

NATIONAL TOWING SAFETY ADVISORY COMMITTEE

NTSAC PUBLIC MEETING MINUTES

27 SEP 2023, New Orleans, LA

I. Opening

0800- Call to order/DFO Remarks - Mr. Matthew Layman (DFO)

- *Ground rules
- *Safety Brief
- *Reminder to sign in

NTSAC Chairperson Remarks - Mr. Steve Huttman (Chair)

- *Opening Remarks

Roll Call - Chair

Present

- Steve Huttman – Representing Barge and Towing
- Laura Wilcox – Representing Credentialed Engineers
- Matt LaGarde - Representing Barge and Towing
- Johnathon Steinburg – Representing Masters of Ship Docking and Harbor Assist
- John Arenstam – Representing General Public
- Doug Covil – Representing Masters of Towing Vessels and Offshore Services
- Andrew Gauthier – Representing Barge and Towing
- Robert Keister – Representing the General Public
- John Hazel – Representing Barge and Towing
- Angie Fay – Representing Barge and Towing
- Joy Terral – Representing Port Authorities and Terminal Operators
- Mark Sawyer – Representing Barge and Towing
- Brian Khey – Representing Shippers

Absent

- Eric Johansson- Representing Port Authorities and Terminal Operators
- Lindsay Price- Representing Barge and Towing
- Marc Dial- Representing Offshore Mineral and Oil Supply

Adoption of Meeting Agenda - Chair

- Motion to accept Fall 2023 Agenda motion / motion to accept / motion approved.

Coast Guard Leadership Remarks - CAPT Jerry Butwid

- Introduction; Brief on OES's roles in SASH, Autonomous Vessels, and use of alternative fuels.

II. Administration

Chair - Approval of Meeting Minutes for April 12, 2023 Inaugural Meeting – Jacksonville, FL

- Motion to accept minutes as drafted made by Ms. Joy Terral/Seconded by Mr. Mark Sawyer.
- Discussion
- Per Mr. Jonathan Steinberg to amend draft minutes - correct typos regarding misspellings.
- Per Mr. Gauthier, amendment to add additional speakers representing Crowley Maritime.
- Per Mr. Arenstam, amendment to add NTSAC representation group/affiliation not listed and acronym corrections.
- Motion to accept April 12, 2023 NTSAC Meeting Minutes as amended made by Ms. Joy Terral/Seconded by Mr. Mark Sawyer.
- Motion passes unanimously.

III. Old Business

Update from NTSAC Subcommittees

1.) Mr. Matt LaGarde, Task #21-03, *Report On the Anticipated Challenges Expected to Impact the Towing Vessel Industry*

- Matt LaGarde Chair and Ray Richmond – co-chair for subcommittee. Mr. Sawyer presented at the previous meeting.
- Presentation of Draft Report

General Public:

- CAPT Butwid – commended members on presentation. Office Chief over VIDA provided brief update: EPA tasks with setting standards and put out NPRM in 2020 which addresses approx. 23 discharges. EPA received several comments and is currently making supplemental SNPRM. Forecasted to be out by the end of the year. Encouraged to provide public comments on this rulemaking.

Committee Discussion:

- Matt LaGarde request for draft to be adopted by committee as final report.
- Motion to accept draft to final report made by Mr. John Hazel/Seconded by Ms. Angie Fay.

- No discussion/Motion passes unanimously.

2.) Ms. Angie Fay Task #21-04, *Report on the Challenges Faced by the Towing Vessel Industry as a Result of the Covid-19 Pandemic*

- Presentation of Draft Report/Joy Terral Co-chair on subcommittee

General Public:

- No comments

Committee Discussion:

- Motion to accept draft to final report made by Mr. Andrew Gauthier/Seconded by Ms. Robert Keister.
- No discussion/Motion passes unanimously

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

- Presentation – Brian Khey Chair and Co-Chair, Mr. Mark Sawyer

Committee Discussion:

