

Mid-Atlantic Mariners Club

Newsletter



Fall 2006

Volume 1, Issue 1

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The Skipper's Corner

Damon Hostetter
Jack Martin & Assoc.

As we prepare to celebrate our fourth year as an organization, it may be worthwhile to take a step back and reflect on our beginnings, on the progress we've made and whether we're meeting our stated objectives. This topic has been explored and discussed at virtually every business meeting since the club's inception. Further, we've solicited response from the attendees at nearly all of our quarterly meetings.

To answer this question, I feel we must turn to Our Mission Statement.

"Mission of the Mid-Atlantic Mariners Club is to unite and perpetuate Marine Insurance Professionals in a community that actively promotes the highest standards of professional competency and ethical conduct."

Are we meeting this goal? I think we are. Can we do better? Absolutely. Does the MAMC meet your needs, wants and desires as a member and/or participant? The evaluation surveys collected at our Programs say we are, but I'm not sure. From my perspective, we've provided a fantastic forum that provides great learning and networking opportunities at low cost. What I

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Celebrating the 3rd Anniversary, a Look Back and Beyond

By Helen Dierker Program Director MAMC

The Mid-Atlantic Mariners Club celebrates its 3rd anniversary this year at our Fall Program on October 11th. An Anniversary, like New Years, is a time to reflect on the past and plan for the future. Before we tackle the future, let's take a snapshot of this past year:

- ◆ In December of 2005, we all shared in the excitement of the Volvo Ocean Races. Listening to the experts describe the race in detail and watching the professionals maneuver these beautiful vessels at sea was a thrill for us all.

Additionally the Club reached a milestone; this was the first year that the Club was able to make a charitable contribution. We presented this year's contribution to the Alexandria Seaport Foundation. Joe Youcha, the Executive Director spoke on behalf of his organization. Many attendees commented on how moved they were by the good work that this organization is doing for youth at risk. It feels good as an organization to be at a point where we can give back to the community.

The Holiday party at Pier 5 that evening provided a splendid view of Baltimore's Inner Harbor. Festive holiday lights and trees, along with good food, drink and company made for a memorable holiday and year end celebration.

- ◆ In the Spring of 2006 a panel of experts gave us a first hand "in the trenches" review of what it was really like working a catastrophe such hurricane Katrina. This was a time when the major marine insurers came together to work for the good of all. Together they were able to cut through the corruption and bureaucracy that was impeding progress, and at the highest level of our organizations we put aside our differences and competition for the good of the people we insure. All in attendance agreed that the MAMC is an excellent vehicle to keep us all in touch and working together where it counts.
- ◆ In the summer of 2006 we had our annual summer picnic. Again, a good time was had by all (see pics on next page)! We had a Meteorologist from NOAA, with a lifetime of experience in the marine industry, as well as a professional Weather Router talk to us about the how, when, what, where and why of their business. We all know the significance that

2006 Summer Crabfeast



weather plays in Boating and our speakers addressed adverse weather situations and the importance of our ability to identify competent boat owners and captains. Well-trained boat operators are fundamental to the safety of passengers and property and these speakers drove home the importance of training and using weather professionals at sea. The summer festivities began at 5:00 pm with music and a picnic/crab feast on the lovely lawn of the Kent Island Yacht Club. The spectacular view of the Chesapeake Bay, along with sunny balmy weather, good music, food and company made for a perfect summer evening!

This brings us full circle to our Fall 2006 Program. As you all know, I have been looking for help with our Programming efforts for quite a while now. Derek Rhymes has stepped up and volunteered to take the lead in planning this Program. He has been a regular at our monthly meetings, and has already contributed substantially to our organization in the past year. I am confident that this Program will be excellent. Derek will have a panel of experts discussing the timely topic of Ethanol and its impact on our industry. Additionally, we will hear from an expert on Coast Guard Inspected vessels. After the Program we will have an Anniversary Celebration Cocktail Party.

The future of our Club has endless possibilities. We would love to have your feedback and input on how you think things have been going, and your ideas on how the Club can expand and improve moving forward. To that end, ***there will be a special business meeting on the day of our Fall Program at 9:00 AM (continental breakfast at 8:30AM), and all interested parties are invited.*** We know that many of you will be in town for the Program as well as in preparation for the Annapolis Power Boat show. It will be a good opportunity to meet with many of you that we don't see at our monthly meetings. Please RSVP to Yeoman Christine Wilson (chwilson@hartgeinsurance.com) if you plan on attending. We would love to see you and hear your ideas!

