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Asserting our right "...to petition the Government for redress of grievances."

Amendment 1, U.S. Constitution, Dec. 15, 1791

WHY THE TOWING INDUSTRY IS A POOR CAREER CHOICE

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INTRODUCTION AND NMA POLICY STATEMENT

NMA Policy Statement

Until substantial work-hour and other reforms discussed in this and other reports referenced herein, our Association cannot and will not recommend careers in the towing industry to our mariners.

This report serves to explain and substantiate the foregoing policy statement that first appeared in Newsletter #75.

If you are considering a career in the marine towing industry, we want to make you aware of many serious issues that mariners serving on the nation's 6,000 towing vessels face as well as some recent progress made to resolve these issues.

Past and Present Industry Practices

The towing industry earned a dubious reputation for mercilessly cutting the crew size on its vessels and overworking the employees it has by violating work hour rules that limit its deck officers to 12 hours of service in any continuous 24-hour period.

The situation is much worse for mariners without

licenses. For years, the American Waterways Operators (AWO) in its Responsible Carrier Program (RCP) found (and still finds) nothing wrong in "recommending" to its member companies that the workday for unlicensed personnel not exceed 15 hours per day even though any such "recommendation" placing this upper limit cannot be enforced. We find a 15-hour workday is excessive and fault both Congress and the Coast Guard for not limiting a workday for all personnel on towing vessels to 12 hours per day by law and regulation – and then pushing the Coast Guard to adequately enforce that limitation.

Consider These Comments From Experienced Mariners

"With thirty five years of experience and a near perfect history, I am unemployable. It is political rubbish. I would say to any young man looking for a career in the maritime industry to chose another path. I would tell my friends who remain in the industry that since I have been off the tugs I have lost 25 pounds, my blood pressure is the best it has been in years, and I feel great. Towing vessels are an unhealthy way of life and not worth the blood money. Your skills are abused and taken advantage of while others get

rich on your shortened life span. Get out – there is a better life ashore. The Coast Guard completely ignored my reports about violations and safety hazards at ■.”-*Mariner #164*

“Towing vessel inspection has been held up for as long as the Coast Guard could possibly delay it. The Coast Guard and the towing industry have hung their towing vessel inspection hat on the Safety Management System (SMS). The SMS is a smoke screen and a weak product that does little to actually make any real difference aboard towing vessels. The root causes of its failure in the field are mainly caused by the double standard companies that use it apply. At times when it serves the company’s interest, employees engage it. When it is not convenient it stops being a “standard” and becomes only a “guideline” exposing those who try to conduct themselves according to the SMS’s true intent to termination. Audits are fixed. Certificates become wallpaper and knowledgeable employees do not respect them. Coast Guard officials fail to act when they receive reports of violation that occur every day right under their noses. SMS is unenforceable!”

■ -*Mariner #130*

The Coast Guard and Congress

The marine towing industry is a significant part of the U.S. Merchant Marine. As such, it is regulated by the U.S. Coast Guard, a branch of the Department of Homeland Security (DHS) – a part of the Executive Branch of government.

The Coast Guard promulgates (i.e., issues) “regulations” that have the force of law and carry out and often explain Acts of Congress that provide the underlying laws and govern the industry.⁽¹⁾ Several Congressional Committees oversee the activities of the U.S. Coast Guard. Normally, to seek changes in regulations, our Association would petition the Coast Guard in a manner specified in the regulations.⁽²⁾ However, if the underlying law requires changing and the Coast Guard lacks the authority to make changes we believe are necessary, our Association must then approach Congress to do so.⁽³⁾ [⁽¹⁾Refer to our Report #R-223, Rev. 3. ⁽²⁾33 CFR §1.05-20. ⁽³⁾Refer to our Report #R-350, Rev. 5 or subsequent revisions.]

If you enter the industry and have plans to make a *career* of working on tugs or towboats, understand that you *probably* will have to obtain a Transportation Worker Identification Credential (“TWIC Card”) by applying to the Transportation Security Administration (TSA) and pay a “user fee” of about \$132.50. The TWIC is a biometric credential is issued to you after you prove to the satisfaction of the Transportation Security Administration (TSA) that you do not pose a security threat. Before working on *many* (but not all) towing vessels, you *may* also need to apply for and obtain an “entry-level” Merchant Mariner Credential (MMC) from the Coast Guard. This will be your introduction to “Bureaucracy 101.”

TWIC – A Dangerous & Expensive Security Experiment

The U.S. Government Accountability Office (GAO) released a scathing report today that exposes serious security weaknesses and years-long delays in a program to fully implement a Transportation Worker Identification Credential (TWIC). TWIC is intended to protect the nation’s port and maritime transportation systems.

U.S. Rep. John L. Mica (R-FL), the Chairman of the U.S.

House Committee on Transportation and Infrastructure, testified at a Senate Commerce, Science, and Transportation Committee hearing today during which the GAO report was released. Chairman Mica, one of the requestors of today’s GAO report, said, “TWIC is turning into a dangerous and expensive experiment in security.”

The TWIC for maritime industry workers was mandated in the Maritime Transportation Security Act of 2002 (MTSA). After many delays, the Transportation Security Administration (TSA) finally began issuing TWICs in 2007, **but the agency still has not approved a technology to read the biometrically enabled credentials.**

“Nearly half-a-billion dollars has been spent since TSA was directed to issue biometric security cards to transportation workers,” said Mica, who was chairman of the House Aviation Subcommittee in 2001 when the 9/11 terrorists attacks occurred, and is one of the authors of the legislation that created the TSA. “Yet today, ten years later and with no approved biometric reader, **TWICs are at best no more useful than library cards.**” Mica said.

According to the released report, GAO was able to obtain authentic TWICs using fraudulent identification documentation and gain access to ports using counterfeit TWICs. GAO also found that, among other things, TSA is unable to confirm that TWIC holders maintain their eligibility throughout the life of their TWIC.

Mica continued, “Even more troubling, GAO found that in some cases a TWIC can be fraudulently obtained, becoming a permanent biometric key that unlocks our nation’s ports and facilities for any individual with the intent and desire to do us harm.”

[NMA Comment: Leading up to the final TWIC requirements, the Coast Guard bureaucracy imposed its own security requirements on our mariners during credential renewals that required each mariner to visit a Regional Exam Center in person with appropriate documentation regardless of distances traveled – all of which duplicated original licensing requirements.]

Jobs, Careers, and Headhunters (i.e, private employment agencies)

The term “job” implies temporary employment whereas a “*career*” implies permanent employment, advancement in and a commitment to serving in the industry.

Most mariners enter the towing industry as deckhands and secure their own *jobs* by answering newspaper ads or following leads from individuals or private⁽¹⁾ or state employment agencies. [⁽¹⁾Refer to our Report #R-211.]

Years ago, Congress enacted legislation that asserts that all expenses incurred for recruiting and hiring individuals to serve, as merchant mariners must be borne **by the employer and not by the mariner.** **However, the existing statutes never were effectively enforced.**⁽¹⁾ [⁽¹⁾Refer to our Reports #R-211 and #R-350, Rev. 6, Issue “X”.]

Many of our mariners report that they are forced to enter into employment agreements where a significant portion of their pay check (e.g., as much as their first two weeks pay) must be returned to a private employment agency for the “**privilege**” of employment.

The fact that most mariners no longer complain about the problem to the Coast Guard does not mean that the problem does not exist. One typical Coast Guard position is that they

are not allowed to become party to a labor dispute between employers and employees. In addition, when we approached the Coast Guard on behalf of our mariners and cited the statutes (below), we were told that the problem did not exist.

We believe that these employment practices violate these statutes:

- 46 U.S. Code §10505(a)(1)(C) and 46 U.S. Code §10505(a)(2), for coastwise voyages.
- 46 U.S. Code §10314(a)(1)(C), and 46 U.S. Code §10314(a)(2) for foreign and intercoastal voyages.

In reading these two statutes, we also noted a wide discrepancy in the Civil Penalties between the two – the difference is between \$500 (i.e., five *hundred* dollars) and \$5,000 (i.e., five *thousand* dollars). We believe that the larger figure, as adjusted for inflation, more adequately reflects the significance of the problem facing our mariners and would be required as a bare minimum to eradicate it. We invite mariners to report all suspected violations of these statutes to our Association.

46 U.S. Code §10505. Advances [*Applicable to Coastwise Voyages*]

(a)
(1) A person may not—
(A) pay a seaman wages in advance of the time when the seaman has earned the wages;

(B) pay advance wages of the seaman to another person; or
(C) make to another person an order, note, or other evidence of indebtedness of the wages, or pay another person, for the engagement of seamen when payment is deducted or to be deducted from the seaman’s wage.

(2) A person violating this subsection is liable to the United States Government for a civil penalty of not more than \$5,000. A payment made in violation of this subsection does not relieve the vessel or the master from the duty to pay all wages after they have been earned.

(b) A person demanding or receiving from a seaman or an individual seeking employment as a seaman, remuneration for providing the seaman or individual with employment, is liable to the Government for a civil penalty of not more than \$5,000.

(c) The owner, charterer, managing operator, agent, or master of a vessel seeking clearance from a port of the United States shall present the agreement required by section 10502 of this title at the office of clearance. Clearance may be granted to a vessel only if this section has been complied with.

(d) This section does not apply to a fishing or whaling vessel or a yacht.

46 U.S. Code §10314. Advances [*Applicable to International and Intercoastal Voyages*]

(a)
(1) A person may not—
(A) pay a seaman wages in advance of the time when the seaman has earned the wages;

(B) pay advance wages of the seaman to another person; or
(C) make to another person an order, note, or other evidence of indebtedness of the wages, or pay another person, for the engagement of seamen when payment is deducted or to be deducted from the seaman’s wage.

(2) A person violating this subsection is liable to the United States Government for a civil penalty of not more

than \$500. A payment made in violation of this subsection does not relieve the vessel or the master from the duty to pay all wages after they have been earned.

(b) A person demanding or receiving from a seaman or an individual seeking employment as a seaman, remuneration for providing the seaman or individual with employment, is liable to the Government for a civil penalty of not more than \$500.

(c) This section applies to a foreign vessel when in waters of the United States. An owner, charterer, managing operator, agent, or master of a foreign vessel violating this section is liable to the Government for the same penalty as an owner, charterer, managing operator, agent, or master of a vessel of the United States for the same violation.

(d) The owner, charterer, managing operator, agent, or master of a vessel seeking clearance from a port of the United States shall present the agreement required by section 10302 of this title at the office of clearance. Clearance may be granted to a vessel only if this section has been complied with.

(e) This section does not apply to a fishing or whaling vessel or a yacht.

We note that this statute reflects Article 4(a) of the Placing of Seamen Convention, 1920 (ILO No. 9) as well as Article 4 of the Recruitment and Placement of Seamen Convention, 1996 (ILO No. 179) that came into effect in 2001. Although not ratified by the U.S. Senate, this international convention protects seafarers from nations like the Philippines and Russia that provide an overwhelming number of the world’s merchant mariners.

Exorbitant Employment Fees

Some employers in the towing industry have been in collusion with private employment agencies to direct all applicants to the private employment service. Instead of being hired directly by the employer, the agency handles some basic paperwork and then rakes off its employment fees for finding a mariner a job. Kick-backs are part of the collusion process, and this violates the law as shown above.

Employment in the towing sector of the marine industry is often little more than a dangerous adventure that often does not end well for many of our merchant mariners. In this day and age, and with our experience in dealing with mariner issue such as the high cost of maritime training borne by mariners, employment in this industry is certainly NOT a “privilege” many mariners should find is worth paying for.

If you have never worked on a commercial vessel before, the usual starting position is as a new or “*green*” deckhand – a term that denotes your inexperience in the industry.

As a “green” deckhand without training, you are extremely vulnerable to injuries on the job starting with your first day at work. The towing industry has proven to be very dangerous for “green” deckhands.⁽¹⁾ There are many true stories of injuries, deaths, and disabilities to mariners in our Association’s literature to support this statement and that deserve your attention.⁽²⁾ Consequently, you should be certain to secure adequate medical coverage before you “sign on” for your first trip. Without this coverage, you will have little recourse but to hire a lawyer and sue your employer if you are injured or disabled. The towing industry’s record of taking care of its injured employees is an exceptionally poor one. Sadly, you will find that the Coast Guard has no genuinely concern with the health and welfare of our “limited tonnage”

mariners and is less than useless in requiring that reports of personal injuries be filed promptly – or at all!⁽³⁾ [⁽¹⁾Refer to our Report #R-351, Rev. 1. ⁽²⁾Refer to our Report #R-202, Rev. 4 and R-344-A, Rev. 1 ⁽³⁾Refer to our Report #R-350, Rev. 5, Part 3 Mariner Health Issues.]

