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Asserting our right "...to petition the Government for redress of grievances."  
Amendment 1, U.S. Constitution, Dec. 15, 1791

## THE NATIONAL BUDGET CRISIS: TIME TO END THE NATIONAL MARITIME CENTER'S MEDICAL EVALUATION BOONDOGGLE

Edited by Capt. Richard A. Block, Secretary, National Mariners Association

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### INTRODUCTION

The National Mariners Association seeks to represent the views of ólimited-tonnageö merchant mariners who serve on tugboats, towboats, offshore support vessels, small passenger vessels, uninspected passenger vessels and other workboats of less than 1,600 gross register tons. Conservatively, our mariners number approximately 126,000 of the total number of 210,000 mariners who hold Coast Guard credentials. In fact, our mariners are a vast *majority* of all credentialed mariners, and as such, their backgrounds, wants and needs are worthy of consideration by the Federal authorities that control their livelihoods.

In addition to these credentialed mariners, whose backgrounds are known to the Coast Guard, we also work on behalf of a number of other mariners without credentials who are employed in positions such as deckhands, unlicensed engineers, cooks and housekeeping staff on vessels as well as part-time and seasonal personnel that are just entering the maritime industry.

Painting with a broad brush, most of our mariners are óhawsepipersö who started at the lowest entry level positions in the industry and worked their way up. Most do not have a college-level education, as that has never been a job or regulatory requirement. In fact, a large proportion never attended college and never graduated from high school for the same reasons as well as other economic and personal reasons. Until recently, a career in the marine industry could be a ólifetimeö job (i.e., career) that could extend to retirement age when Social Security benefits kicked in after a lifetime of work. This career path was shattered by the *new medical evaluation requirements* put in place by the U.S. Coast Guard bureaucracy that never considered or to understood the needs of our ólimited-tonnageö mariners.

*Most of our "limited-tonnage" mariners work in domestic service* including near coastal and inland waters including lakes, bays, and sounds as well as rivers. Relatively few are engaged in óinternational voyagesö if that term is taken to mean voyages between the United States and other sovereign countries. The Coast Guard warped that meaning and this did not serve the interests of most of our ólimited-tonnageö mariners in coastwise (i.e., near coastal) service.

## MERCHANT MARINE PERSONNEL – PERSONAL REFLECTIONS BY EDITOR

I was originally examined and granted a Motorboat Operator license in New York in April 1955 that I used and gradually increased in size and tonnage to 1,600-tons. I taught for ten years in secondary schools in New York. I also taught for the Coast Guard Auxiliary, and in 1970 taught Ocean Operator license preparation courses for the State of Louisiana and later for the State of Alaska. Part of the job involved assisting mariners to prepare applications that would be accepted by the Coast Guard licensing offices. In Louisiana, teaching the course and filing mariner applications involved a struggle with Coast Guard bureaucrats administering a system clearly in conflict with existing practices of the offshore oil industry and very talented working mariners. The Coast Guard tried to impose regulations that may have worked in other parts of the country but clearly did not work here.

The conflict became increasingly high-profile until Senator Russell Long of Louisiana stepped up and told the Coast Guard to pay attention to what the oil industry and its trade association were telling them. The Coast Guard sent Captain C.T. Terry Newman from Washington to review the situation. I met with Captain Newman at Coast Guard Headquarters before he came to Louisiana. He was very skeptical of what I told him about the situation I had encountered in teaching mariners in Louisiana. However, after he arrived to carry out his year-long evaluation, he saw the situation I had described to him and realized the extent of the problems the Coast Guard faced in simply enforcing Subchapter T regulations for Small Passenger Vessels adopted 12 years earlier. This was just the beginning of the Coast Guard's relationship with the offshore industry and its limited-tonnage mariners. Captain Newman submitted his report<sup>(1)</sup> to Coast Guard Headquarters in 1973. His report brought changes to both the Coast Guard and the industry, but by 1980, after the continuous rotations of Coast Guard personnel, the Newman Report was forgotten so that several years later the Coast Guard could not even find a copy of the report in their files. [<sup>(1)</sup>Refer to NMA Report #R-428-A. *Maritime Education & Training for Lower-Level Mariners. The Newman Report.*]

At the same time, but not part of the same project, Congress dealt with a number of towing vessel accidents when it passed the Pilothouse Licensing Act. This halfway measure<sup>(1)</sup> required towing vessel officers to be licensed but did not require their vessels to be inspected. This legislation licensed approximately 15,000 of our limited-tonnage mariners (i.e., officers) but ignored an equal number of ratings. The Act's shortcomings eventually led to a series of spectacular fatal accidents and oil spills. Congress moved to correct the Act's shortcomings in 2004 when it required the inspection of towing vessels although we still await a Notice of Proposed Rulemaking seven years later and enforcement several years later. [<sup>(1)</sup>Refer to NMA Report #R-401-A. *Uninspected Towing Vessels; An Analysis of the Historical and Contemporary Issue of Their Regulation. July 1980 86p.*]

