



NMA REPORT #R-415-C

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[Formerly Gulf Coast Mariners Association, Founded in 1999.]

**OUR ASSOCIATION PETITIONS THE COAST GUARD TO RELAX RESTRICTIONS ON 100-TON TOWING OFFICER LICENSES AND ENDORSEMENTS**

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**PETITIONS FOR RULEMAKING BY MEMBERS OF THE PUBLIC**

Coast Guard regulations at 33 CFR §1.05-20 state in part that “Any member of the public may petition the Coast Guard to undertake a rulemaking action. There is no prescribed form for a petition for rulemaking, but the document should provide some supporting information as to why the petitioner believes the proposed rulemaking is necessary and the document should clearly indicate that it is a petition for rulemaking. Petitions should be addressed to the Executive Secretary, Marine Safety and Security Council.” Our petition(s) cited below met these requirements.

**The Functions of the Marine Safety and Security Council**

*[Source: FOIA 02-1535, 10 Jan. 2003; HQINST 16703.2]*

The Marine Safety and Security Council

Advises the Commandant on Coast Guard Regulatory Issues.

Provides policy and procedural guidance to regulatory development teams for the development and issuance of Coast Guard regulations.

Under the authority delegated from the Commandant, reviews and approves work plans for proposed regulatory projects, reviews and approves changes to work plans, terminates regulatory projects.

Reviews quarterly program reports on regulatory activity.

Monitors progress of regulatory projects specified in the Commandant’s performance agreement.

Reports annually to the Commandant on the status of all regulatory projects.

**Current Members of the Marine Safety and Security Council**

The names of all senior Coast Guard officials are published information available to the public in the relevant quarterly publication of Proceedings of the Marine Safety Council. The Fall 2008 issue lists the current members of the Marine Safety and Security Council as:

RADM W.D Baumgartner, Judge Advocate General, Chairman.

RADM Brian Salerno, Assistant Commandant for Marine Safety, Security and Stewardship, Member.

Mr. Jeff Lantz, Director of Commercial Regulations and Standards, Member.

RDML James Watson, Director of Prevention Policy, Member.

CDR Bill Chaney, Executive Secretary.

Steven Venckus, Legal Advisor.

## OUR FIRST PETITION – NOVEMBER 26, 2006

November 26, 2006

Executive Secretary, Marine Safety & Security Council (G-LRA)  
U.S. Coast Guard Headquarters  
2100 Second Street, SW  
Washington, DC 20593-0001

Subject: Petition for Rulemaking

Ref: Our File GCM-165

Dear Sir or Madam,

As permitted in 33 CFR §1.05-20, the Gulf Coast Mariners Association hereby petitions the Coast Guard to amend its licensing regulations to:

- Withdraw the 100-ton limitation placed on a towing vessel license endorsement and change it to a Master of Towing Vessels license at such time as that license holder provides proof of sea service showing that he/she accumulated 48 months of service on towing vessels. (Refer to 46 CFR Table 10.464-1)
- Withdraw the 100-ton limitation placed on a towing vessel license endorsement and change it to a Mate of Towing Vessels license at such time as that license holder provides proof of sea service showing that he/she accumulated 30 months of service on towing vessels. (Refer to 46 CFR Table 10.465-1)
- Rescind any requirement for a person with a 100-ton Master/Mate license with a towing endorsement limited to that tonnage on a near coastal route to raise the grade of that license to a license of 500 tons or a license for a superior (i.e., Ocean) route.

GCMA states the reasons for this petition in the attached article (#Mnl44.11T) that appeared in our Association's November Newsletter #44. The principals in Coast Guard Headquarters and the National Maritime Center are well aware of the problem as are a number of boat owners seeking to promote experienced candidates. In addition, the industry is facing personnel shortages and wishes to make the best use of individuals it deems qualified to operate towing vessels in excess of 100 gross register tons in domestic service.

Very truly yours,

Richard A. Block

Master #1014425, Issue #8

Secretary, Gulf Coast Mariners Association

### TOWING VESSEL OFFICERS ARE FORCED TO CONTEND WITH ASININE LICENSE REGULATIONS

*[Source: Gulf Coast Mariner's Association Newsletter #44, Nov.-Dec. 2006. Article #Mnl44.11T]*

#### Overview

The towing vessel license regulations<sup>(1)</sup> that resulted from a series of public hearings in the late 1990s and drew over 787 written and verbal comments from the public went into effect on May 21, 2001. <sup>(1)</sup>*Docket #USCG-1999-6224, 64 FR 63228 as amended.*

During the life of the project, the rulemaking process passed through the hands of three separate project officers, a Towing Safety Advisory Committee Work Group that met on at least six occasions, and then dragged on through a five-year phase-in period.

The Coast Guard's overburdened licensing system, with an acute lack of first-hand knowledge of the mariners it tasked to regulate, has failed to adequately address the rulemaking's shortcomings. This failure threatens to derail the careers of a number of the industry's experienced mariners at great personal expense to them and a threat to the continued stability of the shrinking pool of experienced lower-level mariners.

