PMSA DATA REQUEST NO. 348: Regarding Exh. CLD-01T 4:7, please describe the advice that you provide to pilot groups and pilotage authorities on behalf of the APA regarding "business structures."

RESPONSE:

Pilot groups in the U.S. decide to organize themselves in various ways, including as corporations, partnerships, limited liability companies, etc. At times, pilot associations will involve their oversight authority in these decisions. In the course of my duties as, first APA Associate General Counsel, and since 2020, as APA General Counsel, I provide privileged legal advice to APA-member pilot associations, including advice related to business structures.

PMSA DATA REQUEST NO. 349: Further regarding Exh. CLD-01T 4:7, please disclose whether you have provided advice regarding "business structures" to Puget Sound Pilots or to the State of Washington Board of Pilotage Commissioners, and, if so, the dates you provided such advice along with copies of the communications providing this advice.

RESPONSE:

I respectfully state that any legal advice that I have provided to the Puget Sound Pilots would constitute privileged communication. I have provided testimony to the Washington Board of Pilotage Commissioners on the legal, regulatory, and policy aspects of pilot medical fitness (2011) and, during a period in 2021-2022, worked on Puget Sound pilotage regulatory matters with the Board's Executive Director and others.

PMSA DATA REQUEST NO. 354: Regarding Exh. CLD-01T 10:7–8, and the statements that pilots are "held to a higher standard than other mariners. The highest standard, in fact," please respond to the following:

1) Describe with specificity and citations to legal sources for the standard to which mariners are held to, generally.
2) Describe the "higher standard" to which pilots are held with specificity and citations to legal sources for this standard.
3) Describe the "highest standard" to which pilots are held with specificity and citations to legal sources for this standard.

RESPONSE:

1) Describe with specificity and citations to legal sources for the standard to which mariners are held to, generally.

   The standard of care expected for a mariner under U.S. law is whether a mariner's actions or omissions were that which a reasonable and prudent mariner of the same station would have taken under the same circumstances. See e.g., 46 C.F.R. §5.29.

   As can be gleaned from any Torts treatise, the application of the "reasonable and prudent mariner" standard can vary based on the level of the mariner's training and skill. Courts will determine negligence by comparing a particular mariner to the reasonable standard of behavior for a mariner of "the same station."

   This means that an Able Seaman (AB) would be held to the standard of what a reasonable and prudent AB would do or not do under similar circumstances. A licensed Third Mate would be held to a higher standard than an AB; namely a Third Mate would be expected to meet the standard of a reasonable and prudent Third Mate. This same reasoning carries through that a Second Mate is held to a higher standard than a Third Mate; a Chief Mate is held to a higher standard than a Second Mate; and a Master is held to a higher standard than a Chief Mate.

2) Describe the "higher standard" to which pilots are held with specificity and citations to legal sources for this standard.

   As discussed above, the standard of care expected of mariners in the U.S. varies depending upon the skills, training and knowledge possessed by the mariner. Pilots are viewed as having reached the highest skill levels in the maritime sector. Because of this, as a matter of general law of negligence in the U.S., pilots are held to a higher legal standard than an average mariner because of their specialized training, knowledge, skill.

Pilots are commonly referred to as being at the very top of the mariner profession. In the Fall 2008 edition of PROCEEDINGS OF THE MARINE SAFETY & SECURITY COUNCIL, THE COAST GUARD JOURNAL OF SAFETY & SECURITY AT SEA, Rear Admiral Brian M. Salerno, the senior Coast Guard official responsible for navigation safety, has described the highly developed skills and degree of care expected of pilots:

> "Each day, pilots are asked to take all sizes and types of vessels through narrow channels in congested waters where one miscalculation could mean disaster. They are trained, highly professional individuals, whose judgments must be spot-on for the hundreds of decisions they must make at every turn to bring a vessel safely to its berth or out to sea."

Another example of the commonly held view about the skill level of pilots can be found in an article that appeared on the Women Offshore website. This article included a passage that read, "A maritime pilot is the pinnacle of the maritime industry, a navigational expert for a port of call."

