

U.S. Department of
Homeland Security

United States
Coast Guard



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United States Coast Guard

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CG-CVC Policy Letter 17-04
August 11, 2017

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From: M. Edwards, CAPT
COMDT (CG-CVC)

To: Distribution

Subj: SUBCHAPTER M THIRD PARTY ORGANIZATION (TPO) GUIDANCE

Ref: (a) Inspection of Towing Vessels Final Rule, 81 FR 40005, published 20JUN16
(b) Title 46, Code of Federal Regulations (CFR), Part 139
(c) Title 46, CFR, Section 139.155

1. PURPOSE. The purpose of this policy letter is to provide guidance to the Towing Vessel National Center of Expertise (NCOE), Officer(s) in Charge, Marine Inspection (OCMI), and the marine industry on TPO requirements as discussed in reference (a).
2. APPLICATION. This policy letter is intended for use by the NCOE, OCMI's, and entities within the maritime industry that are or want to become TPOs in accordance with reference (b).
3. DIRECTIVES AFFECTED. None.
4. BACKGROUND.
 - a. As discussed in reference (a), vessel operators have the choice of two inspection regimes. Under the Towing Safety Management System (TSMS) option, routine surveys and audits are primarily performed by a TPO, including certain classification societies, with limited oversight and audits by the Coast Guard. Alternatively, under the Coast Guard inspection option, all inspections are conducted by the Coast Guard.
 - b. As part of the TSMS option, the company management undergoes an audit while vessels enrolled in an external survey program or internal survey program receive a survey or audit respectively. TPOs provide the necessary oversight, on behalf of the Coast Guard, to ensure vessel owners and managing operators as well as their vessels have systems in place to meet the requirements in 46 CFR Subchapter M.
5. DISCUSSION.
 - a. The Coast Guard's expectation is that TPOs will conduct independent verifications to assess if a TSMS, the company management, and the associated towing vessels comply with the applicable requirements contained in 46 CFR Subchapter M. To accomplish this, the TPO must have a

strong understanding of reference (a) and be able to apply applicable regulations to the approval of a TSMS and continuing oversight of both company management and the associated vessels.

- b. Neither the regulations nor this guidebook could outline the requirements for every scenario a TPO may encounter. When assessing compliance for a situation that may not be clearly defined by regulation, TPOs should use their professional judgment given the totality of the circumstances along with good marine practice to promote safety and environmental compliance.
 - c. To assist TPOs in meeting Coast Guard expectations, the Coast Guard will, from time-to-time engage with TPOs to provide clarification on policy to promote consistency. The NCOE is the primary Coast Guard contact for a TPO as questions arise regarding TPO applications, TSMS certificates, audits, and surveys. For specific issues related to a vessel or operating requirements, it may be necessary for a TPO to contact the local OCMI.
6. ACTION. The NCOE, OCMI's and TPOs should refer to this policy letter and its enclosure when they have questions concerning work done on the part of a TPO to assist an owner or managing operator and their vessels achieve compliance with Subchapter M, 46 CFR Parts 136 through 144.
 7. POLICY. This policy letter and its enclosure are meant to clarify the roles and responsibilities of a TPO outlined in reference (b). In addition, the following items pertain to the use of this policy letter:
 - a. In the event there is a conflict with this policy letter and/or its enclosure with the regulations found in reference (b), the regulations shall take precedence. The conflict should be brought to the attention of the NCOE or CG-CVC at the earliest possible opportunity.
 - b. TPOs and prospective TPOs shall use the procedures identified in reference (c) relating to appeals of requirements found in reference (b). Inquiries other than appeals should be sent to the NCOE. Electronic submissions are acceptable.
 8. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were reviewed regarding this policy letter and determined to be not applicable.
 9. DISCLAIMER. This policy letter guidance is neither a substitute for applicable legal requirements, nor a rule. It is not intended nor does it impose legally-binding requirements on any party. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other Federal and state regulators, in applying statutory and regulatory requirements. An alternative approach may be used for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the Coast Guard Office of Commercial Vessel Compliance (CG-CVC) who is responsible for implementing this guidance.
 10. QUESTIONS. Questions concerning this policy letter and guidance should be directed to Office of Commercial Vessel Compliance, COMDT (CG-CVC), Domestic Compliance Division at CG-CVC-1@uscg.mil. This policy letter and other Domestic Vessel Policy documents are posted on the CG-

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CVC website at <http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/cgcv/>.

