

SAMS® NEWS

Society of Accredited Marine Surveyors®, Inc.

Volume 24, Issue 1

Editor: George Gallup, AMS®

Spring 2012



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As you can see, there is a change in the SAMS® Newsletter Editor position. As SAMS® Immediate Past President, one of my responsibilities now includes being the Newsletter Editor. I am truly looking forward to this new challenge. I hope to bring some new, fresh ideas and looks to the newsletter. Starting after the Summer Issue 2012, we will be going green. Although there has been some resistance doing away with the printed issue, it is the right thing to do for the environment. Additionally, SAMS® will benefit by saving the cost of printing, postage, and office man hours. The newsletter will be distributed electronically through your email and posted on our website. If you would like to receive a hard copy of the newsletter, please contact the Jacksonville office. In closing, I would like to thank Don Walwer, our long time dedicated Newsletter Editor. Don worked tirelessly to provide us with a quality newsletter.



George Gallup, AMS®
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SAMS® NEWS

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NEWSLETTER MATERIAL: Do you have an interesting topic that you would like to appear in your newsletter? Send it in! If your article is published in SAMS® NEWS, you not only contribute news and information to your peers, you may be eligible to receive one (1) CE Credit for your article. (Refer to the SAMS® Continuing Education Requirements Policy for more information.) Please send original written articles, photos, etc. to George Gallup, Editor (GallupYachtSurveying@gmail.com). Kindly send a copy of the original content - high resolution images and scans by the set deadline for the next issue.

COVER PHOTO: Derek Rhymes, NAMS-CMS & SAMS® A.M.S.

(In the Wake of 'The TITANIC': An Unsinkable Law article formatted as it appears in the New York Law Journal, April 12, 2012.)

The SAMS® INTERNATIONAL NEWSLETTER is a publication of the Society of Accredited Marine Surveyors®, Inc. (SAMS®). Views and opinions expressed in the articles and editorials are those of the writer and do not necessarily reflect the official views and policies of SAMS®. Articles are edited only for grammar, punctuation, spelling and language so they fit in the allocated space.



**Joseph Lobley, AMS®
President**

Warm greetings to you all,

For the first time in 10 years, Don Walwer, AMS®, SMS, Past President, is not our Newsletter Editor. Don is a Charter Member and has served on the Board of Directors from 1992 to 2001 - including three years as President - and has graciously passed the torch, or more appropriately, the pen. The BOD has agreed to make the Newsletter Committee Chairman part of the duties of the sitting Immediate Past President. George Gallup, AMS® is the first to serve in this capacity.

George, the rest of the Board, and I will continue to publish an informative newsletter with articles concerning SAMS® events and important news relating to our profession. Each edition will have a featured article which could be longer than the normal two or three paragraphs we typically produce. You will find that some Board Members, Regional Directors, or Committee Chairmen might not have an article in every publication. The editor will decide what will be published within the optimum format to keep printing costs at a minimum.

The newsletter will have a fresher look and will be available electronically. In a short time, we hope to have the newsletter primarily available in a digital format with paper copies sent out by request only. This will allow for more content.

Since you have been reading my newsletter entries for the last eight years, you should know by now that I frequently lecture about professional conduct. We, as SAMS® members, must abide by our Code of Ethics and Rules of Practice. Paragraph 3 (B) states that we, as members, will

"Advertise only in a dignified manner, being careful to avoid misleading statements."

The most common violation is that an SA member is not including his or her membership status on business cards, letterhead, and/or website advertising. These violations are quickly brought to the member's attention. Statements such as - advertising that you are a member of ABYC, NFPA, SNAME, IAMI or other organizations to which you are not a current member - is also considered an advertising violation. Such infractions are being brought to our attention more frequently by these organizations that have the legal right and desire to defend their trademark, just as we do.

Other violations can be disparaging remarks made about other surveyors while trying to promote yourself, which is clearly stated in Paragraph 5 (D) in our Code of Ethics:

"The surveyor will not make false, misleading, deceptive or unfair statements concerning member surveyors..."

So please, **review your advertising and websites to ensure your statements are accurate.** This will prevent a possible embarrassing situation which could jeopardize your membership with SAMS®. Furthermore, if any of you discover someone advertising as being a member of our society when, in fact, they are not, please inform the Jacksonville office so it can be handled within the guidelines of our standing policy; in the case of repeat offenders, prosecution.

I wish to discuss another issue concerning our limited liability insurance that we all receive with our membership. **If you are required to have a certain business named as a "Certificate Holder", do not wait**

until you arrive at your survey site to find out that a certificate is needed before you can perform your work. There are certain procedures that need to be followed before the certificate can be issued. There are times our office and/or the Insurance Company cannot dismiss what they are doing to rush out your request on demand.

You all know (or should know) which businesses require being listed as a Certificate Holder and which businesses are satisfied with a photocopy of the policy certificate that we are sent annually. If you don't know if they need one, place a phone call ahead of time to find out. Please, think ahead! Plan accordingly and allow for several days to get individual official Certificate Holder copies. It is also your responsibility to request these copies each and every year. Keep in mind that our staff at the Jacksonville office is not a personal secretarial pool.

I am happy to report that **C. Stan Johnson, AMS®** has been appointed the Tug and Barge Committee Chair; **Roland Santos, AMS®** to the Hull and Machinery Committee Chair; and **Robert "Bob" Gallagher, AMS®** to the Engine Committee Chair. The Committee Chairmen are called upon for advice and will assist the Membership VP with handling applications within these designations. These gentlemen have vast experience within these designators and I look forward to working with them.

Please feel free to call or e-mail any of the Board Members, Regional Directors, or myself with any questions or concerns you might have. All of us are committed to keeping SAMS® a successful organization and the standard bearer in our industry.



Stuart J. McLea AMS®
Executive
Vice-President
Ethics Chair

Good day to you all, from the "Great White North"

The weather in most of Canada is to the point that some Marina's and Yacht Clubs are looking at an early launch. If you have a client that is looking at an early launch, have them check with their insurance company. Most companies have a restriction clause which gives you the earliest date that a vessel can be launched. Ethics complaints received by SAMS® HQ have been steady. The number one issue is "work product" - no surprise. There are a few pot holes that you must avoid:

- 1. Do a thorough examination of the vessel.** Write down what you did and what you did not do (very important.)
- 2. Ensure your reports are timely.** Three (3) business days are acceptable by most clients. If they want the report right away, include a surcharge for faster service.
- 3. When providing a valuation, ensure you have a paper trail to back it up.** This can include comparable vessels and subscribed valuation services reports. Ask yourself the question, "Can I prove how I came up with this value?"

4. If you are not qualified for the job, DO NOT TAKE THE ASSIGNMENT! Contact another SAMS® member who is qualified and pass the assignment on, with the understanding that you will carry his or her tool bag and learn from the experience.

5. Conduct a self-audit of your report template; are you reporting to the SAMS® Recommended Reporting Standards? If you do not have a copy of the SAMS® Recommended Reporting Standards, then contact SAMS® HQ and ask for one.

"Work product" is the number one complaint. It is easy to fix, just do your job with a 110% effort. Always remember that you are a Professional and a member of the Society of Accredited Marine Surveyors®.

I hope to see you all in Baltimore...



Lloyd Kittredge AMS®
Secretary /
Treasurer

Allison Mazon AMS®, VP Testing, came up with a great idea that I thought I would take advantage of and share with the SAMS® Membership. The idea is a shortened version of what

takes place at a Board Meeting and to let you know what we do.

First of all, we try our best to follow **Robert's Rules Of Order**. This is a recognized guide to running meetings and conferences effectively and fairly. All Board Members have an Agenda packet which they received prior to the meeting. The meeting is called to order by the current President. Roll call is then read, recorded, and then all RD's and guests are required to sign in. **First, on the Agenda are Announcements** from our International Office. This is followed by the reading of the previous meeting minutes, and the review/approval of polled votes taken since the last meeting.

The next item of business is the Ethics portion. All non-Board members are asked to leave the room due to confidentiality. When concluded, everyone is invited back to the meeting. At which time, each Vice President and/or Special Committee member will give a report to be discussed and voted on for approval.

"Old Business" (tabled discussion from the last Board Meeting) is next on the Agenda and discussed. At our last meeting, we had items such as a new SAMS® Brochure, the International Trademark update, and returning to the old-style Roster Listing.

This is followed by "New Business." This area of the Agenda can include requests received from Board Members, Regional Directors and the General Membership. These topics are received prior to the meeting - in writing - and added to the Agenda to be discussed and voted on, if warranted.