The case of Captain ■ is one of many examples that have come to our attention. Our attempts to bring the matters discussed in this article to the attention of the Coast Guard's National Maritime Center, the Towing Safety Advisory Committee (TSAC), the American Waterways Operators (AWO), and the Offshore Marine Service Association (OMSA) have not taken the first meaningful step to resolve the problem.

#### Industry-wide Scope of the Problem

Apparently, Captain ■ despaired of solving his personal licensing problem. Consequently, as a strictly personal

issue it now must take a back seat. We informed Captain ■ that his problem is shared by many other mariners. Therefore, we cannot allow the fact that he never paid his \$140 "user fee" to make a formal application for the license stand in our way of presenting his problem to a wider audience. We are assembling this and other cases and will follow the advice of Captain Fink " to petition the Coast Guard for such action." However, since we experienced a depressing number of other mariner "petitions" steered into left field by Coast Guard officials in the past seven years, we will also prepare a Report to Congress on this and other lower-level personnel issues.

### **Captain ■'s Problem**

Captain ■ is an experienced tugboat captain with a **100-ton Master's License and a valid towing endorsement**. His license is typical of thousands of similar licenses issued from about 1987 to 2001. An informal guess by an official at REC New Orleans indicated that as many as 50% of all "towing" licenses issued by that office during this period may have been "100-ton" licenses. The 100-ton licenses were popular because they required one less year of sea service than the Operator of Uninspected Towing Vessel (OUTV) license and allowed the applicant to take the standard "100-ton" course offered at most license prep schools during this period. Such courses were offered as "Coast Guard Approved" courses since about 1995 although other courses are currently available and exams given at Coast Guard Regional Exam Centers.

There is certainly no shortage of towing vessels of less than 100 gross register tons for these licensed Masters and Mates to operate. During this period, most mariners paid their own way through school to obtain their licenses and towing endorsements.

### **Captain ■ Presents his Problem to GCMA**

Captain ■ approached the Gulf Coast Mariners Association and asked us to help him. We contacted the school he attended. We also contacted Mr. Richard Wells at the Regional Exam Center in New Orleans and verified some of the "strange" information he had received. We then contacted the Commanding Officer of the National Maritime Center because we believed the problem had "national significance."

### **A Problem of National Significance Our Letter to the NMC of July 25, 2006**

Dear Captain Fink,

This letter concerns Captain ■ (address + contact phone #) I believe it also may affect other mariners in similar circumstances based on information received from his school that was traced to information they received from REC New Orleans as well as REC Oakland, CA.

You and I both attended the TSAC working group meetings that hammered out understandings on the towing vessel licenses in the winter of 2000-2001. Of course, those meetings were only "advisory" in nature. However, those meetings perpetuated basic differences between the 100-ton Master's license that allowed a "towing endorsement" restricted to 100-ton towing vessels and the OUTV license that became Master of Towing Vessels license and has no tonnage limitation for most towing vessels under 200 GRT in near coastal domestic service.

The problem that arises today when a 100-ton Master, with his towing endorsement (and now holding that additional full year of experience that originally separated the two licenses) tries to move to a Master of Towing Vessels license. The road block that the local Regional Exam Centers appear to place in the path of upgrading appear to be unjustified. I believe this problem may arise from misinterpreting the regulations.

### **Captain ■'s Problem in Perspective.**

Captain ■ works for Crosby Towing Co., a large local towing company operating both inland and in the Gulf. Captain ■ wants to continue to work for the same company on domestic voyages (only) in the Gulf of Mexico. He is on the third issue of a 100-ton near-coastal Master's license. He seeks a Master of Towing Vessel license. He does not want a 500-ton Master license, but wants to retain his 100-ton master rating so he can run inspected small passenger vessels, crewboats, utility boats, and other OSVs of that tonnage. However, he was told that to upgrade his license he must test for a "superior route." This, for a near-coastal license, is interpreted (by the REC and apparently supported by the NMC) to mean "oceans." We suggest that both the Regional Exam Center and the National Maritime Center re-evaluate this issue because it affects a sizeable number of licensed mariners and it will cost them a great deal of money for a relatively small raise in grade. This is what it would cost him in tuition and time off work spent in school " most likely "out of pocket":

- Celestial Navigation Course. School Tuition \$1,000 + 12 days @ \$400 per day = **\$5,800**.
- Master, 500-ton Upgrade Course. Tuition \$1,000 + 30 days @ \$400 per day = **\$13,000**. In addition, there would also be the following separate courses to meet Coast Guard requirements.
- Advanced Firefighting: Tuition \$750.00 + 5 days at school @ \$400 per day = **\$2,750**.

