

**Illegal Fireworks Task Force
December 13, 2010**

MINUTES

I. Meeting called to order - 10:01 AM

Members present

Voting members:

Co-Chair Will Espero, Senator, Chair of the Senate Committee on Public Safety and Military Affairs

Co-Chair Faye Hanohano, Representative, Chair of the House Committee on Public Safety

Vic Angoco, representative of the shipping industry

Socrates Bratakos, City and County of Honolulu Fire Department

Chad Cloutier, representative of the fireworks industry

Jerald Farley, representative of the fireworks industry

Velma Fish, Federal Aviation Administration

Ray Galas, appointee of the Senate President

Lynne Goto Uyema, City & County of Honolulu Office of the Prosecuting Attorney

Peter Hanano, County of Maui, Office of the Prosecuting Attorney

Mar Labrador, appointee of the Speaker of the House of Representatives

Jordan Lowe, Bureau of Alcohol, Tobacco, Firearms and Explosives

Danny Matsuura, County of Maui Police Department

Michael Moses, City and County of Honolulu Police Department

Darryl Oliveira, County of Hawaii Fire Department

Darryl Perry, County of Kauai Police Department

Gareth Sakakida, representative of the trucking industry

Davis Yogi, Hawaii Department of Transportation

Non-voting members:

Enriqueta Tanaka, representative of the shipping industry

Dustin Widman, Coast Guard

Members not present

David Chang, appointee of the Governor

David Cheng, U.S. Consumer Product Safety Commission

Amy Cocanour, Coast Guard

Domingo Cravalho, Hawaii Department of Agriculture

Joseph Dietrick, Federal Aviation Administration

Clayton Frank, Hawaii Department of Public Safety

Michelle Kidani, Senator, 17th District

Harry Kubojiri, County of Hawaii Police Department

Bruce Murley, U.S. Customs and Border Protection
Manuel Neves, City and County of Honolulu Fire Department
Duane Okamoto, Hawaii Department of Agriculture
Edward Teixeira, Hawaii Department of Defense
Ty Torco, Bureau of Alcohol, Tobacco, Firearms and Explosives

Others present

Chad Blair, Honolulu Civil Beat; Gerry Asato, City and County of Honolulu Police Department; Stephen Kishida, City and County of Honolulu Fire Department; Chuck Perry, City and County of Honolulu Fire Department; Tricia Nakamatsu and Jon Riki Karamatsu, City & County of the Honolulu Office of the Prosecuting Attorney; Alicia Duffin, House Majority Staff Office; Marlene Uesugi, Office of Senator Will Espero; Kaliko Chun, Office of Representative Faye Hanohano; Sharon Lum Ho, Office of Senator Kalani English; Charlotte Carter-Yamauchi and Terrence Lee, Legislative Reference Bureau; members of the public.

II. General Business

- The minutes from the November 16, 2010, meeting were adopted by the Task Force with amendments

III. Substantive Matters

- A. Presentation by Vic Angoco of Matson Navigation Company, Inc., and Mar Labrador of Horizon Lines, on behalf of the shipping industry¹

Highlights of the presentation:

- Honolulu Harbor volume based on statistics from Fiscal Year 2010²
 - All containers:
 - Foreign: 15,103
 - Domestic 193,915
 - Total: 209, 018
 - Twenty-foot equivalent units, or TEUs
 - Foreign: 23,925
 - Domestic: 374,696
 - Total: 398,621
 - 7% of containers are foreign
 - Approximately 70,000 containers (one-third) are destined for the Neighbor Islands

¹ Copies of the materials from all presentations at this meeting are available on the Capitol website at <http://www.capitol.hawaii.gov/>.

² Statistics are from the Department of Transportation, Harbors Division.

