United States Coast Guard

Report of the Investigation

into the

SURE SHOT (O.N. 978662) COLLISION WITH AN UNIDENTIFIED VESSEL, 16 NAUTICAL MILES SOUTH OF SHINNECOCK, NY, IN THE ATLANTIC OCEAN, WITH THE LOSS OF ONE LIFE, ON OCTOBER 12, 2022

MISLE Activity Number: 7577027

U.S. Department of Homeland Security
United States Coast Guard

Commandant
United States Coast Guard

US Coast Guard Stop 7501
2703 Martin Luther King Jr. Ave. SE
Washington, DC 20593-7501
Staff Symbol: CG-INV
Phone: (202) 372-1032
E-mail: CG-INV1@uscg.mil

16732/IIA #7577027
25 March 2025

COLLISION OF THE RECREATIONAL VESSEL SURE SHOT (O.N. 978662) WITH AN UNIDENTIFIED VESSEL, RESULTING IN THE LOSS OF ONE LIFE, IN THE ATLANTIC OCEAN 16 NAUTICAL MILES SOUTH OF SHINNECOCK, NEW YORK, ON OCTOBER 12, 2022

ACTION BY THE COMMANDANT

The record and the report of the investigation convened for the subject casualty have been reviewed. The record and the report, including the findings of fact, analysis, conclusions, and recommendations are approved subject to the following comments. This marine casualty investigation is closed.

ACTION ON SAFETY RECOMMENDATIONS

Recommendation 1: Recommend amending Title 33 Code of Federal Regulations (CFR), Part 164.46(b) carriage – (1) Automatic Identification System (AIS) Class A device. The amendment should be to add subparagraph (vi) to include vessels that plan on operating longer than 12 hours in a 24-hour period. Paragraph (b) states: AIS carriage – (1) AIS Class A device. The following vessels must have on board a properly installed, operational Coast Guard type-approved AIS Class A Device:

(i) A self-propelled vessel of 65 feet or more in length, engaged in commercial service.

(ii) A towing vessel of 26 feet or more in length and more than 600 horsepower, engaged in commercial service.

(iii)A self-propelled vessel that is certificated to carry more than 150 passengers.

(iv)A self-propelled vessel engaged in dredging operations in or near a commercial channel or shipping fairway in a manner likely to restrict or affect navigation of other vessels.

(v) A self-propelled vessel engaged in the movement of–

(A) Certain dangerous cargo as defined in subpart C of part 160 of this chapter, or

(B) Flammable or combustible liquid cargo in bulk that is listed in 46 CFR§30.25-1, Table 30.25-1.

The length and operations of the SURE SHOT made the vessel not applicable to subparagraphs (i)-(v) of regulation 33 CFR§164.46(b). Vessels that operate more than 12 hours in a 24-hour

period are likely to encounter vessels that are required to comply with 33 CFR§164.46(b); the requirement to have onboard a Class A AIS. However, those vessels would not be able to identify vessels in the area with a Class B AIS, especially if they are made of wood or fiberglass. To help electronically identify all vessels, day or night regardless of sea state, to minimize the risk of a collision, it is recommended that all vessels that operate more than 12 hours in a 24-hour period be equipped with a Class A AIS.

> **Action:** I do not concur with the recommendation. The Coast Guard Office of Auxiliary & Boating Safety (CG-BSX) disagrees that 33 CFR §164.46(b) should be amended as suggested. As noted in the investigation, the SURE SHOT was operating as a recreational vessel at the time of the casualty; therefore, 33 CFR §164 would not apply to it. Also, the additional requirement that all vessels, including recreational vessels which operate longer than 12 hours in a 24-hour period, install a Class A AIS would presumably clutter the already congested traffic identification system, causing potential confusion amongst commercial boaters. To help ensure the safety of the marine transportation system, I concur with the First Coast Guard District's endorsement that all vessel operators should conform to the existing COLREGS for safe navigation.

Recommendation 2: Recommend amending Title 33 CFR, Part 164.64(b) carriage – (1) Automatic Identification Systems (AIS) Class A device. The amendment should be to add subparagraph (vii) to include vessels that transit in, across, or operate in the vicinity of a shipping safety fairway or fairway defined in 166.105 of this chapter. This is because the vessels that operate within the Safety Fairway leaving or entering New York are deep draft vessels that are required to have a Class A AIS. However, those vessels might not be able to identify vessels in the area with a Class B AIS, especially if they are made of wood or fiberglass. To help electronically identify all vessels, day or night regardless of sea state, to minimize the risk of a collision, it is recommended that all vessels that transit in, cross, or operate in the vicinity of a Safety Fairway be equipped with a Class A AIS.

> **Action:** I do not concur with the recommendation. As noted in the report of investigation, the SURE SHOT was operating as a recreational vessel at the time of the casualty. As such, 33 CFR §164 was not applicable to the vessel when the incident occurred. Requiring all vessels which operate in or around a shipping safety fairway or fairway to install a Class A AIS would presumably clutter the already congested traffic identification system, causing potential confusion amongst commercial boaters. To help ensure the safety of the marine transportation system, I concur with the First Coast Guard District's endorsement that all vessel operators should conform to the existing COLREGS for safe navigation.

Recommendation 3: It is recommended that the National Vessel Documentation Center (NVDC) inform anyone who either requests a new Fishery Endorsement or continues an existing Fishery Endorsement of the requirements listed in Title 46 United States Code (USC), Part 4502. Additionally, the vessel owner should be informed to contact their local U.S. Coast Guard Marine Inspections Division to determine if a Commercial Fishing Vessel (CFV) Safety Examination is required or if one can be voluntarily completed. This could be done by adding an additional paragraph to the Information Accompanying Certificate of Documentation (COD)

document that NVDC sends to vessel owners with their valid COD. The owner of the SURE SHOT filed for a COD in accordance with Title 46 Code of Federal Regulation (CFR), Part 67 since the vessel is over five net tons. The owner paid extra to add or maintain a Fishery Endorsement to the COD so the vessel could be used as a commercial fishing vessel. However, no fishery permits were able to be connected to the owner or the vessel. 46 USC§4502 requires that commercial fishing vessels that operate beyond three nautical miles of the baseline of the U.S. territorial sea receive a safety exam. The exam is required once every five years and applicable to commercial fishing vessels that are built before July 1, 2013, or are 25 years of age or older, or at the fishing vessel owner's request. The SURE SHOT was built in 1991, had a Fishery Endorsement, and fished for tuna past three nautical miles from the baseline and therefore was required to have a dockside CFV Safety Exam. The owner fished for tuna offshore without having received an exam and it is likely the owner did not know there was a requirement for this exam. However, it is the responsibility of a vessel owner to ensure all applicable laws and regulations are being followed while they are underway. It is recommended that the NVDC inform the local CFV Safety Examiners of vessels within their Area of Responsibility that were issued a COD with a Fishery Endorsement. Had the local Commercial Fishing Vessel Safety Examiner known the SURE SHOT had a Fishery Endorsement, the examiner could have worked with the owner to complete a required or voluntary exam. Had the SURE SHOT owner known of the exam requirement by NVDC or by the local CFV Safety Examiner, all equipment could have been verified for validity, serviceability, and for proper knowledge of how to use, test, and maintain the equipment. There was a delay from when the casualty occurred until the Coast Guard was notified by the activated Emergency Position-Indicating Radion Beacon (EPIRB) because the passenger and owner thought the EPIRB was activated when it was not. The EPIRB was thought to have been manually activated but did not activate until after the SURE SHOT sank and the EPIRB entered the water which allowed water to activate the EPIRB. If a CFV Safety Exam took place, the owner would have had proper knowledge of how to activate the EPIRB which would have notified the Coast Guard sooner. Reducing the notification time delay could have been the time needed to have recovered both people onboard.

Action: I concur with the intent of the recommendation. The investigation concluded that the SURE SHOT was being operated as a recreational vessel at the time of the incident. Although the vessel had a fishery endorsement on their NVDC issued COD, there was no evidence that it ever operated in a commercial capacity that would have been subject to a Coast Guard CFV exam. Although vessel owners must be held accountable to all regulations related to commercial operations and/or recreational boating, the NVDC is the proper entity for dissemination of vessel inspection information to vessel owners or for providing lists of documented commercial fishing vessels to CFV Safety Examiners. In calendar year 2024, there were more than 20,000 CODs issued with a fishery endorsement. Regulations related to obtaining vessel documentation require vessel owners to provide the vessel’s hailing port and state only, not the intended area of operation. As a result, the NVDC does not have data nor the capacity to provide vessel information issued with fishery endorsements and corresponding owner information to Coast Guard Sectors nationwide. Moreover, any changes to the COD application process would require a statutory change by way of a Legislative Change Proposal that is not justified by the findings of this investigation. However, local Coast Guard units have access to the Merchant Vessels

of the United States file (Merchant Vessels o https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/Office-of-Investigations-Casualty-Analysis/Merchant-Vessels-of-the-United-States/f the United States), which can help identify and review the fleet of documented vessels homeported and operating in their respective areas of responsibility.

Recommendation 4: Recommended that the Commandant amend Title 46 CFR, Part 28 to reflect requirements enacted under the Coast Guard Authorization Act of 2010, specifically the provisions required in Title 46 United States Code (USC), Part 4502(f)(2); That commercial fishing vessels shall be examined at least once every two years, and a Certificate of Compliance shall be issued to each vessel meeting the requirements of 46 CFR§28.

Action: As noted in the report findings, the vessel was operating as a recreational vessel at the time of the incident and 46 CFR Part 28 would not have applied to it. Therefore, amending 46 CFR § 28 to reflect the statutory provisions contained in 46 USC § 4502(f)(2) would not have helped to prevent this marine casualty.

