PILOTS AS “ADVISORS”?  

Notwithstanding this provocative headline, APA-member pilots and others who understand pilot regulation in the U.S. recognize that State-licensed or U.S.-registered Great Lakes pilots are not simply “advisors” to the master and bridge team of a vessel. To the contrary, a compulsory pilot carries out a vital public safety objective by directing the navigation of a vessel, subject to the master’s overall command of the vessel.

The folly of the often-repeated but incorrect cliché of the “pilot as advisor” is summed up by the following, “The popular misconception that a pilot is a mere advisor to the master is without substantial foundation either historically, or legally.” Re: M/V Skava, 2001 AMC 2071, 2076 (Commandant Decision on Appeal, May 14, 2001, citing numerous federal court precedents and admiralty law references).

Despite the fact that in the U.S., and most developed countries around the world, compulsory pilots are not “mere advisors,” APA-member pilots nonetheless do act as key “advisors” in at least one particular context—to the U.S. Coast Guard through federal advisory committees.

While federal advisory committees (FACs) have long existed in various forms (e.g., commissions, task forces, councils, etc.), in 1972 Congress formalized FACs through the Federal Advisory Committee Act or FACA. This act sets rules for membership, conducting meetings, “sunshine” or transparency, and reporting requirements. There are about a dozen FACs that provide advice to the USCG, but four are particularly relevant to pilots. These committees are:

♦ Merchant Marine Personnel Advisory Committee (MERPAC)
♦ Merchant Mariner Medical Advisory Committee (MEDMAC)
♦ Navigation Safety Advisory Council (NAVSAC)
♦ Great Lakes Pilotage Advisory Committee (GLPAC)

MERPAC, the long-time chairman of which is Captain Andrew McGovern (United New Jersey-Sandy Hook Pilots Benevolent Association), advises the Coast Guard on the training, qualification, licensing, certification and fitness of merchant mariners.

The purpose of MEDMAC is to advise the USCG on medical certification determinations for issuance of merchant mariners' credentials; medical standards and guidelines for the physical qualifications of mariners; medical examiner education; and medical research. The newest member of MEDMAC is Captain Beth Christman (Association of Maryland Pilots).

NAVSAC provides advice to the Coast Guard on matters relating to the prevention of collisions, rammings and groundings, including, but not limited to: Rules of the Road, navigation regulations and equipment, routing measures, marine information, and aids to navigation systems. APA is well-represented on NAVSAC by the following individuals: Captain Carolyn Kurtz (Tampa Bay Pilots), Captain Ward Guilday (President, Pilots’ Association for the Bay & River Delaware), Captain Mike Morris (Presiding Officer, Houston Pilots) and Mr. Clay Diamond (APA Deputy Director-Associate General Counsel).

Finally, GLPAC was established to advise the Coast Guard on Great Lakes pilot registration, operating requirements, training policies, and pilotage rates and other matters relating to Great Lakes pilotage. GLPAC members include the presidents of the 3 Great Lakes groups: Captain Danny Gallagher (President, Lakes Pilots’ Association), Captain John Boyce (President, St. Lawrence Seaway Pilots Association) and Captain John Swartout (President, Western Great Lakes Pilots).

A Congressional report issued during passage of FACA described federal advisory committees as a “means by which the best brains and experience available in all fields...can be made available to the Federal Government.” For matters relating to mariners and navigation safety, the Nation is fortunate that these “best brains” include APA-member pilots!
MARITIME SAFETY COMMITTEE SEEMS TO NARROW E-Navigation

The IMO’s Maritime Safety Committee held its 95th session (MSC95) from June 3-12 in London. APA President, Captain Michael Watson, participated on the International Maritime Pilots’ Association (IMPA) delegation and Bill Cairns, APA Navigation Technology Advisor, on the U.S. delegation. The two main areas of interest to APA were a proposal to add six new items on eNavigation to the IMO work program and a proposal by the International Association of Classification Societies (IACS) to modify an IMO Resolution on pilot transfer arrangements.

