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GCMA REPORT #R-393

DATE: March 11, 2004

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USCG LICENSING PROCEDURES: AN AFFRONT TO LOWER-LEVEL MARINERS

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ALEXANDER HAMILTON’S REMINDER

“They will always keep in mind that their countrymen are freemen, and, as such, are impatient of everything that bears the least mark of a domineering spirit. They will, therefore, refrain, with the most guarded circumspection, from whatever has the semblance of haughtiness, rudeness, or insult.”

[Alexander Hamilton’s thoughts on what qualities an officer of the Revenue Service should possess as taken from a Letter of Instructions to the Commanding Officers of the Revenue Cutters, U.S. Treasury Department, June 4, 1791. GCMA offers this thought to the employees of the Coast Guard’s Regional Examination Centers regarding their treatment of our lower-level mariners.]

[GCMA Comment: We urge every mariner to record the name of any REC employee that is rude or unhelpful and report the circumstances to us in writing.]

WHO ARE “LOWER-LEVEL” MARINERS

By definition, “lower-level” mariners are those mariners who serve on vessels of 1,600 gross register tons or less. This includes tugs, towboats, offshore supply vessels, small passenger vessels, uninspected passenger vessels, and several less numerous vessel types.

The Coast Guard continues to ignore the fact that the vast majority of all merchant mariners are “lower-level” mariners. Jobs held by most lower-level mariners are not the types of jobs that many Coast Guard officers have the first-hand experience afloat on commercial vessels to really understand.

Lower-level mariners’ reading comprehension is often poor. Complex written instructions, no matter how well devised, neatly printed and packaged often require verbal interpretation. The longer and more complex the instructions, the longer the explanation becomes and the harder the instructions are to grasp.

The Coast Guard took steps several years ago to “improve” their license application forms to incorporate all of the mandated changes. Now, what is really needed is to **simplify the procedures**. What is missing is the relative simplicity (and familiarity) of the past regulations. One factor that damages the entire license renewal process is the constant changes a mariner faces every time renews a license or MMD or goes through an upgrade. This means that he must pick his way through a totally unfamiliar landscape on each occasion.

Most “lower-level” mariners live from paycheck to paycheck. Within the past decade, a mariner was not allowed to renew a license more than 90 days in advance of its expiration. Today, a mariner who does not start to prepare for his license renewal a year in advance and who has not actually submitted it to the Coast Guard three to four months in advance has made a serious mistake. This “mistake” may mean that he will be without a license and therefore out of work until it is renewed. Other mariners who have taken courses and applied for upgrades will have to work at a lower rate of pay until the Coast Guard gets around to processing his or her paperwork.

SOME ISSUES FACING AN REC TODAY

In a recent article⁽¹⁾ written from the industry standpoint, the three most critical issues surrounding licensing procedures were:

- Timely issuance of the license or document.
- The ability to track progress of the application.
- Consistency in the evaluation process. [⁽¹⁾Cooper, G. *Regional Exam Center Strives to Improve Licensing Process. The Waterways Journal, Oct. 20, 2003*]

Recent analysis by the Memphis Regional Examination Center (REC) revealed that it takes an average of 15 weeks for an application to go through the five steps in the licensing process and for them to issue the credential to the mariner.

In the same vein, for the month of October 2003 the New Orleans REC reported the average time period to obtain each type of credential was as follows: A Merchant Mariner's Document (z-card) – 15 weeks; STCW 95 – 20 weeks; A License – 14 weeks. For November 2003 the following was the average time period for each type of credential: MMD – 16 weeks; STCW 95 – 20 weeks; License – 15 weeks.

REC Memphis stated that the first step in the process, user fee collection and initial review, normally takes less than one day if the mariner provides all of the necessary information. But more than 30 percent of applications have incorrect fee amounts or are missing critical information, the bulletin states. After contacting the mariner, the REC said it takes an average of 11 days for mariners to provide the missing user fees or information.

The REC found that the **first major bottleneck** in the process begins with the second step, which is **evaluation** of the application. Because of a significant backlog and limited staff, it typically takes 27 days to begin evaluating an application. Once the evaluation process begins, it is normally completed within 12 days. More than 50 percent of applications reaching the evaluation phase are missing information needed to examine the applicant's eligibility and experience. It takes an average of 82 days for mariners to provide missing information necessary for continuation of the evaluation phase.

