



National Association of State Boating Law Administrators

2009 Enforcement and Training Committee
Enforcement Techniques and Technology Subcommittee

Final Report – Charge 2

NATIONAL ASSOCIATION OF STATE BOATING LAW ADMINISTRATORS
Enforcement and Training Committee
Enforcement Techniques and Technology Subcommittee

State Members:

Joel Wilkinson, Maine, Subcommittee Chair

Andy Alban, South Dakota

Michael Pratt, DC

Burke Waldron, AK

Todd Sharp, AK

Stephanie Weatherington, AR

Associate Members:

Chris Shaffner, C-PORT

Terry Hill, C-PORT

Tina Cardone, C-PORT

Bill Gossard, NTSB

Charge #2: Research and assess non-emergency towing and salvage policies for state and local first responders.

Introduction

Towing a disabled vessels comes with inherit risks to the party performing the service. Predominately, the risk is that of a liability exposure for personal injury or property damage. Towing comes with numerous costs including maintaining trained personnel, specialized equipment requirements and additional wear and tear to assets.

Recreational boating has grown exponentially since the 1980s. In response to this growth, the marine assistance industry developed to provide non-emergency assistance to recreational boaters and emergency help to government agencies nationwide. Recognized commercial assistance providers are those regulated by DHS/USCG and affiliated with C-PORT, TowBoatUS, or SeaTow. These government agencies struggle under budgetary constraints and potential liability exposures to perform non-emergency services to the growing population of recreational boaters while their focus is on higher priority missions of law enforcement, public safety and national security.

States and municipalities need a cost effective and efficient way to handle the growing volume of non-emergency services while maintaining their budgets and satisfying the requirements of providing assistance to the boating public in their jurisdictions. The National Association of State Boating Law Administrator's Enforcement and Training Subcommittee of Enforcement Techniques and Technology was charged to research and assess non-emergency towing and salvage policies for state and local first responders. This is the subcommittee's report.

Background:

February 9, 2010

The team was assembled during the Committee's conference call held on February 9, 2010 at 10:00 AM (EST). Participants on the call included:

Joel Wilkinson, ME, Subcommittee Chair
Burke Waldron, AK
Paul Niepling, DC
Andy Alban, SD
John Fetterman, NASBLA Staff
Ron Sarver, NASBLA Staff
Chris Moore, NASBLA Staff
Chris Shaffner, Associate Member, C-PORT

Andy Alban was named Charge Leader. Chris Shaffner volunteered to gather information and existing policies. Ron Sarver stated he would post the 2007 survey results on Basecamp from states that had a towing policy in place as reference.

March 4, 2010

Enforcement Techniques and Technology Subcommittee Conference Call

In Attendance:

Joel Wilkinson	Burke Waldron
Paul Niepling	Terry Hill
Stephanie Weatherington	Chris Shaffner
Ray Tsuneyoshi	Chris Moore
Andy Alban	Mike Pratt
Mike Baron	

The past survey produced approximately 20 states answering that they had non-emergency towing policies in effect. Chris Shaffner volunteered to contact those states that answered yes to confirm the results and obtain their policies.

March 24-25, 2010

The Subcommittee met during the NASBLA Enforcement and Training Committee Meeting in Lexington, KY. The group analyzed the written policies submitted by a number of states (approximately 9 were reviewed). The commonality of the policies included the following:

- Liability concerns for the agency should they engage in non-emergency towing
- Non-emergency assistance routinely delegated to commercial assistance providers
- Agency assets to be freed for higher priority missions as quickly as possible

In an effort to verify the results provided to date, Shaffner suggested a second survey be sent. All agreed. The survey was worked on after the meeting and distributed on April 9, 2010.

May 3, 2010

A Committee Conference call was held. The group discussed the results of the second survey.

- 28 responses received
- 15 confirmed they had a commercial assistance provider in their AOR
- 12 confirmed they had a non-emergency towing policy (written or unwritten)
- 14 gave reasons for the development of a policy. Of those responding, liability (damage) and staffing (time) issues were main reasons given.

Andy Albin, Chris Shaffner and Tina Cardone agreed they had enough information to complete the charge. The subcommittee agreed to have a proposal ready for discussion for the June 14, 2010 Committee Telephone Conference.

