

GCMA NEWS

The Voice for Mariners



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OOPS

On March 14th, the Coast Guard Marine Safety Unit Port Arthur responded to a marine casualty on the Sabine-Neches waterway involving a barge under tow which became unstable and dumped its cargo of rock into the water.

The Coast Guard received a notice that the towing vessel KACIE LUHR pushing four rock barges was taking on water and one of the rock barges dumped about 1,650 tons of rock into the navigation channel. Coast Guard small boats transported all six crewmembers from the towing vessel safely to a nearby tug.

“ARTCO-SIX” MARINERS PREVAIL IN CASE BEFORE U.S. COURT OF APPEALS

The United States Court of Appeals for the Seventh Circuit upheld an award of compensatory and punitive damages to a towboat master who was discharged after refusing to pilot a towboat with a larger than usual number of barges. The company paid higher wages to masters who agreed to handle larger tows. After the plaintiff refused to take larger tows, his evaluation was lowered and he was discharged.

GCMA Director, Larry Gwin brought suit against the company

(ARTCO) alleging violation of the Seaman's Protection Act (Title 46 U.S. Code §2114), which protects a seaman from discharge for refusing to perform duties ordered by the employer because the seaman has a reasonable apprehension that performing the duties would result in serious injury to the seaman, other seamen, or the public.

The court held that the jury could have nably interpreted employer's actions as constituting a violation of the statute. [*Gwin v. American River Transportation Company*, #06-2900, 7th Circuit, April 10, 2007.]

Our Association wishes to call the attention of our mariners as well as the Commandant of the United States Coast Guard and his subordinates in the Eighth Coast Guard District to GCMA Report #R-340, Revision 8, Over-sized and Overloaded Tows Cause Safety Problems.

The remarks by Captain Larry P. Gwin on pages 2

through 4 of this document as delivered before the Towing Safety Advisory Committee in March 2004 are particularly noteworthy at this time as we pointed out at the recent TSAC meeting held in Easton, Maryland.

GCMA wishes to congratulate attorneys Chris Dysart and Mark Meuser, of the Dysart Law Firm, St. Louis, MO for their unwavering our mariners.

Our mariners are tired of being intimidated by large companies that have more money than brains. The treatment of mariners by ARTCO has been particularly egregious.

This lawsuit goes a long way toward proving that ARTCO has not been a good corporate citizen. ARTCO is a Division of Archer-Daniels-Midland (ADM). To read more about ADM, we recommend that you read The Informant by Kurt Eichenwald, ISBN-0-7679-0327-7, which is a true story of corporate corruption and a good read.

CONGRESSIONAL OBSERVATIONS ON RECENT COAST GUARD ACTIVITIES

[*Reference: GCMA File A-1080. Department of Homeland Security, Office of the Inspector General, Report #OIG-07-23, Acquisition of the National Security Cutter and OIG -07-27, 110'/123' Maritime Patrol Boat Modernization Project.*]

Congress has seen time and time again that the Executive Branch is trying to contract out program management duties that should be carried out by Federal employees. The Deepwater program has tried to replace the expertise of the Coast Guard with the expertise of private contractors.. The unique expertise of the Coast Guard cannot be replaced by people who are experts at making money for their stockholders.

We expect Deepwater to produce boats that float, planes that fly, and information technology systems that are fully functional and that protect classified information. Unfortunately, right now these expectations are not being met. We have spent some \$64 million to fund the rehabilitation of eight ships that are now likely never to be returned to service because they have cracked hulls, and we are concerned about the ability of the Deepwater Program to successfully complete

MORE COAST GUARD PERSONNEL SCREW-UPS AND MORE SUNNY PROMISES

Coast Guard Opens Investigation Into Lost Mariner Files

[*Source: U.S. Coast Guard Press Release, March 13, 2007. Contact CDR Jeff Carter at 202-372-4635. Editorial Comment: We left a phone message asking Commander Carter to return our call and update his press release. In the absence of any such undertaking a month later, we will chalk this up as another screw-up by REC personnel since most properly sealed packages reach their destination safely.*]

WASHINGTON - The U.S. Coast Guard announced today the Coast Guard Investigative Service opened an investigation into 50 missing merchant mariner files from a sealed box sent via FedEx.

other major procurements, including the \$2.9 billion National Security Cutter.

– *Congressman James L. Oberstar*

This weekend, millions of Americans will file their tax returns. It is our job to make sure those dollars are spent effectively and efficiently and to hold those who are spending this money accountable for their decisions.

(It) is time to salvage equipment and parts from the 123-foot patrol boats and begin a civil and criminal investigation into how the Federal Government and the American taxpayers were sold a boat that is unsafe. Admiral Thad Allen, the Commandant of the U.S. Coast Guard, made the right decision to tie these boats up. We cannot risk the lives of the men and women in the Coast Guard by operating unsafe boats. It is time for the Department of Justice to step up and hold those who perpetuated this fraud accountable.

ó *Congressman Elijah Cummings*

[**GCMA Comment: In light of the Coast Guard's squandering of over \$250,000,000, it is understandable that their grossly incompetent mismanagement of merchant marine personnel must take a back seat for a while. However, GCMA pledges to do our best to see that our mariners' problems are not forgotten.**]

A box sent by Coast Guard Regional Examination Center New Orleans was delivered Feb. 28 by FedEx to a Coast Guard processing center in Kearneysville, W.Va. Coast Guard personnel conducted an inventory based on the pre-packaged inventory provided by the staff in New Orleans after noting the box had come unsealed in transit. The inventory determined 50 files were missing. FedEx is cooperating in the Coast Guard investigation and is continuing its search for the missing files.

"At this time we have no confirmation of misuse of mariner information resulting from the records loss, but we are urging mariners to be vigilant" said Tina Bassett, chief of the Coast Guard's mariner services division. "The Coast Guard has notified individual mariners of their missing file, and requested they call us regarding any actual or suspected identity theft associated with their lost file."

[**GCMA Comment: Mariners are often called upon to**

replace files that the Coast Guard loses. This is a very familiar story we have heard time and time again.]

Since Social Security numbers and other personal information were in the files, mariners affected by this loss have been advised to monitor financial accounts for suspicious activity and review their credit reports. Every consumer is entitled by law to one free credit report annually from each major credit bureau ó Equifax, Experian and TransUnion. The free credit report can be requested at www.annualcreditreport.com, or by calling 1-877-322-8228.

New Orleans Regional Exam Center Moves To a Permanent Facility

[Source: Based on another U.S. Coast Guard News Release]

The New Orleans Regional Examination Center (REC) moved to its permanent facility in Mandeville, La., and opened on April 2.

The Metairie REC location closed permanently at 3 p.m. on the previous Wednesday to start the move. No telephone or e-mail service to the old REC are available.

The REC's hours of operation in Mandeville will be from 7:30 a.m. to 3:30 p.m. Monday through Thursday and 7:30 a.m. to 1:15 p.m. on Friday. The office will remain open for "limited services" during the lunch hour. Testing will be conducted during the same hours, but the latest time to start a new exam is 2:30 p.m. Monday through Thursday, and noon on Friday. If mariners arrive after the published closing time, there is the possibility that they will not be able to complete their transaction that day.

Effective April 2 the new REC address and phone number will be: USCG Regional Examination Center 4250 Hwy 22, Suite F, Mandeville, LA 70471. Phone: 985-624-5700 Fax: (985) 624-5757. The REC staff e-mail addresses should not change.

If you need information on the status of your pending mariner credential application that was submitted through REC New Orleans, you may call (888) 427-5662 or email iasknmc@uscg.mil during normal business hours.

For information on the TWIC card, call (877) 687-2243.

The new REC can be reached from Interstate 12 or Interstate 10 via the Causeway Bridge. [Presumably, you can find your way from there!]

After Hurricane Katrina destroyed the New Orleans East REC facility, the REC staff worked from temporary locations in Morgan City, La., Houston, Memphis, Tenn., and Metairie La.

More Sunny Promises

[Source: Taken from one of those genuine USCG military "Messages. and (mostly) translated so you can understand it]

R 062128Z MAR 07 ZUI ASN-A00065000017

FM COMDT COGARD WASHINGTON DC//CG-3PC//

TO

BT

UNCLAS //N16721// (This makes it look official!)

Subj: Mariner Licensing and Documentation Program (MLD) Restructuring and Centralization - Update

1. This message announces significant milestones in the implementation of the MLD program restructuring and centralization project.
2. On 13 Nov 06, the National Maritime Center (NMC) opened a second detached duty office in Kearneysville, WV, to temporarily house the medical evaluation branch and the safety and security evaluation branch. These

branches began reviewing mariner applications for compliance with medical⁽¹⁾ and security requirements needed to receive a mariner credential.

3. On 18 Dec 06, the NMC opened a third detached duty office in Kearneysville, WV, to temporarily house the NMC mariner help desk.⁽²⁾ This first-ever mariner help desk will answer credential application and processing questions. Initially the mariner help desk will answer inquiries from mariners who submitted their applications through REC New Orleans. Mariners who submit their applications to other RECs will still need to contact those RECs for credential application and processing questions. The lessons learned from this initial help desk endeavor will help shape future customer services, including a nation-wide mariner help desk.
4. As of 9 Jan 07, all mariners nation-wide have the option of paying their user fees for the evaluation of applications, taking examinations, and issuance of licenses and/or merchant mariner documents online at <http://www.pay.gov>. Mariners will still be able to pay their user fees at their local REC.
5. Construction of the new building to house the NMC will start within the month with occupancy scheduled for Oct 2007. After this, each REC will be restructured in accordance with the approved implementation plan. Planning for the transition of each REC is underway as are process changes and technology enhancements.
6. As restructuring and centralization continues, I have tasked the program with the initial goal of achieving a one-week cycle time for processing applications within two years. In subsequent years, I expect the program to reduce cycle times further.⁽³⁾ NMC cycle time is exclusive of the actions of other agencies and delays caused by incomplete applications, scheduling and taking examinations, or missing information accompanying applications.⁽⁴⁾ This aggressive goal will require revolutionary change and cannot be reached without a focus on customer service, improved processes, and leveraging technologies. The Coast Guard is committed to doing what is necessary to achieve this goal. We will commit the necessary resources for the reengineering efforts this goal will require and we will hold ourselves accountable for achieving this goal.⁽⁵⁾
7. This is a dynamic time for the mariner licensing and documentation program. Support of the RECs by sectors, districts, and areas remains of paramount importance through this transition period.⁽⁶⁾ Support of the maritime customers served will dictate the continued need for changes in operations at RECs and flexibility in providing service to the industry. Additional details of the transition planning is available on GC central at <http://cgcentral.uscg.mil/mycg> and selecting unit NMC.
8. Internet release authorized.
9. RDML B.M. Salerno, Director of Inspections and Compliance, sends.
BT
NNNN

GCMA Footnotes

⁽¹⁾When the Medical Branch is up to full strength it can vigorously enforce the 202 öpotentially disqualifying medical conditionsö outlined in the Medical NVIC discussed in previous newsletters. Medical waivers won't be cheap!

(2) From what we have heard from several users, the people manning the Help Desk need help themselves.

(3) Sounds good, but we have heard promises like this before. In two years, some other bigwig will give us another pie-in-the-sky date. GCMA hopes the Coast Guard will no longer be in charge of Merchant Marine Personnel two years down the line. They had many chances to clean up their act before and never did so. Our mariners deserve something better than what we presented to Congress in GCMA Report #R-428-D.

(4) These are precisely the things that presently sabotage most license transactions. Simplify the process, and thereby simplify licensing.

(5) The core of the problem is **that the Coast Guard plans to hold itself accountable**. We think it is high time that Congress holds the Coast Guard accountable. Although it is years too late, we hope they kick butt and clean out every bit of the deadwood that has discouraged our mariners for so many years. GCMA Report #R-428-D shows how individual Coast Guard Regional Exam Centers have been allowed to run roughshod over individual mariners for years.

(6) Mariners have had a belly full of domination by this arrogant, out-of-control military organization. It is time for licensed merchant marine officers to stand up and run the U.S. Merchant Marine. For those mariners who favor military discipline, let them join the Navy or the Coast Guard!

USE OF PRESCRIPTION DRUG "SLEEP-AIDS" LEADS TO ACCIDENT & PENALTY

[Source: Mislé Activity #2613631, Mislé Case #281,316; FOIA #06-1037, Release date, Feb. 27, 2007; GCMA File M-629.]

On March 18, 2006 at 15:25 the Uninspected Towing Vessel SUSAN K and its 22-barge tow allided with the moored red-flag barge NM1014. The NM1014 and the hopper barge AD767 were damaged. The NM1014 was moored in Carline Fleet Located at Lower Mississippi River mile 182.

The Coast Guard conducted an "Informal Investigation" of this accident that caused approximately \$35,000 in damage. The pilot, ■, a licensed officer with 31 years in the industry and serving as Master of Towing Vessels for the preceding 26 years, was taking prescription medications while operating the vessel and standing 6-hour watches. The pilot at the helm apparently fell asleep while operating the SUSAN K and its tow. Fortunately, there was no fire, explosion or personal injuries.

Captain ■ received the following "Letter of Warning" as a result of this accident:

Subject: Warning in lieu of Suspension & Revocation Proceedings

Mr. ■,

An investigation has revealed the following misconduct on your part while possessing Merchant Mariner's License No. XXX

Complaint: Violation of Rule or Regulation pursuant to 46 CFR §5.31 and 5.29 Violation Cite: 18 USC §7703(2)

To wit: While piloting the UTV SUSAN K on March 18, 2006 you passed out, losing control of the vessel, thereby, endangering the crew, the vessel, as well as other persons and property. In the course of the investigation, you admitted to operating the vessel while using certain prescription sleeping aids, in particular **Ambien CR**. The record also reflects that you failed to first seek the required medical waiver from your servicing Regional Examination Center to ensure that you were medically competent before assuming pilot duties. Under 46 CFR §5.31, your failure to obtain the requisite medical waiver and to make certain your physical readiness left you incompetent to perform your duties.

In the alternative, your actions pursuant to 46 CFR §5.29 could be deemed negligent. A reasonable person could conclude that it was negligent not to obtain a required waiver and to ensure medical competence before assuming pilot duties.

[GCMA Comment: Obvious to all except the Coast Guard Officers in bed with the industry trade associations is that the 6 hours on duty/6 hours off duty watch schedule does not allow the 7 to 8 hours of continuous, uninterrupted sleep a human requires.]

[GCMA Comment: The first draft of the new towing vessel inspection regulations shows no effort to make important work-hour changes.]

The type and the nature of the prescription drug along with other pertinent evidence discovered throughout this investigation has been taken into account; therefore, it has been determined that justice will be best served by issuing a warning rather than conducting a formal proceeding for your violation set forth above.

You are advised that this warning will become a part of your merchant mariner's record and will be considered during any future enforcement actions involving you.

[GCMA Comment: We have seen Letters of Warning destroy mariners' requests to become Designated Examiners.

If you feel this warning is not warranted, you may decline it by signing and dating under the statement below. However, your refusal will result in suspension and revocation proceedings being initiated against your Merchant Mariner Credentials' in accordance with Title 46 .S. Code Chapter 77. You may contact me at the number above with questions. Please sign and return the copy in the enclosed envelope, accepting or declining the above mentioned warning within 30 daysí ...

Caught in the Middle

The "twelve-hour rule" is a Federal statute passed by Congress and enforced by the Coast Guard. If you plan to continue to keep and use your license, it would be well to take this law very seriously. There are all sorts of temptations to violate it - making "overtime" money, browning up to the boss, being a "good guy" and helping a (sick, tired, incompetent) friend. There is also a much darker side to violating the 12-hour rule shown in the entire GCMA #R-370 series of reports on our internet website.

However, in this case, there is nothing to suggest that the mariner was violating this statute by **working** six-hours on duty and six-hours off duty. Coast Guard policy defining work⁽¹⁾ says: "Work is any activity that is performed on behalf of a vessel, its crew, its cargo, or the vessel's owner or operator.

This includes standing watches, performing maintenance on the vessel or its appliances, unloading cargo, or performing administrative tasks, whether underway or at the dock. [(1)G-MOC Policy Letter #4-00, Rev. 1 as found in GCMA Report #R-258, Rev.2. Apr. 20, 2006. Watchkeeping and Work-Hour Limitations on Towing Vessels, Offshore Supply Vessels (OSV) & Crewboats Utilizing a Two Watch System.]

