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MEMORANDUM

TO: Responsible Carrier Program® (RCP) Third-Party Auditing Organizations
American Bureau of Shipping (ABS)
Nippon Kaiji Kyokai (ClassNK) America
Towing Vessel Inspection Bureau (TVIB)

CC: RCP Standards Board Members
Thomas A. Allegretti

FROM: Brian S. Bailey

RE: Clarifications and Directives from the RCP Standards Board Meeting,
November 29-30, 2016

Please be advised that this correspondence is sent on behalf of the Responsible Carrier Program® Standards Board of The American Waterways Operators (AWO) to advise its third-party auditing organizations of recent clarifications, directives and requests arising from its recent November 29-30, 2016, meeting. The role of the Standards Board is to make recommendations to the AWO Board of Directors on maintaining and strengthening the integrity of the RCP. This includes interpretations and changes to the RCP, the RCP audit process, oversight of AWO-recognized auditor training and certification organizations, and applications from organizations seeking to become AWO-recognized auditor training and certification organizations.

Procedures

Directive: Audit Scheduling Notifications

The AWO Safety Department tracks and uniformly reminds member companies of impending due dates for all external management and vessel audits. The Standards Board has made a request to be kept informed when a member company has failed to schedule a required audit within 60 days of the audit due date. Consistent with Exhibit A.5 of each of the existing contractual agreements between AWO and each third-party auditing organization whereby “[third-party audit organization] will work jointly with AWO to develop and continuously improve the RCP Audit Process, consistent with the requirements of the RCP,” AWO requests that the third-party auditing organizations inform the AWO Safety Department via e-mail, within two (2) business days of a management audit being contracted and scheduled. This requirement is complementary

and similar to RCP Addendum B.10 whereby the third-party auditing organization is directed to “forward the letter [of compliance/noncompliance notification] to the AWO Safety Department within two business days” to ensure the efficient processing of the time-sensitive AWO RCP compliance notifications and certificates.

Directive: Auditor Qualifications and Training Equivalency

Addendum D of the RCP harkens back to a time in which AWO managed and certified RCP auditors. However, due to the evolution of the RCP and the addition of class societies ABS and ClassNK into the roster of eligible third-party auditor training and certification organizations, there remains some uncertainty as to whether newly-approved auditors meet the requirements presented in the addendum. This correspondence serves as the Standards Board’s notice to the third-party auditing organizations of AWO’s intent to eventually align Addendum D’s auditor qualifications with that of Subchapter M (46 CFR §139.130, Qualifications of auditors and surveyors). Until these modifications are made, however, the Standards Board requests that each of the third-party auditing organizations submit a memorandum, along with any supporting materials deemed necessary, no later than March 31, 2017, documenting its auditor training requirements including auditor candidate prerequisites, theoretical training, and practice qualification training each auditor is required to have or receive. The Standards Board will review this information and respond if there are questions or further explanation required.

Directive/Clarification: Corrective Action Plans

RCP Addendum C.13 states:

“When deficiencies or nonconformities are found during an audit, the steps needed to correct the deficiency may extend beyond the RCP audit due date. To address this issue, a company undergoing an audit must follow the following guidelines:

- a. A corrective action plan must be submitted to, and approved by, the auditor within 2 weeks of discovery of the nonconformity, but no later than the audit due date (even if that is less than 2 weeks).
- b. The corrective action plan must be fully implemented within 90 days of discovery of the nonconformity and documented and confirmed with auditor follow up
- c. This protocol is not applicable to Major Nonconformities, which must be addressed immediately.

Should an auditor-approved corrective action plan propose to extend past the audit recertification due date, the third-party auditing organization must notify the AWO Safety Department of that extension so that AWO recognizes that the member company is not in noncompliance and past their audit due date without explanation. Additionally, the Standards Board has agreed that a corrective action plan does not alter preexisting audit cycles, which shall revert to the original audit recertification due dates upon satisfactory and timely completion of the corrective action plan.

If a company believes that nonconformities identified during a vessel audit can be rectified by the audit due date, then the Standards Board concurs that the company is not required to submit a corrective action plan or adhere to the process detailed in Addendum C.13. The intent of submitting a corrective action plan for auditor approval is to identify a

timeframe in which to complete corrective actions that are in process but cannot be resolved by the audit due date. Member companies should express confidence that they can correct the auditor-identified vessel nonconformities prior to the audit due date, as they assume that responsibility by declining to develop a corrective action plan. If it is later determined a company will be unable to make and take the necessary corrective actions by the audit due date, the Standards Board will not grant an extension and the corrective action plan option will no longer be available.

