



Gulf Coast Mariners Association

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AVAILABILITY OF THE DRAFT TOWING VESSEL INSPECTION REGULATIONS

GCMA received an e-mail from AWO Vice President Ms. Jennifer Carpenter, leader of the TSAC Working Group on Towing Vessel Inspection stating that the working group met in Arlington, VA, on March 27-28 to review sections of the draft inspection regulations developed by the Coast Guard to date. Although GCMA is represented on the Working Group, we could not attend because we did not have adequate travel funds.

GCMA was concerned and upset that draft inspection regulations would be provided to this TSAC Working Group comprised of mostly AWO members with their own agenda and Coast Guard employees and not provided to others (like GCMA and non-AWO members) with an equally valid interest in the regulations. We also believed that the public would be given the opportunity to view the regulations only after they were first published in the Federal Register as a Notice of Proposed Rulemaking (NPRM) and that anything prior to publication such as viewing and commenting upon draft regulations would be prohibited as ex-parte communications. Either, we were wrong or are now well documented and complicit conspirators as this question was never answered in our correspondence with Admiral Bone's office!

GCMA has long been concerned that hundreds of non-AWO towing companies (estimated between 900 and 1,100 in number) who employ thousands of lower-level mariners ought to have a voice in what is taking place because the resulting regulations that will appear eventually in the NPRM will impact their small businesses. Their failure to bring this large group of small companies into these discussions and to largely ignore the positions of mariners who work on the industry's towing vessels leads to a conclusion that the Coast Guard's regulatory system is subservient to the interests of the large towing companies and their lobbying efforts in the nation's capital. If these abuses continue, this Association will not be able in good conscience to recommend that mariners or potential mariners seek employment in the towing industry.

On April 14, 2007 we received a copy of the draft 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 the following comments on these Draft Proposed Regulations in order to provide the Coast Guard with constructive mariner input on these proposals. We welcome reader comment. Copies of this report will be submitted to Congress, the Coast Guard, the Towing Safety Advisory Committee, and made available to our mariners and the general public on our internet website.

GCMA COMMENTS ON DRAFT OF 46 CFR SUBCHAPTER M

Draft 46 CFR Part 136 – Certification:

136.106 (p.6) An owner or operator subject to plan review and inspection may enroll in an approved or accepted safety management system. Throughout, the path such an owner or operator must follow is less clear than a person who chooses not to do so.

136.107(a). (p 6) The OCMI may impose further limitations on a Certificate of Inspection (COI). This assumes that the OCMI is familiar with the waters outside his inspection zone. Some OCMI's never even gain experience on the waters of their own inspection zone, so how can they reasonably comment on other zones in some cases hundreds of miles away.

136.107(b). (p.7) The order of severity should read: Oceans, Coastwise, Limited Coastwise, Great Lakes, Rivers, Lakes-Bays & Sounds. The additional service time required for rivers towing service licensing bears this out.

136.107(c)(2). (p.7) When designating a permitted route, the OCMI may consider stability. Many existing towing vessels have obvious stability problems and the Coast Guard has never yet checked stability on most vessels. In light of the fact that the Coast Guard has not seen fit to make a safety determination in capsizing cases involving uninspected vessels as contemplated by NVIC 10-65, for the protection of our mariners, GCMA believes that a stability test should be mandatory for every existing towing vessel in light of the large number of sinkings, floodings, and capsizings of these vessels recorded in the past. Also see comment on 143.120(a)(1); 145.215(a); and 145.320 below.

136.108(b). (p.8) **Good.** Formal request required for an amended COI.

136.109. (p.8,9). **Good.** Wording of requirements for Permit to Proceed.

136.110. (p.10,11) **Good.** Requirement of this permit to carry excursion party is clearly necessary where towing vessels carry passengers (or persons in addition to the crew) on well publicized events like towing vessel races. This relaxation should be the first step to allowing persons with towing licenses to be allowed to use those licenses to operate small passenger vessels as soon as towing vessels are inspected under much the same regulatory scheme as small passenger vessels. Our mariners deserve increased employment flexibility in the future and this should break down unnecessary compartmentalization of licenses for lower level mariners. We note that many but not all towing officers have 100-ton licenses that allow them to operate small passenger vessels.

136.210. (p. 12) & 138.200 (p. 3) Since you have had little if any input from outside AWO, you need to take into consideration that as many as 900 to 1,100 small towing companies, marine contractors, and mom-and-pop operators do not belong to AWO, have no knowledge of a Safety Management System, have no intention of hiring consultants and setting up a paper system they consider superfluous to their needs and, in many cases, one that they would neither use nor understand if they had it. Consequently, you need to provide for a straight Coast Guard inspection with clearly achievable regulations.

Draft 46 CFR Part 137 – Verification of Compliance

137.205(b). (p.2) Which towing vessels have cargo tanks?

137.210(b). (p.3). **Good.** Statement that repairs and alterations made without the knowledge of the OCMI may invalidate the COI. This statement is necessary. Some people just won't get the message. Further suggest the increased use of digital photography during inspection to enforce this provision.

137.210(d). (p.3); 137.345; and 145.100(b). (p. 18) to be developed. Some smaller and older towing vessels, likely those without load line certificates, may not have plans available. This will be a problem throughout the industry as many of these vessels were built on the bank without the services of a naval architect.

137.220. (p.4). also Table 138.xxx (p.7), Item 7B. This section dealing with Inspection of vessels that are not following a program of maintenance management to be developed is very important in light of the fact that absolutely no training is currently required by the Coast Guard and many towing vessel operators for qualifying their engineer personnel. Refer to NTSB/MAR-04/01 conclusion #11 (p.42) in the sinking of the M/V PANTHER on Dec. 30, 2002: "(If) had a **comprehensive maintenance and repair program** in place that included, but was not limited to, drydocking the vessel after a grounding, and had the company followed such a program, the vessel would have been drydocked, the fracture in the bottom would have been discovered and repaired, and the accident would have been avoided." [Refer to GCMA file #M-519]

137.320(b)(1) (p.6) "Inspection of all watertight bulkheads." Some towing vessels are death traps built without any watertight bulkheads. Some watertight bulkheads are badly compromised by rust-through, by holes burned through them, by non-watertight cable and piping runs etc. We believe that many of the numerous sinkings, floodings, and capsizings resulted in part by these conditions. We want to see that our mariners are adequately protected and that these conditions are corrected or these vessels removed from service at the time of their initial inspection for certification. We do not see that these regulations require this.

137.320(d)(5). (p.9) **Good.** Inspect inflatable liferaft, inflatable buoyant apparatus, and inflatable lifejacket to determine that it has been serviced in accordance with regulations. Finally!

137.320(d)(11). (p.10) **Good.** First mention of a "Man Overboard Drill" recognizes that most deaths in the towing industry are a result of persons falling overboard, not as a result of "fire". Currently, only "fire drills" are required.

137.320(g)(11). (p.14) **Good.** Orbitrol systems must be tested and operable by one person with hydraulic pumps secured.

137.320(h). (p. 15). What type of "evidence" must the owner or operator provide of the routine inspection of towing gear? Logbook entries would be reasonable, but should be specified.

137.320(i). (p.15). I do not see where "regulations" call for carrying ground tackle. It seems obvious that regulations should call for it as well as the necessary equipment to recover it when it is used. Expecting a deck crew to handle a 500 lb. anchor without appropriate gear is not realistic. This issue needs to be explored.

