




**NMEA**  
**2023 Conference & Expo**  
**ALYCIA N. MCGLONE, CMIP –**  
 CERTIFIED MARINE INSURANCE PROFESSIONAL  
 PRESIDENT / CEO  
**ANM MARITIME SOLUTIONS GROUP P. A. /**  
**MCGLONE MARINE INSURANCE**

*PROVIDING SOLUTIONS FOR BOAT AND YACHT OWNERS,  
 MARINE BUSINESSES, MARITIME INDUSTRY ORGANIZATIONS  
 & MARINE INSURANCE COMPANIES.*

1




McGlone Marine Insurance  
<https://anmmaritime.com>  
**Exclusive Program Administrator of the**

**NMEA INSURANCE PROGRAM**  
 A customized program for members of the  
 National Marine Electronics Association

**Underwritten by**



**GREAT AMERICAN**  
 INSURANCE GROUP  
 GREAT AMERICAN Insurance Group

Currently writing in AK, AL, CT, FL, GA, LA, MD, ME, NC, NJ, RI, SC, TN, TX, VA, WA, WI  
 expanding to other states soon.

2

*Maritime Businesses – Are You Insured Correctly?*

- **Let Us Talk About Exposures**
- *Common NON -Marine Exposures*
- Commercial Property (Buildings, Business Personal Property, Business Income With Extra Expense), FLOOD coverage, Wind Coverage
  - EDP – Electronic Data Protection
  - Docks, Piers, Wharves
  - Dealer Inventory for physical damage (Wind, Flood – not automatically covered)
  - Tools/Equipment (Weight of Load not automatically covered, Waterborne Coverage, Flood coverage (not automatically covered))
  - Inside Racks/ outside Racks

3

**Let Us Talk About Exposures**

- Commercial/Business Auto – Symbol 1 (Any Auto).....
- **DOC- Drive Other Car coverage** for owners who do not have a Personal Auto Policy in household
- **Hired & Non-Owned Auto Liability?**
- **AS RELATES TO SERVICE AND REPAIR MOVING OF BOATS/TRAILERS. THIS DOES NOT INCLUDE MOTOR TRUCK CARGO OR GARAGE KEEPER'S LIABILITY FOR A "FOR HIRE TRANSPORTER".**
  - Trailers – max weight for liability generally 2,000 gross pounds load capacity, some insurance companies have endorsement increasing to 3,000 gross pounds load capacity. Let's discuss a few scenarios:
  - Regardless if Trailer is OWNED or NONOWNED
    - Hauling boat for delivery after repairs down 1-75 and the trailer comes off hitch/unlatched and the TRAILER CAUSES AND AUTO ACCIDENT
    - Have a work Trailer sitting on the side of the road with tools/equipment in it (owned trailer)
- **SCHEDULE your Trailers for Liability!**

4

### Let Us Talk About Exposures

How do you minimize this exposure:

**HAVE SYMBOL 1 ON YOUR AUTO LIABILITY – ANY AUTO**

For owned Trailers schedule all owned trailers for Liability (at minimum) onto your business auto policy

If you are a dealer and have dealer plates, schedule your dealer plates onto the business auto policy

If you are NOT a dealer and are trailering a NON-owned trailer make sure your agent has Symbol 1 on your liability and make sure you have the appropriate Ship Repairer Legal Liability to include transit on land and over water for delivery of vessels/trailers that are in your care, custody & control and confirm the radius miles allowed.

\*DISCUSSION as SROLL does not cover auto liability but the C.C.C. exposure of the vessel

5

### Let Us Talk About Exposures

- **Cyber Liability** – online transactions, customers’ credit card info, personal info, network security, etc.
- **Crime** – i.e. Employee Theft, Burglary, Money & Securities
- **Professional Liability – Errors & Omissions** (Architectural design, Blueprint Design, Surveys, Professional Services)
- **Financial Management Liability- Surety or Contract Bonds**
- **Employment Practices Liability** – hiring, firing, EEOC
- **Employee Benefits Liability and/or ERISA** (Employee Retirement Income Security Act of 1974)
- **General Liability** (we will discuss more under the Marine Exposures)
  - Scheduled Premises / Location
  - Excludes Property of others no Bailee, no Care, Custody, Control
  - Excludes Watercraft operated

6

### Let's Talk Specialized Maritime Exposures and Coverage – **MARINE Commercial Liability**

• **Marine Commercial Liability – EXAMPLE:**

• General Aggregate Limit (Other than Products/Completed Ops) limit	\$2,000,000
• Bodily Injury and Property Damage Liability Limit	\$1,000,000
• Personal and Advertising Injury Limit	\$1,000,000
• Products/Completed Operations Aggregate Limit	\$1,000,000
• Medical Payments – any one person	\$ 5,000
• Liability for Damage to Rented Premises Rented to you, any one premises	\$ 100,000
• Each Occurrence (including all endorsed cover)	\$1,000,000

