

On Water Instructor Licensing **Facilitated** Discussion:

Thursday, April 17, 2014, 0800-1200, at the International Boating and Water Safety Summit (IBWSS).

- Mr. Luke Harden, Mariner Credentialing Program Policy, USCG HQ, Office of Vessel Activities
- Mr. Joe Carro, USCG Office of Auxiliary and Boating Safety
- Mr. John Schwartz, Dept. of Homeland Security, TSA, TWIC requirements
- Hosted by Pam Dillon, NASBLA
- Facilitated by Chris Stec, Chair, NBSAC Prevention Through People subcommittee

Full implementation of recreational boating on-water instruction is being slowed in many areas by the requirement for paid instructors to comply with the United States Coast Guard Operator of Uninspected Passenger Vessel (OUPV) and Master Operator Licensing Laws and Regulations. These requirements supersede many of the intents, purposes and goals of the National RBS Strategic Plan involving on-water boat instruction for the entry level operator, halting the availability of course offering on most US waters.

The National Boating Safety Advisory Council (NBSAC), on November 11, 2012, recommended that the United States Coast Guard conduct a comprehensive review of the current licensing requirements and procedures that could impact recreational boating on-water safety instructors and that consideration be given to modification of the current applicable regulations and requirements under certain conditions.

In response to a request from the NBSAC Prevention Through People subcommittee, in November 2013, the Coast Guard Boating Safety Division helped to conduct a **facilitated** discussion with the Coast Guard Office of Vessel Activities in order to document the issues and make recommendations to identify potential resolutions to advance the availability of on-water instructor offered by properly trained and certified instructors.

The discussion was facilitated by Mr. Chris Stec, Chair of the NBSAC Prevention Through People Subcommittee and COO of the American Canoe Association. Several presenters provided subject matter expertise regarding an overview of the current process and a review of the Transportation Worker's credential and other related items. A synopsis of the problem is presented here:

DRAFT PROBLEM Statement Regarding USCG Licensing of Powerboat Instructors under Certain Conditions¹

The [National Recreational Boating Safety Program Strategic Plan](#) (aka “RBS Strategic Plan”) was developed by national recreational boating organization stakeholders with full support and participation by the United States Coast Guard. The RBS Strategic Plan was developed to promote and advance recreational boating safety and to reduce accidents, casualties and associated health care costs. The USCG has fully embraced the advancement of the Strategic Plan, working in partnership with over 30 Strategic Plan National Implementing Partners to develop innovative approaches to achieving its goals.

Objective 3 of the RBS Strategic Plan addresses Skill-Based On-Water and Advanced Training. In partnership with the USCG’s Boating Safety Division, work has been completed to develop an instruction curriculum for powerboat operators including drafting a system of voluntary, consent-based standards for use as baseline measures of competency in providing entry-level on-water skill training. These standards and course curricula, with accompanying instructor-certification qualifications/procedures, program reporting requirements, risk-assessment/reduction approaches and safety procedures, fill a vital gap in the availability of boat operator proficiency training. While sailing and paddling instruction have been widely-offered for decades, powerboat instruction has been limited, due in part to the onerous federal regulations requiring USCG Merchant Mariner credentials in most, but not all, locations. Programs have been successfully launched in the limited venues where USCG Merchant Mariner credentials are not required. It is recognized, however, that in order to fully implement skill-based training programs as envisioned by the RBS Strategic Plan, these courses must become readily available throughout the U.S. where boaters, students, and trainers recreate— including U.S. navigable waters which require these additional credentials whenever money or ‘any consideration’ changes hands. [The somewhat perplexing reality is, however, if no money changes hands, no license is required.]

Most programs of powerboat instruction, even when administered by a national non-profit volunteer organization, require the student to pay a course fee. Most organizations receive reimbursement for program expenses such as gas and/or a stipend for their instruction services. Any level of remuneration, even when relatively modest (such as a shared meal or reimbursement of fuel expenses) triggers full application of Title 46 Part 10 – Merchant Mariner Credential, specifically requiring either an OUPV (Operator of an Uninspected Passenger Vessel) credential or a Limited OUPV credential.

