

NATIONAL TOWING SAFETY ADVISORY COMMITTEE

NTSAC PUBLIC MEETING Minutes

1 May 2024, Annapolis, MD

I. Opening

- **Call to order/DFO Remarks - Mr. Matthew Layman (DFO)**
 - *Ground rules / Admin
 - *Safety Brief
 - *Reminder to sign in
- **NTSAC Chairperson Remarks - Mr. Steve Huttman (Chair)**
 - *Opening Remarks
- **Roll Call - Chair**
 - **Steve Huttman**
 - **Laura Wilcox**
 - **Matt LaGarde**
 - **Jonathon Steinberg**
 - **John Arenstam**
 - **Doug Covil**
 - **Andrew Gauthier**
 - **Robert Keister**
 - **John Hazel**
 - **Angie Fay**
 - **Joy Terral**
 - **Mark Sawyer**
 - **Brian Khey**
 - **Eric Johansson**
 - **Marc Dial**
 - **Ray Richmond**
 - **Absent: Lindsay Price**
- **Adoption of Meeting Agenda – Chair**
 - **Joy Terral** - Motion to accept Spring 2024 Agenda
 - **Andrew Gauthier** - Seconded

- **Discussion:** Review updates to Agenda that were made during the public working session on April 30th to include: Review New Tasks statements that were not listed on FRN and the removal of guest speakers representing Sector Baltimore and Trade Point Atlantic the Key Bridge incident.
 - **Motion passes unanimously.**
- **Coast Guard Leadership Remarks**
- **LCDR Jake Lobb** - Introduction; Brief on OES; Key Bridge review; NTSAC 18 vacancies; Tasks statement intro.

II. Administration

- **Approval of Meeting Minutes**
- **John Arenstam** - Motion to approve of Meeting Minutes for September 27, 2023 Fall Meeting – New Orleans, LA.
 - **Doug Covil** - Seconded

Motion passes unanimously.

III. Old Business

1) Update from NTSAC Subcommittees

a.) **Mr. Brian Khey - Task #22-01, Recommendation to the Coast Guard for Rulemaking Improvements to Subchapter M**

- Plan to be finalized Fall 2024 meeting.
- Top Recommendations – Re-introduce FAQs; Publish Appeal Determinations; Establish Key Performance Indicators; Removal of Dry Dock dates

Committee Comments:

Mr. Lagarde – customs database – OSHA has page that can be asked hypothetical or real situations – good resource in relation to FAQs recommendation.

General Public Comments:

No comments

b.) **Mr. John Arenstam Task #21-04, Recommendations for Training and Instruction for Crewmembers Working Abroad Subchapter M Towing Vessels**

- Review of changes from Fall 2023 NTSAC meeting
- Draft Final Report is ready to be voted on for acceptance

Committee Comments:

Mr. Lagarde – customs database – OSHA has page that can be asked hypothetical or real situations – good resource in relation to FAQs recommendation.

General Public Comments:

No comments

➤ **Approval of Task #21-04 Final Report**

- **Ray Richmond** – Motion to accept Final Report for Task #21-04
- **Brian Khey** - Seconded

Motion passes unanimously.

2) Public Comment Old Business Review

- a.) **Oral comment received during the Fall 2023 New Orleans NTSAC Mtg. from Mr. Jack Horn requesting the committee consider take on a task statement concerning a proposed requirement to require AEDs be carried aboard towing vessels (and other commercial vessels).**

Committee Discussion:

- **Mark Sawyer** – Motion made to include discussion of AEDs in Draft Final Report for Task #22-01.
- **Laura Wilcox** - Seconded

Motion passes unanimously.

- b.) **Discussion regarding NOSAC Final Report for task, *Recommendations for the Criteria Used to Apply the Term “Occasional Towing”***

Committee Discussion:

- **Laura Wilcox-** provided the following written comment:

Members of the NTSAC occasional towing subcommittee have reviewed the final report given by NOSAC on the same task statement. NTSAC members were not invited to participate in the NOSAC subcommittee on occasional towing.