[GCMA Comment: Difficult problems arise when mariners do not understand what the application requires, do not have the necessary information, and cannot contact a knowledgeable person by phone at the REC to discuss the matter.]

The third step, background check and medical waiver review, takes an average of 34 days and must be processed through the National Maritime Center (NMC) in Arlington, Va. More than 17 percent of applications require some type of medical waiver review.

[GCMA Comment: Obtaining the necessary medical tests to provide the information the Coast Guard now requires can be very costly for many "lower-level" mariners to pay for out-of-pocket.]

The fourth phase of the process, examination, normally takes just three days to complete. However, it takes an average of 34 days for the mariner to schedule a time to attend the REC to take the exam, creating another significant bottleneck in the process.

[GCMA Comment: Mariners often must travel significant distances to take exams, must pay for transportation, room and board, and arrange to take time off from work to meet the REC's schedule. Many mariners no longer think it is worth the hassle and expense.]

Issuance of the credential is the fifth and final step in the process. During an average month, the Memphis REC issues more than 200 licenses or documents to mariners.

"Our analysis found bottlenecks throughout the entire process," (Commander) Stalfort (Memphis REC) said in the

bulletin. "Over 59 percent of the processing time is spent waiting on mariners to provide information missing from their original applications."

Stalfort said the analysis proves that the application process is too confusing and is in need of improvements. To address internal changes, the REC staff is looking at methods to increase training and improve productivity.

RECENT HISTORY OF THE SYSTEM

This article appears to accurately describe the current status of Coast Guard licensing in at least two Regional Exam Centers that cater to the needs of our "lower-level" mariners. I agree with Commander Stalfort's analysis in the Waterways Journal article (that) **"...proves that the application process is too confusing and is in needs of improvements."** But, what does it take to get this idea across to the powers that control the Coast Guard licensing system when they have always treated "lower-level" mariners as stepchildren.

The title of the article indicates that Commander Stalfort's Regional Exam Center (REC) "Strives to improve the licensing process" and the article mentions that "Early indicators show productivity increases of 22 percent among the REC staff." Similar **"improvements"** within the existing system seem to take place with each change in command in each REC. Many veteran mariners now believe the licensing system has truly reached the end of the road and they have reached the end of their patience. Climbing the high walls the Coast Guard and Congress have erected no longer holds any attraction for many "lower-level" mariners who once aspired to a career afloat.

As a teacher by profession and a boat Captain by trade, I have held a "lower-level" license for 48 years and have closely examined Coast Guard licensing practices for the past 34 years – a number of years before the "improvement" that first introduced the Coast Guard RECs in the early 1980s as the regional system that exists today. Even in 1970, when licensing was relatively simple, every licensing officer attempted his own home-grown "improvements" to embellish his personal career.

During the 1980s, mariners survived the so-called "improvements" in efficiency the Coast Guard promised when they cut the number of licensing offices from over 40 to 16 new "Regional Examination Centers (REC)." That so-called "improvement" took the process farther away from our mariners and made it less convenient and more expensive for them. However, as the Coast Guard did this they continued to **cut costs** (their real goal) by "dumbing-down" the REC staffs and reducing the number of knowledgeable Coast Guard officers and increasing the number of civil service clerical staff with little or no maritime background or experience.

Essay questions on USCG license exams gave way to multiple-choice exams graded by clerks who were so inept that many even had trouble applying the correct answer key to grade the test papers. Efficiency, morale and the service to mariners plummeted.

During a 17-year period from 1987-2002, I chronicled the nebulous "improvements" in the Coast Guard's licensing program for the National Association of Maritime Educators

(NAME) Newsletter. All these ersatz “improvements” are well documented throughout the 99 published issues of the Newsletter with names and places cited along the way.

Alcohol testing. The EXXON VALDEZ disaster in 1989 brought a major change to licensing that affects us today. Even though the Master of the tank ship was not on the bridge at the time of the accident, investigation of his (automobile) driving record indicated a history of alcohol abuse. The reaction to the enormity of this accident and its impact on the environment led to a law⁽¹⁾ that required mariners to make their driving records accessible to the Coast Guard as part of the licensing process. While the goal of removing drunks from the road as well as the pilothouse is commendable, this “improvement” resulted in an impenetrable tangle of red tape that still dogs the application process for many mariners and leads to a tremendous amount of stress, frustration, and aggravation that discourages many competent “lower-level” mariners from pursuing a career at sea. [⁽¹⁾*Part of the Oil Pollution Act of 1990.*]