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Enclosure: Subchapter M Third Party Organization (TPO) Guidebook

Third-Party Organization (TPO) Guidebook



August 2017

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To suggest additions or corrections or if you have questions or concerns, please contact the Coast Guard's Towing Vessel National Center of Expertise (TVNCOE) in Paducah, Kentucky at:

Detachment Chief
U.S. Coast Guard
Towing Vessel National Center of Expertise
504 Broadway Street, Suite 101
Paducah, KY 42001

Main Phone: 270-444-7715
Fax: 270-444-8094
Email: TVNCOE@uscg.mil
Website: <http://www.uscg.mil/tvncoe/>

1. What is the purpose of this guidebook?

The information in the guidebook is meant to aid in the understanding of the Third Party Organization (TPO) requirements within Subchapter M of 46 Code of Federal Regulations (CFR), Chapter I. This guidebook is intended to be a living document and may be updated by the Coast Guard based on lessons learned throughout the implementation process. Also, this guidebook is a companion document and, therefore, does not restate all regulatory requirements. Section IV of the preamble to the Inspection of Towing Vessels final rule (81 FR 40004, June 20, 2016) and its Subchapter M regulations should be read before using this guidebook.

The primary audience for this guidebook is organizations interested in applying to become TPOs to conduct compliance activities on towing vessels subject to Subchapter M.

This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to nor does it impose legally binding requirements on any party. It represents the Coast Guard's current stance on the topics and may assist industry, mariners, the general public, and the Coast Guard, as well as other federal and state regulators, in applying statutory and regulatory requirements. You may use an alternative approach for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you wish to discuss an alternative approach, you may contact the Coast Guard's Towing Vessel National Center of Expertise (TVNCOE), which is responsible for implementing this guidance.

Unless otherwise stated, all regulatory citations (e.g., "§136.110" or "part 139") in this guidebook refer to 46 CFR Subchapter M regulations.

2. What is a Towing Safety Management System (TSMS)?

A Towing Safety Management System (TSMS) is described in §138.205(a) as a system whose purpose is to promote continuous regulatory compliance. The TSMS provides early detection of problems or deficiencies through continuous attention to preventative vessel maintenance. A TSMS also provides a means to identify risks and implement sustainable procedures to reduce these risks in the context of the vessel's operations and company oversight. A fully implemented TSMS is not a checklist or just a book on the shelf, it is meant to compliment the vessel operations and provide the company and crew with a clearly defined system that promotes safety and environmental compliance. With a TSMS, a towing vessel's company or managing operator develops measures aimed at reducing errors so that the vessel will be more likely to continue operations without unplanned interruptions.

What are the advantages of the TSMS option?

Companies that employ the TSMS option are afforded greater scheduling flexibility to complete required surveys and audits using designated company employees or a Third Party Organization, which may reduce vessel downtime. TSMS vessels will generally not need to schedule a Coast Guard marine inspector for annual, drydock, or internal structural exams thereby reducing time the vessel may remain idle waiting for Coast Guard resources. TSMS vessels are also afforded greater flexibility to resolve incidents that might otherwise delay a towing vessel that uses the Coast Guard option, as these vessels may be compelled to wait on

the availability of a Coast Guard marine inspector prior to resuming operations. In the event a non-conformity is identified, vessel owners and operators will work through the TPO to resolve the issue.

3.What is a Third Party Organization (TPO)?

TPOs are organizations approved by the Coast Guard to conduct independent verifications to assess whether a company's TSMS or towing vessels meet Subchapter M requirements, which includes operations, manning, structural, engineering, lifesaving, firefighting equipment, and other similar requirements.

The TPO plays a key role in helping to ensure that a towing company operating under the TSMS maintains compliance with the regulatory requirements, including requirements for audits and surveys. The TPO documentation requirements in §139.165 also help to ensure that non-conformities or substandard conditions are identified, tracked, and corrected. The TPO should provide a method for the Coast Guard to have access to vessel records at any time, including required documentation outlined in §137.135 and §138.220(d).

In addition to complying with Subchapter M requirements, it is the responsibility of the TPO to routinely review information published on the TVNCOE website to remain up to date with new regulations, policy, or guidance. The Coast Guards plans to provide updates, best practices, lessons learned, and frequently answer questions (FAQs) on this website.