Similarly, an article on gCaptain (a widely read and credible maritime website in the U.S.) authored by the Executive Director for the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisan, stated, "Many consider piloting the pinnacle of maritime jobs."

Other state pilotage oversight authorities have made similar statements about the highly developed level of skill required to be a compulsory pilot. The website for the Oregon Board of Maritime Pilots states, "The piloting profession is widely considered the pinnacle of a maritime career."

Most significantly for this rate proceeding, the 2021 Annual Report for the Washington State Board of Pilotage Commissioners makes the statement that completion of its training program will allow "qualified mariners to reach the pinnacle of the maritime profession: pilot."

> As a result of this recognized standing pilots have earned, the U.S. Supreme Court has made clear that compulsory pilots are held to a high degree of care. "The **character of the skill and knowledge required of a pilot in charge of a vessel on the rivers of the country is very different from that which enables a navigator to carry his vessel safely on the ocean**." Atlee v. Packet Company, 88 U.S. 389, 396 (1874). (emphasis added) The Supreme Court in Atlee stressed that pilot licensing standards and the value of human lives and cargo entrusted to ships under compulsory pilotage justified **this rigorous and high standard of care when compared to other mariners**. (emphasis added)

Another example of courts clearly spelling out the highest degree of care standard to which pilots are held, is the U.S. Court of Appeals for the Fifth Circuit referring to the standard of care expected of pilots as "**an unusually high standard of care**." Bunge Corp. v. M/V FURNESS BRIDGE, 558 F.2d 790, 798 n. 6 (5th Cir. 1977). (emphasis added)

Other courts have made clear pilots are held to a higher degree of care than the average mariner due to the "pilot's knowledge of local conditions, the very reason that his hiring is required." Osprey Ship Management Inc. v. Foster, 387 F. App'x 425, 432 (5th Cir. 2010)

Describe the "highest standard" to which pilots are held with specificity and citations to legal sources for this standard.

3) Describe the "highest standard" to which pilots are held with specificity and citations to legal sources for this standard.

See response to PMSA DATA REQUEST NO. 354 2) above.

PMSA DATA REQUEST NO. 356: Regarding Exh. CLD-01T 10:12–14, does the APA support statutory limitations on civil liability claims against state-licensed pilots for the consequences resulting from their own acts of negligence while engaged in the provision of a compulsory pilotage service?

RESPONSE:

Yes, APA supports these statutory provisions that allocate pilot liability in the event of a marine accident (but for simple negligence only, not gross negligence, reckless misconduct, etc.), as do the legislatures in ten of the twenty-four coastal states, including Washington State.

Washington State recognized the necessity of its statutory limit on civil liability as follows:

> "The preservation of human life and property associated with maritime commerce on the pilotage waters of this state is declared to be in the public interest, and the limitation and regulation of the liability of pilots licensed by the state of Washington…is necessary to such preservation and is deemed to be in the public interest."

Wash. Rev. Code § 88.16.115

The reason APA, Washington State, and these other states support pilot liability allocation provisions is that unbridled exposure to the enormous liability associated with navigating exceptionally large vessels through congested pilotage waters could serve as a hindrance to states' efforts to attract and maintain sufficient numbers of qualified pilots and could therefore threaten states' ability to maintain effective compulsory pilotage systems.

The economic reality of a pilot's liability exposure today is that the potential damages from a marine accident can be thousands of times – even hundreds of thousands of times – greater than the compensation the pilot receives for an assignment and substantially greater than the typical personal resources of the pilot. Even a minor oil spill can result in damages of millions of dollars. Without some protection against potentially ruinous civil suits, and considering the unavoidable physical dangers involved in piloting (around the world, most every year, marine pilots are killed or seriously injured on the job), recruitment of top-notch maritime professionals into the piloting ranks, and retention of these individuals as state-licensed pilots, can be challenging.

