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REPORT TO THE 111th CONGRESS: SUBSTANDARD COAST GUARD MERCHANT MARINER PERSONNEL SERVICES

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EXECUTIVE SUMMARY

In 1790 Alexander Hamilton exhorted the newly commissioned revenue marine officers of the United States never to forget that their seafaring countrymen were free men "impatient of government officials with a domineering spirit." He charged them to enforce the law from armed patrol vessels but also to assist ships in distress. He emphasized that sloppy work would result in "clamor, disgust and alarm among merchant mariners." Although paraphrased from an historical document, we quote this from the opening paragraph in an article by RADM James A. Watson, USCG in March/April 2009 Maritime Executive.

We present our report, that reflects the "clamor, disgust and alarm" of our merchant mariners first expressed in our original report dated Feb. 13, 2007 when our Association submitted a detailed report covering this subject to Members of the U.S. Senate and the U.S. House of Representatives. Our original Report #R-428 will remain posted on our internet website at the address above. Please note that our Association changed its corporate name to National Mariners Association to better reflect the more diverse nature of our membership.

Over the intervening two-year period, the Coast Guard's delivery of "credentialing" services to our mariners has changed drastically. Although Congress provided more funds available to rescue the failed program and (hopefully) provide for improved merchant marine personnel services, many of the changes are little more than promises hyped by senior Coast Guard officials. The new edifice housing centralized and expanded facilities in Martinsburg, West Virginia, and the new Commanding Officer of the National Maritime Center, continually make glowing promises and pronouncements of future performance. Unfortunately, many of our mariners have seen few if any improvements but, rather, the imposition of more obstacles to pursuing a career in the merchant marine over the past two years.

In this report that supplements the facts reported in our 2007 report titled "Report to the 110th Congress: Substandard Coast Guard Merchant Mariner Personnel Services" we document the continuing failure of the National Maritime Center (NMC) to improve credentialing services for a great many of our "lower-level" mariners especially in areas where crew shortages prevail. While the **Executive Summary** in our original report remains virtually unchanged, the two-year interval between the two reports witnessed an almost complete change of staff at the National Maritime Center as well as new policies.

In light of the continuing and expanding problems with Coast Guard "credentialing" impact on our "lower-level" mariners covered in the body of the report followed by a number of individual examples that were brought to our

attention, we recommend that the U.S. Government provide one or more ***Ombudsmen*** with credentials in Social Work, mariner training, and holding a credential with service as a lower-level mariner and with a complete understanding of credentialing as it applies to lower-level mariners to assist mariners in preparing arguments for reconsideration of decisions made by Regional Exam Centers, the National Maritime Center, and appeals to such reconsiderations that now must be carried forward to Headquarters (CG-5434) in accordance with 46 CFR §1.03-40.

Furthermore, we assert that these Ombudsmen, with adequate justification provided on the written record included in the mariner's file, should have the authority to overrule Coast Guard decisions they believe are ***arbitrary, capricious, or that clearly do not serve to "facilitate commerce," or retain qualified or experienced mariners in the merchant marine.*** Such authority should extend to policies, guidelines, or regulations that adversely affect any lower-level mariner whose credential allows him or her to serve on ***any domestic route*** including Great Lakes, Inland, Near Coastal, Rivers, or Western Rivers. In this regard, we include in our meaning of lower-level any officer credential level through 1,600 Gross Register Tons (GRT) and seek to expand our definition of lower-level to include ***all*** (unlicensed) ratings. We believe these steps are necessary to return the concept of fairness to the credentialing process and to make best possible use of all the human resources available to the marine industry.

OUR ASSOCIATION'S ROLE IN ASSISTING MARINERS WITH CREDENTIALING PROBLEMS

Since our Association was founded in 1999, we worked with individual lower-level mariners to correct individual credentialing problems. Some of the problems we try to solve are those that schools and employers were unable or unwilling to deal with either for lack of information or for fear of rocking the boat and perceived retribution from the Coast Guard. Lower-level mariners, numbering approximately 126,000, represent a ***majority*** of all credentialed mariners.⁽¹⁾ All of our work done on behalf of mariners is done free of charge. Most of it is quite time consuming and involves counseling, documenting the nature and history of the credentialing problem, and seeking a workable resolution on behalf of the mariner. [⁽¹⁾ Refer to our Report #R-353. Rev.2. *Lower-Level Mariners Are a Majority of U.S. Merchant Mariners.* 7p]

In recent years, ***credentialing issues have become extremely complex*** as a result of:

- The introduction of the Standards of Training, Certification, and Watchkeeping (STCW) from 2000 to 2002 was undertaken with inadequate preparation for our lower-level mariners. Although STCW is a complex international program with verbiage many of our mariners find difficult to comprehend, parts of this incomprehensible program continue to intrude upon our mariners operating on domestic routes.
- At the same time, the introduction of an entirely new towing officer license regime (2001-2006) affecting approximately 15,000 lower-level licensed mariners was poorly executed by Headquarters and inadequately trained clerical-level personnel at some Regional Exam Centers (REC) leaving problems that we still encounter today.
- The frenzied focus on criminal records review following the attacks of Sept. 11, 2001 needlessly harassed many mariners with draconian edicts and exposed the fact that the Coast Guard had poorly maintained its mariner records in the past.
- The chaos resulting from the loss of mariner records in Hurricane Katrina (2005-2007) presents problems that surface today.
- The flooding of the New Orleans Regional Exam Center was the result of a political decision to move the REC from a centrally located, multi-storey office building to a storefront in a flood-prone suburban mall.
- The consolidation of personnel from all 17 Regional Exam Centers in West Virginia (2008-2009) resulted in the loss of personnel who had gained valuable experience through their daily exposure to our mariners' personnel issues.
- The requirement for all merchant mariners to hold Transportation Worker Identity Credentials (TWIC) places a burden on every mariner to deal with two rather than one Federal bureaucracies. In a new regulation (46 CFR §10.235(g)) effective April 15, 2009, the Coast Guard now refuses to review or even assist with decisions made by the Transportation Security Administration that affect our mariners.
- There are serious questions about the greater value of a TWIC card when used as a flash pass and the need to duplicate existing flash passes such as Z-cards that the Coast Guard made secure after 9/11 by requiring mariners to produce their identity documents for a second time with an in-person visit to a Regional Exam Center often at significant individual expense and inconvenience. The vast majority of our mariners see no need to spend \$132.50 for a TWIC that will be used as a flash pass.
- The forced introduction of a new Medical NVIC against the wishes of mariners, businesses, and even against many voices in Federal advisory committees, threatens older and more experienced mariners with expensive and unnecessary medical testing. It also introduces stress and fear of job forfeiture, joblessness, and loss of their position in society as a result of a well-controlled or non-disabling medical condition. The ruthless pursuit of our

mariners by the medical review staff at the National Maritime Center has brought only resentment and condemnation by our mariners. In effect, the policies enforced by the National Maritime Center with the goal of greater efficiency have literally *poisoned the well* that provides most of our nation's lower-level mariners.

- The introduction of entirely new *credentialed* terminology in April 2009 still remains to be explained to 210,000 existing merchant mariners as well as all new entrants.

[NMC Comment: While the Coast Guard continually points with pride to all it *believes* it has "accomplished," this whirlwind of change has left many of our mariners totally confused and out in the dark.]

CHANGES AT THE NATIONAL MARITIME CENTER AND THEIR EFFECT ON OUR MARINERS

While the National Maritime Center was located in Arlington, VA, it was under the command of Captain Ernie Fink. Whenever our Association contacted Captain Fink about mariner problems, he or a member of his staff would provide a thoroughly researched and definitive solution to our problem or question within several days regardless of the degree of difficulty. While we may not have agreed with every answer, Captain Fink always made a commendable, credible, and timely effort to work out an answer within the regulations. He was one of very few outstanding officers to rotate through that position since it was established in 1995 and stayed there long enough to make a difference.

A distinct change came after the promotion of Captain David Stalfort to the position of Commanding Officer of the National Maritime Center. We continued to work with mariners, document their cases, listen to their problems, and then transmit our written requests to the National Maritime Center on behalf of the mariners who sought our assistance. We continued to use the same methods that we used in the in the past to deal with individual mariner problems. However, out of many letters addressed to Captain Stalfort as Commanding Officer of the National Maritime Center *we received only one written reply*. Consequently, we are left with many incomplete records based on dozens of mariners who called on us for assistance. It has become obvious that Captain Stalfort, as Commanding Officer, has no intention to respond to our correspondence. As part of this report we submitted a number of unanswered letters to the professional staff of the House Coast Guard and Maritime Transportation Subcommittee illustrating the problems we were called upon to address with individual mariners and the indifference shown by the National Maritime Center to the plight of our individual mariners. Nor does it appear that Captain Stalfort directs any of his subordinates to respond to or copy our Association's requests although we obtain signatures from our mariners authorizing us to act on their behalf.

We note, unhappily, that Captain Stalfort's conduct correlates with the arrogant and condescending attitude senior Coast Guard officers continue to display toward the thousands of lower-level merchant mariners they superintend and whose interests we represent. We have seen this attitude displayed before in many instances and have reported on it. Nevertheless, when the credentialing arm of the Coast Guard's *Marine Safety* directorate treats our merchant mariners in this manner, we believe it deserves attention from Congress. The continued exhibition of this discrimination and bias toward our mariners will seriously *diminish industry efforts to retain their existing experienced mariners and imperil future efforts to recruit new mariners* into the marine industry.

[NMC Comment: We respectfully ask Congress to direct the Coast Guard to replace Coast Guard officers involved with credentialing with a knowledgeable civilian supervisors and employ civilians who previously passed through the merchant marine credentialing process with "service at sea" wherever possible. Specifically seek individuals who served with "lower-level" mariners and are familiar with the credentialing process.]

THE COAST GUARD'S POLICY OF "HIRING PEOPLE OFF THE STREETS" TO HANDLE MERCHANT MARINE PERSONNEL ISSUES

For years, our mariners stood by helplessly and watched the Coast Guard hire people off the streets, many with no maritime background at all, to staff the nation's 17 Regional Exam Centers (REC). During this period, the licensing process became extremely complicated. The results of Coast Guard mismanagement filled the 55 pages of our 2007 report to Congress cited above. We believe that the ground swell from this chorus of dissatisfaction was the impetus that led to the re-establishment of the National Maritime Center in the hills of West Virginia remote from Coast Guard Headquarters and distant from the nation's major seaports.