On the eNav issue, IMPA submitted a paper recommending the deletion of the proposed eNavigation work item, an “output” calling for development of the so-called “Maritime Services Portfolio” (MSP), a listing of 16 shore-based services, including pilotage. The output could be construed as an effort to harmonize and standardize these services throughout the world. After a well-reasoned and articulate introduction of the paper by IMPA President, Captain Simon Pelletier, the IMPA proposal received strong support, including from the U.S. The MSP output was ultimately rejected by MSC95, although the sponsors of the paper requesting it were invited to re-submit to the next MSC in the spring of 2016. APA will continue to work closely with IMPA, the U.S. Coast Guard and other interested parties in preparation for this and on all eNavigation efforts.

The IACS proposed modifications to IMO’s voluntary guidance on pilot transfer arrangements were essentially editorial in nature. APA and IMPA, however, had concerns that these modifications could lead to efforts to amend SOLAS Regulation V/23. This regulation was revised in 2012 (through considerable effort by both IMPA and APA) to enhance pilot safety. After some debate, the clarifications to the Resolution on pilot transfer arrangements were approved, but MSC95 made clear that SOLAS Regulation V/23 would not be opened for amendments.

IALA E-Navigation Committee Meets

The 16th meeting of IALA’s eNavigation Committee (ENAV16) was held April 20-24 at IALA Headquarters. Bill Cairns, APA Navigation Technology Advisor, participated, as did Captain Simon Pelletier from IMPA. One of the agenda items of interest to pilots was “tactical route exchange,” which refers to the electronic sharing of intended or suggested voyage plans or “routes” between ships or between ships and shore facilities, such as VTS centers, and the use of such information in making navigation decisions.

The Accessibility for Shipping Efficiency Advantages and Sustainability (ACCSEAS) project, a European program focused on North Sea shipping, continues to be promoted by some IALA members. ACCSEAS representatives reported on an October 2014 simulation exercise involving the exchange of intended and suggested routes and “No Go” areas. Based on a very small sample size, the average of the 11 mariners surveyed, including a few hand-picked pilots, rated the results of the route exchange scenarios as “slightly above acceptable.”

Despite this far-from-rousing endorsement, the ACCSEAS survey is being touted by some as indication that the concept of tactical route exchange has the overwhelming support of not only mariners in general, but pilots in particular. This, of course, is not the case.

At the November 2014 eNavigation Conference in Seattle (the most influential and important eNav conference in North America), a discussion group made up of experienced mariners, which included a deep sea master, ferry captain, fishing vessel master, and a State-licensed pilot, considered the concept of route exchanges. The group was unanimous in its opinion that knowing another ship’s predefined voyage plan would be of no value and, moreover, that basing navigational decisions on such knowledge would be potentially unsafe.

The next IALA ENAV meeting is in October 2015. APA will participate in this meeting.
HOUSE PASSES BIPARTISAN COAST GUARD AUTHORIZATION AND MARITIME TRANSPORTATION BILL

The House of Representatives, on May 18, unanimously approved legislation to authorize funding for the U.S. Coast Guard and the Federal Maritime Commission. This annual House maritime bill, which also includes reforms, new authorities, and Congressional mandates to these federal agencies, continues to be one of the few areas in Washington where there is a bipartisan approach.

Rep. Shuster (R-PA) and Rep. DeFazio (D-CA), Chairman and Ranking Member of the Transportation and Infrastructure Committee, along with Rep. Hunter (R-CA) and Rep. Garamendi (D-CA), Chairman and Ranking Member of the Coast Guard and Maritime Transportation Subcommittee, jointly introduced the bill, H.R. 1987.

There are three sections of this legislation that are of particular importance for pilots. Section 212 directs the Coast Guard to establish and publish a detailed process, including a plan for advanced public notification, for the discontinuance of any aid to navigation. Section 308 of H.R. 1987 requires the Coast Guard to submit a report to Congress detailing steps it is taking to amend certain of the agency’s marine casualty reporting requirements. Finally, section 310 mandates that the Coast Guard establish a program of “trusted agents” (medical professionals trained on maritime physical standards and listed on a registry) who are qualified to conduct mariner physicals and issue Medical Certificates.

