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## **Minutes: Forum #114**

**Date:** June 13, 2018  
**Time:** 10:00 AM  
**Location:** University of Southern Maine  
Room 213 (Second Floor) Abramson Center  
88 Bedford Street  
Portland, ME 04101

### **1. Introductions and Administration:**

*Introductions* – The meeting was called to order at 10:00 by the Port Safety Forum Co-Chair Matt Burns representing the Maine Port Authority with Commander Hector Cintron as the Co-Chair representing the Coast Guard. A quorum was comprised of 22 individuals.

*Review and Approval of the April 25, 2018 Port Safety Forum Meeting Minutes* – Hearing no objections to the content of the April 25, 2018 minutes, Mr. Burns accepted the minutes as approved.

### **2. Port Activities Update:**

#### *DHS PSA - Maine District - Bill DeLong - DHS*

Mr. DeLong briefed the Forum on his recent deployment to augment FEMA relief efforts in Puerto Rico resulting from Hurricane Maria. During his assignment, he found that post storm recovery of port infrastructure was critical to a comprehensive recovery effort of the entire island. He was able to correlate his lessons learned from Puerto Rico into tangible guidelines for local operators in Maine and New Hampshire. He stressed that marine terminal operators should examine their facility infrastructure to better determine how down-stream service providers may impact a post storm response. He urged that terminal operators engage with service providers including electric, gas, sewage, and tele-communications to ensure that all parties fully understand the breadth of response and the critical path to restoring or maintaining service at marine terminals.

#### *Cruise Ship Outlook – Sarah Flink, Cruise Maine*

Ms. Flink recently assumed the role of Director of *CruiseMaine*. *CruiseMaine* promotes the State of Maine as a whole to the cruise ship industry. The organization is run by the Maine Office of Tourism and Maine Port Authority. She detailed some key industry trends including the large ship sizes that are currently entering the market. While Symphony of the Seas, at 1,188' is currently the largest cruise ship afloat, (boasting over 6,000 passengers) we are unlikely to see this vessel ever come to Maine. Instead, what these new larger ships means for Maine is that there are previous generation ships being refreshed and re-allocated to the Canada/New England market. Another staple of the Summer cruise scene in Maine are the American Cruise Line vessels which are in the 270' / 175 passenger range. These vessels serve up to 37 ports in New England and Canada. American Cruise lines recently added the Constitution to its fleet, which will call on Maine ports. An emerging new trend is Eco-tourism offered by Hurtigruten, which runs the Expedition-

class 318 passenger vessel named Fram. Fram made its maiden voyage to Maine in April. Fram is built for all seasons and includes ice breaking capability. Hurtigruten is investigating a winter market in New England. Ritz-Carlton is also pursuing a luxury cruise market with up to three small cruise vessels. These vessels would also carry small numbers of passengers to niche ports.

The cruise ship season this year will extend from April 20 – November 7. *CruiseMaine* expects approximately 455 distinct port calls of which 18 will be maiden voyages. In total, it is anticipated that 432,000 passengers will visit Maine this cruise ship season.

### ***Submerged Lands Program – John Noll, Submerged Lands***

Mr. Noll provided an informative outline of Maine’s Submerged Lands Program, which is administered by the Bureau of Parks and Lands Department of Agriculture, Conservation, & Forestry. Whether within an inland lake or coastal area, all land which is covered with water is publicly owned and is reserved as a public trust. This enables people to use waters over the submerged land or the land itself for "fishing, fowling (hunting), and navigation." Piers and other structures located on submerged lands may be privately owned; the land and water beneath them are not. These have been long considered essential public rights, which the State of Maine has retained.

### **Publicly Owned Submerged Lands - as defined by the State of Maine:**

- **Coastal region (including islands):** All land from the mean low-water mark out to the three-mile territorial limit. Where intertidal flats are extensive, the shoreward boundary begins 1,650 feet seaward from the mean high-water mark.
- **Tidal Rivers:** All land below the mean low-water mark of tidal rivers upstream to the farthest natural reaches of the tides.
- **Great Ponds:** All land below the natural low-water mark of ponds that are 10 or more acres in size in their natural state.
- **Boundary Rivers:** Land lying between the banks of rivers that form Maine's border with Canada.

