



NMA REPORT #R-417-A, Rev. 1

DATE: August 27, 2008

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

**COMMENTS ON REVISING NVIC 4-01
“LICENSING AND MANNING FOR OFFICERS OF TOWING VESSELS”
TO THE TOWING SAFETY ADVISORY COMMITTEE (TSAC)**

[This is an updated version of a paper prepared for a TSAC Working Group Meeting on July 14, 2005 in Houston, TX. The Gulf Coast Mariners Association (GCMA) is now the National Mariners Association.]

To: Commandant, G-MSO

ATTN: Mr. Jerry Miente, **Designated Federal Officer**, TSAC

From: Richard A. Block

Subject: Comments on NVIC 4-01

Date: July 10, 2005, **Revised August 27, 2008. Revisions are in red and in (this) Ariel typeface.**

VIA FAX TO: ~~202-267-4570~~ 372-1926

One of the items on the **TSAC Licensing Implementation Working Group** list of topics for the meeting in Houston on July 14, 2005 **was** issues and Concerns Related to NVIC 4-01. I thought it appropriate to do my homework for the occasion.

In the past, I reviewed and commented on several drafts of Mr. Harden's NVIC. I will do so again and supply him with a number of handwritten notes in book form including these and other comments. These comments are prepared for the Coast Guard to consider when and NVIC 4-01 is revised or replaced. Each numbered version refers to a comparable note in the handwritten book.

COMMENTS ON MAIN BODY OF THE NVIC 4-01:

- 1 (p. 1) The NVIC needs to be re-written in its entirety to supersede the old version and be more useful to both employers and employees in the towing industry.
2. (p.1) Make the effective date of the new NVIC May 21, 2006 to remove all obsolete material. **Revising this NVIC is long overdue.**
3. (p.1) Remove all references to the OUTV license and past licensing practices.
4. (p.1, ¶3.a) GCMA formally requested and anticipates extensive changes in manning requirements for towing vessels under the new inspection regulations. However, these changes may not be in effect by May 21, 2006. Consequently, we suggest you compartmentalize references to manning in this NVIC so they can be changed later without having to rewrite the whole NVIC again.
5. (p.1, ¶3.d). Distributing the NVIC by computer won't reach all 1,100 towing companies. Suggest you use start to use certified mail with return receipts as proof you have reached towing companies outside AWO to be sure they get the message. **At the meeting, we suggested to Mr. Harden that the Coast Guard contact each towing company that the licensing regulations apply to but were told that the**

Coast Guard was not funded to do that. We believe this is why the information about the new licensing regulations did not penetrate the industry outside of AWO/TSAC.

6. (p.2, ¶4.e) Be sure to mention the USCG crackdown on fraudulent sea service letters, fraudulent applications, use of stolen, copied, or otherwise altered licenses to both mariners and towing companies along with possible penalties to both. These penalties are being pursued far more today than they were in the past.

7. (p.2, ¶4.f) Recommend using the term "Learner's Permit" rather than "License" to describe the Apprentice Mate/Steersman ticket. There is a tendency on the part of some companies (even AWO-member companies) to use new Apprentice Mates/ Steersmen to stand an unsupervised watch alone in place of a licensed officer. This puts them at risk of losing their position and is illegal. **We reiterated this in our Report #R-429-N, Report to the 110th Congress: Maritime Towing Accidents Involving Apprentice Mates/Steersmen, July 28, 2008.**

8. (p.4, ¶5.d) Allow the term "Mate/Pilot" to be used on a license for an individual qualified for both inland and offshore routes. This will allow him to work both areas without having to waste his money paying issuance fees or bother the REC with a minor secretarial problem just to satisfy the whim of an employer who is out of touch and doesn't know the difference in the two terms is meaningless.

9. (p.4, ¶5.f) Mention in this paragraph that every Designated Examiner will possess a USCG authorization letter.

10. (p.5, ¶5.p) **Re-consider** whether "Great Lakes and Inland Waters" should be treated as two separate routes. If they remain as one route, then why can't Western Rivers and the Gulf Intracoastal Waterway also be treated as a single route especially if towing vessels are equipped with GPS and AIS. **This would simplify life for mariners and the Coast Guard. Also see item #44.**

11. (p.5, ¶5.r) Who "owns" a TOAR, the mariner or the company he works for? **Clarify this for the benefit of our mariners.**

12. (p.5, ¶5.r) Can a mariner take a partially-completed TOAR from company to company if he changes employment (etc.)? We believe the TOAR should not tie an employee to any one employer for his training, especially since some employers do not appear to place a high value on training their employees. **Clarify this for the benefit of our mariners.**

13. (p.7, ¶7.b.7) We were told that a Master or Mate/Pilot of Towing Vessels license is not valid on international voyages and that a "tonnage" license is required. **Clarify this for the benefit of our mariners.**

14. (p.7, ¶7.b.9. **Also see #10 above.**) Except for the New York State Barge Canal the only major U.S. waterway the Great Lakes connects with is the Western Rivers system at Chicago. Both of these connections involve severe restrictions on overhead clearances.