The Coast Guard made the same mistake of hiring people with no nautical background again and again ó with

the same predictable results. Now we learn that "civilian contractor personnel" fill many personnel slots at the new National Maritime Center in Martinsburg, West Virginia. This is not the first time that the Coast Guard pushed its major merchant marine personnel processing into the hinterland with the hope that its remoteness will silence our mariners and no longer disrupt the Homeland Security-based missions that the Coast Guard prizes far more than its superintendence of domestic merchant mariners. However, while the new staff may have been trained how to use checklists to handle their personnel functions, they do not appear to have been trained sufficiently well to understand the history of many of the problems our mariners encounter in dealing with the bureaucracy and that we try to explain and document.

While the Coast Guard may understand domestic and international regulations, in many cases, they lack experience with our lower-level mariners and the demands of the work they perform. This leads to judgments about our mariners that are often far too rigid, unyielding, and draconian in dealing with our mariners.

Most mariners do their best to understand and comply with regulations, guidelines, and policies. In short, **while the Commanding Officer of the National Maritime Center has waged a public relations campaign to impress Congress and management, he has failed to "facilitate commerce" by not taking care of business, by trying to do too much too quickly, and by allowing his staff to become increasingly rigid in denying reasonable accommodation to many of our mariners** who have made their best effort to comply in light of the resources available to them.

The cost of maritime training has increased far more than the cost of living in the last 14 years since the NMC was established, and many of our mariners do not have either the money or many of the basic academic skills to meet every new requirement. **We do not believe that the National Maritime Center has ever taken the first step to bring a solution to this problem to the attention of Congress. If the NMC simply sits back and turns away well qualified mariners for petty reasons, these experienced individuals will be driven out of the marine industry.** Unfortunately, there appears to be no penalty leveled at the NMC for mishandling our mariners with reasonable qualifications. On the contrary, it appears to receive more government funding to commit more blunders and pat itself on the back.

We note the previous attempt to operate merchant marine personnel services from the Coast Guard Institute in Oklahoma City was transferred back to the Washington, DC area in the mid-1990s resulting in the same type of **losses in trained and experienced personnel**. At each move, it has been our mariners that suffer through disruptions in the existing low quality of service and promises of something better. In reading the National Maritime Center's voluminous **propaganda**, we are by no means convinced that everything is running smoothly. Our Association clearly disagrees with any such assessment as do many of our mariners.

We are certain that both Congress and our mariners expected much better than they now receive from the National Maritime Center as a result of the funds expended on centralizing merchant marine functions in West Virginia and reducing the local REC functions to accepting and reviewing applications for Coast Guard credentials and endorsements. For example, in Florida, mariners are told to expect to **wait up to 16 weeks** for an original license application to be processed or to renew a license! In March 2009, major maritime unions verified that the **average waiting period for all credentials was 89 days**. After two years and millions of dollars spent, we find little to document improved service to the average lower-level mariner while the Coast Guard continues to crank out glowing promises for the future.

THE COAST GUARD'S "MARINE SAFETY" MISSION AND MERCHANT MARINE PERSONNEL

Dealing with merchant marine personnel has been a permanent part of the Coast Guard's marine safety mission since 1946. It is a mission they have not always done well as evidenced by strong opposition to Coast Guard control of the merchant marine from Congressional hearings in 1946 to those held just last year. It is clear that the Coast Guard's entire "Marine Safety" function (**including credentialing our lower-level mariners**) has fallen through the cracks.⁽¹⁾ At least part of the problem is the Coast Guard's hiring practices that staff their merchant marine personnel offices that are far from transparent. We believe the Coast Guard marginalizes our merchant mariners who have spent their careers going to sea or at jobs on the inland waters. In his **Annual Review of the United States Coast Guard's Mission Performance (FY-07)**⁽¹⁾, the Department of Homeland Security's Inspector General found the Coast Guard's Marine Safety Mission failed to meet its FY-2006 or 2007 performance goals.⁽²⁾ We suggest the performance goals be expanded to include a review of the Coast Guard's performance in effectively superintending the U.S. Merchant Marine including our 126,000 lower-level mariners. [⁽¹⁾ Refer to Admiral James Card's report reprinted with comments as Report #R-401-E ⁽²⁾Report #OIG-09-13, p. 19]

The Medical NVIC Controversy

The Coast Guard, through the National Maritime Center, pushed the contents of tough new medical guidelines through several Federal advisory committees, notably TSAC and MERPAC. These medical guidelines contained in Navigation and Vessel Inspection Circular (NVIC) #04-08 are not regulations but are enforced as such upon every credentialed merchant mariner. Our Association first objected to the imposition of these new "guidelines" in our 2007 report. Our mariners recently contributed their thoughts to our Report #R-440-B, Abuses of the Medical NVIC: An Assault on Our Mariners that are posted on our internet website and concentrate on one portion of these guidelines.

Before 1980, the Coast Guard required our mariners to take their physical exams at Public Health Service Hospitals at government expense. After considerable effort, merchant mariners convinced the Coast Guard to allow private physicians to replace overworked public health service facilities and perform required physical exams. While the Coast Guard retained the authority to review physical exams, the new comprehensive review procedures based on NVIC #04-08 result in unnecessary medical testing, added expense to our mariners, unreasonably delay the application and renewal process, and increasingly threaten our mariners' careers.

While the Coast Guard appears to show a newfound concern over the future health of our mariners, we doubt that it is genuine. Senior Coast Guard officials totally ignored the concerns that our Association previously presented as **national mariner issues** that impact our mariner health and need immediate attention. Specifically:

Our ten reports⁽¹⁾ dealing with widespread work hour abuses that adversely impact our mariners' long term health and welfare. Maritime trade associations such as the American Waterways Operators (AWO) and the Offshore Marine Service Association (OMSA) so dominate the Coast Guard hierarchy that they completely stifle all work-hour issues. [⁽¹⁾ Refer to our entire #R-370 Report series available on our website under "Research Reports."]

Our Report #R-395, Rev.2. Nov. 22, 2006. Safe Potable Water and Food Service for Commercial Vessels of Less than 1,600 Gross Register Tons: An Appeal to Congress. On Sept. 9, 2004, Congress ordered the Coast Guard to promulgate safe potable water regulations. The Coast Guard has not even prepared a Notice of Proposed Rulemaking 4½ years later!

Our Report #R-341, Rev.3. June 30, 2006, Smoking and Merchant Mariner Health & Welfare Issues: A Petition to Congress. The Coast Guard bans indoor smoking on their vessels and facilities but won't raise a finger to protect our mariners!

Our Report #R-341-A. Jun. 29, 2006. The Health Consequences of Involuntary Exposure to Tobacco Smoke. Executive Summary of 2006 Surgeon General's Report.

- Our Report #R-349, Jan. 20, 2003. Protecting Mariners' Hearing. The International Maritime Organization first dealt with this subject in the early 1980s. OSHA regulations date back to the same period. All the Coast Guard has done is create a NVIC, a virtual knock-off of OSHA regulations. Unlike regulations the NVIC contains unenforceable guidelines! Our mariners deserve enforceable noise control regulations in their workplaces afloat.

Our Report #R-445. Sept. 14, 2007. Report to Congress: Coast Guard Failed to Protect Mariners from Asbestos. While OSHA has had regulations in effect since the 1980s, all the Coast Guard provides are unenforceable guidelines (NVIC) our mariners see ignored by Coast Guard inspectors and employers alike!

Our Report #R-350. Rev. 4, Jan. 1, 2009. Mariners Seek Legislative Assistance from Congress on Marine Safety, Health, and Work-Related Problems.

[NMA Comment: New entry-level mariners can no longer count on pursuing a "career" in the marine industry because their chances of reaching retirement age in this industry have become increasingly remote. We cannot, in good conscience, encourage mariners to enter this industry until the health and safety issues we brought to the attention of Congress are dealt with effectively and the current "medical purges" undertaken by the National Maritime Center come to an end.]

[NMA Comment: The new "Medical NVIC" discriminates against older, less physically-fit mariners at a time when acute shortages of experienced personnel are reported in sectors of the marine industry. Older mariners have gained "experience," a valuable safety attribute in increasingly short supply in the marine industry. Employers should "cut some slack" for older employees. Older mariners should be encouraged to continue in jobs they can still perform competently.]

[NMA Comment: New NMC medical policies such as using Body Mass Index (BMI) were designed to detect possible future health problems NOT to evaluate performance. We protest the unrestricted use of BMI to deny a mariner his/her "credentials" and thereby threaten the mariner's ability to earn a living.]

[NMA Comment: In terms of filing Social Security claims, there is no connection between failing a physical exam and thereby forfeiting your "credentials" and "disability." Many mariners fear the obvious connection

between losing your “credentials” and poverty, joblessness, homelessness, and the need to turn to the government for financial assistance.]

[NMA Comment: Cramming the Medical NVIC down the throat of Federal Advisory Committees (and, subsequently our mariners) is not the equivalent of Federal Rulemaking Procedure. It is a bad precedent. Enforcing “guidelines” as if they were regulations allows the Coast Guard to impede commerce by unfairly and unnecessarily reducing the availability of qualified, trained, and seasoned mariners.]

Much of the backlog with licensing in the winter of 2008-09 occurred with medical evaluations. The Mar. 16, 2009 issue of The Waterways Journal (p.21) reported as follows:

“Because 16 percent of delays in credentials are related to medical conditions, (Captain) Stalfort surged the Coast Guard’s system of medical evaluators upward from the original single staff doctor and three or four support part-timers. By fall of 2009, the center will have 15 full-time staff doctors doing medical evaluations, he said. His eventual goal is to have 30 medical staff doing evaluations.

[NMA Comment: Originally, as pointed out by Captain Arthur French (MD), the NMC medical review staff was supposed to number 7. Not all were supposed to be “full time staff doctors.” This is one sign of poor planning that at least one maritime labor union predicted long before the NMC moved to West Virginia.]

“Medical evaluations used to average 44 days; they now average 17 days. Stalfort said his goal is to get them down to two days.

“Stalfort revealed that the Coast Guard had to threaten to cancel the contract of the provider of medical evaluations, a company that originally provided physicians to the Coast Guard, to get acceptable results. That contractor wasn’t used to providing employee doctors,” he said. The company “did a 180” after the threat,” he said.

[NMC Comment: We question whether the Doctors and medical practitioners currently employed by the National Maritime Center in West Virginia have any first-hand knowledge of working conditions faced by our lower-level mariners.]

The Credentials Controversy

On Mar. 10, 2009, the Coast Guard published its final rule on Consolidation of Merchant Mariner Qualification Credentials. As a military organization, the Coast Guard never paid much attention to our merchant mariners. All of a sudden, 210,000 merchant mariners will have to adjust to the fact that they no longer possess traditional “licenses” and “merchant mariner documents” (aka z-cards). These traditional terms were usurped on April 15, 2009 by the instant new terminology of “credentials” and “endorsements.”