This part of the Board meeting can sometimes be very lengthy depending on the amount of new business. In closing, the date of the next meeting is discussed and approved. The Board Meeting is then officially closed by the President.

This year's Winter Board Meeting was

held in Jacksonville on February 1, where we had an opportunity to visit the new office and meet with the staff. The next BOD meeting will be June 13th in Baltimore, Maryland. (It is also where our 2012 Annual Meeting & Educational Symposium will be held on October 10th-13th.)

Ken Weinbrecht, AMS®, VP Education, has some new ideas for this year and I am sure he will be telling you about them in his article. Start now, by planning and making arrangements to attend. The location is great; on the water and right in the middle of the East Coast. Lots of flights go there and the flight rates (hopefully) will be attractive.

I will be there. *Will you?*



News from Standards Liaison

Good Day Surveyors, Inspectors and Salty Types in the Game!

We have another letter from the Standards Liaison Department. Things in the world of standards harmonization are in the doldrums, so to say, a bit slow with little to report or comment on. Not that huge efforts are not being made, but it appears from this vantage point that committed groups may be moving too quickly or slowly for technology. Read as follows:

Sometimes, even the best sailors can hoist the sail plan - reversed. Here, we will see an example of the Main ahead of the Genoa. I had fully expected to report that FDIS (Final Draft International Standard) 21487-Permanently Installed Petrol and Diesel Fuel Tanks would be in place shortly. There had been much discussion as to the size restrictions, tank venting-or lack thereof- fill necks, caps, and clean-out port size etc. It appeared that the clean-out port size was a very sticky wicket since a narrow tank, being required to have a 200mm clean-out port, could present problems in way of strength and impulse resistance. Instead, they settled for a smaller clean - port.

Comments on heat and deformity, making it a requirement to be able to inspect the bottom of the tanks etc. , were all problematic. The story goes that the issues were addressed, discussed, addressed again in the very, very long and protracted process (and in a sort of a bang,... "yep, we got it" moment.) As told, the working group was leaving a meeting and were button-holed by a group of

tank manufacturers who had not been totally consulted on this matter. You can guess what the upshot was... "We cannot build what you want, you should have asked before you presented the standard." It must be truly frustrating to have to work at such a pace with so many parties being stakeholders. I will report on the progress as soon as possible.

I had reported that no action was being taken on ISO 6185-Inflatable Boats. What I had not done was to actually research the standard beyond its title and action. I had read the title to say "Inflatable Boats to 8 meters." That can be true, but the November 2011 issue addresses Inflatable Boats to "8 to 24 Meters!" (and described as boats made with Elastomers or Plastomers.) For those of us old enough to remember when a large RIB was 22 ft., this is staggering. So now your larger dingy is addressed by this Standard.

ISO 9094-Small Craft Fire Protection has/is recently being addressed for modifications. There will likely be language that speaks to escape from habitable spaces, motor and blower shut downs. SAMS® continues to monitor standards progress where possible and will advise as we know what to report of changes to established standards.

For those of you working with self-certifying builders in way of Pre-Delivery Assessments, it may be helpful to know that ICOMIA- International Council of Marine Industry Associations in Concert with IMCI- International Marine Certification Institute has produced a simplified Scantling Program. It has been observed that smaller builders may not even be aware

of ISO and RCD requirements and have assumed a "Presumption of Compliance". The pond may be frozen, but the water is still flowing whether we can see it or not. By the time you have read this, still more standards will be in place that will affect the inspection and reporting process. ABYC certainly does an incredible job of keeping us aware of changes, but we must keep ahead of the curve where possible. John Adey, now Director of ABYC was recently asked, what he thought of SAMS® members having a copy of the Surveyors Module from Rulefinders. His immediate response was that every SAMS® member should have a copy. Rulefinders.net produces a program that continually addresses several forms of standards and does comparisons between several agencies. ABYC, RCD- Recreational Craft Directives, MCA Marine Coast Guard Agency, CE, RINA, AS/NZ etc. Speaking with Rulefinders on a possible access program. This would short cut the need to purchase ISO Standards.

Question - did anyone actually explore 40 CFR 1045 by way of Regstoday.com as suggested in the last report?....I hear silence. Engine surveyors should consider this a very good basic tool.

There are a reported 190 countries in some part of the "Harmonization Process" so it is here to stay and getting larger. SAMS® is staying involved with developments in as much as is possible. If you have questions or would like access to ISO Standards, please call.

We are all in this for the duration so let's keep playing nicely...

From the Ethics Corner

Last month, Todd and I attended the Pacific Region Meeting in Hawaii. This was Todd's first SAMS® meeting! We had a discussion on Ethics. The situation is: You survey a Sub-chapter T boat for the owner and find a significant safety issue. The question is: Should you notify the local USCG Marine Safety Inspector?

My answer (and this is only my opinion): Remember, sometimes "ethical issues" are often not "black" and "white". I would say, "no" to reporting this to the Coast Guard. We are not law enforcement officers (even though many of us were in previous lives.) Focus on who is your client. If you have a finding, report it to your client. Put it in your report. Encourage your client (who is the boat owner and not the Coast Guard) to report this finding to the local Coast Guard inspector, then state that action is being taken to correct the issue.

Have a great season and hope to see many of you in Baltimore this fall!



Paul Logue, AMS®
Meetings / Conventions
Vice President

Business has picked up tremendously early this year. Here's to a good year for all!

First off, it is with deep sadness I write this newsletter for the first time, without Jim Wood to fall back on, talk to, or ask questions. I know the rest of us feel this way - for those who knew Jim. Secondly, it is with great privilege that I am able to pick up where Jim left off. My goal

is to find a facility that gives us the most 'bang' for our buck. As I mentioned in the last Newsletter, the following are my priorities:

HAVE AS MANY PEOPLE ATTEND AS POSSIBLE! LOOKING FOR (AT LEAST) 300 ATTENDEES PER MEETING

1. Air Transport - Find a city that is easy to get to and from usually equates to lower fares.

2. Ground Transport - The Hotel/Facility will need to be as close to a major airport as possible.

3. Hotel/Facility - Room: Finding nightly rates as low as I can - without giving up size, cleanliness, and safety. Other factors to consider are having it near a maritime center and having things for our guest, spouses, and family to do. *Meeting and room space size:* Will it accommodate our meeting? For instance, Ft. Lauderdale had 300 guests.

4. Cost of living in the area - Find a hotel/facility that is affordable from the retail, food, and beverage point of view. Reasonable restaurants or snack shops need to be within walking distance.

5. Cost of additional extras beyond the nightly room rate - For instance, negotiating parking price, internet use, etc.

6. Rotate around the regions - Narrow it down to 4 or 5 places that work well with high attendance.

I just got back from San Diego and looked at three properties there. One fit the bill - The Bahia Resort in Mission Bay. IAMI just had their meeting there and it got good reviews. I have locked in a room rate of \$139.00 per night. Looking out, just over a year and half from now, that is a phenomenal rate! (Just picture you locking in your rate almost two years from now for a survey.) A lot of work went into narrowing down San Diego. We looked at Seattle, San Francisco, Portland (Oregon), Scottsdale, and Las Vegas. Seattle and San Francisco all started at \$250.00 and higher per night. The rest were a little less into the high \$100's.

Moving forward... it will be difficult to get rates at \$139.00 per night, but I will try. (When we have our Annual Business Meeting, I will have a pretty good idea what rates are - before we try and decide.) It's nice to throw out on the floor particular cities like San Francisco, Chicago, and Boston, but they are very expensive to hold meetings.

Lastly, I have tried looking at only renting the hotel facility meeting space with their food and beverage, without blocking any large amounts of rooms. Unfortunately, we get fewer concessions on the room rate, Audio-Visual cost, Food and Beverage minimums, and get charged for the Conference Room rentals.

We are in Baltimore, MD on the Inner Harbor for our 2012 meeting.

2013 - San Diego, CA - The Bahia Resort - Mission Bay

2014 - New Orleans - Facility to be determined. §



Jim Sepel, AMS®
Membership
Vice President

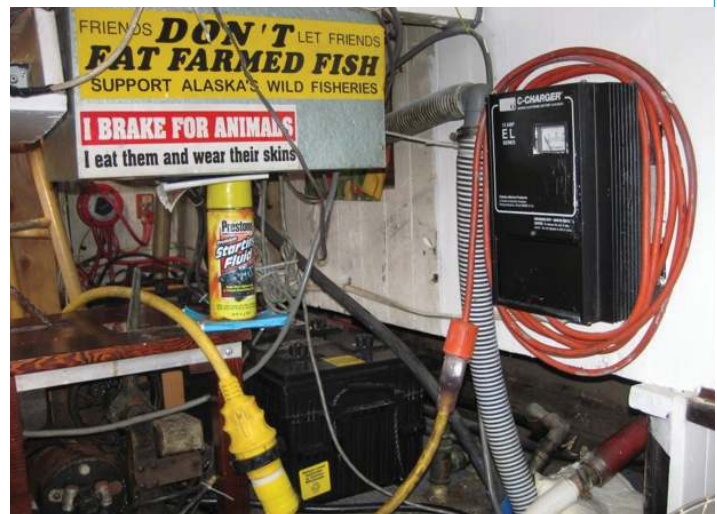
Greetings from the "rain forest" of Southeast Alaska!