- Able Seaman: Tuition \$450 + 6 days @ \$400 per day = **\$2,850.**
- Proficiency in Survival Craft \$800 + 4 days @ \$400 per day = **\$2,400.**
- Basic Safety Training (STCW) \$1,000 + 5 days @ \$400 per day = **\$3,000**
- Bridge Resource Management (BRM) \$300 + 3 days @ \$400 per day = **\$1,500.**
- Flashing Light (signaling) \$150 + 1 day @ \$400 per day = **\$550.**

**Grand Total: \$31,850.**

Although this figure is just an estimate based upon the time an average mariner would have to take off work to complete the courses, the classroom time does not include the time off work on the weekends that classes typically are not in session. It does **not** include room, board, or travel if the mariner does not live close to the school.

This difference is even more shocking when you consider that Captain █ probably spent less than \$1,000 to obtain his present 100-ton license a decade ago. Unless he upgrades his license, no matter how much additional experience he gains, he will never be able to operate a tugboat between 100 and 200 GRT offshore until he completes this additional training. He will be faced with making this sizeable investment or his employer will have to do so as a direct result of a small misstep he made in his career path in sitting for a 100-ton license rather than an OUTV license about a decade ago.

In Captain █'s case, the route he seeks is NOT a superior route; it is the same near coastal route he already has on his license. After three issues, he can find his way around in the Gulf of Mexico or on other domestic coastwise routes.

It gets better: To go for an oceans license, he was told he must take and pass Celestial Navigation at the Unlimited Masters level all of this to operate in the Gulf of Mexico and coastwise. This geographic area is well covered both by Loran C and GPS which are much more accurate and user-friendly than is Celestial.

Celestial courses take a minimum of three weeks, involve intensive training that is not always easy to grasp. The course is costly, and the school made it clear that it is NOT trying to sell him this course. They informed GCMA that this REC policy is apparently verified by personnel at least two RECs and is based upon 46 CFR Table 10.464-1.

If this is the way the RECs interpret 46 CFR Table 10.464-1 (and I disagree with the interpretation by plain reading) **I believe it will discourage any mariner who has a 100-ton license with a towing endorsement from ever advancing beyond the 100-ton stage and running larger towing vessels in the towing industry.**

I also question why Captain █ would need a TOAR (to upgrade his license) since he was continuously employed in the towing industry for a number of years and is NOT returning from suspension or revocation. As a former vessel owner, I can see why it might be a good idea to let him serve as mate for 30 days on a larger vessel to become familiar with the vessel characteristics. However, to require a separate license transaction<sup>(1)</sup> requiring 30 days service that will take a minimum of 16 weeks (112 days) at a lower wage when the industry is so short of licensed personnel doesn't really make much sense. [<sup>(1)</sup>A typical license transaction at the time the letter was written took 16 weeks.]

I would appreciate any guidance you could give Captain █ in the matter discussed above.

**[Personal note to Captain Fink]**

We can discuss the following items the next time we meet in Washington at MERPAC or TSAC:

**The difference between the 100-ton and towing officer test.** Several years ago, I reviewed the written towing test that formerly was given at the OUTV stage and is now given at the Apprentice Mate/Steersman stage. I am also very familiar with the 100-ton test, having reviewed it and provided a number of questions to NMC in 1997 in line with the newly revised T-boat regulations. I even received a nice letter (of appreciation) from Admiral Card at the time.

The basic difference as I recall was in the plotting problem where a candidate for Master of over 100 GRT and for towing licenses work a plotting problem with a number of steps where an error on one step can throw off subsequent steps. The 100-ton test, on the other hand, has individual problems where one answer does not depend on the preceding answer and each problem is graded separately. If this (minor) difference still exists, I believe the towing officer should be prepared for the more difficult test.

If there are other differences that can be identified, and are meaningful, they too should be tested. Throw in the usual upgrade re-test on the rules of the road if you want. Require that extra year of service the people who took the 100-ton test skipped out on in the 1990s (but accept the time served on towing vessels as counting for that experience as long as they can show it). Then let the candidate upgrade without all the flack these guys now are running into from the RECs gratuitously inventing things they really know nothing about.

**We are creating problems where they should not exist.** In the 1980s, the 100-ton test was considered a pretty solid test. In 1987-1989 CDR (later RADM) George Naccara modified the scope to allow mariners to break in on small towing vessels of less than 100-tons if they took a towing endorsement 10-question test. It let them get into the industry with less time and receive instruction in all the basics including Subchapter T regulations that, of course, do not apply to towing vessels. It was a good idea then, and just as good an idea now and limited to the smaller vessels. However, the 100-ton license gave the students an insight into Coast Guard inspection and all that that entails. That was Lagniappe and a little something extra for those who work on tugs and towboats (today)!

For the **offshore towing industry**, the important tonnage figure was **always 200 tons, NEVER 100 tons** ó and this was to escape the (licensing) requirements of the Officers Competency Certificates Convention of 1936 (and Act of 1938). **Suddenly, “100-tons” has become a difficult roadblock for reasons of licensing.** We recognized and dealt with it in TSAC in the winter of 2000. However, it (the tonnage issue) affects offshore as well as inland towing vessels. It is artificial (i.e., unnecessary for the most part) and mariners need to overcome it easily by administrative means or the existing personnel crisis will become intolerable for the towing industry. I don't think I am asking the Coast Guard to give anything meaningful away.