It does not appear that the rulemaking paid any attention to the task of rewriting all of the publications and guidance in print that refer to “licenses” and “merchant mariner documents” or “certificates of registry” and the fact that every mariner is expected to assimilate this information by April 15, 2009! If the Coast Guard really believes they can change the entire marine industry with a snap of their fingers, they should consider how long it took to resolve the many problems occasioned by changing the towing vessel licensing regulations in starting in 2001 and ranging over the following five years. Or, if that wasn’t enough, by piling the new credentialing terminology on top of the nightmare of introducing STCW 1995 amendments to our lower-level mariners, most of whom never even heard about the STCW “amendments” until four years after they were adopted.

The Coast Guard hierarchy lives in an ivory tower and is out of touch with the rank-and-file of the merchant mariners it regulates. It has tried to do too much too quickly. Its advocates proclaim success prematurely to aggrandize their own image and their brief moment on the stage before they retire. Credentialing services deserve a long-term commitment not a quick military style series of job rotations.

April 15, 2009 was another big day for mariners. On that day, merchant mariner credentials (e.g., licenses and z-cards) cannot be used unless mariners also have a Transportation Workers Identification Credential or “TWIC” card from the Transportation Security Administration (TSA). Mariners’ jobs now depend upon two government agencies and not just one and the Coast Guard will not review decisions of the TSA that adversely affect our mariners. By now, our mariners understand they cannot count on assistance from the Coast Guard so this is nothing new. We expect that potential mariners, upon learning that they must jump through the hoops of two separate and independent bureaucracies, would be well advised to consider a different line of work.

Constant change means constant turbulence and confusion for not only our mariners but for the entire marine industry. It is not as if the marine industry needs more instability than that caused by the Coast Guard’s annual

game of “Musical Chairs” by which they constantly rotate their own personnel throughout the industry. While it may be satisfactory for a military organization to train for a variety of different jobs, the “Marine Safety” function needs the stability of dealing with the same personnel on a long-term basis. Our mariners, as well as the marine industry, needs relief from instability brought on by these regulators who try to run the merchant marine on the same principles as a military organization. We believe the principles put forth by the House of Representatives last year in HR-2830 speak to this issue.

Constant Coast Guard Turnover Guarantees Instability

The Coast Guard, while constantly moving its merchant marine personnel branch from place to place, lost most of its institutional memory that credentialed mariners count upon in the process. Without any institutional memory, the Coast Guard is in a constant turmoil and unable to conduct business with our mariners as well as the rest of the industry in a consistent, businesslike manner. The “examples” that appear later in this report should be adequate testimony to this point.

Certainly, our “disappearing” workforce, so long taken for granted, cannot be good for the maritime industry. With the Coast Guard, it’s always a new world with new faces, new policies, and new “experts” popping up trying out new ideas to plow forward in a new direction and change the system without consulting its “customers” (e.g., our mariners). Our mariners have been the guinea pigs in this flawed “experiment” for the last 35+ years. As an educator, I have watched the Coast Guard plug in one “Four-Stripe Captain” after another – most without any professional teaching credentials but all of them “experts” because they attained the rank of Captain in the Coast Guard and sat through many classes in their career. Few adapted to running the National Maritime Center well.

Since our lower-level mariners make up 126,000 of the nation’s 210,000 credentialed mariners, it is very rare to see any Coast Guard officers or civilian employees with comparable experience ever placed in charge of the system. We have endured their lack of experience and the game of “musical chairs” they play with our mariners for decades. It is long past time to remove career Coast Guard officers from administration of merchant marine credentialing before the system further collapses of its own weight and arrogant assertions.

It is impossible to keep up with constant changes the National Maritime Center announces over the internet. Not only with merchant marine personnel but throughout the Coast Guard, the constant game of musical chairs brings a sense of instability that our mariners as well as their employers can no longer tolerate. The needs and procedures it takes to run a military organization no longer fit. While Admiral Card pointed this out in his 2008 report⁽¹⁾ the conclusion he reached that the Coast Guard can fix anything and everything were reached without bothering to consult with our mariners. This conclusion is not acceptable! The Coast Guard, as a military organization must no longer be allowed to harass, intimidate, and browbeat our mariners. We no longer see the merchant marine as Admiral Allen’s sandbox to play in. ⁽¹⁾Refer to our Report #R-401-E.]

MISMANAGING “100-TON” RESTRICTIONS ON TOWING OFFICER LICENSES

[Reference: Our File GCM-174]

Background of the “100-ton” Towing Endorsement

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, was readily available at maritime training schools at a reasonable price. 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⁽¹⁾, 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. One-hundred tons 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. ⁽¹⁾ *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 Hardin) 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 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 officers with higher licenses, the simple expedient was to build these coastwise vessels to admeasure under the 200-ton threshold. Exceptions included a few converted ex-Navy tugs 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 operators (i.e., OUTV). The operator 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 was no outstanding distinctions in the actual size of 100 and 200-ton vessels.

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⁽¹⁾. Although the path to raise a 100-ton to a 200-ton license was unclear, somewhat complicated, and involved 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 full 500/1,600-ton license. ⁽¹⁾ *Refer to NMA Report #R-417-A, Rev. 1, item #26A.*

Unfortunately, the Coast Guard failed to consider that the degree of difficulty of the step from 100-ton to a 500/1600-ton license would bring significant educational challenges for lower-level mariners. This increased 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 "lower-level" mariners' academic preparation ranges from the 9-12th grade High School and seldom reaches the college level. This clearly discriminates against many of our mariners who seek advancement in the industry.

I do not want to give the false impression that our lower-level mariners are illiterate or uneducated although many have huge gaps in their formal education. In my 38 years of dealing with our lower-level mariners, I have

found the opposite to be true. These mariners come from diverse backgrounds, economic circumstances, and family and social heritage that may not have led them to apply to a post-secondary academic facility such as a maritime academy. Nor have many of the mariners I have dealt been accepted for military service. Most of our mariners have finished with school and entered the world of work with varying degrees of success.

At this point in life, few if any, are interested in obtaining a college degree although the same cannot be said about advancing in their chosen line of work. This, in no way, means that these mariners are incapable of accepting and succeeding in further education or training endeavors and should be encouraged to do so. However, it does mean that such training must be offered in such a way that it fits in with their work schedule and not interrupt their paycheck that in most cases involves supporting a family or with other family social obligations. Unfortunately, in the areas of the maritime industry in which our lower-level mariners work, work hours can be so demanding that they require appropriate time off to relax, recover, and take care of family obligations. Work-hours also can be erratic and often do not correlate with scheduled courses unless closely coordinated with their employer's needs.

Our mariners are willing to meet credentialing requirements within their capabilities. **However, the problem lies in the stone wall they meet in dealing with the bureaucracy that is incapable of accepting "reasonable alternatives" that would achieve the same results within their limitations and capabilities.** It is the administration of the credentialing system that insists on absolute perfection of perfect health, no criminal record, no bad habits that becomes overwhelming at times. Our mariners may not be perfect people. Nor does History paint merchant seamen as perfect although in many ways improved over time. Above all, the unconscionable delays occasioned by the malfunctioning credentialing system that has been handled so ineffectively by the Coast Guard over the years, delays vital paychecks, disrupts families, and destroy the best of plans.

Most Coast Guard officials involved with mariner licensing failed to give educational achievement 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⁽¹⁾ and made baseless academic assumptions rather than conducting studies that ignored the educational attainment status of the lower-level 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 for a Mate of towing vessels that can exceed \$78,000.⁽²⁾ However, we acknowledge that the 500/1600-ton licenses will be required for international service. [⁽¹⁾ Refer to NMA Report # R-428-A. Maritime Education & 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 ⁽²⁾Proceedings, Fall 2008, p. 43.]

Results and Recommendations

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:

- 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. That provides flexibility within the marine industry.
- 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 in domestic service. 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 commensurate with their experience.
- **Additional testing should not be necessary,** but if it is, it should be strictly limited to added knowledge requirements if any.

[NMA Recommendation to Congress: This issue was contained in two petitions to the Coast Guard⁽¹⁾ denied

April 6, 2009. We assert that this denial represents the Coast Guard's unwillingness to accommodate mariners who have proven their ability to operate towing vessels over a period of many years. We contend that the denial, representing final agency action, is both unfair and discriminatory. We seek a suitable legislative remedy.] [⁽¹⁾ Refer to Docket #USCG-2006-26202]

**UNREASONABLE ACADEMIC DEMANDS PUT THE 500/1,600 TON LICENSES
OUT OF REACH OF MANY LOWER-LEVEL MARINERS IN DOMESTIC SERVICE**

[**Mariner #138**] after recovering from a serious land vehicle accident, sought to regain his 1,600-ton Master's license following its expiration. The Coast Guard, after declining to accept the severity and recovery from disability caused by his accident for failure to renew his license for "continuity" (whose provisions he was unaware of), offered to reinstate his license but only after he re-tested on the entire 1,600-ton license exam.

In seeking our assistance he stated that when he saw some of the new exam questions, he believed that certain questions he was given simply did not belong on a **near-coastal** exam. Some of the questions he received involved Celestial Navigation. Celestial Navigation, heretofore, was a requirement for Oceans but not Near Coastal routes. We assert that inclusion of these questions on any 500/1,600 gross ton near coastal exam should **not** be required because:

STCW Chapter II, Section A-II/1, under "Standard of Competence" "Near Coastal Voyages" ¶7 states: "The following subjects may be omitted from those listed in Column 2 of table A-II/1 for issue of restricted certificates on near-coastal voyages, bearing in mind the safety of all ships which may be operating in the same waters.

- .1. Celestial navigation, and
- .2. Those electronic systems of position fixing and navigation that do not cover the waters for which the certificate is to be valid.

STCW Table A-II/1, Column 2 (on its very first page) defines Celestial Navigation as "Ability to use celestial bodies to determine the ship's position."

The 215XX Module Mariner #138 received in the Coast Guard's exam room required him to use celestial bodies (specifically, the Sun) to determine his position at sea in a 10-question test module with a score of 90% required. In fact, there were several questions of that type as well as questions requiring the use of the Almanac to determine time of sunrise and sunset. He, and other mariners, never served aboard any coastwise towing vessel that was required to carry an Almanac, and no Almanac is required by 33 CFR §164.72 as a publication required to be carried on board a towing vessel. Nor is a bearing circle, sextant, or other angular measuring equipment required to be carried on board these vessels to take bearings with.

