United States of America
Office of Personnel Management
Washington, D.C. 20415

In Reply Refer To

FEB 24 1981

Your Reference

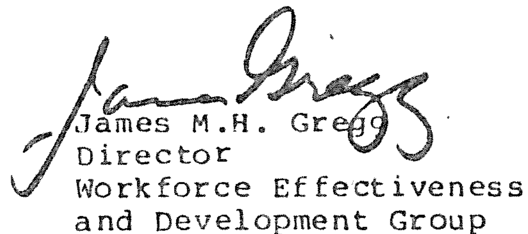
Ms. Dorothy M. Meletzke
Acting Special Assistant for
Civilian Personnel and Equal
Employment Opportunity
Department of the Navy
Office of the Secretary
Washington, D.C. 20350

Dear Ms. Meletzke:

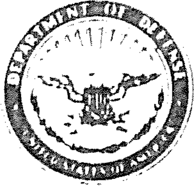
This responds to your letter of January 27, 1981, requesting exclusion of the Military Sealift Command (Mariner) positions from coverage of 5 U.S.C. Chapter 43.

Based on the information provided in your letter and in accordance with 5 U.S.C. 4301(2)(G), the Military Sealift Command (Mariner) positions are excluded from the performance appraisal requirements of 5 U.S.C. Chapter 43.

Sincerely,



James M.H. Gregg
Director
Workforce Effectiveness
and Development Group



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON D. C. 20350

27 JAN 1981

Mr. James M. H. Gregg
Associate Director
Office of Productivity Policy Analysis
Workforce Effectiveness and Development Group
Office of Personnel Management
1900 E Street, N. W.
Washington, D. C. 20415

Dear Mr. Gregg:

In compliance with 5 U.S.C. 4302, the Department of the Navy developed the Basic Performance Appraisal Program to cover civilian employees in General Schedule grades GS-1 through GS-12, and all Federal Wage System employees. This program was approved for Navy-wide application on October 8, 1980.

Under the provisions of 5 U.S.C. 4301, the Office of Personnel Management may exempt employees in the excepted service from the performance appraisal requirements of the Civil Service Reform Act (CSRA). Accordingly, we are submitting for your consideration a request from the Military Sealift Command (MSC) to exempt their excepted service mariner employees from the Department of the Navy Basic Performance Appraisal Program.

By law, the employment conditions of the MSC mariner employees closely follow those for mariners in the private sector. Under these conditions, the envisioned benefits from linking CSRA performance appraisal systems to compensation, promotions, and other personnel functions would not be realized. To require MSC to conform to the CSRA performance appraisal requirements would result in an additional administrative burden, place MSC at a distinct disadvantage relative to the private sector, and produce no tangible benefits. Therefore, we strongly endorse the MSC request.

Should your staff have any questions concerning this matter, please call Jim Boykin on 694-4862/3.

Sincerely,

M. MELETZKE
...istant for
... Equal

Encl:
(1) MSC ltr of 13 JAN 1981

Copy to: w/o encl.
→ COMSC

4-5

Ser 540M22
13 JAN 1981

To: Chief of Naval Operational (OP-14)

Subj: Performance Appraisal System Exemption for MSC Mariners

Ref: (a) COMSC ltr Ser 306M22 of 7 August 1980

Encl: (1) Sequence of Supervisor-Subordinate Rotations
(2) House of Representatives Report No. 608, 85th Congress
(3) Hearing Transcript

1. Reference (a) indicated that the Military Sealift Command (MSC) would request an exception for civil service mariners from the performance appraisal requirements of the Civil Service Reform Act (CSRA). Under 5 USC 4301, the Office of Personnel Management may exempt categories of employees in the excepted service upon a showing that an exemption is in the interest of sound administration. The following analysis provides the basis for this request. Your assistance in excluding the mariners from the provisions of 5 USC is appreciated.

2. MSC employs approximately 4,000 civil service mariners who are appointed under schedule A 213.3108 (d) (1). They operate ocean going vessels engaged primarily in Naval Fleet support (such as underway replenishment ships, cable-laying ships, stores ships etc.) and in scientific support activities (such as oceanographic research ships, undersea surveillance ships, surveying ships, etc). They also crew specialized cargo ships such as roll-on/roll-off vessels. These ships are completely civil service manned; marine employees are assigned to traditional merchant marine positions with pay set pursuant to 5 U.S.C. 5348. The unique nature of civil service marine employment is antithetical to the requirements for an effective performance appraisal system, and the application of such a system to MSC mariners would necessitate voluminous paperwork with little or no productive value.