- Overview of the shipping process
 - "Hub and spoke model" in which shipments first arrive at Honolulu and are then barged out to the following destinations:
 - Nawiliwili, Kauai
 - Kahului, Maui
 - Kawaihae, Big Island
 - Hilo, Big Island
 - Tight time connections to Neighbor Islands
 - Delivery of cargo to Neighbor Islands can begin less than a day after the cargo arrives in Honolulu from the mainland (16-19 hours)
 - Cargo declaration includes the following paperwork:
 - Booking documents
 - Cargo manifest
 - Hazardous declaration pursuant to federal law
- Current shipping inspections
 - The Adherence Group (TAG) is hired by carriers as a third-party inspector to ensure that cargo complies with shipping tariffs -- freight rates charged according to the nature and quantity of the cargo
 - In Hawaii since 1992
 - Hired by carriers on their own initiative and not pursuant to any state requirement; part of the industry's own checks and balances
 - Authority to inspect shipping containers flow from shipping agreements
 - Containers are randomly selected for inspection
 - Checks for cargo misdescriptions
 - If misdescriptions are discovered, the shipment is re-rated and a penalty applied (may be just the difference owed)
 - Flagged customers may be subjected to subsequent inspections
 - Different levels of inspection
 - Paperwork evaluation: Strictly a check of documents such as the bill of lading and cargo manifest
 - Back door inspections: Shipping containers are opened and visually checked as to whether the contents match descriptions
 - Stripping: Container leaves terminal for off-site unloading. Only involves looking at the packages in the container without opening the packages
 - TAG inspectors do not have the expertise to distinguish between legal and illegal fireworks. However, when

undeclared fireworks are found, the Fire Department is notified

- Department of Agriculture has authority to inspect for pests (§150A-5(5), Hawaii Revised Statutes)
- U.S. Customs and Border Protection inspects foreign shipments
- U.S. Coast Guard has authority to inspect shipments, including dangerous cargo
- Notification to Fire Department of incoming fireworks shipments
 - Currently required of importers or consignees under §132D-8.6, Hawaii Revised Statutes
 - Shipping companies will be required to provide this notification effective 01/02/11 pursuant to Honolulu City Council Bill 34 (2010). However, carriers are already doing this voluntarily
- Who ships to Hawaii
 - Retailers
 - Distribution centers
 - Manufacturers
 - Suppliers (established businesses)
 - Wholesalers
 - Suppliers (established businesses)
 - Businesses
 - Construction companies
 - Full-load customers
 - Freight forwarders
 - Businesses
 - Public
 - Public
 - Automobiles
 - Military
- Challenges of inspecting all domestic containers
 - Increased inspections may impair the efficient flow of commerce
 - As inspections increase, so do inefficiencies in commerce, which leads to higher costs
 - Time-consuming inspection processes may delay tight turnarounds for barging shipments to Neighbor Islands and other business schedules
 - Need to balance safety against commerce to ensure imports to Hawaii are not unnecessarily restricted or that consumer costs are needlessly driven up
 - Major retailers are highly reliant on just-in-time delivery of goods and immediate unloading and shelving of goods

- Big-box retailers typically do not have warehouses to store goods prior to shelving, hence shipments go straight to their stores and they are highly dependent on quick restocking of shelves and inventory
 - Some businesses would probably not have established operations in Hawaii without the current on-time delivery of goods and critical logistical supply chain
 - To illustrate how inefficiencies in the delivery of goods can be costly, a 2007 study estimated that failure to make \$600 million in harbor upgrades would result in losses of \$50 billion by 2030 due to inefficiencies
 - Increasing the number of shipping containers stripped will result in delays from having to unpack and re-pack containers. Re-packing containers can be difficult because the original packers of a container, such as freight forwarders, tend to be more adept than inspectors in packing containers to their fullest. Also, packages may break from being handled during stripping
- Congested terminal facilities
 - Lack of available space may make inspections difficult
 - Truck traffic may get in the way of inspections
 - No on-terminal facility for unloading containers
- Questions regarding the effectiveness of container inspections in finding fireworks
 - The sheer volume of packages makes inspections of all incoming cargo akin to looking for a needle in a haystack
 - There is also a lack of technology to find fireworks during inspections
- Costs
 - It costs \$1,000 to strip each shipping container. Hence, stripping as few as 5% of all containers would be expensive
 - Need to ensure that any new inspection procedures actually work before investing in implementation and risking delays in the delivery of consumer goods and increasing costs
- Recommendations
 - Increase funding for enforcement
 - Many fireworks violations involve the illegal use or diversion of fireworks brought in legally. More inspections will not help this
 - Increase severity of penalties
 - Public outreach and education