Dynamic Duos:

Meeting in Annapolis on October 11th, 2006

Mid-Atlantic Mariners Club 3rd Anniversary Program

&

35th In-the-Water Annapolis Power Boat Show

By Helen Dierker Program Director MAMC

"The MAMC has always included a ticket to the Show as part of the package you will receive when you attend our Anniversary Program"



Time does fly! Another year has gone by and while fall is around the corner, we all know to keep our boat shoes in the front of the closet. The Annapolis Boat Show is a "must do" for anyone in the industry. Our members alone will keep Annapolis a hub of activity – meetings, walking the boat show, parties and an endless opportunity to meet-and-greet and carry on business in a way others can only dream of. Alas, some may even have to work the boat show!

(continued next page)

Interestingly, the first in-the-water boat show was held in Annapolis in 1970, The Annapolis Sail Boat show. This year marks their 37th anniversary for Sail Boats and 35th for Power Boats. The MAMC has rotated their anniversary celebrations between the two shows since its beginning. Each show is truly unique, not only with regard to the boats, but also the people you will see attending. Attending both shows and watching the differences is a treat for anyone that has an interest in the study of human nature and diversity or perhaps demographics. The Power Boater and the Sailor are miles apart in almost everything from boats and dress, to appetite & destinations. If you have been around for a while and attended these shows – you know what I am talking about.

The MAMC and the Boat Show are also excellent opportunities to learn, train and “show” your staff. The show will feature the sexiest high-performance and cruising boats on the market, both US and Foreign. It will also feature the largest multi-hull display. For those interested in the small fishing and cruising boats, you won’t be disappointed. Essentially, if it is a powered boat it will be here. This is the perfect opportunity to get on board, check out the instruments, look in the engine room, and “ooh and ahh” over the beautiful and luxurious interiors of some of these splendid yachts.

The MAMC has always included a ticket to the show as part of the package you will receive when you attend our Anniversary Program.

Make your plans now. Don’t forget to wear your boat shoes and pack your business cards, sunglasses, and SPF30 (gold chains are optional). Everyone will be there- don’t miss the fun and the “meet and greet” opportunity!



Applying ABYC Standards to Older Boats

By Derek Rhymes, NAMS-CMS & SAMS A.M.S.
All Boat & Yacht Inspections, LLC

Any decent surveyor worth his or her salt has been accused by boat owners and repairers alike of “trying to redesign” an older boat by making recommendations to modify the boat to comply with current standards. Occasionally you’ll hear the excuse that a boat is “Grandfathered” from a particular standard due to its age. If a boat building standard is considered important for boats being built today, is it also not important for older boats? The question is, “Where do you draw the line?” The answer lies in understanding the reasoning behind each standard. Was it developed to prevent a fire, electrocution, sinking, or injury? If so, maybe it’s important to all boats, new and old.

“Surveyors, boatyards and insurance underwriters share the responsibility of applying ABYC standards, knowing that it’s the boat owner who will bear the financial burden of trying to bring an older boat up to snuff.”



General acceptance and better understanding of the ABYC standards by the boat builders has grown significantly over the past 10 - 15 years. Much of that has to do with the proactive education and training programs that ABYC has developed. It also has been acknowledged that *failure to comply* with established industry standards can result in financial loss due to liability, which may add to the impetus to comply. Unlike Federal standards mandated by the U.S. Code of Federal Regulations (CFR), ABYC standards are developed by members of the U.S. boat building and service industries, and their compliance is voluntary.

Surveyors, boatyards and insurance underwriters share the responsibility of applying ABYC standards, knowing that it’s the boat owner who will bear the financial burden of trying to

bring an older boat up to snuff. It's generally acknowledged that you can't, or shouldn't, try to make every boat fully compliant with all of the current standards. This is where the term "as best as practicable" comes into play.

Examples of essential and relatively simple modifications to older boats include: installation of GFCI outlets where appropriate; replacing automotive fuel hoses with the appropriate USCG-type hose; connecting the AC safety ground to the DC ground; adding battery shut-off switches to large batteries or battery banks; and covering exposed DC positive terminals with boots. Pressure gauges can be added to propane systems and marine grade carbon monoxide (CO) detectors can be installed on gasoline powered boats with cabins.

