

**REPUBLIC OF
THE MARSHALL ISLANDS**



**RULES FOR MARINE INVESTIGATIONS AND
ADMINISTRATIVE PROCEEDINGS**

Part I: Marine Safety Investigations

Part II: Marine Investigations of Offenses and Occurrences

Part III: Marine Administrative Proceedings

MARITIME ADMINISTRATOR

NOTICE

This document is not intended to derogate from or substitute for any requirements of the Republic of the Marshall Islands Maritime Act 1990 ([MI-107](#)) or the Republic of the Marshall Islands Maritime Regulations ([MI-108](#)).

This complementary printing of the Rules for Marine Investigations ([MI-260](#)) will not be automatically supplemented, and therefore, may be **out of date**.

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RULES FOR MARINE INVESTIGATIONS AND ADMINISTRATIVE PROCEEDINGS
(MI-260)

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MARITIME ADMINISTRATOR

RULES FOR MARINE INVESTIGATIONS AND ADMINISTRATIVE PROCEEDINGS

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REPUBLIC OF THE MARSHALL ISLANDS

MARITIME ADMINISTRATOR

RULES FOR MARINE INVESTIGATIONS AND ADMINISTRATIVE PROCEEDINGS

1.0 AUTHORITY AND PURPOSE

1.1 Authority

These Rules are promulgated under the authority of the Republic of the Marshall Islands (“RMI”) Maritime [Act 1990](#) (the “Act”), as amended, and the RMI Maritime Regulations (the “Regulations”) ([MI-108](#)). They govern the conduct of all marine investigations under the RMI flag. They implement and enforce the Act, the Regulations and relevant International Conventions and Agreements to which the RMI is a party or which it has implemented.

1.2 Purpose

The purpose of an RMI marine investigation is to promote safety of life and property at sea and the protection of the marine environment with the objective of preventing Marine Casualties, Marine Incidents, Offenses or Occurrences in the future.

A marine investigation must fully report on causal factors, including possible violations of law and possible faults or failures on the part of vessels and/or personnel. The outcome of an investigation may necessitate Administrative Proceedings by the RMI Maritime Administrator (the “Administrator”) that could result in punitive actions, such as the suspension or revocation of a seafarer’s license or certificate and/or the assessment of a monetary penalty against an individual or company, in accordance with all governing laws and regulations.

1.3 Duty to Conduct

The Administrator, upon learning of a Marine Casualty, Marine Incident, Offense or Occurrence, must conduct an investigation, as may be necessary, to determine as closely as possible the cause(s) or any contributing cause(s) of the Marine Casualty or Marine Incident and the circumstances of the Offense or Occurrence, and whether there has been any act of misconduct, inattention to duty or negligence upon the part of any certificated person, or violation of law or regulation so that appropriate action may be taken.

Investigations of Marine Casualties or Marine Incidents must be conducted in accordance with Part I of these Rules. Investigations of Offenses and Occurrences must be conducted in accordance with Part II of these Rules. Marine Administrative Proceedings must be conducted in accordance with Part III of these Rules. Investigations of Marine Casualties, Marine Incidents, Offences, Occurrences, and Offenses must be conducted, as far as is reasonable and practicable, in accordance with IMO Resolution [A.987\(24\)](#) and the Guidelines on Fair Treatment of Seafarers in the Event of a Maritime Accident (IMO Circular Letter No. [2711](#)), as may be amended from time to time.

2.0 DEFINITIONS

“Administrator” means the RMI Maritime Administrator which is statutorily appointed to administer all matters pertaining to vessels of the RMI that are subject to the provisions of the Act, promulgate Rules and Regulations to carry out the provisions of the Act, and ensure the seaworthiness and proper manning conditions of vessels registered under the laws of the RMI.

“Administrative Review Board (ARB)” means a board appointed on a case-by-case basis by the Senior Deputy Commissioner with expertise and oversight of executive matters, the Deputy Commissioner with expertise in and oversight of investigations, his designee, or the Lead Investigator, that must review and make final determinations on issues pertaining to an administrative investigation conducted by the Administrator, where necessary and appropriate. An ARB must be comprised of individuals who possess the relevant position, knowledge of, experience with and / or interest in the issue(s) to be reviewed.

“Casualty Investigation Code” means the Code of International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident, as adopted by International Maritime Organization (IMO) Resolution MSC.255(84), and as may be amended from time-to-time.

“Central Office” means the Administrator’s office, maintained by its administrative and technical service provider, International Registries, Inc., in the United States at Reston, Virginia.

“Coastal State” means a State in whose territory, including its Territorial Sea, a Marine Casualty or Marine Incident occurs.

“Exclusive Economic Zone (EEZ)” means the area beyond and adjacent to the Territorial Sea but not extending beyond 200 nautical miles from the baselines from which the breadth of the Territorial Sea is measured, as defined by Article 55 of the United Nations Convention on the Law of the Sea (UNCLOS).

“Flag State” means a State whose flag a vessel is entitled to, and does, fly.

“High Seas” means all parts of the sea that are not included in the EEZ, in the Territorial Sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State as defined in Article 86 of UNCLOS.

“IMO” means the International Maritime Organization.

“Interested Party” means an organization, entity or individual, who, as determined by the Marine Safety Investigating State(s), has significant interests, rights or legitimate expectations with respect to the outcome of a Marine Safety Investigation.

“International Safety Management (ISM) Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention, as contained in IMO Resolution A.741(18), and as may be amended from time to time.