I recently heard of a towing vessel operator who is building six towing vessels ðunder 100 tonsö for obvious licensing reasons. This really should not be a necessary consideration. It should not be a matter that concerns a naval architect until the vessel reaches 200 tons ó and that only for near-coastal routes.

Now, Congress has decreed that towing vessels will be inspected. GCMA has been insisting (continuously since 2000 in GCMA Report #R-276) that inspection be done the same way with towing vessels as it is done with small passenger vessels and OSVs. When that happens, GCMA will push for all towing vessel licensed officers to be tested on the new towing regulations the same way tankermen were tested in 1980 ó a thorough open book inspection rules test at renewal timeé .involving a forced reading of the regulations preferably ASAP or at least before renewal. You can't play the game unless you know the rules.

As I seem to be more involved in hearing this litany of complaints, the more I believe that the answer lies in centralizing control and giving unified answers and treatment to all our mariners. I believe that unifying inspection regulations requiring essentially the same treatment for small passenger vessels, OSVs, and towing vessels can lead to simplifying and unifying training requirements for (all) lower-level (deck) licenses.

s/Richard A. Block, Secø, GCMA

#### **Reply from Captain Fink dated August 9<sup>th</sup>.**

This is in your reply to your letter dated July 25, 2006, concerning Captain ■ and his application for renewal of his license.

If Captain ■ is not satisfied with the decision of the Regional Examination Center, he must appeal that decision. The appeal should begin at the office where the decision was made; i.e., REC New Orleans. If the issue is not resolved to his satisfaction, he may appeal to the cognizant District Commander and ultimately to the Commandant.

**[GCMA Comment: Unfortunately, Captain ■ never submitted a formal application so there was nothing to “appeal.” The problem remained unresolved.]**

**[GCMA Comment: The prospect of taking a Celestial Navigation course and taking all the extra schooling required for a 500-ton license to continue the job he is now performs but on larger tonnage vessels discouraged Captain ■ from even applying for an upgrade. It will discourage other mariners as well.]**

**If you or Captain ■ believe that the regulations should be amended, you may petition the Coast Guard for such action.** See Title 33, Code of Federal Regulations, section 1.05-20 for further informationí .

Sincerely, E.J. Fink

#### **Petition vs “Appeal”**

Since Captain ■ had not filed a formal application, GCMA had nothing to ðappealö on his behalf. You must pay your ðuser's feeö in order to obtain the formal personally-delivered rejection that two Regional Exam Centers already advised the school that he would receive if and when he did submit an application. Why submit an application and spend \$140 when you already know the answer. This is why GCMA may choose to ðpetitionö the Coast Guard for changes in regulations rather than submit a formal ðappealö on Captain ■'s behalf.

**[GCMA Comment: Although it is not tested on licensing exams, we believe every “lower-level” mariner needs to be familiar with the appeal process – at least the governing regulations that changed recently. Consequently, we published GCMA Report #R-436, The Coast Guard Appeal Process to inform our mariners.]**

#### **TSAC Turns a Cold Shoulder to Mariners**

The Towing Safety Advisory Committee has no direct influence on towing issues. However, the Coast Guard called upon a TSAC Working Group to advise it on establishing the new towing vessel regulations in that went into effect in May 2001. The Gulf Coast Mariners Association traveled to Washington and participated in most of the half-dozen ðwork-groupö meetings held during the winter of 2000-2001. Attendance at these meetings cost the Association considerable time and approximately **\$6,000** in expenses but provided us with an insight into what really

was going on behind the scenes in the nations capital.

Since the Licensing Work Group still exists (although with many new faces), and since GCMA believed something was seriously wrong with the regulations, we submitted the following letter to Mrs. Jennifer Carpenter, Chairperson of the Work Group, on Sept. 12, 2006:

Mrs. Jennifer A. Carpenter  
Senior Vice President, Government Affairs & Policy Analysis  
The American Waterways Operators  
801 North Quincy Street, Suite 200  
Arlington, VA 22203

Subject: License Upgrade Problem for Presentation to TSAC License Working Group

Dear Jennifer,

This letter concerns an inquiry by a Captain ■ (a real person) that I believe affects a number of other mariners with 100-ton Master licenses with towing endorsements. It is based on information received from the school guidance counselor that was disseminated by staff members at REC New Orleans as well as REC Oakland, CA. I contacted Mr. Richard Wells at REC New Orleans to determine if the information was factually correct and determined it was.

I understand that Captain ■ (and possibly a significant number of other mariners ) were discouraged from making an application for raise of grade based in part on that information.

You facilitated the TSAC working group meetings that hammered out understandings on the towing vessel licenses in the winter of 2000-2001 that created the licensing regulations of May 21, 2001 as well as provided input to **NVIC 04-01** released at the same time. While the TSAC meetings were only "advisory" in nature, they perpetuated some basic differences between the 100-ton Master's license that allowed a "towing endorsement" restricted to 100-ton towing vessels and the existing OUTV license that is now the Master of Towing Vessels license.