When Congress passes a law, the Coast Guard is expected to enforce it. However, what our mariners often see is that the Coast Guard overzealously enforces certain laws that involve paperwork and other purely administrative processes while it only gives lip service to countless work-hour and other regulatory abuses that plague our mariners. This leads to the observation that there is the “Real Coast Guard” that mariners admire that serves the mariner in trouble on the seas and the “Paper Coast Guard” that shuffles papers in the REC and doesn’t have the faintest clue or personal connection with what working at sea is really like. It would be interesting to determine the average number of years at sea the REC employees actually have. Increasing hiring of experienced mariners in the REC who understand life at sea may be bring a connection with reality into the equation and could be an “improvement” worth working for.

Drug testing. Drug-testing in the early 1990s brought still another paperwork hurdle for mariners applying for a new license or a renewal. This “improvement” added another stop to the application and renewal paper chase with more forms to fill out and increased chances for outside parties such as drug labs, Medical Review Officers, company officials and others to screw up a mariner’s renewal process. While “drug-free” operations are certainly a commendable goal, their increasingly rigid paperwork requirements tend to stall and delay and frustrate the application process.

Drug enforcement has purged a number of mariners from the system. However, the twisting path and administrative hurdles in the rehabilitation and “administrative clemency” programs mean that many experienced mariners are permanently discarded by the system rather than rehabilitated.

[GCMA Comment: The Coast Guard’s Administrative Clemency Program, although sound in theory, comes up short in actual practice. Refer to GCMA Report #R-377.]

“User fees.” In the mid-1990s the Coast Guard was ordered to charge mariners “user fees” for its “improved” services. At the time a senior Coast Guard staff officer even suggested that mariners might demand good service in return for paying fees for service that previously was free. However,

mariners are seldom in the position of being able to demand anything – including prompt and efficient treatment at the REC. Time proved him to be correct, but these expectations of improved service in return for paying for them were seldom met. In addition, these user fees were never imposed uniformly on mariners. For example, time-intensive STCW license and MMD transactions are “free” of charge. Well, that’s the only thing about STCW that is “free”. Little if any consideration was given to a mariner’s ability to pay user fees that often may approach \$200 in return for service that desperately needs to see real and measurable “improvement.”

As predicted, the user fees imposed another burden both on the Coast Guard to collect and our mariners to pay them. What is inexcusable, however, is that for many mariners, a major burden often includes a question of how much to pay for a particular transaction, especially when the transaction is complex.

This uncertainty is further aggravated by mariners’ inability to reach some RECs by phone and ask simple questions. If a mariner reaches the REC by phone, he must often play “phone tag” with a complex answering system – or try to find a person who can give him a straight answer. So much for “improved” service.

[GCMA Comment: Some transactions are complex and require contact with the person assigned as your evaluator to determine the correct fee. Mariners report many problems contacting the REC by phone and obtaining the correct information.]

For example, in the late 1990s in New Orleans, when the Marine Safety Office and the REC were on two separate floors of a high-rent downtown office building (a “political” decision that was expensive and inconvenient for mariners), the MSO’s Executive Officer phoned the REC but could not get through. He finally left his desk, took the stairs and found all the REC phones were taken off the hook. What followed was a real “improvement” that was long overdue but short-lived.

The user fee “improvement” meant that the Coast Guard had to hire additional clerks to handle money...that was followed by at least one scandal where money was stolen from the REC. Attempts to determine the extent of the scandal under FOIA were deftly hidden by Coast Guard officials that applied the “Privacy Act” to cut off further inquiry and exposure.

It took the Coast Guard years for individual RECs to gear up for the simple “improvement” of accepting credit cards to simplify financial transactions where it would take a merchant less than one business day to do the same thing.

Trying to get through on the phone but failing to get a straight answer goes a long way toward explaining why the Coast Guard receives so many incomplete applications that they blame for slowing the licensing process.

However, the sand-in-the-gears that brought the whole licensing system to a standstill was STCW. The Coast Guard crammed this bitter pill down the throats of all our “lower-level” mariners in 1995 without even providing adequate explanation or preparation. For the following four years all the drivel that poured out of the new National Maritime

Center (NMC) was technical jargon aimed primarily at those upper-level mariners who understood the point of STCW. Most “lower-level” mariners did not have the slightest clue until 1999 after 2 of the 5 years to prepare for the system had already elapsed.