3. Historically, the Department of the Navy, the Office of Personnel Management, and the Congress have recognized the unique employment conditions of MSC mariners. Mariners are exempt from many civil service rules and regulations in the areas of staffing and employment, classification and compensation, and labor-management relations. Of particular interest is the exclusion of MSC civil service mariners from the Performance Rating Act of 1950. In early 1951, the applicability and usefulness of the Performance Rating Act requirements to civilian marinerspositions was questioned by MSTS (predecessor of MSC). Consequently the Navy excluded mariners from its performance rating plan and the Civil Service Commission deferred application of the law to mariners while the matter was studied. MSTS and the Navy Office of Industrial Relations worked for five years to develop a viable performance rating plan for mariners. Studies were conducted of industry practices and several different attempts at a workable procedure were made. All efforts failed to develop practicable or worthwhile applications of the Act to mariner positions and in 1955, MSTS initiated action for legislation to exempt civilian mariners from the Performance Rating Act

of 1950. As Mr. Charles Denney, CSC representitive, stated in his testimony in support of the exclusion,"...the (MSTS and Navy) have been working since that time in trying to devise an acceptable plan and have ultimately come out with the conclusion which we are inclined to share: that the best answer is exclusion from the Act". Public Law 85-101 (enacted in 1957) amended the Performance Rating Act to exclude civilian officers and crews of vessels operated by the Navy. The Secretary of the Navy and the Civil Service Commission strongly supported this exclusion. The Report of the House Committee on Post Office and Civil Service recommending passage of the bill, records the Congressional reasons for determining that sound administration would best be served by the exclusion. The Committee concluded that the frequency of crew changes aboard MSC ships precluded mariners from serving under one supervisor for a period sufficient to permit valid evaluation. The House Committee further concluded that exclusion of mariners would result in substantial monetary and manpower savings "due to the elimination of excessive paperwork involved in rating these employees under the Performance Rating Act of 1950".

4. The factors which led Congress to exclude MSC mariners from the Performance Rating Act of 1950 are even more relevant to the appraisal requirements of CSRA. The performance appraisal provisions of CSRA stemmed from Congressional dissatisfaction with summary adjective ratings as a means of evaluating performance and linking performance to rewards, pay, continued employment decisions. Performance standards, critical elements, and periodic evaluations of progress are all required by CSRA. In establishing these requirements, the framers envisioned a traditional, stable supervisor-employee relationship in which a continuing dialogue about performance is possible. This environment did not exist aboard MSC ships in 1957 and does not exist today.

5. Operational considerations preclude the continuity of supervisor-subordinate relationships which are conducive to, if not imperative for, a viable performance appraisal system. Two factors prevent the necessary continuity. First, marine employees and their supervisors frequently rotate among the ships. Shipboard assignments are changed for a number of reasons, primarily leave, promotion, illness and discipline. Upon return to sea duty, employees are usually assigned to a different ship. Also ships' complements are reduced during any period of relative inactivity (such as during overhauls) and the crewmen assigned to other ships. A recent survey showed that, from 1 August 1979 through 31 July 1980, the average marine supervisor served on 2.54 different ships and the average non-supervisor on 2.06 ships. Secondly, the constructive work year is shortened considerably for mariners by non-productive time. On the average, a mariner spends 101 days (28% of the calendar year) in non-shipboard assignments such as training, leave, travel, etc. Taken together, these two factors mean that the average mariner would receive four separate appraisals, only one of which would cover a period of at least 90 days. Enclosure (1) depicts the sequence of supervisor-subordinate rotations assuming the 101 day lost-time period is continuous, which it frequently is not.

6. A third factor compounds the discontinuity. Although each of the mariner's ship assignments may be to the same position type, the duties will not have exactly the same requirements. For example, a dual license engineer may work on both steam and on diesel plants during a year. An entry rating employee may be assigned to the engine room on one ship, the steward's department on the next, and the deck detail on the third. An able-bodied seaman may work on the rig team on an UNREP oiler and then serve on the bridge watch of a tug.

7. In such a situation a single, annual evaluation would be meaningless. It would, of course, be theoretically possible for each supervisor to complete an appraisal on the mariner. With the exception of one time frame, the evaluation periods for the average mariner would be too short for any substantive appraisal. Given the mobility of the mariners, it is not practical to assume that supervisors will consult previous supervisors on appraisals. To further complicate any total evaluation of a mariner, appraisals would not even address identical duties. The validity of an appraisal under these circumstances as a basis for employment decisions would be dubious at best. But could the appraisal, valid or not, be applied to employment decisions on a mariner as intended by CSRA? No, according to then Secretary of the Navy Charles Thomas, who wrote the following in his letter of 15 February 1957 to the Speaker of the House in support of PL 858101:

> The conditions of employment of marine personnel are such that the regular uses of performance ratings cannot be made. For example, the pay system for marine employees established in accordance with the prevailing practices of the marine industry pursuant to section 202 (8) of the Classification Act of 1949, as amended, does not provide for periodic pay increases. Therefore, performance ratings are not useable in determining eligibility for such increases. With regard to promotions, employment procedures are such that few promotions are made in the conventional s sense. More often than not assignments to more responsible jobs are made when a crew is being signed on at the beginning of a voyage. As a matter of maritime regulation eligibility for employment aboard a ship or for assignment to more responsible duties requires basic qualifying documents, certificates or lecenses issued by the Coast Guard. Performance ratings are not a significant consideration in the promotions procedure.

These employment practices are still in effect today and would effectively prevent any linking of performance to pay rate and even to assignments. It should be noted that assignments are made based on U.S. Coast Guard certification of qualification. This certification is based on actual sea service in various classes of ships and on test result.