137.320(j). (p.16). For the health and welfare of our mariners, a sanitary inspection should be required at every vessel inspection. It should follow a complete and thorough checklist. Get rid of omayö and make this inspection mandatory. This inspection should include a thorough inspection of the vessel's potable water system as per new regulations that Congress has called upon the Coast Guard to adopt in 2004. GCMA is waiting to see some positive action taken on preparing these regulations by G-MSE.

137.320(k)(1)(2). (p.16). **Good.** Inspection of unsafe practices and clean bilges.

137.335. (p.17). **Omission.** GCMA seeks a positive statement in the regulations supporting NVIC 7-68 that would prohibit the use of doubler plates on the hull of towing vessels. This is the practice on all other classes of inspected vessels.

137.335(b). (p.18). Fuel tanks need to be checked for the presence of biological agents that could clog filters and lead to engine failure in rough weather or under tow. If found, then the Coast Guard should retain the authority to require tanks to be cleaned or require the addition of biocidal agents.

Draft 46 CFR Part 138 – Towing Safety Management System (TSMS)

138.120 (p.3). Applicability (to be developed). See our comment on 136.210 above.

138.210(b). (p.3) **Good.** Establish and implement inspection, maintenance, and repair policies.

Table 138.xxx (p.6).

- Item 3-B. We would like to see the Coast Guard put the authority of crewmembers not to perform a task in the event of an unsafe situation in regulatory terms or at least provide guidelines and examples in NVIC form.
- Item 4-H. New Hire Orientation & Familiarization. We believe that full safety training should be required before any person works enters or performs duties in the engine room. Refer to GCMA Report #R-428 on the internet and MERPAC Task statement #55.
- Item 4-J. GCMA encourages CEMS training and voluntary CEMS participation. We do not encourage mandatory CEMS participation as a remedy for chronic vessel undermanning on towing vessels. We note that this rulemaking avoids omanningö issues. We see this as a mistake!
- Item 6. We are particularly concerned with the failure of companies to report the personal injuries of crewmembers. We recently submitted the following legislative request to Congress in GCMA Report #R-332, Rev. 3 as Item 3ö:
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.
GCMA Report #R-429-I, Investigations: Enforcement Of Existing Personal Injury Reporting Requirements recently submitted to the DHS Inspector General's Office outlines our concerns on this issue and heightens our concern in drafting appropriate rulemaking on this issue. The TSMS should reflect any such rulemaking.
- Item 10D. A licensed officer should have the authority to push fewer barges (or tow less than) the tow sizes suggested in company procedures for making horsepower-to-tow-size decisions if he/she has valid safety concerns and enters those concerns in the logbook or other towing vessel record.
- Item 10G. Voyage of Trip Planning. I understood that as a result of the Coast Guard's M/V Brownwater V accident report following the Queen Isabella Causeway Bridge accident on September 15, 2001, that this matter would be reconsidered for rulemaking. If so, the TSMS should follow the regulations when drafted. [GCMA File #M-239]
- Item 10J. Suggest adding toolsö to critical stores and supplies. Appropriate tools are required on board to effect any contemplated maintenance or repairs on board personnel are expected to make.
- Item #11.B. III. OSHA regulations prescribe the gear required for fall arrest. The TSMS should cite these and all other appropriate OSHA regulations. The Coast Guard, in writing prescriptive regulations and approving TSMS, should do a much better job of keeping in mind the Congressional Statement of Findings and declaration of purpose and policy contained in Section 651 of the Occupational Safety and Health Act of 1970. We can think of three additional areas that need immediate improvement as per:

- GCMA Report #R-349, Protecting MarinersøHearing.
- GCMA Report #R-395, Rev.2. Safe Potable Water and Food Service for Commercial Vessels of Less than 1600 Gross Register Tons: An Appeal To Congress (Mentioned in Item 11N. We suggest reviving and updating the qualifications, medical testing for communicable diseases, and requiring formal food sanitation training for øFood Handlerø for cooks, deckhands, or officers who prepare food for other crewmembers)
- NVIC 6-87, Recommended Procedure for Control of Asbestos and Other Respiratory Hazards on Board Merchant Vessels, OCS Facilities, and Deepwater Ports. If OSHA can protect workers in other industries against asbestos by Federal regulations at 29 CFR 1915.1001, and if the Coast Guard can protect its own personnel by COMDTINST M6260.16A, then the least it can do is to protect our mariners with comparable regulations and vigorously enforce them on all inspected vessels including towing vessels. [*File GCM-102*]

Draft 46 CFR Part 139 – Third Party Organizations

139.105(a). (p.1) (p.5) **Good.**

139.125(b)(1). øSurveyor. Four years of experience working on towing vessels as master, mateí ø [Add Pilot]. GCMA believes that the position of øengineerø must be formally established and upgraded with formal qualifications. Existing øengineersø have undefined skills and may never have received any formal safety or vocational training. This is because the Congress and the Coast Guard failed to recognize the position of øengineerø on towing vessels (and other small commercial vessels) since 1972.⁽¹⁾ We believe that a vigorous training program must be adopted and put in place for at least four years such as contemplated by GCMA Report #R-428, Rev. 1, Report to Congress: The Forgotten Mariners. Maritime Education & Training for Entry-Level Deck & Engine Personnel (including existing MERPAC Task Statement #55) before øengineersø could be considered as surveyors. [⁽¹⁾Refer to GCMA Report #R-401, Rev. 1., Crew Endurance and the Towing Vessel Engineer – A Direct Appeal to Congress.]

Omission. Although the Coast Guard appears to have made a laudable effort to eliminate conflicts of interest and provide for well qualified third-party organizations, the regulations need to recognize a direct role on the part of the mariners who work on vessels and who observe bribery, conflict of interest, turning a blind eye to safety requirements to report directly to the Coast Guard as øwhistleblowersø and have the situation vigorously investigated. GCMA has sought increased Whistleblower protection from Congress in GCMA Report #R332, Rev. 3, Legislative Priorities as follows:

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.

Discussion: 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. We cite GCMA Report #R-333, Rev.3, Donø Count On Corporate Compassion or Coast Guard Concern ø True Stories of Our Lost, Injured, and Cheated Mariners as examples that merit attention.

Draft 46 CFR Part 140 – Operations.

140.100(b). (p.2) øVessels shall be manned in accordance with the Certificate of Inspection. Manning requirements are contained in Part 15 of this chapter.ø

We are profoundly disappointed that the regulatory project to inspect towing vessels **did not** explore the inequities contained in 46 CFR Part 15. GCMA might as well have been talking to the wall for the past seven years in dealing with øhours of service regulations.ø It is clear that some regulations in 46 CFR Part 15 already are 50 years out of date. Towing vessels no longer have firemen, coal passers and watertenders. In fact, they have no qualified personnel in their engine rooms. These regulations need immediate attention if this industry hopes to retain its employees. The Coast Guard’s inattention to these regulations for so many years, inter alia, moved our Association in February 2007 to request that Congress remove the superintendence of merchant marine personnel from the Coast Guard and return it to the U.S. Department of Transportation.

140.305(a)(b). (p.3) **Good.** Personnel Logs. Clarify the relationship between øPersonnel Logsø and øTowing Vessel Recordø that is mentioned a number of times in this report. (Examples: See 142.430(a)(1); 143.160(b)(1); 143.140(b)(1)).

