

GCMA NEWS

The Voice for Mariners



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CAPT. ROBERT LANSDEN HONORED FOR HURRICANE RELIEF SERVICE



AMO (and GCMA) member Capt. Robert Lansden is flanked by former California Gov. Pete Wilson (left) and Gen. Colin Powell, former chairman of the Joint Chiefs of Staff and former Secretary of State, after Gen. Powell presented Capt. Lansden with the Silver Service Medallion for his "exemplary leadership" as master of the USNS Pollux during the Hurricane Katrina relief effort in New Orleans last year. Capt. Lansden was chosen to represent all U.S. merchant mariners who responded to the crisis. The Army, The Navy and the "first responder" police and firefighters were also represented by one individual from each service at the award ceremony at the World War II Museum in New Orleans.



Those working with and aboard the USNS Pollux during the relief effort after Hurricane Katrina included (left to right) Port Engineers Chris Keefe and John McElroy, Chief Mate Jan Genemans, Capt. Robert Lansden, Chief Engineer Chris Wallace and First Assistant Engineer Jeffery Hunter.

About Captain Lansden

Captain Lansden is much more than an accomplished unlimited master mariner. He is also a respected attorney who was willing to use his talents in the defense of "Captain Ken" against unfounded drug charges and the outrageous tactics of an obnoxious Coast Guard prosecutor. We document this story in GCMA Report #R-315C starting on page 10. Captain Lansden was always available to counsel our mariners with their problems and with their legal problems and always gave generously of his time and professional knowledge.

Captain Robert Lansden is a Kings Point graduate and the Master of a Military Sealift Command ship – and that job has kept him occupied since 9/11. Our mariners appreciate the leadership role he has played in our Association and are proud to present the story of how his "other job" of defending America directly assisted the citizens of the City of New Orleans after Hurricane Katrina.

[Source: The article that follows is taken from the front page of American Maritime Officer, July 2006. GCMA mariners know Captain Robert Lansden as one of the first upper-level mariners to support our lower-level mariners when GCMA was founded in April 1999.]

The mariners who worked aboard five Military Sealift Command vessels – the USNS Algal, USNS Altair, USNS Bellatrix, USNS Pollux and USNS Pililaa – during the relief and recovery efforts on the U.S. Gulf Coast following Hurricanes Katrina and Rita received the **U.S. Merchant Marine Medal** June 14 for their service.

The medals were presented aboard the USNS Brittin in Violet, La., during a Military Sealift Command ceremony coordinated by American Overseas Marine Corp. (AMSEA). Attending the ceremony

for MSC were Rear Adm. Hugo Blackwood, vice commander, and John Henry.

“The service rendered by these vessels speaks volumes about the capability and commitment of the merchant mariners working aboard them and the companies, such as AMSEA, that manage these ships, and about the ability of the MSC fleet to deliver in the times of our nation’s greatest need,” said Capt. Bob Groom, Master of the Brittin, who was emcee at the ceremony.

The Pollux was undergoing engine repairs Aug. 28 when Hurricane Katrina hit. The ship weathered the storm with the rest of New Orleans. MSC gave Captain Robert Lansden, Master of the Pollux, authorization to make the ship’s resources available to the local relief effort. The Pollux became the source of fuel for the generators of area hospitals, pumping stations, water treatment plants, firefighting and military camps. With assistance from West Jefferson Medical Center an emergency dialysis unit was set up in the ship’s laundry room. The ship’s engineers also helped the Audubon Zoo with potable water and assisted the aquarium and the local morgue with pumping, refrigeration, and mechanical systems. With its own air-conditioning, running water, and working toilets, the Pollux was a haven in 100-degree heat for emergency workers and families. “When all command and control was gone, we had to do what was right,” Capt. Lansden said. That theme prevailed in his remarks during the ceremony, and Capt. Lansden singled out several of his officers and crewmembers for their selfless dedication to helping those in need in the aftermath of the storm and

flooding. In all, the Pollux fed 14,000 people and pumped 1.7 million gallons of fuel over 56 days, Capt. Lansden said. “The buses that evacuated this city ran on Military Sealift Command fuel and I’ve got to thank you for letting us give it away.”

As soon as the river was reopened after Katrina, Capt. Paul Breslin, Master of the Altair, brought the ship in to refuel the Pollux so that pumping operations could be sustained. The Algol and Bellatrix provided housing and transport for emergency services workers on the Gulf Coast and, on their own time, the crew of the Bellatrix saved and cared for orphaned pets in the New Orleans area. The Pililau provided housing, transportation and support for marines and paratroopers of the 82nd Airborne, who served in Louisiana, Texas, and Mississippi as part of Task Force Katrina, assisting disaster response agencies and victims of the hurricanes. Referring to the credo of the U.S. merchant Marine, “In Peace And War,” Capt. Lansden said that, in war, merchant mariners will risk their lives to deliver the cargo because they know the people on the other end depend upon it. In peace, he said, these ships are a tremendous vehicle for helping people in a natural disaster. During the hurricane relief efforts, all five ships were operated by AMSEA and manned in all licensed positions by American Maritime Officers and in all unlicensed positions by the Seafarers International Union. All five ships, as well as the USNS Brittin, are currently managed by AMO-contracted companies and manned in all licensed positions by American Maritime Officers (AMO) and in all unlicensed positions by the Seafarers International Union (SIU).

MARINER WINS CONTAMINATED POTABLE WATER LAWSUIT

[Source: Jeff Bloomfield, Esq. and Brian S. Katz, Esq. Bloomfield & Katz, 2226 Broadway, Suite 1, P.O. Box 2903, Paducah, KY 42002-2903. Richard L. Taylor v. Teco Barge Line. United States District Court, Western District of Kentucky, Paducah, KY, 5:04cv33-R.]

Taylor was a second mate for Teco Barge Line, Inc. working on the board its vessel, the M/V Ann Peters.

Beginning in November 2000 and continuing through early May 2003, Taylor was repeatedly exposed to Bitumastic 300 M, a hazardous coal tar based product that was used to line the potable water tanks of the vessel. As a result of these exposures, Taylor developed chronic contact dermatitis, and he now suffers from chronic rashes on his body which will continue for 30 to 40 years. He has to undergo regular phototherapy to help alleviate the condition. He also has suffered an increased risk of cancer as a result of this exposure.

Taylor sued the company, alleging negligence under the Jones Act in that it knew or should have known of the presence of Bitumastic 300M on its vessel, and also that it should have known of the dangers of the product. He also alleged that the company failed to provide a safe place in

which to work, and that it failed to provide adequate confined space entry equipment or procedures. He also alleged that the presence of the product rendered the vessel unseaworthy.

The company denied that the plaintiff was exposed to the extent that he claimed, or that his injuries were caused by his exposure. It claimed that any damages that he suffered were a result of hypersensitivity. It also claimed that Taylor was negligent.

A jury awarded the plaintiff \$1,000,000.00. There had been no settlement offers from the company.



[GCMA Comment: GCMA petitioned the Coast Guard on the matter of ensuring clean water for drinking and bathing. When the Coast Guard dropped the ball, GCMA went to Congress. Section 416 of the Coast Guard and Maritime Transportation Act of 2004 ensured that each inspected vessel has an adequate supply of potable water for drinking and washing by passengers and crew. View the docket at <http://dms.dot.gov> and “search” for 20052 for full information. GCMA will add this article to the docket.]

[GCMA Comment: Mariners who experience contaminated water on their vessels should fill out the report form displayed on the GCMA website.]

CAPTAIN JOE DADY WRITES TO CONGRESS ON CREW ENDURANCE MANAGEMENT

[Captain Joe Dady is the President of United Mariner and a member of the GCMA Board of Directors. He was recently appointed to the Towing Safety Advisory Committee by the Secretary of Homeland Security. He is the Master of a towing vessel that works along the Atlantic seaboard from New York to Florida. Joe's letter was addressed to 95 U.S. Senators and Representatives.]

August 24, 2006

I am a licensed merchant mariner and recently was appointed by the Secretary of Homeland Security to a seat on the Coast Guard's Towing Safety Advisory Committee (TSAC). I am a tugboat Captain in the northeast United States with over 30 years of experience. My appointment to TSAC followed objections to the Coast Guard and Congress that TSAC did not comply with its mandate for a balanced representation for all concerned. I represent working mariners who have achieved very little of lasting value over the years through participating in the federal advisory committee process.

Although I appreciate the opportunity to serve on the committee as a voice for licensed and unlicensed lower-level mariners, the fact remains that TSAC is dominated by the boat owners and their lobbying group, the American Waterways Operators (AWO).

The labor organizations and mariners I represent as a member on TSAC are concerned that the Coast Guard in their close "partnership" with AWO failed to address the issue of mariner fatigue as it relates to marine casualties. We do not have any assurance from the Coast Guard that proposed new regulations for the inspection of towing vessels will adequately address "hours of service" and vessel manning issues that affect our mariners. The proposed new towing vessel inspection regulations could create a needed safety standard and a level playing field in this competitive industry. However, if the boat owners through their trade association (AWO) formed a coordinated campaign through their "capture" of the federal advisory committee process to keep meaningful work-hour and manning regulations out of the new regulations.

In section 409(b) of the Coast Guard and Maritime Transportation Act of 2004, Congress approved a Demonstration Project of the Crew Endurance Management Systems developed by the Coast Guard on commercial towing vessels.

Over the objections of mariners who attended several TSAC meetings and were on TSAC work groups, the Committee report to the Coast Guard omitted any safe work-hour or minimum manning recommendation other than a footnote that noted the objections of some participants to the report's absence of recommendations for safe vessel manning levels and work-hour requirements.

Both the TSAC recommendations and the Coast Guard's final Crew Endurance Management System (CEMS) report sent to many Members of Congress circumvented numerous studies connecting fatigue to marine casualties. The report suggests that a Crew Endurance Management System is an acceptable alternative to inserting prescriptive safe manning and work-hour clauses in the proposed new towing vessel inspection regulation that may be launched before year's end.

Supporters of CEMS suggest that mariners are somehow unique and do not deserve the basic protections from abusive

working conditions afforded to every other American worker.

We disagree with Assistant Secretary Turner's assessment in her cover letter to a number of recipients of the CEMS report that regulations in the transportation sector traditionally addressed fatigue through hours-of-service and work-hour requirements. While this may have been Congress' intention, serious loopholes in the regulations allowed our lower-level mariners to be exploited for many years. The lack of adequate vessel manning standards forced our mariners to work on undermanned vessels with fatiguing watch schedules. In other areas of the transportation industry, such loopholes are being closed with a greater public awareness of the dangers of working fatigued. Nevertheless, the towing industry continues its posturing through its partnership with the Coast Guard and its tight control over TSAC to assure these loopholes are perpetuated in the new towing vessel inspection regulation using CEMS as a crutch and an excuse for perpetuating the existing system.

I reviewed the CEMS report submitted to legislative leaders on March 29, 2006. I found that although Crew Endurance Management may assist the mariner who must overcome problems raised by unsafe and unhealthy work schedules and manning shortages, it should never be anything other than a voluntary program.

I urge Congress not to allow CEMS to become a substitute for the regulations our mariners pray will end the many years of abusive conditions in the towing industry. As I read the report, I was disturbed by the fact that the author found it necessary to narrate the data. I believe our legislators are capable of evaluating the data in a report without being lead by the nose to accept a favorable evaluation by a trumped up report.

The CEMS Demonstration Project report ignored the International Maritime Organization's study on fatigue and its recommendations for safe and healthy work schedules in favor of an endurance program that will have little impact on improving long-term health and safety aboard towing vessels. The Coast Guard spent a great deal of time and resources to curry favor with towing industry management while turning away from regulating safe manning and mandating healthy work-hour regulations for the our mariners. As I read the report, I asked myself, "Why is that?"

One possible answer as to why this Coast Guard report has trouble maintaining its objectivity is because future opportunities in the towing industry for retired Coast Guard officers may depend on these officers maintaining a close partnership with AWO. While I respect the many fine officers who serve their country in the Coast Guard and have no proof of wrong doing, I merely point out some compromises are necessary in a partnership between industry and government. To this, add the human nature factor in a free enterprise. Unfortunately, for our working mariner, we have no advocate for our position in the Coast Guard. Few in the Coast Guard do the type of work we do with the paucity of resources furnished us to do the job. Our interest in creating viable new regulations depends upon our respected representatives.

My specific concerns regarding Crew Endurance Management are that this program is not now and never should be an alternative to minimum safe manning requirements and healthy maximum watch hours any more than a Safety Management System should ever substitute for physical inspection of towing vessels by knowledgeable inspectors under strict government control. Towing vessel inspection is long overdue.

Our mariners are very concerned that the Executive

Summary of the CEMS report is misleading as to the hours-of-service and manning requirements. In 2000, the Gulf Coast Mariners Association provided proof to the Coast Guard at the national level with letters from 58 mariners of violations in existing regulation regarding manning and work-hours for many years. I understand this report is available from the Association on request.

The CEMS report to Congress suggests that existing statutes and regulations to prevent fatigue did not help to curb marine casualties. We contend that the fault lies in a pitiful lack of enforcement and the loopholes carved out in the regulations for uninspected vessels. This continues to be the root of the problem. The CEMS program will only compound marine casualties attributed to fatigue by blocking the passage of meaningful new regulations.

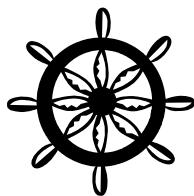
We believe that fatigue-related marine casualties continue because the Coast Guard does not enforce the twelve-hour work rule adequately. Loopholes in the statutes mirrored by Coast Guard regulations allow unlicensed mariners to work fatiguing watch schedules on undermanned vessels. Even AWO suggests in their "Responsible Carrier Program" and the "captive" TSAC working group mirrors the view that a 15-hour workday is reasonable and proper with no guarantee of a single six-hour rest period.

The Coast Guard ignored countless reports of abuses and violations of work-hour regulations to the point where our mariners simply seek work outside the towing industry. Request for rule changes by Gulf Coast Mariners and other mariner advocacy groups were ignored. Loopholes in the regulation segregate the lower level mariner who works on towing vessels from mariners who work on inspected vessels and deny them the protections afforded to seamen on inspected vessels. Our mariners deserve equality under the law. The CEMS program will deny us that unless it is accompanied with reasonable hours-of-service regulations and minimum manning requirements that provide a full crew that is rested to take over each watch.

I understand through talking with mariners who participated in the Demonstration Program that data collected for the report was tainted by the fact that in order to maintain job security, some mariners provided favorable responses when approached by their employers. Mariners I have spoken to privately had little good to say about the CEMS pilot program and believe it will be discarded once industry achieves its objective and maintains its manning loopholes in the under the new towing vessel inspection regulations.

I appreciate your reading these comments and encourage your reply.

Very truly yours,
Captain Joseph Dady
United Mariner



ACCIDENT PLACES TENNESSEE RIVER BARGE TRAFFIC IN JEOPARDY

[Source: Institute for Southern Studies, P.O. Box 531, Durham, NC Aug 15, 2006. GCMA file M-659. M/V Potomac.]

An accident nearly two weeks ago involving a barge that collided with the main lock at the Wilson Dam on the Tennessee River near Florence Alabama is wreaking havoc with barge traffic on the waterway:

A damaged lock at Wilson Dam is snarling commercial boat traffic on the Tennessee River, with barges backed up for miles on both sides of the dam. The main lock at Wilson Dam has been closed since Aug. 3, when a barge became entangled in the lift gate.

An auxiliary lock was opened after the accident, but it operates much more slowly than the main lock. The main lock can lift or lower a cluster of nine barges in about 45 minutes. The auxiliary lock requires about 75 minutes to move a single barge.

Harley Hall, vice president of operations for Paducah, Ky.-based Tennessee Valley Towing, said it takes about five days from the time a tow of barges arrives in the area until the barges and towboat are allowed through the lock.

Hall told a news organization that his company is paying \$4,200 a day for salaries of the crew and maintenance costs as its towboat waits in line to pass through the auxiliary lock. Last week, five of the company's seven towboats were caught in the traffic jam.

Hall said the U.S. Army Corps of Engineers, which operates the lock, is doing all it can to keep traffic moving on the Tennessee River, but it's hurting companies like his.

While the Corps of Engineers can't be blamed for an accident, there is similar trouble brewing at one of their other lock operations, and the problems at Florence are a minor inconvenience compared to the potentially huge disaster for barge traffic on the Tennessee River.