15. (p.7, ¶7.d, sentence 2) I thought that RECs no longer gave "local" questions and only used questions within the USCG database. How can someone prepare for "local" questions without very specific information on what to study. This is a bad precedent to set in light of the constant transfers and general incompetence shown by REC **(and NMC)** personnel over the years.

16. (p.8, ¶7.e.1) How can a mariner progress from Apprentice Mate/Steersman to Mate/Pilot if his company has no documented training program, has no in-house designated examiner, and the Coast Guard

refuses to supply the addresses of unaffiliated Designated Examiners because of privacy concerns? There is a real breakdown in communications within this program especially with the smaller companies who have done nothing to train their mariners in the past 4 years. **The Coast Guard has stonewalled this problem by flatly rejecting an appeal to make designated examiner names available to mariners seeking to upgrade their license. If this cannot be done, the entire program should be terminated.**

17. (p.8, ¶7.e.2) Does this reference to an approved training course in 46 CFR 10.103 that further refers us to §10.302 and §10.309 refer to the single course approved for the Kirby Corporation? A person has to wade neck-deep through regulations to even ask this question. If this is true, what is the rest of the towing industry expected to do for training? *[Editorial note: Nothing in this or other questions is meant as critical of the Kirby Corporation's training program.]* **What is the status of the approved Course+program for towing vessels? Who currently offers these courses?**

18. (p.8, ¶¶ 7.f & h) Let's clarify who makes the assessments on a TOAR. Is it only a USCG-authorized Designated Examiner or may any Master or Mate/Pilot of towing vessels sign off on a TOAR? Also see #34, below. **Clarify this for the benefit of our mariners.**

19. (p.10, ¶7.k.2.b) In light of the fact that the existing NVIC was written before 09/11, consider whether pushing uninspected barges (e.g., dry cargo) through pilotage waters (i.e., Baton Rouge to the Gulf) with only four round trips with at least one trip during the hours of darkness is sufficient experience to allow a Mate/Pilot to stand watch alone while underway. Pushing tank barges requires 12 round trips. **How often does the Coast Guard question pilotage qualifications and endorsements in pilotage waters? Only when there is an accident?**

20. (p.12, diagram). Suggest that the Coast Guard reconstruct all diagrams eliminating obsolete terms (e.g., OUTV) and conditions. **This diagram (and several others) is not only part of the NVIC but is also part of the Code of Federal Regulations . and should be corrected ASAP.**

21. (p.13, ¶8.m). In rewriting NVIC 4-01, consider that all towing vessels are now inspected vessels. Manning requirements of Subpart E (uninspected vessels) will no longer apply. **Since the Coast Guard is not going to include manning in the new towing vessel inspection regulations, 46 CFR Part 15, Subpart E needs to be considered for immediate rulemaking.**

23. (p.16) This NVIC is long enough without leaving a bunch of blank pages, double spacing etc. Some readers have to download this onto paper **even if the Coast Guard only uses electronic means for distribution.**

COMMENTS ON FREQUENTLY ASKED QUESTIONS:

24. (p.3, ¶1.b.5.b) This may be a very significant point and needs to be emphasized. I interpret that ¶1.b.5.b will not allow you to receive a towing endorsement if you were caught violating manning regulations in 46 USC §8904. This would include operating a towing vessel without a license (§8904(a) or violating hours of service regulations (§8904(c)) including any violation of the 12-hour rules. **We want to point out that regulations appear to place an equal burden upon both employers and mariners for violating vessel manning regulations, specifically:**

§15.401 Employment and service within restrictions of license or document.

A person may not employ or engage an individual, and an individual may not serve, in a position in which an individual is required by law or regulation to hold a license, certificate of registry, or merchant mariner's document, unless the individual holds a valid license, certificate of registry, or merchant mariner's document, as appropriate, authorizing service in the capacity in which the individual is engaged or employed and the individual serves within any restrictions placed on the license, certificate of registry, or merchant mariner's document. [CGD 81-059, 54 FR 149, Jan. 4, 1989]

Our complaint is that, while the Coast Guard has the power to lock a mariner's file, it rarely fines a company for violating this regulation. If this perception is inaccurate, we call upon the Coast Guard, the keeper of the data, to make this information available to TSAC.