In addition, the investigation identified that human factors primarily contributed to this incident. For example, the SURE SHOT was equipped with a radar unit and an Electronic Chart Display and Information System (ECDIS); however, the owner likely silenced the alarms prior to the collision. The report of investigation also determined that the vessel's owner and passenger were likely fatigued and asleep prior to the collision. If the SURE SHOT had maintained a proper lookout as required by the COLREGS, the crew would have likely identified that another vessel was approaching before a collision was imminent.

ACTION ON ADMINISTRATIVE RECOMMENDATIONS

I note that five Administrative Recommendations were issued to Coast Guard Sector Long Island Sound (SEC LIS) recommending formal recognition for individuals that assisted with the investigation. The SEC LIS Office in Charge, Marien Inspection concurred with those recommendations and subsequently completed actions to appropriately recognize the individuals identified.

[redacted]

A. M. BEACH
Captain, U. S. Coast Guard
Director of Inspections and Compliance

U.S. Department of Homeland Security
United States Coast Guard

First District
United States Coast Guard

408 Atlantic Ave.
Boston, MA 02110-3354
Staff Symbol: (dp)
Phone: (617) 406-9045

16732
27 Jan 2025

SURE SHOT (O.N. 978662) COLLISION WITH AN UNIDENTIFIED VESSEL, 16 NAUTICAL MILES SOUTH OF SHINNECOCK, NY, IN THE ATLANTIC OCEAN, WITH THE LOSS OF ONE LIFE, ON OCTOBER 12, 2022

**ENDORSEMENT BY THE COMMANDER,
FIRST COAST GUARD DISTRICT**

The record and the report of the investigation convened for the subject casualty have been reviewed. The record and the report, including the findings of fact, analysis, conclusions, and recommendations are approved subject to the following comments. It is recommended that this marine casualty investigation be closed.

ENDORSEMENT/ACTION ON SAFETY RECOMMENDATIONS

Safety Recommendation #1 – Recommend amending 33 CFR 164.46(b) carriage - (1) AIS Class A device. The amendment should be to add subparagraph *(vi) to include vessels that plan on operating longer than 12 hours in a 24-hour period.* This regulatory change would require vessels that operate longer than 12 hours within a 24-hour period to have a Class A AIS. This would assist in vessels identifying each other regardless of sea state, construction material, size, or time of day.

Endorsement: Do Not Concur – My office does not agree that 33 CFR 164.46(b) should be amended as suggested. As noted in the ROI, the SURE SHOT was operating as a recreational vessel at the time of the casualty, therefore 33 CFR 164 would not apply. It is my office's opinion that the additional requirement for ALL vessels, including recreational vessels, who operate longer than 12 hours in a 24-hour period install a Class A AIS would presumably clutter the already congested traffic identification system, therefore causing potential confusion amongst commercial boaters. It is the recommendation of my office that all vessel operators conform to the COLREGS as written for safe navigation.

Safety Recommendation #2 - Recommend amending 33 CFR 164.46(b) carriage - (1) AIS Class A device. The amendment should be to add subparagraph *(vii) to include vessels that transit in, across, or operate in the vicinity of a shipping safety fairway or fairway defined in 166.105 of this chapter.* This regulatory change would require vessels that operate in or around a shipping safety fairway or fairway to have a Class A AIS. Vessels transiting in or around a shipping safety fairway or fairway, regardless of how large or how far offshore the vessel is, would permit ships typically outfitted with a Class A AIS to electronically identify one another

and avoid collisions.

Endorsement: Do Not Concur – My office does not agree that 33 CFR 164.46(b) should be amended as suggested. As noted in the ROI, the SURE SHOT was operating as a recreational vessel at the time of the casualty, therefore 33 CFR 164 would not apply. For ALL vessels who operate in or around a shipping safety fairway or fairway install a Class A AIS would presumably clutter the already congested traffic identification system, therefore causing potential confusion amongst commercial boaters. It is the recommendation of my office that all vessel operators conform to the COLREGS as written for safe navigation.

Safety Recommendation #3 – Recommend that the National Vessel Documentation Center (NVDC) inform anyone who either requests a new Fishery Endorsement or continues an existing Fishery Endorsement of the requirements listed in 46 USC 4502. Additionally, the vessel owner should be directed to contact their local Coast Guard Sector to determine if a Commercial Fishing Vessel Safety Examination is required or if one can be voluntarily completed. Also, that the NVDC inform the local Coast Guard Sector of vessels within their Area of Responsibility that were issued a COD with a Fishery Endorsement.

Endorsement: Concur With Intent – My office does not agree that NVDC should disseminate information as recommended. We acknowledge the existing gap in the Commercial Fishing Vessel Examiner Program and provide Safety recommendation #4 below in leu of Safety Recommendation #3. As background to support our reasoning, per the Coast Guard Authorization Act of 2010 and the Coast Guard and Maritime Transportation Act of 2012, commercial fishing vessels that are State-registered or Federally-documented that: 1) operate beyond 3 nautical miles from the territorial sea Baseline or Great Lakes coastline; 2) operate anywhere with more than 16 persons on board (including within 3 miles of the Baseline or Great Lakes coastline); or 3) are a fish tender vessels engaged in the Aleutian trade. Must undergo a mandatory dockside exam and be issued a certificate of compliance. As a result of the CGAUTH Act, 46 USC 4502(f)(2) was updated and states:

> *(f) To ensure compliance with the requirements of this chapter, the Secretary— (2) shall examine at dockside a vessel described in subsection (b) at least once every 2 years and shall issue a certificate of compliance to a vessel meeting the requirements of this chapter.*

The CFVS Mandatory Examination Program was never fully implemented by the Coast Guard with a change to the CFR and the issuance of COCs per the USC. Although exams are required per USC there has yet to be updated in regulation. Therefore, my office requests Safety Recommendation #4 be considered.

Safety Recommendation #4 – Recommended that the Commandant amend 46 CFR Part 28 to reflect requirements enacted under the Coast Guard Authorization Act of 2010, specifically the provisions required in 46 USC 4502(f)(2); That commercial fishing vessels shall be examined at least once every 2 years, and a certificate of compliance shall be issued

to each vessel meeting the requirements of 46 CFR Part 28.

[redacted]

D. E. O'CONNELL
Captain, U.S. Coast Guard
Chief of Prevention, First Coast Guard District
By direction

U.S. Department of Homeland Security

United States Coast Guard

Commander
United States Coast Guard
Sector Long Island Sound

120 Woodward Avenue
New Haven, CT 06512
Phone: (203) 468-4472

16732
July 30, 2024

SURE SHOT (O.N. 978662) COLLISION WITH AN UNIDENTIFIED VESSEL, 16 NAUTICAL MILES SOUTH OF SHINNECOCK, NY, IN THE ATLANTIC OCEAN, WITH THE LOSS OF ONE LIFE, ON OCTOBER 12, 2022

ENDORSEMENT BY THE OFFICER IN CHARGE, MARINE INSPECTION

The record and the report of the investigation convened for the subject casualty have been reviewed. The record and the report, including the findings of fact, analysis, conclusions, and recommendations are approved in part, subject to the following comments. It is recommended that this marine casualty investigation be closed.

ENDORSEMENT/ACTION ON RECOMMENDATIONS

Safety Recommendation 1. Recommend amending 33 CFR 164.46(b) carriage – (1) AIS Class A device. The amendment should be to add subparagraph *(vi) to include vessels that plan on operating longer than 12 hours in a 24-hour period.* This regulatory change would require vessels that operate longer than 12 hours within a 24-hour period to have a Class A AIS. This would assist in vessels identifying each other regardless of sea state, construction material, size, or time of day.

Action: Concur/Not Concur

Safety Recommendation 2. Recommend amending 33 CFR 164.46(b) carriage – (1) AIS Class A device. The amendment should be to add subparagraph *(vii) to include vessels that transit in, across, or operate in the vicinity of a shipping safety fairway or fairway defined in 166.105 of this chapter*. This regulatory change would require vessels that operate in or around a shipping safety fairway or fairway to have a Class A AIS. Vessels transiting in or around a shipping safety fairway or fairway, regardless of how large or how far offshore the vessel is, would permit ships typically outfitted with a Class A AIS to electronically identify one another and avoid collisions.

Action: Concur/Not Concur

Safety Recommendation 3. Recommend that the National Vessel Documentation Center (NVDC) inform anyone who either requests a new Fishery Endorsement or continues an existing Fishery Endorsement of the requirements listed in 46 USC 4502. Additionally, the vessel owner should be directed to contact their local Coast Guard Sector to determine if a Commercial Fishing Vessel Safety Examination is required or if one can be voluntarily completed. Also, that the NVDC inform the local Coast Guard Sector of vessels within their Area of Responsibility that were issued a COD with a Fishery Endorsement.