### **Publicly Owned Submerged Lands - do not include:**

- Beaches or other shoreland that is covered by water only at high tide,
- Land that has been flooded by dams,
- Land beneath ponds that are less than 10 acres in size, or
- Land beneath non-tidal rivers that do not border Canada.

### **The Submerged Lands Program:**

- Provides limited use leases and easements to allow piers and other structures to be built on and over Public Submerged Lands.
- Offers opportunities for qualified companies and individuals to salvage sunken logs from publicly owned submerged lands.
- Funds (through leasing and log salvage proceeds) support to municipal harbor planning and public access improvements. The Submerged Lands Program provides hundreds of thousands of dollars annually to improve public docks and wharfs as well as boat ramps to enhance public access to the water.

### ***Abandoned Vessel Program – John Noll, Submerged Lands***

Mr. Noll continued his brief with a discussion of the Abandoned Vessel Program which is overseen under the Submerged Lands system. Abandoned vessels are not only unsightly but can be an environmental risk (oil or chemical), could pose a danger to navigation, and can impede the use of the waterway or submerged land in which the vessels lay. Therefore, a state effort is made to both prevent vessels or marine structures from being abandoned and also seeks to remove abandoned vessels.

Under Maine statute, Abandoned Watercraft means: any watercraft that is inoperative and neglected, submerged or partially submerged or that has been left by the owner in coastal waters without intention of removal. This term includes motors, electronic and mechanical equipment and other machinery customarily used in the operation of watercraft.

A watercraft designated as “abandoned” is subject to removal if it meets the eligibility requirements as set forth under Maine Revised Statute Title 12 § 1866(2), which include the following conditions:

- A permit under Title 38, Section 9 has not been granted by the municipal board or commission entrusted with harbor management for the area.
- A landowner has not granted permission to a watercraft owner to abandon a watercraft on that landowner's property.
- Notice has been given the director (of the Bureau) within 120 days of the date that the municipal board or commission determines, in its opinion, that the watercraft has been abandoned.

### **3. Coast Guard Update: – CDR Hector Cintron – Deputy Sector Commander, Sector Northern New England**

#### ***RBS/Paddlecraft Safety Initiatives – LCDR Matt Capon - USCG***

LCDR Capon discussed the recent focus on paddlecraft safety (kayaks, paddleboards, etc.). The First Coast Guard District Commander established a 200-member work-group to better address the risks and mitigation strategies to improve paddlecraft safety in the First Coast Guard District (which includes Maine and New Hampshire). The workgroup consists of Coast Guard as well as retailers, vendors, marine law enforcement agencies and other associated groups seeking to improve waterborne safety. The Coast Guard will be making an enhanced outreach and public affairs effort to bolster paddlecraft safety awareness including on the water presence.

#### ***Regulations TWIC Readers– Tom Gentile - USCG***

By August 23, 2018, owners and operators of facilities that handle Certain Dangerous Cargoes (CDC) in bulk or receive vessels carrying CDC in bulk and facilities that receive vessels certificated to carry more than 1,000 passengers must amend their Facility Security Plans to indicate how they will implement the new TWIC requirements (i.e., Transportation Worker Identification Credential (TWIC) Readers).

The Final Rule announcing this requirement was published in the Federal Register (FR) in August of 2016. The goal of the Final Rule is to ensure that prior to being granted unescorted access to designated secure areas within certain facilities, an individual will have his/her TWIC authenticated, the status of the holder's credential validated against an up-to-date list maintained by TSA, and the individual's identity confirmed by comparing his/ her biometric data, (such as fingerprint) with a biometric template stored on the credential (as opposed to relying solely on visual facial comparison and validation by a security guard).

Last Spring, Sector Northern New England Prevention and Marine Safety Detachment staffs reached out to applicable Facility Security Officers to provide advanced notice of the TWIC Reader Rule highlights and timelines. Over the past year communication has continued to ensure a seamless implementation process.

