



NMA REPORT #R-440-B, Rev. 1

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

ABUSES OF THE MEDICAL NVIC: AN ASSAULT ON OUR MARINERS

The Problem

After receiving a number of alarming reports, our Association solicited and edited e-mails from our mariners containing comments and data to prepare this report on our Association's position on issues covering two different areas. As part of our function, we do our best to track down rumors of all time that impact our mariners. In doing so, we assigned Mariner Numbers to respect the privacy of our mariners and to limit the chances for personal retribution by an agency that has proven in the past to be vindictive.

The Truth

We discovered another poorly explained program *of military origin* hastily crammed down the throat of 210,000 civilian mariners since the U.S. Merchant Marine falls under the supervision of the U.S. Coast Guard. We also found a number of serious inconsistencies that we highlighted below.

After discussion with a number of mariners over a period of more than a month and soliciting their views (which appear in the body of this report), a FINAL RULE on credentialing issued on March 18, 2009 that became effective on April 15, 2009 stating the Coast Guard's position on medical and physical requirements. As we read the preamble and the portion of the amended regulation⁽¹⁾ only the MEDICAL PRACTITIONER CONDUCTING THE GENERAL MEDICAL EXAM (i.e., your Doctor) not some snoop up at the National Maritime Center (NMC) can call for a "*Demonstration of Physical Ability*." If that is the case, we ask why the National Maritime Center has the ability to deny a person his/her credential if the examining physician doesn't find a problem? [⁽¹⁾ 74 FR 11225-11226, March 18, 2009]

46 CFR §10.215 MEDICAL AND PHYSICAL REQUIREMENTS

(e) Demonstration of physical ability. (1) **A demonstration of physical ability is required only if the medical practitioner conducting the general medical exam is concerned that an applicant's physical ability may impact maritime safety or if table 10.215(a)⁽¹⁾ shows that the mariner must pass a demonstration of physical ability, but he or she is not required to pass a general medical exam.**

(2) For an applicant to satisfactorily pass a demonstration of physical ability, the examiner must be satisfied that the applicant:

- (i) Has no disturbance in the sense of balance;
 - (ii) Is able, without assistance, to climb up and down vertical ladders and inclined stairs;
 - (iii) Would be able, without assistance, to step over a door sill or coaming;
 - (iv) Would be able to grasp, lift, and manipulate various common shipboard tools; move hands and arms to open and close valve wheels in vertical and horizontal directions, and rotate wrists to turn handles;
 - (v) Does not have any impairment or disease that could prevent normal movement and physical activities;
 - (vi) Is able to stand and walk for extended periods;
 - (vii) Does not have any impairment or disease that could prevent response to a visual or audible alarm; and
 - (viii) Is capable of normal conversation.
- (f) Reports of medical and physical exams, demonstrations, and tests. These reports must be submitted within 12 months from the date signed by the licensed medical professional. When submitted with a complete application package these reports remain valid for 12 months from the date of the application approval.
- (g) Medical waivers. Where an applicant does not possess the vision, hearing, or general physical condition necessary, the Coast Guard, after consultation with the examining licensed physician, licensed physician

assistant, or licensed nurse practitioner may grant a waiver if extenuating circumstances warrant special consideration. An applicant may submit to the Coast Guard additional correspondence, records, and reports in support of a waiver. In this regard, recommendations from agencies of the Federal Government operating government vessels, as well as owners and operators of private vessels, made on behalf of their employees, will be given full consideration. Waivers are not normally granted to an applicant whose corrected vision in the better eye is not at least 20/40 for deck officers or 20/50 for engineer officers.

(h) Individuals holding only a staff officer endorsement need not meet the medical and physical requirements of this section.

[⁽¹⁾ Table 10.215(a) shows that almost everybody may be subject to a "Demonstration of Physical Ability.]"

BACKGROUND: NEW YORK CITY SETTLES STATEN ISLAND FERRY WRONGFUL DEATH SUIT
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[Source: *Master, Mate & Pilot, Sept.- Oct. 2008, p.12. Mnl59.5E. Emphasis is ours.*]

New York City will pay \$8,750,000 to the family of John P. Healy, one of 11 people who died when the M/V ANDREW J. BARBERI allided with a maintenance pier in October 2003.

In their pleadings before the court, lawyers for the plaintiffs outlined findings of the National Transportation Safety Board (NTSB). The lawyers allege that:

Assistant Captain Richard Smith, alone in the wheelhouse at the time of the crash, "had lapsed into a diminished state of consciousness due to a combination of his own fatigue and taking medications that caused drowsiness and disorientation" (Smith pleaded guilty to eleven counts of manslaughter under the Seaman's Manslaughter Statute and one count of giving a false statement to a government officer. He has since served an 18-month sentence.)

Smith's physician, William Tursi, had omitted medications he prescribed from the Coast Guard license renewal form he filled out. (He received probation, six months of home confinement and 300 hours of community service. His license to practice medicine was suspended.)

The Staten Island Ferry system did not enforce its own "two-pilot" rule, which requires that the captain and assistant captain be present in the pilot house while the vessel is underway.

The lawyers quote the NTSB report, which found that "the New York City Department of Transportation failed to implement and oversee safe and effective operating procedures for its ferries.ö The NTSB report concluded that Captain Michael Gansas not being present in the pilothouse was accepted procedure on the ferry. The investigators found that at no time during the voyage was Captain Gansas in the pilot house.

City employee Patrick Ryan, a director of ferry operations who was in charge of the Staten Island Ferry from shore, pleaded guilty in 2005 to violating the federal maritime manslaughter statute for failing to enforce the rule that required the captain and assistant captain to be together in the pilot house while the ferry was underway. Lawyers for the plaintiffs charged that Ryan admitted that he "knowingly and willfully" failed to enforce the "two-pilot" rule. They said his plea "established the willful misbehavior of an individual of a sufficiently high level to bind the shipowner with legal knowledge and privity of culpable conductö Ryan served a year and a day at Allenwood Federal Correctional Complex.

The port captain for Staten Island Ferries, John Mauldin, reported to Ryan and was also his brother-in-law. His responsibilities included overseeing the daily operational functions of the ferry, such as scheduling, fueling and informing the crews of changes in Coast Guard regulations. Captain Gansas and Assistant Captain Smith both reported to Mauldin.

In 2005, Mauldin pleaded guilty to making a materially false statement to the Coast Guard when he claimed that the standard practice followed by the ferry's captains and assistant captains at the time of the allision was to be together in the operating pilothouse while the vessel was underway. The attorneys for the Healy family allege he subsequently admitted that this was not the procedure and that he knew that it was not followed.

An investigation conducted by the Global Maritime and Transportation School (GMATS) at the United States Merchant Marine Academy concluded that the ferry operation was characterized by cronyism and nepotism and that a change in management was necessary to change the culture. The City of New York responded by appointing a new chief operating officer and introducing new regulations mandating more staffing on the boats, background checks, a strict drug and alcohol policy, more stringent medical exams for employees and surveillance cameras on board, as well as the presence of two people in the wheelhouse.