If you are considering the towing industry as a career (i.e., long term employment) the road to advancement leads from deckhand (or “deckineer”) to a licensed Mate/Pilot position in the pilothouse. This path passes through a year-long apprenticeship program in the pilothouse. To enter this program, you must pass a written exam given by the Coast Guard or a private school approved by the Coast Guard as well as a daunting physical examination. Then you must serve the year of “apprenticeship” in the pilothouse and pass a practical exam that consists of completing a Towing Officer Assessment Record (TOAR)⁽¹⁾ administered by your company’s Designated Examiner (DE) – assuming your company has one! If your company does not have or is unwilling to pay for the services of a Designated Examiner to check out your proficiency, you may have to start over with another company or remain a deckhand. When you complete the TOAR, you become eligible for a Coast Guard “Mate/Pilot” credential that allows you to assume the responsibility of taking charge of the navigation watch on specified routes (e.g., Great Lakes, Inland Waters, Western Rivers, or Near Coastal Waters) as long as there is a licensed Master on board. [⁽¹⁾Refer to our Reports #R-287-A, B, C & D that list the requirements of four different TOARs.]

Trade Associations

The American Waterways Operators (AWO)⁽¹⁾ is the tug and barge industry’s trade association. They claim to represent 80% of the tug and barge industry and count over 200 (out of a reported 1,100) towing companies as members. The AWO actively lobbies Congress on behalf of the companies they represent. [⁽¹⁾801 North Quincy Street, Ste. 200, Arlington, VA 22203. Phone # 703-841-9300.]

The Offshore Marine Service Association (OMSA)⁽¹⁾ represents companies whose vessels service the offshore oil industry with a variety of offshore supply vessels (OSV) as well as approximately 250 towing vessels. Both associations have newsletters and other informative information on the internet. [⁽¹⁾990 North Corporate Drive, Harahan, LA 70123-3324. Phone #: 504-734-7622.]

While trade associations are upbeat about employment prospects in their industry, our views are often more realistic and reflect various issues our mariners encounter within the towing industry.

The Master of Towing Vessels Association serves the mariners who work on towing vessels.⁽¹⁾ They have a very informative website that justifiably attracts considerable attention from working mariners in the industry. [⁽¹⁾P.O. Box 2039, Lebanon, OR 97355; www.mtvassociation.com]

Advisory Committees

Those who fail to learn the lessons of History are destined to repeat them! **If you don’t take the time to read about the lessons our Association learned, don’t say we never warned you!**

Our Association first prepared this report for consideration and comment by members of the Towing Safety Advisory Committee (TSAC), prior to its semi-annual meeting on Sept. 13-14, 2000 in Memphis, TN.

Copies of our original report were distributed to all our mariners, TSAC committee members, and selected members of the Coast Guard Marine Safety Directorate.

The Towing Safety Advisory Committee (TSAC) is a Congressionally-authorized Federal Advisory Committee established pursuant to the Federal Advisory Committee Act (FACA), 5 USC App. 2. Our Association’s President is currently a member of this advisory committee. Other National Mariners Association (NMA) directors and officers also have served on the Merchant Marine Personnel Advisory Committee (MERPAC) and the National Offshore Safety Advisory Committee (NOSAC).

Our Association petitioned Congress⁽¹⁾ to make changes in the membership of TSAC to more adequately represent working mariners. Upon due consideration, the 111th Congress made substantial changes in the membership of this committee on Oct. 15, 2010 in Section 621 of the Coast Guard Authorization Act of 2010⁽²⁾ to accord more seats on the committee to experienced mariners in the towing industry. We look forward to these changes in hopes that they will give mariners a greater voice in the operation of the towing industry. The changes are emphasized in the excerpt (below). [⁽¹⁾Refer to NMA Report #R-417, Rev. 1 ⁽²⁾Public Law 111-281]

Section 621 – Renewal of Advisory Committees

§621(e) Towing Safety Advisory Committee. – The Act entitled “An Act to Establish a Towing Safety Advisory Committee in the Department of Transportation,” approved Oct. 6, 1980, (33 U.S.C. 1231a) is amended –

- (1) by striking subsection (a) and inserting the following:
 - (a) There is established a Towing Safety Advisory Committee (hereinafter referred to as the ‘Committee’). The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:
 - (1) Seven members representing the barge and towing industry, reflecting a regional geographic balance.
 - (2) One member representing the offshore mineral and oil supply vessel industry.
 - (3) One member representing holders of active licensed Masters or Pilots of towing vessels with experience on the Western Rivers and the Gulf Intracoastal Waterway.
 - (4) One member representing the holders of active licensed Masters of towing vessels in offshore service.
 - (5) One member representing Masters who are active ship-docking or harbor towing vessel.
 - (6) One member representing licensed or unlicensed towing vessel engineers with formal training and experience.
 - (7) Two members representing each of the following groups:
 - (A) Port districts, authorities, or terminal operators.
 - (B) Shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge).
 - (8) Two members representing the general public; and...

The TSAC committee acts solely in an advisory capacity to the Secretary of Homeland Security on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. The committee will advise, consult with, and make recommendations reflecting the Committee’s independent judgment to the Secretary on matters and actions concerning shallow-draft inland and coastal waterway navigation and towing safety.

LACK OF RESPECT FOR OUR MARINERS

[Source: *Investing In Personnel*, By Leslie Breland, *The Waterways Journal*, Mar. 28, 2011.

As the wife of a towboat pilot, I am constantly amazed at the professionalism of the crews on board the average uninspected vessel. I am trained as a marine scientist and a marine science educator, and lived and worked on boats just enough to understand some of the stresses of living and working on a vessel.

The towboat industry has some of the most specialized, most versatile, and highly trained workers in the world. The wheelhouse personnel are among the finest boat handlers anywhere because they are constantly running, constrained by channel, constrained by current, and constrained by draft. They can safely put several million dollars worth of cargo and equipment gently against the concrete piers of a bustling city, or tie off on a tree in the backwaters of some small inlet. Further, they are not running a rowboat. They put more than 1,000 feet of tow into the confines of a lock, or slide it around the bend into the span of a bridge, with high water and a sideways current. In addition to their Coast Guard license, they have radar training, fire-fighting training, run an AIS, a sounding machine, fax traffic back to the office, communicate with other boats, dive in and get the rope out of the wheel, coordinate crew changes in the most remote areas, keep all the official records, and send in the grocery order.

The engineers have to work on everything from small gasoline engines to EMDs, fix the hole in the hull, rewire the electronics room, and make sure the bilge is adequately pumped while keeping the generators operational. The tankermen can “deck” and check for H₂S. They know the requirements for handling toxic chemicals and handling delicate but valuable petroleum products. The deckhands have to cart 100 pounds of rigging up and down the tow, making the critical couplings while working in 105-degree heat of summer, the rain, snow, or ice, sometimes for hours at a time. They must communicate with the captain, accurately indicating how much space he has, whether the rake of the barge is coming up, and whether the cables are frayed or stressed. In their spare time, they chip paint, repaint, clean bathrooms, clean the galley, make coffee, do safety checks, practice man-overboard drills and do their computer-based learning exercises, often on their own phones or laptops because a computer is not available. If they have time, on their off watch, they try to call their teenager and see how they did on the math midterm, or phone their mother who just had surgery. If they're lucky they may Skype the wife, while she's throwing their four-year-old's birthday party.

The towboating industry has got to wake up. There is a reason they have difficulty recruiting and retaining the caliber of personnel required. The average worker in the United States works 40 hours a week for 50 weeks, which equals 2,000 hours of on-the-job time. Yet the average towboat employee works 84 hours a week on a 28-days-on-and-14-days-off schedule (I dare most of you to try working 12 hours a day for 28 days straight). **This means they work 5,376 hours a year instead of 2,000.** They are actually working 2-2/3 jobs. They are also doing shift work, which medical studies indicate adds a tremendous stress to one's health. **Add to that, the fact that they are away from their**

homes, families, and support systems (friends, church, social groups) and that **they spend three-fourths of their lives in an isolating and stressful environment.** I can think of no other industry where the employees are regularly submitted to this kind of requirement. Indeed the medical community, which also necessitates shift work, gives workers four days off after three days of 12-hour shifts.

Nonetheless, many towboating companies have, in the last two years, frozen salaries, **eliminated cooks, and reduced the deck crews.** They have decreased health benefits, decreased opportunities for steersman training, and routinely asked people to ride over because they could not find relief personnel. They have increased safety meetings, online training and rhetoric, while reducing the deck budget. **Further they still feel free to get the deckhand up, on his off watch, to make the locks because the deck is inadequately manned.**

Even the office staff has taken its share of hits; the port captain's day begins at 6 or 7 in the morning and ends around 10 or 11 at night; yet some companies are asking them to take two or three furlough days a month. Do you know any port captains who can realistically give up two more days? No, they'll be fielding emergency calls, coordinating boat and customer, and justifying expenses to the top brass, just like always, but not getting paid for it.

The industry needs to invest heavily in its personnel, not just its shareholders. First, towboats should be inspected just like any other U.S. vessel (especially in view of the fact that tremendous tonnages of chemicals and petroleum products are being routinely carried through major cities). Second, they must make the move to three-shift crews, as has been suggested by the Coast Guard. Not just the wheelhouse personnel either, but everyone. Finally, they should offer more time-for-time scheduling: 28-on-28-off or 14-on-14-off. This is an important industry; it moves tremendous amounts of goods around the country safely, and at tremendous savings in fuel. The industry should be growing and its people should be allowed to grow with it, both personally and professionally.

I love my towboater, and he loves what he does. He enjoys seeing the fall change of color on the Illinois, he enjoys the challenge of making the lock in high water. He cares for his crew, he knows his deckhands and their strengths and weaknesses. He knows his engineer's wife is scheduled for surgery and he's worried whether or not he'll be able to arrange to have him off to be there. He knows the green hand is scared and nervous and covers it with bluster and bravado. He knows his tankerman has checked and double checked his hoses. He knows his port captain isn't feeling well and his crankiness is half that and half the pressure he's under to keep boats moving, while cutting costs. His safety officer has to ensure that safety checks are being run every watch, but the company won't let him put the boat on the ways to fix the rudder properly.

These are exceptional men and women who work on these boats. They are a rare breed of multitasking, hard working, thoughtful and often loyal sailors. The companies need to really value these personnel; they are not just human "resources": to be used up and thrown away. A good crew, rested and well-trained, is an incredible asset; not just any warm body will do. The cost of everything has gone up, but the companies need to pass those costs on to the customer, so personnel can be compensated adequately in time and money. Trust me, the personnel are looking for the best working conditions they can find, not just the best money.

RECRUITING AND RETAINING LIMITED TONNAGE MARINERS

As the TSAC minutes of March 2000 recited: "RADM North ... spoke on the subject of the licensing of officers and manning of towing vessels. On seeing the growth of the maritime industry, he realizes that recruitment, retention, and training have become deep concerns, not only in the U.S., but also worldwide."

More recently, many limited-tonnage mariners were driven out of the marine industry as a result of ill-advised actions taken by the Coast Guard as well as by job-related factors. While some of these actions may appear to be incredibly minor in nature, their cost to the industry and its "career" employees has been substantial. In fact, it reached the point where many of the most experienced mariners are being replaced by others with far less experience. This loss of "experience" cannot be quickly or easily replaced.

One of the most serious problems is the attempt on the part of Coast Guard's National Maritime Center (NMC) to over-regulate our mariners and treat them as if they were eighteen-year-old Coast Guard recruits. Capt. Joel Milton put his finger on the problem in the following article from WorkBoat: magazine.

Despite the positive experience I had with my recent license renewal (yes, I still call it a license), I remain concerned about two things.

First, I hear persistent complaints that communication problems still exist, particularly when an application doesn't neatly fit into one of the National Maritime Center's predetermined categories. The key is being able to speak with a knowledgeable, responsive human being who is both qualified and can make a fair and informed decision and explain it to you in detail without making you wait for days (or even weeks or months). This is absolutely essential for the licensing program to succeed.

I have been told that almost all of the civilian employees at the NMC are simply clerical workers who read from forms, go down checklists, and generally have no real personal knowledge of the marine industry or the mariners who they are supposed to serve. For these employees, it is just basic administrative work, and they could just as easily be "administrating" the issuance of business licenses, parking or fishing permits. As a result, often they are unable to answer questions, and access to those who can answer them is still spotty.

The second concern is the location of the NMC in (Martinsburg, W.Va.) Its remote location makes any face-to-face meeting with the people who make the critical decisions (including medical decisions) not even remotely possible for the vast majority of mariners. Therefore, the licensing process is cold, impersonal and faceless. This is not good. Face-to-face meetings help people work through problems in ways that can't be solved over the phone or via e-mail.

The old Regional Examination Center-based system was able to accommodate personal meetings and, if necessary, you could appeal directly to the Officer in Charge, Marine Inspection (OCMI) for that REC zone if you had problems later on in the process.

The Coast Guard must find a way to restore some

reasonable form of direct, person-to-person contact between mariners and licensing administrators. It's simply way too easy to blow off people if you will never see them in the flesh.

The National Maritime Center came off a horrible three year transition record when it moved from Arlington, VA to Martinsburg, WV, hired and trained new personnel, and rewrote a substantial proportion of the "credentialing" regulations while it ran roughshod over thousands of mariners.⁽¹⁾ Service became so bad that a Congressional hearing⁽²⁾ was necessary to bring this Coast Guard office under control. Since that time, the situation from our viewpoint has stabilized and improved somewhat [⁽¹⁾Refer to our Reports #R-428-D and #R-428-D, Rev. 1 ⁽²⁾Refer to our Report #R-428-I.]

