

# Subchapter M Information Session

# The Big Picture

- ❖ Milestone in industry safety journey
  - Raises regulatory floor industry-wide
- ❖ A new approach to Coast Guard inspection
- ❖ Rooted in AWO, TSAC recommendations
- ❖ Retires the misleading “uninspected” label
- ❖ Displaces OSHA jurisdiction
- ❖ Preempts state regulation
  - Design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, manning



# Positive Features of the Final Rule

- ❖ Improved formatting and clarity
- ❖ Highly responsive to AWO, TSAC comments
- ❖ Problematic equipment requirements for existing vessels removed
- ❖ No change to hours of service requirements
- ❖ Practical approach to implementation and phase-in
- ❖ Strong support for TSMS option
- ❖ No surprises to delay RCP acceptance as TSMS



# What We'll Cover

- ❖ Subchapter M rule overview
- ❖ AWO Towing Vessel Inspection Working Group assessment
- ❖ Issue resolution process and status
- ❖ Subchapter M implementation policy status and process for industry review
- ❖ RCP acceptance as TSMS and RCP auditing options
- ❖ Near-term priorities and next steps



# CAPT Gifford Opening Remarks

# Subchapter M Rule Overview

# 46 CFR Subchapter M

## Parts 136-144

- Certification
- Vessel Compliance
- Towing Safety Management System (TSMS)
- Third-Party Organizations
- Operations
- Lifesaving
- Fire Protection
- Machinery and Electrical Systems and Equipment
- Construction and Arrangement



# Implementation Schedule

- ❖ Rule effective 7/20/2016
- ❖ Existing vessels:
  - Most requirements in Parts 140-144 take effect 7/20/2018 or date first COI is issued, whichever is earlier
  - COI phased in between 7/2019 and 7/2022
- ❖ New vessels (keel laid/major conversion after 7/20/17):
  - Meet all requirements and obtain COI before vessel enters into service



# Compliance Options

## ❁ Coast Guard option

- Traditional inspection; all inspections conducted by Coast Guard

## ❁ TSMS option

- Use of safety management system and approved Third-Party Organizations to verify compliance



# TSMS Option

- ❖ TSMS Certificate issued by TPO
  - Valid for 5 years
  - Company must maintain list of vessels covered by TSMS Certificate
- ❖ Internal TSMS audits:
  - Annual for management and all towing vessels
- ❖ External TSMS audits:
  - Management: Twice in 5 years
  - Towing vessels: Once in 5 years



# Process for Obtaining COI

- ❖ Submit application to OCMC (Form CG-3752)
  - Specify compliance option (TSMS or Coast Guard)
- ❖ TSMS option: Include objective evidence that:
  - Company/vessel comply with TSMS requirements (TSMS Certificate)
  - Vessel's structure, stability and essential systems comply with applicable requirements for intended route/service (Survey report from TPO)
- ❖ Inspection for certification
- ❖ OCMC issues COI valid for five years



# TSMS vs. Coast Guard Option

## ❁ Required inspections

- Initial inspection for certification
- Coast Guard option: Coast Guard inspects vessel annually
- TSMS option: Coast Guard conducts COI inspection every 5 years

## ❁ Required surveys and drydocking examinations

- Coast Guard option: performed by Coast Guard
- TSMS option:
  - External program in which surveys/examinations conducted by TPO; or
  - Internal program in which surveys/examinations conducted by company personnel, either as one event or over time



# TSMS vs. Coast Guard Option

- ❖ Permit to Proceed and Permit to Carry Excursion Party
  - Coast Guard option: requires OCMCI approval
  - TSMS option: proceed as outlined in TSMS, notify OCMCI
- ❖ Functional vs. prescriptive requirements
  - Coast Guard option: requires OCMCI approval
  - TSMS option: may be documented in TSMS, approved by TPO



# User Fee

- Mandated by law; fees set by regulation
- Coast Guard rulemaking to update current user fees under development
  - Inspection fees for towing vessels will differ based on compliance option chosen
- Until then:
  - No fee for initial COI
  - Subsequent annual inspection fee of \$1,030



