

Memo

To: Prof. Alvin C. Harrell
CC: David M. Bohannon, Frank P. DeGiulio, Bruce A. King, James Y. Stewart, Larry
Innis, Ed Carter, Jeffrey Hoedt, Thomas Willis
Date: June 1, 2007
Re: Differences Between Vessels and Vehicles for Titling

Dear Prof. Harrell:

Set forth below is a starting list of the captioned differences with questions suggested by such differences. This list should not be taken to suggest that such differences are irreconcilable or that all of the work done on the Uniform Certificate of Title Act - Vehicles ("UCOTA-Vehicles") is not applicable to vessels in large part or that all of the inquiries proposed in this letter must be resolved by NCCUSL; however, I am hoping to reach joint agreement, especially with the Coast Guard and NCCUSL and the other participants on a number of federal-state interface issues and on some issues with the insurance community that would affect titling.

1. **IDENTIFICATION NUMBERS:** Vessels have a 12-digit hull identification number ("HIN") while vehicles have a 17-digit vehicle identification number ("VIN"). If Coast Guard elects to upgrade the HIN to 17 digits, should this be done contemporaneously with (a) finalization of the Vessel Identification Program ("VIS") and/or (b) the adoption by the National Conference of Commissioners on Uniform State Laws ("NCCUSL") of a UCOTA-Vessels? Some recent suggestions have been made to delete model year from the HIN. This could have serious ramifications which should be considered if Coast Guard becomes serious about considering such a move.
2. **TITLING AND REGISTRATION:** Some vessels must be federally documented, depending on their use. Others may be federally documented. Government-owned vessels also may be exempt. Others may be exempt based on their displacement volume-5 net tons or less. Others may be exempt because they are non-self propelled and are operated on inland waterways of the United States. Recreational vessels powered by motors not required to be federally documented must be numbered in the state where they will be principally operated. Should a reference to this requirement be included in UCOTA-Vessels? Should Coast Guard sharpen its definition of "principally operated" to indicate whether in-water mooring is included within the term "principally operated"? Or, should states define such term in a UCOTA-Vessels? The First Circuit has recently dealt with the notion of what constitutes "use" in the context of a lay-up warranty in an insurance policy. *New Hampshire Insurance Co. v. Dagnone*, 475 F.3d 35 (1st Cir. 2007)(Not exactly the same setting as for a numbering requirement but close enough to serve as a basis for a USCG position. The Dagnone result is in-water storage equals use. For some time, the State of Maryland has followed this rule with respect to boat numbering. Vehicles must be titled and registered in a state, but the requirements often are set forth in the state's registration law, not in its title law. Some states will register and some will even title commercial vessels, such as non-self-propelled barges

which are not documented. However, the federal statute and regulations on numbering of recreational vessels do not apply to the barges. Should a UCOTA-Vessels make provision for titling certain commercial vessels? Should they be allowed to be registered but not titled? While off-road vehicles are not titled, they are not the same as non self-propelled barges. The former do not generally travel on the highways but non-self-propelled barges can travel the country's waterways. The titling of undocumented but commercial barges could be used to propel the UCC security agreements employed in their financing into the status of deemed preferred mortgages, as was done with recreational vessels through the VIS (See Comment 7 below). Is Coast Guard's power to recognize a deemed preferred mortgage limited to security agreements on recreational vessels? Would Congress have to authorize such status for barges in the amendments proposed for precautionary lease filing? Should we ask Congress to provide for this on undocumented barges? If so, should we provide for titling such barges and including them in the VIS program and under the definition of "vessel" or "watercraft" in a UCOTA-Vessels?

