

UNDERSTANDING YOUR TOWING VESSEL INSPECTION OPTIONS

Paul Hite



1. INTRODUCTION

Towing vessel work is versatile in nature and has supported economic growth both domestically in the United States (U.S.) and abroad. The versatility of these vessels is highlighted by their ability to traverse thousands of miles of inland rivers and the world's oceans. The shallow drafts of towing vessels and their barge tows permit these vessels to provide support to destinations that their deep-draft shipping counterparts are unable to access. Further, the smaller number of required crew members to operate these towing vessels provides personnel cost savings to vessel owners when compared to the larger crews employed upon deep-draft vessels. These advantages have aided in the expansion of the U.S.-flagged towing vessel fleet to approximately 5,700 vessels – a very significant portion of the total U.S. merchant fleet.

After the towing industry experienced a number of marine casualties, towing vessels were re-classified as inspected vessels in 2004 under the Maritime Transportation Act of 2004. Subsequently, the United States Coast Guard (USCG) publicly requested comments and held public meetings to field ideas on how to move forward with the new rulemaking. Towing Safety Advisory Committee (TSAC) working groups were also formed to collect information and make recommendations to the USCG regarding the Notice of Proposed Rulemaking (NPRM). The final Subchapter M regulation was published on June 20, 2016, and went into effect on July 20, 2016, with most of the requirements delayed for two years or until a vessel is issued a Certificate of Inspection (COI).

Domestic towing vessel operators are now tasked with preparing their fleets to comply with most of the requirements outlined in 46 CFR Subchapter M by July 20, 2018. To reduce the burden placed on industry stakeholders, the USCG has mandated a four-year phase-in period for towing vessel owners to obtain COIs for 25 percent of their fleets each year. The first 25 percent of an owner's towing vessel fleet must be certificated on or before July 22, 2019, with an additional 25 percent certificated each year until the final deadline of July 19, 2022. All affected towing vessels must hold valid COIs by July 2022. Owners only operating one towing vessel must obtain a COI for that vessel by July 20, 2020. The challenge for vessel owners is to determine where their vessel(s) fit into the compliance spectrum and establish a pathway that will facilitate a smooth transition into certificated status. An operator may choose to achieve and maintain certificated status through the Coast Guard inspection option or the Towing Safety Management System (TSMS) option. There is not a one-size-fits-all compliance approach so it is important for towing vessel operators to carefully consider the factors discussed herein.

Towing vessel owners and operators must first ask themselves “What is the nature of our towing work”? This will allow them to determine if their towing vessels must wholly, partially or not comply with Subchapter M. To understand the applicability of the regulation, the towing industry must look to 46 CFR Part 136.105, which establishes that a towing vessel greater than or equal to 26 feet in length or a towing vessel of any length that moves barges containing hazardous cargo are subject to the requirements contained in Subchapter M. Exemptions and exceptions are also provided in this section so they must review these to determine if their fleet may be exempt from some or all of the requirements of the Subchapter.

After identifying their fleet's inspection requirements, they must consider their operating model and decide which inspection option suits their needs.

2. SUBCHAPTER M ATTENDANCE REQUIREMENTS

Before towing vessel owners and operators can select the best inspection option for their fleet they should examine the requirements associated with each. The Coast Guard option requires towing vessel owners to schedule an inspection with the local Officer in Charge, Marine Inspection (OCMI) once a year for each vessel. Owners choosing this option must implement a Health and Safety Plan that meets the requirements of 46 CFR 140.505 by July 22, 2019. The USCG also requires a three-month inspection notice prior to the desired inspection date. A drydocking and internal structural examination is required to be carried out once every five years for vessels that do not operate in salt water more than six months in any 12-month period and twice every five years for vessels that do operate in salt water more than six months in any 12-month period.

The TSMS option permits owners to work with a USCG-approved Third Party Organization (TPO) that will provide oversight of and conduct vessel surveys and/or audits for a given fleet of vessels. The TSMS option requires towing vessel owners to schedule an annual towing vessel survey that meets the scope of 46 CFR 137.220. Additionally, a vessel audit must be scheduled once every five years to include the elements outlined in 46 CFR 138.220 for a TSMS. Shoreside management audits shall be carried out twice in five years with the mid-period audit occurring between the 27th and 33rd month of the TSMS certificate's five-year validity period. An annual internal audit of each vessel and management office must be carried out by a qualified company employee who meets the conditions specified in 46 CFR 138.310 (d).



To assist owners in safety management system creation and implementation, an already-approved safety management system may be selected and used as a template for developing a TSMS. The International Safety Management System and the American Waterways Operators' Responsible Carrier Program are two such safety management systems. Owners should review the framework of each management system to identify the best fit for their own operation before making a selection.

Although vessel owners mostly interact with their TPO for operational matters, the USCG reserves overall authority for operational activities, and notification of such activities must be provided to the local OCMI where these activities will take place. Owners must provide the local OCMI 72-hour notification for TSMS audits. There is no USCG notification requirement for external surveys conducted by a TPO unless the vessel is to undergo a credit drydocking or internal structural exam.