Action: Concur/Not Concur

[redacted]

ELISA M. GARRITY
Captain, U.S. Coast Guard
Commander, Sector Long Island Sound

Enclosure: Investigating Officer's Report

U.S. Department of Homeland Security

United States Coast Guard

Commander
United States Coast Guard
Marine Safety Detachment Coram

2045-2 Route 112
Coram, NY 11727
Phone: (631) 732-0190

16732
July 30, 2024

SURE SHOT (O.N. 978662) COLLISION WITH AN UNIDENTIFIED VESSEL, 16 NAUTICAL MILES SOUTH OF SHINNECOCK, NY, IN THE ATLANTIC OCEAN, WITH THE LOSS OF ONE LIFE, ON OCTOBER 12, 2022

EXECUTIVE SUMMARY

On October 12, 2022, at approximately 11:56 p.m., the fishing vessel SURE SHOT was underway 16 nautical miles south of Shinnecock, NY heading north with two people on board: the owner and one passenger. Both persons on board were in the pilothouse. The owner was at the helm and the passenger was sleeping on the port side bench. As the SURE SHOT continued the transit north, the vessel entered the safety fairway south of Long Island, NY and collided with an unidentified vessel. The passenger was woken up by the collision and by the impact of the owner falling on him. The owner was visibly injured and struggled to move about the pilothouse. The passenger sustained facial injuries but was not incapacitated. The passenger attempted to make a MAYDAY call on the VHF radio but failed because the SURE SHOT had lost power as a result of the collision. The vessel had also sustained damage to the bow and was actively taking on water. The passenger retrieved the Emergency Position Indicating Radio Beacon (EPIRB) mounted on the outside of the pilothouse, activated it, and handed the EPIRB to the owner. The passenger then removed the life ring from its mount and handed that to the owner. He then climbed on top of the pilothouse to deploy the life raft. He could not deploy it from the cradle, so he tossed the entire canister into the water, maintaining possession of the painter line. The SURE SHOT began to sink quickly, and both men went into the water. Neither were wearing life jackets. The passenger was unable to pull enough of the painter line to inflate and release the raft from the canister, so he held on to the canister and secured the painter line around his body. He saw the owner a distance away with the life ring and EPIRB close by to him but could not swim to him. Due to the wind and sea conditions, the owner and passenger drifted apart and became separated.

At 12:18 a.m. on October 13, 2022, the Coast Guard's First District Command Center received an alert message for a 406 MHz EPRIB. At 12:23 a.m., the Command Center received a second alert for the same EPIRB with a latitude and longitude location identified. The Command Center staff immediately began urgent search and rescue operations, notifying and launching Coast Guard assets from small boat stations, Air Station Atlantic City and Air Station Cape Cod, as well as partner agencies. At approximately 6:15 a.m., a response boat from CG Station Shinnecock located the passenger in the water, clinging to the life raft canister. They recovered him and a CG helicopter hoisted the passenger off the small boat, transporting him to shore where EMS was waiting. He was taken to Peconic Bay Medical Center in Riverhead, NY for treatment of hypothermia and a severe face laceration.

Multiple Coast Guard assets continued to search for the owner, assisted by local and New York-state agencies. On October 14, 2022, after searching for just under 36 hours, the search for the owner was suspended. He is missing and presumed deceased.

As a result of this investigation, the Coast Guard has determined that the initiating event for this casualty was the collision between the SURE SHOT and an unidentified vessel. The collision resulted in injuries to the 2 persons on board, the loss of power to the boat, and uncontrolled flooding which caused the vessel to sink. After the SURE SHOT sank, an extensive search located and recovered the passenger. Continued search efforts failed to locate the owner who is missing and presumed deceased. The causal factors that contributed to this casualty include: (1) fatigue, (2) insufficient lookout, (3) insufficient knowledge/training on life saving equipment to include EPIRB activation and life raft deployment, (4) the failure of the passenger and owner to don a personal floatation device prior to the vessel sinking, (5) the absence of a radar reflector on the SURE SHOT, and (6) silenced proximity alarms on pilothouse electronic navigation tools.

U.S. Department of Homeland Security
United States Coast Guard

Commander
United States Coast Guard
Marine Safety Detachment Coram

2045-2 Route 112
Coram, NY 11727
Phone: (631) 732-0190

16732
July 30, 2024

SURE SHOT (O.N. 978662) COLLISION WITH AN UNIDENTIFIED VESSEL, 16 NAUTICAL MILES SOUTH OF SHINNECOCK, NY, IN THE ATLANTIC OCEAN, WITH THE LOSS OF ONE LIFE, ON OCTOBER 12, 2022

INVESTIGATING OFFICER'S REPORT

1. Preliminary Statement

1.1. This marine casualty investigation was conducted, and this report was submitted in accordance with Title 46, Code of Federal Regulations (CFR), Subpart 4.07, and under the authority of Title 46, United States Code (USC) Chapter 63.

1.2. No individuals, organizations, or parties were designated a party-in-interest in accordance with 46 CFR Subsection 4.01-10.

1.3. The Coast Guard was the lead agency for all evidence collection activities involved in this investigation. Suffolk County police detectives conducted an independent investigation.

1.4. This incident involved an extensive and coordinated search and rescue (SAR) operation, as well as a complex casualty investigation, which included multiple local, state, and federal agencies and assets. The State of New York provided assistance from: Suffolk County Marine Patrol, Park Police, Air National Guard, and Depth Charge Marine. The following Coast Guard units/stations were involved and provided assistance with SAR operations and with the casualty investigation: First District Command Center, Sector(s) Long Island Sound, New York, and San Juan; Station(s) Fire Island, Shinnecock, Jones Beach, and New York; Air Station(s) Cape Cod and Atlantic City; cutters SANIBEL and KINGFISHER; Sector NY Vessel Traffic Service (VTS); Maritime Intelligence Fusion Center Atlantic (MIFC-LANT); Investigation National Center of Expertise (INV NCOE); First District Document and Media Exploitation Unit (DOMEX); and, Electronic Support Detachment (ESD) New Haven. Numerous Good Samaritans also provided valuable SAR and investigation assistance.

1.5. All times used in this report are approximate and listed in local, Eastern Standard Time.

2. Vessel Involved in the Incident

Figure 01. Photograph of SURE SHOT (O. N.978662), location unknown, posted online April 14, 2016 by Marvin Moy.

Official Name:	SURE SHOT
Identification Number:	978662
Flag:	U.S.
Vessel Class/Type/Sub-Type	Fishing Vessel, Fish Catching Vessel *
Build Year:	1991
Gross Tonnage:	16 Gross Registered Tons
Length:	35 feet
Beam/Width:	12 feet
Draft/Depth:	3 feet 2 inches
Main/Primary Propulsion: (Configuration/System Type, Ahead Horsepower)	Single Caterpillar 3208 eight cylinder, four stroke diesel 363 cubic-inch, 225 hp
Owner:	Marvin Moy [redacted]

* Vessel documentation indicates the SURE SHOT is a Fishing Vessel. Refer to paragraphs 4.2.1. and 4.2.2. for additional Vessel Class/Type/Sub-Type clarification and information.

3. Deceased, Missing, and/or Injured Persons

Position	Name	Sex	Age	Status
Owner	Marvin Moy	Male	52	Presumed deceased
Passenger	[redacted]	Male	[redacted]	Injured

4. Findings of Fact

4.1. The Incident:

4.1.1. On October 12, 2022, at 8:24 a.m., the passenger for the SURE SHOT arrived at Center Yacht Club in Moriches, Long Island, NY, to meet the vessel owner for a day-long fishing trip.

4.1.2. At 10:16 a.m., the owner of the SURE SHOT arrived at Center Yacht Club.

4.1.3. At 11:08 a.m., the owner of the SURE SHOT fueled the vessel and departed Moriches for the fishing grounds south of Long Island. The owner was operating the vessel and there was one passenger on board.

4.1.4. At 4:00 p.m., the SURE SHOT arrived at the desired fishing grounds in the vicinity of Hudson Canyon and proceeded to fish for tuna.

4.1.5. At 7:00 p.m., the passenger felt seasick and stopped fishing. He went into the cabin and laid down on the port bench in the pilothouse.

4.1.6. At 7:30 p.m., the owner of the SURE SHOT began the transit back to Moriches, NY. The SURE SHOT was on a northerly course and routinely transited at a speed of 15 knots in open water.

4.1.7. At 8:00 p.m., the passenger fell asleep on the port bench in the pilothouse.

4.1.8. At 11:56 p.m., when the SURE SHOT was approximately 16 nautical miles south of Long Island, the passenger woke up to a loud crashing sound and the owner falling onto him. He recognized that they had collided with another vessel. He saw a large black vessel outside the port-side pilothouse window and felt the SURE SHOT come to a stop. He noted that the other vessel was going from starboard to port in a westerly direction.

4.1.9. The SURE SHOT began taking on water. The flooding progressed from the forward compartment and slowly made its way aft.

4.1.10. The passenger heard the owner state that he was injured and needed help to look for his glasses and his phone. The passenger assisted in looking for the items.

4.1.11. The passenger attempted to use the VHF radio onboard to make a MAYDAY call but saw the VHF and all electronics had no power. He could not broadcast a distress call.

4.1.12. At 11:57 p.m., the passenger left the pilot house and went to the aft deck. He removed the Emergency Position Indicating Radio Beacon (EPIRB) from its bracket mounted outside the pilot house on the port side. He attempted to activate the EPIRB and saw lights illuminate on the unit. He brought the EPIRB back into the pilot house and showed it to the owner who confirmed that it was activated. The owner told the passenger to leave the EPIRB on the aft deck for a better signal. The passenger departed the pilot house, placed the EPIRB on the aft deck, and returned to the pilot house.

4.1.13. The passenger retrieved a flashlight from his bag which he located inside the pilot house among the tossed-about debris. He then went to the forward compartment and observed the vessel taking on water through the starboard side, in the vicinity of the head.

4.1.14. On October 13, 2022, at 12:03 a.m., the passenger attempted to locate life jackets for himself and the owner. The owner told him they were stored under the bench. The pilot house was damaged, and debris was strewn about. The passenger could not find the life jackets, so he retrieved the life ring from its mounting bracket, starboard side, outside the pilot house and gave it to the owner. He told the owner that he needed to get outside because the vessel was sinking.

