend to build upon the improvements that have been made in recent years. We appreciate the support this Subcommittee has provided and look forward to working with you to ensure the Maritime Administration's progress.

Thank you for your interest, and I am happy to answer any questions you may have.

³ Office of Inspector General. 2015. Report Number ST-2016-011. Audit report: Weaknesses in MARAD's management controls for risk mitigation, workforce development, and program implementation hinder the agency's ability to meet its mission.