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TABLE OF CONTENTS

Maritime Security Issues.....	1
The ISPS Code	1
Security Will Not be Cheap or Easy	1
Minimum Ship and Port Requirements.....	2
Security Levels.....	2
The Company and the "Shipö.....	3
Government Responsibilities.....	3
Other Amendemnts to SOLAS.....	4
Security and the Role of the Lower-Level Mariner	4
Reporting Suspected Terrorist Activity.....	4
Being Alert to Possible Terrorism	5
GCMA Comments on Where We are Vulnerable.....	6
GCMA Comment #1	
Towing Industry Security Plan	7
GCMA Comment #2	
Port Security Committees.....	8
GCMA Comment #3	
Confining Mariners to Their Boats	8
GCMA Comment #4	
Vessel Security Record Keeping.....	9
GCMA Comment #5	
Company Safety Officer and Security Training	9
GCMA Comment #6	
Certification for Vessels	9
GCMA Comment #7	
Permanent Hull Marking.....	9
GCMA Comment #8	
Mariner Identification.....	9
GCMA Comment #9	
Mariner Fatigue.....	10
GCMA Comment #10	
Security for Small Passenger Vessels on Domestic Routes.....	10

Searches, Seizures, and Arrests.....	11
14 U.S.C. Section 89	11
Eighth District 24-Hour Telephone Numbers	12

MARITIME SECURITY ISSUES

THE ISPS CODE

IMO, the International Maritime Organization, is usually accused of being very slow to move. However, the urgency of the terrorist attacks of September 11, 2001 in New York and attacks in other parts of the world, caused this United Nations agency to respond with remarkable speed to establish a worldwide security framework for international shipping that will enter into force in July 2004.

In December 2002 an international diplomatic conference adopted a number of amendments to the Safety of Life at Sea Convention (SOLAS) a major IMO undertaking. The most far reaching change introduces a new International Ship and Port Facility Security Code (ISPS Code). The new set of international regulations contains detailed security-related requirements for governments, port authorities, and shipping companies in a mandatory (i.e., required) section called "Part A" along with a series of "guidelines" on how to meet these requirements in a non-mandatory section called "Part B".

Any such international "code" depends upon participating governments to enforce it since there is no international police force. In the United States "enforcement" of maritime conventions and treaties is left primarily to the U.S. Coast Guard. Certain aspects of security enforcement also fall upon other federal agencies such as the U.S. Customs Service and the Immigration and Naturalization Service (INS). In the future, these three agencies will be coordinated more closely in the new Department of Homeland Security.

SECURITY WILL NOT BE CHEAP OR EASY

The ISPS Code appears to be as likely to place at least as great a compliance burden on shipowners as the International Safety⁽¹⁾ Management Code (ISM Code) recently did. Many shipowners, even those owning vessels less than 1,600 tons that engage on foreign voyages, found that complying with the International Safety Management Code was a very demanding experience. The International

Maritime Organization had serious compliance problems with the world's fleet and even worse experience with pulling seafarers qualifications in line with their new STCW Code so much so that its deadline of February 1, 2002 had to be extended. Lower-level mariners in the United States had serious problems implementing STCW because most never saw it coming until mid-1999 when the deadline for massive retraining was less than three years away. ^[1]*Vocabulary: Security, as covered in the ISPS Code and the subject of this paper, is contrasted to Safety as covered in the ISM Code. Both are separate and distinct chapters in SOLAS.]*

Unlike STCW, there will be no delaying these security measures. Governments have agreed to take any action needed to finalize all legislative or administrative arrangements required at the national level to meet the deadline of July 1, 2004. This means that the United States and all other nations signatory to SOLAS must certify the security of all ships entitled to fly their flags as well as certify the security of all port facilities in their countries.

The Coast Guard has already taken the first steps in the massive planning efforts that must take place in the United States to comply with the ISPS Code. This will be a massive, multi-billion dollar undertaking that will bill the American taxpayer and American business interests for homeland security. The first 66 page Notice of Meetings; Request for Comments was published in the Federal Register on December 30, 2002⁽¹⁾ shortly after Congress passed the Maritime Transportation Security Act in late November 2002. The notice announced seven public meetings in major American port cities. Other nations have similar obligations and must take early appropriate action to ensure that all necessary infrastructure is in place by the deadline. This puts shipowners, ports, facility owners, and governments under enormous time pressure to comply. ^[1]67 FR 79742-79806, Dec. 30, 2002, Docket #USCG-2002-14069, available on the internet at <http://dms.dot.gov/> This Federal Register article contains a tentative outline of American plans as well as a reprint of the ISPS Code.]

The ISPS Code treats the ship security and port facility security as a risk management activity. To determine what security measures are appropriate, it will be necessary to assess the risk in each case. The ISPS code provides a standardized, consistent framework to evaluate risk and vulnerability for ships and port facilities that can be applied throughout the world. To start the process each government must conduct port facility security assessments of its own ports. This project will have three essential components:

- Identify and evaluate assets and infrastructures critical

to the port facility and those areas or structures that, if damaged, could cause significant loss of life or damage to the port's economy or environment.

- Identify the actual threats to critical assets and infrastructure and prioritize security measures.
- Address vulnerability of the port facility by identifying its weaknesses.

