



NMA REPORT #R-350-B

DATE: March 14, 2011

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

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

MEET OUR MARINERS AND CONSIDER OUR "LIMITED TONNAGE" MARINERS' VIEWPOINTS

[**Publication History:** Originally published as Part 5 of Report #R-350, Rev. 4, Jan.1, 2009. Reissued as part 5 of NMA Report #R-350, Revision 5 on Aug. 29, 2009. Removed and re-numbered as NMA Report #R-350-B on date shown above.]

Introduction. Limited tonnage mariners who work aboard vessels in the maritime industry have their own views of how the maritime industry operates. These views seldom find their way to Capitol Hill because so few lower-level mariners have occasion to visit Washington or seek out Members of Congress on maritime issues.

However, our mariners like other citizens, do call upon their elected representatives for assistance or relief in an emergency. Unfortunately, individual mariners' requests to U.S. Representatives or Senators on Coast Guard issues are all routed through the Coast Guard liaison office that, *in most cases we have seen, exists to uniformly support the agency's point of view against the mariner.* We take the opportunity in this report to share some of our mariners' views with those elected representatives on appropriate oversight committees *without seeking direct Congressional intervention.*

Viewpoint #1 – The Coast Guard Should Be Proactive in Protecting Our Merchant Mariners.

Discussion: Our mariners believe the Coast Guard went overboard in carrying out NTSB recommendations that sought to centralize and manage all merchant mariners' health records. Since 1980, when merchant mariners were cut off from Public Health hospitals, our mariners became accustomed to dealing with their own physicians and meeting the physical standards of their employers with a minimum of outside interference by the Coast Guard. However, the Coast Guard's record in promoting and monitoring the health of our mariners has been poor.

We have voiced concerns that the medical review process now relies on Coast Guard medical evaluators headquartered at The National Maritime Center (NMC) in Martinsburg, West Virginia to make determinations as to the fitness for duty of thousands of our mariners. Since these evaluators at the NMC never see our mariners, to make their determinations they must rely upon obtaining a battery of test results and evaluations from the applicant, many of which are expensive as well as unnecessary.

Our Association has watched the system bog down under the weight of numerous applications and because of delays in delivery of the "Recommended Evaluation Data" to the NMC. Mariners often must schedule appointments with medical specialists to gather all the information required by the NMC. Appointments often are hard to schedule because of work rotations, long periods of service at sea, the availability of appointments, and often by the short turn-around time required by the NMC.

Discussions with our mariners indicate that the NMC often failed to review medical data promptly after the applications arrive.

Preventing or delaying our mariners from working when they are able to meet existing physical requirements only aggravates the existing personnel shortage. Worse still, it will mean that many older mariners will never be able to finish their working years in the marine industry.

With the implementation of the new "Medical NVIC," the Coast Guard introduced a document with a *military mindset* in dealing with important health issues that has the potential to end the careers of many civilian merchant mariners by age 50. This means that for many mariners there will be *no viable career path* in the maritime industry

that would allow them to continue to work in this industry until they reach retirement age ó currently age 65. Although this may not be evident to those just entering the industry at a relatively young age, it will have an immediate effect on many older ***trained and experienced mariners*** already in the marine industry. One of the most serious problems facing the boat owners who employ our limited tonnage mariners is the ***impending retirement of a large number of skilled and experienced mariners***. The introduction of the new òMedical NVICö and its tendency to expand the òred tapeö and bureaucracy already prevalent in the mariner credentialing could not possibly have come at a worse time for our mariners and the industry as a whole.

We hate to disillusion Coast Guard officials in Washington who are so completely out of touch with our working mariners already, but most mariners remain in the industry work well beyond age 40 to 50. ***While this proposal may appear sound for military health administrators, it is controversial and creates far more problems than it solves for our civilian merchant mariners.***

The Coast Guard has a ***distorted view*** that their duty is to protect our waters from licensed American mariners who may become more hearing impaired or unable to pass a stress test as they advance in age. Coast Guard administrators seem to recognize no obligation to accommodate trained and experienced mariners who are on advanced issues of their licenses. It appears in this òMedical NVICö that the Coast Guard plans to eliminate older personnel from the maritime work force ***as if they were part of a military organization with military type duties***. In doing so, it appears that Coast Guard officers plan to turn the merchant marine into the only type organization they are familiar with ó a military organization. In such an organization, everyone should be under 40 so they can always put out unlimited exertion for whatever purpose or on whatever mission they are engaged. We disagree and call this attitude òage discrimination.ö

Most physical requirements for Coast Guard credentials have been in place for many years and most mariners understand them. However, through this arbitrary system of adding health and physical requirements whenever they feel like it in òguidanceö documents such as the new òMedical NVIC,ö the Coast Guard imposes a ***significant change*** upon the maritime industry in general and ***significant expenses*** upon our mariners in particular ***without any form of due process or direction from the Congress***. These abuses of authority are all rationalized, and in the Coast Guard's view, perfectly legal. Again, we disagree.