GCMA has a major concern about logbooks on towing vessels as evidenced in GCMA Report #R-332, Rev. 3 Legislative Priorities recently submitted to Congress in part as follows:

ITEM #2. Amend 46 U.S. Code §11301(a) by adding a new subsection (3) to include every inspected U.S.-flag commercial vessel not on an international voyage.

Amend §11301(b) to include additional entries to apply to new subsection §11301(a)(3):

- (13)the time when each seaman and officer assumed or relieved the watch.

- (14)the number of hours in service to the vessel of each seaman and officer.
- (15)an account of each accident, illness, or injury that occurred during the watch.
- (16)all entries required by specific Federal regulations.
- (17)additional entries that may be required by the vessel operating company.
- (18)all engineroom watch entries where no engineer maintains and signs a separate engineroom logbook.

Amend 46 U.S. Code §11302 by placing sections (1) through (5) in a new subsection (a) and add the following as a new subsection (b):

(b)On a vessel where section 11301(a)(3) applies, each entry made in the Official Logbook ó

(1)shall be made by the watch officer (or his designee) who shall affix his signature immediately after being relieved;

(2)shall show the sequence of events, and time of each event;

(3)shall be signed by the watch officer;

(4)shall be signed by the Master of the vessel at the end of each 24-hour period and by witnesses in cases of accident or injury.

Amend 46 U.S. Code §11303(a) from \$200 to \$5,000.

Amend 46 U.S. Code §11303(b) from \$200 to \$500.

Amend 46 U.S. Code §11303(c) by adding a new subsection (3) citing 18 U.S. Code §1001 relative to false statements.

Discussion: In 2002, GCMA filed a petition for rulemaking with the Coast Guard at Docket #USCG-2002-12581 with our supporting papers where it may still be viewed. The Coast Guard finally claimed to lack the authority to accede to our request. Our request also is presented in detail in GCMA Report #R-429-G, Rev. 2, Feb. 24, 2007. (Series). Report To Congress: Sharpening Accident Investigation Tools By Establishing Logbook Standards for Lower-Level Mariners. [Note: This report replaces GCMA Report #R-291, Rev. 1, that appeared in Docket USCG-2002-12581.]

140.310(a). (p.4) This regulation uses the term **“Muster List”** that in regulations for other classes of vessels appears to take the place of the term **“Station Bill”**. However, **“Station Bill”** is used in 140.320. Clarify this difference in terminology.

140.325(a)(c). (p.5) **Good.** Safety orientation specifies when training is required and what the training must cover. GCMA recently brought to the attention of Captain Fink (NMC) and Mr. Dolloff (G-PSO) deficiencies in existing orientation, training, and drills on many towing vessels. This training is supposed to be documented in the **“Towing Vessel Record”** ó a mysterious document not further described in the draft regulations.

140.325(b) (p.5) **“Sister vessel”** is terminology that was not defined in these regulations.

140.330. (p.6) **Good.** Orientation of **“persons in addition to the crew”** is especially important if towing vessels are allowed to carry Excursion Parties or even **“Industrial Persons”** ó a term used on OSVs and also applicable to contractor personnel moved in the course of vessels working on marine construction projects. Perhaps **“Industrial Person”** needs to be defined as well.

140.335(f)(1). (p.7) Participation by all crewmembers implies that participation by off-duty personnel is required. This could seriously disrupt the sleep of persons serving on a very lightly manned vessel operating under a two-watch system and needs to be considered in a TSMS as well as in prescriptive regulations.

140.345(a)(5). (p.8) Use of retrieval equipment. Define or provide examples such as the Personal Retriever TM

140.405(a). (p.9) **Stability.** In a letter dated April 2, 2007 RADM Bone mentioned that the National Maritime Center is regenerating deck license exam modules and that a total of 5 stability questions will appear on modules for all routes. I am happy to see concern for towing vessel stability as an exam subject.

License exam stability questions require considerable training. I hope that schools (especially those with apprentice mate/steersman courses) and mariners taking Coast Guard license exams at the REC are all given adequate notification of this change.

140.405(c). (p.9) **“The vessel may not depart until it is in compliance with these requirements”** ó referring to stability requirements on the COI, in the stability letter, stability book or load line certificate. At present, most towing vessel officers have had no training that deals with any of these items. They will have to receive such training before this can be effective. The regulations should provide for this type of practical, non-mathematical stability training.

140.410(a). (p.10) Also see 140.435 (below). The reference to 33 CFR §164.80 deals with applicability. To trace its reference, you must go to **33 CFR 164.01(b)** to ascertain that vessels not subject to 33 CFR §164.72 through §164.82 are those towing vessels between 8 and 12 meters. Frankly, it is time to remove all the regulations in 33 CFR §164.70 through §164.82 that refer to towing vessels and put them in **46 CFR Part 140**. Keep the towing vessel regulations all in one subchapter wherever possible. This should be possible.

140.410(b). (p.10) Also see 143.140(a)(1). The statement "except that such examination and testing need not be conducted more than once in any 24-hour period" would clarify the existing regulation that has been variously interpreted to mean that the checks in 33 CFR Part 164 may be performed at any interval between once each watch to once each voyage. Voyages can last thousands of miles whereas most watches on towing vessels are for six hours. Once a day is a reasonable compromise.

140.415(c). (p.10) "Navigational-safety equipment that fails during a voyage shall be repaired at the earliest practicable time. However, the **owner, master, or operator** shall consider the state of the equipment along with such factors as visibility, traffic, and the dictates of good seamanship in deciding whether it is safe for the vessel to proceed."

Of the three people, only the **master** can be assumed to be on board the vessel and in command. GCMA insists that the **master** have veto power over moving his vessel if he considers it unsafe to do so. Suggest that the resulting decision be logged as per subsection (d) with any dissent cited.

140.420(b). (p.11) Add "and maneuvering in strong current" following "in calm weather" to reflect the lessons cited in AWO's excellent video on "Downstreaming" that should be a required part of a company training program.

140.420(b). (p.11) Vocabulary. What "Loading Doors" are found on towing vessels?

140.425(a). (p.11) This applies to vessels between 8 and 12 meters (26 to 40 feet). Since, as previously reported in TSAC, a 25' towboat can push a 195 foot barge up the Chesapeake Bay, then every towing vessel should carry suitable charts and nautical publications. This will probably be superseded when electronic charting regulations are drafted within the next several years.

140.430. (p.12) Remove the requirements for marine radar from **33 CFR §164.78** and move into **46 CFR Part 140**.

140.435(a). (p.12) This regulation should apply to **all** inspected towing vessels.

140.440(a)(1). (pgs.13,14) This exception is confusing. Use plain English.

140.440(e). (p.15). **Good.** Logging voyage planning assessment updates en route.

Subpart F (p.16) appears to exempt certain towing vessels between 26 and 40 feet from provisions of 140.600 (a) which relates to maintaining appropriate towing gear in good condition. There appears to be no good reason for such an exemption.

140.700. (p.16) "reporting marine casualties, " "Our mariners are concerned about the proper and timely reporting of "personal injuries" that are included in reporting done on form CG-2692. Unfortunately, we are aware of great discrepancies in this regard that we cover in GCMA Report # R-429-I, Investigations: Enforcement of Existing Personal Injury Reporting Requirements. (*Replaces #R-292, Rev. 1*). We want to see the Coast Guard place much greater emphasis on "personal injuries" than they have done in the past.