While the STCW training offered many mariners and funded by government grants was commendable, both the Coast Guard RECs and our mariners still choke on the unfathomable paperwork and unleavened bureaucracy this “improvement” brought to licensing. True, the clumsy STCW system encourages “training” and discourages management from filling vacancies in seagoing jobs with untrained hands. From that point of view it is a positive development that offers a needed path for professional development and may save lives.

Unfortunately, STCW tolerates 14-hour workdays at a time when the Coast Guard’s manning requirements and their lack of first-hand knowledge of industry practices often only provide no more than skeleton crews on many vessels that are allowed to put in 84-hour workweeks. Moreover, the STCW system itself is so bewildering in its complexity that the Coast Guard now must hire civilian contractors (some of them Coast Guard “retreads”) to “improve” the merchant mariner licensing system’s performance. Meanwhile, the National Maritime Center (NMC) continues to crank out “Policy Letters” that attempt to untangle details of the program. The sheer volume of this paperwork only makes the system it imposes even more incomprehensible to our “lower-level” mariners.

The Coast Guard hierarchy needs to act when their own staff advises them that their entire application process has become so complex that it is absolutely meaningless to a majority of lower-level mariners.

While Coast Guard officers and many civilian employees who hold college degrees and should know better administer the licensing program, they should aim future “improvements” – such as simplification – towards the many lower-level mariners that the system increasingly alienates. The system as presently constituted repels both trained and untrained manpower and is becoming an increasing burden to the industry that must cope with it.

PROBLEM: INCOMPLETE APPLICATIONS

The most significant challenge faced by an REC is attempting to make certain mariners send in applications with all necessary information and fees. In an effort to help mariners ensure they are sending all necessary information to the REC, both the Memphis and New Orleans offices released a memo detailing the top 10 reasons license application are delayed. The reasons stated were as follows:

- Applications: Three signatures are mandatory on the application and mariners often forget to send in pages two and three of the application. Also, when the “Applying for” block is left blank, the REC is left to guess what credential the mariner is applying for.

[GCMA Comment: Many “lower-level” mariners have much less than a high school education and cannot deal

with a detailed and extensive application process, even when it contains extensive and explicit instructions that they may not be able to comprehend.]

[GCMA Comment: Because there are so many different license titles and variations, many mariners are uncertain as to the title of the license they are applying for. In addition, all towing licenses contain new titles.]

- Drug screen: A drug screen is often rejected because it does not contain the Medical Review Officer’s signature, is a photocopy, or a company compliance record is more than 60 day’s old.

[GCMA Comment: The license examiner should pick up the telephone and call the careless Medical Review Officer or Company Official to resolve any minor clerical problems on the spot as part of the application mariners pay good money for.]

- Photographs: Certain documents cannot be printed without a photograph. Two passport-sized photos are needed when applying for the Merchant Marine Documents (MMD) and Standards of Training, Certification and Watchkeeping (STCW) certificates.

[GCMA Comment: Since each applicant must now visit the REC in person, the Coast Guard should take all the pictures required in the application process – as do state automobile licensing agencies.]

- Physical exam: If the physical exam report is not complete, the application will be returned for correction. Mariners should remember to fill out the color vision exam box in section IV and the uncorrected vision information in section III.

[GCMA Comment: Many applicants are turned away because of minor errors caused by personnel in doctors’ offices. The REC should straighten out many of these problems with a simple phone call rather than by delaying the entire application process.]

- Original certificates: Photocopies of essential documents, even if notarized, are not acceptable. Documents must have the original signature of the issuing authority.

[GCMA Comment: Some RECs demand “originals” when only computer copies are available from state agencies. This unnecessarily places our mariners between a rock and a hard place. Example: State driver license records from NDR files.]

[GCMA Comment: Mariners have legitimate concerns that documents mailed to the REC are lost, misplaced or misfiled. We believe any blanket statement of non-acceptable photocopies is unreasonable and that there should be a reasonable distinction between essential and non-essential papers.]

- User fees: Missing or incorrect user fees will cause an application not to be processed until proper fees are received.

[GCMA Comment: The Coast Guard assumption that mariners understand how much money they must send could be in error? If in doubt, you must be able to reach your evaluator in the REC by phone to inquire.]

[GCMA Comment: A mariner with a valid license or document should be treated as a valued customer of the licensing system and not with suspicion or as a criminal or as “boat trash.”]