4.1.15. At 12:09 a.m., the passenger left the pilothouse and went to the aft deck. The passenger removed the life ring from the bracket on the back of the pilot house and placed it next to the EPIRB on the deck.

4.1.16. At 12:11 a.m., the passenger asked the owner if there was a life raft and was told it was mounted on top of the pilot house. The passenger climbed to the pilot house roof and attempted to launch the life raft. The bracket holding the life raft in place was bent and the pilot house roof was damaged as a result of the collision. The passenger disassembled two shackles and removed the life raft from its cradle. As he threw the life raft canister over the starboard side, the vessel began to sink beneath him.

4.1.17. At 12:16 a.m., the SURE SHOT sank. The owner and passenger entered the water. The owner was holding onto the life ring. The passenger was holding onto the life raft canister. He had pulled on the life raft's painter line while the vessel was sinking but was unable to force the life raft to inflate. The passenger could see the blinking lights on the EPIRB which was in close proximity to the owner. The two men were within speaking distance for approximately 30 minutes until they drifted apart. The passenger lost sight of the owner.

4.1.18. At 12:18 a.m., the EPIRB emitted a signal which was received at the Coast Guard's First District Command Center in Boston, MA. That was followed by a second signal one minute later. Four minutes after the second signal was received, a third signal was sent that provided a latitude and longitude (location) and EPIRB registration information. The District Command Center initiated search and rescue operations.

4.1.19. At 12:47 a.m., CG Air Station Cape Cod was notified of the EPIRB "hit" for the SURE SHOT. The ready-helo crew made preparations to launch.

4.1.20. At 1:16 a.m., a rescue helicopter (CG6023) launched from CG Air Station Cape Cod enroute to the EPIRB position.

4.1.21. At 2:15 a.m., CG6023 arrived on scene and initiated search patterns. The CG6023 reported observing a white cooler, an oil sheen, and other debris while on scene. They continued searching until 4:10 a.m. when they returned to CG Air Station Cape Cod.

4.1.22. At 3:50 a.m., CG Station Shinnecock launched a 47-foot response boat (CG47249) to aid in the search efforts. At 5:17 a.m., the CG47249 arrived at the EPIRB location and began search and rescue operations.

4.1.23. At 6:00 a.m., the rescue helicopter CG6023 departed Cape Cod with a fresh crew and returned to the search area. They continued to conduct search and rescue operations.

4.1.24. At 6:10 a.m., the CG47249 located the passenger by hearing him call out to them. He was clinging to the uninflated life raft canister. As the boat crew brought the passenger onboard, the painter line, which had been wrapped around the passenger, was pulled tight. The life raft canister popped open, and the life raft automatically inflated and drifted away. After the passenger was brought on board, the boat crew treated him for his injuries and for hypothermia. The CG47249 reported to the Sector Long Island Sound Command Center that they found one person in the water and were transiting back to Station Shinnecock.

4.1.25. At 7:19 a.m., a rescue helicopter (CG6527) from CG Air Station Atlantic City arrived on scene to conduct a medical evacuation and at 7:52 a.m., the aircrew hoisted the passenger from the underway CG47249.

4.1.26. At 08:12 a.m., CG6527 landed at Station Shinnecock where the passenger was transferred to an ambulance and transported to Peconic Bay Medical Center in Riverhead, NY for treatment. While at the hospital, the passenger was treated for hypothermia, a 6 centimeter-by-1 centimeter laceration to the lip area (requiring surgery), as well as abrasions to the head, right shoulder, left and right shins. He was released from the hospital on October 16, 2022.

4.1.27. Extensive search efforts continued for the owner of the SURE SHOT until 10:40 a.m. on October 14, 2022. At that time, the search was suspended.

4.1.28. The owner of the SURE SHOT is missing and presumed deceased.

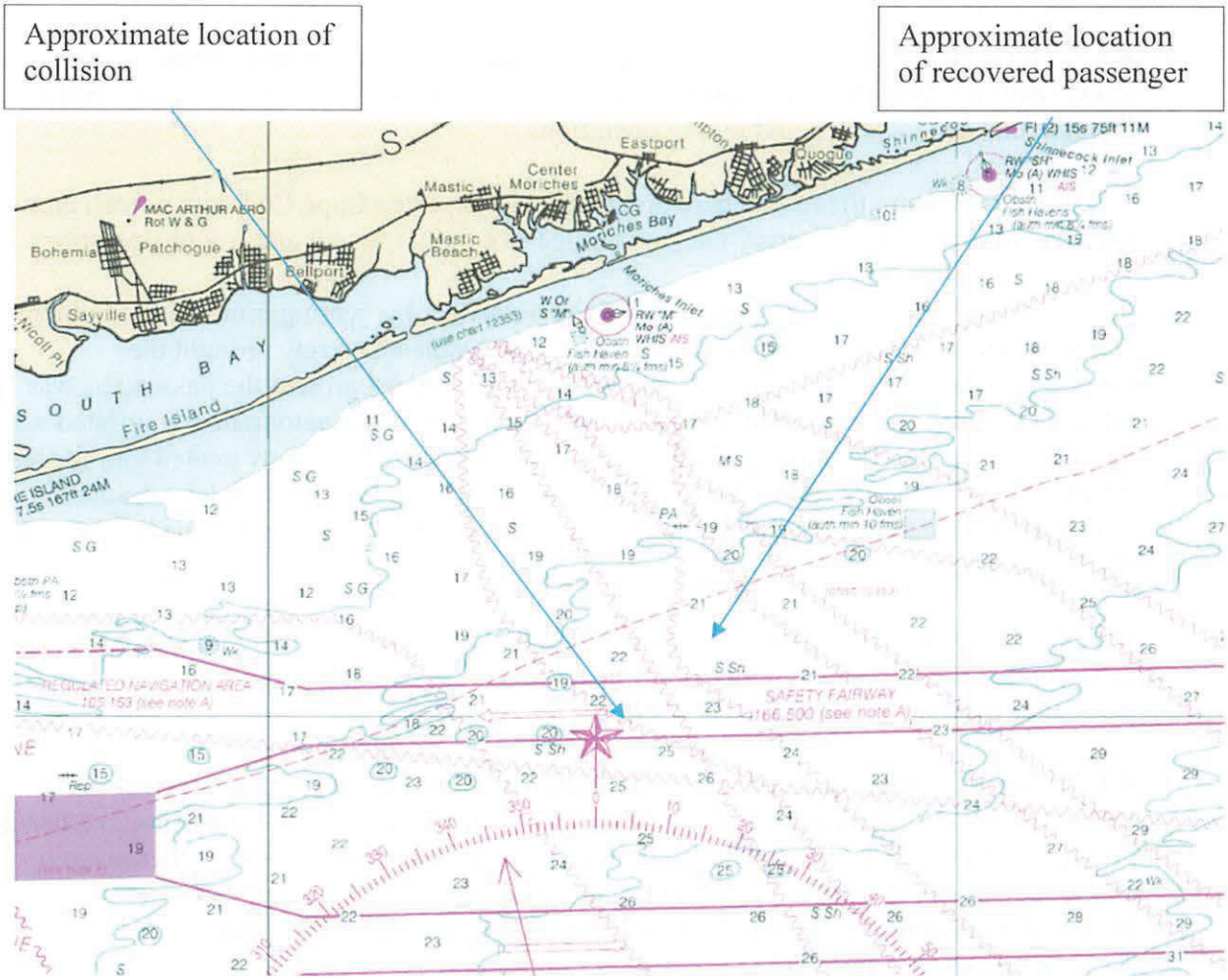

Figure 02. Enhancement of Chart 12300. Fron NOAA.gov on October 17, 2022.

4.2. Additional/Supporting Information:

4.2.1. The SURE SHOT had a current U.S. Coast Guard Certificate of Documentation (COD) with a Fishery endorsement. The Fishery endorsement entitled the vessel to participate in the commercial fishing industry. The COD was issued for the vessel POST CALL (second name), official number 978662, with the managing owner listed as Marvin Moy. The COD was valid from December 10, 2021, to December 31, 2022.

4.2.2. The owner of the vessel was known to frequently fish for tuna in the vicinity of Hudson Canyon. There is no indication that he fished commercially: it could not be determined with certainty that he sold any of his catch. Neither the owner nor his vessel had a federal fishery permit for Atlantic Highly Migratory Species (HMS) as would have

been required by the National Oceanic and Atmospheric Association (NOAA) in order to fish for tuna. Additionally, the owner did not have a Food Fish Landing License for the state of New York. This license would permit him to land food fish taken outside of New York state waters for commercial purposes. Even though the vessel had the Fishery endorsement on the COD, it was not authorized to legally engage in the fishing industry without holding permit(s). For this reason, the SURE SHOT would not be considered a commercial fishing vessel and not subject to any USCG oversight.

4.2.3. On April 7, 2022, the owner hired a company to change the name on the stern of the vessel from the MARILYN B (original name) to SURE SHOT (third and final name).

Figure 03. Photograph of SURE SHOT. Provided by [redacted] on October 21, 2022.

4.2.4. On July 23, 2022, the owner of the SURE SHOT had an Automatic Identification System (AIS) receiver installed on board. The installed AIS on board the SURE SHOT was a Class B unit. Class B AIS units can receive positions from other vessels but cannot transmit their position to other vessels. The installer of the unit remarked that the owner had installed a Class B AIS because the regulations did not require that he install a Class A unit. A Class A AIS can both receive and transmit vessel positions.