7

### Let's Talk Specialized Maritime Exposures and Coverage – **Marine Composite Package**

- **MARINE COMPOSITE PACKAGE** can be written to include various marine business types
- **Includes Marine General Liability**
- **Can include MOLL or SROLL**
- **Inventory**
- **Tools/Equipment**
- **Other ancillary coverages**

8

### Let's Talk Specialized Maritime Exposures and Coverage – **MOLL – Marina Operator Legal Liability**

- When is this coverage needed?
  - What is the difference with SRLL – Ship Repairers Legal?
  - MOLL – Recreational Marine Industry
    - Service/repair/maintenance of generally recreational vessels
    - Hauling/Launching
    - Storage
    - Moorage
    - Fueling
    - Rental Receipts
    - Ships Store
- WHARFINGERS LIABILITY for commercial facilities but may still need MOLL.*

9

### My favorite place.....St. Petersburg Yacht Club!



10

### Commercial Shipyard, Drydock (Wharfinger exposures)



11

### Let's Talk Specialized Maritime Exposures and Coverage – **Ship Repairers Legal Liability**

- Care, Custody, Control for the purpose of repair or alteration or maintenance within "coverage territory" or while such watercraft are being moved overland and via inland waters for a specified distance in connection with repairs or alteration (distance set by carrier, no less than 100 miles recommended)
- Damage to Watercraft and/or Equipment, Cargo, Motors, Electronics, Machinery, and/or other interests on board vessel
- Property Damage caused by Watercraft while in C,C,C being navigated or operated away from premises and within permitted waters by employee(s) – must have proper USCG license if required to operate size vessel
- Legal defense costs included
- Deductible per occurrence and applies to legal & investigative costs

12

## WORKING FOR A BOAT DEALER INSTALLING ELECTRONICS?

BOAT DEALERSHIP IN ST. PETERSBURG, FL



13

## Let's Talk Specialized Maritime Exposures and Coverage – *Protection & Indemnity for SPLL*

- Watercraft Property damage of others in your C,C,C
- While in navigation by insured (employee(s)):
  - Loss of life, or bodily injury to third party
  - Investigative and Defense Costs
- Property damage liability and also extends to include Wreck Removal when required by law
  - Fixed objects (Pier, Docks, Wharf, Landing, Dry Dock)
  - Movable (other Watercraft)

14

## Let's Talk Specialized Maritime Exposures and Coverage Miami, Florida

- Non-Owned or Borrowed Boat Liability – P&I outside of c,c,c for MOLL or SPLL
- Borrow customers boat for demo, trade exhibition, or boat show to exhibit your work and navigation electronics



15

## Let's Talk Specialized Maritime Exposures and Coverage – *Marine Contractors Legal Liability*

- IN SUMMARY **MCLL** IS ADDED TO MCL or MCP PACKAGE POLICY TO EXTEND FOR CONSTRUCTION, REPAIRS, MODIFICATIONS AND ALTERATIONS OF MARINE TYPE WORK SUCH AS:
  - SEAWALLS
  - BOAT LIFTS/RAMPS
  - MARINE FACILITIES AND YARD CONSTRUCTION SUCH AS:
    - MARINAS
    - YACHT CLUBS
    - SHIPYARDS & DRYDOCKS
    - PORTS
  - DREDGING & EXCAVATION
  - PILE DRIVING
  - DOCKS/PIERS/WHARFS

16

### Example of MCLL – Docks, Lifts



17

### Let's Talk Specialized Maritime Exposures and Coverage

- Traveling Workman for mobile repair operations
- Additional Insured vs. Blanket Additional Insured
- Property of others (other than vessels/watercraft) in your care, custody, control for transit (in your vehicles) or while at your location (yard/shop)
- Limited Sudden & Accidental Pollution for Maritime Operations ONLY
- Commercial vessels (including workboats, barges, push/tow boats and other vessels used in course of business) PHYSICAL damage and Watercraft Liability (Protection and Indemnity)
- Vessel Pollution Liability (excluded under Commercial Hull and PI policies)

18

Lots of potential business....AND even more Liability exposures....What do you see?  
Ft. Lauderdale, Florida



19

### Let's Talk Specialized Maritime Exposures and Coverage

- Excess Liability Policy vs. Bumbershoot (Commercial Marine Umbrella)
  - Why are higher or excess limits necessary?
    - Reduction or Exhaustion of Underlying occurrence or aggregate limits
  - Which type coverage is right for your business? What is an SIR? Are all Bumbershoots or Commercial Marine Umbrellas the same?
  - How much coverage is enough and how do you determine using Risk Assessment and Risk Management processes?