8. A prime objective of CSRA was to simplify the process of dealing with employees whose performance is unacceptable. To this end, special adverse action procedures are available under 5 USC 4303 for adverse actions based on performance. Ignoring the questionable validity of appraisals of mariners, this process would be almost impossible to use with the mobile marine work-

force. Supervisors and subordinates do not remain together long enough for an employee to have reasonable time to demonstrate acceptable performance. It is this fact that lead the Civil Service Comission to support PL 95-101. Mr. Charles V. Launay of CSC, in his testimony before the Committee on Post Office and Civil Service, stated:

> As to the situation, we are altogether persuaded as to the impracticality of applying the conditions set by the act generally to this situation. The reasons are largely those that Adm. Gano has presented:... a kind of employment situation which results in short assignments which make at least 2 of the conditions we have set impossible, 1 being 90-day warning which is wholly out of the question; the other is the Civil Service Commission requirement that performance be rated only where there is at least 90 days of service in a given assignment.

While CSRA has no 90-day requirement, it is evident that the periods available for the average mariner would not be considered reasonable time to improve. At any rate, MSC could not afford to have incompetent mariners manning the vessels when lives depend on the ability of each employee to do his job.

9. Adverse actions against mariners are primarily for misconduct. In the absence of a performance appraisal system, performance related actions can be processed under 5 USC 7511. (As a result of MSPB's decision in Wells vs Harris, most federal agencies have utilized this procedure during the past year). In performance related adverse actions, MSC mariners would be entitled to the procedural safeguards established by 5 USC 7511 as well as those contained in the MSC's Civilian Marine Personnel Instruction (CMPI) 750. Under 5 USC 7511, Preference eligible employees may appeal a removal action to the Merit Systems Protection Board. Non-veteran mariners (who have no appeal rights to MSCPB under either 5 USC 4303) may appeal under CMPI 750 to the Commander of the Military Sealift Command (COMSC). The Commander renders a decision based upon the written report and recommendations of a three person MSC Marine Employee Appeals Committee. If an employee is disatisfied with the COMSC's decision, he or she may appeal to the Department of the Navy's Employee Appeal's Review Board.

10. In reviewing the employment practices of the other federal agencies which employ civilian mariners, it was noted that both the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Army Corps of Engineers have established adjective performance appraisal systems for their marine employees. The working conditions of these agencies, however, are vastly different from those of MSC. Vessel officers and crews of these agencies are assigned to the same ship year after year and seldom rotate. Voyages of these ships are generally restricted to coastal waters and the ships are out of port for only a few days at a time. These stable working conditions permit a performance appraisal plan. Unfortunately, these are not the working conditions aboard MSC vessels, which sail on worldwide voyages and require frequent crew rotations.

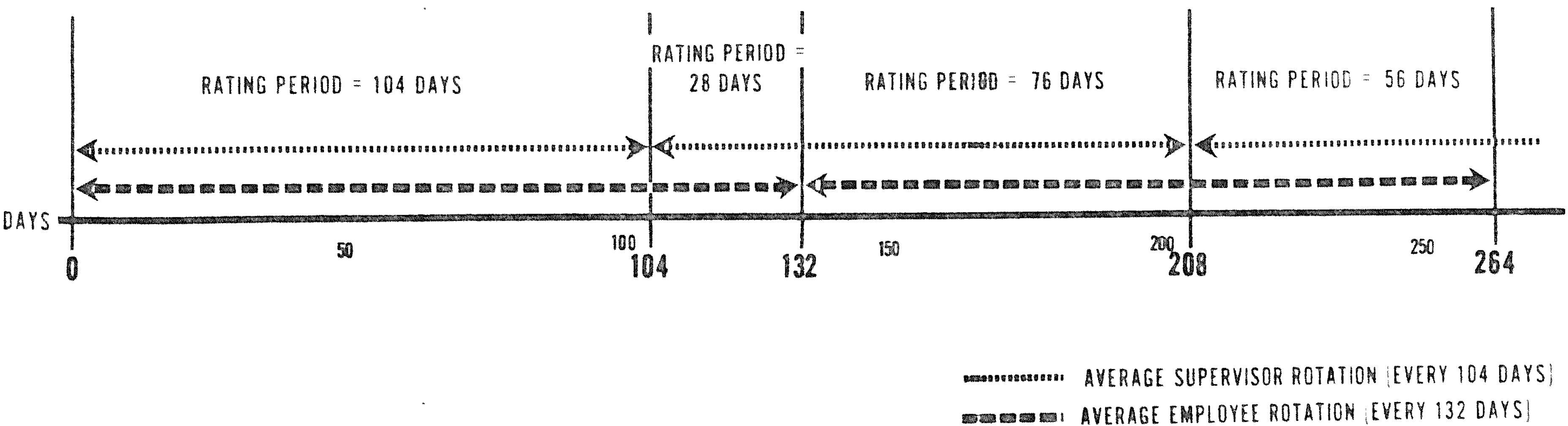
11. In summary, application of a performance appraisal system to MSC, mariners would result in considerable paperwork (approximately 16,000 appraisals annually for a work force of 4,000) of questionable value with limited relation to employment decisions. This additional administrative burden (not imposed in the private maritime industry) would further widen the gap (particularly acute in the areas of leave and pay) between working conditions for senior officers in MSC and their counterparts in private industry. Due to the maximum pay limitation imposed by 5 U.S.C. 5363, the gap between the base pay of MSC's Masters and Chief Engineers and those in private industry is approximately 40%. In addition, mariners in the private sector earn 6 months of leave per year which is substantially greater than the leave annually accured by MSC mariners. The additional procedural and paperwork requirements of a performance appraisal system could severely hamper MSC's efforts to recruit and retain top quality officers.