A portion of the definition for "Watch" in the same policy letter states: "The performance of maintenance or work necessary to the vessel's safe operation on a daily basis does not in itself constitute the establishment of a watch. However, the latter (i.e., "work") does count towards the hours of work that can be required by an employer.

In this case, the employer lawfully required the Pilot to stand two six-hour watches totaling the entire 12 hours of work for the day. Nothing wrong here!

The problem is more deeply rooted and is being addressed by Congress. Much of it has to do with Crew Endurance. The Coast Guard completed a study on Crew Endurance and turned it in to Congress in May 2006. Among other things, this report like just about every other report we read says that a human being requires between 7 and 8 hours of uninterrupted sleep each day to function properly. It is impossible to function properly on 6 hours of sleep per day forever.

Sleeping on a towboat does not usually occur under ideal conditions. If it takes you an hour to fall asleep, you only obtain five, not six hours of sleep and run up a "sleep debt" that is going to be paid back sometime "perhaps at 15:35 in the mid-afternoon when you doze off like Pilot █.

Crew Endurance Management Systems (CEMS) can help you understand the problem and better prepare for it. You may be able to prepare yourself to fall asleep the moment you "hit the sack." You may have a day when you can grab a quick catnap. However, when there is a problem serious enough to ask your doctor for a prescription, you must tell your doctor of your 6-on, 6-off watch schedule. Your doctor may question this and may even refuse to give you a prescription under these circumstances. However, if you tell him that "I can't sleep at night," that is only half the story and is only half-true.

This is one of the reasons that the Coast Guard is tightening up its health requirements. Among other things the Coast Guard pointed out is that the Master of the towboat that took down the Interstate 40 bridge at Webbers Falls, Oklahoma, killing 14 people was that he violated the 12-hour rule. Neither the NTSB nor the Coast Guard blame that violation for the accident directly, but if the vessel had been the SUSAN K at 15:25 on March 18, 2006 approaching the same bridge, a similar accident could have happened.

Congress, in Section 409 of the Coast Guard and Maritime Transportation Act of 2004, added this paragraph to 46 U.S. Code §8904: "(c) The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and recordkeeping of that service) of individuals engaged on a towing vessel." "

Section 409 went on to state: "Prior to prescribing regulations under this section, the Secretary shall conduct and report to the Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on towing vessels. The report shall include a description of the public and private sector resources needed to enable implementation of Crew Endurance Management Systems on all United States-flag towing vessels."

The Coast Guard submitted their CEMS report to

Congress on March 29, 2006. The clock is ticking.

What Pilot █ Could Have Known (Information for Patients Taking Ambien CR)

[*Editorial note: We do not want to try to "second guess" Pilot █. How often have you taken the time to read the medical "counseling" (literature) that comes with almost every bottle of prescription or non-prescription pills you buy. Probably not very often! The information on Ambien CR came from a two-page advertisement notice in U.S. News and World Report printed in type too small to read without a magnifying glass! If you use "sleep aids" on the job you need to know this generic information. The emphasis by underlining is ours!]*

Your doctor has prescribed Ambien CR to help you sleep. The following information is intended to guide you in the safe use of this medicine. It is not meant to take the place of your doctor's instructions. If you have any questions about Ambien CR tablets be sure to ask your doctor or pharmacist.

Ambien CR is used to treat different types of sleep problems, such as:

- trouble falling asleep
- waking up often during the night

Some people may have more than one of these problems.

Ambien CR belongs to a group of medicines known as the "sedative/hypnotics", or simply, sleep medicines. There are many different sleep medicines available to help people sleep better. Sleep problems are usually temporary, requiring treatment for only a short time, usually 1 or 2 days up to 1 or 2 weeks. Some people have chronic sleep problems that may require more prolonged use of sleep medicine. However, you should not use these medicines for long periods without talking with your doctor about the risks and benefits of prolonged use.

Side Effects

Most common side effects:

- headache
- somnolence (sleepiness)
- dizziness

You may find that these medicines make you sleepy during the day. How drowsy you feel depends upon how your body reacts to the medicine, which sleep medicine you are taking, and how large a dose your doctor has prescribed. Daytime drowsiness is best avoided by taking the lowest dose possible that will still help you sleep at night. Your doctor will work with you to find the dose of Ambien CR that is best for you.

To manage these side effects while you are taking this medicine:

- When you first start taking Ambien CR or any other sleep medicine until you know whether the medicine will still have some carryover effect in you the next day, use extreme care while doing anything that requires complete alertness, such as driving a car, operating machinery, or piloting an aircraft.
- NEVER drink alcohol while you are being treated with Ambien CR or any sleep medicine. Alcohol can increase the side effects of Ambien CR or any other sleep medicine.
- Do not take any other medicines without asking your doctor first. This includes medicines you can buy without a prescription. Some medicines can cause drowsiness and are best avoided while taking Ambien CR.
- Always take the exact dose of Ambien CR prescribed by

your doctor. Never change your dose without talking to your doctor first.

Special Concerns

There are some special problems that may occur while taking sleep medicines.

Memory problems: Sleep medicines may cause a special type of memory loss or "amnesia." When this occurs, a person may not remember what has happened for several hours after taking the medicine. This is usually not a problem since most people fall asleep after taking the medicine.

Memory loss can be a problem, however, when sleep medicines are taken while traveling, such as during an airplane flight and the person wakes up before the effect of the medicine is gone. This has been called "traveler's amnesia."

Be sure to talk to your doctor if you think you are having memory problems. Although memory problems are not very common while taking Ambien CR, in most instances, they can be avoided if you take Ambien CR only when you are able to get a full night's sleep (7 to 8 hours) before you need to be active again.

Tolerance: When sleep medicines are used every night for more than a few weeks, they may lose their effectiveness to help you sleep. This is known as "tolerance." Sleep medicines should, in most cases, be used only for short periods of time, such as 1 or 2 days and generally no longer than 1 or 2 weeks. If your sleep problems continue, consult your doctor, who will determine whether other measures are needed to overcome your sleep problems.

Dependence: Sleep medicines can cause dependence, especially when these medicines are used regularly for longer than a few weeks or at high doses. Some people develop a need to continue taking their medicines. This is known as dependence or "addiction."

When people develop dependence, they may have difficulty stopping the sleep medicine. If the medicine is suddenly stopped, the body is not able to function normally and unpleasant symptoms may occur (see Withdrawal). They may find that they have to keep taking the medicines either at the prescribed dose or at increasing doses just to avoid withdrawal symptoms.

All people taking sleep medicines have some risk of becoming dependent on the medicine. However, people who have been dependent on alcohol or other drugs in the past may have a higher chance of becoming addicted to sleep medicines. This possibility must be considered before using these medicines for more than a few weeks.

If you have been addicted to alcohol or, drugs in the past, it is important to tell your doctor before starting Ambien or any sleep medicine.

Withdrawal: Withdrawal symptoms may occur when sleep medicines are stopped suddenly after being used daily for a long time. In some cases, these symptoms can occur even if the medicine has been used for only a week or two.

In mild cases, withdrawal symptoms may include unpleasant feelings in more severe cases, abdominal and muscle cramps, vomiting, sweating, shakiness, and rarely, seizures may occur. These more severe withdrawal symptoms are very uncommon.

Another problem that may occur when sleep medicines are stopped is known as "rebound insomnia." This means that a person may have more trouble sleeping the first few nights after the medicine is stopped than before starting the medicine. If you

should experience rebound insomnia, do not get discouraged. This problem usually goes away on its own after 1 or 2 nights.

If you have been taking Ambien CR or any other sleep medicine for more than 1 or 2 weeks, do not stop taking it on your own. Always follow your doctor's directions.

Changes in Behavior and Thinking

Some people using sleep medicines have experienced unusual changes in their thinking and/or behavior. These effects are not common. However, they have included:

- more outgoing or aggressive behavior than normal
- confusion
- strange behavior
- agitation
- hallucinations
- worsening of depression
- suicidal thoughts

How often these effects occur depends on several factors, such as a person's general health, the use of other medicines, and which sleep medicine is being used.

It is also important to realize that it is rarely clear whether these behavior changes are caused by the medicine, an illness, or occur on their own. In fact, sleep problems that do not improve may be due to illnesses that were present before the medicine was used. If you or your family notice any changes in your behavior, or if you have any unusual or disturbing thoughts, call your doctor immediately.

Pregnancy

Sleep medicines may cause sedation of the unborn baby when used during the last weeks of pregnancy. Be sure to tell your doctor if you are pregnant, if you are planning to become pregnant, or if you become pregnant while taking Ambien CR.

Safe Use of Sleeping Medicines

To ensure the safe and effective use of Ambien CR or any other sleep medicine, you should observe the following cautions:

1. Ambien CR is a prescription medicine and should be used ONLY as directed by your doctor. Follow your doctor's instructions about how to take, when to take, and how long to take Ambien CR, Ambien CR tablets should not be divided, crushed, or chewed, and must be swallowed whole.
2. Never use Ambien CR or any other sleep medicine for longer than directed by your doctor.
3. If you notice any unusual and/or disturbing thoughts or behavior during treatment with Ambien CR or any other sleep medicine, contact your doctor.
4. Tell your doctor about any medicines you may be taking, including medicines you may buy without a prescription. You should also tell your doctor if you drink alcohol. DO NOT use alcohol while taking Ambien CR or any other sleep medicine.
5. Do not take Ambien CR unless you are able to get a full night's sleep before you must be active again. For example, Ambien CR should not be taken on an overnight airplane flight of less than 7 to 8 hours since "traveler's amnesia" may occur.
6. Do not increase the prescribed dose of Ambien CR or any other sleep medicine unless instructed by your doctor.
7. When you first start taking Ambien CR or any other sleep medicine, until you know whether the medicine will still have some carryover effect in you the next day, use extreme care while doing anything that requires complete alertness, such as

- driving a car, operating machinery, or piloting an aircraft.
8. Be aware that you may have more sleeping problems the first night after stopping Ambien CR or any other sleep medicine.
 9. Be sure to tell your doctor if you are pregnant, if you are planning to become pregnant, or if you become pregnant
 10. while taking Ambien CR or any other sleep medicine.
 11. As with all prescription medicines, never share Ambien

- CR or any other sleep medicine with anyone else. Always store Ambien CR or any other sleep medicine in the original container that you received it in and store it out of reach of children.
12. Ambien CR works very quickly. You should only take Ambien CR right before going to bed and are ready to go to sleep.

QUESTIONABLE INVESTIGATION LEADS TO CAPTAIN'S LETTER OF WARNING

[Source: Mistle Activity #2757513, Mistle Case #310485, GCMA File #M-658, Release date Mar. 23, 2007]

“On 16 Aug 2006 at approximately 2200 local time, the UTV KATHRYN WATSON (O/N 263932) was pushing two loaded barges (lead barge Kirby 28074 and stern barge Kirby 30016T) and allided with the barge Kirby 10427 which was moored in the staging area in the San Jacinto River. As a result, the M/V KATHRYN WATSON broke the lines of some barges moored in the staging area causing them to break free. The barges were in the process of being moored by the UTV PAT SALVAGGIO. No injuries or pollution (was) reported.

While in the process of retrieving the barges, the barge Kirby 30016T sustained damage to the port manifold resulting in approximately \$5,000 damage.

According to the Master of the M/V KATHRYN WATSON, the vessel he was operating did not respond to his attempts to bring the vessel in reverse. The investigation revealed that the M/V KATHRYN WATSON lost maneuverability due to the port 101 valve coming loose and the starboard 101 valve being crimped.

The “101” Valve

The 101 valve is a three position air control actuator that is mechanically linked to a shift lever on the marine gear that shifts the gear from forward to neutral to astern. On either end of the valve, if the stationary end mounted on a fixed bracket or the moveable arm connected to the end of the shift lever comes loose, the marine gear will remain in its last position which could be ahead, neutral, or astern. The Coast Guard report said that the port 101 valve came loose.

The report said that the starboard 101 valve was crimped. Whether crimped refers to the air hose feeding air to either end of the valve or whether crimped simply means jammed is open to question. In either case, the 101 valve is located in the engineroom several decks below the pilothouse and certainly was not readily accessible to the Captain as he was trying to maneuver a vessel such as the 110-foot M/V Kathryn Watson.

The Accident Report

The report prepared by the Coast Guard was prepared at the data collection level of investigation although it did not appear that the Coast Guard had done a great deal in the way of collecting the necessary data. For example, the report contained no statement from the Captain of the M/V KATHRYN WATSON detailing what had happened to cause the accident and the corrective steps that somebody had taken in the engineroom after the accident. Furthermore, the accident report contained no CG-2692 submitted by the vessel's operating company, Versatility Marine. Although the report contained engineroom pictures, these pictures show one of the 101 valves connected and does not show a crimped air hose

Like most towing vessels, the M/V KATHRYN WATSON had no licensed engineer and the deckhand or deckineers on duty was out on the head of the tow at the time of the accident and unavailable to manually shift gears if called upon to do so. Hidden away in the data was the information that both barges that were being pushed were loaded benzene barges. Until the Coast Guard recognizes that training for lower-level engineers is important and that many towing vessels operate without trained engineroom personnel, accidents of the type described in this report are inevitable. Indeed, it is fortunate that the accident did not lead to a fire or explosion considering the volatile nature of the cargo.

Several months after the accident, the Captain of the M/V KATHRYN WATSON reported that he had been notified by the Coast Guard by certified mail that he was offered a settlement agreement offering him a Letter of Warning in return for his signature. The letter was opened by a relative who contacted the Captain as quickly as possible warning him that most of the twenty-days he was given to answer the complaint had already passed. When he called the Investigating Officer he was told his only choice was to sign the letter of warning or, as an alternative, to contest a charge of negligence before an Administrative Law Judge. Not having license insurance to provide for a lawyer to defend him in a hearing before an ALJ,⁽¹⁾ the Captain simply accepted the Letter of Warning. ^[⁽¹⁾Paying \$5,000 for legal defense before an ALJ is not a realistic alternative for most mariners. “Tell it to the judge” for the average mariner makes as much sense as telling it to the wall.]

In reviewing the full record forwarded to Washington (under the Freedom of Information Act), it is hard to see where the Coast Guard collected any conclusive evidence that the Captain's negligence under 46 CFR §5.29 caused this accident. By definition, **Negligence** is the commission of an act which a reasonable and prudent person of the same station, under the same circumstances, would not commit, or the failure to perform an act which a reasonable and prudent person of the same station, under the same circumstances, would not fail to perform. In fact, the Enforcement Summary even contains a factually incorrect statement that the M/V KATHRYN WATSON allided with the M/V PAT SALVAGGIO.

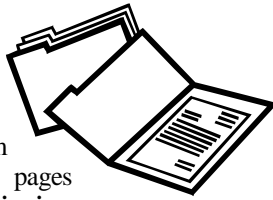
The Captain had no prior violations. However, this Letter of Warning will have to be reported every time he renews his license. In all likelihood, considering the existing mindset in Washington, this Letter of Warning will torpedo his eligibility to become a Designated Examiner in the future.

This accident report serves as another example of how an incomplete investigation can adversely affect an individual mariner while it fails to address the root cause that there are significant training, maintenance, and manning issues that affect engineroom equipment operation throughout the towing industry.⁽¹⁾ [⁽¹⁾Refer to GCMA Report #R-429. GCMA Report to Congress: How Coast Guard Investigations Adversely Affect Lower Level Mariners.]

NEW & REVISED GCMA REPORTS

GCMA Report #R-276-B Availability of the Draft Towing Vessel Inspection Regs

On April 14, 2007 we received a copy of the draft proposed towing vessel inspection regulations from Captain Lorne Thomas, USCG, on pages containing this cautionary note: ***"This is a pre-decisional document. Any concepts, procedures or equipment requirements are conceptual only and are likely to change based on internal deliberations and public participation."***



We prepared comments on these Draft Proposed Regulations in order to provide the Coast Guard with constructive mariner input on these proposals. Copies of this report were submitted to Congress, the Coast Guard, the Towing Safety Advisory Committee, and are available to our mariners and the general public on our internet website.