140.720(b). (p.18). Refer to our comments on "logbooks" in 140.305 above.

140.720(b). Logbooks. "available for review for one year upon request" "We suggest two years, with no more than six months for the records to remain on the towing vessel itself and the remainder of the time in safe storage and available at company offices ashore.

Draft 46 CFR Part 141 – Lifesaving

141.100(a) and (b). In light of uninspected status of the entire industry and the fact that the requirement for survival craft on towing vessels were completely absent for the past 35 years, the safety of our mariners should dictate substantial compliance within only one year of the effective date of the regulations for all vessels.

141.105(b). **Good.**

141.200(a). In light of the 1985 Grounding of the U.S. Passenger Vessel **Pilgrim Belle**, Vinyard Sound, MA. (NTSB-MAR-86-08. PB86-916408.) we again urge the Coast Guard to provide out-of-water survival protection for all crewmembers, persons in addition to the crew and industrial workers carried on any towing vessel, anywhere, at any time. GCMA deplores the continued use of Buoyant Apparatus or Life Floats that require a person to enter and possibly remain in the water awaiting rescue. The unnumbered table in this section should be completely revised. We cite GCMA Report # R-354, Rev.1, A Direct Appeal to Congress on Lifesaving Issues Affecting Lower-Level Mariners, previously submitted to Congress.

141.200(c)(1). This regulation should specify annual service for each inflatable item of lifesaving equipment as is required on other classes of inspected vessels.

141.200(f). While the acceptance of the flotation requirements of recreational craft listed in 33 CFR Part 183 may be suitable for use on some towing vessels, on some routes, under certain conditions, each OCMI should be given the authority to require more substantial survival craft such as a "Rescue Boat" approved under 46 CFR 160.056 or even one meeting SOLAS Rescue Boat standards depending upon the route for which the towing vessel is certificated. Furthermore, the service in which a towing vessel is engaged may call for equipping the survival craft with an adequate outboard motor. Whether prepared by oars, paddles, or an outboard motor, each mariner requires training to be proficient in the use of such craft. The proposed regulation fails to make such a requirement thereby leaving every mariner increasingly subject to injury or death.

141.200(g). There are many shallow water areas such as tidal mud flats, mangrove swamps, and snake-infested shorelines where "survivors" could possibly wade ashore yet it would be unwise to do so. The OCMI will probably never have to do so, and our mariners should not be left in the lurch with this thoughtless regulation.

141.200(h). Mariners should have a voice in making or changing a decision by the cognizant OCMI. Most mariners do not believe that any such administrative mechanism exists under existing inspection rules for other classes of vessels and uses this opportunity to make such a change during the regulatory process.

141.225(c)(d). Life floats and buoyant apparatus are unacceptable. Period!

141.235 (unnumbered table). A life jacket should replace a work vest when a person is "dispatched from the vessel." Recreational boaters are not allowed to substitute a work vest for a lifejacket, so why can't our mariners have comparable protection. Presumably, "dispatched from the vessel," although not defined, refers to a trip of some length in a rescue boat or equivalent.

141.235. (unnumbered table). "Immersion Suit, 1 per person in Cold Water." GCMA brought the problem of coldwater protection for inland mariners and the inadequacy of NVIC 7-89 that defines "Cold Water" to the Commandant's (and TSAC's) attention as early as 1999. The following is an excerpt from GCMA Report #R-354, Rev. 2: in a section on page 15 titled Inland & River Deck Crews Need Cold Water Protection.

Vice Admiral Card, at the time the Vice Commandant of the Coast Guard, brought this matter to the attention of the Towing Safety Advisory Committee (TSAC), a federal advisory committee mandated by Congress and appointed by the Secretary of Transportation. The Assistant to the Executive Director of TSAC prepared a memorandum to all TSAC members on October 22, 1999 reprinted below:

To: Members of TSAC

1. The purpose of this memo is to provide background information to committee members on **cold water survival in inland waters**.

2. Prior to the fall meeting of the Towing Safety Advisory Committee (TSAC) meeting, Mr. Richard Block, a director on the board of the Gulf Coast Mariners Association (GCMA), forwarded to the Coast Guard a copy of an editorial (Enclosure 1) that was published in the Waterways Journal of August 30, 1999. The article is based on a letter (Enclosure 2) written by Mr. Block to VADM James Card, Vice Commandant of the Coast Guard. In this letter, Mr. Block outlines the need to pay more attention to cold water survival of inland mariners by way of a revision to Navigation and Vessel Inspection Circular (NVIC) 7-91, Determination of Cold Water Areas, (Enclosure 5), that supports the cold water regulations in 46 CFR Part 28 (Enclosure 6). Enclosed with that letter was a document titled River Temperatures Along the Mississippi River and Tributaries (Enclosure 3). VADM Card responded by letter (Enclosure 4) informing Mr. Block that he was forwarding enclosure 1 to the American Waterways Operators (AWO) for their discussion and would also see that the matter was discussed at the fall 1999 meeting of TSAC.

3. Mr. Block requested that this editorial paper be distributed at the TSAC meeting. The Executive Director complied with the request and the committee briefly discussed the subject. Most members agreed that the advisory function of TSAC was more geared to regulatory projects. They noted that the AWO had already studied this matter in a Quality Action Team (QAT) and it could be referred to their Safety Committee. TSAC decided that before any committee action was taken, the Coast Guard would circulate background information to committee members including: weather resistant working suits (Enclosure 7), the editorial provided by Mr. Block, river temperature chart, NVIC 7-89, and copies of letters between Mr. Block and the Coast Guard. The committee members are requested to review the background information and determine whether to initiate any further study and subsequent recommendations.

4. A brief look at the approved equipment files shows that some worksuits are approved as Personal Flotation Devices (PFDs) and that others are approved as providing hypothermia protection. The worksuit pictured in enclosure 7 (Model IFS-580) is indeed approved as a flotation device, but the approval document does not extend to hypothermia protection. This,

however, may be due to the original request from the manufacturer not having provided laboratory test results on hypothermia testing or not having requested Coast Guard consideration for such a rating. Alternately, this company's model 29-58 worksuit does carry anti-exposure approval as well as the type V PFD rating.

5. Other worksuits on file include: America's Cup, Inc. Model 7000 "Decksuit", which was approved for flotation only; and Mustang Eng. Technology's Model MS2175 "Anti-exposure worksuit", which was approved for both flotation and anti-exposure functions. Depending on how deep into the subject TSAC decides to go, it may want to investigate other sources of protection and encourage the manufacturer to submit their products to testing and then apply to the Coast Guard for approval.

6. Whatever the availability of such protective gear, we believe that TSAC will want to first decide if it wishes to take on the task of studying the "omission" of certain inland waters from the cold water definition. If the decision is affirmative, the next step would be to craft a recommendation to the Coast Guard that it integrate these waters into regulation and include them in a revision to NVIC 7-91. Alternately, the committee could opt for a non-regulatory approach and develop best practice recommendations that flotation/anti-exposure worksuits be worn by workers on deck when sailing in these waters during particular months.

7. This item will be included on the agenda of the next TSAC meeting under "Old Business" in order for the committee to discuss how it will proceed. s/G. P. Miantie.