12. I strongly recommend that Navy request an exclusion from OPM. Mrs. Michelle Lewis, 282-2870, or Mr. Matthew Raphael, 282-2882, are available to assist with the request. [illegible] provided as additional background material.

B. KEELER, III

ORIG: MATTHEW RAPHAEL, M22, X22882, Rm.450
MICHELLE LEWIS, M2, X22870, Rm.450
TYPD: S. GARDNER & M. FOX January 8 1981
No RS NO.

SEQUENCE OF SUPERVISOR-SUBORDINATE ROTATIONS



85TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT No. 608

AMENDING SECTION 2 (b) OF THE PERFORMANCE RATING ACT OF 1950

JUNE 24, 1957.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany S. 1412]

The Committee on Post Office and Civil Service, to whom was referred the bill (S. 1412) to amend section 2 (b) of the Performance Rating Act of 1950, as amended, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

STATEMENT

The purpose of this bill is to exempt about 10,000 civilian officers and members of crews of vessels operated by the Department of the Army and the Department of the Navy from the provisions of the Performance Rating Act of 1950.

Hearings which were conducted by the committee developed testimony showing the administrative hardships in connection with administering the Performance Rating Act for these civilian officers and members of crews of vessels operated by the Department of Defense. Rear Adm. Roy A. Gano, United States Navy, Deputy Commander, Military Sea Transportation Service, who represented the Department of Defense, testified that the frequent shifts of the personnel covered by the bill, as well as the difficulty of complying with the 90-day legal warning requirement for unsatisfactory ratings and the cost involved, prompted the Department of Defense to recommend enactment of this legislation.

It was pointed out that an average voyage of 1 of the vessels manned by these civilian officers and crew members lasts from 15 to 45 days. A crew change generally occurs at the end of each voyage. Further, it was shown that crew changes resulted in these employees serving on four or more ships with as many different supervisors during each

ENCLOSURE 12

four performance ratings a year for each employee, and there is a question as to the validity of such performance ratings.

The Perf[illegible]ce Rating Act of 1950 now provides exemptions for 12 groups o[illegible]ployees. The additional exemption provided in this bill is consistent with the policy of Congress in providing the other exemptions in cases where it is not practicable to apply the Performance Rating Act.

Admiral Gano stated in his testimony that he believed it would be more efficient and economical, as well as prevent endangering the lives of personnel and property aboard Military Sea Transport Service vessels, if the Department of Defense were to be permitted to handle disciplinary action and set up an employees' rating system outside the provisions of the Performance Rating Act of 1950.

The legislation is endorsed by the Civil Service Commission with the approval of the Bureau of the Budget. It is estimated that the enactment of the legislation will result in annual savings of almost $75,000 due to the elimination of the excessive paperwork involved in rating these employees under the Performance Rating Act of 1950.

The committee believes that the enactment of this legislation, which was passed by the Senate on April 12, 1957, is desirable. Following are reports received by the committee, including a letter from the Secretary of the Navy to the Speaker of the House of Representatives, dated February 15, 1957, and the favorable report of the Civil Service Commission to the chairman, Post Office and Civil Service Committee of the House of Representatives, dated March 19, 1957:

Department of the Navy,
Office of the Secretary,
Washington 25, D. C., February 15, 1957.

Hon. Sam Rayburn,
Speaker of the House of Representatives,
Washington 25, D. C.

My Dear Mr. Speaker: There is enclosed herewith a draft of proposed legislation to amend section 2 (b) of the Performance Rating Act of 1950, as amended.

This proposal is a part of the Department of Defense legislative program for 1957, and it has been approved by the Bureau of the Budget. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to exempt the marine employees of the Department of Defense from the Performance Rating Act of 1950. These marine employees are employed aboard ships operated by the Department of Defense and do not serve in the same position for a sufficient period of time under the same supervisor with job and rating factors so constant as to afford a proper basis for evaluation. The average length of a voyage of Department of Defense ships is from 15 to 45 days, and it is characteristic of this type of employment that there is a large turnover of personnel. As an instance of this, during September 1954 there were a total of 15,497 crew changes in 4 continental subordinate commands, although a total of 12,241 civilian marine employees were employed during this period. Th[illegible]umber of changes is not excessive for this type of employment [illegible]n fact characteristic of the maritime industry. Under such cir[illegible]stances the time spent under 1 supervisor is of very short duration and, consequently, it is necessary to prepare at least 4 ratings per year in order to have a rating for each voyage. It will further be necessary to evaluate these ratings yearly on the basis of all voyages during the year.