# Operations

- ❖ Similar to current regulations and RCP requirements
- ❖ Crew Safety and Training
- ❖ Safety and Health
- ❖ Vessel and Operational Safety
- ❖ Navigation and Communication Equipment
- ❖ Towing Safety
- ❖ Vessel Records



# Lifesaving

- ❁ New requirements:
  - Survival craft
  - Lifejackets
  - Immersion suits
  - Lifebuoys
  - Visual distress signals
  - EPIRB
  - Line throwing appliance
- ❁ Credit for SOLAS compliance



# Fire Protection

- ❖ Similar to current regulations
- ❖ New requirements:
  - Fire axe
  - Smoke detection system or detectors in berthing spaces
  - 2 firefighter's outfits and 2 SCBAs on ocean/coastal vessels >79 feet without fixed fire suppression system
- ❖ Credit for SOLAS compliance



# Machinery and Electrical

- ❖ New requirements:
  - Pilothouse alert system for vessels >65 feet
- ❖ Requirements for new vessels:
  - Built to recognized classification society/ABYC standards
  - Electrical engineering system requirements
  - Requirements for propulsion, steering and related controls for vessels moving a barge carrying oil/hazmat



# Construction and Arrangements

- ❖ Requirements for new vessels:
  - Built to recognized classification society standards
- ❖ Requirements for existing vessels:
  - Meet standards applicable prior to effective date of Subchapter M
  - Watertight or weathertight integrity



# Manning

- ❖ COI will specify minimum manning
  - TSMS may identify if/when additional personnel needed
- ❖ Draft Marine Safety Manual revisions published for comment July 15
  - Consistent with TSAC recommendations



# Proposed Changes to MSM Vol. III

- ❁ Sample manning scales for inspected towing vessels based on route, tonnage, length of voyage and watch system
  - Minimum manning with variables for:
    - Regulatory considerations
    - Additional manning as provided in TSMS based on operational factors
    - Reduced manning based on machinery space attendance
- ❁ Examples:
  - Rivers, no 12-hour operation limit:
    - 1 Master, 1 Mate/Pilot, 2 deckhands
  - Domestic Near Coastal/Oceans/Great Lakes, 200-299 GRT, <600 miles:
    - 1 Master, 1 Mate, 1 AB, 1 OS, 1 Chief Engineer, 1 Assistant Engineer
      - With periodically unattended machinery space (PUMS), OCMI may reduce engineering personnel



# Questions & Discussion

# **AWO Towing Vessel Inspection Working Group Assessment**

# Priority Issues

- ❖ Effective dates of three requirements in Parts 143 and 144
- ❖ Interpretation of “major conversion” and “replacement in kind”
- ❖ PIC-fuel transfer requirements
- ❖ Additional guidance for vessel owners choosing TSMS option



# Dates in Parts 143-144

- ❁ §143.300 (d), §144.105 (c) and §144.135 (c) would have applied to towing vessels on which new installations are made after July 20, 2016
- ❁ Coast Guard acknowledged error and corrected dates in July 21 *Federal Register* notice
- ❁ Positive early example of partnership to identify and resolve issues



# Major Conversion and Replacement in Kind

- ❖ Could trigger application of requirements for new vessels to existing vessels
- ❖ Problematic preamble discussion of engine repowering
- ❖ Definition of replacement in kind includes upgrades
- ❖ Written clarification from Coast Guard needed



# PIC-Fuel Transfer

- ❖ Inspected vessels required to have credentialed officer or Tankerman-PIC supervise fuel transfer
- ❖ Uninspected towing vessels may have PIC-fuel transfer designated by letter
- ❖ Need solution to ensure individuals serving as PIC-fuel transfers on towing vessels now can continue to do so after transition to inspection



# Guidance on TSMS Option

- Scope of inspection for certification
- Full credit for audits and surveys conducted prior to application for COI
- Ensure vessels can continue on existing audit and survey cycles
- Will address with Coast Guard in review of TSMS guidance, discussions following acceptance of RCP as TSMS



# Other Issues and Questions

- ❁ Part-by-part review of rule to identify questions or concerns regarding:
  - Definitions – What does the Coast Guard mean by a word or phrase?
  - Application – What is the application of this requirement to a particular area of operation or configuration of equipment?
  - Rationale – What is the Coast Guard’s intention in creating this requirement?
  - Impacts – What is the impact of this requirement on other regulations or policy?
  - Clarifications – Can the Coast Guard make this requirement clearer so that it is applied consistently?
  - Guidance – Can the Coast Guard provide more information about what it will consider to be compliance with this requirement?