4.How do I become a TPO?

An organization, other than a recognized or authorized classification society, seeking to be approved as a TPO must submit a written request to the TVNCOE in accordance with §139.120 and indicate which authorities they are applying for as described in 139.115. The documentation may be hard copy or electronic format (for example, MSWord or .pdf files). Electronic submissions (less than 10MB) can be submitted to the TVNCOE Email, TVNCOE@uscg.mil, and hard copy requests may be mailed to:

Detachment Chief
U.S. Coast Guard
Towing Vessel National Center of Expertise
504 Broadway Street, Suite 101
Paducah, KY 42001

The TPO application must include the information found in §139.120. A TPO Application Job Aid is attached to this guidebook and may also be downloaded from the TVNCOE website.

Section 139.110 provides that any classification society that is recognized or authorized under 46 CFR part 8 is approved to act as a TPO. These organizations should contact the TVNCOE to discuss their desire to act as a TPO. The TVNCOE will, in turn, identify any additional information, including lists of auditors and surveyors, which may be required to be submitted prior to conducting Subchapter M compliance activities as a TPO.

TPOs must maintain a list of current and former auditors and surveyors. Section 139.135(c) requires a TPO to notify the TVNCOE upon removal of a member from the TPO's list of approved auditors or surveyors. This notification should be made as soon as practicable. An

initial notification may be via email, but should be followed up in writing and include a copy of the TPO's revised list of auditors and surveyors required by §139.135(a). For new auditors or surveyors, TPOs must submit their experience, background and qualifications to the TVNCOE upon placement on the list of auditors and surveyors.

The TVNCOE will assist applicants throughout the application process and will notify the applicant if any of the required documents or information are missing. If approved, the TPO's approval letter will state the specific authority granted to the organization under part 139 and the date such authority expires as well as the functions the TPO may perform. Any person directly affected by a decision or action of the TVNCOE, after requesting re-consideration of the decision or action by the TVNCOE, may make formal appeal of that decision or action to Commandant (CG-CVC) in accordance with the procedures contained in 46 CFR 1.03-15.

5.What are the main responsibilities of a TPO?

The primary TPO function, as found in 46 CFR 139.115, is to ensure that towing vessels comply with provisions of Subchapter M. TPOs may be authorized to do any or all of the following:

- Review a company's TSMS and determine if it complies with the regulations.
- Issue a TSMS Certificate after the company has successfully implemented the TSMS.
- Conduct external audits, as described in part 138, to evaluate the implementation of the TSMS at the management level and on each of its vessels.
- Conduct surveys, if an external survey program is selected, as described in part 137, to evaluate the implementation of the TSMS on the vessels.
- Issue audit and survey reports.
- Rescind a TSMS Certificate for non-compliance.

The regulations define the scope of the vessel surveys (see §§137.215 and 137.220) and audits (see §§138.315, 138.410, and 138.505). While a TPO may be involved in a variety of surveys and audits on a particular vessel or with the management, an auditor may not audit their own survey work as this is a conflict of interest per 139.120(e).

Review of a company's TSMS

Prior to the issuance of a TSMS certificate, the TPO will review a company's TSMS to ensure it contains all TSMS elements in accordance with §138.220. As part of this evaluation, the TPO will conduct an external management audit of the towing company as specified in §138.315. The TPO will assess towing vessels, if any, covered by the TSMS Certificate for compliance with the TSMS requirements in part 138, subpart B. This assessment is for the purpose of issuing the TSMS Certificate and does not require a TPO to visit each vessel. Further, this assessment is not a vessel audit but rather verification that the company has implemented the management requirements outlined in the TSMS. The TPO's established procedures will determine which and how many towing vessels should be visited during the external management audit.

Issuance or Rescission of a TSMS Certificate

When the TPO is satisfied that the towing company is in compliance with both the TSMS and applicable sections of Subchapter M, the TPO may issue a TSMS Certificate to the towing company. The towing company must maintain a list of towing vessels covered by the TSMS

Certificate in accordance with §138.305(c). Additional guidance for existing Coast Guard approved safety management systems can be found in CG-CVC Policy Letter 17-02.

If a TPO that issued the TSMS Certificate determines that a towing company has not maintained compliance with part 138 requirements, the TPO may rescind the TSMS Certificate as provided in §138.305. The TPO should identify the reasons for rescission of the certificate and what must be done in order for the certificate to be reissued.