Once this assessment is complete, each government can accurately evaluate its risk.

MINIMUM SHIP AND PORT REQUIREMENTS

A number of security arrangements will be required for ships including:

- Preparing ship security plans.
- Appointing ship security officers.
- Appointing company security officers.
- Providing certain onboard equipment

For port facilities, the security arrangements will include:

- Preparing security plans to protect port facilities.
- Hiring port facility security officers.
- Providing certain security equipment.

Important security arrangements for **both** ships and port facilities include:

- monitoring and controlling access.
- monitoring the activities of people and cargo.
- ensuring security communications are readily available.

SECURITY LEVELS

To communicate the threat at a port facility or for a ship, **the government will set the appropriate security level**. Security levels MARSEC 1, MARSEC 2, and MARSEC 3 correspond to normal, medium, and high threat situations. The higher the number, the higher the threat. The link between the current five-step threat level that you see on television is that the lower three levels are combined to reflect MARSEC Level 1 that is popularly called "the new normal", a heightened state of alert since 9/11. When the government establishes the security level, it will create a link between the ship and the port facility since the security level will trigger the appropriate security measures for the ship and for the port facility. These measures will be listed in the ship and port facility planning documents. Most licensed officers must become familiar with new vessel security plans when they are issued by their company

and facility security plans when they use facilities like fleets, fuel docks, passenger terminals, and cargo loading facilities.

The Ship Security Plan must indicate the operational and physical security measures every ship must take to ensure it always operates at Security Level 1 (MARSEC 1). The plan must also indicate the additional, or intensified, security measures the ship will take to move to and operate at Level 2 when the threat level rises to MARSEC 2. Furthermore, the plan must indicate the preparatory actions the ship could take to allow prompt response to notification of MARSEC 3.

The ISPS Code provides several ways to reduce vulnerabilities as the threat level increases. Each ship will be subject to a system of surveys, verification, certification, and control to ensure that all required security measures are put in place. This system will be based on an expanded control system. Port facilities will also be required to report certain security related information to the government, that in turn will submit a list of approved port facility security plans, including their location and contact details to IMO.

THE COMPANY AND THE “SHIP”

Under the terms of the ISPS Code, shipping companies must designate a Company Security Officer for the Company and a Ship Security Officer for each of its ships. The Company Security Officers responsibilities include ensuring that a **Ship Security Assessment** is properly carried out, that **Ship Security Plans** are prepared and submitted for approval to the Coast Guard and thereafter are placed on board each ship.

Although the international plan and its American version seek to reach the same goals, the vocabulary each uses differs slightly from the other. Most American mariners will be more directly concerned with the American version. For example, some lower-level mariners may be more comfortable with the term “boat company” than with “shipping company”. But, comfort aside, the term “ship” gives a misleading impression that these security measures will only apply to huge oceangoing vessels on an international voyage. However, the Coast Guard notice states⁽¹⁾ that it intends to include security measures for all the listed vessels: *[⁽¹⁾At 67 FR 79745, Dec. 30, 2002.]*

- All foreign ships, both cargo and passenger, that are required to comply with SOLAS.
- All Cargo vessels inspected under 46 CFR Subchapter I.
- All **Offshore Supply Vessels** inspected under 46 CFR Subchapter L.

- All Passenger Vessels inspected under 46 CFR Subchapters H and K.
- All **Small Passenger Vessels** inspected under 46 CFR Subchapter T on an international voyage.
- All barges subject to 46 CFR Subchapters D, I, and O.
- All tankships subject to 46 CFR Subchapters D and O
- All Mobile Offshore Drilling Units (MODUs) subject to 46 CFR Subchapter I-A.
- All **towing vessels** greater than six meters in registered length.

Ships on international voyages will have to carry an International Ship Security Certificate indicating that they comply with the requirements of SOLAS chapter XI-2 and part A of the ISPS Code. When a ship is at a port or proceeding to a port the government has the right to exercise various control and compliance measures with respect to that ship. The ship is subject to port state control inspections but such inspections will not normally extend to examination of the Ship Security Plan itself except when absolutely necessary.

The ship may also be subject to additional control measures if there is reason to believe that the security of the ship or the port is in danger.

GOVERNMENT RESPONSIBILITIES

The United States and each of the other “Contracting Governments” agreed to perform certain tasks including:

- Setting the appropriate security level. (MARSEC Level)
- Approving the Ship Security Plan for vessels flying its flag.
- Verifying the compliance of ships with SOLAS including the new ISPS Code.
- Issuing International Ship Security Certificates to vessels flying its flag.
- Determine which port facilities must designate a Facility Security Officer.
- Determine that Facility Security Assessments and the Facility Security Plans are in place.
- Exercise control and compliance measures with drills and evaluations.
- Communicate certain information to IMO and to the shipping and port industries.

Although contracting governments can designate the authorities (e.g., USCG) to undertake their security duties and allow Recognized Security Organizations (e.g., “rent-a-cop” companies) to carry out certain work with respect to port facilities, the final decision on accepting and approving this work lies with the government itself.