## THE MERCHANT MARINE PERSONNEL ADVISORY COMMITTEE (MERPAC)

As a wartime measure, the Coast Guard was given the task of supervising the U.S. Merchant Marine during World War II – a task permanently assigned to them following the war first within the Treasury Department, later in Transportation, and now in Homeland Security. One of the eleven (11) missions Homeland Security monitors is **Marine Safety** that includes, among other things, Merchant Marine Personnel.

Superintending our mariners is a job that the Coast Guard's **Marine Safety Directorate** never has done particularly well. Since Merchant Marine Personnel never was considered a career-enhancing job within the Coast Guard, it rarely attracted the best and the brightest. Traditionally, the job had about **150 military and civilian billets scattered throughout the country**. In recent years, with a distorted sense of the economies of centralization, **the number of billets for merchant marine personnel swelled to over 300 including contract civilian personnel**.

For many years, licensing was a function of about 40 licensing offices until the licensing function was reduced to 17 Regional Examination Centers (REC) whose primary function was to administer exams. Until 1995, giving exams and processing applications (including medical exams by private physicians) was the Coast Guard's only concern. Training was left to outside personnel ranging from state and Federal tax-supported academies to private license prep schools.

The Coast Guard is a military service that Congress assigned to superintend the U.S. Merchant Marine – primarily a civilian occupation. We assert that the Coast Guard has not treated our mariners with the respect we believe their unique experiences and skills in this civilian occupation deserve. Our mariners are quick to show their resentment when the Coast Guard tries to shape up our mariners as if they were part of a military organization. Since many mariners have never seen military service and work in a civilian industry that values their ability to perform a job that

requires unique skills, they resent the demeaning treatment they often receive from Coast Guard bureaucrats who have no first-hand knowledge or experience. The lack of understanding for the work that our mariners perform or the stresses they operate under is most noticeable in the new centralized National Maritime Center. We added the section **Investing in Personnel** written by the wife of a towboatman to this report to illustrate this point.

On Dec. 31, 1991 the Coast Guard announced the creation of MERPAC that advises the Coast Guard on matters related to the training, qualification, licensing, certification, and *fitness of seamen serving in the merchant marine*.

In its Newsletter #21 of Jan. 1992, the National Association of Maritime Educators (NAME)<sup>(1)</sup> stated: "If Congress wants to collect user fees, they should first authorize an Advisory Committee of maritime educators to help straighten out the existing mess in the administration of Coast Guard licensing both in Washington and the local RECs." [<sup>(1)</sup>Founded in 1987 by LCDR Walt Martin (USCG, Ret'd), NAME was a "watchdog" over merchant marine personnel functions until 2001 and published 99 Newsletters on maritime education and training topics.]

In response to NAME's complaint in a letter of Apr. 21, 1992 the Coast Guard admitted to a *"deep-draft" focus of MERPAC*. We were invited to appeal this "focus" and did so. In Newsletter #24, NAME stated that "A personnel committee *representative of the entire maritime industry* could provide needed expertise to solve pressing personnel and manning problems facing the entire maritime industry. On Jan. 30, 1995, DoT Secretary Federico Pena appointed Mrs. Penny Adams to MERPAC as the first representative of a school that specialized in "lower-level" (i.e., "limited tonnage") license training. Although Penny Adams served in that position for a number of years and later became the first President of the National Mariners Association, the "deep-draft" focus on MERPAC continued.

To be fair to MERPAC, between 1992 and 1995 the Coast Guard was deeply involved with the International Maritime Organization (IMO) in rewriting the Standards of Training, Certification, and Watchkeeping (STCW) and drafting the sweeping 1995 "amendments" to STCW.

STCW is an international agreement that affects most vessels on international voyages. These vessels are *primarily* "blue-water, deep-draft ships" that sail between countries. Most of these vessels are *not* the smaller vessels that our vast majority of "limited-tonnage" mariners in domestic service serve on. While a great deal of adaptation is involved to adopt STCW requirements for possibly 50,000 out of the total of 210,000 mariners, the needs of our "limited-tonnage" mariners never were not adequately considered. Thousands of our mariners on "shallow-draft" vessels were not adequately considered or prepared for the introduction of a completely alien personnel system. Although the deadline for the new system was Feb. 1, 2002, our Association cites April 1999 as the date when mariners on the Gulf Coast were first caught up in the STCW whirlpool.