As a result, statutory provisions dealing with pilot liability have been in place in a number of states for decades and are being considered by other states with growing frequency. Presently, 10 of the 24 coastal states have some form of statutory mechanism to limit or allocate the civil liability of compulsory marine pilots. These limitation of liability statutes cover more than 60% of all state-licensed pilots in the United States. Statutory provisions limiting or allocating liability for pilot negligence: (1) are common and important components of a state's comprehensive pilotage regulatory system; (2) are economically efficient; (3) do not eliminate a third party's ability to recover damages resulting from pilot negligence; and (4) are not a disincentive to professionalism in pilot performance.

The significant number of states that have adopted statutes allocating or limiting civil liability for damages caused by pilot error have recognized that there is no economic justification for exposing

pilots to ruinous civil liability. The legislatures in these states have concluded that unlimited and unrestrained civil liability for pilots is economically inefficient and imposes unnecessary costs on the shipping industry. In the absence of a statutory device to limit the pilot's liability exposure, pilots may be compelled to recover through their pilotage fees either (1) the expense of insurance premiums for liability coverage in meaningful amounts to cover the unlimited liability exposure of all of the pilotage assignments that may occur during the insurance policy term (if such insurance coverage is even commercially available) or (2) compensation that would reflect the magnitude of the pilot's uninsured, unlimited liability exposure.

It is well-settled maritime law that a vessel is responsible in rem for damages caused by pilot negligence.[1] As a result, it is a longstanding maritime standard that insurance policies for sea-going vessels cover damages from accidents that occur while the vessel is under pilotage.[2] Vessel owners, therefore, already pay for insurance that covers damages caused by a pilot's errors in the performance of pilotage duties. If pilots are forced to seek pilotage fees that cover adequate insurance premiums or produce compensation commensurate with unlimited civil liability exposure, and commercial shipping interests had to pay such pilotage fees, ship owners would be paying, in effect, double insurance. This is economically inefficient and introduces unnecessary costs to the maritime industry.

Unlimited liability exposure does not provide any meaningful added measure of deterrence to substandard pilotage. Even without civil liability exposure, a pilot faces a host of potentially serious administrative, regulatory, and criminal sanctions for negligence, misconduct, or violations of statutes and regulations. Federal and state licensing authorities may revoke or suspend a pilot's license and, in the process, deny the pilot an opportunity to practice his or her profession and otherwise earn a living. The Coast Guard and various other regulatory entities can also assess substantial civil penalties and fines related to marine casualties. There are also a number of federal statutes that prescribe criminal penalties – including fines and imprisonment – for conduct leading to a maritime accident, particularly an accident resulting in an oil spill.

[1] The China v. Walsh, 74 U.S. (7 Wall.) 53 (1868).
[2] Kane v. Hawaiian Indep. Refinery, Inc., 690 F.2d 722, 725 (9th Cir. 1982).

PMSA DATA REQUEST NO. 357: Regarding Exh. CLD-01T 12:3–14:17, your testimony regarding federal licensing of pilotage and holders of US Coast Guard-issued first-class pilot endorsements (FCPE), please respond to all of the following:

1) Describe the "minimum standard" required to be issued a FCPE by the US Coast Guard.
2) Define a "small segment of shipping in the U.S."
3) Admit that individual seaports and states may ensure comprehensive, reliable, and expert pilotage operations composed of federally licensed pilots without the creation of a state-licensing requirement. If denied, explain why this is not possible.
4) Admit that the national standards for federally licensed pilots are adequate for the provision of safe vessel operations. If denied, provide evidence to support such an opinion which specifically addresses the safety records of federally licensed pilots.
5) Admit that the national standards for federally licensed pilots are just as adequate for the provision of safe vessel operations as state-licensed pilots. If denied, provide evidence to support such an opinion which specifically addresses the safety records of federally licensed pilots when compared to the safety records of state-licensed pilots.
6) Admit that the U.S. Coast Guard standards for issuance of a FCPE include physical examination, drug testing, proficiency with electronic navigation, experience standards including trips, examination, and creation of navigational charts from memory.