After the House approved H.R. 1987, it was immediately forwarded to the Senate for its consideration. To date, the Senate has not taken action on the House bill, nor introduced its own version of the legislation. To date, the Senate has not taken action on the House bill, nor introduced its own version of the legislation. APA will continue to monitor the progress of this and other maritime-related legislation and weigh in with lawmakers and staff as necessary.

HEARING FOCUSES ON 1-YEAR ANNIVERSARY OF HARBOR MAINTENANCE LAW

On June 10, the House Subcommittee on Water Resources and Environment held a hearing on the one year anniversary of the signing into law of the Waters Resources Reform and Development Act of 2014 (WRRDA) to review the implementation of the legislation. The subcommittee’s Chairman is Rep. Gibbs (R-OH) and its Ranking Member is Rep. Napolitano (D-CA).

The WRRDA was designed to address the chronic underfunding of projects to dredge and maintain America’s ports and channels. According to the American Society of Civil Engineers, for the past decade, far less than half of the approximately $1.8 billion collected annually in the Harbor Maintenance Trust Fund (HMTF) has actually been used for its intended purposes. The WRRDA streamlined the conduct of feasibility studies needed before a dredging project can be approved by the Army Corps of Engineers and set specific target expenditures from the HMTF for maintenance dredging, increasing each year, so that by fiscal year 2025 and beyond, 100% of the funds collected under the harbor maintenance tax (HMT) go towards intended maintenance activities.

At the hearing it was revealed that there has been a slight improvement in the timeliness of feasibility studies. More significantly, it was reported that the House had passed the Energy and Water Development and Related Agencies Appropriations Act of 2016 that met the WRRDA target expenditure from the HMTF for FY2016. The target appropriation for FY2016 is 69% of the HMT collected in FY2015, which is approximately $181 billion.

KEY HOUSE LEADERS INTRODUCE LEGISLATION TO REQUIRE GPS BACKUP


This bill would require the Secretary of Defense, in coordination with the Commandant of the USCG and the Secretary of Transportation, to establish and sustain a reliable, land-based positioning and navigation system that will complement and backup America’s Global Positioning System (GPS) for military and civilian uses. According to Mr. Garamendi’s office, “It would take advantage of the government’s existing and underused long-range navigation system infrastructure, known as LORAN–C.”
ARMY CORP LAUNCHES NAVIGATION NOTICE WEBSITE

In May, the U.S. Army Corps of Engineers (USACE) launched a website titled “Notices to Navigation Interests.” This site, also known as either NTNI or NAVNOT, can be found at:
(although given the peculiar characters used for the website, it would probably be easier to Google “Notices to Navigation Interests”!)

The site contains navigation notices and policies issued by USACE Districts with a waterway navigation mission. These documents are intended to inform mariners of events that affect waterway navigation, such as maintenance projects, hazards to navigation, and other pertinent information. These USACE notices are intended to compliment other federal agency notices, such as Coast Guard Local Notice To Mariners.

RTCM HOLDS ANNUAL ASSEMBLY MEETING

The Radio Technical Commission for Maritime Services (RTCM), of which APA is an Associate Member, held its Annual Assembly Meeting from May 4-8, 2015 in Annapolis, MD. Bill Cairns, APA Navigation Technology Advisor, attended and gave a presentation describing pilot contributions to eNavigation at IMO and IALA. Mr. Cairns also noted APA concerns with certain related concepts, such as electronic transmission (or “exchanges”) of voyage plans/routes, VTS beyond territorial seas, and unmanned vessels.

In addition, Cairns chairs the RTCM eNavigation Steering Committee, which directs the efforts of Special Committees on topics such as AIS, eLoran, radar, GNSS, electronic charting, and portrayal of navigation information. The Steering Committee at this session approved the Terms of Reference for a new Special Committee on Data Exchange for Navigation-Related Internet Connected Applications, focusing on providing navigation information to mobile devices. The Steering Committee also drafted RTCM comments for DoT’s Request for Comment on eLoran (see related article in next column). RTCM’s comments strongly support the federal government establishing an eLoran system to complement GPS.