At oral argument, Judge Robert D. Sack compared the failure of the ferry to require two pilots with passenger expectations when flying on board an airplane, saying "You have a 777 flying. You expect both pilots to be in the cockpit when it lands. You don't expect one to be in the back cleaning dishes." The court found in March of this year (2008) that the City could not limit its responsibility. It also held that the City was negligent and that each victim was entitled to a trial on the issue of compensation for injuries and economic losses.

[NMA Comment: The Pilot (Smith) and his personal physician (Tursi) broke the law, were found guilty in Federal court, and were punished. None of their misconduct in any way justifies the medical purges of working mariners initiated by the NTSB and Coast Guard’s National Maritime Center following the accident.]

Subject areas:

Issue #1: Identify the abuses or errors abuses initiated by the new Medical NVIC (NVIC #04-08) and how they affect your life, your job, and your career.

Issue #2: Errors made by Coast Guard Regional Exam Centers, the National Maritime Center, and Headquarters Appeals after our Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services.

Note: This information will appear in our Report #R-428, Revision 2.

● **Mariner identity.** In the project leading up to this report, we needed to know who each respondent is and where to reach him/her. We seek to protect each respondent’s identity as much as possible by assigning an identity number. An example is **[Mariner 80]** or simply **[80]** to protect our mariners from retribution. The data collection was accomplished over the internet.

NMA MISCELLANEOUS GENERAL COMMENTS

[NMA Comment: Since the Coast Guard appears to have shown a recent concern over the future health of our mariners, why have they never taken action to protect our mariners on the well-publicized national issues we reported on as follows:]

Our Report #R-341, Rev.3. June 30, 2006, Smoking and Merchant Mariner Health & Welfare Issues: A Petition to Congress.

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

Our Report #R-340. Jan. 20, 2003. Protecting Mariners’s Hearing. The International Maritime Organization moved on this issue in the early 1980s. All the Coast Guard has is a NVIC with unenforceable guidelines widely ignored by the marine industry!

Our Report #R-445. Sept. 14, 2007. Report to Congress: Coast Guard Failed to Protect Mariners from Asbestos. OSHA has had regulations in effect since the 1980s. All the Coast Guard has done is publish a NVIC with unenforceable guidelines!

Our Report #R-395, Rev.2. Nov. 22, 2006. Safe Potable Water and Food Service for Commercial Vessels of Less than 1600 Gross Register Tons: An Appeal to Congress. On Sept. 9, 2004, Congress ordered the Coast Guard to promulgate potable water regulations. Over 4½ years later, the Coast Guard hasn’t even prepared a Notice of Proposed Rulemaking!

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

Our Report #R-370 Series (11 separate reports) on work-hour abuses over the past decade. These reports have serious health implications that the Coast Guard has never addressed.

Our Report #R-403. Sept. 19, 2004. Stress and the Licensed Mariner.

[NMA Comment: Before 1970, the Coast Guard required mariners to take their physical exams at Public Health Service Hospitals at government expense. Merchant mariners struggled for years to allow their private physicians perform their physical exams at their own expense. While the Coast Guard always reviewed these exams before issuing a license, the new procedures undertaken at the National Maritime Center are proving to be very expensive, time consuming, invasive and threatening for our mariners.]

[NMA Comment: The new “Medical NVIC” discriminates against older, less physically-fit mariners at a time when there are shortages of experienced personnel in the marine industry. “Experience” often comes with age. There is no connection between “disability” and failing a physical exam and losing your “credentials.” There is, however, a clear and obvious connection expressed by many mariners between losing your “credentials” and poverty, joblessness, and homelessness, and requiring financial assistance from the government.]

[NMA Comment: Cramming the Medical NVIC down the throats of two Federal Advisory Committees should not be considered the equivalent of valid Federal Rulemaking Procedure.]

[NMA Comment: Entry level mariners should not count on the marine industry to provide a career, only a job. Unless the health and safety issues we reported on are addressed, the chances of reaching retirement age in this dangerous industry is remote. Our Association will not encourage mariners to enter this industry until conditions improve.]

[NMA Comment: While the President is trying to deal with a national health care crisis, the National Maritime Center's program, as currently administered, turns the spotlight on a misdirected and poorly managed government healthcare program.]

[NMA Comment: New National Maritime Center policies such as using Body Mass Index (BMI) was designed to detect possible future health problems NOT to evaluate performance. This report will deal with the impact of this problem on our mariners in their own words. We protest the use of BMI to deny a mariner his/her "credentials" and the ability to continue to earn a living.]

MESSAGES EDITED TO THE DATE OF THIS REPORT

Lifetime jobs are not a guarantee in any industry and never have been. I would call it ða working productive and capable lifetimeö not until death do we part. [126]

ðOver the past few days, I received telephone calls from mariners who expressed concern about their license renewals or obtaining an initial license. I am sending this e-mail with information concerning mariners that are either overweight or have medical issues when it comes to either renewing your Coast Guard license, tankerman's ticket, or a merchant mariner's document that you or someone you know of may possess. This also applies to anyone you know who may be thinking about or is getting ready to go to school for any Coast Guard credential. You are receiving this e-mail either because you are on my e-mail list or someone provided me with your e-mail address. After you read this, I would appreciate it if you would send it on to any other mariner that you may know. **We must take a stand on this issue.**

In September 2008, the Coast Guard came out with a new Medical ðNVIC 04-08ö (Navigation and Vessel Inspection Circular). These ðguidelinesö deal with approximately 202 medical reasons that potentially can disqualify a mariner from either obtaining or renewing a Coast Guard ðcredentialö such as a license or z-card. I would strongly suggest that you go to the National Mariners Association website at www.nationalmariners.org and pull down Report # R-440-A, Rev. 1, Mariner Health and the New Medical NVIC for a copy of the NVIC, look it over and pass it along to your crew or friends that you know.

In March 2008, a final joint TSAC (Towing Safety Advisory Committee) MERPAC (Merchant Marine Personnel Advisory Committee) medical NVIC working group meeting was held. Everyone in attendance, which more the half were AWO members, sat with looks of shock on their faces when the Coast Guard stated that it was going forward with the NVIC as written whether the committees voted to accept it or not. Everyone at the meeting realized then that the Coast Guard, under the misguided direction of CAPT (Dr.) Arthur French (the National Maritime Center's Medical Review Officer) was going to shove this medical review board down the industry's throat. The AWO realized then that they would eventually be blamed for the hardship the new NVIC would cause in the future. That day TSAC chose to close the working group down, voting not to accept the NVIC. There was near outrage during Dr. French's explanation of the BMI (Body Mass Index) standard. TSAC members realized then that they had been used by the Coast Guard to rubber stamp a policy that would have serious consequences for their boat owners. The preceding September, MM&P (International Organization of Masters, Mates, and Pilots) strongly advocated for mariners rights at a MERPAC meeting. MM&P returned to the joint meeting with a house report that called for an third party trusted agent and other things that would have replaced the Coast Guard's proposed medical review board. Eight medical review officers now are looking over a back log of over 4,000 applications for medical review piled on shelves of the new National Maritime Center in West Virginia, while the

Coast Guard tells Congress there is no problem. This is just one of the up hill battles mariners will face in 2009. At least on this one we may have AWO on our side.

