

**Public Comments on the U.S. Commission on Ocean Policy's  
Preliminary Report**

*Topic Area: Shipping/ Commerce*

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**Comments Submitted by:**

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- J.J. Keever, Hampton Roads Maritime Association
- R. Keith Michel, Marine Board

## **South Atlantic Marine Transportation**

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### **Public Comment on Preliminary Report**

The South Atlantic Marine Transportation System Organization (SAMTSO) is a regional organization dealing with marine transportation-related issues affecting the Southeastern United States and provides regional representation to the Marine Transportation System National Advisory Council (MTSNAC). SAMTSO is comprised of marine associations and marine exchanges from the South Atlantic ports of the United States as well as government agencies involved with the Maritime Industry. As part of SAMTSO's mission it is our responsibility to articulate the importance of the regional MTS to the economy of the nation and the South Atlantic; to foster a common vision for the future of the region's MTS; and to energize continued efforts to protect and advance the interests of the region's MTS. In fulfilling those responsibilities we offer the following comments on the Preliminary Report from the U.S. Commission on Ocean Policy.

#### General Comments:

SAMTSO respects the extensive and thorough work the Commission has done in producing these findings and recommendations for a new, coordinated, and comprehensive national ocean policy. We support the designation of the U.S. Department of Transportation (DOT) as the lead federal agency for the planning and oversight of the marine transportation system. SAMTSO also supports the recommended role of the National Ocean Council, with the provision that commercial interests of the maritime industry are adequately, fairly, and permanently represented. Upon addressing the few exceptions and concerns we have with the Preliminary Report, SAMTSO hopes and expects we will be able to give the Report our full endorsement.

#### Specific Comments:

- Chapter 12: Managing Sediment and Shorelines

- Recommendation 12-1: We recommend a shift in philosophy on this proposed policy. These projects are of such significance and uniqueness that they need to be considered and decided upon on a project by project basis with adequate, fair, and diverse representation from all affected parties.
- Chapter 13: Supporting Marine Commerce and Transportation
  - Recommendation 13-3: We believe we could support this recommendation with further clarification or assurances that the process for determining "intermodal projects of national significance" will include adequate, fair, and diverse representation from commercial maritime interests, including significantly impacted parties.
  - Recommendation 13-5: We are concerned that to "prioritize the nation's future needs for ports and intermodal transportation capacity" within a federal government entity is to ignore the direction and efficiencies driven by economic factors. Such a policy leaves decision making open to extraneous factors and influences. Ports must be able to develop on their own merits based upon competitive aspects.
- Chapter 16: Limiting Vessel Pollution and Improving Vessel Safety

SAMTSO has long supported initiatives and policies that reflect an approach that seeks to balance the needs of the maritime industry and the environment. We support further initiatives that seek to protect and improve the environment provided those initiatives are undertaken with industry input, endorse and reflect national standards, and are implemented with a phased-in approach that allows adequate time for industry to adapt.

- Recommendation 16-14: We believe the scope of this recommendation is too broad and should be more narrowly defined. SAMTSO encourages a policy that does not create additional "regulatory regimes" but relies upon the capable regulatory entities already in place to ensure the needs of industry are balanced with the needs of the environment.

We encourage the Commission to consider and adopt these few suggestions so SAMTSO can lend its full support in advancing before the U.S. Congress and the President this important effort to establish a comprehensive national ocean policy.

Sincerely,

J.J. Keever  
 2<sup>ND</sup> Vice Chairman  
 South Atlantic Marine Transportation Organization

*Comment Submitted by Dennis L. Bryant, Holland and Knight LLP*

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May 26, 2004

Public Comment on Preliminary Report  
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### **Comments on the Ocean Policy Study**

In August 2000, Congress directed the President to appoint a group of experts to study the policy of the United States with respect to the oceans and make recommendations for changes. The legislative mandate was broad – covering protection of life and property; responsible stewardship; protection of the marine environment; enhancement of commerce and transportation; expansion of human knowledge; improvement of capabilities and technologies; close cooperation among stakeholders; and U.S. leadership in marine activities. The Commission members were (and are) recognized leaders in a wide variety of marine endeavors. The Preliminary Report of the U.S. Commission on Ocean Policy, at 514 pages, is daunting. Sadly, it is also incomplete.

The report devotes the vast majority of its length to stewardship of marine resources and protection of the marine environment. These are important issues, and the report makes a number of well-considered recommendations in these respects.