Audits (Part 138, subpart D)

External audits are defined in §136.110 and must be conducted by “a party with no direct affiliation to the vessel, owner, or managing operator being audited.” Although internal audits can be conducted by contracted parties, they are not considered external audits for the purposes of Subchapter M.

These audits shall be of sufficient breadth and depth to document the periodic review and evaluation of the company’s TSMS to ensure it has been effectively implemented as established by the company. Management review of such audits may lead to additional measures to further improve the effectiveness of their TSMS. Any deficiency or non-conformity found during management review should be provided with appropriate corrective action.

A TPO *external management audit* may include:

- An opening meeting including an audit plan discussion with senior management;
- An audit-participant list with the each person’s position in the company and roles in the audit;
- A verification that the TSMS complies with Subchapter M;
- A tour of the towing vessel company to establish familiarization;
- Procedures for determining which towing vessels should be visited during the external management audit;
- A verification that all required records are being maintained (including internal company audits specified in §138.405) and the company has completed any other record keeping obligations in their TSMS;
- Interviews with towing company personnel, in accordance with the audit plan or based on preliminary audit findings;
- If applicable, a review of non-conformities reported during previously conducted audits to verify that the company’s investigation, analysis, and resolution of the non-conformities were done in according to their TSMS.
- If applicable, verification that corrective action for outstanding non-conformities is completed or is in process. If the corrective action has been implemented, the auditor should indicate the satisfactory implementation (closing out) in the audit report.
- Preparation of observations and determination of any non-conformities;
- A closing meeting; and
- Distribution of the audit report to towing company, TPO senior management, and the TVNCOE. The report should include a recommendation from the auditor(s) to TPO senior management as to whether or not a TSMS Certificate should be issued, renewed or suspended, as appropriate.

A TPO *vessel audit* may include:

- Verification the vessel is on the list, which indicates it is covered by a specific TSMS Certificate, along with a copy of that TSMS Certificate on board;

- An opening meeting to ensure the master understands the audit plan;
- A list of the crew members' names that participated in the audit and their positions onboard the vessel. The crew list should be attached to the audit plan;
- A tour of the vessel to establish the overall condition;
- Verification that statutory and classification certificates, if applicable, are valid and no surveys are overdue and that conditions of class or corrective actions are addressed;
- Verify all required records including previous internal and external audits, personnel records, vendor safety, etc. are being maintained, and verify that the company has completed any other record keeping obligations with respect to elements of their TSMS;
- Review of specific procedures outlined in the vessel's TSMS for compliance;
- Observation of equipment tests specified in the audit plan;
- Observation of emergency drills;
- Crew interviews according to the audit plan;
- If applicable, review of non-conformities reported during previously conducted audits to verify that the company's investigation, analysis, and resolution of the non-conformities were done in accordance to the TSMS;
- If applicable, verification that outstanding corrective actions for non-conformities are complete or are in process. If the corrective action has been implemented, the Auditor should indicate the satisfactory implementation (closing out) in the audit report.
- Determination if there were any non-conformities;
- A closing meeting; and
- Forwarding copies of audit results, non-conformity note(s) and observation(s) to the Coast Guard Officer in Charge, Marine Inspection (OCMI) that issued the COI as well as vessel ownership or management. If any major non-conformities are found during the audit, notifications must be made in accordance with §138.410(f) and the TSMS applicable to the vessel.

Sampling (§138.410)

External audits may be conducted on a sampling basis and should be consistent with the TPO's written audit procedures and supported by both the audit plan and the written audit procedures. Generally, sampling should follow the principles in ASQ/ANSI/ISO 19011, an international standard for auditing. Sampling within elements is allowed and should follow guidelines the TPO has set forth. Until sufficient data is available to identify company or vessel trends, sampling should focus on those elements that present the most risk to people, property, and the environment. Once a TPO has had sufficient audits with a vessel owner or managing operator, judgmental sampling could be supported as problem areas are identified, but it should not distract the auditor from assessing other areas. Differences between planned and actual samples are allowed as TPOs adjust the audit trail based on responses, practices, evidence, and observations. Actual samples should be recorded for use in reports and in guiding future audits.