- DFO: discussed prioritizing and categorizing policy change vs rulemaking change. What is the plan to prioritize? Brian Khey: yes – 1) Level of Difficulty -regulatory more difficulty and policy change less difficulty and 2) Impact - high vs low.
- CAPT Butwid, expressed appreciation. Will there be a master list? Brian Khey: yes; however, leverage other committee members per 3 work groups. After 3 groups, we will unify and develop report and rank ordering and draft report will address difficulty and impact. CAPT Butwid, Technical amendments? Brian Khey: Subcommittee does understand technical amendments and levels of difficulty in rulemaking process. Possible interim plan.
- DFO: How many people in subcommittee? Per Brian Khey: 12. DFO, encouraged to incorporate scatter plot / tasking / prioritization with additional industry.
- Ms. Joy Terral: Is there a way to address technical issues without addressing them in final draft? Brian Khey: difficulty having consensus but believe the majority and discussion can be more policy driven due to difficulty of regulatory process. Can OCMI and headquarter project be consistent? If there is a consensus, will continue to be in report and a prioritized task. If not consensus, may consider to be removed from the task list or low priority. DFO: provided ideas to streamline tasks to be able to update by spring NTSAC meeting – possible remote meetings.

Brian Khey: hopeful to have prioritization completed and recommendations for top items.

- Mr. John Arenstam like the scatter plot and difficulty and impact approach. Encouraged getting as much input on impact to give scoring more accuracy across the board. Impact and threat to towing community high importance. Brian Khey: high distributed/participation to AWO and SMEs. Collaboration NCOE and OES insight to difficulty. Impact – industry and difficulty to Coast Guard.
- Mr. Mark Sawyer, is there a way to take certain items example- time sensitive or technical changes a different route? Continue discussion offline with DFO/OES.
- Mr. Andrew Gauthier wants to note for the record to highlight importance SCBAs topic. Per CAPT Butwid, encouraged email regarding SCBA for continued discussion of concerns.

General Public:

- Jason Wisneski – Dan Marine Towing: in the last 6 months we had 40 items and discussed prioritizing 20 so the Coast Guard had this by 2024 and task would be re-introduced. Does this still stand? Per Brian, some tasks are not distributed as stand-alone tasks. Continue to discuss with DFO and OES to address items on the list. Continued analysis and communication.
- Caitlyn Stewart – American Waterways Operators: AWO happy to work with work groups to help to discuss tasks and provide feedback.

4.) Mr. John Arenstam - Task #21-02, *Recommendation for Training and Instruction for Crewmembers Working Aboard Subchapter M Inspected Towing Vessels*

Committee Discussion:

- Ms. Angie Fay– For different types of training programs for adults, have you thought about training strategies for the younger generation / people new to industry? John Arenstam we have not separated into generational learning. We are utilizing the tools to learn and widespread approaches but have not addressed generational learning. Continue to discuss techniques across the board.
- Mr. Steven Huttman- you listed training providers that includes 1125 pages of data; however, you can't sort by location, type of training, etc. Highlight as a challenge for industry. Continuing to discuss and how to address this for report. May include section on how to make e-learning and recurrent training more effective. John Arenstam: will add that to the discussion.

General Public:

- Jo Ann Salyers– Salyers Solutions, commenting on Angie’s feedback regarding younger generation – Pros for e-learning per record keeping/record retention – for auditors makes it more efficient.

IV. New Business – NSTAC Planning, DFO.

- No new tasks for vetting committee.
- Charter set to expire Oct. 15, 2023. It is on the Commandants desk for signature. Pending government shutdown – I have no news on impact to charter if there is a government shut down.
- Advertising for next slate likely in January 2024. Current members could continue for approximately 2 years but can decide to leave.
- Next meeting – Intent to issue new tasking between now and next meeting; however, time constraints due to not enough time to discuss task prior to next meeting. Continue addressing next meeting – virtual vs. in-person. Critical for public participation in meetings for feedback noted.