NEW LINEUP FOR HYDROGRAPHIC SERVICES ADVISORY COMMITTEE

NOAA Administrator, Dr. Kathryn Sullivan, has appointed six new members to the Hydrographic Services Review Panel. This panel was established to provide NOAA with independent advice for improving a range of services and products that support navigation and coastal resilience. The new members include academics, environmental leaders, maritime industry executives, and mariners. These newly appointed members join nine current members, one of whom is Captain Deborah Dempsey (Columbia River Bar Pilots).

In announcing the appointments, Dr. Sullivan said, “This panel provides NOAA with essential expertise on commercial maritime needs and hydrographic data that is tremendously valuable to us as we work to build resilient communities and businesses along our Nation’s coasts.”

APA URGES DOT TO USE E-LORAN AS GPS COMPLIMENT

On March 23 the Department of Transportation published a notice in the Federal Register requesting comments from the public and those in the maritime industry “regarding potential plans by the United States Government to implement an enhanced Long Range Navigation (eLoran) system as a complementary positioning, navigation, and timing (PNT) capability to the Global Positioning System (GPS).”

APA submitted formal comments to the docket on May 22. APA’s comments made clear that due to “unparalleled knowledge of the waters upon which they operate, pilots are not wholly reliant on technology to conduct their operations.” These comments also stress, however, that pilots “may use the ship’s navigation equipment, alone, or in conjunction with their carried aboard Portable Pilot Units (PPUs),” so pilots do “require accurate, reliable, repeatable, and real-time positioning information.”

The comments made clear that the “APA wholeheartedly agrees with, and strongly supports DoT’s efforts to improve navigational safety by implementing eLoran as a compliment to GPS.” APA’s full comments are available at:

www.americanpilots.org/APA_comments_to_DoT_on_eLoran_5_22_15.pdf
COAST GUARD ANNOUNCES ON-LINE “CHAT” SERVICE

On June 3, the National Maritime Center (NMC) announced that it will be testing a new online “chat” option to assist mariners with credentialing, testing, and medical questions. The NMC describes the new online chat service as “a time-saving option for interacting with NMC Customer Service Agents regarding all aspects of the credentialing process.”

This new feature can be accessed by clicking the “Get Help” or “Live Chat” button located at the top right corner of any page of the NMC website (www.uscg.mil/nmc). According to the NMC announcement, the system offers two means of connecting with the NMC. It employs a “Help Ticket” system that will work similarly to the NMC’s current e-mail service. Secondly, it offers the ability to have a real-time chat with an NMC Customer Service Agent.

The chat service is still in a testing phase, but once the online chat has been fully implemented, the “Help Ticket” feature will only be available outside of normal business hours and the “Get Help” button will be replaced by a “Live Chat” when agents are available to respond to mariner’s questions.

The NMC indicates that it will evaluate the success of the chat system on or around October 1, 2015 to determine whether or not to continue its use. The NMC encourages mariners to provide feedback regarding the online chat program. Feedback can be provided to the NMC by:

- the chat system itself
- the Feedback ribbon at the top of each page
- Customer Service Center contact form
- e-mailing IASKNMC@USCG.mil
- calling 1-888-IASKNMC

APA HOSTS MARITIME CYBER SECURITY EXPERTS

On April 10, Clay Diamond, APA Deputy Director-Associate General Counsel, and Bill Cairns, APA Navigation Technology Advisor, met at the APA office with personnel from USCG’s Offices of Regulations and Facilities and Johns Hopkins Applied Physics Lab (APL) to discuss a USCG effort regarding cyber security in the Nation’s ports.

This effort was driven by Executive Order 13663 on Cyber Security. The USCG, with the contracted assistance of APL, is attempting to identify potential requirements for maritime systems through surveys of various maritime and port interests, including pilots. The USCG intends to visit a number of ports this year, and, if budgets permit, other ports in the next several years. The USCG and APL representatives repeatedly stressed that this is not a regulatory or rulemaking effort, but rather an effort to gather, collate, and eventually disseminate “best practices” and standards to various port interests.