24A. (p.3, ¶1.c.1.d) This is a significant point on license renewal. This has the potential to eliminate mariners who do not actively serve under their licenses including those who have moved into the ranks of management. These are mariners who could otherwise be called upon in an emergency to fill in for mariners who might be on emergency leave, suddenly seek employment elsewhere, etc. Sure, there is an alternative of submitting a completed TOAR, but that is a tall order in one of these corporate emergencies as mentioned above. **A number of individuals reported to us over the past four years that they were unable to renew their towing endorsement for this reason. Others, who had moved onto passenger vessels, were hassled by the NMC because they submitted drills conducted on passenger vessels. We want to point out that, at this time, only fire drills are called for on towing vessels under existing regulations . not man overboard drills. This is a significant point in an industry that has as many drowning deaths as the towing industry. This roadblock needs to be removed from licensing regulations. Drills should be checked by vessel inspections both by the Coast Guard and corporate personnel and signed off when they are.**

25. (p.4, ¶1.c.2) Let's confirm that the "Open Book" renewal exercise will still be available for subsequent license renewals. **This is only minimally invasive and manageable for most mariners.**

26. (p.4, ¶1.d.2) Has anyone submitted an "alternative TOAR" to the NMC for approval? If so, how common has this practice been, for what reasons, and does the NMC generally approve these alternative TOARs? **How about an answer to this question?**

26A. (p5, ¶f.6, a through c)..This vast list of subjects ó Rules of the Road, Navigation and Chart Navigation, Deck General, Deck Safety and Navigation General ó says that your 100-ton Master or 200-ton Mate license for inspected vessels is meaningless and you must take the whole damn test over again. This sort of thing is nothing more than unnecessary harassment for our mariners just to remove a tonnage restriction.

The 100-ton mark has been an important ceiling (limit) for small passenger vessels because it is a "regulatory" limit. However, towing vessels never had a 100-ton limit. However, towing vessels had a 200-ton statutory limit but only if operated offshore. It is time to remove this 100-ton roadblock for those towing vessel officers who **NOW can show they accumulated the required amount of service on board towing vessels.** They should not have to take any test to raise a towing license from 100 to 200 tons. ó just sea service. **This has turned out to be one of the greatest shortcomings of the entire towing officer licensing program. We reiterate the solution to the problem is to remove the 100-ton roadblock that the TSAC working group put in the path of towing vessel officers in the winter of 2000-2001 and that the Coast Guard has perpetuated and solidified to this date. It MUST BE REMOVED.**

27. (p.7, ¶2.b.1) GCMA petitioned Congress to eliminate the "Long Loophole" (46 USC §8905(b)) that exempts mariners who run between offshore oil sites from being licensed. This exemption is no longer necessary. We cited fairness, accountability, and homeland security issues. **H.R. 2830 removes the Long Loophole . but this bill must survive a conference with the Senate and be signed into law. This change was submitted to and approved by MERPAC, TSAC, and NOSAC.**

28. (p.7, ¶2.b.2 table) Does the table heading "Days of Observation for New Route" include only the time spent "observing" in the pilothouse or does it include being employed as a deckhand, a deckineer, engineer, or tankerman with other duties that have very little to do with "observation"? **Answer the question.**

28A. (p.8, ¶2.c.4.b and many other locations throughout the NVIC). We question the wisdom of permitting a person with “a completed TOAR” (we question this wording) to perform any licensed function until the TOAR is first submitted to the Regional Exam Center for its verification and approval. It is possible to “complete” a TOAR in less than two minutes if some unforeseen “company emergency” arises. All mariners are subjected to this type of pressure in the towing industry ó probably including Designated Examiners regardless of the “safeguards” the Coast Guard builds into the system. **After watching the new National Maritime Center in action, adding this task to that dysfunctional bureaucracy would be a disaster. Few, if any, of the personnel in the new NMC have a meaningful background in the towing industry.**

29. (p.8, ¶2.c.4.e) The Coast Guard should define the term “Direct Supervision” to clarify a more exact meaning of the term. For example, does direct supervision allow the supervisor to fix a meal in the galley, take forty winks on the settee, or take a shower? **This has been one of the great misunderstandings+ in this entire program. We do not believe it is a legitimate misunderstanding+ but, rather, an attempt to subvert the intent of the program by maineres and companies who find it inconvenient. It should have been nailed down in a definition in the regulation not left hanging in this NVIC.**

30. (p.8, ¶2.c.5.a) Although towing vessels are now inspected, they still must be operated by mariners with towing licenses **or endorsements or completed TOARs.**