Admit that U.S. Coast Guard standards for issuance of a FCPE are significant with respect to the enhancement of navigational safety.

RESPONSE:

1) Describe the "minimum standard" required to be issued a FCPE by the US Coast Guard.

As discussed in more detail below, the U.S. Coast Guard has described that the federal pilotage licensing scheme serves as a "minimum standard." Rear Admiral Henry Bell, then Chief of the Coast Guard's Office of Merchant Marine Safety, said at a 1979 conference when referring to the federal pilot license, "[A federal pilot license] does not guarantee that he is capable of doing anything at all….[a]ll the license does is get a man in the door. It allows him to say, 'Yes, **I have met the minimum standards**.'" (emphasis added)

All States require a formal apprentice program as the basis to certify candidates for eventual licensure as a state-licensed pilot. The length of apprentice programs can vary among the 24 coastal states. For example, for mariners with advanced credentials, apprenticeships can run anywhere from one to three years. In Puget Sound, for example, the training program can be up to 3 years. For mariners with lesser maritime experience and more junior mariner credentials, apprentice programs can be as long as seven years.

In any event, in the state pilot system, future pilots learn their craft under the tutelage of fully licensed and experienced pilots. Since pilots must be intimately familiar with local waters, navigational peculiarities, and local regulations, as well as know how to handle different types/sizes of ships and be able to conduct themselves on ships with bridge teams coming from all over the world, an intensive "on-the-job" training program is vital.

Time has shown that the skills required of a pilot are best developed, and then mastered, through locality-specific, "hands-on" apprentice training. Pilot apprenticeship programs include numerous instructional trips over an extended period (which captures different types of vessels and seasonal weather) through pilotage waters with an experienced pilot. Depending on the level of experience of the pilot trainee, the number of trips can range from hundreds to thousands. In Puget Sound, for example, trainees typically complete well over three hundred trips over the vast pilotage ground and under the supervision of experienced pilots before earning his or her state pilot license. The number of trips must be enough to ensure the pilot trainee becomes proficient at all different pilotage runs, on all different types of vessels, and under all types of weather conditions. In my opinion, there is simply no substitute for this experience.

Apprentice programs generally are progressive in nature, with apprentices gradually taking a greater and greater role. Initially, an apprentice will mostly observe, but over time, the apprentice will take on a more substantial role and will eventually conduct the navigation of the vessel under the senior pilot's guidance. As the apprenticeship program draws to an end, the apprentice – under the watchful eye of the mentoring pilot – is handling the largest vessels that enter the pilotage waters.

In addition to a rigorous apprentice program, intensive classroom study is also a common feature of State pilot training programs. Classroom topics generally required before an individual is certified to become a fully licensed State pilot include basic, advanced, and emergency ship handling, radar and electronic navigation, fatigue, and bridge resource management training tailored for marine pilots. This required classroom work is supplemented with state-of-the-art bridge simulator and manned ship model training.

State licensed pilots, like other licensed professionals, are also required to complete a minimum number of continuing education units or credits during specified periods in order to maintain their state licenses.

Unlike the comprehensive certification, training/apprenticeship and licensing regimes of the States just discussed above, the federal regulations governing the issuance of a FCPE are very limited. Federal statutes and regulations[3] do set out

[3] Specifically, Title 46, Chapter 71 of the U.S. Code (USC) and Title 46, Part 11 of the Code of Federal Regulations (CFR).

rudimentary requirements for a federal first class pilot endorsement. For example, the federal pilot regulations require a minimum age of 21, annual physical examination, proficiency with electronic navigation, experience aboard a vessel in some capacity, small number of trips (12-20) of the pilotage area (but these trips can be made as an "observer"[4] who is not in any way participating in, or even attentive to, the navigation or conning of the ship; and these trips can be made over the period of a few days or weeks on a single vessel), one-time written examination (usually multiple choice), sketch of the pilotage area, etc. It is critical to point out, however, a FCPE may be issued to an individual who has had no prior training as a pilot and who has not demonstrated any piloting or even basic conning skills.