GCMA Report #R-333, Rev. 3 Gulf Coast Mariners Association Legislative and Regulatory Agenda – 2007

GCMA serves as a clearing house for our lower-level mariners to report their ideas and concerns which appear in newsletter articles and in research reports. We also submit proposals for change to both the Coast Guard and to Congress. This year, our proposals to Congress include:

- Amend 46 U.S. Code §8104 to limit the hours of work for all licensed and unlicensed mariners serving on any U.S.-flag commercial vessel to 12 hours in any 24-hour period. Address other specific problems with this statute that primarily affect lower-level merchant mariners.
- Standardize logbooks on vessels on domestic voyages.
- Require the Coast Guard to adequately protect mariners and offshore workers by enforcing the Congressional Intent of Occupational Safety and Health Act of 1970. Remove the data collection responsibility for health and safety issues from the Coast Guard and place it with the Department of Labor (e.g., replace forms CG-2692 with OSHA 300 series). Impose steep penalties for failing to report and track every accident, injury, illness, and death to a seaman, passenger, or other person on a vessel. Permanently separate personal injury and illness reporting from vessel and equipment casualties.
- Remove Coast Guard authority over all Merchant Marine personnel and turn it over to a suitable civilian agency within the U.S. Department of Transportation. Conduct a Congressional hearing on Licensing, Certification, and Training to determine future direction. Undertake a student grant program⁽¹⁾ to finance required mariner education and training. [⁽¹⁾Also Refer to GCMA Report # R-428-E, GCMA Supports Proposed Forgivable Education Loan Program. Also see Section 9 of the Merchant Mariner Credential Improvement Act (H.R. 1605) in this Newsletter that hints at possible Congressional interest in such a project. H.R. 1605, however, is only a "bill" not law!]
- Mariner Safety Issues previously brought to the Coast Guard's attention and never acted on. Refer to these GCMA reports: GCMA Report #R-354, Rev.1. A Direct Appeal to Congress on Lifesaving Issues Affecting Lower-

Level Mariners; GCMA Report #R-411, Rev. 4. Congressional Oversight is Necessary to Prevent Continuing Overhead Clearance Accidents; GCMA Report #R-293, Rev. 2. Towboats and Bridges, A Dangerous Mix.

- Request for Congressional Oversight of the Towing Safety Advisory Committee. GCMA previously asked Congress to review the allocation of committee seats and fund travel and per diem for members to attend committee meetings in GCMA Report #R-417.
- Support the Coast Guard's 2007 Legislative Change Proposal to rescind 46 U.S. Code §8905(b), the "Long Loophole" to require licensed officers to operate all towing vessels in the offshore mineral and oil industry.
- Further amend 46 U.S. Code §2114(b)(3)(4) to award costs and reasonable attorney's fees to the prevailing party if the court finds that a complaint filed under this section is frivolous or has been brought in bad faith. An increase from \$1,000 provided by Congress in 2002 would provide an injured plaintiff greater access to an attorney. In light of the Coast Guard's inattention to mariner injuries, we believe such an increase is warranted.

The report also contains a review of the status of a number of items of Coast Guard rulemaking that our mariners are concerned about. However, in light of the Coast Guard's lack of interest in anything that concerns lower-level mariners, we see little chance of change without some sweeping changes in Washington. For the first time, we suggest some long-overdue changes we believe would be helpful in cleaning house in Washington.

GCMA Report #R-340-A Oversize and Overloaded Tow Accident: The Elizabeth M Case

Newspaper accounts of the towboat that plunged over Montgomery Dam in western Pennsylvania in January 2005 drowning four crewmembers is supplemented by information released from the Coast Guard's One-Man Formal Investigation under FOIA in January 2007. Parts of the case are still under investigation, and we have not yet heard from the attorneys representing the drowned and injured mariners.

GCMA Report #R-370-H. 12-Hour Rule Violations: Harbor Tugs and the "One Watch" System.

This report is a reprint of articles that appeared last Fall in Newsletters #43 & 44 and has now been added to our growing collection of articles in the "R-370" (series) that chronicles repeated violations of the 12-hour rule. We are collecting evidence of work-hour abuse throughout the industry and are determined to end the practice.

GCMA Report #R-422, Rev I How to Contact Congressmen On Maritime Issues – 110th Congress

As a result of the Congressional Elections of November 2006, GCMA updated our Congressional contact list to include those Congressmen most concerned about issues that concern lower-level mariners. GCMA is non-partisan and values assistance that promotes our mariners' safety and welfare from any source regardless of political affiliation.

If you have a personal issue, you should address it to the representative in your own Congressional District whose

number and address is available in your local phone book under "U.S. Government." However, feel free to write to any (or all) of the listed U.S. Representatives or Senators in GCMA Report #R-422, Rev. 1 to express your views about any federal maritime issue you feel strongly about, but be sure to clearly identify the issue you are writing about. If you want to cite any of our GCMA Reports in your letter, we will be glad to furnish you with a copy to send with your letter.

**GCMA Report #R-428-F
AWO Chairman Testifies Before Congress
On Personnel & Licensing Issues**

This report is a reprint of the statement of Dale Sause President, Sause Bros., Coos Bay, Oregon and Chairman of the Board, The American Waterways Operators, Arlington, Virginia before the Subcommittee on Coast Guard and Maritime Transportation Committee on Transportation and Infrastructure United States House of Representatives, July 20, 2006.

We recommend that every lower-level mariner read this important testimony given last July. We believe that our recent report #R-428-D, Report to the 110th Congress: Substandard Coast Guard Merchant Mariner Personnel Services released in February 2007 only serves to emphasize through actual cases related by our mariners along the Gulf Coast, on the Western Rivers, and in New York Harbor many of the same things that Mr. Sause related to Congress.

However, "Congress" is a continuing body. Mr. Sause's testimony was delivered to the 109th Congress. Our report was submitted to the new 110th Congress. The problem is in their lap. The Coast Guard and Maritime Transportation subcommittee has new leadership. This subcommittee reports to the large Committee on Transportation and Infrastructure chaired by Representative James Oberstar of Minnesota. We trust that Congress will address these issues and challenges that are important to all our mariners with renewed vigor.

**GCMA Report #R-429-I, Rev. 2
Investigations: Enforcement of Existing
Personal Injury Reporting Requirements**

This report replaces GCMA Report #R-292, Rev. 1 and contains considerable new information about the Coast Guard's failure to investigate personal injury accidents that affect lower-level mariners. Expert testimony by Mariner #39 literally blows the roof off one of the biggest cover-ups we have yet seen of how the Coast Guard has mismanaged our lower-level mariners over the years.

As you know, both "accidents" and "personal injuries" are reported on form CG-2692. GCMA pointed out as early as 2000 in GCMA Report #R-292 that the Coast Guard was not doing its job of investigating the cause of personal injuries. This time we have some good news to report "that Congress is now on the trail and that they are investigating the investigators."

Mariner #39 shows how this story disproportionately

affects our "lower-level" mariners who are hurt on the job. These other GCMA Reports go into some of the more graphic details:

- GCMA Report # R-333, Rev. 3, Jun. 21, 2006. Don't Count On Corporate Compassion or Coast Guard Concern "True Stories of Our Lost, Injured, and Cheated Mariners.
- GCMA Report # R-370, (Series), Jun. 16, 2003. 12 Hour Rule Violation: The Verret Case.
- GCMA Report # R-412, April 25, 2005. Towboat Engineer's Death Points to Need for Changes in the Law.

**GCMA Report #R-428-E
GCMA Supports Proposed Forgivable
Education Loan Program**

This program was proposed by Ms. Berit Eriksson, Project Director of the Pacific Coast Maritime L/M Consortium before MERPAC in 2005 and again in 2006.

It is clear that mariners who are already at work cannot afford a price tag of \$20,000 and take months off from work to obtain a license. The geniuses at the Coast Guard Headquarters never took the time to consider this in the period between 1993 and 1995 before jumping on IMO's STCW "bandwagon." The stupidity of senior Coast Guard officers is, in large measure, responsible for today's personnel shortage of lower-level mariners because they never considered providing a mechanism to financing the cost of the sharply increased training requirements. Of course, these officers have long since retired at taxpayer expense.

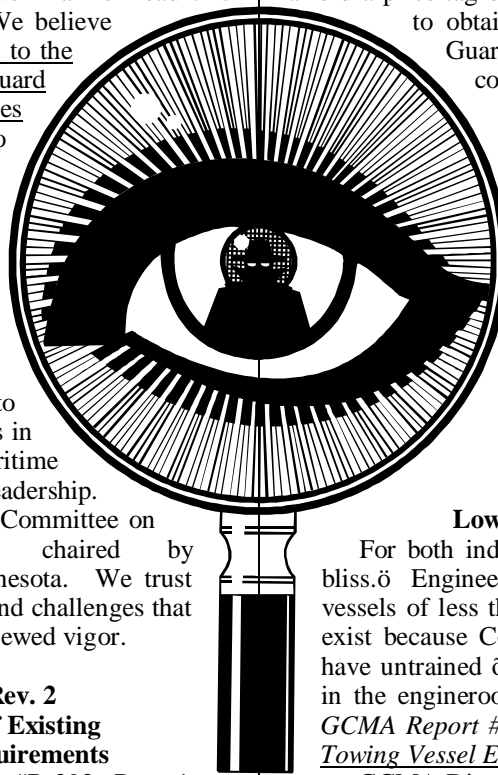
**GCMA Report #R-428-H
Maritime Education & Training:
Lower-Level Engineering Programs**

For both industry and the Coast Guard, "ignorance is bliss." Engineers on towing vessels and offshore supply vessels of less than 200 gross register tons simply do not exist because Congress killed them in 1972.⁽¹⁾ We now have untrained "deckineers" or "wipers" fumbling around in the engine rooms of thousands of vessels. [⁽¹⁾Refer to GCMA Report #R-401, Rev. 1. Crew Endurance and the Towing Vessel Engineer – A Direct Appeal to Congress.]

GCMA Directors are opposed to this shortsighted view and want to be certain that any mariner entering the engine room is:

- Aware of the dangers and properly oriented to avoid them.
- Has sufficient training to perform basic duties safely.

To take these first basic steps, we wholeheartedly support the local efforts of GCMA Director V.J. Gianelloni, III, to establish a basic 40-hour engine room training program in hopes that it will expand to a full-time engineering program to train our mariners to be gainfully employed aboard vessels whose owners recognize the dangers of anything less than a well trained, well informed engineer who can earn the necessary Coast Guard papers to advance in the field. It is unfortunate that this program must be undertaken in spite of the Coast Guard rather than with their assistance.



TOWING SAFETY ADVISORY COMMITTEE MEETS AT THE MEBA SCHOOL

The Spring 2007 TSAC meeting was held at the Calhoun MEBA Engineering School in Easton, Maryland on April 24-25. Principal items discussed at the meeting were:

Towing Vessel Inspection – The TSAC Towing Vessel Inspection Working Group was given a “preview” of the Coast Guard’s progress on the new inspection regulations several weeks earlier in Arlington, VA. GCMA protested that the “Working Group” was composed almost entirely of AWO members and requested a copy of the proposed draft regulations. We received a copy a week before the meeting and prepared our comments in **GCMA Report #R-276-B** after reviewing the entire document.

GCMA made copies of our document available to the Coast Guard regulatory team as well as to the working group. We will post GCMA Report #R-276-B on our internet website. Unfortunately, this report is only complete when you view it with the draft proposed regulations which are only a “work-in-progress.” Our comments took one full week to prepare and are a comprehensive view of the draft document.

The TSAC “Working Group” now has our comments that they can “redline” in any manner they choose. However, when all is finally said and done, at least we can rest assured that the Coast Guard regulatory team has views of our working mariners to in print consider.

Third Party Inspectors. The new regulations will be presented in a new 46 CFR Subchapter M, parts 136 through 145. Proposed Part 139 is titled Third Party Organizations. It proposes that approved Classification Societies like the American Bureau of Shipping (ABS) may conduct vessel inspections. Beyond that, the Coast Guard proposes very strict rules that will prevent “self-inspection” and other “good-ole-boy” networks so common in the towing industry from making vessel inspections little more than a paper shuffle. Part 139 looks like an attempt to keep things honest. At first glance, it appears that the Coast Guard means business – but we will see if they can be swayed off course over time.

The Coast Guard has the responsibility of issuing a towing vessel’s first Certificate of Inspection (COI) and must demand documentary evidence of each vessel’s condition and history. We believe that a complete professional survey should be a minimum requirement before issuing any COI. Many towing vessels are “ancient history” and require immediate repairs to become seaworthy.

Lifesaving. Proposed Part 141 is Lifesaving. As proposed, this part was pure garbage. In 1986 following the M/V PILGRIM BELLE accident, the National Transportation Safety Board called for the Coast Guard to require “out-of-water” lifesaving equipment for every person on board a passenger vessel. Twenty years later, the Coast Guard still proposes using lifeboats and buoyant apparatus that require our mariners to await rescue in the water. It is time for every mariner to demand that the lifesaving equipment provided on his/her vessel be designed to keep him/her out of the water. One proposal was that crewmembers could wade ashore in the water was not deep. That kind of thinking exposes mariners to other dangers that lead us to believe that the draft proposed regulations on Lifesaving need to go back to the drawing boards.

Crew Travel Time. The law at 46 U.S. Code §8104(a) requires that an officer be “off duty” for at least six hours

within the 12 hours before being permitted to take charge of a deck watch when leaving or immediately after leaving port. GCMA brought the issue to TSAC before the M/V Robert Y. Love took down the Interstate 40 bridge at Webbers Falls.

The NTSB whitewashed this issue in their accident report, but the Coast Guard Hearing Officer found that Magnolia Marine and the vessel’s Captain both violated this law. However, Magnolia Marine appealed the civil penalty and it is clear that TSAC would like to see this issue vanish by simply requiring companies to make provision for crew travel times in their Safety Management System.

The principal weakness of the existing two-watch system is that it stretches too few men over too many hours. The Coast Guard already caved in on the proposed draft towing vessel inspection regulations by not even addressing the major problem of dealing with “hours-of-service” regulations in the entire body of the proposed regulations. We consider this a travesty as it is one of the most serious problems facing the industry today. We believe it is clearly an “inspection” issue.

Horsepower. TSAC and the Coast Guard appear to agree with the GCMA request that a towing vessel’s horsepower as listed on its Certificate of Inspection will be the brake horsepower listed by the manufacturer of the vessel’s main propulsion engine(s). If the Coast Guard agrees, that could spell the end of “sales horsepower.” That bit of persuasion took several years and still is not a done deal!

Training Apprentice Mates/Steersmen to be Pilots. TSAC put a great deal of effort into preparing a template for a course of instruction that will turn a new apprentice mate into a pilot. Companies can adapt this training program that is designed to provide meaningful instruction while carrying the new apprentice mate/steersman as an extra man on the vessel.

This approach is refreshing because one of the things the same TSAC working group failed to do in the winter of 2000-2001 was to admit that carrying this person as an “extra man” whose main job was to observe and learn his job was necessary and desirable. Over the past 6 or 7 years, companies have tried to continue to work their apprentice mates as deckhands and let them pick up their wheelhouse skills “after hours” on a catch as catch can basis – a half-ass excuse for training. This appears to be a tacit admission after all these years that that idea was not a howling success.

The proposed course, adaptable by individual companies or consortiums of companies, will treat the newly-licensed apprentice mate as a full-time trainee who will spend time in class followed by time on the boat. TSAC plans to endorse a final package within the next several months and then send it on to the National Maritime Center for approval by Captain Ernest Fink before he retires in June.

Accident Investigations. The Coast Guard asked TSAC to review the accident in Chesapeake Bay between the M/V A.V. KASTNER and the tug SWIFT⁽¹⁾ that left four crewmembers dead. GCMA asked TSAC to look into the accident with the ACBL towboat M/V WALLY ROLLER⁽²⁾ that took the life of deckhand Joseph Hulen, son of GCMA Members Bill and Lisa Hulen.

TSAC Committee Chairman Mario A. Munoz speaking for ACBL explained the actions that his company took after the accident and the “lessons learned.” There had been no pre-task briefing, the crew had not stayed together and concentrated on the task at hand, and the Master had not paid sufficient attention to the events taking place on deck. A discussion followed concerning the many peripheral duties

such as cell phones and computer entries that can distract the watch officer from looking after his crew while they are at work ó loss of situational awareness. [⁽¹⁾ *GCMA Newsletter #34, Sept/Oct 2005, Elk River Collision Drowns Four Mariners.* ⁽²⁾ *GCMA Newsletter #33, Aug. 2005, A Towing Industry Tragedy, Death of a Young Deckhand.*]

Public Comments: Richard A. Block represented GCMA at the TSAC meeting as a concerned member of the public. GCMA was given ample opportunity by the chairman throughout the meeting to make comments.