Surveys (Part 137, subparts B and C)

Under the TSMS option, either an internal or external survey program is chosen by the towing company. The surveyor, internal or external, conducts an examination of the vessel, including its systems and equipment, to verify compliance with applicable regulations and requirements. An external survey program employs a TPO surveyor while the internal survey program uses a company-employed surveyor or contracted resources, as detailed in the TSMS, to conduct surveys.

External Survey Program (§137.205)

An external survey program includes the annual vessel surveys required by §137.205(a)(1) and 137.215(b)(1)-(4), and prescribed dry dock examinations under §137.310 on each vessel. Companies electing to implement the external survey program must outline, in the TSMS that covers the vessel, the procedures for selecting and using an approved TPO, the duties of that TPO, the process to schedule surveys, and the documentation and recordkeeping requirements of the program in accordance with §137.205. The TSMS procedures applicable to the vessel should be on board the vessel (version-controlled electronic format is acceptable) and available to the crew and surveyor. It is intended that annual surveys under the external survey program take place as one event and will address all of the items described in §137.220. The annual survey due date is based on the anniversary date of the Certificate of Inspection (COI) and may take place within a six-month window, between 90 days prior to and 90 days after the anniversary date. However, surveys for renewal, which occur every five years, must be completed prior to the COI expiration date but no sooner than 90 days prior to the expiration date.

Surveys conducted under the external program must be documented in a report that meets the requirements of §137.135(a). A copy of the report shall be delivered to the vessel owner or managing operator and be made available to the Coast Guard OCMI as needed.

Internal Survey Program (§137.210)

Under the internal survey program, surveys are conducted by internal or contracted towing company resources as outlined in the TSMS and may take place over time during several short visits so long as all required items are surveyed at required intervals. For an internal survey program, the TSMS must outline specific procedures for conducting surveys in accordance with §§137.210, 137.315, and 138.220(c)(1), including how surveys are conducted, scheduled, sequence of scope, documentation, who may conduct surveys, training and qualifications of those persons conducting the survey, what is examined, how non-conformities are reported, and recordkeeping. Of key importance to this program is the designation of a responsible person or persons to oversee the internal survey program compliance and, if necessary, restrict vessel operations in accordance with §§137.210(a)(6) and 137.315(a)(5). The scope of the surveys under the internal program does not differ from that of the external survey program.

An internal survey program includes less frequent interaction between the TPO and the towing company's vessels than an external survey program. Therefore, the audits are the primary method for the TPO to ensure that the TSMS is implemented effectively, follows the required schedule and scope, uses qualified persons, and adequately addresses and reports non-conformities. If, during management and vessel audits, the TPO detects major non-conformities, patterns of improperly maintained or defective equipment, deficient training, or substandard vessel material conditions, the audit should be expanded and proper notifications should be made, as applicable. The TPO may recommend to the OCMI that the vessel be required to transition from an internal survey program to an external survey program.

TPOs overseeing internal survey programs as specified in §137.130(b) may attend surveys to confirm the vessel's condition and survey methods used by the towing company. TPOs should also periodically interact with the towing company's TSMS-designated person to ensure the internal survey program complies with the TSMS and Subchapter M (§138.220). Internal survey reports and internal audit reports should be submitted by the towing company to the TPO

responsible for oversight of internal survey programs.

Drydock/Internal Structural Examinations (§§137.310, 137.315, & 137.325)

Drydock and internal structural examinations are required as part of either an external survey program or an internal survey program. An internal structural examination is intended to establish whether internally accessible plating, tanks, structural members, etc., are in satisfactory condition. The internal structural examination may be conducted concurrently or separately from the drydock examination. For external survey programs, the TSMS must address how a TPO will carry out drydock and internal structural examinations, including a process for selection and scheduling of the TPO. The procedure should also include any special conditions either on the vessel or required by the TPO, such as confined space entry procedures, hull gauging, or surface preparation. Any other procedures pertaining to hull and structural maintenance in the TSMS must be available to the surveyor for assessment of vessel compliance with the TSMS as specified in §137.205.

For internal survey programs, the TPO that is responsible for auditing the TSMS must be notified by vessel management prior to commencement of any credit examination per §137.315(b). Reports of drydock and internal structural examination for external survey program vessels must meet the requirements of §137.135(a).