OTHER AMENDMENTS TO SOLAS

The diplomatic conference held in London in December 2002 adopted a series of Amendments to the SOLAS Convention and created a new chapter in SOLAS that deals specifically with maritime security. This new chapter contains the mandatory requirement for ships to comply with the ISPS Code. There were other changes as well. Modifications to SOLAS Chapter V (Safety of Navigation) contain a new timetable for the fitting of Automatic Information Systems (AIS). Ships fitted with AIS must maintain it in operation at all times except where international agreements provide for the protection of navigational information.

SOLAS requirements also were modified to require ship identification numbers to be permanently marked in a visible place either at the ship's hull or superstructure. Passenger ships will carry the marking on a horizontal surface visible from the air. Ships must also be marked with their ID numbers internally.

A new regulation requires ships to be issued a Continuous Synopsis Record (CSR) that will provide an on-board record of the history of the ship. Perhaps this will help pin down the true identity of many off flag of convenience vessels including a number reportedly under control of terrorist networks and still others seized by pirates that are increasingly active in some parts of the world. The Continuous Synopsis Record will be issued by the administration of the vessel's flag state and contain:

- Information including the name of the ship.
- The country whose flag the ship is entitled to fly.
- The date when the ship was registered with the flag state.
- The ship's identification number.
- The port the ship is registered at.
- The name and address of the registered owner(s).

Any changes must be recorded in the Continuous Synopsis Record to provide updated and current information together with the history of the changes.

A new SOLAS regulation also confirms the role of the Master exercising his professional judgment over decisions necessary to maintain the security of his ship. Another new regulation requires all ships to be provided with a ship security alert system according to a strict timetable intends to have most vessels fitted sooner rather than later.

SECURITY AND THE ROLE OF THE LOWER-LEVEL MARINER

Water (and other things) inevitably flows down hill.

When rain falls on the mountaintop, it will soon flood into the valley. The drain of security planning issues will stop falling at the final public meeting held in New York on February 11, 2003 and about six months of clearing will follow as the Coast Guard digests thousands of public comments. The Coast Guard expects all written comments to be submitted on or before February 28, 2003. All comments, except those containing confidential or privileged business or commercial information will appear in the docket and can be read on the internet.

GCMA, representing lower-level mariners, was represented at the New Orleans meeting on January 27th by Captain Dean Bruch (GCMA Committee Chairman), Captain Roland Rodney, Richard A. Block, and Father Sinclair Oubre. Father Sinclair spoke on behalf of the Apostleship of the Sea and its ministry to all mariners. GCMA submitted formal comments to the docket. In addition, the interests of our lower-level mariners were represented in the January 31st meeting in St. Louis by Richard M. Plant and Captain William Beacom.

Each of the nation's Captain of the Port (COTP) zones will set up its own Port Security Committee to deal with port security in its local area. Captains Bruch and Rodney attended a Port Security Committee for the Port of New Orleans. But with more than 40 COTP zones in the United States, we urge concerned mariners to ask your local COTP about scheduling and attendance of Port Security Committee meetings. These meetings should be open to the public and will give you a better understanding of the momentous changes affecting the industry. In addition, our mariners know many of these ports much better than some of the local Coast Guard officers who continually move from place to place and assignment to assignment. Mariners can provide a knowledgeable view of port and waterways activities and can complement many management types who spout their wisdom even though their butts are glued to their swivel chairs. The war on terror needs mariners who are alert to every change on the waterfront and are ready to question suspicious changes. Of course, it is hard to be alert after working endless hours. However, at GCMA, we are working on that problem and many others.

REPORTING SUSPECTED TERRORIST ACTIVITY

[Source: Based on MM&P Wheelhouse Weekly, Nov. 9, 2001.]

The Maritime Administration issued an advisory to operators of U.S.-flag vessels and other maritime interests on how to report actual or suspected terrorist

incidents. The advisory provides the maritime industry with a single national telephone number, (800)-424-8802, to report actual and suspected terrorist incidents.

The National Response Center (NRC) is the central point of contact for all oil, chemical, radiological, biological, and etiological releases (e.g., anthrax, smallpox, etc.) in the United States. These substances may potentially be used in a terrorist incident, and given the existing capabilities, the NRC can also serve as an effective clearinghouse for notification of terrorism incidents.

While it may be difficult to predict and prevent a terrorist attack, mariners can take certain steps to minimize the chance the attack will disrupt vessel or port operations. Coast Guard Headquarters is working with industry, field units, and other law enforcement agencies to develop and communicate the best practices for prevention.

The FBI and the U.S. Postal Service published guidance on their websites that provide "tell-tale" signs for identifying suspicious packages.

If you call to notify the Coast Guard of a potential terrorist incident the National Response Center will connect you to the FBI's Strategic Intelligence and Operations Center (SIOC). They will coordinate with other agencies to immediately assess the threat credibility.

In some instances, the FBI may be able to verify that the report is a false alarm or hoax and requires no response. Other cases may require an on-scene assessment by the FBI and other federal, state, and local officials. In conjunction with the threat assessment, the NRC will also notify other response agencies.

In addition to oil and hazardous substance releases, the NRC may now be notified of any suspected terrorist incident, particularly an incident affecting our national transportation systems. Report all reports of suspected or actual terrorist incidents to the NRC at **800-424-8802**. This is the same phone number posted on every pollution placard on your vessel!