[GCMA Comment: Neither the Coast Guard, nor the American Waterways Operators nor the Towing Safety Advisory Committee (TSAC) ever raised a finger to address this problem after it was presented at TSAC.]

Keeping in mind that the Coast Guard definition of "cold water" in NVIC 7-91 is 59 degrees F, the list of river water temperatures for 1998 shows:

- Jan. 1, 48 degrees, New Orleans; LA
- Jan. 15, 50 degrees, St. Francisville; LA
- Feb. 1, 45 degrees, New Orleans; LA.
- Feb. 15, 46 degrees, Baton Rouge; LA
- Mar. 1, 46 degrees, New Orleans; LA.
- Mar. 15, 46 degrees, Natchez; MS.
- Apr. 1, 52 degrees, Memphis, TN.

In mid-April temperatures rose above the 59-degree level and remained there until mid-October when they reached 56 degrees at Dubuque. November readings at St. Francisville, LA, remained above the mark, but on December 1 dropped to 56 degrees. The reading was the same at New Orleans on December 15. Readings taken in 1999, January through March 15, were all in the 40s at Natchez, New Orleans, and Baton Rouge.

GCMA pointed out to TSAC that in south Louisiana during the winter, the Coast Guard outfits its small-boat crews with effective cold weather insulated flotation gear similar to Coast Guard-approved anti-exposure coveralls.

Adm. Card's July 14 response acknowledged that this was a good point about the weather-resistant working suit and that "The use of these suits would be a prudent safety measure during cold weather and one that the Coast Guard would encourage. He said he was forwarding a copy of his letter to the American Waterways Operators for discussion by their membership. "I will also see that it is discussed at the next Towing Safety Advisory Committee meeting and the next AWO/USCG Partnership meeting," he wrote.

GCMA Comment: The time has come for the Coast Guard Research and Development Staff to address updating its NVIC 7-89 "Cold Waters Areas" to include inland waters, lakes, bays and sounds, and rivers.

141.240(c)(1) and 141.250(b)(1). To improve clarity, instead of an obscure reference to Coast Guard approval number 161.012/2/1 whose last three digits indicate a particular type of light not found in the published CFRs, the light should be described and a reason for its disapproval given.

141.250(a). "Each unit, except those operating between 32° north Latitude and 32° south latitude must carry" "Because of cold Winter and Spring water temperatures we believe that this should include river routes north of 32° North Latitude (e.g., north of Port Gibson, LA on the Lower Mississippi River) and in other river segments when they drop to temperatures of 59°F. NVIC 7-89 must be modified to include "Cold Water" rivers and other inland waters.

141.250(a)(1). **Good.** Allows use of anti-exposure suits in lieu of immersion suits on towing vessels. A mariner can work comfortably in cold temperatures and still receive limited cold water protection while wearing a rugged anti-exposure suit.

141.260. Ring buoys. This entire regulation is outdated and fails to take into consideration the fact that the Coast Guard has approved the Personal Retriever™ that is a more effective retrieval device than a Ring Buoy. This device should be provided for in the regulations as an "equivalent." Captain Larry Brudnicki, USCG (Retired) described this device at a TSAC meeting on September 29, 2004 at Coast Guard Headquarters. The meeting is described in GCMA Report #R-354, Rev. 1, A Direct Appeal to Congress on Lifesaving Issues Affecting Lower-Level Mariners.

The following statement is taken from a letter to Coast Guard regulators by BMCM Paul Driscoll (USCG, Retired) that is pertinent to this rulemaking:

“There are still too many fatalities occurring from falls overboard. I believe that falls overboard still account for around 83% of fatalities within the commercial towing industry. While drowning has been a concern for many years, it should be noted, that ring buoys have almost always been present or available, yet have made little difference in the outcome of these events. (This) was one of the primary reasons the U.S. Coast Guard ceased using ring buoys as recovery tools aboard its own vessels several decades ago. I'm hoping the official position is, it's time to look at innovations, which may not meet current requirements, so long as they can be shown to be better suited to on-scene conditions and demands a mariner is likely to face during man-overboard or any other emergency, common to this industry

(The Personal Retriever) can be stowed on the inside of a wheelhouse or main deck weather-tight door, where it remains readily available to crewmembers during an emergency while remaining safe from loss on deck during foul weather. One harbor pilot group even suggested stowing one inside their aft steering console to be readily available when a pilot falls over during a transfer.

What remains of primary concern is this historic lack of effective response for falls overboard. So to convey how our tool was designed and better address a whole array of real world needs, events faced by a responder, such as on-scene dynamics common to drownings, both ashore and afloat. The instinctive reactions and physiology of active drowning victims or distressed swimmers and the response time constraints imposed by cold shock and other environmental factors, I've attached several pdf files and a hyperlink to our website, where we try to cover those concerns at much greater length.”

141.265. **Good.** Requiring towing vessels to be able to recover an unconscious (add “helpless”) person from the water. Towing vessels should be manned with enough crewmembers to do this under all reasonable conditions.

141.270 (Unnumbered table) and 141.285. We believe that the safety of our mariners requires that a Category 1 EPIRB be installed on towing vessels on Coastwise and Limited Coastwise and Great Lakes routes more than 3 miles offshore as should line-throwing appliances especially when handling oil tows.

141.270(e). From a safety standpoint, we can see no reason to exempt any towing vessel from the minimal distress flare or smoke signal carriage requirement unless the boat could not break down and its crewmembers could be guaranteed never to find themselves in a distress situation or neither of which is likely.

Part 142 – Fire Protection and Suppression.

142.100(b)(1). (p.1). This time frame is acceptable when the record shows the vessel is in compliance with existing fire regulations. Otherwise, one year should be sufficient as in subsection (b).

142.100(e). (p.3). In the example, the risk to a vessel's crewmembers from the fire should be a primary consideration.

142.120(a)(1). (p.4) **Good.** Requiring (and enforcing) a steel storage locker for opened cans of paints or solvents is a much-needed requirement. Any “designated” storage area for unopened paints should be safe, designated in writing, and be acceptable to the OCML.

142.120(b). (p.4) **Good.** The requirement for vapor barriers in insulated spaces.

142.150. (p.7). Definitions. If an engine room is limited to the enclosed space where propulsion engine(s) are located, then the term “Machinery Space” should be added for other machinery areas where, for example, generator prime movers are located. Definitions belong near the beginning of a Part as does “Applicability”.

142.150. (p.8) Definition: Limited Geographic Area. Any COTP approvals for vessel use in such an area should be recorded on the vessel's COI and any relaxations of regulations should be spelled out on the COI for the vessel's officer and crew to understand and apply.

142.150. (p.9) Definitions. Remote area should be defined by each COTP based upon his full knowledge of the resources that can be marshaled to respond to a vessel's call for assistance throughout his entire area of responsibility. This requires a knowledge of Coast Guard resources as well as any local government or non-governmental organization's resources in his area applicable to maritime emergency situations.

142.210(e)(3). (p.13) Why should a towing vessel operating “in fair weather only” be exempted from carrying a fixed fire extinguishing system. Let's worry about protecting the crew of the vessel not second guess when or where a fire will break out.

142.210(f). (p.13) Somehow ~~wet~~ chemical fire extinguishing systems and ~~electric~~ powered galley range hoods do not seem to fit well together. Need more information.

