APA TO SET SAIL FOR HAWAII

As this edition of ON STATION heads to the printers, preparations for the APA’s Biennial Convention in Kauai are in their final stages. Very few hotel rooms remain available, despite several increases in the APA’s room block. By all indications, this should be one of the most heavily attended APA conventions ever.

Following the traditional APA golf tournament on Sunday, October 19, the work of Convention starts on Monday with the always-exciting Attorneys Meeting and not-as-exciting meetings of the various APA committees. The Convention officially begins on Tuesday morning. Opening ceremonies will include a remembrance of Captain Dave Lyman, Hawaii pilot and former APA trustee who was killed in a fall from a ship in January 2006 in Nawiliwili Harbor, Kauai, not too far from the site of the Convention. Congresswoman Mazie Hirono (D-HI) will give a welcome address and be followed by Rear Admiral Brian Salerno, Coast Guard Assistant Commandant for Marine Safety, Security and Stewardship. The next speaker will be State Senator Fred Hemmings, a well-known legislator, talk show host, radio and TV broadcaster, friend of pilots, champion surfer, and Hawaiian personality. Captain Michael Watson will give the APA President’s Address, and then the meeting will go into a closed session for the start of APA regional reports.

Guest speakers on Wednesday will include the chief of staff for the Coast Guard’s 14th District. Mr. Joe Angelo, INTERTANKO’s Deputy Managing Director and Director, Regulatory Affairs and the Americas, will also address the group. During the closed session on that day, APA officials involved in the aftermath of the Cosco Busan incident will give their perspectives on the various governmental responses and will offer some lessons-learned from their experiences. The APA’s Navigation and Technology Committee will meet Wednesday afternoon with, as usual, a very full slate of discussion topics. The preliminary agenda for the meeting includes: ECDIS/AIS training; PPUs and eNavigation; “over-the-horizon” developments in navigation technology, LNG ship/tug simulation; and NOAA product updates.

Thursday’s meeting will start with presentations from representatives from outside convention sponsors, such as the International Organization of Masters, Mates and Pilots; Gladding-Hearn Shipbuilding; and Port Revel-Sogreah Shiphandling Training Centre. Dr. Lee Alexander, Center for Coastal and Ocean Mapping - Joint Hydrographic Center, University of New Hampshire, will give a talk on his study of pilots’ use of PPUs and on eNavigation. Michael Szabados, Director of NOAA’s Center for Operational Products and Services (CO-OPS) will discuss the latest developments in NOAA’s PORTS program and other activities and services of interest to pilots.

Friday’s closed session is reserved for the remaining regional reports and association business matters, including committee reports; elections for president, secretary-treasurer and regional vice presidents; and adoption of the budget for the 2009-2010 period.

The traditional, and very popular, Supplier’s Exhibition will be held on Wednesday and Thursday. A listing, as of this date, of the companies and organizations participating in the Exhibition can be found on page 6.

The Convention will also feature the usual round of social events and opportunities for informal discussions and information sharing.
 IMO'S NAV SUBCOMMITTEE MEETS

PA's Executive Director-General Counsel, Paul Kirchner, was a member of the US delegation at the 54th Session of the IMO's Subcommittee on Safety of Navigation (NAV 54) in London from June 30 to July 4, 2008. Items addressed during the session included:

**ECDIS carriage requirements.** The subcommittee agreed on draft regulations, under SOLAS chapter V, Safety of Navigation, that would require ships to carry an ECDIS. The proposed new regulations will be submitted to the Maritime Safety Committee (MSC) for approval at its 85th session in November-December 2008, with a view to adoption by MSC 86 in May 2009.

The proposed draft amendment to SOLAS regulation V/19 would require ships engaged on international voyages to be fitted with ECDIS according to a timetable ranging from 2012 to 2018. The timetable is based on factors such as date of construction, tonnage, and type of vessel. NAV 54 also agreed on an amendment to existing SOLAS regulation V/19.2.1.4 to reflect that ECDIS is an acceptable alternative to nautical charts and nautical publications, yet retaining the proviso that in some cases (for example ships not on international voyages, and cargo ships on international voyages but below the agreed tonnage limit), it could be appropriate to use only nautical charts and nautical publications. NAV 54 also noted progress made in the availability of electronic navigational charts, a prerequisite for introducing mandatory ECDIS carriage requirements.