While we concur with much of the NOSAC Occasional Towing Report, we would like to point out a legal determination from the Fifth Circuit Court of Appeals that is contrary to the final paragraph of the executive summary of the report.

The NOSAC Occasional Towing report executive summary opines that “The USCG should not set parameters to determine whether the towing of survey gear by an inspected vessel qualifies as occasional towing. The USCG should continue regulating the towing of survey gear (and other objects) under the discretion of

the OCMI's, as the application of "all" towing regulations to the towing of "any" object is not practical.

The NTSAC Occasional Towing subcommittee would like to remind the Coast Guard, as they review the NOSAC report, that the Fifth Circuit Court of Appeals has already determined in the case of Shell Offshore vs. Tesla Offshore LLC, dated 05 October 2018, that the towing of underwater survey gear is, in fact, towing. The case stemmed from the damages caused by the mismanagement of the towing of survey gear in the Gulf of Mexico. The court opinion continues that "the statutory definition does not encompass any vessel that pushes, pulls, or hauls. Rather, it is limited to commercial vessels engaged "in the service" of pulling, pushing, or hauling alongside 46 USC 2102 (50). This provision defines a towing vessel in terms of the service it provides."

Matt Layman/DFO – Will ensure that the written comment is shared with vested program offices.

c.) Follow up regarding comment received during Fall 2023 NTSAC regarding NOAA RFI concerning proposed RNAs to protect Rice Whale populations

Committee Discussion:

- **Doug Covil:** NOAA proposed rulemaking. NOAA denied petition and plans to study area more before pursuing possible rulemakings. Issue is closed for now.

IV. New Business – NSTAC Planning DFO

1) New Tasks Statements

a.) DFO - Tasks #24-01 – Recommendations for Statutory Information Requirements while Accommodation Spaces on Merchant Vessels

- **Laura Wilcox** – made a motion to nominate John Steinberg as Chairperson and Ray Richmond as Vice Chairperson of the subcommittee for Task 24-01.
- **John Hazel** - Seconded

Motion passes unanimously.

b.) DFO - Tasks #24-02- Recommendations for Master Key Requirements aboard Merchant Vessels

- **Laura Wilcox** – made a motion to nominate Matt Lagarde as Chairperson and John Hazel as Vice Chairperson of the subcommittee for Task 24-02.
- **Joy Terral** - Seconded

Motion passes unanimously.

Committee Comments:

- **DFO** – no tasks statements currently for SASH Surveillance and SMS.
- **LCDR Jake Lobb** review of statute; CVC policies; highlights committee can impact clarifying issues to promote regulation guidance.
- **Eric Johansson:** Review of CFR – different variations in accommodations spaces / accommodations.

- c.) **Matt Layman / DFO-** The FY24NDAA required MARAD to convene an MWWG to examine and assess the size of the pool of mariners with covered credentials necessary to support the United States flag fleet. The MWWG was directed to draft a report to inform the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Armed Services of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives of their findings and conclusions.

The Maritime Workforce Working Group 2024 (MWWG24) was established by the MARAD in response to Section 3534 of FY24NDAA. The MWWG24 is chaired by the Maritime Administrator and consists of representatives from all aspects of industry including federal agencies, maritime training and education institutions, owners and operators of U.S. flag vessels from various industry sectors, as well as maritime labor unions. The FY24NDAA tasked the MWWG24 to examine and assess the size of the pool of mariners with covered credentials necessary to support the U.S. flag fleet. This includes several subtasks to gauge mariner supply against the demand for such mariners, including: identifying the number of U.S. credentialed mariners with various levels of credentials; evaluating potential gaps or surpluses in mariner numbers required to operate the Ready Reserve Force for various periods of time; identifying the actively operating documented vessels of at least 500 gross registered tons; assessing various aspects that contribute to mariner availability; and making recommendations improve future assessment of the mariner pool and close any identified gaps with regards to mariner recruitment, retention, and credentialing.