Recommendation:

Based on the information received from the surveys, it is apparent there exists a need for guidance in handling the growing number of non-emergency towing and assistance cases. State agencies are facing budgetary restraints while managing an increase workload. The subcommittee recommends a model policy that agencies can use to develop relationships with commercial assistance providers in their AOR, while maintaining their sovereignty over the cases. This meets the needs of the agencies, supports and serves the boating community and provides for the financial health of the agency and local businesses.

Attachment

- Model NASBLA Non-Emergency Towing and Assistance Policy

References

- Survey 1 Results
- Survey 2 Results
- State Non-Emergency Towing Policies
- US Coast Guard MSAP (Maritime SAR Assistance Policy)

Model Non-Emergency Towing and Assistance Policy

Introduction:

The purpose of this policy is to assist the agency in handling non-emergency towing and assistance cases. These types of cases are growing and many agencies are unable to meet the demand due to higher priority missions as well as increased liability exposure to the department. The marine assistance industry has grown to fill this need and should be used whenever possible. These companies specifically are those regulated by DHS/USCG and affiliated with C-PORT, TowBoatUS, or SeaTow.

Guiding Principles in Non-Emergency Cases:

When specifically requested assistance, such as a commercial firm, marina, or friend, is not available, a request for commercial assistance will be made. If a commercial provider is available and can be on scene within a reasonable time (usually one hour or less) no further action by the Agency, beyond monitoring the incident, will be taken. Otherwise, an Agency asset may be used.

Definitions:

- a. *Commercial Assistance Provider* - A private company (or individual) that is licensed by the U.S. Coast Guard to perform towing assistance and carries insurance that provides liability coverage for towing and salvage operations.
- b. *Disabled Vessels* - Vessels incapable of safely returning to port.
- c. *Non-Emergency* - Situations involving no reasonable imminent threat to life or property. Includes, but is not limited to, mechanical failures, electrical failures, battery jumps, out of fuel, groundings, etc. The senior officer who is on scene shall make the determination as to whether or not a particular situation falls in this category.
- d. *Vessel in Distress* - A vessel that is in a position or circumstance where there is an immediate threat to life or property.

Procedure:

1. Vessels in distress or disabled vessels without a reliable means of communication will be assisted as quickly as possible by any available resource.
2. Any disabled vessel in a non-emergency situation that is capable of contacting commercial assistance will not be assisted unless the commercial assistance is not available within a reasonable time (generally within one hour).
3. Disabled vessels will be towed to the nearest safe harbor. If the operator of the disabled vessel wants to go beyond the nearest safe harbor, the Agency will assist in obtaining commercial assistance for that purpose.

4. A boat under tow by an Agency vessel may be turned over to commercial assistance when the senior officer on scene deems it prudent to do so.
5. If adequate commercial assistance reaches a disabled vessel before the arrival of an Agency vessel, the Agency vessel will not render assistance unless, in the opinion of the senior officer present, failure to assist the vessel would endanger life.
6. If an owner/operator of a disabled vessel in a non-emergency situation requests commercial assistance, assistance from a friend or any party other than the Agency, the Agency will assist in making contact with the requested party.
7. All Agency personnel who respond to a disabled vessel will inquire of the disabled vessel's captain as to whether commercial assistance has been called or requested.
8. In the cases where commercial assistance has been summoned and the conditions or nature of the situation as determined by the senior officer on the scene poses a foreseeable threat to life or property, the Agency will act to stabilize the situation until commercial assistance arrives.

Communications:

1. A list of licensed and insured commercial firms will be maintained in the Agency Communication Center. All Agency requests for commercial assistance will be made through the Agency Communications Center.
2. When requested, the Agency Communications Center will call commercial assistance located in the geographical zone where the assistance is needed. If the vessel needing assistance requests no specific commercial firm, the agency communications operator will call the commercial firms in rotating order. The procedure for the rotating order will be managed to insure that all commercial firms will be given equal opportunity to provide assistance.
3. When the Agency Communications Center receives a request for assistance from a disabled vessel that is a non-emergency, they shall first contact commercial assistance. If commercial assistance is not available or unable to respond within an hour, an Agency unit may be dispatched to assist the disabled vessel.
4. The Agency Communications Center shall keep a log in which the following information is entered.
 - a. The time commercial assistance is contacted.
 - b. The time commercial assistance arrives at the disabled vessel.
 - c. The time commercial assistance takes the vessel in tow.
 - d. The time commercial assistance secures the vessel in a safe harbor or when the vessel has been provided assistance to the extent that the vessel is no longer disabled.