20

### Let's Talk Specialized Maritime Exposures and Coverage

- Excess Liability Policy vs. Bumbershoot (Commercial Marine Umbrella)
- Foreign operations exposures – Let's discuss in more detail
- Even if policy extends "worldwide coverage territory" most likely policy does not cover litigation outside of USA and territories. What does this mean and what could be the impact to your business?
- Is an International Package Policy right for you? Depending upon what countries and what assets held abroad.
  - Insurance company may have to have office in that country to meet laws and regulations

21

### Let's Talk Specialized Maritime Exposures and Coverage – *Worth more than \$1,000,000? What is your Per Occurrence Limit?*



22

### Let's Talk Specialized Maritime Exposures and Coverage

- **Excess Liability Policy vs. Bumbershoot (Commercial Marine Umbrella)**
- *What are some examples of exposures requiring higher limits?*
  - Auto liability
  - Manufacturers Legal Liability
  - Vendors Legal Liability
  - Vessels in care, custody, control for MOLL or SRLL
  - Protection & Indemnity for both MOLL, SRLL and Owned Watercraft
  - Crew P&I – (Bumbershoot may cap limits for liability or EXCLUDE entirely)
  - Workers Compensation (WILL NOT COVER Longshore due to Federal Statutory limits)
  - General Average, Marine Collision Liabilities, Salvage, Salvage Charges, and Sue & Labor

23

### Maritime Businesses – Are You Insured Correctly?

- State Workers Compensation
- United States Longshore Harbor Workers Compensation Act aka Longshore
- Crew Liability (Seamen), Jones Act (Merchant Marine Act of 1920), DOSHA- Death on the High Seas Act, General Maritime Law, or any other laws applicable to Seamen.

24

### OFFICER ELECTIONS TO BE EXEMPT MISUNDERSTOOD

- NON-CONSTRUCTION INDUSTRY SPECIFIC
- IN FLORIDA, MORE THAN 3 EMPLOYEES, OFFICERS, OWNERS, SHAREHOLDERS OF >=10% SHARES REQUIRES WORKERS COMP
- LLC, C-CORP, S-CORP ONLY OFFICER ELECTION OF EXMPTION
- MUST RENEW EVERY FEW YEARS, DOES EXPIRE
- THERE IS NO SUCH THING AS AN OFFICER EXEMPTION FOR LONGSHORE..NOW LET'S DISCUSS SCENARIOS
- ABSENCE OF STATE COMP POLICY AUTOMATICALLY REVERTS TO USLH UNDER FEDERAL ACT FOR MARITIME EMPLOYERS

25

### MARITIME BUSINESS – EMPLOYEE OR INDEPENDENT CONTRACTOR?

- DOES A 1099 CONSTITUTE AN INDEPENDENT CONTRACTOR STATUS?
- DOES AN INDEPENDENT CONTRACTOR AGREEMENT CONSTITUTE AN INDEPENDENT CONTRACTOR STATUS?
- NO TO BOTH, AT LEAST IN FLORIDA, AND GENERALLY NOT IN OTHER STATES REQUIRING WORKERS COMPENSATION
- OTHER CONDITIONS ARE REQUIRED TO BE MET TO MEET INDEPENDENT CONTRACTOR STATUS based on IRS REGULATIONS
- EVEN WITH INDEPENDENT CONTRACTORS, IF THEY DO NOT HAVE WORKERS COMPENSATION, LONGSHORE, MARITIME EMPLOYERS LIABILITY INFORCE THAN THE CLAIM CAN WHAT I CALL "CLIMB THE LADDER"

26

### AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – Are they really an Independent Contractor? Non-Construction:

- **(Must generally meet 4 of the 6 criteria below)**

1. Maintain a separate business with own work facility, truck, equipment, materials, or similar accommodations;
2. Holds or has applied for a FEIN unless not required by law.
3. Receives compensation for services rendered or work performed and compensation is paid to the business rather than to an individual.
4. Holds one or more bank accounts in the name of the business for the payment of business expenses.
5. Able to perform work for any entity of his/her choosing without completing an employment application.
6. Receives compensation for services rendered on a competitive bid basis or terms of contract.

27

### AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – Are they really an Independent Contractor?

- I, I hereby certify that all of the conditions set forth below apply, in accordance with
- Florida Statute 440.02 (15) (d) 1 (effective 1/1/04)
- **Construction**
- 1. Independent Contractor (I.C.) status is not applicable for those performing services in the construction industry and would effectively be considered an "employee" and must provide coverage for compensation. Employee includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and elects to be included in the definition of employee by filing notice thereof as provided in s.440.05.

28

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – Are they really an Independent Contractor?**

- If 4 of the 6 criteria are not met, independent contractor status may still be presumed if any of the following
- statements are met:
- 1. Independent Contractor (I.C.) controls the means of performing services which are performed for a specific amount of money.
- 2. I.C. incurs the principal expenses for the agreed to services.
- 3. I.C. is responsible for the satisfactory completion of the agreed to services.
- 4. I.C. receives compensation on a commission or per-job basis.
- 5. I.C. realizes a profit or loss based on agreed to services.
- 6. I.C. has continuing or recurring liabilities.
- 7. I.C. success or failure depends on business receipts to expenditure.