The regulatory requirements for the holder of a FCPE to maintain proficiency and a current working knowledge of the waters and routes to which the federal license applies is also extremely limited. There are no continuing education or training requirements for those holding a federal license, and there is only one re-familiarization standard (the holder of a federal pilot license is required to transit the particular pilotage route just once every 5 years).[5]

2) Define a "small segment of shipping in the U.S."

According to the U.S. Maritime Administration (MARAD), the number of ocean-going commercial ships exceeding 1,000 gross tons in the U.S. merchant fleet is considerably less than two hundred vessels. MARAD estimates that only 1.5% of U.S. waterborne imports or exports are carried on vessels of domestic registry. By contrast, the International Chamber of Shipping estimates that there are over 50,000 merchant ships trading internationally.

3) Admit that individual seaports and states may ensure comprehensive, reliable, and expert pilotage operations composed of federally licensed pilots without the creation of a state-licensing requirement. If denied, explain why this is not possible.

Deny. I strongly disagree with this assertion. Under U.S. law, federally licensed pilots are only authorized to pilot U.S.-flagged coastwise vessels (e.g., vessels transiting between two ports or places in the U.S.). See 46 U.S.C. § 8502. Conversely, per 46 U.S.C. § 8501, all foreign flag vessels and all U.S. flag vessels sailing on "register" (that is sailing between a foreign port or place and a U.S. port or place) must be under the direction and control of state-licensed pilot.

So, while federally licensed pilots are authorized to provide pilotage services to the small number of U.S.-flagged coastwise vessels calling at a port (see previous response to PMSA DATA REQUEST NO. 357 2)), as a matter of law these holders of FCPEs are not authorized to provide pilotage to the vast majority of large ocean-going ships calling at U.S. ports (which are foreign flag vessels or U.S.-flag vessels

[4] 46 C.F.R. § 11.705(b)
[5] 46 C.F.R. § 11.713.

sailing on register). In any estimation, for the reasons discussed above, a pilotage operation composed only of federally licensed pilots would not be a "comprehensive, reliable, and expert" pilotage system for a port.

Below is a more complete discussion of the pilotage system in the U.S.

The central feature of pilotage regulation in the U.S., including certification and licensure, is that States, not the national or federal government, play the central role. This system of State primacy reflects a judgment made by the first U.S. Congress that pilotage is best regulated at the State or local level. The legislation putting this judgment into effect, the Lighthouse Act of 1789[6], has been reaffirmed by Congress and courts many times in the intervening two centuries. The U.S. Supreme Court declared that Congress' decisions with respect to pilotage oversight "leave no doubt of the superior fitness and propriety, not to say the absolute necessity, of different systems of regulation, drawn from local knowledge and experience, and conformed to local wants."[7] As a result of this legislation, the U.S. system is principally a "State Pilot System", with States being primarily responsible for oversight of pilotage.

Over the past 234 years Congress has, however, carved out a limited role for the federal government with respect to pilotage.[8] Federal pilotage regulations, administered by the U.S. Coast Guard (USCG), apply only to certain U.S. flag vessels sailing between ports or places in the U.S. This small segment of shipping in the U.S. is required to be under the pilotage of an individual with a USCG-issued federal pilot endorsement.

Pilotage of international trade vessels in the U.S. (i.e., non-U.S. flag vessels entering/departing U.S. ports, or U.S. flag vessels sailing to/from a non-U.S. port), which accounts for about 95% of all large ocean-going traffic moving in U.S. waters, is governed by the 24 U.S. coastal States through comprehensive pilotage regulation systems. While in State pilotage waters, these vessels are required to be under the direction and control of a state-licensed pilot.

4) Admit that the national standards for federally licensed pilots are adequate for the provision of safe vessel operations. If denied, provide evidence to support such an opinion which specifically addresses the safety records of federally licensed pilots.