It appears that the Coast Guard is making this up as they go along. Apparently, the Coast Guard believes it can change the requirements for a license arbitrarily at any time that they so choose. According to this rationale, making the licensee sign a ***Conditional Medical Waiver*** (as happened recently to one of our mariners) means that the Coast Guard can institute Suspension and Revocation Proceedings if the mariner does not fully comply with the terms and conditions of any waiver he is granted. We object to this type of threat.

A great deal of this Medical NVIC appears to be poorly concealed ***age discrimination*** although we are certain that the Coast Guard can provide persuasive rationalization indicating it is not. Many of our mariners call our office and express this belief.

We profoundly regret that the Coast Guard also seems to believe that their superintendence of the Merchant Marine includes ***no duty or obligation to protect the health of our mariners, especially older mariners*** as cited in issues H, K, I, R, Q, S, U, and Y cited above. However, our Association takes a contrary position.

We believe that the Coast Guard, as a regulatory agency that superintends the U.S. Merchant Marine, should assume a number of ***obligations*** to protect the health, safety, and welfare of our limited tonnage mariners, namely:

- **An obligation to *effectively monitor*** and ease the ***unreasonable work-hour burden*** employers arbitrarily place on our mariners. The Coast Guard permits abuses of work-hour and rest regulations and appears willing to accept employers' arbitrary 15-hour workdays for unlicensed crewmembers without even bringing the matter to the attention of Congress.
- **An obligation** to address the work-hour abuse faced by credentialed officers under the existing two-watch system as well as many mariners who work on 24-hour towing vessels on a òone-watchö system.
- **An obligation** to support national Public Health policy by requiring boat owners to institute no-smoking policies in public accommodations and sleeping areas of inspected vessels to protect mariners against the documented hazards of second-hand smoke as discussed in the 2006 Surgeon General's report on smoking. Since the Coast Guard can enforce no smoking rules on their own cutters and bases, they should seek comparable authority from Congress to control smoking on commercial vessels to protect the health of our mariners who serve on these vessels.
- **An obligation** to encourage boat owners to take positive, verifiable steps to reduce the workload on older mariners instead of trying to òrun-offö older mariners.
- **An obligation** to require audio surveys on all commercial vessels as a ***first step*** to protect our mariners' hearing from excessive noise.

- **An obligation** to require a survey on all vessels over 25 years old to determine the presence of asbestos and alert owners to the threat it poses to our mariners.
- **An obligation** to require a standard entry-level physical exam of all mariners to determine from the outset whether a person is physically suitable for service in the merchant marine. This should apply not only those sitting for a credential to work on a vessel of more than 100 GRT but also for those who work on smaller inspected vessels. There are thousands of mariners working on vessels of less than 100 tons that the Coast Guard never even counts as merchant mariners and does not have a any information on.
- **An obligation** to recognize the towing and offshore oil sectors of the marine industry pose inherent dangers to mariners. Since the government no longer provides medical coverage for mariners at Public Health Service facilities, the Coast Guard should have championed the idea that maritime employers provide full medical, disability, and death benefit coverage for merchant mariners to include coverage for any and all medical tests the Coast Guard may order during their credential renewal process.
- **An obligation** to recommend to Congress authorization for disability coverage (SSI) for credentialed merchant mariners who are disabled on the job or whose health problems do not allow them to return to a job afloat.
- **An obligation** to eliminate the ineffective form CG-2692 as an instrument for reporting personal injuries and to replace it with a reporting form similar to the OSHA-300 series of reports where employers must accurately track their employees' injuries.
- **An obligation** to assign a higher priority to creating new regulations to provide for safe potable water to commercial vessels (as mandated by Congress in 2004) as well as providing sanitation training for all those who carry out food preparation for others on vessels in 24-hour operation to prevent the spread of food borne illnesses.
- **An obligation** to recommend Crew Endurance Management (CEMS) training (only) for all mariners but to disallow CEMS as a method that allows companies to inadequately crew their vessels.
- **An obligation** to require training in CPR, First Aid, and stress avoidance for all mariners on every commercial vessel. CPR and First Aid training is necessary because some vessels are manned by as few as two mariners.