“Investigations Oversight Committee (IOC)” must oversee the structure and operation of investigations and must provide guidance on the proper functioning thereof to the Administrator or its duly designated representative(s). The IOC must be made up of the Senior Deputy Commissioner responsible for executive functions, the Deputy Commissioner with expertise in and oversight of investigations, and the Deputy Commissioner with expertise in and oversight of legal issues.

“Investigations Review Board (IRB)” means a board appointed on a case-by-case basis by the Senior Deputy Commissioner in charge of executive functions, his designee, or the Deputy Commissioner with expertise in and oversight of investigations that must review and make final determinations on issues pertaining to an investigation conducted by the Administrator, where necessary and appropriate. An IRB must be comprised of individuals who possess the relevant position, knowledge of, experience with and /

or interest in the issue(s) to be reviewed. The Presiding Officer of the IRB must be appointed by the individual who appoints the IRB.

“Lead Investigator” may be a Deputy Commissioner appointed by the Administrator to conduct an investigation or a person or the personnel of an entity appointed by the Administrator to conduct or to participate in an investigation.

“Marine Administrative Proceeding” means a proceeding conducted under Part III of these Rules, including suspension and revocation proceedings, regarding alleged violations of the Act, the Regulations and /or International Conventions and Agreements to which the RMI is a party or which it has implemented.

“Marine Casualty” means an event or a sequence of events that has occurred directly in connection with the operation of a vessel documented under the Act or a vessel operating in the navigable waters of the RMI. Marine Casualties include:

- a. the death of, or serious injury to, a person;
- b. the loss of a person from a vessel;
- c. the loss, presumed loss, or abandonment of a vessel;
- d. material damage to a vessel;
- e. the stranding or disabling of a vessel, or the involvement of a vessel in a collision or an allision;
- f. material damage to the marine infrastructure external to a vessel, that could seriously endanger the safety of that vessel, another vessel, or an individual; and
- g. severe damage to the environment, or the potential for severe damage to the environment, brought about by a vessel or vessels.

It does not include a deliberate act or omission, with the intention to cause harm to the safety of a vessel, an individual or the environment.

“Marine Incident” means an event or sequence of events, other than a Marine Casualty, which has occurred directly in connection with the operation of a vessel that endangered or, if not corrected, would endanger the safety of that vessel, its occupants, another vessel, property, any other person(s) or the environment. A Marine Incident does not include a deliberate act or omission, with the intention to cause harm to the safety of a vessel, an individual or the environment or other Occurrence

“Marine Safety Investigation” means an investigation into a Marine Casualty or Marine Incident conducted with the objective of preventing the occurrence of similar Marine Casualties and Marine Incidents in the future. The investigation includes the collection and analysis of evidence, the identification of causal factors and the issuance of findings, conclusions, and safety recommendations as appropriate.

“Marine Safety Investigation Authority” means a State authority responsible for conducting investigations under the Casualty Investigation Code. The Marine Safety Investigation Authority for the RMI is the Administrator or its duly designated representative(s).

“Marine Safety Investigation Report” is a report that contains the elements for such a report as detailed in Section 2.12 of the Casualty Investigation Code, as amended.

“Marine Safety Investigating State” means the Flag State or, where relevant, the State or States that take the responsibility for the conduct of a Marine Safety Investigation as mutually agreed in accordance with the Casualty Investigation Code or under similar authority.

“Marine Safety Record” means the records collected for a Marine Safety Investigation as detailed in Section 2.15 of the Casualty Investigation Code, as amended.

“MARPOL” means the International Convention for the Prevention of Pollution from Ships, as amended.

“Material damage” means:

- a. damage that:
 - i. significantly affects the structural integrity, performance or operational characteristics of the marine infrastructure or of a vessel; and
 - ii. requires major repair or replacement of a major component or components; or
- b. destruction of the marine infrastructure or a vessel.

“Occurrences” are events that are not classified as a Marine Casualty, a Marine Incident, or an Offense, but require investigation by the Administrator. They include any act or failure to act contrary to the Act, the Regulations or any rules made as provided by law and those contained in any International Conventions and Agreements to which the RMI is a party or which it has implemented. They include, but are not limited to:

- a. contraventions, including legitimate complaints of authorities and administrations;
- b. crew competence and performance; legitimate non-Maritime Labor Convention complaints of seafarers; fraud, forgery, misrepresentation, or attempted bribery associated with applications for maritime certificates or documents; crew abandonment by vessel owner or operator and repatriation;
- c. embargoes, treaties, tax, tariffs, and trade issues;
- d. consular issues, diplomatic notes, protests, and sanctions;
- e. reports of vessel arrests; and
- f. acts or attempted acts of armed robbery, piracy, hijacking, or terrorism.

“Offenses” means any of the causes for revocation specified in Regulation 1.06.4, and/or in Section 830 of the Act that may result, upon proof of such cause(s) and/or grounds, in the suspension or revocation of a seafarer’s Certificate of Competence, Certificate of Endorsement, or Special Qualification. These causes may include, but are not limited to:

- a. incompetence;
- b. unjustified failure to report on board at such times and dates as may be specified by a Master;
- c. physical or mental disability;
- d. theft, embezzlement, or willful destruction of any part of a vessel, its cargo, or stores;
- e. habitual drunkenness, intoxication, quarreling, fighting or assault;

- f. serious insubordination, willful disobedience, or willful refusal to perform assigned duties;
- g. mutiny or desertion;
- h. possession of dangerous weapons, narcotics, or contraband;
- i. intentional concealment from a shipowner or Master, at or prior to engagement under Shipping Articles, of a condition which has resulted in sickness or injury;
- j. assistance to stowaways;
- k. willful failure to comply with the provisions of the Act or the Regulations;
- l. willful violation of the laws of the RMI or applicable local laws;
- m. falsification or fraudulent duplication of seafarer certification;
- n. criminal conduct;
- o. violation of any national or international rule or regulation; or
- p. other conduct incompatible with proper performance of duties and obligations in service on board a Marshall Islands flagged vessel.