BEING ALERT TO <u>POSSIBLE</u> TERRORISM

For incidents at the local level, the Coast Guard has asked for the assistance of everyone in the maritime community to be especially alert to prevent possible acts of sabotage and terrorism. Currently, USCG personnel are fully engaged in protecting our vital ports and waterway assets and infrastructure. All Masters, Mates, Pilots, deckhands, engineers, and dockworkers are being enlisted to serve as eyes and ears in the field as you go about your normal business. The Coast Guard provided

the Gulf Coast Mariners Association with a list of suspicious activities there may be others! If you observe these unusual activities, report them at once to the nearest Coast Guard office at the numbers printed below. Please post this list on your vessel.

Suspicious activities:

- (1) Unknown persons photographing waterfront facilities. [*GCMA comments in are italics: "Facilities" include docks, petro-chemical plants, power plants, all types of industrial installations, pipelines, etc.*]
- (2) Unknown persons attempting to gain access to facilities. [*Cases recently reported on the Ohio River.*]
- (3) Suspicious individuals establishing businesses or roadside food stands nearby facilities.
- (4) Suspicious persons loitering on or around bridges or bridge structures.
- (5) Suspicious watercraft tied to bridge piers or supports. [*Evaluate the importance of each bridge over your vessel's route.*]
- (6) Suspicious VHF radio transmissions or communications with other vessels.
- (7) Suspicious lack of VHF communications from vessels transiting the river or offshore. [*Terrorists are not limited to hijacking airliners!*]
- (8) Suspicious vehicles on the levee or the levee batture. [*Consider the impact of a hole blasted in a levee at high water.*]
- (9) Unknown persons loitering near waterfront facilities for extended periods of time.
- (10) Unknown persons calling facilities or facility personnel asking about security, personnel, or the standard operational procedures for that facility.
- (11) Vehicles with personnel in them loitering and perhaps taking photographs or drawing diagrams of facilities.
- (12) Small boats with persons on board loitering near facilities or offshore platforms, perhaps taking photographs, drawing diagrams, swimming or diving, or other recreational type activities. [*Use your binoculars and call in the state registration number.*]
- (13) Small boats with personnel onboard loitering near tankers in transit, at anchor, or moored at petrochemical plants. [*Remember, what happened to the USS Cole last year cost 17 sailors' lives and \$250,000,000 of our tax dollars just to repair the damage!*]
- (14) Suspicious general aviation aircraft operating nearby waterfront facilities or offshore platforms. [*...or "crop dusting" a river towboat with an unknown chemical agents!*]
- (15) Any bomb threats to facilities, to offshore installations, or to your vessel. [*Workplace terrorism by disgruntled employees and former employ-*

ees was on the rise before September 11th.]

- (16) Unknown persons attempting to gain information about any facility by walking up to you or others and engaging them in a conversation. [*“Loose lips sink ships”*”]
- (17) Suspicious vendors attempting to sell merchandise nearby facilities or to facility personnel.
- (18) Theft of company vehicles, company vehicle passes, company personnel identification, or personnel uniforms. [*Master’s routinely should check the credentials of all crew members and share any suspicions with your personnel office at once.*]
- (19) Theft of standard operating procedures documents. [*Example: Documents that deal with emergency planning.*]
- (20) Unknown, unexpected, or otherwise suspicious workmen trying to gain access to facilities or to your vessel to repair, replace, service, or install equipment.
- (21) Suspicious e-mails on the internet that relate to the maritime industry. [*Also, internet chat boards can provide an easy access to information that could aid a terrorist and endanger your fellow mariners.*]
- (22) Suspicious package deliveries, or attempts to deliver packages that were not ordered by the facility, the vessel, or for delivery to work sites.
- (23) Suspicious activity around containers at terminals. [*Since it is not possible to examine every container, be suspicious of activity both inside and outside shipping containers wherever they may be.*]
- (24) Individuals proclaiming support for any type of terrorist activity, domestic or foreign.
- (25) Anti-American sentiment expressed by crew members on your vessel or any other vessel you come into contact with.
- (26) Anti-American pamphlets, posters, or other paraphernalia onboard your vessel. [*Where is it and who owns it? Some terrorists like Timothy McVeigh, are “home grown” Be vigilant!*]
- (27) Any or all suspicious activity involving port infrastructure (bridges, locks, wharves, and facilities).
- (28) Small pleasure craft operated outside normally transited offshore routes. [*After September 11, large parts of the port of New York were closed to all pleasure craft!*]
- (29) Ships or larger vessels operated outside normally recognized safety fairways.
- (30) Report anything not mentioned already that you find suspicious. [*Your eyes and ears are valuable because they may be the only ones for miles around. If you do not report what you see, vital input may be lost. Your role as a mariner is critical to our nation at war!*]

(31) This list is not all-inclusive. Share your thoughts with GCMA.

**GCMA COMMENTS⁽¹⁾ ON
WHERE WE ARE VULNERABLE**

[Editorial note: In response to a “request for comments” in a Federal Register notice on December 30, 2002, GCMA submitted these comments to Docket #USCG-2002-14069. A summary of those comments follows.]