29

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – Are they really an Independent Contractor?**

- II. I hereby certify that I have four (4) or less employees as referenced in Florida Statute 440.10 (1) (g).
- \_\_\_\_\_
- Witness Name/Title
- \_\_\_\_\_
- Date
- To be completed by Notary Public
- \_\_\_\_\_
- Notary Signature Notary Typed Name
- My commission expires on: \_\_\_\_\_
- \*\*\* Special Considerations (See next page).

30

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – Are they really an Independent Contractor?**

- SPECIAL CONSIDERATIONS:
- The success or failure of the independent contractor’s business depends on the relationship of business receipts to expenditures: However, the determination as to whether an individual included in the Standard Industrial Classification Manual of 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449, or a newspaper delivery person, is an independent contractor, is governed not by the criteria in this paragraph but by common-law principles, giving due consideration to the business activity of the individual.
- Notwithstanding the provisions of this paragraph with respect to any commercial building project estimated to be valued at \$250,000 or greater, a person who is actively engaged in the construction industry is not an independent contractor and is either an employer or an employee who may not be exempt from coverage.

31

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – Are they really an Independent Contractor?**

- **Real Estate salesperson or Agent:** if that person agrees in writing, to perform for remuneration solely by way of commission.
- **Bands, Orchestras, and musical and theatrical performers:** including disk jockeys performing in licensed premises, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.
- **An owner-operator of a motor vehicle:** who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help; and the owner-operator is paid a commission for transportation service, and is not paid by the hour or on some other time-measured basis.
- **Casual Labor:** A person whose employment is both casual and not in the course of the trade, business, profession or occupation of the employer.

32

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – *Are they really an Independent Contractor?***

- **Volunteers:** except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for services presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both the employer and employee. For purposes of this text, the term "volunteer" includes, but is not limited to:
  - A. persons who service in private non-profit agencies and who receive not compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the department; and
  - B. Volunteers participating in federal programs established under Pub. L. No. 93-113.

33

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – *Are they really an Independent Contractor?***

- **Sole Proprietor or Officer:** who actively engages in the Construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions in this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the Notice of Revocation of Election filed pursuant to s.440.05 is effective.
- **Exercise Rider:** who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee /employer relationship does not exist.

34

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – *Are they really an Independent Contractor?***

- **Taxicab, Limousine or other passenger vehicle-for-hire driver:** who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

35

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – *Are they really an Independent Contractor?***

- **Sports Official/interscholastic sports event:** any person who performs these services or services for a public entity or private, nonprofit organization that sponsor an amateur sports event. For purposes of this paragraph, such a person is an independent contractor.
- For purposes of the paragraph, the term "sports official" means any person who is a neutral participant in a sports event, including, but not limited to, umpires, referees, judges, linespersons, scorekeepers, or timekeepers. This paragraph does not apply to any person employed by a district school board who serves as a sports official as part of his/her responsibilities during normal school hours.

36

**AFFIDAVIT FOR CERTIFICATION OF INDEPENDENT CONTRACTORS – Are they really an Independent Contractor?**

- So are your “Independent Contractors” REALLY considered as such? If not, you are looking at the potential for both civil and criminal penalties for not carrying State Workers Compensation, in addition to the exposures for Federal Act coverage under Longshore. (Federal Act can pierce the corporate veil and hold officers both civilly and criminally liable for failure to carry coverage and the “I didn’t know” is not held as a “defense”.

37

**Confusion over Recreational vs. Commercial under USLHWCA vs. State Workers Compensation**

• Section 9101 Eligible Employees in the Recreational Marine Industry Section 2 (3) (F) of the Longshore and Harbor Workers Compensation Act (33 U.S.C. 902) (#) (F) was amended by the Economic Stimulus Bill and the amendment became law as a part of the American Recovery and Reinvestment. (See page 129, Sec. 9101 of the Act, Government Provisions 8-18. [http://fwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=11\\_cong\\_bills&docid=f:hier.pdf](http://fwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=11_cong_bills&docid=f:hier.pdf))

• The amendment by:

1. Striking, “repair, or dismantle”, and
2. By striking the semicolon and inserting “, or individuals employed to repair any recreational vessel in connection with the repair, or dismantle any part of a recreational vessel in connection with the repair of such vessel”;

38

**Confusion over Recreational vs. Commercial under USLHWCA vs. State Workers Compensation**

No limit on the length of recreational vessels being repaired or dismantled, but retains the 65 ft limit for boat builders/manufacturers and; thus, expands the exclusion for employees repairing recreational vessels >65 ft.

