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ALCOAST 206/10  
COMDTNOTE 16710

SUBJ: NATIONAL GUIDANCE FOR UNINSPECTED PASSENGER VESSEL (UPV), COMPLIANCE, ENFORCEMENT AND OUTREACH OPERATIONS.

A. MSG R 101744Z NOV 09: EXPECTATIONS FOR UNINSPECTED PASSENGER VESSEL (UPV) COMPLIANCE OPERATIONS AND ENFORCEMENT ACTIONS

B. 46 CFR 11.201(I)

1. OVERVIEW. THIS CLARIFIES AND AMPLIFIES UPV GUIDANCE IN REFERENCE A (SEE PARAGRAPH 6 TO OBTAIN A COPY OF REF A). THE COAST GUARDS INVOLVEMENT WITH UPVS HAS HISTORICALLY BEEN LIMITED AND COMMENSURATE WITH THE SAFETY RISK THIS TYPE OF OPERATION PRESENTS. WHILE OVERALL RISK REMAINS LOW, THERE HAVE BEEN RECENT CASUALTIES IN WHICH UNLICENSED OPERATORS, WHO WERE REQUIRED TO BE LICENSED, WERE INVOLVED IN MARINE CASUALTIES THAT RESULTED IN PASSENGER FATALITIES. THIS HAS CAUSED THE CG TO RE-EVALUATE ITS ENFORCEMENT POSTURE. THIS MESSAGE OUTLINES THE REVISED POSTURE AND PROVIDES LINKS TO TOOLS TO PROMOTE NATIONAL CONSISTENCY WITHIN THIS SEGMENT OF COMMERCIAL PASSENGER VESSEL OPERATIONS.

2. BACKGROUND. THE COAST GUARDS ROLE IN THE UPV PROGRAM DATES BACK TO THE MOTOR BOAT ACT OF 1910. THERE ARE NOW OVER 30,000 LEGAL UPV OPERATIONS IN THE U.S. ENFORCEMENT HAS TYPICALLY BEEN SIMILAR TO THAT OF THE RBS PROGRAM (E.G., OUTREACH AND EDUCATION ACTIVITIES, RANDOM BOARDINGS, AND OCCASIONAL SURGE ENFORCEMENT OPERATIONS, ALL OF WHICH ARE DISCRETIONARY). HOWEVER, BECAUSE UPVS ARE COMMERCIAL VESSELS, THE PROGRAM ALSO INCLUDES AN INVESTIGATIVE ARM TO ADDRESS VIOLATIONS, OPERATOR MISCONDUCT AND CASUALTIES: THESE INVESTIGATIVE FUNCTIONS ARE NOT DISCRETIONARY.

A. AS NOTED IN REF A, RECENT UPV ENFORCEMENT AND OUTREACH EFFORTS HAVE DISCLOSED LARGE NUMBERS OF NON-COMPLIANT OPERATIONS. IN AN EFFORT TO STANDARDIZE ENFORCEMENT AND OUTREACH OPERATIONS, COMDT (CG-54) FORMED A UPV WORK GROUP TO IDENTIFY SHORT AND LONG TERM SOLUTIONS FOR PROMOTING COMPLIANCE WITH MINIMUM ADVERSE IMPACT ON INDUSTRY AND THE COAST GUARD.

B. WHILE COMPLIANCE THROUGH SURGE ENFORCEMENT OPERATIONS IS AN OPTION, THE EXECUTION OF RESOURCE INTENSIVE, DISCRETIONARY OPERATIONS IN REMOTE, LOW RISK AREAS, IS NOT AN EFFICIENT OR EFFECTIVE USE OF FINITE MARINE SAFETY AND LAW ENFORCEMENT RESOURCES.

3. ACTION.

A. THE FOLLOWING SHORT-TERM STRATEGIES ARE AIMED AT PROMOTING CONSISTENCY, WHILE ENSURING A SATISFACTORY LEVEL OF PUBLIC SAFETY AND SECURITY:

1) CONDUCT OUTREACH AND EDUCATE. OUPV OUTREACH AND EDUCATION PROGRAMS, TO INCLUDE VOLUNTARY AUXILIARY PROGRAMS, ON NAVIGABLE WATERWAYS WHERE THE COAST GUARD HAS NOT HAD SUSTAINED AND VISIBLE PRESENCE ARE ENCOURAGED AND IN KEEPING WITH CG MISSIONS. UNITS SHOULD PREPARE AND SUBMIT AN ABBREVIATED OPLAN TO THE SECTOR COMMANDER FOR APPROVAL. THE SECTOR STAFF WILL COORDINATE NOTIFICATION OF AUXILIARY EFFORTS WITH COGNIZANT STATE BOATING LAW ADMINISTRATOR.