Actually, we still have lots of snow on the ground and folks are calling for marine surveys. Everyone has "boat fever".

Well, my associate Todd Sharp (SA) and I recently surveyed a 1938 40' wood power troller, commercial fishing vessel. At first glance, this was really a cute little troller with a nice forward cabin and a "petite" pilot house. However, we quickly began to find many safety issues involving AC and DC panels (lack of the AC) and circuitry, as well as, several maintenance and upkeep issues (including many corroding s/s fasteners.) Just when you think you have pretty much seen it all, a real surprise is found.

The D8 battery bank was right next to the pilot station, and we had a myriad of usual issues (not in boxes, not secure from movement, no covered terminals, corrosion, etc.)

However, right next to the batteries was an old Wood Freeman Auto-pilot (it has the "Don't let friends Eat Farmed Fish" sticker on the back.) This auto-pilot was mounted below the instrument panel and was supported underneath with two tide tables and a can of starting fluid. So, here we have starting fluid that wants to slide off the tide tables and shelf onto the top of the batteries! Also, note the shore power cord plugged directly into a jumper, then directly into the battery charger... scary.



Members' Corner

January through March 2012

The following members are now **Accredited Marine Surveyors**, with the earned designator:

"Yacht & Small Craft"

Ariel Cabrera, Miami, FL; **Joey Duran**, Gainesville, GA; **Fred (Fritz) Everson**, Sandusky, OH; **Bernard J. Feeney**, Whitman, MA; **Peter H. Fenn**, Mystic, CT; **Stephen Kambrick**, Bradenton, FL; **Scott J. O'Donnell**, West Caldwell, NJ; **Richard Whiting**, Sausalito, CA

The following people have been accepted into SAMS® as **Surveyor Associates**:

Jeff Steven Anderson, Normandy Park, WA; **Neil Batcheler**, St. George's, Grenada, W.I.; **Randal H. Carmichael**, Buffalo, IA; **David A. Christopher**, Brick, NJ; **John Crawford Dolmage**, Vancouver, BC, Canada; **Richard D. Flynn**, Apollo Beach, FL; **Robert D. Galeota, Jr.**, Grosse Pointe Woods, MI; **Charles F. Graf, Jr.**, Palm Coast, FL; **Steven Marc Hayes**, Oak Harbor, WA; **Marty Huysman**, Pawcatuck, CT; **Steven D. Jones**, Boulder City, NV; **Frederick A. (Ted) Lane**, Chester, NS, Canada; **Shendell Troy Mills**, Dundas Town, Abaco, Bahamas; **Ian Peter Morris**, Ft. Lauderdale, FL; **Seth Alan Mosley**, Saraland, AL; **William Robinson**, Sneads Ferry, NC; **Todd W. Sharp**, Juneau, AK; **Charles W. Solarek**, Everett, WA; **David L. (Doc) Staley**, Maryville, TN; **Terry Lee Tupper**, West Sacramento, CA; **Rory J. Williams**, Las Vegas, NV

The following people have been accepted into SAMS® as **Accredited Marine Surveyors**, with the earned designator:

"Hull and Machinery, Cargo, Tug and Barge"

Sandra Leigh Pirtle, Friendswood, TX

Applicants seeking Membership with SAMS®:

John Michael Hines – Head Chezzetcook, NS, Canada

Heather Marie Hyde – Santa Rosa, CA

Patrick J. Rogers – Hamilton, MT

Elizabeth Hathaway Smith – Chestertown, MD

Hiram Turner, Jr. – Freeport, Grand Bahama

Marcus Witkowski – Tinton Falls, NJ

Help us to add more green to this picture

The **Summer 2012** will be the last paper issue newsletter that is mailed out to our members. The newsletter will be e-mailed, unless a hardcopy is requested. An electronic version will also be available on our website at www.marinesurvey.org





**INTERNATIONAL
EDUCATIONAL SYMPOSIUM
BALTIMORE
INNER HARBOR
OCTOBER 10 – 13, 2012**

The Baltimore meeting is going to be very well attended, according to the early returns that we have been getting. It's easy to get there by plane and the Inner Harbor is a wonderful venue with a lot of maritime history. The program is going to be a little different this year. Here are some highlights:

Wednesday will be a "STANDARDS" day. The day will have discussions about all of the standards that we should be aware of and should use everyday, as marine surveyors. Representatives will be presenting from all those listed: ABYC, NFPA, UL and CFR.

Thursday will be "Marine Survey" day. This day will pertain to vessel building, inspection, an engine manufacturer as well as a forensic lab. A medical doctor will address the health concerns of our profession.

Friday will be "INSURANCE & LEGAL" day. Topics such as photography for

the surveyor, maritime attorney, fire & accident investigations and insurance will be discussed.

We haven't forgotten the Ethics part of the program, either. If you would like an additional 5 CE credits, an ethics test will be administered to all attendees (open book so don't worry.) The questions will come from the Bylaws, as well as the Policy Manual for SAMS®. The test will be a part of your registration package on the flash drive. If you wish the additional credits; just open the test, take it and email your results to the International Office.

The Board and I think this new format will really attract people to different days. I wish that our symposiums could last 5 days; we certainly have enough to cover. I have been receiving a number of emails and phone calls about what is accepted for CE credits. Here's a brief summary (but certainly not everything that is accepted.) It is not necessary to ask if these topics or sponsors are approved, we have already determined that any of the below have already been given credit in the past. These are just a few related courses that would qualify for CE credits:

1. ABYC courses: www.abycinc.org
2. NFPA courses: www.nfpa.org
3. Any Maritime related academy course. Kings Point, SUNY Maritime, Mass Maritime etc.
4. Cargo courses.
5. Captains courses, renewal course to keep your license or upgrade course to increase your license.
6. Any SAMS, NAMS, IAMI, ASA, or IIMS courses or meetings. There are several other courses that would count as well, such as the courses that several surveyors do each year on their own.

7. Attending an International meeting in another country that is related to the marine industry.

By the way, the Board of Directors has approved a memorandum of understanding with the International Institute of Marine Surveying (IIMS), in regards to their diploma in Marine Surveying. Anyone taking any of the courses from IIMS will receive CE credit from SAMS®. The Board and I have reviewed several of their modules and they are quite extensive and detailed. Something some of you might want to investigate:

www.iims.org.uk

REMEMBER: ONLINE COURSES WILL COUNT FOR 25% OF YOUR CE REQUIREMENT IF YOU ARE AN AMS. (THAT'S 15 CE CREDITS.)

I have also received requests that either an ABYC or a USPAP course be given prior to or at the end of the International Meeting. We have looked into these opportunities and most of the courses are two to three days long. Considering the amount of time that we would spend out of the office (at least one week), many of the surveyors we spoke with could not do that. We will continue to look at some additional courses that maybe can be reduced to one day prior to our symposium. This would be an excellent opportunity to obtain additional education credits.

Over the years, I have been asked one question from members that has really confused me and that is;

"IF I TAKE THE _____ COURSE, WILL I GET CE CREDITS?" I, as well as many other successful professionals, have always looked at education a different way. STUDY & LEARN and don't worry if it will count towards CE credits. Obtain the knowledge that you need to become successful.

You can't save your way to success; you must invest in your business. One professional many years ago said to me; "If you think education is expensive, try ignorance." Don't worry if the course you're going to take will count for CE credits. If it's something you want to take, want to learn about and need for your professional credentials, just do it! The CE credits will take care of themselves.

In today's world, immediate gratification appears to be the norm. In our profession - as with many others- it takes time, education, investment, sweat



Kenneth Weinbrecht, AMS®
Education
Vice President

equity, and making mistakes to bring you to the pinnacle of your success. Then guess what? When you think you have arrived, it starts all over again. Don't worry, that's a good thing.