# Examples of Questions

## ❁ Certification:

- How do the required annual COI phase-in percentages apply to a company with subsidiary companies?

## ❁ Audits and Surveys:

- What is the required extent of TPO oversight of a company's internal survey program?
- How will the Coast Guard determine whether internal auditor independence from the procedures being audited is practicable?
- Why must vessels be selected for external audits randomly if all vessels must be audited?



# Examples of Questions

## ❁ Operations:

- Clarify that health and safety plan may be incorporated into TSMS
- Clarify that frequency and methodology of towing gear checks may be outlined in TSMS
- How do requirements for wearing of work vests impact work vest exemption in Policy Letter 10-06?

## ❁ Machinery & Electrical/Construction & Arrangement:

- Clarify that only new installations of equipment regulated under Parts 143 or 144 will trigger application of requirements for new vessels



# Coast Guard Issue Resolution Process and Status

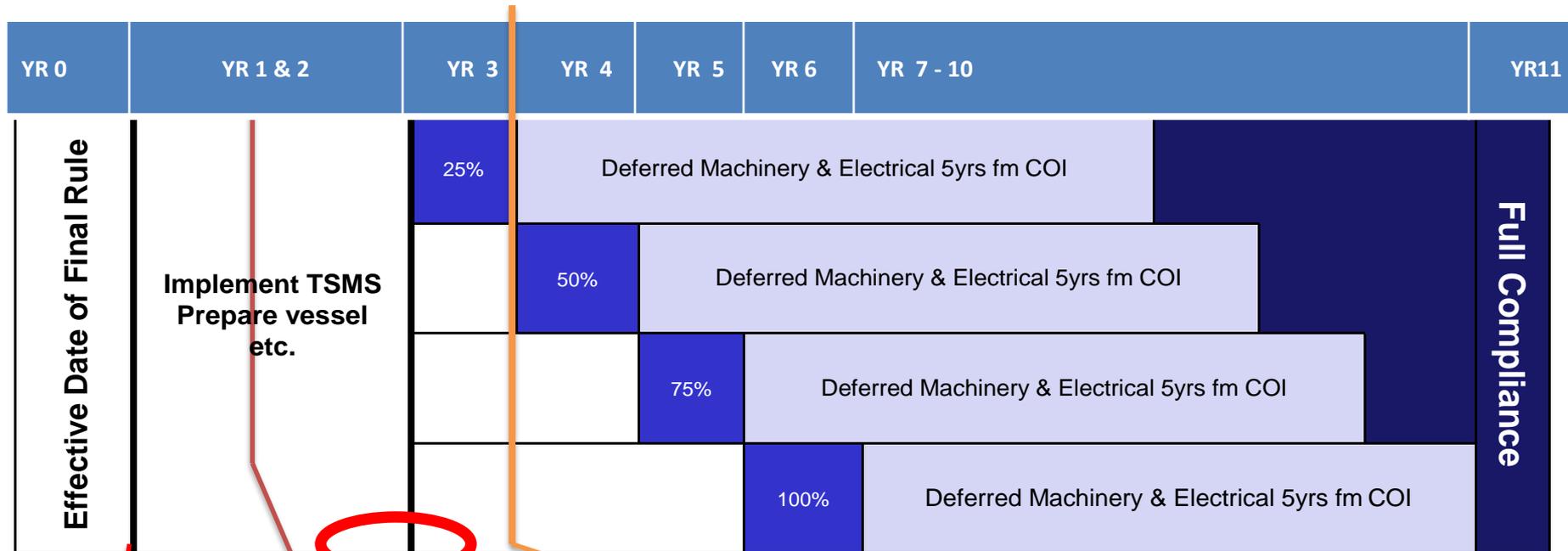


# Sub M Vessels

5,719



# Compliance Timeline



## 30-day Effective Date

- TPO requirements
  - TPO approvals
  - Stability, watertight, & weather-tight
- 20 July 2016**

Keel Laid Date  
New Vessel  
**20 Jul 2017**

Health and Safety Plan  
After First Year  
**22 July 2019**

- Comply with Sub M - **20 July 2018**
- TSMS Certificate issued by approved TPO **6 months** prior to COI Issue: starting **20 Jan 2018**

## Deferred Equipment

- Pilothouse alerter system
- Towing machinery (i.e. winches, bits, **guards** etc.)