Other equally important but more complex modifications may include replacement of a household AC breaker panel with a marine grade breaker panel with all of the bells and whistles, including a proper master breaker and reverse polarity indicator. AC generators on gasoline powered motor yachts that have their exhaust ports amidships should have their exhausts rerouted aft. We know too much about CO poisoning not to make the recommendation and modification.

Another frequent problem is what to do with an older motor yacht that uses solid copper wiring in its AC system. Is it well installed or a mess? Do you replace the whole system when the cost of the parts and labor will equal 50% of the vessel's value? Sometimes it's a judgment call, but always leaning towards the conservative "make it right" approach.

There are instances where certain items do not comply with any standard whatsoever, but you have to ask yourself: "So What?" Let's take the example of PVC fuel fill hoses used on many of the trawlers imported into this country during the 70's and 80's. They're typically less than 8" in length and located all the way outboard on top of the steel saddle fuel tanks in the engine compartment. Do they meet USCG-type A requirements for fire resistance? Probably not. But if you have a situation where fire reaches these hoses, you have much bigger problems to worry about, such as abandoning ship.

In my survey reports, I may indicate that a system does not comply with current standards, but may also include the phrase: "In the opinion of the surveyor, this condition does not appear to expose this vessel to greater risk than that of other vessels of similar size, class and age". I am essentially making the boat owners, buyers, and/or insurance underwriters aware of the condition and offering them our professional opinion as to its criticality. If the underwriters choose to force the issue and correct the deficiency, that's their business.

It is important that we perform our jobs in a diligent fashion in an attempt to ensure boating safety, which is what it is ultimately all about. Surveyors need to understand the ABYC standards and apply them in a fashion that is reasonable and responsible. It's also important that survey reports accurately convey whether systems on boats comply with current standards (and if not, what are the risks of non-compliance) so that insurance underwriters can come to their own conclusions and business decisions. After all, it's the insurance industry that ultimately drives the application of ABYC standards to older recreational boats, in effect demanding compliance "as best as practicable". And it's important that boatyards and repairers accomplish their repairs and modifications with current standards in mind, knowing that these standards, which are *safety* standards, were developed by committees of people who are often the top experts in their fields. Being able to explain to a customer that a modification is needed to comply with a specific *safety* standard may make a work order an easier sell, not to mention the right thing to do. And if a customer is concerned with the cost of compliance, they should be made aware of the cost of non-compliance, such as injury or death due to fire, electrocution, or CO poisoning.

The above article originally appeared in the Fall 2004 ABYC Newsletter and is reproduced here with permission.

The Skipper's Corner (continued from page 1):

struggle with is the concept of perpetuation of marine insurance professionals. The question is, are we doing everything possible to pass along the knowledge that the more seasoned professionals have acquired over the years?

When our club was in the initial planning stages, the Officers & Executive Committee had discussed providing ground level marine insurance training opportunities. I believe this type of training is something we should strive to accomplish. If this can not be done at all meetings, at least we can devote time at one meeting where perhaps we would have break out sessions tailored to the level of participants. We seem to have attendance from the upper ranks of the business, i.e. agency principals, managers, and attorneys but much less from the underwriters, adjusters, surveyors, producers and other professionals who are on the front line every day. This is just one person's opinion and the Club should be a reflection of the membership. What do you think?

The MAMC is rich with the necessary resources, and with the focused collective energy of the membership we could accomplish this goal and more. I think if our organization does provide a quality service many of you will be willing to invest your resources, people and energy to make us even better. As a result of these improvements I believe our membership could quadruple and we would have better trained individuals at all levels in our organizations.

Along this line of thinking, as Skipper of the Club, I would like to invite all Active and Paid Members to express your feelings, thoughts, opinions and concerns in our 1st ever (perhaps it will turn into an annual) meeting of the General Membership devoted specifically to this and other fundamental questions. If you are not an Active Member – it is not too late. Membership dues are \$100 for an individual, \$500 for corporate membership up to 10 members, and \$1,000 for a corporate membership with unlimited # of members. You may send your membership dues to MAMC, P O Box 709, Annapolis, MD 21401. This general session meeting will be held on the morning of regular quarterly meeting, i.e. October 11th from 9AM– 11 A.M. (Continental Breakfast provided at 8:30AM). More details are provided in this 1st newsletter and please RSVP so we know how many folks will be attending. (RSVP to Yeoman Christine Wilson chwilson@hartgeinsurance.com)

We look forward to seeing you at our first General Membership meeting!