The Code of Federal Regulations at 46 CFR Table 11.910-2, under column 3 that defines the topics covered in a license exam for Master, Oceans/Near Coastal, 500/1,600 gross tons shows a number "**I**" next to the sub-topic Azimuth (Sun Only) and Amplitude (Sun Only) and Deviation Table Construction. This reference number "**I**" found at the end of the table, states "For Ocean Routes" only. This mariner was **not** sitting for an "Ocean" route on his license (i.e., as a "restricted certificate").

In the Deck Guide for Administration of Merchant Marine Deck Examinations (Deck Guide), April 2007, we note that Module 215XX that the mariner took is titled "Navigation Problems - Near Coastal." If it contains questions requiring an "Ability to use celestial bodies to determine the ship's position" the title is misleading because it does require certain celestial skills that can only be gained by taking a full Celestial Navigation Course. Such a course adds needless expense to a mariner of at least three full weeks in school and several thousand dollars. As a result, the mariner failed his exam and was put in dire financial straits as reported in detail to the National Maritime Center.

PROBLEMS ENCOUNTERED BY INDIVIDUAL MARINERS (EXAMPLES)

As in our 2007 reports, we cite a number of individual cases. We maintain the anonymity of individual mariners to respect their privacy. Wherever possible, we verify our summarized version of their case with the mariner to avoid inaccuracies. In some cases, as a result of never receiving word of outcomes from either the National Maritime Center or the mariner, we present the story to the best of our ability. Because of the lack of information from the NMC, some cases may still be in progress.

MARINER #61

Our Association observed that many of the "selling points" Coast Guard officers made at Advisory Committee meetings were not practiced at the National Maritime Center in dealing with our mariners. For example, in the Spring of 2006, I attended a two-day meeting of the Merchant Marine Personnel Advisory Committee (MERPAC) at Coast Guard Headquarters where the main topic for discussion was the new draft "Medical NVIC" (later NVIC 04-08) and the reorganization of the medical section at the National Maritime Center that was proceeding at the time.

I recall that the "reorganization" aimed at installing an expanded medical evaluation section at the National Maritime Center headed by two fully credentialed doctors as part of a total staff of seven persons. I also understood one of the "selling points" made by Coast Guard Captain Arthur French, M.D., was that the NMC's doctor and the mariner's doctor would speak directly with each other to resolve medical problems to keep mariners from becoming involved in trying to relay technical medical information (that he/she probably did not understand) back and forth. This was supposed to help eliminate misunderstandings that resulted from continuing use of our mariners as "middle men" between medical professionals.

Mariner #61 filed a license renewal application on Sept. 15, 2008 and received a denial on Feb. 7, 2008 almost 5 months later - typical of the poor quality service our mariners receive from the NMC. **Mariner #61** operates an oilfield liftboat, one of the most stressful and challenging jobs in the maritime industry. The job is stressful enough without the National Maritime Center in their ignorance of the workboat industry to administratively add needless anxiety, frustration, and anger to the situation. If this example represents the best service that the Coast Guard's medical staff can provide, it certainly does not serve the employer mariner, the marine employer, or maritime safety. Our experience with centralized control of our lower-level mariners' health issues from West Virginia causes many mariners to leave the marine industry.

The following excerpt from the letter of denial signed by J.W. Crouse for T.M. Bassett, Chief, Marine Services Division, is pertinent: "The Coast Guard has denied your application for the following medical condition - Use of benzodiazepine for anxiety. This medication is not compatible with safe maritime operations and is restricted for use by those acting under the authority of the credential. You do not meet the medical standards for the merchant marine credential that you have applied for. Your medical records have been reviewed and your condition is determined to be a safety risk to maritime transportation. You may request a reconsideration of this decision. If your request for consideration is denied, you may then file a formal appeal."

This letter appeared to cause rather than eliminate misunderstanding and was incomprehensible to the addressee who is an experienced, hard-working mariner, and is by no means ignorant or illiterate. Subsequently, after trying to resolve the problem over the phone, he asked our Association for assistance in responding.

On Feb. 15, 2008 we filed a detailed "Request for Reconsideration" on his behalf with Captain David Stalfort, Commanding Officer of the National Maritime Center - one of the letters for which we never received the courtesy of a response.

Mariner #61 had been prescribed Xanax (benzodiazepine) by his licensed physician for the past 10 years. The Coast Guard previously had never questioned this. The blunt statement that "Xanax is incompatible with safe maritime operations" after the Coast Guard was fully cognizant that he had used it since his last license renewal and the instruction to "submit statement from treating DR that mariner isn't using a narcotic while acting under a credential" is nothing more than dictating to the treating physician that he cannot prescribe this medication. A D.R. Chatman who is a "Merchant Marine Evaluation Specialist" signed all of this. Chatman doesn't claim to be a Doctor and probably isn't! However, the phrase "by direction" indicates that he/she was told by a superior to send this letter.

Mariner #61 retained a Cardiologist (in addition to his family doctor) who attempted to resolve the problem by making several calls to the National Maritime Center but the calls apparently were never returned. This was the point at which a very frustrated mariner notified our Association of his problem.

Mariner #61 reported having a telephone conversation with a person described as "his evaluator," a Gina Staubs at the National Maritime Center. She told him that he would never get his license renewed as long as he continued to take Xanax. Apparently "Gina" later spoke with the mariner's Cardiologist who then, on Dec. 28, 2007, wrote to the NMC stating the following in pertinent part:

"He has been clinically improved on that Xanax. It has not affected his mentation and has not affected his job performance as far as I am aware. Now, with absolutely no medical indication, it is determined by an arbitrary rule from the Coast Guard that he be withdrawn from his Xanax in order to re-certify as a merchant mariner. No MD has examined him and demonstrated that his job performance has been adversely affected. Captain XXX feels he is being singled out for no obvious reason, and I agree with him. I spoke with his family physician, Dr. XXX, about this matter. He believes it is very unlikely that we could withdraw Xanax safely and doing so may actually increase (his) likelihood of having a heart attack. We respectfully ask you to reconsider and allow this man to

continue the prescription drugs we have him on, and recertify him.ö

Having an evaluator tell a mariner that he would have to give up the treatment his doctor outlined for him a number of years ago was a **direct threat to his livelihood** and to his family. In other words he was told bluntly that, öif you want your license, get off the drugö ó presumably in spite of what your doctor tells you.

Mariner #61 also was told to visit a Psychiatrist to öaddress any disturbances of thought, recurrent episodes, meds taken and side effectsö even though the mariner asserted that did not have any of these problems. Nevertheless, he told me that one of his doctors would assist him to find a Psychiatrist and, hopefully, would provide some professional some clue as to what is happening. **The Psychiatrist now joined with his family doctor and his cardiologist in unanimous recommendation that the mariner's license be renewed.**

Although **Mariner #61** wanted to appeal, and in fact our Association prepared an appeal on his behalf, **we were told that the mariner would have to prepare his own appeal.** He subsequently provided this information as part of his appeal:

öToday, I received a phone call from a Barbara Campbell at the National Maritime Center that stated that the Coast Guard would not renew my license as long as I was taking Xanax, a prescription drug prescribed by my Doctor. She also called the office of my Cardiologistí and spoke with one of his nurses.

öI cannot understand why the Coast Guard seeks to deprive me of my license for a medical condition that was waived on my current license. **My license is my livelihood for our family** .

öMs. Campbell cited several accidents, one of them a local accident at the Louisa Bridge, to explain the Coast Guard's actions. I pointed out to her that the mariner involved in that accident was using these prescriptions **illegally**. I want to make it clear that I have never used prescription drugs illegally. I have used them under the close supervision of both my family physician and my Cardiologist and have kept the Coast Guard informed of my condition for many years. My condition has not changed in any material manner that would justify pulling my license. I believe that Ms. Campbell should have spoken directly with my doctor rather than his nurse or receptionist. After all, this is my livelihood and it affects my life as well as the life of my family.ö We understand that Ms. Campbell is a nurse and not a doctor.ö

Outcome

The NMC had allowed this license renewal to drag on for months until the license was about to expire. In a last desperate effort to save his career before his license expired, he asked his doctor to ötake him off Xanaxö and give him ösome other prescriptionö that would allow him to hold his job ó and inform the National Maritime Center to that he had done so.

The result was immediate, and his license was reissued.

His doctor put **Mariner #61** on another prescription. However, its effects were quite different and he found he could no longer function properly on the job. He informed his employer that he could no longer perform the job as Master properly because he was deprived of the medication he needed. To his credit, and as a testament to his honesty, he refused to take the drug illegally without a prescription.

Mariner #61 no longer runs the vessel that he had done successfully for many years and, at which he had earned a salary approaching \$90,000 per year. He now works as a wire line operator for the same company **at about one-third of the salary in a job he had held 30 years earlier.**

The loss of income has placed his home and finances in jeopardy.

MARINER #77

The case of **Mariner #77** parallels the case of Marine #61 in many ways.

Mariner #77 applied for license renewal on Sept. 24, 2007. On Feb. 7, 2008, four months later, he was denied renewal stating öí your medical conditions are determined to be a safety risk to maritime transportation.ö This is a pretty blunt statement that he can mull it over as he continues to push tows along the Intracoastal Waterway until June when his license expires.

This mariner and I use the same cardiologist and his report, that I reviewed, appeared quite thorough and professional. It **contained no recommendation to remove him from his job.** As a öheart patientö for 26 years (with a Coast Guard öwaiver to operate) I fully understood his outlook. The National Maritime Center made the ösafety risk to maritime transportationö evaluation. If Mariner #77 is a ösafety riskö his employers apparently do not see his health as a problem.

Whereas marine employers with their face-to-face contact with their mariners have the potential to be the first line of defense in determining health-related ösafety risks to maritime transportation,ö sadly they often are not. This leaves Mariner #77 in a position where he is perfectly acceptable to his employer (who must pay the bill or

pay higher insurance rates if he is involved in a health-related accident) yet he was unacceptable to the Coast Guard. Nevertheless, his health conditions according to his physician, are under control and largely unchanged.

Mariner #77 asked us to assist him in preparing an appeal. In his appeal, he stated:

“My job involves working as a trip pilot on an inland pushboat running the Gulf Intracoastal Waterway along the Texas, Louisiana, and Alabama coasts. When I work, I work 6 hours on duty and 6 hours off duty limited to a total of 12 hours per day. I have had a comparable job for the past six years. I no longer work offshore as I once did and the work I do does not make me overexert myself as I used to do in the past in fishing and shrimping which would be my only fall back if I were to lose my license. As a trip pilot I have a choice of when I work and for how long I work. I have control over what I do. In the past, I used to work a lot of “straight time” but now work 14 days on and 7 days off.

Failing to renew my license would be a disaster for me. I have a wife and five grandchildren that depend on me to bring home a paycheck. My 30+ years of experience is in very great demand in the industry today. My employer has no complaints with my health issues which I keep them informed about.”