# Issue Resolution Process



- Spreadsheet of 274 Issues
  - ❖ August 31, 2016 availability on NCOE site!
  - ❖ 1/3<sup>rd</sup> are high priority: expected completion date
- Towing Policy Council (TowPoCo)
  - ❖ Meeting 2x per week
  - ❖ HQ, Area, District representatives
- Towing Safety Advisory Council (TSAC)
- AWO
- Federal Register



## Issue: Major Conversions

- Major conversion (MCON) determinations
  - ❖ Rely on NVIC 10-81 as primary guidance
  - ❖ Case-by-case basis by Marine Safety Center
  - ❖ Repowering not normally considered MCON when done solely for:
    - Upgrades to achieve better fuel efficiency
    - Use of alternative fuels
    - Environmental compliance requirements



## Issue: Person-In-Charge (PIC)

- PIC for fuel transfers on towing vessels
  - ❖ Uninspected vessels can use Letter of Designation (LOD) for PIC (no MMC required)
  - ❖ Inspected vessels require credentialed PICs
  - ❖ Goal: Allow current personnel using LOD to continue to be PIC w/ an appropriate credential
    - Policy Letter forthcoming outlining path forward
    - Rulemaking may be needed for long-term solution



# Issue Resolution Process



## Issue submission

- Primary CG contact: Towing Vessel NCOE
  - ❖ Web: <https://www.uscg.mil/hq/cg5/TVNCOE/>
  - ❖ FAQ submission: Webpage with existing FAQs and a form to submit your questions.
- Towing Safety Advisory Committee (TSAC)
  - ❖ Task Statement 16-01 dealing with Sub M implementation & associated working group
  - ❖ [www.uscg.mil/hq/cg5/cg522/cg5221/tsac.asp](http://www.uscg.mil/hq/cg5/cg522/cg5221/tsac.asp)

# Questions & Discussion

# Implementation Policy Status and Process for Industry Review



# Benefits of TSMS

- **Flexibility**

- Can be scaled for company size/type
- Flexibility to survey over 1 year - Rolling surveys
- No annual CG inspection - Don't have to schedule days/weeks in advance & potentially take vessel out of service
- No CG attendance at Drydock or ISE - TPO or Company role in drydocks/ISE/new construction/major modifications
- Reduced CG time at COI issuance.
- Permits to proceed addressed by TSMS