One of our first comments dealt with an open question of how the Coast Guard can pick and choose which NTSB issues it can champion and which ones it can virtually ignore. For example, the Staten Island Ferry Accident resulted in the universally detested "Medical NVIC" with its "202 potentially disqualifying medical conditions" that allow the Coast Guard to poke its nose into every mariner's medical records. On the other hand, the Coast Guard continues to avoid dealing with "hours-of-service" regulations which, for years, was on the NTSB's "Most Wanted" list of needed changes. Also, twenty years after the NTSB called for "out-of-water" lifesaving equipment following the PILGRIM BELLE accident, the Coast Guard continues to propose "in-water" lifefloats and buoyant apparatus when "out-of-water" devices are readily available. This is not acceptable!

GCMA pointed out the Coast Guard's "double standard" of championing with only those NTSB recommendations it chooses and simply ignoring the rest.

Block read verbatim the summary of the decision of the Seventh Circuit Court of Appeals in *Gwin v. American River Transportation Company* as presented elsewhere in this Newsletter and commented upon the intimidation and harassment that mariners continually suffered from ARTCO management while pointing out that ARTCO was not a good corporate citizen. He also pointed out that GCMA was not satisfied with a number of Coast Guard accident investigations especially those involving oversize and overloaded tows. He reminded TSAC that Captain Larry Gwin, a GCMA Director, had spoken to this federal advisory committee on this subject on March 17, 2004 but that ARTCO continued to push tows of over 40 barges downstream between Cairo and New Orleans for the past three years in spite of numerous accidents. Block noted that these accidents rarely resulted in Coast Guard suspension and revocation of mariners' licenses clearly implying that the "fix" was in. He pointed out that the Transportation and Infrastructure Committee of the U.S. House of Representatives had asked the Inspector General of

the Department of Homeland Security to look into the matter of accident investigation in December 2005 and that GCMA was actively cooperating with this inquiry.

Block also mentioned that GCMA Report #R-428-D exposed the substandard merchant marine personnel services provided by the Coast Guard through its 17 Regional Exam Centers and the National Maritime Center and called for the removal of superintendence of merchant marine personnel from the Coast Guard. He was pleased to note that most TSAC members had read the report that was provided on the internet. While not opposing centralizing personnel administration, he insisted that merchant marine personnel should be taken out of the hands of the Coast Guard who have screwed it up for years in spite of never-ending promises of improvement.

Also mentioned was the absence of training and any clear path for advancement for lower-level engineroom personnel as reported to Congress in GCMA Report #R-428, Rev. 1. He pointed to the clear possibility of its relationship to the "sinkings, floodings, and capsizings" that affected almost one-quarter of the nation's towing vessels in a 12-year period.

Concluding comments were that the Coast Guard was driving people out of the towing industry through its misdirected policies including the infamous "medical NVIC", TWIC, and the "double jeopardy" of 46 CFR §10.201(h) that provides "assessment periods" that adds Coast Guard punishment for crimes already dealt with by the civil and criminal courts. It is no wonder that there is an acute personnel shortage. After all, what is a mariner who is slapped with a minimum one-year "assessment period" expected to do during that year? Clearly it means he will find another job, and if he is smart, he will find another career that will never bring him close to the water again.

It is clear that in the past year or so that many companies have decided that they will bite the bullet and train their own personnel. While it will be expensive, good training always is. When mariners could spend \$500 of \$1,000 and obtain the training they needed to obtain a license, they would do so. However, \$20,000 to \$30,000 has moved the cost of training beyond their means. However, when companies are forced to make a sizeable investment in their employees, they want to be sure to curb some of the arbitrary actions of the Coast Guard that endanger that investment. The companies now seem to be taking a more active role in trying to curb the stupidity that Coast Guard control of merchant marine personnel has brought to their attention. We believe that GCMA Report #R-428-D has been welcomed because it clearly documents the weaknesses of the existing system.

PAIN IN THE GAS

[Source: This article was originally published in the Aug./Sept. 2006 issue of Professional BoatBuilder magazine and was reprinted in USCG Boating Safety Circular #85, Mar. 2007. We reproduced selected portions of the article. Emphasis by underlining is ours.]

[GCMA Comment: The problem discussed in this article could affect every mariner who uses an automobile, an outboard motor, a gasoline-driven pump, chain saw or other gasoline powered appliance. Don't make this discovery the hard way as your skiff or rescue boat dies at

the worst possible moment or your car craps out during crew change in the middle of nowhere.]

An Introduction to the Problem By Aaron Porter

[About the Author: Aaron Porter, who assembled this article, is associate editor of Professional BoatBuilder.]

Tough to keep pace with today's volatile petroleum market in the United States and all the attendant regulations. Ordinarily, it's safe to leave the sweating over details of energy and environmental policy to commodities traders, petroleum distributors, and the U.S. Environmental Protection Agency. But, not this year. The widespread adoption of **ethanol**, an alcohol derived from fermented carbohydrates, as

a gasoline additive may be good news for Midwestern farmers and fuel-filter manufacturers, but it's an expensive nuisance and even a danger to boat owners, builders, and repairers.

Ethanol's properties as a fuel additive are well-suited to North America's automotive fuel needs: it can be produced domestically; it performs as an effective oxygenate, reducing harmful emissions such as benzene; and, it doesn't contaminate groundwater the way methyl tertiary butyl ether (MTBE) (the ether-based oxygenate it is supplanting) can.

For the marine industry, though, the fit isn't so good. Ethanol is a solvent that doesn't mix well with the MTBE fuel lingering in some tanks; it scours fuel systems, overburdening filters; it breaks down fiberglass fuel tanks; and it rapidly absorbs water from atmospheric humidity, giving the fuel only a brief useful shelf life. Ethanol's adoption is changing the way gasoline-powered boats are maintained, serviced, used, and with regard to some components, constructed.

So why are petroleum refiners switching from MTBE to ethanol? Contrary to many reports, there is no federal ban on MTBE although numerous states have enacted their own legislated prohibitions on the additive. Nor is the switch driven by the EPA requirement that gasoline be sold with 2.08% oxygenate content. (That rule, cited by the petroleum industry as a factor steering it to ethanol, was withdrawn by the EPA on May 5, 2006 in order to square with the provisions on reformulated fuels in the 2005 Federal Energy Policy Act.) The remaining federal regulation, which promotes the use of oxygenates without explicitly requiring them, is a limit on the harmful emissions that may come from gasoline when it's combusted. That means, while refiners are no longer required to blend an oxygenate with gasoline, incorporating one remains the most expedient way to meet emissions standards. Since MTBE, ethanol's only presently viable alternative, has been banned in so many states, and since the threat of litigation for environmental damage from it looms, refiners are really left with ethanol as their lone workable oxygenate. Like it or not, ethanol-blended gasoline is what's coming down the pipeline.

Professional BoatBuilder has received a stream of warnings and concerns from the marine industry about the likely effects of this fuel reformulation. While some specific impacts of the change remain the subject of debate, there are precautions that can be taken now to protect boats as well as their owners, builders, and repairers from the potential hazards of the switch to ethanol. In this initial cautionary look at the problem, we include the most immediately relevant experiences and perspectives of a marine mechanic, a yacht designer, and a marine insurance provider. If their accounts of the pending risks and complications are any indicator, there'll be plenty more to read on this subject in coming issues of the magazine.

A Mechanic's Warnings By Dan Crete

[About the Author: Dan Crete is a mechanic and foreman at Burr Brothers Boatyard in Marion, Massachusetts, and an instructor at Massachusetts Maritime Academy.]

Due to federal laws requiring the use of oxygenates in densely populated, polluted "non-attainment areas," and state laws that forbid MTBE, the New York and Connecticut

boating region got an early taste of the switch to 10% ethanol blend, also known as E10 gasoline, during the 2005 boating season. The area had previously been receiving MTBE gasoline. There was little warning about this changeover. As the 2005 season unfolded, reports of fuel-system problems began to surface. Complaints ranging from clogged fuel filters to engine failures became more common as the 2005 season progressed. Fortunately, we can draw on the experiences of boaters and boatyards in New York and Connecticut as we plan for the more widespread switch to ethanol.

One of the first things learned about this new gasoline is that it does not mix well with MTBE gasoline. When these two fuels are combined there are several complications; most prevalent is a tendency for the E10 to severely clog and even deteriorate in-line fuel filters. There were also reports of volatility problems, with varying mixtures of the two products in boat fuel tanks throwing off the vapor pressure of the fuel. That led to cold-start and even vapor-lock problems. In addition, isolated cases of severe corrosion of aluminum fuel-system parts have been documented and attributed to mixing of the two reformulated fuels.

To avoid blending the two fuels during the transition from MTBE to E10 it is recommended that fuel levels in tanks be run down to the lowest level safely possible before taking on any of the ethanol fuel. Remember, any fuel taken on last season outside of states with MTBE bans could be MTBE based. So far, this approach has allowed a seamless transition for people trying to avoid the problems resulting from the mixing of the two fuels.

Fuel suppliers are in transition, too. Boat owners who successfully navigate the initial switch need to be wary of where they take on fuel during the season as well. The key is to be sure to know which fuel each marina is dispensing. The determining factor will be just how much of last season's fuel a given retailer has left. The MTBE mix must be completely sold off before any E10 can be put into the storage tanks. Some fuel sellers

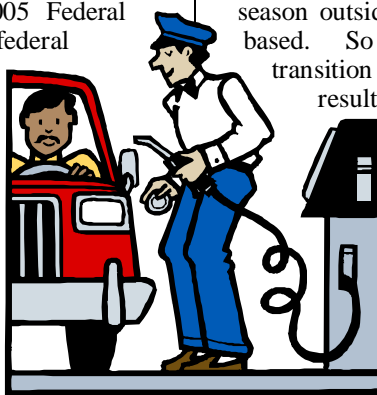
who have just a few hundred gallons on site will make the transition almost immediately. But I'm aware of several yards and marinas that have thousands of gallons of MTBE fuel in their tanks. For them, the transition could take several weeks or even months as the season gets going.

Retail customers must avoid making the initial transition to E10 with their normal retailer, then going elsewhere and unknowingly taking on MTBE on top of the E10 already in their tank. This was a big problem last season for boaters taking on fuel in Connecticut, and then making a trip to Rhode Island and unwittingly filling up with MTBE again.

Boat owners who trailer their boats and fill up at roadside stations (which have been dispensing E10 since mid March 2006) must also be made aware of this situation, as they're likely to have MTBE in their boat tanks from last season.

Faith in Filters

Boatyards and marinas that retail fuel should take their own precautions with suppliers, and their own storage and dispensing equipment. Reputable fuel distributors in our region have given their customers ample warning about the steps to take with fuel storage tanks and dispensing equipment. Those include: cleaning gasoline storage tanks, being certain there is no water in the system; and upgrading



fuel filters to 10-micron, ethanol-compatible, water-separating filters. Because ethanol is a solvent it is going to clean any dirt or contaminants both from dispensing and boat fuel systems. Ideally, these contaminants will be washed into solution in the gasoline and scrubbed out by the system's fuel filters. Yes, we are going to be changing a lot of fuel filters this summer. The reports from yards and boat owners are that filters clog often with the first loads of E10, but after burning through two or three tanks of fuel, the filters do take care of the dirt.

Carrying spare filters is going to be a must for boaters and retailers. Most filter manufactures are ramping up production of ethanol-compatible filters. If they're not already doing so, boatyards will need to stock a lot more filters than they have in the past. Boaters will need to have spares on board and the means to change them, including a way to safely store the old filter and the gasoline it contained while onboard. I would suggest an onboard kit with the proper tool and some sort of sealable container for storing old filters and gas. The industry standard seems to be 10-micron, water-separating filters. By all accounts they're doing a good job. Note: the 10-micron filters may pose a problem for some engine warranties. Consult the engine operator's manual, and talk to the dealer about what is best for that boat's application.

Water Hazards

Ethanol, being alcohol based, absorbs water very well. This is a bit of a double-edged sword for the marine industry.

Marine fuel systems are very susceptible to water intrusion. E10 has the ability to absorb a certain amount of water into solution and simply allow it to be burned by the engine. As an improvement over MTBE gasoline, which can hold about 600 ppm in solution, E10 can hold 6,000 to 7,000 ppm in solution. Meaning, if you have a 100-gallon (378.5 liter) tank it could hold up to 0.6 to 0.7 gallons (2.3 to 2.6 liters) of water in solution. The problem for the ethanol alternative comes with "phase separation." That's what happens when the fuel is saturated beyond its capacity to hold water in solution. The water and gasoline actually separate, and the gasoline floats on top of the water. With MTBE you could simply pump the water out from under the gasoline, or let your filters remove the water, and burn any gasoline that remained. With E10, ethanol blends more easily with water than it does with gasoline. When phase separation occurs in E10, the ethanol is pulled out of the gas and stays with the water. This result is two solutions, neither of which is good for engine or fuel system. The gasoline left behind now has no oxygenate; it shouldn't be burned in the engine and must be disposed of. The water left behind now contains a high concentration of ethanol; this solution is highly corrosive and damaging to any materials it may be in contact with in the fuel system. The only solution to dealing with E10 that has phase separated is to dispose of the whole load of fuel, clean the tank, and start fresh with a new load of E10.

Every precaution must be taken to keep water out of fuel in storage tanks and on board. Checking fill caps and fittings for proper gaskets, and insuring that vent systems are up to spec, are two ways of being certain your fuel system is sound. In addition, retailers should stick their tanks with alcohol-compatible, water-finding paste daily and after each

load of fuel is brought in by distributors. Check their tanks during delivery; if the fuel has water in it, refuse the load. Make it the distributor's problem if that company delivers bad fuel. As

a retailer, you'll need to be able to ensure that your customers are getting a product of the highest quality. The damage that corrosion from phase separation can do to your own storage tanks is expensive if left unchecked.

E10's ability to absorb water has yet another drawback: it can absorb water directly from the atmosphere through the vent while simply sitting in the tank. In just 100 days at 70% humidity, E10 can absorb enough water to phase separate. The shelf life of E10 is only 60-90 days if left without treatment.

Gasoline "oxidizes" when exposed to air. That is, it loses its volatility over time. A good non-alcohol fuel stabilizer (we don't want to add even more alcohol to the mix) is highly recommended at all times in your fuel. There are several products on the market that will do a great job. But the key for any boatyard or boater is to not leave a boat for long periods of time with a large load of fuel aboard. If the yard or owner knows there will be an extended delay between trips out, then leave the tank low and refill just before the next trip out. In general, the more the boat is used, the better off it will be.

When it comes to winter storage, a boatyard should run the tank down as low as possible at the end of the season and treat what is left for the winter. That of course goes against traditional thinking in terms of condensation, but: better a small amount of water from condensation than a tank full of bad gas.

Precautions for the Switch to Ethanol

- Do not mix MTBE with E10 gasoline.
- Avoid water intrusion into your fuel system.
- Run a non-alcohol fuel stabilizer in your boat's fuel system at all times. Recommended for equipment that sits for a lengthy period.
- The more use the boat gets, the less likely it is to have problems. Don't leave large loads of fuel aboard an idle boat.
- Install a good, water-separating fuel filter.
- Keep a stock of spare fuel filters handy, and the means for safely changing them.
- Replace older weather-faded plastic portable tanks with new tanks.
- Retailers should inform their customers about which fuel is being dispensed; customers need to ask which fuel they're purchasing during the transition to E10.
- Rubber fuel lines older than the mid-to late-1980s should be inspected and may need replacing.
- Some older carbureted engines may require special tuning. Consult the engine manufacturer for details.

The formulation changes and the new risks they bring are not as bad as they sound at first. For retailers, if your fuel dispensing system has been well cared for, and is clean and free of water, then you shouldn't have any trouble. As for boaters, who are, let us never forget, our customers one and all, if they've had problems with water in their fuel systems in the past, then those problems will only worsen with the introduction of E10. Correct the water situation, and start fresh with E10 gasoline.

**COAST GUARD IS OUT OF TOUCH
WITH OUR MARINERS
By Captain Paul McElroy**

Source: [Captain Paul McElroy is a retired maritime educator, maritime consultant, former publisher of the Charter Industry News, an industry trade publication, and an active contributor to the National Association of Maritime Educators. He is now a consultant in Stuart, Florida. This article combines the contents of two letters.]