31. (p.8, ¶2.c.5.b) It is unfair that a person pushing an uninspected passenger barge does not have his sea time counted as towing service. Some of these tows exceed 600 feet. Some Masters working for companies such as BJ Services push manned barges. Their time is counted as towing time without the slightest question. These towing vessel Masters do this without even being assigned a crewman as a deckhand, deckineer, or engineer. On occasion, their Masters have been called upon to push these manned barges and violate the 12-hour rules. **The service pushing an inspected passenger barge should be counted as towing time and the Master should have at least a Master of Towing Vessels license, a towing endorsement or a completed TOAR to do so.**

32. (p.9, ¶2.e) “The process to train officers of towing vessels, outlined in the rules, uses the best practices existing in the maritime, and more specifically the towing industry.” Wonderful thought, but it doesn’t seem to be supplying the number of qualified individuals the industry needs. Perhaps it is time to ask, **“Why+ You don’t have to wait for the Maritime Administration to ask the question. We answer that question in the list of reports attached as [Enclosure #1].”**

33. (p.9, ¶2.e.2.b).. Is this another reference to the Kirby Corporation.

33A. (p.9, Figure: License Progression). This figure is confusing.

34. (p.10, ¶2.f.2) “A TOAR is a document that lists tasks to be performed or explained (as appropriate) in the presence of a designated examiner.” This clearly does not allow the tasks to be credited by anyone other than a DE.

35. (p.10, ¶2.g.2) Clarify the underlined portion of this sentence that refers to a TOAR: “They may serve to document proficiency without being approved before use.”

36. (p.11, ¶2.g.2.b.2.c.2) Clarify: “as part of a program run by a company for training apprentice mates (steersmen)” ó Is this another reference to the Kirby Corporation’s program.

37. The numbering of the "Frequently Asked Questions" in this NVIC is Byzantine in its complexity, especially when referring to previous questions. Let's strive for simplicity the next time around. **Amen! Clarity should not be sacrificed simply to adhere to a NVIC format.**

38. (p.12, ¶2.h.1). "The apprentice mate/steersman must demonstrate his or her ability to perform **ALL** the performance criteria in the TOAR before being upgraded to Mate." Sometimes it may not be possible to fill in all the blanks honestly. The bureaucrats at the RECs should have to accept reasonable explanations that have a basis in fact or if supported by a written explanation by a fully accredited Designated Examiner. Let's keep our Designated Examiners honest and comfortable in doing their job. We knew this would be a problem when the Coast Guard insisted on having such detailed TOARs. **Since the time has come to update the TOARs based upon experience, the Coast Guard should look to the experience of over 2,000 Designated Examiners to update the TOARs rather than to TSAC to perform this task. It is reasonable to ask how many members of TSAC are Designated Examiners. It is time to ascertain what problems mariners as well as their employers have experienced at the hand of bureaucrats in the 17 Regional Exam Centers as well as the National Maritime Center from the time that completed TOARs were first turned into the Coast Guard. Why wasn't a person experienced in the towing industry put in charge of the program at the National Maritime Center. One example appears in [Enclosure #2] taken from our Report #R-428-D, Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services. 55p**

39. (p.12, ¶2.h.5.a) Do mariners who seek to regain their license after "misconduct" or "negligence" also need to submit a completed TOAR or is this only required for showing "incompetence"? Or does this answer the question of which is the most notorious of these three administrative evils that leads to an S&R hearing. **Answer Question.**

40. (p.13, ¶2.1.2.c) A person who already has a 100-ton Master or 200-ton Mate license has already passed one major exam and probably spent \$1,000 to do so. The only area not covered in detail on this exam involves towing questions. These questions ought to be collected in one place and put into a test module of about 50 questions to show the candidate has sufficient "book knowledge" of towing. Don't harass him by making him re-take the whole damn test from scratch through our less-than-perfect REC system. This procedure discourages many mariners with limited formal education who do not want to endure the mental anguish of taking a USCG written test or spending their money to learn the same stuff in school again. See #26A (above). **Something needs to be done about this before we discourage more proficient mariners from serving in the towing industry. The cost of taking time off from work to take an exam that is overly comprehensive but essentially meaningless exam should be calculated at \$500 per day of lost work. The Coast Guard needs to think in these terms.**

41. (p.14, ¶3.a.4.b.2) How does a mariner "prove" his vessel conducts regular safety drills if it is not involved in a Safety Management System. Can this "proof" be presented by his employer on a company letterhead? Even this can be a problem with some small companies who would rather do almost anything other than exchange written communications with the Coast Guard. Unless such a letter is worded perfectly, it may not be acceptable to the REC (or NMC) and the process starts all over again. **Being involved in a Safety Management System essentially means being a member in good standing of the American Waterways Operators.**

41A. (p.16, ¶3.f.2) Let's question where this rule to test mariners on rules of the road for any license upgrade etc. if they have not been tested in the past 12 months came from and whether this practice is really necessary or not. To prepare for a "Closed Book" rules of the road test properly can take up to three full days of study and involves coordinating your schedule with the REC to take the test. The RECs were overloaded for years, and this is an unnecessary burden to all concerned. Why not shift to an "Open Book"

rules of the road test like a renewal exercise instead. **It is time to put this Coast Guard sacred cow out to pasture and stop harassing our mariners.**

41B. (p. 16, ¶3.f. table) Simplify the wording and get rid of the table as unnecessary.