Notably, neither the Coast Guard nor the towing industry who make increasingly strident demands on our mariners, seldom raise a finger in consideration of their mariners’ health conditions. Captain Bill Beacom, a veteran towing vessel officer, points out that the existing two-watch system makes it impossible to obtain the full 7 to 8 hours of uninterrupted sleep that the Coast Guard’s own Research and Development experts concede is a basic human requirement. For unlicensed personnel like deckhands, tankermen, engineers and cooks, the American Waterways Operators is reluctant to even require its member companies to guarantee six-hours of uninterrupted rest. No companies we know of stepped forward to ban indoor smoking to protect their mariners’ health. The matter of safe potable water also remains an unresolved health issue stalled in the Coast Guard’s regulatory backlog. I must ask: Why are our mariners always the first target?

In my interview with Mariner #77, he stressed that he is a “trip pilot” and can select the employer that he will work for – specifically, one that will not abuse or overwork him and aggravate his health problems. Understandably, not all mariners are in a similar position to call the shots on the jobs they will accept – but he is. Furthermore, this mariner knows what his capabilities are and has no intention to exceed them and thereby place his own health at risk. He is fully aware of all his health problems and takes steps to adapt to them. Essentially, as he ages, he fills in a “reserve,” “back-up,” or “part-time” position within the industry. By denying him and comparable mariners a license, the Coast Guard prevents the industry to accumulate a reserve force of experienced mariners.

I do not know whether Mariner #77 was successful in his appeal as he never contacted us. However, anyone receiving a letter of denial and facing two processes of “reconsideration” by the National Maritime Center or an “appeal” at Headquarters level is tempted to simply pack up and leave the industry.

MARINER #128

On March 3, 2008, we received a telephone call from **Mariner #128** regarding problems that he was having with the National Maritime Center (NMC). The mariner currently holds a 100-ton Master, 200-ton Mate license for near coastal waters with what he believed to be a “towing endorsement” based on his many years of experience in the towing industry. He was not in the process of renewing or upgrading his endorsement at the time the NMC contacted him.

Mariner #128 has worked exclusively on towing vessels since September 1996 and is in the mid-period of the second issue of his license. The NMC called him and told him that his “towing endorsement” was issued improperly by the Baltimore Regional Examination Center and, although it was their mistake, he could not sail on the license until he submitted “proof of service”. The “endorsement” was issued on a separate piece of paper but apparently had not been properly recorded by the REC. As a result, **Mariner #128** lost two weeks work which cost him an estimated \$7050. He expressed a very legitimate concern that he was due back at work in less than two weeks – March 17th, and was extremely concerned about what had happened.

Mariner #128 notified his company, a major east coast towing company, and submitted his company training book containing his company training records, driving record, trip book on the vessels he served on, and his license and “over-nighted” the original copies to the NMC on February 27th. Fortunately, the shipment of these valuable documents was tracked and shown as being received at the Coast Guard facility.

Mariner #128 was in contact with the NMC on a daily basis. He reported that he did not receive much cooperation. He would be given voice mail and reported that sometimes they would not call him back.

A NMC employee, Amy Hackney, then called **Mariner #128** and told him that they had lost these documents and would search for them. At this point, **Mariner #128** called upon a friend who urged him to contact our

Association.

The NMC could have obtained all the information they needed from the employer but, instead, out of the blue and for the sole purpose of correcting their own deficient records, called the mariner placing severe and expensive employment restrictions upon him.

The NMC would later call him and tell him that they found the missing documents. We have had a number of other cases where documents have been lost or misplaced. We respectfully suggest that the Coast Guard or its paid contractors be liable for mariner financial losses whenever they proceed in such a thoughtless manner. A quick call to the employer would have obviated any need to suspend his towing endorsement thereby causing problems for both our mariner and his employer. This type of treatment of our mariners is intolerable.

MARINER #129

[Source: Medical Issues, Waterways Journal, Feb. 23, 2009, p.4]

I'm not sure at this point on what to do except to let others know what they're in for when they go for a renewal for a master's license with a medical issue.

On Aug. 12, 2008, my application was accepted for renewal for master's license for a towing vessel. On Dec. 7, I was notified that my application was denied for medical reasons.

Let me give you a little background on the medical issue that got me denied. Shortly after my last renewal, I had a two-year battle with seizures. When this problem started, I did a voluntary surrender of my license. After everything was under control, I got a letter from my primary doctor and my neurologist that it was OK for me to return to work. My license was returned to me and I went back to work with no problem.

At the time I was given back my license, all my information with every medical record was sent to the medical review board. At any time they could have revoked my license and ordered me to stop operating a vessel. But they didn't. I have been back to work for three years with no medical issues whatsoever. Other than my two-year battle three years ago, my health is perfect at age 55.

The denial letter I was sent stated that in January 2008, the medical review board recommended that anyone with a history of seizures must go 10 years seizure-free and off medication to even be considered for a medical waiver. The letter also stated that I had 30 days to send a letter of reconsideration, and ask for an application for a continuity renewal, and that I had the right to a formal appeal if my reconsideration letter was turned down.

Keep in mind that they send letters like this certified mail, and I work a 28-14 schedule, with 30 days to act on them. I got my letter of reconsideration off in time.

After I turned it in, I got to thinking. Maybe I should ask for the application for a continuity renewal, and information on how to appeal if it came down to it. Well, I started calling. After a number of attempts, I reached a person who said they would send me the application, but didn't know how to file a formal appeal. The person I spoke with transferred me to another line, which was a voice mail. I asked that the person call me back. It didn't happen. In fact I have been calling for over one month and asked three times for this application. Each time I got a voice mail, or no one picked up the phone. When I would reach a person, all they could do was transfer me to another voice mail. I even sent an e-mail to the center, which was never replied to. In May of this year, my license will expire. I wish I could say that I have hope it will be taken care of before that. But I don't. I'm sure the National Maritime Center in Martinsburg, W.Va., is backed up and very busy, but come on folks. **You mean to tell me that a simple phone call can't be taken, or a voice mail be returned? And what about the three times I asked for an application for a continuity renewal?**

I have only three questions. Why is it that the medical review board let me operate for three years without question, and then denied my application when it came time to renew? **Why can't a message be returned in over a month?** Why can't a simple application be sent out after I've requested it three times? It's no wonder there is such a shortage of wheelhouse personnel. Just try to deal with what I'm going through and it will become clear. Good luck to all the others, and thanks for listening.

[NMC Comment: I spoke with this mariner after the article appeared. He was right in contacting this excellent trade publication to let the marine industry know of his plight. It is time for the marine industry to call for necessary changes to protect all of their marine personnel from this type of negligent treatment by incompetent Coast Guard officials.]

MARINER #100

NMA President Joseph Dady, a member of TSAC, described in an e-mail what occurred at the joint MERPAC/TSAC meeting that covered the Medical NVIC. At that meeting, the Coast Guard stated that mariners could do the physical fitness and ability demonstration testing aboard their employers' vessels. They said their Medical Review Board (MRB) would accept a letter from a company that documented the adequate completion of the required testing.

I just received word from [Mariner 100]. He received official word from the National Maritime Center (NMC) today that his license renewal was rejected because he has a Body Mass Index (BMI) of over 40. Consequently, the statement made at the TSAC meeting was a bald-face lie the Coast Guard made to both Federal Advisory Committees since the NMC now says absolutely no to company testing. [Mariner 100] was told that he will need to test at a Coast Guard-approved facility and submit the results to the Medical Review Board (MRB) at the National Maritime Center. Even if he demonstrates that he can perform the physical endurance test, there is no guarantee that he will receive his license. It is totally up to the discretion of the MRB. Even if he gets his BMI under 40, he will have to take another physical and resubmit it!

According to the NMC, the MRB process is back-logged, and it will take six months after he resubmits to get even consider his file. **The NMC told him to expect to be without a license for at least a year.**

His problem started with a mistake by REC Boston. [Mariner 100] came into the towing industry in 1998 through a joint program between the U.S. National Marine Fisheries Service and the Coast Guard to assist fishermen who were being displaced by catch quotas placed on the fishing industry.

In 1998 [Mariner 100] received a 100-Ton Master, 200-Ton Mate license and began working on coastal towing vessels of less than 200 tons. He continues to work on towing vessels to this day.

In 2001 the Coast Guard required that mariners must have a towing endorsement on their license in order to operate a towing vessel. Under a grandfather clause mariners were able to add towing to their existing license by providing a letter of sea service upon towing vessels by May 15, 2001.

Navigation and Vessel Inspection Circular #4-01 instructed the REC evaluator that mariners with a current OUTV licenses would receive licenses as Masters of Towing Vessels. They would receive their new licenses at their first upgrade or renewal following May 20, 2001. Other licensed officers with authority and experience operating towing vessels may have their licenses endorsed for service on towing vessels. Any relevant endorsements would be added to their licenses at their next upgrade or renewal after May 20, 2001. In some cases, licensed officers holding completed TOARs did not require endorsements at all!

In 2003 [Mariner 100] with 730 days of service as a mate who operated towing vessels returned to REC Boston to renew his license. REC Boston did not follow the NVIC and **issued him a license without a towing endorsement.**

In 2004, [Mariner 100] returned to REC Boston who **acknowledged their mistake** and added Master of Towing vessels to his license. He continues to work aboard towing vessels and is a proven towing vessel officer and not an apprentice in any sense of the term. He has served as a valued mariner in the eyes of the Coast Guard, his employer, and is an asset to the guiding principles that brought forth the apprentice-mate program and rulemaking in the first place. **The NMC told him that they would not issue him a towing license and that he would have to start over.** Consequently, his past sea time will not be counted, and his 10 years experience operating coastal towing vessels does not exist as far as they are concerned. Our Association appealed to Coast Guard to exercise some common sense concerning their own mistake in this matter. Lo-and-behold, by using the Body Mass Index, the Coast Guard's Medical Review Board has placed a roadblock between their mistake and a good officer's career. What is the real issue here? Cramming the BMI down our throat or covering up a mistake. **This is outrageous.**

MARINER #132

[An e-mail we received from a merchant seaman seeking renewal of his Merchant Mariner Document (MMD). We replied that he should have applied for renewal at least six months in advance, as that was the message that was being passed around informally throughout the industry. We did not hear from him again. Quotation marks omitted.]

I started my renewal process on Jan 8, 2009 and received a letter on Feb 21. I replied to a fax requesting information on Feb 23rd and still there is no update to my status today of March 13. I am still unable to return to work.

I am surprised that no news reports have been completed on this process that is causing many fellow Merchant Mariners similar hardships; and I hope it does not mean I no longer have a job. It seems alarming. **I had been**

scheduled to leave today, on a trip but still no up date regarding, the information that was faxed to MMD by my office on Feb. 23. They said it would be OK.