Clarification: Major Nonconformities

RCP Addendum C.14 states:

“If a Major Nonconformity is discovered during an audit, the audit stops and the issue must be fixed or downgraded before proceeding any further. A Major Nonconformity is defined as an identifiable deviation which poses a serious threat to personnel or vessel safety or a serious risk to the environment and requires immediate corrective action.”

The Standards Board agreed that an auditor cannot unilaterally remove a vessel from service upon the discovery of a major nonconformity. Per the reference noted above, the auditor’s responsibility is to halt the audit until the major nonconformity is remedied or downgraded to a nonconformity. Once Subchapter M takes full effect, “...the auditor must notify the local Officer in Charge, Marine Inspection (OCMI) within 24 hours and the owner or managing operator’s designated representative in accordance with the TSMS applicable to the vessel” (46 CFR §138.410.f). It should be noted that if an audit remains open and unresolved past an audit recertification date, the member may lose RCP status depending on whether or not that vessel audit was necessary for recertification.

Moreover, the AWO Safety Department does not require notification of the finding of major nonconformities discovered during an audit because no action can be taken with such information in advance of a compliance finding or a noncompliance finding. Rather, the Standards Board expects the protocols and processes enumerated in the RCP to be observed and AWO be notified upon a final determination of compliance.

Clarification: Safety Management System (SMS) Review Requirements

In accordance with 46 CFR §138.410 (Conduct of external audits), the Standards Board noted that a third-party auditing organization’s policy to carry out an assessment of existing documentation to make an informed decision regarding the efficacy of the towing safety management system (TSMS), also known as a desktop review, for the initial certification or significant changes to the SMS, was acceptable practice. Therefore, no desktop review is required for existing AWO member companies as their SMS will have previously been audited by a third-party auditing organization-certified auditor and accepted by AWO.

Equipment Issues

Clarification: Type V Personal Flotation Device (PFD) Requirement (RCP III.C.3.)

RCP III.C.3 [Equipment and Inspection (Inland), Firefighting and Lifesaving Equipment] states:

“A check-off report should be turned in or a log entry made at least quarterly verifying that the following required firefighting and lifesaving equipment is present and in proper working order: ... Coast Guard-approved work vests (46 CFR §26.30-5) (46 CFR §26.30-10)”

The U.S. Coast Guard policy letter (CF-543 Policy Letter 10-06 attached) dated December 28, 2010 regarding carriage of lifesaving and firefighting equipment on board uninspected towing vessels in excess of Subchapter C requirements, section 5.e. states:

“...In lieu of work vests, personnel working on towing vessels may wear Coast Guard approved Type II or III PFDs.”

Despite its original approval of TVIB’s checklist dated July 1, 2016, which requires one Type V work vest per crew member, the Standards Board concurs with the Coast Guard that Type II or III work vests should be acceptable in place of Type V work vests, so long as the company’s own safety management system (SMS) permits such usage. It is the opinion of the Board that a rigid Type V requirement is counter to overall crew safety, as Type II and III PFDs are universally considered safer. The Standards Board requests that TVIB and the other third-party auditing organizations, if applicable, amend their audit checklists to comply with this correspondence.

Clarification: Fire Pump Pressure (PSI) Requirement (RCP III.C.5.)

Coast Guard regulation (46 CFR §27.301) requires that fixed fire pumps be capable of delivering water at a pressure of 50 pounds per square inch (psi) and at a rate of 80 gallons per minute (gpm). It has been noted by members and auditors alike that the means of evaluation of psi by both the Coast Guard and third-party auditing organizations has varied. Also, despite longstanding Coast Guard guidance on the proper testing procedure (NVIC 6-72, A.2.2), psi evaluation in the field remains inconsistent. Additionally, although the aforementioned procedure specifies the use of a pitot tube to test pressure, it lacks consideration of means to measure the proper flow rate to ensure the measurement is taken at 80 gpm.

The Standards Board determined that until the Coast Guard clarifies across all sectors in what manner its personnel will inspect and test psi, no alternative exists but to reaffirm the standard prescribed by 46 CFR §27.301 and endorse the usage of NVIC 6-72, A.2.2.

Conclusion

Please be advised that the Standards Board adopted an official calendar for 2017. Third-party auditing organizations are encouraged to send one to two representatives to the August 14, 2017, Standards Board meeting at The Drake Hotel in Chicago, Illinois. The first half of this meeting will consist of open dialogue between Standards Board members and the TPO representatives.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions or concerns.