The National Maritime Center has mired our "hawsepipers" in paperwork that frustrates and discourages many of them. Simple requests for the most minor actions must be turned into "Letters of Reconsideration" and often into formal "appeals" that are passed on to Coast Guard Headquarters. The procedures are so frustrating that many mariners simply choose not to cope with them. While our Association has never charged mariners to assist in composing these documents, private "consultants" provide these services for a fee.

Dumping Bad Things on Our Mariners

Fallout from every major towing accident or disaster filters down from Congress, passes over the teflon Coast Guard and teflon management. Fallout descends directly to the working mariners at the bottom in the form of new restrictions and regulations. Coast Guard officials seem ignorant, gutless, or powerless to point out to Congress that these burdens continue to crush and discourage many mariners. Our Association is well aware of the situation, feels our mariners' pain, and writes about it often.

Since this is a free country, many mariners simply opt out of a bad situation and seek jobs elsewhere. The Coast Guard's attempt to create a "perfect" and "politically correct" work force from existing mariners who know how to do their jobs using the skills they have already mastered is building up to a recruitment and retention disaster that is approaching if it has not already reached the point of no return.

Generally speaking, most of our "limited tonnage" mariner work force consists of individuals who came to (and were accepted by the towing industry) with their existing physical conditions, and an educational background that often does not include high school completion. These mariners developed excellent boat-handling skills honed through daily experience and exhibited the degree of responsibility required by company management. They possess many skills that most Coast Guard officers in Marine Safety never had a need to develop in their line of work. While most of our mariners are law abiding, family men, most were not hired because they claimed to be "choir boys." Relatively few college graduates are interested in working 84-hour weeks aboard small vessels under the dangerous working conditions documented by the U.S. Department of Labor's Bureau of Labor Statistics.

There is a feeling, stirred up by Coast Guard officers who are mostly academy graduates, that the existing labor pool can and will provide something "better." This has encouraged

industry to demand something “better.” Since 1995, the Coast Guard and large successful towing companies and their customers equate “better” with a college education or at least a great deal of expensive advanced training regardless of whether that training is really necessary to do the job at hand. In the Fall 2008 issue of Proceedings of the Marine Safety and Security Council⁽¹⁾ a major East Coast towing company stated that “The cost to advance one deckhand to mate through the apprentice mate system was costing (them) about \$78,100. [⁽¹⁾p.43]

Traditionally, and until the Coast Guard established the National Maritime Center in 1995, mariners were responsible for obtaining the training required to earn their licenses. Until that time, that cost generally approached \$1,000 for a towing license. Even at that price, it was far from a universal practice for most towing companies to pay their mariners’ tuition to say nothing of room and board for attending necessary classes. Yet, the Coast Guard and its National Maritime Center have become so remote from the mariners they regulate that they simply dictate training requirements and raise the bar showing absolutely no concern about the steeply rising cost of training and the time it takes away from a mariner and his family to complete required courses. While we certainly do not intend to discourage meaningful training, we point out the effects that these burdens have placed on our mariners.

Unfortunately, the 111th Congress did not adopt a provision in the Coast Guard Authorization Act of 2010 for a government-backed student loan program. While our Association favored this provision put forth by Rep. Elijah Cummings, we did have some serious doubts about taking out large loan to prepare for a career that we have seen vanish overnight as a consequence of “at will employment,” rampant “black listing,” and lax regulatory supervision that gives unfair advantages to employers over employees. While unions may not appeal to every mariner, they do offer a greater degree of job stability and protect the few “rights” available to our mariners. Our Association, while not a labor union, has experienced the effects of unlimited money that crushed legitimate union organizing attempts in New York (1988), on the Western Rivers (1998) and in the Gulf of Mexico (1999-2003).

We present the following points that affect recruiting and retention as seen from the perspective of our mariners:

1. When our Association was founded in 1999, many mariners thought twice about recommending that friends or family work for those western rivers towing companies subsequently found guilty by the National Labor Relations Board (NLRB) of unfair labor practices during the “Pilots Agree” work stoppage of 1998. These companies were well known to working mariners in the region. In fact, \$414,210 was returned to 39 individual mariners by order of the NLRB.⁽¹⁾ Companies that used illegal tactics on their mariners shattered all illusions of company loyalty mariners may have had [⁽¹⁾Refer to NMA Report #R-352.]
2. The 1993 Bayou Canot accident cost 47 lives and affected all towboaters. However, all towing vessel personnel feel they were unfairly singled out for blame in this accident and feel they have paid the price ever since. Many believe the real truth about this accident never was reported and that many significant facts were covered up.
3. The NTSB determined that one of the causes of the Bayou Canot accident was “...the Coast Guard's failure to establish higher standards for inland towing vessel operator licensing.” However, the problems with Coast Guard “licensing” were long-standing, deep-seated and pervasive within in the Coast Guard's Marine Safety Directorate. Although these problems were well known and publicized, an inept and arrogant Coast Guard bureaucracy successfully stonewalled them for years. These problems were not the fault of licensed mariners who were left to pay for their own training at license prep “cram” courses.
4. Over the past several years, the National Maritime Center boosted the requirements to obtain a 500/1600 ton license to the level of third/second mate – equivalent to that of a maritime academy graduate. We assert that this was unnecessary and unwarranted. The National Maritime Center lacks sufficient solid in-house talent with sufficient background knowledge of the towing industry to do so.
5. The mandatory radar operator training regulations were a typical knee-jerk reaction following the Bayou Canot accident. Interim regulations were hasty, ill-advised, and offended many experienced mariners. A full radar training program was available 20 years earlier and should have been instituted by the Coast Guard many years earlier than it was. Other electronic navigation equipment such as electronic charting and AIS was introduced without any requirement for training mariners in its proper and effective use.
6. In spite of the effort expended, almost 900 written and verbal comments showed that the complete rewrite of the towing vessel licensing regulations never had the wholehearted support of working mariners. The Interim Rule for mariner licensing, as written, was not easily understood by most working mariners. The new licensing regulations were adopted at the same time that STCW regulations were being finalized (2001) and Regional Exam Centers were too overworked to properly deal with inaugurating the new towing licensing regulations. This resulted in hundreds of substantial errors on towing officers’ licenses that took years to resolve and caused a great deal of hard feelings. The RECs at the time were not viewed as “people friendly” places where information was readily available or even accessible by telephone. The flooding of REC New Orleans in August 2005 caused many mariners extreme hardship in renewing their licenses for years afterward.
7. Few mariners realistically consider the towing industry as it now exists really offers them a lifetime career. An increasing number of hurdles were put in place and discouraged older experienced mariners from attempting to renew their licenses. At the head of the list is the new “Medical NVIC” with its 202 potentially disqualifying conditions, a 9-page physical examination form replacing a simple 2-page form, and additional physical requirements that intimidated many mariners. In fact, the medical procedures and bureaucracy are now so overwhelming that most mariners must actively prepare for license renewal many months in advance and often pay exorbitant prices for unnecessary medical testing. Among renewal problems are the user fees attached to each portion of the renewal application, and out-of-pocket costs of obtaining medical

tests such as stress tests etc. required to waiver a variety of infirmities for older mariners. Other problems include frequent and erratic changes in renewal policies and the lack of cooperation between government officials and working mariners in implementing these frequent changes.

8. Officer and ratings “credentials” must be renewed every five years and requires filing a complete application and a full physical examination including application for an increasing number of medical waivers as mariners grow older. Medical tests must be provided to attain many waivers and the costs can run into hundreds and even thousands of dollars. Many renewals turn into major paperwork shuffles that may involve re-submittals and months of waiting for many applicants and often feature lost or misplaced paperwork. As a mariner, you must give the Coast Guard access to your highway driving record at each renewal and a bad driving record may doom the renewal of your Coast Guard credential or postpone it for one or more years. The National Drivers Registry (NDR) often uncovers cases that were settled in state courts and causes delays in processing applications throughout the system that mariners are left to straighten out. In the past, one Regional Exam Center (REC) reported a re-submittal rate of 80% for application paperwork showing an almost complete breakdown of the system.
9. The Coast Guard does not consult our mariners before introducing many new programs. This leads our mariners to believe the government takes them and the services they provide for granted. For example, introduction of the new STCW Code in July 1995 was done without any input whatsoever from our limited tonnage mariners. Our Association and our mariners do not appreciate having new programs, however laudatory their purpose or international their scope, crammed down their throats. Our Association cannot and will not support those Coast Guard officials that allow this to happen!

Instead of working with the industry and its mariners, the Coast Guard regulates by means of internal “policy letters.” For example, “CG-343 Policy Letter #11-07” that affects credentials on ships of 200 GRT/500 GT or more” was signed on June 17, 2011 – one day after the close of the Towing Safety Advisory Committee meeting in Memphis. No mention of this document of importance to towing vessel officers was made at the meeting although it affects many coastwise towing vessels. The “availability” of the document was announced in the Federal Register on July 1, 2011 on the day that the new policy went into effect. The document and supporting papers were reported to be 100 pages in length and reportedly canceled two previous policy letters. Like other “STCW” documents, this is prepared in terms that are not “mariner friendly” and eventually will have to be explained to hundreds or thousands of mariners who have reading problems with these “opaque” documents.
10. Coast Guard prosecutions for alcohol and dangerous drugs through Suspension and Revocation (S&R) proceedings greatly affect the work force. While our Association fully supports the regulations that support a drug-free workplace, we find remarkable shortcomings in the way the Coast Guard administers its Administrative Law system.⁽¹⁾ The current system has been so insensitive to the needs of mariners in that it is incapable of

distinguishing between major and minor offenses. Dealing with the bureaucratic details of expunging relatively minor convictions is viewed by many “convicted” mariners as overwhelming. Mariners who are persuaded or otherwise elect to follow the path of “rehabilitation” find they must remain out of work for over eighteen months, face thousands of dollars of rehab costs, and then face almost insurmountable hostility and paperwork burdens before being allowed to sail again – if that ever occurs. A few cases in which overzealous Coast Guard prosecution has been misdirected has damaged mariner morale, trampled on mariners civil rights, and revealed the excesses in the Coast Guard’s “justice” system. Low-ranking and poorly trained investigating officers appear to have too much authority and too little supervision in the performance of their duties. [⁽¹⁾Refer to our Report #R-204, Rev. 1]

11. The Coast Guard marine casualty investigation and reporting program, as shown in internal Department of Homeland Security⁽¹⁾ and Coast Guard⁽²⁾ reports, is in disarray. The statistics based on Coast Guard sources cannot be believed. Many personal injuries are never reported to the Coast Guard as required by their regulations. Injured mariners are left to survive on “maintenance and cure”⁽³⁾, and then hire an attorney to fight for adequate compensation for their injuries or disability without any assistance by regulatory authorities who often fail to demand required accident reports.. [⁽¹⁾Refer to our Report #R-429-M. ⁽²⁾Refer to our Reports #R-429, Rev. 1; #R-429-A, Rev. 1; and #R-429-B, Rev. 1. ⁽³⁾Refer to our Report #R-344-A, Rev. 1.]
12. Our limited tonnage mariners do not feel that they are being “honored” for their service. In fact, they feel exploited. Mariners who maintain their own evidence of service such as their own diaries and company pay stubs believe that these documents should be given equal weight in establishing their sea service, replacing where necessary company sea service letters. Only recently did the 111th. Congress indicate that our mariners have a right to their sea service letters and that their employers are required to provide them upon request in a timely manner.⁽¹⁾ This was a long-standing mariner complaint that our Association had to bring to the attention of Congress because the Coast Guard stonewalled us for years. [⁽¹⁾§605, Coast Guard Authorization Act of 2010, PL-111-281 amended 46 U.S. Code §7502 and providing for up to a \$5,000 civil penalty.]
13. The Coast Guard appears to hold corporate officials in higher esteem than working mariners; but do not hold them to the same standards as mariners. Mariners can lose their licenses, and with it their means of making a living, for minor infractions whereas company officials face no comparable standards. This leads our mariners to believe that the Coast Guard with access to its Administrative Law system is more likely to prosecute individual mariners’ credentials where it can win its case easily. It is much less willing to go after companies with civil penalties because of their greater resources, ability, and likelihood of mounting an effective defense. We note that the civil penalties enforced upon employers often are insufficient deterrents to prevent repeated infractions. This favors employers over mariners and breed’s disrespect of the

Coast Guard's entire Marine Safety Directorate.