Our complaint to the Coast Guard was and is that MERPAC effectively served the needs of the U.S. "deep-sea" merchant marine, but in doing so, ignored and ran roughshod over 126,000 "limited-tonnage" mariners.

*Part of the problem is that STCW placed a spotlight on "medical" issues.* Although this was a relatively small part of the whole 256-page STCW "package," the Coast Guard and NTSB ballooned the 2003 Staten Island Ferry accident described below into a major project to force our mariners to comply with the STCW package presented by the International Maritime Organization — even though most domestic mariners do not even come under STCW. However, the Coast Guard has tried to make "one size fit all" by cramming STCW and including its medical provisions down our throats. Of future concern, for example is the fact that IMO is pushing to require a complete physical exam for each mariner every two years instead of five years as is currently required.

### **National Mariners Association Criticizes MERPAC in Letter to Docket #USCG-2011-0171 – Merchant Marine Personnel Advisory Committee**

**[NMC Comment: This responds to the re-establishment of MERPAC by the Secretary of Homeland Security. The purpose of this letter is to have our views placed "on the record." We would be surprised to receive a response!]**

March 31, 2011

For the past twelve years, our Association has done its best to represent the safety, health and welfare concerns of approximately 126,000 *limited tonnage* credentialed merchant mariners. This figure does *not* include many deckhands, "deckineers," unlicensed engineers, cooks, etc. who do not require credentials. 126,000 is a conservative figure that accounts for at least *60% of all credentialed mariners – a clear majority*. Their issues, as outlined in [Enclosure #1 — NMA Report #R-350, Rev. 6] deserve adequate attention by MERPAC.

We understand that a number of maritime unions expressed support for the DHS's decision stated in a letter to Congress. "We enthusiastically support the Secretary's decision, and we encourage the Secretary to proceed as expeditiously as possible to appoint the members of the Committee so that it can conduct its meetings and work with

the Coast Guard in support of our industry," the unions wrote. "MERPAC provides the Coast Guard and the industry a much-needed forum in which the practical impact of proposed policy and regulatory changes affecting American mariners and the U.S.-flag merchant marine can be assessed."

While we may agree in principle with the foregoing statement, we will be *far less enthusiastic* in our support of a new MERPAC if it continues to conduct business as it did in the past. We do not see this committee as a successful model *unless the Coast Guard directs it to pay sufficient attention to the issues of our "limited-tonnage" mariners* as we outlined them in [Enclosure #1 ó NMA Report #R-350, Rev. 6]. Most limited-tonnage mariners are hawsepipers who work on *domestic waters*. They are overwhelmed by out-of-control training expenses resulting from *imposing STCW procedures on anything that is not a true "international" voyage*.

Notable as well, MERPAC did not serve our limited-tonnage mariners' interests by failing to obtain a reasonable accommodation with the *excessive physical requirements imposed by the "Medical NVIC"* that drove many experienced mariners out of the system before their planned retirement.

Our Association outlined a number of *personnel issues* that the Coast Guard downplayed or ignored for years in spite of our best efforts to bring them to their attention through the Advisory Committee process. Whenever the Coast Guard Marine Safety Directorate failed our mariners, we followed their advice and presented our issues directly to Congress in [Enclosure #1 ó NMA Report #R-350, Rev. 6]. Unpopular or insignificant as some of these issues may appear to the Marine Safety Directorate, we believe the Coast Guard and its advisory committees should address and resolve them. It should never have been left to us to express our dissatisfaction directly to Congress. Our Association certainly made our dissatisfaction known at the MERPAC meeting in Metairie in March 2010.

For years, our Association brought serious vessel manning and work-hour issues on tugs, towboats, and offshore supply vessels to the attention of the Coast Guard Marine Safety Directorate. While there are work-hour limits for deck officers, enforcement has remained very spotty as we reported in a dozen separate reports in our #R-370 report series available on our internet website. It appears that all other mariners ó most notably engineroom personnel ó remain forgotten. We brought this to the attention of Congress, but believe these issues should have been handled by the Coast Guard Marine Safety Directorate as industry regulators.

We repeatedly voiced concerns about the lack of safety training as well as vocational training provided for limited-tonnage engineers on tugboats, towboats, offshore supply vessels and some small passenger vessels. All this concern with limited-tonnage engineers, licensed or not, flew over the head of MERPAC. Some of the specifics of engineers and manning appear in NMA Report #R-412-A, #R-279, Rev. 8, and #R-412

***We are outraged at the abuse our mariners have suffered from the lack of attention by the Coast Guard and their failure to focus the attention of their advisory committees on these issues.***

<p style="text-align: center;"><b>MEDICAL ISSUES – NEW YORK CITY SETTLES STATEN ISLAND FERRY WRONGFUL DEATH SUIT</b></p>
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*[Source: Master, Mate & Pilot, Sept.- Oct. 2008, p.12. File #Mnl59.6E. **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 USCG 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 pilothouse 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." 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 pilothouse.