- Current or past license: A mariner who is holding, or has held, a license MMD and/or STCW certificate must indicate such in the history of the application and include a copy of their credentials.

[GCMA Comment: Many mariners are not familiar with the STCW or Towing license terminology that has changed since their last renewal. Many questions could be resolved over the phone but only when our mariners can reach a knowledgeable person at the REC.]

- Sea service: Missing or conflicting information on the sea service letter will result in the return of the application to the mariner. Service should be documented with discharges, letters from marine employers or small boat sea service forms.
- Written statement: If an applicant marks “yes” in any block of section III, a written statement is required.

[GCMA Comment: Recent changes as described in APPENDIX 1 of this report are excessive, invasive, and discourage mariners from pursuing a career in this industry.]

[GCMA Comment: Coast Guard REC employees purged many files in the mid-1990s to save filing space and threw out some many old files. It is unfair to place intolerable burdens on many mariners to furnish information previously provided and accepted years earlier.]

- Medical condition: Additional medical information is required whenever a medical condition is identified on the Merchant Marine Personnel Physical Examination Report but details are not provided on the exam report.

[GCMA Comment: Some of the medical information the Coast Guard requires is prohibitively expensive and this cost causes many trained and competent mariners to leave the industry.]

PROBLEM: MISGUIDED REGULATIONS

The fact that most “lower-level” mariners live from paycheck to paycheck means that they are extremely vulnerable to delays that can prevent them from renewing their licenses in a timely manner. The backlog of stalled applications clogging many RECs and the excessive complexity involved in steering an application through the renewal process makes renewal itself very uncertain.

Woven into the complexity of this fabric is a relatively new regulation at 46 CFR §10.201(i) and §12.02-4 that allows the REC to hold an application for an “**assessment period**” during which time a license or MMD is withheld from the mariner. Simply stated, these provisions allow the Coast Guard REC to prevent a mariner from working and earning a living. The effect of these regulations, which are enforced by the REC, is the same as a license or MMD suspension by an Administrative Law Judge.

[GCMA Position: This should not be a licensing issue. Employers should have the ability to decide whether a mariner with a past conviction is suitable for employment on their vessels as long as that conviction is disclosed.]

The purpose of these regulations is spelled out in a Proposed Rule in the Federal Register at 60 FR 13570 – 13573, Mar. 13, 1995 and in a Final Rule at 60 FR 56481, Dec. 19, 1995⁽¹⁾ that permits the Coast Guard to review the criminal records of applicants for a raise of grade or renewal of credentials. The “assessment periods” the Coast Guard has the power to levy are in addition to any direct punishment a court may issue. Although the original punishment for the crime may be judicial in origin, the secondary punishment imposed by the REC is purely administrative in nature and appears as an administrative “cover-your-ass” variety. However, the effect on any given mariner may be to punish that person for the same crime twice by depriving him or her of the opportunity of making a living. The effect of this regulation on mariners in general is to discourage them from entering or remaining in this line of work. ⁽¹⁾*We enclose the essential parts of these cites as Appendix II to provide the background for these regulations.]*

[GCMA Position: We believe that “assessment periods” allowing a REC to withhold a mariner’s license or document give administrators excessive power over our mariners. At a minimum, the authority to deny a mariner a livelihood at sea should be reserved for a decision at the Administrative Law Judge level.]

PROBLEM: TELEPHONE TAG

Last fall, I received several calls from a mariner’s wife who reported that she attempted to reach REC Memphis by telephone “at least 15 times” in several days. She reported that the phone “...just rings and rings with no pickup.” This distraught lady also reported that she previously called the REC but was unable to speak with any REC employee who could discuss the status of her husband’s application. Her husband had passed his exam three months earlier and was still waiting for the REC to issue the “upgrade” he had earned and paid for.

Like many wives holding the family together while her husband was at sea, she was delegated to call the REC. The “upgrade” clearly meant more money for their household (of which she is a partner) and she had a real concern as to why it had been held up for three months.

This distraught lady called GCMA and was clearly at the point of tears. We faxed the Commanding Officer of the Marine Safety Office and, within one hour received this fax stating in part: “We are aware of the current problem with our phone system, and we have technicians actively working to restore service. We recently had the entire phone system replaced in response to continued complaints from customers, and we’re still experiencing technical difficulties.”

At about the same time, a Waterways Journal article⁽¹⁾ reported that the REC Houston’s “... telephone system, **long the source of complaints by mariners** frustrated in their attempts to reach REC personnel, is the focus of attention now... (said Mrs. Bidwell) I anticipate major changes in our phone system in the very near future.”