With all the technological advances in our profession, why do you think there are surveyors in their 70's and even in their 80's that are still working? How many of us have seen or met yacht designers in their late 70's and 80's that are still designing or wood boat builders still framing and planking? It's because they cannot let go. Their creativity is still there and they want to do what they do best. It's not because they have to do it, they want to do it.

The main reason they can't let go is because our profession is a never ending one of education, scraped knuckles, banged up knees, and a big smile on our face when we have completed a job that we were assigned to do. If you stop educating yourself, it's time to retire! My wife once gave me a plaque and I still have it in my office 30 years later. It said: "Success lies in doing not what others consider to be great, but what you consider to be right". (John Gray). Do the right thing for yourself!

Baltimore is going to be a great venue, great educational opportunities, and a great time to visit and rub shoulders with very successful people in our in-

dustry. Sometimes the best education is the roundtable at the bar or the life experiences of other surveyors. Start saving and planning now. It might be expensive for you... but you don't want to be left in the dust in our profession!

On a closing note, I would like to thank all those who have sent me emails and voice-mail messages, regarding the International Symposium. Your Board and I spend a lot of time setting up these meetings. We do it for the members and to improve the professional image of the Society of Accredited Marine Surveyors®. However, it's the participation of our speakers and your presence at the meetings that make it successful.

The boatyards are noisy. The tarps are coming off. The phones are ringing. Most of us are booking work, thinking about our schedule, evaluating our vehicle condition, sorting and renewing tools, and wondering if we are going to get any boating in this season ourselves. This is the surveyor's reality. The other reality that may seem distant now is the letter from HQ saying you can now sit for the AMS® exam and that you have a maximum of 3 tries in 2 years to successfully pass by the up or out date. Will you be prepared or panicked? The testing results are sobering. I won't rehash them at this time, but the failure rate is telling. Don't be a statistic -- be a success! It isn't that hard, but it does take dedication to the craft of surveying, a plan, and the will power to implement the plan. Plan to Succeed.

Basics

Join ABYC
ABYC Electrical
ABYC Webinars
ABYC Corrosion
ABYC Standards

IBEX
SAMS Sponsored Events
International Symposium
General Boat Knowledge
Participate in Boatpokers

Take ABYC Certification Courses
Regional Meetings
Professional Boatbuilder Magazine (free)
Trade Magazines (free)
Attend Work Boat Shows and their seminar

Or

Talk with field representatives from paint and composite manufacturers.

Join a local shipwright's get together (or start one)

Talk with boatyard workers and managers

Attend pleasure boat shows, attend their seminars

Take on-line courses offered by many sources including Westlawn.

General Surveying Knowledge

Carry another's tool bag, AMS or SA

Attend your local surveyor's get together (or start one)

The only limits on your development are self-imposed.

Choose to be a success. Plan and execute!

See you in Baltimore!



Alison Mazon AMS®
Testing
Vice President

USEFUL CONTINUING EDUCATION LINKS:

- Go to the SAMS® website (www.marinesurvey.org) and click on "Useful Links" from the navigation frame.
- Don't forget to send in your education credits (Continuing Education Reporting Form and verification for Attendance and Completion), which we are happy to process at any time throughout the year.





Peter McGuire, AMS®
Canadian
Regional Director

"The winter that never was" (at least in Ontario) is almost over and early indications are that 2012 will be a good year for us.

This week, I had my first survey that falls under the new "Disclosure" clause of the SAMS® Recommended Survey Report Content. "Prior to accepting an assignment, and if discovered at any time during the assignment, a surveyor / appraiser must disclose to the client

and in the report any services regarding the subject property performed by the surveyor / appraiser within the prior 3 years, as a surveyor / appraiser or in any other capacity." Please make sure you are aware of this and adhere to this clause in your surveying work.

As part of the latest Small Vessel Regulations, Transport Canada has introduced a voluntary scheme called the "Small Vessel Compliance Program." Those of you who survey small commercial vessels (0 - 15 Tons / 0 - 12 Passengers) should be aware of its existence. In my opinion, it should also be written up in your survey report (I would suggest that this falls under the statement of standards and regulations used in the report, regulation and voluntary.) Essentially it is (quoting Transport Canada) "an easy to use tool to make sure your small non - pleasure vessel meets the requirements under the 2001 Canadian Shipping Act and its regulations."

Enrollment in the scheme involves the vessel owner submitting to Transport Canada a detailed compliance report and a follow-up annual compliance report. Those enrolled in the scheme obtain a blue Transport Canada "TC 1000123" decal (with expiry date) - see photo:



We should all be looking for these stickers on the commercial vessels that fall into this category. If none is displayed, write it up! You can find complete information on this scheme at <http://www.tc.gc.ca/eng/marinesafety/svcpc-menu-3639.htm> or type in "Small Vessel Compliance Program" into your search engine.

Have a great season!

Great Lakes Corrosion Survey Seminar



Robert V. Horvath, AMS®
Great Lakes
Regional Director

By the time you read this article, we will have had our Spring Great Lakes Regional Meeting in South Bend, Indiana. This year's subject was "Corrosion Surveys" presented by Capt David Rifkin (USN Retired) AMS®. Anyone who has attended one of his seminar's in the past knows the quality of his programs. Those attending now have an extra tool in their kit to add to the services that they offer. Corrosion is not just a boat problem. With this issue many marinas have steel docks and cat walks that have many problems that need solving. Being qualified to perform a Corrosion Survey will surely add to your bottom line.

A "BIG" thanks to Don Robertson for his donation of two 1 year subscription to Boatpokers for door prizes. Also this year, we will have had our first Great Lakes Western Sub-Regional Meeting. This was held at the Marquis Yachts facility in Pulaski, WI. The evening before the meeting we gathered for a surveyor's dinner at "Curly's Pub" at Lambeau Field. After dinner there was a round table discussion with Mr. James Merritt AMS® for a Q & A session. The program was put together by Mr. Scott Schoeler AMS®. Great Job, Scott.

I do not have any fixed plans for our next meeting at this time, but I will keep everyone apprised as I get the venue in place.

Hope everyone has a prosperous year surveying.

WANT FREE REGISTRATION TO THE NEXT ANNUAL MEETING?

If your original photo is selected as one of the cover photos for the new SAMS® brochures, your registration fee to the 2012 Baltimore Annual Meeting & Symposium will be on us. We would like to create brochures for the yacht, commercial, and claims categories. Please submit your high resolution, ORIGINAL PHOTOS (not pirated or 'liberated' from the web) from these categories. (You will need to certify that the photo is yours.) Winners will be selected by the brochure committee. Deadline for the contest is July 1, 2012.



John N. Lowe, AMS®
North East
Regional Director

FROM THE NORTH EAST REGION,
Hope you're all busy with the unseasonable weather and apparent early start to the season.

After seeing quite a few sample surveys lately, I thought it would be a good time to think about what we are putting in our reports, as far as photos are concerned. SAMS® recently suggested that we put photos of all four quarters, topsides, running gear, HIN, engines, electrical panel and interior

photos in our reports (as a minimum.)

I make it a point to add photos of all electronics (powered up if possible), generator installation (if any), Vessel name and registration/documentation number and/or document, helm station(s) and all major appurtenances on board. Any items that can be recorded while in operation (if apparent in photo) should be. Take plenty of shots as these can help with your report writing. They might also get you out of trouble.

I once had a client who purchased an older mid sized convertible which had the usual deficiencies, but performed well

at sea trial. The client called about a week later and said he couldn't get any speed from her and she was revving much higher than she did at max RPM during our sea trial. I returned to the boat a few days later and could find nothing out of order, at that point I asked him to haul her and we quickly found our problem. The four blade props that were on the boat - photographed and included in the survey - had been replaced with three blade units of considerably smaller diameter.

When confronted, the seller strongly denied changing the props until the buyer showed him the photo in the report; at which time he fessed up saying, "I didn't think it would make a difference." He later confessed that he planned to use the old props as spares on his new boat. Not all photos need to make the report, but I tend to take many more than I need, then weed them out later in the office. I will also make a point to include more photos than usual for an out of town/country buyer who has not seen the boat in person (as this trend seems to be growing in the last few years.)

Hope you all get to the great season regional meeting and I will look for you in the yards.

BE SAFE



Randy Renn AMS®
Mid-Atlantic
Regional Director
ISO Liaison

**Hello There,
Jolly Fellow
Surveyors from
the
Mid-Atlantic!**

Looking forward to a record breaking spring and summer as the business model continues to improve.

We are where we are at the ever hovering 134 members in our region. The number does not move very much, and has not for the nearly ten years that I have been here. Faces change and the tide moves in and out, but the number is fairly stable. That, however, is going to change and dramatically due to our aging fleet of surveyors.