4.2.4.1. The installation manual for the unit installed on board the SURE SHOT (Class B Sitex MDA-2 metadata dual-channel parallel AIS receiver) states: The marine Automatic Identification System (AIS) is a location and vessel

information reporting system. It allows vessels equipped with AIS to automatically and dynamically share and regularly update their position, speed, course and other information such as vessel identity with similarly equipped vessels. Position is derived from the Global Positioning System (GPS) and communication between vessels is by Very High Frequency (VHF) digital transmissions.

4.2.5. The owner of the SURE SHOT was known to make the trip to Hudson Canyon with three to four people on board. On October 12, 2022, the owner planned to have two passengers with him, however one passenger cancelled just before the trip.

4.2.6. The owner of the SURE SHOT was known to follow the same routine during fishing trips to Hudson Canyon. He would navigate the vessel from the slip in Moriches to a point offshore. If he felt tired, he would turn the navigation responsibilities over to one of the passengers whom he trusted to run the boat safely, and then take a nap in the forward compartment. The owner was known to often take a nap during the transit back to Moriches. He would request he be woken up before the Moriches Inlet sea buoy and would then navigate the vessel for the remainder of the transit to its dock at the Center Yacht Club.

4.2.7. The owner was known to routinely set the radar to obtain contacts at six nautical miles. The radar unit and Electronic Chart Display and Information System (ECDIS)/chart plotter were fitted with alarms and silencing features. The owner was known to keep the alarms set (in alert mode) for radar contacts, but to also silence the alarms frequently when he was operating the vessel. The owner was known to keep radar contact alarms silenced if he trusted the navigation skills of the passenger that relieved him.

4.2.8. The weather at the time of the collision and during the response was rough. The winds were approximately 25 knots, gusts up to 30 knots from the west-southwest with overcast skies and periods of rain. Waves were three feet with a swell of five feet. The air temperature was approximately 60° F and the water temperature was approximately 62° F.

4.2.9. This collision took place in the Safety Fairway located south of Long Island. A safety fairway is defined in 33 CFR 166.105 as: a lane or corridor in which no artificial island or fixed structure, whether temporary or permanent, will be permitted. A safety fairway provides unobstructed approaches for vessels visiting U.S. ports. This specific safety fairway included the Ambrose to Nantucket Safety Fairway and the reciprocal Nantucket to Ambrose Safety Fairway. Essentially, these are the shipping lanes used by merchant vessels when arriving or departing the port of New York.

4.2.10. The Emergency Position Indicating Radio Beacon (EPIRB) on board the SURE SHOT was registered with the National Oceanic and Atmospheric Administration (NOAA). The registration information listed the vessel name as the MARILYN B, identified the owner information as that of the first (original) owner, and listed the registration expiration date as April 5, 2015. The current owner did not register the EPIRB as required, nor did he update the registration with his contact information. When

the Coast Guard received the EPRIB alert identifying the vessel and its owner (original name and owner), personnel with the CG's First District Command Center made contact. They learned the vessel had been sold and were provided with the name and phone number for the most current owner.

4.2.10.1. Following the collision, the passenger retrieved the EPIRB and believed he activated it because he noted lights illuminated on the unit. He asked the owner if it was activated, and the owner replied it was. When the EPIRB was recovered by the Coast Guard, it was found with the test mode activated. Both the passenger and the owner believed the EPIRB was transmitting a distress signal immediately after the collision. In fact, the EPIRB only began transmitting a signal after being water-activated when the SURE SHOT sank.

Figure 04. Photograph of recovered EPIRB. Taken by [redacted] on October 27, 2022.

Figure 05. Photograph of recovered EPIRB. Taken by [redacted] on October 27, 2022.

4.2.11. There were lifejackets and flares maintained on board the SURE SHOT. Much of the gear in the pilot house was strewn about as a result of the collision and the vessel was seriously damaged. It was also dark at the time of the collision. These factors made locating any lifesaving equipment difficult. The passenger searched the pilot house for life jackets but was unable to find them. He did not specifically look for flares or any other signaling device in the pilot house.

4.2.12. There is limited information about the Switlik 6-person life raft that had been mounted on top of the SURE SHOT's pilothouse. The life raft was recovered by a Good Samaritan, but the canister was lost at sea. The life raft was inspected by Coast Guard investigators who determined all the contents were intact. The flares present in the raft displayed a manufacture date of August 2015 and an expiration date of February 2019. A company representative of Switlik stated that the shelf life of flares is 3 ½ years beyond the expiration date. She estimated the last servicing and inspection date of the life raft to be no later than June 2018. She could not locate any record of the last servicing of the SURE SHOT's life raft by Switlik servicing facilities in New York, New Jersey, or Connecticut.

4.2.12.1. The passenger struggled to launch the life raft. The cradle and the pilot house roof were damaged in the collision. Additionally, the passenger was unfamiliar with the steps to launch a life raft. He did not know to use the quick-release pelican hook to free the life raft canister from its cradle. Instead, he

manually unscrewed the shackle pins to free the canister from the cradle. Once the shackle pins were removed, the passenger threw the canister overboard. He pulled the painter line but didn't pull enough out to activate the air cylinder and inflate the life raft.

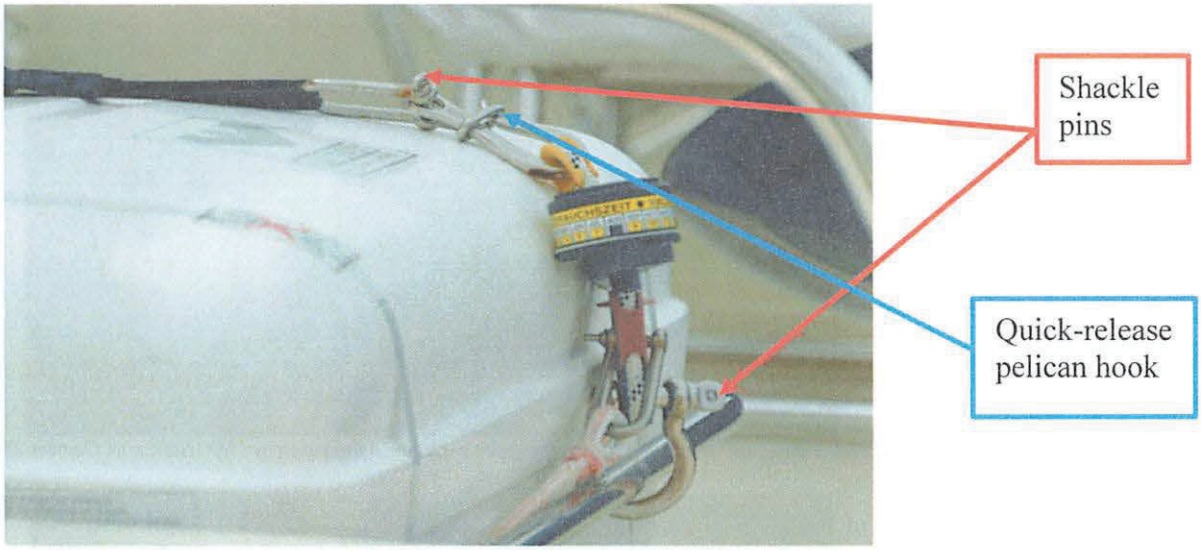

Figure 06. Photograph of a life raft for reference (This is not the SURE SHOT's life raft)

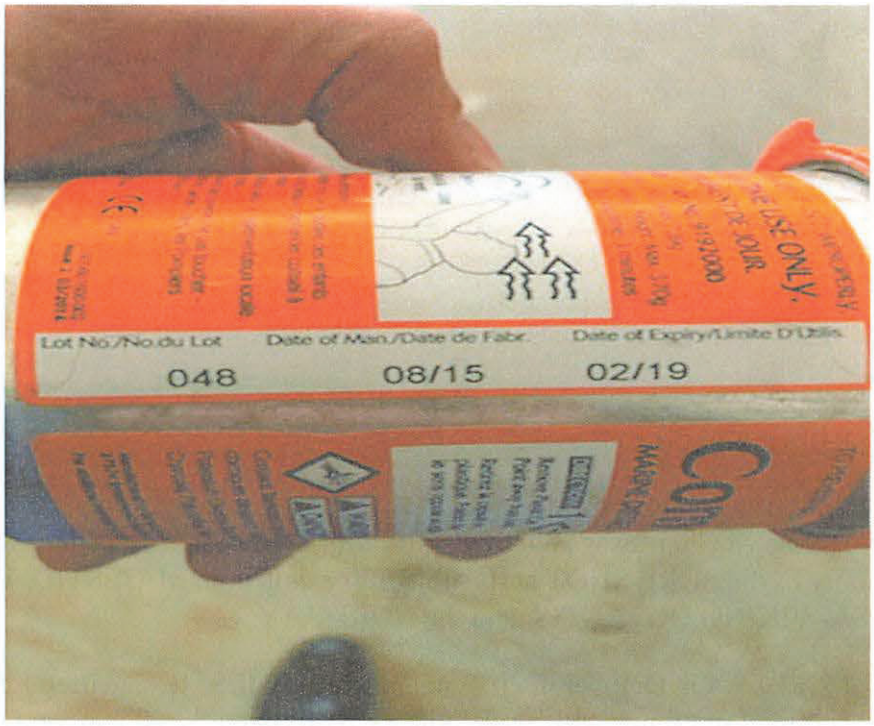

Figure 07. Photograph of recovered life raft expired smoke flare. Taken by [redacted] on October 27, 2022.