GCMA represents hundreds of “lower-level” mariners serving on vessels of less than 1,600 gross register tons in the Eighth Coast Guard District covering all or part of 22 states. Our mariners serve on tugboats, towboats, small passenger vessels, and offshore supply and support vessels on the western rivers, inland waters, the Gulf of Mexico as well as aboard these vessels on international voyages. A fact that the Coast Guard knows but is too arrogant to acknowledge is that lower-level mariners are a clear majority of all U.S. merchant mariners.⁽¹⁾ Consequently, we certainly deserve to have a voice in maritime security matters since our mariners will be the first on the scene of any maritime disaster. [⁽¹⁾*Refer to GCMA Report #R-353.*]

Most of our Association’s members at this time are NOT members of established maritime unions. This is particularly important as regards our homeland security because a union

- knows its members maritime background.
- listens to rather than ignores its members.
- knows which members are available for service.
- tracks each member’s state of training.
- maintains top notch training facilities that can present practical courses to train of terrorist threats.
- knows practical methods of how to protect merchant vessels.
- is familiar with ports and facilities managers.
- is attuned to both waterborne and shoreside threats.
- maintains regular contact with their members through informative periodical publications.

GCMA notes that the Coast Guard never has undertaken any regular contacts with the “lower-level” licensed and documented mariners and prefers to rely on information to “trickle down” through management. GCMA has informed the Coast Guard (G-MSO) as to how ineffective such an arrangement is.

In the past, most non-union boat companies offered their “lower-level” employees very little if any formal training and, as observed during the recent STCW

upgrading process, made such training available only when the state or federal government came forward and paid the bill. We must assume the government will be left to foot the bill for security training.

**GCMA COMMENT #1
TOWING INDUSTRY SECURITY PLAN**

The American Waterways Operators (AWO), a towing industry trade association and lobbying group based in Arlington, VA, is in favor of using their Model Vessel Security Plan as a standard for the towing industry. The version of the plan that GCMA reviewed contains the statement that, "The Coast Guard and Army Corps of Engineers recognize vessel crews as being the eyes and ears on the water. We agree with this statement and believe it is an absolutely critical fact that our port, facilities, waterways, and offshore security depend on the alertness of our nation's lower-level mariners. We believe that our mariners are concerned with the practical nuts and bolts of security rather than its theoretical aspects.

Much of the high-level planning outlined in the Federal Register notice of December 30, 2002 and outlined above flies over the heads of our mariners' a fact that planners at Coast Guard Headquarters would do well to understand. In fact, we know just how little the Coast Guard as a government agency knows about how our mariners operate simply because they never took the time over the years to find out about us and won't listen when we tell them. It has been far too easy for Coast Guard officers to learn about us second-hand from management and industry trade associations than it is to go into the field and ride the boats and find out what our mariners really say and do. For example, they should not expect a high level of alertness to security issues (or much else) from mariners who are often worked to the point of exhaustion. RADM Paul Pluta, the Assistant Commandant for Marine Safety, Security and Environmental Protection and formerly the Eighth District Commander has chosen to ignore the matter of work-hour abuse GCMA brought to his attention in the "Yellow Book" for the past four years!

We agree with the Coast Guard's suggestion that, "A company should add security awareness training to its existing situational awareness training. However, they should pause to see which companies actually offer situational awareness training or, in fact, any formal (or even informal) training to any of their lower-level mariners. In all fairness, some industry leaders do train their mariners and do it well and with

dedication. However, the number of companies that do so is minimal compared to the total number in the field.

The AWO is a trade association with about 178 listed member companies. However, recent rulemaking on towing vessel licensing refers to approximately 1,100 to 1,200 towing companies. So, it appears that AWO does NOT directly represent more than 900 small towing companies. This comment in no way is meant to take any credit away from AWO or their efforts and accomplishments. However, the Coast Guard needs to maintain lists and active contacts for the other 900+ towing companies in the war against terrorism rather than to take their marching orders from AWO because it is so cheap and convenient to do so.

The idea that the entire towing industry should come under such a ready-made plan must be very appealing to the Coast Guard in light of their limited institutional knowledge of the towing industry. Certainly the leadership of the AWO has pushed for quality programs and for raising standards in the towing industry and should be recognized and applauded for doing so. Nevertheless, their Responsible Carrier Program falls far short of a program enforced by meaningful regulations such as those in 46 CFR Subchapter T.

Unfortunately, the Coast Guard appears blind to the tremendous gap between the existing standards of "uninspected" towing vessels and the standards achieved by "inspected" small passenger vessels simply because T-Boats are adequately regulated. We are concerned because this regulatory "gap" works against every single mariner who works on uninspected towing vessels as we detail in the latest upgrade of GCMA Report #R-273, Towing Vessel Regulatory Standards. Read the report and find out what we mean! Since there are FEW regulatory standards, it is our mariners who work on these vessels that suffer from this oversight in more than 70 different ways as our report details and the Coast Guard downplays.

Since the AWO companies represent "quality" in the towing industry as audited by third-parties, what is the status of vessels operated by the OTHER 900+ companies? This is a matter that needs very close examination in light of today's emphasis on increased security. Many of our mariners work for these operators and tell us what they experience. To say that some boat owners' employment policies (e.g., their commitment to honest drug testing; performing criminal background checks; conducting ethical labor relations; encouraging true employee assistance programs, etc.) and the condition of some of their vessels are "substandard" is a grossly inadequate understatement. Nevertheless, all companies will have to fully participate in any national security planning

not just a select few. Consequently, if an AWO model security plan is adopted to cover all 5,200+ towing vessels, then what action will the Coast Guard plan to inform and bring these "other companies" into the planning process? Will these companies have to be members of AWO to utilize their proposed model plan or does AWO offer ownership (and periodic upgrading) of the plan to the Coast Guard to make it available to all towing companies assuming their proposed plan is "accepted" by the Coast Guard?