We are a gray lot by and large (that is, those who still have head cover.) Not to suggest that we will all slip our anchors anytime soon, but perhaps it is time to import some new blood into the pond. In the past, I have "mentored" five surveyors who became SAMS® members.

Someone might say I should beg forgiveness, but I would argue that in no case has anyone of them been anything but a good friend and business partner. Men-

toring is a rewarding experience that benefits both parties and strengthens the industry. Think about it. Someone likely helped you, how about passing it along?

For those of us not familiar with it, I would like to explain something about an organization known as Rulefinders (www.rulefinders.net). Rulefinders is actually a tool - an online program- that assists boat builders, engineers, designers and surveyors in locating vessel and systems standards in a comparative manner. 'How might an RCD-Recreational Craft Directive yzyz compare to an ABYC Standard uvwx on the same or similar subject?' There are many standards that our usual ABYC does not address.

The Surveyors Module or version of a Rulefinders set addresses 30 ISO Standards relative to our profession. The reason for the explanation is that I would suggest that the region purchase one license and then individuals might purchase a password to access the data. The idea is still in the formative stages, but input is vital. We might approach Rulefinders with a figure that would give us a passcode to enter the website.

An example would be "we have 34 surveyors willing to pay an annual fee of \$105." Whatever the figure is, it would be a starting point. If you would take

a free five day test drive on their site, www.rulefinders.net and comment back to my office (410-604-2327) with a 'yes' or 'no' and some figure of cost that is acceptable, it would give us a baseline. The normal annual fee per person is \$190. Please, do comment.

Please plan your AMS® testing as soon as possible and keep those CE's up and recorded! It is painful to see a fellow surveyor backed into panic mode to comply with testing and timelines. (Again, the test is no easy "A.") A large percentage do not pass the first attempt and most struggle-we do not test often.

I hoped to have seen more "Breakfast Meetings." A call is still out for volunteers to organize in your locale. Once again, if you have a local event where you would like to have a SAMS® booth, speaker, or presence, please call. There is a power point projector in our inventory if you need it for a presentation.

From the "Cool Tool" Dept.

We all test Smoke and Monoxide Detectors, or sure hope we do. How about an aerosol for Carbon Monoxide Grainger # 6TWH5 for \$9.00 and Smoke Grainger # 3VG75 for \$16.45. The weight is less than 10 oz. for both of them. Please remember safety for the customers and ourselves.



BLUENOSE II:

RE CON STRUC TION

Traditional design, Modern Construction

Nova Scotia's famous sailing ambassador, Bluenose II is undergoing a major rebuild in the picturesque coastal town of Lunenburg. While the rebuilt schooner looks traditional, the construction methods being used in the project are anything but. The rebuild is being done by a partnership of three experienced Nova Scotia boat-building companies - Lunenburg Industrial Foundry & Engineering, Covey Island Boatworks, and Snyder's Shipyard. The new joint-venture company is called the Lunenburg Shipyard Alliance.

A bit of history

The original Bluenose was built in Lunenburg and launched in 1921 and enjoyed a stellar career as the fastest working schooner on the North American east coast - winning all her races. In commemoration of this outstanding record, an image of the original Bluenose has appeared on the Canadian dime since 1937. In 1963, a replica called the Bluenose II, was also built in Lunenburg - this time for the Oland family who are brewers of beer in Canada. In 1971, the Nova Scotia government took ownership of the schooner and has used her for promoting Nova Scotia around North America. Several refits later, and after thousands of miles of sailing, a decision was made in 2010 to carry out a major restoration of the schooner, funded jointly by Canada's

Federal and Nova Scotia governments. The hull had hogged badly over time (not uncommon for vessels with long bow and stern overhangs) and much of the wood in the hull was beyond repair. The site selected for the work to be done was (not surprisingly) in Lunenburg.

Design

Hull lines of the reconstructed Bluenose II are very close to those drawn up in 1920 by the original designer: Nova Scotian William Roué (pronounced "roo-ey"). The interior arrangement will actually be closer to the original Bluenose than before, with some structural changes to satisfy relevant Transport Canada Regulations and American Bureau of Shipping Rules to which the vessel is being rebuilt.

Construction

Extensive use has been made of the tropical hardwood Angelique, from sustainable forest stands in Suriname. Superior rot-resistance and strength make this an ideal material to use for the primary structure, but it is very harsh on cutting tools because of the high silica content.

Keel

The keel comprises four layers of 12 inch square sections of Angelique - one length was 44 feet long and weighed just over 2000 pounds! Each keel sub-assembly is scarphed together to the required overall length and the mating surfaces of the four sub-keels were coated in tar before being through-bolted together to form the massive backbone of the vessel. When you

add in the thickness of the keelson and keel shoe to the keel assembly, some of the 1 3/8" diameter through-bolts measured nearly 8 feet long.

Frames

Each of the 60 doubled frames were made from a laminate of thirty-two 3/8" thick x 8" wide layers of Angelique bonded together with epoxy resin. Each frame was first drawn full size on mylar sheet tacked to the wood construction floor and then covered in clear plastic sheet. Before the epoxy cured, each laminated assembly was wrapped in polythene and pulled into the correct frame shape using a come-along secured to brackets bolted to the assembly floor. Once the epoxy had set and cured, the frames were trimmed to the required length before being transported to the construction site and erected on the keel which had been notched to receive them at the various frame stations.

This construction method provides a very strong and water resistant structure and doesn't require the traditional steaming process of heavy frame timbers to bend them into the required hull section curves. Frame spacing is typically 27" and each doubled frame section measures 16" in the fore and aft direction and 12" deep.

Hull planking

All planking is Angelique. The two garboard planks (next to the keel) are 4" thick, with the remainder below the waterline 3 1/2" thick. Finally, 3" thick planks were used above the waterline and for

the bulwarks. All hull planks are secured to the frames with galvanized carriage spikes and lag bolts. A few planks in the more shapely areas of the hull required steaming before fitting to the frames. These were steamed for up to 2 hours in a purpose-made steambox at the construction site. A total of nearly 10,000 galvanized spikes were used in planking the hull and some of the individual planks were 30 feet long.

Ceiling

The ceiling - or inner planking - for the vessel comprises four layers of 1 ½" thick Douglas fir secured to the frames using galvanized spikes and epoxy. Each ceiling strip is also bonded to its neighbor with epoxy with the first layer running horizontally along the length of the hull.

The second layer was laminated with epoxy onto the first layer on a diagonal. The third layer was laminated to the second layer on the opposite diagonal. Finally, the fourth inner layer was secured horizontally to the third layer using nails and epoxy. This results in a strong ceiling laminate measuring 6" thick.

Tools

Tools used for the project include both ancient and modern. The traditional shipbuilding tool, the adze, is used for specific details such as frame notches and rabbets, while power saws, planers, drills, and sanders are used more generally throughout the vessel.

Machining Angelique is hard on tools. Its high silica content makes short work of band saw blades, as was found when cut-

ting the hundreds of ¾" laminate pieces for the 60 doubled hull frames. The band saw blade had to be changed every three cuts and it was a full time job for two people for weeks just to sharpen and re-point the blades.

In conclusion, the reconstruction of the Grand banks schooner Bluenose II is a big job requiring a highly-skilled workforce of 45 boatbuilders, including three apprentices. The project uses a combination of modern and traditional tools and technologies and the results are a testament to Nova Scotian craftsmanship and ingenuity. The schooner is due to be relaunched in the summer of 2012.

Written by Tim Edwards, Executive Director, Nova Scotia Boatbuilders Association 16th Dec 2011 nsbaexec@eastlink.ca



Robert Heekin, AMS®
Florida Regional
Director

JIM WOOD FOR PRESIDENT

I did not like Jim Wood - at first. Jim, after all, was overweight, bald, wore mysterious dark framed tinted reading glasses and was exceedingly boisterous. One day, how-

ever, it was suggested by a person close to me that I peel back the onion. The trouble with that is I do not like onions, either!

Just about that same time, Jim was deployed to south Florida by the Boat US Catastrophe Team. By some fate of irony, Jim was stationed in Ft. Lauderdale during Hurricane Wilma and I agreed to have him work out of my office. While working together, I fondly witnessed Jim do his famed best imitation of Denny Crane during the morning briefings that were held jointly with the Boat US hierarchy. As they say, the rest is history and I had won a friend for life. I truly miss him, dearly. During our daily interactions, while handling storm duty, I remember Jim being critical of some of my anal ways. I have to admit that he helped me in certain ways I am not sure I can explain.