**Pilot transfer arrangements.** A correspondence group was established to develop amendments to SOLAS regulation V/23 and resolution A.889(21) on pilot transfer arrangements. The group is chaired by William Cairms of the US Coast Guard and includes members from both APA and IMPA. It has been tasked with preparing mandatory requirements and guidance documents to improve the safety of pilot transfer equipment and procedures. The correspondence group will present an interim report to the 52nd Session of the Subcommittee on Ship Design and Equipment (DE 52), which will meet in London during late winter 2009. The issue will be reviewed again in the summer of 2009 during the meeting of NAV 55.

**IMPA CONGRESS IN BANGKOK**

Pilots from 41 IMPA-member countries attended the XIX Congress of the International Maritime Pilots' Association Bangkok, Thailand August 4 – 8.

Captain Eric Nielsen, APA Vice President for the North Atlantic Region, headed the delegation of APA-member pilots. The other members of the APA delegation were Captains Hank Mahlmann (New York Sandy Hook Pilots), Andrew McGovern (New Jersey Sandy Hook Pilots), Jennifer Linton (Pilots' Association for the Bay and River Delaware), and Holly Cooper (Houston Pilots). Paul Kirchner also attended.

The Congress addressed such topics as: pilots' personal safety, PPUs, human factors issues and challenges, relationship of pilot associations to their government regulators, casualty investigations, competition, developments in master-pilot information exchanges and cooperative working practices, and training. Consistent with the theme of the Congress, "Pilots – Moving Forward Together," there was also considerable discussion of the need for greater unity, mutual respect, and fair sharing of financial obligations among IMPA members. That discussion was triggered in large part by problems with pilots in some countries publicly criticizing pilots in other countries and interfering in the pilotage systems in such other countries as well as some IMPA countries failing to pay their full dues.

Three vice presidents were elected: Captain Simon Pelletier, Canada; Captain Stig Thompson, Denmark; and Captain Steve Pelecanos, Australia (reelected).
CLOSING ACT OF 110TH CONGRESS

The curtain is beginning to come down on the 110th Congress, and it appears legislation with potential impact on pilots may be left on the darkened stage. Even though Congress just returned from summer recess in early September, it will adjourn on September 26th. With critical spending bills and energy legislation still pending (not to mention the looming elections), it is unlikely Congress will have time to act on legislation APA has been following throughout this Congress.

As discussed in previous editions of ON STATION, the Coast Guard Authorization Act was passed by the House in April, but the Senate has yet to vote on its version. Even if the Senate would pass its bill soon (and sources indicate this is unlikely), the different versions would still have to be “conference”ed by the two chambers, then sent to the President for signature. Most observers believe that there is simply not enough time for this process. One or both of the two bills contain provisions relating to major changes to the USCG’s marine safety and Administrative Law Judge programs, the contentious issue of single-hull tank vessels in Buzzard’s Bay (with the House version weakening current pilotage requirements) and authorization for the USCG to issue location-specific regulations requiring federally-licensed pilots to carry portable electronic devices for navigation.

Other legislation of interest to pilots that is likely to die when this Congress adjourns includes the NTSB Authorization Bill and oil spill-related legislation sponsored by Sen. Lautenberg (D-NJ). NTSB had requested legislation that would have given it lead over the USCG in conducting marine casualty investigations and expanded authority to access personal medical and financial records. The Lautenberg oil spill bill would have codified USCG Vessel Traffic Service (VTS) existing authority to direct vessel movements and would have required “basic navigation training” for VTS watchstanders.

While it is currently expected that Congress will re-convene for brief “lame duck” sessions in mid November and early December, these would almost certainly be used for the highest legislative priorities, such as spending and energy bills. Although it is a truism that nothing is certain in Washington DC, the prospects of the above maritime legislation actually becoming law are slight.

USCG OVERSIGHT OF TOWING VESSELS QUESTIONED

On September 16th, the House Subcommittee on Coast Guard and Maritime Transportation (CG&MT) held a hearing to examine the July 23rd collision and oil spill in New Orleans and the safety of the U.S. inland river system. Witnesses appearing at the hearing included the USCG, NOAA, the tug owner, the National Mariner’s Association, Seafarers International Union, American Waterways Operators, and the Northeast Maritime Institute.

While the hearing did address the collision between the tug Mel Oliver with its tank barge and the M/T Tintomara, the primary focus was on perceived shortcomings in USCG oversight of the towing vessel industry, including long overdue towing vessel inspection regulations and questions regarding the agency’s administration of the licensing of tow boat personnel. Chairman Elijah Cummings (D-MD) and other subcommittee members also expressed serious concern over allegations that some towing vessel operators routinely skirt the law through the use of unlicensed crewmen.

