

U.S. Department
of Transportation
United States
Coast Guard



Commander
8th Coast Guard District
Hale Boggs Federal Bldg

501 Magazine Street
New Orleans, LA 70130-3396
Staff Symbol: (moc)
Phone: (504) 589-3624

16711
12 July 1996

From: Commander, Eighth Coast Guard District
To: Distribution

Subj: DETERMINATION OF MANNING STATUS ON "PERMISSIVELY MANNED"
CRANE BARGES

1. Enclosure (1) requested a determination regarding the inspection status of certain permissively-manned barges. Enclosure (2) determined that these barges, under certain conditions, may not require inspection.

2. Under the following conditions, an OCMI may determine that a barge is "unmanned" within the meaning of 46 USC 3302 (m):

a. The barge is not in transit or navigation with personnel on board. Personnel shall only be allowed on board when the barge is anchored, moored to a buoy or otherwise maintained on station.

b. A tug, or other vessel, is alongside or in sufficiently close proximity to effect timely removal of personnel in an emergency.

c. The barge is not equipped with galley, accommodations, or other provisions for crew quartering.

d. Lifesaving and fire fighting equipment is provided appropriate to the operation.

3. Questions regarding this matter may be directed to CDR Tetreau, Chief, Marine Safety Compliance Branch, at (504) 589-3624.

A handwritten signature in cursive script, appearing to read "J. W. Calhoun".
J. W. CALHOUN
By direction

Encl: (1) MSO New Orleans' ltr 16711/U-728 of 25 Jan 96
(2) CCGDEIGHT(1) memo 16711 of 21 May 96

Dist: All Eighth District Gulf Region MSOs, MSDs and MSU

Copy: COMDT (G-MMI-2)

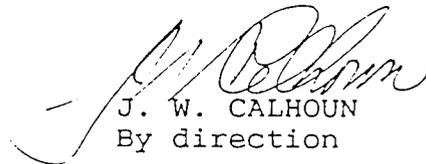
mvs
16711/U-728
COLUMBIA I and
COLUMBIA II
6 February 1996

FIRST ENDORSEMENT on MSO New Orleans ltr 16711/U-728 of 25 Jan 1996

From: Commander, Eighth Coast Guard District
To: Commandant (G-MMI-2)

Subj: INDUSTRIAL BARGES OPERATING IN COLUMBIA

1. Forwarded for action.
2. It is recommended that the subject vessels be considered unmanned for the purpose of inspection under 46 USC 3302 (m). Considering the lack of berthing and messing facilities an unmanned determination would be reasonable. If these vessels are unmanned, D8 policy would exempt them from inspection if carrying less than 250 barrels of non-cargo flammable/combustible liquid including fuel and lubricating oils.
3. If the subject vessels are considered manned, then a determination regarding exclusion, deferment or alternate method of inspection while in a restricted country is needed.


J. W. CALHOUN
By direction

Copy: MSO New Orleans

Enclosure (1)

U.S. Department
of Transportation

United States
Coast Guard



Commanding Officer
U.S. Coast Guard
Marine Safety Office

1615 Poydras Street
New Orleans, LA 70112
Phone: (504) 589-6273

16711/U-728,
COLUMBIA I and
COLUMBIA II

JAN 25 1996

From: Commanding Officer, Coast Guard Marine Safety Office, New Orleans

To: Commandant (G-MCO)

Via: Commander, Eighth Coast Guard District (mvs)

Subj: INDUSTRIAL BARGES OPERATING IN COLUMBIA

Ref: (a) COGARD INTELCOORDCEN Washington DC msg R 031749Z JAN 96
(b) Comdt (G-MVI) ltr 16711 of 9 Feb 95
(c) Commander (mvs), Eighth Coast Guard District ltr 16711 of 26 Oct 95