**LONGSHORE STILL REQUIRED FOR:**

- Boat manufacturers and builders
- Repairers of commercial vessels of any length
- Marine Contractors, dock builders, dredgers, etc
- Those who do not carry State Act Workers Compensation
- Any work, however incidental, on commercial vessels of any size
- Any work building or manufacturing recreational vessels over 65ft

39

**Confusion over Recreational vs. Commercial under USLHWCA vs. State Workers Compensation**

**Longshore Act Section 803**

*(F) individuals employed to build, any recreational vessel under sixty-five feet in length; or individuals employed to repair any recreational vessel, or to dismantle any part of a recreational vessel in connection with the repair of such vessel;*

**Purchase State Workers’ Compensation – do not rely on officer exclusions. *The Exclusions only applies to employees if State Act Workers’ Compensation coverage is carried and maintained.***

40

**Confusion over Recreational vs. Commercial under USLHWCA vs. State Workers Compensation**

**DO NOT JUMP SHIP JUST YET:**  
**DO NOT** cancel the Longshore policy:

An employee can still allege eligibility under Longshore and without Longshore insurance, you have no one to defend you.

Speak with your licensed agent as soon as possible.

41

**RECREATIONAL OR COMMERCIAL USAGE?**



42

**What Defines Recreational vs. Commercial Under Longshore and Therefore Makes a Maritime Employer Subject to Longshore for Maritime Employees:**

**Recreational Vessel Regulations Longshore – Jan 30<sup>th</sup> 2012**

What is NOT a Longshore vessel? USC definitions

	Passenger Vessel-100tons	Small Pass Vessel-100tons	Uninspected >100tons	Uninspected -100tons	Combined
Cargo					
Passenger *	>12	>6	>12	>6	ALL
Skipped Charter	>12	>6	>12	>6	ALL
Bareboat Charter	>12	n/a	n/a	n/a	12
Submersible*	ALL	ALL	n/a	n/a	ALL
Ferry	ALL	ALL	n/a	n/a	ALL

§ 701.301 What is a recreational vessel?  
 (a) Recreational vessel means a vessel—  
 (1) being manufactured or operated primarily for pleasure; or  
 (2) leased, rented, or chartered to another for the latter's pleasure.  
**(BUT ONLY IF BAREBOAT AND UNDER 12 PASSENGERS)**

**Recreational – Exempt from Longshore**

- Bareboat Charter 12 or less passengers
- Passenger vessels and Submersibles with no "passengers for hire" (but NOT ferry's)
- USCG: Pleasure use.
- Federal State or Local Government Vessels
- Not more than "infrequent" commercial use.

**Commercial Vessels – Subject to Longshore**

- ALL Ferry
- ALL Skipped Charter
- ALL Passenger carrying vessels and Submersibles with at least one passenger for hire
- Bareboat Charter over 12 people
- Commercial Use & Military Vessels

43

**What Defines Recreational vs. Commercial Under Longshore and Therefore Makes a Maritime Employer Subject to Longshore for Maritime Employees:**

A vessel being repaired, dismantled for repair, or dismantled at the end of its life is not a recreational vessel if the vessel had been operating, received the crew of its repair or dismantling, in one or more of the following categories on more than one occasion:

(A) "Passenger vessel" as defined by 46 U.S.C. 2101(23);  
 (23) "passenger vessel" means a vessel of at least 100 gross tons as measured under section 14302 of this title, or an alternate tonnage measured under section 14303 of this title as prescribed by the Secretary under section 14104 of this title—  
 (A) Carrying more than 12 passengers, including at least one passenger for hire;  
 (B) that is chartered and carrying more than 12 passengers;  
 (C) that is a submersible vessel carrying at least one passenger for hire; or  
 (D) that is a ferry carrying a passenger;

(B) "Small passenger vessel" as defined by 46 U.S.C. 2101(39);  
 (39) "small passenger vessel" means an uninspected vessel, regardless of tonnage, carrying at least one passenger for hire, and a vessel of less than 100 gross tons as measured under section 14302 of this title, or an alternate tonnage measured under section 14303 of this title as prescribed by the Secretary under section 14104 of this title—  
 (A) Carrying more than 6 passengers, including at least one passenger for hire;  
 (B) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;  
 (C) that is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers;  
 (D) that is a submersible vessel carrying at least one passenger for hire;  
 (E) that is a ferry carrying more than 6 passengers;

(C) "Uninspected passenger vessel" as defined by 46 U.S.C. 2101(42);  
 (42) "uninspected passenger vessel" means an uninspected vessel, regardless of tonnage, carrying at least one passenger for hire, and a vessel of less than 100 gross tons as measured under section 14302 of this title, or an alternate tonnage measured under section 14303 of this title as prescribed by the Secretary under section 14104 of this title—  
 (A) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; and  
 (B) of less than 100 gross tons as measured under section 14302 of this title, or an alternate tonnage measured under section 14303 of this title as prescribed by the Secretary under section 14104 of this title—  
 (C) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 6 passengers;

(D) Vessel routinely engaged in "commercial service" as defined by 46 U.S.C. 2101(5); or  
 (E) Vessel that routinely carries "passengers for hire" as defined by 46 U.S.C. 2101(21a).