42. (p.16, ¶3.g.2) "You may not use the license as master or mate of towing vessels on inspected vessels, regardless of tonnage." No! Towing vessels are now inspected vessels. It is time to require common knowledge on all these "lower-level" license tests. Soon, there will be new towing vessel inspection regulations to learn just as there are small passenger vessel regulations today. Hopefully, the two sets of regulations will cover much the same ground. Such questions will both require a mariner to be able to use the Code of Federal Regulations as a reference publication. **It is a little late and long overdue to give this some consideration.**

43. (p.16, ¶3.g.3) Isn't STCW required on vessels over 100 GRT not 200 tons?

43A. (p.17, ¶3.h.1) In regard to a Limited Local Area Route, an approved course should always be required so a mariner will obtain a comprehensive view of the towing industry, understand laws and regulations that apply to the industry, permit the licensee to take his experience to other parts of the industry etc. This should be part of basic, minimal training for any person engaged in the commercial towing industry.

44. (p.17, ¶3.i.3) There needs to be **a simple** upgrade module to go from Western Rivers to a route on the Intracoastal Waterway east and west of New Orleans and mastery of a single set of skills . **not an entire license exam that takes weeks to prepare for.** See #10 (above).

45. (p. 18, ¶3.i.1) Eliminate discrimination between serving on inspected and uninspected vessels as towing vessels are now inspected vessels. Make towing vessel and inspected vessel tests comparable to each other. Our mariners need to move from one part of the maritime industry to another "from towing, to offshore oil, to small passenger vessels to help make up for personnel shortages and to open better jobs for our mariners. **Don't continue to make slight differences between different lower-level licensing exams an impediment to serving in the marine industry. Too many Coast Guard officials who know far too little about our mariners have been allowed to create an impenetrable labyrinth out of minor exam differences.**

46. (p.18, ¶3.k) Consider allowing up to 6 months of service on an assistance towing vessel count toward a commercial towing license. Take advantage of the skills learned in towing and salvage and apply them to commercial towing " **if any person desires to make this change.** There is no reason to discriminate against such service.

47. (p.19, ¶5.a) Why not discuss the need for unlicensed ratings on seagoing towing vessels to comply with STCW and to hold z-cards on vessels greater than 100 GRT?

COMMENTS ON ENCLOSURE #2 OF NVIC 4-01.

48. (p.2) Explain that this page (and subsequent similar pages) list the exam modules a candidate must take. Explain what the module number codes mean. Much of this material on testing is of primary interest to USCG employees at the RECs. Consider whether it belongs in a new NVIC. However, the TOARs should remain in the NVIC.

Cc: Ms. Jennifer Carpenter 703-841-0389

ENCLOSURE #1 - Mnl57.9K

MARITIME ADMINISTRATION DISCOVERS
THERE REALLY IS A SHORTAGE OF MARINERS

Sean T. Connaughton, Maritime Administrator
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Subject: Maritime Operator Survey Concerning Mariner Availability

Dear Mr. Connaughton,

I quote the following from the Executive Summary of your Agency's recent report:

A Maritime Operator Survey Concerning Mariner Availability was launched to determine whether the U.S. Maritime Industry has a recruitment and retention problem that the Maritime Administration should address with greater attention or resources. The results of this survey indicate that ***industry does have a problem*** with mariner availability. ***A larger research effort is recommended to delve into greater detail on the issues affecting each segment of the industry*** and how these issues are affected by Federal programs, policies, and regulations.

Our Association speaks for approximately 126,000 of the "lower-level" licensed and certificated mariners who work on vessels of less than 1,600 gross register tons and for many others who require neither licenses or merchant mariner documents and are conveniently overlooked by the Coast Guard. We recognized this problem affected our mariners a number of years ago. If your Agency plans ***a larger research effort*** into this issue, we suggest that you might start by researching the fifty-three (53) reports on the attached list to help you to understand WHY these problems currently exist.

If the U.S. Coast Guard, which used to be part of the Department of Transportation, had paid as much attention to our mariners as they paid to vessel "operators," there is a good chance that these problems would be much more manageable today. We note as well that your recent "survey" relied on 845 "operators" and zero mariners.