142.230(a). (p.14). We can see no valid reason why ~~harbor assist~~ towing vessels should be exempt from this large body of regulations. Is it the political presence of their company officials that led to this exception? Their crews are just as much at risk from fire as are other mariners. The boat owners have a duty to protect their crews as well as their investment. Maybe the obligation to protect their investors by protecting their assets by insurance policies should be expanded to offer their crewmembers equal protection. The DOT believes the public is willing to spend \$2,700, 000 to save a human life. Many towing companies place considerably less value on their ~~human assets.~~⁽¹⁾ [Refer to GCMA Report #R-333, Rev., Don't Count On Corporate Compassion or Coast Guard Concern ó True Stories of Our Lost, Injured, and Cheated Mariners.

142.230(b)(5)(iii). (p.15). For a portable fire pump and its storage arrangement to be approved, there should be enough crewmembers available for two men (other than the licensed watch officer) to retrieve the pump and hoses, connect the hoses, prime the pump (if necessary), start the engine and deliver water. This should be tested under reasonable time constraints before being approved for use. Using typical ~~barge~~ pumps does not provide the pressure required. Stowing the pump and hose, including suction hose, raises problems on many towing vessels. Using an expensive ~~fire~~ pump (\$2,500) to pump bilges may turn owners away from this choice.

142.240(a). (p.16) We believe there should be a fire axe on every towing vessel, and not just for the purpose of fighting fires but also to cut loose tows that may threaten to sink the towing vessel. The word ~~part~~ should read section.

142.250(a). (p.16) SCBA and Firemen's Outfits. Should apply to towing vessels on Coastwise Routes. Example: This might have made it possible to fight the blaze on the Tug SCANDIA and prevented an oil spill that affected the entire Rhode Island Coast. The word ~~part~~ should read section.

142.300. (p.17). Smoke Alarms. The word ~~part~~ should read section. We see no valid reason why harbor assist vessels should be exempted. Their crew members need the protection of smoke alarms. How ~~cheap~~ can you get by failing to provide and maintain this protection!

142.320(a). (p.18) Fire/smoke Detection. In order to protect sleeping mariners, fire detection protection should be required on all towing vessels, especially existing vessels. Our mariners deserve at least equivalent protection that passengers in overnight accommodation spaces on small passenger vessels receive in 46 CFR 181.400 and 181.450 for smoke and fire detection in their quarters.⁽¹⁾ This needs to be done as soon as the regulations go into effect for ALL towing vessels. [⁽¹⁾Reference: 1995. Fire on Board the U.S. Fish Processing Vessel *Alaska Spirit*, Seward, Alaska, May 27, 1995. NTSB/MAR-96/01. PB96-916401. This vessel was a converted OSV, and conditions in this report parallel those found on many towing vessels and deserves full consideration in this rulemaking.]

Draft 46 CFR Part 143 – Marine Engineering

143.120(a)(1). (p.2) We point out that the term ~~Ballast Management~~ implies a practical knowledge of vessel stability.

143.130(a)(3)(iii). (p.4). Mention of ASME A13.1 (1986) is timely. We have received many questions about piping color codes. However, this standard is high priced and short on information. Comparable information of more value to towing vessel operators value could and should be made available in a NVIC.

143.130(a)(8)(ii). (p.5) Towing vessel day tank low level fuel alarm. Having such an alarm is definitely a good idea. However, since mariners cannot rely upon having a trained engineer assigned to the engine room or even a formal requirement to check the engine room every half hour, such an alarm would have to be audible and visible in the pilothouse.

143.130(a)(9). (p.5) **Good.** All engineering equipment must be clearly marked and visible. Considering the lack of formal training currently available for personnel with engine room duties throughout the industry, this basic requirement is essential for a watch officer to explain anything to a ~~green~~ crewmember sent on a ~~blind~~ mission into the engine room on an unfamiliar towing vessel.

143.140(a)(1)(2). Tests of propulsion and steering. Voyages can last thousands of miles whereas most watches on towing vessels are for six hours. Performing tests and checks once in every 24 hours unless a problem with the equipment develops is a reasonable compromise. Subsection (b), a mandatory requirement, is reasonable.

143.150(b) (p.6) To ensure public safety and protect the crew of the vessel, it should be the duty of a qualified Coast Guard inspector to oversee all annual checks of the vessel's engineering systems and equipment.

143.200. (p.7) Existing structure, arrangements, materials, and facilities previously installed will be considered satisfactory so long as they are serviceable, (**add “safe”**) and maintained in good condition to the satisfaction of the OCMI.

143.310(a)(5) (p.9) Consideration of alternative standards will be given on a case by case basis upon review of vessel size, service, route, configuration, and other factors as deemed appropriate by the Coast Guard. Wording: We believe that by the Commandant would be more appropriate.

Draft 46 CFR Part 144 – Electrical

144.15 (p.2) Definitions: Emergency Squad. Superfluous. Crews on towing vessels are so small and shorthanded that every crewmember must be fully trained to respond to emergencies.

144.15 (p.2) Definitions: Qualified person. Engineers are unlicensed and may be untrained. The employer must be responsible for ensuring that a Qualified Person is qualified, not just available. The burden must be placed on the employer to provide training and keep records in case a marine casualty or personal injury results. Most towing vessel personnel have little training in electrical subject matter and are unqualified to make repairs. We are dissatisfied with the way the Coast Guard trains its engineering personnel and tracks personal injuries and have made our complaints known to Congress in the following GCMA Reports:

- R-429-I, Investigations: Enforcement of Existing Personal Injury Reporting Requirements. (Replaces #R-292, Rev. 1)
- R-428, Rev.1, Report to Congress: The Forgotten Mariners. Maritime Education & Training for Entry-Level Deck & Engine Personnel

144.120(b). (p.7) Mariners count upon knowledgeable professionals to inspect their vessels especially for electrical installations. This is especially true on some of the shabbier, time-worn existing vessels.

144.130(e). (p.9) Many problems we hear of involve receptacle outlets. These need to be checked carefully and any clearly unsafe homemade wiring reworked and inspected where necessary. Crewmembers must not be allowed to overload these receptacles. Receptacles and plugs must be inspected to ensure that they are the proper ones to carry the voltage and are properly grounded.

144.135(a)(3). (p.9) Six months is too long an interval to test storage batteries for use on emergency lighting and power applications. Suggest three months.

144.200(a). (p.11) an existing vessel must comply with the regulations on electrical installations, equipment, and material that were applicable to the vessel prior to [the date regs take effect]. Since towing vessels were uninspected, the regulations they previously had to comply with were either minimal or non-existent. Consequently, for the safety of our mariners, all towing vessels should be expected to comply with the electrical regulations in part 144. We opine that these regulations either are or should be the equivalent of those imposed on all inspected vessels of their size. Our concern is that qualified Coast Guard inspectors inspect these vessels to insure electrical safety to protect our mariners and take responsibility and be held accountable for eliminating ALL unsafe conditions.

144.200(b), (p.11) The Coast Guard should have the authority to require the repair or replacement of any wire or cable on an existing vessel if they consider the existing installation unsafe. This should be an appealable decision. The Coast Guard has recent experience approving unacceptable cable installation on their own 110/123 foot cutters⁽¹⁾ so they should be alert to possible problems on existing commercial towing vessels. ⁽¹⁾Refer to Department of Homeland Security, Office of the Inspector General report #OIG-07-27, Feb.9, 2007.]