Additional TPO Functions

TPOs may be involved in the verification of vessel suitability with respect to an owner or managing operator's request for a permit to proceed (PTP) or an excursion permit. Ultimately, the cognizant OCMI would issue any such permits. As specified in §136.240 and §136.245, the owner or operator must contact the cognizant OCMI prior to movement for a PTP related issue and not less than 48 hours for an excursion permit related matter. TPO reports and records may be requested for review by the OCMI prior to issuing those permits.

Under the external survey program, the TPO will perform oversight of vessel construction and validate conformance to the approved plans in accordance with §137.220. A TPO may also perform this oversight under the internal survey program, if contracted to do so.

TPOs will be expected to perform oversight of any required vessel repairs for external survey programs. They may perform oversight of repairs for internal survey programs. However, prior to any repairs, the survey and repair proposals should be submitted to the cognizant OCMI for approval.

TPOs may not perform their approved functions when: (Part 139)

- Their approval has expired, regardless of whether or not the organization has made application for renewal;
- The TPO has given the TVNCOE a formal notification that they will no longer provide the Subchapter M services it has been approved to perform;
- The TPO's approval has been suspended or revoked by the Coast Guard; or
- The TPO ownership changes. If ownership changes, as defined in §136.110, the new owner will have to resubmit an updated application for approval. The new owner may begin the application process before the ownership change is implemented so that vessels covered by the TPO will not be negatively impacted by the ownership change. The new owner may issue new TSMS Certificates to replace existing ones without conducting new

audits or surveys of the impacted towing vessel company, if the new owner chooses to do so. However, the new TSMS Certificates need to maintain the original expiration dates unless the new TPO owner conducts the audits required for the issuance of an initial TSMS Certificate.

6.What does the TPO provide to the Coast Guard after an external audit?

In accordance with §138.505, the results of any vessel or management external audit must be submitted to the TVNCOE no later than thirty (30) calendar days from audit completion, retained by the owner or managing operator for at least five years as per §138.315, and meet any other requirements prescribed by the TSMS. The preferred method of submitting an external audit result to the Coast Guard is electronically in portable document format (.pdf). Paper hard copy is also acceptable. Reports can be emailed to TVNCOE@USCG.MIL or mailed to the TVNCOE mailing address.

7.What does the TPO auditor or surveyor do when they identify a problem?

In addition to reporting requirements discussed above, the TPO auditor or surveyor informs the vessel's management representative and vessel's master, during the audit closing meeting or upon completion of the survey, details regarding any non-conformities or concerns. The auditor or surveyor should indicate whether non-conformities observed are major or not. While non-conformities must be resolved as soon as possible, corrective actions must be carried out as detailed in the TSMS with appropriate completion dates noted. For all non-conformities, the TPO auditor will review the root cause analysis and corrective actions identified by the vessel owner.

If an auditor or surveyor identifies a deficiency of equipment, systems or operations that creates an unsafe condition (for example, presents a serious threat to safety or harm to the environment), the TPO should notify the towing vessel company, who must immediately take appropriate action specified in the TSMS (§137.215(d)). The TPO shall immediately notify the cognizant OCMI if possible, but in no case later than 24 hours (§138.410(f)).

8.What happens if a TPO's approval is suspended or revoked?

To maintain approval, a TPO must comply with the provisions of part 139. Under §139.150, a TPO's approval may be revoked if it demonstrates a pattern or history of inadequate performance, such as failing to:

- Issue required documents, certificates, or reports;
- Identify, track, and document resolution of non-conformities;
- Maintain adequate resources to support all of the Subchapter M functions the TPO has been approved to carry out;
- Maintain records in accordance with §139.165;
- Notify the TVNCOE and the cognizant OCMI of major non-conformities;
- Facilitate the Coast Guard in conducting oversight activities per §139.160;
- Notify the TVNCOE when auditors or surveyors are added or removed;
- Maintain the quality management system described in §139.120(d); and
- Perform a vessel and/or company audit when directed by the Coast Guard per §137.212.

TSMS Certificates issued by a TPO that has had its approval suspended or revoked will remain valid until the next external audit is due or until the certificate expires, whichever comes first. If a TPO's approval has been suspended and reinstated before any audits or surveys are due, the towing company may continue to use the previously suspended TPO.

