

MASTER OF TOWING VESSELS ASSOCIATION

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July 21, 2008

The Honorable Members of the U.S. House of Representatives
The 110th Congress
Committee on Transportation & Infrastructure
Subcommittee on Coast Guard & Maritime Transportation
2400 Rayburn House Office Bldg.
U.S. House of Representatives
Washington, D.C. 20515

Dear Representatives,

After long deliberation, our Association concludes that the Towing Safety Advisory Committee (TSAC), a Federal Advisory Committee authorized by Congress in 1980, as currently composed is incapable of fulfilling its Congressional mandate as stated in its charter. This is primarily the result of its past and present member composition, which does not reflect the wording in *33USC§1231a*. and the *TSAC Charter*, and the current administrative policies of not providing for member's legitimate travel expenses and not allowing for the use of alternate members when a regular member is unable to attend a meeting.

The wording reads as follows:

(a) Establishment; membership

There is established a Towing Safety Advisory committee (hereinafter referred to as the "Committee). The Committee shall consist of sixteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety and serve at the pleasure of the Secretary as follows:

- (1) seven members from the barge and towing industry, reflecting a regional geographic balance;*
- (2) one member from the offshore mineral and oil supply vessel industry; and*
- (3) two members from each of the following:*

(a) port districts, authorities, or terminal operators;
(b) maritime labor;

(c) shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); and

(d) the general public.

Our Association interprets this law, and the Congressional Charter derived from it, to mean a committee consisting, in part, of actively-working towing vessel deck officers. The combination of those words, taken at their face value, leaves us with virtually no doubt as to the original intent of the law. The phrase "*seven members from the barge and towing industry*"...with "*particular expertise, knowledge and experience regarding shallow-draft and coastal waterway navigation and towing safety*" exclusively describes currently active masters, mates and pilots of towing vessels. One cannot possess, or truthfully claim to possess, these traits without active and ongoing service aboard tug-boats or towboats (i.e. towing vessels). Holding a license of *Master, Mate or Pilot of Towing Vessels* (or any other license for that matter) while working in a shore-based administrative position simply does not meet that requirement. By regulation, the "Master" is always ultimately responsible for the overall safety and navigation of his or her vessel.

The "shippers" described in section (a)(3)(c), clearly indicates where representatives from the shipping companies (such as Kirby, Crowley, Moran, etc.) were meant to be included.

The meaning of "labor", as described in section (a)(3)(b), is somewhat less clear to us. Our Association interprets this to indicate where unlicensed seamen such as tankermen, deck hands and unlicensed engineers were meant to be included. However we seek clarification from Congress that this may refer instead to organized labor representatives from established maritime unions. Any "Towing Safety Advisory Committee" that recommends drastically reducing experience and training requirements from 30 months to just 30 days for a Towing Officer's license, in order to solve a largely self-induced labor shortage in a "cost effective" manner, deserves serious scrutiny for its assault on maritime safety issues.

The *Master of Towing Vessels Association (MTVA)* represents a significant number of active tugboat and towboat deck officers from around the United States who would like a voice in the safety and regulatory process. We trust and believe that Congress originally intended and created the *TSAC* to provide fair and equal representation to our knowledgeable licensed and unlicensed mariners who are directly protected from injury by policies that highlight "marine safety."

The current funding level of \$107,000, and the way the committee has been and is still being operated, ensures that active Towing officers will seldom be heard at the

TSAC meetings. This greatly diminishes and effectively negates any influence we might have on the important safety recommendations to the Coast Guard that are generated by TSAC.

33USC§1231a., section **(d) Compensation and travel expenses; administrative services; personnel; authorization of appropriations** states that *“While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5.”* Our Association, in keeping with this provision, would like to see an increase in that funding level to \$482,000. This amount would cover travel, lodging and per diem for the sixteen members on the committee and ensure that the seven active tug and towboat officers outlined in the Charter could take leave from their vessels to serve on both the Committee and the associated work group sessions.

With less than 300 U.S.-flagged ships remaining in the domestic maritime trade, the towing sector represents the vast majority of U.S. tonnage and seafarers. Ironically the interests of over 30,000 mariners are represented solely by this \$107,000 committee which effectively excludes our mariners from active participation. Presently there are only **two** active tugboat Captains on the entire TSAC. Capt. Joseph Dady, however, serves on the committee in the “labor” slot. He only rarely has an opportunity to speak, is near the end of his term, and doubts that he will be reappointed for a second term. Capt. Edith Queen was recently appointed to the “seven members from barge and towing” group.

The public appears far more receptive to allocating adequate funding so that this safety committee can properly fulfill its mission than they are to “lowering the bar” on the training and experience requirements as described in the *Notice of Proposed Rulemaking* contained in docket #USCG-2006-26202. Since this problem has existed for many years, our Association asserts that a remedy is badly needed and the attached resolution represents the first step toward that goal.