1. A determination concerning the exclusion from inspection or deferment of inspections on three barges operating in Columbia is requested.
2. Cooper/T.Smith operates three certificated, U.S. flag, industrial barges in or near Santa Marta, Columbia. One of the barges is due for an inspection for certification on 11 February 1996, the other two are due for reinspections in February. Per enclosure (1), the company has requested that these barges be exempted from inspection pursuant to 46 USC 3302(m).
3. As discussed below, these barges are not clearly excluded from inspection by 46 USC 3302(m). Although this office routinely sends marine inspectors to various countries in Central and South America to conduct vessel inspections, travel to Columbia has been restricted and no marine inspection trips have been made for some time to that country. Current terrorism threat assessments are contained in reference (a). Although these assessments do not necessarily preclude travel to Columbia (subject to Commandant approval), I am hesitant to send inspectors to this area unless absolutely necessary due to safety concerns.
4. It is understood from telephone conversations between my staff and your office that a policy will be forthcoming shortly for deferring inspections in "closed" countries. I also understand that this proposed policy will result in deferment of inspections in cases such as this until the vessel(s) leaves the "closed" country. Accordingly, I request your determination as to whether the inspections on these barges should be deferred.

Subj: INDUSTRIAL BARGES OPERATING IN COLUMBIA

5. It is noted that the company anticipates these barges being in Columbia for ten years. The COLUMBIA I and the COLUMBIA II both received initial certification by this office last year before being sent to Columbia. The U-728 is an older barge which has been in Columbia longer. As an alternative to a marine inspector conducting a reinspection on this barge last year, the company was permitted to self-certify the condition of the vessel, using the concept of the alternative provisions for reinspections of offshore supply vessels in foreign ports (46 CFR 91.27-13).

6. The subject vessels are crane barges used for lightering and are moored to a mooring buoy or another vessel while offshore. The barges are certificated without a navigating crew, however not more than twelve industrial personnel are permitted to be onboard during lifting operations while not more than 20 miles offshore. A determination was made per reference (b) that "the individuals employed aboard the barge when it is on station are considered permissive crew and the barge is manned." All three barges are able to carry slightly more than 250 barrels of fuel; this exceeds the interpretation promulgated by enclosure (2) for "bulk" as used in 46 USC 3302(m).

7. The vessels are seagoing barges per 46 USC 2101(32) (i.e., over 100 GT operating beyond the Boundary Line of the U.S.). Given the interpretations of "manned" and "bulk" as discussed in the preceding paragraph, the barges are not excluded from inspection by 46 USC 3302(m). Nevertheless, I feel the issue of carriage of flammable or combustible liquids in bulk could be resolved by acceptance of the company's proposal (see enclosure (1)) to limit the quantity of oil actually carried onboard to less than 250 barrels.

8. Notwithstanding reference (b), I request a determination as to whether or not these barges are manned for the purposes of 46 USC 3302(m). The barges' COIs do not require manning and only permit personnel onboard during lifting operations. The vessels do not have galleys, berthing or other crew accommodations. As previously noted, when conducting lightering/lifting operations, the barges are either moored to a mooring buoy or another vessel. It is my opinion that these barges should be considered unmanned for the intent/purposes of 46 USC 3302, or that their limited operation is such that they are equivalent to being unmanned for the purposes of the subject law.

16711
U-728, COLUMBIA I
and COLUMBIA II
JAN 25 1996

Subj: INDUSTRIAL BARGES OPERATING IN COLUMBIA

9. In summary, I request your determination and/or guidance concerning:

(1) Are these three barges exempt from inspection in accordance with 46 USC 3302(m)?, and

(2) If not, should the inspection be deferred until such time as the barges depart Columbia?

My point of contact is CDR K. Toney.