“Party” means an organization, entity or individual that is:

- a. the holder of any license, certificate or other document issued by RMI involved in the matter under investigation or the subject of Marine Administrative Proceeding;
- b. the shipowner or operator of an RMI vessel involved in the matter under investigation or the subject of Marine Administrative Proceeding;
- c. the shipowner or operator of a non-RMI vessel involved in the matter under investigation or the subject of Marine Administrative Proceeding;
- d. alleged to have been injured or damaged as the result of the matter under investigation or the subject of Marine Administrative Proceeding.

“Presiding Officer” means the lead official conducting a Marine Administrative Proceeding.

“RMI” means the Republic of the Marshall Islands.

“Serious Injury” means an injury resulting in incapacitation where the injured party is unable to function normally for more than 72 hours, commencing within seven days from the date when the injury was suffered.

“Severe Damage to the Environment” means damage to the environment which, as evaluated by the State(s) affected, or the Flag State, as appropriate, produces a major deleterious effect upon the environment.

“Substantially Interested State” means a State:

- a. which is the Flag State of a vessel involved in a Marine Casualty or Marine Incident; or
- b. which is the Coastal State involved in a Marine Casualty or Marine Incident; or
- c. whose environment was severely or significantly damaged by a Marine Casualty (including the environment of its waters and territories recognized under international law); or
- d. where the consequences of a Marine Casualty or a Marine Incident caused or threatened serious harm to that State or to artificial islands, installations, or structures over which it is entitled to exercise jurisdiction; or
- e. where, as a result of a casualty, nationals of that State lost their lives or sustained serious injuries; or
- f. that has important information at its disposal that the Marine Safety Investigating State(s) consider useful to the investigation; or
- g. that for some other reason establishes an interest that is considered significant by the Marine Safety Investigating State(s).

“Territorial Sea” means the breadth of sea up to a limit not exceeding 12 nautical miles as measured from the baseline of a State, as defined by Section 2 of Part II of UNCLOS.

“Very Serious Casualties” means a marine casualty involving the total loss of the ship or a death or severe damage to the environment.

PART I – MARINE SAFETY INVESTIGATIONS

3.0 COOPERATION OF SHIOWNERS, OPERATORS AND SEAFARERS

3.1 Notification and Reporting Requirements

The owner, charterer, manager, operator, Master, agent, or person in charge of a vessel registered under the Act involved in a Marine Casualty or Marine Incident must immediately (within 24 hours) notify the Administrator of the Marine Casualty or Marine Incident by the fastest means possible, including fax, email, or telephone.

Promptly after initial notification, the owner, charterer, manager, operator, Master or highest available officer or vessel's representative of a vessel involved in a Marine Casualty or Marine Incident that results in one or more of the criteria below must forward, as appropriate, a *Report of Marine Casualty or Marine Incident* (MI-109), and MI-109 Supplement, when necessary to the Administrator or to a representative who is authorized to act for and on behalf of the Administrator. Statements of crew members who witnessed the Marine Casualty or Marine Incident should be provided with the report(s) or as soon as practicable. All statements must be signed or otherwise acknowledged by the witness(es) providing the statement(s).

A report must be filed whenever the Marine Casualty or Marine Incident involves any of the following:

- a. material damage affecting the seaworthiness of a vessel;
- b. collision, allision, stranding, grounding, abandonment, or loss of a vessel;
- c. severe damage to the environment;
- d. fire or explosion;
- e. loss of life;
- f. injury causing any person(s) to remain incapacitated for a period in excess of 72 hours, including occupational accidents and occupational injuries and diseases, which may not be limited to accidents or incidents involving a vessel; or
- g. acts or attempted acts of piracy, robbery, hijacking, or terrorism; or
- h. State action in response to the contravention of or non-compliance with any International Conventions and Agreements to which RMI is a party or which it has implemented.

3.2 Cooperation in Investigations

3.2.1 Owners and Operators

It is the duty of all owners and operators of vessels registered under the Act to cooperate with the Administrator or a representative authorized to act for or on behalf of the Administrator in the investigation of a Marine Casualty or a Marine Incident. Such cooperation includes: being interviewed; testifying orally or in writing; producing, when called upon, witnesses in their employ and relevant books, papers, documents, and other records in their possession; and permitting the Administrator or its duly designated representative(s) to board and examine vessels and their appurtenances.

3.2.2 Shipboard Certificated Personnel

It is the duty of all holders of certificates of competence or other certification issued to seafarers by the RMI to cooperate with the Administrator, or a duly designated representative authorized to act for and on behalf of the Administrator, in Marine Safety Investigation of a Marine Casualty or Marine Incident. Such cooperation includes: being interviewed; testifying orally or in writing; producing, when called upon, relevant books, papers, documents and other records in their possession; and permitting the Administrator or its duly designated representative(s) to board and examine vessels and their appurtenances.

3.2.3 Failure to Cooperate

In the event of owner's, their representatives', or shipboard certificated personnel's failure to fully cooperate in any marine investigation, any or all of the consequences as identified in the Maritime Regulations may apply.

3.3 Site and Evidence Preservation

Where possible, the owner, charterer, manager, operator, Master, agent, person in charge of a vessel and all shipboard personnel must leave the site of the Marine Casualty or Marine Incident unchanged until it has been inspected as part of the investigation. Where this is not possible, such as with the need to make essential and immediate repairs following serious structural damage or damage to accommodation spaces, the scene should be documented by photographs, audio-visual recordings, sketches, or any other relevant means available, with the objective of preserving vital evidence and facilitating the establishment of the circumstances of the Marine Casualty or Marine Incident at a later date.