The best phone system in the world won’t help if you don’t answer it and if you do not have the information your customers need.

PROBLEM: “LICENSE CREEP”

The U.S. Coast Guard’s National Maritime Center (NMC) in Arlington, VA, on August 26, 2003 issued a policy letter addressing the issuance of merchant mariner documents and how procedures contribute to a phenomenon called “license creep.”

Currently, mariners renewing credentials may apply for renewal up to a year before their existing papers expire.⁽¹⁾ When renewal credentials are issued, the actual date of issuance is entered on the new documents and becomes valid for a period of five years from that date. When the issuance date of the new credential is dated before the expiration date of the credential being renewed, mariners may not be able to use the expiring credential for the full five-year period. They lose the period of time measured from the date the new credential is issued to the expiration date of the expiring one. This period of time is commonly called “license creep.” Merchant mariner documents and certificates of registry also are subject to this condition. This condition has lasted for years!

Since our mariners incur user fees and other costs when they are issued credentials, they are being financially penalized because they cannot use the credential for the entire five-year period. They requested that changes be instituted to correct this situation. The NMC policy letter, which “encourages” Regional Examination Centers (RECs) to reduce license creep to a minimum, is the result of their request and does take steps in the right direction.

Specifically, the dispatch encourages RECs to establish tickler files and internal procedures to govern the issuance and mailing of renewed credentials at a future date after applications are approved. To be eligible for this service, mariners must request delayed issuance at the time their applications for renewal are submitted.

[GCMA Comment: Why must a mariner be tasked with remembering to ask for something he has already paid for!]

Under this new approach, NMC officials believe that license creep will be reduced to a minimum. In part, the agency’s recent policy letter said, “...issuance of the renewed credentials should be as close to the expiration date of the renewed credentials and in no case should exceed 30 days prior to expiration of the credentials being renewed. This will result in the mariner having the use of the expiring credential for nearly all of the five-year period of validity and to receive the renewed credential before the expiring one becomes invalid for service.

[GCMA Comment: Instead of “encouraging” the RECs the Coast Guard regulations (not merely policy letters) should require RECs to give mariners full value for their user fees.]

PROBLEM: MARINER SEA SERVICE LETTERS

There are a many instances where “lower-level” mariners served at sea or in inland waters for a vessel owner who later refused to furnish them with letters of sea service reflecting their time served.

The Coast Guard requires mariners to provide either sea-service letters or Certificates of Discharge to document requests for raise of grade or credential renewal. Employers often refuse to provide these letters to retaliate for some action, accident or or other event during a mariner’s employment. More likely, employers fail to document sea service because they keep sloppy records, or simply from pure laziness, or procrastination even after repeated requests. In any event, by denying each legitimate request, they cheat a working mariner out of the “sea service” he has earned through his labor and needs for advancement or renewal. This is discouraging and often limits a mariner’s career or makes it difficult or impossible for him/her to obtain an upgrade.

In light of the existing shortage of trained and qualified mariners – and simply because our mariners are fed up with this cavalier treatment. GCMA will no longer tolerate this practice.

Over the years, Coast Guard took a “hands-off” attitude by placing the full burden of proof upon a mariner to provide his own “Sea Service” letter. Although the Coast Guard prints Certificates of Discharge (CG Form 718-A) and maintains records of these certificates if and when they are returned to Headquarters, GCMA can testify that these blank certificates are not readily available from many Marine Safety Offices⁽¹⁾ and are not widely used by companies that hire our “lower-level” mariners. Instead, the Coast Guard allows and places most of its emphasis on company-issued “Sea Service” letters to record a mariner’s time served. [⁽¹⁾*GCMA has these forms available to our licensed Masters.*]

This “hands-off” solution, rather than maintaining neutrality, favors the employer over the employee by denying our mariners the legitimate fruits of their labor

Title 46, U.S. Code, §10320, Records of Seamen, states: “The Secretary shall⁽¹⁾ **prescribe regulations** requiring vessel owners to maintain records of seamen on matters of engagement, discharge, and service. A vessel owner shall⁽¹⁾ **make these records available to the seaman and the Coast**

Guard on request.” [¹“*Shall*” replaced “*may*” in a 1993 amendment. Refer to Pub. L 103-206 §411]

The end result, whether accomplished by the mariner or the Coast Guard, is to place the “sea service” record in the hands of a Coast Guard license examiner. We believe that the law says this.