Additional supporting documents available upon request:

- Our Report #R-415-B, Rev. 1 Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials
- Our Report #R-403, Stress and the Licensed Mariner, 20p..
- Our Report #R-351, Rev. 1, How Safe Is The Towing Industry?

Viewpoint #2 – Our Mariners’ Problems With the Administrative Law System

Discussion: Mariners have no clear concept of what the Coast Guard’s Administrative Law system is all about because little is written about it in layman’s terms and no time is allotted to explain the system in Coast Guard-approved courses leading to limited tonnage credentials and endorsements.

Many mariners who face administrative proceedings incorrectly believe they are being court-martialed and will sign or do almost anything to avoid it. Mariners see the administrative law system used by some Coast Guard officers as a tool to terrorize and subjugate them.⁽¹⁾ At the same time, our mariners see that the Coast Guard does little to investigate, restrain, or reprimand corporate executives that may order or allow violations of statutes or regulations.

In many cases, the Coast Guard takes the easy route out when it should promote fairness. It takes fewer resources to bring a mariner before an investigator and extract a “settlement agreement” than to bring a civil penalty action against a company. This makes our mariners a much easier target than their employers. Many lawyers find the system unfair and are unwilling to use their full courtroom skills to defend mariners before an Administrative Law Judge (ALJ) where the Coast Guard wins a disproportionate share of the cases.

Nevertheless, we urge our mariners to engage effective legal counsel knowledgeable in administrative and admiralty law before they sign away any rights they may have in “settlement agreements” even though those agreements must be validated by an ALJ. We urge our licensed mariners to purchase license insurance⁽³⁾ to cope with protecting their credentials without which they cannot work. Unfortunately, only a few mariners follow our advice. Recent revelations about abuses of the ALJ system⁽²⁾ raise serious questions about the ethics of senior Coast Guard officials.

Additional supporting documents available upon request:

- ⁽¹⁾Our Report # R-315-C, Rev. 1. Mariner Drug Cases
- ⁽²⁾Our Report #R-429-J, Investigations: Report to Congress ó Coast Guard Abuses of the Administrative Law System.
- ⁽²⁾Our Report #R-204, The Coast Guard “Justice” Handbook. A Guide to the Administrative Law System. 129p.

- ⁽³⁾Our Report #R-342, Rev. 5, License Defense Insurance; Income Protection Insurance and Civil Legal Defense

Viewpoint #3 – Our Concern for the Coast Guard’s Limited Understanding of the Workboat Industry

Discussion: Coast Guard officers have little first-hand knowledge of the work our mariners perform, the schedules we keep, or the hardships and conflicts we face. Very few Coast Guard officers ever had first-hand experience in working on commercial vessels of less than 1,600 tons in commercial service.

Very few Coast Guard projects ever require Coast Guard officers to ōride our boats^o for any length of time to get a first-hand sense of what our mariners do for a living. When they occasionally do ride with us, the trip has a management ōspin^o since such a trip can only take place with management approval. Although the Coast Guard as an institution lacks first-hand experience with the industry, they rarely go out of their way to solicit the unique views of our mariners.

In the past year, we have seen the Coast Guard introduce the ōCenters of Expertise^o concept that speaks to this problem that has been obvious for at least the last 30 years. While the concept appears to be on target, we believe its arrival is too late to save the Coast Guard’s Marine Safety mission.

Viewpoint #4 – Why Our Mariners’ No Longer Respect Many Coast Guard Officers

Discussion: Our mariners respect and admire the Coast Guardsmen assigned to Search and Rescue missions who put their lives at risk on our behalf. We also respect those who work on Coast Guard cutters and buoy tenders that we depend on. Consequently, our mariners bond with those Coast Guardsmen when they learn that they also are overworked and overburdened with duties as Congress discovered following the MORNING DEW accident on Dec. 29, 1997.⁽¹⁾

The officers that were responsible apparently are of the same ilk as those who ignore our limited tonnage mariner work-hour violations. These officers conveniently overlook the fact that there are no work-hour limits set for many mariners, including many who are not required to hold merchant mariner documents. We believe they should have moved to correct these injustices by submitting our petitions and legislative change proposals for consideration years ago

Additional supporting documents available upon request:

- Our Report #R-370-G. (Series), Crew Endurance: The Call Watch Cover-up
- Our Report #R-279, Rev 8, Request to Congress: To Review and Set Safe Manning Standards for Mariners Serving on Towing and Offshore Supply Vessels. 18p.
- ⁽¹⁾Our Report #R-305, Betrayed ó A Call for Increased Congressional Oversight of the United States Coast Guard.
- ⁽¹⁾Our Report #R-304, Rev. 1, Small Boat Station Search and Rescue Program.