After poor decisions on the type of materials used to build the locks followed by decades of neglect and inaction, the lock at the Chickamauga Dam on the Tennessee River near Chattanooga has deteriorated to the point that it is not expected to last much longer. Closing the lock would cut off all barge traffic on the Tennessee River north of Chattanooga to Knoxville and beyond.

This includes more than 300 miles of navigable waterways and affects industries providing hundreds of jobs, including the Oak Ridge National Laboratory which is said to require barge access for "classified" equipment that cannot be transported any other way.

More than 200 million tons of barge freight moved through the lock in 2003. This is down approx. 30% because of concerns about the future of the lock. Fixing or replacing the lock is expected to cost more than \$300 million, which is eight times what the entire dam cost to build in the late 1930s.

That's a lot of money, and maybe hard to justify given value of the freight and the jobs affected. But there are other considerations. People in the business say each barge keeps 60 semi-trucks off the road. If I'm not mistaken, there are also federal laws against impeding navigation on navigable waterways. Then there's the fact that this has been a known problem for a long time, and every year it isn't fixed it just gets more expensive.

Unfortunately, Congress has been slow to approve funds for a fix, and time is running out if it hasn't already.

MARINERS RESENTS TREATMENT RECEIVED AT REGIONAL EXAM CENTERS

[Source: WorkBoat, August 2006, "Mail Bag"]

Are all RECs the same? If so, then there has to be something done to correct the abuse of positions held by civilian government employees. At the least they are blasé about your needs, and at worst, arrogant to the point of total disrespect. And that is when you can actually talk to someone on the phone.



They almost never answer the phone and never call back when you leave your number as the recording says for you to do. All of this bliss only intensifies when you take a day off from work, rise at 4 a.m., and travel 350 miles round trip to go in person and ask them the same question you wanted to ask them on the phone for the last two weeks. They cannot even reply to e-mail. I hate to say that you get this treatment from some of the Coast Guard personnel there as well, but there are some that seem to follow the lead of their civilian bosses. Although some of the Coast Guard personnel do bend over backwards to help, most of the time they are thwarted by their civilian bosses.

It's time we stood our ground and demand to be treated like human beings. They are there to serve the mariners who have to travel for miles, most of the time, to the "local" REC. We need to call, write, send smoke signals to our Congressmen and get them involved to get these RECs in order and get the respect we deserve.

Regulations change and they expect us to be clairvoyant and know what they are. Well sorry to disappoint them, but I'm not and I don't know any clairvoyant sailors. The burden should be on the REC to inform us of changes in procedures, etc., and not be told that it's my fault that I didn't know there was a regulation change and that I'm just stupid for not knowing.

We need to demand something better from a government that requires all of us to jump through all the hoops and stand on our hands while a ring of fire is passed over our bodies just to renew our documents and licenses. God help anyone going in to upgrade or get anything added to their license or document. Yes, security is needed, but my fingerprints don't change and how many times does my background need to be checked before they can release my license.

We need to unite all of the Merchant Marine and demand that these RECs get their act together or call for the whole operation to be privatized so we can have recourse when given the runaround or treated as sub-human. *s/Richard F. McCam, Inland Master AGT, First Class Pilot AGT, Cape May, N.J.*

GCMA Comments

This letter makes three important points that we underlined.

1. Write a letter to Congress. GCMA Report #R-422, How to Contact Congressmen on Maritime Issues provides you with a list of U.S. Representatives and Senators who have primary responsibility for dealing with maritime issues. Be specific in your complaint and explain exactly how their conduct offended you. Be sure to mention specific names, dates, and places. Be specific – know who you spoke with. In the past, licensing and documentation issues were inevitably pushed to the back burner because mariners are on a 5-year renewal cycle. However, the “five-year” cycle degenerated into little more than a “four-year” cycle. The system faced collapse from its own accumulated inefficiency even if the largest Regional Exam Center had not flooded in Hurricane Katrina. Congressman Frank LoBiondo, Chairman of the Coast Guard and Maritime Transportation Subcommittee held hearings on “maritime personnel” issues in the latter part of July. So, since the problem finally surfaced in Congress, your letters to **Congressman Frank A. LoBiondo, 225 Cannon House Office Building, Washington, DC 20515** will keep the focus there!

2. The RECs, and even worse, Coast Guard Headquarters itself, does not believe it has any burden to inform mariners directly. Until one year ago, the Coast Guard did not even have an accurate count of the number of licensed and certificated mariners. GCMA and other mariner organizations sought this information from December 1992 forward – and were stonewalled by no less than former Commandant James Loy who couldn't be bothered with answering our letters. If the Coast Guard didn't even have an accurate count, don't expect them to have a mailing list with your name on it! We have already touched on this issue in GCMA Report # R-382, Why Our Mariners Don't Get The Message.

3. The Department of Homeland Security really “blew it” on the TWIC program's proposed rulemaking that closed for comment on July 6, 2006. In addition, last winter, the Coast Guard also “blew it” on their arrogant fingerprinting requirements published in the Federal Register of January 13, 2006 at 71 FR 2154-2167. Although written in the finest bureaucratic style, it only proved that “they just don't get it” when it comes to dealing with our mariners. The new medical NVIC may drive thousands of other mariners out of the industry.



LICENSE ADMINISTRATIVE SCREW-UP COSTS LOWER-LEVEL MARINER \$18,000

Captain Gilford (“Gil”) D. Freeman of Newport News, Virginia joins us in saying that it is high time to remove the Coast Guard from the administrative task of issuing merchant mariner licenses and documents. A former military man and graduate of the Army Transportation School at Fort Eustis, Virginia, Mr. Freeman points out that since the U.S. Air Force doesn’t issue commercial pilots licenses to aviators, then why should a branch of the military issue merchant mariner credentials. He points out from his hard experience over the past nine months that they don’t do the job very well at all. Here is his story.

Captain Freeman works for the State of Virginia running the Jamestown – Scotland Ferry across the James River.

In December 2005 he began the renewal process by obtaining his physical exam and submitted his paperwork to REC Miami. He went to REC Baltimore and had his fingerprints taken electronically. REC Miami then sent him a note that he needed a hearing test to renew his license even though he held a medical waiver for his hearing issued in 2004 when he renewed his z-card. He scheduled the test and sent in its result to REC Miami on May 16th.

Captain Freeman’s license expired on June 7th. When he heard nothing from REC Miami, he called them at least six times and left messages with a Miss Coleman, a civilian employee. When he finally spoke with her on June 6th, she said in effect: “I have your file on my desk now, but I won’t be able to get to it until the week of June 12th. However, as Captain, NO LICENSE, NO WORK. He had to go on leave without pay once he used all his vacation time.

Captain Freeman called her again on June 28th after the license still did not arrive and was told his license had been approved June 26th and “sent to the printer.”

After leaving messages again, he spoke to a LTJG Gare (at REC Miami on extension 112) on July 10th and was told that his license had been approved but that no further information was available on his computer. He called again on August 1st and was told the same thing – and that the person would check and call back – but never did.

Captain Freeman called back and was told, “Due to a problem with the system, the Coast Guard needed a new background check” – and if there was no problem, then they could issue it the license.

The Last Straw



Since June 7th, Captain Freeman’s “meter was ticking.” Like most mariners, he is not a rich man. He is only a few years from retirement. Without a license, he was out of work. Not only was he not receiving a paycheck, he had to pick up insurance payments of \$1,000 per month for himself and his wife. Short of cash, he had to rearrange his finances and finally had to take out a loan to tide him over.

Captain Freeman was so fed up with the federal bureaucracy, he called Secretary of Homeland Security Michael Chertoff. Receiving no satisfaction at that level, he called the Inspector General for the Department of Homeland Security, Mr. Richard Skinner on August 5th at 202-254-4043. Things then started to move off top dead center. A Mr. Michael Knorr a DHS investigations branch specialist (202-493-6600) put him in touch with a Mr. Barry Walker at the National Maritime Center who appeared to be on the “medical side of licensing.” He reviewed his computer and indicated that he should not have had to take another hearing test because he already received a waiver for hearing on his z-card in 2004. If that was true, there was no reason to have held up his application originally submitted in February. On August 8th he was told by the National Maritime Center that everything had been approved by REC but he still had to be “vetted” again – assumed to be another FBI check. His license was issued on August 14th and he finally received it on August 24th and returned to work on the evening of August 28th.

“Happy Ending” ?

Captain Freeman has his license, but he is \$18,000 poorer. This is not the first nor probably will it be the last story like this that we will hear. In fact, we have heard seventeen (17) stories from other mariners who had reached the “end of the rope” in the past few weeks. Fortunately, most have had “happy” endings – but, aside from the ending, they were not able to make “the system” work for them.

[GCMA Comment: Based upon our experience, the new “centralized” licensing system needs an Ombudsman that mariners can contact when “the system” will not function for them. Otherwise, we will continue to lose our best talent to frustration with the bureaucracy.]

\$18,000 is a very high price for a mariner to pay for the “privilege” of holding a license, for the privilege of being able to earn your living working on the nation’s waterways. \$18,000 is an excessively high price to pay for to support a system that was broken long before Hurricane Katrina.

ANOTHER DECKHAND CRUSHED BETWEEN TWO BARGES

[Source: MISLE Activity #2578015; Misle Case #274086; Sector New York. GCMA File #M-624]

Executive Summary: “Received notification that a crewmember of a towing vessel fell into the waterway

(Hudson River) between two barges. The vessel was underway and the deckhand was placing running lights on the barges when he slipped and fell between two of the barges. The crew pulled the deckhand out of the water and made notifications. Emergency Services arrived on the scene with local law enforcement officers. The deckhand was taken to the hospital where he was pronounced dead.

Other facts: The tow of the 1,200 HP tug MISS YVETTE consisted of two-260 foot hopper barges made up side by side.

The 57 year old deckhand, with 20 years experience in the industry, fell into the river while placing running lights on the barges while they were underway and moving forward shortly before one o'clock in the morning. The deckhand managed to use his handheld VHF radio to notify the mate on watch that he fell between the two barges. The mate stopped and backed the engines. The momentum of the barges slowing down caused the barges to come together. When the barges came together "due to lack of momentum", the deckhand was crushed between them.

There were a total of four persons on board the vessel at the time. The Master was off duty. The Mate called the other deckhand to go outside and look for the deckhand who was missing. The Master was awakened, dressed, went out on the loaded barges and saw a piece of material in the water near the bow of the barges, pulled on it and, with the help of other crewmembers, pulled the deckhand's lifeless body on deck.

The accident report prepared by the Company's Port Captain, who was not on the boat at the time of the accident, indicated that the accident occurred on a clear night with good visibility with an air temperature of 35°F. However, the Marlborough Police Department report stated that "The deck

of the barges were very slippery. The weather was clear around 10° (and) the incident appeared to be accidental.

[GCMA Comment. This report is a sorry example of the "Data Collection" level of investigation. Was the temperature 10°F (i.e., far below freezing) or 35°F (i.e., above freezing)? The Coast Guard did not include any local weather report to answer this question. Did the deckhand slip on ice on the deck or was the deck just wet? Was anti-skid deck paint used on the barge or was any salt applied in freezing weather? Why were the barges underway before the running lights were in position and lighted? Why was there enough slack left between the two loaded barges for a 216 lb. deckhand to fall between them? Why was the deckhand allowed to go out on deck without wearing his personal flotation device or an exposure suit on a cold night? Why wasn't the second deckhand out on deck accompanying the deckhand on duty? We believe the Coast Guard officials approving this report should have asked and resolved these basic questions before closing this report.]

ROGUE WAVES

[Source: *West Coast Sailors, Sailor Union of the Pacific, July 14, 2006, p. 9.*]

The *New York Times* on July 11, reported that after centuries of legend, rogue waves are now scientific fact. As seamen have known since ships put to sea: sometimes the seas seem to stack up on each other, producing enormous, anomalous waves.

Navy officers aboard the USS RAMAPO, for example, triangulated the height of a wave in the North Pacific in 1933 at 112 feet. Alternately called freak, extreme or monster waves, oceanographers for decades have dismissed such claims as nautical lore. A ship moving on the open sea, they've said, is a poor point of reference for wave measurement. But the wave that swept by the Draupner oil platform in the North Sea on January 1, 1995 changed that. Equipped with sophisticated wave measurement devices, the stationary rig recorded the wave at 26 meters high, or over 85 feet from trough to crest.

The Draupner wave led scientists in Europe to develop the MaxWave project, which used radar satellites to measure wave heights all over the globe. Collecting only three weeks of data, they uncovered ten giant waves, the smallest of which was 82 feet high. Then in 2004, Hurricane Ivan passed directly over six wave-tide gauges 50 miles offshore in the

Gulf of Mexico which measured numerous 90 foot waves. The surprising conclusion is not only that extremely large waves exist, but that they occur with horrific frequency.

There is no definitive explanation for the cause of "an amplitude significantly greater than the background sea-state," as the scientists say. The theory with the strongest support centers on the relationship between strong currents and wind-driven waves working in opposite directions. The Agulhas current, off the Cape of Good Hope for example, flowing south and to the west, which meets with the icy Benguelas current flowing north, combines with the west winds of the "roaring forties" to create ideal conditions for extreme waves. Basically, the current moving against the wind magnifies the wave. In San Francisco, Golden Gate pilot boat operators will tell you that a light chop quickly becomes steep and moderate short period seas when outbound to the pilot station on a spring ebb against 20 knots of westerly breeze.

There are other theories besides current/wind friction, such as the non-linear effects of a wave "soaking" energy from its neighbors immediately fore and aft. And there are other kinds of rogue waves, too, such as waves that come from a different direction than the prevailing seas, or a boarding sea that mysteriously and suddenly rushes over the rail. Life deals metaphorical rogue waves as well, when all you can do is take a round turn and hold on against unforeseen, aggressive, and brutish events piling up and coming at you. But whatever the type, place or cause, sailors take note: rogue waves are part of the peril of the seagoing life.

CAPT. DAVID WHITEHURST COMMENTS ON COAST GUARD INVESTIGATIONS

To Whom It May Concern:

I just read a report dated August 1994 posted on the GCMA website as **GCMA Report #R-429A** on United States Coast Guard casualty investigation and analysis and recommendations for improvements.

I find that many investigating officers at marine safety offices these days in the field doing investigations are young with very little knowledge of the operations of the vessels and area that they are assigned to. This shows very little if any improvement since it was reported 12 years ago in 1994.

I have been boarded by investigating officers (IO's) from a number of Marine Safety Offices in the Eighth Coast Guard District for a number of reasons, ranging from just a general boarding to investigating a marine casualty.

On these boarding's, I find some of the people that do the boardings are young and inexperienced and have little to no knowledge of the type of vessel operations or knowledge of the officer's license that is required to operate the vessel.

On several occasions when the vessel was boarded and I pulled my license out of the bag to show them, I was told that they did not want to see my license. The only license they were interested in was the license of the captain or the person that was operating the vessel at the time of the boarding. This simple omission showed that they were not interested in determining whether there were two properly licensed and qualified officers available to operate a towing vessel in 24-hour service. This should be a very basic consideration to protect lives and property.

Page 28 of GCMA Report #R-429A makes reference to "stupidity" or "common sense." Because these vessels operate twenty-four hours a day, seven days a week, this leaves me to question the boarding officer's stupidity in not insuring that there are two properly licensed personnel on board to operate the vessel as is required for these vessels to operate 24/7.

With the known shortage of licensed vessel officers in the towing industry today, the towing companies are resorting to using unlicensed personnel or personnel with improper licenses to operate their vessels. There is plenty of documentation to show that this is taking place in the towing industry right under the Coast Guard's nose! They are turning a blind eye to it.

Investigating Officers are quick to find that human factors are the cause of most accidents with 60% to 80% of marine casualties estimated to have human-related causes associated with them.

What are the percentages of casualties that true mechanical failure played a part and what are the percentages of the Investigating Officers doing a follow up report on the vessel that was involved in the casualty to find the true cause of the casualty and look at what can prevent it from happening again?

Any vessel involved in an allision involving damage to property or a vessel that sinks should be ordered to a dry dock as soon as possible. The vessel's hull, wheels, and rudders should be inspected by a qualified marine inspector to insure a complete safety investigation. When a vessel sinks, a fully qualified inspector working with the investigating officer should determine exactly what caused the vessel to sink. Crewmembers should be questioned in detail as to the performance of their duties and their knowledge and degree of training determined.

