

## MEMORANDUM

TO: AWO Members  
AWO-Recognized Third-Party Auditing Organizations

FROM: Michael L. Breslin

DATE: October 25, 2023

RE: Clarifying AWO Membership Requirements

Please be advised that this correspondence is sent on behalf of the Responsible Carrier Program ® (RCP) Standards Board of The American Waterways Operators (AWO), which “has the authority to issue Clarifications and Directives Memoranda, as needed, to guide RCP interpretation by AWO-recognized third-party organizations.”<sup>1</sup>

The RCP states: “In order to be eligible for AWO membership, companies that own or operate tugboats, towboats, or barges engaged in U.S. domestic transportation must achieve third party audited compliance with a safety management system (SMS) **that meets the minimum requirements of 46 CFR Part 138.**”<sup>2</sup> [Emphasis added.] This memorandum relays the minimum requirements of Part 138 that an SMS must meet in order to be considered compliant with AWO membership requirements.<sup>3</sup>

In specifying that members must achieve third party audited compliance with an SMS that meets the minimum requirements of 46 CFR Part 138, the goal of the AWO Board of Directors was to provide additional flexibility for members. Part 138 was written to prescribe requirements for owners or managing operators of towing vessels who adopt a Towing Safety Management System (TSMS) for documenting compliance to obtain a Certificate of Inspection under 46 CFR Subchapter M. Recognizing that AWO members may choose the Coast Guard option for documenting compliance with Subchapter M, it is necessary to clarify the applicable minimum requirements of Part 138, which do not include those provisions that are specific to TSMS option compliance.

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<sup>1</sup> RCP Addendum F.d.

<sup>2</sup> RCP Addendum A.a.

<sup>3</sup> This memorandum is intended to assist Coast Guard-approved third-party organizations in auditing AWO member companies that are not using the RCP or the ISM Code as their SMS. It has no effect on AWO member companies who use the RCP or the ISM Code, which have been recognized by the Coast Guard as existing SMSs that meet the requirements of 46 CFR Part 138.

The minimum requirements of 46 CFR Part 138 that an SMS must meet to fulfill AWO membership requirements are:

**Subpart B—Towing Safety Management System (TSMS)**

§ 138.210 Objectives of a TSMS.

§ 138.215 Functional Requirements of a TSMS.

§ 138.220 TSMS Elements.

**Subpart C—Documenting Compliance**

§ 138.310 Internal audits for a TSMS certificate.<sup>4</sup>

§ 138.315 External audits for a TSMS certificate.<sup>5</sup>

*To clarify § 138.315(a), and consistent with RCP G.2.a., external management audits should be conducted by an auditor from a TPO twice during a period not to exceed five years, with a mid-period external management audit conducted between the 27<sup>th</sup> and 33<sup>rd</sup> month.*

*To clarify §138.315(b), and consistent with RCP G.2.a., external vessel audits should be conducted once for each vessel during a period not to exceed five years. Vessels do not need to be selected randomly.*

**Subpart D—Audits**

§ 138.405 Conduct of internal audits.

§ 138.410 Conduct of external audits.<sup>6</sup>

For the purposes of AWO membership requirements for those AWO members that choose the Coast Guard option, AWO members and third-party auditing organizations should generally consider the references within 46 CFR Part 138 to the “TSMS” to refer to the SMS.

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



Michael L Breslin

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<sup>4</sup> With the exception of § 138.310(c).

<sup>5</sup> With the exception of § 138.315(c).

<sup>6</sup> With the exception of § 138.410(f).