Damaged or failed equipment, machinery and/or components and other evidence should be kept in a secure location to await the arrival of the Lead Investigator, who may require detailed technical or scientific examination of such objects.

3.4 Voyage Data Recorder (VDR)

3.4.1 Ownership and Responsibilities

The vessel owner, in all circumstances and at all times, must own the VDR and its recorded information. The owner or operator of a vessel documented in the RMI must maintain on board and make available all material and instructions necessary to recover the recorded information from a VDR.

The Lead Investigator conducting the investigation must ensure that the vessel owner or operator arranges for VDR information, including the audio recordings, to be downloaded. The vessel owner or operator is responsible for providing a copy of the VDR information, including the audio recordings, and any required passwords and configuration files to the Lead Investigator. Notwithstanding, the Master must, after taking any actions necessary to address any immediate safety issues or threats to the environment, preserve the VDR data as soon as possible but not more than 6 hours after marine casualty or very serious marine casualty occurs.

3.4.2 Removal of VDR from Vessel

Masters and Lead Investigators must make every effort to ensure that a VDR hard drive is not removed from a vessel by State authorities without first notifying and obtaining the agreement of the Administrator and leaving a full copy of the drive or the recorded VDR information onboard the vessel.

3.4.3 Disclosure

VDR information, including the audio recordings, is part of the Marine Safety Record. As such, any VDR information in the Administrator's possession must be preserved and maintained for investigative purposes and will only be disclosed in accordance with section 6.0, below.

3.5 Retention of Voyage Records

The persons in charge of any vessel involved in a Marine Casualty or Marine Incident must retain for five (5) years, or until otherwise instructed by the Administrator, the complete records of the voyage during which the Marine Casualty or Marine Incident occurred, as well as any other material, including VDR information and other automatically recorded data, which might reasonably be of assistance for investigating and determining the cause(s) and scope of the Marine Casualty or Marine Incident, and said persons must make all such records and materials available, upon request, to the Administrator or a Lead Investigator.

4.0 MARINE SAFETY INVESTIGATIONS

4.1 Requirements

4.1.1 A Marine Safety Investigation must be conducted in accordance with the laws of the RMI, UNCLOS, the Casualty Investigation Code, and, as appropriate, all other applicable IMO conventions to which the RMI is a party.

4.1.2 A Marine Safety Investigation must be conducted and completed by the Administrator for:

- a. every instance where a vessel documented in the RMI is involved in a Very Serious Marine Casualty or where the RMI is otherwise conducting a Marine Safety Investigation as a Substantially Interested State; and
- b. other Marine Casualties and Marine Incidents of a vessel documented in the RMI if, based on a preliminary investigation (see section 4.3, below), it is considered likely that the investigation will provide information that can be used to prevent similar Marine Casualties and Marine Incidents in the future.

4.1.3 A Marine Safety Investigation must, to the extent possible, identify immediate and basic or root causal factors, as well as failures that may be present in the whole chain of events, taking into consideration the total conduct of the operation from policy through implementation.

4.1.4 A Marine Safety Investigation must commence as soon as reasonably practicable so as not to compromise or jeopardize evidence or delay a vessel unnecessarily.

4.1.5 Any person or persons that interfere with the conduct of a Marine Safety Investigation may be subject to fines and penalties under the RMI law.

4.2 Cooperation Between States

4.2.1 Cooperation

- a. The Administrator must cooperate with the Marine Safety Investigating State(s) to the extent practicable; and, if assuming the role of the Marine Safety Investigating State, must provide for the participation of any Substantially Interested State(s) in the investigation of a Marine Casualty or Marine Incident in accordance with sections 4.2.3 and 4.2.4 below and to the extent practicable and allowed under the RMI's laws and regulations.
- b. Nothing must limit the rights of States to conduct their own separate Marine Safety Investigations under the Casualty Investigation Code and other International Conventions and Agreements. States conducting their own separate Marine Safety Investigation should handle original documents, equipment and VDR in accordance with section 5.2.1 below.

4.2.2 Notification

- a. The Administrator must endeavor to notify other Substantially Interested State(s)¹ as soon as reasonably practicable when a Marine Casualty involving a vessel documented in the RMI occurs on the High Seas or in an exclusive economic zone.²
- b. Notification must not be delayed due to the lack of complete information.
- c. Notification must contain as much of the following information as is readily available:
 - i. the name of the vessel and flag State;
 - ii. the IMO identification number;
 - iii. the nature of the Marine Casualty;
 - iv. the location of the Marine Casualty;
 - v. time and date of the Marine Casualty;
 - vi. the number of any seriously injured or deceased persons;
 - vii. consequences of the Marine Casualty to individuals, property, and the environment; and
 - viii. the identification of any other vessel involved.

4.2.3 Marine Safety Investigating State

The RMI must consult with other Substantially Interested State(s) and attempt to seek agreement on which State(s) will be the Marine Safety Investigating State(s), in accordance with a requirement or a recommendation to investigate under the Casualty Investigation Code.

Once an agreement to cooperate in a Marine Safety Investigation is reached in principle by the Substantially Interested State(s), the agreement should be rendered in writing, prior to the commencement of an investigation, through a Letter of Agreement or similar document. Substantially Interested States may, by written mutual agreement, join an investigation either immediately or at a later stage.

If an agreement cannot be reached, then the existing obligations and rights of the RMI or any Substantially Interested State to conduct its own Marine Safety Investigation must remain with the respective States.