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 conduct." 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 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.



Damage to the *M/V Andrew J. Barberi* after it allided with a maintenance pier in October 2003.

[NMA Comment: The new "Medical NVIC" is a direct result of this accident. The acts described in the foregoing article were all illegal, criminal acts and the courts punished their perpetrators. Now, every other mariner in the country will receive his/her punishment from the Coast Guard in the form of an expensive and oppressive medical review system that affects every American merchant mariner.]

### NTSB DOESN'T CONSIDER ECONOMICS – JUST SAFETY

[Source: By Capt. Allen Bernstein, *WorkBoat*, Mar. 22, 2011]

At the Passenger Vessel Association annual convention in St. Louis in February, I learned a thing or two about the National Transportation Safety Board (NTSB).

In her address to convention attendees, NTSB Chairman Deborah Hersman delivered a compelling speech about safety across all transportation modes, not just maritime.

Hersman made it crystal clear that the NTSB's mission is focused on safety and nothing but safety. When the NTSB makes safety recommendations, it does so without considering its possible cost. The balancing of safety recommendations and economics is outside of the NTSB's mission. Agencies such as the Coast Guard or the private

sector perform any necessary cost-benefit analyses and then decide whether to implement NTSB safety recommendations. If the answer is yes, they must then determine how best to implement the NTSB's suggestions or at least not right away. The NTSB, she said, sometimes proposes safety equipment or measures that, at present, are not technologically or commercially available at an affordable cost. In these cases, the NTSB's goal is that the recommendations will provide the impetus for future technological or commercial developments.

Hersman acknowledged that passenger vessel operators must take many things into account other than safety. After all, she said, "The safest passenger vessel is the one that never sails from the dock."

Unlike the Coast Guard, the NTSB does not have a mandate to take factors other than safety into consideration. That's why the ***Coast Guard goes through a lengthy public process when it proposes a new safety rule.*** It seeks comments not only on the substance of its proposed regulation(s), but also on its economic impact. By analyzing the potential economic impact of a proposed rulemaking, it doesn't mean that the Coast Guard is downplaying safety. They are simply doing what the law calls for, and what the private sector expects.

Unfortunately, ***many don't realize that the NTSB does not "vet" its recommendations for their economic impact.*** For example, a plaintiff's attorney who should certainly know better may accuse a passenger vessel operator of being "against" safety for failing to implement an NTSB recommendation.

**[NMA Comments. Our Association appreciates the significance of Capt. Allen Bernstein's article. In NMA Newsletter #76 we provided three examples of NTSB recommendations including the Ferry accident (below), noting how unevenly the Coast Guard handled them, and how they affected our "limited-tonnage" mariners.**

**[NMA Comment: The Coast Guard's Marine Safety Directorate has an opportunity to implement safety "recommendations" from the NTSB or from any other source.]**

#### **Medical Evaluation and the 2003 Staten Island Ferry Accident**

**[NTSB "Recommendation" #M-05-05.]** In formal consultation with experts in the field of ***occupational medicine***, review your medical oversight process and take actions to address, at a minimum, the lack of tracking of performed examinations; the potential for inconsistent interpretations and evaluations between medical practitioners; deficiencies in the system of storing medical data; the absence of requirements for mariners or others to report changes in medical condition between examinations; and the limited ability of the Coast Guard to review medical examinations made by personal health care providers.

This area is the closest to a "disconnect" between a "recommendation" and reality. The problem lies not so much in the deficiencies the NTSB discovered but the dysfunctional implementation of its recommended cure by Coast Guard bureaucrats. Undoubtedly, stupid and unpardonable crimes were committed by mariners, medical professionals, and ferry management. ***However, those responsible were apprehended, tried, convicted, sentenced, and served jail time for the eleven lives were lost in the accident.***

Mismanagement including sloppy medical record keeping in the Coast Guard's merchant marine personnel program already was legendary. Yet, Coast Guard marine safety officials took this opportunity to swiftly expand punishment from the New York ferry accident to include all 210,000 credentialed merchant mariners.

Coast Guard officials should be held accountable for the ***excessive cost of their new medical evaluation program, as well as for causing the near collapse of the entire credentialing system in 2009.*** The medical evaluation system placed a heavy burden with excessive and expensive medical testing. It reduced the pool of qualified mariners available to maritime employers, and it intimidated our mariners who were forced to deal with an unresponsive bureaucracy.