The law says that the “Secretary shall prescribe regulations...”

On August 3, 2003 GCMA wrote to the National Maritime Center and asked which specific regulations the Coast Guard has prescribed to **require** “A vessel owner (to) make these records available to the seaman and the Coast Guard on request.” A “regulation” reflects the purpose of the law, generally has a penalty for non-compliance, and is enforceable. If there are no such regulations, we want to know what steps will the Coast Guard take to promulgate regulations to enforce this statute?

Separately, we want to learn whether there are any current guidance or policy letters that direct Coast Guard officials to obtain “sea service” records from recalcitrant companies to fulfill legitimate licensing or certification objectives sought by individual mariners that are “helpful” to our mariners for such purposes? We asked that the National Maritime Center provide a written response that we can pass on to our mariners. When they failed to do so, we turned the matter over to the U.S. Coast Guard Marine Safety Council on January 22, 2004. We are still awaiting a reply.

MANAGEMENT PROBES LICENSING ISSUES

Late last year, CDR Jim Stewart, coordinator of all four of the Eighth District’s RECs, invited us to attend a meeting where the staff of the New Orleans Regional Exam Center encouraged concerned members of the public to form a local committee of persons interested in licensing issues. We learned that this was an initiative of the new Eighth District Commander, RADM Robert Duncan. A similar group was formed about a year ago on the Western Rivers.

After examining the minutes of their meetings, it became clear that their concerns and concerns of mariners are parallel and that management took some necessary steps in the right direction. The current problems with the RECs affect our individual mariners as well as their employers.

WHY OUR MARINERS DON’T GET THE MESSAGE

What message?

Well, you name it!

Several weeks ago, I received a call from an up-and-coming marine contractor with a small fleet of tugs and barges. He heard some of his Captains talking about some new license regulations that would cut them out of a job.

A few minutes into the discussion, I realized that he was unaware of the new towing vessel officer licensing regulations

kicking around for the past 10 years that went into effect on May 21, **2001**. Apparently his employees weren’t either!

It would be laughable if it wasn’t so sad.

If the “management” of some companies doesn’t understand what is happening around them, its no wonder that their mariners are confused.

Part of the problem is that the Coast Guard expects companies to inform their employees. But, does this really happen and, if not, why not?

On December 17, 1997 (i.e., more than 6 years ago), I brought this matter to the attention of the Coast Guard Headquarters staff and explained the root of the problem was a breakdown in communications. Unfortunately, the people at Headquarters are so far removed from working “lower-level” mariners that the letter flew over their heads.

Every licensed and documented mariner works under two masters – his employer and the Coast Guard. The Coast Guard chooses to work through the “companies” and seldom touches the individual mariner unless or until he applies or renews his license and/or z-card or happens to be caught breaking the law.

The Coast Guard does not become involved in relations between a employers and employees (i.e., a “labor dispute”) and appears largely insensitive to corporate abuse. This often leads mariners to believe that the company “bought off” the Coast Guard. Such claims are difficult if not impossible to prove.

The fact is that the Coast Guard consistently fails to get a clear message out to the working mariner on any subject. The reasons appear in **GCMA Report #R-382 Why Our Mariners Don’t Get The Message**. Call or write us for a copy of the report or pick it off the GCMA website at www.gulfcoastmariners.org.

LICENSING: A NATIONAL DISGRACE

The Coast Guard has a reputation for accepting every burden imposed by Congress and then showing how it can accomplish even more with fewer resources. This is the basis of the current problem faced by the RECs. The delays and poor service afforded to mariners in the one place where they interface directly with the Coast Guard, namely at the Regional Exam Center, constantly discourages candidates from entering or remaining in the field. Fortunately, management has become more aware of the problem and is participating on several committees that are working with the Coast Guard to try to bring about changes.

What is clear is that the existing licensing system is broken and has been broken for many years. It consistently shortchanges our “lower-level” mariners with substandard service as it slowly strangles every merchant mariner whose livelihood and career relies on it. The Waterways Journal article enumerates the delays well. For a mariner whose future depends on the system to function predictably, a delay of **fifteen weeks** for an application to pass through the system is simply unconscionable. Such a delay might be more understandable if REC Memphis was heavily involved in STCW. However, the Memphis workload is partly a result of “improvements” made by shifting MSO St. Louis’ workload to them several years ago. And the problem extends far

beyond Memphis when mariners from Louisiana report that they have to send their papers to Portland, Oregon, to have them returned in a timely manner.