I thoroughly enjoyed our telephone conversation regarding the editorial content of the GCMA Report #R-428-D (Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services)! It was exactly on target!

When I began to peruse the document I immediately sensed your frustration, and that of your members, with the United States Coast Guard's inadequate licensing program, lack of oversight and total lack of interest in customer service to the mariner. I have been there and done that many times during my twenty-five years in licensing involvement. It never changes because the people in the National Maritime Center who create the problems are the ones assigned to solving the problems. They do it by creating more bureaucracy, ridiculous procedures and indecipherable forms to cover their inadequacies.

Homeland Security (Secretary) Chertoff should follow the initiative shown by the Secretary of Defense with the Walter Reed fiasco, fire the whole bunch at the NMC and start over. When I participated on a "Licensing' Quality Action Team in 1997 I told the Commanding Officer of the National Maritime Center that he was expecting the problem causers to be the problem solvers and that it wouldn't work! It didn't. The problems remain the same.

What's Wrong with the Coast Guard's Licensing Program?

I have enclosed several documents for your files which include: "What's Wrong with the Coast Guard's Licensing Program?" written in 1997 along with "Recommendations for Improving the Licensing Program." The problems and recommendations still apply.

Fingerprinting Fiasco

The recent electronic fingerprinting fiasco points the blunt finger of responsibility at the NMC staff for inadequate concern for the mariner, a complete lack of knowledge of how the real world works and obvious internal complicity with selected training schools. The Final Rule stressed multiple times "All applicants must appear at a Coast Guard Regional Examination Center to be fingerprinted by, and show identification to, an REC employee. "However, the Miami REC writes a letter to license applicants informing them that can have their electronic fingerprints taken and identify themselves at the REC OR at a Coast Guard Auxiliary station in St. Petersburg ó the headquarters for a major school. I pointed out to Captain Fink in my letter of March 16, 2006 that this action completely bastardizes the concept of USCG mariner identification by a USCG REC employee!

REC license application evaluations

The discontinuation of the evaluator's course has resulted

in local interpretations of licensing regulations and application of personal opinions to evaluations. One example is attached. The evaluator wrote the applicant: "Creditable sea service for renewal purposes begins from the last of your last issued license. Please correct your sea service form and return it to this office."

There was nothing to correct! The evaluator subtracted the non-applicable months, noted the correct total of 372 days (more than adequate to renew) in her own handwriting, but apparently wanted her file to be correct. This is not an isolated incident. When it is called to our attention we advise the applicant to fill out another form and submit it as requested.

User Fees - Application Evaluation and License Issuance

The regulations require the Evaluation Fee \$100 (original licenses) \$50 (renewals) to be submitted with the application. The \$45 Issuance Fee is payable after application approval.

Many applicants have problems with medical conditions and/or convictions that make their application's approval questionable. In those cases we advise our client to submit only the Evaluation Fee and wait for approval or denial. It makes no sense to submit an additional \$45 and expect it to be refunded if the application is denied. Plus, mariners can use that \$50 for the four months it takes for their application to be reviewed.

Many of our clients received harassing telephone calls from the cash clerk in the Miami REC advising them that their application would be placed in a holding file until the \$45 License Issuance Fee was received. We advised our clients to tell the cash clerk that the \$45 would be promptly submitted when their application approval was received. One day, when I was out of the office, my wife received a very nasty telephone call from the cash clerk in the Miami REC. The opening conversation went something like this.

"It's about time I found out who you people are! Your students aren't submitting the proper fees with their application and you don't know what you're doing! I want all the fees up front when the application is submitted." Then she hung up. When I returned to the office my wife was visibly shaken and emotionally upset.

I called the cash clerk and left a terse, but to the point message on her voice mail that after 25 years I think I know what I am doing. I told her to ask Connie Russell if she knew who I was. The problem was subsequently corrected. Our questionable students and renewal clients submit only the Evaluation Fee with their application.

Examination Questions

The problem that we jointly addressed in 1986 and 1987 with improper questions on lower level examinations has gotten worse. When the NMC gave the now-retired Harvey Bryning the responsibility for developing questions and examinations for lower level licenses (OUPV and MASTER NMT 100 GT) the problems accelerated. He had no idea as to what questions fit what level of exams, and I brought the oversights to his attention.

We found 46 CFR Parts 166-199 regulations questions on OUPV exams. The cover sheet for the lowest level's MASTERS examination was for NMT 200 GT which throws applicants studying for a license of NMT 100 GT for a loop! Refer to Renewal Module #22951-001 attached. This exam was sent to one of our clients in January 2007 because he had no idea of what constituted the "Cardinal System of Buoyage" (questions 8 and 9) because he only operates in U.S. waters and that is what his license was issued for.

Course approvals and lack of course oversight

When the NMC instituted "approved courses" in lieu of Coast Guard administered examinations, many long-time people in the maritime industry were caught totally by surprise including myself with no time to prepare. The first I knew of it was when an ad appeared in our local newspaper announcing to prospective students that they could avoid taking the USCG exam by the taking their course. It took several months for us to "catch up" and submit a course curriculum that satisfied the NMC's requirements that were developed by NMC staff members with no classroom teaching experience!

Within months dozens of courses and schools were "approved" with no requirement for a physical classroom presence or face-to-face interviews with school owners or instructors. "Approved" course outlines and materials were put on the market for purchase by those wanting to become course providers and automatically accepted by the NMC. The REC's workloads decreased because they no longer administered exams. However, credible certification of license applicants was lost forever. There is virtually no course review or oversight. The licensing system and quality control are gone!

The "approved schools," most of whom are operating out of the trunk of their car, are nothing more than carpetbaggers! The maritime training industry has reverted back to the 1980's system of conducting evening courses in hotels and no one is checking them! It is almost impossible for a school with a physical classroom presence to compete with people with almost no overhead, who offer courses in dingy hotel rooms and administer their own prepared examinations to their students. No wonder they all pass!

It doesn't take a rocket scientist to understand that applicants would rather take a course with "guaranteed passing" than risk studying diligently for months and risking failing a Coast Guard prepared and administered "professional" licensing examination. Why? The lower level examinations (OUPV and Masters less than 100 GT) are almost impossible to pass because of the incorrectly worded questions and questions that do not apply to those license levels. Even after 25 years in the maritime training industry and retiring last year I have recurring nightmares of taking a NMC developed examination! I always fail!

Most "approved" schools do little to ascertain the qualifications of the people they accept for training. The bucks come first!

I continually receive calls from license applicants who attended an "approved" school, successfully passed their licensing examination but do not know how to fill out and submit their application paperwork to the REC. The school gives them a course completion certificate, sometimes an REC license application package and wishes them well. There is rarely a pre-course enrollment discussion of USCG licensing requirements for character, sea service and physical requirements. Many of the applicants who ask me for assistance in preparing their license applications have conviction records that disqualify them for consideration for several years, have medical or physical problems and lacked sea time.

It is very unfortunate that the NMC leadership allowed the formerly "professional" licensing system to degrade into the morass of inconsistency and inadequacy it is today. I hung up my training school shingle effective April 1, 2006 because I will not allow myself to "allow" in the back door of profiteering on the backs of prospective license candidates.

On page 7 "Counting Merchant Mariners" is missing an important item.

Many RECs (Toledo for example) have been flooded with applications for basic MMDs from people from Middle Eastern countries who are apparently using the MMD document for an additional form of identification. There is no US citizenship requirement for the entry level MMD. Thus, Homeland Security really may be embarrassed (page 8).

The NMC should poll the RECs and request a count of entry-level MMDs issued to non-United States Citizens by country of origin for the past five (5) years. There may be as many "undocumented" Hispanics from Mexico as Middle Easterners applying for entry level MMDs. The Coast Guard has no idea who they are authorizing for vessel duty! Won't that provide an interesting scenario for the Secretary of Homeland Security?

Please call upon me if I can be of assistance to you and the CGMA. Congressional hearings may be what it takes to shake up the NMC's leadership. I will participate if asked.

McElroy Hammers The TWIC NVIC

Thank you for forwarding the draft of NVIC 07-XX "Guidance for the Implementation of the TWIC Program in the Maritime Sector."

This poorly thought-out document clearly demonstrates either: the Coast Guard's complete lack of knowledge of the maritime industry; ineptitude, incompetence or a combination of all. It shows a disregard for the small passenger vessel industry of licensed fishing guides and charter boat captains spread from North and South Dakota, to Minnesota, all of the Great Lakes (4,000-plus), the Atlantic and Pacific Coasts.

[GCMA Comment: We agree that the Coast Guard lacks knowledge of our "lower-level" mariners. This display has now put their ignorance and their total disconnect with our mariners on public display along with their multi-million dollar boondoggle on the "Deepwater" program. This failure provides another reason why the Coast Guard should be stripped of all control over merchant marine personnel.]

The NVIC states on page 25, b (1) "The foundation of the TWIC Program is the definition of the secure area. Fishing guides and charter boat captains DO NOT operate from or in "secure areas." They operate from docks behind their homes, public launching ramps and recreational harbors. None of these locations are "secure areas" by any stretch of the imagination. Further, "It (the secure area) also encompasses the entirety of a vessel." Fishing guides and charter boat captains utilize open fishing boats (average length in the Great Lakes is 24-feet) and the entire boat is open and accessible by the passengers! Their concept is crazy!

I cannot imagine under what concept the Coast Guard decided, "All credentialed U.S. Mariners (this includes all persons holding a Coast Guard-issued merchant mariners' license ...must obtain a TWIC." (Page 1, 2. ACTION: a. 1). Can you imagine the reaction of fishing guides on lakes in Minnesota, Wisconsin, North and South Dakota and Lake Okeechobee here in Florida to such an idea? It is ridiculous!

[GCMA Comment: If "six-pack" operators need a TWIC, what about yachtsmen? There are about 12 million of them. They operate comparably sized vessels under similar conditions in many cases.]

I laughed when I read on page 5, Item 6. "A notice will be published in the Federal Register to announce when enrollment begins in each COTP zone." What normal human being, other than government employees' read, the Federal Register? I interpret a not so covert effort to destroy the un-inspected passenger vessel industry (fishing guides and charter boat captains) through the TWIC Program because "i not having a TWIC can be grounds for license revocation or suspension."

"Who must get a TWIC?" (Page 12). "Merchant mariners ... who will need unescorted access to secure areas of a vessel or facility ..." That is fine, but to require ALL merchant marine licensed personnel to obtain a TWIC is ludicrous! This program MUST be modified! Specifically; TWIC Applicability (3.1 on page 22) should provide a TWIC exemption for the licensed operators of un-inspected passenger vessels not operating in or near "secure areas or facilities. " Item 1, (ACTION on page 1, a.1) requires the same modification. Sincerely, Paul McElroy

Other Reader Comments by e-mail

MORE SMALL PASSENGER VESSEL PROBLEMS



Coast Guard Terminates Overloaded Tour Boat

[Source: *MarineLog.com*. Emphasis & comments are ours.]

The U.S. Coast Guard terminated the voyage of an overloaded 45-foot sightseeing commercial vessel near Tarpon Springs, Fla., at approximately 3:30 p.m. on Saturday April 7, 2007.

A Coast Guard boarding officer from Coast Guard Station Sand Key, Fla., boarded the vessel YIANNIS DOLPHIN and observed that the vessel was overloaded.

The YIANNIS DOLPHIN, owned and operated by Spongeorama's Cruise Lines, Inc., was underway with 75 passengers on board, with the maximum allowable amount at 49 passengers and two crewmembers. The Coast Guard immediately ordered the vessel to return to dock.

Spongeorama's Cruise Lines, Inc. was issued an initial notice of violation for the amount of \$5,750. The operator of the YIANNIS DOLPHIN will face suspension or revocation proceeding of his Coast Guard-issued Merchant Mariners License. Additionally, other civil penalties may be issued against Spongeorama's Cruise Lines, Inc. and the operator of the vessel.

[GCMA Comment: Some companies see "civil Penalties" (for example \$5,750) as nothing more than the cost of doing business. Without his/her license the guilty mariner will be out of business! The most "aggressive" action we see the Coast Guard take is against working mariners and not their employers who clearly stand to reap financial profits by violating the law.]

"It's unfortunate that the passengers, especially the children, didn't get to complete the voyage," said Capt. Joseph Servidio, commander of Coast Guard Sector St. Petersburg. "But we cannot allow any commercial vessels to operate in an overloaded condition and to threaten the safety of their passengers. We will aggressively take action when commercial vessels are operated illegally."

Hi, I would like to get information about joining GCMA. I am currently seeking employment in the Gulf. I am a 500 ton coastwise master, with most of my experience being on passenger vessels. I've had numerous experiences that support your petition to Congress to remove licensing and documentation from the Coast Guard.

The moronic attitude of personnel in REC centers, who have no clue what it is like to work in the commercial marine industry, let alone what it is like to have to deal with the condescending unaccountable pricks that work there needs to end. I'm tired of my file, (my livelihood), being treated as an annoyance; with paperwork being lost, or not even looked at; not to mention having to keep copies of all paperwork, and emails, so that the next time the Coast Guard loses my paperwork I can reconstruct it again.

Although I doubt you will have much success fighting the asinine policy makers, I would like to join and try to help the cause you are fighting for. Thanks. O. L., Renton, WA

[GCMA Comment: It would be far more than "unfortunate" if even one of the children drowned.]

[GCMA Comment: According to the U.S. Department of Transportation, the regulatory value of preventing the loss of a single human life is \$2,700,000. Will the loss of lives in commercial vessel accidents like the MISS MAJESTIC, LADY D and ETHAN ALLEN finally make an impression? The Coast Guard must vigorously investigate and publicize the root causes of personnel injuries and loss of life not only of revenue "passengers" but also our mariners and especially on towing vessels. The importance of our mariners does not seem to register with the Coast Guard investigators.]

Boat's Fine Is A 'Slap In The Face'

Ethan Allen's Captain to Pay \$500 For Fatal Accident.

[Source: By Christine Ferretti, *The Detroit News*. You can reach Christine Ferretti at (734) 462-2289 or cferretti@detnews.com. Other articles on this accident appeared in GCMA Newsletters #45 & 46.]

Twenty of the Ethan Allen's 47 elderly passengers drowned when the tour boat sank Oct. 2, 2005, in Lake George, N.Y.



Metro Detroit survivors haunted by a tour boat that overturned in New York and killed 20 sightseers in 2005 were

appalled Monday by the final punishment for the captain and cruise line: \$250 fines.

"That's a big, old slap in the face," said Jean Siler, 78, of Trenton, who broke a rib, back bones and her left arm when the Ethan Allen tour boat flipped in Lake George, N.Y., on Oct. 2, 2005.

"I don't see that as any kind of retribution, if there is such a thing for 20 lives. I don't think the punishment fits the crime."

Nineteen seniors from Metro Detroit died when the vessel sank in choppy waters about 20 minutes into a fall foliage trip. The tour, organized by a Downriver senior group known as Trenton Travelers, was in upstate New York as part of a motor coach color trip of the Northeast.

A total of 47 seniors fell into the water in a case that critics said highlights the need to revise passenger limits for small boats that were imposed in the 1940s, when people weighed less.

The boating company, Shoreline Cruises, and pilot Richard Paris pleaded guilty to a misdemeanor charge of not having enough crew members. Judge John Hall, in Warren County, N.Y., levied \$250 fines on both Monday and accepted Paris' offer to serve 210 hours of community service.

Siler called the penalty "almost laughable." The law allowed 15 days in jail as well as the fines. Warren County District Attorney Kate Hogan said prosecutors' hands were tied. "I can't control the sentence," Hogan said. "I had to work with the evidence I have. I was given this as the only charge."

The cruise line and Paris waived the right to an appeal, said William Dreyer, an attorney for both.

"That's the end of this matter as far as we are concerned. They received the maximum fine assessed for an unclassified misdemeanor," Dreyer said.

It's not the end for Siler, who is one of at least nine survivors pursuing civil lawsuits alleging negligence. "They need to find a way to reimburse those people, if you can, for losing someone they love," she said. "It might give whatever is left of their life a little pleasure."

Nancy Drobot of Trenton was the only member of the tour who decided not to get onto the 38-foot boat on that sunny day. The ride was included in the tour that cost seniors \$1,250. "That boat was never, ever meant for high water," said Drobot, 76, who made a split-second decision not to board the boat because she feared the vessel was too small. "It's a horror story, and I will never be the same. None of us will ever be the same," she said, recalling the chatting and laughter of the passengers on the tour bus as they traveled to New York.