Most seamen manning merchant vessels during World War II were civilians, many of whom had medical conditions resulting in "F" draft classifications or age constraints that prevented their entry into the armed forces. Use of mariners with health and age issues was a ***good use of very limited manpower resources.*** We assert that there is a well documented shortage of merchant mariners not only in the United States but in the rest of the world as well. Nobody seriously tampered with medical examinations and evaluation policies until Coast Guard officials latched on to the NTSB recommendations and precipitously raced to put them into immediate effect. The blow fell heavily upon our mariners'

- By prematurely upsetting careers of a number of many older, experienced mariners.
- By destroying mariners retirement plans short of their anticipated retirement date.
- By adding burdensome medical expenses to thousands of mariners to comply with new "medical guidelines."



- By using their **advisory committee system** to cram through an excessively complex medical evaluation program they had not a clue how to manage. Originally designed for an increased staff of seven (7) medical practitioners, the number was later increased to 35 to save the entire credentialing system at the National Maritime Center from collapse.

**[NMA Comment: We believe that Congress should examine the history of the new medical evaluation program outlined above and seek testimony from citizens and companies adversely affected by the program.]**

In a time of tight federal budgets, it is time to end this unfortunate boondoggle.

### **Where Does This Leave Us?**

The NTSB, in the New York ferry accident, did discover serious shortcomings in the Coast Guard's medical evaluation program. Many of these shortcomings were corrected. However, the cost, the disruption of the maritime workforce, and the attempt by a branch of the military to try to reshape up civilian merchant mariners was unfortunate yet typical of the Marine Safety Directorate that has wandered far off course for the past decade.<sup>(1)</sup> [<sup>(1)</sup>Refer to NMA Report #R-401-E. *Marine Safety: Where the Coast Guard Went Wrong*. 36p.]

Mariners who are capable and basically healthy can no longer count on a career in the industry, as they grow older. While the old system was **good enough** to catch **most** mariners whose health presented a real threat to marine transportation, employers always had a stake in the good health of their employees. Many employers catch, identify, and act upon serious medical problems that have a potential to impact their businesses. When the Coast Guard also stepped in and introduced the "Body Mass" program they use on their military personnel, this **should have signaled an end to Coast Guard domination of the merchant marine.**

Our appeals to Congress show the Marine Safety Directorate never adopted regulations protect our mariners' health including hearing protection regulations, protection of our mariners from second-hand smoke, or from asbestos remaining aboard vessels. Even though Congress ordered it in 2004, the Coast Guard has taken no meaningful steps to protect mariners against the dangers of impure potable water.

While we respect the NTSB for its safety recommendations, we are not favorably impressed with the Marine Safety Directorate's implementation of these recommendations. Furthermore, the Coast Guard and its advisory committees neglected the problems of our 126,000 limited-tonnage mariners for years. [Mnl76.5E.]

<b>MARINER MEDICAL EVALUATIONS</b>
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At a Congressional Hearing in 2009 failures of the National Maritime Center's Medical Department to satisfactorily handle its huge backlog of original and renewal credential applications brought many mariners' careers to a standstill. Long and unpardonable delays cost our mariners time, money, and often jobs. **These delays seriously damaged mariner morale and opened up unwelcome and unwarranted interference by unknown medical personnel rushed into place who never met or attended to the medical needs of our mariners.** These included Occupational Medical specialists whose prodding and probing medical technicalities often destroyed our mariners' careers or cost them a great deal of money or often for unnecessary medical tests and treatments.

Occupational Medicine is a branch of medicine dealing with the prevention and treatment of job-related injuries and illnesses. It is a cross-disciplinary area concerned with protecting the safety, health and welfare of people engaged in work or employment. This is interesting in light of the Coast Guard's complete lack of concern about reporting injuries and illnesses.<sup>(1)</sup> The goal of all occupational health and safety programs is to foster a safe work environment. It turns out that the program was an expensive and poorly coordinated experiment with our mariners as guinea pigs.

In fact, the entire National Maritime Center centralization of the credentialing process an experiment that uprooted many employees, hired and contracted several hundred others, created disruptive credentialing changes, built and leased a large office complex several hundred miles from any major port and over 100 miles from any navigable waterway. In the middle of this turmoil, they introduced an unwelcome, poorly planned medical evaluation system and crammed it down the throats of our mariners and two advisory committees (ERPAC and TSAC). [<sup>(1)</sup>Refer to NMA Report #R-350, Rev. 6, Issue "Y".]