My medical review is about my use of migraine headache medicine, during the last five years. I have not missed work due to the use of this medicine. Still no updates to the status even about the receiving of the paper work from my Doctor. One would have to wonder if the party involved on the advisory committee had instructed their employees who hold MMD licenses that it would be advised that they start the renewal process. Why are they so understaffed if they had the information regarding how many current licenses and when they expired, or did some mariners start the process the 12 months before their license expired?

I am writing to express my concerns and complaints of the current procedures in the renewal process of Mariner Licensing and Documentation (MLD). Having patience is one thing to ask of people but it does not pay the bill or feed my family. In today's economy it is great to have a job. But how long will I have it if I unable to sail since I have no credential?

My last renewal process was handled at the local office, without causing any interruption of my ability to earn a living. So I have been blind-sided by the time it taking to process my paperwork. I did start the process of renewal before my license expired. It seems that I have won the lotto regarding having to renew my license during this time when the process is such flux.

The first I heard about the new process and the delays were encountering the day I started my renewal process this January 9. I realized I was cutting it close since my license expired on Jan 12 but I thought I would be back at work in February. But, here it is March with no date in sight.

It seems so unbelievable that I searched the web site at this time to see if any type of notice was provided. I located an article that made it seem that like the new process would be so easy. The more I explored the website I became more angered by the false sense that this is an easy process if you complete all the documents. It would have been beneficial to have received a notice a year before the expiring license, or at least 6months my license expired. I did receive notice it would be in my best interest not to wait to start the process for obtaining my ðTWICö card, which I received in reasonable time. It expires on July 9, 2013.

It would have been beneficial to be told of the new process of renewal of my MMD license. Since delaying the renewal process of a credential has the potential to cause great harm, an economical hardship that appears not to been considered in the overhaul of the renewal process. However, to call it streamlined does not seem to meet the Oxford definition of streamline. Yet, figuratively, it does work well since it is now located in one office that seems to be operating in a single file formation that seems not to have the systems or capacity. The easiest part of this process is quick link to email address that just states you need to be patient and told it been taking at least 2 to 3 months. The application status site is so frustrating. It is like watching paint drying. The whole process of watching the updates it appears that technology is being used but by then you see the lack of changes occurring it becomes apparent that this system is not as streamlined as it was described in the article. I am not complaining about the change; but it in the way that it was implemented it seems no thought was given to me; the unfortunate victim involved during this time of the ineffective process management. Were any systems analysis tools used such as MIL-STD-882B or MORT, completed before the implementation of the current process?

Since I have a job but unable to work due to lack of credential, I have been told by my employer and my union that I am not allowed to apply for unemployment benefits during this forced sabbatical I had not prepared for.

One would have to ask why credentials are valid have for 5 years if you have to start the renewal process a year ahead. But the hard reality is that you may not be working for the next couple of months, then combine this with all the news talks about is the worsening economy. I would hope you can understand why it asking too much of people to be patient Streamlining is supposed to make (an organization or system) more efficient and effective by employing faster or simpler working methods.

MARINER #133

This is one of the most discouraging stories to emerge from the recent downgrading of the Coast Guard's 17 Regional Exam Centers into ðstorefrontsö and the centralization of marine credentialing at the newly constructed facility of the National Maritime Center in Martinsburg, West Virginia. This story takes place while this change was in progress.

Mariner #133 served aboard offshore supply vessels (OSV) on the Pacific Ocean (Hawaii) as well as in the Gulf of Mexico (Louisiana). He was an Able Seaman who intended to work his way up the ðhawsepipeö first to Mate and then to Master. He determined that he would seek a Mate, 500-ton, near coastal license so that he could continue to work on OSVs. However, he did not seek a ðtrade-restrictedö mineral and oil license that would restrict his employment in the future.

Mariner #133, who lives in Louisiana, took off months from work to attend classes at L.E. Fletcher Technical College in Houma, LA. His goal was always to obtain a Mate, 500 ton near coastal license. While he prepared to sit for his license, he planned to take the 500-ton Mate exam in Honolulu when he returned to work. However, although they unconditionally approved him, the Honolulu office told him that their REC was transitioning to West Virginia but that he was approved to take the exam at any REC. He then decided to take the Mate exam in New Orleans and was approved to do so. However, when he got there, the REC gave him a Master's exam of the wrong exam. Nevertheless, Mariner #133 was trained well enough so that he passed the Master's exam.

REC Gives Mariner #133 the Wrong Exam

Instead of obtaining a 500-ton Mate license, he ran headlong into a major roadblock and approached our Association with his dilemma. On Sept. 29, 2008 Mariner #133 appealed a decision made by the National Maritime Center to issue him a 100-ton Master/200-ton Mate near coastal license instead of the 500-ton Mate near coastal license that Coast Guard officials at two Regional Exam Centers, Honolulu and New Orleans had approved him to sit for. Both the school and his employer, one of the largest OSV operators in the Gulf of Mexico assured him that he would receive his 500-ton Mate license after successfully completing his exam.

At the time he tested at REC Mandeville, his employer was preparing to place him aboard a larger offshore supply vessel for training purposes in a position that would require at a minimum the 500 ton Mate near coastal license he applied for.

There never was a question that Mariner #133 worked for more than the required time periods aboard offshore supply vessels in the Pacific Ocean and in the Gulf of Mexico. He made all the necessary financial sacrifices by taking time off work and attended months of training and license preparation to obtain the 500-ton Mate license that he was told by Coast Guard officials in both the Honolulu and Mandeville Regional Examination Centers that he would receive. He followed their instructions implicitly and believes he was misled and deceived after successfully passing a 500 ton Master exam. Among the Coast Guard's errors at REC Mandeville was to give him a Master's exam instead of a Mate's exam.

Mariner #133 is the father of two children and could not afford the option of attending a maritime academy. Consequently, he had to advance through the hawsepipe in the offshore industry. After becoming a merchant mariner in 2002 and satisfied with his career choice and working with a good maritime employer, he appealed to be granted only what was promised to him. After he served the required time as Mate, he then planned to further upgrade his license to Master in the future.

The 100-ton Master, 200-ton Mate license was a huge disappointment. Upon further research, he determined that the demand for that license was not very promising. Consequently, he formally appealed and requested reconsideration of his original request for a 500-ton Mate license and went to lengths to carefully explain why the 500-ton Mate license was essential to his career.

In a letter dated Oct. 20, 2008 to Captain David Stalfort, Commanding Officer of the National Maritime Center, Mariner #133 revealed that after speaking with REC Mandeville four days earlier he was for the very first time informed of NMC policy Letter #01-02 regarding the evaluation process for the 500 Mate's license. The REC had to guide him by telephone on the web page to even find the document. Even then, enclosures 5 & 6 were missing.

After carefully reading the instructions for proper evaluation and consideration for licensing, he concluded that REC Honolulu did not correctly follow Coast Guard guidelines for completing his original evaluation. He even named the evaluators that worked on his file in Honolulu so there would be no question as to who made the mistakes. The lesson to all mariners is clear that whenever you speak with anyone about Coast Guard credentials, always write down their name!

Coast Guard REC personnel had evaluated his paperwork a total of three times and approved him to test each time before he began the examination process until he finally completed and passed the Master 500-ton near-coastal examination at REC Mandeville, LA.

[NMA Comment: We believe Mariner #133 (and confirmed from his instructor) received the wrong guidance from Coast Guard personnel at two RECs who most likely were dealing with licenses they were not familiar with. Many Coast Guard personnel in credentialing either do not know or simply did not follow their own rules, policies, or regulations. Since this type of misinformation is much more common than the Coast Guard cares to admit, they should be held responsible for correcting errors or making good on the financial losses that mariners can incur.]

Mariners have little choice but to trust Coast Guard employees to inform them truthfully and lawfully about each step in their career that even when these instructions are long and complex. The situation becomes even worse when superior officers cannot or will not cure the mistakes made by their subordinates and provide some leeway for

the wronged mariner.

It is stated in plain clear English in paragraph two on the cover letter of NMC Policy letter #01-02 that the REC **must use this information to evaluate applicants** for licensing purposes. Obviously this was not done in Mariner #133's three "successful" evaluations performed by REC Honolulu. Nor was this gross error caught by REC Mandeville until mid-October 2008. Nor was it ever expressed clearly to Mariner #133 by any person he dealt with at the National Maritime Center.

After placing himself in severe financial straits by taking off months from work to attend school to prepare for this exam, he trusted the Coast Guard personnel's direction, knowledge of the licensing regulations and policies to help and not hurt him and his family's goals that would have helped him survive the troubled economic that suddenly occurred.

Mariner #133 Proposed a Solution

Mariner #133 **proposed** to settle the issue as follows: He proposed to work toward completing all the assessments outlined in NMC Policy Letter #01-02 ó a process he understands and is comfortable with. However, he stated that he could not afford thousands of dollars to go back to school to study and re-take the same examination that he previously passed. The exam he passed was a 500-ton MASTER'S exam ó which covers a position **superior to** a 500-ton Mate. At such time as he submitted the completed assessments and other items required by NMC Policy Letter #01-02, he proposed that the Coast Guard issue him the MATE 500-ton near-coastal license and, after one year's additional sea service be issued a 500/1600 ton Master's license without further examination.

The Appeal Procedure Changes Mid-stream

About this time (i.e., the end of Sept. 2008), the Coast Guard changed its appeal procedure.

The National Maritime Center can only "reconsider" and adjust any errors they may have made during the credentialing process. If you complain about any error, like those mentioned above, the National Maritime Center has this opportunity to "reconsider" and "correct" those errors. However, if there is a question of "policy," the appeal now must be sent "up the line" to Coast Guard Headquarters where the appeal will receive what is known as "Final Agency Action."

The Headquarters unit that NOW decides appeals is the "Mariner Credentialing Program Policy Division" (CG-5434) at Coast Guard Headquarters. The purpose of that office is outlined in the Fall 2008 issue of Proceedings Magazine on pages 103-104.

In this case, our Association discovered a blurred line between "reconsideration" by the National Maritime Center and an "Appeal" to Coast Guard Headquarters. In the case of Mariner #133, **his documents apparently sat on somebody's desk in the National Maritime Center from the end of September 2008 until early March 2009** when Mariner #133 finally contacted Headquarters ó a period of approximately 5 months when nothing was done.

At the end of January, our Association wrote to Headquarters (CG-5434) on behalf of (and with the permission of) Mariner #133 to inquire about the reason for the delay in the appeal process? We received no reply to our letter which, when dealing with this Agency, is not at all uncommon.

