

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 OCMI (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
- ❖ OCMI 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 OCMI approval
 - TSMS option: proceed as outlined in TSMS, notify OCMI
- ❖ Functional vs. prescriptive requirements
 - Coast Guard option: requires OCMI 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 alerter 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



The American
Waterways Operators

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:

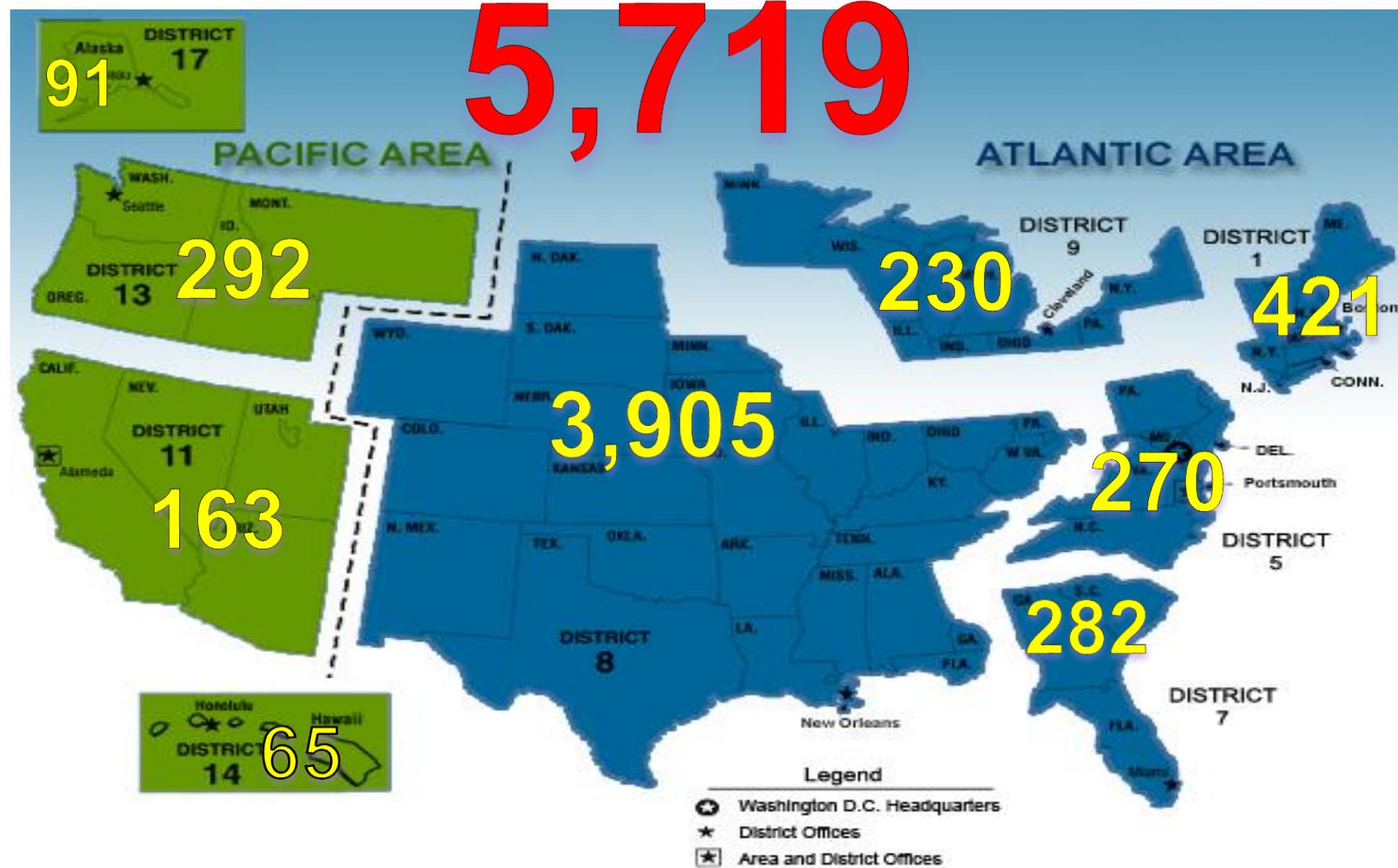
- Clarify that only new installations of equipment regulated under Parts 143 or 144 will trigger application of requirements for new vessels



