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CG-CVC Policy Letter 20-01
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From: M. Edwards, CAPT
COMDT (CG-CVC)

To: Distribution

Subj: SUBCHAPTER M ENFORCEMENT POSTURE FOR CERTIFICATE OF INSPECTION
PHASE-IN REQUIREMENTS

Ref: (a) 46 Code of Federal Regulations (C.F.R.) 136.202
(b) 46 C.F.R. Subchapter M
(c) Federal Register Vol. 81, No. 118 - Final Rule: Inspection of Towing Vessels

1. **PURPOSE.** The purpose of this policy letter is to provide guidance to the Towing Vessel National Center of Expertise (TVNCOE), Officers in Charge, Marine Inspection (OCMI), and Coast Guard Marine Inspectors (MIs) regarding the enforcement posture for the towing vessel Certificate of Inspection (COI) phase-in requirements within reference (a). This policy letter will expire on July 19, 2022.
2. **ACTION.** OCMI's and MIs should apply this policy to ensure compliance with the existing towing vessel COI phase-in period in accordance with reference (a). However, this policy does not preclude OCMI's from other enforcement options.
3. **DIRECTIVES AFFECTED.** None.
4. **BACKGROUND.** As of July 20, 2018, towing vessels subject to reference (b) must be in compliance with the requirements of the subchapter even if the vessel has not yet received a Coast Guard-issued COI. Reference (a) requires owners or managing operators of more than one existing towing vessel to obtain COI's for 25% of their fleet¹ each year for a four-year period. As announced in reference (c), the Coast Guard selected this phased approach for numerous reasons including spreading costs and workload over time.

During the first year of phase-in, both the marine industry and the Coast Guard refined procedures to integrate towing vessels into the inspected fleet. The application of new regulations and a prolonged government shutdown created delays within the certification process. While the Coast Guard chose not to enforce the 25% COI requirement immediately after the July 22, 2019 deadline, sufficient

¹ Fleet size, as it pertains to the enforcement of this policy, will be based on the ownership identified on the Certificate of Documentation (COD) information.

time has passed to enable the Coast Guard and industry to develop procedures to meet the regulatory phase-in requirements.

The towing vessel industry spans across all OCMI zones with many towing vessels transiting multiple OCMI zones on a given day. This policy letter describes the enforcement posture OCMI's and MIs should take over the next four years to provide nationwide consistency regarding the COI phase-in requirements in reference (a). The phase-in period for towing vessel owners is as follows:

- a. By July 22, 2019, at least 25% of towing vessels must have valid COIs on board;
- b. By July 20, 2020, at least 50% of towing vessels must have valid COIs on board; 100% of single vessel companies must have valid COIs on board;
- c. By July 19, 2021, at least 75% of towing vessels must have valid COIs on board; and
- d. By July 19, 2022, 100% of towing vessels must have valid COIs on board.

The number of vessels required to have a valid COI on board for the applicable phase-in period is based on rounding the fraction of a vessel to the nearest whole number. See enclosure for calculation table. For example, a fleet with three vessels would require one COI prior to July 22, 2019,² the second vessel needs a COI prior to July 20, 2020, and the third vessel needs a COI prior to July 19, 2022.

As per 46 C.F.R. §136.210, an owner or managing operator must schedule an inspection for initial certification at least three months in advance and submit the "Application for Inspection of U.S. Vessel" (Form CG-3752) at least 30 days before the vessel will undergo the initial inspection.

5. POLICY.

- a. With each subsequent scheduled phase-in date, regardless of inspection option chosen, companies with vessels selected in accordance with this policy that have not been issued a COI in accordance with reference (a), (only the 25%, 50%, 75% required to have a COI) will be issued a Coast Guard Form CG-835V, for non-compliance.
- b. An OCMI may withhold the issuance of a CG-835V if the COI inspection is completed³, but the document is under final Coast Guard administrative review. In such cases, the COI status in the Marine Information System and Law Enforcement (MISLE) database shall be listed as "Issued/Effective" or "Draft/Awaiting Review".
- c. CG-CVC will determine which vessels are required to meet reference (a) using valid Certificate of Documentation (COD) information in MISLE. CG-CVC will maintain a list of vessels requiring an inspection on the CG-CVC internal portal site. The priority to issue the

² The calculation is: 3 vessels X 0.25 = 0.75 vessel, 0.75 is round to the next the next highest whole number which is 1.

³ If issued, a Temporary COI will be considered "completed" and a CG-835V shall not be issued.

CG-835V will be based on COD information and lowest Official Number (O.N.), (lower O.N. typically represents older vessels, which typically poses a higher risk, and therefore should be inspected first to ensure safety of the vessel).

d. OCMI/MIIs:

- i. An OCMI must make contact with the owner prior to issuance of the deficiency (CG-835V) and may consider an owner or managing operator's request to issue the CG-835V to a vessel other than the one chosen for action. If so, the OCMI should work with the District Towing Vessel Coordinator to ensure that the CG-835V is issued to the vessel designated by the owner or managing operator.
- ii. OCMI/MIIs shall issue the CG-835Vs as per below⁴:
 1. Deficiency Code: 01199 Other (certificates);
 2. Description: All owners and operators of an existing towing vessel must have a valid COI prior to the specified phase-in period. This vessel is one of the XX% of the vessels that has not obtained a valid COI. The vessel shall be made available for a Coast Guard COI inspection within 90 days⁵. If an inspection is not completed prior to this date, the action for this deficiency shall be changed to a 60 (Rectify deficiencies prior to movement) and the vessel may no long be permitted to operate.
 3. Cite: 46 CFR §136.202(a)
 4. Action: 705 (Other: Rectify deficiency within 90 days);⁶
 5. Action Code: (c) To the satisfaction of the Coast Guard
 6. Field units will create a vessel inspection activity to include the aforementioned CG-835V, which will **not** be a worklist item, and will be outward facing on PSIX. OCMIIs should not issue a MISLE Operational Control for this deficiency.
 7. Activity sub-type shall be "Administrative" and the narrative should read as follows:

⁴ Deviations to the issuance of the CG-835V must have District approval and be annotated on the Coast Guard's internal portal site as well as in the MISLE Activity.