In spite of its new lease on life following the 2009 Congressional hearing, the medical evaluation system continued to provide service that many of our mariners were keenly dissatisfied with claiming it was both unnecessary and

unwanted. On Apr. 12, 2011, the Commanding Officer of the National Maritime Center issued the following letter explaining the shortcomings of the system in recent months.

**Actions to Improve Mariner Medical Evaluations Processing *{Emphasis is ours.}***

The Commanding Officer of the National Maritime Center (NMC) has made several changes within the Mariner Medical Evaluations Division in order to improve customer service, while ensuring marine and public safety remains the priority for Mariner credentialing at the NMC. The turnover of government medical evaluations personnel, coupled with a transition to a new medical services contractor, prompted the need for customer service improvements. That transition took place over the holidays and has been completed. Vacancies, and the contract transition, resulted in increases in the inventory and cycle time to process mariner medical fitness applications.

The following additional actions were taken to address mariner concerns with processing delays, specifically related to the medical portion of the application review, and to ensure mariner applications with issues are processed in a timely fashion:

**Mariner Medical Point of Contact:** The NMC has assigned a full-time, on-call government medical evaluator to receive calls from mariners and their physicians regarding their submitted applications. This new position handles calls relating to a mariner's submitted medical fitness application and will assist both the mariner and their physicians pertaining to the mariner's application and any additional documents sent to the mariner or requested by the Coast Guard.

**[NMA Comment: Mariners called us to complain that they could not speak with any medical evaluators – often as weeks went by.]**

**[NMA Comment: We filed a complaint that mariner's were left in the middle between their personal physicians or specialists and the Coast Guard's medical evaluators. This confused our mariners in trying to reconcile their medical providers with inflexible evaluators. Our formal complaint was never answered.]**

Some cases will be transferred to the actual evaluators if they are available, or to a higher-level government reviewer to further assist with technical information needed to complete the mariner's medical evaluation. When calling the mariner help desk, the mariner will be transferred to the medical point of contact for assistance. For those mariners using third-party advocates, mariners must have a third-party release to ensure privacy concerns are met.

**[NMA Comment: Having someone answer the phone in the Medical Evaluation Department is a welcome but long overdue improvement.]**

**Increase in Government Medical Personnel:** Over the past 24 months, the Coast Guard has significantly increased the number of permanent government medical screeners, evaluators and reviewers. Some of the positions had been advertised for hire for as long as 18 months. Recently, qualified doctors and physician assistants were placed into the vacancies and are now onboard and contributing. At certain times, however, staff turnover occurs and the NMC makes every effort to quickly fill vacancies created when a government or contract employee decides to make a job change. The work for medical personnel in the Mariner Credentialing Program is primarily in the field of Occupational Health Medicine, which is an important discipline and often it is very difficult to find qualified personnel quickly. The NMC makes every effort to fill our vacancies as fast as possible within our established agency guidelines for hiring and contracting with the best-qualified personnel available.

**[NMC Comment: Coast Guard planners should have realized this before promoting this program in the first place.]**

**New Medical Services Contract:** In December of 2010, the Coast Guard awarded a new Medical Evaluations



and Services contract to RGB Group Inc. of Miami, Florida. Many former employees were hired by RGB but during the transition month of January 2011 these employees took use or lose vacation time from their former company. These authorized absences were a function of the contract and needed to be completed as a part of the transition process. Adjustments to the review and processing of medical applications have been transitioned to the new contract provider and many revisions and improvements have been made to our internal guidance documents to improve the consistency of reviews.

***Adjustments to Medical Screening Procedures:*** Within the past several weeks, the NMC has conducted processing reviews in the medical state of application processing *Ready to be Evaluated Medical*. These reviews have identified some measures for adjustment and alignment with the regulations and NVIC 04-08 and are already having positive impacts. Incomplete medical applications remain the single largest cause for delays. Mariners and their physicians can avoid these delays by correctly and completely providing information on medical conditions. The NMC call center can assist you with questions on medical application processing, as can the nearest Regional Exam Center. Updates will be made to the medical information on the NMC website to more clearly explain requirements and to improve our customer service in this area. Currently, however, the average net processing for mariners *without* medical issues or lower risk medical reviews remains at around 16 days. Interested parties can monitor the effect of these changes by visiting the NMC website and following the links to our monthly performance measures.

### **“BIG BROTHER” BOUGHT A ROLLS ROYCE AND CAN’T PAY FOR IT**

“Big brother is watching you!” *Nineteen Eighty-Four* is a dystopian novel by the English writer George Orwell, published in 1949. The story, which focuses on the life of Winston Smith, was Orwell's vision of a *totalitarian state which has absolute control over every action and thought of its people through propaganda, secrecy, constant surveillance, and harsh punishment.* Our mariners, as citizens and taxpayers, have their problems in dealing with “Big Brother,” his expensive tastes and poor planning. The new medical evaluation program is a foreign built Rolls Royce that is too expensive to own or run.