Where the report fails us is with regard to other – more traditional – uses of the sea. The chapter on supporting marine commerce and transportation is a mere ten (10) pages in length. This despite the fact that approximately 90% of U.S. imports and exports travel by ship and that this international commerce is a major contributor to our economic well-being. Federal agencies involved with maritime commerce receive largely cursory treatment. While the U.S. Coast Guard is mentioned various times, the Maritime Administration (MARAD) is referred to only three times, and then more in passing than anything else. The Federal Maritime Commission (FMC) is never discussed

in the report, even though it is charged with regulating the international liner trade to and from the United States.

While the report contains a comprehensive discussion of such things as offshore wind energy projects, it totally fails to mention issues related to construction of onshore and offshore liquefied natural gas (LNG) terminals for the import of this important fuel. Alan Greenspan, Chairman of the Federal Reserve, has cited construction of these terminals as in the vital interest of the nation. Such construction involves large financial commitments, impacts other marine uses, and has a variety of environmental and safety considerations. Yet, the report ignores LNG completely.

Even though the federal government faces immense difficulties in scrapping or recycling its numerous excess and obsolete ships, the issue is totally ignored in the report. The United States Government is involved in litigation on this issue in this country and awaits official action in the United Kingdom on four obsolete ships exported there last year. The several hundred mothballed ships, some of which may present environmental threats, await a policy decision and monies to implement the policy, yet the report stands silent.

Submarine cables are barely mentioned in the report, but modern communications depend heavily on their use. New cables need to be laid on the ocean floor and come ashore at appropriate locations. Competing users, primarily fishermen, generally oppose laying of new submarine cables. There is a need for a coordinated federal policy on submarine cables, yet the report neglects to address the issue.

Minimal discussion is devoted to the pressing need for major improvements in port infrastructure in the United States. Our current port facilities are generally out-dated and stretched to capacity. All indications are that maritime commerce will double in less than 20 years. We desperately need upgraded terminals to handle all the ships and their vital cargoes. We also need vastly improved access routes in order to move cargoes to and from the ports. The Alameda Corridor in Los Angeles/Long Beach has proven immensely successful in this regard, but no similar projects are currently planned for other ports.

The report includes a good summary of the need for places of refuge and a process for responding to requests for access by ships in distress. It discusses the problems encountered by the oil tanker CASTOR in the Mediterranean Sea in 2001 when it was turned away by numerous littoral states, as well as the recent guidelines issued by the International Maritime Organization (IMO) to address future cases. The report, though, fails to mention that the issue is heavily impacted by the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (Intervention Convention) and the U.S. implementing legislation. Until the Convention and statute are amended, little progress is likely with regard to places of refuge.

The report devotes great length to ship-source pollution and that problem deserves continued attention. But, the report fails to acknowledge that the majority of pollution entering the oceans originates ashore. The discussion addresses shore-based pollution, but the number of pages devoted to this issue gives the uninitiated the impression that the problem is relatively minor. Better balance is desperately needed here so that resources can be assigned to the real problem areas, not just to politically easy targets.

A significant ocean policy of the United States receives much more attention overseas than it does domestically is cabotage. The U.S. has some of the most restrictive cabotage policies in the world. Yet, these policies, which affect vessel construction, ownership, operation, carriage of passengers, towing, and dredging, among other things, were largely developed independently of each other over a period of 200 years. This Commission has (perhaps inadvertently) overlooked an opportunity to undertake a long overdue systemic review of these policies.

In order to boost the visibility of ocean policy within the federal government, the report proposes a complex structure of advisors, councils, committees, and panels. Personally, I find the proposed structure off-putting and counterproductive. Strengthening and fully funding the agencies charged with important missions relating to the oceans will go much further toward actually achieving the goals than establishing yet another bureaucracy. The report includes important recommendations for enhancing the role of the National Oceanic and Atmospheric Administration (NOAA). These enhancements (and the funds necessary to bring them to reality) are vital. The other agencies involved in ocean matters (such as the Coast Guard, the Environmental Protection Agency, the U.S. Army Corps of Engineers, Customs and Border Protection, MARAD, and the FMC) also deserve better treatment than they usually receive from the Administration and Congress. These agencies are filled with dedicated and hard-working employees and members who generally know their roles very well, but lack the resources needed to reach their goals.

Overall, the Preliminary Report of the U.S. Commission on Ocean Policy is an impressive document and contains many excellent recommendations. It deserves careful consideration by all stakeholders, including the President, Congress, the various federal agencies, state and local officials, the maritime community, environmental advocacy groups, and citizens at large. It is not, though, a full picture of ocean issues. It is one, albeit important, building block for use in establishment of a comprehensive national ocean program.