Mariners grandfathered into Master of Towing Vessel licenses have no tonnage limitation on inland waters and western rivers. However, OUTV for near coastal licenses in the past were limited to vessels of no more than 200 gross register tons on domestic waters by the Officers Competency Certificates Convention of 1936 and Act of 1938.

Captain ■ has a 100-ton Master license with a towing endorsement. He is on his third issue of his license. He wishes to upgrade his license to run larger vessels but only is interested in raising his towing license to 200 GRT for use in domestic service in the Gulf of Mexico. He does not want to use it in foreign waters such as Mexico or the Bahamas. He wants to keep the 100-ton Master part of the license so he can be flexible and react to future job opportunities, but his real interest in seeking advancement is to operate towing vessels of between 100 GRT and 200 GRT.

Like many mariners, perhaps far more than we (in the TSAC Work Group) realized in 2000, he had chosen to sit for the 100-ton license exam rather than the OUTV exam. While he may have chosen to do it because it required one less year of sea service, he now has well over a year (in fact, many years) of creditable service under his belt. However, he now finds that this choice was a serious career-choice mistake than prevents him from operating towing vessels between 100 and 200 GRT.

A **problem** that arises today when a 100-ton Master, with his towing endorsement tries to upgrade to a Master of Towing Vessels license. The road-block that the REC appears to place in the path of upgrading may be insurmountable from a financial and educational standpoint for some mariners. I believe this problem may arise from work that our license work group may have failed to do or that Washington has misinterpreted the regulations.

**Another problem** also exists in that at least one REC requires candidates with 100-ton Master licenses with towing endorsements who do decide to upgrade to 500 ton Master (and presumably to any higher license) to complete a TOAR. I do not recall that was ever part of the working group understanding in 2000-2001.

**Captain ■'s Problem in Perspective.** Captain ■ works for a large local towing company operating both on inland waters and in the Gulf. Captain ■ wants to continue to work for the same company on domestic voyages (only) in the Gulf of Mexico. He is on the third issue of a 100-ton near-coastal Master's license. He seeks a Master of Towing Vessel license.

Captain ■ does not seek a 500-ton Master license, but wants to retain his 100-ton master rating so he can run inspected small passenger vessels, crewboats, utility boats, and other OSVs of that tonnage. In fact, there are some 185-foot offshore supply vessels and a number of 165-foot and 145-foot supply vessels that only require his 100-ton license. However, he was told that to upgrade the near-coastal portion of his towing license he must test for a "superior route." This, for a near-coastal license, is interpreted to mean "oceans." In Captain ■'s case, the near-coastal route he seeks is NOT a superior route; it is the **same route** he already has on his license. After three issues, he can find his way around in the Gulf of Mexico or on other coastwise routes.

In speaking with Mr. Richard Wells at REC New Orleans, there appears to be no (reasonable method) provided

in the regulations for Captain ■ to extend his towing endorsement from 100-tons to 200-tons without taking a full 500-ton test complete with Celestial Navigation, STCW, and all the other bells and whistles. (Mr. Wells) has sought guidance from Washington on this matter and reportedly has received none. Celestial Navigation is a three-week, \$1,500 course and is academically challenging for many mariners who will never use it and whose vessels are not equipped with a sextant and publications for it nor are they required to be.

GCMA also sought guidance from Washington. In a letter dated August 9, 2006, Captain Fink stated: "If Captain ■ is not satisfied with the decision of the Regional Exam Center, he must appeal that decision." We would help him do so, but he never made formal application ó he, like other candidates, was discouraged from doing so.

Captain Fink continues: "If you or Captain ■ believe that the regulations should be amended, you may petition the Coast Guard for action." GCMA is prepared to do so on behalf of Captain ■. However, before doing so, I would like to bring the matter before the reconstituted TSAC licensing working group and/or the full TSAC committee in the upcoming meeting for advice.

**Possible Petition (Appeal) Issues:** Here are some items that could be included in an appeal under 33 CFR §1.05-20. I believe that a discussion within the working group might bring out other issues and would give GCMA a sense of how to move forward. As an alternative to a formal GCMA petition to the Coast Guard, TSAC might want to provide advice directly to the Coast Guard. In my informal discussion with Mr. Wells, from his perspective in New Orleans, he indicated that the number of persons holding 100-ton Master licenses might approach 50% of towing vessel licensed officers and have a significant effect on the availability of towing vessel officers in domestic near coastal waters.

### **TSAC Leaves the Ball in Our Court**

Our letter to Mrs. Carpenter continued to recite issues outlined above. Copies of the letter were sent to Mr. Richard Wells, REC New Orleans, and to the Offshore Marine Service Association, that represents a number of offshore towing companies. We assume that Mrs. Carpenter notified the members of the TSAC License Work Group of the issue. Unfortunately, issues important to our mariners were so badly trampled by this meeting in St. Louis that any protest would have been insignificant. We received no response from either Mr. Wells or OMSA.