(F) "Repair" means any repair of a vessel including installations, painting and maintenance work. Repair does not include alterations or conversions that render the vessel a non-recreational vessel under 701.301. For submersible vessels the equipment set a person shall be provided to a passenger carrying vehicle-watching vessel is not employed to "repair" or recreational vessel. Repair also does not include alterations or conversions that render a non-recreational vessel recreational under § 701.301

44



COMMERCIAL  
CARGO CARRIER

EASY TO  
DETERMINE AS  
COMMERCIAL,  
WHAT TYPE VESSEL  
IS NOT SO EASY TO  
DETERMINE?

45

**Confusion in the two Acts: Longshore  
vs. Jones Act**

ALTHOUGH THE LONGSHORE ACT AND THE JONES ACT  
ARE MUTUALLY EXCLUSIVE BY DESIGN,  
IN PRACTICE THEY SEEM TO OVERLAP.

IT IS SOMETIMES DIFFICULT TO DISTINGUISH LIABILITY  
EXPOSURE UNDER THE JONES ACT AND  
GENERAL MARITIME LAW FROM  
WORKER'S COMPENSATION EXPOSURE UNDER THE  
LONGSHORE AND HARBOR  
WORKER'S COMPENSATION ACT.

46

**Confusion in the two Acts: Longshore  
vs. Jones Act**

**THE LONGSHORE ACT STATES:**

"THE TERM 'EMPLOYEE' MEANS ANY PERSON ENGAGED IN  
MARITIME EMPLOYMENT, INCLUDING ANY  
LONGSHOREMAN OR OTHER PERSON ENGAGED IN  
LONGSHORING OPERATIONS, AND ANY HARBOR-  
WORKER INCLUDING A SHIP REPAIRMAN, SHIPBUILDER,  
AND SHIP-BREAKER." THUS THE LONGSHORE ACT  
EXCLUDES COVERAGE TO "A MASTER OR MEMBER OF A  
CREW OF ANY VESSEL."

47

**Confusion in the two Acts: Longshore  
vs. Jones Act**

**THE JONES ACT STATES:**

"ANY SEAMAN WHO SHALL SUFFER PERSONAL INJURY IN  
THE COURSE OF HIS EMPLOYMENT MAY, AT HIS  
ELECTION, MAINTAIN AN ACTION FOR DAMAGES AT LAW,  
WITH THE RIGHT OF TRIAL BY JURY, ... AND IN THE CASE  
OF THE DEATH OF ANY SEAMAN AS A RESULT OF ANY  
SUCH PERSONAL INJURY THE PERSONAL  
REPRESENTATIVE OF SUCH SEAMAN MAY MAINTAIN AN  
ACTION FOR DAMAGES AT LAW WITH THE RIGHT OF  
TRIAL BY JURY."

48

### Confusion in the two Acts: Longshore vs. Jones Act

THEREFORE THE **LONGSHORE ACT COVERS** MARINE WORKERS WHO ARE **NOT PART OF THE CREW OF A VESSEL**, WHILE THE **JONES ACT** PERTAINS TO THOSE **WHO WORK AT SEA AND ARE CAPTAINS OR CREWMEMBERS OF A VESSEL**.

THE PROBLEM IS THAT IT IS SOMETIMES HARD TO DETERMINE WHO IS WHO BEFORE A LOSS OCCURS, AND IT IS NOT ALWAYS A SIMPLE MATTER TO MATCH THE CORRECT EXPOSURE WITH THE CORRECT COVERAGE IN THE "**UNCERTAINTY ZONE**."

49

### Confusion in the two Acts: Longshore vs. Jones Act

WHO IS COVERED BY EACH ACT?

**LONGSHORE ACT COVERAGE INCLUDES** A VERY WIDE RANGE OF OCCUPATIONS, INCLUDING MAINTENANCE AND REPAIR WORKERS, CONSTRUCTION WORKERS, CONTRACTORS OF ALL KINDS, AND EVERYONE WHOSE WORK REQUIRES THEM TO BE ON THE NAVIGABLE WATERS, OR IN AN ADJOINING AREA CUSTOMARILY USED BY AN EMPLOYER FOR COVERED ACTIVITY.

THERE ARE HUNDREDS OF OCCUPATIONS COVERED BY THE LONGSHORE ACT IN ADDITION TO THE TRADITIONAL OCCUPATIONS OF LONGSHOREMAN AND SHIPYARD WORKER.

50

### Confusion in the two Acts: Longshore vs. Jones Act

**JONES ACT COVERAGE** USES AN OCCUPATIONAL-BASED TEST FOR COVERAGE, RELATED TO THE WORKER'S RELATIONSHIP TO A VESSEL.

THE WORKER'S DUTIES MUST CONTRIBUTE TO THE FUNCTION OF THE VESSEL OR TO THE ACCOMPLISHMENT OF ITS MISSION, AND THE WORKER MUST HAVE AN EMPLOYMENT CONNECTION TO A VESSEL IN NAVIGATION, OR AN IDENTIFIABLE GROUP OF VESSELS UNDER COMMON OWNERSHIP, THAT IS SUBSTANTIAL IN BOTH DURATION AND NATURE.