For the record, the above comments represent my personal opinions and are not necessarily representative of the opinions of my law firm or those of clients of the law firm.

Sincerely,

Dennis L. Bryant

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### **Public Comment on Preliminary Report**

The Hampton Roads Maritime Association (HRMA) is a non-stock, not-for-profit, trade association founded in 1920 with the mission of promoting, protecting, and encouraging commercial shipping through the Port of Virginia. The HRMA boasts a membership of over 500 parties directly or indirectly involved in the flow of waterborne commerce. As the "Voice of the Port", representing these interested parties, we offer the following comments on the Preliminary Report from the U.S. Commission on Ocean Policy.

#### General Comments:

HRMA respects the extensive and thorough work the Commission has done in producing these findings and recommendations for a new, coordinated, and comprehensive national ocean policy. We support the designation of the U.S. Department of Transportation (DOT) as the lead federal agency for the planning and oversight of the marine transportation system. HRMA also supports the recommended role of the National Ocean Council, with the provision that commercial interests of the maritime industry are adequately, fairly, and permanently represented. Upon addressing the few exceptions and concerns we have with the Preliminary Report, the HRMA hopes and expects we will be able to give the Report our full endorsement.

#### Specific Comments:

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Sincerely,

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Executive Vice President  
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1 June 2004

Admiral James D. Watkins, USN (Ret.), Chairman  
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**Public Comment on Preliminary Report**

Reference: Preliminary Report of the U.S. Commission on Ocean Policy,  
Governor's Draft, Washington, D.C., April 2004.

Dear Admiral Watkins:

The members of the Marine Board—a unit of the National Academies' Transportation Research Board (TRB)—have read with great interest the preliminary report of the U.S. Commission on Ocean Policy. The Marine Board is very pleased that the Ocean Commission has considered the findings of relevant studies undertaken by the Board in recent years, as well as its summary of critical issues outlined in a June 2002 letter to you.

It is gratifying to note the Commission's endorsement of key recommendations from the recent Marine Board/TRB study, *The Marine Transportation System and the Federal Role: Measuring Performance, Targeting Improvement* (2004), particularly the need for a national freight transportation strategy and designation of the U.S. Department of transportation as the lead agency for the MTS. A number of other recommendations in the Commission's preliminary report—including items focused on managing sediment, strengthening the U.S. Coast Guard's inspection program for marine safety and environmental protection, reviewing U.S. ballast water management R&D, and managing marine evasive species—draw upon or are consistent with discussions and recommendations concerning these issues contained in previous National Academies' reports conducted under the auspices of the Marine Board/TRB.

At its Spring Meeting in early May, the Marine Board identified three other issues that the Commission may wish to consider:

Marine Salvage Response

In its discussion of ship collisions and groundings, the Commission recognizes that there is considerable uncertainty about the ability of the nation's domestic salvage capacity to meet emergency needs. Because of the importance of salvage capability in the context of homeland security, the Marine Board held a workshop on this topic in August 2003; the report from that workshop, including committee findings and recommendations, will be issued in late June. We will make that report available to the members of the Commission as soon as it is released.

U.S. Shipbuilding Capacity

The Commission's report states that the U.S. shipbuilding industry has historically been viewed as a strategic industry, for both military and commercial reasons, but that despite its importance the industry is in serious decline. A more comprehensive assessment of the effects and policy implications of this decline could be helpful. The Marine Board has a continuing interest in developing a study in this area that might suggest a strategy for improving the competitive nature of these industries and identify the requirements to maintain them at a level consistent with the strategic objectives.

Transportation of LNG and Other Petroleum Products

The Commission calls for a risk-based analysis of all oil transportation systems, to identify and prioritize areas of risk and to develop a comprehensive plan for long-term action to reduce the threat of significant spills. In a discussion of these issues, the Marine Board highlighted the transportation of liquid natural gas (LNG) and other petroleum products, noting the need to understand and mitigate risks and to educate the public about the benefits and risks of marine transportation of petroleum. The Board will soon be conducting a planning meeting to develop a draft prospectus on this topic.

My colleagues on the Marine Board join me in congratulating the Ocean Commission on the work reflected in its comprehensive preliminary report; the Board members and staff would be happy to provide additional information on any of the reports or projects highlighted in this letter.

Sincerely,



R. Keith Michel  
Chairman, Marine Board

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