Viewpoint #5 – Limited Coast Guard Resources

Discussion: Over the years it was evident that some Coast Guard resources were stretched very thin. Until recently, the Coast Guard publicly boasted of its ability to do more with less. While others may have been impressed, our mariners saw this as little more than false pride, arrogance, or a downright lie as they watched the Coast Guard’s ōMarine Safety^o mission^o deteriorate and standards fall by the wayside. For example, at one time marine inspectors did not have gasoline to reach their vessel inspection assignments. For over a year, the Coast Guard did not have the funds to monitor the quality of NMC ōapproved^o training courses offered to the public.

The recent revelations of high-level Coast Guard ineptness in managing their ōDeepwater^o program in which they were expected to demonstrate their expertise bears out our contention. Our Association is not willing to ōgo to bat^o for the Coast Guard because they show no genuine interest in our mariners’ welfare. When they do obtain the resources they need, such as with the new National Maritime Center, they use these resources against our mariners.

Many mariners, especially during the 1988 tugboat strike in New York Harbor and the 1998 Pilots Agree work stoppage on the Western Rivers , believed the Coast Guard betrayed their interests by taking sides in a labor dispute and by allowing the industry to operate their towboats in 24-hour service with only one licensed officer on board. This feeling persists today in the shoddy treatment our mariners receive.

Viewpoint #6 – The Coast Guard’s Controversial Partnership with Industry Trade Associations

Discussion: Our mariners view partnerships between the marine industry and the Coast Guard with suspicion because it serves to advance the interests of both parties without considering a third and very important party – maritime labor (i.e., our mariners). The partnership is often touted in trade publications but seldom works to benefit our mariners who believe these partnerships are highly overrated.

These partnerships involves large corporations and industry trade associations that often have the power to set their agendas to benefit their member companies without considering either small non-member companies or any of the interests of our working mariners. This is particularly worrisome where an association clearly does not represent a majority of the participants in an industry or where it provides information that may be misleading or inaccurate.⁽¹⁾ The partnership is also worrisome when it withholds information adverse to one of its member companies that should be passed along to a regulatory agency.

Additional supporting documents available upon request:

⁽¹⁾Our Report #R-351, Rev. 1, How Safe Is The Towing Industry? 20p.

Viewpoint #7 – The Revolving Door of Government Service

Discussion: While in their closing years of Coast Guard service, many senior commissioned officers develop cozy relationships with industry management or trade associations in anticipation of landing a prestige job upon retirement. In more recent years, retiring Coast Guard officers find their way back into the Coast Guard as civilians with not one iota of knowledge of or interest in the welfare of our mariners.

In their new civilian jobs, few retired Coast Guard officers find any need to go out of their way to stand up for our limited tonnage mariners. Since most Coast Guard officers are college graduates, they are more comfortable in dealing with management personnel at a comparable level and expect these managers to exercise firm control their employees – as in the military. It is this arrogance and their obvious attempts to ingratiate themselves within the industry before leaving the service that mariners most clearly resent. Management in private industry can offer very attractive and lucrative jobs to cooperative and malleable Coast Guard officers on leaving the service. Equally attractive are post-retirement jobs with the Coast Guard.

One Eighth District Commander, allowed his staff to betray many western river pilots by turning the pilotage endorsements they had worked, studied, and paid for over many years into worthless paper. This destroyed the pride of some of hundreds of the most professional and experienced mariners on the river. When the Admiral retired, he appeared in London at a meeting of the International Maritime Organization as a private citizen representing a “flag-of-convenience” registry. While this may be perfectly “legal,” it discredits the Coast Guard officer corps in the eyes of our mariners and should raise eyebrows in Congress.

Mariners also observe that very few Coast Guard officers in the Marine Safety program show any interest in working at sea especially if they must qualify for a merchant marine officer’s license.

Many Coast Guard officers appear to be more interested in feathering their own nest rather than addressing the many problems we have tried to bring to their attention for the past decade. For example, we requested information about the Coast Guard’s expressed intent to hire civilian inspectors and investigators. After considerable correspondence under FOIA we learned, “that thirty (30) of the thirty-three (33) positions referred to are currently filled. Of the thirty (30) positions, twenty-eight (28) are filled by military retirees.”

As we have seen throughout this report, the Coast Guard takes care of its own – first and foremost.

Viewpoint #8 – When Employers Speak for Mariners

Discussion: Employers often speak about but do not always speak on behalf of the mariners who work for them. Just because employers hire our limited tonnage mariners to crew their boats, many believe that entitles them to speak on behalf of their workers on every matter.