- **Accountability**

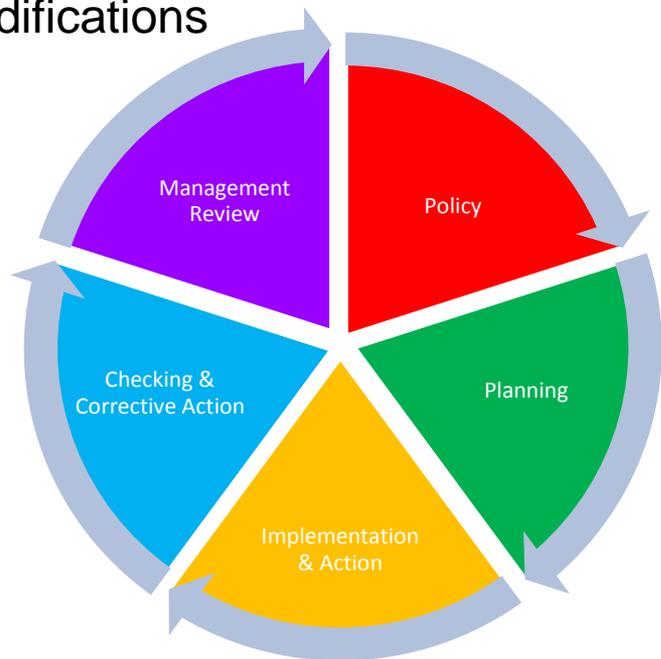
- Establishes responsibility

- **Continuous Compliance**

- **Consistency**

- Clear, well defined procedures/roles

- **Documentation**





# Coast Guard Option vs. TSMS Option



## Coast Guard Option

### Coast Guard Will:

- Issue COIs – set routes & manning
- Perform annual inspection
- Attend drydock & internal structural exams
- Issue/clear deficiencies
- **Oversee Repairs**
- **Conduct Drills**
- **New Construction/Major modifications oversight**
- **Plan review & P/E oversight (OCMI & MSC)**
- Respond to Marine Casualties – issue deficiencies/ enforcement if appropriate
- Appeals

### Towing Company Will:

- Schedule CG annual inspection
- Schedule CG drydock/ISE
- Make vessel available for inspection

## TSMS Option

### Coast Guard Will:

- Issue COIs – set routes & manning
  - **Reduced Scope of Inspection**
  - **Review objective evidence/report(s) at COI**
- **Targeted exam** – May attend audits, dry-dock or major non-conformities
- Respond to Marine Casualties – issue deficiencies/enforcement if appropriate
- **Direct vessel and/or company audits as needed**
- **NCOE review TPO reports.**
- Appeals

### Towing Company & TPO Will:

- **Develop/Implement SMS**
- **Survey/Audit Companies & Vessels**
- **Document compliance/Submit required reports/Maintain records**
- **Schedule CG Inspection every 5 yrs**
- **TPO can clear CG-835s**



# Incentivizing TSMS



## Regulations provide:

Minimum requirements, and Standards for compliance.

## Policy can clarify a number of items within a set of regulations:

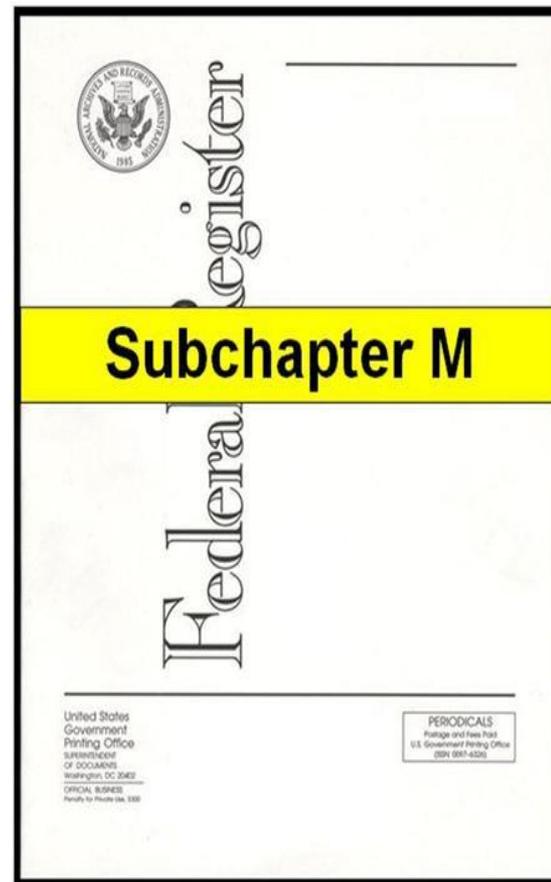
Applicability;

Terminology;

Potential equivalencies; and

Roles and responsibilities for certain functions.

- ❖ In this case, TPO-related items;
- ❖ Hull examination dates; and
- ❖ Replacement-in-kind