3. **NEED FOR A COAST GUARD REPRESENTATIVE TO PARTICIPATE ACTIVELY WITH NCCUSL:** Under the VIS regulation, the Coast Guard has the duty to approve the vessel title law of any state which wishes to participate in the VIS when it is ready to be rolled out. No federal oversight of this particular kind exists in the case of vehicles. Should NCCUSL urge the Coast Guard to appoint a representative to participate actively with NCCUSL to insure that NCCUSL's final product is consistent with any federal requirements perceived by the Coast Guard? Should we also urge that such representative alert the parties who participate in the NCCUSL process at least as observers if any direction NCCUSL is taking seems to raise a concern over Coast Guard's ability to approve a UCOTA draft position? These questions are not meant to suggest that a UCOTA-Vessels or even a Model Boat Title Act are inappropriate for NCCUSL just because NCCUSL is supposed to limit itself to matters of state law. However, to avoid later jurisdictional quarrels, it would make sense to deal with any potential jurisdictional issues up front.
4. **TITLE SOURCE DOCUMENTS:** Vessels can have two title source documents, the builder's certificate, which term represents one or more forms acceptable to the Coast Guard, and the manufacturer's certificate or statement of origin used for submission to the states. Vehicles have only one title source document, a manufacturer's certificate or statement of origin. Everyone is aware of the frauds which occur due to the dual title source documents for vessels. The critical difference between the builder's certificate and the other title source document is that only the builder's certificate shows place of build. Coast Guard needs this information to know whether it can grant a coastwise trade endorsement. States do not need this piece of data. Nonetheless, to avoid dual title source documents, should we add this to the manufacturer's certificate or statement of origin so that both title source documents can be combined? If so, what reference should we make to this combined certificate in UCOTA-Vessels? Should Coast Guard attempt the consolidation while a NCCUSL UCOTA - Vessels is in progress so that the NCCUSL product can refer to it? Should Coast Guard make it unlawful to issue both kinds of certificate for the same boat? So far, Coast Guard has

been reluctant to make use of one specific title source document mandatory. This requires some discussion. Since vehicles have a common title source document, UCOTA-Vehicles did not have to face these problems.

5. **OUTBOARD ENGINES:** Seven states title outboard engines, generally over 10 horsepower. Some of the new diesel electric engines are quite large and are found on vessels such as 31' pilot boats. Should the vessel title cover such an engine? Should it matter whether the vessel is to be used primarily for commercial or recreational purposes? If such a vessel is federally documented, are such outboard engines covered? Do they have to be listed by ID number in the mortgage? Or, does the language "with all engines..." or words to that effect suffice? Under the UCC, the filing rule may be more liberal than under the federal law. Should we be more careful with outboard engines which are easily removable than with inboard engines that are very difficult and expensive to remove? Who controls the ID numbers for outboard engines? Would a substitution of outboard engines require a change to the preferred mortgage on the vessel? Or would it be covered as an accession? Would the same apply to a UCC security agreement that gains status as a deemed preferred mortgage? Vehicles typically do not have outboard engines.
6. **BOAT TRAILERS:** Should NCCUSL take the position that all boat trailers should be titled as vehicles or vessels? How does this impact their financing under retail installment contracts when a state places vessels under an all-goods act and the trailers under a motor vehicle sales finance law? Some states have moved boat trailers to the all-goods act, even though they may be titled as vehicles. In states which have adopted electronic filing for vehicles but not for vessels, a vessel dealer may have to get geared up to file electronically on the boat trailer but be precluded from filing electronically on the boat itself.
7. **DEEMED PREFERRED MORTGAGES:** Security interests in vessels perfected under a state title law approved by the Coast Guard can be deemed preferred mortgages for purposes of security interest perfection and enforcement in federal court, if the issuing state participates in the VIS. Vehicles have no similar security interest enhancement. Should Coast Guard clarify whether federal citizenship requirements would apply to a vessel covered by a deemed preferred mortgage and whether the federal limits on the amount of a revolving mortgage (maximum amount of \$X or at no time more than \$X) would also apply? My recollection of the 1988 drafting and hearings was that these things were not deemed material for state-titled yachts. However, given the widespread use of broad future advance and dragnet clauses in the vanilla forms commonly ordered these days from form printers with little attention to federal Ship Mortgage Act requirements, a recheck of these issues and establishment of a policy with which the Coast Guard is in agreement would make sense. Another issue which may fit into this category is whether a pre-disposition title transfer under UCC 9-619 would conflict with the pre-transfer notice requirement for a regular preferred mortgage on use of a non-judicial remedy under the 1996 amendment on self-help to the Ship Mortgage Act? The same analysis as for the amount of mortgage would seem to apply.