The Ethan Allen was certified to carry 48 passengers plus two crew members, according to federal weight limits. There were 48 people on the boat -- including Paris -- when it capsized.

The Coast Guard last year recommended revising weight limits for small commercial boats to reflect average weights of 185 pounds. The standards that governed the Ethan Allen were set in 1942 and assumed average weights of 140 pounds.

GCMA RESPONDS TO ARTICLE IN MARITIME EXECUTIVE MAGAZINE

[GCMA sent this letter to Mr. Joseph Keefe, Managing Editor, The Maritime Executive on Feb. 15, 2007 in response to an article titled Servicing the Mariner of the New Millennium. GCMA later spoke to Mr. Keefe who offered to run the letter in his magazine's electronic edition.]

Dear Mr. Keefe,

I read your article titled Servicing the Mariner of the New Millennium in your recent special edition. I appreciate having my name added to your subscribers' list.

In your article, I did NOT see that it was the first article in a two-part series -- probably because you didn't plan it that way. However, you neatly separated the "deep-sea" upper-level mariners in the merchant marine from their lower-level cousins -- our mariners. Our mariners happen to be in the majority in the U.S. Merchant Marine even in the count made by the National Maritime Center in the last two summer issues of Proceedings. The figures you quote on pages 39 and 40 are truncated versions. At least 126,000 of 209,000 mariners Bill Chubb accounts for are "lower-level" mariners -- and the Coast Guard left out many mariners that Homeland Security will probably count and require credentials for.

It is a common mistake in the marine industry to overlook the small boats for the big ships. The trouble is that your audience also includes companies that operate offshore support vessels. I cite the excellent article several months ago that did an excellent job in profiling Larry Rigdon and his innovative company and your superb editorial work in clarifying the confusing issues surrounding his venture. I know Larry from his attendance at a number of advisory committee meetings. I appreciate him much more as a result

of your fine article. The mariners on his OSVs as well as the mariners on every tug, towboat and small passenger vessel in the United States are "lower-level" mariners.

Lower-level mariners are very concerned about the Coast Guard Regional Exam Centers and the National Maritime Center. In fact, we are so concerned about it that we directed our report #R-428-D (copy attached) to 110 U.S. Senators and Representatives, every maritime union officer, each union hall, each member of MERPAC, each Coast Guard District Commander and have posted it on the internet. They already have a copy -- and some are already filed in their circular file.

There is a real shortage of lower-level mariners. The executives of their companies should have seen it coming. Richard M. Plant, Head of Special Projects at IOMM&P spelled it out for them in a number of public meetings. I want to make you aware of this fact.

We are tired of having our "lower-level" mariners "dumped on" and denigrated by the Coast Guard as well as by employers. The Coast Guard has lost its claim to managing our mariners' lives and careers. They have mismanaged, blundered, and bungled not for 10 years but for the past 35 years I have been in the field of maritime education and training. They are NOT merchant mariners. They do not understand our mariners and apparently never plan to take the time to do so. We are civilian officers, seamen, and transport workers and not military martinets. Our mariners require adequate training and reasonable licensing standards. (GCMA Report #R-428, Forgotten Mariners discusses our expectations for entry-level personnel).

Although the basic idea of a "National Maritime Center" appears sound, it must be taken out of the incompetent hands of the Coast Guard and operated by another agency. The Coast Guard seems to think that any government employee with a checklist can handle merchant marine personnel. They practiced this for at least the last 35 years. They were wrong. Andy

Hammond mention (on page 42) that this isn't the first time that the Coast Guard has proposed sweeping overhauls of the documentation and credentialing process. Two previous attempts were, in his words, "Poorly planned and designed. Coast Guard senior leadership declined to fund them." Right on target and because they were not funded, we are in the position that I describe to you in GCMA Report #R-428-D today.

We need knowledgeable, experienced Merchant Marine Officers both upper and lower level to manage the United States Merchant Marine. Let's attract the experienced upper level officers to get the system back on its feet. They will understand the need to bring experienced lower-level mariners into the system. We need ONE merchant marine. That means uniting upper-level college-trained officers and lower-level hawsepipers who recognize each other's strengths, weaknesses, and capabilities.

We do NOT need to damage the Coast Guard in this amputation. We do not seek to amputate a strong right arm,

**IT'S TIME TO REINVENT THE COAST GUARD'S
APPEAL PROCESS
By Richard A. Block**

During the early 1990s the International Maritime Organization (IMO) decided to amend the International Convention on Standards of Training, Certification, and Watch keeping (STCW) 1978. The Coast Guard participated in the process. Before each meeting in London, the Coast Guard and State Department held their own "STW Committee" meeting in Washington to plan the strategy before attending the international sessions in London. The State Department knows even less about lower-level mariners than the Coast Guard if that is possible!

In 1995, the International Maritime Organization amended the 1978 STCW Convention. Lower-level mariners who worked offshore on vessels of more than 200 gross tons were plunged into the middle of a hopelessly confusing situation that submerged the existing Coast Guard's inept, decrepit, and poorly managed licensing system under another layer of undecipherable bureaucratic garbage. Most of our lower-level mariners, at least on the Gulf Coast, first received an inkling of what was in store for them four years after the fact in April 1999.

In October 1999, I attempted to determine exactly what had taken place in the high-level "STW Committee" meetings in Washington. While these meetings weren't exactly "secret," lower-level mariners were never adequately represented and the word of what was agreed to in those meetings never really saw the light of day.

I requested copies of the audio tape recordings made at the time and finally received several dozen recordings of fair to poor quality that confirmed to me that these changes had been rammed through by the Coast Guard with some very limited input from one of the trade associations but absolutely no input from our working mariners. These recordings were accompanied by a bill for \$239.00. I appealed the assessment of this amount which I paid under protest.

Seven years later on February 7, 2007, I received notice

just the last joint of the pinky finger. We do not want to fight these bureaucrats any longer. Remove the burden of administering exams, issuing credentials, and overseeing training for close to 300,000 merchant mariners.

The Coast Guard has enough to do to protect our country. We need to respect the Coast Guard for what they do well and let them do it. What Louisiana resident has anything other than respect for the Commandant, Admiral Thad Allen? We wish him well but let's cut the gangrene before it kills our mariners. Our Association respects the real seamen in the Coast Guard on the cutters, at the lifeboat stations, and those who protect our borders, our environment and exercise the incident command system. We no longer respect their merchant marine personnel managers.

I hope you will consider the attached material for "Part I" in your series. There is no copyright on anything here and on most of the material on our website at <http://www.gulfcoastmariners.org>
s/ Richard A. Block, Sec'y, GCMA.

that my appeal was granted and that a refund would be made to my account.

Seven years appears par for the course for deciding an appeal! This has been my experience on three occasions. In 1980, I first appealed the Coast Guard's decision not to make public the multiple-choice questions and answers they used on license exam questions. As a textbook publisher, I had to play "Twenty-Questions" with the Coast Guard every time a mariner claimed to fail a loaded exam question. These questions really needed to be exposed to the light of day. That appeal was finally granted seven years later in 1987.

Within the next few years, the National Association of Maritime Educators (NAME) reviewed the Coast Guard's data bank and found over 1,500 Coast Guard examination questions mariners could be expected to have problems with. About one-half of those questions used on license exams were later removed or significantly altered. All of this goes to the much broader question of how many questions must a mariner fail before he is required to retest with all the added harassment, delay, and expense.

Seven years also was how long it took for the Coast Guard to finally release some very limited and heavily redacted information about the Coast Guard officers responsible for canceling western rivers pilotage endorsements on the Mississippi River system north of Baton Rouge, LA. Of course, we never found out who these officers were. Nevertheless, this action affected several hundred experienced river boat pilots. The National Association of Maritime Educators protested this late-1996 rulemaking shortly after it appeared and brought the matter all the way to the Vice Commandant without successful resolution.

"Delay" is the best term to use for trying to work through the Coast Guard's "appeal" system. "Delay" covers up poor decisions long enough to protect those individuals who are responsible so they can retire from the system with full pay and benefits. In fact, the entire "appeal" system is so unresponsive that it should either be properly staffed to make timely decisions or completely reinvented. It's time to clean house in this agency in Washington!

**COMMENTS ON MAINTAINING A PROPER
LOOKOUT AND ELECTRONIC CHARTING**
By Captain Larry P. Gwin

I am writing to give you my views concerning the situational awareness of the wheelhouse personnel and electronic charting used on inland towing vessels.

Maintaining a Proper Radio Watch

One instance concerning the situational awareness happened to me this last trip while was, at work in the wheelhouse. I was southbound on the Lower Mississippi River checking traffic and putting my position on channel 13 in accordance with Coast Guard regulations. I had twenty-five loads southbound in tow approaching a narrow bend in the river when a northbound tow contacted me to tell me he was in the narrow bend, that he was making good headway and felt that he would be in good meeting position. The Pilot on this northbound vessel stated that he would stay in radio contact with me. I assessed the situation as to his time and felt that there was no threat of a near miss or a collision. During our conversation, however, the other Pilot informed me that there was another, larger vessel close behind him.

I began calling the second northbound vessel and continued to call several times on VHF Channel 13. I even went over to VHF Channel 16 and called but was unable to make contact with the second vessel. At this time I reassessed the situation and I immediately reduced my speed due to risk of collision. I continued to call the second northbound vessel in the narrow bend. The first northbound vessel also tried to call the vessel behind her on both VHF Channels 13 and 16.

After calling the second northbound vessel again several times with no response, I put my engines in neutral and began to reverse my engines and slow my headway. I happened to remember what VHF Channel that the second northbound vessel used as a stand by channel for fleet and tow building. I switched to the stand by channel and finally made contact with the vessel on its standby channel

The Pilot on watch of the second northbound vessel explained to me that he was on the phone with his company office receiving orders and had turned the volume down on channels 13 and 16. I explained to the Pilot that I had been trying to establish communications with him to make arrangements for meeting in this narrow bend. I then received a call from the first northbound vessel telling me that he was in meeting position that we had agreed on and would not move from this position until we had cleared. This Pilot had also tried to call the second northbound vessel again with no response. I told this Pilot that I had raised the second vessel on a standby channel. I immediately called the second vessel back who answered this time. The Pilot asked me if I wanted him to stop where he was. I replied "no" because I was already reversing engines, had slowed headway, had my vessel under control, and did not want to meet in that area due to the possibility of either near miss or collision.

I continued to assess the situation until the second northbound vessel put himself into a safer position for meeting. After the second vessel reached the safer position I put my engines ahead and continued on southbound. During this time the first north bound vessel had communicated with me that he did not want to be in the area of an accident which I replied that there was not going to be an accident.

At this point I reminded the second northbound vessel that he needed to keep Channels 13 and 16 turned up so that he could at least hear the traffic of other vessels in the area. This Pilot informed me again on channel 13 that he was taking orders from his company office on the phone. I told him that I did not think that his office would want an accident. This Pilot became very arrogant and threatening toward me when I told him: "Captain, the rules are pretty clear as to maintaining a proper look-out by sight and hearing as well as by all available means while on navigation watch".

Boot or Reboot

Another situation that I witnessed while I was northbound following a vessel when I noticed the vessel: ahead of me getting close to the bank. I, and other vessels, asked the Pilot of this vessel on Channel 13 if he was all right. The Pilot replied: "Yes, I was trying to get this damn computer rebooted to send my traffic in to the company." I cannot be sure that he actually made contact with the bank, but he was close enough to blend in with the bank on radar and slowed considerably.

Electronic Charting

Electronic charting started out as an aid to assist wheelhouse personnel in transiting the rivers that they work on. I have used River Pro 2.0 and Coastal Explorer. These systems coupled with Automatic Identification Systems (AIS) show vessels in the area, their present speed, and course. I have learned from installers that the electronic charting system works on Global Positioning Satellites (GPS) which fixes your position and updates the computer every few minutes.

However, I have had experiences that led me to question the system. In one instance, I was transiting a bridge when the electronic charting system showed that I was sliding to port with a starboard swing. I visually checked and determined that this was not the case. My visual check showed I had no slide or starboard swing. However, if I had continued to rely on the electronic charting system, I would have allided with the bridge. After clearing the bridge and visually assessing my path of travel, I found that the electronic charting then showed that I had no swing and was running straight. I did not perform a steer or course change, but the electronic charting system showed that I had made changes. The incident made me believe that the system either had interference from somewhere so it could not update its positions from the satellite and did not show the real picture. Lately, I noticed that the system fails and goes into dead reckoning mode two to three times during a watch especially between Baton Rouge and New Orleans.

There are sections of the river where the electronic charting system shows my course crossing land masses when clearly I did not plow some farmer's field. I also noticed that new Pilots or Pilots that are not posted on the route that they are operating on are overly dependent upon these electronic navigation systems. Regularly I hear on the navigation channels Pilots saying "according to my system we are going to meet at this point." This is a prediction based on both vessels speed at the time of the last GPS position. If one vessel slows or speeds up then the prediction fails. You have to pray that the computer system receives its position updates and is accurate.

My impression is that the electronic charting system requires a large amount of space and drive on computers to work properly. Most of the computers that have these electronic systems also handle vessel traffic, e-mail, and other programs that can take space away from the electronic charting system and thereby overload the computer in much the same way as oversize tows overload some towing vessels.

Example: Misuse of Electronic Charting in Open Waters

[Enforcement Activity #1833749 & #1755770; GCMA File #M-413; Release Date Jan. 23, 2007. Charge: 46 CFR 5.29, Negligence.]

On Feb. 14, 2003, at approximately 01:50 a.m., the tug NORTH SERVICE, official number 592075, pushing ahead the tank barge ENERGY 5501, official number 523001, ran aground in the vicinity of the Norwalk Islands in Long Island Sound.

All 6 starboard tanks of the ENERGY 5501 were holed. The barge was loaded with 52,000 barrels of No. 2 heating oil. There was no damage to the tug. The barge discharged approximately 2,500 gallons of oil into the waters of Long Island Sound. No oil was recovered from the marine environment. No oil impacted the shorelines of Connecticut or Long Island, New York.

■ was the Mate on board the tug and on watch at the time of the casualty. He failed to recognize a charted rocky obstruction in the intended path of the tug/barge, and drove the barge over the rocks, tearing open all 6 starboard cargo tanks resulting in an oil spill. Mr. ■ admitted to not noticing the rocky obstruction. He admitted to navigating by chart plotter and radar alone; he never checked his trackline with paper charts, or zoomed the chart plotter in close enough to see the charted rocky obstruction.

On August 8, 2003, the Administrative Law Judge assigned to this case approved a Settlement Agreement ■ entered into with the, Coast Guard which requires him to complete a Coast Guard approved coastal navigation course by December 15, 2003.

[GCMA Comment: We assume he had previously taken such a course to obtain his license in the first place.]

On December 12, 2003, ■ provided the Coast Guard with a notarized copy of a certificate of completion of a basic navigation course. This course was found to be in compliance with the settlement agreement.

The recommended penalty against the vessel owner, Hornbeck Offshore Transportation, LLC was \$7,500. However, due to the untimely processing of this civil penalty enforcement activity, it (was) closed with no penalty processed.ö

[GCMA Comment: This outcome is not at all unusual. The Coast Guard is much more thorough in dealing with mariners who have not hired lawyers to defend them.]

Skillful salvage efforts moved the damaged barge to safe haven in Bridgeport Harbor before anticipated weather conditions deteriorated to 35-40 knot winds, 5 to 7 foot seas, coastal flooding, and developing snow with temperatures in the teens and 20s.

[GCMA Comment: Without this intensive salvage effort in freezing temperatures, Long Island Sound probably would have been awash in over two million gallons of heating oil as a result of the ensuing northeast gales.]

NOAA Says GPS is Affected by Solar Radio Bursts

The National Oceanic and Atmospheric Administration (NOAA) issued a news release stating that solar radio energy bursts can have a serious impact on the Global Positioning System (GPS) and other communications technologies. A solar flare on December 6, 2006 caused a huge number of receivers to stop tracking the GPS signal.

[GCMA Comment: This should remind us that mariners should not rely solely on one means of fixing position.]