With regard to the New Orleans collision, the CG&MT acknowledged that circumstances surrounding this incident were still under USCG investigation. The subcommittee’s hearing summary memorandum, however, did recognize some preliminary USCG findings, including that “there were no competency issues with the pilot aboard Tintomara” and that the pilot tested negative for alcohol and drugs. The USCG’s witness also announced that the marine board of investigation is scheduled to reconvene in New Orleans on October 9th.

Information about the hearing, as well as prepared statements and testimony of the subcommittee members and witnesses can be accessed at: http://transportation.house.gov.

TIGHTER RULES FOR CRUISE SHIPS PUT ON HOLD

In late 2007, the Customs and Border Protection Agency (CBP) issued a proposed “interpretation” of the Passenger Vessel Services Act (PVSA) aimed at practices by foreign cruise ships serving US ports that some view as counter to Jones Act cabotage requirements. It now appears that this proposed “interpretation” is in serious jeopardy.

As background, the PVSA, originally enacted in 1886, provides that foreign vessels cannot transport passengers between U.S. ports, either directly or via a foreign port. Current CBP regulations, however, allow round-trip voyages that begin and end at the same port, with interim U.S. port stops, so long as the voyage includes a foreign port call. The proposed CBP “interpretation”, published in the Federal Register of November 21, 2007, suggests that foreign-flag cruise ships are violating the PVSA when passengers board at a U.S. port, the ship calls at several Hawaiian ports, then proceeds to a brief foreign port stop (such as Ensenada, Mexico), before returning to the original port of embarkation. According to the Federal Register notice, “CBP believes these itineraries are contrary to the PVSA because it appears that the primary objective of the foreign stop is evasion of the PVSA.” The Hawaii-based Norwegian Cruise Lines American (NCLA), which operates the only large U.S.-flag cruise ship, agrees with CBP.

Not surprisingly, since cabotage issues always generate heated opinions, CBP received hundreds of comments from industry (both for and against). The federal Office of Management & Budget has concluded that CBP’s proposed “interpretation” requires major revisions, however, and has returned the proposal to CBP for further consideration. While NCLA will likely press CBP to revise and resubmit the proposal, many of the interests following the matter believe that further action on this by CBP is unlikely.
FULL AHEAD FOR NOAA RIGHT WHALE SPEED LIMITS?

NOAA's Fisheries Service is seeking comments on the Final Environmental Impact Statement (FEIS) for their “Right Whale Ship Strike Reduction” strategy. This is one of the last steps in the process NOAA hopes will allow it to implement a final rule. The FEIS technically is an analysis of the environmental and economic impact of six alternatives (including an alternative of taking “no action.” As a practical matter, the FEIS is an attempt to make the case for NOAA’s “preferred alternative,” which entails significant regulation of commercial shipping. The FEIS is open to public comment through September 29, 2008 and is available at: http://www.nmfs.noaa.gov/pr/shipstrike/

NOAA's “preferred alternative”, which would apply to all non-governmental vessels 65 feet and larger, would implement speed restrictions of 10 knots or less in designated areas along the east coast. Designated areas would extend 20 miles from shore and, in a number of places, would encompass piloting waters. The “preferred alternative” includes all of the following regulatory concepts:

- **Seasonal Management Areas** – Predetermined and permanent areas in which seasonal speed limits would apply to most commercial vessels.

- **Dynamic Management Areas** – Temporary areas around Right Whale sightings (size depends on number of whales sighted). Speed restrictions would apply within the areas.

- **Routing Measures** – Voluntary routes aimed at keeping ships away from Right Whale areas. NOAA would monitor these routes and “consider” making them permanent.

NOAA’s proposed speed restrictions in particular, have the potential to have a significant effect on safe navigation and the conduct of piloting work. All APA member groups along the east coast have been encouraged to review the FEIS very closely to determine what, if any, potential impacts these proposed regulations may have on piloting operations.

TWIC DEADLINES EXPLAINED

As previously reported in ON STATION, the Transportation Safety Administration (TSA) and the Coast Guard have announced that the deadline for mariners to obtain a Transportation Workers Identification Credential (TWIC) has been extended from September 15, 2008 to April 15, 2009. However, this change in the national TWIC deadline, combined with phased-in compliance dates for various Coast Guard Captain of the Port (COTP) zones around the country, has caused considerable confusion.

Every Coast Guard-credentialed mariner (including pilots) must obtain a TWIC by April 15, 2009 in order for his or her Merchant Mariner Document (MMD), License, Certificate of Registry (COR) and STCW endorsement to remain valid. If a mariner fails to obtain and continue to hold a valid TWIC after April 15, 2009, the mariner could face a suspension or revocation of his or her license. After April 15, 2009, the Coast Guard will not issue a merchant mariner credential to an applicant who does not hold a valid TWIC.