Since this new Medical NVIC went into effect, I have spoken in person, by e-mail, and over the telephone with mariners whose licenses were held up by the Coast Guard for various medical reasons. Some of them had high blood pressure, high cholesterol, diabetes, heart problems and a few other medical issues.

Just this past week, I spoke with a young man who stands 6'6" tall and weighs about 285 pounds. He spent 15 days in school to get his Apprentice Mate/Steersman License, 15 days in a hotel while going to school, and spent money on gas for his vehicle, and food to survive on while in school. Luckily, the company paid for his tuition and hotel. However, if the company had not paid for the school, this young man would have had to pay for everything out of his pocket which could have resulted in an expenses well over \$3,000.00. After he finished school, he submitted his paperwork to the Coast Guard Regional Exam Center and began the process of obtaining his license. After some time waiting, he received a letter in the mail from the Coast Guard **"DENYING"** him a license because his BMI (Body Mass Index) was over 40.0. The Coast Guard, who never examined him, felt it was unsafe for him to work on boats, unless he took another physical exam to prove that he was capable of performing his duties safely. In the letter they sent him, they also sent him another Physical Form that he would have to take to a Doctor and be evaluated on certain things, before submitting a new completed physical to the Coast Guard at which time their Medical Review Board would review the physical and determine if they should issue him an Apprentice Mate/Steersman License. I personally know this young man; he has been a Tankerman for a number of years, and he is NOT overweight or out of shape. Now, because of this ruling, he will have pass the following **"Physical Ability"** requirements:

- 1) Is able, without assistance, to intermittently stand on feet for up to 4 hours with minimal rest periods..
- 2) Maintain his balance for an unspecified time.
- 3) Carry 40 pounds of weight up and down a vertical ladder.
- 4) Is able, without assistance, to step over a door sill or coaming 24 inches high and be able to move through a restricted 24" by 24" opening. .
- 5) Is able without assistance, to open and close watertight doors that may weigh up to 55 pounds. He also should be able to move hands/arms to open and close valve wheels in vertical and horizontal directions, rotate his wrists and turn handles and be able to reach above shoulder height.
- 6) Is able without assistance, to lift at least a 40 pound load off the ground, and to carry, push or pull the same load a minimum of 200 feet.
- 7) Is able, without assistance, to grasp, lift and manipulate various common shipboard tools.
- 8) Is able, without assistance, to crouch, kneel and crawl, and to distinguish difference in texture and temperature by feel. He must also be able to crawl in a crawl space 2'x 2' for a specified length.
- 9) React to visual alarms and instructions, emergency response procedures.
- 10) React to audible alarms and instructions and emergency response procedures.
- 11) Make verbal reports or call attention to suspicious or emergency conditions.
- 12) Is able, without assistance, to pull an uncharged 1½" diameter, 50' fire hose with nozzle to full extension, and to lift a charged 1½" diameter fire hose to the fire fighting position.
- 13) Have the agility, strength and range of motion to put on a personal flotation device **AND** exposure suit without assistance from another individual.

Now, if this had been a mariner that went on his own and got his license and spent almost \$3,000 to get his license, and then be denied, and now has to spend another \$400 to \$500 (I called a clinic to see what the cost would be), do you think this attracts new crew members into our industry. The companies are having a hard time recruiting people and even retaining crew members they have now.

Some of these items seem like they may be easy to some of us, but to others they may be very difficult. For example, many mariners have never seen an exposure suit? Do you have an exposure suit on your vessel, have you ever attempted to put one on, have you been trained on how to put one on, how to properly use it? I know I have not seen any on all the vessels I have served on.

In the past, mariners have been at odds with the companies on different issues, such as pay, benefits, safety, training and a lot more that I will not get into at this time. But, as a result of this new Medical NVIC, the mariner and his company will have to join hands and fight together on this matter. If we don't do it now, some of us will be sitting on the hill watching and looking for work at Wal-Mart, if the Coast Guard gets their way with this.

None of us have any idea what CAPT. French and the Coast Guard were thinking when they came up with this NVIC. Did they want us to be slim trim well sculpted hard bodies? Do they want to run our industry as they run

the Army, Navy, Marines and Coast Guard? Were they thinking that all these young Maritime Academy Grads were going to come into our industry and bring in their well toned muscular bodies? They now see that is not happening. Most of these grads choose to follow a different path.

We, the older Captains and Pilots are where the knowledge and experience reside. If we are put out to pasture prematurely, who will train the new pilots and deckhands coming into the industry? If you would like to see if your BMI is over 40.0, go to the following web address and see for yourself:

http://www.cdc.gov/nccdphp/dnpa/bmi/adult_BMI/about_adult_BMI.htm

If the Coast Guard can deny a license to a young man who stands 6' 5" tall and weighs 275 pounds because his Body Mass Index (BMI) was over 40.0, what are they going to do to older mariners who are overweight that have 20 to over 30 years experience? [80]

Be very careful - keep in mind that the NMC has already established 12 "Trusted Agents" similar to FAA flight surgeons to do physicals. I expect that when they have enough of them ALL mariners will have to go to a "Trusted Agent" physician. Costs will skyrocket and rejections will also because no "Trusted Agent" will risk his status over passing someone because he is a nice guy.

The Rule "assumes" that the person doing the physical is a Coast Guard USCG "approved trusted agent" who knows all of the requirements, NOT a local doctor, or medical practitioner. The mariner's own doctor will be cut out of the loop very soon, so that the NMC will have control over ALL physicals. Read between the lines!

This shows that they are gearing up to allow the use of only NMC approved medical practitioners, like FFA flight surgeons, not a mariner's own physician not "your" doctor. It will be Hell on marginal guys because the "approved" agent will not be willing to compromise his Coast Guard endorsement and future fees. I've had three mariners with a BMI over 40 and all three took the silly form to their doctor, or to a walk-in clinic, and demonstrated that they could meet the requirements.

Look ahead to where this is going. NMC control over all physicals done to their standards by NMC approved doctors and clinics. No more shaving of questionable conditions. This will phase out a lot of older guys. Fighting the BMI is a waste of time - like Don Quixote and the windmill.

This BS about supporting a move away from the use of private physicians to Coast Guard-approved locations is going to cripple the maritime industry. For example: I can send a guy into any one of several walk-in clinics I use from Chicago to Miami, and points in between, and get the physical and drug test done for between \$95 and \$125. I sent a guy into a doctor approved for FAA physicals and it was \$200. The guy's blood pressure was 155/95 and I told him to take two aspirins and ask them to take it again. They wanted to charge him \$125 to re-take his blood pressure and note it on the physical form.

This is what is going to happen in the future. This is a much bigger issue than the Body Mass Index factor that applies to only a few overweight captains. You should place your emphasis on allowing applicants to go to their own doctor for their physical. [126]

[NMA Comment: Our association support the continued use of private physicians without further interference by the Coast Guard.]