On the bottom of page 22 of the report, when asked how they investigated a case, most Investigating Officers responded with something like: "I receive casualty information. I find out who the additional sources of information are. I contact them to find out what they know. Occasionally it may then involve on-scene investigation. Then I sit down with the information, try to construct the chain of events, and establish the cause (and) contributing factors. I look for any one thing that's the main cause. I submit the case for final evaluation."

How can anyone determine what took place if they only occasionally investigate the scene of the accident? In the three week training course taken by the entry level IO's at Yorktown, Virginia is part of the training mind-reading and sorcery to try to envision past occurrences?

The enclosure goes on to state: "I read the information. I call the guy being investigated last. I call the employer, the witnesses; get the facts together, decide if there's merit to

pursue it any farther. On casualty cases, I get physical evidence, maybe go to the scene that day, and interview the people while they're still fresh. Then I set down and come up with ideas. After I've exhausted all the leads and have the story, I decide what to do, for example, charge. Then I implement my decision."

The fact that the typical Investigating Officer stated that he/she "comes up with ideas" frankly scares the hell out of me. What happened to facts? As a professional licensed mariner, I may face losing my license and my livelihood because of some stupidity of an idea that an IO gets when he/she has very little to no real knowledge of the true operation of a towing vessel and finds me at fault without any real evidence except an "idea"!

The fact that one of the first calls that an investigator makes is to the employer is one very big mistake. The employer is not going to disclose any real information that might possibly implicate his company or its management as a possible cause of the accident.

Many companies hire retired Coast Guard personnel to oversee their safety program and, in case of an accident, the ex-coastie doubles as a source of information for the company to steer around any implications that could indicate that the company is in any way at fault. Because the ex-coastie knows the loopholes to get around the real truth and navigate through the paperwork, this makes his services invaluable to any towing company.

Most companies do not carry CG-2692 forms on board their vessels. Some companies substitute a company incident form. The company fills out the real CG-2692 at the shore side office to make absolutely certain that nothing on that form will harm or incriminate the company.

There is virtually no way an Investigating Officer can reach a true conclusion on a case by just sitting in his office and making phone calls to companies and talking to company representatives or ex-coasties who were not on the scene of the accident.

While most Senior Investigating Officers (SIO's) may have more knowledge, they also are limited. I have worked with some of these SIO's and IO's as I have over forty years of hands-on expertise in the inland towing industry. I can say that most seem eager to learn.

I have learned by working with these personnel that most are truly interested changing the towing industry's poor safety record, although I find that most are quick to blame the mariner.

A mariner after all has very few resources to fight back with while the company has sufficient funding to defend itself. This leaves a mariner as a sitting duck to catch all the flack with his license on the line for suspension or revocation.

Most mariners think that their company will back them up with an attorney. While this may be true in some cases, it is true only if the company has a stake in the casualty. Such an attorney will place the company's interests first and foremost and not those of the mariner. To get around this, smart mariners buy license insurance to insure that they are represented by an attorney that has their best interest in mind.

I find that most Marine Safety Units are limited on resources as regards available land and water transportation. How can an investigating officer do a true investigation of a casualty if there are no vessels at his/her disposal?

I have worked with a number of SIOs and IOs and in doing so I have found that not much has changed since the 1994 report on the website. In fact, the Coast Guard seems to

be in suspended animation.

I cannot understand why high ranking officers in the United States Coast Guard do not seek and encourage their personal to seek the knowledge of professional merchant mariners who have experience in the industry. They are quick to seek information from the desk jockeys at the American Waterways Operators Association (AWO) and from "management" in general. AWO is a trade association that managed to force many small maritime companies to go out of business unless they buy a membership in the association.

There is an awful lot of maritime knowledge that is not being passed on because of the stupidity of the Coast Guard and management. Older mariners refuse to pass on their knowledge because of the way they are disrespected and badly treated by both the Coast Guard and the towing industry.

I have addressed safety issues at the Towing Safety Advisory Committee (TSAC) on a number occasion and my comments were not of interest to any coastie. These are some questions I recommend that Investigating Officers should ask of mariners.

- How many days have you been on the vessel since your last time off? If it is longer than thirty days, then the greater the chance fatigue will be an issue.
- How many hours were you awake prior to the accident?
- How knowledgeable are you of the location where the

accident took place?

- Have you been getting some good sleep, or has noise and vibration been an issue?
- Has the vessel been handling satisfactorily or has there been a recent change or even a gradual change over time?
- Was there a posted lookout at the time of the accident?
- Describe the visibility at the time of the accident.
- How many crewmembers were on board and what were their positions, rank, and experience and time on duty as verified by your vessel's log book.
- Was the vessel overloaded with barges? The guidelines to go by would be 250 horsepower per-barge, with the barge being 200' x 35' at 9.5 feet draft or 250 horsepower per fifteen hundred tons of cargo.
- How many casualties has the vessel been involved in with in the past five years?
- How many reportable casualties has the mariner had in the past five years? Is a pattern developed?
- What issue of license is the mariner working on?
- The IO should look at the company's other vessels for number and type of casualties per-vessel in the past five years.
- The IO should look closely into the company's drug program.

THE MARINE CASUALTY INVESTIGATIONS AS THEY AFFECT LOWER-LEVEL MARINERS: A PREVIEW OF GCMA REPORT #R-429

GCMA may be one of the Coast Guard's "best customers" for FOIA requests for accident reports as our files contain well over 650 reports of accident investigations. Most recent FOIA requests are based on requests from our "lower-level" mariners. Our interest in this material is for safety items pertaining to the work we do with lessons they can profit from if presented in our Newsletter or Research Reports.

Our mariners have daily access to our nation's waterways. In many cases, they know first-hand what occurs on the waters they traverse. They often call us to report unsafe conditions or illegal activities and often specifically ask us to report these conditions or actions to the Coast Guard or other government agencies.

When GCMA makes this information available in writing, it is for the purpose of establishing a "paper trail" for investigators to follow. Although the Coast Guard "encourages" these reports, more often than not, they either fail to act upon the information we furnish or refuse to let us know whether the information our mariners provide is useful or not.

In the past (e.g., 1960s, 1970s) the Coast Guard often covered one or two accidents or incidents in Proceedings magazine in the days when it was published in black and white and before it became a "coffee-table" publication.

These accident reports contain a number of redactions (i.e., blackouts) necessitated by the Privacy Act that are annoying but necessary. However, in some reports, they make a narrative almost impossible to follow. In reports where narratives refer to individuals by generic job title, the value of the report is significantly greater and redactions are reduced.

The fact that all these accident reports are deposited in Washington and are available from one location clearly promotes public access. We believe local offices are more inclined to

respond to requests from "Headquarters" than to requests from our Association and other members of the public.

The existing system generates a tremendous amount of wasted paper. For example, if a tow of 40 barges grounds and breaks up on the Lower Mississippi River, there will be scattered information on the number, owner, tonnage, etc of each barge whether that barge is damaged or not. Although much of the routine information is computer-generated, we find that it is neither complete nor comprehensive.

One area often redacted at considerable effort involves drug use. Such an incident is covered by all sorts of heavily redacted paperwork that obscures the question of whether drugs were or were not involved. We believe drug involvement is very important information, but it is extremely difficult to ascertain in examining the final reports the Coast Guard furnishes us. We believe this information should be readily available in light of the huge drug problems our mariners report to us. In fact, one of our Association's visits to Washington to speak with Senator Mary Landrieu and Congressman Charles Melancon specifically dealt with drug use on towing vessels.

GCMA worked on a major project (GCMA Report #R-340) dealing with oversize and overloaded tows. Many of our mariners call in when one of these oversized tows slams into a bridge, into the bank, or into a shoreside facility. We then request a copy of the accident report (i.e., a completed CG form 2692) and a report of the Coast Guard investigation. Our mariners often are concerned whether the report of the accident was "truthful" as compared to what they either know because they saw it happen, heard about it by monitoring their VHF radio, or were told by reliable sources that the accident occurred. However, it may be months, or years, (or maybe never!) before we obtain an answer from the Coast Guard after submitting our formal FOIA request. We also believe the Coast Guard may have many incomplete reports that never close.

There are huge gaps between the information we request under FOIA and the information we receive. This leads us to believe that some reportable accidents our mariners see or

know about and report by telephone may:

- never be reported to the Coast Guard by the vessel owners, OR
- may never be investigated by the Coast Guard if they are reported, OR
- be quashed by companies that have “connections” with the Coast Guard – although this is hard to prove.

CG Form 2692 is also used for reporting injuries to our mariners. The timely and accurate reporting of personal injuries to the Coast Guard has been **absolutely deplorable** as we detail in our report below!

We believe the statute (46 U.S. Code §10603) that requires the owners of uninspected fishing vessels to post an informative placard on their vessels that requires reporting all injuries within seven days (etc) also should apply to all vessels our mariners serve on. We ask Congress to set and the Coast Guard to enforce stiff penalties for failure to report personal injuries and marine casualties.

46 U.S. Code §6308 bars the presentation of certain information obtained by the Coast Guard in legal proceedings. We believe Congress should review this statute with an eye making certain information generated by a Coast Guard

investigation (as first responders) available to protect our mariners better.

We question the recent Memorandum of Understanding between the Coast Guard and the National Transportation Safety Board where the NTSB now wants to see six dead bodies before it becomes involved in investigating marine casualties unless the accident involves other serious safety issues. This relegates investigations of most accidents involving tugboats, towboats, barges, and offshore supply vessels manned by our lower-level mariners to the Coast Guard. GCMA has become dissatisfied with certain aspects of Coast Guard investigations. We view this overt move by the NTSB to deny the importance of accidents involving our “lower-level” mariners. This only compounds the Coast Guard’s failure to thoroughly investigate thousands of uninspected towing vessel accidents over the past three decades and is detrimental to our mariners’ safety.

Consequently, we will shortly release GCMA Report #R-429 that, in company with #R-429A and #R-429B already posted on our internet website, will provide the necessary specifics. We have no axe to grind with any particular office, and most events we report occurred over the past six-year period and directly affect our “Lower-level” mariners.

**Q. WHAT DO THE RESPONSE TO HURRICANE KATRINA AND TWIC HAVE IN COMMON?
A. THE DEPARTMENT OF HOMELAND SECURITY.**

Herein lies the story.

First of all, the response to Hurricane Katrina in August and September 2005 is destined to go down in the history books as one of the most colossal failures in leadership ever experienced in the United States and is well documented in the “Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina” – aptly named A Failure of Initiative.

Although there were complaints by Democrats that the report was not really “bipartisan,” the report is damning of the response by the Federal Emergency Management Agency, which, like the Coast Guard, was sucked into this vast new department when it was created on March 1, 2003.

The Department of Homeland Security is a vast federal bureaucracy with about 188,000 federal employees amalgamated from parts of at least 22 existing agencies, some large and some small. It was the largest merger of federal agencies since the creation of the U.S. Department of Transportation in 1965.

The Department of Homeland Security (DHS) as an overarching agency includes the Coast Guard and 21 other government agencies. This change clearly affects our mariners, it is cause for serious concern.

Perhaps, like parents who are concerned about their children “running around with the wrong crowd,” GCMA was interested in finding out more about the “crowd” the Coast Guard is hanging out with at the new DHS – an agency whose only home address is a zip code in the Government Manual.

We remember television footage of former Transportation Secretary Norman Mineta with tears in his eyes when the Coast Guard formally separated from his Department and moved into the “fast track” at DHS. GCMA still questions how this “reorganization” could possibly be of any benefit to

our mariners, At the time, we chalked it up to a pressing need to improve the security of our nation. Now, we pause to take a hard second look at the quality of the work that was accomplished since March 2003.

GCMA is not part of the Washington scene. The Coast Guard, although responsible for the nation’s approximately 126,000 “lower-level” mariners, pays very little attention to our mariners. Coast Guard officers at Headquarters are “wowed” by the big business interests represented by the boat owners and associations like the American Waterways Operators, the Offshore Marine Service Association, and the Passenger Vessel Association. That’s where the money and power are located, and like hound dogs, Headquarters sniffs out the power centers and browns up to them. Our mariners are barely tolerated on Advisory Committees, their counsel is seldom sought after, and we have very little influence in them. Our mariners have little chance to advance a meaningful proposal through an advisory committee like TSAC or NOSAC. This leaves our only alternatives to sit and suffer or make direct contact with Congress.

If we don’t know anything more about DHS than it has its own zip code in DC, who does? The answer to this question is a respected attorney who served with DHS from before the agency started in business – a former Inspector General for the U.S. Department of State who was recommended for the job as the new DHS Inspector General by the then Secretary of State Colin Powell – Clark Kent Ervin.

Clark Kent Ervin served as the DHS inspector General



from March 2003 to December 2004 and is author of the book Open Target that describes the massive government

“reorganization” that formed the Department. He also describes the massive graft, corruption, mismanagement, and cover-up that should shock every member of Congress and every American taxpayer. However, like so much else in Washington, these facts were obscured, bulldozed, spun to the media, and made palatable to the average American.

We will not retell Clark Ervin’s story here. He does an a very professional job in his recently released book Open Target (ISBN 1-4039-7288-5) available through your local bookstore. We will simply mention some of the results of the billions of dollars spent to “make our homeland more secure.”

The Select Bipartisan Congressional Committee, even though it might not have been as “bipartisan” as the Democrats would have wanted it to be, uncovered more about FEMA and the appointment of incompetent and unaccountable officials by the party in power than most Americans could stomach. They described it in the book they issued in early 2006 titled A Failure of Initiative. In all the Katrina mess, the Coast Guard generally came out smelling like a rose.

However, when it comes to TWIC, the proposed new Transportation Workers Identity Credential, Clark Ervin’s portrayal of the massive and stifling effect of DHS bumbling bureaucracy along with its penchant for waste and mismanagement looms large.

The TWIC proposals presented last June were attacked roundly by all concerned members of the public in comments made at four public meetings as well as in written comments to the docket. Out of approximately 1,900 public comments there were hundreds of valid reasons why DHS should rethink this proposal. Thanks to its association with the Department of Homeland Security, the Coast Guard no longer comes out smelling like a rose. It all boils down to the company you keep – and DHS has not gained the best reputation over the past three years through its missteps, controversies, and lack of accomplishments.

However, most repulsive of all for our mariners is not the aroma emanating from DHS, but rather the idea of their attempt to saddle every mariner and other worker from truck driver to longshoremen with a \$139 tab for a poorly designed system that might not work. At the same time, DHS covered up millions and millions of dollars in misguided and mismanaged programs that Clark Kent Ervin described and connected the dots in his chapter titled “Wasteful Spending and Sloppy Accounting” (Chapter 9). This \$139 fee is more than any of our mariners should be forced to accept – especially in light of the hassle it will cause the maritime industry.

Clark Kent Ervin deserves recognition for his dedicated public service. More than that, the American people deserve much better than it has received from the whole Washington scene – from Congress, from our public servants, and from Federal Prosecutors who need to make a concerted effort to go after some of those who have taken advantage of the confusion attending the massive government reorganization and ripped off the American people. For that appears to be what the new Department of Homeland Security has become – one big rip-off in the name of protecting the American people where they live. Scandals range from FEMA abominable performance, to DHS feeble and totally ineffective efforts to control security on our nation’s borders, to make airline travel secure, and to securing our ports. Take the time to learn about what Clark Kent Ervin discovered before you ever again think that “Big Brother” knows best.

As a working mariner, ask yourself, how much does the Coast Guard, the federal agency that regulates the maritime industry you work in, really know about the job that you do every day? If you answer that question honestly, you will wonder why Congress should grant them more authority to screw things up even worse than they already have.

TWIC Changes

After receiving over 1,900 comments the DHS and the Coast Guard got part of the message.

In an e-mail message we received on August 17th the TSA and the Coast Guard decided not to extend the TWIC Comment Period (as requested in dozens of comments). They received so many comments they did not want to bother wading through a couple thousand more. For sure, they would have received an earful from angry Gulf Coast Mariners in the New Orleans and Houston areas.

TSA and the Coast Guard decided not to require vessel owners and facility operators to purchase and install card reading machines YET. Plenty of comments presented serious questions as to whether the delicate electronic equipment would interface well in the marine environment.

Ervin’s book is full of similar examples of other high-tech equipment that DHS bought into at exorbitant cost that didn’t work well either. After spending \$4,500,000,000 on screening devices to monitor the nation’s ports, borders, airports, mail, and air, the federal government is moving to replace or alter much of the antiterrorism equipment, concluding that it is ineffective, unreliable, or too expensive to operate.