Mariners have good reason to be fed up with the system. The RECs often give mixed signals. One touted “improvement” was an attempt to handle all renewals by mail based on the idea that more can be accomplished if mariners are not in the building wandering around the waiting room. That can’t fly when every mariner must now travel to the REC to have his fingerprints taken. One mariner from Las Cruces, NM, wrote⁽¹⁾ “The Coast Guard has nothing to lose in this. Only the mariners who need the license to work are affected. We need owners, operators and all mariners to contact their Congressmen and Senators to get this requirement abolished. I have calculated that a set of fingerprints will end up costing me almost \$700. Sounds like an inefficient government requirement to me” [⁽¹⁾*WorkBoat Magazine, March 2004, p.9*]

For years, the Coast Guard only sent 10% of its applications for FBI checks. That occurred after the courts told the Coast Guard they would have to foot the bill for each check – at \$17 each. Now, as a result of 9/11 I am told the Coast Guard checks 100% of applicants.

The national licensing system is so inefficient that they had no idea of the total count of all licensed mariners in 1992 and when asked again in 2000 (under a FOIA request) were still unable to answer.

Many mariners are opting to drop out of the system and the RECs are a significant but by no means the only cause of the problem. It is plainly visible to the man in the street. As one tug captain from Tennessee wrote: “...Now we have a greater problem. At the rate the Coast Guard is going, there won’t be anyone left to man what vessels that are out there now. Maybe what they are doing to us is just opening the door to get rid of the Jones Act. After they take everyone’s license, then they can bring in the foreign crews. It is a shame what is happening to us. Some of us have been in this industry from 20 to 40 years. We are the ones that will be retiring with nobody to replace us. With the situation the way it is today with the Coast Guard hassles, there wont be any fresh blood that will want to work on boats or ships.” [⁽¹⁾*WorkBoat Magazine, March 2004, P.9*]

With so much of the application process now mandated by Congress, the time has come for the Coast Guard to advance some meaningful proposals directly to Congress to resolve the existing problems. Perhaps they are unwilling to do this because of they have screwed up the system for so long and so badly.

SUGGESTIONS

We suggest:

1) Mariners need the services of a knowledgeable Ombudsman to help them understand arcane regulations and stand up to policies or decisions made at the REC level that

are clearly unreasonable or would cause an otherwise qualified mariner to drop out of the system.

2) A “five year” license should be good for 5 full years with no questions asked. The “User Fee” pays for a full five-year term.

3) Every Coast Guard license evaluator should be thoroughly trained, examined and certified before being turned loose on the public. They should be given authority to make inquiries by phone and certify to minor items on their own initiative in order to expedite paperwork approvals.

4) The Coast Guard should reconsider the regulations at 46 CFR §10.201(i) and 12.02-4 that deprive many mariners of the means of making a living. (APPENDIX II)

5) The Coast Guard should obtain permission from Congress to undertake common-sense system-wide improvements and simplification. The key word should be simplification. Previous studies should be consulted.

6) Temporary licenses and Z-cards good for 3 months (or longer if the REC can’t handle its work load) should be issued for any renewal that requires more than 30 days for the REC to process for any reason so that our mariner’s employment and earnings are not interrupted. A mariner whose license or MMD is in good standing should be eligible to receive this extension.

7) Each incomplete application accompanied by a “user fee” in any denomination brings with it an obligation to provide service. Since the RECs have a limited staff that can provide mariners with correct answers, each incomplete application deserves at least one telephone call to resolve obvious problems promptly. If the REC simply returns the paperwork with a laundry list of the shortcomings including the spaces left blank, nothing is solved and everything is postponed. These form letters are often incomprehensible to their recipients and often demonstrates that an evaluator may not understand the papers he/she is evaluating.

8) A centralized “hot line” should be established at the National Maritime Center to handle all licensing questions and to accept verbal “appeals” (as many mariners are unable to prepare an effective written appeal) on an 8:00 AM to 4:00 PM basis for all time zones. Same-day call-backs should reply to any call placed on hold.

9) Drug and alcohol regulations and rehabilitation programs should place no stricter regulatory or paperwork burden upon mariners than exist for other modes of the national transportation network.

10) Regulations requiring the establishment of Employee Assistance Programs should be made more meaningful.