14. Changes in the Suspension and Revocation procedures were not done to help working mariners. They were done solely for the benefit of the Coast Guard. **At the very least, the existing Coast Guard administrative law system should make provision for legal counsel for indigent mariners.** Experience shows that few attorneys are willing to defend indigent mariners at administrative hearings for reasonable fees – with legal fees starting in the \$5,000 to \$10,000 range. Although our Association urges licensed officers to purchase license insurance that provides for legal representation at administrative proceedings,⁽¹⁾ most remain oblivious to the risk and do not do so. In addition, insurance is not available for “ratings” such as seamen, unlicensed engineers, and tankermen. Most innocent mariners do not stand a chance of properly defending themselves against a Coast Guard prosecutor with access to legal talent in a hearing before an Administrative Law Judge (ALJ). The fact that the ALJ is on the Coast Guard's “payroll” only encourages a belief among our mariners that the system has been rigged against them. Such a belief is not easily dispelled and was the subject of a Congressional hearing in 2007.⁽²⁾ [⁽¹⁾Refer to our Report #R-342, Rev. 5. ⁽²⁾Refer to our Report #R-429-K.]
15. Mariners on the Western Rivers saw how First Class Pilot license holders were mistreated by the Coast Guard when they changed the licensing rules in 1996 by wiping out “pilotage” on most of the western rivers system. Mariners with “pilotage” used this license endorsement as proof of their knowledge of the rivers they worked upon. This endorsement used to appear on hundreds of licenses and was a part of the History of the region from the times of Mark Twain. Yet, the endorsement was erased from the licenses of many of the most experienced pilots. From that time on, few licensed officers on river towboats express any desire whatsoever to devote their time and effort to developing or participating in any license scheme devised by the Coast Guard. **The Coast Guard clearly did not respect the years of effort that hundreds of First Class Pilots spent in learning their routes on the western rivers and then proving their knowledge to the Coast Guard at their own expense.** The Aug. 1, 2000 collision and sinking of the \$55,000,000 Casino Boat MISS BELTERRA above Caruthersville, MO, clearly demonstrated the importance of a thorough knowledge of river pilotage. It is clear that this, and other Coast Guard ill-advised policies, put the lives of the 91 persons rescued from this vessel in jeopardy.
16. Operating towing vessels, especially line haul vessels, is a very stressful occupation. A well publicized survey found the average life span of a working mariner on a linehaul towboat is only 57 years, 2 months – almost 8 years short of retirement. **Many licensed mariners now realize that the odds against ever reaching a healthful retirement are against them.** They are tired of “being used” and then discarded. [Refer to our Report #R-403.]
17. According to the Cooperative Towing Vessel Examination Program (CTVEP) which recently was re-introduced as the Coast Guard's “bridging” program, the Coast Guard enforces many laws and regulations most mariners never heard of before. How could the Coast Guard have granted so many licenses for so many years to so many qualified mariners who never were thoroughly tested on the rules and regulations (other than the rules of the road) they were expected to abide by?
18. Many Coast Guard officers appear to sell themselves to the highest corporate bidder when they leave Coast Guard employ and enter the marine industry. Most mariners view this **“revolving door” policy as a conflict of interest** and want the laws governing this conflict changed since these individuals do not understand what it means to be a working part of the industry.
19. Our mariners point out that Coast Guard regulations do not require towing vessels to carry any lifesaving equipment other than life jackets and ring life buoys. If a towing vessel sinks or burns, especially in coastwise service, do they really expect mariners to jump directly into the water and wait for rescue? Mariners do not understand why regulations do not require every vessel that travels offshore to carry an inflatable liferaft or inflatable buoyant apparatus that is inspected by an approved inspection facility in a timely manner? The National Transportation Safety Board recommended “out of water” protection in survival craft as early as 1985 in the PILGRIM BELLE accident. Why has it taken so long to provide suitable protection for our mariners? **Our Association has evidence that senior Coast Guard Marine Safety officials worked against the best interests of our mariners all these years.** Thankfully, the 111th Congress took action to end this disgraceful chapter. [⁽¹⁾Refer to our Report #R-354, Rev. 4 and §609, Coast Guard Authorization Act of 2010, PL-111-281.]
20. In light of the high fatality rate on towing vessels working on rivers, why are employers not required to provide the deck crew with Coast Guard approved buoyant **anti-exposure suits during the cold winter months for work on deck?** Deck crews in northern waters face the same conditions in winter. The Coast Guard provides its own boat crews with this protection in winter – so what about equal regulatory considerations for our mariners? Our Association brought this matter to the attention of TSAC at the March 2000 TSAC meeting and believes that federal regulations are necessary to protect working mariners. Nevertheless, we could only watch the Towing Safety Advisory Committee dominated by the AWO and industry management let this issuer drop.
21. Over the years that the Coast Guard avoided regularly inspecting towing vessels, why didn't OSHA inspect them for violation of common workplace safety regulations? This is especially true for towing vessels that work on the outer continental shelf (OCS)? **In addition to towing vessels, OSHA was and still is responsible for workplace safety on approximately 17,000 dry cargo barges – something that they seldom get around to monitoring.**⁽¹⁾ Our mariners can attest to many workplace safety violations resulting in injuries, falls overboard, and death on these “uninspected vessels.” On the other hand, the Coast Guard inspects most tank barges. Congress and the Coast Guard should address workplace safety issues on single every barge that is not

inspected by the Coast Guard. [⁽¹⁾Refer to our Reports #R-202-B; #R-202-C, Rev. 2; and #R-426, Rev. 1.]

22. The unlicensed persons who act as "engineer" on most towing vessels – in many cases "green" deckhands or "deckineers" – require adequate training in their duties and responsibilities. Before being allowed to set foot in a towing vessel's engine room, each mariner should receive "safety training." After that, to hold a job that requires a mariner to regularly perform duties in the engine room, that person should receive requisite vocational training in diesel engine operation and maintenance, electricity, pneumatics, hydraulics, sanitary systems, and potable water storage and treatment to become proficient in his job. [Refer to our Report #R-428, Rev. 1.]

COMPANIES THAT BEND THE LAW



25'11" Towing Vessel

46 U.S. Code §8904(a) states: A towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding sheer), shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.

46 U.S. Code §8904(c) states that "The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and recordkeeping of that service) of individuals engaged on a towing vessel that is at least 26-feet in length measured from end to end over the deck (excluding the sheer). In other words, work-hour regulations limiting hours of service on towing vessels to 12 hours in any 24-hour period would not apply to these vessels. Our Association appreciates Congress' understanding of how officers have been exploited on towing vessels in the past and that 46 U.S. Code §8904(c) attempts to curb this practice on vessels greater than 25-feet. However, the statute leaves operators of towing vessels less than 26 feet exposed. The larger problem, however, is to have the Coast Guard effectively enforce the existing law..

The vessel pictured above is less than 26-feet in length and is not unique. In fact, in light of the increasing difficulties involved in obtaining a Coast Guard "towing" license, this size vessel in many different configurations and

horsepower, has become increasingly popular. Many of these small towing vessels are "truckable" (i.e., able to be moved over the highway) and are playing an increasing role in marine construction projects. At present, there appear to be no plans to bring these vessels under the Coast Guard's towing vessel inspection program. In order to bring them under Coast Guard inspection, Congress would have to amend 46 U.S. Code §8904(a).

These vessels are a potential problem because they are not regulated. They may be operated by individuals with little or no maritime knowledge or experience. Many mariners see this as a way of circumventing existing credentialing regulations and dodging the "bridging" program that eventually will bring all towing vessels more than 26-feet in length under safety inspection.

ASSISTANCE TOWING

46 U.S. Code §8904(b) states: "A vessel that tows a disabled vessel for consideration shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area under prescribed regulation."

"Assistance towing" grew up in the 1980's when "for-profit" businesses took the place of the Coast Guard in providing assistance to recreational boaters. The Coast Guard now regulates these businesses that provide services to the boating public while maintaining their own "search and rescue" (SAR) capabilities for genuine emergencies. As reported at the June 2011 TSAC meeting in Memphis, new regulations and a new "endorsement" soon will be proposed to clarify and keep credentialing for "assistance towing" and "commercial towing" separate and distinct.

UNFAIR DISCIPLINING OF MARINERS BY COAST GUARD OFFICIALS

The Coast Guard has regulated American merchant mariners since 1942, first as a wartime necessity, but since 1946 as part of a regulatory and law enforcement agency under the Administrative Procedures Act (APA). The Coast Guard's "Marine Safety" mission includes investigations, vessel inspection, credentialing⁽¹⁾ and disciplining⁽²⁾ merchant mariners. [⁽¹⁾e.g., licensing. ⁽²⁾i.e., suspension and revocation proceedings.]

Most people would expect employment on the water to be the same as a job on land. In most jobs, if you step out of line or violate a company policy you would expect a reprimand, demotion, or even job termination. In theory, that's the way it should be.

However, there is a major difference because many (but not all) maritime employees have Merchant Marine Credentials (MMC) that the Coast Guard issues and can easily take away from you. The process they use to do this is called Suspension and Revocation (S&R). It applies to both "officers" and "ratings."

The Marine Safety Manual (MSM),⁽¹⁾ the instruction book for Coast Guard investigators, clearly states: "It is not the intent of the Coast Guard to use S&R Proceedings to maintain discipline on merchant vessels." Only if a

disciplinary problem constitutes a hazard to life, property, or the environment or the problem constitutes a security risk to the marine transportation system, should S&R proceedings be contemplated.” [⁽¹⁾*MSM, Vol. 5, p. C4-7, Section A.6.*]

Our Association encountered serious problems with the Coast Guard Investigations and Enforcement program⁽¹⁾ that can suspend or revoke a mariner’s credential. These problems received national attention in the media during the summer of 2007 and in a subsequent Congressional hearing. We can make the following general statements about the Coast Guard’s S&R procedures based upon our Report #R-204 (latest revision) titled The Coast Guard “Injustice” Handbook available on our website:

- The Coast Guard “administrative law” system is unknown to most credentialed mariners until they are confronted by an investigations officer with a “complaint” that threatens to suspend or revoke a credential or proposes a “letter of warning.” The subject is seldom taught in license preparation or comparable courses.
- Mariners are an easy target because it seeks to suspend or revoke a mariner’s credential.
- Even if a mariner and his employer are equally at fault, we observe that the system goes after merchant mariners rather than their employers because they are easier targets. The system is in place to punish the mariner.
- If you believe you are not guilty of the offense, and are unwilling to sign a “settlement agreement” with the investigating officer, you will be brought before an Administrative Law Judge (ALJ) and a formal hearing will be scheduled. If you fail to reply within 20 days or do not show up, you lose by default.
- You will either have to represent yourself or hire a lawyer to represent you. Be prepared to spend a minimum of \$5,000 to \$10,000 for basic representation. If you hold an officer’s license, license defense insurance is commercially available.⁽¹⁾ [⁽¹⁾*Refer to NMA Report #R-204-C, Rev. 6.*]
- The ALJ is supposed to be impartial and treat you and the Coast Guard on equal terms. Even if this is true, the courtroom and the procedures used in the hearing are much more familiar to the Coast Guard and to you. Study regulations in 46 CFR Part 5 and 33 CFR Part 20 (available on the internet) before you appear. In drug cases, review 46 CFR Part 16 and 49 CFR Part 40.
- Coast Guard investigators have been known to do anything possible to win a case against a mariner. For examples, see the “Injustice” Handbook, NMA Report #R-204. The Coast Guard investigators can be very vindictive. Our Association recognized the tremendous advantages the Coast Guard holds over the average mariner. If they lose their case, they can always lodge an appeal with the Commandant.
- You will not be “fined” or given a “civil penalty” in S&R proceedings. Consider, however, one Master whose license was suspended for one month. He lost approximately \$13,000 in wages during that period. The Coast Guard uses a separate system of “civil penalties” against employers. However, employers usually can afford a good lawyer and the penalties actually collected are usually quite modest and hardly a deterrent to bad behavior.
- As a mariner, you may find yourself a scapegoat” in a high profile accident regardless of fault. The Coast Guard can show that it “did something” by simply taking your license.

Our Mariners Are Civilian Transportation Workers

Our “limited-tonnage” mariners are “transportation workers” who serve on “boats” rather than “ships” although some of these boats may exceed 200-feet in length. From 1967 until 2003, the Coast Guard was part of the U.S. Department of Transportation. In 2003, the Coast Guard moved into the newly created Department of Homeland Security and placed its greatest emphasis on security issues while allowing its traditional “Marine Safety” mission to degenerate to the point where the Coast Guard no longer shows much interest in our mariners’ health, welfare, or safety⁽¹⁾ while effectively cushioning their own jobs.⁽¹⁾ [⁽¹⁾*Refer to our Report #R-205.*]

Our merchant mariners always have been civilians while the Coast Guard increasingly identifies itself as a branch of the military. Ever since Congress passed the Posse Comitatus Act in 1876, the military has not been allowed to regulate civilian affairs. Nevertheless, Congress granted “the Secretary (of Homeland Security) “...general superintendence over the merchant marine of the United States and of merchant marine personnel⁽¹⁾...” The relationship has deteriorated as a result of poor leadership and the Coast Guard’s lack of knowledge and understanding as well as its persistent mistreatment of our merchant mariners. [⁽¹⁾*46 U.S. Code §2103*]

In recent years, the relationship between the Coast Guard and our mariners turned sour. The Coast Guard neglected its role in domestic vessel inspection even before the events of 9/11.⁽¹⁾ Government reports clearly show the Coast Guard also neglected its role in “investigations” since 1994.⁽²⁾ The perception of “injustice” pervaded the Coast Guard’s **Administrative Law** program long before the House of Representatives conducted a hearing on front page news of abuses reported in the Baltimore Sun in June 2007.⁽³⁾ Shortcomings in mariner “Credentialing” (e.g., licensing) seriously impacted our mariners, the backbone of the industry’s workforce.⁽⁴⁾ Our Association followed these issues and reported on them in a series of over 208 reports. [⁽¹⁾*Refer to our Report #R-401-E.* ⁽²⁾*Refer to our Report #R-429-A, #R-429-B & #R-429-M.* ⁽³⁾*Refer to our Report #R-429-K.* ⁽⁴⁾*Refer to our Reports #R-429-D & #R-429-D, Rev. 1. An index and access to for viewing these reports appears at the end of this report.*]

Unfortunately proposed changes to the Coast Guard’s Administrative Law system to correct problems exposed in a Congressional hearing on July 31, 2007 were never enacted by either the 110th or 111th Congress.