The justification for the time and effort required for the administration of an effective performance rating plan lies in the utilization of these ratings. The conditions of employment of marine personnel are such that the regular uses of performance ratings cannot be made. For example, the pay system for marine employees established in accordance with the prevailing practices of the marine industry pursuant to section 202 (8) of the Classification Act of 1949, as amended, does not provide for periodic pay increases. Therefore, performance ratings are not usable in determining eligibility for such increa[illegible]. With regard to promotions, employment procedures are such th[illegible] few promotions are made in the conventional sense. More often th[illegible] not assignments to more responsible jobs are made when a crew is being signed on at the beginning of a voyage. As a matter of maritime regulation eligibility for employment aboard a ship or for assignment to more responsible duties requires basic qualifying documents, certificates or licenses issued by the Coast Guard. Performance ratings are not a significant consideration in the promotions procedure.

Since performance ratings for marine employees are of questionable validity, and since there is little opportunity in most instances to take advantage of the usual benefits of performance appraisals, the cost of maintaining a performance rating plan for marine employees as contemplated by the Performance Rating Act of 1950 does not appear to be justified.

The proposed amendment deals only with the marine employees of the Department of the Army and the Department of the Navy. The Department of the Air Force, while it does not operate any ocean-going cargo or passenger vessels, does operate crash boats. In order that there be no confusion as to whether the employees serving on crash boats are within the purview of this amendment, the Department of the Air Force is not included in the draft bill.

COST AND BUDGET DATA

No additional cost will be incurred if the subject proposal is enacted. However, if the subject proposal is not enacted, the Department of Defense shall have to implement the performance rating program at an estimated annual administrative cost of $74,400. This cost is based on an estimated annual civilian marine employment of 10,000 and the preparation of four performance ratings per year for each. This annual cost does not include initial cost for training, instructions, printing of forms, processing appeals and review, which costs are too intangible to estimate but would be incurred by the Department of Defense.

Sincerely yours,

Charles S. Thomas.

Enclosure.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., March 19, 1957.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
United States House of Representatives,
Washington, D. C.

DEAR MR. MURRAY: This is in reply to a telephone call from a member of your staff requesting a report on H. R. 5392, a bill to amend section 2 (b) of the Performance Rating Act of 1950, as amended.

Prior to the transmittal to Congress of draft legislation on this subject, the Bureau of the Budget asked the Commission for a report on a proposal, the language of which was identical to the language of H. R. 5392.

The Commission in its report to the Bureau of the Budget dated December 12, 1956, stated:

"The bill would exempt from the Performance Rating Act of 1950 an estimated 10,000 civilian officers and members of crews of vessels operated by the Department of the Army and the Department of the Navy.

"Marine employees of the Department of Defense serve in a unique employment situation. An extremely high turnover rate and frequent changes of positions and supervisors characterize this type of employment in the Department of Defense. An average voyage of a Department of Defense ship lasts from 15 to 45 days. A crew change generally occurs at the end of each voyage. To illustrate the effect of this kind of operation, the Department of Defense points out that during September 1954, there were 15,497 crew changes reported in 4 commands although only 12,241 civilian marine employees were employed during this period.

"Under circumstances such as these a marine employee generally serves on 4 or more ships with as many different supervisors during the year; in order to have a rating for each voyage it would be necessary to prepare at least 4 ratings a year. Annual performance ratings then would be based on an evaluation of the ratings for each voyage.

"Aside from the practical administrative difficulties involved in rating marine employees under the Performance Rating Act, the requirements of the act are inappropriate for their employment conditions. To cite just one example, the act states that 'no officer or employee shall be rated unsatisfactory without a ninety-day prior warning and a reasonable opportunity to demonstrate satisfactory performance.' Among other things, the warning notice of unsatisfactory performance should state what the employee must do to bring his performance up to a satisfactory level within the 90-day period. Since most marine employees do not serve in a position or under any 1 supervisor for as long as 90 days it often would be impossible to demonstrate satisfactory performance in the job occupied when the warning notice was received.

"The Commission does not object to the draft bill exempting marine employees of the Department of the Army and the Department of the Navy from the Performance Rating Act of 1950."

Sincerely yours,

F. J. LAWTON, *Commissioner.*

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the Hou[illegible] of Representatives, changes in existing law made by the bill, as pass[illegible] by the Senate, are shown as follows (existing law proposed to [illegible] omitted is enclosed in black brackets, new matter is printed in ita[illegible] existing law in which no change is proposed is shown in roman):

PERFORMANCE RATING ACT OF 1950

(64 Stat. 1098, 68 Stat. 1115; 5 U. S. C. 2001)

SEC. 2. (a) * * *

(b) This Act shall not apply to—

(1) the Tennessee Valley Authority;

(2) the field service of the Post Office Department;

(3) physicians, dentists, nurses, and other employees in t[illegible] Department of Medicine and Surgery in the Veteran[illegible] Ad[illegible]istration whose compensation is fixed under Public Law 2[illegible] Seventy-ninth Congress, approved January 3, 1946;

(4) the Foreign Service of the United States under the Depa[illegible]ment of State;

(5) production credit corporations;

(6) Federal intermediate credit banks;

(7) Federal land banks;

(8) banks for cooperatives;

(9) officers and employees of the municipal government of t[illegible] District of Columbia whose compensation is not fixed by t[illegible] Classification Act of 1949 (Public Law 429, Eighty-first Congr[illegible] approved October 28, 1949);