"EMPLOYEE FREE CHOICE ACT OF 2007 INTRODUCED IN CONGRESS

Stronger Unions Mean a Strong U.S. Middle Class

[Source: By Harley Shaiken, a professor specializing in labor and the global economy at the University of California, Berkeley. West Coast Sailor, Feb 23, 2007.

Seeking to restore what once had been a balance between the rights of workers and the rights of employers, and to reaffirm the right of workers to form and join unions and to engage in collective bargaining, the AFL-CIO and its affiliate make enactment of the "Employee Free Choice Act of 2007" a high priority for the 110th Congress. Emphasis by underlining is ours.

Polls tell us that 58% of eligible workers would join a Union if they could, yet Union membership in the private sector plummeted to 7.4% in 2006, a record low.

What explains this yawning gap? The fact that, for many Americans, joining a Union has become a risk rather than a right. According to the 2005 National Labor Relations Board's annual

report, 31,358 people were disciplined or fired for Union activity. The result has been a chill on Union organizing.

The Employee Free Choice Act (H.R. 800), introduced in Congress on February 5, by Representative George Miller (D-California) with 233 cosponsors, seeks to create a thaw. What the act does is simple: It allows workers to form a Union if a majority of employees in a workplace sign up for one, short-circuiting an employer-dominated campaign and an additional vote. It also provides meaningful penalties for violating workers' rights and ensures that collective bargaining will result if workers choose a Union.

Shrinking Union membership affects everyone. Unions paved the way to the middle class for millions and pioneered benefits such as paid pensions and health insurance. Now labor's sliding numbers are contributing to the squeeze on the middle class. During a period of robust economic growth and record corporate profits, only those at the very top of the heap are enjoying a higher standard of living.

Worker productivity jumped by a record 20% between 2000 and 2006, yet real wages (pay adjusted for inflation) edged up an anemic 2%. Meanwhile, fewer workers are getting employer-based health insurance or pensions. Even

Alan Greenspan, before retiring as chairman of the Federal Reserve Board, told Congress in 2005 that he found growing inequality of income and wealth in the U.S. "very disturbing."

In 1935, Congress passed the Wagner Act guaranteeing workers' right to organize and bargain collectively. It was immediately hailed as labor's Magna Carta. Since then, amendments, court rulings and NLRB administrative decisions have turned the act on its head, serving to throttle rather than encourage a free and informed choice on Unions.

Today, if workers try to organize, the NLRB generally sets a secret-ballot vote a month or more after the formal request. During this period, it is legal for the company to hire anti-Union consultants, schedule an unlimited number of mandatory meetings with employees, "predict" that the workplace could be shuttered if the Union wins and bar labor representatives from the premises.

It's not just that the playing field is tilted against organizing; Unions are locked out of the stadium. Of course, why would companies limit themselves to what's legal? Penalties for violating workers' rights are virtually nonexistent.

Nonetheless, one might ask why the Employee Free Choice Act replaces the secret-ballot vote with majority sign-up. The secret ballot is appropriately considered sacred in a democracy, but it requires a democratic context to be meaningful. These NLRB-supervised elections often take place in highly coercive, even threatening, environments.

RECOMMEND MARINERS SUBSCRIBE TO CEMS NEWSLETTER ON-LINE

The Coast Guard recently released its Winter 2007 Crew Endurance Management System (CEMS) Newsletter on the internet at:

<http://www.uscg.mil/hq/g-m/cems/index.htm>

GCMA actively supports the Coast Guard's scientific efforts in sleep research by the Coast Guard Research and Development Center in Groton, CT. However, we are much less enthusiastic about the Coast Guard's lackluster performance in failing to clamp down on countless reported 12-hour rule violations over the years and the fact that the Coast Guard never once in the past 35 years criticized the towing or offshore oil industry or suggested to Congress that they no longer allow companies to exploit unlicensed crewmembers by calling upon them to work hours without end. [GCMA Report #R-370 (series) and GCMA Report #R-305.]

As a direct result of these abject failures on the part of the Coast Guard, GCMA recently placed as ITEM #1 on our Legislative Priority List: Amend 46 U.S. Code §8104 to limit the hours of work for all licensed and unlicensed mariners serving on any U.S.-flag commercial vessel to 12 hours in any 24-hour period. Address other specific problems with this statute that primarily affect lower-level merchant mariners. In addition, we detailed exactly what is wrong with all of 46 U.S. Code §8104 as written. The message both to industry and government is clear: Our lower-level mariners no longer intend to ruin their lives and health for the questionable privilege of working in the maritime industry without adequate work-hour protection.

The maritime industry is not the only transportation-

Fortune magazine reported last June that "workers are routinely fired or discriminated against for supporting Unions.... Some [firms] go so far as to close down work sites when employees vote for a Union. "As a result, the NLRB elections are more like plebiscites in a dictatorship rather than election day in a democracy. The votes may be counted honestly, but the outcome reflects the fear-ridden atmosphere in which the vote occurs.

The Employee Free Choice Act would restore balance to a system that is driven by aggressive employers, anti-Union consultants, coercion and fear. Strengthening free choice in the workplace lays the basis for ensuring a more prosperous economy and a more democratic society. It was Studs Terkel who put it this way: "Respect on the job and a voice at the workplace shouldn't be something Americans have to work overtime to achieve."

[GCMA Comment: One out of every five activists who tries to form a union is fired and half of all private employers threaten to shut down partially or totally if employees join together in a union. We discovered this truth when Offshore Mariners United (OMU) attempted to form a new union of lower-level OSV mariners in the Gulf of Mexico between 2000 and 2003. Pilots Agree learned the same harsh lesson on the Western Rivers and GIWW in 1998. In 2007, boat owners still cannot figure out why this industry fails to attract new talent. Duh!]

related industry that puts the squeeze on its employees. The CEMS Newsletter shows efforts being made in the railroad and trucking industry. For years, it appeared that the NTSB under Jim Hall was the leader in this effort, but weak leadership following the end of Mr. Hall's tenure in office diluted their efforts.

The Newsletter contains an excellent article by Dr. Antonio Carvalhais titled Got (Enough) Sleep? Trying to Do More With Less is Dangerous. That's an especially interesting title since the Coast Guard for many years held itself out to Congress as an agency that could do just that. Now, as we look at their contemporary performance in many areas, we find the Coast Guard simply did less than their public information staff advertised and successfully covered it up with blather. It was our mariners that received less and less attention over the years that will finally come back to haunt them. One interesting sidebar to Dr. Carvalhais' article is this:

Got (Enough) Sleep? Signs that you need more sleep:

- You struggle to get up in the morning.
- You feel tired, irritable, stressed during the day.
- You have trouble concentrating or remembering.
- You fall asleep during meetings or lectures, or while watching TV.
- You fall asleep within 5 minutes of going to bed.
- You often feel drowsy while driving.
- You often sleep extra hours on weekends.
- You often take naps to get through the day.
- You have dark circles under the eyes.
- You often fall asleep relaxing after lunch or dinner.
- You fall asleep sitting and talking to someone.
- You fall asleep at a traffic light.

USCG "GETTING IT WRONG" ON SHORE LEAVE

[Source: Doreen Badeaux, *Apostleship of the Sea-USA*, April 3, 2007.]

(Coast Guard) Advisory group (MERPAC) wants a relevant U.S. regulation rewritten to make it consistent with ISPS Code, writes Rajesh Joshi in New York, Monday 2 April 2007.

MISINTERPRETATION by the U.S. Coast Guard of shore leave provisions enshrined in the International Ship and Port Facility Security Code is inflicting hardship on foreign seafarers calling at U.S. terminals, a maritime advisory group has declared.

The Merchant Marine Personnel Advisory Committee, or MERPAC, has asked the USCG to rewrite the relevant U.S. regulation to make it consistent with the ISPS Code.

U.S. officials also need to take other active measures to ensure that seafarers' right to shore leave is protected in the US, MERPAC insists.

Specifically, it wants a formal shore leave provision enshrined in the Coast Guard Authorisation Act for 2008, which is to come up for finalisation in both chambers of Congress.

There are "gross inconsistencies" in how shore leave is now allowed across the U.S., MERPAC has alleged.

The ISPS Code requires procedures for "facilitating" shore leave for crew, as well as access of visitors to the ship, including representatives of seafarers' welfare and labour organisations.

In contrast, the USCG's enforcing regulation uses the phrase "must ensure co-ordination of shore leave".

MERPAC is recommending that this language is changed to "shall ensure and facilitate access to shore leave".

Furthermore, MERPAC has recommended that the USCG not approve facility security plans that do not include procedures for facilitating shore leave.

The committee's recommendations draw on the work of the International Transport Workers' Federation and the anecdotal experiences of port chaplains from various denominations across the U.S.

"Denying shore leave has a deteriorating effect on mariners' morale and well being," says MERPAC. "We feel this can have nothing but a negative effect on the industry's efforts to recruit and retain qualified, professional and committed mariners."

MERPAC has also come down hard on seafarers and shipping companies having to pay "excessive fees" for access to shore leave. These instances at terminals and port facilities sometimes take the shape of transport or escort fees to take mariners from the berth to the gate so that they can enter the city. "Often these fees are so high they present a de facto barring of shore leave even if the facility claims to allow shore leave," the document states.

Citing actual meetings with the USCG, a MERPAC source told Lloyd's List that, while the agency was sympathetic to the cause, officials drew on the word "co-ordinate" in the U.S. regulation to say the facility demanding access fees or denying shore leave was still compliant with ISPS.

USCG officials speaking in private have echoed the same thoughts when discussing this matter with Lloyd's List. Re-interpreting the ISPS Code to give due weight to the "human element" it enshrines and then rewriting the U.S. regulation in this new light would painlessly solve this conundrum, the MERPAC source said.

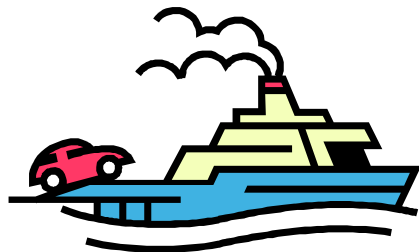
[GCMA Comment: Unfortunately, Because GCMA has limited funding, we were unable to send a mariner to attend the MERPAC meeting in Seattle. However, it is encouraging to see that one unnamed MERPAC representatives stood up to the Coast Guard to correct a very serious problem. We previously reported on the shore leave problem in GCMA Newsletter #23.]

NO LIABILITY LIMIT IN STATEN ISLAND FERRY CASE

[Source: *Marine Log*, March 2007]

A U.S. District Court judge has recently ruled that New York City CANNOT limit its liability in the 2003 Staten Island ferry crash to the value of the vessel's hull.

Judge Edward R. Korman ruled that the city cannot invoke the 1851 Limitation of Liability Act to limit its liability to the \$14.4 million ferry hull value as the former head of ferry operations was negligent by failing to enforce safety measures that would have prevented the crash.



New York City Law Department issued a statement saying it was "disappointed" with the ruling and was considering its appellate options.

Thus far 119 of 186 claims have been settled, for a total of \$27.6 million, and two claims have been discontinued. The amounts paid in the various settlements range from \$500 to \$9 million. The city says there are 65 claims still pending.

The ferry accident in Oct. 2003 resulted in the death of 11 passengers and dozens of injuries.

[GCMA Comment: The ferry accident also led the Coast Guard to tighten health requirements for ALL merchant mariners that will to further increase personnel shortages. Those who manage to maintain good health in an increasingly unhealthy and stressful industry, stand to profit. However, undermanning, long hours, poor sleep quality and strained home life could may make this only a short-term gain. Refer to GCMA Report #R-403, Stress and the Licensed Mariner.]

GCMA ASKS ABOUT THE WEBBERS FALLS BRIDGE ACCIDENT – AGAIN

[Source: Based on our letter to Coast Guard Hearing Office, Arlington, VA dated Feb. 25, 2007.]

Our Association followed this tragic May 2002 bridge accident very closely and made several FOIA requests for which we received and paid handsomely for most of the requested information.

Several months ago we learned through an article in the Waterways Journal that the Coast Guard levied a Civil Penalty against the boat owner (Magnolia Marine) and the Master of the vessel (Captain) for violating the 12-hour 8hours-of-service statute for towing vessels, 46 U.S. Code §8104(a) by working more than 12 hours in a 24-hour period. During this time, his employer paid him to perform 8work as defined by Coast Guard Policy Letter G-MOC #04-00 (Rev. 1).

We attended the Towing Safety Advisory Committee Meeting in St. Louis in October 2006 and learned at that time, from a Coast Guard officer at the meeting that Magnolia Marine was still within its 30 day appeal time limit for a \$20,000 civil penalty and that Captain ■ faced a \$5,000 civil penalty. It was not clear at that time whether either the company or the Captain would appeal the Hearing Officer's decision.

Our Freedom of Information Act request to the Coast Guard Hearing Officer months later asked if Magnolia Marine or Captain ■ filed an appeal or will the civil penalty assessment prevail. GCMA seeks to obtain a copy of the final ruling on this matter to conclude a report that we are preparing on this subject related to our inquiries submitted through the Towing Safety Advisory Committee (TSAC) and contained in Docket #USCG-2002-13594.⁽¹⁾ The record shows that we made our original request months before the Webbers Falls accident in anticipation of such a disaster. This request supported an existing statute at 46 U.S. Code §8104(a) that requires an officer to be off-duty for at least 6 hours within the 12 hours immediately before the time of leaving. In this case, Captain ■ had driven for more than 1,000 miles immediately before going on duty and had been paid to do so. After 5 years, the Coast Guard legal beagles cannot seem to decide in their befuddled minds whether he was 8on duty or not. ⁽¹⁾Our Petition titled "Travel Time to Work to Count as On-Duty Time. (Deadhead Transportation

GCMA filed this petition five years ago with the Coast Guard. They subsequently assigned for 8urther study to the Towing Safety Advisory Committee. TSAC made little progress in resolving this issue, and at this stage we believe the Coast Guard assigned it to TSAC so that it could talk it to death, sidetrack it, and eventually forget it. This is completely unacceptable to us. We believe the Coast Guard should enforce this statute, not just in this case but in every case for the sake of safety and to protect the health and welfare of our mariners.

We are currently preparing a final revised report on this accident⁽¹⁾ and the information contained in the docket for submission to Congress. In concluding this report, we want to be fair to all sides and include the Hearing Officer's final decision and any decision on any appeal that may have been submitted before the time limit expired. At this point, we asked for a copy of the entire file but would accept a smaller segment if it adequately addresses the Coast Guard's view of the statutory violation and fulfills the research required in our report. ⁽¹⁾In its present form, it is available as GCMA Report #R-370-A (Series), Report to Congress: Violation of the 12-Hour Rules: Webbers Falls Accident Revisited.

Our mariners have been victimized for many years by the violation of this statute 8 essentially a violation of the 812-Hour Rules. In this case, it led to the death of many motorists 8 a fact we believe was covered up by the National Transportation Safety Board and largely ignored by the Coast Guard. GCMA reviewed the NTSB accident report (NTSB HAR-04/05) and determined that it inadequately addressed the statutory violation in question.

We addressed this issue again under FOIA for the third time assuming this will obtain the results by addressing it to the Hearing Office.

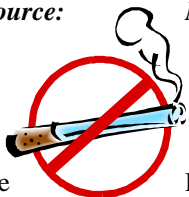
Coast Guard Reply

This case was appealed and is now at CG-0941, formerly G-LMI. The Hearing Office forwarded GCMA's letter to that Coast Guard office (CG-0941) for further action regarding your inquiry.

[GCMA Comment: The Coast Guard is obviously trying to cover up NTSB's sorry work on investigating this accident. We have lost confidence in either agency's ability to effectively investigate maritime accidents.]

BRITISH PLAN SMOKING BAN ON SHIPS & INLAND VESSELS

[Source: *Marine Log, March 2007*]



The British Government is planning to ban smoking on seagoing and inland waterway vessels operating in U.K. waters, regardless of flag.

The Department for Transport today issued a consultation document outlining proposed restrictions.

The Government announced last year that restrictions on smoking in enclosed workplaces, public places and vehicles

would be introduced in England from July," said Secretary of State for Transport Douglas Alexander. "This will save thousands of lives over the next decade by reducing both exposure to hazardous second-hand smoke and overall smoking rates."

The consultation paper asks for comments from stakeholders and others on how the provisions should be introduced and enforced. The consultation will close on May 11, 2007

[For further information on smoking please refer to GCMA Reports #R-341, Rev.3, Smoking and Merchant Mariner Health & Welfare Issues: A Petition to Congress and GCMA Report #R-341-A, The Health Consequences of Involuntary Exposure to Tobacco Smoke. Executive Summary of 2006 Surgeon General's Report.]