C. D. MARSH

Encl: (1) Cooper/T. Smith ltr of 7 Dec 95
(2) CCGD8 (mvs) ltr 16711 of 26 Oct 95

Cooper/T. Smith

Offices in Principal U.S. Ports

RECEIVED ON

DEC 18 1995

INSPECTION DEPT.
USCG MSO NEW ORLEANS December 7, 1995

Lt. Russ Berg
U.S. Coast Guard
Inspection Department
U.S.C.G. Marine Safety Office
1440 Canal Street
New Orleans, LA 70112-2711

Re: Certificates of Inspection/Industrial Vessels:
U-728 Official Number 574259
Colombia I Official Number D1028347
Colombia II Official Number D1028348

Dear Sir:

Cooper/T. Smith currently operates the above mentioned vessels in Santa Marta, Colombia. These vessels are under contract and will be at this location for an anticipated ten years.

These vessels are routinely inspected by the ABS representative in Colombia as required. The U.S.C.G. has not and are not likely to travel to Colombia until the "Hostile Country" status is lifted. Therefore, because of the "Seagoing Freight Act of 1995," Cooper/T. Smith is requesting that the certificate of inspection requirement be removed for the above mentioned vessels.

The vessels are currently equipped with the following fuel oil tanks that are incorporated into the vessels void area:

<u>Official Number</u>	<u>Name</u>	<u>Gallons</u>
574259	U-728	13,800
D1028347	Colombia I	14,000
D1028348	Colombia II	14,000

My understanding is that this slightly exceeds the present cut off range of 250 barrels x 44 gallons/barrel or 11,000

Lt. Russ Berg
Page two
December 7, 1995

gallons. In practice we do not press these tanks and are, in all likelihood, carrying 250 barrels or less the majority of the time.

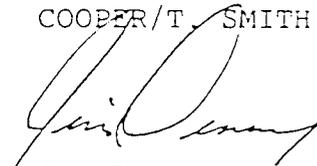
Cooper/T. Smith proposes that the fuel oil transfer procedure for these vessels be revised to limit the amount of fuel oil aboard each vessel to 250 barrels. This fuel oil is being consumed aboard each vessel and is not for sale or trade to any third party.

In addition, if the U.S.C.G. inspection is eliminated, Cooper/T. Smith would like to be exempted from the annual commercial vessel user fees with regard to the subject vessels.

Thank you for your cooperation and guidance in this matter. Please don't hesitate to call if you have any questions or comments.

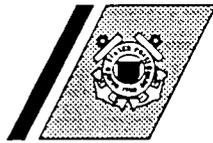
Regards,

COOPER/T. SMITH STEVEDORING



Jim Denny
Corporate Engineer

JD/ks



Subject: LEGAL DETERMINATION REGARDING "MANNED"
STATUS ON INSPECTED BARGES

Date: MAY 21 1996
16711

From: District Legal Officer

Reply to 6188
Attn of: LCDR BEISTLE

To: Chief, Marine Safety Division

1. You asked whether two BISSO seagoing barges which currently have Certificates of Inspection (COI's) should be considered as "manned" based on the conditions set out in their COI's. The COI's do not require "crewmembers" on board the barges but permits twelve "industrial personnel" aboard during lifting operations. The industrial personnel have "no duties connected with the navigation of the vessel."

2. An Officer in Charge of Marine Inspection (OCMI) may examine the circumstances under which barges operate and, at his/her discretion, determine that personnel who come on board from time to time are not crewmembers and that the barges are not "manned". Should the OCMI make that determination, the barges would be eligible for exemption from the inspection requirements of 46 U.S.C. 3301(6) pursuant to the exemption provisions of 46 U.S.C. 3302(m) so long as all other criteria for exemption are met.

3. Inspection of seagoing barges: Most seagoing barges are required to be inspected. 46 U.S.C. §3301(6). However, they are exempt from inspection if they meet the following conditions:

- (1) Unmanned,
- (2) Do not carry hazardous material as cargo,
- (3) Do not carry flammable or combustible liquid, including oil, in bulk.