While, as I indicated in my original testimony, federal pilotage standards have a role in the overall pilotage system in the U.S., state training, certification, and

[6] Section 4 of this Act states, "That all pilots in the bays, inlets, rivers, harbors, and ports of the United States shall continue to be regulated in conformity with the existing laws of the States, respectively, wherein such pilots may be, or with such laws as the States may respectively hereafter enact for the purpose, until further legislative provision shall be made by Congress."

[7] Cooley v. Board of Wardens of the Port of Philadelphia, 53 U.S. 299 (1852).

[8] For the general statutory framework establishing the division between State and federal pilotage responsibilities, see Title 46, Chapter 85 of the U.S. Code.

recertification requirements for pilots are far more stringent than those put in place by the federal government. This is an important point considering, as discussed above, that the vast majority of the large ocean-going vessels moving in U.S. waters are under the direction and control of state-licensed pilots.

The U.S. Coast Guard's view of the role the federal pilot endorsement is intended to play and how it compares to the comprehensive state pilotage licensing systems was perhaps best summed up in comments by Rear Admiral Henry Bell, who I mentioned earlier. RADM Bell stated, "This is precisely the philosophy behind the federal license. **It is not intended to guarantee, in any way, that the holder can walk aboard, and perform like a first class pilot. It does not guarantee that he is capable of doing anything at all….[a]ll the license does is get a man in the door. It allows him to say, 'Yes, I have met the minimum standards**.'" (emphasis added).

Admiral Bell went on to say, "it has never been the government's intention to try to make the license reflect competence….**The federal licensing program is not intended to achieve the ends that many of the state pilots' associations are designed to achieve** for their own people in their own area." See pages 113-114 of the Proceedings: Symposium on Piloting and VTS Systems, September 12, 1979, The National Research Council, Marine Transportation Research Board. (emphasis added).

It is also significant to point out that it is common for vessels that are not required to use the services of a state-licensed pilot (e.g., U.S. naval vessels and U.S. flag coastwise vessels) to voluntarily opt to do so rather than use the services of the holder of a FCPE. In my opinion, this is in large part due to the recognition that state training, certification, and recertification requirements for pilots are far more stringent than those put in place by the federal government.

5) Admit that the national standards for federally licensed pilots are just as adequate for the provision of safe vessel operations as state-licensed pilots. If denied, provide evidence to support such an opinion which specifically addresses the safety records of federally licensed pilots when compared to the safety records of state-licensed pilots.

I disagree with this statement. See responses above.

6) Admit that the U.S. Coast Guard standards for issuance of a FCPE include physical examination, drug testing, proficiency with electronic navigation, experience standards including trips, examination, and creation of navigational charts from memory.

See my responses above.

7) Admit that U.S. Coast Guard standards for issuance of a FCPE are significant with respect to the enhancement of navigational safety.

See my responses above.

PMSA DATA REQUEST NO. 358: Regarding Exh. CLD-01T 15:1–6, as your testimony in response to the question "how many licensed pilots are there in the US?" was limited to only APA member state-licensed pilots, please augment your response by providing the total number of FCPEs in the United States.

RESPONSE:

All the approximately 1,200 APA-member pilots also hold FCPEs. APA does not track the overall number of FCPEs in the U.S.

PMSA DATA REQUEST NO. 359: Regarding Exh. CLD-01T 21:21–22:3, your testimony regarding potential pilot liabilities, please identify the last case in the State of Washington where a marine casualty involving negligence by a state licensed pilot resulted in a monetary judgment against the state-licensed pilot.

RESPONSE:

Washington State has had a statutory provision to allocate pilot liability since 1981.[9] I am not personally aware of an instance in which a monetary judgment has been made against a Washington State pilot since the adoption of the liability allocation provision.