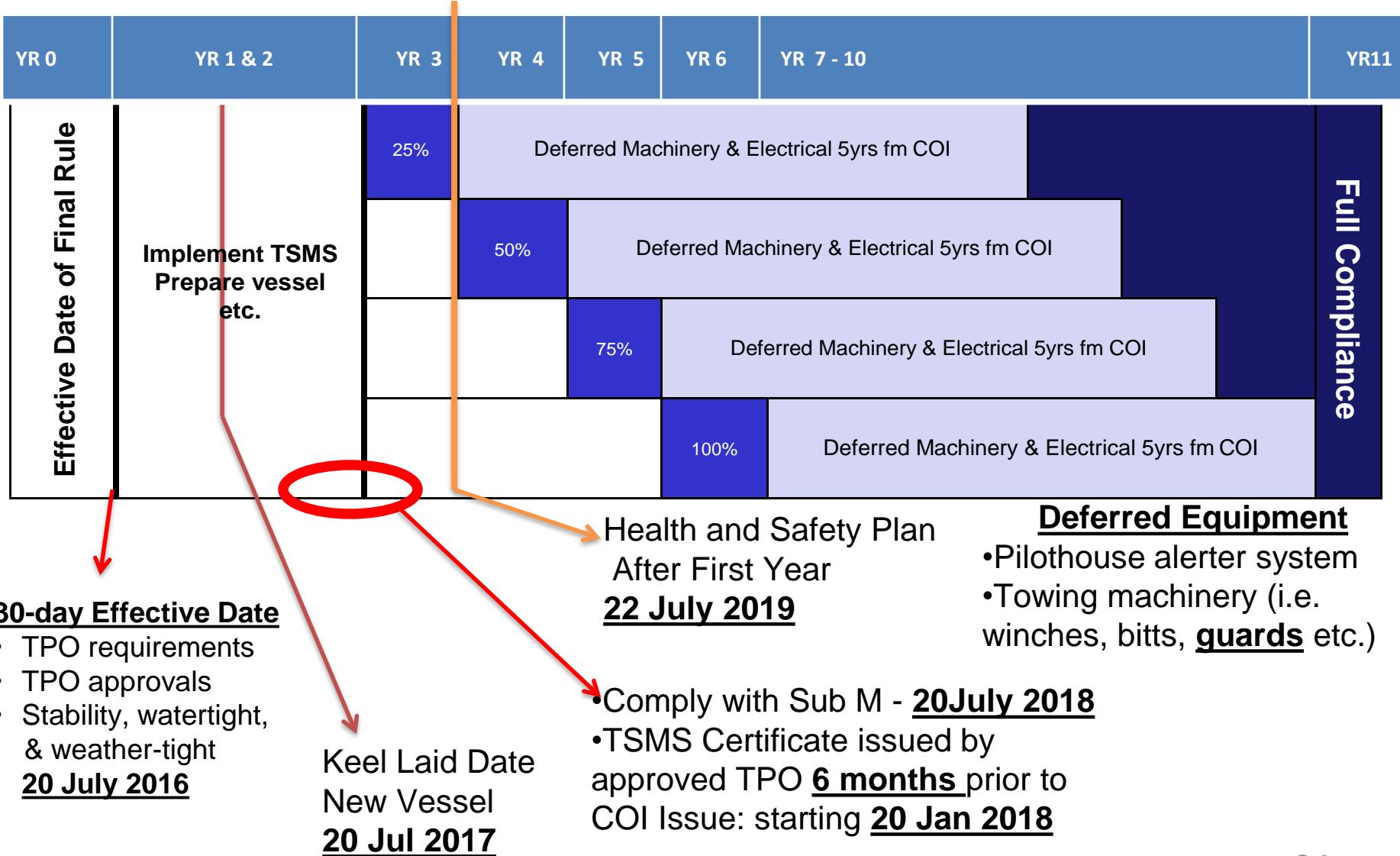
Coast Guard Issue Resolution Process and Status



Sub M Vessels



Compliance Timeline





Issue Resolution Process

- Spreadsheet of 274 Issues
 - ❖ August 31, 2016 availability on NCOE site!
 - ❖ 1/3rd 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