When I first applied for a Coast Guard license in 1955, I had to take the required physical exam at the U.S. Public Health Service Hospital in New York. The exam took five minutes yet its bureaucracy consumed an entire day. In 1980, in an austerity move, the USPHS hospitals no longer served merchant mariners. Personal physicians replaced USPHS doctors. Most mariners were relieved to pay the bill and bypass the bureaucracy. Now, mariners must foot a much larger bill for the much more extensive physical exam (e.g., 9 pages including sweeping instructions and penalty citations) and to *then satisfy additional medical tests required by “Occupational Specialists” they will never see and could not even reach by phone. The Coast Guard (i.e., the American taxpayer) picks up the bill for several dozen medical practitioners at the National Maritime Center that it never previously needed, in order to pay for a program that no mariner wants.*

This intrusive medical program became so controversial that the Coast Guard now plans to commission an additional Medical Advisory Committee to straighten out the mess the Coast Guard’s Marine Safety Directorate concocted. *Now is the time to stop throwing money at this expensive and unwanted medical evaluation program.*

The Coast Guard enlisted two advisory committees, MERPAC and TSAC, to examine the medical evaluation problem. In sitting through a number of advisory committee meetings and reading the minutes of others, I can appreciate that members of these committees did their best to provide the Coast Guard with “constructive thinking” to solve the problems the Coast Guard presented. *Yet, our mariners, who turned out to be the guinea pigs in this huge experiment, never had a real voice.* Our Association complained bitterly to Congress on the lack of mariner representation at TSAC<sup>(1)</sup> while, as mentioned above, NAME and NMA both complained about the lack of “limited-tonnage” mariner representation on MERPAC. [<sup>(1)</sup> Refer to NMA Report #R-350, Rev. 6, Issue “V”]

### **SOLVE THIS PROBLEM**

*The Coast Guard is a military service without deep roots in the U.S. Merchant Marine.* For the most part, Coast Guard officers are not merchant marine officers. It is time to listen to those “upper-level” as well as “lower-level” merchant marine officers who served in the merchant marine most of their lives. Our country has one Federal and six

state maritime academies that serve the merchant marine. This does *not* include the Coast Guard Academy that exists for a very different purpose. **It is time to move the Merchant Marine away from the Coast Guard before our mariners are further victimized and their careers ruined. It is time to re-think and, if necessary repudiate STCW and its continued unwarranted interference with our “limited-tonnage” mariners in domestic service.** We want no part of STCW on inland waters and on the rivers. We want no part in making an international voyage for credentialing purposes a voyage that leads a mariner beyond the boundary line unless that voyage is, in reality, a voyage between two sovereign countries. We will ask Congress to hold every future delegates sent by the United States to International Maritime Organization meetings accountable to our limited-tonnage mariners who represent a **majority** of all credentialed mariners in this country. **We perceive the surging incursion of international regulation in domestic waters as a serious threat to our mariners and their livelihood that is perpetrated by a government agency that has chosen to neglect our mariners.**

## INVESTING IN PERSONNEL

*[Source: By Leslie Breland, Letter to the Editor, The Waterways Journal, Mar. 28, 2011.]*

As the wife of a towboat pilot, I am constantly amazed at the professionalism of the crews on board the average uninspected vessel. I am trained as a marine scientist and a marine science educator, and lived and worked on boats just enough to understand some of the stresses of living and working on a vessel.

The towboat industry has some of the most specialized, most versatile, and highly trained workers in the world. The wheelhouse personnel are among the finest boat handlers anywhere because they are constantly running constrained by channel, constrained by current, and constrained by draft. They can safely put several million dollars worth of cargo and equipment gently against the concrete piers of a bustling city, or tie off on a tree in the backwaters of some small inlet. Further, they are not running at rowboat. They put more than 1,000 feet of tow into the confines of it lock, or slide it around the bend into the span of a bridge, with high water and a sideways current. In addition to their Coast Guard license, they have radar training, fire-fighting training, run an AIS, a sounding machine, fax traffic back to the office, communicate with other boats, dive in and get the rope out of the wheel, coordinate crew changes in the most remote areas, keep all the official records, and send in the grocery order.