It should also be noted that the USCG will attend the vessel initially and at COI renewal (every five years) for inspection of TSMS-option vessels. However, owners choosing the TSMS option may forgo their initial USCG Subchapter M COI inspection if they have an Uninspected Towing Vessel (UTV) examination decal that is still valid on the date of COI issuance. This accommodation is not afforded to those companies choosing the Coast Guard inspection option. The UTV exams are carried out to the Subchapter C standard for uninspected towing vessels. The USCG knows that the Subchapter M requirements will be verified by the TPO during the surveys and audits prior to issuance of a vessel's COI, so those companies choosing the TSMS option may use their valid UTV sticker to count for the USCG's initial vessel inspection. Just like the Coast Guard inspection option, vessels using the TSMS option are required to undergo a drydocking and internal structural examination once every five years if they do not operate in salt water more than six months in any 12-month period and twice every five years if they do operate in salt water more than six months in any 12-month period.

Now with a complete understanding of the available inspection options, which option should owners choose? To make the most beneficial choice for their fleet, owners should consider variables within each option.



3. OVERSIGHT

Owners choosing the Coast Guard inspection option will work with the USCG directly in obtaining and maintaining COIs for their vessels. As mentioned, owners must schedule their annual vessel inspections with the local OCMI three months in advance of the desired inspection date. Projecting vessel location this far out could prove to be very difficult. This said, if an owner operates a fleet of vessels that operate in a small geographic area then they may be able to provide such advanced notice without issue. Inspection scheduling will be subject to the availability of the local USCG inspections team.

Each owner choosing the TSMS option must create and employ a USCG-approved TSMS ashore and on board each operated vessel, as well as schedule audits and surveys at the intervals previously described. Leading industry operators have been utilizing safety management systems for years to improve safety for their people, property and the environment. These systems also promote efficient operation and improved performance. Positive performance and safety metrics may be considered by insurers and potential customers. Partnering with a TPO that employs highly experienced, well-trained surveyors and auditors will provide owners access to an additional pool of knowledge without having to hire full-time employees for their own companies. Partnering with a TPO should also provide for greater scheduling flexibility, which will allow operators to carry out their business largely uninterrupted.

To meet vessel survey requirements, owners may hire a TPO to conduct the annual surveys on board their vessels or may utilize their own qualified, in-house surveyors to conduct annual, drydocking and internal structural examination survey work. If selecting the “internal” survey option, owners must ensure that their surveyors have the qualifications and experience outlined in 46 CFR 139.130 (c). This internal survey work may be carried out at one time or divided over an extended period of time so long as no more than 365 days lapse between survey of any item required to be surveyed. Although a company’s own qualified personnel carry out internal survey work, the TPO approves and maintains oversight of the internal survey program and reserves the right to attend associated survey work at any time.

4. CHOOSING A COMPLIANCE OPTION

At this point, we should be able to determine which option is most attractive to our individual operation and make the necessary arrangements for preparing our vessels for inspected status. Owners choosing the Coast Guard inspection option should reach out to their local OCMI as soon as possible to begin planning for the inspection of their fleet. If availability permits, your local inspection team may be able to come out and benchmark your progress toward full compliance and provide corrective action information. Continued dialogue between vessel operators and the USCG is encouraged whether an operator chooses the Coast Guard inspection or TSMS option.

If the TSMS option is the correct fit for your operation, who are the TPOs approved to carry out the audit and survey work? The USCG lists approved TPOs on their website. Classification societies, such as the American Bureau of Shipping (ABS) are listed separately and are also approved to carry out both the survey and audit functions of a TPO. At the time of this writing, there are 15 organizations approved to carry out TPO work. With such a large number of choices it is important for operators to exercise due diligence and meet with candidate TPOs before making a final selection.

There are several important factors to consider when evaluating and selecting a TPO for compliance partnership. The first is to understand the qualifications and training of the TPO’s personnel. 46 CFR 139.130 outlines the minimum requirements for surveyors and auditors

employed by a TPO but these are just a baseline standard. Owners should consider the geographic coverage that a TPO can provide to readily respond to survey and audit requests. Other questions that should be asked include: “Has the leadership of the TPO’s program actually worked and lived on towing vessels themselves?”, “Have they lived through the challenges that we face on a daily basis?” and “What is the TPO’s history of working with USCG on flag State compliance matters?” Those who have worked on towing vessels are better positioned to identify common and uncommon issues before they become actual problems. TPOs who have a longstanding working history with the USCG have working relationships in place to quickly assess situations and facilitate uninterrupted operations under permitting circumstances. Most importantly, interviewing various TPOs is essential to finding out which personalities are most compatible with your organization’s leadership. This TPO-owner relationship will play a large role in the long-term prosperity of a towing vessel operation.