Our reports have been available free of charge on the internet for years. You may recall that our Association handed out several of these reports at the Towing Safety Advisory Committee while you were a member of the committee before your appointment as Maritime Administrator. However, if you need printed copies, please apply the prices cited for each report.

Very truly yours,
Richard A. Block
Master #1186377, Issue #9
Secretary, National Mariners Association

- R-201. May 2000. Mariners Speak Out on Violation of the 12-Hour Work Day. 200p. \$41.00.
- R-202, Rev. 4. June 5, 2008. Treatment of "Lower-Level" Mariners..(Don't Count On Corporate Compassion or Coast Guard Concern: True Stories of Our Lost, Injured & Cheated Mariners). Edited by Capt. Richard A. Block, Secretary, NMA. 36p. \$8.20.
- R-279. Rev 8, Apr. 19, 2008. Request to Congress: To Review and Set Safe Manning Standards for Mariners Serving on Towing and Offshore Supply Vessels. [By Glenn L. Pigott, Capt. Roland Rodney, Richard A. Block] 18p. \$4.60.
- R-311-A, Sept. 18, 2007. Assigning Responsibility for Sending an Unseaworthy Vessel to Sea. 4p. \$1.80.
- R-315-C. Mar. 10, 2005. Mariner Drug Cases. 29p. \$6.80.
- R-340. Rev.9. Feb. 20, 2008. NMA Report to Congress: Safety Problems With Oversize and Overloaded Tows. 37p. \$7.40.
- R-341. Rev.3. Jun. 30, 2006, Smoking and Merchant Mariner Health & Welfare Issues: A Petition to Congress. 4p. \$1.80.

- R-342. Rev.5. Nov. 9, 2006. License Defense Insurance; Income Protection Insurance and Civil Legal Defense. 8p. \$2.60.
- R-348. Jan 20, 2003. Illegal Seaman Employment Practices. 2p. \$1.40.
- R-349. Jan. 20, 2003. Protecting MarinersøHearing. 8p. \$2.60.
- R-351. Rev.1. Oct. 24, 2006. How Safe Is The Towing Industry? 20p. \$5.00.
- R-352. Mar. 17, 2003. Unfair Labor Practices in the River Industry. 3p. \$1.60.
- R-353. Rev.2. July 3, 2006. Lower-Level Mariners Are a Majority of U.S. Merchant Mariners. 7p. \$2.40.

- R-354, Rev. 3. (Series). Jan. 8, 2008. A Direct Appeal to Congress on Lifesaving Issues Affecting Lower-Level Mariners. 40p. \$9.00.
- R-354-A. (Series) Jan. 8, 2008. Basic Survival: The Regulatory Struggle for øOut-of-Waterø Lifesaving Equipment. [Contains detailed Correspondence with NTSB] 42p. \$9.40.
- R-364. Apr. 3, 2003. Remarks of Captain Roland Rodney to NOSAC
- R-370. (Series) Jun 16, 2003. 12 Hour Rule Violation: The Verret Case. 12p. \$3.40.
- R-370-A, Rev. 2. (Series). May 19, 2007.. Report to Congress: Fifth Anniversary of the Webbers Falls I-40 Fatal Bridge Accident: Unresolved Issues Revisited. 12p. \$3.40.
- R-370-B, Rev.4. (Series). June 1, 2006. Violation of the 12-Hour Rules: The Tug Chinook Strikes & Damages The Lake Washington Bridge. 14p. \$3.80.
- R-370-C Rev. 2. (Series) June 5, 2006. 12 Hour Rule Violations: The Winkler Case. 5p. \$2.00.
- R-370-D. Rev. 5. Sept. 28, 2007. Work-Hour Abuse, Whistleblower Protection and øDeadhead Transportation. 16p. \$4.20.
- R-370-G. (Series) Nov. 21, 2006. Crew Endurance: The Call Watch Cover-up. [Renumbered from #R-375.] 10p. \$3.00.
- R-370-H. (Series) Mar. 14, 2006. 12-Hour Rule Violations: Harbor Tugs and The øOne-Watchø System. 4p. \$1.80.
- R-370-I. (Series) Apr. 19, 2008. Safe Management of Crew Travel Time.
- R-378. Sep. 22, 2003. Hydrogen Sulfide ó A danger to Mariners. 9p. \$2.80.
- R-393. Mar. 11, 2004. USCG Licensing Procedures: An Affront to Lower-Level Mariners. 16p. \$4.20.
- R-395, Rev.2. Nov. 22, 2006. Safe Potable Water and Food Service for Commercial Vessels of Less than 1600 Gross Register Tons: An Appeal to Congress. 9p. \$2.80.
- R-398. Dec. 1, 2005. Crew Van ó Death Van? [By Captain David C. Whitehurst.] 5p. \$2.00.
- R-399. Jun. 14, 2004. Danger on the Illinois Waterway: Towboat Pilot Loses License After He Accepts High Risk Assignment. 10p. \$3.00. [RENUMBER]
- R-400. Aug. 12, 2004. Oversize and Overloaded Tows: Towing Vessel Horsepower. 18p. \$4.60.
- R-401, Rev. 1., Mar. 8, 2005. Crew Endurance and the Towing Vessel Engineer ó A Direct Appeal to Congress. 30p. \$7.00.
- R-401-B. Finally Answered: How Bureaucracy Wrecked the Coast Guard Merchant Marine Licensing and Documentation Computer System. [Information from the National Association of Maritime Educators'1998 FOIA Request. 4p. \$1.80,
- R-401-E. Feb. 12, 2008. Marine Safety: Where the Coast Guard Went Wrong. [Reprint of a report by VADM James C. Card (USCG, Ret'd) titled øCoast Guard Marine Safety Analysis: An Independent Assessment and Suggestions for Improvement dated 16 Nov. 2007 with NMA commentary.] 36p. \$7.20
- R-403. Sept. 19, 2004. Stress and the Licensed Mariner. 20p. \$5.00
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- R-426, Rev. 1. Aug. 27, 2007. Report to Congress: Challenges Facing the Coast Guardø Marine Safety Program ó Effectively Regulating the Towing Industry.ø 14p. \$3.80. [Key Words: Dry Cargo Barges; Construction Barges; OSHA]
- R-428. Rev.1. Oct. 23, 2006. Report to Congress: The Forgotten Mariners. Maritime Education & Training for Entry-Level Deck & Engine Personnel. [By Richard A. Block & Glenn L. Pigott.] 30p. \$7.00.
- R-428-A. Oct. 28, 2006. Maritime Education & Training for Lower-Level Mariners. The Newman 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.] \$21.00.