While our Association seldom finds a reason to challenge employers on most business issues, there are some very distinctive issues (as pointed out in this paper) where mariners need to have the opportunity to make their own voices

heard. These issues fall within the sphere of our Association and of maritime labor unions as well.

Viewpoint #9 – Flawed Coast Guard Statistics and Security Gaps.

Discussion: We question the accuracy of many Coast Guard statistics we have seen. For example, we believe the Coast Guard personal injury statistics are a cruel farce. Also, from 1992 until 2005 the Coast Guard was unable to provide an accurate count of the total number of licensed and documented mariners and ignored repeated FOIA requests for this basic information even those that were finally directed to the Commandant's personal attention.

At the national level, we believe the Coast Guard does not know how many merchant mariners there really are ó aside from those 213,309 mariners who hold licenses and merchant mariner documents ó who they are, where they reside or where they may be contacted. They have no records of most uncredentialed mariners who serve on inland waters⁽¹⁾ or mariners working on vessels of less than 100 gross tons working offshore.

The Coast Guard rarely checks to see which small commercial vessels enter and leave our ports or who are the mariners that crew these vessels, and until recently, whether they even are properly certificated to do so. These huge gaps have existed for years. We saw little effort expended to close these gaps after the terrorist attack of Sept. 11, 2001 although, following Hurricanes Katrina and Rita, there was a long overdue effort to consolidate and centralize some of this licensing information at the new National Maritime Center in Martinsburg, WV.

The Department of Homeland Security's Inspector General destroyed the myth that the Coast Guard had meaningful casualty investigation statistics in his report #OIG-08-51.⁽¹⁾ [⁽¹⁾ *Our Report #R-429-M.*]

Viewpoint #10 – Voluntary Guidelines are No Substitute for Enforceable Regulations

Discussion: Although the Coast Guard prefers to use persuasion rather than enforcement powers, many of their efforts at voluntary compliance left the agency spinning its wheels or accomplished little in return for the time and effort expended.

Fishing vessels. Trying to improve commercial fishing vessel safety using voluntary means throughout the 1980s involved considerable wasted effort until Congress finally stepped in and demanded action by passing the 1988 Commercial Fishing Industry Vessel Safety Act.

Streamlined Inspection: The Streamlined Inspection Program⁽¹⁾ gobbled up a great deal of administrative resources but a decade later has very few takers. Today, most boat owners now opt for a straight inspection. [⁽¹⁾ 46 *CFR Part 8, Subpart E.*]

Commercial Towing Vessel Examination Program (CTVEP). This program, that obviously took a great deal of time, effort, and resources to create, might have had a lasting impact and succeeded in at least ensuring that towing vessels met the limited existing standards if the Coast Guard properly funded it as a national program. However, this was never done.⁽²⁾ Recently, the Coast Guard has moved to revive the old program and apply it as a primer to introduce more detailed and exhaustive towing vessel regulations planned for the future. If they had followed through with this program from the start, it would have simplified the transition into the new regulations.

Towing Industry. The towing industry has been out of control since 1993 as demonstrated by the Bayou Canot, Webbers Falls I-40, Lake Washington, and Queen Isabella Causeway bridge collision disasters⁽³⁾ that killed scores of people and cost taxpayers millions of dollars. Spectacular tank barge groundings off Rhode Island, Puerto Rico, in Buzzards Bay and the Lower Mississippi River caused significant regional ecological damage and clean-up efforts. Although these and thousands of lesser accidents resulted from a plethora of causes, the simple fact remains that the towing industry still operates with such an inferior set of regulatory standards that it cried out for Congressional attention as early as 1994 ó and finally in 2004 resulted in a call by Congress to inspect all towing vessels.

In the last 15 years, the Coast Guard allowed the towing industry to regulate itself under the American Waterways Operators (AWO) Responsible Carrier Program. Although industry fashioned its commendable "Responsible Carrier Program," it had no enforcement "teeth" and demonstrated clearly that towing vessels needed to be brought under a formal inspection program applicable to all vessels.

The Coast Guard leadership took the easy route in 1994 and 1995 and should have recommended a formal inspection program to Congress at the time.

Additional supporting documents available upon request:

- ⁽²⁾Our Report #R-282. Cooperative Towing Examination Program (CTVEP). Survey of USCG Boardings of Uninspected Towing Vessels.
- ⁽³⁾Our Report #R-293-A, Rev. 3. Towboats and Bridges, A Dangerous Mix, 28p.
- Our Report #R-293-B., Rev. 6. We Urge Congress to Look Into Overhead Clearance Accidents. 13p.