The article in the Fall 2008 edition of Proceedings magazine (p. 104) in regard to CG-5434 states in part that "this overarching mission incorporates several functions such as: Reviewing NMC's performance in the areas of customer satisfaction, process cycle time, security, efficiency, and consistency." We pointed out that this matter had gathered dust on **somebody's desk** at that time for at least two months. Mariner #133 told us that this delay alone could have meant up to \$6,000⁽¹⁾ in reduced wages, enough to make home mortgage payments or stay out of bankruptcy. Whether this occurred at NMC or at CG-5434 was of little concern to Mariner #133 but it became of great concern to our Association as the Coast Guard's brand-new appeal process ground to a halt. In any event, our Association made the Coast Guard fully cognizant of these facts. [⁽¹⁾ Based upon a pay differential of between \$100 and \$165 per day.]

The protracted delay resulted in Mariner #133 falling behind in his home mortgage payments so that he was forced to declare **personal bankruptcy** under Chapter 13 with the first hearing on Feb. 10, 2009. These are very serious consequences that can get worse as time passes.

Our clear impression was that the National Maritime Center lost track of problems faced by individual mariners in their push to crank out the quantity of credentials the industry requires within a time frame that Congress demands. However, individual "limited-tonnage" mariners approach our Association for help and guidance. It appears that the "appeal" route is an appropriate route to follow. However, in reading all about CG-5434, the Mariner Credentialing Program Policy Division, it also seems that the National Maritime Center has too many other irons on the fire to take care of individual mariners even though they collect "user fees" and are supposed to do so.

On Jan. 26, 2009, we asked CG-5434 to expedite this matter with consideration for the mariner. In a telephone

call in early March, we determined that the National Maritime Center still had not forwarded the necessary papers to Headquarters. It should be up to the National Maritime Center to move papers forward rather than for Headquarters to call for these papers only after it learns weeks later that there is a problem.

Appeal Denied

The appeal was decided on March 8, 2009 over the signature of Rear Admiral James A. Watson. It contains several interesting admissions quoted below:

“You should not have been allowed to test for Master 500 GRT near coastal as you do not have sea service while holding a license as master, mate or operator of uninspected passenger vessels. This error should have been caught at the REC level, and I regret any confusion it may have caused. While regrettable, this error does not allow the Coast Guard to issue credential(s) when in violation of established mariner credentialing regulations.”

[NMA Comment: Mariner #133 never claimed he was qualified as Master. He sought a Mate license. The incident caused our mariner far more than “confusion”!!!]

“Successful completion of the Master 500 GRT near coastal examination does not qualify an individual for a Mate 500 GRT near Coastal license. The material covered and examinations for these two credentials are fundamentally different, and cannot be interchanged. These examinations are written and administered to ensure a standard of skill among mariners, and promote safety of life at sea.”

[NMA Comment: Give the guy a break. The REC gave him the wrong exam in the first place, which was quite clear in this appeal. If there really is a significant difference between the two exams, test him on the missing subjects. There is no NEED to do months of additional study and then retest on the entire body of subject matter at the risk of the mariner’s complete financial collapse.]

Our Comments on Rear Admiral Watson and his Decision

Rear Admiral Watson’s job title is Director of Prevention Policy. In reviewing his official biography, it appears that this Coast Guard flag officer is a 1978 graduate of the U.S. Coast Guard Academy. As such, the government paid for his college education – an opportunity that Mariner #133 never had. In addition, Admiral Watson earned three Masters Degrees – most likely also paid for by our taxpayers. His career afloat appears to have been limited to two years as the Engineering Officer aboard the Coast Guard cutter BIBB – a steam turbine powered cutter launched in January 1937 and now retired from service. The biography shows that he served in three Marine Safety Offices, only one of which had a Regional Exam Center. It shows no service related to the offshore oil industry where Mariner #133 is employed. He also served in several staff jobs.

We find it offensive that this engineering officer with such limited sea service appears to be incapable of understanding that Mariner #133 needed assistance just to remain in the marine industry. After declaring that he had to declare personal bankruptcy and with his home in foreclosure, Admiral Watson found it impossible to accept the fact that Mariner #133 had satisfactorily passed a 500-ton Master’s exam. Instead, he chose to interrupt the mariner’s career by insisting on his passing a Mate exam first and then re-testing him on the Master’s exam he previously passed. If there really is any significant difference between the two exams, he could have required testing only on those specific subjects.

For years, the Coast Guard has gotten away with over-testing academic subjects. Each unnecessary test is also accompanied by additional expense, harassment, and delay. In this case, the mariner put forth a very reasonable proposal that would have solved the problem. However, Admiral Watson, although with much more experience in technical matters than in dealing with real human concerns and apparently coasting along through his military career with every educational cushion the taxpayers of this nation could provide, has no concept of the struggle that many of our mariners face in advancing in this industry.

We give the Coast Guard a failing grade for putting a person like Admiral Watson in a position where he appears to have little background or understanding. We also fault the Coast Guard appeal process that we cover in broader detail in our Report #R-436, Rev. 3, The Coast Guard Appeals Process. We believe that Admiral Watson should be dismissed for his insensitivity to the problems expressed by Mariner #133 from a position that has any control over our merchant marine personnel. He should have accepted full responsibility for the Coast Guard’s multiple failures and worked to assist Mariner #133 in overcoming any technical shortcomings before issuing him the Mate’s license he prepared for. We can no longer afford to put the fate of our mariners in the hands of these military martinets.

In this regard, we also consider the remarks of Congresswoman Laura A. Richardson who was led to comment during a House Transportation and Infrastructure Committee meeting last April that she could not solve Admiral Watson’s ongoing problems.”

MARINER #60

Mariner #60 applied for a license renewal on Oct. 22, 2008 and first heard from the National Maritime Center on Feb. 13, 2009 after almost four months.

Apparently, a problem arose with his color vision test that was performed by his Doctor as part of his original physical exam. The Doctor reported, and the mariner verified, that he was capable of discriminating one color from another on his physical exam. Isn't that the purpose of a color-vision test? However, the mariner did experience a problem with the type of test (Ishihara) he was administered.

Mariner #60 spoke with Jackie at the National Maritime Center. She informed him that the "NMC cannot call his doctor, but the doctor must call them." The mariner reported that his doctor tried to call the National Maritime Center but was unable to get through. We verified this information by calling the doctor's office on April 6, 2009.

I understood, after attending several days of discussion about the new Medical NVIC at one of the MERPAC advisory group meetings, that one of the advantages of the new program was that the Doctor(s) at the National Maritime Center would deal directly with the mariner's doctor and that this would not leave the mariner hanging in the middle trying to deal with technical medical problems. Clearly, if the doctor at the National Maritime Center and the mariner's doctor cannot communicate with each other, the system as envisioned by the Coast Guard cannot function properly. We believe that since the Coast Guard is being paid a "user fee" for its services, it should take the initiative in making medical contacts with physicians.

Each mariner pays user fees in advance for renewing his or her license. This ample fee should cover the cost of making the necessary phone calls from West Virginia to Louisiana to ensure that a mariner with 32 years of service in the industry could retain his job. We believe that the Coast Guard should show some initiative in ensuring that this mariner's talents and years of experience could be retained in an industry that sorely needs these services.

Since then Mariner #60 reported that he paid to visit two out-of-town eye specialists but they only offered him the same type of test with the same results. He called two other eye doctors and found that offered only the same type of test. He finally contacted another eye doctor who administered a Farnsworth Lantern Test that he almost passed. That doctor faxed his test results to the NMC, and reportedly told the mariner that the Coast Guard should be able to "grandfather" him based on his past 32 years of service. During that time, Mariner #60 has had no reportable accidents, passed every color vision exam on previous renewals, and has never experienced problems discriminating lights and colors on the job.

Mariner #60 spoke with Paula at the National Maritime Center about his latest color vision test and the eye doctors comment about "grandfathering" him. She told him that she had found the results of several of his previous physical exams on file and that he previously had passed a "Williams Lantern Test" but that that test was no longer being administered. She told him that he previously passed a renewal physical exam but the type of color-vision test was not recorded. When asked if he could be "grandfathered" and his license renewed, she reportedly stated that that would not be possible. However, she did say that the license could be issued with a "Daylight Use Only" restriction on it. Unfortunately, from a practical standpoint, any such restriction would make the license virtually useless or cause the mariner to operate his vessel illegally.

The current regulation at 46 CFR §10.215(d) states:

(b) *Vision Test* · (1) *Deck Standard*. An applicant must have correctable vision to at least 20/40 in one eye and uncorrected vision of at least 20/200 in the same eye. An applicant having lost vision in one eye must wait six months before application and provide a statement of demonstrated ability on his or her medical examination. The color sense must be determined to be satisfactory when tested by any of the following methods or an alternative test approved by the Coast Guard, without the use of color-sensing lenses:

(i) Pseudoisochromatic Plates (Dvorine, 2nd Edition; AOC; revised edition or AOC. HRR; Ishihara 14-, 24-, or 38-plate editions).

(ii) Eldridge-Green Color Perception Lantern.

(iii) Farnsworth Lantern.

(iv) Keystone Orthoscope.

(v) Keystone Telebinocular.

(vi) SAMCTT (School of Aviation Medicine Color Threshold Tester).

(vii) Titmus Optical Vision Tester.

(viii) Williams Lantern.

The Williams Lantern test, that Mariner #60 previously passed, remains Coast Guard-approved under current regulations (above) and was valid for use according to NVIC 2-98 in effect when his renewal application was submitted. Before taking the draconian step of denying a mariner his license and livelihood, it is only reasonable to check the mariner's past records for color vision as was done and if dissatisfied with the personal physician's

evaluation that he can discriminate between the colors used on the job (i.e., red, green, and yellow), **grant the mariner a waiver to continue to work at his job.**

[NMC Comment: Requiring a mariner to submit an appeal for something the NMC should have the latitude to do on its own is an additional discouragement. Many of the lower-level mariners that our Association deals with are not capable of filing a formal appeal in any form.]

Also, with its records of physical exams for over 210,000 merchant mariners, the NMC should be able to direct any mariner to a facility where any/all of the eight approved color vision tests in 46 CFR §10.205(d)(2)(i-vii) are available ó including the older Williams Lantern Test.