**[GCMA Comment: The matter was not brought before TSAC in its semi-annual meeting in St. Louis on September 20-21, 2006.]**

Since this is a "mariner" issue, GCMA is prepared to go it alone if necessary when we believe we are doing our best to help our lower-level mariners. By now, we know that we cannot look forward to any support from trade associations like AWO and OMSA who have proven time and again to have little genuine concern for any mariner issues that do not have the potential to save or generate their member companies money!

Unfortunately, the Towing Safety Advisory Committee did not schedule us any time to present the issue in a public forum at their semi-annual meeting in St. Louis on September 20-21. However, I did have the opportunity to meet with former Coast Guard Commanders Luke Harden and Mr. Dave Dolloff ó both now civilian Coast Guard employees ó who are "veterans" of the towing license rulemaking project.

Our discussion in the hallway outside the meeting room revolved around the personal issue of Captain ■ and even involved a long-distance call to the school he attended. However, although well intentioned, it solved nothing yet left both men better informed of some of the problems currently facing this particular aspect of the towing license program. Unfortunately, there are additional issues that this article does not cover.

### **Captain ■ Gives Up**

Following the TSAC meeting in St. Louis, GCMA wrote to Captain ■ informing him of the difficulty of pursuing his case without a formal application for a license upgrade. Nevertheless, we will pursue this issue as a "petition" and not an "appeal."

## **COAST GUARD DENIES OUR FIRST PETITION**

In a letter dated Jan. 5, 2007, the Coast Guard stated in part, "We do not intend to initiate a rulemaking project based upon your petition."

"The towing vessel license/endorsement limitations you refer to were established based upon the authority granted individuals who held master/mate steam or motor vessel licenses limited to 100 GRT prior to 21 May 01. These individuals had the opportunity to convert their 100 GRT licenses, at the first renewal or upgrade of the license after 21 May 01, to master/mate of towing vessels without tonnage limitation if they met certain service requirements **and**

passed the towing vessel exams. If they met the service requirement but did not pass the towing vessel exams, their master/mate towing vessel license was limited to 100 GRT. If they have already renewed their 100 GRT license since 21 May 2001, their only recourse is to upgrade their license to greater than 200 GRT [i.e., a 500/1600 ton license] as per 46 CFR §§10.465, 10.466.

**NMA FILES A SECOND PETITION ON OCTOBER 21, 2008**

*[Source: National Mariners Association Newsletter #59, Oct.-Nov. 2008, Article #Mn159.7G]*

October 21, 2008

Executive Secretary  
Marine Safety & Security Council (G-LRA)  
United States Coast Guard Headquarters  
2100 Second Street, SW  
Washington, DC 20593-0001

**Subject: Petition for Rulemaking to Relax Restrictions on 100-ton Towing Officer Licenses and Endorsements.**

References: 33 CFR §1.05-20; 46 CFR Table 10.910-2; Our file GCM-165.

Dear Sir or Madam,

During the forty-year period from 1958 through 1989, the 100-ton Master's license became a standard initial license for thousands of lower-level mariners, as well as a stepping stone for higher licenses. A 1989 rulemaking expanded the scope of this license so that it became possible for mariners to obtain a 100-ton Master's license and to use that license (with its tonnage limitation of 100 gross tons) to operate commercial towing vessels up to that tonnage.

The 100-ton license originally was designed to license operators on small passenger vessels (i.e., T-boats inspected under 46 CFR Subchapter T). By definition, a small passenger vessel cannot exceed 100 gross tons, hence the 100-ton limitation.

One advantage of preparing for the 100-ton license was that it introduced mariners to Coast Guard inspection procedures that had been in place for 30 years and emphasized important safety requirements for license holders who carried passengers for hire. We opine that this may be helpful to the industry in introducing future towing vessel inspection regulations now being developed at Coast Guard Headquarters. For those mariners who used the 100-ton license to operate small towing vessels, preparing for their exam pointed out stark differences between inspected T-boats and uninspected towing vessels and pointed out safety considerations inherent in inspected vessels carrying passengers for hire. These differences remain today.

Many mariners who sat for the 100-ton test also took an assistance towing module of ten questions derived from exactly the same database that commercial towing exam questions are drawn from.

The down side of the 100-ton Master's license compared to the existing Operator of Uninspected Towing Vessels (OUTV) license was that a mariner could obtain the 100-ton license with one less year sea service than the OUTV/Master of Towing Vessel license required. That difference was recognized and reflected in the lower 100-ton tonnage limit placed on the face of the license. That limitation usually meant that mariners holding this license who chose to work on towing vessels would start in their career path by working on smaller towing vessels. For those entering the field, and for members of the TSAC working group assembled to prepare for the new licensing regulations promulgated in May 2001 that appeared to be a perfectly reasonable consideration.