One example mariners watched the Coast Guard buy into was the Automatic Identification System (AIS). They did this without making any formal provisions to train our mariners how to use the equipment properly. This stupid mistake repeats of the lack of radar training requirements for towing vessel officers that led directly to the infamous Bayou Canot accident in 1993 that took 45 lives. The pilot on the towing vessel MAUVILLA that hit the railroad bridge apparently didn’t have a clue how to use his vessel’s radar. The NTSB dragged the Coast Guard over the coals for that mistake. However, that was 12 years ago – when today’s admirals were still young Lieutenants. Some mariners freely admit they don’t have a clue about how to use their AIS today because nobody took the time to train them. GCMA even posed a reasonable question to the person in charge of the AIS project, a Mr. Arroyo, on behalf of a number of mariners using AIS on the western rivers – a question he simply refuses to answer!

As you dole out your \$139 for your TWIC card (plus all the harassment that will probably accompany your application to the Transportation Security Administration, a branch of DHS) remember that the Department of Homeland Security is not bashful about spending your money.

Mr. Ervin recounts that in February 2004, the Transportation Security Administration (TSA) hosted an elaborate awards ceremony at Washington’s Grand Hyatt Hotel. It cost \$461,745 to stage the extravagant ceremony including airfare and hotel rooms for several hundred TSA employees and guests and doled out cash bonuses totaling more than \$1,000,000 to senior executives. While 76 % of senior executives received a cash award, and only about 3% of lower-ranked employees received a cash award. All this for doing their job to make our homeland more secure. A year and a half later came Hurricane Katrina. Its time for big changes in Washington – **starting with the 2006 mid-term elections.**

**TRANSPORTATION LABOR
URGES TSA
TO FIX THE TWIC PROGRAM**

[Source: MM&P Wheelhouse Weekly, Aug. 26, 2006. Emphasis by underlining is ours.]

Edward Wytkind, President of the Transportation Trades Department, AFL-CIO (TTD), released the following statement earlier this week following the Transportation Security Administration's (TSA) new plan to implement the Transportation Worker Identification Credential (TWIC) affecting 750,000 workers needing unescorted access to secure areas of ports and vessels including longshoremen, maritime employees, rail workers and truck drivers without

requiring the purchase or installation of card readers:

"The recent decision by TSA to postpone the installation and purchase of biometric card readers, while still forcing workers to undergo extensive background checks and pay for a biometric ID card, is extremely troubling. Our government says the TWIC program was designed to use biometric technology and collect biographical data to control access to our nation's maritime facilities.

"It makes no sense to impose onerous requirements on workers now and force them to pay almost \$150 for a glorified flash pass that may never be used as intended. Without the ability to verify a worker's identity through biometric data, there are limited safeguards to ensure that someone with

terrorist intentions does not assume a false identity. Thus, our government is saying that it will burden workers with extensive background checks and new fees but it will take a pass on requiring and providing funding for installation of card readers. Why should workers bear the brunt of our government's transportation security programs?

"If TSA is not ready to proceed with TWIC as Congress mandated, then the entire program should be halted. We urge TSA to work with transportation labor to ensure that the problems and concerns of workers surrounding privacy rights, background checks and due process in appeals are addressed before this program proceeds. And to be fair, the government – not individual workers – must absorb the costs of the program."

SEAFARERS HAVE HUMAN RIGHTS TOO

By Michael Grey, Lloyds List

There is a lot to be said for putting yourself in the other person's shoes. "How would you feel?" is a question that needs to be asked more often of officials guilty of a slavish adherence to regulation, unleavened by common sense.

How would you feel, for instance, if you were master of a containership calling into Singapore and wished the agent to make an appointment for you to visit the doctor, only to be told that because you were a Pakistani citizen and did not have a visa this medical attention would be withheld as you would not be permitted to leave the ship?

How would you feel if, as a long-serving career professional in an industry which was practically the sole reason for the existence of that amazing Southeast Asian microstate, you were to be treated in such a fashion and denied entry?

I dare say the Singapore authorities would have stretched a point if you were at death's door, but what sort of message does this give? Is this not discriminatory, a denial of human rights?

[GCMA Comment: GCMA Member, Father Sinclair Oubre has led the fight to provide shore leave for foreign seamen visiting U.S. ports. We support his work and deeply respect his leadership on this issue.]

Whatever else it is, it is not exactly a ringing endorsement of the seafaring career. "Join the merchant navy and be treated like a pariah" is not the message for effective recruiting.

How would you feel if you had sailed some slow old bulk carrier halfway around the world, your shipmates beginning to get on your nerves after about the fifth week of this plodding progress? Toothpaste is running out and the food, despite the best efforts of the cook, seems increasingly monotonous.

You have seen all the videos six times and the life on the ocean wave is beginning to lose its charms in your vibrating steel home. The weather has been particularly offensive, days passing without even being able to get out on deck. You all

need a run ashore.

But you are unlucky for the cargo is sold on the high seas and your orders are changed from a destination you might have enjoyed to a port in the United States where enjoyment is not on the agenda. And here, in the absence of a visa, you will be confined to your ship. You will be lying alongside for the best part of a week but, as the unsmiling officials make clear, you cannot even go down the gangway to kick a football around, let alone walk through the dock gate to buy that much needed toothpaste or the daily newspaper.

If you do you will be picked up by armed guards, held in jail and deported. "Wish you were here!" is a message you do not send your nearest and dearest.

From the wing of the bridge, which towers over the warehouses on the waterfront, you can see the "real world" of the United States, you can see trees and parks and, when the wind is off the land, smell something different from the smell of diesel and drains which permeates your present life.

You see the dockers, the agent coming and going, the guards on the gangway changing, going off home to their "normal" lives and loved ones.

There is a grim poem that comes to mind about the crew of a sailing ship in the 19th century, embayed with a strong offshore wind blowing on the lee shore, fighting quite literally for their lives as they struggle to clear the land.

At the end of each reach, as they fight to wear ship with their vessel just a few hundred yards off the razor-sharp rocks, they see the "normalcy" of land, people going about their business in the fields, on the village streets, going to church and school while they, in contrast, face the reality of imminent death.

Maybe I am guilty of over-egging it, but it is the proximity of land that must make such situations pretty near unbearable when the modest needs of a ship's crew meet the immovable object of a U.S. immigration official.

"How would you feel in my position?" you might angrily cry out as this person, with a flourish of his official stamp, condemns you to confinement aboard your steel prison during the citation of your stay in his U.S. port.

But he will not answer you, not because if he applied his mind he could comprehend something of your dilemma but because the mighty bureaucracy he represents has made such

consideration abstract – even impossible.

You are an alien and you may as well be a Martian for the sympathy and understanding you will receive.

The British officers' union NUMAST has been fighting a lonely battle on behalf of people like the Pakistani shipmaster and is urging some rapid flag-state action on the Seafarers' Identity Documents Convention 2003, which was supposed to bring a little sense and sensibility into the situation of the wandering seafarer who might be thought of as just one of the victims of the terrorist attack of September 11, 2001.

NUMAST, in this respect, is doing the bidding of the International Transport Workers' Federation (ITF), which has been encouraging its affiliates to put pressure on laggard flag states to ratify and bring into effect the provisions of the 2003 convention, which has only been ratified by four despite the sense of urgency which surrounded the development of this important convention at the International Labour Organization. (ILO)

All this fast-tracking seems to have led into the sidings, where the train has quietly been forgotten, the seafarers' organizations infer, and they are right.

SID, biometric, intelligent, less prone to forgery and fraud and machine-readable, was supposed to be the seafarers' international carnet, the universally recognized document which is absolutely necessary for this internationally itinerant workforce.

Really tremendous efforts, at both the ILO and the International Maritime Organization (IMO) went into its development, the whole process urged on by the United States, reeling from the terror attacks and looking for a rapid reinforcement of its defenses.

And those delegates in Geneva did the business, worked all manner of overtime and produced a specification for a universally acceptable document. So why is it being ignored?

Apathy, it is suggested, has been responsible for all flag states other than France, Nigeria, Jordan and Hungary failing to ratify the convention.

And in a world full of problems, not least of them the earth-shaking horrors of terrorism, organized crime, the environment, unauthorized immigration, and whole populations trying to escape their awful lives, the situation of a few hundred, or few thousand, seafarers scarcely raises a tremor on the political seismograph.

It is also a sad fact that an "international" solution to the problem of identifying seafarers cuts across all sorts of imaginative national schemes which are being developed in the cause of "Homeland Security."

The Japanese government is energetically pursuing its own policies which will require non-national seafarers to have visas if they are to be permitted ashore. The Australians, coalition members who feel both geographically isolated and vulnerable, are going ahead and doing their own thing.

Meanwhile, the United States is holding fire on the convention as it wrestles with the political hot potato of putting all its transport workers on a national database, peering into their past to see if each truck driver has a criminal record and generally playing fast and loose with human rights.

Against the ruckus this post-liberal agenda has raised, poor old SID (Seafarers Identity Document) does not get a look-in.

In Britain, which is generally quite efficient in the ratification stakes, we are facing the New Labour horror of a National Identity Card and national database.

So it is not without the bounds of possibility that the Department for Transport has been quietly told by the Home Office to soft-pedal on SID as they get on with damping down the collective rage of the citizenry, which is looking with increasing alarm at the Orwellian implications of the national ID card.

But it is the obvious need for an international document for seafarers that will be globally accepted, against the unilateralist of Homeland Security and 160 flag states all likely to demand different documents, that is the nub of this crisis.

For none of these defenders of Homeland Security consider for a microsecond that question of how they would feel if they were denied shore leave.

Why should they? –none of them are, or ever have been, merchant mariners.

And we are in a New era, one where mistrust is general and the onus of proof is on the individual to demonstrate that he or she is not a terrorist, money launderer, pedophile, habitual drug user, racist, alcoholic, smoker — the list grows ever longer.

Seafarers – why should they be entitled to any special treatment? And of course none of these defenders of the state, as they deny seafarers entry when their visa is not current, have the wit to realize that those seafarers are among the most "essential" workers that they will ever meet and that they depend on their ships and cargoes for just about everything they need in their 21st century life.

The other day, I found my first British "SID", a curious green document like a ration book where a startled 17-year-old with a short haircut and big ears peers over a board full of numbers.

There was even a fingerprint, so it might be described as biometric. This was eventually replaced with a rather smarter red document like a real passport and this, like its predecessor, was more than sufficient proof of identity. I never had a passport until years later after I had come ashore.

There was a cold war raging at the time, but only the Americans asked us if we were communists and grudgingly granted us shore leave.

"Seafarers make world trade possible," said Numast general secretary Brian Orrell, and he should be shouting this in his stentorian tones until he has deafened the relevant authorities into begging him for silence. NUMAST, the ITF, indeed all my industry friends will be appalled, but I think that what is needed is a coordinated Seafarers' Day of Rage, when every ship in the whole world grinds to a halt and shuts down, just to bring home to global officialdom, that they depend on ships and these essential workers and that SID needs to be ratified and implemented.

It is time that this forgotten, floating population of seafarers told the rest of the world that they exist and actually are entitled to a few basic human rights.

"How would you feel to be treated the way you are treating us?"

Now that is the \$64,000 question.



PYTHON EATS CFR



[Source: Doreen Badeaux, July 22, 2006]

On Saturday, July 22, the Government Printing Office (GPO) announced that a 27-foot Bolivian python (an endangered species) from

the National Zoo slithered into the underground vault holding the official copies of the Code of Federal Regulations (CFR). Before it was incapacitated by numerous darts filled with strong sedatives, the snake managed to swallow Titles 33 and 46 of the CFR. It took veterinarians 12 hours to extract the important documents.

In the interim, the U.S. Coast Guard, Maritime Administration (MARAD), St. Lawrence Seaway Development Corporation, Federal

Maritime Commission, and U.S. Army Corps of Engineers had to curtail operations for lack of authority.

[GCMA Comment: While we cannot vouch for the authenticity of this story, GCMA regularly encounters the “lack of authority” excuse the Coast Guard in matters ranging from lack of authority to regulate work hours to lack of authority to require accurate recordkeeping in logbooks.]

GCMA COMMENTS TO TSAC ON PROPOSED TOWING VESSEL INSPECTION REGULATIONS

The Gulf Coast Mariners Association attends meetings of the Towing Safety Advisory Committee whenever it is possible to do so. Unfortunately, it breaks our budget to travel all over the country to attend so many of these meetings.

Members of the American Waterways Operators apparently do not have these constraints and attended **sixteen days** of “working group” meetings mostly in Arlington, VA. The AWO effectively controlled the “working group” that will advise the Coast Guard on how they believe towing vessels should be inspected. Of course, the AWO also has a written “partnership” with the Coast Guard whose stated purpose is to improve towing vessel “safety.” Since AWO takes care of our safety for us, the Coast Guard can continue to blissfully ignore our mariners.

As you know, the National Maritime Center figures show there are approximately 126,000 licensed and unlicensed “lower-level” mariners (i.e., mariners who work on vessels of up to 1,600 gross register tons). These mariners are largely concentrated in the towing, passenger vessel, and offshore supply vessel sectors of the marine industry. GCMA believes that many additional mariners remain uncounted because they neither are licensed nor hold merchant mariner documents. They may remain uncounted by the Coast Guard but we have not forgotten them.

GCMA, as a mariner Association is devoted to advancing the health, safety, and welfare issues for all “lower-level” mariners in all these sectors.

As previously mentioned, we authored GCMA Report #R-276 on towing vessel inspections that we introduced at the TSAC Meeting of March 15, 2001. We developed the report in book form and presented it at the TSAC meeting of March 13/14 in San Francisco. We continued to develop the report that is now in its ninth revision. We submitted it to the Coast Guard in the Towing Vessel Inspection Docket. However, we never received an iota of encouragement or support from TSAC in this endeavor. Yet, it stands as testimony to our Board of Directors’ beliefs that the items mentioned in GCMA Report #R-276 are necessary to improvement safety and health in the towing industry.

We reviewed the Draft Towing Vessel Inspection Working Group Report and presented our views (below) on various issues covered by that report for further consideration at the

TSAC meeting in St. Louis before TSAC accepts that report at the TSAC meeting in St. Louis on September 20 & 21. Although we do not regard our coverage of the topics as comprehensive, we do see our comments as necessary. We arranged them in page order as they relate to the DRAFT TSAC document rather than in any order of importance. We also reference other GCMA reports posted on our internet for additional reference. We asked that the following comments be sent to members of the working group for their consideration.

Page 2, Process Overview, ¶1

“Also included are maritime labor unions...”

We believe this statement is misleading in that mariner and labor input and involvement were ignored and discouraged by AWO domination of TSAC and this working group. We reiterate that GCMA is not and never has been a labor union.

Page 3. Under “Working Group Objectives and Guiding Principles” – item #1

“(1) Risk Based and focused on the real causes of towing vessel casualties.”

GCMA Comment: As a mariner association, we are interested in towing vessel casualties. However, rather than dwelling on casualty statistics that we often do not have ready access to even under FOIA, we have a serious problem with the credibility of the Coast Guard investigative process including accident investigation and analysis that we wish to share with the working group. On our website, gulfcoastmariners.org under “Research Reports” go to **GCMA Reports #R-429A and R-429B** to learn more about the problems that the Coast Guard has had with its own “Investigations” branch. These are Coast Guard reports and they aren’t particularly flattering. At present, GCMA is preparing its own report on Coast Guard investigations that, when released, will be posted as **GCMA Report #R-429**. Many of the reports we will cite focus on the impact of investigations on our mariners who work in the towing industry.

Page 3. Under “Working Group Objectives and Guiding Principles” – item #2. Safety Management Systems.

“(2) Based on a requirement for a safety management system”.

GCMA Comment: 46 U.S. Code §3306(j) as amended states: “The Secretary may establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.”

“May” does not denote a requirement. Where the Coast Guard has established regulations for a safety management system in the past, e.g., 33 CFR Part 96, they have been separate and distinct from vessel regulations in Title 46 CFR. Consequently, TSAC work on a safety management system should be viewed separate and apart from the regulatory work in the proposed new “Subchapter M.”

GCMA places our primary emphasis on Subchapter M, i.e., the regulatory end, whereas AWO appears more concerned with the safety management system, i.e., the business end. We believe the Coast Guard needs to concentrate primarily (i.e., now and in the immediate future) on the regulatory end that is required by the statute and keep the two separate.