V. Information

1) Marine Compliance Alliance Presentation - Mr. Mark Sawyer

Committee Discussion:

- John Hazel– At AWO Safety Committee meeting and CG noted the great work the organization was doing. Noted at that meeting that Compliance Alliance was for different levels of organization? If Compliance Alliance is not lobbyist but can impact policy changes and AWO is involved in Regulatory change, do you and AWO work together?
- Mark Sawyer- We do not compete with AWO and they have their own role. This is a misconception. Both organizations can exist and support each other. There are many AWO members on this alliance and some AWO members are part of work groups. As far as levels, Compliance Alliance engagement levels are at the local operational level and with those who are engaged on the day to day compliance mission.
- Angie Fay- AWO is a large organization and Compliance Alliance focuses on day-to-day activity and AWO looks at bigger picture. John just wants clarification if both agencies know what each is working on.

General Public:

- No public comment

2) TVNCOE, Sub M Compliance - LCDR Terry Paris

Committee Discussion:

- Mark Sawyer- I'd like to take the opportunity to express appreciation to the TVNOCE does for the industry – understand the industry, wealth of expertise and knowledge, and a great resource for the industry.
- Steve Huttman- Can you expand on your interaction with marine casualties?
LCDR Terry Perry: our team comes from industry side and our team will call and get information about how/why something happens and expand from there.
- CAPT Butwid- Thank you for your support and the NCOE is a great resource. With regards to .96, what is the point trying to get across? Have you seen a rise or decline in industry? LCDR Terry Paris: I would have to confirm with CVC-4 because there is confusion about the number, but if you take the current numbers, it appeared the barge fleet performed better, and towing vessels were the next up. CAPT Butwid: I'm just wondering how does it compare to passenger vessels? LCDR Terry Paris: presented the slide with the numbers. CAPT Butwid: It would be good to see if the number is going up since the NCOE is in place. Mark Sawyer: Deficiencies appear to have gone down since 2021 report. Brian Khey: It'd be nice to clarify the severity and for CVC-4 provide more meaningful KPIs. More meaningful input from the Coast Guard-side would be helpful.
- Mark Sawyer- When I see stats, we have low risk portfolio compared to other sub-chapters. I would love to see the Coast Guard take that into account for good performers.

General Public:

- Caitlyn Sawyer – agree on the discussion as far as personnel at NCOE and how helpful they have been. In 2022 - TSMS compared to Coast Guard – we have seen the number of CG option vessels detained more than TSMS option vessels.
- LCDR Terry Paris: Going into renewals phase, may not change much but may allow opportunity to get on vessels that the CG has not physically been aboard in some time.

3) S&R NCOE, SASH Reporting - LCDR Lynn Buchannan and guest Jennifer Mehaffey

Committee Discussion:

- John Arenstam- Do they have to have license during the time of incident? Jennifer Mehaffey: This is still a little unclear but all the cases that we have dealt with so far have had the credential.
- Andrew Gauthier- To understand high level – I get a report of harassment between two crew. I must report to the Coast Guard. Is everything going to be reported to the Coast Guard in that 10 day window? What to expect after the report? How does the process work? Jennifer Mehaffey: we are fine tuning the process. All reports come to the same place and are vetted by the CG. The follow up report from company is still necessary and there may be additional info requested as the process plays out.
- Doug Covil– back to Andrew’s point. Can you give an example of a case? It’s a pretty tough industry and a lot of close quarters and bad language. DFO, due to question being asked twice can you provide clarity in harassment? Jennifer Mehaffey: We are working to provide better clarity and definition for harassment.
- John Arenstam – training task requirement – is this SMS or is it also related to TSMS. Do not currently know the applicability of towing vessels at this point. CAPT Butwid – we are currently discussing. CAPT Butwid – portions are self-executing meaning CG inspector can therefore enforce these new provisions. CG will most likely seek to develop regulations in the near future.
- Angie Fay – I support the Coast Guard’s efforts to eradicate this type of behavior in the maritime environment and aboard a vessels. But if you have a guy have an incident at age 19 but has been 30 year successful CAPT can be impacted but a person convicted of manslaughter can be licensed – there is an issues with this. Jennifer Mehaffey: I hear the concern but the provisions that were enacted by Congress and are non-discretionary.
- DFO- The language within the statue for the most part, self-explanatory and industry does not have to wait for CG to develop regulations. Can you speak more to reasonable doubt vs. preponderance of evidence? Jennifer Mehaffey: 51% is preponderance of evidence.
- John Steinberg – Is there a format for the reports? Jennifer Mehaffey: as of now no. The statute describes the information required to be submitted for reporting.
- Steve Huttman: Nothing that precludes company doing internal action? No issues with company’s internal investigation. If done, before the 10-day reporting requirements, CG would appreciate that in their after-action report.
- CAPT Butwid: great presentation and we do need to eradicate this toxic behavior. Is there a statue of limitation for how far you can go back? Jennifer Mehaffey: No but there are certain consideration with timing. CAPT Butwid: how many cases do you receive per day since this has changed? I know there are several solicitations for billets. Jennifer: Compliance with the reporting requirement has been tremendous and we have a