⁵ "made available" includes meeting all submission requirements per 46 CFR 136.210(a) and (b) for either CG option or TSMS option vessels.

⁶ Pursuant to 33 U.S.C. 3318(k) an owner or operator that fails to comply with a direction issued on a CG-835V, to a vessel subject to inspection failing to comply with 33 U.S.C. 3311(b) and reference (b), is liable to the Government for a civil penalty for each day during which the violation occurs.

“This vessel has received a CG-835V due to the owner or managing operator’s failure to meet the requirements of the Certificate of Inspection phase-in period per 46 CFR §136.202(a).”

- iii. The OCMI shall open a MISLE activity as “COI – Inspection for Initial Certification” upon receiving a request from an owner or operator to schedule an inspection. The activity shall have a status as “Open -- Scheduled, Action Pending” and be changed to “Open -- In Progress” once the exam has been conducted. The CG-835V may be cleared once the inspection has been completed on board the vessel. OCMI shall issue COIs in a timely manner. To facilitate a timely COI issuance, OCMI should use a risk based approach in the review of TPO reports.

e. District Coordinators:

- i. District Coordinators will update the vessel inspection list on the CG-CVC portal to reflect when the OCMI has granted a request to issue the CG-835V to an alternate vessel, under paragraph (5.d.i) of this policy. This vessel will be included in the required percentage of towing vessels selected by the Coast Guard for inspection.
- ii. If an OCMI exercises discretion not to issue a CG-835V from the CG-CVC list of vessels in accordance with this policy, the District must approve this decision and will annotate on the Coast Guard’s internal portal site why the CG-835V was not issued.
- iii. District Coordinators are encouraged to provide a weekly report to the District Commander highlighting the COI completion rate and any significant findings that may preclude a uniform application of this enforcement policy.

f. Areas:

- i. Atlantic and Pacific Area (LANT/PAC) towing vessel coordinators, in conjunction with Districts and field units, will coordinate the issuance of the CG-835Vs to vessel fleets that operate across more than one District.
 - ii. Areas should track the issuance of the CG-835Vs issued by this policy within their Districts.
- g. Only those vessels with valid CODs (except for those vessels in a laid-up status with the Coast Guard) will be considered for the percentage required to meet the regulations per reference (a). COD information is exclusively maintained by the National Vessel Documentation Center (NVDC). In instances where the information is inaccurate, the owner or operator should be directed to NVDC to correct the COD information.

6. APPEALS. Appeals regarding deficiencies issued, should follow the procedures within 46 C.F.R. §136.180.

7. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this policy letter and have been determined not to be applicable.
8. DISCLAIMER. This policy letter guidance is neither a substitute for applicable legal requirements, nor a rule. It is not intended nor does it impose legally-binding requirements on any party. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other Federal and state regulators, in applying statutory and regulatory requirements. An alternative approach may be used for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the Coast Guard Office of Commercial Vessel Compliance (CG-CVC) who is responsible for implementing this guidance.
9. QUESTIONS. Questions concerning this policy letter and guidance should be directed to Office of Commercial Vessel Compliance, COMDT (CG-CVC), Domestic Compliance Division at CG-CVC@uscg.mil. This policy letter and other Domestic Vessel Policy documents are posted on the CG-CVC website at http://www.uscg.mil/hq/cgcvc/cvc/policy/policy_letters.asp.

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Enclosure: COI Phase-In Calculation Table

Determining the number of COI inspections required each year during the Subchapter M phase-in period.

If the fleet contains 35 or fewer vessels you can use the following table to determine the number of vessels needing a COI inspection during each inspection phase-in period:

Vessels in Fleet	COI Inspections during Phase-in: 25% July 22, 2019	COI Inspections during Phase-in: 50% July 20, 2020	COI Inspections during Phase-in: 75% July 19, 2021	COI Inspections during Phase-in: 100% July 19, 2022
1	0	1	0	0
2	1	0	1	0
3	1	1	0	1
4	1	1	1	1
5	1	2	1	1
6	2	1	2	1
7	2	2	1	2
8	2	2	2	2
9	2	3	2	2
10	3	2	3	2
11	3	3	2	3
12	3	3	3	3
13	3	4	3	3
14	4	3	4	3
15	4	4	3	4
16	4	4	4	4
17	4	5	4	4
18	5	4	5	4
19	5	5	4	5
20	5	5	5	5
21	5	6	5	5
22	6	5	6	5
23	6	6	5	6
24	6	6	6	6
25	6	7	6	6
26	7	6	6	7
27	7	7	6	7
28	7	7	7	7
29	7	8	7	7
30	8	7	7	8
31	8	8	7	8
32	8	8	8	8
33	8	9	8	8
34	9	8	8	9
35	9	9	8	9