Viewpoint #11 – Sporadic Reliance on NTSB Recommendations

Discussion: While the Coast Guard apparently disagrees with many NTSB recommendations, it has gone overboard on pushing many others. For example, in 1995, the NTSB listed 55 Small Passenger Vessel safety recommendations that were still open,⁽¹⁾ and many had remained unresolved for years. [⁽¹⁾Refer to Report #NTSB/MAR-95/03, Appendix F. Some recommendations were 10 years old and some of NTSB’s “Most Wanted” regulations that would protect our mariners showed no signs of Coast Guard acceptance.]

Hours of Service. The NTSB called for the implementation of science-based hours of work regulations in all transportation modes. This recommendation languished unfulfilled since 1989 and was virtually rejected by the Coast Guard Chief of Staff a decade later. This remains a major concern for our mariners today.

Although the Coast Guard research and development laboratory performed commendable scientific work on their crew endurance management (CEMS) project, our mariners have little confidence in the way that the towing industry in particular planned to manipulate that science to maintain an illusion of legitimacy of the existing but incompatible two-watch system. The Coast Guard did little to investigate and confirm the abuses of the 12-hour statutes we reported to them and never demonstrated any real interest in curbing unlimited work-hours that many unlicensed mariners.

Independence. The NTSB is supposed to be an independent agency. However, we are alarmed to see the migration of former Coast Guard personnel into the National Transportation Safety Board to investigate casualties involving commercial vessels a function that the Inspector General has found critically flawed. We assert that the NTSB must remain independent of the Coast Guard because of the spectacular failure of the Coast Guard’s own casualty investigation system.⁽¹⁾ Our Association further objects to the Memorandum of Understanding that restricts NTSB investigations to accidents with six or more fatalities. Many of the vessels manned by our mariners regularly operate with fewer than six crewmembers and leaves any accident that may befall them in the hands of the Coast Guard’s casualty investigation and analysis system that recently dumped several thousand accident reports without ever properly investigating them.⁽²⁾

Preventive Maintenance. We believe the Safety Board was correct in urging the Coast Guard to reconsider requiring operators of inspected small passenger vessels to develop and implement preventive maintenance programs for safety-critical vessel systems, including the hull and the mechanical and electrical systems as stated in Safety Recommendation M-02-5. We further believe that preventive maintenance programs are necessary on all vessels manned by our mariners⁽³⁾ especially since there is no requirement for either safety training or vocational training of engineers for most vessels of less than 1600 GRT except on vessels over 200 GRT on coastwise and ocean routes.

Additional supporting documents available upon request:

- ⁽¹⁾Our Report #R-429-M. United States Coast Guard’s Management of the Marine Casualty Investigations Program. [Reprint of Department of Homeland Security Report #OIG-08-51] 48p.
- ⁽²⁾Our Report # R-429, Report to Congress: How Coast Guard Investigations Adversely Affect Lower Level Mariners. 66p.
- ⁽³⁾Our Report #R-441, Coast Guard Obstructs Preventive Maintenance of NTSB. 4p.

Viewpoint #12 – The Towing Industry Missed Opportunities to Ensure Labor Peace

Discussion: There remains a ground swell of dissatisfaction among towboatmen on the western rivers and Gulf Intracoastal Waterway following the 1998 Pilots Agree work stoppage. Pilots Agree was a grass roots organization formed by the river pilots that sought to make specific changes in the towing industry. In that strike, an estimated 1,400 licensed Masters and Pilots joined the work stoppage for a number of reasons detailed below. Management of 100 affected towing companies refused to negotiate with the striking workers and used their superior financial resources and union busting tactics⁽¹⁾ to break the strike.

Although our Association did not exist in 1998, river and inland mariners still carry much of the resentment about how they were treated both by management and the Coast Guard at that time. We continue to receive reports that

•blacklisting• dissident mariners by some of the major towing companies continues today.

These remain as some of the unresolved •employment• issues. Since our Association is **not** a labor union, we cannot bargain on behalf of our mariners ó but we can identify pertinent issues.