While the Coast Guard, in response to intense criticism, did make a number of changes in the Administrative Law system, other important changes need to be made to faults within the system that are unfair to our mariners. Our Association points out the faults in a number of cases we review in the “Injustice” Handbook.

Coast Guard procedures to punish mariners for violations of laws and regulations are supposed to be “remedial” in nature. This is a cruel joke for our mariners and attorneys that occasionally represent. The Coast Guard stretched “remedial” far beyond the breaking point and used it to destroy the lives and careers of our mariners. This report tells the story in considerable detail and numerous references cite connections to many of the other shortcomings within the Coast Guard’s Marine Safety mission.

MARINER FATIGUE ISSUES AND NUMEROUS VIOLATIONS OF THE 12-HOUR RULE:

The "12-Hour Rule" is more than just a "rule" it is a Statute enacted by Congress and signed by the President. Title 46, U.S. Code, Section 8104(h) states: "On a vessel to which section 8904 of this title applies,(1) an ***individual licensed to operate a towing vessel may not work for more than 12 hours in a consecutive 24-hour period*** except in an emergency." [⁽¹⁾ 46 USC §8904 applies to towing vessels.]

From the date our Association was founded in April 1999, we began to collect statements from our mariners concerning the widespread violations of the ***12-hour workday for licensed officers*** both on vessels serving in the offshore oil industry as well as in the towing industry. Unfortunately, this statute does not apply to deckhands, engineers, cooks, tankermen who, apparently, can be worked until they drop.

The vast majority of our mariners, who are ***not*** dues-paying members of an established labor union and work under a collective bargaining agreement, are considered as "***employees at will***" whose employment can be ended by their employer at any time for any reason whatsoever whether fair or unfair. This fact has many documented negative implications for a career in the marine industry. ⁽¹⁾ [⁽¹⁾ Refer to our Report #R-370-D, Rev. 6.]

In spite of our diligence, the Coast Guard has been indifferent to evidence of many reported work-hour violations. Our first evidence consisted of presenting our 200-page Report #R-201 titled Mariners Speak Out on Violation of the 12-Hour Work Day to Rear Admiral Paul Pluta, then the Commander of the Eighth Coast Guard District. Admiral Pluta totally ignored our report while he was District Commander and continued to ignore it when he moved into the office of Chief of Marine Safety (etc.) at Coast Guard Headquarters in Washington. His time in "Marine Safety" served to largely discredit the Coast Guard's entire marine safety program – a role maintained by weak successors to that position.

As our mariners helped to compile our report on Mariners Speak Out on Violation of the 12-Hour Work Day we fielded many letters involving violations on uninspected towing vessels on rivers, in inland waters, and offshore operated by our mariners. Although each of more than 50 letters was signed by the person that wrote it, our Board of Directors withheld these names to protect our mariners from inevitable "black-listing" that prevails within the towing industry. Our Association furnished over 300 copies of this report to senior Coast Guard officials, and members of the TSAC, MERPAC, and NOSAC federal advisory committees for their consideration.

Rear Admiral Robert North, at the time the Chief of Marine Safety (etc.) attended ***both*** the TSAC and the NOSAC advisory committee meetings. At both meetings, he stated that he would clarify the meaning of the 12-hour rule. In a letter dated May 2, 2000 our Association asked and Admiral North agreed not only to review the 12-hour rule as it affects ***uninspected*** towing vessels but also as it affects ***inspected*** offshore supply vessels (OSV) manned by our limited-tonnage mariners. Further, in a letter to our Association dated July 28, 2000, RADM North stated: "On

behalf of Admiral Loy, thank you for the copies of (your) report entitled Mariners Speak Out on Violations of the 12-Hour Workday, sent to several offices within Coast Guard Headquarters. I have forwarded this report to my staff for consideration as part of their work on developing a document that will provide clarification of the existing statutes that make up the watchstanding and work requirements aboard U.S. vessels, including the 12-hour rule...."As I have indicated previously, I will publish a document that clarifies the Coast Guard position with regard to work hour limitations for mariners. This document will summarize the requirements of the law, our regulations, and the responsibilities of various parties to ensure compliance with the law."

True to his word, Admiral North published a Coast Guard Policy Letter that interpreted the Coast Guard's position – Policy Letter G-MOC 04-00.⁽¹⁾ This document was presented at the TSAC meeting in Memphis and was slightly altered by "Change 1" as recommended by the American Waterways Operators. [⁽¹⁾ Reprinted in our Report #R-370, Rev. 3.]

Aside from this action to clarify Coast Guard policy in 2000, the record of meaningful ***enforcement*** of the 12-hour rule by the Coast Guard has been abysmal. Also important is that ***the "12-hour rule" only applies to licensed deck officers and there is no such provision exists for unlicensed "ratings."*** This is an area where our Association must direct its attention in the future to Congressional oversight committees.

During the past 10 years, we continued to collect information on the work-hour situation in the following reports.

- Report #R-370, Rev. 3. Watchstanding and Hours of Service Limits Using the Two-Watch System. 16p. [Contains USCG Policy Letter #G-MOC 04-00]
- Report #R-370-A, Rev. 2. Report to Congress: Fifth Anniversary of the Webbers Falls I-40 Fatal Bridge Accident: Unresolved Issues Revisited. 12p..
- Report #R-370-B, Rev.4. Violation of the 12-Hour Rules: The Tug Chinook Strikes & Damages The Lake Washington Bridge. 14p.
- Report #R-370-D. Rev. 6. Whistleblower Protection, Work-Hour Abuse, and "Deadhead Transportation. 16p. [Key court decisions that adversely affect our mariners: *Feemster v. Titan; Garrie v. James L. Gray; Meaige v. Hartley cases*]
- Report #R-370-E. Crew Endurance: Work-Hour Laws and Regulations Need Review. 8p.
- Report #R-370-F. Crew Endurance Management Systems. 9p.
- Report #R-370-G. Crew Endurance: The Call Watch Cover-up. 10p.
- Report #R-370-H. 12-Hour Rule Violations: Harbor Tugs and the "One-Watch" System. 4p.
- Report #R-370-I. Safe Management of Crew Travel Time.
- Report #R-370-J. The 12/24 Hour Rule by LCDR Tom Beistle. 18p.
- Report #R-370-K. 12 Hour Rule Violation: The Verret Case. 12p.
- Report #R-370-L. Rev. 1. The National Transportation Safety Board Views on Fatigue and Hours of Service Regulations. 21p.
- Report #R-370-M. The Miss Amanda Incident: Overworked, Undermanned & Violating the 12-Hour Rule. 2p.

TOWING VESSEL OFFICIAL LOGBOOKS

[Refer to our Reports #R-234, Rev. 2 & #R-429-G, Rev. 2]

At a TSAC meeting held in Washington, DC, on Mar. 20, 2000, Captain Bill Munson, one of our Association's Directors, presented a Resolution on Towing Vessel Logbooks in which we petitioned the Coast Guard to require licensed deck officers to accurately and fully log their working hours and the hours worked by all crewmembers at the end of each watch in a suitable vessel logbook containing consecutively numbered pages. Our Association asked that the accumulated logbooks remain onboard at all times to fully disclose compliance with all work hour and manning regulations for the past 90 days.

Our Association formally petitioned Coast Guard Commandant James M. Loy to recognize and enforce our mariners' work hours as governed by regulations, statutes, and certain international conventions, federal statutes and Coast Guard regulations. [⁽¹⁾Our letter of Mar. 28, 2000 was based on provisions of 33 CFR 1.05-20(a).]

Our mariners, working as officers on towing vessels, reported many instances where they were required to break the law by working more than 12 hours in a 24-hour period. In addition, many officers also reported instances of having to take charge of a navigational watch at crew change without adequate rest⁽¹⁾ [⁽¹⁾In violation of 46 U.S. Code §8104(a).]

The Coast Guard fumbled our request, did nothing, and finally told us they did not have the authority to make changes in logbook requirements. Consequently, we turned to Congress since it had such authority. Our patience was rewarded in Section 611 of the Coast Guard Authorization Act of 2010 as follows:

Section 607 – Logbooks

The Act made important changes in maintaining a logbook on all inspected vessels including towing vessels. Section 607 of the Act added the following new requirement at 46 U.S. Code §11304:

46 U.S. Code §11304. Additional Logbook and Entry Requirements

- (a) A vessel of the United States that is subject to inspection under section 3301 of this title, except a vessel on a voyage from a port in the United States to a port in Canada, shall have an official logbook, which shall be kept available for review by the Secretary on request.
- (b) The logbook required by subsection (a) shall include the following entries:
- (1) The time when each seaman and each officer assumed or relieved the watch.
 - (2) The number of hours in service to the vessels of each seaman and each officer.
 - (3) An account of each accident, illness, and injury that occurs during each watch.

[NMA Comment: These new requirements apply to every inspected vessel – including towing vessels – to each officer, and each crewmember. The number of hours “on watch” and the “number of hours in service to the vessel” are not necessarily the same. The latter term corresponds to the Coast Guard’s definition of “work” in

the policy letter prepared at our insistence in Sept. 2000. Refer to NMA Report #R-370, Rev. 3.]

SAFETY ISSUES ON TOWING VESSELS

Why are towing vessels not inspected in a way similar to small passenger vessels or offshore supply vessels – vessels of comparable size and horsepower? The fact that more than 6,000 commercial towing vessels continue to exist with very limited Coast Guard oversight has a long, complicated history going back to World War I.

In 1972, long after World War II ended, the Coast Guard was in favor of both inspecting towing vessels as well as licensing the personnel who operated them. However, at that time, only the licensing proposal won Congressional support and became the law of the land.

In the years since 1972, uninspected offshore supply vessels (OSV) working in oilfield service came under Coast Guard inspection. Crewboats and utility boats were first inspected as small passenger vessels. Then supply boats were inspected under existing cargo vessel regulations. After their atrocious safety record became public, lift boats finally came under Coast Guard regulation in the late-1980s. Now, all these vessels may be regulated as “offshore supply vessels” (OSV) under umbrella regulations developed jointly by industry and the Coast Guard at 46 CFR Subchapter L.

In recent years, in spite of hundreds of accidents involving towing vessels, including three fatal bridge allisions, ⁽¹⁾ massive oil spills in Louisiana, Puerto Rico, Massachusetts, and Rhode Island, and “607 sinkings, 593 floodings, 494 fires, 41 explosions, and 103 abandonments”⁽²⁾ it appeared that the towing industry led a charmed life and had deftly avoided Coast Guard regulatory oversight. [⁽¹⁾Bayou Canot, AL, Padre Island, TX, and Webbers Falls, OK ⁽²⁾Rep. James Oberstar, in Docket #USCG-2004-19977-129.]

While Coast Guard inspection is always inconvenient and costly for those businesses impacted, our Association is convinced that a formal inspection serves as a basic safety mechanism to protect our mariners that serve on “inspected” vessels. This is borne out by a graph in the Coast Guard's Business Plan for Marine Safety, Security, and Environmental Protection for 1995 showing towing vessel fatalities well over twice as high as fatalities on inspected vessels for a 10 year period.⁽¹⁾ [⁽¹⁾COMDTINST 16000.26A, Feb. 6, 1995 p.MSS-3]

The plight of our limited-tonnage mariners serving on all of the nation's 6,000 towing vessels was ignored for over 40 years. Meanwhile, great efforts were put forward to create a “partnership” between the towing industry's trade association and officials in Coast Guard Headquarters. While such a “partnership” may satisfy members of the trade associations, few benefits extend to mariners serving on towing vessels as far as attention to basic safety, health, and welfare concerns. Only recently has the Coast Guard made any effort to enforce existing regulations upon towing vessels although they botched an excellent opportunity⁽¹⁾ to do so in the 1990s. We continue to believe all mariners serving on towing vessels deserve to work on safe boats, not just those working for a few major employers. [⁽¹⁾Refer to our Report #R-276-C, Rev. 2.]

Unfortunately, there are huge gaps between the laws that protect mariners on inspected vessels and those that apply to towing vessels that will remain virtually “uninspected” until the Coast Guard publishes their final inspection regulations at some as yet to be determined date in the future.

Our Association believes that Congress did its best to eliminate this artificial division between inspected and uninspected vessels in 2004 but was frustrated by the Coast Guard’s consistent failure to publish new towing vessel inspection regulations over the past 7 years in spite of repeated promises to do so. Our Association asserts that differences between inspected vessels and towing vessels must be eliminated to put all our limited-tonnage mariners on an equal safety footing.

In a report titled Towing Vessel Industry Personnel Exposure Data dated May 12, 1994⁽¹⁾ the estimated average annual fatality rate for the towing industry was 72 per 100,000 workers. This figure was well above the national industry average of 9 per 100,000 workers. “It was recommended, due to the political “bomb shell” nature of these figures, that these estimates be kept internal to the office until they could be better validated.” To the Coast Guard’s credit, these figures were soon made public. Nevertheless, this information was never widely publicized to our mariners and was “papered over” in succeeding years. Most towing vessel personnel have no idea how dangerous their job really is compared to the jobs of other workers. [⁽¹⁾NMA document A-193(5).]