***Regulations Consolidated Cruise Ship Security – Tom Gentile - USCG***

A Final Rule was released in March of this year and included the addition of Subpart E—Facility Security: Cruise Ship Terminals to 33 CFR 105. The new rule establishes cruise ship Terminal Screening Programs (TSP) within the Facility Security Plans (FSP) to ensure that prohibited items are not present within the secure areas that have been designated for screened persons, baggage, and personal effects, and are not brought onto cruise ships interfacing with the terminal.

This subpart lists the following new requirements:

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| 105.505 Terminal Screening Program (TSP).                    | 105.535 Training requirements of screeners.             |
| 105.510 Screening responsibilities of the owner or operator. | 105.540 Screener participation in drills and exercises. |
| 105.515 Prohibited Items List (PIL).                         | 105.545 Screening equipment.                            |
| 105.525 Terminal screening operations.                       | 105.550 Alternative screening.                          |
| 105.530 Qualifications of screeners.                         |   |

- No later than October 15, 2018, cruise ship terminal owners or operators must submit to the COTP for review and approval, a Terminal Screening Program (TSP) that meets the requirements in § 105.505.
- No later than April 18, 2019, each cruise ship terminal owner or operator must be operating in compliance with the approved TSP and this subpart.

***Marine Investigations - Rich Yazbek***

***Rail Jumping*** - The Coast Guard recently pursued civil penalty action against two separate “Rail Jumper” cases involving certificated passenger vessels within Sector Northern New England. Rail jumping is an extremely dangerous situation in which passengers intentionally jump off a certificated passenger vessel. The act is illegal and prosecutable through the civil penalty process with a maximum penalty of \$34,013.

- Sector Northern New England prosecuted a case which involved a Lake Champlain Transportation Co. ferry in August 2015. In that case the Coast Guard succeeded in assessing a final \$4,000 penalty against the individual.
- Sector Northern New England prosecuted a second case involving a rail jumper from a Casco Bay Lines vessel in July 2017. In that case the Coast Guard recommended a \$2,500 penalty that was finally assessed at \$500.

***Civil Penalty Adjustments*** - The U.S. Congress recently tied civil penalty monetary assessments with the national inflation rate. Therefore, the printed civil penalties as they appear in the Code of Federal Regulations may now be significantly higher than what is currently listed. All penalties will now be adjusted from the date the original law passed to the present based on the inflation rate.

Example 1 – 1972 Navigation Rules

- Nav Rules violation - listed as a maximum \$500 but is now \$ 14,543.

## Example 2 – 1972 Ports and Waterways Safety Act

- 33 U.S. Code, Section 1232, maximum penalty of \$25,000 for violating a Captain of the Port Order. Under the 2018 civil penalty adjustment table, the maximum penalty for the same violation is \$91,901.

Review 33 CFR 27.3 for the entire list.

**Casualty Reporting Threshold Changes** - The monetary Reportable Marine Casualty threshold value changed for accidents resulting in damage from \$25,000 to \$75,000. Similarly, the drug testing threshold under the Serious Marine Incident (damage monetary value) provision has been increased from \$100,000 to \$200,000.

### 4. Old Business/New Business:

#### *Change of Command – Commander Hector Citron, USCG*

Captain Baroody, Commander, Sector Northern New England retired on May 18, 2018 at which time Captain Brian LeFebvre assumed command.

**Safety Notice - Brian Downey, Port Safety Forum Coordinator** Mr. Downey briefed the Forum regarding a recent UK Marine Accident Investigation Branch Safety Alert involving a defective throw bag rescue line. The defective bag involved a 15m long polypropylene rescue line in a throw bag, supplied by Riber Products Limited (RIBER), which parted while a person in the water was being pulled to the side of the pool during a simulated rescue. The defect involved an improper fusion of two (or more bitter ends) without a splice or continue length. There were no injuries. RIBER later identified a batch of 208 throw bags that could be at risk. A further three defective rescue lines have been identified.



Please visit the link for more information:

[MAIB safety bulletin SB2-2018: defective throw bag rescue lines](#)

### 5. Next Meeting:

**Date:** September 19, 2018  
**Time:** 10:00 AM  
**Location:** NH Department of Environmental Services (Conference Room)  
*NHDES Portsmouth Regional Office*  
*Pease International Tradeport*  
*222 International Drive, Suite 175*  
*Portsmouth, NH 0380*