5. THE REGULATION

The published regulation is 145 pages long and over half of that is dedicated to the preamble, discussing industry commentary with the USCG and providing background on how the final rule was determined. The final rule begins almost 100 pages in, and is broken down into the following Parts:

46 CFR CHAPTER I

- Part 1** Organization, General Course and Methods Governing Marine Safety Functions
- Part 2** Vessel Inspections
- Part 15** Manning Requirements

46 CFR SUBCHAPTER M

- Part 136** Certification
- Part 137** Vessel Compliance
- Part 138** Towing Safety Management System (TSMS)
- Part 139** Third-Party Organizations
- Part 140** Operations
- Part 141** Lifesaving
- Part 142** Fire Protection
- Part 143** Machinery and Electrical Systems and Equipment
- Part 144** Construction and Arrangement

Knowing where to look to quickly access the information needed is critical to navigating through Subchapter M. Just knowing the parts listed above will provide a good starting point for various searches. Word search functionality also makes this job considerably easier. Each part is divided into sections for “existing” and “new” vessels with different requirements for each. Industry must comply with new vessel requirements for vessels with keels laid on or after July 20, 2017, or when a major conversion to an existing vessel has been made on or after July 20, 2017. Additionally, towing vessel owners and operators must verify they are in compliance with the specified Rule sets required by each Part.

The preamble often expands on the requirements listed in Subchapter M and should not be overlooked. Further, the USCG has compiled a list of frequently asked questions of each Part and has posted these questions and answers on the Towing Vessel National Center of Expertise’s (TVNCOE) website. Located in Paducah, Kentucky, the TVNCOE was established by the USCG to assist industry stakeholders in the interpretation and application of the Rule. To this end, they employ personnel with both regulatory and industry backgrounds to effectively inform on towing vessel matters.

6. CONCLUSION

This current period marks a watershed point in the towing vessel industry's history that will serve to protect the marine environment, improve operational efficiencies and cultivate a strong culture of safety. The towing vessel industry plays a vital role in the health of the U.S. economy so these improvements will have a profound effect on many. Operators are the true industry experts and must be heard when it comes to examining current vessel activities and effecting measures to improve performance. Most importantly, the operators, TPOs and USCG must maintain and nurture continued dialogue to work through challenges and meet USCG expectations for the towing vessel industry.

The available resources discussed should be leveraged by vessel owners to bring vessels into inspected status. A TPO should not just attend owner assets to carry out required audit and survey work, but should act as a shepherd through the entire certification process to relieve the vessel owner of as much burden as possible. The TPO-client relationship is a true partnership, as what is good for one is good for the other. It is the TPO's responsibility to determine how to meet the intent of the new regulation with as little financial burden to the owner as possible and without compromising the desired factor of safety. There will be an initial cost to owners to meet some of the new requirements, yet these initial investments will pay big dividends to owners and result in growth.

ABS is currently assisting owners in developing their individual timelines to obtain COIs in line with the required compliance dates. ABS understands that each operation is unique so we dedicate the requisite time and resources to each operator to support their success. The ABS Towing Vessel Center of Excellence's close proximity to the USCG Towing Vessel National Center of Expertise in Paducah, Kentucky, provides convenient access to the most current industry information and allows us to respond to our customers' inquiries in a timely fashion. Our ABS Towing Vessel Center of Excellence is an invaluable resource to our customers nationwide as it serves as a one-stop shop for all of your Subchapter M questions and needs. We value all of our compliance partnerships and look forward to serving the marine towing industry in the years to come.

ABOUT THE AUTHOR

A native of the Washington, D.C. area, Paul Hite is a senior surveyor and auditor and has been with ABS for four years. Prior to ABS, Paul sailed as a deck officer for seven years, five of which were spent on towing vessels. Paul graduated from the United States Merchant Marine Academy in 2006 with a Bachelor of Science degree in Logistics and Intermodal Transportation. Paul is currently pursuing a Master's degree in Project Management from Georgetown University.



CONTACT INFORMATION

ABS TOWING VESSEL CENTER OF EXCELLENCE

129 S. Water Street, Suite B
Paducah, KY 42001
Tel: 1-251-327-3769
Email: SubchapterM@eagle.org

WORLD HEADQUARTERS

16855 Northchase Drive
Houston, TX 77060 USA
Tel: 1-281-877-6000
Fax: 1-281-877-5976
Email: Abs-WorldHQ@eagle.org
www.eagle.org

AMERICAS DIVISION

ABS Plaza
16855 Northchase Drive
Houston, TX 77060 USA
Tel: 1-281-877-6000
Fax: 1-281-877-5943
Email: ABS-Amer@eagle.org

EUROPE DIVISION

ABS House
No. 1 Frying Pan Alley
London E1 7HR, UK
Tel: 44-20-7247-3255
Fax: 44-20-7377-2453
Email: ABS-Eur@eagle.org

GREATER CHINA DIVISION

5th Floor, Silver Tower
No. 85 Taoyuan Road
Huang Pu District
Shanghai, 200021 P. R. China
Tel: 86-21-2327-0888
Fax: 86-21-6360-9649
Email: ABS-GreaterChina@eagle.org

PACIFIC DIVISION

438 Alexandra Road #10-00
Alexandra Point
Singapore 119958
Tel: 65-6276-8700
Fax: 65-6276-8711
Email: ABS-Pac@eagle.org