The Coast Guard and TSA have also announced that TWIC “compliance” dates for facilities and vessels within COTP zones will be phased in based on when TWIC enrollment began in each COTP zone. TSA and Coast Guard have published “tentative groupings” for COTP zone compliance dates, but indicate that formal announcements will be made in the Federal Register at least 90 in advance of final dates. The tentative COTP zone groupings are as follows:

- **October 15, 2008**: Northern New England, Boston, Southeastern New England
- **October 31, 2008**: Buffalo, Duluth, Detroit, Lake Michigan, Sault Ste. Marie
- **November 28, 2008**: Corpus Christi, Port Arthur, North Carolina, Cape Fear River
- **December 2008 – January 2009**: Long Island Sound, Charleston, Savannah, Jacksonville, Baltimore, Delaware Bay, Mobile, Pittsburgh, Ohio Valley, Lower Mississippi River, San Diego, Hampton Roads, Morgan City, New Orleans, Upper Mississippi River, Miami, Key West, St. Petersburg
- **February, 2008**: Honolulu, South East Alaska, Prince William Sound, Western Alaska Puget Sound, Portland (OR), San Francisco Bay
- **March – April 2009**: New York, Guam, Houston/Galveston, Los Angeles/Long Beach, San Juan

Upon the effective compliance date for a particular COTP zone, owners and operators of facilities and vessels in the zone will be required to visually inspect the TWIC for each worker granted unescorted access to secure areas of the facility or vessel. The potential gap between the national TWIC deadline of April 15, 2009 and the various COTP zone compliance dates has caused people to ask:

**QUESTION:** What if a credentialed mariner (who is not required to obtain a TWIC until April 15, 2009) does not possess a TWIC by the effective compliance date announced for the COTP zone in which he or she works?

**ANSWER:** If a mariner has not obtained a TWIC by the effective compliance date for the COTP zone in which he or she works, during the period between the effective compliance date for the COTP zone and the April 15, 2009 national deadline, the mariner will still be eligible for unescorted access to a facility or a vessel if the mariner presents one of the following in lieu of a TWIC: MMD, Coast Guard License and valid photo ID, or Coast Guard COR and a valid photo ID.
ALASKA TO RECONSIDER "DO-NOT-DISPATCH" RULE

The Alaska Board of Marine Pilots has announced that it is considering revoking an existing regulation that requires recognized pilot associations in the state to comply with a demand by a vessel master or owner that a particular pilot not be dispatched to a particular vessel or fleet of vessels. This regulation is unusual because it gives ships a measure of control over the selection of the pilot who will conduct pilotage duties onboard.

The Southeast Alaska Pilots' Association (SEAPA) had submitted a petition to the Board asking that the regulation be repealed or amended. The Board's notice proposing a change to the rule offers two options; a simple repeal or a replacement regulation that directs that "do-not-dispatch" requests of a "for cause" nature be made to the Board rather than to the pilot association.

As all APA members know, a state pilot's primary duty is to protect the citizens, environment, and economy of the state that issued his or her license. In order to carry out this critical duty, pilots must be free to exercise the necessary independent judgment to place the safety of the vessel above the immediate economic interests of the vessel and its owner. Giving the ship the authority over pilot selection could threaten this independence.

APA will submit comments to the Alaska Board of Marine Pilot opposing the existing regulation and urging its repeal. The APA comments will state clearly that allowing vessel masters or operators to select which pilot will be dispatched to their vessel is inconsistent with, and undermines the purpose of, compulsory pilotage.

MASSACHUSETTS ATTACKS TANK VESSELS IN BUZZARDS BAY

Massachusetts has initiated a new offensive in the ongoing turf war between the state and the U.S. Coast Guard regarding who has authority over tank vessels operating in Buzzards Bay. In August, the Governor of Massachusetts signed into law a new oil spill prevention act for the area. Among other things, the act includes a requirement that tank vessels carrying 6,000 or more barrels of oil within Buzzards Bay must be accompanied by a "rescue tug" manned by a state licensed pilot unless the towing vessel voluntarily takes a state pilot and is accompanied by a tugboat escort. According to the act, pilots manning the rescue tug "shall monitor the safe passage of vessels and provide information to tank vessel operators on current and anticipated navigational issues." The expense of the rescue tug, including the fee paid to the pilot, will be paid by the state and funded by a fee of an additional three cents for each barrel of petroleum product delivered to marine terminals within Massachusetts ports.