In retrospect, many lower-level mariners opted to take a 100-ton course because it was standard course offering, and was readily available at maritime training schools. The 100-ton approved courses were comprehensive in the scope of knowledge they conveyed for each of the routes the license covered and were generally affordable for mariners. Consequently, many mariners initially entered the towing sector of the maritime industry by operating smaller towing vessels while retaining the ability to also work on passenger-carrying vessels.

**License population:** As of Dec. 31, 2004<sup>(1)</sup>, 26,627 passenger carrying licenses (of up to 100 GRT) with near-coastal routes and 7,451 licenses with inland routes (**total 34,078**) existed. This compares to OUTV/Master of Towing Vessel 13,336 licenses, 185 Second Class /Mate-Pilot of Towing Vessel licenses, and 84 Apprentice mate/steersman learners' permits) (**total 13,605**) that restricted the holder's service to uninspected towing vessels. This was a reasonable restriction because OUTV license holders were never tested and are not tested today on provisions of 46 CFR Subchapter T that govern inspected small passenger vessels. <sup>(1)</sup>*Proceedings, Summer 2005]*



**TSAC Working Group Meetings, 2000-2001.** During the winter of 2000-2001, our Association participated in a working group of the Towing Safety Advisory Committee (TSAC) that worked with the Coast Guard officials (namely Captain Ernest Fink and LCDR Luke Harden) on developing new towing vessel licensing regulations. The resulting new regulations in Docket #USCG-1999-6224 were phased in during a five-year period and came into full effect on May 21, 2006.

The TSAC working group took note of the original one-year sea time difference between the 100-ton Master and the OUTV/proposed Master of Towing Vessels license and agreed to let this tonnage limitation stand for towing licenses. However, at the time, *there existed a clear career path from a 100-ton to a 200-ton Master license.* It was assumed that this path would allow advancement from the 100-ton limit to at least a 200-ton limit for towing vessel officers in the future.

**The importance of the 200-ton threshold for towing vessels.** Through the mid-1990s, most uninspected towing vessels in coastwise domestic service were purpose-built to admeasure *less than 200 gross tons* to conform to the Officers Competency Certificates Convention (1936) and the Officers Competency Act (1938). Since the industry understood that towing vessels greater than 200 gross tons had to be manned by licensed officers, the simple expedient was to build these vessels to admeasure under the 200-ton threshold. Exceptions included a few converted ex-Navy tugs ó but these exceptions were relatively rare.

In 1972, the Pilothouse Licensing Act required most towing vessels (except those in oilfield service) to be manned with licensed ðoperatorsö (i.e., OUTV). The ðoperatorö licensing requirements were accepted and complied with starting in 1973. The point is that in the coastwise towing industry, the figure of *200 tons* was the traditional key tonnage limit whereas with small passenger vessels, the comparable tonnage figure always was *100 gross tons.*

There would have been no problem if there had remained a clear path to move between 100 ton and 200 ton licenses. *Unfortunately, the Coast Guard eliminated this path sometime between 2001 and 2006 – a fact our Association brought to the Coast Guard’s attention in July 2004, attempted to resolve at the September 2006 TSAC meeting in St. Louis, and finally brought to the attention of TSAC and Congress in September 2008<sup>(1)</sup>.* Although the path to raise a 100-ton to a 200-ton license was somewhat complicated and did involve some additional testing, *the path did exist but was eliminated for some reason.* When the 200-ton step vanished, the next career advancement step for a mariner to upgrade from a 100-ton license was to test for a 500/1,600-ton license. [<sup>(1)</sup> NMA Report #R-417-A, Rev. 1, item #26A attached as [Enclosure I]]

Unfortunately, the *Coast Guard failed to consider that the degree of difficulty of the step from 100-tons to 500/1600-tons would bring significant educational challenges for lower-level mariners when the 500/1600-ton license was elevated to the equivalent of an “upper-level” third or second mate license.* This level of license is attained by graduates of a four-year college-level maritime academy. Unfortunately, except for academy graduates, most ðlower-levelö marinersøacademic preparation ranges from the 9<sup>th</sup>. to 12<sup>th</sup> grade level in High School and seldom reach the college level.

*Most Coast Guard officials involved with mariner licensing failed to give this meaningful consideration when they unilaterally raised the academic bar and eliminated the 200-ton license step for towing vessel officers.* We submit that senior Coast Guard officers failed to consider important historical documents such as the Coast Guard’s own Newman Report<sup>(1)</sup> and made baseless academic assumptions rather than conducting studies that ignored the educational attainment status of the ðlower-levelö mariners they were dealing with. We believe that the demand for 500/1600-ton licenses with towing endorsements will far exceed the supply of licensed officers both because of the educational gaps that must be bridged as well as training costs.<sup>(2)</sup> However, the 500/1600-ton licenses will be required for international service. [<sup>(1)</sup> NMA Report # R-428-A. *Maritime Education and Training for Lower-Level Mariners. The Newman Report.* This report includes 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. <sup>(2)</sup>“The cost to advance one deckhand to mate through the apprentice mate system was costing McAllister Towing about *\$78,100.00*” – *Proceedings of the Marine Safety Council, Fall 2008, p.43.*]]