The table shows you would have to weigh over 336 pounds at 6'5" to have a BMI of over 40. Am I doing something wrong? [91]

Something seems to be incorrect with the information you [80] received.

The NMC apparently implemented the BMI crap a few weeks ago although they put it in effect on a "trial basis" for Coast Guard enlisted personnel in October.

I have at least ten mariner renewals whose BMI is over 40, and they were renewed in January and February. **However, March is a different story and BMI letters are being received.**

I have a mariner in Wisconsin, 6' 4," 330 lbs BMI 45. The NMC sent him a letter and a simple form that his doctor can fill out demonstrating that he can lift 40 pounds, get through a 24 by 24 inch opening, put on a life preserver, etc. He went to his doctor today. I told him to take a 50 lb. bag of dog food and life jacket for the ability demonstration. It's done, signed off, and in the mail to the NMC. I don't expect any problems.

I have several others that I have notified of the new BMI requirement in advance of taking their physicals and they are dieting and walking in order to meet the standard. I have several whose applications are at the NMC and are waiting to receive a BMI letter. They, too, are also dieting and walking. Hopefully the doctor will be able to verify that their revised weight and BMI fit the required profile.

I don't see this as a big problem. However, the **NMC is incorrect to apply a BMI standard designed to measure the potential for future medical problems to performance standards. They are not applying the BMI to Coast Guard enlisted personnel performance, but simply to being overweight. They are put on probation, have to lose weight or be discharged. It is a double standard. That's the point.** [126]

Recall my email from last month where I stated what went on 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). 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 National Maritime Center, 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.**

As I recall, didn't the American Waterways Operators have a helping hand in devising the new Medical NVIC 4-08? If they did, why did they not see that this new NVIC was going to put the experienced mariners out to pasture? Were they hoping that the new string of recruits into the [towing] industry was going to come out of the Maritime Academies? We know just is not happening! [80]

I've found a few articles on the web that basically say the BMI calculator is a failed system. One such article was written by my fabled MAYO Clinic.

I can show you a photo of myself at age 18. I weighed 214 lbs. when I graduated high school and I was some kinda fit....STUD LIKE in fact..... But the BMI chart basically says anything above 179 lbs. is obese. I know if I went to the gym tomorrow and got in shape, I would still weigh well over 200 lbs by the time I reached a fit state. There are people that are simply big boned and thick, and the BMI fails to recognize this fact. I can't imagine weighing 135-179 lbs for someone 5'11" tall. For anyone of you on this list that knows me, I would look as if you were going to be sending me off to my maker. [90]

Did the Coast Guard want the maritime industry to be like the Army, Navy, Marines and Coast Guard with all these physically-fit young men with well sculpted bodies? If they did, they also need to look at many other things like:

putting licensed experienced dietitians onboard. As we know, most boats have 18 or 19 year old deckhands to do the cooking. All they know about cooking is when it says McDonald's or Burger King on the bag.

putting 3 licensed wheelmen onboard so we can have time to work out, because working the 6 & 6 watch schedule just does not allow enough time to clean our rooms, wash our clothes, prepare a decent meal, do the required paperwork, plan or attend safety meetings and drills, not to mention all the other BS we have to do.

If we, as experienced licensed mariners, do not stand up and make our voices heard, the Coast Guard will be policing the best regulated but non-existent merchant marine fleet in the world. [80]

[NMA Comment: Refer to our Report #R-395, Rev.2. Nov. 22, 2006. Safe Potable Water and Food Service for Commercial Vessels of Less than 1600 Gross Register Tons: An Appeal to Congress.]

All of our concentration on work hours may not matter at all if your Body Mass Index (BMI) does not fall within the guide lines of the new medical NVIC. The BMI in the Medical NVIC will put many of us on the hill. I am 5'6"

and 178 lbs. What about you and your BMI. **The Coasties are going to shut down the towing industry if we do not get off our butts.** Remember that AWO, representing towing vessel employers, have been the Coast Guard's partners for the past dozen years. They want to get rid of the older mariners that have real knowledge and experience and deserve their salaries for their knowledge and experience. What happens if I am refused a license renewal the next time for being a little over weight? **Will I be eligible for disability?** Will the truckers that run our highways in those big-rigs everyday also be subjected to the same medical regulations? I don't think so. **Why is it that the marine transportation industry is the only part of the industry that has to answer to a military force? For example, why don't commercial airline pilots answer to the U.S. Air force?**

The U.S. Coast Guard has very little knowledge of brown water navigation. In fact I invite anyone in the Coast guard to stand full watches alone in the pilot house of any 7,000 HP push boat with 35 loaded barges from Cairo, IL to LMR Mile 55 LMR. [96]

If the Coast Guard is going to regulate our lives and our jobs, then why don't they pay our taxes and our salaries, too. Don't we pay their salaries. And why don't they have to follow the same rules that they put upon us? I agree that we need to get off of our butts and get something going, or we all are going to be out of work by just sitting here and accepting rules we do not support. [88]

Although you and I are both "elders" to use the term, neither of us are physically capable of doing the things we did when we got our first license. I recognize this unfortunate reality and do not want to captain a boat with passengers because I might run into a situation wherein I cannot perform. Experience does come with age, as does the inability to properly perform the tasks necessary to keep people safe and save lives. It is time for many of the "old horses" to accept that it is time for them to retire to the lush green pasture and/or stud farm. I'll take the latter if given a choice. It is not discrimination - it is fact - an unfortunate one. I cannot fight a battle when I know the cause is not "just." Physical requirements for a physical job is a fact of life, and boat captains are going to have to accept it and comply. If they lose their ticket so be it. It is far better than having them pass out at the wheel in a diabetic coma, have a heart attack or stroke while at the wheel. Or, not be able to bend over the rail to pull in a drowning passenger. [126]

Below you will find what I found. **NOWHERE** in the DOT trucking regulations is anything that would disallow a person from being a driver with a Body Mass Index over 40.0. Also, you will see there are a LOT of things the Coast Guard disallows that the DOT allows for drivers. Hope this helps. [80]

[NMA Comment: We asked mariners who worked on this project to comment further on the trucking regulations we posted. We reviewed parts of DOT trucking regulations including their comprehensive physical examinations and find no mention of anything comparable to the use of Body Mass Index (BMI) in disqualifying truck drivers. In 49 CFR §391.43 instructions for completing the physical exam under the "General" heading there appeared this note: "General appearance and development. Note marked overweight" – and that is all.]

oThe [Medical NVIC] that the Coast Guard put out concerning the new Body Mass Index. If I read it correctly, if a mariner does have a BMI of over 40 then all he has to do is demonstrate that he can perform the functions listed in the NVIC. Hope this helps!o [97]

oOh great! Just another cost that has been put on the mariner! So after you are done with the physical and they determine your BMI is over 40 will the Coast Guard determine what tests you must take or is up to the doctor/nurse practitioner? Will they ask us to bring in a list of approved agility tests so they can perform them?o [97]

oYou are correct. That is all the mariner has to do. It is called a "Performance Agility Physical." The clinic I called in Houston informed me they charge anywhere from \$450 to \$500, depending on exactly what the Coast Guard requirements for mariners are. They also informed me that every mariner they have encountered with this problem

has had to perform different tests so far. It seems to me and others as well that the Coast Guard is still unsure about what they want us to do.ö [80]

I sincerely doubt the BMI over 40 was the reason ó I deal with about 500 mariners a year and never had a denial for BMI for either licenses or merchant mariner documents and IøI wager that Iøve had at least 50 mariners who were extremely obese ó over 300 lbs ó not one of them was denied. The medical NVIC has not been a problem for my clients and they range from Alaska to Puerto Rico.