Towing Vessel Inspection Study⁽¹⁾

On Aug. 8, 1994, less than a year after the Bayou Canot accident took the lives of 45 passengers and crew of AMTRAK’s Sunset Limited, Coast Guard Commandant Robert E. Kramek asked the Secretary of Transportation to forward a “Towing Vessel Inspection Study” to the Chairman of the House Subcommittee on Coast Guard and Navigation. The Coast Guard recommendations at that time were as follows: [⁽²⁾NMA document #A-193(3).]

- In 1994, the Secretary advised Congress that Coast Guard inspections of towing vessels would not be the best use of resources in preventing marine casualties involving towing vessels.

[NMA Comment: While this decision may have been in the best interests of the Coast Guard, it was not in the best interest of the approximately 32,000 mariners who work on the nation’s uninspected towing vessels. The Federal Register at 61 FR 31332 (June 19, 1996) cites 12,971 marine casualties over a 12-year period (1980-1991) with about 60% attributable to human error. We maintain that the other 40% of the casualties not attributable to human error also deserve consideration.]

- The Coast Guard, in conjunction with TSAC, develop a system to classify UTVs by risk categories, and determine the appropriate level of examinations⁽¹⁾ to ensure the safe operation of those vessels in high risk operations such as pushing high passenger capacity barges or hazardous material barges. If it is determined that supporting legislation is needed to conduct Coast Guard inspections on any current UTVs, request such supporting legislation from Congress.⁽²⁾ [⁽¹⁾Towing vessel licensing exams had

not been changed for years. ⁽²⁾We are not aware that any such request was made to Congress.]

- The Coast Guard, in conjunction with TSAC, develop recommended minimum shoreside management standards for the safe operation of towing vessels, which could be adopted on a voluntary basis industry-wide.⁽¹⁾ These standards would be based, both in approach and content, upon quality systems described in the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) developed by the International Maritime Organization. Any successful company programs currently in use could also be used in the program’s development. [⁽¹⁾A voluntary industry program called the Responsible Carrier Program (RCP) was instituted by the American Waterways Operators (AWO) and displayed the result of much thought, planning, and effort. While conscientious companies do look out for the safety of their mariners, the RCP does not ensure the safety of all mariners working on all towing vessels and the program is not “enforceable.”]

- That Congress authorize the Coast Guard to implement a civil penalty regime regarding UTVs so that companies not properly maintaining their vessels or training their crews can be subject to monetary penalties.

[NMA Comment: A review of the civil penalties imposed by the Coast Guard shows that few would serve as sufficient deterrents.]

- The Coast Guard, in conjunction with TSAC, develop and subsequently conduct an in-the-field uninspected towing vessel enhanced boarding program⁽¹⁾ to measure vessel safety. Such a program will also test the ability of the Coast Guard to determine crew competence in operating certain equipment, crew adherence to deckhand safety guidelines, and might also determine if an effective targeting regime can be devised to detect substandard UTVs.

[NMA Comment: ⁽¹⁾The “enhanced boarding program” describes what was called the Cooperative Towing Vessel Examination Program (CTVEP). Although this program looked very impressive on paper and used many Coast Guard resources it failed because Headquarters never fully adopted or funded it.]

Differences Between Inspected Vessels and Towing Vessels

There are tremendous differences between inspected vessels and towing vessels that have adverse effects on crew safety, health and welfare on towing vessels. Although each listed deficiency may not exist on each towing vessel in the industry, on vessels where deficiencies do exist, our mariners must work under substandard and even dangerous conditions. Although the Coast Guard’s new “bridging” program inaugurated in 2008 is taking steps to “bridge the gap” between inspected and uninspected vessels, only a comprehensive set of enforceable federal regulations can establish a set of minimum standards for all 6,000 towing vessels comparable to regulations for other classes of commercial vessels. At present, towing vessels remain in a twilight zone between “inspected” and “uninspected” status – nominally “inspected” but in fact “uninspected” until new

regulations are promulgated. While the Coast Guard's interim "bridging" program may address a number of the problems listed below, the program's "recommendations" are not enforceable until the agency promulgates the necessary regulations. In many cases, Coast Guard "examiners" acting as "good guys" during Phase 1 of the bridging program, have not enforced many longstanding regulations that were on the books for years. They have taken the easy way out in order to placate boat owners – and seldom show the same interest in treating our mariners.

Specifically:

1. There are many laws and regulations on the books that towing vessel personnel are expected to abide by. However, little attention is given to informing mariners of these regulations in license preparation courses and exams. In actual practice, lack of knowledge of these regulations often impacts mariners after an accident. For reasons of job security, towing vessel personnel need a comprehensive set of regulations written in "plain English" they can refer to at one place in the Code of Federal Regulations. Thereafter, updated copies of these regulations need to be placed aboard each towing vessel for reference.
2. Unlike inspected vessels, many uninspected towing vessels were planned and built without the professional knowledge and assistance of a naval architect. The seaworthiness of a number of existing vessels on the routes they operate are questionable.
3. Unlike inspected vessels, uninspected towing vessels still may be constructed and operated without plans, plan review, or quality control during construction. Serious defects often appear after these vessels are placed in service.
4. Unlike inspected vessels, uninspected towing vessels have no regulations requiring stability tests and do not have to meet rigorous stability requirements. Some towing vessel owners have added raised pilothouses and made other major structural conversions without a review of their vessel's basic stability by a naval architect. These vessels operate without a stability letter or other stability advice directed from the Coast Guard to their officers.
5. Unlike inspected vessels, uninspected towing vessels may be operated on any route without adequate professional consideration of the vessel's seaworthiness for that route.
6. Unlike inspected vessels, most uninspected towing vessels are not issued Certificates of Inspection (i.e., "Safe Manning Documents") that clearly spell out the size of the crew they must carry, or their qualifications, or the hours they are allowed to work. The manning regulations that govern "uninspected" towing vessels⁽¹⁾ are difficult to read and comprehend, and differ from regulations governing comparably-sized commercial vessels. The existing hours of service regulations are frequently violated. [⁽¹⁾46 CFR Part 15, Subparts E & F.]
7. Hours of work for crewmembers on uninspected towing vessels are governed by archaic terms such as coal passers, fireman, and watertender,⁽¹⁾ etc. that vanished

with steam vessels sixty years ago. Although a major rulemaking took place in 2009,⁽²⁾ manning regulations for these vessels still need to be brought up to date. [⁽¹⁾46 CFR §15.705. ⁽²⁾Docket #USCG-2006-24371, 74 FR 11196-11267, Mar. 16, 2009.]

8. Towing vessels have no regulations governing the size and specifications of the accommodation spaces that are provided for the crew to live in. Issues of ergonomics, electrical safety, fire protection, ventilation, sanitary construction and sanitary inspections need to be formally addressed in federal regulations as they are for other comparably-sized commercial vessels.
9. For the health and welfare of our mariners, masters of towing vessels should be required to make periodic sanitary inspections of the vessel following approved guidelines and log the results.
10. Unlike inspected vessels, towing vessels are not required to carry any survival craft, only life jackets and ring life buoys.
11. Towing vessels often engage in international voyages and openly display the laxity of towing vessel regulations to foreign port state officials.
12. Fire drills were not required to be held aboard towing vessels until Jan. 19, 2000. Unlike inspected vessels, regulations for uninspected towing vessels do not require "man overboard" drills or "abandon ship" drills and instruction. In fact, in the absence of a safe manning document on towing vessels, there is no assurance that a towing vessel manned with only two crew members (i.e., a Master and a deckhand) will be able to physically recover the deckhand if he falls overboard. This is a serious safety issue especially for fleet boats that often are obliged to operate with a two-man working in swiftly flowing river waters.
13. Unlike an inspected vessel, on a towing vessel the quality of repairs made after an accident or fire are not subject to review or approval by a qualified Coast Guard inspector before the vessel is placed back in service. Unless the repairs are properly made, the crew may be at risk.
14. Unlike an inspected vessel, a damaged towing vessel does not require a Coast Guard permit to proceed to another port for repairs (CG-948) after an accident. Unsafe movements could result in damage to the environment, channel blockage, or development of other unsafe conditions.
15. On a towing vessel, a crane may be installed without calculating the effects of its use on vessel stability.
16. Uninspected towing vessels do not have to be drydocked at regular intervals. In addition, significant repairs necessary for the safety of the vessel and its crew are not required to be made by the vessel's owner when a towing vessel is drydocked. Consequently, the vessel may return to its job with significant safety problems remaining.
17. Tests and inspections of towing vessels under provisions of

NFPA 306 during repairs including welding, burning or other hot work often can be easily avoided. Dangers exist when such repairs are made under unsafe conditions.

18. An "examination" performed by a Coast Guard Boarding Party, if and when such an examination is made, is not nearly as thorough as an inspection performed by a Coast Guard Inspector on an "inspected" vessel. The immediate impact of such an examination falls directly upon the vessel's licensed officer(s) on duty rather than on the vessel's owner. The regulatory and statutory references used by the Coast Guard for these examinations are not required to be kept on board and available for ready reference by vessel personnel. This always places a mariner at a disadvantage when facing the Coast Guard boarding party.
19. Any "benefits" of the Coast Guard's "Streamlined Inspection Program" (SIP), namely the familiarity of vessel officers and crew with Coast Guard safety regulations, does not exist on towing vessels because they are not inspected.
20. Examinations by Coast Guard Boarding Teams were often cursory in nature and might not involve reviews of all of the following areas: Vessel structure; watertight integrity; pressure vessels and appurtenances; piping; main and auxiliary machinery; steering apparatus; electrical installations; lifesaving equipment; work vests; fire detection and extinguishing equipment; pollution prevention equipment; sanitary condition of the accommodation spaces; fire hazards; FCC certificates; and lights and shapes required by the rules of the road. Unsafe conditions may still exist on the vessel after such an examination even though the boarding team gives the vessel a "clean bill of health" because there are no regulations that require towing vessels to follow safe installation practices followed on workboats of comparable size and power used, for example, in the offshore oil industry.⁽¹⁾ However, the quality of vessel examinations has improved as a result of the new "bridging" program. [⁽¹⁾Refer to 46 CFR Subchapter L.]
21. Unlike inspected vessels, there is no assurance on a towing vessel that there are two adequate, workable, and unlocked means of escape from all compartments normally occupied by or worked in by vessel personnel simply because there are no governing regulations.
22. Unlike inspected vessels, on an uninspected towing vessel there is no assurance that all enclosed spaces in the vessel are adequately vented or ventilated or that openings can be closed and ventilation stopped in case of fire in any space. In fact, many engine rooms are so open to the atmosphere and bulkheads are so perforated that they cannot be effectively sealed in case of a fire.⁽¹⁾ [⁽¹⁾Example: The Jan. 19, 1996 M/V Scandia fire and subsequent 820,000 gallon oil spill]
23. Unlike inspected vessels, on towing vessels there is no assurance that guards have been installed in dangerous places, especially around machinery-driven auxiliary equipment as well as rails and storm rails placed in and on deckhouses. On some vessels, unsafe methods of boarding barges or other towed vessels exist and lead to serious injuries. The vast majority of "barges" remain as uninspected vessels and contain unregulated workplace hazards.
24. Unlike inspected vessels, on towing vessels, the use of safety glazing materials in pilothouse windows that will not break into dangerous fragments if fractured as well as un-tinted glass that does not distort the color of lights on other vessels and aids to navigation should be provided under new regulations. [Refer to ANSI Z 26.1-1977 w/ 1980 supplement.]
25. All "vital systems" necessary to an existing towing vessel's survivability need to be evaluated for their suitability based upon a thorough knowledge of previous vessel accidents and upon limitations posed by possible new routing limitations.
26. On existing uninspected vessels, the presence of an adequate collision bulkhead as well as the integrity of other watertight bulkheads (if any) needs to be examined. Penetrations of these bulkheads must be examined to determine whether they defeat the integrity of the bulkheads.
27. On towing vessels, all electrical equipment and installations must be suitable for conditions the vessel encounters, provide service under normal and emergency conditions, protect crewmembers from hazards including electrical shock and fire, and prevent ignition of flammable vapor. On existing vessels, the cable and wire must be suitable and capable of carrying the current that passes through it. Battery banks can give off explosive and toxic gases that could harm the crew. All circuits should be clearly marked and identified and not be overloaded by appliances. Each of the vessel's radios should be on a separate circuit. Meaningful electrical inspections by knowledgeable persons would provide this assurance of safety for all crewmembers.
28. On uninspected vessels, there should be adequate battery-powered emergency lighting that automatically activates in case of power loss so as to direct crewmembers to an outside exit, even in the event of a vessel capsizes or sinking.
29. Each towing vessel should have an adequate anchor and ground tackle that can be handled by the crew to hold the boat in the waters it navigates under all foreseeable circumstances. This should be viewed as a crew protection measure.
30. A towing vessel should have an internal communications system so that the person on watch can contact any other crewmember at any time for any reason without waking other crewmembers. This was required after Oct. 8, 2001 on existing uninspected towing vessels but is still being encountered a decade later on existing vessels illustrating the lack of effective Coast Guard regulatory enforcement.
31. Towing vessels should have a public address system to