1. For this section and for the purposes of notification as soon as reasonably practical, Substantially Interested State must be as defined in sections 2.20.1 and 2.20.2 of the Casualty Investigation Code.

2. Means the exclusive economic zone as defined by Article 55 of UNCLOS.

4.2.4 Parallel Investigations

When separate Marine Safety Investigations are undertaken, they should run in parallel. The Administrator must seek, where possible, to coordinate the timing of its investigations with those of either the Marine Safety Investigating State or other Substantially Interested State(s) to avoid conflicting demands upon witnesses and to provide for reasonable access to evidence.

4.3 Investigation Process

Upon learning of a Marine Casualty or a Marine Incident, a preliminary investigation must be conducted by the Administrator or its duly designated representative(s) so that the Marine Casualty or Marine Incident may be evaluated and categorized to provide for appropriate action to be taken by the Administrator in accordance with the Act and/or the Regulations.

The guidance and methodologies set forth in IMO Resolution A.1075(28), as amended, or other investigation methodologies or processes as determined appropriate by the Administrator, must be applied, as appropriate, to the investigation of Marine Casualties and Marine Incidents.

If evidence of an offense is identified during the course of a marine safety investigation, the Administrator may initiate a separate investigation in accordance with Part II of these Rules.

5.0 POWERS AND DUTIES

5.1 Organization and Staffing

The Deputy Commissioner with expertise in and oversight of investigations, and associated staff, must at all times retain the full powers and duties of a Lead Investigator and must be responsible for supervising and/or conducting all RMI Marine Safety Investigations.

The Administrator or a representative who is authorized to act for and on behalf of the Administrator by the Senior Deputy Commissioner in charge of executive functions may appoint a Lead Investigator for the purpose of conducting a Marine Safety Investigation and confer upon the investigator such authority as deemed necessary to effectuate the investigation.

To assist the Lead Investigator, the Senior Deputy Commissioner responsible for executive functions, or the Deputy Commissioner with expertise in and oversight of investigations, may appoint trained and experienced individuals, organizations or agencies with the appropriate expertise for technical advice or other assistance as necessary.

5.2 Lead Investigators

The Lead Investigator carrying out an RMI Marine Safety Investigation must be impartial and objective. The Lead Investigator must report on the results of a Marine Safety Investigation without direction or interference from any persons or organizations that may be affected by its outcome.

A Lead Investigator must ensure the complete development of all pertinent facts, establish to the best of his or her ability the contributory causal factors of any casualty or incident and make such findings, conclusions, and recommendations in his or her report as will in his or her best judgment aid in preventing a recurrence of a similar Marine Casualty or Marine Incident. The Lead Investigator may, at any stage of the Marine Safety Investigation, issue an interim report or recommend interim safety measures.

5.2.1 Handling of Original Documents and Equipment

- a. An RMI Lead Investigator or an investigator from a Marine Safety Investigating State must not be permitted to take original documents or equipment off of a vessel documented in the RMI, unless under exceptional circumstances and as approved by the Administrator. Such an exceptional circumstance would be, for example, when a Marine Safety Investigation Authority articulates a legal basis and reason(s) why it is necessary to remove original documents or equipment from a vessel and the Administrator agrees. When original record(s)/document(s) are removed from the vessel they must be replaced by certified copies.³
- b. If equipment or other evidence is removed by the RMI Lead Investigator or an investigator from a Marine Safety Investigating State, full access should be provided to representative investigating officers from the other Substantially Interested State(s). A receipt stating the reason(s) for the removal of original document(s) or equipment must be provided to the vessel's Master by the Marine Safety Investigation Authority that took such action.
- c. In no case must the absence of original record(s)/document(s) or equipment on board the vessel in such exceptional circumstances be recorded as a deficiency against the vessel. Flag State authorization is required prior to a vessel departing a port without required equipment on board.

5.2.2 Conducting Interviews

When a Marine Safety Investigation requires a seafarer or other person to be interviewed, the interview must be taken at the earliest practical opportunity.

The Investigator conducting an interview of a seafarer or other person involved in the matter under investigation must clearly state the purpose of the investigation and of the interview and the possible future use to be made of the information obtained during the interview. The Investigator must state the following in advance of any interview:

I am an Investigator and representative of the Maritime Administrator of the Republic of the Marshall Islands, the flag State of this vessel. It is the responsibility of the flag State to investigate these matters and your cooperation is encouraged in order to help improve safety at sea. You do have the right to legal advice regarding your risks, rights, and protection, including the right to remain silent and the right to not incriminate yourself. At the end of the flag State investigation, or sooner if deemed necessary, any information gathered during the course of the investigation may be used in an anonymous form and disclosed to the owner, operator, any Substantially Interested State and/or to the IMO, amongst others, only at the sole discretion of the Republic of the Marshall Islands. Evidence provided for the purpose of a marine safety investigation will not be used by the Maritime Administrator of the Republic of the Marshall Islands for legal proceedings or prosecution.

³ See IMO Circular Retention of Original Records/Documents on Board Ships (MSC-MEPC.4/Circ.1).

6.0 CONFIDENTIALITY OF INFORMATION AND DISCLOSURE OF RECORDS

Lead Investigators must secure all Marine Safety Records and all other evidence collected during the investigation in a manner which prevents access by persons who do not require it for the purposes of the investigation.

Material in a Marine Safety Record must only be disclosed where it is determined by the Administrator that it is necessary or desirable to do so to address immediate safety risks to a vessel, its crew and/or other persons, property, or the environment. In determining whether to disclose such information, the Administrator must take into account any impact on the future availability of information to a Marine Safety Investigation and what is otherwise permitted by RMI law and regulations, as well as Chapter 23 of the Casualty Investigation Code.

