

FEBRUARY 2024

THE TVIB BRIEF



Appealing a Finding

We've all become more accustomed to applying and interpreting Subchapter M regulations. As our respective compliance approaches take shape, there are bound to be some differences in opinion. If that opinion comes in the form of a finding on an audit or survey, then it may be difficult to stomach. Did you know you can appeal a finding?

Industry Updates

On 12/28/2023, the Coast Guard issued revisions to the User Fees for Inspected Towing Vessels.


Click [here](#) to access the blog post.

MEMBER SPOTLIGHT



Meet Captain Kevin Mullen, a seasoned maritime expert and owner of S.C.O.R.E. Maritime Services. He has been one of the original TVIB certified auditor and surveyors since 2014. Stationed in the Louisville, KY area, Captain Mullen is dedicated to upholding maritime standards, and he is available to serve clients across the nation. He is committed to providing the best service possible and ensuring that his clients are fully satisfied with his work. He provides auditing, advising and training services for line haul and fleet vessels in areas of maritime management, vessels and facilities and continues to work as Captain and Pilot and on special projects for the Str. Belle of Louisville.

Captain Kevin Mullen
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Have Questions?

To access our full list of FAQs, please visit our website [here](#).

Suggestions?

We would love to hear from you! Submit your idea for hot topics or FAQs to info@thetvib.org or dial 832.323.3392.

TPO Customer QuickBase Access

[Click Here](#)

Annual Survey of Towing Vessels Course

Join us from April 9-11 in Channelview, TX for our first ASTV course of 2024! Click for more info.

[Click Here](#)

How long have you been in this industry?

40+ years.

How were you exposed to this career path?

This began with a summer job while in college.

What is your favorite work-related activity?

It would be meeting all kinds of people and being outside on boats.

What do you find most challenging about auditing? Surveying?

Recognizing something that is supposed to be there but may be missing.

What is your favorite nonwork-related activity?

Reading and listening to music.

What is your most predominant daily motivator?

Following a quote by Captain Mike Rushing, "It is not important who gets the credit; what we do may end up saving a life."

Appealing a Finding

It's Preliminary

TVIB's appeal process is straight forward and meant to facilitate a quick and deliberate decision to alleviate differences of opinion between an auditor/surveyor and a TPO customer on whether an observed situation should result in a finding. It's important to note that TVIB resolves these decisions before the audit or survey is final, which makes it preliminary to the appeal process outlined in 46 CFR 136.180. TVIB does not have a specific form or format the TPO customer should use to submit an appeal. Instead, TVIB will work with the person submitting the appeal by accepting informal comments or a TPO customer can submit a formal written document. A written appeal is always the best option and well-articulated arguments that clearly reach conclusions are, always, best received.



Tips for Drafting an Appeal

First, determine what you feel is the defining issue that you disagree with. Is the difference in regulatory interpretation based on the reading of the regulation in question, or the way you believe you have satisfied the regulation? It's much easier to understand the problem once it has been defined. Also, ask yourself "What conclusion am I trying to reach?" Then, provide compelling reasons to support your conclusion. Be specific. You may have to do a little research and provide citations or other factual evidence to support your position. Don't provide anything that detracts from supporting your conclusion. Lastly, try to disagree without being disagreeable. Don't make it personal. Craft your appeal in a way that takes the emotion out of the situation. Following these tips will make it easier for TVIB staff to focus on the issues.

What to Expect

The Operations Manager for the company appealing will communicate with both parties to gather additional background information and ensure they understand both sides of the issue. At least two members of TVIB's staff will review and discuss the appeal before making a decision. The Operations Manager then drafts an appeal response and all parties will be notified of TVIB's decision. At that point, the audit or survey report will be finalized and issued, and if the TPO customer does not agree with TVIB's decision, they can appeal the decision in accordance with 46 CFR 136.180. In all cases, TVIB is supportive of any customer appealing to the Coast Guard. Sometimes, the appeal process can compel the Coast Guard to shed light on unclear or ambiguous regulations. That's always a good thing.



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