The current system for Merchant Mariner credentials was developed for professional mariners ‘to serve on merchant vessels.’ Further, it is a means to determine and verify that an applicant is ‘competent to serve’, ‘does not pose a threat to national security’, and that the holder of the credential is a ‘safe and suitable person.’ This rigorous system was clearly developed with the off-shore merchant vessel mariner in mind and NOT a ‘Recreational Boating Safety Skills Instructor’. The fact that this regulation applies

¹ A Merchant Marine Credential (aka ‘Captain’s License’) is required if a person receives remuneration as an on-the-water instructor when on a powerboat on navigable water. If no money changes hands, no license is required.

ONLY to individuals who receive a reimbursement/stipend and NOT to these same individuals who might volunteer and receive no reimbursement or other consideration, seems to indicate that this requirement is primarily about revenue and commerce which are outside the goals of the RBS Strategic Plan and not in keeping with the Coast Guard's goal of reducing fatalities and accidents on the water.

Furthermore, if an interested instructor-candidate applies for and receives an OUPV credential, the credential does not authorize, nor does it fully prepare that candidate to teach a course of instruction under most current systems of national curricula. Even with a valid OUPV credential, the Instructor-candidate must successfully complete a defined course of on-water skill performance/assessment, undergo instructor-eligibility requirements of the certification organization to ensure they are 'safe and suitable', AND demonstrate mastery of a specific teaching progression including methods of student coaching, evaluation and skill assessment. Once this instructor-candidate is fully recognized as a Recreational Boating Safety Skills Instructor, they may immediately teach as an unpaid volunteer. Being unpaid, Merchant Mariner regulations do NOT apply. Once reimbursement for expenses or other consideration is received, however, the Merchant Mariner regulation takes effect, creating a significant barrier to providing instructional services as envisioned in the RBS Strategic Plan.

If obtaining the OUPV credential were a simple, inexpensive, straightforward process, this would not be viewed as an adverse requirement, but the process takes several months and involves completion of multiple steps, forms, and requirements, often at considerable expense (from \$400 to \$2000-PLUS when travel is required). Some requirements seem bureaucratic and unnecessary given the restricted environment for course curricula such as when teaching close-quarter maneuvering or docking procedures. OUPV requirements may include waiting periods and personal visits to locations outside a person's home area or state in order to complete background checks and medical testing. OUPV credentials can be denied or delayed based on certain medical findings. Any one of these requirements can discourage an instructor whose only desire is to share his/her knowledge of recreational boating to a student in a defined, controlled, limited, and safe setting.

Here is current information, provided by the USCG, on requirements needed to obtain an OUPV:

- *Apply for a Transportation Workers Identification Card (TWIC): http://www.tsa.gov/what_we_do/layers/twic/index.shtm (Note: According to the website, there is currently a 4-month applicant backlog.)*
- *Get a Medical Physical using the 719-K Form: <http://www.uscg.mil/nmc/medical/default.asp>. (Note: Certain medical conditions require additional testing.)*
- *Get a Drug Test from an approved facility or be enrolled in an Approved Drug Testing Program: http://www.uscg.mil/nmc/drug_testing/default.asp (Note: Approved facilities are not available in all parts of the U.S.)*
- *Get an OATH: http://www.uscg.mil/nmc/credentials/oath/Merchant_Mariner_Oath.pdf (Note: This is written for crew members to obey a ship's command.)*

- Fill out in its entirety the 719-B Application Form and Submit to a Local REC
- Pay the applicable fees:
<https://pay.gov/paygov/forms/formInstance.html?nc=1214593304536&agencyFormId=4795779&userFormSearch=https://pay.gov/paygov/keywordSearchForms.html?showingDetails=true&keyword=MLD-FM-REC-170&formAction=Go&showingAll=false&ascending=true&sortProperty=agencyFormName&pageOffset=1&totalResults=15&nc=1214593291558>