Appendix 1 – Third Party Organization Application Job Aid

Third Party Organization Application Job Aid

Company Name:	Location:
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Application

46 CFR	Question	Yes	No
139.115(a)	Does the application indicate the functions the organization is seeking approval for?		
139.120(a)	Does the application include a description of the organization? a) Ownership b) Structure c) Organizational components This information may be part of the organizations quality manual or be separate. It should contain an organizational chart and objective evidence that the applicant is independent of owners or managing operators and vessels that it audits or surveys. This may be in the form of a signed statement, findings from an external audit, etc.		
139.120(b)	General description of clients served or clients you intend to serve? A list of current or past clients, or a list of potential clients based on the services the TPO intends to offer would suffice. This could be in conjunction with (c) below.		
139.120(c)	Description of work performed by organization within last 3 years? a) Amount b) Type For example, ISM audits and Load Line surveys. If not currently operating as an established business, a description of the type and size of the operations for which the applicant intends to provide service for and any experience its contingent employees may possess should suffice. This description should also include the geographic region of operations.		
139.120(d)	Objective evidence of an internal quality management system? a) ANSI Q9001 b) ISO 9001 c) Other? (ISO 17021, etc.) Objective evidence that the organization operates within a quality management system acceptable		

	to the Coast Guard. Subchapter M established ISO 9001-2000 as meeting this requirement, but others may be considered. The current version is 9001:2015. Objective evidence of conformity to earlier versions may be allowed. ISO 17021 is deemed to be an equivalent as certification bodies that meet that standard are required to operate under a quality management system, either 9001 or one outlined in Section 10 of that standard that is more closely aligned with certification bodies. Certification documents issued by accredited third parties and satisfactory external management audit reports by credible external organizations or peers are examples of acceptable objective evidence of meeting this specification. There is no requirement for certification; however, valid certification is prima facie evidence of a functioning, conformant system. Equivalent systems requests must be accompanied by an objective justification of the equivalency basis.	
139.120(e)	Organization procedures and documentation? a) Describes process used to perform audits b) Records to show system effectiveness Quality management procedures for conducting audits and surveys, including their oversight, compliance attainment, and measurement procedures. These procedures may be referenced in future audit procedures by the USCG for TPO renewal.	
139.120(f)	Copies of checklists, forms, tools for recording audit and survey results? a) Copies of all checklists, job aids, forms, etc. for use in activity monitoring and review, and to ensure their scopes match those required by regulation	
139.120(g)	Procedures for the applicant to receive and review appeals and grievances? Procedures for appeals and grievances, including investigation and reporting. This should include customer complaints, public complaints, self-reporting, whistleblower protection, etc., and tie into the organizations corrective action process.	
139.120(h)	Code of ethics applicable to organization and its auditors, surveyors, or both?	
139.120(i)	List of organizations auditors, surveyors, or both that meet prerequisites? Prerequisites are listed in §139.130. Could be in the form of biographies. Should indicate if each auditor or surveyor is “exclusive” or “non-exclusive” to your organization.	
139.120(j)	Description of means for assuring continued competency of auditors, surveyors, or both? The applicant’s internal training program, auditor or surveyor expectations to maintain at their cost, etc.	
139.120(k)	Procedures for terminating or removing an auditor or surveyor?	

139.120(l)		To include violations of previously noted ethics violations. Description of means of assuring availability of personnel? A description or procedure for assuring auditor and surveyor availability to serve the applicant's clients. The surveys and audits must take place by the specified dates in regulation, along with other associated oversight work, and the applicant should have sufficient internal personnel, external personnel, or both, to be able to field scheduled and emergent vessel and management compliance needs.		
139.120(m)		Description of apprentice or associate auditor program? Describe how organization auditors and surveyors gain and maintain qualification and experience. For internal employees it may require a training program of initial course attendance followed by a number of audits, whereas for non-exclusives it may be as simple as requiring annual submittal of proof of meeting certification expectations.		
139.120(n)		Statement agreeing to Coast Guard compliance inspection? A signed statement from management or the Organizational Representative that agrees to Coast Guard oversight visits and attendance at audits or surveys for the purpose of TPO oversight.		