2) RESTRICT DISCRETIONARY ENFORCEMENT. UNITS SHALL NOT PERFORM DISCRETIONARY SURGE AND RANDOM BOARDING ENFORCEMENT OPERATIONS UNLESS APPROVED BY THE AREA COMMANDER. PER REF A, UNITS THAT WISH TO CONDUCT OPERATIONS EXCEEDING THE LIMITS OF THIS

GUIDANCE SHALL SUBMIT OPLANS TO THEIR RESPECTIVE AREA VIA THE CHAIN OF COMMAND. OPLANS SHOULD INCLUDE PROVISIONS FOR NOTIFICATION TO OR COORDINATION WITH COGNIZANT STATE BOATING LAW ADMINISTRATOR.

3) INVESTIGATE CREDIBLE AND SPECIFIC EVIDENCE OF NON-COMPLIANCE AND CASUALTIES. UNITS SHALL CONTINUE TO FULFILL THE COAST GUARDS STATUTORY RESPONSIBILITIES: SPECIFICALLY, INVESTIGATIONS INVOLVING CREDIBLE AND SPECIFIC EVIDENCE OF NON-COMPLIANCE, NEGLIGENT OPERATIONS AND MARINE CASUALTIES, INCLUDING APPROPRIATE FOLLOW-ON ACTION. SUCH ACTIONS SHOULD BE COMMENSURATE WITH THE LEVEL OF RISK POSED BY THE TYPE AND SEVERITY OF NONCONFORMITY IDENTIFIED.

4) ENCOURAGE LIMITED AND RESTRICTED OUPV LICENSE ENDORSEMENTS. SEE PARAGRAPH 4.B. BELOW FOR GENERAL DETAILS. SEE PARAGRAPH 6 FOR ACCESS TO ADDITIONAL, SPECIFIC DETAILS ON LICENSE ENDORSEMENTS.

5) MAXIMIZE USE OF COMPREHENSIVE COMMUNICATION ACTION PLANS. SEE PARAGRAPH 5 BELOW FOR ADDITIONAL DETAILS.

B. THE FOLLOWING LONG-TERM STRATEGIES ARE DESIGNED TO PERMANENTLY REDUCE DIRECT COAST GUARD INVOLVEMENT IN CERTAIN UPV ACTIVITIES BY SHARING COMPLIANCE OVERSIGHT WITH OTHER AGENCIES WHERE PRACTICABLE.

1) EDUCATE AND ENCOURAGE STATE INVOLVEMENT. UNITS SHOULD ENGAGE THEIR LOCAL STATE BOATING LAW ADMINISTRATORS TO REVIEW THE SCOPE AND AUTHORITY LOCAL LAW ENFORCEMENT ENTITIES HAVE ON JOINT STATE AND FEDERAL WATERS. IN SOME CASES, STATES HAVE BUSINESS LICENSING REGIMES WHERE COAST GUARD LICENSING REQUIREMENTS CAN BE INCORPORATED AS A PREREQUISITE.

2) SOLICIT TSA TO EXPAND TWIC ENROLLMENT CENTERS. AS WE GET FEEDBACK FROM UNITS REGARDING REMOTE AREAS OF NON-COMPLIANCE WHERE TWIC ENROLLMENT CENTERS ARE NOT AVAILABLE, COMDT (CG-54) WILL ENCOURAGE TSA TO INCREASE ACCESS AND AVAILABILITY OF ENROLLMENT CENTERS TO AFFECTED MARINERS. (COMDT (CG-54) WILL CONTINUE TO WORK WITH KEY STAKEHOLDERS TO EVALUATE AND IMPROVE PROCESSES FOR CREDENTIALING OF OUPVS IN LOW RISK, REMOTE AREAS OF THE U.S.)

3) SEEK NON-TRADITIONAL PARTNERS. IN ADDITION TO STATE ENGAGEMENT, UNITS SHOULD SEEK OUT OTHER ENTITIES SUCH AS NATIONAL PARK SERVICE, FOREST SERVICE, ARMY CORPS OF ENGINEERS AND OTHER WATERWAY AUTHORITIES WITH PERMIT REQUIREMENTS TO OPERATE ON FEDERALLY NAVIGABLE WATERS. (COMDT (CG-54) WILL PURSUE AGREEMENTS WITH THESE FEDERAL AGENCIES TO MAKE COAST GUARD LICENSING REQUIREMENTS A PREREQUISITE TO OBTAINING THE FEDERAL PERMIT.) LOCAL CHAMBERS OF COMMERCE AS WELL AS INSURANCE COMPANIES ARE OTHER AVENUES TO PURSUE WITH EDUCATION AND OUTREACH EFFORTS.

4) MONITOR CASUALTY RATES AND RISKS FROM UPV OPERATIONS. COMDT (CG-545) RECENTLY UPDATED A UPV SAFETY STUDY ORIGINALLY PUBLISHED IN 2006. THIS STUDY, THROUGH SUBSEQUENT UPDATES WILL PROVIDE THE SAFETY RISK PROFILE OF THE UPV POPULATION SO THAT WE CAN BEST DIRECT OUR EFFORTS AND LIMITED RESOURCES TO THE HIGHEST RISK ACTIVITIES. RESULTS OF THE STUDY CAN BE FOUND AT THE UPV PORTAL SITE.