Since I am bearing my soul, here are few of Jim's peculiarities that I picked up on my radar. While Boat US is known as an acutely service oriented insurance com-

pany, Jim could not understand why he had to make an a-p-p-o-i-n-t-m-e-n-t with the boat owner with so many boats to inspect. Needless to say, Jim learned the age old adage that the customer is always right and that this was not simply a platitude dreamed up by some top floor executive. Another one of Jim's self created injustices had to do with his aversion to the apparent compulsion of the Pompano Beach populace, whose daily routine included clogging up the highways in quest of less than 10 items at the local Publix. He would typically agonize in utter disdain that they were, "most likely senior citizens getting ready for the next storm" as they lined up to stock up on flashlight batteries.

After our stint, that he commonly referred to as an adjusting triage, Jim continued to call me out of the clear blue just to check in. I am admittedly a rather closed person, but these intrusions were not perceived as a distraction. They were welcomed times for catching up. During Jim's illness, he was very optimistic about seeing everyone at the next SAMS®/IAMI meeting. This was not meant to be.

Jim served the Board of Directors for SAMS®, as Executive Vice President from 2001 to 2003 and was President in 2004 and 2005. He also held other important posts as well. Jim confided in me that he thought that he single handedly turned SAMS® around during his last tenure as President. I am not sure about that, but

I do know that he gave up a lot for the organization and he did his best. I will let his record stand on its own as it relates to his claims of superiority.

I spoke to Jim during his illness on a few occasions and while I was amazed by his courage, I felt this sinking notion that he would not live long enough to substantially share and enjoy his new life in Idaho with his soul mate and lovely wife Sandi. As many people know, Jim and Sandi had moved recently from Morro Bay, California to their new remote abode in Post Falls, Idaho.

Jim lost over a hundred pounds during his illness, so his only infractions that remained were his baldness, dark framed reading glasses. Yes, he was still boisterous to the end.

Jim had SAMS® blood flowing through his veins. But I loved the man for who he was. As for SAMS®, in my mind he is right up there with the SAMS® founders Frederick Lowe and Jim Robbins. I will close by saying that the SAMS® family were there for Jim and Sandi as much as they could as his beacon of a light finally went out. If you were one of those that did not ever have the occasion to really get to know Jim, you missed a good one that will not be duplicated any time soon.

In mid-February, I had the privilege of leading the instruction team at the Chapman School (in Stuart, Florida) for a week long Damage & Claims Survey class. The team included Dave McFarlin, AMS® of Travelers Insurance in Connecticut; Paul Case, AMS® and Reinier Van Der Herp, AMS® both from New Jersey. The class consisted of eighteen (18) surveyors looking to grow their lines of business and develop professionally. Many of those who attended are also members of SAMS®. Several who graduated from the class intend to apply in the near future. Continuing education is the backbone of professionals in our industry and is required by SAMS® to maintain certification. For example, with accelerated change in electronic and propulsion systems, "staying in school" is a necessity rather than an option. Regional Meetings provide great opportunities for education updates and professional networking. Upcoming Regional

Meeting dates and agendas are included on the SAMS® website. I hope you're checking regularly to see if there is a Regional Meeting that offers something of particular interest or a more convenient date for your scheduling purposes. This December, consider a trip to New Orleans to catch the International WorkBoat Show and 2012 Gulf Region meeting. I'm looking to offer SAMS® members interesting speakers, relevant information, and networking opportunities – all in a unique New Orleans setting. Please feel free to contact me with your suggestions and topics of interest.



Kristoffer Diel, AMS®
Gulf Regional
Director



Dan McDonald AMS®
Cargo Chair

New York State Relaxes Stance on Ballast Water Treatment Regulations.

New York State Department of Environmental Conservation Commissioner Joseph Martens

recently indicated that New York will pursue a uniform, national ballast water standard that will leave in place the EPA's current standards in New York for the remainder of EPA's current Vessel General Permit through December 2013.

"New York remains concerned about the introduction and spread of invasive species in the state's waterways and we hope that a strong national solution can be achieved," Martens said. "At the same time, shipping and maritime activity is critical to New York State and international commerce. A technically feasible national standard which recognizes the critical economic role played by our waterways is the only viable way to address the spread of destructive aquatic invaders through ballast water."

EPA's recent proposal for the next four-year term, December 2013 through December 2017, for its Vessel General Permit includes adopting a protocol that was set forth by the International Maritime Organization (IMO) in 2004. Commissioner Martens continued, "The EPA proposal can be strengthened to better protect against the harms associated with aquatic invasive

species and take advantage of numerous recent, cost-effective advances in treatment technology. A strong, uniform national standard is the preferred approach to ensuring that vessels install and use achievable and cost-effective technology to treat ballast water discharges."

New York's decision effectively eliminates the unworkable ballast water rules put in place during the Paterson Administration. We applaud Governor Cuomo for protecting jobs and supporting the thousands of Americans who make their living in the maritime industry," said Steve Fisher, Executive Director of the American Great Lakes Ports Association. Under New York's previously proposed rules, by August 1, 2013, all vessels operating in New York waters would have been required to install environmental technology that could clean or treat ballast water to meet a water quality standard 100 times stronger than standards established by the International Maritime Organization (IMO) in 2004. No technology exists to meet that requirement. By January 2013, any vessels constructed after that date would have been required to install environmental technology that could treat ballast water to a level 1000 times stronger than the IMO. No technology exists to meet that requirement.

The maritime industry has argued that the proposed regulations are unworkable and, if left unchanged, would result in economic harm to New York ports and maritime commerce travelling through New York waters on the St. Lawrence River - destined for ports in Pennsylvania, Ohio, Indiana, Michigan, Illinois, Wisconsin, Minnesota, Ontario and Quebec. A recent economic impact analysis estimat-

ed that the implementation of New York's ballast discharge regulations would negatively affect over 72,000 jobs. Because of this impact, the U.S. and Canadian federal governments, as well as the governments of several neighboring states and provinces, have encouraged the State of New York to moderate its position and harmonize its ballast water discharge rules with federal and international standards.

The shipping industry maintains that it is committed to taking steps to minimize and eventually eliminate the movement of organisms via ballast water. Today, vessels entering the Great Lakes region undergo the most stringent ballast management and inspection regulations in the world. All vessels entering the Great Lakes from abroad are required to exchange (pump out) their ballast water while still at sea and flush any empty tanks with ocean water. This procedure helps to physically remove organisms from ballast tanks. To ensure compliance, the U.S. and Canadian governments stop, board, inspect, and test every foreign ship entering the Great Lakes in Montreal – the gateway to the St. Lawrence Seaway. Since these protections were put in place in 2006, there have been no new discoveries of aquatic nuisance species in the Great Lakes.

As I have mentioned in previous articles concerning ballast water regulations, marine surveyors could have a future role to play in monitoring ballast water treatment requirements.



C. Stan Johnson, AMS®
Tug & Barge Chair

New Tug & Barge Chairman **C. Stanley Johnson, AMS®** **T&B, Cargo, Y&SC**

What an honor it is to be asked to be the chairman for the Tug & Barge committee! Then I found out the committee consists of one: me.

With that in mind, let me introduce myself. I was born and raised in Ormond Beach, Florida near Daytona and grew up on the intercoastal Halifax River. I was the gas dock boy at the Ormond Marina and progressed up to rigging new boats and then mechanics assistant. After college, I moved to Memphis, TN and in 1970 started a Marine Dealership which I ran for 15 years. I got lots of grey hair dealing with customers, floor plans and employees until Marine Surveying found me in 1980. Being a boat dealer, salesman, manager, mechanic, welder, electrician, fiberglass technician, truck driver, sailing instructor and part time psychiatrist was perfect training for Marine Surveying.

Memphis is not the greatest place for pleasure craft. (It's best for BBQ and Rock'n Roll.) What we do have is Ole Muddy, Brown Water, The Mississippi River. Too thick to drink and too thin to plow. Tow Boats Pushing Tows of 40 or more 200 foot Barges. Towing-Pushing, not pulling, yep, well that's another story. A retired Coastie took me under his wing and got me started into Commercial Surveying.

2013 may be the year of 46 CFR Subchapter M. There will be a Part 8 in which SAMS/NAMS will be approved as a third party to conduct audits and surveys to uninspected towing vessels.

Over the years, SAMS® has put together several great programs that dovetail with 'The Workboat Show' in December in New Orleans (contact Kris Diel, Gulf Regional Director.)

SAMS® Cargo Chairman Dan McDonald has excellent information available for the Cargo designation.

The Commercial Surveying sector remains steady, year-round work with many repeat business assignments. If you are interested in Commercial Surveying, get in touch. I have compiled a suggested study list for the T&B exam.

