

Improper Competition with Commercial Towers - CDR Steven D. Whitehead, DIRAUX

Issue - there has been a marked increase in number of complaints being filed by commercial towing companies that disabled vessels are being taken in tow by CGAux after disabled vessel has requested commercial towing service assistance. In many cases, the AUX Facility did not contact and advise Controlling Station or the Operational Commander/OIA/Sector of the towing situation which is required (see references below) and extremely important to ensure AUX Operational Facility (OPFAC) is appropriately rendering tow assistance to the disabled vessel.

Note - Anytime actions are taken outside of written CG policy, offending party assumes full liability for any and all claims which means the CG may not cover the offending party legally in a claim. The offending party could then be liable for all claims and payment of restitution to the towing company.

Required Action - Review references below and always keep operational command aware of your actions to ensure they are within CG policy when rendering assistance.

Be sure to:

- keep Station & Operational Commander/OIA/Sector informed of your actions
- ask disabled vessel if it has contacted a commercial tow service prior to taking any action, and
- contact Station & Operational Commander/OIA/Sector before undertaking a tow when a disabled vessel has contacted a commercial towing service to inform them of the reason & request permission to proceed

Guidelines on How to Handle MARB's & Come-Upon's

MARB's:

If you hear a Marine Assistance Request Broadcast (MARB) and you are on patrol in or near vessel's reported position, you should not go to scene or contact vessel on your own, since the Coast Guard has strict procedures for use of MARB's and that must be followed.

However, if you find that you're close to scene described in MARB, you may call Sector Command Center by cellphone, tell them your position and inform them that you are prepared to go to scene if they deem it appropriate. If Command Center asks you to do so, you should survey scene and report back to watchstander. You should not regard this as a come-upon, where you are free to take vessel in tow.

Come-Upon's:

1. If you come upon a boat that's in trouble, you should ask skipper:
 - a. what problem is
 - b. whether there are any medical emergencies
 - c. how many persons are onboard
 - d. whether (1) Coast Guard or (2) a commercial towing service has been contacted.
 - i. If ANSWER IS YES, you must stand by until Coast Guard or towing company boat arrives; you may not take boat in tow unless told to do so by Coast Guard or situation deteriorates.
 - ii. If ANSWER IS NO, notify controlling station (by cellphone) & Sector Command (usually done by controlling station) that you are taking disabled boat in tow.

2. If you cannot reach your controlling station, call Sector Command Center yourself at 410-576-2525. Make sure Sector Command takes down:
 - a. name of your vessel
 - b. call-sign number
 - c. location
 - d. plans
 - e. name & description of boat being towed
 - f. name of disabled vessel's captain
3. Ask station or Command Center to provide a case number by time you finish tow.
4. Disabled vessel may only be towed to nearest safe haven. Usually defined as a marina that will:
 - a. accept vessel for safe mooring and
 - b. has means of communication available for vessel's captain or crew (normally a telephone)
5. If you're ever in doubt or want to clarify a situation, call Command Center directly. The watchstanders there are expert in Coast Guard and Auxiliary procedures and deal with such situations every day. They can help you make correct decision.

Reference from AUX Operations Policy Manual M16798.3E

E.9.d. Commercial Assistance

In cases when a Coast Guard Auxiliary facility under orders arrives on scene nearly simultaneously with a commercial provider, Auxiliary coxswain should report to the SAR Mission Coordinator (SMC), remain on scene until it is confirmed provider is capable of providing required assistance and safely completing case and disabled vessel owner/coxswain accepts assistance; then clear area and take no further part in incident.

When a mariner requesting assistance rejects first arriving commercial assistance, Coast Guard or Coast Guard Auxiliary units should not assist in these cases so long as situation remains classified below DISTRESS phase (see U.S. Coast Guard Addendum to U. S. National Search and Rescue Supplement (NSS) to International Aeronautical and Maritime Search and Rescue Manual (IAMSAR), COMDTINST M16130.2 (series)).

E.9.c. Non-Emergency Assistance

In cases involving towing by Coast Guard Auxiliary where no emergency exists, assisted vessel may be released to another provider who appears capable provided that:

- The SMC and coxswain of assisting vessel determine that a hand-off can be carried out safely, and either
- Alternative assistance is desired and arranged by operator of vessel being assisted; or
- The Operational Commander has a higher need for Auxiliary resource.

Reference NSS (SAR Addendum) CIM-16130.2E

4.1.6.4 Cases Discovered By Auxiliary Facility.

When an Auxiliary vessel on routine safety patrol or otherwise on orders discovers a vessel requesting assistance, but not in radio contact with Coast Guard, Auxiliarist will relay request for assistance to Coast Guard operational commander and may undertake to provide assistance, if capable. If a tow is undertaken, Auxiliary vessel is required to notify operational commander of the identity of the vessel, the location of the vessel, and the destination to which the vessel is being towed. No Auxiliary vessel may undertake the tow of another vessel unless Auxiliarist is reasonably assured of the safety of both vessels and persons onboard. If Auxiliary vessel cannot safely tow a disabled vessel that is standing into danger, it may endeavor to remove persons from threatened vessel and stand by until a more capable resource arrives on scene.