GCMA Comment: Sending this report to the Coast Guard without a study accounting for the additional burden the new regulations compounded by a new safety management system requirements will place on the mariner does not make sense. As proposed, the new regulations compounded by a new safety management system could overwhelm and overburden a working mariner with a system he cannot follow in the finite time and manpower resources available.

Page 3. Footnote³

“...the working group notes that potable water requirements will eventually need to be included in the inspection regime for towing vessels.”

GCMA Comment: Please refer to Docket #USCG-2005-20052 and *GCMA Report #R-395*. The issue of safe potable water is a GCMA initiative designed to protect the health of our mariners. We explained the serious health issues our mariners face in a report to Congress. We suggest that this item be included (immediately, not “eventually”) in the new towing vessel inspection regulations. This docket requires the working group’s attention and solicits your contribution of meaningful and workable ideas for implementation. GCMA believes that employers have an obligation to protect the health of their employees. One company recently lost a major court case for their failure to do so as will be reported in GCMA Newsletter #42.

Page 7. Second ¶ under “Human Factors”

“The group’s focus on a safety management system requirement as the cornerstone of the new inspection system was driven, in large part, by its belief that safety management systems are particularly well suited to address the major human factors issues that cause towing vessel casualties: situational awareness/assessment, task performance, and navigation error...”

GCMA Comment: GCMA believes the best “systems” in the world are doomed to failure unless the crews manning your vessels are supplied in sufficient number, with sufficient training, adequate food, healthy potable water, adequate rest and sanitary living conditions. Unfortunately, in spite of its many good points, GCMA must give the AWO Responsible Carrier Program, a Safety Management System, a failing grade for continuing to endorse or even allow a 15-hour workday. We point the finger at your “partners” in the Coast Guard for not making this point at the outset and for not alerting Congress to this issue years ago.

Page 7. Third ¶ under “Human Factors”

“In addition, while the information provided in the Coast Guard casualty reports reviewed by the working group is insufficient for root cause analysis, the working group recognizes that in-depth

casualty analysis is critical to the development of effective preventive and corrective measures.”

GCMA Comment: We direct your attention to *GCMA Report #R-429* (when issued). GCMA encountered the same problem. We suggested that the Coast Guard provide an analysis to account for the 1,300+ towing vessel “floodings, sinkings, and capsizings” reported over a 12 year period. Apparently, the Coast Guard is more adept at collecting and manipulating statistics than in analyzing the data they collect.

Page 8. First ¶ under “Proposed Requirements for Inspected Vessels”

“...establish a new subchapter M of Title 46 of the Code of Federal Regulations that contains, to the maximum extent possible, all of the Coast Guard requirements for inspected towing vessels.”

GCMA Comment: We agree...except for the Safety Management System. (see below).

We also suggest:

- Subchapter M regulations should become a required subject for Coast Guard license examinations as Subchapter T is for Masters of small passenger vessels.
- The Coast Guard should require a copy of the new regulations to be carried aboard every towing vessel.
- The regulations should be written in the “Plain English” regulatory style.
- Every licensed towing vessel officer should receive company training and take an open-book test on the new regulations within three (3) months of the effective date or the regulations or at first license renewal, whichever comes first. This will get everybody off on the right track from the outset. We cite the precedent previously used when new pollution regulations were introduced in 1978.

Page 9. Second ¶ under “Proposed Requirements for Inspected Vessels”

GCMA Comment: We disagree that Subchapter M contain both the Safety Management System and Vessel Inspection Regulations. The Safety Management System regulations for towing vessels belongs as a subpart in 33 CFR Part 96.

Page 11. “Coast Guard Oversight”

“The working group recommends that all towing vessels receive at least one Coast Guard oversight visit within the five-year Certificate of Inspection cycle.”

GCMA Comment: GCMA disagrees. We believe that a full annual Coast Guard equipment inspection is necessary to protect our mariners’ health and safety. There are other recognized and acceptable inspection alternatives such as the streamlined inspection program (SIP) and alternate compliance program (ACP) recognized under 46 CFR Part 8.

Page 13. Proposed Subchapter M Requirements, preamble:

“Safety Management System. Any company that operates a towing vessel must have a Coast Guard-accepted safety management system. To be accepted by the Coast Guard, the safety management system must include, at a minimum, the following components...”

GCMA Comment: GCMA represents the concerns of merchant mariners who man the nation’s towing vessels. Some of our mariners also are owners of individual towing vessels. At this point, we feel it is necessary to point out that the composition of this working group overwhelmingly represents the

membership of the American Waterways Operators. However, only approximately 220 of as many as 900 to 1100 towing companies identified by the Corps of Engineers belong to AWO. The Coast Guard needs to look beyond Arlington, VA, and take a much broader look at the composition of the towing industry.

The Coast Guard needs to consider the time and cost that it would take all of these small entities to prepare the paperwork to initiate a safety management system. This “consideration” needs to extend far beyond one sentence hidden away in the Notice of Proposed Rulemaking seeking written responses from small businesses through an Ombudsman. Some “companies” are essentially mom-and-pop operations without any depth of education or business experience. To hire outside consultants to prepare the “paperwork” simply to satisfy the Coast Guard would be very expensive. To join AWO and buy into a “ready made” plan also involves expenses.

The problem is deeper than this, namely implementing a “paperwork” plan that has been crammed down your throat against your will and that you do not understand and are not willing to do more than give lip-service to. We believe the Coast Guard must first concentrate its efforts on regulating towing vessels as they have regulated other classes of vessels in the past – no more, no less – but do it now!

Page 16. 1) Hull and Machinery. Preamble.

“Note: For the items below, failure of a redundant auxiliary system does not make the vessel unseaworthy or require a vessel to be moored or anchored; however, the Master shall use all available means at his/her disposal to ensure the inoperative equipment is repaired and returned to service as soon as practicable. The Master shall consider the condition of the vessel and its machinery when making decisions affecting navigation and the safety of onboard personnel.”

GCMA comment: When the Master considers the vessel or its tow unsafe to move for a reason he considers valid and the company disagrees and orders him to move it, the Master should have the option to request a COTP order to prevent that movement until the matter is resolved to the Master’s satisfaction. The Coast Guard should consider this as a “safety” issue rather than an “employment” issue and provide the mariner with protection under 46 U.S. Code 3315(a) and (b).

Page 18, 1) Hull and Machinery. Components & Standards

“The vessel owner or operator’s safety management system must specify the qualifications of persons authorized to oversee drydockings.”

GCMA Comment: Inspection of the hull is the province of the trained Coast Guard inspector. The owner/operator can control costs by overseeing the work to see that it is performed to the satisfaction of the inspector.

Page 19, Hull.

“Hull fractures in any plating except an oil tank may be covered with an appropriately sized doubler plate, installed using good marine practice, if the hull thickness and condition is suitable.”

GCMA Comment: Permanently patching a hull with a doubler plate is a shoddy marine practice and goes against Coast Guard guidance in NVIC 7-68, Notes on Inspection and Repair of Steel Hulls, Section IV (D). Quote: “A welded doubler plate is not, in general, considered suitable as a permanent repair measure for the main hull girder. Its use does

not insure continuity of strength which is achieved by the installation of an insert plate in the same location.”

The working group should not attempt to sell bad advice to the Coast Guard and should remove this passage from its final report.

Our concern here is for the safety of our mariners who were involved in over 1,300 floodings, sinkings, and capsizings of towing vessels representing one-quarter of the nation’s towing vessels – in a 12-year period.

Page 19, Hull. e) Watertight integrity and watertight fixtures.

“for each towing vessel that has watertight bulkheads in the hull and/or watertight fixtures on the exterior deck and deckhouse, these watertight closures must be maintained in serviceable condition.”

GCMA Comment: In light of the 1300+ “floodings, sinkings, and capsizings” previously noted, every towing vessel – even existing vessels – should be required to have watertight bulkheads before being issued a Certificate of Inspection. Existing vessels without watertight closures on their main deck such as manholes, scuttles, and hatches should be required to install them to prevent downflooding. Vessels in inland and western rivers service without weathertight or watertight doors should be required to be fitted with them. The AWO videotape on “downstreaming” maneuvers should provide adequate illustrations why this is necessary. Without these watertight bulkheads and closures, steel towing vessels sink like rocks and pose unacceptable dangers to our mariners. In addition, each existing towing vessel must be inspected to determine whether existing watertight bulkheads are, in fact, watertight. Following good marine practice, electrical cables, conduits, etc. penetrating bulkheads must be equipped with packed stuffing tubes. Piping penetrating the bulkheads for both vital and non-vital systems also must be installed using good marine practice.

Page 20, f) Emergency egress.

“A towing vessel constructed after the effective date of the regulations must have at least two means of egress from the engineroom and the overall crew accommodations area.”

GCMA Comment: In previous rulemakings, the Department of Transportation’s memorandum dated January 8, 1993, “Treatment of Value of Life and Injuries in Preparing Economic Evaluations” the benefits estimate for each incident is determined by multiplying the effectiveness measure and the dollar value for society’s willingness to pay (WTP) to avert a fatality. The WTP to avert a fatality according to DOT was \$2,700,000 as of late 1999. Installing a second means of escape to prevent a mariner from being trapped in the engineroom of an existing vessel is a very small expense compared to the value of that mariner’s life that could be lost or the injuries he could receive. The fact that this may represent an additional expense to the owner of an existing vessel does should not prevent this requirement from being added to the cost of upgrading the vessel to earn a Certificate of Inspection that would allow it to continue in commerce. This should be required as an immediate upgrade. A mariner should not be penalized by losing his life because he works on an older vessel that may be inherently unsafe because of regulatory neglect.

Page 20. g) Piping Systems and tanks.

“Valves at the origination and termination of a pipe and and tank vents must be marked by labeling or color-coding”

GCMA Comments: The introduction to ASME A13.1-1996 Scheme for the Identification of Piping Systems is very informative. It suggests “the use of color as a supplementary means of identifying the type of hazard of the material contained in the system.” §3.2 states: “Color should be displayed on, or contiguous to, the piping by any physical means, but its use shall be in combination with legend. We need a simple, universal color code applicable to vessels. The Coast Guard should specify certain basic colors either from the Standard or from military usage as a part of the regulation in addition to adequate labeling of all tanks, pipes, valves and vents.

Page 20. j) Alarms/Monitoring.

GCMA Comment: There should be a bilge level alarm in every compartment containing a thru-hull fitting of any type.

Page 20. l) Steering.

GCMA Comment: We question the need for “two fluid reservoirs.” Suggest as a substitute, storage capacity for enough hydraulic fluid to refill the fluid reservoir.

Page 20. p) Fuel Systems.

GCMA Comment: For the safety of our mariners and the protection of the towing vessel, all existing vessels, including those contracted for before January 18, 2000 should comply with 46 CFR §27.211 before being granted a Certificate of Inspection. This will ensure the safe use and storage of gasoline used aboard towing vessels for outboard motors and barge pumps. Older vessels already had six years to upgrade their existing piping and fuel hoses if they did not comply with 2000 standards.

GCMA Comment: GCMA agrees that “A towing vessel equipped with a day tank must be equipped with a low fuel level alarm.” This should also apply to existing vessels since restarting a diesel engine that has run out of fuel can be a time consuming process, especially where fuel lines must be bled.

Page 22. 2) Firefighting.

“The requirements of a) through k) below do NOT apply to a towing vessel if it is: 1) used solely within a limited geographical area, such as a fleeting area, or a commercial facility, and used solely for restricted service, such as making up or breaking up larger tows; 2) Used solely for harbor assist.”

Definition: **Harbor Assist** (means the use of a towing vessel during maneuvers to dock, undock, moor, or unmoor a vessel or to escort a vessel with limited maneuverability)

GCMA Comment: All these items, that are currently regulated in 46 CFR Parts 25 & 27 (and fire axes) are necessary on every fleet boat. These items already should have been installed under current regulations. They are necessary for the protection of our mariners working on these vessels. To accept such advice from this working group, the Coast Guard would have to turn back the clock. This would bring into question existing regulations, many of which have been on the books for years.

GCMA Comment: The number of documented fires and explosions on towing vessels (see below) justifies a need for formal firefighting training on towing vessels.

Page 23. m) Heat or flame detector in galley.

GCMA Comment: These devices should be installed on each existing vessel as well as those constructed after the effective date of the regulations. In light of the 494 fires and

41 explosions cited in the letter identified in Docket #USCG-2004-19977-129, our mariners on all towing vessels need this protection.

Page 24. n) Remote manual engine shutdown.

“Each towing vessel constructed after the effective date of the regulations must have a remote main engine shutdown for each main engine and auxiliary generator engine, which can be operated from a location outside the machinery space where the engines are located. The required fuel shutoff may serve as this shutdown if each engine is fitted independently.”

GCMA Comment: Should apply to all vessels, not only existing vessels.

GCMA Comment: The only area continuously manned is the pilothouse. The location of these shutdowns in the pilothouse should be specified.

GCMA Comment: The shutdown should be instantaneous. Allowing the engine to burn all the fuel in the supply line between the remote control shutoff valve and the engines in question, aside from the time it takes to access and close each valve, could allow the engine to run too long and defeat the purpose of the regulation.

Page 24. 3) Lifesaving f) First aid/Trauma Kit

GCMA Comment: We endorse the working group proposal to require a “means to take blood pressure readings” in the First Aid/Trauma Kit. Few towing vessels we know of currently carry such devices.

GCMA Comment: We suggest the addition of Automatic Electric Defibrillators used on airplanes, in shopping malls, carried on fire trucks. Although they come with complete as well as abbreviated instructions, minimal training in safety meetings is still necessary. This should be in addition to CPR training.

Page 24. 3) Lifesaving. g) Emergency lighting.

“Each towing vessel must be equipped with sufficient lighting to illuminate escape routes in the event of a power loss. Emergency lighting may be automatic, battery operated with a duration sufficient to allow the crew to escape, or non-electric phosphorescent adhesive lighting strips that mark escape routes to the exits.”

GCMA Comment: Comparable regulations for small passenger vessels at 46 CFR §183.432 call for a minimum of two hours of illumination from emergency lighting with no mention of phosphorescent lighting strips. If used, such strips should be in addition to such lighting as they have only one specific use, although valid – to lead to an exit. There may be additional requirements for effective emergency illumination.

Pages 24 & 25. 3) Lifesaving. Immersion suits.

GCMA Comment: We pointed out at a number of TSAC meetings since 2000 – including demonstrating an insulated anti-exposure suit at a TSAC meeting – that the waters on the (western) rivers are frequently “Cold Water” with characteristics similar to those described in NVIC 7-91, Determination of Cold Water Areas. In fact, we criticized the existing NVIC for not including the western rivers. The Coast Guard made no attempt to upgrade the NVIC in spite of this criticism and supporting evidence. We want our mariners who serve on towing vessels in “cold water” areas as we have delineated them using NVIC 7-91 to be furnished with USCG Type V Anti-exposure work suits or equivalent that provides

both insulation and flotation or regulation immersion suits as appropriate. *GCMA Report #R-354.*

Page 25. 3) Lifesaving. i) Inflatable liferaft.

GCMA Comment: Launching appliances and annual servicing are also requirements. One or more properly equipped rescue boats should be required for towing vessels in inland or western rivers service.

Page 26. 5) Navigation and communication equipment. d) Handheld VHF Radio.

“Each towing vessel must have at least one properly operating handheld VHF Radio.”

GCMA Comment: Each crewmember on watch on a towing vessel should have a properly operating handheld VHF radio with access to a charger.

Page 27. 5) Navigation and communication equipment. r) Means of ensuring visibility through pilothouse windows.

“Each towing vessel must have a means of ensuring that the windows immediately forward of the steering station in the wheelhouse allow for adequate visibility to ensure safe navigation.”

GCMA Comment: “Immediately forward of the steering station” may be too restrictive. *GCMA Report #R-275.*

Page 28. 7) Documents and publications. c) Vessel log or other record.

“Each towing vessel must employ a vessel log or other means, either paper or electronic, which documents daily operational events.”

GCMA Comment: The minimum coverage of the details that should be entered in such a log should be required by regulation. Many of these already are, and should be listed in one place in the regulations for ease of reference. *GCMA Report #R-291*

Page 28. 8)Manning and Watchstanding. a)Minimum watch complement.

“One licensed officer and one additional crewmember must be on duty at all times while the vessel is underway.”

GCMA Comment: The “additional crewmember” should be required to act as lookout while on duty and while the vessel is underway. Acting as lookout does not include looking out for the safety of the vessel’s television set although it may involve other necessary tasks when assigned by the master.