Sec. 3534(a) directs MARAD to consult with U.S. Coast Guard Federal Advisory Committees (FACA): the National Merchant Marine Personnel Advisory Committee (NMERPAC), National Offshore Safety Advisory Committee (NOSAC), and the National Towing Safety Advisory Committee (NTSAC) in completing the tasking of the MWWG.

To prepare to hit the ground running with respect to this forthcoming task, NTSAC needs to establish a subcommittee now and begin working when the MARAD final report is received and the task (drafted by 5P FACA) is sued to the committee.

Committee Comments:

Eric Johansen -notes NTSAC was not included on initial MARAD work group and just in consultation of work group report.

Public Comments:

- **Jason Wisneski of Dan Marine Towing** - Will public have ability to comments?
- **Matt Layman / DFO** – Yes, this will operate same as any other NTSAC task statement. But because the task will originate from 5P and will be issued to multiple advisory committees, there will be no need for vetting committee review.
- **Laura Wilcox** – made a motion to nominate Andrew Gauthier as Chairperson of the subcommittee for Task 24-01.
- **Joy Terral** - Seconded

Motion passes unanimously.

2) Solicitations for NTSAC Committee

- **Matt Layman / DFO** – Solicitation closes June 10th and if interested email applications to DFO. Review minimal requirements. Due to election year, potential vetting issues. Current term is good until Dec. 31, 2024. Per law, allows for flexibility and current committee members are still able to serve until 12/31/25 or until position is filled.

V. Information

1) U.S. Coast Guard – Commercial Vessel Compliance – Mrs. Jennifer Hnatow

Committee/Public Questions/Comments:

Matt Lagarde – For TSMS option, why was USCG on TSMS vessels?

Jennifer Hnatow – we are looking into why CG was on vessels and it's likely due to a post-marine casualty investigations.

Matt Frank HSC – has the ratio been considered between TSMS / Detention vs. USCG detention.

CDR Daniel Kilcullen – TSMS is higher.

Mark Sawyer – Is it safe to say that of the 10 marine casualties, this was the reason the vessels were detained?

Jennifer Hnatow – Marine casualty was the main reason CG was on board but was not detained solely due to marine casualty. We evaluated one-off situations vs. consistency which was a result of marine casualty. Vessels were not detained due to marine casualty, but inspector found not safe for service for additional reasons.

Eric Johansson – Is data broken down by district?

Jennifer Hnatow - Yes, but information not available in this presentation but could be provided.

Steve Huttman – There is no easy access to subject matter expert for customer service. NCOE is available but SME difficult to find. Example - Port Arthur has not identified POC available and not user-friendly. Updated Customer-facing info for SME would be helpful.

Caitlin Stewart AWO – We have experienced billing problems for TSMS options. I've spoken to CVC and acknowledged that FINCEN is a different department. Is there a better POC at FINCEN?

CDR Daniel Kilcullen – Currently this is an ongoing project, and we are exploring best course of action.

Angie Fay: To follow-up and we would be proactive with user fees but if vessel was in ISC and vessel not in service unable to pay and refund issued for no reason. We were told that they should not pay user fee without invoice. As a result, went 2 years without paying user fees for barges causing some difficulty.

CDR Daniel Kilcullen – This is an on-going project and current discussions we are having regarding user fees.

Devon Colbek – I wanted to note, 2020 OCMI enforcing Subchapter W requirements on vessels regarding lifesaving equipment on barges. Previously inspected under 16-04 Policy letter. We went through the appeal process and were denied. Several years, NAVIC 81-02 Change 2 issued cancelled 16-04 and put requirements of Subchapter W on barge without public comment. Requesting for task statement. Happy to provide additional information if needed.

Steve Huttman – please provide detailed written statement to committee for evaluation. We can't task ourselves but can look at statements.

Matt Layman / DFO: Public can ask CG and it does not necessarily have to go through committee. Feel free to email me and I can research based on the information provided.

LCDR Jake Lobb: CAPT Butwid does have us respond to all public comments. We encourage you to provide info to Matt/DFO.

Steve Huttman – Where can we find the UWILD form?

CDR Daniel Kilcullen - It is still in the beta-phase and being tested by inspectors.