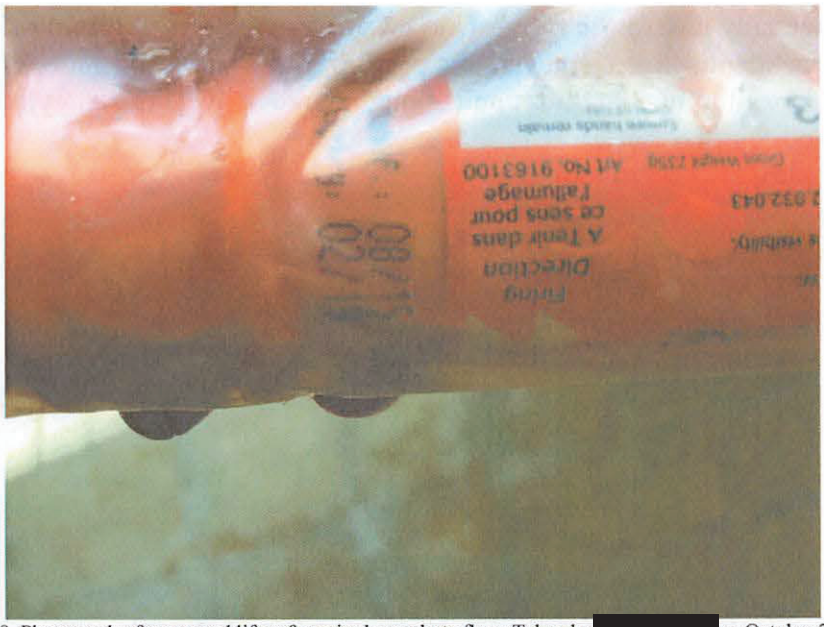

Figure 08. Photograph of recovered life raft expired parachute flare. Taken by [redacted] on October 27, 2022.

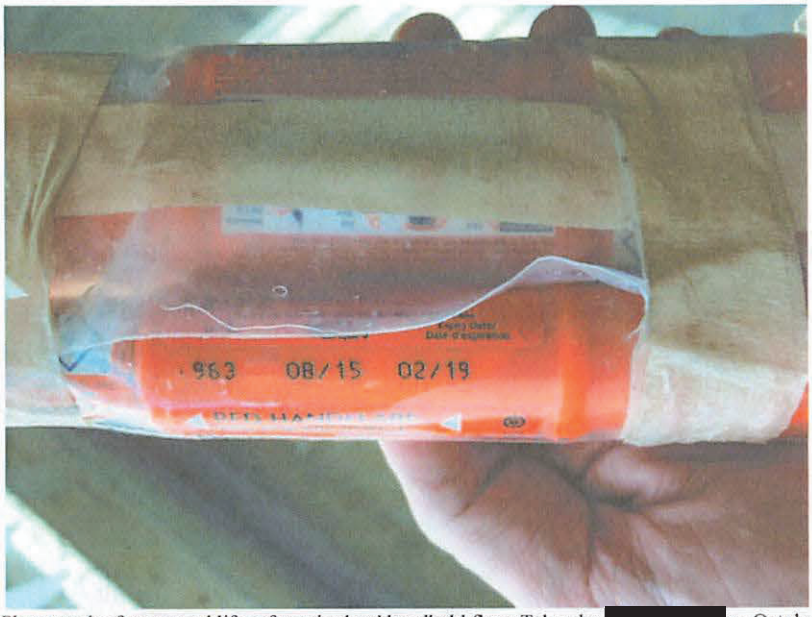

Figure 09. Photograph of recovered life raft expired red handheld flare. Taken by [redacted] on October 27, 2022.

4.2.13. The Coast Guard was able to identify four merchant vessels that were operating in the vicinity of the SURE SHOT at the time of the collision: MAJESTIC, VIKING ODESSA, VIKING OCTANTIS, and the NORDBAY.

4.2.13.1. On October 4, 2022, the vessel MAJESTIC departed Le Havre Terminal in France with a scheduled arrival time of 2:00 a.m. on October 13, 2022, to Port Elizabeth, New Jersey. The vessel was scheduled to offload and load containers with a scheduled departure time of 4:00 a.m. on October 14, 2022.

Figure 10: Photograph of the MAJESTIC, taken from internet by [redacted] on October 14, 2022.

4.2.13.2. On October 12, 2022, the vessel VIKING ODDESSA departed Davisville, Rhode Island with a scheduled arrival time of 4:00 a.m. on October 13, 2022, to Newark, New Jersey. The vessel was scheduled to load and offload cargo with a scheduled departure time of 11:00 p.m. on October 13, 2022.

Figure 11: Photograph of the VIKING ODESSA, taken from internet by [redacted] on October 14, 2022.

4.2.13.3. On October 11, 2022, the passenger vessel VIKING OCTANTIS departed Halifax, Nova Scotia with a scheduled arrival time of 7:00 a.m. at the New York City Cruise ship terminal on October 13, 2022. The vessel was scheduled to disembark passengers and embark passengers with a scheduled departure time of 5:00 p.m. on October 13, 2022.

Figure 12: Photograph of the VIKING OCTANTIS, taken from internet by [redacted] on October 14, 2022.

4.2.13.4. On October 10, 2022, the tank vessel NORDBAY departed Point Tupper, Canada with a scheduled arrival time of 8:00 p.m. at the Ambrose anchorage off New York. The vessel was scheduled to offload cargo at Bayway P66 Terminal in New Jersey with a scheduled departure time of 10:00 a.m. on October 18, 2022.

Figure 13: Photograph of the NORDBAY, taken from internet by [redacted] on October 14, 2022.

5. Analysis

5.1. The original (first) owner of the SURE SHOT used the vessel as a commercial fishing vessel. He obtained a Commercial Fishing Vessel Safety Decal, and had the vessel documented with a Fishery endorsement to engage in commercial fishing operations. The current owner kept the Fishery endorsement in place when he applied for a new COD,

however neither the vessel nor the owner held any federal or state fishing permits. It could not be determined with certainty that the owner sold his catch, therefore the determination is that the SURE SHOT was operating as a recreational vessel at the time of the incident. As such, none of the requirements found in 46 CFR Part 28 – Requirements for Commercial Fishing Industry Vessels - apply to the SURE SHOT.

5.2. The Coast Guard's Boat Crew Seamanship Manual identifies mental and physical fatigue as among the greatest dangers during rough weather operations. Fatigue can reduce an operator's powers of observation, concentration, and judgement. The following are examples of situations that may cause fatigue: operating in extreme hot or cold weather conditions, eye strain from hours of looking through sea-sprayed/blurred windshields, the effort of holding on to maintain balance, stress, exposure to noise, exposure to sun, poor physical conditioning, lack of sleep, and boredom.

5.2.1. It is likely that the owner and the passenger were both suffering from fatigue. The passenger became seasick as a result of the rough weather conditions. The owner was then forced to stay awake for the return transit back to Moriches.

5.3. The SURE SHOT was a fiberglass-hulled vessel. While the SURE SHOT had a radar unit and a metal mast head on the pilothouse roof, all of the obtainable pictures of the vessel showed no evidence of a radar reflector.

5.3.1. In accordance with U.S. Coast Guard Marine Safety Alert 04-97, wood and fiberglass vessels make poor radar targets. Operators of small vessels are cautioned that wood and fiberglass are particularly poor radar reflecting materials and produce weak radar signatures. Vessels constructed of wood and fiberglass can significantly improve their radar signatures and increase their radar visibility by ensuring that flat metal surfaces or radar reflectors are provided on the vessel's exterior.

Figure 14. Photograph of top of pilot house of SURE SHOT. Provided by Good Samaritan on November 1, 2022.

5.4. The SURE SHOT was not a commercial fishing vessel; therefore, installation of an AIS unit was not required. Despite that, the owner had a Class B AIS installed. The reason he installed an AIS unit cannot be known with certainty. It is possible he installed the unit in anticipation of obtaining fishing permits and engaging in commercial fishing operations. It is also possible he installed the unit to add an additional element of safety to the operation of his vessel. The owner routinely operated offshore which required a transit through and beyond the charted Safety Fairway south of Long Island. This fairway is used by merchant vessels required to have a Class A AIS in accordance with 33 CFR 164.64. If the SURE SHOT was equipped with a Class A AIS instead of a Class B AIS, it is likely that approaching vessels could have identified the SURE SHOT on their AIS and/or radar/chart plotter/ECDIS and taken action to avoid a collision.

5.5. Coast Guard Investigators conducted on-board investigations on each merchant vessel initially determined to be in the vicinity of the SURE SHOT at the time of the collision.

5.5.1. MAJESTIC: The MAJESTIC's Global Positioning System (GPS) track line, bridge logbooks, ECDIS, radar, chart plotter, and navigation plan were all reviewed. Interviews were conducted with the crew members on watch at the time of the collision, and with the

Master of the vessel. A visual survey was conducted of the exterior of the vessel for recent damage/scrapes. The data on the vessel's Voyage Data Recorder (VDR) was obtained and reviewed. Based on the available information obtained, there was no evidence that indicated the MAJESTIC was involved in a collision with the SURE SHOT.

5.5.2. VIKING ODESSA: The VIKING ODESSA's GPS track line, bridge logbooks, ECDIS, radar, chart plotter, and navigation plan were all reviewed. Interviews were conducted with the crew members on watch at the time of the collision, and with the Master of the vessel. A visual survey was conducted of the exterior of the vessel for recent damage/scrapes. The ship was properly equipped with a Simplified Voyage Data Recorder (S-VDR). These units store data for a 12-hour period and then the data is overwritten with data from the next 12-hour period. More than 12 hours had passed before the vessel was made aware they may have been involved in a marine casualty. Therefore, no S-VDR data was recovered and available for review. Based on the available information obtained, there was no evidence that indicated the VIKING ODESSA was involved in a collision with the SURE SHOT.