51

### Confusion in the two Acts: Longshore vs. Jones Act

**DIFFERENT REMEDIES, DIFFERENT RECOVERIES**

IN A PERFECT WORLD THERE'S A CLEAR DISTINCTION BETWEEN LAND-BASED MARITIME WORKERS WHO ARE COVERED BY THE LONGSHORE ACT AND SEA-BASED WORKERS WHO ARE COVERED BY THE JONES ACT AND THE GENERAL MARITIME LAW. UNFORTUNATELY, THIS IS NOT A PERFECT WORLD. IN THE "UNCERTAINTY ZONE," WORKERS CAN GO EITHER WAY. THE INITIAL CHOICE IS WITH THE INJURED WORKER.

52

## Confusion in the two Acts: Longshore vs. Jones Act

**IF YOU HAVE EMPLOYEES IN THE "UNCERTAINTY ZONE," YOU MAY HAVE TO DEFEND TWICE!**

AN INJURED WORKER IN THE "**UNCERTAINTY ZONE**" CAN BE EXPECTED TO SEEK RECOVERY UNDER BOTH THE JONES ACT ( AND GENERAL MARITIME LAW) **AND** THE LONGSHORE ACT, EITHER SIMULTANEOUSLY OR SEQUENTIALLY.

**ARE YOU PREPARED TO HANDLE CLAIMS FROM ONE OR BOTH OF THESE AREAS? LEGAL DEFENSE?**

53



54

## What is MEL – Maritime Employers Liability?

IN THE ABSENCE OF COMMERCIAL HULL AND PROTECTION & INDEMNITY INSURANCE POLICY WITH A CREW PI EXTENSION YOU MAY NEED MARITIME EMPLOYERS LIABILITY INSURANCE COVERAGE.

A SIMPLE DEFINITION:  
THE MARITIME EMPLOYERS LIABILITY OR MEL POLICY TYPICALLY PROVIDES COVERAGE FOR AN INSURED'S EMPLOYEES WHILE WORKING ON NON-OWNED OR OPERATED VESSELS. COVERAGE PLACEMENTS ARE ALSO AVAILABLE FOR EMPLOYEES WHOSE DUTIES ON OWNED VESSELS ARE NOT TO ACT AS CAPTAIN OR CREW. HOWEVER, SOME P&I CARRIERS LIMIT JONES ACT COVERAGE TO SPECIFIED CREW. THIS INTENT IS TO LIMIT COVERAGE TO EMPLOYEES PERFORMING TRADITIONAL CREW FUNCTIONS FURTHERING THE MISSION OF THE VESSEL; AND TO EXCLUDE COVERAGE FOR CONTRACTING PERSONNEL WORKING FROM VESSELS. IF THIS IS THE CASE, OWNERS SHOULD CONSIDER MEL COVERAGE.

55

## What is MEL – Maritime Employers Liability?

**MEL INSURANCE COVERAGE**  
IF IN THE COURSE OF THEIR DUTIES YOUR EMPLOYEES FIND THEMSELVES ON A VESSEL OPERATED BY ANOTHER COMPANY, YOU MAY NEED TO CONSIDER MARITIME EMPLOYERS LIABILITY INSURANCE.

ONCE A VESSEL HAS LEFT THE DOCK AND IS UNDER ITS OWN POWER, STATE WORKERS' COMPENSATION DOES NOT COVER YOU AND USL&H COVERAGE WILL NOT BE SUFFICIENT.

EMPLOYERS THAT SHOULD CONSIDER MARITIME EMPLOYERS LIABILITY INSURANCE ARE COMPANIES INVOLVED WITH SUPPLYING EQUIPMENT OR MAKING REPAIRS TO OTHER COMPANIES' VESSELS.

**WHAT IS THE DIFFERENCE BETWEEN MEL COVERAGE AND JONES ACT COVERAGE?**  
**THE JONES ACT** COVERS EMPLOYEES ONBOARD VESSELS OWNED OR OPERATED BY YOUR COMPANY, WHILE MEL COVERS INCIDENTS THAT MAY OCCUR WHILE AN EMPLOYEE IS WORKING ON A VESSEL OWNED AND OPERATED BY ANOTHER PARTY.