As reported previously in ON STATION, this jurisdictional squabble between the federal government and the Bay State has dragged on for several years. The dispute has been the subject of substantial litigation, with the Coast Guard and its allies in the tank barge industry opposing efforts by Massachusetts to regulate this industry. It is unclear what impact this latest Massachusetts law will have on this long-running dispute, but the ball is now squarely in the Coast Guard's court. The precise role, legal status, and responsibilities of a state pilot manning a rescue tug is also unclear at this time.

CALIFORNIA Passes PILOT OVERSIGHT BILL

In August, the California Senate passed legislation aimed at providing "enhanced public oversight" of the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. The bill is a response to the November 7, 2007 allision of the COSCO BUSAN with the Oakland Bay Bridge.

The San Francisco Bar Pilots Association supported the legislation. It would require the Board to submit an annual report to the state legislature (a requirement currently in place for many pilot commissions). The report would include information on the number of vessel movements conducted by pilots; the name and status of each pilot and pilot trainee, and a description of all related incidents, investigations, and dispositions. In addition to increased oversight of the Board, the bill would require the Board to appoint a physician, who would have a significant role in evaluating pilots' fitness to perform their duties.

Kenny Levin, Business Director for the SFBPA, was quoted in press accounts as saying, "This bill will reestablish the healthy scrutiny that any public agency should welcome and give the public and local governments the access to information they deserve and need." California Governor Arnold Schwarzenegger has until September 30 to sign the legislation. While the governor's office is believed to be in favor of the bill, the Governor has stated that he will not sign any bill until the legislature sends him legislation resolving the state's current budget problems.
On Monday, September 8, the APA Finance Committee held its usual pre-convention meeting in the APA office in Washington, DC. The Committee met with Captain Mike Watson and Paul Kirchner to review the association’s financial condition and activities as of that date under the 2007-2008 budget. At the conclusion of the review, the Committee approved the actual and projected expenses under the current budget, ratified the expenditures to date, and agreed on a budget for 2009-2010 to be submitted to the Trustees at the Kauai Convention on Friday, October 24.

APA President Captain Mike Watson (far right) with the members of the Finance Committee (left to right): Captain Al Wiedne, Oregon (Columbia River Pilots); Committee Chairman Captain Chris Thornton, South Carolina (Charleston Pilots); and Captain Mike Linton, Pennsylvania (Pilots’ Association for the Bay and River Delaware).

The APA officers followed the Finance Committee with their own meeting on Tuesday and Wednesday. This was a regular semi-annual meeting required under the bylaws, although scheduled to precede the convention, as is the usual practice. Each vice president reported on developments and issues in his region. Captain Watson, Paul Kirchner, and Clay Diamond added comments and information on several of those matters from the perspective of the APA’s involvement or national considerations. Watson, Kirchner, and Diamond also reported on the APA’s activities on national and international matters.

ELECTIONS, SELECTIONS, ETC.
- The Galveston-Texas City Pilots elected the following officers in August: Captain Chris J. Gutierrez, president; Captain Mark W. Saunders, vice president; Captain Christos A. Sotirelis, secretary/treasurer; and Captain David R. Dion, marine superintendent.
- The Puget Sound Pilots have elected the following officers and directors for 2008-2009: Captain Delmar G. MacKenzie, president-director; Captain Eric M. vonBrandenburg, vice president-director; Captain Gary D. Hunt, secretary/treasurer-director; Captain Calvin C. Hunziker, director; Captain Donald W. Mayer, director; Captain Stuart E. Mork, director; and Captain Michael D. Wood, director.
- The Virginia Pilot Association has elected the following officers: Captain J. William Cofer, president; Captain William L. Counselman, vice president; Captain Dale Mayer, assistant vice president; Captain D.A. Matthews, secretary; Captain E. Waightsstill Avery, treasurer; Captain Mark S. Evans, director; Captain Ernest W. Dodson, Jr., director; Captain Robert L. Prodan, II, director; and Captain Jonathan D. Worth, director.
- Captain Stephen Gasecki and Captain Richard Grimson are the newly-elected 2008-2009 co-chairmen of the Canaveral Pilots Association.
- The Propeller Club of the United States, Port of New Orleans, has named Captain Michael R. Lorino, Jr. as its 2008 Maritime Person of the Year. In addition to being president of the Associated Branch (Bar) Pilots, Captain Lorino is APA Regional Vice President for Louisiana.
- The Texas State Pilots Association has selected Captain Tom Phelps as the first recipient of its “Texas Pilot of the Year Award.” Captain Phelps is a Houston Pilot, past presiding officer of that group, and past president of the TSPA.