MARINER #135

On Jan. 5, 2009 we wrote a letter we routed through Captain David Stalfort, Commanding Officer of the National Maritime Center, to the Director of Prevention Policy (CG54) on behalf of **Mariner #135** ó a letter that never was responded to. This letter sought a óReconsideration and/or Appeal of decision or action of the National Maritime Center.ö

Mariner #135 previously held the third issue of a Master of Towing Vessels license on Near Coastal Waters and Western Rivers. He surrendered this license to the Coast Guard and subsequently sought and obtained Administrative Clemency from the Coast Guard in a letter dated the previous May. We highlighted the following sentence in that letter: öYour application will be treated as an application for an Original Coast Guard License and you will be required to comply with the applicable regulations regarding the issuance of an **original license**.ö

Mariner #135 submitted an application to the National Maritime Center after completing the full Apprentice Mate/Steersman course that now represents the full Coast Guard license preparation and öbook knowledgeö testing that is equivalent to the test he passed years ago for the license he previously held. This is the only ötowing licenseö testing currently prescribed and available. He also was tested on Western Rivers Navigation to renew the endorsement he previously held. He also renewed his Merchant Mariner Document.

On Oct. 30, 2008, Mariner #135 was issued a license as an **Apprentice Mate/Steersman** ölearners permitö for Near Coastal and Western Rivers routes. We also asked on his behalf that öInland Watersö be added to the route of the license in light of the fact that it always is necessary to traverse inland waters to reach near coastal waters except when operating on the Lower Mississippi River.

We asked the National Maritime Center to **reconsider** the license issued to the mariner or to **appeal** an adverse decision to Coast Guard Headquarters (CG-5434) and re-issue the license in the form of his old license (i.e., Master of Towing Vessels) for these reasons:

He proved to the Coast Guard's satisfaction that he is rehabilitated.

He has the obligation of providing for his wife and three (3) children.

He completed all the steps that he and the school he attended believed were necessary to regain his öoriginal license.ö **His "original" license was issued before the Apprentice Mate/Steersman regulations came into being.**

He previously served a dozen years as a licensed towing vessel officer before losing his license.

We pointed out that the Apprentice/Mate ölicenseö is, in reality, a learner's permit where an individual is instructed over a period of one year in how to properly operate a towing vessel. However, his employer asserted that **he is an accomplished vessel handler and that additional training would be counterproductive.** If the Coast Guard has any reason to doubt this ability, the company has offered to assign him to a Designated Examiner and provide a TOAR.

It will take a minimum of 1½ years of sea service to progress from Apprentice Mate to Mate. This puts an unnecessary burden and considerable expense on his employer to carry him as a supernumerary on a vessel he already has the ability to operate without additional supervision. The company, like many other small companies in the towing industry, is experiencing a shortage of properly licensed towing vessel Masters. Denying this request would exacerbate this shortage and provide no comparable benefits to either Mariner #135 or his employer.

We followed up our original letter with two additional letters on March 9 and April 13, 2009 ó none of which were responded to. In the meantime, Mariner #135 contacted the NMC on Apr. 14, 2009 and was told that his paperwork had been sent to Coast Guard Headquarters (CG-5434) (as an appeal). When he verified that the paperwork had not arrived a week later, he spoke with öDebbieö at the National Maritime Center who told him the paperwork **was sitting on somebody's desk waiting for a signature** and its progress would depend on how much other paperwork was sitting on that same desk. His employer's representative attempted to call the NMC on several occasions but was not able to obtain any satisfaction.

MARINER # 137

A chronic problem in Louisiana has been the mishandling of towing vessel officer licenses by the New Orleans Regional Exam Center between 2001 and Hurricane Katrina where staff members often failed to ascertain whether a person had served on a towing vessel or a new requirement for towing vessel officers. We previously mentioned a number of occurrences of this problem in our 2007 report to Congress. Many mariners, with years of experience working aboard towing vessels had problems with obtaining the new towing vessel licenses. Each case needs to be treated individually in order to give each mariner full consideration.

Mariner #137 renewed his license on June 13, 2008. However he has one problem with his license as issued.

This license is essentially the same as the license that was issued to him in New Orleans on Feb. 21, 2003. We believe the earlier license issued in 2003 was in error because the mariner should have been grandfathered at that time in light of his many years of previous towing experience and should have had an endorsement that would permit him to engage in towing.

He enclosed three letters that indicate 245 days, 120 days, and 29 days of recent towing service as well as participation in drills and training all representing 12-hour days. The problem appears to be that he needed to prove that he served upon towing vessels on applications he previously submitted to the Coast Guard for the license issued in 2003. The class that the mariner attended in Houma at L.E. Fletcher Technical College was the same course used to prepare towing vessel candidates.

Mariner #137 submitted his previous letters of service to the Coast Guard Regional Exam Center in New Orleans that went underwater in Hurricane Katrina. However, a representative of the Department of Homeland Security Forensic Lab testified telephonically that it recovered the files from the flooded New Orleans REC and that the papers were subsequently restored. This evidence was presented during a trial held before ALJ Bruce T. Smith on an unrelated matter that I attended last year. Before asking the Coast Guard to search through these documents, however, I asked Mariner#137 to describe the service that he performed to the best of his knowledge and belief and forwarded that information to the REC in Mandeville, LA.

The mariner's signed statement was as follows:

"In June of 2008, I visited the Regional Exam Center in Mandeville, LA, and spoke with you (Ms. Theodore) about my license. At that time, we both looked at the entries on your computer and I recall seeing Monteiro Marine, G & B Marine, Huey L. Cheramie, Inc., and 2W Towing displayed on your screen. All of these companies are towing companies, exclusively. This material should still appear on your computer. I worked for all of these companies before the year 2000.

o For Monteiro, the M/V Ellen Monteiro (as Relief Captain), on the M/V Margaret Monteiro as relief Captain, and M/V Miss Melloway (as deckhand and then as Captain). This company is now out of business.

o For G&B Marine as Relief Captain on a number of both inshore and offshore tugs for about 1½ years. This company went out of business. For Huey L. Cheramie as Captain on the M/V Gloria L. Cheramie, a lugger-type tug running from Tenneco New Orleans to government docks in Houston pushing jet fuel on inland routes. I also worked for him around 2 or 3 years. For LeBoeuf Brothers Towing starting at age 16 (about 36 years ago) as wheelman and deckhand on the Intracoastal Waterway and Mississippi River.

o I also worked offshore on M/V Cheramie Bo-trucs #32, #19, #22, and #34 for about 2 or 3 years. I also worked for Senator Leonard Chabert on the M/V Argentina, an offshore supply boat for about 2 years as Second Captain. Recently, I worked for Minnie Falgout, LLC for about 1½ years running a 245 foot OSV as Relief Captain.

o I had tried to get copies of sea service letters from the companies that went out of business as well as from companies that remained in business but received very little cooperation from them.

o I request that you review this material and prepare to forward it to the National Maritime Center. Please advise me as to any user fees that I may need to pay for the correction of these errors and to issue me a Master of Towing Vessels license on near coastal, inland, and western rivers routes (as I have served on all these routes in the past) in addition to the license I currently hold.

o I certify that the foregoing statements are true and correct to the best of my knowledge and belief (Signature)

[NMA Comment: This case is ongoing. The words "new application", "denial", "reconsideration" and "appeal" apparently are in this mariner's future.]

MARINER #103

[Mariner #103] held a Master 200-ton near-coastal license for a period of 5 years. On Oct. 14, 2008 he went to the New York REC who gave him clearance to start his apprenticeship on a towing vessel. He completed a TOAR

and then filed an application for an endorsement to Mate, Towing Vessels Near Coastal to upgrade his license.

After filing his application through the New York REC and after they (supposedly) checked it over to see that all data was correctly entered, the REC forwarded the application to the National Maritime Center ó where it sat, and sat. He waited for word from the National Maritime Center for 6 months and was able to contact an evaluator who started to list a number of reasons why the application had not been acted on.

The application was returned to the mariner, but the reasons for returning it were not correct. The letter was kicked back first because the evaluator claimed that his letter certifying that the had been subject to required random drug tests was incorrect because it stated that he had been subject to these tests for a period of ***180 and not 185 days***. This is ***an insignificant error*** in the employer's form letter that the REC should have caught in reviewing his paperwork ó that is if the REC even knew the NMC was unwilling to accept that either 180 or 185 days were equivalent and served the purpose and intent of the regulation. The second reason was for him to return to the REC and verify that the TOAR he presented was valid ó something the REC had ***previously done*** in October 2008 and part of his record. The mariner believes that the excuses provided by his evaluator were given off-the-cuff to justify the delay of his upgrade by approximately 6 months ó far longer than most other upgrades and twice the ðaverageö current processing time of 89 days.

Conclusion

The NMC says 33% of delay is caused by improper data on form. That represents an improvement from our previous report. We understand that one of the primary purposes of continuing to staff the 17 RECs was to assist mariners in preparing their applications by checking that all the data submitted to the REC is correct and complete. Why does the Coast Guard continue to pay REC/NMC employees if they do not do their job? Why are they not held accountable for doing it correctly?

For years, the Coast Guard has complained because mariners cannot fill out their applications correctly. In cases like Mariner #103 (above) the Coast Guard ***appears*** to be part of the problem. An entire ðcottage industryö has grown up to provide ðsimpleö mariner services ó for a price. Where ordinary citizens often must employ a ðtax advisorö to complete their income tax forms properly, a comparable situation now arises where a mariner must employ a ðlicense consultantö to fill out an application that used to be simple and straightforward. Licensed physicians are questioned and overruled on professional opinions rendered to their patients as in [Mariners #60 & 61] above. The former Chief of the Medical Section spends four days in southern California sitting in an ALJ's courtroom to testify on the mental condition of a merchant marine officer he never treated.⁽¹⁾ The NMC has taken on the role of demanding perfection from our mariners that often are not achievable in handling complex paperwork assignments. [⁽¹⁾Refer to our Report #R-429-Q]

While the Coast Guard may be increasingly comfortable with their computers, this certainly has not always been the case at the National Maritime Center. In fact, any accomplishments are relatively recent.⁽¹⁾ [⁽¹⁾ Refer to our Report #R-401-B. Finally Answered: How Bureaucracy Wrecked the Coast Guard Merchant Marine Licensing and Documentation Computer System. This report contains Information from the National Association of Maritime Educators' 1998 FOIA Request.]

No matter the Coast Guard's ability to communicate on the internet, not all our mariners are fully plugged into the information age. One-third of our mariners still request printed newsletters because they have no reliable computer or internet connection. Others have mastered the internet, electronic charting, and highly specialized programs. However, many on-board ðcompanyö computers and fax machines are reserved for company business.

In our dealings with the Coast Guard, our Association cannot obtain even a simple e-mail response from the present administration at the National Maritime Center in response to many letters. With mariners out of work, losing job opportunities and opportunities for advancement, blunders by the Coast Guard like those cited above and in our previous report on this subject can no longer be tolerated.

While we have seen some improvements, and some projected plans seemed to make sense, the Coast Guard overburdened themselves with the whole new process and let down our mariners who depended upon them.