- better pay.
- an opportunity to chose a labor union to represent mariners without employer interference. This translates into widespread interest in the proposed Employee Free Choice Act.
- collective bargaining of wages.
- overtime pay for legal overtime work.
- unsafe crew cutbacks outside of federal manning regulations
- comprehensive and portable health and benefit plans for mariners and their family members.
- pension, benefits, vacation pay, sick pay, leave of absence and retirement issues.
- preserve seniority and prevent changes of benefit programs resulting from corporate mergers.
- restore the cooks replaced by microwave ovens on long haul tows.
- consider proper meal planning and the effect of proper nutrition on crew health.
- provide for reasonable grocery budgets on every vessel.
- ending the widespread practice of blacklisting employees throughout the industry.
- provide sufficient engineroom manning; if only one engineer is on board, he is on call 24 hours per day.
- correct sources of excessive vibration and noise that deprive crewmembers of their sleep.
- job protection under a contract that prevents unjust firing for refusing to perform unsafe and/or illegal operations.
- eliminate vessel undermanning and •call watches• that interrupt sleep.
- test drinking water on a regular basis.
- truthful marketing of a vessel's horsepower to customers will eliminate one source of underpowered tows.
- operating vessels with a safe horsepower to tow tonnage (or barge) ratio reduces stress on pilots and promotes safety.
- recognize that pilots suffer fatigue, stress, strain and a shortened lifespan estimated at only 57 years.
- door to door transportation and travel pay to and from the boat wherever it may be located.
- safe, insured transportation to and from the job site when furnished by the employer.
- tell the truth about the towing industry accident rate statistics.
- companies should fund industry training programs as new equipment and practices are introduced.
- guarantee security of seniority in promotions, lay-offs, rehiring and filling vacancies.
- fixed and written grievance and arbitration procedures.
- reasonable published work rules agreeable to both labor and management.
- stop practices identified as unfair labor practices by the NLRB
- the choice of day-for-day time off.

Following the 1998 work stoppage, management retaliated against many mariners with terminations, demotions, etc. Some of the practices resulted in unfair labor practices that were brought before the National Labor Relations Board by the International Organization of Masters, Mates and Pilots with more than \$414,000 recovered for proven violations against individual mariners.

Mariners widely criticized the Coast Guard for not strictly enforcing existing manning statutes for licensed personnel and allowing towing vessels to operate 24-hour days with only one licensed person on board.

The proposed Employee Free Choice Act, if passed, will be a big step in bringing our mariners the freedom of association in the workplace they should have.

Viewpoint #13 – Hard Work, Long Hours, Little Appreciation, and Still no Respect

Discussion: With the exception of those limited tonnage mariners who work on ferries and small passenger vessels, the jobs that most of our mariners perform have little exposure to the general public. Mariners on the rivers usually work •on the other side• of a levee in many urban areas and often in remote areas. Many mariners working on OSVs work offshore from bases in isolated oil ports served by inadequate public transportation.

Few print or television journalists accurately convey to the public the importance of the work our mariners perform because they are a small and generally unseen part of society. Only a few of our mariners ever make the headlines and then often only if they are blamed for a disaster that affects the public.

Our mariners refuse to take the blame for incidents they have no control over, especially when they are pushed beyond their endurance limits or must cope with the limitations imposed by the equipment they are operating.⁽²⁾

Statements like this one regarding bridge allisions⁽¹⁾ are particularly inflammatory: “Work group members (i.e., “management”) were therefore forced to rely on their own operational experience, judgment, and knowledge of a particular waterway in interpreting the limited information in the Coast Guard casualty reports and classifying (bridge) allisions and mishaps by type and causal factor. With this admittedly significant caveat, the group concluded that 90% of the cases were related to human performance (78% to pilot error and 12% to other operational errors.” [“⁽¹⁾Report of the U.S. Coast Guard – American Waterways Operators Bridge Allision Working Group, May 21, 2003]

The Coast Guard maintains a formidable public information apparatus that generates and releases news of their own exploits to the media.

Additional supporting documents available upon request:

- Our Report #R-340, Rev.9. NMA Report to Congress: Safety Problems With Oversize and Overloaded Tows.. 37p.

Viewpoint #14 – Educational Problems Persist Because the Coast Guard Ignored Their Own “Newman Report”⁽¹⁾

Discussion: In 1970 the offshore oil industry experienced serious problems when the Eighth Coast Guard District attempted to license mariners working in the offshore oil industry. The Coast Guard assumed that it could administer the same license exams used in other parts of the country to mariners in Louisiana. Although this appeared to be reasonable, the Coast Guard’s “one-size fits all” strategy clearly did not fit these mariners. Consequently, the Coast Guard failed to license enough “Ocean Operators” (now known as 100-ton Masters) to run the offshore industry’s crew boats. Licensing the industry’s supply boat Captains and the numerous tug and towboat operators would prove to be another challenge.

The boat owners, facing an interruption of their operations, called upon Louisiana Senator Russell Long to assist them. As a result of political pressure, the Coast Guard dispatched one of its most senior Captains from Washington to study the situation and make recommendations.

Captain C.T. Newman spent a year studying the industry personnel and preparing the report he delivered to the Commandant in 1973. He reported that the mariners that were preparing for the license exam were good seamen but had very little formal education. As a result, he recommended and the Coast Guard adopted special exams for “ineral and oil” licenses.