GCMA Comment: A safety management system creates a false sense of safety aboard towing vessels when manning requirements do not take into account the hazards of a man working alone on deck, especially at night. In one recent fatality, when a man who had been working alone went overboard, there was nobody to come to his aid. The only other person on watch, the Mate, had to take his eyes off the man in the water to muster the rest of the crew as he continued to maintain control of the vessel. The crewmembers who mustered on deck could find nobody to rescue since he had been lost sight of. In a real life and death situation, the man overboard drill as planned could not provide a fast enough response because the safety management system did not take into account adequate manning. [*GCMA File #M-616*]

GCMA Comment: Crew Endurance Management Systems (CEMS) should not be a substitute for adequate

manning requirements and a healthy work schedule.

Page 29. 8)Manning and Watchstanding. b) Working Hours.

*“Except as provided under 46 USC 8104(h) or 46 USC 8104(c), no crewmember on a towing vessel may work more than **15 hours in any 24 hour period** or more than 42 hours in a 72-hour period, except in an emergency or drill.”*

GCMA Comment: This statement mirrors the AWO Responsible Carrier Program, Section V. B. on page V-1 of the 2005 edition. This is **wholly unacceptable** to our Association in that it represents the **exploitation** of unlicensed mariners including deckhands, deckineers, unlicensed engineers, and even certificated tankermen.

GCMA Comment: Continued acceptance of this misguided policy forces licensed officers to work with fatigued crews. On some undermanned vessels, limited manning does not even permit the watch officer to post an effective lookout at night. Unfortunately, the Coast Guard has not seriously questioned towing vessel manning in the past.

GCMA Comment: With the lack of adequate personnel assigned to many towing vessels, there is a tendency to place a “green” deckhand on the “call watch.” *GCMA Report #R-375.* Since a green deckhand lacks the depth of job experience of more seasoned mariners and must endure fatigue that leads him prone to making mistakes, the combination leads to excessive accidents and personal injuries including falls overboard and drowning. *“We are profoundly struck by the fact that young, inexperienced deckhands incur fatal injuries at significantly higher rates than any other age/experience group in the towing industry work force. This is true despite higher standards for marine employment today (e.g., drug and alcohol testing) as well as a general industry effort toward enhancing safety training....”* This statement comes from page 37 of the AWO/USCG Joint QAT Report on Deck Crew Safety in the Inland Towing Industry of December 30, 1996. It is evident that the AWO members of this Working Group have forgotten this point in their headlong rush to squeeze every possible work hour out of their employees. The fifteen-hour workday is unconscionable and virtually guarantees bringing personal harm to the most vulnerable of your employees. It is time for members of the AWO to start listening to their conscience not their wallet – and for the Coast Guard and Members of Congress to awaken to how they have been manipulated by this part of the Responsible Carrier Program.

GCMA Comment: We also understand that the working group was unwilling to guarantee that the “off duty” time for our exploited mariners should include 6 hours dedicated to unbroken rest. We find the conduct of this working group in this regard to be selfish, shameful and despicable. We recognize that over 90% of the membership of this working group are representatives of AWO member companies. Your companies stand to gain financially by exploiting your most vulnerable employees. We understand that additional members of the working group are from the Coast Guard and may have little or no working experience on commercial towing vessels. In fact, only three independent mariners appear on the rolls of this working group. Not a single non-AWO company out of the hundreds that are out there are represented on the working group. In light of the existing crew shortages plaguing the industry, it should not be necessary to point out that industry policies promoting

excessive work-hours are, in large measure, to blame for the current problem. We asked Congress to look into this issue. Commander Admiral Paul Pluta in May 2000 in our book Mariners Speak Out on Violation of the 12-Hour Workday, GCMA Report #R-201. We found him derelict in his duty to protect our mariners and so informed him at an open NOSAC meeting.

GCMA Comment: We respectfully suggest that AWO change its policy to allow no more than a 12-hour work day and guarantee at least 6 consecutive hours of uninterrupted sleep during a mariner's time off. *Refer to GCMA Reports #229, #279, #322, #370, #370B, #370C, #370D, #370E, #375 for in-depth coverage of this subject.*

Page 29. 8)Manning and Watchstanding. g) Drug and Alcohol Testing.

GCMA Comment: In addition to 46 CFR Part 16, and perhaps more important, 49 CFR Part 40, DOT Drug Testing Regulations, should be listed. Although every mariner must be drug tested, few take the opportunity to read drug testing regulations. The Coast Guard has no test questions on these regulations on license exams. This is an important subject and is a headache in the industry that can be resolved to some degree by greater knowledge of the regulations by all involved. *GCMA Reports #R-315 Series*

Appendix A. TSAC Task Statement #04-03

"There are more than 4,300 towing vessels in the United States."

GCMA Comment: While "more than 4,200" certainly is a safe figure, two previous rulemakings cited 5,200 and over 6,000 towing vessels. When the Coast Guard finally issues Certificates of Inspection, we will have a more accurate count. The Coast Guard will also learn who owns the "mystery" vessels that fall beneath AWO's radar.

Appendix C, page 9, Expert Review, ¶3.

"The subgroup members, drawing on their combined experiences in engineering, marine science, and casualty investigations, reviewed the data with the goal of identifying areas that did not show up in either the data or the inspection group's working document...."

"The subgroup identified one other issue relating to human factor: the physical condition of wheelhouse personnel. Anecdotal information indicates that many wheelhouse personnel have physical problems relating to fatigue, caffeine, and nicotine consumption, and diet and exercise. The fatal I-40 bridge accident in 2002 showed the potential consequences of a vessel operator experiencing a medical/physical problem while on duty."

GCMA Comment: GCMA brought to the attention of the full TSAC committee that the Coast Guard accident report showed that the Master on the M/V ROBERT Y. LOVE violated Coast Guard work-hour regulations by failing to obtain 6 hours rest before taking command of the vessel in Arkansas

We regret to say that the Coast Guard stonewalled this issue since we first brought it to the attention of Eighth District after driving for over 1000 miles with only 3.5 hours of sleep. The Waterways Journal reported on its website on August 28, 2006: "Coast Guard Recommends Fines in I-40 ridge Accident." Quote: "A final Coast Guard report recommended fines against the Captain and the boat's owner for the May 2002 allision in which the towboat ROBERT Y. LOVE knocked down a 500-foot section of the I-40 Bridge at Webbers Falls in the Arkansas River, killing 14 people and injuring five. A fine of \$20,000 against the boat owner Magnolia Marine and \$5,000 against boat Capt. Joe Dedmon was recommended by the Coast Guard, according to KOTV-TV in Tulsa, Oklahoma, and quoted on a Coast Guard website. Capt. Dedmon lost consciousness and the boat and its two empty barges smashed into a pier of the Webbers Falls bridge, 201 feet outside of the channel, causing eight cars and three tractor trailers to plunge into the water below. The report said the fine was leveled against the company for allowing the captain to work for more than 12 hours in one day without adequate rest, and against the captain for working without enough rest. An estimated 20,000 vehicles a day had to be rerouted around the bridge. Construction crews reopened the bridge in record time two months later...."

The boat company, Magnolia Marine is an AWO-member company that violated the AWO's Responsible Carrier Program just as Sea Coast Marine, another AWO-member company violated the 12-hour rules when its tug CHINOOK rammed the Highway 520 bridge across Lake Washington on July 29, 2000.

The NTSB report chose the less controversial route of avoiding the obvious statutory and regulatory work-hour violations even though Board member Ms. Debbie Hersman and NTSB investigators pointed out this matter at the time.

GCMA Comment: Docket USCG-2002-13594 (available on the internet) shows that our Association has petitioned the Coast Guard that Travel Time on the way to Work to should count as on-duty Time. (Deadhead Transportation). The Coast Guard directed this petition to TSAC that has fumbled with it for over two years without making a decision whether to support it or not. It is clear that TSAC does not want the Coast Guard to enforce the underlying statute. *[See Enclosure #1]*

GCMA Comment: The TSAC report should not go the Coast Guard until it includes the recommendations outlined until it includes the recommendations outlined by the IMO studies on preventing fatigue aboard vessels as it relates to watchstanding, manning, and adequate rest periods.

GCMA Comment: GCMA would like to see companies and/or the Coast Guard restrict smoking to outdoor areas on vessels in line with the Surgeon General's report on the dangers of second-hand smoke. This has been GCMA policy as covered in *GCMA Report #R-341A*. We have seen no comparable commitment from either the Coast Guard or AWO representing the management of many of the nation's leading towing companies.

**TOWING VESSEL SLAMS INTO BRIDGE
BULKHEAD CAUSING \$265,000 DAMAGE**

[Source: Misle Activity #2396975; Misle Case #237647; MSO Morgan City, LA. GCMA File #M-584.]

Executive Summary: "On or about 0415 on June 20, 2005, the UTV TAKO INVADER (574379), owned and operated by Tako Marine Towing of Harvey, LA, was eastbound on the Intracoastal Waterway pushing six (loaded) salt barges when the lead barge AB-135 allided with the Highway 24 Bridge bulkhead located in Houma, LA,

following the loss of the main steering and while the Mate was switching the steering to the backup system. \$40,000 damage to Barge AB-135; \$225,000 damage to bulkhead.”

Other information: Coast Guard notes indicate that: “...the Relief Captain (i.e., “Mate” usually called the “Pilot”) attempted to switch the steering system to the backup system when the vessel reportedly lost all steering and the lead barge allided with the bulkhead before steering could be regained. The evidence indicated that the steering was working normally after the allision and did not have any history of similar mechanical malfunctions in the past. It was 0415 in the morning, and the relief captain had been on watch since 1800 the previous day. Fatigue may have been a factor in this casualty.”

Apparently no alcohol testing was performed.

[GCMA Comments: The CG-2692 accident report signed by the company office manager indicates it was “twilight” at 4:15 AM. Not true – something the office manager might notice if he ever gets up at 4:15 AM.]

[GCMA Comment: The CG-2692 accident report states the current was 3.1 mph eastbound – which we suggest is a gross exaggeration.]

[GCMA Comment: The CG-2692 shows the “No. of Persons

On Board” as “2”. If the vessel is in 24-hour operation, both crewmembers had to be licensed. The accident report shows no evidence of this and no evidence that the mariner credentials, logbooks, or payroll records ever were checked.]

[GCMA Comment: It is reasonable to ask why Coast Guard regulations do not require a deckhand on watch to serve as a lookout during hours of darkness and especially between 2:00 AM and sunrise on loaded towboats navigating through populated areas.]

[GCMA Comment: Two people handling a tow of six loaded rock salt barges each carrying 1,400 tons of cargo passing through locks, under bridges and through populated areas is a pretty scary proposition.]

[GCMA Comment: The Pilot was issued a letter of warning for violation of 46 CFR §5.27 (Negligence) for “failing to safely navigate the vessel and avoid allision with the Highway 24 Bridge bulkhead in Houma. An attorney representative called requesting more time to consider the Letter of Warning. One month later, there was no response from the respondent. The case was “closed” and agency action “complete.” It doesn’t look “complete” to us – just another sloppy report!]

ANOTHER OVERHEAD CLEARANCE ACCIDENT: SPUD ON BARGE STRIKES WAGNER BRIDGE

[Source: Misle Activity #2567870; Misle Case #272598; Release date June 29, 2006. GCMA File #M-625.]

On January 14, 2005, at approximately 1145 (i.e., daylight and in good visibility), the UTV CORY MICHAEL was westbound with 250-foot barge M-966 at mile marker 12 west of Harvey Locks on the Gulf Intracoastal Waterway near the Highway 45 Wagner Bridge. While the front spud cleared the bridge, the rear spud on Barge M-966 contacted the bottom of the fixed bridge. The spud bent and the top lip of the spud caught on one of the bridge’s “T”-beams and pulled the spud out of the barge. The spud broke in two sections falling into the water after knocking over a 500 gallon capacity portable tank on deck into the waterway spilling approximately 100 to 150 gallons of diesel oil. There were no injuries reported and no damage to the bridge or towing vessel. The barge sustained damage to the port quarter deck knuckle and two cracks and a large dent in another 3,000 gallon temporary portable diesel storage tank as well as the spud lost overboard – with total damage estimated at \$5,000.

The cause of the accident was the Master’s error in judgment of clearance with false information from a previous Captain and non-verification of the vessel/tow configuration. The company was cited for pollution.

[GCMA Comment: On May 26, 2006, we sent GCMA Report #R-411, Rev. 4, Congressional Oversight is Necessary to Prevent Continuing Overhead Clearance Accidents to 95 members of Congress proposing a solution to this problem. GCMA Board Members previously appeared at U.S. Army Corps of Engineers public meetings on this same issue.]

IS THE COAST GUARD DRIVING NAILS IN THE COFFIN?

[Source: *The Waterways Journal*, July 24, 2006. Editorial by Jack Simpson. Before his retirement several years ago, Jack was the Editor of the *Waterways Journal* and remains one of the most knowledgeable, astute, and respected observers of the river industry. We believe his editorial is “right on target.” Emphasis by underlining is ours.]

With the continuing manning crisis in the river industry, we can't help but observe that many of the government's recent security and personnel initiatives aren't helping to solve what is rapidly becoming the most serious issue facing towing companies. In some ways, the Coast Guard's policies and interpretations are serving to exacerbate the shortage of people qualified and willing to work on the river.

Anyone who missed the change to new towing licenses has been asleep for the past decade. A comprehensive means to provide training and an assessment of the skills needed to operate towing vessels were the major features of the new system of licenses for towing vessels. The lengthy apprenticeship as a steersman, the documentation of training, and the requirement to demonstrate skill in seven major areas of competency have already resulted in a significant reduction in the numbers of people seeking an original towing license. We are not repopulating the species.

Many who hold towing licenses are pleased with this development. Wage rates have dramatically increased as demand greatly exceeded the supply of licensed operators. But even those who hold licenses are finding the process of renewing a towing license becoming ever more complicated and selective. Early this year, the Coast Guard announced new procedures to renew a license, including a trip to a Regional Exam Center (REC) or other authorized Coast Guard unit to provide proof of identity

fingerprinting and consent to a criminal background check. These were accomplished at the time of the original license issue, but are now required at each license renewal or upgrade as well.

Aside from the inconvenience and logistics of the trip to the Coast Guard, a practical problem is that the criminal records check is now a "deep look-back," which reports arrests as well as convictions. For many years, the terminology on the Coast Guard license renewal paperwork has been "Have you ever been convicted...?" The inclusion of arrest reports means that information will now be reported to the Coast Guard, which must be investigated and resolved. This does not necessarily mean that a license will be denied, but it will take time to conduct the investigation. There will be those who are judged to have falsified their application for a license, leading to an administrative procedure to suspend or revoke that license. One wonders how many altar boys work on the river.

The Coast Guard National Maritime Center is reported to be working on new physical exam standards and an updated list of potentially disqualifying conditions. The draft NVIC (policy circular) is occasionally referred to in various professional journals, but it seems to be held very closely at this time. In spite of the "draft" status of the NVIC, the Coast Guard appears to be selectively enforcing some of the provisions of the new standards. One potentially troublesome standard has to do with obesity. Reports have surfaced of river men being denied a license on the basis of obesity. While we agree that obesity is a bad thing, we must also acknowledge that the nature of the work in the wheelhouse tends to lead one to put on weight. This issue is being addressed through wellness programs at many companies, but just as the weight didn't appear overnight, neither can it disappear quickly. A public announcement of the new standards and an opportunity to adjust to them would seem more appropriate than disrupting the livelihood of experienced people who are needed to keep the river transportation system operating.

We've heard some estimates that as many as 10 percent of current license holders may not qualify under the new physical standards. That should be setting off alarms!

Buried in the minutiae of the new towing license rule is a

requirement that candidates for the renewal of a towing license must provide evidence of continued participation in training and drills. This standard can be met by providing documentation (logs and records) or by a statement that the individual has served on vessels that comply with the AWO Responsible Carriers program. A third possibility is that the license-renewal candidate demonstrate proficiency in handling touring vessels before a designated examiner (DE). The rub is that the Coast Guard recently issued a "work instruction" to the RECs that requires an extensive demonstration of skills-not a simple check ride with a DE. This administrative requirement will effectively eliminate the third option for towing license renewals. The hardest hit will be trip pilots-the very people that the towing industry has come to depend upon to fill gaps in vessel manning.