The engineers have to work on every thing from small gasoline engines to EMDs, fix the hole in the hull, rewire the electronics room, and make sure the bilge is adequately pumped while keeping the generators operational. The tankermen can deck and check for H<sub>2</sub>S. They know the requirements for handling toxic chemicals and handling delicate but valuable petroleum products. The deckhands have to cart 100 pounds of rigging up and down the tows, making the critical couplings while working in 105 degree heat of summer, the rain, snow, or ice, sometimes for hours at a time. They must communicate with the Captain accurately indicating how much space he has, whether the rake of the barge is coming up, and whether the cables are frayed or stressed. In their spare time, they chip paint, re-paint, clean bathrooms, clean the galley, make coffee, do safety checks, practice man-overboard drills, and do their computer-based learning exercises, often on their own phones or laptops because a computer is not available. If they have time, on their off watch, they try to call their teenager and see how they did on the math mid-term or phone their mother who just had surgery. If they're lucky- they may Skype the wife while she's throwing their four-year-old's birthday party.

The towboating industry has got to wake up. There is a reason they have difficulty recruiting and retaining the caliber of personnel required. The average worker in the United States works 40 hours a week for 50 weeks, which equals 2,000 hours of on-the-job time. Yet the average towboat employee works 84 hours a week on a 28-days-on-and-14-days-off schedule (I dare most of you to try working 12 hours a day for 28 days straight). This means they work 5,376 hours a year instead of 2,000. They are actually working 2 2/3 jobs. They are also doing shift work, which medical studies indicate adds a tremendous stress to one's health. Add to that, the fact that they are away from their homes, families, and support systems (friends, church, social groups) and that they spend three-fourths of their lives in an isolating and stressful environment. I can think of no other industry where the employees are regularly submitted to this kind of requirement. Indeed the medical community, which also necessitates shift work, gives workers four days off after three days of 12-hour shifts.

**[NMA Comment: What have the “medical evaluators” and “occupational specialists” done to ameliorate working conditions for our mariners? We are acutely disappointed with them as we are with Coast Guard marine safety regulators. It is not just the “industry” that needs to wake up – it is government regulators!]**

Nonetheless, many towboating companies have, in the last two years, frozen salaries, eliminated cooks, and reduced the deck crews. They have decreased health benefits, decreased opportunities for steersman training, and routinely asked people to ride over because they could not find relief personnel. They have increased safety meetings, online training and rhetoric, while reducing the deck budget. Further they still feel free to get the hand up, on his off watch, to make the locks because the deck is inadequately manned.

Even the office staff has taken its share of hits; the port captains day begins at 6 or 7 in the morning and ends around 10 or 11 at night, yet some companies are asking them to take two or three furlough days a month. Do you know any port captains who can realistically give up two more days? No, they are fielding emergency calls, coordinating boat and customer, and justifying expenses to the top brass, just like always, but not getting paid for it.

The industry needs to invest heavily in its personnel, not just its shareholders. First, towboats should be inspected just like any other U.S. vessel (especially in view of the fact that tremendous tonnages of chemicals and petroleum products are being routinely carried through major cities). Second, they must make the move to three-shift crews, as has been suggested by the Coast Guard. Not just the wheelhouse personnel either, but everyone. Finally, they should offer more time-for-time scheduling: 28-on-28-off or 14-on-14-off. This is an important industry; it moves tremendous amounts of goods around the country safely, and at tremendous savings in fuel. The industry should be growing and its people should be allowed to grow with it, both personally and professionally.

I love my towboater, and he loves what he does. He enjoys seeing the fall change of color on the Illinois, he enjoys the challenge of making the lock in high water. He cares for his crew; he knows his deckhands and their strengths and weaknesses. He knows his engineer's wife is scheduled for surgery and he's worried whether or not he'll be able to arrange to have him off to be there. He knows the green hand is scared and nervous and covers it with bluster and bravado. He knows his tankerman has checked and double checked his hoses. He knows his port captain isn't feeling well and his crankiness is half that and half the pressure he's under to keep boats moving, while cutting costs. His safety officer has to ensure that safety checks are being run every watch, but the company won't let him put the boat on the ways to fix the rudder properly.

These are exceptional men and women who work on these boats. They are a rare breed of multitasking, hardworking, thoughtful and often loyal sailors. The companies need to really value these personnel. They are not just human "resources": to be used up and thrown away. A good crew, rested and well-trained, is an incredible asset; and not just any warm body will do. The cost of everything has gone up, but the companies need to pass those costs on to the customer, so personnel can be compensated adequately in time and money. Trust me, the personnel are looking for the best working conditions they can find, not just the best money.

**[NMA Comment: Towboating on the western rivers is only one of the jobs our "limited-tonnage" mariners perform. Each area is specialized and attracts its own workforce. From our vantage point, the Coast Guard's medical evaluators appear to have done little to understand and improve working conditions for our mariners but have increased tensions and stress within the industry. ]**