Steve Huttman – Is this in lieu of MSC?

CDR Daniel Kilcullen - MSC is option for review but still work with OCMI because they will oversee the process.

Steve Huttman– Where is the form?

Jennifer Hnatow – We are working on getting this posted in FAQ-143 on NCOE page and exploring additional places to post form. We can't make changes without being notified so please feel free to email with the concern and why it's a concern and am open to getting feedback to move forward. I can't guarantee I can fix the issue, but I can investigate the concern.

2) Army Corp of Engineers – Mr. Brian Tetreault

Committee Questions/Comments:

Steve Huttman – Regarding beneficial use, it's specific to the ACOE but if you contract out, is it for beneficial use as well?

Brian Tetreault – I would think it is and is likely discussed in the contract but I'm not completely sure. I can take that question back to our office.

Jon Arenstam – Is NGA in S-100?

Brian Tetreault – Yes.

Marc Dial - Can you speak to imagery into S-100?

Brian Tetreault - NOAA has a program, Precision Marine Navigation, which is being testing now and they're working with manufacturers for electronic systems.

Marc Dial – Any idea of how that will work w/ regard to commercial vessels navigating.

Brian Tetreault– Working with SOLAS and manufacturers. By 2029, it is likely certain commercial vessels will have to comply but the timeline currently being worked on.

Brian Khey – Is there a push to use inland?

Brian Tetreault – This is for all waters. Working with Rose Point.

Marc Dial – It was mentioned in handouts, in regard to MARAD workforce working group and ACOE was mentioned. ACOE participating?

Brian Tetreault – many people in our committee will participate within that work group.

Laura Wilcox – S-100 framework – Is there some way to collect data from current instruments being used so we can send and outsource information to make areas safer to navigate.

Brian Tetreault – data is available on Rose Point. Not sure if it's being used for navigation by NOAA due to being unverified data. NOAA can take ACOE from e-hydro and utilize to validate it.

Steve Huttman. – There are commercial products out there and instruments available for your vessel to collect data.

Eric Johansson – Experienced a bridge issue in which bridge was 7.5 ft narrower than what is authorized. I understand that ACOE is not the permitting agency but is there anything that can be done for data collection?

Brian Tetreault – Typically, whoever is building the bridge would be responsible.

Marc Dial– Dredges in Alaska – Based on the slide, only involvement is in south AK?

Brian Tetreault– There is some security interest in navigation in northern AK which limits our involvement currently.

3) U.S. Coast Guard – Engineering – LT Virginia Buys

Committee Questions/Comments:

Mark Sawyer – As a company we have evaluated fuels. Is there any discussion internationally or domestically modifying flash point.

LT Virginia Buys – It’s been a discussion with Tim Meyer and committee. I can take that back to the team.

Brian Khey -For DBA process, particularly subchapter M / SMS.

LT Virginia Buys - DBA not ideally for TSMS option due to CG having jurisdiction / oversight of the DBA but has been a discussion.

LCDR Jake Lobb – Public service announcement - ENG leading with IGF Code and several CG office involved in alternative fuel and CG has very broad approach to this. Any questions, check with OCMI and NCOE first.

VI. NTSAC Committee Discussion

Chair

Committee questions / comments:

Laura Wilcox – Made a motion to submit a written response concerning the NOSAC Final Report on the Term Occasional Towing.

Joy Terral – Seconded the motion.

Laura Wilcox - Members of the NTSAC occasional towing subcommittee have reviewed the final report given by NOSAC on the same task statement. NTSAC members were not invited to participate in the NOSAC subcommittee on occasional towing.

While we concur with much of the NOSAC Occasional Towing Report, we would like to point out a legal determination from the Fifth Circuit Court of Appeals that is contrary to the final paragraph of the executive summary of the report.

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Motion passes unanimously.

VII. Public Comment

Chair

Public questions / Comments:
No comment

VIII. Adjourn

Chair

Brian Khey – Motion to Adjourn

Andrew Gauthier – Motion seconded

Motion to adjourn passes unanimously- 3:33 PM