(10) the Atomic Energy Commission;

(11) employees outside the continental limits of the Uni[illegible] States who are paid in accordance with local native prevaili[illegible] wage rates for the area in which employed;

(12) the Central Intelligence [Agency] *Agency;*

(13) civilian officers and members of crews of vessels operated [illegible] the Department of the Army and the Department of the Na[illegible]

AMENDING THE PERFORMANCE RATING ACT OF 1950

HEARING

BEFORE THE

COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH CONGRESS

FIRST SESSION

ON

H. R. 5392 and S. 1412

BILLS TO AMEND SECTION 2 (b) OF THE PERFORMANCE RATING ACT OF 1950, AS AMENDED

JUNE 18, 1957

Printed for the use of the Committee on Post Office and Civil Service

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1957

RETURN TO: M-22

ENCLOSURE 13

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

TOM MURRAY, Tennessee, *Chairman*

ES H. MORRISON, Louisiana	EDWARD H. REES, Kansas
ES C. DAVIS, Georgia	ROBERT J. CORBETT, Pennsylvania
N LESINSKI, Michigan	H. R. GROSS, Iowa
ARD J. ROBESON, Jr., Virginia	CECIL M. HARDEN, Indiana
CIE PFOST, Idaho	ALBERT W. CRETELLA, Connecticut
T HOLIFIELD, California	JOEL T. BROYHILL, Virginia
HRYN E. GRANAHAN, Pennsylvania	ELFORD A. CEDERBERG, Michigan
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RLES O. PORTER, Oregon	STUYVESANT WAINWRIGHT, New York
RED E. SANTANGELO, New York	GLENN CUNNINGHAM, Nebraska
N YOUNG, Texas	DAVID S. DENNISON, Jr., Ohio
ERT W. HEMPHILL, South Carolina	
PH J. SCOTT, North Carolina	

SUBCOMMITTEE APPOINTED TO CONSIDER H. R. 5392 AND S. 1412

JOHN YOUNG, Texas, *Chairman*

ERT W. HEMPHILL, South Carolina	GLENN CUNNINGHAM, Nebraska
PH J. SCOTT, North Carolina	DAVID S. DENNISON, Jr., Ohio

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Denney, Charles V., Jr., representing the Civil Service Commission ... 8

AMENDING THE PERFORMANCE RATING ACT OF 1950

TUESDAY, JUNE 18, 1957

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D. C.

The subcommittee met at 9:30 a. m., pursuant to call, in room 213, Old House Office Building, Hon. John Young presiding.

Mr. YOUNG. The subcommittee will come to order.

This morning this subcommittee, composed of Mr. Hemphill, Mr. Scott, Mr. Cunningham, Mr. Dennison, and myself as chairman, has under consideration H. R. 5392 and S. 1412, which was approved by the Senate on April 12, 1957, after having been reported favorably by the Senate Post Office and Civil Service Committee. The purpose of the bills is to exempt certain marine civilian employees of the Department of the Army and the Department of the Navy from the provisions of the Performance Rating Act of 1950.

The Department of the Navy, representing the Defense Establishment, has requested the enactment of this legislation by reason of administrative difficulties in connection with administering the Performance Rating Act for an estimated 10,000 civilian officers and members of crews of vessels operated by the Department of the Army and the Department of the Navy. We are happy to have present as witnesses this morning Rear Adm. Roy A. Gano, USN, Deputy Commander, Military Sea Transportation Service, representing the Department of Defense, and Mr. Charles V. Denney, Jr., representing the Civil Service Commission, who will testify.

Without objection, the bills, H. R. 5392 and S. 1412, as well as the letter from the Secretary of the Navy to the Speaker of the House of Representatives, dated February 15, 1957, and the favorable report from the Civil Service Commission to the House Committee on Post Office and Civil Service, dated March 19, 1957, will be printed at the beginning of the hearing.

Is there objection to entering these? There being none, it is so ordered.

(The information follows:)

[H. R. 5392, 85th Cong., 1st sess.]

A BILL To amend section 2 (b) of the Performance Rating Act [illegible]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 (b) of the Performance Rating Act of 1950, as amended (5 U. S. C. 2001), is further amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"(13) Civilian officers and members of crews of vessels operated by the Department of the Army and the Department of the Navy."

[S. 1412, 85th Cong., 1st sess.]

AN ACT To amend section 2 (b) of the Performance Rating Act of 1950, as amended

it enacted by the Senate and House of Representatives of the United States of ca in Congress assembled, That section 2 (b) of the Performance Rating Act 0, as amended (5 U. S. C. 2001), is further amended by striking out the at the end thereof and inserting in lieu thereof a semicolon and the following: 3) Civilian officers and members of crews of vessels operated by the Department of the Army and the Department of the Navy."
ssed the Senate April 12, 1957.
st:

FELTON M. JOHNSTON, *Secretary.*

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D. C., February 15, 1957.

PEAKER OF THE HOUSE OF REPRESENTATIVES.

DEAR MR. SPEAKER: There is enclosed herewith a draft of proposed legis- to amend section 2 (b) of the Performance Rating Act of 1950, as amended. proposal is a part of the Department of Defense legislative program for and it has been approved by the Bureau of the Budget. The Department Navy has been designated as the representative of the Department of se for this legislation. It is recommended that this proposal be enacted Congress.