56

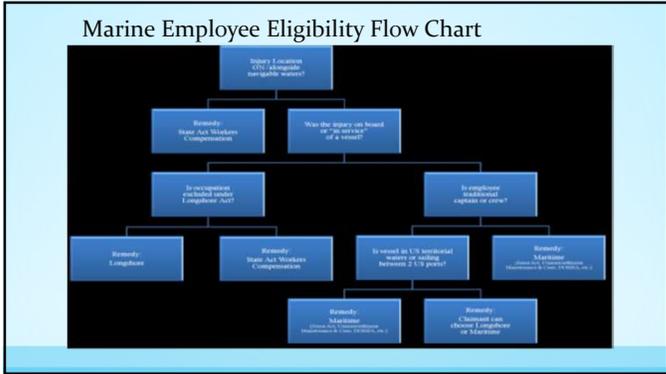
## Maritime Employers Liability Program Summary common in industry

**LIMIT OF MARITIME EMPLOYERS LIABILITY \$1,000,000**

**MINIMUM PREMIUMS - STAND ALONE POLICY GENERALLY AROUND \$25,000, IF WRITTEN IN CONJUNCTION WITH OTHER WORK COMP AND USLHWCA POLICIES THAN THE PREMIUM CAN BE AS LOW AS \$5,000 MINIMUM. I HAVE SEEN AS LOW AS \$3,500.**

THIS TYPE OF PROGRAM IS DESIGNED TO INSURE EMPLOYERS LIABILITY FOR FULL OR PART-TIME MARINE EMPLOYEES AND DOES NOT COVER THIRD PARTY PROTECTION & INDEMNITY (WATERCRAFT LIABILITY), NOR DOES IT EXTEND ANY COVERAGE FOR WORKERS COMPENSATION, UNITED STATES LONGSHORE HARBOR WORKERS COMPENSATION ACT, DEFENSE BASE ACT, OUTER CONTINENTAL SHELF ACT OR OTHER FEDERAL OR STATE BASED COMPENSATION ACTS. SEPARATE COVERAGE NEEDS TO BE OBTAINED FOR THOSE EXPOSURES IN ADDITION.

57



58

## PAYROLL AND TIME SHEETS, How do you define employee time?

**SUGGESTED SOLUTION:**  
\*TIME SHEET THAT LISTS OUT TIME ALLOTTED BY JOB SPECIFIC DAILY FOR EACH EMPLOYEE:

**STATE ACT,  
VS. FEDERAL ACT (USLHWCA)  
VS. MEL-ONWATER**

**WHY IS THIS IMPORTANT?**  
\*ENABLES TRACKING OF PRODUCTION BY JOB BUT MOST IMPORTANTLY:  
\*ENABLES PAYROLL SPLITS AT TIME SHEET LEVEL TO SUPPORT AUDIT BY INSURANCE CARRIER AND REDUCES EXPOSURE TO BEING RECLASSIFIED UNDER HIGHER CLASS CODE AND RATE FOR A LARGE AUDIT PREMIUM BILL DUE (SIGNIFICANT COST SAVINGS TO THE EMPLOYER)

59

### NMEA Insurance Program Coverage Highlights

**MARINE COMMERCIAL LIABILITY AND SHIP REPAIRERS' LEGAL LIABILITY**  
REPAIR, ALTERATIONS, MAINTENANCE AND INSTALLATION OF MARINE ELECTRONICS  
**PROTECTION & INDEMNITY**  
DEMONSTRATION - WITH YOUR EMPLOYEE ABOARD AND IN CONTROL OF CUSTOMERS' BOATS WHEN YOU ARE OPERATING THE BOAT, INCLUDED AUTOMATICALLY  
BLANKET ADDITIONAL INSURED WITH WAIVER OF SUBROGATION  
LIMITED POLLUTION  
ADDITIONAL OPTIONS INCLUDED, BASED ON EXPOSURE - **NO ADDITIONAL COST**  
**TOOLS: \$10,000 LIMIT WITH \$250 DEDUCTIBLE**

**ADDITIONAL OPTIONS AVAILABLE FOR ADDITIONAL PREMIUMS**  
EXCESS LIABILITY  
BUMBERSHOOT  
HIGHER LIMITS FOR TOOLS & EQUIPMENT  
MARINE COMPOSITE PACKAGE FOR MARINE ELECTRONICS DEALERS WITH INVENTORY SIGNS  
EDP  
EMPLOYEE BENEFITS  
HIRED AND NON-OWNED AUTO

**ADDITIONAL, CONTINGENT UPON WHICH PACKAGE SELECTED:**  
PROPERTY AND BUSINESS AUTOMOBILE

60

#### NMEA Insurance Program Benefits



- Strength and experience of Great American Insurance Group
- NMEA membership credit
- Additional credits available for completing NMEA installer courses
- Full-time claims department dedicated to marine related insurance
- Independent facility Surveys and Loss Control services
- The benefits of combining marine and property-casualty coverages

Your Marine Electronics business is individually reviewed by our marine specialists. Our claim staff is solely dedicated to marine and marine-related business. Our professionals are in place to meet your needs.

*This presentation is not an all inclusive list of exposures for all marine businesses, it is being used in a general nature to address common exposures only, please speak with a licensed insurance agent about your specific needs.*