

MASTER OF TOWING VESSELS ASSOCIATION

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August 12, 2008

The Honorable Members of the U.S. House of Representatives
The 110th Congress
Committee on Transportation & Infrastructure
Subcommittee on Coast Guard & Maritime Transportation
2400 Rayburn House Office Bldg.
U.S. House of Representatives
Washington, D.C. 20515

Dear Representatives,

The petition from Delta Towing, the comments supporting and expanding on it from *American Waterways Operators (AWO)*, and the U.S. Coast Guard's *Notice of Proposed Rulemaking* contained in federal docket #**USCG-2006-26202** will, if enacted into the regulations, surely result in a net decrease in both the ability and experience levels of the licensed officers operating towing vessels. This will inevitably have a negative effect on public safety, the safety of our commercial vessel crews, the pleasure boaters we interact with, our transportation infrastructure, and the environment. It will also serve to reverse the safety improvements made since the 1993 Amtrak derailment at Big Bayou Canot in Alabama focused serious public attention on the safety shortcomings of our industry. That tragic accident was caused by an inexperienced and incompetent towboat pilot who became disoriented and, eventually, lost in the fog. He kept going anyway and forty-seven people payed for his decision with their lives. The recent oil spill in New Orleans, as a result of a ship/barge collision, only reaffirms the dangers of allowing unqualified and inexperienced mariners to operate towing vessels.

Commercial towing operations are, hands down, the most diverse, complicated, difficult and demanding of all the different specialties of vessel operations within the civilian U.S. Merchant Marine. Promoting the idea that **anyone**, regardless of their prior experience or what kind of license they hold, could possibly be experienced enough and fully prepared to stand their watch **alone** (especially at night) in the standard 2-watch system after being exposed to only 30 **8-hour days** of "training and observation" is both foolish and irresponsible.

The members of our association are very grateful for the time and consideration you are giving to this important matter. If there is anything we can do to assist in your

understanding of this proposal, the regulations governing our industry, or the practical effects they may have on maritime and public safety please don't hesitate to contact us.

Sincerely,

Capt. Josiah Layfield

Capt. Jason Lorenz

Capt. Jordan May

Capt. Joel Milton

Policy Committee Members - Master of Towing Vessels Association

Master of Towing Vessels Association
Resolution No. 2008-02

A resolution to prevent the further weakening of licensing standards for deck officers serving aboard towing vessels, to close a regulatory loophole presently allowing certain licensed deck officers to potentially serve aboard towing vessels with insufficient knowledge and experience, and to otherwise improve and clarify the regulations contained in Title 46 Code of Federal Regulations - Part 10 pertaining to towing vessels.

In reference to:

U.S. Department of Homeland Security
U.S. Coast Guard
Notice of Proposed Rulemaking (NPRM)
Docket #USCG-2006-26202
Training and Service Requirements for Merchant Marine Officers
Federal Register - Vol. 72, No. 179 / September 17, 2007
and
Title 46 Code of Federal Regulations - Parts 10 and 12

WHEREAS, our Association understands that it was the intent of Congress (in the wake of Amtrak's *Sunset Limited* derailment into Big Bayou Canot, Alabama on September 23, 1993, resulting in the loss of 47 lives) to tighten safety standards for the towing industry generally and towing vessel officers specifically; and

WHEREAS, towing is a highly specialized and inherently dangerous activity and occupation requiring special skills and training within the maritime industry; and

WHEREAS, the current regulations in 46 CFR § 10.465 (enacted in 2001) allow a licensed master or mate of steam or motor vessels greater than 200 gross register tons (GRT - U.S. Domestic Tonnage) to serve in licensed positions as master or mate (pilot) of towing vessels after accruing **only** 30 days (8-hours in duration) or 20 days (12-hours in duration) of "training and observation" and completing a *Towing Officers Assessment Record (TOAR)*; and

WHEREAS, our Association understands that the Coast Guard's written examinations provide the only certifiable proof that a license candidate possesses sufficient "book knowledge" relating to their duties; and

WHEREAS, we observe that there are seldom more than a few token questions on towing subjects appearing in examinations for master or mate of steam or motor vessels greater than 200-GRT, our Association asserts that this is not conducive to producing sufficiently knowledgeable towing officers through this route of advancement; and

WHEREAS, our Association asserts that these conditions constitute a dangerous regulatory loophole that has the potential to seriously degrade maritime and public safety; and

WHEREAS, the petition from Delta Towing L.L.C. of February 11, 2005 to the U.S. Coast Guard's *Marine Safety and Security Council* proposes to extend this loophole to allow a master of steam or motor vessels of 200-GRT or less with three years of experience on the license (measured in 8-hour days) to serve as mate (pilot) of towing vessels, without any stipulation that said experience bear any relation whatsoever to commercial towing operations; and

WHEREAS, the *American Waterways Operators (AWO)*, in their letter of December 17, 2007, strongly supported the proposed changes outlined in the *NPRM* and urged that they be implemented as quickly as possible; and