PURPOSE OF THE LEGISLATION

purpose of this legislation is to exempt the marine employees of the Depart- of Defense from the Performance Rating Act of 1950. These marine em- s are employed aboard ships operated by the Department of Defense and serve in the same position for a sufficient period of time under the same isor with job and rating factors so constant as to afford a proper basis for tion. The average length of a voyage of Department of Defense ships is 5 to 45 days, and it is characteristic of this type of employment that there ge turnover of personnel. As an instance of this, during September 1954 ere a total of 15,497 crew changes in 4 continental subordinate commands, th a total of 12,241 civilian marine employees were employed during this

This number of changes is not excessive for this type of employment n fact characteristic of the maritime industry. Under such circumstances ie spent under 1 supervisor is of very short duration and, consequently, essary to prepare at least 4 ratings per year in order to have a rating for yage. It will further be necessary to evaluate these ratings yearly on the all voyages during the year.

justification for the time and effort required for the administration of an e performance rating plan lies in the utilization of these ratings. The ons of employment of marine personnel are such that the regular uses of nance ratings cannot be made. For example, the pay system for marine ees established in accordance with the prevailing practices of the marine y pursuant to section 202 (8) of the Classification Act of 1949, as amended, it provide for periodic pay increases. Therefore, performance ratings are ble in determining eligibility for such increases. With regard to promo- mployment procedures are such that few promotions are made in the con- al sense. More often than not, assignments to more responsible jobs are hen a crew is being signed on at the beginning of a voyage. As a matter time regulation eligibility for employment aboard a ship or for assignment responsible duties requires basic qualifying documents, certificates, or issued by the Coast Guard. Performance ratings are not a significant ration in the promotions procedure.

performance ratings for marine employees are of questionable validity, ce there is little opportunity in most instances to take advantage of the enefits of performance appraisals, the cost of maintaining a performance plan for marine employees as contemplated by the Performance Rating 950 does not appear to be justified.

proposed amendments deals only with the marine employees of the De- nt of the Army and the Department of the Navy. The Department of Force, while it does not operate any oceangoing cargo or passenger vessels, rate crash boats. In order that there be no confusion as to whether the employees serving on crash boats are within the purview of this amendment, the Department of the Air Force is not included in the draft bill.

COST AND BUDGET DATA

No additional cost will be incurred if the subject proposal is enacted. However, if the subject proposal is not enacted, the Department of Defense shall have to implement the performance rating program at an estimated annual administrative cost of $74,400. This cost is based on an estimated annual civilian marine employment of 10,000 and the preparation of four performance ratings per year for each. This annual cost does not include initial cost for training, instructions, printing of forms, processing appeals, and review, which costs are too intangible to estimate but would be incurred by the Department of Defense.

Sincerely yours,

CHARLES S. THOMAS.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., March 19, 1957.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
United States House of Representatives, Washington, D. C.

DEAR MR. MURRAY: This is in reply to a telephone call from a member of your staff requesting a report on H. R. 5392, a bill to amend section 2 (b) of the Performance Rating Act of 1950, as amended.

Prior to the transmittal to Congress of draft legislation on this subject, the Bureau of the Budget asked the Commission for a report on a proposal the language of which was identical to the language of H. R. 5392.

The Commission in its report to the Bureau of the Budget dated December 12, 1956, stated:

"The bill would exempt from the Performance Rating Act of 1950 an estimated 10,000 civilian officers and members of crews of vessels operated by the Department of the Army and the Department of the Navy.

"Marine employees of the Department of Defense serve in a unique employment situation. An extremely high turnover rate and frequent changes of positions and supervisors characterize this type of employment in the Department of Defense. An average voyage of a Department of Defense ship lasts from 15 to 45 days. A crew change generally occurs at the end of each voyage. To illustrate the effect of this kind of operation, the Department of Defense points out that during September 1954 there were 15,497 crew changes reported in 4 commands although only 12,241 civilian marine employees were employed during this period.

"Under circumstances such as these a marine employee generally serves on four or more ships with as many different supervisors during the year. In order to have a rating for each voyage it would be necessary to prepare at least four ratings a year. Annual performance ratings then would be based on an evaluation of the ratings for each voyage.

"Aside from the practical administrative difficulties involved in rating marine employees under the Performance Rating Act, the requirements of the act are inappropriate for their employment conditions. To cite just one example, the act states that 'no officer or employee shall be rated unsatisfactory without a ninety-day prior warning and a reasonable opportunity to demonstrate satisfactory performance.' Among other things, the warning notice of unsatisfactory performance should state what the employee must do to bring his performance up to a satisfactory level within the 90-day period. Since most marine employees do not serve in a position or under any one supervisor for as long as 90 days it often would be impossible to demonstrate satisfactory performance in the job occupied when the warning notice was received.

"The Commission does not object to the draft bill exempting marine employees of the Department of the Army and the Department of the Navy from the Performance Rating Act of 1950."

Sincerely yours,

F. J. LAWTON, *Commissioner.*

Mr. YOUNG. Admiral Gano, will you proceed? I believe you have a prepared statement.

