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July 10, 1996

Office of the Secretary
Federal Communications Commission
Washington, DC 20554

RE: CI Docket 95-55

Dear Sir/Madam:

The Passenger Vessel Association (PVA) offers the following reply comments for the Notice of Proposed Rulemaking, CI Docket 95-55.

The Passenger Vessel Association has participated in this rulemaking from the beginning of what we believe is a very positive and, for operators of small passenger vessels, an eagerly awaited delegation of on-site inspection of radiotelephone capability to qualified Federal Communications Commission (FCC) licensed persons in the private sector. We applaud the FCC's initiative and innovation in proposing to modify its inspection process to reflect the realities of modern radio technology as well as the Administration's policy of devolving certain government functions to the private sector, where appropriate.

These reply comments are directed specifically to the correspondence from the U.S. Coast Guard. PVA strongly endorses the Coast Guard's statement "that the Commission is best equipped to render final judgment regarding the technical quality of shipboard radio installations and equipment" in the letter to the docket of June 21, 1996 signed by K.W. Keane. We believe, however, that the FCC has fully met that responsibility in the final rule on the Inspection of Great Lakes Agreement Ships and in this proposed rule. These delegations to the private sector are in keeping with Executive Order 12866, the reinvention of government initiative, the Administrative Conference of the United States recommendations, and simple good stewardship by the FCC for the public good.

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On the other hand, the comments attached to the letter seem more appropriate to a proposal to delegate agency responsibility across a broad sweep of safety responsibilities, not the privatization of on-site radio equipment inspection, the topic at hand. The response, therefore, obscures the issues of safety and reason pertaining to radio inspections with a treatise on broad delegations unrelated to this rulemaking.

When this rulemaking was first conceived, the problem and potential solutions were properly framed when it was acknowledged that, today, vessel operators are dealing with the inspection of solid state equipment that is not susceptible to the problems for which on-site inspection was originally established. The FCC experience indicates that few, if any, inspections result in the need for corrective action. In the rare instance when a correction is needed, the individuals who would be authorized under this proposal to conduct the inspections today perform the repairs.

The current practice of requiring that FCC personnel alone be authorized to conduct radio inspections is outdated and, in an era of reduced personnel resources, has become an actual impediment to safety as vessel operators are forced to wait for inspectors who may or may not arrive as scheduled due to budget constraints. From the operators' standpoint, having to conform to the unpredictable schedules of FCC personnel interferes with operating itineraries and services. In some instances the situation becomes untenable for the operator of a business which relies on regularly scheduled cruises and seasons.

Both industry practice and government experience is that the radiotelephone capability is self-regulating. No one knowingly sails without the ability to communicate via radiotelephone. Personal safety, the ability to navigate and pure business necessity dictate the need for reliable communication. Even the current practice involving FCC inspection relies on this self-regulating aspect for the four years and 364 days that the FCC is not present. Vessel owners readily employ service technicians if necessary and just as readily purchase replacement equipment which is available at a nominal cost. The Coast Guard has missed the information exchange that has framed this rulemaking and now introduces a prolonged and unrelated discussion of issues which may arise when the delegation of total agency responsibility for comprehensive safety programs is being contemplated.

The Coast Guard's Alternative Compliance Program and its discussion of the ISM Code are irrelevant to this rulemaking and the single, simple problem it seeks to redress.

The Coast Guard's Alternative Compliance Program concerns the delegation of the Coast Guard's entire safety program responsibility to a classification society for certain ships. This delegation covers oversight and validation of a vessel's construction, maintenance, safety and emergency equipment, and its compliance with statute, regulation and international convention. In this program, the Coast Guard also delegates the ability to interpret regulations and make decisions accordingly.

The ISM Code involves a new chapter added to the SOLAS Convention as an internationally acceptable remedy for what are perceived to be problems in management for vessels engaged in international trade. This Code deals with multinational vessel management and crews. The Coast Guard has decided it is not appropriate to implement the ISM Code for the domestic fleet.

The Passenger Vessel Association believes the Coast Guard has misread the scope and context of the proposed delegation and, therefore, is proposing that the FCC consider standards for private inspectors that far exceed those required even of its own program managers and inspectors.

Lastly, the Coast Guard proposes that parties delegated radiotelephone inspection authority report the accomplishment to the relevant Officer-in-Charge, Marine Inspection. This would be a completely new and unwarranted reporting requirement which violates the letter and the principle of the regulatory reinvention initiative. There is no such report required now between the FCC and the OCMI.

The Passenger Vessel Association believes the Coast Guard comment to the docket is not relevant to the rulemaking at hand and, indeed, introduces an element of confusion in its discussion of generic, broad-based delegations of inspection authority. There is nothing in the Coast Guard's comments that bears on the issues of competence or safety with respect to the inspection of shipboard radio installations on small passenger vessels by qualified FCC licensed individuals in the private sector. This is rule which should be adopted forthwith in the name of safety and economy for all parties concerned.

Sincerely,

Captain Alan Circeo
President