However, it would make sense to insure that NCCUSL and the Coast Guard are in agreement and that no further federal legislation is needed in this regard.

8. **DELETION CERTIFICATES:** Should a UCOTA - Vessels make reference to the need for states to demand a deletion certificate when a vessel documented with the Coast Guard is submitted to a state for titling? What do we do with a state that does not have a title law yet (17 such still exist)? All states have a vehicle title law so state - state interface is covered for vehicles. However, since there is no federal vehicle registration, vehicles appear to have no need for a delist certificate. Apparently, Coast Guard wishes to work with NASBLA under a separate Memorandum of Agreement to craft language to solve this problem. UCOTA-Vessels could pick up the same language. To insure that such process moves along, should NCCUSL play a role in reviewing drafts of such solutions? Should there be language for titling used boats that are imported? Since foreign countries do not all follow common procedures, the language would have to be all-inclusive. Foreign countries generally make recreational vessel filing optional and, if provided, include it in their national registries which are like Coast Guard filing. Typically, this indicates a need for a deletion certificate from the foreign registry. While on the subject of foreign registries, should states require an English translation of any foreign language document offered for filing? My recollection is that Oklahoma has some language on this.
9. **TITLE SURRENDER:** Should UCOTA-Vessels refer to the need to surrender a state title to the Coast Guard on a vessel going from state titling to federal documentation? This process, too, would be covered by the Memorandum of Agreement described in Comment 8 above.
10. **STATE OF PRINCIPAL OPERATION:** Should NCCUSL ask Coast Guard to clarify what state of principal operation means in its requirement for numbering of an undocumented vessel? Or, should we try for uniformity in a definition in UCOTA-Vessels on which Coast Guard would be asked to rule? While Coast Guard should say more than principally operated means used the most, it has been reluctant to deal with issues such as whether moored in the water is included in operated or used. As a result, states deal differently with the issue. The issue arises in the case of vessel layup warranties where mooring in the water constitutes use. However, would mooring in the water in a northern climate with the engine winterized and an in-the-water heating device protecting the hull be "use" for numbering purposes?
11. **SEPARATION OF TITLING AND REGISTRATION BETWEEN TWO STATES:** Should UCOTA-Vessels follow UCOTA-Vehicles and the UCC and allow for separation of state of titling and state of registration? Once NCCUSL decides, should it ask the Coast Guard to take a positive position on this in its VIS regulation? Note that this is treated restrictively in the 1996 version of the NASBLA Model Boat Titling Act, although states such as Washington, Nebraska and Idaho have allowed the separation for boats for years.
12. **WHO WILL HOLD THE CERTIFICATE OF TITLE?** Should NCCUSL to continue the UCOTA-Vehicles position of requiring the first secured party, if any, to hold the certificate

of title, if it is in paper form? About 10 states have gone to sending the title to the owner and a notice of recorded security interest to the lender. The reason given by the 10 and large creditors who wanted to promote more efficient portfolio sales and securitization was that it takes too long to round up all titles. Some creditors who originally supported the path taken by the 10 now are not so sure because they have experienced perfection problems and because they no longer have to assign titles individually to a new lender and make changes in lender at DMVs or DNRs. However, they may still have to collect and deliver the titles to the new lender unless they retain servicing. NCCUSL is more interested in avoiding lien perfection problems than they are in facilitating the back office operations of major lenders. Here is an area, boat loan portfolio sales and securitizations, where not too many members of the Yacht Finance Subcommittee or Recreational Boating have extensive experience. I know about five who have some experience but we do not do this every day. This is an area where the NMBA could provide some factual evidence of current procedures. NCCUSL might also consider how electronic filing would change these procedures. Perhaps current motor vehicle securitizations should be studied for clues.