WHEREAS, AWO further encouraged the Coast Guard to broaden the loophole to also include mates of motor or steam vessels of 200-GRT or less and to require that any candidates need only "hold" a license for that three year period, even while working solely in an unlicensed capacity during that time and also without any stipulation that the service be related in any way to commercial towing operations; and

WHEREAS, our Association has firm and irrefutable knowledge that many experienced mariners having towing vessel licenses restricting them to towing vessels of not more than 100-GRT were informed by the Coast Guard that to remove the tonnage restriction they must backtrack through the newer *Apprentice Mate / Steersman* license path, this administrative procedure effectively trapping them, and this constitutes an unfair and unnecessary burden on both the mariners and their employers that serves no legitimate safety purpose and only worsens an already severe shortage of qualified personnel; and

WHEREAS, our Association asserts that the sea-time requirements contained in *Title 46 Code of Federal Regulations - Parts 10 and 12* are needlessly confusing as currently written, with the 8-hour work day serving as a largely obsolete standard of measurement in most cases where towing vessels and other limited-tonnage vessels of 1,600-GRT or less operate under the two-watch system.

NOW, THEREFORE BE IT RESOLVED, our Association respectfully requests that Congress direct the U.S. Coast Guard **not** to change the existing regulations in *46 CFR § 10.465 (Requirements for licenses as mate (pilot) of towing vessels)*. in accordance with

Delta Towing's petition or the suggestions of the AWO contained in their letter to the docket of December 17, 2007; and

FURTHERMORE, our Association respectfully requests that Congress direct the U.S. Coast Guard to initiate a new rulemaking process whereby a safe and suitable minimum of towing vessel-specific sea time may be established for those licensed deck officers with no prior towing experience who wish to move laterally into the towing industry; and

FURTHERMORE, our Association recommends that one and a half years (measured in 8-hour days) or one year (measured in 12-hour days) of "*duty and training in the wheelhouse*" of a towing vessel would be a suitable period for such mariners, and that they must be prohibited by law and regulation from simultaneously serving in another capacity (i.e. deck hand, cook, etc.) while undergoing this duty and training in the wheelhouse; and

FURTHERMORE, our Association recommends that the Coast Guard be directed to effectively seek and incorporate the opinions and advice of the **working** deck officers throughout the towing industry and give them appropriate respect and consideration while establishing **any** new licensing, equipment or operating standards and regulations; and

FURTHERMORE, our Association proposes that those mariners who currently "hold" but are not sailing under the authority of **any** license as master or mate of steam or motor vessels of 200-GRT or less, except for the limited master's licenses specified in 46 CFR §§ 10.429 and 10.456, and have at least 2 years (measured in 12-hour days) of strictly verifiable sea service **on towing vessels** (including 1 year of "on deck" service **and** one year of "training or duty in the wheelhouse") be eligible for immediate advancement to mate(pilot) if they meet the other requirements, such as completion of a *TOAR* and passing a limited written exam consisting solely of towing-related questions; and

FURTHERMORE, as a safeguard against the lure of easily "gundecking", "pencil-whipping", or otherwise fraudulently signing off *TOARs*, our Association recommends that the regulations be amended to specify that the dates in **all** completed *TOARs* **must** exactly match the dates contained in any *Letter of Service* or *Certificate of Discharge* used to document the required "*training or duty in the wheelhouse*" to be considered valid. This change also should be reflected in *Volume 3* of the Coast Guard's *Marine Safety Manual*, which contains Agency policy on Marine Industry Personnel; and

FURTHERMORE, our Association recommends that one and a half years of service (measured in 8-hour days) or one year (measured in 12-hour days) as master, mate or pilot of towing vessels greater than 50-GRT **or** 50 feet in length hereinafter be accepted by the Coast Guard evaluators at the *National Maritime Center* as an appropriate period of time for those mariners licensed as *Master Of Steam Or Motor Vessels Of Not*

More Than 100 Gross Registered Tons (Domestic Tonnage) **and** a towing vessel endorsement restricting them to towing vessels of 100-GRT or less (domestic tonnage) to have that tonnage restriction removed from their license; and

FURTHERMORE, our Association recommends that 46 CFR §§ 10.464 and 10.465, where “*training and observation on towing vessels*” or “*training or duty in the wheelhouse*” is the currently specified type of service, be amended to further specify that persons serving in the capacity of an *Apprentice Mate / Steersman of Towing Vessels* or in any other kind of formal wheelhouse-trainee position aboard towing vessels (including those licensed as master or mate of steam or motor vessels greater than 200 -GRT obtaining their required “*training and observation in the wheelhouse*” service to qualify for the towing vessel endorsement) be prohibited by law and regulation from simultaneously serving in another capacity (such as deck hand, cook, engineer, maintenance man, etc.) while obtaining said service; and

FURTHERMORE, to make them more relevant to the modern U.S. Merchant Marine and easier for everyone to understand our Association recommends that the Coast Guard amend all of the regulations pertaining to minimum sea time requirements for licensed officers, operators and unlicensed ratings in *Title 46 Code of Federal Regulations - Parts 10 and 12* to include 12-hour days in addition to 8-hour days.

ADOPTED by the Master of Towing Vessels Association on this 12th day of August, 2008.