It is the goal of the National RBS Strategic Plan to make safe, on-water skill training available as widely as possible to all boat operators, including the nation's largest group of boaters - those operating powerboats on U.S. navigable waters. Current requirements for the Merchant Mariner Credential have the unfortunate result of restricting training venues available to otherwise competent and capable instructors without an OUPV, resulting in fewer course location options for the general boating public. Removal of, or at a minimum modification of, the OUPV requirement would immediately allow individuals certified under nationally-recognized programs to expand services to the recreational boating public and to cover appropriate costs for their expertise and expenses without the impact and barrier of unnecessary and rigorous requirements established for the off-shore mariner. Expediting the removal of, or at a minimum modification of, the OUPV requirement should be considered with all haste in order to advance operator training in support of the Coast Guard's goal of reducing fatalities and accidents on the water. (Problem statement as presented to NBSAC, 2013).

After presentation of the problem statement by Pamela Dillon and detailed presentations by Mr. Luke Harkin and Mr. John Swartz on the specifics of the program, Mr. Stec guided those in attendance through a facilitated discussion on the topic. The general, although not unanimous, consensus of those in attendance pointed to the current status of powerboat instruction in the U.S. and the barriers presented by the rigor of the OUPV system. The result was a pledge to continue to review the policy, regulatory, and other options available within the U.S. Coast Guard to address this issue.

As a direct result of this facilitated discussion, NBSAC, meeting in regular session in Alexandria, Virginia on May 9, 2014 passed the following resolution:

NATIONAL BOATING SAFETY ADVISORY COUNCIL

May 9, 2014

Arlington, VA

Resolution Number 2014-91-XX

Advancement of On-Water Skill-Based - Instruction

WHEREAS, in 2012 the USCG documented 2,454 reported recreational boating accidents resulting in 4,515 casualties and \$38,011,601 in property damages; AND

WHEREAS, a review of these statistics reveal that potentially 90% or more of these reported accidents may have been prevented by an operator with increased skill in boat handling and operation; AND

WHEREAS, as a result of new and/or re-doubled effort by numerous national non-profit organizations to train, certify, support, and advance the availability of instructors to teach on-water boat handling and operation courses meeting national on-water standards, more on-water training courses could become available for the general public; AND

WHEREAS, NSBAC Resolution Number 2012-90-03 expressed concern about the hindrances imposed by regulations requiring a United States Coast Guard Operator of Uninspected Passenger Vessel (OUPV) License for on-water instructors who receive compensation when teaching powerboat training courses on navigable waters and such hindrances abrogate many of the intents, purposes and goals of the National Recreational Boating Safety Strategic Plan involving on-water boating safety instruction, which is a matter of continued urgency; AND

WHEREAS, as a result of Resolution Number 2012-90-03, a facilitated forum was held as part of the International Boating and Water Safety Summit on April 17, 2014 in Nashville, TN, which identified new thinking and broader opportunity to address this issue in partnership with the USCG Commercial Vessel Compliance Division.

NOW, THEREFORE, BE IT RESOLVED THAT the National Boating Safety Advisory Council, meeting in regular session in Arlington, Virginia on May 9, 2014, in order to further and encourage the boating safety instruction goals of the National Recreational Boating Safety Strategic Plan, recommends that the United States Coast Guard Boating Safety Division, working in partnership with the Commercial Vessel Compliance Office, TSA and subject matter experts including members of NBSAC and others, draft a policy directive to provide for recognition of a certified and properly credentialed instructor to relieve them of requirements to adhere to the numerous applicable regulations associated with the national or limited OUPV. Such relief would be applicable only when instructors are educating within the parameters of their national organization instructor certification, including curricula, venue, and circumstances covered within this newly created policy directive.

BE IT FURTHER RESOLVED THAT this resolution will be forwarded to the Commandant of the Coast Guard and the policy draft be provided at the next NBSAC meeting.

Compiled by Pamela Dillon
NASBLA Education Director