- Provides an alternative to shipping container inspections by focusing on preempting violations through greater awareness of requirements, prohibitions, and penalties
 - Could draw from the Federal Aviation Administration's success in providing public notice of requirements and penalties as a means of deterring violations
 - Further study the effectiveness and related costs of container inspections
 - It is unfair to make comparisons to other forms of inspections that have been successful (TAG, agricultural, and Customs and Border Protection) because inspections for fireworks are different
 - TAG inspections only look for misdescriptions of cargo by looking at packages without opening them, whereas fireworks inspections would probably involve a more thorough search to be effective
 - Similarly, agricultural inspectors are looking for pests, which are easier to find than fireworks that are purposely being disguised
 - Based on the foregoing concerns, an aggressive shipping container inspection program for fireworks would probably not be feasible
 - However, shipping carriers are open to any further studies that may refute the industry's position that increased inspections are problematic

B. Other Issues Discussed

1. Targeting inspections

- Inspection is a formidable task. It was estimated that only a small percentage of the 200,000 shipping containers that arrive in Hawaii each year would likely have illegal fireworks
- After September 11, 2001, everyone wanted to inspect everything that came into the State, but in time people realized that it is just not practical. There are simply too many containers to inspect all of them
- Possible alternatives to inspections include radiation detectors and use of data to pinpoint where the risky loads are and target them for selective screening
 - Data is analyzed to determine whether shipments are risky. Intelligence can be used to pare down the number of packages to inspect

- This method seems more efficient than attempting to inspect everything
- Shipping container inspection programs may be more manageable if established businesses and military shipments are excluded, focusing instead on suspect containers and shippers
- Inspections could be conducted after recipients pick up their shipments from the harbor to avoid congestion at the ports
 - Doing random inspections at freight forwarder locations after they pick up, open, and unload containers would help avert inefficiencies at the ports
 - Dogs could be run through packages at that point
 - Dogs for inspections are very expensive. They require a full-time officer to handle them. Cost \$70,000 to \$80,000 per year, for each dog
 - The effectiveness of a dog depends, in large part, on the handler. If there are too many false hits, the dog would need to be replaced due to credibility. However, this would still be more effective than having inspectors walking around looking at boxes
 - Similar to the "airport model" in which inspections are conducted at the final destination (baggage claim)
- Dog inspections could alternatively be conducted at the originating end of shipments
 - However, this would be logistically difficult because there is a short time window for consolidating containers and loading them onto ships. This would still result in delays and inefficiencies
 - It would also be difficult because shipments originate from all over the country

2. Cooperation and coordination between stakeholders

- If a shipping party or container gets flagged for further review, authorities are informed. This kind of cooperation from the shipping industry helps agencies identify risks based on actual leads
- If freight forwarders are to be targeted for inspections, as suggested, they should be included in the discussion to ensure that everyone is on the same wavelength about any new inspection requirements. This will increase compliance, cooperation, and awareness, thereby preempting violations
- Need to ensure cooperation and coordination with prosecuting agencies to ensure that they would be willing to pursue cases arising from any new inspection programs

E. Task Force Matters

- The Task Force members were requested to review the minutes from past meetings and present recommendations for inclusion in the Task Force Report. Some possible recommendations noted include:
 - Providing a clear statement of what constitutes illegal fireworks
 - Providing more resources for enforcement
 - Establishing civil fines
 - Authorizing inspections by the Department of Transportation
 - Examining the roles of prosecutors and the courts
 - Increasing education and outreach
- A meeting with freight forwarders may be arranged for sometime in December
- The possibility of continuing the Task Force in 2011 was raised
- The next Task Force meeting is scheduled for January 11, 2011, at which:
 - The voting powers of Task Force members will be clarified; and
 - The Task Force will vote on recommendations for its report to the Legislature

IV. Public Comments

There were no comments or questions from members of the public present at the meeting.

V. Adjournment - The meeting was adjourned at 11:40 a.m.