I look forward to working with you in the upcoming year.



Rolando R. Santos AMS®
Hull & Machinery Chair

New Hull & Machinery Chairman **Rolando Santos, AMS®** **H&M, Cargo, Engine, Y&SC**

President and owner of Alpha Marine Surveyors, Inc.®, Mr. Santos graduated from the United States Merchant Marine Academy in 1981 with a Bachelors of Science in Marine Engineering and a minor in Naval Architecture. He founded Alpha Marine Surveyors in 1982. Roland is recognized by the maritime industry as an expert in Marine related casualties working for ocean carriers, underwriters, cargo interest, P&I Clubs and Maritime Attorneys alike.

Mr. Santos holds several patents for pollution control devices and is a member of several distinguished organizations, which include: S.N.A.M.E., Society of Consulting Marine Engineers & Ship Surveyors, Institute of Refrigeration, A.B.Y.C., A.I.M.U., ASA - USPAP - SE100PP Personal Property (Uniform Std's Property Appraisal Practice) and A.S.N.E. Roland is also an Independent Adjuster (All Lines) in the state of Florida.

Mr. Santos also has extensive experience as an Offshore Sailboat Racer. Since graduating from USMMA where he skippered a Frers 40 ex- 'Gambler,' Mr. Santos has won numerous class races including a 1st in class in the 1997 Columbus Day Regatta hosted in Biscayne Bay, FL with the J-30 ex-"Cigar".

Mr. Santos is a father of twin boys and a grandfather of 1. He currently resides in Miami with his lovely wife, Nancy.



Bob Gallagher, AMS®
Engines Chair

New Engines Chairman **Bob Gallagher, AMS®** **E, Y&SC**

"I started in the repair business in 1974 and ran my own shop from 1984-1998 (when I began surveying.) I have been an AMS® member since 1998. I have restored several wood & fiberglass powerboats over the years."

You can learn more about him on his website at

<http://www.gallaghermarinesurveyors.com/about.html>

**WELCOME
ABOARD**



JACOB PIKE is one of the last traditional sardine carriers that have worked the coast of Maine for decades. She is Carvel planked cedar over oak built by Newbert and Wallace Ship Yard in Thomaston, Maine in 1947 and has worked continuously for 60 years until her retirement in 2007. The vessel can carry 125,000 pounds of fish while maintaining 12 knots. She has been purchased with private funds and will become a living exhibit for the Penobscot Marine Museum in Searsport, Maine. Despite showing rust from the steel chain plates and rub rail, she is reported to be in good condition. To learn more about this remarkable vessel go to the Maine Boats, Homes, and Harbors site at www.maineboats.com or simply Google "Jacob Pike."

-Joe Lobley, AMS® President

(In the Wake of 'The TITANIC': An Unsinkable Law article formatted as it appears in the New York Law Journal, April 12, 2012.)

In the Wake of 'The TITANIC': An Unsinkable Law

This month marks the 100th anniversary of the sinking of the cruise ship, Titanic, with the loss of 1,517 lives (April 15, 1912). Apart from the memory of a high-seas disaster, what remains forever steadfast is the law that surfaced from the casualty.

The Unthinkable Happens

The majestic British steamship, hailed as 'unsinkable' by its owners, sailed from Southampton, England, on her maiden voyage bound for New York. The ship collided with a massive iceberg in the North Atlantic and sank on April 15, 1912, with many lives of passengers, crew and cargo lost. Everything disappeared under the surface except 14 lifeboats.

There has been great fanfare, such as a Broadway play, a children's book, cruises to the site, and a blockbuster 3D movie. There was also a 1914 U.S. Supreme Court case that made admiralty law that continues to resurface.¹

Numerous lawsuits to recover for loss of life and personal injury were filed against the shipowner, White Star Line, in federal and state courts in New York. What the plaintiffs did not see lurking on the horizon was a petition filed by the foreign vessel owner in the U.S. District Court for the Southern District of New York to limit its liability under U.S. law.

Limited Liability

To encourage investments in ships and promote a healthy U.S. Merchant Marine, a limitation of liability law was enacted in the United States in 1851 similar to limited liability laws in other seafaring nations (46 U.S.C. §30501 et seq.). The "great object of the law was to encourage

By
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ship-building and to induce capitalists to invest money in this branch of the industry."² There are significant benefits to the Limitation Act. Its procedural rules give a vessel owner wide latitude to select a federal forum. In addition, all claims must then be brought in that one federal forum (a 'concurus') while at the same time, the law allows the vessel owner to attempt to limit liability to the 'post-casualty' value of its asset, akin to a corporate shield.³

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Under the Limitation Act, a vessel owner can limit liability if it can prove that the loss was occasioned without its 'privity' or 'knowledge' such as an error in navigation that the owner had nothing to do with. 46 U.S.C. §30505(b). Here, the owner alleged in the petition that the collision with the iceberg in darkness was due to an inevitable accident and not caused by any fault of the vessel owner.⁴

Because the Titanic sank after striking the iceberg, the lifeboats were the owner's only remaining asset. Thus, under the U.S. Limitation Act, the owner sought to limit any recoveries to the meager value of the 14 lifeboats and freight money earned which totaled less than \$92,000.⁵ This was a chilling thought to the 711 injured survivors

as well as the families of the 1,517 deceased passengers and crew.

The plaintiffs swiftly countered with a motion to dismiss the owner's limitation petition. The plaintiffs argued that a foreign corporation could not seek protection behind a purely American liability limiting statute for a casualty having no connection with U.S. territory. The only tenuous contact was that another ship, S.S. Carpathia, returned the survivors to the Port of New York.

Plaintiffs' position was that no wording in the Limitation Act made it applicable to a foreign corporation. However, the statutory language did broadly apply the defense to the "owner of any vessel." Generally, in international law, the laws of one country will not have 'extraterritorial' effect outside its own borders.⁶

This creates a presumption that general expressions in a statute which might seem to include all mankind are in actuality restricted to the citizens of the government that enacts the law.⁷ Here, the Titanic was a British ship, owned by a British company, that sank in mid-ocean from a collision with an iceberg. On this reasoning and perhaps having no inclination to cause further heartache to the families, the Southern District decided that the foreign shipowner could not maintain a limitation proceeding here under U.S. law and dismissed the owner's petition.⁸

On Course to Supreme Court

On appeal, the U.S. Court of Appeals for the Second Circuit acknowledged the importance of this novel issue and that it required a speedy resolution in the interest of justice for the victims. In fact, during oral argument, the Second Circuit determined that this unresolved proposition of law warranted immediate U.S. Supreme Court attention and thus certified the issues full steam ahead to the high court.⁹

The Second Circuit framed the main issues as (i) 'whether in the case of a disaster upon the high seas, where a vessel of foreign country

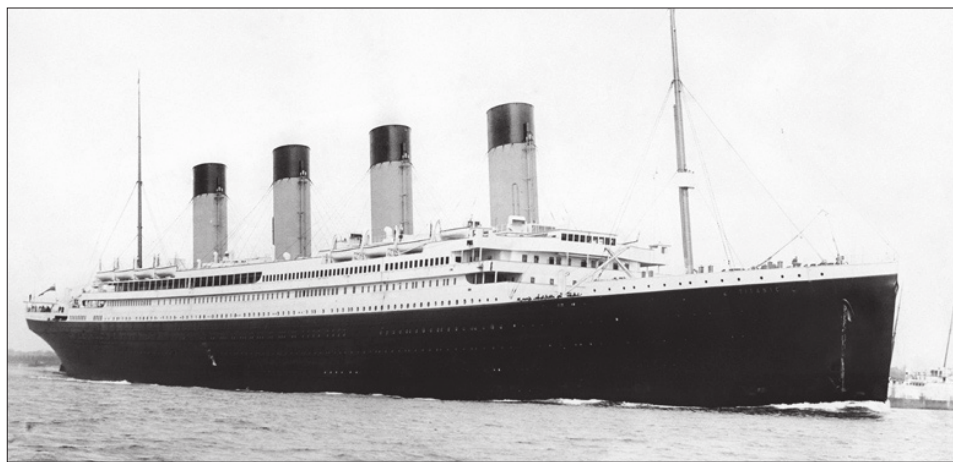
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is concerned with claimants of many different nationalities, such owner can maintain a limitation of liability proceeding here under United States law and (ii) will the courts of the United States in such proceeding enforce U.S. law or the laws of the foreign country in respect to the amount of the owner's liability?"¹⁰

The Supreme Court took the challenge and basically decided that those who wish to sue a foreign corporation here, must take the good with the bad: rights, benefits and remedies on one hand, and defenses under U.S. law on the other hand (i.e., what's good for the goose is good for the gander). Finding that the law of limited liability is "the rule by which, through the Act of Congress, we have announced that we propose to administer justice in maritime cases," the Supreme Court determined that in the case of a disaster upon the high seas with claimants of many different nationalities pursuing remedies here, the foreign owner may indeed pursue a limitation of liability proceeding under U.S. admiralty law.¹¹ Had the decision gone the other way (i.e., no U.S. limitation defense available to a foreign shipowner), the vessel owner could have been exposed to unlimited liability here for the injuries, deaths and cargo loss.