13. REFLECTING BRANDS ON USED VESSEL TITLES: Should NCCUSL follow its UCOTA-Vehicles position on a state that titles vessels being required to pick up any of the 34 title brands that might have been imprinted on the title certificate by a prior titling state? So far, NCCUSL has been unwilling to get into the brands dispute and try to standardize and limit them. Would some standardization of brands help Coast Guard in collecting information about vessels? Should branding procedures be standardized or at least made compatible with any VIS requirements? Recall the circle around the S problem in Colorado.
14. SIGNING BCS OR MCOS OR MSOS: We had discussions with the Coast Guard in 1996 about who should be permitted to sign a builder's certificate or a manufacturer's certificate of origin for a manufacturer. We had similar discussions about the manufacturer's certificate or statement of origin signing with NCCUSL on UCOTA-Vehicles. NCCUSL did not seem to think it was a problem with vehicles because the manufacturers creating them all were large companies, except for those few that customized vanilla vehicles from the factory production lines, each issuing its own certificate for the work it did. However, boat builders are far more numerous than vehicle builders and come in all shapes and sizes and make products whose upper ranges are much higher than those of vehicles. In UCOTA-Vehicles, NCCUSL went for the manufacturer or its designee. Would NCCUSL be comfortable with this for boats? Current statutes around the country vary widely. This is an area where we should consult with NMBA and others who do a lot of trade and wholesale finance in boat imports. They may have more of an interest in this question than a lender who mainly does retail financing. I realize that during the trade finance phase reliance may be on a bill of lading, but the entity bringing the cargo of vessels across the ocean or from a bonded warehouse or terminal to the dealer's lot may not be the manufacturer. What good is the bill of lading if there is something wrong with the title source document? We all are aware of the perennial American boat dealer who acts as if he is the builder abroad and that the foreign

yard is building the vessel under his supervision. I think NCCUSL will need an update on Coast Guard's position on this and then will have to see whether it will take the same position. Note also that a large newly constructed yacht may sail across the ocean on its own bottom, although it often will be delivered at or near the factory in the country where it was built to minimize risk to the builder.

15. **BONDING:** Should NCCUSL provide for bonding, when there is a question about a used vessel title? This is routine for motor vehicles. However, the standard one and one-half times the value may be a bit stiff for a recreational vessel. Should NCCUSL find out from insurers whether they ever are called on to issue such bonds for boats and what their experience is? Would NCCUSL want to try to get similar information from a NASBLA survey of state title issuing offices?

16. **TIME OF PERFECTION OF SECURITY INTEREST:** Security interest perfection at the NVDC is when the mortgage is received. Walk-ins (very rare) and fax filing (now common) give you a precise hour and minute of filing. Mail and overnight courier deliveries (still the most common) are made once a day and binned. These all receive the same date and hour of filing. When the Coast Guard makes electronic filing available, that will also give a precise time of filing. This is similar to what now happens in UCC filing that is not electronic or by fax. Some states, however, have electronic UCC filing and Delaware has fax filing. State title filing varies. Some states have electronic filing which is optional. Other states make the creditor decide how it will file, electronically or by mail or courier, but not interchangeably and Pennsylvania now requires electronic title filing on vehicles (not yet available for boats) from all commercial parties within two years but consumers have an election. To me, the Pennsylvania approach for vehicles makes the most sense. For UCOTA-Vehicles, NCCUSL chose to make filing effective when received; however, it also provided that a filing of a security interest statement was not effective if a certificate of title never issued in that state. This created some confusion. When we worked out the Coast Guard filing regime, we said that the filing would be effective unless NVDC sent a 90-day letter giving the parties a chance to fix any deficiency. The Coast Guard approach made lenders feel better but apparently concerns AAMVA representing the state motor vehicle administrators. One concern of the motor vehicle administrators was that a lender would have a perfected security interest while the title application sat in a bag at DMV and some offices might not open the day's mail bag for weeks. Which routine will NCCUSL wish to follow under UCOTA-Vessels? Clearly electronic filing is the ultimate answer but not for the short term. UCOTA-Vehicles does another interesting thing. It allows filing to go back and forth between electronic and paper filing. Will NCCUSL want to endorse this for vessels? Or would NCCUSL consider allowing this only consistently with the Pennsylvania approach? I am trying to obtain copies of any cost-benefit analysis that Pennsylvania did to convince its legislature to move on electronic titling? Perhaps NCCUSL can help to get this study, if one exists. If Coast Guard considers electronic filing, as has been hinted, it might be inclined to produce some figures due to the federal government's attachment to such economic studies. Coast Guard has been asking for better cost-benefit analysis on the