Let us not forget that the Coast Guard has begun to construct a new license-processing center. During the next two years, all licensing, documents and processing will be relocated. The REC's role will be reduced to minor administrative functions and examinations. This will serve to place even more distance between the individual license holder and the bureaucrats holding the key to his livelihood. We can only trust that this consolidation will have a positive long-term result, but doubt that the transition will go as smoothly as advertised. We were once told by a Coast Guard district commander that it was necessary to close the REC in St. Louis "in order to serve you better." We must endure these "improvements" but the timing may prove unfortunate

Then there is the proposal for a Transportation Worker Identification Credential. Much has been written, and much more will be regarding this extensive and very troublesome initiative. Suffice to say that as proposed, most river industry experts predict this rule will lead to a catastrophic loss of personnel to man towboats.

Taken individually, each of these initiatives must make good sense to someone in the government. Taken collectively, the potential consequences spell trouble for the river industry.

DRILLING COMPANY WILL NOT BE ALLOWED TO SCREW AMERICAN TAXPAYERS

[Source: *American Maritime Officer*, July 2006.]

Exemption to Jones Act will not become permanent. Foreign-based oil drilling company fails to gain long-term access to domestic trades.

A large oil drilling company's temporary Jones Act exemption will not be made permanent, despite the company's best lobbying effort.

Enacted as Section 27 of the Merchant Marine Act of 1920, the Jones Act holds domestic deep-sea, Great Lakes and inland waters cargoes for merchant vessels owned, built, flagged, and manned in the United States. Under an exemption granted in 2004, Nabors Industries which in 2001 moved from Texas to Bermuda and Barbados to free the company from U.S. tax obligations – is permitted to operate 33 foreign-flagged offshore oil support and supply vessels from the U.S. to deep-sea oil rigs and platforms in U.S. waters. The exemption is scheduled to expire in 2007.

[GCMA Comment: A recent Congressional invest-igation

estimated that this and similar "offshore" moves by other companies cost the U.S. Treasury between \$40 and \$70 BILLION dollars a year. Guess who is called upon to make up the tax shortfall!]

This year, Nabors Industries sought a permanent exemption through amendment of a U.S. Coast Guard spending bill. On June 28, the powerful House Committee on Transportation and Infrastructure rejected the amendment by voice vote, and the Senate Committee on Finance voted to require taxation of U.S. companies that incorporated in Bermuda and other countries after March 20, 2002. Nabors industries relocated officially three months after that date.

"We're going to make Nabors pay taxes," said Sen. Charles Schumer, a Democrat from New York. The Senator said Nabors Industries' attempt to win a permanent pass on Jones Act requirements in the offshore oil trades had energized lawmakers to rein in the company's tax breaks. "That (the Jones Act exemption request) was the most appalling part."

Sen. Schumer said, in the House. Rep. Gene Taylor, a Democrat from Mississippi, said that, by trying to win a permanent Jones Act exemption, Nabors industries was "trying to change the rules that they agreed to." Rep. Taylor was the

sponsor of the language striking the permanent Jones Act exemption from the bill. The Congressman warned that Nabors industries and its legislative allies would attempt to win a permanent Jones Act exemption during the forthcoming House-Senate conference on the Coast Guard budget measure. Rep. James Oberstar, the Minnesota Democrat who serves as ranking minority member of the House Transportation and Infrastructure Committee, said: "The bill as written would have allowed Nabors Industries to continue evading U.S. tax law. It would have given vessels operated by this company an unfair competitive advantage over U.S. companies that pay U.S. taxes. Nabors moved its headquarters offshore for one reason to evade U.S. taxes. We should not reward such 'Benedict Arnold' companies by validating their actions with a permanent tax exemption."

The Maritime Cabotage Task Force, which includes American Maritime Officers, weighed in officially on the issue in letters June 27 to House Transportation and Infrastructure Committee Chairman Don Young (R-AK) and Rep. Oberstar. The task force "was substantially involved in the public debate over the new lease financing law enacted in 2004, which was developed following a carefully negotiated compromise between members of Congress and the maritime community," Maritime Cabotage Task Force President Philip Grill wrote. "That compromise eliminated a loophole in the lease financing law that had the unintended consequence of permitting foreign shipping companies to engage in our domestic Jones Act trades. "Nabors Industries gave up its

status as a U.S. company in 2001 and moved its headquarters to Bermuda primarily to avoid U.S. taxes," Grill continued. "Because foreign shipping companies are not permitted to operate vessels in the Jones Act trades, Nabors utilized the lease financing provisions in place at the time to circumvent the Jones Act and continue operating its ships in the Jones Act trades. In 2004, when the loophole was closed, Nabors negotiated a temporary 'grandfather' in order to allow the company sufficient time to restructure its operation to become compliant with the Jones Act. Nabors is now seeking to make permanent its limited 'grandfather' rights under the lease financing provision."

A permanent exemption would yield "unfair economic and tax benefits to Nabors over other companies complying with the Jones Act," Grill continued. He said Nabors had reported \$428.4 million in profit in the U.S. in 2005 and would have paid \$86 million in taxes on that money, "based on the average tax rate paid by large American companies." However, Nabors "reported paying less than \$6 million in U.S. taxes in 2005," Grill said. "Such tax advantages create significant economic disparities with and competitive disadvantages for American companies." Grill said the Maritime Cabotage Task Force "continues to support the lease finance legislation passed by Congress and believes it would be a mistake to reopen the law less than two years after passage of that carefully crafted compromise – particularly for a company that negotiated and received substantial time from Congress to reorganize under the new lease financing law."

HOUSE HEARING ON MERCHANT MARINER CREDENTIALING

[Source: Doreen Badeaux, July 22, 2006]

The Subcommittee on Coast Guard and Maritime Transportation of the House Committee on Transportation and Infrastructure conducted a hearing on Coast Guard Licensing and Documentation of Merchant Mariners.

Committee Chair Frank A. LoBiondo (R-NJ) noted that the process has become more complex over time, while no additional monies have been appropriated to accomplish the task.

Rear Admiral Craig E. Bone, U.S. Coast Guard, testified that the agency plans to centralize most functions related to the issuance of credentials. Mr. Shull Autin, SEACOR Marine LLC, testified that the delays involved in obtaining merchant mariner documents are having severe adverse effects on the industry.

Mr. Dale Sause, President, Sause Brothers, testified that the existing Regional Examination Centers (REC) are inadequate to perform the personnel documentation tasks and that the proposed Transportation Worker Identification Credential (TWIC) program will only make things worse

Mr. Ron Davis, Marine Engineers' Beneficial Association, stated that the Merchant Mariner Document (MMD) should serve as the TWIC as the two processes have many overlaps.

Captain Elizabeth Gedney, Passenger Vessel Association, stated that the Coast Guard should devote additional personnel to the documentation function and that the MMD and TWIC processing should be concurrent, rather than sequential.

[GCMA Comment: Unfortunately, lower-level mariners have no representation in Washington. That is what happens when not enough mariners support an organization like GCMA. It costs money to travel to the nation's capital "where the action is.]"

REPLY TO GCMA LETTER TO COMMANDANT ABOUT TWIC

July 20, 2006

Dear Mr. Block,

On behalf of Admiral Allen, thank you for your letter of June 19, 2006 regarding the Transportation Worker Identification Credential and Consolidation of Merchant Mariner Qualification Credentials proposed rules.

We are pleased to consider the Gulf Coast Mariners Association's (GCMA) comments that you have forwarded to the docket for these proposed rules. We will be sure to carefully consider GCMA's concerns as we proceed with these important initiatives.

Please contact my staff at (202) 267-2200 if you have any further questions.

Sincerely
s/C.E. Bone

Rear Admiral, U.S. Coast Guard
Assistant Commandant for Prevention



**IT CAN HAPPEN WHILE YOU SLEEP:
GO TO BED – NO PROBLEM
WAKE UP TO BIG PROBLEM!
By Captain David C. Whitehurst**

On August 16, 2006 at 22:00 I was on a towboat in the San Jacinto River building a tow preparing to head for Freeport TX. I had my two empty barges (200'x35') doubled up and tied to an empty barge that was tied to the fleet mooring barges. I noticed an inbound tow just south of where I was doing my tow work. It really did not concern me as this area has a constant flow of traffic both in- and out-bound.

One of my deck-crew was tightening the last wire and the other was putting out the running lights while I was on the phone with MSO Houston obtaining an oversize tow permit.

The Accident

I was on watch. I saw my deck-crew scramble from the barges to our vessel and turn the headline loose. At that point I saw a loaded barge that was about seventy five feet away and headed straight for my two barges. At first I thought that the tow was going to tie off just below my barges. Then I realized that this tow was moving much too fast to stop – and its speed appeared to be increasing.

I quickly backed my vessel out of harms way as the lead loaded barge pushed under the rakes of my two empty barges breaking them free of their moorings.

I was standing by on channel 80 with the fleet office and channel 03 with my deck-crew. I made a call on channel 80 and someone responded telling me that the other towboat was calling me on channel 10. When I contacted him, he stated that he had a mechanical malfunction and his gears would not shift into reverse.

His tow was still moving forward carrying my two empty barges along with his tow. There is a mud-bank just ahead of the fleet's mooring barges. I asked the other operator if it would be all right if I took my vessel and pushed on the forward corner of his lead barge so that it would hit the mud-bank and stop his headway. He agreed so I maneuvered my vessel to the starboard bow corner of the lead load and started pushing it toward the mud-bank.

After the tow stopped, I concentrated on my two empty barges as they were loose and moving towards the fleet's boat dock where there were a number of vessels tied off. I also called the fleet on channel 80 requesting that a boat be dispatched to assist the other vessel and its tow. I then had my deck crew put a headline on my two empties and contacted the other operator asking permission to tie my tow alongside his loads. He agreed and I slid my barges up the side of his tow and my deck-crew secured my tow to the loaded barges.

An assist boat arrived along the starboard side of the stern barge at about the same time the operator of the other towboat stated that repairs were made and he could now reverse his engines and back the tow so it could be secured in the fleet.

While backing his loaded barges off the bank, the port side of the loaded barges backed under a spoonbill rake of an empty barge that was tied to the fleet mooring barges. In doing this, some deck piping, handrails and a lifting boom were damaged. Everything seemed in order at this point, when I went on board the other vessel and spoke with the Captain who explained the malfunction. We had a very pleasant conversation.

At about 09:00 the following day I was awakened by my Captain who greeted me with news that I was being blamed for the damages to the other vessel's tow. I got up and went to the wheelhouse where my Captain told me the Coast Guard was on the other vessel and would be over shortly to talk with me about what happened.

I purchased license insurance a few months back after attending a hearing where I witnessed a mariner get screwed over by the Coast Guard.⁽¹⁾ The mariner lost his license for thirty days although he faced originally a ninety day suspension in the beginning. [⁽¹⁾GCMA Newsletter #39, *Pushing an Oversize Tow Can Cost a Mariner Big Bucks.*]

I immediately picked up my cell phone and called the toll-free 800 number to call my MOPS legal representative. I spoke with a lady contact who asked where I was located, and I responded that I was in the Houston area. She then said that someone would call me shortly. No sooner than I put the phone down, it rang and an attorney introduced himself and asked what happened. My attorney instructed me to not give a written statement to the Coast Guard but that he would prepare a statement for me based on our conversation. He gave me his office phone number as well as his cell number. He told me to give these numbers to the Coast Guard investigators.

My attorney called me a number of times during the day to check and see how I was doing. I felt the money for my insurance premium was money well spent.

When the Coast Guard investigators boarded my vessel and asked me for a statement I told them that my attorney instructed me not to give them a statement at this time. They said they had no-problem with this.

Lesson Learned

My only regret is that I did not have license insurance years ago when I found myself in a similar situation and was told I had a company attorney to represent me. Although I was assured that the company attorney would represent me, the day before I was to appear at the Coast Guard Suspension and Revocation hearing the company attorney informed me that he had a more important matter to tend to and would not be there to represent me.

At that point, I had to hire an attorney to represent me. Back then, it was only through the help of a patient ship-to-shore "marine operator" that I was even able to find an attorney that would represent me. It ended up costing me my two weeks pay. I went home broke but I still had my OUTV license in hand.

After this incident, I am certainly going to advise all mariners that I meet to spend a few dollars to protect your income.

When I became a member of the Board of Directors of the Gulf Coast Mariners Association, one of the first things I did was to push to get a discount on license insurance, and was successful. I do understand when someone tells me that it is hard to come up with the money since I never could manage to set aside the money from my own paycheck.

Several months ago, when accompanied by my wife, I sat in on the hearing to try help another Captain who lost his license, we saw just how fast your house note, and car note payments can be cut off if you are out of work for a prolonged period. We learned from this bitter lesson that we witnessed and managed to come up with the money to buy license insurance. Give the crew at MOPS a call and count on them working for you or simply advising you if the need ever arises!

Our Association has assembled a number of examples where Coast Guard investigations have been poorly done and have hurt our mariners. Two Coast Guard Reports, #R-429A and #R-429B are already on the website, and #R-429 is in the final stages of preparation for submission to Congress.

Do two things to insure that you will have a safer work place and can continue to support yourself and your family. First become a member of the GCMA at \$36.00 a-year and then ask for and take advantage of the discount by contacting MOPS directly to purchase your license insurance coverage.

TOWING VESSEL SINKS WHILE UNDER TOW

[Source: MISLE Acticity #2259789; Misle Case #213358; MSO New Orleans, GCMA File #M-516]

Executive Summary: On November 2, 2004, at approximately 0730, the UTV JANA MARIE was towing the M/V CAPT J. W. which had lost its engine in the Mobile, AL, area of operations. It was also pushing barge JMC-97 heading west at mile 49 east of Harvey locks on the Gulf Intracoastal Waterway, when due to severe weather, two sets of waves rolled over the port side of the M/V CAPT J. W. and caused the vessel to roll over on its port side. No one was

on board the CAPT J. W. at the time of the sinking. No injuries were reported. Approximately 3 gallons of oil were spilled and estimated damages were \$65,000.

Type of Investigation: Data Collection.

Other facts: No watertight doors were fitted on the vessel. The tow was underway in exposed waters with 30 knot winds, thunderstorms, and 4-5 foot waves. The towboat was salvaged after 9 days. An unknown amount of diesel fuel was spilled.

Enforcement: Maximum penalty: \$27,500. Recommended penalty to the owner was a letter of warning issued for failure to report the marine casualty. Maximum penalty for the oil spill: \$11,000. Recommended penalty: \$250.

[GCMA Comment: We can only hope that the new Coast Guard towing vessel inspection regulations will require watertight doors and hatches be fitted on every towing vessel regardless of service. The investigator never apparently never questioned whether the engineroom doors were secured while the tow was underway.]

[GCMA Comment: The accident report failed to include a weather report covering the time of the incident that might indicate whether the bad weather leading to the sinking was predictable and the Master considered this factor.]

ADMINISTRATIVE CIVIL PENALTIES

On September 10, 2004, GCMA wrote to the Commanding Officer of the U.S. Coast Guard Hearing Office in Alexandria, Virginia seeking information on civil penalties levied for certain serious work hour violations. As an indirect result of that inquiry we received a disk full of data responding with a listing of 697 USCG Civil Penalty Violations from 1991 to 2004.

The information we received covered primarily violations of one small subpart of Coast Guard regulations, primarily 46 CFR Subpart 4.05, dealing with the reporting of accidents, personal injuries, alcohol and drug abuse. Although we will cover other areas, GCMA's primary concern in this part of the report is to comment on the ineffectiveness of reporting a serious personal injury to the Coast Guard and its devastating effect upon the lives of our vulnerable, injured merchant mariners. There are many other areas that the Coast Guard Hearing office also handles, that a recent GCMA FOIA request will probe.

Subpart 4.05 – Notice of Marine Casualty And Voyage Records

Reporting maritime accidents and personal injuries is nothing new. However, it seems that the Coast Guard has a serious "non-reporting" problem. Like other statutory and regulatory problems, the Coast Guard civilian and military bureaucracy attempts to handle it routinely and without exciting too much attention. With their government jobs at stake, they would take serious offense if we pointed out they do not appear to handle the matter effectively.

We resist the urge to use a broad brush to paint over this problem. Looking at the four major reporting areas covered by Subpart 4.05 we believe that:

- Coast Guard investigators' collection of **personal injury reports** of merchant mariners is **abominable** and their inattention to injured mariners is nothing less than **reprehensible**. The Coast Guard gained our immediate attention by casually dismissing non-submittal of 44 missing personal injury reports from a single offshore employer between 1992 and 1999. During that period, each employee

in question filed a lawsuit against his employer in a Louisiana court of record.