If I might interrupt you, I want to thank all of you for coming down this morning and appearing before this subcommittee.

Admiral, you may proceed.

TEMENT OF REAR ADM. ROY A. GANO, USN, DEPUTY COMANDER, MIL[illegible] SEA TRANSPORTATION SERVICE; ACOMPANIED B[illegible]VID GOLD, MILITARY SEA TRANSPORTAON SERVICE, AND CHARLES ROTHOUSE, OFFICE OF THE CHIEF TRANSPORTATION, DEPARTMENT OF THE ARMY

lmiral Gano. Thank you, sir.
rst, Mr. Chairman, I have Mr. Gold here who can help me on technical questions, and Mr. Rothouse, from the Department ie Army, will answer any technical questions concerning the rtment of Army.
r Chairman and members of the subcommittee, I am Rear Adm. A. Gano, United States Navy, Deputy Commander, Military Transportation Service. I am appearing before you today as the sentative of the Department of Defense on the subject of House I. R. 5392, a bill to amend section 2 (b) of the Performance g Act of 1950, as amended. The Performance Rating Act of 1950 ic Law 873, 81st Cong.) in its present form provides for the lishment by each department of one or more performance-rating

Each plan must provide for a minimum of three adjective s (outstanding, satisfactory, unsatisfactory), a warning provision nsatisfactory employees, and a review-and-appeal procedure. Civil Service Commission approval of each department performing plan is required. Civilian marine officers and members ws of vessels operated by the Department of the Army and the tment of the Navy are covered by the provisions of the act. roposed bill would amend section 2 (b) of the act, in that it exempt civilian marine officers and members of crews of vessels ed by the Department of the Army and the Department of the

Since the Military Sea Transportation Service employs ximately 90 percent of the personnel affected by the proposed am pleased to appear before you gentlemen as the representative Department of Defense on this bill.
ause we recognize and appreciate the worth of a valid performating system, the Military Sea Transportation Service has made ive attempts to comply with the Performance Rating Act of as amended. However, the more deeply we have looked into atter, the more impractical the system has been found to be purposes.
Performance Rating Act requires that no employee shall be nsatisfactory without a 90-day prior warning and a reasonable unity to demonstrate satisfactory performance. This requires a most difficult obstacle for the Military Sea Transportation to overcome. With this warning procedure in effect, the y Sea Transportation Service will be placed in the position of ing officers and crew members who have been found incompe- their shipboard assignments for 90 days. To continue emnt under these circumstances might endanger the lives of nel aboard Military Sea Transportation Service vessels and the themselves. In the case of injury or damage to third parties, it jeopardize the Government's defense in actions based on nce, and make unavailable the statutory right of the Govern- limit its liability. Along with other vessel owners, the Gov- t is able to limit its liability to third parties. The ability

to so limit is lost if the vessel is unseaworthy with the pr[illegible]r knowledge of the owner.

A vessel manned by incompetent personnel would generally be considered unseaworthy, and this condition would be within the knowledge of and attributable to the Government to the extent that it was aware of the incompetency.

Another major factor preventing effective compliance with the terms and intent of the act is the frequent shifts of personnel which are typical of shipping operations. These include reassignments of employees from 1 ship to another, from 1 supervisor to another within the same ship, from 1 type of duty to another, shifts of supervisors from 1 group to another, and shifts in and out of employment. The end result is that the typical crew member is normally under the same supervisor for a very short period of time. Consequently, this constant shifting of personnel, which is unparalleled in normal operations ashore, can result only in performance ratings of questionable validity. It is considered impracticable to utilize such performance ratings when assigning employees from one position to another.

A third factor of importance relates to the necessity to keep administrative requirements imposed upon ships' officers to an absolute minimum. Because we are a Government operation, our procedural and paper requirements afloat already exceed to a considerable degree those that are found in ships of private companies despite concentrated effort to keep such requirements to a minimum.

Consequently, a performance rating system which increases these requirements can only be justified in terms of tangible beneficial results. Although we have extensively explored means for introducing an efficient performance rating system aboard ship, we have been unable to produce one which overcomes the obstacles previously listed.

Another factor relates to the necessity for civilian marine employees of the Department of Defense to possess United States Coast Guard documents. A seaman may not be employed and, regardless of any performance rating, he may not be reassigned to other duties or promoted unless he has acquired the appropriate Coast Guard document for the marine position involved. Examination and experience requirements for such documents are established by the Coast Guard. The Department of Defense has no control over such qualification requirements.

Essentially, the Performance Rating Act provides for recognition of meritorious performance, assures that the employee is informed of performance requirements, requires that the employee be currently advised of the quality of his performance, and provides a basis for removal from the position of an unsatisfactory employee. There are other means of achieving the same results which we, in the Military Sea Transportation Service, fully utilize.

The Government Employees' Incentive Awards Act of 1954 provides effective means for recognizing and rewarding meritorious performance of employees. It is the policy of the Department of Defense to fully utilize this incentive awards program. In addition, meritorious performance of crew members is recognized in the Military Sea Transportation Service by letters of commendation issued by the master of the vessel, the commander, home port, or the Commander, Military Sea Transportation Service. Employees are informed of