Working through the USCG Sector Commanders, the first visit was planned for Baltimore the week of April 20. Other ports identified for this part of the effort include Norfolk and New Orleans. According to the USCG/APL representatives, follow-on surveys could be conducted in Houston, and Seattle, most likely during the spring of 2016.

The APA will keep all potentially impacted member-associations advised of pending port visits and provide a copy of survey questions as they become available. Please contact Bill Cairns if you have any questions.

APA SUBMITS COMMENTS TO THE USCG REGARDING MEDICAL WAIVER PROGRAM

In response to two separate Federal Register notices soliciting comments on various aspects of USCG’s merchant mariner medical waiver program (e.g., waivers for certain medical conditions and medications), APA submitted formal comments to the Coast Guard. These comments are available at:

www.americanpilots.org/
APA_Comments_on_MedWaivers_3_15.pdf

www.americanpilots.org/
APA_Comments_on_MedConditionWaivers_5_15.pdf
APA NEWS

CAPTAIN DAVE LYMAN MEMORIAL SCHOLARSHIP

On Thursday May 21, the Hawaii Pilots Association and most of the local maritime industry gathered together to support the Captain Dave Lyman Memorial Scholarship Fundraising Event. Captain Lyman, a State-licensed pilot for more than 30 years, past president of the Hawaii Pilots Association, and APA Trustee, was killed in the line of duty on January 29, 2007.

The fundraising event is held every other year and donations support local Hawaiian cadets who are attending the California Maritime Academy. This year's event was held at a venue just a few steps from Honolulu's waterfront.

With over 200 guests in attendance from numerous maritime businesses, community organizations, and civic groups, this was the most successful of these events ever. More than $50,000 was raised. For more about The Dave Lyman Memorial Scholarship Fund, visit: www.davelyman.com.

CAPTAIN RON WARD HONORED BY USCG FOR EXPERTLY AVERTING POTENTIAL DISASTER

On February 12, Captain Ron Ward, President of the Southwest Alaska Pilots’ Association, was formally recognized by the Coast Guard Captain of the Port and Sector Anchorage Commander. The Certificate of Appreciation presented to Captain Ward by the Coast Guard reads in part:

“I commend you for the exemplary action you took to maintain control of an oil tanker. Expertly responding to a potentially catastrophic engine failure that threatened the safety of the crew and environment, you successfully secured the vessel by carefully deploying her anchors in the emergency maneuver known as self arrest. You then directed communications with the Coast Guard, and remained vigilant while safely guiding the vessel to port under tug escort. Had the vessel run aground, it posed a potential threat of spilling 1.3 million gallons of fuel. The judgement and professionalism you displayed are most heartily commended and are keeping with the highest traditions of the U.S. Coast Guard and the Southwest Alaska Pilots’ Association.”

The APA adds its congratulations to Captain Ward for a job well done!

ELECTIONS, SELECTIONS, APPOINTMENTS, ETC.

The following groups announced their 2015 officers:

- Mobile Bar Pilots, L.L.C: Captain David M. Berault (President), Captain David L. Bender, Jr. (Vice President), Captain Kirk M. Barrett (Secretary/Treasurer), Captain Peter Burns (Boat Captain), and Captain Christopher Brock (Director).
- Northeast Marine Pilots, Inc.: Captain Sean Bogus (President), Captain E. Howard McVay (Vice President), Captain Clinton Walker (Treasurer), and Captain Richard Astles (Secretary).
- Virginia Pilots’ Association: Captain Bill Cofer (President), Captain Whiting Chisman (Vice President), Captain Jacob Johnson (Director), Captain David Ware (Director), Captain Frank Rabena (Director), and Captain Rob Prodan (Director).
- Boston Harbor Pilots’ Association, L.L.C: Captain Richard Stover (President), Captain Michael Peddle (Vice President), Captain Frank Morton (Secretary), and Captain Robert McCabe (Treasurer).

Check out the new and improved website for the American Pilots’ Association at: www.AmericanPilots.org