*As a result, many mariners who served on towing vessels obtained a 100-ton passenger-carrying license with a 100-ton towing endorsement that no longer meets their needs as mariners and effectively prevents them from advancing in the marine industry. We believe that the 100-ton barrier had a purpose when it was discussed in TSAC in 2000-2001 but that subsequently this has become an artificial barrier that needs to be removed. This barrier exists on all routes.*

**We recommend:**

1. That mariners who have a 100-ton passenger carrying license preserve that license so they can work in the passenger-carrying portion of the marine industry.
2. That mariners who have experience in the towing sector and are currently restricted by a *100-ton towing limitation* on their licenses be allowed to remove that limitation after providing proof to the satisfaction of the Coast Guard

that they have the total years of experience serving on towing vessels of any size that would make them eligible for either a Mate/Pilot or a Master of Towing Vessel license since these licenses contain no tonnage restriction. This sea service would make up for the sea service deficiencies noted by TSAC in 2000-2001 as mentioned above. It would allow individuals experienced in towing to fill officer vacancies aboard any towing vessel without regard to the tonnage of the vessel. We suggest that this simplification would apply to mariners in domestic coastwise service as well as inland and river service. We believe these individuals have been penalized far too long and that this step may encourage many of them to remain in and advance within the towing industry.

**Additional testing and issuance.** The subject areas for both the 100-ton Master's license and the test given for Apprentice Mate/Steersman (i.e., the only test given to towing vessel officers) are outlined in 46 CFR Table 10.910-2 that has remained unchanged for years. Column 7 contains subjects for the Master 100 ton/200-ton Mate Oceans/Near Coastal Routes license while Column 10 contains comparable Apprentice Mate Towing subjects. Columns 11 & 12 contain reasonable and expected adjustments for the subject matter covering Great Lakes/Inland and Rivers routes. Comparing the two columns (i.e., #7 & 10), it is clear that the 100-ton test examines candidates in more subject areas than the towing exam. However, as indicated by the number 070 found in Column 7, the exam for 200-ton Mate does contain a few more sub-topics than does the exam for 100-ton Master alone.

[**Enclosure #2**] contains a breakdown of the subject matter tested. While some very limited testing might be called for, requiring mariners to pass overly-broad 0Deck General0 or 0Deck Safety0 modules requiring months of unnecessary study and preparation must be avoided.

The towing industry is suffering a significant shortage of personnel. The purpose of this petition is to more effectively utilize those experienced towing vessel personnel whose advancement in their chosen career may have been thwarted by an artificial barrier that prevented them from operating towing vessels of between 100 and 200 GRT in domestic coastwise service and, more broadly, towing vessels greater than 100 GRT in inland, Great Lakes and Rivers service. We have seen cases where mariners were prosecuted for exceeding their tonnage limitation and know of cases where mariners have been prevented from operating towing vessels of more than 100 GRT when they were perfectly capable of operating those vessels. We simply ask that these mariners be granted a license commensurate with the sea service represented by the 0towing time0 they already have accrued on any size commercial towing vessel greater than 8 meters (26-feet) in length.

We ask that this petition be brought to the attention of the Towing Safety Advisory Committee, the National Maritime Center, and that it be considered for rulemaking. s/Richard A. Block, Sec0y, National Mariners Association

<b>“ANCIENT MARINER” COMMENT</b>
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*[Note: The National Mariners Association encourages outside review of our research reports, petitions, and requests for Legislative Change Proposals from respected senior industry observers – i.e., our “Ancient Mariners.”]*

This is a perfect example of the problem with the current regulatory system. No one in the Coast Guard seems to understand, or care, how the 100-ton Master's license with a towing endorsement situation evolved nor how it should be fairly remedied.

Many of these towing vessel Masters have years of experience and should not have to upgrade to get the 200-ton towing license. This was never envisioned when the regulations were passed, for if it were, there would have been a great outcry and commensurate remedy. It is apparent that outcries about an erroneous interpretation of the regulations, subsequent to the issuance are easy to ignore or simply indicate that any interpretation favorable to an individual could not have been what was intended. Too much knowledge about the details of the arcane Coast Guard licensing system has become a method that Coast Guard officials use to abuse mariners to their heart's content and continue be unresponsive to the needs of the individual mariners and the regulated maritime industry.

The Coast Guard has no concept of the mariners' job or the industry he works in, but only the regulations that were drafted and crafted under the direction of Coast Guard military or former-military personnel. Those who arbitrarily interpret the merchant marine personnel regulations in such a negative manner are terribly ignorant of the commercial trade they regulate.

As an item of **National Significance**, it would seem that the Coast Guard should find a way to give the mariner what he or she needs and not direct him or her down another blind alley.

I don't care what the technical problem is the Coast Guard should fix it and give these people the licenses they need. To be arguably technically correct and abuse hundreds of mariners is ludicrous and must not be tolerated a day longer!