- R-428-D. Feb. 13, 2007. Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services. 55p. \$12.00.
- R-429, Aug. 29, 2006. GCMA Report to Congress: How Coast Guard Investigations Adversely Affect Lower Level Mariners. 33p. \$7.60.
- R-429-G. Rev. 2. (Series) Feb. 24, 2007.. Report to Congress: Sharpening Accident Investigation Tools By Establishing Logbook Standards for Lower-Level Mariners. (Replaces GCMA Report #R-291, Rev. 1). 11p. \$3.20.
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- R-429-J. (Series) July 4, 2007. Investigations: Report to Congress ó Coast Guard Abuses of the Administrative Law System. 28p. \$6.00
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- R-429-N. July 28, 2008. Report to the 110th Congress: Maritime Towing Accidents Involving Apprentice Mates/Steersmen. 24p. \$5.80.
- R-437. Nov. 28, 2006. Ways To Retain New Crewmembers and Keep Seasoned Crews. [By Capt. David C. Whitehurst] 2p. \$1.40.
- R-440, Rev. 1. Jan. 1, 2008. Employers Abuse Mariners on Health and Medical Issues. (By Mark L. Ross, Esq.). 8p. \$2.60.
- R-441, July 21, 2007, Coast Guard Obstructs Preventive Maintenance ó NTSB. 4p. \$1.80
- R-443. Aug. 13, 2004. Black Listing and the Fair Credit Reporting Act. 8p. \$2.60

- R-445. Sept. 14, 2007. Report to Congress: Coast Guard Failed to Protect Mariners from Asbestos. 9p. \$2.80.
- R-448. Nov. 12, 2007. Assessment Periods ó Harm Retention of Trained and Experienced Mariners: Report to Congress on Lower-Level Merchant Marine Personnel. 10p. \$3.00
- R-449, Rev. 1. July, 16, 2008. OSHA Still Regulates Uninspected Dry Cargo and Work Barge Safety. 9p. \$2.80

ENCLOSURE #2

Mariner #25 – A Paperwork Nightmare

In one case GCMA worked on, a Designated Examiner candidate (öDEö) submitted a letter to the National Maritime Center that their evaluator did not believe adequately described the duties the Master performed on towing vessels that would allow him to make every assessment for a near-coastal apprentice mate.

Instead of asking the mariner to submit a ömore completeö letter, the National Maritime Center sent him a personalized form letter (i.e., a ödesignation letterö) and included in Enclosure (1) a restriction with only the öcommon elementsö marked with an öxö. From this enclosure, the new Designated Examiner was supposed to know that he could only grade these few items out of a much longer list.

Unfortunately, the new Designated Examiner (öDEö) never picked up that important point from his correspondence and the results triggered a nightmare of red tape for the apprentice mate (Mariner #25) that he spent months fully assessing on the job.