significant number of active investigations. CAPT Butwid: On the S&R front, can you do settlement agreements? If so, what kind of settlements are you working out? Jennifer: depends on the case and severity. We have had examples of mariner voluntarily giving up license; offering psycho-sexual assessments and establish requirements to comply with diagnosis/ treatments.

General Public:

- Caitlyn Stewart – Thank you for the presentation. To go back to harassment reports, can you give us a sense of the threshold for complaints that you would act on? And what would you defer back to the company? Jennifer Mehaffey: it is very fact specific and no particular break-line and very dependent on severity of incident. Different levels of enforcement that can be taken.
- AJ Cook – If individual contacts command center with report, do your folks notify the company? Jennifer Mehaffey: It can be fact specific. There can be privacy and sensitivity considerations and it depends on the incident. Example – if an individual makes a report and specifically says don't tell my boss – we have an obligation to investigate why? If there is an investigation, the company will be notified.
- Matt Baker – Marine Towing – The law is fairly easy to understand and is straight forward on what needs to be captured in the SMS. I am glad to hear CG is working on this, but there are some logistical challenges on getting a program up to speed. My question for example: If a company is made aware of a situation that occurred 4 years ago and has already been dealt with, do we have to report it? Jennifer Mehaffey: I would error on the side of caution and report it.

4) District Eight Towing Vessel Coordinator- Ms. Jill Bassetti

Committee Discussion:

- Steve Huttman – consistency with AWO and D8 was a great effort and appreciated. How do we resolve the issue of COIs consistency? – the manning on COIs are very different and in Mobile very problematic. What happens when vessels change OCMI? Example if vessel is in Mobile goes to Port Arthur, do I use Port Arthur OCMI to make changes? Jill: typically, they should be consistent with OCMI. No formal appeal but encouraged if necessary to implement changes.

General Public:

- Caitlyn Steward – AWO – appreciates appeals and finding coming from CVC. I see a lot of value in sharing concepts in the appeals process with industry to help us gain the perspective of the Coast Guard. Wondering if FAQs would be appropriate to bring back. Jill Bassetti: FOIA request are an option to view documents at CGHQ. I will look into options to help share this kind of info.

VI. NTSAC Committee Discussion

- Doug Covil- more language regarding endangered species – Rice Whale. CAPT Butwid: I want to appropriately understand the concern. Per NOAA, the nighttime restriction on the towing vessels will be impactful. DFO: opportunity now may be to have a NOAA member come present at next meeting to determine if in scope of next committee.

VII. Public Comments

- Jake Horn – proposal for AED on towing vessels in the best interest of industry. CAPT Butwid: have you socialized this with companies? How was the feedback? Mr. Horn: I have not socialized with many agencies, but most major companies already do this and its more of the mom and pop shops.

VIII. Adjourn 5:00 PM

Chair

DRAFT