The cost for a small mom and pop boat company to hire a consultant to prepare a professional security plan "from scratch" could be so daunting that it could discourage companies from participating—even to the point of electing to go out of business. Certainly, the Coast Guard's record of enforcing any program on uninspected towing vessels and their owners has been pitiful. We can agree with AWO that a third-party audit of a company's security program should be mandatory, but wonder just how many of the "other 900+ companies" even know what a "third party audit" is or what it will cost.

**GCMA COMMENT #2
PORT SECURITY COMMITTEES**

We believe that Port Security Committees in each "Captain of the Port Zone" must encourage the active participation of lower-level mariners who actually work on vessels operating in the port since "if the Coast Guard and Army Corps of Engineers recognize vessel crews as being the "eyes and ears" on the water." Knowledgeable "lower-level" mariners can provide a different perspective on waterways and port security matters than can management. "Different" does not mean we want to substitute our views for others on a committee but rather to "add" our knowledge to what other committee members can present. GCMA encourages mariners who have something to offer the process to contact their nearest COTP using the local phone numbers included in this report.

**GCMA COMMENT #3
CONFINING MARINERS TO THEIR BOATS**

GCMA supports the efforts of our distinguished member, Father Sinclair Oubre, and the Apostleship of the Sea⁽¹⁾ in securing shore leave for foreign seamen as required by §16.15 of the ISPS Code. ^[⁽¹⁾GCMA Document #R-356.]

We equally also have concerns for our own "lower-

level" seamen in regard to exercising their freedom in port.

GCMA is not a labor union although four major maritime unions have reached out to support our efforts to speak out on matters of concern to our "lower-level" mariners. There are many important issues affecting the workplace that our mariners need to address. Without the support of the major maritime labor unions approximately 50,000 lower-level mariners would have absolutely NO voice in this industry whatsoever.

The "interest" the offshore workboat owners have in "security" issues dates back to about 1½ years before the terrorist attacks on September 11, 2001. It was NOT terrorists that motivated their interest in security but rather their perception that the offshore workboat industry faced a threat from labor unions. Much of this threat was manufactured and overblown by the industry along the Gulf Coast to allow existing practices that exploit our mariners in many ways to continue. Consequently, offshore industry boat owners conspired to deny union access to the entire waterfront from Florida to Texas to prevent the spread of ideas and legitimate contact between mariners in the workplace.

As a result of this activity, hundreds of lower-level mariners find themselves isolated on their boats as soon as they arrive in port. Many cannot leave the dock or its environs or receive visitors, often including family members. Many mariners do not have reasonable access to a working telephone to keep in touch with their families and are subjected to "captive audience" anti-union propaganda on the job. Thus, the effort to crush union activity destroyed many of the ties that build between the crew members on small and often undermanned vessels and caused unnecessary tension and dissatisfaction. The pressure to choose between joining with fellow mariners and seeking improved conditions or losing your job often became intolerable in an industry where mariners are only "employees at will". Being away from home for indeterminate periods undermines family life and plans that families make and often leaves neglected family members to fend for themselves. This disrupts family life and makes many mariners question whether continuing in the industry is really worth what they are expected to endure.

Policies enforced on the "water-side" of the security fence often discouraged crew members on one vessel from talking with crew members on other vessels tied alongside or nearby. GCMA maintains that our mariners have been ignored, neglected, and abused both by "industry" and the Coast Guard for far too long. The "prison-like" treatment of a great many of our mariners extends to many boats for their entire stay in port. Security fences, guards, and restrictions to the com-

pound may serve a business purpose in keeping crews on the boats ready to sail at a moment's notice in an industry that operates on a 24-hour clock. However, what has happened goes far beyond the legitimate needs of business unless union busting is now accepted as a legitimate function of management as appears to be the case in this industry. Since the proposed introduction of additional waterside security further aggravates the situation, regulations that further restrict human contacts simply are not acceptable as is recognized in §B16.14 of the ISPS Code.

**GCMA COMMENT #4
VESSEL SECURITY RECORD KEEPING**

The new regulations that we will see this summer should make us maintain reasonable security records. The fact that the Coast Guard does not prescribe minimum logbook standards for vessels in domestic service has resulted in the profusion of meaningless, poorly kept records of little value in accident and injury investigation. In the event of a security incident, there needs to be a paper trail to follow. We do not believe in the pin the tail on the Captain concept and expect our mariners to keep accurate written records even if those records are only a signed and properly executed check list.

**GCMA COMMENT #5
COMPANY SAFETY OFFICER
AND SECURITY TRAINING**

GCMA recommended that the Coast Guard require every Company Training Officer to attend USCG approved or accepted formal training. It makes no sense that executives without the requisite knowledge of security should be put in charge of a security program at a company level unless and until they know what the hell they are doing and arrogantly waste our mariners' time and endanger their lives by providing improper leadership based on abundant arrogance fueled by a dismal lack of knowledge.

