

U.S. Department of
Homeland Security

United States
Coast Guard



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16711/Serial No. 327
CG-CVC Policy Letter 20-01 CH.1
April 11, 2022

From:  A. W. Demo, CAPT
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To: Distribution

Subj: SUBCHAPTER M ENFORCEMENT POSTURE FOR CERTIFICATE OF INSPECTION
PHASE-IN REQUIREMENTS, CH. 1

Ref: (a) 46 Code of Federal Regulations (CFR) § 136.202
(b) 46 CFR § 136.210
(c) 46 CFR Subchapter M
(d) Federal Register Vol. 81, No. 118 - Final Rule: Inspection of Towing Vessels

1. **PURPOSE.** The purpose of this letter is to provide policy and 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 December 31, 2022.
2. **ACTION.** OCMI's and MIs must 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.** This policy letter supersedes the original CVC Policy Letter 20-01, issued February 20, 2020. This policy letter requires OCMI's to issue CG-835V (code 60) to non-compliant vessels for failure to meet reference (a) after July, 19, 2022.
4. **BACKGROUND.** As of July 20, 2018, towing vessels subject to reference (c) 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 (d), the Coast Guard selected this phased approach for numerous reasons, including spreading costs and workload over time.

During the first years 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

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.

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 time has passed to enable the Coast Guard and industry to develop procedures to meet the requirements in reference (a).

The towing vessel industry spans all OCMI zones, with many towing vessels transiting multiple OCMI zones on a given day. This policy letter describes the enforcement posture OCMI and MIs will take to provide nationwide consistency regarding the COI phase-in requirements in reference (a). The phase-in period for towing vessel owners or managing operators 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.

Per reference (b), 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. On July 20, 2022, OCMI must issue a Coast Guard Form CG-835V (Code 60) to prohibit operation of any towing vessel applicable to reference (c) if it does not meet the certification for inspection requirements per reference (a).
- b. For existing vessels, compliance is demonstrated either by:
 - i. Issuance of a valid COI; or
 - ii. Change in vessel status in MISLE such that the vessel will not be in commercial operations. Acceptable statuses include: laid-up, out of service, scrapped, or sunk. Inactive status vessels must have and maintain a valid COI.² New towing vessels require a COI per reference (a).
- 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 CG Portal site.

² See CG CVC-WI-018 for more information.

d. MISLE Documentation:

- i. As towing vessels were not previously an inspected fleet, prior to 2016, MISLE owner/operator information may be incomplete. An OCMI must make every attempt to make contact with the owner prior to issuance of the deficiency (CG-835V). This may be via electronic means (email) or via traditional mail methods, or both. A copy of the communication must be retained and documented in a MISLE Inspection Activity.
- ii. Upon receiving a request to schedule an inspection, the OCMI must open a new MISLE activity as "COI – Inspection for Initial Certification" The activity shall have a status as "Open – Scheduled, Action Pending" and be changed to "Open – In Progress" once the exam has been conducted. Any CG-835V that may have been issued, may be cleared by the unit, once the inspection has been completed on board the vessel and a COI or Temporary COI has been issued.³
- iii. OCMI's will issue a deficiency on July, 19, 2022, in accordance with the following:
 1. Deficiency Details:
 - a. System: 01 – Certificates & Documents
 - b. Subsystem: 011 – Ships Certificates
 - c. Component: 01199 – Other (certificates)
 2. Description: All owners and operators of an existing towing vessel must have onboard a valid COI prior to the specified phase-in period. This vessel has not scheduled an inspection or obtained a valid COI. The vessel shall be made available for a Coast Guard COI inspection immediately and the vessel may no longer be permitted to operate.
 3. Cite: 46 CFR § 136.202
 4. Condition: Missing
 5. Cause: Invalid
 6. Action: 60 (Rectify deficiencies prior to movement)⁴

³ Temporary COIs must be uploaded to MISLE per CVC-PR-009(series).

⁴ Pursuant to 46 U.S.C. § 3318(k), "The owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs" This amount is subject to the "penalty adjustment table" contained in 33 CFR § 27.3, which is currently \$24,017 for a violation of 46 U.S.C. § 3318(k).

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7. Action Code: (c) To the satisfaction of the Coast Guard
 8. This deficiency must **not** be recorded as a worklist item and will be outward facing on PSIX. OCMI's are not required to issue a MISLE Operational Control for this deficiency, unless the vessel is found operating without a valid COI, or presents a risk to life, property or the environment (at the discretion of the local OCMI).
 9. Add to the Activity narrative:

“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.”
 10. The OCMI must “Close – Agency Action Complete,” the MISLE Activity in accordance with CG-CVC-PR-009(series).
 11. An OCMI must request and receive written approval from their District Coordinator to deviate from this policy letter.
 12. Deviations from this policy must be approved by the respective District Coordinator and should only be exercised in exigent circumstances. (e.g., a stay of enforcement for a deficiency is granted due to a pending appeal).
- e. District Coordinators:
- i. District Coordinators must notify CG-CVC-1 via email at cgcvc@uscg.mil (AREA in copy) of any approved deviation from this policy, per the above. This is necessary to ensure accurate accountability during the phase-in process.
 - ii. 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. AREA Coordinators:
- i. Atlantic and Pacific Area (LANT/PAC) towing vessel coordinators, in conjunction with Districts and field units, will coordinate the issuance of the CG-835V to vessel fleets that operate across more than one District.
 - ii. LANT/PAC should track the issuance of the CG-835Vs issued by this policy within their Districts.
- g. Only those vessels with valid or case pending CODs (except for those vessels in a laid-up status with the Coast Guard) will be considered for the percentage required to meet the

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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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