- contact crew members working on barges or on deck for instructions and safety warnings. In lieu of such a system, each crewmember should have a working handheld radio with suitable replacement units and chargers carried aboard.
32. Towing vessels need **machinery alarms in the pilothouse** to signal loss of propulsion power, loss of steering control, fire in the engine room or machinery spaces, high bilge level, low lube oil pressure or abnormally high temperature for main engine(s) and generator(s), and loss of air pressure.
 33. Like inspected vessels, towing vessels' **bilge systems** should be piped to all compartments and have bilge **strainers that are easily accessible for cleaning** in each compartment. The bilge pump should be used only to pump the bilges.
 34. Towing vessels should have **smoke detectors**⁽¹⁾ in all crew quarters to alert crewmembers to fire from smoking, electric heaters, short circuits and other causes. [Refer to *UL Standard 117, single station smoke detector. This comment recognizes that a fire detection system is required under new 46 CFR §27.203. This comment responds to NTSB/MAR-96/01 Conclusion # 6: "Because heat rather than smoke detectors were used..., the crew was not provided with sufficient early warning of the fire, which led to the death of the Master and allowed the fire to go out of control." Also, the resulting NTSB recommendation #M-96-5 to the vessel owner: "Install smoke detectors in accommodation spaces on all your vessels, regardless of whether heat detectors are installed."]*
 35. Like inspected vessels, each uninspected towing vessel should have a Coast Guard approved **survival craft** capable of keeping all crewmembers out of the water. Respecting the views of the National Transportation Safety Board as expressed for comparably sized commercial vessels and Section 609 of the Coast Guard Authorization Act of 2010, this **survival craft must be able to support all members of the crew out of the water to avoid hypothermia**, shark attack, snake bite, etc. until help arrives.⁽¹⁾ [⁽¹⁾ Also refer to NMA Reports #R-354, Rev. 4 and #R-354-A..]
 36. Like inspected vessels, inflatable life rafts and inflatable buoyant apparatus, when such equipment is (voluntarily) supplied, should be required to be unpacked and checked by an approved service facility once a year to prove that it is in good working order. Defective equipment should be removed from service.
 37. A **towing vessel official logbook** and the availability of that logbook for examination by boarding teams should be required. (see above). A comprehensive list of all items required to be logged should also be provided including onboard drills.⁽¹⁾ The use of an official logbook on towing vessels is now required by statute and should also be specified by regulation. [⁽¹⁾ Refer to NMA Report #R-234, Rev. 2.]
 38. There should be a requirement for the officer of the watch to listen to Coast Guard **Broadcast Notices to Mariners** on a regular basis in order to avoid the hazards reported by such broadcasts.
 39. Instructions and regulations governing the proper use of an **autopilot** should be provided as is required on inspected vessels.
 40. **Fire axes** should be available and placed for rapid availability for fire fighting purposes as well as to sever towing hawsers and other towing connections in an emergency. Other devices to release a vessel's tow should also be provided for by regulation as they are in other countries.
 41. Towing vessels in offshore service should carry **line-throwing equipment**.
 42. **Drinking water** from tanks on towing vessels should be tested on a regular basis. Congress assigned the task of providing potable water to the Coast Guard in 2004, but they have taken no steps since then to carry out this Congressional mandate.
 43. As on inspected vessels, **paint lockers made of steel** or other non-combustible material should be required on towing vessels for storage of paint, grease, gasoline for outboards and pump engines etc. [Refer to *Fire Aboard the Tug Scandia (etc.)*, NTSB/MAR-98/03, pgs. 37-38 (analysis).]
 44. Towing vessels should have fire pumps and fire main systems to protect the vessel, its tow, and the crew comparable to those on inspected commercial vessels. When fire pumps are installed, they should be permanently mounted and operable from **outside** the engine room. If portable fire pumps are allowed, the Coast Guard should require that they be tested and operate properly. [Refer to NTSB Recommendation #M-98-111. Also, NTSB/MAR-95/03 (Argo Commodore), p. 39, Conclusion #8: "Smoke in the engine room would have prevented the master from using the vessel's fire pump and its fire hydrant, both of which could only be operated from inside the engine room."]
 45. Require **self-contained breathing apparatus** and fire-suits aboard towing vessels that operate beyond the boundary line⁽¹⁾ as well as training in their use. [Refer to NTSB recommendation M-98-109. ⁽¹⁾ NTSB recommends this for **all** towing vessels.]
 46. Require approved fixed firefighting systems in the engine rooms of existing towing vessels. [NTSB recommendation M-98-110 now **required** by 46 CFR §27.303.]
 47. Unlike inspected vessels, uninspected fishing vessels, and recreational vessels, there are no requirements for towing vessels to carry **pyrotechnic distress signals** including smoke signals, red flares, and rocket propelled parachute flares.
 48. Although steering systems are of vital importance to all

towing vessels and, because of the flanking systems installed on many towing vessels, such systems may be of greater complexity than those of other comparably sized vessels. There are still no regulations that specifically govern the installation and maintenance of these systems.

49. Unlike inspected vessels, uninspected towing vessels are not required to carry first aid kits suitably stocked with provisions commensurate with possible needs for the vessel's intended voyage.
50. Unlike inspected vessels, uninspected towing vessels are not required to mark or stencil escape hatches, emergency exits, fuel shutoff stations, watertight doors, and emergency lighting (if installed). This marking may be important to new crewmembers on the vessel in an emergency. In addition, the name of the vessel should be marked on each of the vessel's life jackets to assist in Coast Guard search, rescue and recovery operations.

CORPORATE ACCOUNTABILITY FOR VESSEL OPERATING COMPANIES

We believe that vessel operating companies should strive to be "good corporate citizens." Companies must behave as responsible members of a broader community that not only take into account customers and shareholders but also show significant concern for their employees, neighbors, the environment, and the government. Companies should be held accountable for their practices, actions, and their effects.

As good citizens, vessel operating companies must treat their workers with dignity and respect and provide workers with:

- A working environment that does not inhibit workers from joining a union or any other organization.
- A living wage.
- Benefits to take care of mariners when they are sick and when they retire.
- Paid training for mariners to comply with all Government regulations.
- A healthy workplace that provides all necessary safeguards, equipment and training.
- Provide sufficient vessel manning and adequate rest to ensure mariners can perform their jobs safely.
- Encourage mariners to refuse to perform procedures that violate the law or endanger the lives of others.
- Allow mariners to advocate for all these things and other workplace issues without fear of retribution.
- Provide real whistleblower protection to encourage a safe working environment.
- Consider in their business practices the effects on communities that are directly impacted.
- Respect the environment and develop sustainable policies to ensure a viable and clean industry.
- Respect all laws and regulations that apply to their business, and
- Strive to provide the best service to their customers based on the foregoing principles.

RESTORE FULL CREWS TO TOWING VESSELS

Our Association called upon the Coast Guard to enforce adequate manning regulations. We pushed hard to point out to Congress that "uninspected"⁽¹⁾ towing vessels operated under a different set of manning regulations than do "inspected" vessels.⁽²⁾ We assumed that the new towing vessel regulations would be written as "inspected" vessel regulations and that would adjust some of the differences in the manning regulations in 46 CFR Part 15. [⁽¹⁾46 CFR Part 15, Subpart E. ⁽²⁾46 CFR Part 15, Subpart D.]

Over the years, the towing sector of the marine industry ruthlessly cut the size of its crews without the Coast Guard raising a finger. We were told by Coast Guard officials that the new vessel inspection regulations would not change the manning requirements, and if any adjustments had to be made, they would be addressed in a separate rulemaking. We immediately challenged this view and made our point to Congress on this issue.

Admiral James Watson promised a Congressional subcommittee that the towing vessel inspection regulatory project would be ready by the end of 2009. Finally, Congress ordered the Coast Guard to complete the Notice of Proposed Rulemaking by Dec. 31, 2010 and to promulgate a Final Rule by the end of 2011. The Coast Guard missed the NPRM deadline. We have no idea whether any of the personnel changes from "uninspected" to "inspected" manning requirements will appear in the NPRM and, if they do, whether they would survive a concerted attempt by industry to water them down or simply leave them out of the Final Rule. All attempts to determine an answer have been stopped by the "no comment" policy that affects all rulemaking projects. Even if changes are made, it will be years before we see the new regulations go into effect.

[NMA Comment: The Coast Guard has little experience in dealing with mariners who serve on commercial towing vessel issues. Since the public's access to the towing vessel inspection rulemaking project is sealed, we cannot trust the Coast Guard to make or even stand behind the changes necessary to restore adequate manning to towing vessels. Management will continue to cut vessel crews as long as they can get away with it disregarding the safety and health of their crewmembers.]

CREDENTIALING ISSUES

NMA Introductory Comments

The U.S. Merchant Marine first came under Coast Guard control in 1942 during World War II and remained under their control after the war. Most seamen manning merchant vessels during the war were civilians, many of whom had medical conditions such as "4F" draft classifications or age constraints that prevented their entry into the armed forces. Nevertheless, merchant mariner losses during the war far exceeded those of any branch of the armed services when considered in proportion to the numbers who served in each branch. Sixty-six years after the war, Congress still has not given long overdue recognition to the survivors or their widows in any measure comparable to that accorded the veterans of the armed services.⁽¹⁾ [⁽¹⁾Refer to NMA Report #R-401-K]

Use of mariners with health and age issues was an excellent use of very limited manpower resources during the war. This policy was not challenged for over 60 years but suddenly became a recent front-line issue.

Most of our limited-tonnage merchant mariners are "hawsepipers" who came up through the ranks. Until recently, "entry ratings" such as ordinary seamen, food handlers and wipers did not have to take a physical exam to enter the merchant marine. Food handlers only had to prove that they did not have a "communicable disease" before being allowed into a ship's Steward's Department. However, advancement in the merchant marine beyond entry level did require a very basic physical exam.

Several years ago, the situation changed radically.

NTSB Doesn't Consider Economics –Just Safety

[Source: By Capt. Allen Bernstein, WorkBoat, 3/22/11]

At the Passenger Vessel Association annual convention in St. Louis in February, I learned a thing or two about the National Transportation Safety Board (NTSB).

In her address to convention attendees, NTSB Chairman Deborah Hersman delivered a compelling speech about safety across all transportation modes, not just maritime.

Hersman made it crystal clear that the NTSB's mission is *focused on safety and nothing but safety*. When the NTSB makes safety recommendations, it does so *without considering its possible cost*. The "balancing" of safety recommendations and economics is outside of the NTSB's mission. Agencies such as the Coast Guard or the private sector perform any necessary cost-benefit analyses and then decide whether to implement NTSB safety recommendations. If the answer is yes, they must then determine how best to implement the NTSB's suggestions – or at least not right away. The NTSB, she said, sometimes proposes safety equipment or measures that, at present, are not technologically or commercially available at an affordable cost. In these cases, the NTSB's goal is that the recommendations will provide the impetus for future technological or commercial developments.

Hersman acknowledged that passenger vessel operators must take many things into account other than safety. After all, she said, "*The safest passenger vessel is the one that never sails from the dock.*"

Unlike the Coast Guard, the NTSB does not have a mandate to take factors other than safety into consideration. That's why the *Coast Guard goes through a lengthy public process when it proposes a new safety rule*. It seeks comments not only on the substance of its proposed regulation(s), but also on its economic impact. By analyzing the potential economic impact of a proposed rulemaking, it doesn't mean that the Coast Guard is downplaying safety. They are simply doing what the law calls for, and what the private sector expects.

Unfortunately, *many don't realize that the NTSB does not "vet" its recommendations for their economic impact*. For example, a plaintiff's attorney who should certainly know better may accuse a passenger vessel operator of being "against" safety for failing to implement an NTSB recommendation. ■

Ferry Andrew J. Barberi Accident Oct. 15, 2003

Keeping in mind the foregoing discussion, the National Transportation Safety Board made a number of

"recommendations" that that the Coast Guard latched on to that short-circuited a number of mariner careers and now afflict every credentialed merchant mariner.

- [NTSB Recommendation #M-05-04] Revise regulation 46 CFR §10.709 to require that the results of all physical examinations be reported to the Coast Guard and provide guidance to mariners, employers, and marine medical examiners on specific actions required to comply with these regulations.

- [NTSB Recommendation #M05-05.] In formal consultation with experts in the field of *occupational medicine*, review your medical oversight process and take actions to address, at a minimum, the lack of tracking of performed examinations; the potential for inconsistent interpretations and evaluations between medical practitioners; deficiencies in the system of storing medical data; the absence of requirements for mariners or others to report changes in medical condition between examinations; and the limited ability of the Coast Guard to review medical examinations made by personal health care providers.

The problem lies not so much in what the NTSB discovered – basically a dysfunctional portion of the maritime credentialing program – but the implementation of its cure by the Coast Guard.

The fact is that a crime was committed on the M/V Andrew J. Barbari and that those responsible for the crime *were* apprehended, convicted, sentenced, and served jail time. Eleven lives were lost in the accident.

However, behind any sloppy medical record keeping lies the fact that the entire merchant marine personnel program operated by the Coast Guard extends back to World War II. The Coast Guard, whose basic ineptness in managing merchant marine personnel had become legendary, simply *shifted the blame* to 210,000 credentialed merchant mariners. The blow fell on our limited tonnage mariners especially hard because it ...