Possible future column:

“A Current Thought”, Alex Kripetz, Travelers Luxury Yacht

A current thought from.....perhaps you! Have something on your mind you would love your counterparts in the boat insurance industry to know about (something positive or negative, it doesn't matter). New trend in the industry that is making your job easier or tougher? Here is your chance to let your industry know what you're thinking about and/or facing currently, and perhaps how together we can all make it better!

Because our industry has so many different segments including but not limited to agents/underwriters/marketing/surveyors/salvage /attorneys, we would love to spotlight “a current thought” each issue coming from the different angles of our business. Who knows, your current thought might just become the topic of a future meeting!

Anonymity is not a problem; we do not need to use your name. We could simply state whether you are an agent, underwriter, surveyor, etc.

So c'mon aboard and let everyone know what is going on in your part of this boat insurance world. Submissions can be sent for consideration to the newsletter committee via e-mail at:

akripetz@travelers.com



DEVELOPMENTS IN ADMIRALTY LAW:

DUELING PRESUMPTIONS; UNLIT BARGES AND THINGS THAT GO BUMP IN THE NIGHT, by John H. Sweeney and J. Dirk

Schwenk, Lochner and Schwenk, LLC www.boatinglaw.com

On a dark night in December 2001, a 25 foot boat carrying 12 people struck an unmanned, stationary barge in the Cedar River near Jacksonville, Florida. The boat's driver was intoxicated. The court ultimately found, however, that the drunken operator was not the cause of the collision, and indeed, *could not have been* the cause. Judgment was entered in the amount of \$19,000,000 solely against the barge. How did this happen? To understand, one must get through two of the admiralty law's great rules: the *Oregon* Rule and the *Pennsylvania* Rule.

The *Oregon* Rule creates a rebuttable presumption of fault against

a moving vessel that strikes a stationary object or vessel. That presumption can be overcome only upon proof that the collision was the fault of the stationary object, that the moving vessel was operated with reasonable care, or that the collision resulted from an inevitable accident. Under the *Pennsylvania* Rule, a finding by the court that a vessel or its operator violated a statute or regulation intended to prevent collisions creates a presumption of fault which can be overcome only by proof that the violation "could not have been" a cause of the accident.

The barge was moored parallel to the bridge that it was being used to work on, blocking all but 38' of the 120' wide navigational channel. Eye-witnesses testified that only 3 out of 10 deck lights on the barge were operating. Passengers on the boat who had not been drinking testified that the barge was virtually invisible until immediately prior to the collision.

The Oregon Rule presumes that a moving vessel is at fault if it hits something stationary. The presumption can be overcome if the moving vessel proves it was operated with reasonable care, if the stationary object was at fault, or if the damage was the result of an inevitable accident. The Pennsylvania Rule means that a vessel that violates one of the Rules of the Road (or other regulation) is at fault unless it can prove that the violation could not have been a cause of the accident.

The court first addressed the proper application of the two rules where both are applicable. Where a moving vessel strikes a stationary object or vessel, the *Oregon* Rule applies first to force the moving vessel to prove that the stationary object caused the collision. Then, if the moving vessel also establishes that the stationary object or vessel violated a statute or regulation, the initial presumption falls away and the burden of proof is shifted to the stationary vessel under the *Pennsylvania* Rule to show that its violation could not have been a cause of the accident. If the stationary vessel proves that the moving vessel or its operator also violated a statute or regulation, both vessels must then prove that their statutory violations could not have been a cause of the incident in order to escape the imposition of fault. If neither can overcome the *Pennsylvania* Rule presumption, then the court must apportion liability between them based on comparative fault.

The boat owner was able to show that the way the barge was moored violated a Federal law which prohibits "tie[ing] up or anchor[ing] vessels or other craft in navigable channels in such a manner as to prevent or obstruct the passage of other vessels or craft ..." That shifted the burden of proof from the boat owner to the barge owner to prove that its statutory violation could not have been a cause of the collision under the *Pennsylvania* Rule.