Material in a Marine Safety Record must be included in the final report or its appendices only when pertinent to the analysis of the Marine Casualty or Marine Incident.

When conducting a Marine Safety Investigation, the Administrator will supply information from a Marine Safety Record to a Substantially Interested State where doing so will not undermine the integrity and credibility of the investigation being conducted. The Administrator, if supplying information from the Marine Safety Record of an investigation to another State, may require reassurance that it be kept confidential in accordance with RMI laws and regulations, as well as Chapter 23 of the Casualty Investigation Code.

7.0 CRIMINAL CONDUCT

7.1 Evidence of Criminal Conduct

At any time during the course of a Marine Safety Investigation under Part I of these Rules, where it appears to the satisfaction of the Lead Investigator(s) or, in the case of an IRB, to the majority of its members, or to the majority of the IOC members, that evidence of criminal conduct exists, the Deputy Commissioner with expertise in and oversight of investigations or designee, the Presiding Officer of the IRB or of the IOC must immediately notify a Deputy Commissioner with expertise in and oversight of legal issues, who may coordinate with the Attorney General of the RMI as necessary in accordance with RMI law.

8.0 REPORTS AND DECISIONS

8.1 Investigation Reports

8.1.1 The Preliminary Report

When an investigation under this Chapter has been delayed due to a failure of production of evidence or other circumstances outside of the Administrator's control or the Administrator believes that issuing information is of increased urgency, the Administrator may choose to produce a preliminary report, memorializing any preliminary findings, conclusions, and recommendations. A preliminary report may be furnished to the Interested Parties at the Administrator's sole discretion.

8.1.2 Draft Report

When an investigation has been concluded, the Lead Investigator must submit, as expeditiously as possible, findings, conclusions, and recommendations, if any, in a written draft report, along with the investigative file, to the Deputy Commissioner with expertise in and oversight of investigations. The written draft report must conform to any guidance promulgated by the Administrator on report content and format.

The Deputy Commissioner with expertise in and oversight of investigations, must, as quickly as practicable, review the draft report and make recommendations on appropriate action.

8.1.3 Substantially Interested States

Prior to finalizing a written report and only after legal review, the Deputy Commissioner with expertise in and oversight of investigations may send a copy of the draft report to any Substantially Interested State for comment, if requested by that State. The provision of the draft report must be conditioned upon the State guaranteeing in writing not to circulate, publish or give any third-party access to the draft report, or any part thereof, without the express written consent of the Administrator, or if required by law with at least ten (10) days advance written notice to the Administrator, unless such Marine Safety Investigation Reports or documents have already been circulated or published by the Administrator.

Substantially Interested States may submit their comments on the draft report within 30 days or a mutually agreed period. These comments will be considered before the final report is prepared.

8.1.4 The Final Report

- a. Following a final review by the Deputy Commissioner with expertise in and oversight of investigations along with an IRB were necessary, the report may then be:
 - i. adopted with recommendations, if any, as a final report; or
 - ii. returned to the Lead Investigator for further investigation or revision as appropriate.
- b. If returned to the Lead Investigator, all additional information gathered and any further findings, conclusions and / or recommendations, if any, may be incorporated in the report and placed in and become part of the Marine Safety Record.

8.1.5 Transmission of Final Report to an Interested Party

Upon completion of the investigation, and any additional necessary review and / or approval as determined by the Administrator, the final Investigation Report may be promptly furnished to each Interested Party to the investigation.

8.2 Reopening an Investigation

If additional information is received that warrants further review, the Deputy Commissioner with expertise in and oversight of investigations, an IRB or the IOC may order an investigation reopened, in which case the provisions of RMI law, Regulations, and these Rules must apply as in the case of a new investigation, where appropriate, except that the Supplementary Report must state that the original investigation had been reopened and must take into account the original Investigation Report in setting forth any new findings, conclusions or recommendations.

Upon the conclusion of any further investigative proceedings required, a Supplementary Report must be submitted, together with any accompanying materials.

8.3 Reports to IMO

8.3.1 Final Report

- a. A Marine Safety Investigation Report must be submitted to the IMO for:
 - i. every RMI Marine Safety Investigation Report conducted into a Very Serious Marine Casualty; or

- ii. other RMI Marine Safety Investigations Reports which contain information which may prevent or lessen the seriousness of marine casualties or marine incidents in the future.
- b. When the RMI, as a Substantially Interested State, disagrees with all or part of a final Marine Safety Investigation Report prepared by another State, it may submit its own Marine Safety Investigation Report to the IMO.

8.3.2 Interim Report

Should the Administrator, during the course of any investigation, be hindered due to the absence of information for any reason(s), which may delay or preclude the submission of a complete and timely report of investigation to IMO as required, or the Administrator believes that issuing information is of increased urgency, the Administrator may submit an interim report of known causal factors as they may appear along with recommendations based upon the information then available to satisfy the IMO reporting obligation.

8.3.3 Report Filing

Reports to the IMO must be filed in as timely a manner as practicable.

Reports to be submitted to the IMO must take the form prescribed by the Administrator in accordance with guidance promulgated by the IMO and undergo any necessary review and / or approval as determined by the Administrator prior to submission.

8.4 Release of Reports and Information

No Lead Investigator or any other person involved in an RMI Marine Safety Investigation or who otherwise comes into possession of RMI Marine Safety Investigation materials must release or otherwise make public any testimony, statements, Marine Safety Records, reports, or any other evidence used or referenced in the Marine Safety Investigation Report, unless so instructed by the Administrator.