While that “fix” settled things for a number of years, Coast Guard Headquarters conveniently “lost” the 1973 Newman Report and eventually reverted to its “one size fits all” strategy. By 1980, a new Eighth District Commander went on record stating that the educational problems Captain Newman observed were in the past and that the Coast Guard would move forward. Although he was wrong, the Coast Guard conveniently forgot many of the lessons they learned from the Newman Report and continued to make the same mistakes over and over again.

In the 1980s, when the oil boom turned to bust, those with licenses and jobs held on to them. The educational situation remained static through the next ten years of recession but educational attainment problems were pushed into the background.

However, then as now, very few mariners who seek limited tonnage licenses ever attend college or a state maritime academy. While there may be more high school graduates available to serve in the industry today, many license applicants enter the marine industry without graduating from high school. They join the work force to earn a day’s pay, but few entertain dreams of attending or graduating from college “in spite of what many up-beat educators would like to believe.

Many of our mariners have serious gaps in their formal education and have difficulty reading and comprehending technical or regulatory reading material. Reading tests show that most government regulations are written at the twelfth-grade level. While little can be done about that, it helps to explain why so much that the Coast Guard writes sails over our mariners’ heads and why the Coast Guard never has been able to effectively communicate with our mariners.⁽²⁾ This partly explains why so many mariners have trouble completing documents such as a formal license application “a problem that plagued Regional Exam Centers for years. Yet, year after year, Coast Guard officials at Regional Exam Centers and now at the National Maritime Center deal with the same people and try to extract exactly the same information that they should have computerized long ago. It is aggravating and frustrating for all concerned “and a huge waste of time and energy.

Additional supporting documents available upon request:

- ⁽¹⁾Our Report #R-428-A, Maritime Education & Training for Lower-Level Mariners. The Newman Report. [Includes a complete reprint of 1973 Government Report on the status of maritime education and training in the Gulf Coast area that led to major licensing changes.]
- ⁽²⁾Our Report # R-382, Why Our Mariners Don't Get The Message. [Note: This report is based on a letter sent to Coast Guard Headquarters on Dec. 15, 1997.]

Viewpoint #15 – Industry’s Tardy Investment in Training Its Mariners

Discussion: Until the mid-1990s, most companies that hired licensed or documented limited tonnage mariners required them to pay for their own training. This was reasonable as long as the cost of training was relatively low ó generally under \$1,000. Some companies loaned mariners the cost of tuition and extracted guarantees of repayment that took several forms.

With the Coast Guard’s precipitous introduction of the 1995 STCW Amendments, the cost of training suddenly sky-rocketed to the point where a \$1,000 limited tonnage credential now costs upwards of \$20,000. In addition, the complexity of training and assessment grew exponentially to the point where the red tape involved in obtaining a credential or endorsement discouraged many potential applicants. Yet, the Coast Guard never raised a finger to assist our mariners while they continued to crank out endless upgrade qualifications for our mariners to meet.

While there were enough credentialed mariners in 1995, any surplus of licensed or documented personnel has vanished today. Only within the past several years have some of the larger companies invested the thousands of dollars it takes to train and license a mariner to the degree the Coast Guard now mandates. While some of these requirements are driven by international treaty obligations the United States must meet, **they also affect the domestic market for which these requirements are an overkill and for which there will probably not be enough qualified candidates.** Smaller companies simply cannot afford to lay out \$20,000 or more to train a mate or pilot who may or may not stay with them after gaining a an endorsement. The Coast Guard placed this burden on both the mariners and their employers without really understanding the industry in which our mariners work **and without consulting any of the limited tonnage mariners our Association represents.** It was one of their more spectacular but inexcusable blunders ó and one more reason why we ask Congress to strip them of their authority over mariner education, training, and licensing.

Additional supporting documents available upon request:

- Our Report #R-415, Rev. 2, Coast Guard Mis-management of Lower Level Merchant Marine Personnel: Training and Licensing Problems for Towing Vessel Officers.
Our Report #R-428., Rev.1. Report to Congress: The Forgotten Mariners. Maritime Education & Training for Entry-Level Deck & Engine Personnel. 30p
Our Report #R-428-C. Maritime Education and Training: Functional Job Analysis (FJA) of Maritime Personnel. [Includes reprint of 1982 Government Report on vessels in the offshore oil industry.] 55p.
Our Report #R-428-D. Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services. 55p
Our Report #R-428-E. (NMA) Supports Proposed Forgivable Education Loan Program. 6p.
Our Report #R-428-H. Maritime Education and Training: Lower-Level Engineering Programs. 23p.