The Court assumed (despite conflicting expert testimony) that the boat owner was intoxicated under both Florida statutes and federal law at the time of the collision, thereby shifting the burden back to him to prove, under the *Pennsylvania* Rule, that his legal intoxication could not have been a cause of the collision.

The Court found that there was "ample evidence" by which to conclude that the boat owner's intoxication "could not have been" a cause of the collision. There was expert testimony that the boat owner's operation of the boat prior to the collision was proper in all respects and did not indicate that his motor skills or mental faculties were impaired. Also, the sober passengers in the boat testified that the barge was virtually invisible until immediately prior to impact, indicating that the collision could not have been avoided by the operator even if he had been stone sober.

And the moral of this story: just because your party violated a law doesn't mean you can't overcome the presumptions associated with that violation.

The comments in this article do not constitute legal advice - if you need an answer to a particular question, give us a call, and if we can give a quick answer we will!

What's Shakin'?



The MAMC welcomes Karen Ricketts!

Karen has recently accepted the position as Assistant Vice President of Zurich Marine Specialty. She is also the Marketing Manager for Zurich Marine Yacht and the Foremost Family Boaters programs. Having worked closely with those in charge of developing the Zurich Marine program, she brings a wealth of knowledge and experience to her new position.

Her career in the insurance industry began in 1980, and Karen's background includes numerous accomplishments. Previous positions include District Manager, Agency Sales Manager, Agency Development Manager and National Agency Development Manager.

Karen grew upon the inland lakes of Michigan and loves power boating and waterskiing. She has two teenage sons that keep her very busy at home, and she spends her "free" time as a Junior Achievement Instructor.

She will be attending her first MAMC Program in October. We all know she will do well in her new role, and we wish her the best! Welcome aboard!

*****"What's Shakin'" will be a regular column in our MAMC Newsletters. If you have any interesting industry news or know of someone or something that should be acknowledged, please submit those ideas to the MAMC Newsletter Committee at mailATmarinersclub.net (Please note that we have exchanged "@" with the word "AT" in order to reduce automated spam.)*

Upcoming Events:

10/11/2006:

A special 9:00 AM morning "General Session" meeting (continental breakfast available at 8:30AM) for active/paid members will be held at the Loews Annapolis Hotel in downtown Annapolis, MD. For more information and if you are interested in attending, please contact Yeoman Christine Wilson: chwilson@hartgeinsurance.com

10/11/2006:

3rd Year Anniversary Celebration

PLACE: Annapolis, MD (Lowes Annapolis Hotel)

TIME: 12:30 – 1:00 – registration

1:00 pm – 5:00 pm PROGRAM "What to know about Ethanol and Inspections"

5:00 pm – 7:30 pm COCKTAIL PARTY

COST: \$75.00 – Members, \$100.00 – Non-Members (full details will be e-mailed out)

12/14/2006

December Program

Place: Calvert House, Annapolis MD

Details will be forthcoming over the upcoming months.



Advertising Information

This first edition of our MAMC newsletter will be distributed to all of our Club members, numerous non-members, and marine-related businesses. For those interested in advertising in an upcoming issue, we will be offering the following space on a per-issue basis:

Full-Page Ad: \$250

Quarter-Page Ad: \$125

Business Card Size Ad: \$75

Interested parties please send e-mail to the following address:

mailATmarinersclub.net

(Please note that we have exchanged "@" with the word "AT" in order to reduce automated spam.)

Contact Information:

Regular Mail:

MAMC
PO BOX 709
Annapolis MD 21401

Website:

www.marinersclub.net

E-mail:

mailATmarinersclub.net

(Please note that we have exchanged "@" with the word "AT" in order to reduce automated spam.)

Newsletter Article Submissions

Would you like to write an article for an upcoming edition of this newsletter? If so, please send it to the e-mail address above along with your contact information, and the newsletter committee will be happy to review.

Acknowledgements

MAMC Officers

Skipper:	Damon Hostetter	Jack Martin & Associates
First Mate:	Charlie Simmons	Gorman & Williams
Program Director:	Helen Dierker	Performance Specialist
Purser:	Alicia Shaffer	Zurich Marine Speciality
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