Any final Marine Safety Investigation Report must not be released until it is approved by either the Senior Deputy Commissioner with expertise and oversight of executive matters, the Deputy Commissioner with expertise in and oversight of legal issues, or the Deputy Commissioner with expertise in and oversight of investigations.

The Administrator, acting through either the Senior Deputy Commissioner in charge of executive functions, the Deputy Commissioner with expertise in and oversight of legal issues, or the Deputy Commissioner with expertise in and oversight of investigations, may, in its sole discretion and in recognition of Chapter 23 of the Casualty Investigation Code, release for public information or cause to be published any Marine Safety Record, reports, documents, evidentiary matter or official statements pertaining to a Marine Safety Investigation or any portions thereof.

A final Marine Safety Investigation Report submitted to IMO must be made available to the public and the shipping industry, or an effort must be undertaken to assist the public and the shipping industry with information necessary to access the report where it is published by another State or organization.

8.5 Report Retention

All RMI preliminary, interim, final, or supplemental Marine Safety Investigation Reports must be retained in hardcopy and/or electronic form in the Central Office for a period of no less than five years, unless deemed of historical importance requiring that they be kept for such longer period as determined by the Administrator.

8.6 Investigation Expenses

The owner or operator of a vessel investigated for the purposes of a Marine Safety Investigation may be required to burden some or all of the costs incidental thereto. All such amounts must be invoiced and collected by the Administrator.

PART II –MARINE INVESTIGATIONS OF OFFENSES AND OCCURRENCES

9.0 INVESTIGATION PROCESS

Investigations into suspected, alleged, or reported Offenses or Occurrences must be conducted in accordance with Part II of these Rules.

9.1 Conducting Interviews

A seafarer or other person associated with or involved in an offence must be informed of the purpose of the investigation and interview. The Investigator must state the following before an interview:

I am an Investigator and representative of the Maritime Administrator of the Republic of the Marshall Islands, the flag State of this vessel. It is the responsibility of the flag State to investigate these matters and your cooperation is encouraged in order to help improve safety at sea. You do have the right to legal advice regarding your risks, rights, and protection, including the right to remain silent and the right to not incriminate yourself. At the end of the flag State investigation, or sooner if deemed necessary, any information gathered during the course of the investigation may be disclosed to the owner, operator, any Substantially Interested State, amongst others, only at the sole discretion of the Republic of the Marshall Islands.

10.0 INITIAL REPORTING

In accordance with Section 711 of the Act and 6.36 of the Regulations, an owner, charterer, manager, operator, Master, or highest available officer or vessel's representative must report to the Administrator any instance of an Offense or an Occurrence.

11.0 UNUSUAL, DIPLOMATIC, OR LEGAL ISSUES

- a. When an investigation identifies or involves an unusual, diplomatic, or legal issue, including, but not limited to:
 - i. embargoes, treaties, tax, tariffs, or trade issues;
 - ii. matters of concern from the coastal or port State;
 - iii. vessels without documentation or fraudulent paperwork;
 - iv. vessel arrest, crew abandonment by vessel owner or operator, repatriation;
 - v. prosecution of offenders;
 - vi. death at sea (other than from natural causes or as a result of a Marine Casualty); or
 - vii. other unusual or non-routine matters;

such issues must be referred to a Deputy Commissioner with expertise in legal issues for resolution.

- c. Complaints of authorities or other administrations lodged by diplomatic notes or communication must be forwarded to a Deputy Commissioner with expertise in legal issues and the Senior Deputy Commissioner with expertise and oversight of executive issues or his designee.

- d. The Deputy Commissioner with expertise in and oversight of investigations or assigned Lead Investigator must consult with a Deputy Commissioner with expertise in and oversight of legal issues and the Senior Deputy Commissioner with expertise and oversight of executive issues or his or her designee to address legal issues that might be identified during the investigation of an offense or occurrence.

12.0 OCCURRENCES

An event that is not classified as a Marine Casualty, a Marine Incident, or an Offense, but in the sole determination of the Administrator requires investigation, must be investigated by the Deputy Commissioner with expertise in and oversight of investigations, or their designee, and either resolved in accordance with established procedures or referred for resolution to the Administrator's appropriate Deputy Commissioner.

13.0 OFFENSES

13.1 Offenses reported to the Administrator, must at the Administrator's sole discretion, be investigated by the Deputy Commissioner with expertise in and oversight of investigations, or their designee, and either resolved in accordance with established procedures or referred for resolution to the Administrator's appropriate Deputy Commissioner.

13.2 Initial Suspension or Revocation

13.2.1 As an initial matter and without a Marine Administrative Proceeding, the Senior Deputy Commissioner responsible for executive matters, his or her designee, or a Deputy Commissioner with expertise in and oversight of investigations, his or her designee, in consultation with a Deputy Commissioner with expertise in and oversight of seafarers documentation, his or her designee, may temporarily suspend or revoke, pending a Marine Administrative Proceeding, any license, certificate of competence, or other document pending completion of the Administrator's investigation in any matter where:

- a. when acting under the authority of that license, certificate, or other document, the holder:
 - i. has violated the Act, the Regulations and/or any International Conventions and Agreements to which the RMI is a party or which it has implemented; or
 - ii. has committed an Offense as defined in these Rules or any other act of misconduct or negligence.
- b. is convicted of an offense that would prevent the issuance or renewal of a license, certificate, or other document; or
- c. conduct incompatible with the proper performance of duties and obligations of a seafarer holding RMI issued seafarer documentation.