Draft 46 CFR Part 145 – Construction and Arrangement

145.100(b). The Coast Guard provides different requirements for vessels under 65 feet and for vessels considered to be sisters. Cite specifics where these differences are found and their applicability to towing vessels. These regulations seem to include differences and exemptions at the 40-foot (12 meter) and now at the 65-foot (20 meter) levels.

145.110(b) (p.3) This reg speaks of a Professional Engineer with marine expertise. Does that person have to cite or prove his marine expertise to the Coast Guard before his work product is acceptable? This proposed regulation leaves it unclear as to whether the Coast Guard will monitor the construction of ALL new inspected towing vessels.

145.215(a). (p.6). The owner should be required to provide proof of stability of every towing vessel. This stability should be independent of any barge that vessel is to tow.

145.225(b). (p.7) also see 145.335. Visibility from the pilothouse⁽¹⁾ **must** ensure that mechanical means used are effective in providing for safe operation in any condition. The optional mayö should be removed. Windshield wipers, (add washersö), defoggers (add defrostersö), clear-view screens (add sunshadesö) and other such meansö should all be considered as navigational equipment. [⁽¹⁾ Refer to GCMA Report #R- R-275, Rev.3, Navigation Bridge Visibility.]

145.245(a). (p.8). The Coast Guard inspector must evaluate and accept responsibility for guards and railings and determine that they do not in themselves restrict necessary access to towing equipment such as winches, drums, or towing gear. The position and placement of equipment controls for this equipment also must be evaluated based upon a clear understanding of how this equipment is expected to be used. Since the currently Coast Guard does not inspect towing vessels, and only a few Coast Guard personnel have experience working aboard towing vessels, it is expected that additional training for all such inspectors would be required.

145.250(f). (p.9) Existing arrangements may be retained if it is determined impractical or unreasonable to provide two means of escape. We are particularly concerned that this may place crewmembers on existing towing vessels at risk. For example, if exterior access from crews quarters does not exist, but that accommodation space has a removable tonnage opening, it would be neither unreasonable nor impractical to modify such an opening to provide a second means of escape. We are concerned about the practical task of protecting our mariners rather than compliance with standards that show much less concern about their safety. If no changes are possible and two means of escape cannot be provided, then we believe it must be required that the owner fully inform the affected mariner(s) in person and in writing of the dangers of occupying any such accommodation or work space on a vessel by vessel basis and furnish copies of those warnings to the cognizant OCMI.

145.255(a). (p.10) Also 145.385. Ventilation for Accommodations. The Coast Guard should be able to assure each crewmembers that he/she has been provided healthy and sanitary accommodations. Therefore, there should be no specific exemption granted from this requirement simply because a vessel is less than 65 feet in length. If small powerboats must ventilate their bilges and engine compartments with blowers and ducting, then there is no reason why this is not possible on a commercial towing vessel

145.260(a). (p.10) Every effort should be made to design and construct quarters that help provide a suitable environment for off-duty rest. The Coast Guard has done considerable work on crew endurance management. Instead of this sanctimonious statement, specific prescriptive guidelines must be offered. Any vessel that fails to meet such published guidelines would be restricted to no more than 16-hour operation on a two-watch system or be required to have a three-watch system on its COI. This would allow crewmembers a chance to gain the 7 to 8 hours of uninterrupted sleep that the CEMS program recognizes human beings need to maintain their health.

145.260(b). (p.10) Regulations for other classes of inspected vessels contain prescriptive regulations specifying the size, construction, and equipment for crew spaces and work spaces. The Canadian government provides the same for their seamen under the Canada Shipping Act's Towboat Crew Accommodation Regulations.⁽¹⁾ Crewmembers on our tugs and towboats deserve the same consideration by our government. [⁽¹⁾ Refer to GCMA Report #R-387 that lists Canadian standards.]

145.260(d). (p.11). Overnight accommodations must be provided for all crewmembers if the vessel is operated more than 12-hours in a 24 hour period. The regulation should specifically prohibit hot sheeting where, because of the shortage of bunks, bunks are used continuously.

145.310(d). (p.13) Classification by a recognized classification society is NOT required. This requirement, coupled with third-party inspections by parties other than a trained and qualified Coast Guard marine inspectors, do not provide sufficient safety for our mariners.

145.320. (pgs.13,14). Subdivision and Stability. Each vessel must meet the applicable requirements of subchapter S of this chapter. While this applies to New Vessels constructed in the future, what standards are existing vessels expected to comply with. Why is there not a subpart for existing vessels that looks at their stability?

145.340. (p.16). Windows and Portholes. The effect of visibility through color tinted glass on aids to navigation needs to be addressed.

145.345(a). (p.16). There should be some requirement for the OCMI to solicit or at least consider mariner input concerning rail height, or the omission of rails on a vessel by vessel basis in light of the number of falls overboard from towing vessels.

145.350. (p.17) Storm rails. On vessels in Ocean, Coastwise, Limited Coastwise or Great Lakes service where rough water may be encountered, storm rails should be required in the pilothouse.

145.360(a). (p.18) This requirement should exist for ALL vessels not just in Subpart C devoted to New Vessels.

145.375(g). (p.21) Means of escape. Existing arrangements may be retained if it is determined impractical or unreasonable to provide two means of escape. This appears in Subpart C devoted to New Vessels. Let the naval architect find a way to provide the second means of escape on new construction. Don't create a death trap for our mariners.

FINDINGS: THE COAST GUARD HAS NOT PAID SUFFICIENT ATTENTION TO OUR MARINERS

GCMA initiated discussions about inspecting towing vessels as early as 1999. We prepared GCMA Report #R-276 and revised it 9 times in following this project. As it progressed, we published GCMA Report #R-276-A on November 9, 2006.

General Comments: Although the Coast Guard clearly had done a great deal of work to this point, there is little evidence that they have paid significant attention to our mariners' input. We are particularly disappointed in their failure to inform us of what must have been a major early decision to shuffle tough decisions on manning and work-hours to possible later consideration under a possible revision of 46 CFR Part 15 (manning). Such a rulemaking project is the basis of many of the towing industry's problems in personnel retention. It is the subject of a number of GCMA Reports in the #R-370 series. This marks another abject failure of the Coast Guard to properly manage lower-level merchant marine personnel and leads our Association to reiterate the call first made in GCMA Report #R-428-D, Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services to strip the Coast Guard of control over merchant marine personnel.

We are also disappointed in the treatment of Lifesaving equipment. Our positions on this matter are contained in GCMA Report #R-354, Rev.1, A Direct Appeal to Congress on Lifesaving Issues Affecting Lower-Level Mariners. If the Coast Guard won't listen, perhaps Congress will.

We reiterate our concern over the domination of this process by the Towing Safety Advisory Committee. Our position on this issue is contained in GCMA Report #R-417, Rev. 1, Report to the 110th Congress: Request for Congressional Oversight on the Towing Safety Advisory Committee. If the Coast Guard cannot see and effectively deal with the problem, we believe that Congress can.

What follows is a list of "Topics" from the Table of Contents of GCMA Report #R-276. Did the Coast Guard pay attention to views collected from many mariners in GCMA Report #R-276 as reflected in the draft proposed regulations that appeared in March 2006. This is a subjective topic by topic **opinion** with which the Coast Guard is free to agree or disagree. We did not consider it worthwhile to evaluate the draft proposed regulations in light of the 123 suggestions advanced in GCMA Report #R-276-A at this stage.