I will reiterate what I previously stated, however. Washington State pilots (and all pilots in states with liability allocating statutes) can be held civilly liable for gross negligence or reckless conduct. In addition, since State-licensed pilots also hold FCPE, there are an abundance of potential consequences that can be invoked against state-licensed pilots for substandard performance. Even without civil liability exposure, a pilot faces a host of potentially serious administrative, regulatory, and criminal sanctions for negligence, misconduct, or violations of statutes and regulations. Federal and state licensing authorities may revoke or suspend a pilot's license and, in the process, deny the pilot an opportunity to practice his or her profession and otherwise earn a living. The Coast Guard and various other regulatory entities can also assess substantial civil penalties and fines related to marine casualties. There are also a number of federal statutes that prescribe criminal penalties – including fines and imprisonment – for conduct leading to a maritime accident, particularly an accident resulting in an oil spill.

[9] The current Washington statute is found at WASH. REV. CODE §88.16.118 (2020).

PMSA DATA REQUEST NO. 361: Regarding Exh. CLD-01T 26:3, your testimony that "pilotage operations are unavoidably capital intensive," please define what you mean by "capital intensive."

RESPONSE:

I think my answer was clear. A modern, safe, efficient, and reliable pilotage operation requires capital expenditures on necessary items and programs such as pilot boats/crews, dispatchers, administrative support, training programs, radios, safety gear and sophisticated electronic navigation equipment.

PMSA DATA REQUEST NO. 362: Regarding Exh. CLD-01T 31:14–15, 31:23–24, 32:5–14, please admit that it is your testimony that the execution of compulsory pilotage duties, navigation, and exercise of judgment is completed by individual state-licensed pilots in a manner which is isolated from the economics of vessel operations and independent from economic considerations.

RESPONSE:

Pilots' decisions while engaged in pilotage duties should be based solely on safety factors. In this regard, pilots' decision-making should be insulated from normal economic pressures facing shipping companies. As I stated previously, a pilot often has to decide between different courses of action, for example: whether a ship should proceed in heavy fog, strong currents, high winds; whether a ship should wait for particular weather or tide conditions; whether one route or maneuver should be used rather than another that might take less time; or whether a ship – for safety considerations – should move at a lower than normal speed despite its schedule. Pilots are expected to exercise informed independent judgment in making these types of decisions and to resist pressures that are inconsistent with the interests of safety, such as the understandable commercial and economic pressures faced by shipping companies and the vessel captains that these companies directly employ.

PMSA DATA REQUEST NO. 364: Regarding Exh. CLD-01T 37:16–19, please provide responses to all of the following:

1) Define "the very best men and women."
2) Define "the highest quality pilot training."
3) Define "the finest available equipment."
4) Describe how and by what standards a state can objectively assess whether one of its state-licensed pilots is among "the very best men and women."
5) Describe how and by what standards a state can objectively assess whether it is employing "the highest quality pilot training."
6) Describe how and by what standards a state can objectively assess whether its state-licensed pilots are utilizing "the finest available equipment."

RESPONSE:

1) Define "the very best men and women."

   While I believe this phrase to be self-explanatory, a simple look at a dictionary is useful. The very best men and women is defined as "the most outstanding or excellent persons in a category."

2) Define "the highest quality pilot training."

   While I believe this phrase to be self-explanatory, a simple look at a dictionary is useful. The highest qualify pilot training is defined as "pilot training of superior quality."

3) Define "the finest available equipment."

   While I believe this phrase to be self-explanatory, a simple look at a dictionary is useful. The finest available equipment is defined as "equipment of superior quality."

4) Describe how and by what standards a state can objectively assess whether one of its state-licensed pilots is among "the very best men and women."

   I believe the explanation provided by the Washington State Board of Pilot Commissions of its Pilot Exam, Training Program and Licensure processes in their 2021 Annual Report, as well as the provisions laid out in the Washington State pilotage statute and pilotage regulations under the Washington Administrative Code (e.g., regulations covering qualifications of pilots, examination of pilots, pilot training program, licensing of pilots, simulator evaluations, etc.), provide an excellent answer to this question.

5) Describe how and by what standards a state can objectively assess whether it is employing "the highest quality pilot training."