NASBLA request for a 17-digit HIN referenced in Item 1 of this Memo. Could NCCUSL help to guide such a study?

17. **LENDER'S RIGHT TO PERFECT ON ITS OWN:** Does NCCUSL think that giving the lender the right to file a security interest statement and have it count as a title application as well; if the owner fails to file one should be followed in UCOTA-Vessels? This is a right auto lenders have long wanted and it appears in UCOTA-Vehicles. This also unnerved AAMVA. At this time, I would think that lenders secured by boats would also like this innovation. I have not heard a firm position on this from NASBLA.
18. **CASUAL SALES:** In the motor vehicle area, it is reported that there are about 5,000,000 casual sales a year between individuals without an intermediate dealer or lawyer. Some of these involve a broker and some do not even have a broker. You often refer to these as supermarket parking lot deals. The proportion of brokered loans in the case of vessels should be much higher, since boat dealers frequently do not take used boats into inventory and resell them as brokers. Should NCCUSL try to get some figures from the broker associations or NMBA? NCCUSL was successful in UCOTA-Vehicles in protecting these casual sales by providing that under certain circumstances the buyer could apply for a certificate of title without possession of the existing certificate of title. AAMVA was unnerved by this. Any such practice which NCCUSL may wish to allow should be vetted with the Coast Guard.
19. **TIME LIMIT ON STATE TITLE APPLICATION PROCESSING:** Should there be a time limit for states to process an application for a certificate of title and the filing of a security interest against the vessel? UCOTA-Vehicles says 15 business days. We should know how this squares with bank operating agreements with boat loan originators and with regulator and analyst concerns. Does it make a difference whether titles are issued centrally or in a decentralized process at the county level?
20. **NEW DATA FIELDS:** Will the VIS regulation or UCOTA-Vessels require any new data fields to be maintained by the states, Coast Guard or Coast Guard's outsource data collector? Does the outsource data collector need to be brought in on our discussions? (See comment on stolen vessels in Item 23 below).
21. **STATUTORY LIMITS ON CANCELLATION OF A TITLE:** NCCUSL inserted some statutory limits on cancellation of a title in UCOTA - Vehicles. I have no problem with them, but AAMVA did. We have not had a chance to discuss them at the MLA or with AAMVA yet but they have arisen in the recent AAMVA - NCCUSL negotiations.
22. **NEED TO PROCESS A FILING ON A SALE BEFORE THE TRANSFEREE APPLIES FOR A NEW TITLE:** Filing on a sale gives AAMVA a problem. DMVs do not want to have to deal with a sale until the buyer is ready to apply for a title. We had wanted states to accept direct lender filing of discharges, the same regime we have recommended to large lenders and to the Coast Guard. AAMVA was OK with the filing of the discharges but not happy

with having to accept and file a bill of sale without the title application. A concern on our part was that a buyer should not be permitted to operate on the seller's title for any extended period. For vehicles this was also tied in with the need for the seller's signature on the odometer reading on the back of the title to become part of the public record with DMV. However, we have experienced many consumers losing or misplacing their certificates.