If he applied for an MMD ó not a license ó the physical requirements are understandably more stringent as described in Enclosure 2 to the NVIC. However, I canø find a reference to BMI in the NVIC.

Did the doctor put the BMI on his physical or mark it as obese? Have you seen the physical form submitted to the NMC? This is the root of the perceived problem.

I suggest not reacting until you see the denial letter and physical form submitted to the NMC by the applicant. Something isnø right about this. Iø do some serious homework before sticking my neck out and blaming the NMC medical staff. [126]

They have the CDC web site for adult BMI listed incorrectly in Enclosure 2 to the Medical NVIC. This is normal for them. The measurement standard of BMI did NOT appear in the original proposed NVIC. When did they slip in it? They 'snuck' the BMI standard in the Medical NVIC ó it was not mentioned in the draft version. [126]

The young mariner in [80]'s story has a BMI of 33.8 according to the US Government standard. (I went to the CDC link Capt. XXX provided and typed in the numbers of this young tankerman). Why did the NMC rejection letter say his BMI was over 40? [127]

Thank you so much for all the information. I seem to be one of the many exceptions to the rule as far as my physical condition. I believe that certain cases may apply if there has been some history of a mariner having physical or health issues but in my case my file shows nothing health related!

The only item they have is the Body Mass Index figure from their foolish BMI scale. *However, the information now they have on file for me, I believe, may hamper my renewal efforts in the future.* For now, I am sure to be red flagged as a "Fattie." I have spoken at length with President Joe Dady on this issue, and I am baffled by it. Do you believe mariners can use the CFR you have sent me (46 CFR §1.03-40- Appeals from Decisions or Actions of the NMC) when they are denied a license or endorsement as a defense?

I had to go to my doctorø's office last week and perform an embarrassing battery of tests. I had to crawl on the floor of his office like a fí í dog! I am disgusted! Who in the hell do they think we Fatties are? I have seen the process now, and I am fully aware of the length these absolute morons will go for a laugh. Thatø what this is right? These NVIC requirements are nothing more than a sick way for the Coast Guard elite to amuse themselves. Meanwhile, good mariners must crawl around on the office floor like dogs and being laughed at by their peers because they were deemed by the Coast Guard as unfit and morbidly obese! I love that expression, òmorbidly obese.ö That really makes me feel like part of the team.

I have been performing martial arts for 16 years. I participate in boxing. I have played on several over-300 pound sports teams in both basketball and local flag football leagues. I exercise frequently and have always been athletic. I am not your stereotypical òfattie,ö I may be heavy but quite able to do my duties as a licensed merchant marine officer. Come on nowí steering a tugboat. Are they kidding?

I believe its time for mariners to be heard. I am finally a member the Association and proud of it. I am very happy to have a relationship with President Joe Dady, and I know he is an asset to your organization. Thereø simply no one better that Capt. Joe to speak for the mariner! [127]

I entered my height and weight 6' 4" and 235 pounds got a BMI of 28. I also did 6'4" 285 lbs, which is the guy in Texas who was disqualified for having a BMI over 40. Those numbers come out at 38 ó not above 40. I think someone goofed. [126]

[NMA Comment: We asked our readers to base further comments of this comment on the Physical Ability

Guidelines (below) or on the Medical NVIC on our website www.nationalmariners.org under "Research Reports" listed as our Report #R-440-A, Rev. 1. Sept 30, 2008. Mariner Health and the New Medical NVIC.

I guess I am out of business! My license is up for renewal in July of this year. I just turned in my application three weeks ago. My height of 6' 1" and weight of 330 lbs will force me out of a \$90,000 a year job. I have been the same weight for 7 years. I am an avid martial artist and have competed in martial arts tournaments for years at my current weight. I have three young children and a considerably high overhead. I will be homeless in four months without my job!

Just chalk me up as another statistic. I mean I think people are now going to go to drastic unhealthy and dangerous measures to try and lose weight quickly so they can pass the Coast Guard's criteria or they will take dangerous diuretics to get their weight down. There is no way possible that my license will be ready by July 9th with a rejection even if I do get the 13-step evaluation filled out and back to the Coast Guard.

We have a Mate at my company who turned his application in last Oct 1st. (2008) and has still not received his credential. I will be forced to continue working. I will be in survival mode. I can assure you my family comes first no matter what. I will find a place to run a boat! Mariner [127]

The 2008 Body Mass Index standards seem to apply to Coast Guard personal NOT license applicants. I am 6'4" and weigh 235 as of yesterday according to this BMI scale I am overweight. So would be Admiral Thad Allen do you think they applied the BMI to him? [126]

I agree that the BMI should NOT be used to measure performance or ability because the CDC stresses that it is an indicator of current health and possible future ailments. In addition, *the Coast Guard is not using it in their own MAW program for performance, but as an indicator that the person needs to lose weight or be discharged after a probationary period* to allow them time to meet the standard for their height. So, NMC decided to use it as a performance ability measurement - bad! Based on the email I received from (NMC Nurse) Barbara Campbell that their "Boating Reports" indicated that some mariners are overweight and unable to perform their functions. I wonder if this was observations made of deck hands on inspected vessels T-Boats - during the annual inspection for a COI - although I know of nothing in the CFR that requires an inspection of the deck hands to see if their are too fat to function. The action that the NMC has taken in regard to using the BMI as a performance measurement has no scientific backup or regulatory authority.

If a licensed captain (not crew member) cannot do the simple things required on Enclosure 2 to the Medical NVIC he has no business holding a license. However, the use of the BMI to require a physical performance test is not valid - no scientific evidence or regulatory authority. [126]

REFERENCE: THE COAST GUARD'S MILITARY STANDARDS [126]
Frequently Asked Questions for New Coast Guard Weight & Physical Fitness Standards About MAW Standard Changes

Q. What are the most significant changes to the new policy?

A. (1) Maximum Allowable Weight will no longer be calculated by frame size. Instead a maximum Body Mass Index (BMI) of 27.5 for all heights will be used to determine MAW.

(2) Max Body Fat will be lowered to 26% for men and 36% for women.

(2) Active Duty Military Members are expected to exercise three times per week in full accordance with their Personal Fitness Plan (CG-6049).

Q. Why are we changing the way we calculate MAW?

A. There are several reasons for transitioning to the BMI-based MAW calculation. First, it represents an established and well researched tool for determining healthy weight ranges for military populations. Second, it provides parity with Department of Defense (DoD); all other military branches are mandated to use the BMI-based scale to determine MAW for their military members. Lastly, BMI-based scales represent a healthy, fair and equitable standard that does not discriminate against gender or age.