**GCMA COMMENT #6
CERTIFICATION FOR VESSELS**

This statement appeared in the Coast Guard's security proposal: "Compliance with regulations for domestic vessels will be verified during issuance and renewal of Certification of Inspection." It appears

that the Coast Guard is so ill-informed that they have overlooked the fact that 5,200+ uninspected towing vessels are never issued Certificates of Inspection. It is time for the Coast Guard to press for regulation of towing vessels for security reasons added to the 70 other reasons GCMA provides in Report #R-276.

**GCMA COMMENT #7
PERMANENT HULL MARKING**

The towing industry already has abandoned entirely too much of its dilapidated equipment in public waterways and stuck the taxpayer (i.e., you) to foot their bill. This is an eyesore and a proven threat to the environment where waste oil and polluting chemicals are dumped to avoid the expense of processing them properly. Every barge and other vessel taken out of service must be accounted for.

**GCMA COMMENT #8
MARINER IDENTIFICATION**

GCMA urged the Coast Guard to provide merchant mariner documents (MMD) or equivalent identification to every mariner that works upon a commercial vessel in the United States regardless of any international requirements that may or may not be required. We emphasize that we believe this is critical for national security.

At present, MMDs are not required to work aboard any vessel of less than 100 gross tons in coastwise or ocean service. Hundreds of vessels were designed to admeasure at less than 100 gross tons specifically to allow them to operate with small crews with minimal training as reported to our mariners. In addition, NO MMDs are required to work on vessels operating on inland waters including in our vital harbors and rivers. Consequently, thousands of deckhands, unlicensed engineers, cooks, and service personnel have unlimited access to commercial vessels. Considering the high turnover rate of undocumented maritime personnel and their unknown background, as a nation we are inviting a disaster unless we establish some meaningful guidelines. The need of some vessel operators to place live bodies rather than trained and qualified personnel to man their vessels has contributed to instability of the workforce.

GCMA protested to the Coast Guard to no avail about the absence of work-hour standards for undocu-

mented mariners in Docket #USCG-2002-12579. The unconscionable mistreatment of many mariners has led to rapid turnover in the industry. This must come to a halt, and the workforce needs to be stabilized. GCMA has had no success in our dealings with the Coast Guard and will approach Congress directly on this matter.

The AWO Model Vessel Security Plan states: "A company should positively identify its personnel, vendors, and visitors. It should be left to the company's discretion to decide what is acceptable positive identification". GCMA disagrees and believes that **the Coast Guard and not the "company" MUST be responsible for issuing security documents.**

Any company is in business to make money. Performing adequate and complete background checks can be very expensive. The expense rises considerably the more complete and thorough that check is. If left up to individual companies, the weakest and most sub-standard companies will also be those that provide the weakest security.

While company identification may be acceptable for vendors performing certain shoreside-type duties, it should not be acceptable for mariners working on a vessel as it moves through our waterways and poses a threat to our nation's infrastructure and maritime traffic. A small Zodiac type inflatable loaded with explosives blew a hole in the USS COLE and the French tanker LIMBURG. Explosives can easily be concealed in or attached to both commercial and recreational vessels. Although not mentioned in its planning document, we trust the Coast Guard will consider recreational vessels in its planning for homeland security.

GCMA believes the Coast Guard must maintain a master list of all mariners and employers and must require necessary background and security checks for both groups. Instead of "partnering", the Coast Guard finally needs to acknowledge that some employers follow questionable employment practices, and that some are notoriously unethical. Although the Coast Guard has had the authority to perform background checks, they have done so only on a very limited number of mariners in the past—the number driven by the cost of these checks.

The Coast Guard needs to require mariners to provide "change of address" notification for use in case of a national emergency. The current "hot list" system of locating missing mariners is antiquated and inefficient and, frankly, a sad joke. The Coast Guard has no idea of how many active mariners there are to say nothing of who they are or where they live.⁽¹⁾

[⁽¹⁾Refer to GCMA Report #R-353.]

Employers should work with public authorities to recover and return documents of deceased and disabled mariners to the issuing agency in light of increased security requirements.

The Coast Guard seems to be much more willing to "go after" mariners for regulatory infractions than they are to go after companies that participate in the same infraction—probably because it is easier and takes fewer Coast Guard resources. We have watched this practice for years and cringe at what we see as a consistent anti-mariner bias. However, this practice only seems to apply to those mariners that possess MMDs and licenses—a very large loophole. Undocumented crew members, such as deckhands, unlicensed engineers, and cooks literally have nothing to lose. However, the playing field is leveled for all mariners when everyone must have documentation subject to suspension and revocation. The Coast Guard also should consider whether there is any continuing for issuing documentation to mariners whose licenses or documents are renewed for "continuity" purposes.

There must also be an appeal process for mariners that, for one reason or another, do not have impeccable records. Guidelines should be drafted and Administrative Law Judges should handle appeals on a case-by-case basis and in an expeditious manner.

**GCMA COMMENT #9
MARINER FATIGUE**

We are concerned about the fatigue implications of adding any collateral security duties to licensed "lower-level" officers serving on ANY vessel that operates under the two-watch system. We presented ample evidence to both the Coast Guard and to the National Transportation Safety Board of serious abuses of the existing two-watch system. The Coast Guard ignored our concerns. GCMA has alerted the Coast Guard that heaping any additional duties on these mariners may well be the straw that breaks the camel's back.