# Implementation Policy



**For Sub M specifically, our “order of march” is as follows:**

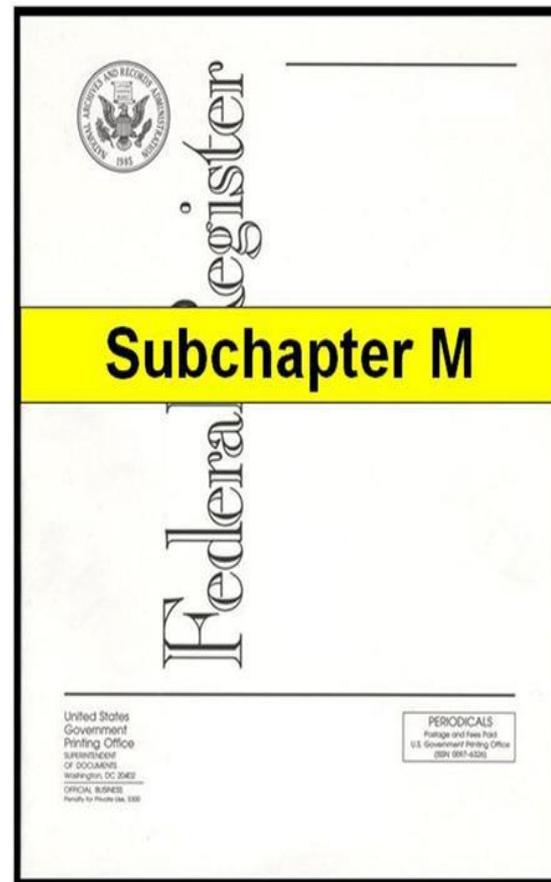
- TPO Guidance;
- TSMS Guidance;
- Overall Compliance Guidance; and
- Other guidance as needed.

**The primary policy instrument will be:**

Navigation and Inspection Circular (NVIC) with policy letters used on an Interim basis as needed.

**Questions can be submitted at any time**

Plan is to provide a public comment period.  
FAQ’s will be posted as needed but are separate from policy.



# Next Steps for AWO

- Close, ongoing dialogue with Coast Guard Subchapter M Implementation Team
- Coordination with TSAC Subchapter M Implementation Subcommittee
  - Review draft implementation policy and guidance
    - August 23 conference call to discuss Marine Safety Manual revisions and PIC-fuel transfer issue
    - AWO comments submitted in September; TSAC report pending
  - Establish regular Coast Guard-industry forum for resolving implementation issues, raising new questions and concerns



# Questions & Discussion

# RCP Acceptance as a TSMS

# Good News

- ❖ Shared Coast Guard/AWO goal: acceptance ASAP
  - Essential to smooth implementation of Subchapter M and widespread adoption of TSMS option
- ❖ RCP Standards Board/Coast Guard assessment:
  - Nothing in Subchapter M to complicate prompt RCP acceptance as TSMS
- ❖ RCP submitted for acceptance as ISM-equivalent TSMS on August 30



# RCP Standards Board Recommendations

- ❖ Sunset prescriptive RCP requirements superseded by Subchapter M as of July 20, 2018
  - Maintain requirements that continue to exceed regulatory minimums
- ❖ Revise Addenda as needed to reflect Subchapter M impacts on processes
- ❖ Provide Subchapter M compliance guidance to members
- ❖ Consistent with recommendations of Future of AWO Safety Leadership Task Force and RCP 21 Working Group



# RCP Auditing Options

- ❖ AWO goal: large, geographically dispersed pool of well-qualified, well-trained RCP/TSMS auditors overseen by Coast Guard-approved TPOs
  - Class societies and alternatives needed
- ❖ TVIB: Seeking Coast Guard approval as TPO
  - TVIB-certified auditors conduct RCP audits per 2013 agreement with AWO
- ❖ ClassNK: Coast Guard-approved TPO
  - May 2016 agreement with AWO to conduct RCP audits
  - First ClassNK RCP audit completed in August
- ❖ ABS: Coast Guard-approved TPO
  - AWO-ABS agreement pending AWO Board review October 14



# Questions & Discussion

# Questions for You

- ❖ Additional questions, concerns or policy guidance needed?
- ❖ What specific topics would you like to receive more information on?
- ❖ How can AWO most effectively communicate with members and reach non-members?



# Near-Term Priorities and Next Steps

# Near-Term Priorities

- ❖ RCP acceptance as TSMS
  - Seamless transition to Subchapter M audit regime
- ❖ Frequent, ongoing dialogue with Coast Guard Subchapter M Implementation Team
  - Prioritized approach to answering questions and resolving concerns
- ❖ Effective coordination with TSAC
  - Timely review of draft implementation policy
- ❖ Industry education and compliance assistance



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