C. THE ABOVE INITIATIVES, WHILE PROMISING, WILL TAKE TIME TO FULLY IMPLEMENT. HOWEVER, SEVERAL DISTRICTS HAVE ALREADY ENLISTED THE HELP OF STATE AND OTHER FEDERAL AGENCIES TO CONDUCT OUTREACH AND ENFORCEMENT UNDER MEMORANDUMS OF AGREEMENT OR UNDERSTANDING. SAMPLE AGREEMENTS ARE AVAILABLE AT THE UPV PORTAL

SITE.

4. LICENSING GUIDANCE.

A. ENFORCEMENT OF LICENSING REQUIREMENTS. WHEN INVESTIGATIVE EFFORTS IDENTIFY UNLICENSED UPV OPERATORS, THE OPERATOR WILL CEASE OPERATIONS UNTIL A PROPER LICENSE IS OBTAINED.

B. THERE ARE SEVERAL LICENSING OPTIONS AVAILABLE TO THE OCMI. ALL UPVS SHALL BE OPERATED BY AN INDIVIDUAL WITH A COAST GUARD ISSUED CREDENTIAL FOR THAT TYPE OF VESSEL. THE CG ISSUES TWO OFFICER ENDORSEMENTS AUTHORIZING SERVICE ON UPVS: THE OPERATOR OF UNINSPECTED PASSENGER VESSELS AND LIMITED OPERATOR OF UNINSPECTED PASSENGER VESSELS. ADDITIONALLY, THE LOCAL OCMI, WORKING WITH THE NMC, HAS AUTHORITY PER REF B TO MODIFY THE SERVICE AND EXAM REQUIREMENTS OF AN APPLICANT AND ISSUE A RESTRICTED ENDORSEMENT BASED ON THE UNIQUE QUALIFICATION REQUIREMENTS.

1) LIMITED OUPV ENDORSEMENTS MAY BE ISSUED TO APPLICANTS EMPLOYED BY ORGANIZATIONS SUCH AS FORMAL CAMPS, YACHT CLUBS, EDUCATIONAL INSTITUTIONS AND MARINAS. THESE ENDORSEMENTS WILL BE LIMITED TO SPECIFIC ACTIVITY AND LOCALITY OF THE CAMP, YACHT CLUB, OR MARINA.

2) RESTRICTED OUPV ENDORSEMENTS MAY BE ISSUED TO APPLICANTS WITH UNIQUE QUALIFICATIONS. THIS ENDORSEMENT IS INTENDED FOR AN INDIVIDUAL AND NOT FOR A GROUP OF APPLICANTS. THESE ENDORSEMENTS WILL BE RESTRICTED BASED ON THE UNIQUE QUALIFICATIONS OF THE APPLICANT, AND MAY BE LIMITED TO A SPECIFIC WATERWAY, VESSEL, OR OTHER CONDITIONS BASED ON THE RESTRICTION ON THE FACE OF THE OFFICER ENDORSEMENT.

5. PUBLIC AFFAIRS. REGULATIONS GOVERNING OUPVS ARE NOT NEW. HOWEVER, INTRODUCING ENFORCEMENT ACTIONS FOR OPERATORS IN THOSE REGIONS WHERE LICENSING, SAFETY, AND DRUG TESTING REQUIREMENTS HAVE NOT BEEN REGULARLY ENFORCED REPRESENTS A SIGNIFICANT CHANGE. THIS CHANGE REQUIRES A PROACTIVE, COORDINATED COMMUNICATION PLAN TO REACH AND EDUCATE KEY STAKEHOLDERS. THESE STAKEHOLDERS INCLUDE ELECTED OFFICIALS, STATE AND LOCAL GOVERNMENT PARTNERS, REGIONAL BUSINESSES, INDUSTRY GROUPS, AND MAY INCLUDE UPV CUSTOMERS. COMDT (CG-092S) WILL DEVELOP AND MAINTAIN A NATIONAL LEVEL COMMUNICATION ACTION PLAN (CAP) ON UPV REGULATIONS THAT DISTRICTS CAN USE IN DEVELOPING LOCAL PLANS. THE CAP IS LOCATED WITHIN CG PORTAL SO THAT ALL INVOLVED PARTIES CAN COLLABORATE EASILY AND SEAMLESSLY.

6. ALL ASSOCIATED DOCUMENTATION PERTAINING TO UPV OPERATIONS CAN BE FOUND AT CG PORTAL, DOMESTIC VESSEL INSPECTION, UPV POLICY.

7. FOR QUESTIONS RELATED TO THIS MESSAGE, PLEASE CONTACT LT JARROD DEWITZ (COMDT CG-5431) AT JARROD.M.DEWITZ(AT)USCG.MIL OR (202)372-1219.

8. REAR ADMIRAL KEVIN COOK, DIRECTOR OF PREVENTION POLICY, SENDS.

9. MINIMIZE CONSIDERED.