Auditors

46 CFR 139.130	Question	Yes	No
(b)(1)	Does auditor possess a High School diploma or equivalent?		
(b)(2)	Have 4 yrs experience as Master, Mate, Engineer or other relevant experience? Example: CG Marine Inspector is considered relevant experience.		
(b)(3)	Successful completion of ISO 9001:2007 Lead Auditor course or equivalent?		
(b)(4)	Successful completion of TSMS auditor training course?		
(b)(5)	Audit experience as demonstrated by the following: a) Documented experience in auditing ISM (2 mgmt/6 vessels in past 5 yrs) b) Successful apprenticeship completion (1 mgmt/3 vessels under lead auditor)		

Auditors must have the skill and experience required by Subchapter M to analyze safety management systems and determine adherence to them by performing an audit and assessing compliance with TSMS requirements.

To comply with education requirements, a General Education Development (GED) certificate is equivalent to a high school diploma for auditors and surveyors.

For auditors, we consider 1,440 eight-hour days, or for towing vessels permitted to stand 6-on-6-off watch schedules, 960 twelve-hour days, as equal to four years of working on towing vessels. Service aboard towing vessels may be in either the deck or engine department, or combination of the two in either a licensed or unlicensed capacity. Documentation may be in the form of a letter on company stationery and signed by an appropriate authority or discharge certificates signed by the vessel's master.

The TVNCOE recognizes lead auditor training for any ISO standard as equivalent to the required lead auditor or assessor course, if the course is recognized by the ANSI-ASQ National Accreditation Board (anab.org), Exemplar Global (exemplarglobal.org), National Accreditation Board for Education and Training (nabet.qci.org.in), or International Register of Certified Auditors (irca.org). This is based on the premise that all ISO auditing schemes are built upon the auditing standards in ISO 19011 and ISO 17021. Acceptable training will be provided by an accredited certificate issuer or accredited training partner. All other requests for equivalency must be submitted to the Coast Guard, with objective evidence supporting the equivalency.

All prospective auditors must complete a TSMS auditing course, which should include, at a minimum, the following topics: roles and responsibilities of TPOs, auditors and surveyors; ethics and conflicts of interests for auditors and surveyors; use of audit tools (checklist forms, reports, etc.); TPO procedures relating to audits and surveys; and part 138 subpart B - TSMS. There is no requirement that the TSMS training course be approved by the Coast Guard. An ISM Lead Auditor course is an acceptable alternative to a TSMS course.

The minimum experience requirements are specified by §139.130(b)(5). Experience in auditing quality management systems based on ISO 9001, environmental management systems under ISO 14001, occupational health and safety management systems that meet OHSAS 18001, or equivalent standard are also acceptable. A lead auditor certification from a certification entity such as the International Register of Certified Auditors (IRCA), Exemplar Global, and the American Society for Quality (ASQ) will be considered as objective evidence of meeting the audit experience requirements of this part.

Surveyors

46 CFR 139.130	Question	Yes	No
(c)(1)	Does surveyor possess a High School diploma or equivalent?		
(c)(2)	Have 4 yrs experience as Master, Mate, Engineer or other relevant experience? Examples Include: Accredited marine surveyor and CG Marine Inspector.		

A marine surveyor examines vessels to assess, monitor and report on their condition. They also examine equipment intended for new or existing vessels to ensure compliance with standards or specifications and examine documents pertaining to vessel and crew compliance with the TSMS and the regulations. The surveyor typically examines the structure, machinery and equipment (navigation, safety, communication, etc.) and general condition of the vessel. Surveyors must demonstrate that they have both the skills and experience necessary to:

- Perform a survey as defined in §136.110.
- Assess compliance with Towing Safety Management Systems (TSMSs) as required in subparts B and C of part 137.
- Assess whether the towing vessels covered by the TSMS are in compliance with all applicable operational, equipment, and personnel requirements.

To comply with education requirements, a General Education Development (GED) certificate is equivalent to a high school diploma for auditors and surveyors.

For experience requirements in §139.130, marine surveyor experience may include:

- Marine surveyor. Including classification surveyors or private surveyors with at least four years of commercial vessel field experience (towing vessels preferred). Surveyors who specialize in pleasure craft surveys will not normally be considered as meeting these experience requirements OR;
- Accredited marine surveyor. There are a number of marine surveyor governing bodies that monitor marine surveyors and offer accreditation. They include, but are not limited to:
 - The National Association of Marine Surveyors (NAMS)
 - The Society of Accredited Marine Surveyors (SAMS)
 - Full Membership in the International Institute of Marine Surveyors (IIMS)
- Experience in the design and/or construction of vessels of similar operating and physical characteristics.