Status of Major Issues and Issue Resolution Process

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



Status of Major Issues and Issue Resolution Process

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

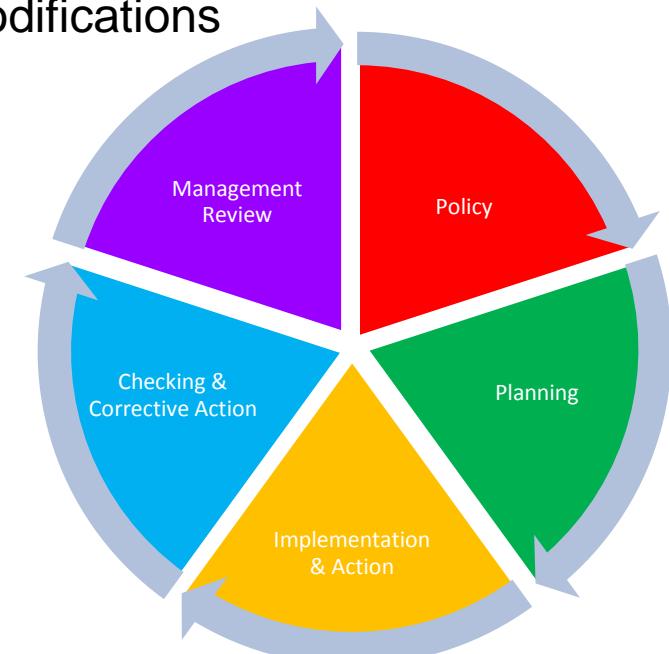
Questions & Discussion

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**
- May 11, 2016 CVC-1





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

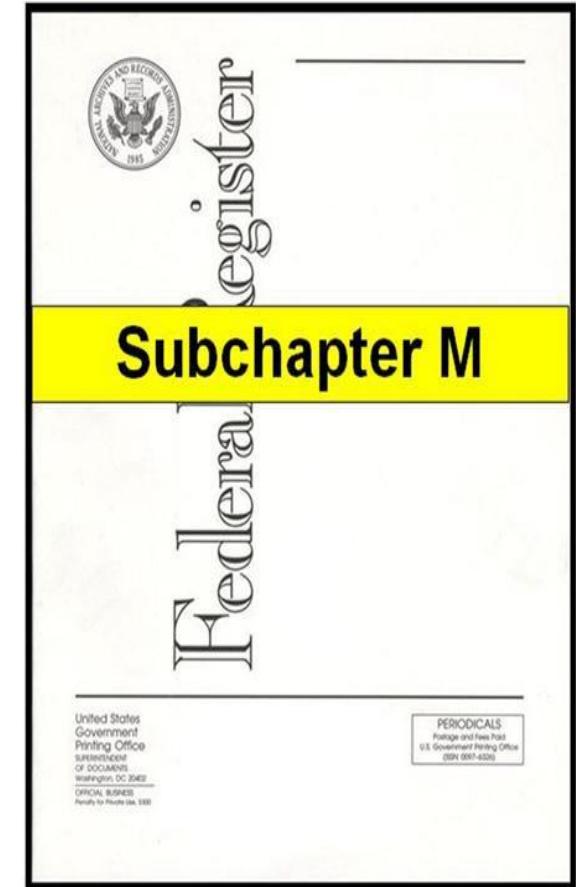
Regulations provide:

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:

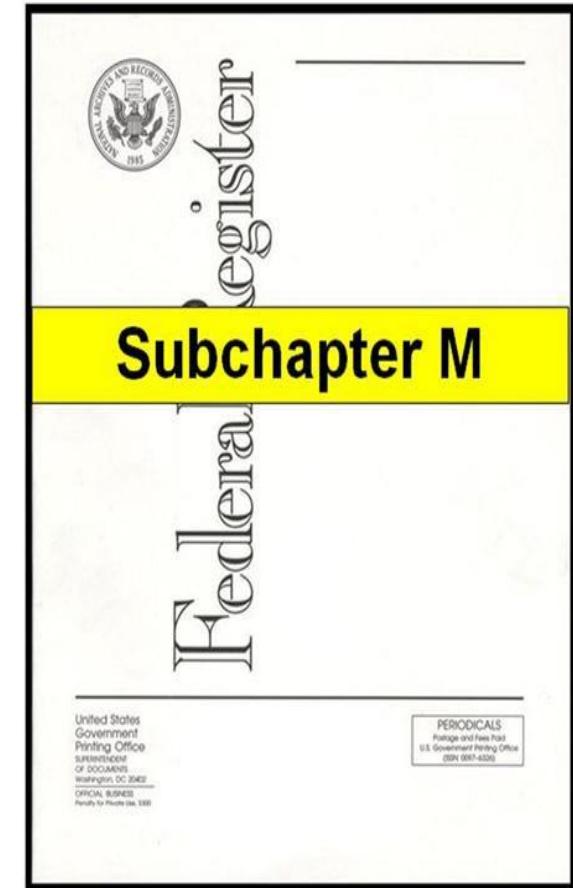
TPO Guidance;
TSMS Guidance;
Overall Compliance Guidance; and
Other guidance as needed.

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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