I believe the explanation provided by the Washington State Board of Pilot Commissions of its Pilot Exam, Training Program and Licensure processes in their 2021 Annual Report, as well as the provisions laid out in the Washington State pilotage statute and pilotage regulations under the Washington Administrative Code (e.g., regulations covering qualifications of pilots, examination of pilots, pilot training program, licensing of pilots, simulator evaluations, etc.), provide an excellent answer to this question.

6) Describe how and by what standards a state can objectively assess whether its state-licensed pilots are utilizing "the finest available equipment."

In order to make this determination, the Washington State Board of Pilot Commissions should ask the state licensed pilots in the state to provide information on the process and due diligence the pilots undertook in making these important equipment procurement decisions. The provision of this type of information is a common part of the state pilotage rate setting process.

PMSA DATA REQUEST NO. 365: Regarding Exh. CLD-01T 37:24–26, please provide responses to all of the following:

1) Define "an adequate pilotage operation."
2) Define "a world-class pilot operation."

Describe how and by what standards a state can objectively assess whether it has "an adequate pilotage operation" or "a world-class pilot operation."

RESPONSE:

1) Define "an adequate pilotage operation."

   While I believe this phrase is self-explanatory, a simple look at the dictionary is useful. "Adequate" is defined as "barely sufficient." So, an adequate pilotage operation is one that is barely sufficient.

2) Define "a world-class pilot operation."

   Again, I do not believe this phrase needs elaboration, but "world-class" is defined as being of the "highest degree of excellence in the world."

3) Describe how and by what standards a state can objectively assess whether it has "an adequate pilotage operation" or "a world-class pilot operation."

   I am of the strong opinion, and I believe state pilot oversight officials, including the Washington State Board of Pilot Commissioners, would agree, no state should be content with a pilotage system that is "barely sufficient." States should, and I believe do, work toward putting in place pilotage operations (including pilots, other personnel, training, and equipment), that are of the "highest degree of excellence in the world."

   I believe the explanation provided by the Washington State Board of Pilot Commissions of its Pilot Exam, Training Program and Licensure processes in their 2021 Annual Report, as well as the provisions laid out in the Washington State pilotage statute and pilotage regulations under the Washington Administrative Code (e.g., regulations covering qualifications of pilots, examination of pilots, pilot training program, licensing of pilots, simulator evaluations, etc.), provide an excellent answer to this question.

PMSA DATA REQUEST NO. 366: Regarding Exh. CLD-01T 38:2–3, please provide responses to all of the following:

1) Define "best trained."
2) Define "most capable pilots."
3) Describe how and by what standards a state can objectively assess whether one of its state-licensed pilots is the "best trained."
4) Describe how and by what standards a state can objectively assess whether it is employing the "most capable pilots."

RESPONSE:

1) Define "best trained."

   While I believe this phrase is self-explanatory, a simple look at the dictionary is useful. "Best trained" is defined as "the individual with the most excellent, effective, or desirable type or quality of training."

2) Define "most capable pilots."

   While I believe this phrase is self-explanatory, a simple look at the dictionary is useful. "Most capable pilots" is defined as pilots "having superior abilities needed for the task."

3) Describe how and by what standards a state can objectively assess whether one of its state-licensed pilots is the "best trained."

   I believe the explanation provided by the Washington State Board of Pilot Commissions of its Pilot Exam, Training Program and Licensure processes in their 2021 Annual Report, as well as the provisions laid out in the Washington State pilotage statute and pilotage regulations under the Washington Administrative Code (e.g., regulations covering qualifications of pilots, examination of pilots, pilot training program, licensing of pilots, simulator evaluations, etc.), provide an excellent answer to this question.

4) Describe how and by what standards a state can objectively assess whether it is employing the "most capable pilots."

   I believe the explanation provided by the Washington State Board of Pilot Commissions of its Pilot Exam, Training Program and Licensure processes in their 2021 Annual Report, as well as the provisions laid out in the Washington State pilotage statute and pilotage regulations under the Washington Administrative Code (e.g., regulations covering qualifications of pilots, examination of pilots, pilot training program, licensing of pilots, simulator evaluations, etc.), provide an excellent answer to this question.