However, *The Titanic* plaintiffs would not come up short again. Faced with potential minimal recovery, due to the U.S. limited liability laws (post-casualty value of the shipwreck), the plaintiffs this time moved to dismiss their own claims in the Southern District, presumably to re-file in England where limitation of liability laws existed but were far more generous to plaintiffs. A brilliant strategy from a tactical point of view because the 'limitation fund' in England would be much higher than the post-casualty value of the owner's asset. At the time of the loss of the *Titanic*, the right of an owner to limit liability in England was governed by Section 503 of the British Merchant Shipping Act of 1894, namely, 15 pounds sterling per registered tonnage of the vessel. Therefore, at nearly 22,000 tons, the *Titanic* limitation fund available to claimants there was significantly more valuable than that allowed in the U.S. based on the value of the remains of the shipwrecked vessel.

Interestingly, in light of the Supreme Court's decision, White Star Line actually preferred that all suits against it be litigated here where its exposure could be minimal. But, it was the Second Circuit that had the final word and subsequently approved plaintiffs' strategy to withdraw the claims they filed in the owner's limitation proceeding. The owner's argument seeking to prohibit this move did not hold water and plaintiffs were at liberty to withdraw their claims and seek justice elsewhere.¹²



THE R.M.S. TITANIC departing Southampton in April 1912.

White Star Line had argued that since it was the 'petitioner' who initiated the limitation action, the claimants were in the position of 'defendants' and therefore could not withdraw their claims.

The Second Circuit disagreed stating that 'facts, not theories, should determine the issue' and the facts were that the claimants were endeavoring to collect damages against the shipowner by reason of its alleged negligence. Thus, they were claimants, not defendants "that hold the affirmative and, no matter what name may be given them, are entitled to withdraw the claims if they see fit to do so."¹³ This is an issue that still arises today in admiralty limitation actions in the context of who has the initial burden of proof of liability... the claimant, or the vessel owner who initiates the limitation action. The above-quoted statement by the Second Circuit should have put the question to rest long ago.

Tragedy Brings Change

There was public outcry over the meager liability limits available to shipowners in the United States based on post-casualty value of a vessel's remains, particularly in major tragedies such as *The Titanic* and the 1934 M.V. *Morro Castle* casualty.¹⁴ As a result, amendments to the law adopted a 'tonnage' based limitation fund similar to England in loss of life and bodily injury cases to \$60 per ton of the vessel in 1935 and in 1984 to \$420 per ton. 46 U.S.C. App. §30506(b).

The Second Circuit has since indicated that *THE TITANIC* decision remains good law,¹⁵ and it is often cited in many jurisdictions and treatises.

On this 100th anniversary of a sea tragedy, we also mark the commissioning of a notable U.S. law, which in instances such as this, reaches extraterritorially to apply to all shipowners, foreign and domestic. It is also noteworthy that no matter what happens, or how much time

elapses, the only 'unsinkable' part of *Titanic* lore is the 1914 U.S. Supreme Court law; now referred to simply as *THE TITANIC*...still seaworthy after all these years!

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1. *Ocean Steam Navigation Co. v. Mellor*, 233 U.S. 718, 34 S.Ct. 754, 58 L.Ed. 1171 (1914).
 2. *Norwich Co. v. Wright*, 80 U.S. 104, 121 (1871).
 3. "Stretching the Boom? Limiting Liability for Offshore Disasters," Richard O. Farrell, 22 *Westlaw Journal Environmental* 1 (2010); see also *The MSC Carla*, 1999 WL 6364*3 (S.D.N.Y. 1999).
 4. *THE TITANIC*, 209 F. 513 (2d Cir. 1913).
 5. *THE TITANIC*, 209 F. 501, 502 (S.D.N.Y. 1913).
 6. *Id.* at 510.
 7. *THE TITANIC*, 209 F. 501, 510 (S.D.N.Y. 1913).
 8. *THE TITANIC*, 209 F. 501, 512 (S.D.N.Y. 1913).
 9. *THE TITANIC*, 209 F. 513 (2d Cir. 1913).
 10. *Id.* at 514.
 11. *Ocean Steam Navigation Co. v. Mellor*, 233 U.S. 718 (1914).
 12. *In re: Ocean Steam Nav. Co.*, 255 F. 747 (2d Cir. 1915).
 13. *Id.* at 748.
 14. *United States v. Abbott*, 89 F.2d 166 (2d Cir. 1937).
 15. See *Kloekner Reederei and Kohlenhandel v. A/S Hakedal*, 210 F.2d 754, 756 (2d Cir. 1954), appeal dismissed, 348 U.S. 801 (1955).

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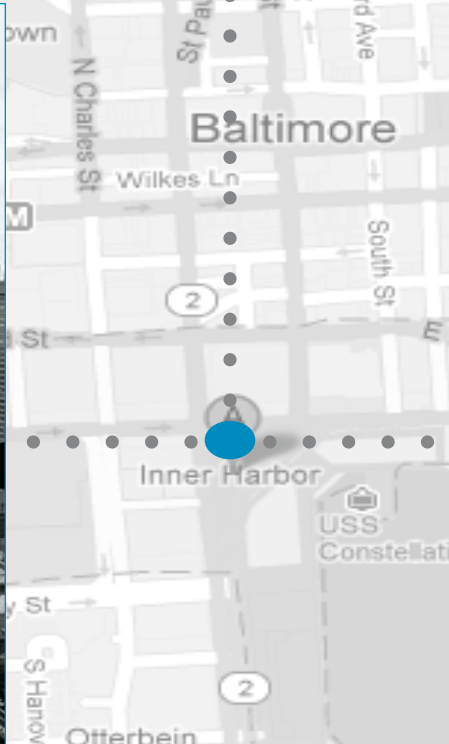
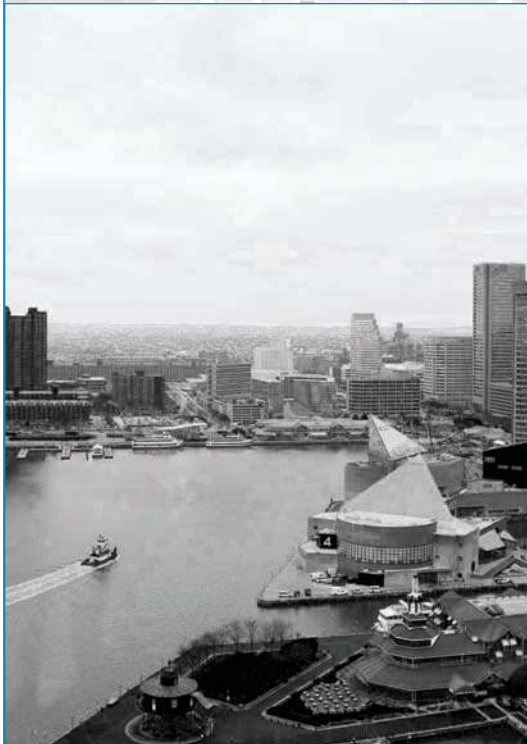
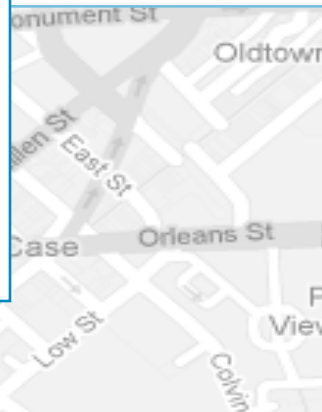
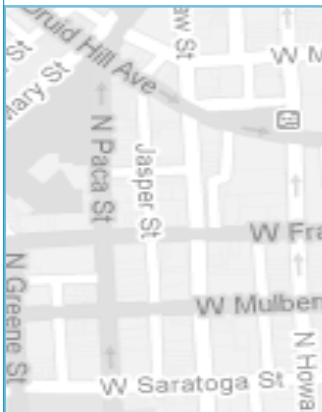
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