23. **STOLEN VESSEL DATA RETENTION:** NCCUSL may wish to compare the VIS stolen vessel filing and data retention requirements with those in UCOTA-Vehicles. AAMVA was concerned about making them part of the data base. Do you have any insight as to whether this should be a concern with boats? Perhaps, NCCUSL can have Coast Guard and NASBLA check on this.
24. **ANNUAL REISSUE OF CERTIFICATE OF DOCUMENTATION:** Coast Guard now issues a Certificate of Documentation each year. Boat titles are issued once for a given owner's current term of ownership. We have discussed this with the bill of sale on the back of the COD many times at the MLA together and with Tom Willis. Should NCCUSL take a look at whether it should put a provision about this in UCOTA-Vessels? Clearly, we do not have this problem with vehicles. Coast Guard adopted the bill of sale on the back format in order to increase the likelihood it would learn of a transfer earlier and for owner convenience but the MLA was concerned that having multiple CODs out with bills of sale on the back would set the stage for fraud. We tried to induce Coast Guard and NASBLA to agree to accept only the bill of sale on the back of the current year's COD but both refused. Our other concern with the bill of sale on the back was that it made no provision for any warranties or warranty disclaimers. The result is that parties to a sale using the bill of sale on the back have to know all of the UCC Article 2 rules on warranties. Coast Guard keeps a perfectly acceptable bill of sale form on its website which parties may download, if they know how. Boat documentation services all can access the better form. At the least, this unusual practice may merit comment in the drafters' notes. We are aware that some sellers of state-titled boats refuse to make any specific written warranties and merely sign off on the title and that buyers from such persons receive no more than a buyer under the bill of sale on the back of the COD. That does not mean that we necessarily want to encourage such approach. NCCUSL should consider the policy it should promote, if any. Since many used boats are sold by brokers who never own the boat, buyers should have disclosed to them who is giving what warranties. Even though the buyer may in most cases receive at the least a title warranty, unless it is disclaimed, under Article 2 of the UCC, not everyone will know that. Not having a Warranty box to use if the parties might be inclined to be more specific or use a disclaimer suggests that specificity is unnecessary or even dangerous. This is the kind of problem that arises whenever government, a trade association or a printer with nationwide bank customers tries to design a vanilla form for mass use. Perhaps the NCCUSL process can shed some light on this problem and lead to a reasonable disclosure.
25. **FDCPA ISSUES:** While we are promoting the concept of a UCOTA-Vessels and the interchange of data for the VIS is being established, it may be a good time to revisit the

proposed MLA initiative to resolve the venue conflicts between the Ship Mortgage Act and the Fair Debt Collection Practices Act. State court replevin actions can also run into a problem with the FDCPA if a damage count is added to a count for possession of the collateral in a case where the collateral is located but location is not in either the state where the debtor then resides or in the state where the debtor bought the collateral. Very little precedent exists. Judicial opinions so far seem to have emanated from only a few trial courts. NCCUSL may also want to consider whether the fact that Louisiana and, in certain consumer cases, Wisconsin, bar self-help repossession, which is exempt from the FDCPA venue limitation, suggests a specific need to address the issue in a UCOTA-Vessels. In connection with this issue, how would "deemed preferred mortgages," discussed above, be treated?

26. **SALVAGE TITLE:** Should NCCUSL introduce a requirement that, when a vessel is the subject of a total loss claim that is paid by an insurer, the carrier should retitle the vessel in its own name (or the name of an appropriate subsidiary to which its subrogation rights may be assigned) and the title so issued be marked ("branded") "salvaged" or with words indicating that its cost of repair would equal or exceed its resale value? The salvage brand could be an "S" which could stand for any other brand that the titling state would use to denote salvage. Unlike the motor vehicle area where states have salvage title laws, albeit varying as to what constitutes salvage, and some carriers are contending that autos on which total loss claims are paid should be scrapped and recycled, vessel salvage title laws are virtually non-existent and vessels may still be susceptible to repair and resale after total loss claims. However, they should be marked so that buyers will know what they have been through. Where the HIN is obliterated, salvaged and rebuilt vessels will receive a new HIN, which makes them appear, after a painting, as though they are new. Of course, just seeing the "S" on the title does not tell you what happened to the vessel. To make that data available, we have been encouraging the National Insurance Crime Board ("NICB"), which receives total loss claims from many insurers, to make such data available to the public on the NICB website as it did after Hurricane Katrina. We also have suggested to NICB that it modify its protocols with online auctions, such as e-Bay, so that, if such sites tell the public that they have searched the NICB website on a particular vessel and found no negative report, the sites must also inform the public whether their no-negative report is based on knowledge of whether NICB ever receives reports from the carrier or carriers which covered the subject vessel. In this respect, we have encouraged the ocean marine industry to induce more of its members to report total loss claims to NICB. Using the total loss claim standard would avoid the huge arguments over the percent of loss that is needed for a finding of salvage.