**GCMA COMMENT #10
SECURITY FOR
SMALL PASSENGER VESSELS
ON DOMESTIC ROUTES**

We question the Coast Guard's rationale of NOT including small passenger vessels on domestic voyages

from the security measures applied to a long list of other vessels. We note that some T-boats carry up to 149 people and present good targets of opportunity for terrorists. Since many rulemaking projects state that the U.S. Department of Transportation estimates the value of each life saved \$2,700,000, then the loss of life for one small passenger vessel carrying 149 persons could reach \$402,300,000. Including security coverage for T-boats on domestic voyages should be cost effective by any yardstick!

SEARCHES, SEIZURES, AND ARRESTS

You are underway and standing watch in the pilothouse when the door suddenly bursts open and you are facing an armed Coastguardsman. You are taken by surprise and embarrassed because you never spotted his small boat slip alongside and you are angry but not half as angry as when he orders you to throttle back. You tell him you have an important schedule to keep and become angrier when he obviously couldn't care less and never even consults with you while another member of his group (that you didn't see either) orders your crew on deck while they prepare to search the boat. You ask what they are looking for and receive no reply. As the vessel's licensed Master and in charge of the watch you are powerless to do anything at the moment even to call the office. When you ask to do so, you are ordered out on deck with the rest of the crew and find yourself held at gunpoint. You are angry, insulted, intimidated and well outgunned. These people mean business. Then you hear a barking and you don't carry a dog on board.

The Coastguardsmen are members of a boarding party. Don't take it personally, but ALL boarding parties are armed because they know the thought has entered your mind about what you would like to do with your shotgun that fortunately (and according to company rules) you left at home.

The boarding party has no idea what it will discover on your boat or on the fancy yacht that has just overtaken you. Boardings are not just a reaction to the terrorist threats we now face but also deal with enforcement of safety regulations, drug regulations, and just about any other law the Coast Guard enforces.

Don't think for a moment that the boarding party can't or won't examine anything on your boat that they please. There are no restrictions as you can see by reading the statute (14 USC §89). If you or a crew member give them any cause, they will look longer

and harder. If they find drugs, every licensed or documented mariner on the boat may face a date before an Administrative Law Judge. Better hope the dog was barking because he just ate the tasty hamburger the deckhand was fixing for your lunch and hope the pooch is housebroken.

14 U.S.C., SECTION 89

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

- (A) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and
- (B) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

**24-HOUR EIGHTH DISTRICT
TELEPHONE NUMBERS**

MSO Corpus Christi	361-888-3162 24-Hours	MSD Cincinnati, OH	513-921-9033 Business Hours 1-800-253-7465 After-Hours (Group Ohio Valley)
MSSO Port Lavaca, TX	361-552-7422 Business Hours 361-888-3162 After-hours/ Weekends Duty Officer	MSO Memphis, TN	901-544-3941 Business Hours 901-544-3912 After-Hours/ Weekends (Group Lower Mississippi River)
MSSO Brownsville, TX	210-546-2786 Business Hours 956-546-2786 After-Hours/ Weekends Duty Officer	MSD Greenville, MS	662-332-0964 Business Hours (901) 544-3912 After-Hours/ Weekends (Group Lower Mississippi River)
MSO Houston, TX	713-671-5100 24-Hours	MSO Paducah, KY	270-442-1621 24-Hours
VTS Houston, TX	713-674-8488 24-Hours	MSD Nashville, TN	615-736-5421 24-Hours
MSU Galveston, TX	409-766-3686/87 Business Hours 409-682-1264 After-Hours/ Weekends Duty Officer	MSO Pittsburgh, PA	412-633-5808 Business Hours 1-800-253-7465 After Hours (Group Ohio Valley)
MSO Port Arthur, TX	409-723-6501 24-Hours	MSO St. Louis, MO	314-539-3091 24-Hours
MSU Lake Charles, LA	337-433-3765 Business Hours 409-723-6501 After-Hours/ Weekends	MSD St. Paul, MN	651-290-3991 Business Hours 319-524-7511 After-Hours/ Weekends (Group Upper Mississippi River)
MSU Houma, LA	985-857-8507/851-1692 Business Hours 985-380-5320/21/22 After-Hours/ Weekends	MSD Quad Cities, IL	309-782-0627/28 Business Hours 319-524-7511 After-Hours/ Weekends (Group Upper Mississippi River)
MSO Morgan City, LA	985-380-5320/21/22 24-Hours	MSD Peoria, IL	309-694-7779 Business Hours 319-524-7511 After-Hours/ Weekends (Group Upper Mississippi River)
MSO New Orleans, LA	504-589-6261 24-Hours		
MSU Baton Rouge, LA	225-298-5400 Business Hours 504-589-6261 After-Hours/ Weekends		
MSO Mobile, AL	334-441-5121 24-Hour Main Line 334-441-5196 (Secondary line for business hours only)		
DDO Panama City, FL	850-233-0366 Business Hours 334-441-5121 After-Hours/ Weekends		
MSO Huntington, WV	304-529-5524 Business Hours 1-800-253-7465 After-Hours (Group Ohio Valley)		
MSO Louisville, KY	502-582-5194 24-Hours		