Q. What is BMI?

A. BMI is Body Mass Index (BMI) is a number calculated from a person's weight and height. BMI provides a reliable indicator of body fatness for most people but is not a direct measure of body fat. **BMI is used as a screening tool to identify possible weight problems for adults.** However, BMI is not a diagnostic tool, meaning that if you exceed the recommended healthy BMI range it does not necessarily mean you are over-fat or will be diagnosed with a weight-related health problem.

Q. This sounds like the old Metropolitan Life Insurance Height and Weight charts? Is it?

A. No. The METLIFE ideal body weight charts were based on frame size. The concept that frame size is a valid indicator in determining a healthy weight, has been disputed by many health research organizations including the National Institutes of Health and the Centers for Disease Control. Conversely, BMI is widely accepted by the same health research organizations as one of the best methods for population assessment of overweight and obesity. While BMI does not measure body fat directly, research has shown that BMI correlates to direct measures of body fat, such as underwater weighing and dual energy x-ray absorptiometry (DXA).

Q. Has there been any review or research of this method in a military community?

A. Yes. In 2004, a **military sub-committee of experts** was formed to identify the most effective interventions for weight loss and weight maintenance particularly those most pertinent to the non-obese overweight individual (BMI 25.0 to 29.9) in military settings. Their study revealed that when only two anthropometric measurements are used to estimate body composition, height and weight have the highest level of association with percent body fat. In addition, BMI is positively correlated with morbidity and mortality and health risk with BMI remains unchanged in older individuals. In other words, using BMI to establish MAW is both scientifically valid **and acceptable to standardize for a large population, such as a military organization.**

Q. What about athletes who have large muscle mass? Won't they have a higher BMI?

A. Yes. Since BMI is calculated from an individual's height and weight, which includes both muscle and fat, some individuals may have a high BMI but not have a high percentage of body fat. For example, highly trained athletes may have a high BMI because of increased muscularity rather than increased body fatness. Although some people with a BMI in the overweight range (from 25.0 to 29.9) may not have excess body fatness, most people with a BMI in the obese range (equal to or greater than 30) will have increased levels of body fatness. Although a BMI of 27.5 is classified as overweight, the Coast Guard has chosen a maximum body mass index of 27.5 to accommodate members with increased muscle mass as described above.

Q. I'm a body builder with a lot of muscle mass so my BMI is really high; but I'm healthy because I lift weights all the time. Is this new standard good for body builders?

A. BMI is a predictor of overall health risk and **is not a predictor of fitness.** **Neither the previous MAW standard nor the new standard based on BMI could be used to measure the fitness level of an individual.** It is also important to point out that carrying excess muscle mass may not be healthy for some individuals because of the elevated workload it places on the heart. In short, increased muscularity does not equate to fitness.

Q. Are other military services using BMI to determine MAW?

A. Yes. In 2002, the revised DoD Instruction 1308.3, "DoD Physical Fitness and Body Fat Programs Procedures" to mandate the following criteria for establishing max weight and body fat percentages:

1. Weight for height tables will be based on BMI.
2. No service may have a standard more stringent than a BMI of 25 or more liberal than a BMI of 27.5.
3. Body fat standards for men shall not be more stringent than 18% and not more liberal than 26%.
4. Body fat standards for females shall not be more stringent than 26% and not more liberal than 36%
5. Individuals who exceed these limits must be referred to a weight management program. The Coast Guard's new standards will replicate the standards established by DoD, providing parity with the other services.

Q. Why don't we use a more accurate measurement of body fat like calipers or underwater weighing?

A. The circumference method of determining body fat has been extensively evaluated for applicability to military members and represents the best practice that can be applied with minimal error to large populations. There is a strong correlation between abdominal circumference and known health risk, making this method valid and accurate

for determining members at risk for injury and disease. While widely criticized, the circumference method of testing body fat has shown to be accurate for nearly 98% of military populations tested when compared to other methods.

Q. Why is the new MAW standard the same for both men and women and is not age specific?

A. BMI is interpreted using standard weight status categories that are the same for all ages and for both men and women. Since it is based solely on height and weight, BMI is age and gender neutral. Extensive scientific research has shown that when using BMI to determine health risk, a person's age or gender is not a mitigating factor. At BMI values in the overweight category (25-29.9), risk for heart disease, stroke, diabetes, and cancer all increase, regardless of age or gender. That being said, BMI can be used as a reliable indicator of body fat because it is highly correlated with body fat but that correlation varies by age and gender.

Q. Why are the maximum body fat standards required by the policy broken down by age and gender?

A. Unlike BMI, body fat is not age and gender neutral. At the same BMI value, women tend to have more body fat than men. That body fat is required for ovulation, conception and lactation. At the same BMI, older people, on average, tend to have more body fat than younger adults. That is a result of lost muscle tone with age. The risk stratification when using body fat as an indicator of health risk changes with age and gender while it does not change when using BMI.

Q. Why do we have two different measurement standards (MAW and Body Fat) for compliance with the weight policy?

A. The two standard system is in place to balance the *ease of administering a standardized weight screening to 45,000 active duty personnel* (step on a scale) with fairness of the system by having a dual-integrity approach (body fat measure to confirm over-fat status). This system ensures that members who exceed MAW due to increased muscle mass are not mistakenly placed on weight probation. The two standard-system is fair and equitable and the same process is utilized by DoD.

Q. Why don't we just do waist-to-hip ratio? I've read that is a better measure of health risk.

A. While certain studies have shown waist-to-hip ratio to be highly correlated with cardiac risk, relevance to other risk factors such as hypertension and diabetes have not been as clearly linked. In addition, the waist-to-hip ratio does not provide weight guidance and would require several measurements to arrive at a ratio, and then another calculation that would establish the MAW. Conducting this level of measurement on the entire active duty and reserve personnel population would be a significant lift. Conversely, we can use BMI to provide a healthy weight range and also implement a simplified measurement process for our ADMIN staff which will reduce the potential for errors in measurement and bad data collection.

Q. With this new standard, my MAW just dropped by 16 pounds. Is that an error or do I need to start starving myself?

A. No. It is not a mistake. Because the new MAW scales are based on BMI which only factors height and weight and not body composition or frame size, it is entirely likely that members may see their MAW decrease with the new standard. Members who will see the greatest drop in MAW are those who's previous MAW allowed them to be in the obese category, a problem that was inherent the previous system of calculating MAW which incorporated frame size (a measure that is no longer recognized as scientifically valid in assessing health risk for large populations.)

No, you do not need to starve yourself to make weight. If you exceed your MAW, you will be screened for body fat. If you are compliant with the CG body fat standard for your age and gender, you are compliant with the policy. *If you exceed your max allowable body fat you will be placed on probation in accordance with the policy. The purpose of announcing this program a year in advance of its implementation is to give members time to assess their current weight, health and fitness level and determine if they need to take action to become healthier and more fit.* Members who are concerned about their current weight or health status should seek out resources through their regional Health Promotion Manager.