I have had a chance to speak with John Sebert, the new executive director of NCCUSL. At this juncture, he foresees a one-year study period to determine all of the issues and then possibly a 2-year drafting and vetting period. Does that sound right to you in light of this memo? Although this memo probably raises most of the issues based on vehicle-vessel differences, I have been encouraging other groups to send in their lists. I have told the industry that for you to get the one-year study period started, you must make your presentation to the scoping committee in July. I have indicated that presentations to the scoping committee are made only twice a year. If we miss the July

date, we will be off for six more months. Since Coast Guard is anxious to move ahead with VIS and various states are toying again with boat title legislation, it makes no sense to lose this early July opportunity. Coast Guard's current plan to move on data collection first before looking at the process for approving state title laws should give NCCUSL a chance to do its job, if it gets started after the July meeting. The Coast Guard computer people would like to have a good idea of the choices NCCUSL is making before they finish the specs for their programming. This is one reason why I have felt so strongly that Coast Guard participation in the NCCUSL process is vital. Based on feedback I had received, I have been warning that you would need to have your presentation ready by June 15th in order to get on the calendar for July. It now appears from the last call from your office that you are moving much more quickly so I have asked Messrs. Bohannon, DeGiulio and Toney to call me on Monday morning so that I can email this to you in time for your transmittal to the scoping committee. I am asking David Bohannon to share this memo with all Yacht Finance Sub-Committee members and Frank DeGiulio to share it with all Recreational Boating Committee members. This sharing should not hold you up. I will discuss with Bruce King whether we are ready to place this on the MLA website yet. But I would also want to hear from you on that first since the memo is addressed to you. Is this memo enough for us to wait until the scoping committee responds? When we put this out to MLA members, we would ask them to channel all comments through Bruce King, David Bohannon, Frank DeGiulio and me so that we can present them in an organized way. I have advised everyone to whom I have spoken or written on this that the only exercise on the table at the moment is framing questions for NCCUSL to consider. Implicitly, some of the same questions will be for Coast Guard as well. Meanwhile, I am preparing a list of groups that may have a stake in this kind of legislation. We are aware of the typical stakeholders, e.g., NMMA, Boat/US, NASBLA, MLA, IAMI, MRAA, American Bankers Association, Consumer Bankers Association, American Community Bankers Association, NMBA, Boat auctions, YABA, AVDA, AIMU, NICB, etc. If NCCUSL decides to consider the commercial but undocumented vessels, such as the thousands of non-self-propelled barges, other committees at MLA and organizations, such as AWO, may wish to comment. Can you tell me which associations you have already contacted?

We look forward to your comments. Please keep us informed. If you send me an e-mail, please copy Bruce A. King, David M. Bohannon, and Frank P. DeGiulio whose e-mail addresses are in the transmittal memo under cover of which this memo is sent. You should have received the general letter from MLA President Lizabeth Burrell who was to send it out on her return from Nairobi right after Memorial Day. It sets the limits on what Messrs. Bohannon, DeGiulio, Toney and I can do at this point in time on behalf of the MLA. For the time being, any expression of opinion in this Memo should be deemed my own personal opinions but MLA does join in posing the questions I have raised. Once we hear what the scoping committee has in mind, we can carry this discussion further.

Cordially,

Robert S. Fisher, Esq.