- Collection of vessel "immediate" **accident reports** as well as the required 5-day written reports is **substandard**. We support our allegation by these figures based on Coast Guard data. GCMA determined that during the period from 1991 to 2004 there were 354 cases where the Coast Guard did not receive an immediate notice of a marine casualty. During the same period, there were 265 cases where they did not receive a written accident report within 5 days after an accident. Regulations require a "written report" in addition to the immediate notice of the casualty. The regulation at 46 CFR §4.05-10(a) specifies that a written report must be submitted on CG form 2692.
- Collection of information on **alcohol abuse** was so poorly enforced by investigators that the Coast Guard Authorization Act of 1998 required alcohol testing to take place within two hours of a serious marine incident. We describe the strict new post-accident alcohol testing requirements in GCMA Report #R-315D, Changes in Alcohol and Drug Testing effective June 20, 2006.
- The marine employer must reporting **drug or alcohol use** by every individual directly involved in a marine casualty. The same data shows that during the 1991 to 2004 period the Coast Guard cited 24 employers for violating 46 CFR §4.05-12(a-d), "failure of a marine employer to make required determinations and reports concerning evidence of alcohol or drug involvement." Of these 24 cases, the Coast Guard dismissed 18 cases with warnings and without any civil penalty. In the remaining six cases, the Coast Guard levied a total of only \$3,200 in civil penalties over a 13-year period.

The Coast Guard must receive approval from the Office of Management and Budget every five years to require the public to respond to this accident reporting paperwork "burden." The latest (2005) request (#2115-0003) places a clear emphasis on collecting information on alcohol and drug abuse and very little emphasis in collecting information about serious personal injuries. This is in spite of the fact that 46 CFR §4.05-1 requires reporting of "medical treatment beyond first aid rendering a crewmember unfit to perform routine duties" as well as loss of life.

Two Types of Accident Reports

The universal form CG-2692 covers everything from “death” to a minor grounding. Its routine treatment of all accidents and personal injuries and overwhelming assignment of relatively minor civil penalties and haphazard enforcement have vastly different meanings for an individual mariner who suffers an agonizing or debilitating injury and a large corporation that faces a “chump change” penalty for not filing a two-page form.

COMDTINST 16200.3A, Civil Penalty Procedures and Administration, Table 5a, recommends a penalty range of \$500 to \$1,000 with a “Maximum Penalty Allowed” of \$1,000 for all violations of 46 CFR Subpart 4.05 mentioned above.

The vast majority of these non-reporting violations involved corporate entities rather than individuals. Of the 354 cases where the Coast Guard did not receive “immediate notification” of an accident, 45.6% received no civil penalty. Of the 265 cases where no written accident report was submitted within 5 days, 39.2% received no civil penalty.

The Coast Guard uses the basic two-page form, CG-2692, titled “Report of Marine Accident, Injury, or Death” to cover these types of accidents yet does not distinguish how many are “personal injuries” and how many cover “vessel damage” – two very different things:

- Loss of life.
- Medical treatment beyond first aid rendering a crewmember unfit to perform routine duties.
- Hazardous conditions aboard or caused by a vessel.
- Loss of main propulsion, steering or control reducing vessel maneuverability.
- Occurrence affecting the vessel’s seaworthiness or fitness for service including damage to fixed fire extinguishing or lifesaving systems, generating or bilge pumping.
- Intended or unintended groundings.
- Unintended striking a bridge.
- Property damage in excess of \$25,000.

46 CFR 4.05-1(a) requires the “owner, agent, master, operator, or person in charge to notify the nearest Marine Safety Office, Marine Inspection Office, or Coast Guard Group Office” of loss of life or injury described above. It does not authorize the injured party to do this independently.

GCMA petitioned the Coast Guard in 2001 to expand the list to include the injured person by allowing him or her to file his/her own accident report. Lengthy correspondence on this request appears in Docket #USCG-2002-12580 devoted to this subject on the internet at <http://dms.dot.gov> and resulted in a denial. Consequently, the Coast Guard may never find out about a serious personal injury if it is not reported.

[GCMA Comment: We urge Congress to expand 46 U.S. Code §10603, Seaman’s duty to notify employer regarding illness, disability, and injury to include all mariners and to require a placard to be posted aboard each inspected vessel including towing vessels and require the Coast Guard to enforce existing reporting regulations and civil penalties without exception.]

GCMA documented a number of serious cases where mariners were seriously injured and the accidents were not reported in a timely manner. We direct your attention to GCMA Report #R-333, Rev. 3, Don’t Count on Corporate Compassion or Coast Guard Concern: True Stories of Our Lost, Injured and Cheated Mariners. Case #1 (Preston P. Joseph), Case #3 (Capt. John LoCicero), and Case #4 are directly on point.

TOWBOAT LOSES AIR PRESSURE AND HITS THE BANK

[Source: Misle Activity #2386439; Misle Case #234079; released June 26, 2005. GCMA File #M-575,]

On June 2, 2003 at 1630 hours the M/V CAPTAIN BEAR IVIE was southbound at mile marker 882 on the Lower Mississippi River with 24 loaded rock barges when the vessel lost all air pressure due to a pressure cutoff switch not opening. This caused the pressure relief valve to open and release all of the stored air pressure.

The port lead barge (ITEL 137) struck the bank causing the tow to break apart and set several barges adrift. The ITEL 137 sustained damage to the port bow and a pulled cavel. The estimated value of the damage was \$20,000 when it struck the bank.

At 1356 the following day, the Captain of the Port of Memphis issued the operating company an order to comply with several requirements as follows:

- Conduct a thorough assessment of the operations, procedures, and standards for the vessel to identify hazardous conditions or circumstances that may have caused the grounding and 24-barge breakaway.
- Provide a list of lessons learned and actions you plan to take to correct any of the hazardous conditions or circumstances to prevent a similar incident.
- Document that the vessel’s deficiencies were corrected and engineering systems satisfactorily tested.
- Provide information as to whether the casualty was related to the generator and pneumatic failure that occurred a week earlier.

On June 5, 2005 the Western Rivers Boat Management, Inc. reported its “Lessons Learned” to the COTP, made up its tow and headed south to New Orleans. An outside maintenance professional verified that the vessel lost air pressure because of a faulty relief pressure switch. Rather than just replacing the switch, the company chose to replace the entire primary air compressor unit.

Lesson Learned – Problem Solved on Paper. New procedure: “When the Chief Engineer or his/her designee does their normal periodic inspection of the engineroom, he or she shall watch at least one cycle of the air compressor kicking on and building up to the regulated working pressure for the vessel; document on the vessel’s Daily Engineroom Log. If there is any randomly increasing or decreasing pressure change on the air gauge, he or she shall start the auxiliary compressor immediately and notify the wheelman. The wheelman shall follow the instructions outlined in (the company) RCP Manual under Emergency Vessel Repairs.”

[GCMA Comment: Until vessel inspection regulations are finalized, the Coast Guard should board towing vessels and carefully their machinery to ensure that it is maintained to at least minimal standards. We discussed the background of this problem in GCMA Report #R-401, Revision 1, in a report sent to Congress.]

**GCMA PROTESTS LICENSE EXAM CHANGES
NOT SUPPORTED BY CHANGES IN THE
CODE OF FEDERAL REGULATIONS**

August 24, 2006

Mr. Robert F. Kenney
Deck Team Leader
USCG National Maritime Center
4200 Wilson Boulevard, Suite 630
Arlington, VA 22203-1804

VIA FAX TO: 202-493-1060

Dear Mr. Kenny,

On Monday August 21, 2006 I received a call from a concerned mariner who was preparing to sit for a license described in 46 CFR Table 10.910-2 as #3 Master, Oceans/near coastal 500/1,600 gross tons. He had heard that he would be tested on subjects that were not listed under that license in the table. The table we both used was last amended on September 21, 2001 and appears in the latest edition of the Code of Federal Regulations. A search shows that there have been no more recent amendments to date.

I asked him to call and check with you and report back to me. He reported that he would have to study the following additional subjects to successfully prepare for his license exam:

- Sailings
- Amplitude
- Azimuth of the Sun
- Speed by RPM
- Fuel Consumption

We are concerned that the Coast Guard has departed from the list of exam topics established in the Code of Federal Regulations without adequate notice to the public. We believe that adequate rulemaking procedures exist for changing the list of subjects on examinations and that this procedure must be followed to give the public adequate information about the nature of such changes. This established rulemaking procedure allows the Coast Guard to present adequate reasons for making changes and provides for public input. Other procedures such as interoffice correspondence, NVICs and other non-enforceable blather

inadequately informs the public. Simply altering the contents of this table for exam #3 or any other examination without adequate public notice in the Federal Register subjects our mariners to unwarranted exam failures followed by additional expensive schooling if they are even able to ascertain the reason for their exam failure. Given the lack of information available from examiners at the Regional Examination Centers regarding their knowledge of the contents of the examinations they are administering, this could be a very lengthy, time consuming, and frustrating process. Unfortunately, during the 1970s, the Coast Guard removed their personnel who were knowledgeable in subject matter content from administering examinations in a cost-cutting measure that left our mariners who experienced problems with their examinations without adequate guidance.

While there may be reasons that the Coast Guard determined to add additional topics to certain examinations as listed in 46 CFR Table 10.910-2, our Association maintains that this has taken place without the adequate public notice required in making changes to regulations. We maintain that such actions are arbitrary and capricious and lead to hardship and unwarranted and unexpected expenses for our mariners. These changes have the potential to ruin career paths by placing unanticipated educational hurdles in the path of our mariners.

Therefore, we insist that any changes that introduce new topics other than those specified in the current version of 46 CFR Table 10.910-2 be withdrawn immediately before further damage is done and that any changes the Coast Guard believes necessary be introduced through normal rulemaking processes subject to public scrutiny and comment.

We request a formal written reply to this letter for publication in our Association's Newsletter.

Very truly yours,
s/Richard A. Block

Master #1014425, Issue #8
Secretary, Gulf Coast Mariners Association

[GCMA Comment: Our contact called back to say that the list of "extra" subjects omitted "Flashing Light" signals.]

[GCMA Comments: If mariners are governed by the Code of Federal Regulations, the Coast Guard should follow the same regulations.]

**RANDOM EXAMS OF TOWING VESSELS
Subject to Maritime Transportation Security Act Regs.**

[Source: Summary of two Information Bulletins, one from U.S. Coast Guard Sector New Orleans and the other from MSU Morgan City in mid-August]

Overview

Maritime Transportation Security Act (MTSA) regulations in Title 33, Code of Federal Regulations, Part 104 (33 CFR 104) require towing vessels greater than eight meters (26 ft) in registered length that are engaged in towing or pushing a barge or barge subject to 33 CFR 104 to develop vessel security plans (VSP) and to be operating under their approved Vessel Security Plans as of July 1, 2004.

In June 2004, Coast Guard Atlantic Area Command issued a requirement for the Captain of the Port (COTP) to conduct security compliance examinations of these towing vessels within

two and one half years of the July 1, 2004 implementation date, establishing a **deadline of December 31, 2006**.

In order to minimize the impact of these exams on the towing industry, a January 2005 District Eight policy placed the **full responsibility of scheduling exams on the owner/operators**. With about 5 months remaining until the 31 December deadline, a significant percentage of towing vessels have not had their MTSA compliance examinations.

Action.

The Coast Guard will be conducting **random, unannounced boardings of towing vessels** along the lower Mississippi River within the New Orleans and Morgan City COTP Zones for the purpose of conducting MTSA exams. Although Vessel Security Plan implementation will be the primary focus of the boardings, Marine Inspectors will also verify compliance with other applicable to the vessel and crew. The Coast Guard will try to minimize the impact on the vessel's schedule, but due to the attention required of the master and crew, the vessel will

not be allowed to get underway until the exam is complete.

COTP Orders, restricting towing vessels from engaging in towing barges subject to 33 CFR 104, will be issued to towing vessels that do not demonstrate compliance with the MTSA regulations or other applicable regulations to the satisfaction of the attending Marine Inspector. COTP Orders may also be imposed on vessels found to be in violation of other applicable regulations.

The towing vessel owner/operator is still primarily responsible for scheduling MTSA compliance exams, and these exams can be conducted in any COTP zone. If you wish to schedule an exam in the New Orleans COTP zone or have questions regarding this bulletin, please contact the Inspections Division at (504) 589-6196 ext. 258.

If you wish to schedule an exam in the Morgan City COTP

zone or have questions regarding this bulletin, please contact the Inspections Division at (985) 380-5350.

[GCMA Comment: Many mariners “don’t get the message” because company officials never bother to keep them informed. This bulletin should come as no surprise – two and a half years should be long enough for any message to trickle down. A scheduled “dockside” examination will be much more convenient than a 2:00AM boarding to accomplish the same purpose. Those vessels that miss the December 31 deadline face fines of up to \$27,000 per day – that should attract the immediate attention of recalcitrant towing vessel owners and operating companies.]

UPDATED GCMA “BROWN-LIST”

GCMA fields a significant number of complaints on employment issues from lower-level mariners in as fair a manner as possible. When a mariner gets a “raw deal” we do what little we can to get to the bottom of the problem. However, we are not and never have been a labor union, and we have no formal contractual relationship with any employers.

The vast majority of our “lower-level” mariners work as “employees at will.” Unfortunately, this means that they do not work under a labor contract negotiated through collective bargaining that could control their conditions of employment and provide the machinery to resolve their grievances. Without such a contract, most of our mariners can be fired or demoted at any time, for any reason whatsoever whether fair or not. There is little recourse for most of our mariners unless such termination is clearly illegal – and only then with the help of an attorney.

When one of our mariners is mistreated, we take the matter very seriously. As a mariners’ Association, we keep track of these incidents. When our mariners look for a new job, we want them to obtain jobs with employers who respect them and will treat them fairly. We assign companies whose names appear in our records as having mistreated one or more of our mariners to our “Brown List.”

Mariners must make their own decisions about their employers. As a service to dues-paying members of GCMA (only) we can inform you of some of the specific incidents that led us to “Brown List” a company. Then you can decide whether you want to learn the same lessons the hard way by working for one of these “Brown Listed” companies. We can only tell our mariners that those who fail to learn the lessons of History (as recorded by other mariners) are destined to repeat them!

We add BJ Services, Inc., the operator of five specialized tug and manned-barge well service units in the inland waters of south Louisiana to our Brown List as the results of longstanding complaints by four of their current and former licensed Masters that allege:

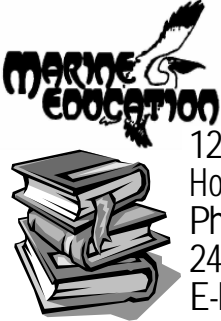
- Unsafe vessel operations resulting from 12-hour rule violations, several of which GCMA reported directly to the Coast Guard. To wit: Abusing the single mariner (i.e., Master) assigned to 180-foot tug-barge combinations by using their uninspected towing vessels set up with one licensed

Master for only 12-hour manning as a vessel available to their customers for unrestricted 24-hour service.

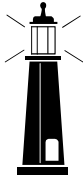
- Unsafely dispatching of a towing vessel without assigning either a deckhand or trained engineer to the vessel. The company assumed that barge workers who were not trained in towing vessel operations and were assigned to separate living quarters on the manned barges and not under the direct control of the vessel’s Master could serve as de facto deckhands and engineers.
- Unsafely dispatching inland push boats with manned barges into exposed waters of the Gulf of Mexico without proper safeguards and against the better judgment of the vessel’s licensed Master as expressed to management personnel.
- For not training company boat personnel in Homeland Security issues.

Brown Listed Companies:

- **Abdon Callais Offshore.**
- **American River Transportation Co. (ARTCO)**
- **American Commercial Barge Lines (ACBL)**
- **BJ Services, Inc.**
- **Coastal Towing, LLC & TLC Marine Svc.**
- **Delta Towing.**
- **ENSCO.**
- **Five Bs Towing Inc.**
- **Frazier Towing**
- **Global Industries Offshore**
- **Gulf Pride Marine Service, Inc.**
- **Guidry Brothers/Harvey Gulf Marine**
- **L&M Botruc Rentals**
- **Maryland Marine**
- **Stapp Towing**
- **Steel City Marine Transportation, Inc.**
- **Tidewater Marine**
- **Trico**
- **Western Kentucky Navigation Company (WKN)**



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- Visual Communications (Flashing Light)/ STCW-approved/USCG-approved (testing done on site)
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- Master of Towing Vessels/USCG-approved (testing done on site)


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