- Prematurely cut short careers of a number of older, experienced mariners and destroyed many retirement plans short of their anticipated retirement date.
- Added considerable expenses to thousands of individual mariners to comply with sweeping new "medical guidelines" that were suddenly imposed on them. These "guidelines" spelled 202 potentially disqualifying medical conditions that could severely limit or restrict a career in the merchant marine.
- *The Coast Guard used the advisory committee process to cram through an excessively complex and impressive program and bypassed the formal rulemaking process.* Our Association faults the MERPAC and TSAC advisory committees in particular for not standing upon behalf of our mariners, especially after it became obvious that the Coast Guard was determined to bulldoze this program through in spite of their advice. Asking their advice did not equate with listening to that advice.
- The Coast Guard assigned Dr.(CAPT) Arthur French who sold the advisory committees on a program the Coast Guard clearly has been unable to manage effectively to this date. The new medical branch set up in West Virginia almost caused the entire credentialing and renewal process to collapse in the summer of 2009. Dr. French sold the advisory committees on the idea that a staff of 7 (including two Doctors) could handle the program. However,

eventually the medical branch was projected to require a staff of 35 to handle the workload. This verified and demonstrated the Coast Guard's incompetence in managing the entire program. In our opinion, every one of the Coast Guard officers responsible for this should have been fired – but that did not happen.

- In discussions with our mariners, it appears that many of the medical evaluations problems to this date still remain unsolved and mariner careers are still disrupted. Consequently, mariners who plan to stay in this career until retirement should make contingency plans.

Where Does This Leave Us?

The NTSB was correct in discovering serious errors within the merchant marine licensing system. However, turning its resolution of these problems over to the Coast Guard was a huge mistake that continues to this day.

Mariners who are capable and basically healthy can no longer count on a “career” in the industry as they grow older. The existing system was “good enough” to catch most mariners whose health presented a real threat to marine transportation. Employers have a stake in the good health of their employees and could be expected to catch identify and act upon most serious medical problems that could impact their businesses. The burden will fall upon employers to find qualified replacements to replace the mariners the Coast Guard carelessly eliminates by their strict enforcement of every possible “guideline.”

The Coast Guard also stepped in to and introduced its “Body Mass” program⁽¹⁾ used on its military members to further harass our mariners.

When push comes to shove, the Coast Guard never stepped up to protect mariners’ hearing, to protect them from the effects of second-hand smoke, or protect them from asbestos remaining aboard vessels. Nor have they taken meaningful steps to protect our mariners against the dangers of impure drinking water – issues reflected in NMA Report #R-350, Rev. 6 our Association recently submitted to the 112th. Congress. [⁽¹⁾Refer to NMA Report #R-440-B.]

We are not favorably impressed with much that the Marine Safety Directorate has done in recent years. Retired Vice Commandant Card’s report⁽¹⁾ should be required reading for all of our mariners because Marine Safety is the Coast Guard’s interface with our mariners.

We seriously challenge the idea that the former Coast Guard officer now in charge of Commercial Regulations and Standards ever should have been recommended to lead the International Maritime Organization regardless of his many years of service. In the past 10 years, Marine Safety has been a real disaster for our 126,000 “limited-tonnage” mariners the Coast Guard continues to dump upon. Our mariners who operate in domestic waters most fervent prayer is to spare us from being devoured by STCW and its impenetrable bureaucracy. [⁽¹⁾NMA Report #R-401-E.]

To Avoid Problems in Renewing Your Mariner Credentials, Plan Ahead.

[Source: By Capt. Kelly Sweeney. Professional Mariner, April. 2011. Emphasis is ours.] Captain Sweeney holds the licenses of master (oceans, any gross tons) and master of towing vessels (oceans), and regularly sails on a wide variety of commercial vessels. He lives on an island near Seattle. You can contact him at

captsweney@professionalmariner.com

You open up the envelope from the National Maritime Center (NMC) expectantly, and see your new passport-style Merchant Mariner Credential (MMC) inside. Now it's time for a bit of celebrating. While you're enjoying some pizza and few cold ones with family and friends, you can relax and begin to put the long process of obtaining your credential behind you. The next morning however, over your breakfast of fresh coffee and a couple of leftover pieces of the supreme combo from the night before, don't forget to remind yourself to start planning for your next MMC renewal – five years down the road.

When I First entered the industry in the early 1980s, renewing a license was essentially just a matter of taking a one-day radar observer refresher class, getting a basic merchant marine physical exam and turning in your sea-time for credit. Even better, a z-card, or merchant mariner document, was issued for life and did not expire. While longstanding requirements like the one-day radar refresher class remains, there are now so many additional hurdles to clear when renewing your MMC, you had better plan ahead.

A good place to start is determining how the ships or boats you plan to work on will affect you professionally during your next renewal. With the ever-increasing specialization of seagoing jobs, working in one area of the industry may affect your ability to work in another. For example, if you have a towing officer license but are sailing on oceangoing ships, not having towing-vessel time in the five years before your next renewal will cause you to lose your active towing license. If you want to keep it, you'll have to plan on giving up some vacation time to work on tugs.

For certain other professional certifications, taking a class can mitigate not having sea time. For instance, you can renew your Tanker-man Person-In-Charge (TPIC) endorsement, even with no tanker time in the previous five years, by taking one of the U.S. Coast Guard approved Tank Ship Dangerous Liquids courses. Depending upon what certifications you hold and what vessels you have been sailing on, you may or may not need to take a class to renew your specific endorsements. You can find out more on the National Maritime Center's website (www.uscg.mil/nmc), which has a complete list of approved classes. Bear in mind that class location, availability, and cost can vary greatly – so once again planning ahead is essential.

A year before you renew, I recommend that you take a close look at your physical condition. While entry-level wipers, food handlers and ordinary seamen do not need a complete physical exam to renew their MMC, for the rest of us, a U.S. Coast Guard-approved physical (form CG-719K) within a year of renewal is mandated in accordance with Navigation and Vessel Inspection Circular (NVIC) 04-08. Over 70 pages long, the NVIC lists more than 200 illnesses, injuries, and disorders which can prevent you from obtaining your ticket – or at least cause a lengthy delay while medical evaluators at the National Maritime Center review your situation. I suggest that you read NVIC 0408 closely, and begin dealing with any medical issues you may have early.

After reading that a body mass index over 40 could cause me problems, I started losing weight months before my renewal. Also, if you don't have a letter stating that you have been under a random testing program, you'll need to get

a drug screen. **Make sure the clinic knows that a six-panel drug screen is now required – it replaced the old five-panel test in the fall of 2010.**

Finally, you'll need to have a valid Transportation Worker Identification Credential (TWIC). **TWIC cards are good for no more than five years, and if you are like me, yours expires at a different time than your credential.** If you need to obtain a new TWIC card, make sure that you give yourself plenty of time before your MMC renewal — the process can take several months.

Having paid hundreds or thousands of dollars for your classes, physical exam, drug screen and Coast Guard fees, it's then time to fill out your renewal application. **One of the main reasons the Coast Guard rejects renewal applications from merchant mariners is because they're completed incorrectly – which for up to 15 pages of paperwork is an easy thing to do.** Not having all the proverbial I's dotted and T's crossed can result in bureaucratic delays and hassles. To avoid that, during my recent renewal **I contracted with a well-known maritime licensing service that did an excellent job handling my paperwork.**

Once your application is sent in, which can be done up to a year before or after your current MMC expires, you can then track its progress on the NMC website. During my recent MMC renewal, I also chose to receive e-mail updates as my application moved through the system. A week before I received the actual MMC at my local post office, I knew from the NMC website that my credential had been approved, printed and was on its way.

It's time to realize that the days of personal service from the Coast Guard in handling Merchant Mariner Credential renewals are gone; and whether you like it or not, the National Maritime Center is going to continue issuing our documents out of West Virginia. **We are now just a number to those evaluating our paperwork, which is why I believe that proactive planning is essential.** If we fulfill the criteria and provide the NMC with everything it requires, then I think we can – and should – expect the process to run smoothly.

Till next time I wish you all smooth sailin'.

[NMA Comment: Our mariners want to serve as seamen and not paper pushers.]

REMOVING ACCESS TO THE EXAM Q&A DATABASE

Arbitrary Coast Guard Policy Damaged Exam Credibility and Hurt Our Mariners

In July 2010, the National Maritime Center arbitrarily removed approximately 25,000 Coast guard questions and answers from public access on the internet. This policy reversed over 20 years of cooperation between the Coast Guard and the public in purging incorrect or misleading questions from Coast Guard examinations.

Our Association Appealed the Coast Guard Decision

(Source: NMA letter of Nov. 23, 2010 + enclosures to Director of Prevention Policy from Capt. Richard A. Block)

Under provisions of 46 CFR §1.05-40, our Association appealed the decision announced by the National Maritime Center to change the posting of the Coast Guard Exam

database announced on July 6, 2010.

I assert that I, acting on behalf of mariners, maritime educators and publishers between 1983 and 1988, attained the rights to **use and contribute to** the Coast Guard database as the result of perfecting a formal appeal to the Commandant many years ago. The circumstances are outlined in the following article that appeared in our Association's Newsletter #71

I provided a timely notice by FAX of our objection to this policy in a letter to Captain David Stalfort, then serving as Commanding Officer of the National Maritime Center. To the best of my knowledge and belief, Captain Stalfort never responded to my letter. Unfortunately, Captain Stalfort had a history of not responding to my written correspondence on at least 15 occasions, a fact I reported at the Congressional hearing on July 9, 2009 and an issue I brought up and thought I had resolved during our meeting with him at the MERPAC/TSAC meeting in Martinsburg, WV, on Tuesday Sept. 23, 2009. The NMC Deputy Director and several of our Association's Board of Directors were in attendance at that meeting in Captain Stalfort's office.

[Enclosure #4] contains a cover sheet and 14 pages of "historical" files that support our position. My business letterhead (i.e., Marine Education Textbooks) and the letterhead of the National Association of (Independent) Maritime Educators (later NAME) where I served as Newsletter Editor for 13 years appear in these documents.

I also contend that the release of the questions and answers to the public in 1988 **pre-dates** any subsequent unspecified "non-conformities" – whatever they may be – that were used to justify the removal of the questions and answers from the public domain in Enclosure #1.

We ask that the full Q&A database with all subsequent updates be returned to the internet at the earliest possible moment. We are awaiting a response to our appeal.

[NMA Comment: To date, we received no response to our formal appeal nor a response to a letter to the Commandant asking for him to follow-up this appeal.]

Coast Guard Restricts Access to Mariner Exam Q&A Database

[Source: National Maritime Center internet announcement June 6, 2010]

The United States Coast Guard National Maritime Center (NMC) recently found a "**non-conformity**" during a routine internal audit of one of its core programs. In order to maximize marine transportation safety and ensure conformity with the Merchant Mariner Credentialing Program's Mission Management System, the Coast Guard will no longer post actual mariner examination questions on the NMC website. **Effective July 12, 2010**, the full set of deck and engineering questions and answers will be removed from the NMC Website. They will be replaced with sample deck and engineering questions and answers for review by mariners.

[NMA Comment: It's not the summer heat but the Coast Guard's intense stupidity that is really remarkable. How much more of this bumbling leadership are our mariners expected to accept? We fought these problems 25 years ago and filed a formal a FOIA appeal that secured the release of these questions

to the public. Does this mysterious “non-conformity” cited by Captain Stalford pre-date our FOIA appeal?]

The Coast Guard is removing the deck and engine exam questions from the website of the National Maritime Center (*supposedly*) to protect the integrity of the exam and the Coast Guard's regulation of licensed mariners. The Coast Guard sets standards to ensure that credentialed mariners are adequately skilled and knowledgeable to protect the public. The examination of mariners is an integral part of the evaluation process in determining whether a prospective mariner should receive a credential.

[NMA Comment: The existing license exam descriptions *by subject* found in 46 CFR Table 11.910-2 (deck) and 11.950 (engine) and ratings (46 CFR §12.05-9 (deck) and 46 CFR §12-15-9 (engine) and the explanations (*by module*) in the Deck and Engine Guides provide *insufficient information* for a mariner to prepare for a Coast Guard exam.]

Removing the deck and engine exam questions will facilitate an examination of prospective mariners' seamanship and maritime knowledge rather than their knowledge of the questions and answers posted on the website. Recognizing that many customers use the examination questions to prepare for required mariner examinations, the NMC will post similar sample questions that are published in Coast Guard publications and periodicals. Sample deck and engine exam questions can be found on NMC's web site at:

http://uscg.mil/nmc/training/2010q3_sample_deck_questions.pdf (deck)

and

http://uscg.mil/nmc/training/2010q3_sample_engineering_questions.pdf (engine).

Modifications to the Mariner Examination Deck and Engine Guide will also be forthcoming to reflect these important changes. Sincerely, D. C. STALFORD, Captain, U.S. Coast Guard.

[NMA Comment: The Coast Guard has allowed too many of its people with too little knowledge of their own institutional history to make critical decisions about training our mariners. Instead of covering up for their mistakes as the Coast Guard has done in the past, such individuals should either be demoted or expelled from government service.]