ACCIDENT HIGHLIGHTS USE OF WHISTLE SIGNALS

[Source: FOIA 05-0698, Jan. 6, 2005. Release date Jan 19, 2997. Activity # 2265009, 2277461, 2277459, 2326016 & 2326017. GCMA File #M-520.]

GCMA received a report of a collision between two tows on the Ohio River at or near Mile 504 on or about December 23, 2004 in which 5 or 6 barges reportedly were sunk near Cincinnati, Ohio. We did not have the name of the two vessels involved but understood one was owned by the Crouse Corporation and the other by B&H Towing Company.

The two vessels were identified in papers recently released to us as the M/V PAUL STRIEGEL and the M/V MARY ARTIE BRANNON. In two settlement agreements signed five months after the accident, we learned that the Master of each vessel

- failed to sound the proper whistle signals (one prolonged blast) while nearing the bend at Ohio River mile 504 where other vessels may be obscured,
- failed to navigate with alertness and caution while nearing a bend.

MERCHANT MARINER CREDENTIALS IMPROVEMENT ACT OF 2007

110th CONGRESS 1st Session H. R. 1605

To amend title 46, United States Code, to repeal requirements that applicants for merchant seamen licenses and certificates and merchant mariner's documents must take oaths, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES March 20, 2007

Mr. LATOURETTE (for himself, Mr. YOUNG of Alaska, and Mr. LOBIONDO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure.

A BILL

To amend title 46, United States Code, to repeal requirements that applicants for merchant seamen licenses and certificates and merchant mariner's documents must take oaths, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Merchant Mariner Credentials Improvement Act of 2007'.

SEC. 2. OATHS.

Sections 7105 and 7305 of title 46, United States Code, and the items relating to such sections in the analysis for chapters 71 and 73 of such title, are repealed.

SEC. 3. DURATION OF CREDENTIALS.

(a) Merchant Mariner's Documents- Section 7302(f) of

- failed to indicate his vessel's intention by sounding sound signals after passing arrangements were not reached using the radiotelephone (VHF Radio), and
- failed to take action necessary and take steps to permit safe passing resulting in a collision between the tows of the two vessels.

The report we received does not indicate what penalty was assigned to each licensed officer in the settlement agreement.

The Crouse Corporation, owner of the M/V Mary Artie Brennon was cited for failure to have proper equipment for sound signals for vessels of 12 meters or more in length. When tested by the Investigating Officer the horn was barely audible where it should have had an audible range of two nautical miles. The recommended penalty was \$1,000.

The horn on the M/V Paul Striegel, when tested, failed to produce any sound and was not heard. We question whether the recommended civil penalty was \$200 or \$2,000. We have no clue in the report as to whether the government collected either of its recommended penalties. Perhaps the two pilots and the companies they work for will be more attentive to small details like this when their towing vessels come under inspection.

title 46, United States Code, is amended to read as follows:

(f) Periods of Validity and Renewal of Merchant Mariners' Documents-

(1) IN GENERAL - Except as provided in subsection (g), a merchant mariner's document issued under this chapter is valid for a 5-year period and may be renewed for additional 5-year periods.

(2) ADVANCE RENEWALS - A renewed merchant mariner's document may be issued under this chapter in advance but is not effective until the date that the previously issued merchant mariner's document expires.'

b) Duration of Licenses- Section 7106 of such title is (amended to read as follows:

Sec. 7106. Duration of licenses

(a) License Renewal - A license issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(b) Advance Renewals- A renewed license issued under this part may be issued in advance but is not effective until the date that the previously issued license expires..

(c) Certificates of Registry- Section 7107 of such title is amended to read as follows:

Sec. 7107. Duration of certificates of registry

(a) Certificates of Registry Renewal - A certificate of registry issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a certificate issued to a medical doctor or professional nurse is conditioned on the continuous possession by the holder of a license as a medical doctor or registered nurse, respectively, issued by a State.

(b) Advance Issuance - A renewed certificate of registry issued under this part may be issued in advance but is not

effective until the date that the previously issued certificate of registry expires..

SEC. 4. PROCESSING TIME FOR DOCUMENTS.

Section 2110 of title 46, United States Code, is amended by adding at the end the following:

(1) Limitation With Respect to Processing Time - The Secretary may not charge a fee under this section for the application, processing, or issuance of a merchant mariner's document for an individual under chapter 73 if, within 30 days after the date the individual submits a complete application for the document, the Secretary has not--

- (1) issued the document to the individual; or
- (2) notified the individual that the document will not be issued because the individual does not meet the qualifications for issuance of that document under that chapter.'

SEC. 5. FINGERPRINTING.

(a) Merchant Mariner Licenses and Documents - Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

Sec. 7507. Fingerprinting

(a) In General- The Secretary of the Department in which the Coast Guard is operating may not require an individual to be fingerprinted for the issuance or renewal of a license, a certificate of registry, or a merchant mariner's document under chapter 71 or 73 if the individual was fingerprinted when the individual applied for a transportation security card under section 70105.

(b) Clerical Amendment - The analysis for such chapter is amended by adding at the end the following:
7507. Fingerprinting.

SEC. 6. AUTHORIZATION TO EXTEND THE DURATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.

(a) Merchant Mariner Licenses and Documents- Chapter 75 of title 46, United States Code, as amended by section 5(a) of this Act, is further amended by adding at the end the following:

Sec. 7508. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents

(a) Licenses and Certificates of Registry - Notwithstanding section 7106 and 7107, the Secretary of the department in which the Coast Guard is operating may extend for one year an expiring license or certificate of registry issued for an individual under chapter 71 if the Secretary determines that such action is required to enable the Coast Guard to eliminate a backlog in processing applications for such licenses or certificates of registry.

(b) Merchant Mariner Documents - Notwithstanding section 7302(g), the Secretary may extend for one year an expiring merchant mariner's document issued for an individual under chapter 71 if the Secretary determines that such action is required to enable the Coast Guard to eliminate a backlog in processing applications for such documents.

(c) Manner of Extension - Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.

(d) Expiration of Authority - The authority for providing an extension under this section shall expire on June 30, 2009.

(b) Clerical Amendment - The analysis for such chapter, as amended by section 5(b), is further amended by adding at the end the following:

'7508. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents.'

SEC. 7. MERCHANT MARINER DOCUMENTATION.

(a) Interim Clearance Process - Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall develop an interim clearance process for issuance of a merchant mariner document to enable a newly hired seaman to begin working on an offshore supply vessel or towing vessel if the Secretary makes an initial determination that the seaman does not pose a safety and security risk.

(b) Contents of Process - The process under subsection (a) shall include a check against the consolidated and integrated terrorist watch list maintained by the Federal Government, review of the seaman's criminal record, and review of the results of testing the seaman for use of a dangerous drug (as defined in section 2101 of title 46, United States Code) in violation of law or Federal regulation.

SEC. 8. MERCHANT MARINER ASSISTANCE REPORT.

Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report regarding a plan--

(1) to expand the streamlined evaluation process program that was affiliated with the Houston Regional Examination Center of the Coast Guard to all processing centers of the Coast Guard nationwide;

(2) to include proposals to simplify the application process for a license as an officer, staff officer, or operator and for a merchant mariner's document to help eliminate errors by merchant mariners when completing the application form (CG-719B), including instructions attached to the application form and a modified application form for renewals with questions pertaining only to the period of time since the previous application;

(3) to provide notice to an applicant of the status of the pending application, including a process to allow the applicant to check on the status of the application by electronic means; and

(4) to ensure that all information collected with respect to applications for new or renewed licenses, merchant mariner documents, and certificates of registry is retained in a secure electronic format.

SEC. 9. MERCHANT MARINER SHORTAGE REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, acting through the Administrator of the Maritime Administration, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning methods to address the current and future shortage in the number of merchant mariners, particularly entry-level mariners, including an evaluation of whether an educational loan program providing loans for the cost of on-the-job training would provide an incentive for workers and help alleviate the shortage.

SEC. 10. MERCHANT MARINER DOCUMENT STANDARDS.

Not later than 270 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate--

(1) a plan to ensure that the process for an application, by an individual who has, or has applied for, a transportation security card under section 70105 of title 46, United States Code, for a merchant mariner document can be completed entirely by mail; and

(2) a report on the feasibility of, and a timeline to, redesign

the merchant mariner document to comply with the requirements of such section, including a biometric identifier, and all relevant international conventions, including the International Labor Organization Convention Number 185 concerning the seafarers identity document, and include a review on whether or not such redesign will eliminate the need for separate credentials and background screening and streamline the application process for mariners.

[GCMA Comment: We believe the Coast Guard must be relieved of all responsibilities for managing U.S. Merchant Marine personnel with these duties transferred to an agency within the U.S. Department of Transportation.]

LETTERS OF APPRECIATION

Mariner #29

My name is [Mariner #29]. I have been in the industry since 1976, and now at the age of 50, I have 15 years on deck and 15 years in the wheelhouse on inland waters and western riversø (towing vessels).

I was accused of DWI, and the case was pending in court. I was up for (license) renewal, (and) I submitted my application. USCG Chief Boatswain Mate M. Berrier sent me a letter stating that my license application was being put on hold because of this case pending on May 10, 2006. I did not know how I was to pay attorneyø fees and beat this case.

A friend that knew of my case informed me of the GCMA and told me I needed to contact them. So I did and talk to Mr. ■ and told him of my case. Next, I received another letter to disregard the Aug. 16, 2006 (letter because) it has been rescinded (by) the Senior Inspector of Personnel L.W. Griffin. They needed a statement on every violation I had done leading back to 1977 up to now. I then called Mr. Griffin in reference to this letter and told him (that) you have every thing was in my file up to the previous five years.

He (then) informed me of a case back in 1982 and that all these statements need to match my file, and that this was (my) øsecond chanceø letter, so get it right! We normally donø give second chances.

I then called the company I was working for to see if they could pull my police record back to 1977. After receiving this, I made a statement as to every violation that I could remember. (However), I was concerned about the violations I

could not remember.

I then contacted GCMA again and ■ typed me up a letter to present to Mr. Griffin. That very next day I got another letter from USCG Houston stating that they cannot process my license without the applicationø CG-719-B and statements. So in April 2007, I presented this application and within three days I had my license renewed.

They had informed me that if I lose this case, the Coast Guard can pick and choose any rehabilitation program they see fit. Every five years I will have to write out these same statements because they wonø take copies. I send my thanks to the GCMA and ■ for seeing me through this. (I) will be in touch. s/Mariner #29.

Mariner #64

■, You are a hero to many and an inspiration to all. Your workbooks and schools are the best things that ever happened to the øbrown waterø sailors. But, things donø change when you push for needed improvements especially for safety matters because the USCG øBlue Suitersø are bought and paid for. Iøve worked for folks who bought the M.I.ø and seen how its done. Away from public view, they brag about how easy it is to steal from us, to øfinesseø investigations to absolve themselves from blame, and how easy it is to pull the wool over the eyes of all. This happens across the industry as a whole, not just in your portion. In the end, it is a farce, and we are but pawns, while they are the ruling lords. So, things that should change, donø ó and when they do, itø so the lords can have jobs or more money. But, you have tilted at windmills enthusiastically and knocked a few over. Congratulations. [Mariner #64], a fellow windmill tilter.

MM&P ADVOCATES LIMITS TO VOYAGE DATA RECORDERS' ROLE

Ferries should not be required to carry voyage data recorders (VDRs) because the information recorded is more likely to be used for finger-pointing than shedding light on what caused an accident, MM&P has warned in comments submitted in response to a Department of Homeland Security (DHS) study. Integrated navigation systems with playback functions should be carried instead because such systems improve safety and generate data investigators can use to analyze accidents.

MM&P's suggestions were incorporated in comments filed Feb. 6 with DHS regarding the feasibility and costs associated with installing VDRs on passenger vessels. The Coast Guard

and the Maritime Transportation Act of 2006 required the agency to conduct a study on this topic.

MM&P told DHS that installing a VDR in the wheelhouse could actually cause more harm than good, inhibiting crewmembers from discussing navigational problems. If the study finds that VDRs must be installed on ships in the domestic trades, DHS should place limits on access to recorded conversation between crewmembers, the union argues. MM&P advised DHS not to compare air transport with maritime in the context of the study, because the two industries operate under different conditions. Few if any crew or passengers survive airline crashes, making black boxes the only available means of determining what happened. In most serious accidents in the maritime industry, by contrast, the ship and its equipment are reasonably intact and there are surviving witnesses who can tell the story.

MERCHANT MARINERS HAVE BEEN DISHONORED

[Source: *Workboat*, May 2007]

I have read with interest the postings to the Mail Bag since I left the merchant marine in 2005. There just isn't much good news.

I held a limited chief engineer license for 20 years and worked in the merchant marine from 1978 until 2005. I saw many changes take place during that time. The early changes mandated by the Coast Guard actually went a long way toward ensuring that personnel management was consistent with current vessel construction and operations. It also provided a certain level of professional achievement for those of us who chose to become Coast Guard-licensed merchant mariners.

During in the 1990s, the focus of the USCG in providing professional certification and licensing consistent with the current and future trends in the marine industry became distorted and corrupted. This distortion has been disproportionately exaggerated since 9/11. Since then, the Coast Guard's mission has become primarily one of terror prevention and response as opposed to providing regulatory oversight of the U.S. merchant marine and guarding the U.S. coast. The USCG mission of personnel management for the merchant marine has floundered and is, at best, a ship adrift with no rudder, no compass and no captain at the helm. As a result, the ranks of the licensed and unlicensed merchant mariners are thin and getting thinner.

When did all merchant mariners become guilty of unnamed lawlessness that poses a threat to our country and our industry and suspected of being complicit in everything else that remains imagined? This treatment and the codified attitude of the USCG led me to not renew my license in 2005 - my only way to protest what the USCG was doing to an industry I grew up in and loved to work in.

[GCMA Comment: This type of treatment is absolutely deplorable and must brought to the attention of Congress.]

Now, with the implementation of the TWIC, would it not be better to tattoo merchant mariners with a registration number, complete with a scanable barcode so that everyone knows at all times who and where the pariahs are? It is sad beyond words to sit on the sidelines and watch such myopic policies be implemented by such foolish, ignorant and misguided "leaders."

[GCMA Comment: Dishonored Mariners – Misguided “leaders”. Right On!]

Where is the evidence that supports the assumptions that have led to policies that dishonor the U.S. merchant seaman's devotion to service and country? Where is the voice of reason in this muted debate? It is frightening what fear of the unknown can do when it's allowed to conceive and implement governmental policy!

Richard T. Gancel

*Former Chief Engineer-Limited Oceans
New Iberia, La.*

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 "draw 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. In addition, some employers "black list" former employees and make it difficult if not impossible for them to obtain another job.

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!

This month we added the name of Versatility Marine to our list because of their deplorable and inexcusable mistreatment of at least two of their deckhands. It is just and fitting that one of the deckhands decided to file suit against the company for the pain and suffering he endured. We will report more fully on this case as it develops.

Brown Listed Companies:

Abdon Callais Offshore.
American River Transportation Co. (ARTCO)
American Commercial Barge Lines (ACBL)
BJ Services, Inc.
Chet Morrison Contractors, 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
• Versatility Marine
• Western Kentucky Navigation Company (WKN)

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Captain David Whitehurst—Towboat Pilot, White Castle, LA

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 - Radar Observer/Radar renewal /USCG-STCW approved (testing done on site)
 - Able Bodied Seaman/USCG-approved (testing done on site)
 - Celestial Navigation 200/500/1600/STCW Gross Ton/USCG-approved (testing done on site)
 - Basic Safety Training/STCW-approved/USCG-approved (testing done on site)
 - ★ The following modules are available: Elementary First Aid and CPR, Personnel Safety and Social Responsibility.
 - Visual Communications (Flashing Light)/ STCW-approved/USCG-approved (testing done on site)
 - Shipboard Coordinator (Fishing Industry)/USCG-approved (testing done on site)
 - American Red Cross First Aid and CPR/USCG-approved
 - Master of Towing Vessels/USCG-approved (testing done on site)
- Assistance with U.S. Coast Guard paperwork \$75.00 per consultation. This service is only \$30.00 for those enrolled in LMMTS courses.

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