Sincerely,

Captain Robert H. Horchover
Captain Jordan May
Members - Master of Towing Vessels Association

Master of Towing Vessels Association

Resolution No. 2008-01

A Resolution to Increase the Funding Level of the Towing Safety Advisory Committee in Order to Meet the Requirements Set Forth in the TSAC Charter and to Clarify Key Points of the Charter.

In reference to:

U.S. Department of Homeland Security
U.S. Coast Guard
Towing Safety Advisory Committee Charter
Filed with Congress on August 30, 2007
and
Title 33 United States Code - Chapter 25
Ports & Waterways Safety Program
§ 1231a. Towing Safety Advisory Committee

WHEREAS, our Association asserts that the past and current composition of the members serving on the *Towing Safety Advisory Committee (TSAC)* does not reflect the requirements set forth in the *TSAC Charter*; and

WHEREAS, our Association asserts that the past and current funding levels have effectively prevented the *TSAC* membership composition to exactly match those persons described in the charter who possess "*particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety*"; and

WHEREAS, our Association asserts that the term "*waterway navigation*" means the actual physical navigation of a towing vessel through a waterway; and

WHEREAS, our Association asserts that the term "*towing safety*" means the physical safety of the crews aboard towing vessels as well as the towing vessels themselves, their tows and cargo, other vessels and their cargo, their crews and passengers, the environment, and the infrastructure through which towing vessels and their tows transit; and

WHEREAS, our Association asserts that "*seven members from the barge and towing industry, reflecting a regional geographic balance*" with "*particular expertise, knowledge and experience regarding shallow-draft and coastal waterway navigation and towing safety*" by definition exclusively describes seven actively-working tug and towboat Captains from the different towing disciplines and regions of the country; and

WHEREAS, the *TSAC Charter* specifically calls for these seven actively-working tug and towboat Captains to serve among the sixteen members of the committee.

NOW, THEREFORE BE IT RESOLVED, that our Association proposes an increase in funding for the *TSAC* from the current level of \$107,000 per year to a level of \$482,000 per year in order to provide for and conform to the *TSAC Charter* requirements for active mariner participation, a level of funding adequate to cover travel expenses, lodging and meals for attendance of *TSAC* meetings and work sessions; and

FURTHERMORE, our Association proposes that clarification be made in both *33USC§1231a.(a)(1)* and the *TSAC Charter* regarding the meaning of the phrase “seven members from the barge and towing industry” to clearly indicate that it refers exclusively to actively-working, licensed tug and towboat captains.

FURTHERMORE, our Association proposes that clarification be made in both *33USC§1231a.(a)(1)* and the *TSAC Charter* regarding the phrase “reflecting a regional geographic balance” to clearly indicate that it requires representation from the Atlantic Coast, Pacific Coast, Gulf Coast, Great Lakes, and Western Rivers regions, and that such representation must take the form of at least one member from each of those regions, and that no individual region may be allowed more than two regular members at any one time.

FURTHERMORE, our Association proposes that no more than two *Articulated Tug and Barge (ATB)* Captains be allowed to serve on the committee at any one time. Although the term *ATB* is commonly used to describe a considerable variety of tug and barge combinations (and their associated connection systems, such as *Bludworth*, *Intercon* and *Jak*), we are narrowly defining it based upon the criteria that the tugs design, construction, equipment and intended use would allow only for hawser towing in an emergency, and would otherwise not allow for routine astern or alongside towing.

FURTHERMORE, our Association proposes that clarification be made in both *33USC§1231a.(a)(1)* and the *TSAC Charter* regarding the phrase “one member of the offshore mineral and supply vessel industry” to clearly indicate that the position be held specifically by an experienced and actively-working licensed Captain employed aboard either an *Anchor Handling Tug (AHT)* or an *Anchor Handling Towing Supply Vessel (AHTS)*, in accordance with the commonly understood meaning of these terms within the offshore oilfields and, in the event that no applications are submitted for this position, that a conventional towing vessel officer be appointed to that position; and

FURTHERMORE, our Association respectfully requests that clarification of the meaning of “maritime labor” be included and explicitly defined in both *33USC§1231a.(a)(3)(B)* and the *TSAC Charter*; and

FURTHERMORE, our Association proposes that the current prohibition of alternate members be rescinded immediately as it has a detrimental effect on participation from

actively-working mariners, whose normal and sometimes variable work rotations severely compromise their ability to attend the scheduled TSAC and working group meetings.

ADOPTED by the Master of Towing Vessels Association on this 19th day of April, 2008.

ATTESTED to by,

Capt. Josiah Layfield

Capt. Jason Lorenz

Members - Master of Towing Vessels Association