Q. The message says that the program is based on a maximum BMI of 27.5. Does that mean my allowable body fat will increase to 27.5?

A. No. Body fat and BMI are two different numbers representing two different values entirely. Body fat represents the percentage of your body composition that is comprised of fat. This value is represented as a percent and is

measured by the circumference measurement method outlined in COMDTINST M1020.8G (series). The maximum allowable body fat ranges for each age group will decrease by 1% in October 2009. New Body Fat Maximums are represented here:

Age	Percent Body Fat (Men)	Percent Body Fat (Women)
Less than 30	22%	32%
Less than 40	24%	34%
Age 40 or greater	26%	36%

The BMI value of 27.5 was used to compute the MAW for each height. While BMI is highly predictive of body fat, it is not being used as the Coast Guard's body fat measurement method.

About Administrative Procedures

Q. This new policy is probably going to require a lot more members be screened for body fat. Isn't this is going to create a larger administrative lift?

A. It is likely that many more members will exceed the initial MAW screening and will have to be tested for body fat. It is possible that this could significantly increase the workload of the admin personnel administering the semi-annual weigh-ins. Recognize that the need to measure frame size and compute every individual's MAW according to the charts in the former policy will no longer be a requirement and this will significantly reduce the administrative workload. In addition the human error involved in calculating MAW for each individual will also be reduced since frame size no longer needs to be measured. .

To further address the concern about administrative workload, **in October 2008, 15 units across the CG will be pilot testing the new standard to collect data and "lessons learned"**. At the pilot test sites, units will screen members against the new standard (without penalty) and record body fat measurements for all members who exceed the new standard. The data collected will assist CG-1111 and CG-122 with improving processes for admin staff and developing programs to assist members with lifelong healthy weight management.

Q. What will happen if I exceed my new MAW when the standard goes into effect in 2009?

A. Per COMDINST M1020.8 (series), any member who exceeds their MAW during semi-annual weigh-ins will be screened for body fat. Members who are compliant with their body fat maximum for their age will be considered compliant with the weight standard and will require no further action. Members who exceed their maximum body fat for their age will be placed on weight probation and administrative action as outlined in the policy will commence.

Q. Does it mean I'm fat if I exceed my MAW and have to be measured for body fat?

A. Absolutely not. Exceeding your MAW only indicates that you are outside the standard for your height. This can be due to increased muscle mass because muscle does weigh more than fat inside the body. This can also be due to increased body fat. The body fat measurement screening is in place to separate those two groups of people and make sure that no member is wrongly placed on weight probation for being highly muscled. Having to be screened for body fat should not be perceived as a negative consequence of exceeding MAW by the member or the command.

Q. What if I have never been on weight probation before, but with the new standard I will exceed my MAW and max body fat. Will be I automatically be subject to separation?

A. **Members who have never been on probation before but will be subject to separation when the new standard takes effect will be assigned a probation period to become compliant.** That probation period will be determined according to policy guidance in COMDTINST M1020.8 (series) which allows for the greater period of either one week of probation for every pound over MAW or one month probation for every 1% body fat over.

Q. The new MAW chart represents heights to the inch and is not incremental in half inches. If I am 72.5 inches, do I round up or round down to determine my MAW?

A. Height measurement will be recorded to the nearest inch. If the height fraction is less than 1/2 inch, round down to the nearest inch; if the height fraction is 1/2 inch or greater, round up to the nearest inch.

About Physical Fitness Programs

Q. Why don't we have a mandatory Physical Readiness Test (PRT) like the other services? That would seem to be a better of measure of fitness for duty than just a weight standard.

A. True. The PRT is an excellent measure of fitness for duty in most cases. There are several reasons why the Coast Guard is not able to implement a PRT at this time. The most significant barrier we have is the lack of a medical profiling system, known in the other services as the Military Physical Profile Serial System, to handle the screenings and waivers that are inherent with instituting a fitness test that is tied to advancement and promotion. Unlike the other Armed Services, each of whom has their own medical corps, the CG uses Public Health Service doctors to provide medical service to our active duty members. Furthermore, while members from other services all have access to Military Treatment Facilities (MTF), 40% of our CG active duty members must use a civilian doctor because they do not have access to a CG clinic or MTF. The current structure of our medical system could not effectively sustain a standard profiling system necessary to implement a mandatory PRT.

Q. Our policy doesn't focus on fitness. Why not?

A. Our policy does not ignore the importance of physical fitness and encourages members to seek fitness for duty, creditable appearance, and overall health and wellness. Each member is required in accordance with COMDTINST M1020.8G to complete a Personal Fitness Plan (CG-6049) which outlines their regular fitness activities. All members are entitled to many opportunities for fitness including voluntary fitness periods, weight-monitoring, and Personal Fitness Plans. The effectiveness of these programs at the unit level is reliant on integrity and leadership at each unit. We expect all leaders to maintain accountability, set the example, and promote healthy lifestyle choices at their units. Health, Wellness, Physical Readiness, Fitness, etc., are dependent on all levels of leadership in the CG, including the unit and the member.

REFERENCE: PHYSICAL ABILITY GUIDELINES [97, 59]

1. Credential applicants should be physically able to perform assigned shipboard functions and meet the physical demands that would reasonably arise during an emergency response. As used in this context, an "emergency response" refers to emergency evolutions such as abandon ship and firefighting, and the basic procedures to be followed by each mariner.
2. If the examining medical practitioner doubts the applicant's ability to meet the guidelines contained within this table, and for all applicants with a Body Mass Index (BMI) of 40.0 or higher, the practitioner shall require that the applicant demonstrate the ability to meet the guidelines. This does not mean, for example, that the applicant must actually don an exposure suit, pull an uncharged 1.5 inch diameter 50' fire hose with nozzle to full extension, or lift a charged 1.5 inch diameter fire hose to fire fighting position. Rather, the medical practitioner may utilize alternative measures to satisfy himself or herself that the applicant possesses the ability to meet the guidelines in the third column. A description of the methods utilized by the medical practitioner should be reported on the CG-719K or CG-719K/E (or approved equivalent form) as appropriate. All demonstrations of ability should be performed by the applicant without assistance. Any prosthesis normally worn by the applicant and other aid devices such as prescription glasses may be used by the applicant in all practical demonstrations except when the use of such would prevent the proper wearing of mandated personal protective equipment (PPE).
 - a. Those applicants where only a physical demonstration of abilities is required (719-K/E) may substitute a physical exam (719-K). Enclosure (1) details the relevant standards applicable to each type of credential.
 - b. The BMI calculation is discussed on the Centers for Disease Control and Prevention website:
http://www.cdc.gov/nccdphp/dnpa/bmi/adult_BMI/about_adult_BMI.litm
3. The Coast Guard recognizes that the guidelines contained in this table refer to shipboard conditions and tasks that may not be applicable to all vessels, e.g. a crewmember on a 79-foot towing or small passenger vessel may not be required to carry a 1.5 inch diameter fire hose with nozzle 50 feet; however, for the most part, credentials issued by the Coast Guard are not vessel specific, and they provide authority to work on different types and sizes of vessels, with each vessel having its own equipment and operating conditions. An applicant (along with his or her employer, as appropriate) who is unable to meet any of the guidelines contained within this table may propose alternatives that reflect the conditions applicable to his or her operating environment. Such proposals should be made in writing to the NMC, which will give full consideration to each proposal on an individual, case-by-case basis. See paragraph 10 of enclosure (6).
4. If an applicant is unable to meet any of the guidelines contained within this table, the examining medical

practitioner should provide information on the degree or severity of the applicant's inability to meet the guidelines. Applicants with physical limitations who do not meet the related physical ability guidelines in this table may be issued a credential with appropriate limitations upon evaluation by the Coast Guard. Mariners and marine employers are responsible for restricting the mariner's duties to the limitations of the credential.