5.5.3. VIKING OCTANTIS: The VIKING OCTANTIS's GPS track line, bridge logbooks, ECDIS, radar, chart plotter, and navigation plan were all reviewed. A visual survey was conducted of the exterior of the vessel for recent damage/scrapes. Interviews were conducted with the crew members on watch at the time of the collision and with the vessel Master. The vessel was equipped with closed circuit television footage which recorded data 24 hours a day. That data was reviewed by CG Investigators, as well as the data obtained from the vessel's VDR. Based on the available information obtained, there was no evidence that indicated the VIKING OCTANTIS was involved in a collision with the SURE SHOT.

5.5.4. NORDBAY: Crew members on board reported to CG Investigators that the NORDBAY was at anchor over 30 nautical miles away from the EPIRB position when they first heard callouts from the Coast Guard on VHF Channel 16. This information was confirmed when Investigators reviewed bridge logbooks, the vessel navigation plan, the vessel's chart plotter, ECDIS, and GPS track lines. The NORDBAY was eliminated as a vessel of interest.

5.5.5. The MAJESTIC was a General Dry Cargo Ship with a keel laid date (KLD) of June 2014. The VIKING ODESSA was a Roll-On/Roll-Off (RO/RO) Cargo Ship with a KLD of July 2008. The VIKING OCTANTIS was a Passenger Vessel with a KLD of December 2019. The NORDBAY was a Tank Ship with a KLD of December 2004. Under international regulations from Safety of Life at Sea (SOLAS) Chapter V: Safety of Navigation, Regulation 20 covers the requirements for Voyage Data recorders. The different class of vessels and different KLDs have different VDR requirements. Those differences are why VDR data was able to be obtained and reviewed for the MAJESTIC but not the VIKING ODESSA and video surveillance footage was obtained only from the VIKING OCTANTIS.

5.6. The International Regulations for Prevention of Collisions at Sea, 1972 (72 COLREGS) detail the navigation rules for all vessels upon the high seas and in all connected waters that

are navigable by seagoing vessels. Rules 11 through 18 detail the conduct of vessels in sight of one another for both Inland and International waters. Based on the location of the collision, the International Rules apply to this incident. Specifically, Rules 1, 2, 5, 7, 8, 15, 16, and 34 apply.

5.6.1. Rule 1 - Application: the navigation rules shall apply to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels. Both vessels were bound to follow all navigation rules that applied to their situation.

5.6.2. Rule 2 – Responsibility: requires that every vessel, or the owner, master or crew thereof, has a responsibility to comply with the Rules and to avoid collision. Further, Rule 2 states that if compliance with the Rules would result in a collision, a departure from the Rules in order to avoid the danger is required. The Rules cannot cover every situation that may occur between vessels; therefore, special circumstances may call for unusual vessel maneuvers/operations to avoid a collision. If one vessel is more maneuverable than another, the more maneuverable vessel may need to deviate from the Rules and take action to avoid collision. In this incident, both vessels were maneuverable, so each was obligated by Rule 2 to steer clear to avoid collision.

5.6.3. Rule 5 – Look-out: requires all vessels at all times to maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

5.6.4. Rule 7 – Risk of Collision: this is a watch standing rule that complements the look-out and safe speed Rules. It requires vessels to use all available means to detect if risk of collision exists. The Rule explains that risk of collision exists if the compass bearing (course) of an approaching vessel does not change. In this incident, the SURE SHOT was heading north and approaching the safety fairway. A vessel was in the safety fairway heading west. The vessels were in a crossing situation on a collision course.

5.6.5. Rule 8 – Action to Avoid Collision: this Rule requires that vessels take noticeable action by changing course and/or speed, to act early, and to do more than may be necessary to avoid a collision, providing a large safety margin in time and distance. The owner of the SURE SHOT likely had the alarms silenced. Those alarms could have informed the operator there was a vessel close and/or on a collision course. Even though the vessel in the safety fairway was the stand-on vessel, no actions were taken by this vessel to avoid collision. This is likely due to that vessel not knowing of the SURE SHOT's presence.

5.6.6. Rule 9 – Narrow Channels: A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel. Deep draft vessels enroute to New York are required to navigate within the Nantucket to Ambrose Safety Fairway. The westbound Safety Fairway is clearly marked on all applicable NOAA nautical charts. Regulations for Safety Fairways within 33 CFR 166 were created for the purpose to establish and designate shipping safety fairways and fairway anchorages to provide unobstructed approaches for vessels using U.S. ports. The SURE SHOT transited from the south headed on a northerly course which required the SURE SHOT to pass through

the westbound Safety Fairway established within 33 CFR 166.500. Crossing the Safety Fairway with a deep draft vessel within the Safety Fairway creating a collision course impeded the deep draft vessel's transit. The SURE SHOT would have been the give way vessel for this transit and should have altered speed, course, and/or both vessels should have made arrangements to avoid a collision via VHF radio and/or sound signals.

5.6.7. Rule 15 – Crossing Situation: When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel. The SURE SHOT was on a northerly course when it approached and operated in and around the westbound safety fairway which would have made the deep draft vessel the stand on vessel and the SURE SHOT the give way vessel.

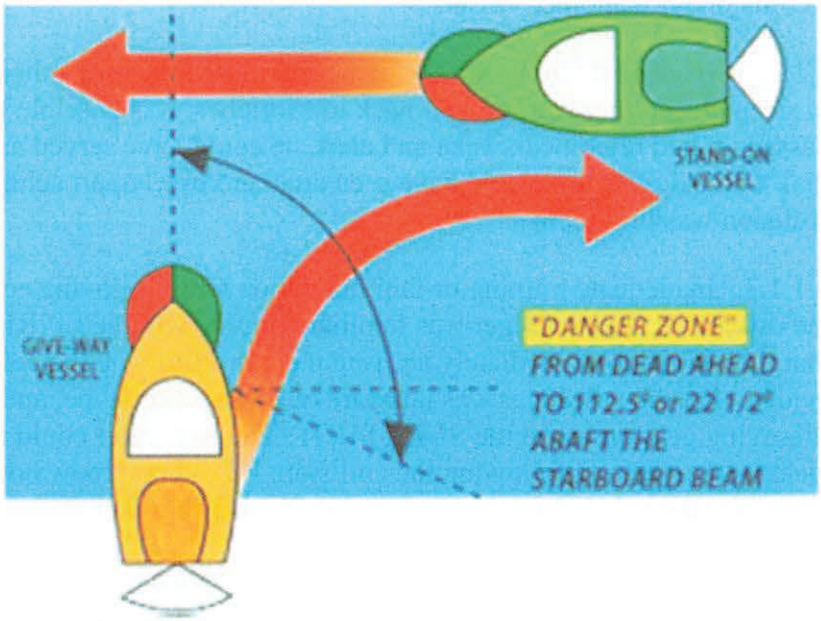

Figure 15. Diagram of Crossing Situation Rule, taken from internet by [redacted] on February 2, 2024.

5.6.8. Rule 16 – Action by Give-way Vessel: this rule demands that the give-way vessel take early and substantial action to keep well clear of another vessel. The SURE SHOT was the give-way vessel in this situation. Early action could have included altering his course, proceeding at a slower speed, attempting to make passing arrangements via VHF radio, or stopping the vessel to permit a vessel in the safety fairway to cross ahead of him. The SURE SHOT did not make any course or speed changes prior to the collision.

5.6.9. Rule 34 – Maneuvering and Warning Signals: the rule provides vessels with coded sound signals for communicating navigation information with other vessels and for issuing warnings. Even if a vessel does not understand a maneuvering signal, the warning signal is quite recognizable as 5 short and rapid blasts. No sound signals were reportedly used in the time leading up to the collision.

5.7. The SURE SHOT sank as a result of the collision. Depth Charge Marine, a commercial company that specializes in underwater searches, spent countless hours

searching for the wreck of the SURE SHOT. The company used known EPIRB positions and set and drift to create and identify search areas. Ultimately, the company failed to locate the SURE SHOT. As such, it was not available for post-casualty inspection or analysis.

6. Conclusions

6.1. Determination of Cause:

6.1.1. The initiating event for this casualty was the collision between the SURE SHOT and an unidentified vessel. Causal factors leading to this event were:

6.1.1.1. Fatigue: it is likely the owner became fatigued and may have fallen asleep at the helm. This would explain why he failed to take any actions to avoid a collision with another vessel.

6.1.1.2. Inadequate look-out: the owner permitted the only other person onboard to sleep during the return transit back to Moriches. It is possible that if the passenger had remained awake and alert, he could have served as an additional look-out and possibly would have seen another vessel approaching before a collision was imminent.

6.1.1.3. Inadequate training or familiarization with lifesaving equipment: neither the owner nor the passenger was familiar enough with the EPIRB to recognize that they failed to immediately activate the unit following the collision. It is evident that the passenger was unaware of the location, type, and operation of the lifesaving gear on board the SURE SHOT. The passenger could not locate life jackets immediately following the collision. He did not know how to launch the life raft and struggled to do so, ultimately failing to inflate it.

6.1.1.4. The likelihood that the SURE SHOT's radar proximity alarms had been silenced: it was the owner's habit to silence the alarms while operating the vessel. Had the alarms been audible, the owner would have been alerted to another vessel's approach and could have taken action to avoid a collision.

6.1.1.5. The absence of a radar reflector on the SURE SHOT: the SURE SHOT was a fiberglass-hulled vessel. There was a limited amount of metal on board that would provide a radar target for approaching vessels. The presence of a radar reflector would likely have made the SURE SHOT more visible on radar to other vessels operating within the vicinity and could have prevented the collision.