Mariner #25's employer, a small towing company in south Louisiana, assigned the öDEö to assess his apprentice mate (Mariner #25) who had worked for him as a deckhand for several years. This was a close and longstanding relationship involving a great deal of mutual respect developed over the years of working together.

Mariner #25, who went to school and passed his apprentice mate exam, had accumulated seven years service on towing vessels and, after a year of instruction in the pilothouse, was fully prepared to take over the watch as a licensed mate.

Unfortunately, when Mariner #25 submitted his TOAR and mate upgrade application to the REC at Portland, Oregon, they held up the approval for over five months.

Part of the problem was that, because Hurricane Katrina flooded REC New Orleans, the application was submitted to REC Portland. After the mariner reached the end of his patience and became completely disgusted with the treatment he received from REC Portland, he asked GCMA to look into the matter.

Soon after entering the case, we found that the öDEö, only was approved by the National Maritime Center to make a partial assessment. The employer, the öDE,ö the Mariner #25 and GCMA were all baffled as we tried to put the pieces together between the öDEö and Mariner #25 who, at the time, were both working in New York on a very

complex and demanding dredging contract.

In a number of long-distance calls with both men, it was obvious that the job they were actually performing was extremely demanding and grueling work. One simple phone call from the National Maritime Center could have cleared up any misgivings that they had over the qualifications of the Designated Examiner. However, the National Maritime Center demanded that the proof be submitted in writing. It was up to the ðDEö to provide a ðbetterö letter than the one the National Maritime Center had already accepted. This new letter was expected to more completely explain the Designated Examiner's previous service on towing vessels and, if accepted by the authorities at the NMC, would then grant him the authority to fully assess his apprentice mate.

After we determined that this was the nature of the problem, the ðDEö called and asked his employer's Human Resources Director in Louisiana to prepare a new sea service letter for him to satisfy the National Maritime Center. The Human Resources Director was baffled as to why this was necessary as his previous letter clearly stated that the ðDEö was ðin commandö of several of the company's tugboats. Wasn't ðbeing in commandö enough ó didn't it mean that you performed every task that was assigned to the vessel? In any event, the company went out of its way to fully cooperate.

Coast Guard Delays Cost Mariner \$18,000

The cost of this simple upgrade to the apprentice mate was roughly \$6,000 for tuition and unpaid time off work to pass the written test to become an ðapprentice mate.ö What really hurt was the fact that he suffered at least an additional \$12,000 in lost wages between his pay as a deckhand and the pay he would have earned as a licensed mate while the Coast Guard screwed around for months with him and his paperwork.

Mariner #25 was not sufficiently conversant with the Coast Guard's Byzantine licensing system to deal with it effectively. He did not know how to handle the situation while his paperwork sat idle in Portland, Oregon and REC clerical employees made light of the situation. The officials at the National Maritime Center were content to sit back and let both the candidate and his Designated Examiner sweat it out. GCMA, who attempted to intervene on behalf of both mariners, was told it had to have their ðwritten permissionö to act in their behalf. This is a common stalling tactic that could not have been designed better to discourage outside support for mariners. It was clear that GCMA was involved since we obviously had worked with the ðDE,ö Mariner #25, and the employer to gather information and try to resolve the problem.

Being victimized by a mistake like this to the tune of \$18,000 is enough to discourage most mariners. The fact that Mariner #25 had called REC Portland on numerous occasions and that the REC considered him a pest and was prepared to counter his complaints with ðphone recordsö showing they always returned phone calls. This failed to impress us with their sincerity and concern for our mariner's dilemma. The simple, unvarnished fact is that REC Portland failed to resolve the problem by providing straight answers and a meaningful solution that Mariner #25 was able to comprehend.

Mariner #25 as well as the ðDE,ö with his many years of documented service on towing vessels, was totally confused by the process. Here were two men trying to do a very tough, demanding job, that were held at the mercy of unyielding martinets under absolutely no pressure to provide meaningful and helpful service to either mariner.

In working on behalf of both the Designated Examiner and the Apprentice Mate, GCMA contacted the employer on several occasions and participated in several dozen-telephone calls.

At last report, Mariner #25 was heading to a new assignment on a towing vessel in the Caribbean as a deckhand. However, before leaving, he informed us that the Coast Guard in Portland told him they would mail his Mate's license to him in a few days. We never did hear from the National Maritime Center as to whether they amended the Designated Examiner's letter to allow him to make all the assessments for other near coastal apprentice mates in the future.

[GCMA Comment: After reviewing all the paperwork in question, we fault an administrative error on the part of the National Maritime Center for sowing the seeds of confusion. In addition, the REC Portland was less than helpful to the apprentice mate.]