- a. Any prosthesis or similar device used to successfully meet the physical standards should be noted on the credential(s), along with a requirement that the individual must use the prosthesis or similar device while acting under the authority of the credential(s).

REFERENCE: APPEALS FROM THE NATIONAL MARITIME CENTER

Mariner credentials (i.e., licenses and merchant mariner documents, commonly called Z-cards) are handled by the National Maritime Center (NMC) in Martinsburg, West Virginia. Mariners must apply for these credentials at one of 17 Regional Exam Centers (REC), fill them out completely, and have them checked over by the REC that will forward them to the NMC.

Not all mariners agree with decisions made by either the REC or the NMC. However, you may ask the REC or the NMC to *reconsider* their ruling. You can do this over the phone or in writing. We suggest that you do it in writing, thereby *creating a paper trail* that can be followed if need be. Unfortunately, many of these transactions are extremely complex and have not always been handled well in the past.⁽¹⁾ Be sure to save copies of all correspondence and be sure to take down the name, day, and time of any government employee you may speak with. [⁽¹⁾ Refer to our Report #R-428-D, *Report to the 110th Congress: Substandard Coast Guard Merchant Marine Personnel Services.*]

On some issues, you may find that even the NMC is unable to issue a final ruling and that may only be done higher up the chain of command. These questions usually involve policy issues or issues that may not only affect you but other mariners as well. The following article, *edited* from the Fall 2008 issue of *Proceedings Magazine* describes this appeal process.

CG-5434 – The Mariner Credentialing Program Policy Division.

By Lt. Thomas Pequignot, U.S. Coast Guard Mariner Credentialing Program Policy Division

Months after the National Maritime Center (NMC) closed its doors in Arlington, Va., [and moved to Martinsburg, West Virginia, CDR Scott Budka gets off the Metro at L'Enfant Plaza and takes the daily 10-minute shuttle ride to the Transpoint building in Washington, D.C., home of Coast Guard headquarters. CDR Budka just recently transferred to the mariner credentialing program policy division from his previous job at the office of investigations and analysis, where he was the suspension and revocation and administrative clemency program manager.

After scanning his ID badge through the usual headquarters security corral and navigating through the maze of elevators and corridors, he finds his temporary office space in the back of a cubicle farm of new and overflow HQ staff. Looking at the faded blue carpet and the reused cubicle furniture, one could think, *“What happened to the plush office with a view above the Ballston Mall?”*

CAPT David Kranking, the former division chief explains, “Separating program policy from NMC’s process of evaluating mariner applications is just the right thing to do. NMC’s challenge is to complete the realignment of the 17 Regional Examination Centers (RECs) under its control, and establish efficiencies and consistency in the processes of providing credentialing services to merchant mariners. The program policy division will support this objective by providing the regulatory and policy/guidance tools. This separation will help ensure industry’s needs are met.”

With NMC divesting itself of the policy responsibilities and moving them to the mariner credentialing program policy division, headquarters personnel can focus anew on these important policies.

Policy Functions

While the decision to establish the policy division at Headquarters came later in the Restructuring and Centralization project planning (approved in April 2007), it seemed like a natural evolution.

In fact, this is not the first time the policy function has called Coast Guard Headquarters “home.” Approximately a year after being created as a separate command in Arlington, the NMC inherited the policy responsibilities from HQ in 1996. This was an effort to consolidate policy and program management all under one house. However, the fact that issuing policy remained a Headquarters function contributed to inconsistencies within the program and difficulties in publishing needed guidance. It was decided a decade later that the mariner licensing and documentation (MLD) program

would benefit if the policy function did not follow the NMC as it continued to move westward to West Virginia.

In addition, having the policy division at Headquarters helps maintain the integrity of the appeal process. The former appeals system had local officer in charge, marine inspections decisions reviewed by the district commander, and then by NMC, which took final agency action. With NMC focused on the process, and under centralized operations making decisions on mariner applications, it had to have its **final agency action authority**⁽¹⁾ removed. That authority now resides with the director of prevention policy, for whom the mariner credentialing program policy division works. [⁽¹⁾ **Definition: Final Agency Action** = *The Coast Guard's final decision. If you don't like it, hire a lawyer and sue them in court.*]

Under the Director of Prevention Policy (CG-54)⁽¹⁾ are several offices, including the office of vessel activities (CG-543). The mariner credentialing program policy division (CG-5434) is one of four divisions within the office; the others manage vessel inspections and fishing vessel safety. CG-5434 develops program policy and overall management for the MLD program. [⁽¹⁾ *The Coast Guard constantly reorganizes itself. They now number various offices within their organization. This does avoid the necessity of memorizing long and confusing office and job descriptions. It also means you need a master phone list that connects the number with the job title and the building and room where the office is located. This is typical of the Federal bureaucracy.*]

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.
- Playing an active role in the review committee that oversees STCW compliance at the maritime academies through quality standards system audits.
- Making revisions to the major rewrite of the Marine Safety Manual, Volume III (Marine Industry Personnel).
- Serving as one of the key Coast Guard representatives for maritime training institutions, maritime unions, and other organizations.

For more information [about a decision that has moved beyond the "reconsideration" level at the National Maritime Center to the formal "Appeal" level at Coast Guard Headquarters, contact: the] **Mariner Credentialing Program, Policy Division, USCG Headquarters, 2100 2nd Street SW, Room 5213, Washington, DC 20593-0001. Telephone (202) 372-1207.**

- Commenting on a variety of issues associated with mariner security, including the transportation worker identification credential (TWIC).

Upcoming Initiatives

Moving forward in its inaugural year at Headquarters, the mariner credentialing program policy division will be taking on several high-profile issues, including managing regulatory updates and establishing the merchant mariner medical advisory committee (MMMAC). The most noteworthy of the regulatory initiatives is ensuring U.S. licensing compliance with STCW and implementation of the combined merchant mariner credential (MMC). The combined MMC will benefit the mariner by reducing the number of credentials mandated by U.S. regulation, merging them into a single identification and qualifications credential.

The mariner credentialing program policy division will also be facilitating TWIC implementation and the integration of the application and data exchange processes between the Coast Guard and the Transportation Security Administration. This will allow mariners to conduct MMC transactions through the mail.