(Specific Safety Issues Are Listed by Topic)

1. Comprehensive Towing Vessel Regulations. [+83]. **Satisfactory preliminary coverage.**
2. Professional Plans and Plan Review. [+3]. **Satisfactory preliminary coverage.**
4. Towing Vessel Stability and Tests. [+15] **Unsatisfactory. More work necessary.**
5. Route and Seaworthiness Concerns. **Satisfactory preliminary coverage**
6. Update Manning Regulations. [+7] **Unsatisfactory. Deferred to possible later revision of 46 CFR Part 15.**
8. Accommodation Spaces. [Also see #34]. **Unsatisfactory preliminary coverage.**
9. Sanitary Inspection. **Unsatisfactory preliminary coverage.**
10. Survival Craft. [+35, 36]. **Unsatisfactory preliminary coverage. Lifesaving continues to be a sad joke.**
11. Towing Vessels on International Voyages. **Relies on SOLAS standards.**
12. Drills. [Also see #62]. **Satisfactory preliminary coverage. Finally recognizes "man overboard" is a problem.**
13. Repairs and Alterations. **Satisfactory preliminary coverage**
14. Unsafe Movement of a Damaged Vessel. **Satisfactory preliminary coverage**
16. Dry-docking. **Satisfactory preliminary coverage**
17. Hot Work. **Satisfactory preliminary coverage**
18. Inspection vs Boarding. [+20]. **Inspections, satisfactory preliminary coverage. Boardings not mentioned.**
19. Streamlined Inspection Program. **Not mentioned.**
21. Means of Escape. **Not satisfactory.**
22. Vents and Ventilation. **Not satisfactory.**
23. Guards and Railings. **Needs work.**
25. Vital Systems Survivability. **Satisfactory preliminary coverage**
26. Watertight Integrity. **Satisfactory preliminary coverage**
27. Electrical Installations, Emergency & Portable Lighting. [+28], **Needs work.**
29. Anchors and Ground Tackle. **Not satisfactory.**
31. Public Address System. **Not addressed although covered by existing regulations.**
32. Alarms. **Needs work.**
33. Bilge Pumping Systems. **Needs work.**
34. Smoke Detectors in Accommodation Spaces. (See #8). **Satisfactory preliminary coverage**
37. Logbooks. **Needs work.**
38. Broadcast Notice to Mariners. **Not addressed.**
39. Correctly Using an Autopilot. **Not addressed.**
40. Tow Release Mechanisms. **Unsatisfactory, Not addressed.**
41. Line Throwing Equipment. **Unsatisfactory. Needs work.**
42. Safe Potable Water. (Also see #9, 52). **Not addressed. USCG must now address Congressional mandate on the issue.**
43. Storing Combustibles on Towing Vessels. **Satisfactory.**
44. Firefighting Equipment. **Satisfactory preliminary coverage**

45. Respiratory Protection Gear. **Unsatisfactory.**
46. Pyrotechnic Distress Signals. **Satisfactory preliminary coverage.**
47. Steering Systems. **Satisfactory preliminary coverage**
48. First Aid Kits. **Not addressed.**
49. Markings. **Satisfactory.**
50. Fatigue. (Also see #64, 67). **Not addressed.**
51. Cold Weather & Cold Water Protection for Deck Crews. **Unsatisfactory. Extend Cold Water Coverage in NVIC 6-89.**
52. Sanitary Food Service. Training (Also see #9, 42). **Unsatisfactory. Not addressed.**
53. Train Towing Vessel Engineers. [+54]. **Unsatisfactory. Not Addressed.**
55. Asbestos Removal. **Unsatisfactory. Not addressed.**
56. Non-Reporting of Accidents & Injuries. [+76]. **Unsatisfactory. Not addressed.**
57. Hearing Protection. **Unsatisfactory. Not addressed.**
58. Need for Consistent Enforcement of Existing Regulations. [+71]. **Unsatisfactory. Not Addressed.**
59. Provide Adequate Federal Whistleblower Protections for Mariners. **Unsatisfactory. Not Addressed.**
60. Non-Compliance with Drug Testing Standards. **Not part of this rulemaking project.**
61. Merchant Mariner Identification and Homeland Security. **Not part of this rulemaking project**
62. Retrieving a Man Overboard. [+79]. **Unsatisfactory.**
63. Provide Workable Mooring Line Standards. **Unsatisfactory. Not Addressed.**
64. Crew Changes w/o Violating 12-Hour Rules. [+67]. **Unsatisfactory. Not Addressed.**
65. Work-Hour Limitations for All Unlicensed Crewmembers. **Unsatisfactory. Not Addressed.**
68. Adopt Uniform "No Smoking" Policies. **Unsatisfactory. Not Addressed.**
69. Discrimination Against Mariners. **Unsatisfactory. Not Addressed.**
70. Pilothouse Visibility Standards. [+24]. **Satisfactory preliminary coverage.**
72. Inspect Dry Cargo Barges for Workplace Safety. **Barges are not part of this rulemaking project.**
73. Horsepower Calculations. **Unsatisfactory. Not Addressed.**
74. Eliminate the "Long Loophole." **Not part of this project. Legislative Change Proposal is before Congress.**
75. Preventive Maintenance. **Satisfactory preliminary coverage.**
77. Rescue Boat & Training (Also See #35). **Unsatisfactory.**
78. Training Crews in Firefighting. **Not discussed.**
80. Require Task Briefing Before Towing Commences. **Not discussed.**
81. Protection Against Carbon Monoxide Poisoning. **Unsatisfactory. Not discussed.**
82. Streamlined Inspection Program. **Not discussed.**

<p>COMMENTS ON SUMMARY OF WORKING GROUP COMMENTS (Letter of April 13, 2007 from Jennifer Carpenter and Jeff Parker)</p>
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1. "With the Coast Guard's permission, the working group is currently preparing more detailed "redline" recommendations that will propose specific changes to the draft regulatory text."
[GCMA Comment: Mariner recommendations and guidance are contained in this report (#R-276-B).]
2. (p.2, Item 1) "the Coast Guard's intent to allow companies to comply with the inspection regulations via enrollment in a Coast Guard-accepted Safety Management System (TSMS) with compliance verified by a Coast Guard-approved third party organization."
[GCMA Comment: We do not oppose the proposed Safety Management System as long as it is not compulsory. Sufficient prescriptive inspection regulations are required to direct the TSMS and those vessels that do not participate in the TSMS. Our previous suggestions and guidance as to such regulations our mariners believe are necessary to properly inspect towing vessels are on the record.]
3. (p.2, Item 2.) Complaints about "Legacy language" (terminology currently used in the CFR describing inspection requirements).
[GCMA Comment: The towing industry should learn the legacy language. The Coast Guard inspection program for vessels manned by lower-level mariners has been in place for 50 years. This sector of the industry and its mariners need to adapt to this terminology.]
4. (p.4, Item 4, Part 141). "Language that implies that a vessel may operate without a Towing Safety Management System should be deleted."
[GCMA Comment: The entire inspection document should be built on the principle that towing vessels will be inspected by qualified Coast Guard Marine Inspectors. Those companies that are allowed to operate under a TSMS should implement that TSMS as a part of (or in addition to) Coast Guard_vessel inspection regulations.]