6.1.2. The first subsequent event was the vessel flooding. The causal factor leading to this event was:

6.1.2.1. Damage to the vessel's starboard bow as a result of the collision.

6.1.3. The next subsequent event was the injuries sustained to the 2 persons on board. The causal factors leading to this event were:

6.1.3.1. The owner sustained unknown injuries that incapacitated him as a result of being thrown from the operating station.

6.1.3.2. The passenger suffered a severe injury to his face as a result of either the owner falling on top of him or by loose debris striking him.

6.1.3.3. The passenger also suffered from hypothermia from being in the ocean for an estimated time of 6 hours. Ocean water temperature was 62°F.

6.1.4. The next subsequent event was the sinking of the SURE SHOT. The causal factor leading to this event was:

6.1.4.1. The flooded forward cabin and pilot house.

6.1.5. The next subsequent event was the two persons entering the water. The causal factor leading to this event was:

6.1.5.1. The sinking of the SURE SHOT.

6.1.5.2. The passenger was not wearing a life jacket when he entered the water, making him difficult to spot by responding search and rescue assets. He was grasping the life raft canister and had the life raft's painter secured around his body. Since the canister was not recovered, the amount of retroreflective tape on the canister could not be determined.

6.1.6. The next subsequent event was the presumed death of the owner. The causal factors leading to this event were:

6.1.6.1. The owner entered the water without wearing a life jacket, making him difficult to spot by responding search and rescue assets. Since the life ring was not recovered, the amount of retroreflective tape on the life ring could not be determined.

6.1.6.2. He remains missing and is presumed deceased.

6.2. Potential vessels of interest.

6.2.1. Voyage data recorders, electronic chart display and information systems, and additional bridge navigation information systems were reviewed to match up the paths of the SURE SHOT and vessels of interest. Using all obtainable information, the vessel involved in the collision with the SURE SHOT remains unidentified.

6.3. Evidence of Act(s) or Violation(s) of Law by Any Coast Guard Credentialed Mariner Subject to Action under 46 U.S.C. § 77: There were no acts of misconduct, incompetence, negligence, unskillfulness, or violations of law by a credentialed mariner identified as part of this investigation.

6.4. Evidence of Acts or Violation(s) of Law by U.S. Coast Guard Personnel, or any other person: There were no acts of misconduct, incompetence, negligence, unskillfulness, or

violations of law by Coast Guard employees or any other person that contributed to this casualty.

6.5. Evidence of Act(s) Subject to Civil Penalty: This investigation did not identify evidence of acts that would warrant civil penalty.

6.6. Evidence of Criminal Act(s): This investigation did not identify violations of criminal law.

6.7. Need for New or Amended U.S. Law or Regulation: Matters requiring new or amended laws or regulations were identified during this investigation. Refer to Section 8.1

6.8. Unsafe Actions or Conditions that Were Not Causal Factors:

6.8.1. While not a causal factor, it was unsafe for the owner to not properly service and maintain vital safety equipment on board.

7. Actions Taken Since the Incident

7.1. None.

8. Recommendations

8.1. There are proposed actions to amend existing U.S. laws or regulations and U.S. Coast Guard policies and procedures as part of this investigation.

8.1.1. Safety Recommendation 1: Recommend amending 33 CFR 164.46(b) carriage – (1) AIS Class A device. The amendment should be to add subparagraph *(vi) to include vessels that plan on operating longer than 12 hours in a 24-hour period.* Paragraph (b) states: AIS carriage-(1) AIS Class A device. The following vessels must have on board a properly installed, operational Coast Guard type-approved AIS Class A Device:

> (i) A self-propelled vessel of 65 feet or more in length, engaged in commercial service.
> (ii) A towing vessel of 26 feet or more in length and more than 600 horsepower, engaged in commercial service.
> (iii) A self-propelled vessel that is certificated to carry more than 150 passengers.
> (iv) A self-propelled vessel engaged in dredging operations in or near a commercial channel or shipping fairway in a manner likely to restrict or affect navigation of other vessels.
> (v) A self-propelled vessel engaged in the movement of—
>
> (A) Certain dangerous cargo as defined in subpart C of part 160 of this chapter, or
> (B) Flammable or combustible liquid cargo in bulk that is listed in 46 CFR 30.25–1, Table 30.25–1.

The length and operations of the SURE SHOT made the vessel not applicable to subparagraphs (i)-(v) of regulation 33 CFR 164.46(b). Vessels that operate more than 12 hours in a 24-hour period are likely to encounter vessels that are required to comply with

33 CFR 164.46(b); the requirement to have onboard a Class A AIS. However, those vessels would not be able to identify vessels in the area with a Class B AIS, especially if they are made of wood or fiberglass. To help electronically identify all vessels, day or night regardless of sea state, to minimize the risk of a collision, it is recommended that all vessels that operate more than 12 hours in a 24-hour period be equipped with a Class A AIS.

8.1.2. Safety Recommendation 2: Recommend amending 33 CFR 164.64(b) carriage – (1) AIS Class A device. The amendment should be to add subparagraph *(vii) to include vessels that transit in, across, or operate in the vicinity of a shipping safety fairway or fairway defined in 166.105 of this chapter*. This is because the vessels that operate within the Safety Fairway leaving or entering New York are deep draft vessel that are required to have a Class A AIS. However, those vessels might not be able to identify vessels in the area with a class B AIS, especially if they are made of wood or fiberglass. To help electronically identify all vessels, day or night regardless of sea state, to minimize the risk of a collision, it is recommended that all vessels that transit in, cross, or operate in the vicinity of a Safety Fairway be equipped with a Class A AIS.

8.1.3. Safety Recommendation 3: It is recommended that the National Vessel Documentation Center (NVDC) inform anyone who either requests a new Fishery Endorsement or continues an existing Fishery Endorsement of the requirements listed in 46 USC 4502. Additionally, the vessel owner should be informed to contact their local U.S. Coast Guard Marine Inspections Division to determine if a Commercial Fishing Vessel Safety Examination is required or if one can be voluntarily completed. This could be done by adding an additional paragraph to the Information Accompanying Certificate of Documentation document that NVDC sends to vessel owners with their valid COD. The owner of the SURE SHOT filed for a Certificate of Documentation (COD) IAW 46 CFR 67 since the vessel is over five net tons. The owner paid extra to add or maintain a Fishery Endorsement to the COD so the vessel could be used as a commercial fishing vessel. However, no fishery permits were able to be connected to the owner or the vessel. 46 USC 4502 requires that commercial fishing vessels that operate beyond three nautical miles of the baseline of the U.S. territorial sea receive a safety exam. The exam is required once every five years and applicable to commercial fishing vessels that are built before July 1, 2013, or are 25 years of age or older, or at the fishing vessel owner's request. The SURE SHOT was built in 1991, had a Fishery Endorsement, and fished for tuna past three nautical miles from the baseline and therefore was required to have a dockside Commercial Fishing Vessel Safety Exam. The owner fished for tuna offshore without having received an exam and it is likely the owner did not know there was a requirement for this exam. However, it is the responsibility of a vessel owner to ensure all applicable laws and regulations are being followed while they are underway. It is recommended that the NVDC inform the local Commercial Fishing Vessel Safety Examiners of vessels within their Area of Responsibility that were issued a COD with a Fishery Endorsement. Had the local Commercial Fishing Vessel Safety Examiner known the SURE SHOT had a Fishery Endorsement, the examiner could have worked with the owner to complete a required or voluntary exam. Had the SURE SHOT owner known of the exam requirement by NVDC or by the local Commercial Fishing Vessel Safety Examiner, all equipment could have been verified for validity, serviceability, and for proper knowledge of how to use, test, and maintain the equipment. There was a delay

from when the casualty occurred until the Coast Guard was notified by the activated EPIRB because the passenger and owner thought the EPRIB was activated when it was not. The EPIRB was thought to have been manually activated but did not activate until after the SURE SHOT sank and the EPIRB entered the water which allowed water to activate the EPIRB. If a Commercial Fishing Vessel Safety Exam took place, the owner would have had proper knowledge of how to activate the EPIRB which would have notified the Coast Guard sooner. Reducing the notification time delay could have been the time needed to have recovered both people onboard.

8.2 Administrative Recommendations:

8.2.1. There are Good Samaritans that should be recognized for acts that assisted with this investigation.

8.2.1.1. [redacted] should be recognized for his acts as a Good Samaritan for providing valuable information about the SURE SHOT: safety equipment onboard, electronics onboard, the owner's routines while underway, and location of fishing grounds. [redacted] also identified other contacts that were familiar with the SURE SHOT and its owner.

8.2.1.2. [redacted] should be recognized for his acts as a Good Samaritan for providing valuable information about the SURE SHOT: safety equipment onboard, the owner's routines, engine, fuel system, and electronics onboard. [redacted] also provided contact information for the electronics installer.

8.2.1.3. [redacted] should be recognized for his acts as a Good Samaritan for providing valuable information about the SURE SHOT's on-board electronics. [redacted] installed the Class B AIS unit and was familiar with all the electronics that were present and operational.

8.2.1.4. [redacted] should be recognized for his acts as a Good Samaritan for valuable information about the SURE SHOT: safety equipment onboard, the owner's routines, and electronics onboard.

8.2.1.5. [redacted] should be recognized for his acts as a Good Samaritan for recovering the SURE SHOT's life raft and its contents and turning it into the Coast Guard. Recovering the life raft helped identify the manufacture and contents' validity.

8.3. Recommend this investigation be closed.

[redacted]
U.S. Coast Guard
Investigating Officer