13.2.2 The Senior Deputy Commissioner with responsibility for executive matters, his or her designee, a Deputy Commissioner with expertise in and oversight of investigations, his or her designee, or a Deputy Commissioner with expertise in and oversight of legal matters, his or her designee, may, without prior notice, immediately suspend or revoke any license, certificate of competence, or other document in any matter where there is probable cause to believe that the holder poses an imminent and substantial threat to the safety or security of a vessel, the public, or other individuals.

14.0 CRIMINAL CONDUCT

At any time during the course of a Marine Investigation under Part II of these Rules, where it appears to the satisfaction of the Lead Investigator, the Deputy Commissioner with expertise in and oversight of investigations, or to the majority of IRB, ARB, or IOC members that evidence of criminal conduct under the Act exists, the Lead Investigator, the Deputy Commissioner with expertise in and oversight of investigations, a member of the IRB, a member of the ARB, or a member of the IOC must immediately notify the Deputy Commissioner with expertise in and oversight of legal issues or designee, who may coordinate with the Attorney General of the RMI as necessary in accordance with RMI law.

PART III –MARINE ADMINISTRATIVE PROCEEDINGS

15.0 MARINE ADMINISTRATIVE PROCEEDINGS

15.1 Marine Administrative Proceedings

A Marine Administrative Proceeding must be held for the final determination regarding suspension or revocation of any RMI certificate of competence, permit, license, or document; where any matter involving a Marine Casualty, Marine Incident, an Offense or Occurrence is referred to an ARB by the Senior Deputy Commissioner responsible for executive matters or when recommended by a Deputy Commissioner with expertise in and oversight of legal issues after review of the evidence in an investigation. Marine Administrative Proceedings may be held for all other matters at the discretion of the Senior Deputy Commissioner responsible for executive matters, his or her designee.

16.0 PROCEDURE

16.1 Marine Administrative Proceedings Process

Once an investigation has been completed by a Lead Investigator and the matter has been referred to an ARB, the ARB must schedule a review of the final investigation so that the suspension or revocation may be evaluated and categorized to provide for final appropriate action to be taken by the Administrator in accordance with the Act and/or the Regulations.

16.2 Mitigation Statement

An aggrieved Party may submit a mitigation statement to the Administrator for consideration. Such statement must be submitted to the Administrator within 60 days of the request for a mitigation statement and set out any factual and/or legal basis for consideration by the ARB.

16.3 Final Decision

The ARB must consider the mitigation statement and the available investigation materials and render a final decision. A written notice will be provided to the individual or entity under review notifying them in writing of the ARB's final determination. This decision is final. Any appeals to the High Court of the RMI must be made pursuant to Part III, section 19 of these Rules.

16.4 Retention of Physical Evidence

All physical evidence collected in the course of a Marine Investigation or a Marine Administrative Proceeding, whether or not referred to or referenced in the course of a Marine Investigation or Marine Administrative Proceeding, must be retained at the office of the Administrator.

The Administrator must inventory all physical evidence collected by any practical means and include such inventory in the official Record of the Investigation or Proceeding before transferring that evidence to other government authorities where appropriate, returning such physical evidence to its owners, or otherwise disposing of that evidence.

17.0 ADDITIONAL PENALTIES

17.1 Failure to Cooperate

In the event of any RMI shipowner's or its representative's failure to cooperate fully in or attempt to inhibit or obstruct any Proceeding, any or all of the following consequences may result with respect to the RMI vessel directly involved or to any other RMI vessel(s) of the same ownership:

- a. notification to the Recognized Organization that issued the Document of Compliance held by the vessel's operator of the failure to cooperate;
- b. suspension or revocation of the Certificate of Registry;
- c. cancellation from the Registry of the RMI;
- d. refusal to issue a Certificate of Cancellation from the Registry of the RMI or otherwise to give the consent of the RMI to a transfer of ownership or registry;
- e. refusal to accept registration or re-registration in the Registry of the RMI; or
- f. liability for a monetary penalty which must not exceed the highest available monetary penalty available under the Maritime Act.

In the event of failure of holder of a certificate of competence or other certification to cooperate fully in any Proceeding, any or all of the following consequences may result:

- a. suspension or revocation of the certificate of competence or other certification held, in keeping with these rules; and/or
- b. refusal to renew or re-issue any certificate of competence or other certification held, before or after expiration; and/or
- c. liability for a monetary penalty in accordance with the applicable sections of the Act.

18.0 EVIDENCE OF CRIMINAL CONDUCT

If at any time during the course of a Marine Administrative Proceeding conducted under these Rules it appears to the satisfaction of an ARB, that evidence of criminal conduct under the Marshall Islands Revised Code, the Act, the Regulations and/or any International Convention or Agreement to which the RMI is a party or which it has implemented exists, the Presiding Officer must immediately notify a Deputy Commissioner with expertise in and oversight of legal issues, who may coordinate with the Marshall Islands Attorney General as necessary.

Should a Marine Offense or criminal act occur or be occurring in the jurisdiction of another State or territory or concerns the citizens of another State or territory, the Administrator may waive flag State jurisdiction and allow that State or territory to assert jurisdiction over the case.

Should a Marine Offense or criminal act occur on the High Seas, the Administrator must notify and may offer jurisdiction to the State government(s) of the victim(s) and the accused(s). If no State accepts jurisdiction, the Administrator may refer the matter to the RMI Attorney General for further handling.

19.0 JUDICIAL REVIEW

A Party who has exhausted all administrative remedies available from the Administrator, is entitled to judicial review of the decision by the RMI High Court pursuant to the RMI Administrative Procedures Act (MIRC, Title 6, Chapter 1, §117 (2003)). A petition to the RMI High Court should be made within thirty (30) days of the final decision.