46 U.S.C. 3302 (m)

4. Definition of "unmanned": You indicated that the BISSO barges meet the second and third criteria and only the first is at issue. The term "manned" is not defined in the statutes governing inspection of seagoing barges and Coast Guard background legal memoranda do not provide a distinct definition of the term. However, the most common use of the term was in

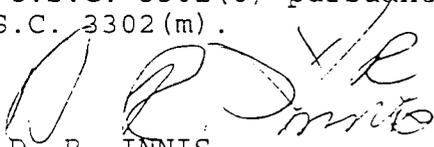
LEGAL DETERMINATION REGARDING "MANNED" STATUS ON INSPECTED
BARGES

16711

4. (cont.) accordance with the definition of "man" found in the maritime dictionary: MAN. 1. To provide a ship or boat with a sufficient number of hands and equipment to navigate it. Rene de Kerchove, *International Maritime Dictionary*, Second Edition (1961). Clearly, to "man" means to provide a vessel with crewmembers.

5. Seagoing barges are not required to be manned by regulation. MSM Vol. II, 10.E.2.f. However, when necessary, they may be required to be manned by the OCMI (MSM Vol. III, 19.H) or permissively manned by the owner. MSM Vol. II, 3.H.2.f.1.b.

6. Conclusion: The Marine Safety Manual describes the individuals in the BISSO COI's as "industrial personnel" or "persons carried as maintenance persons". MSM Vol. II, 10.E.2.f.2. By the Manual's definition, they are "permitted manning" and are referred to as crew. However, there is no statutory requirement to define them as crew and no requirement that the OCMI treat them as crewmembers. For these reasons, an Officer in Charge of Marine Inspection may examine the circumstances under which these barges operate and, at his/her discretion, determine that the industrial personnel who come on board the BISSO barges from time to time do not constitute manning of the vessels and that the vessels are exempt from the inspection requirements of 46 U.S.C. 3301(6) pursuant to the exemption provisions of 46 U.S.C. 3302(m).


D. R. INNIS

U.S. Department
of Transportation

United States
Coast Guard



Commander
Eighth Coast Guard District
Hale Boggs Federal Building

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PCPS

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New Orleans, LA 70130-3396
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16711
OCT 26 1995

From: Commander, Eighth Coast Guard District
To: Distribution

Subj: IMPLEMENTATION POLICY RELATING TO THE INSPECTION OF
SEAGOING BARGES

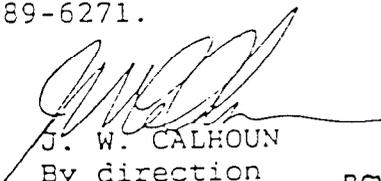
Ref: (a) Title 46 U. S. Code, Section 3302(m)

1. The following policy provides a definition of "bulk" as used in paragraph (2) of reference (a). It is intended to standardize D8 enforcement of reference (a) and bring about inspection work load reductions anticipated by that law.

2. Effective immediately, "bulk" as used in paragraph (2) of reference (a) will mean quantities greater than 250 barrels (10,500 gallons). Therefore, D8 units shall not inspect unmanned seagoing barges that carry less than 250 barrels of non-cargo flammable/combustible liquids, including oils. This includes all oils such as fuel and lubricating oils for on board equipment. Additionally, owners of barges that qualify for the inspection exemption in reference (a) shall not be given an inspection unless they can show that the vessel has carried a non-exempted cargo within the past two years, or that they currently have a contract to carry these cargoes.

3. HISTORY: Reference (a) was created by the 1993 Coast Guard Authorization act to grant inspection exemptions to seagoing unmanned barges that do not carry a hazardous material as cargo; or a flammable or combustible liquid, including oil, in bulk. It was anticipated that this amendment would decrease the Coast Guard's inspection work load by exempting many low risk unmanned barges. This work load reduction has not been realized for several reasons. First, a barge carrying any quantity of flammable or combustible liquid, including oil, as cargo is disqualified for carrying a hazardous material (46 USC 2101(14)). Secondly, various Coast Guard interpretations of "bulk", as it relates to the carriage of non-cargo oils including lubricating and fuel oil for on board equipment, have varied the exemption thresholds from one quart to 110 gallons. Finally, the absence of policy to deal with barge owners who desire to retain all cargo options by maintaining a current Certificate of Inspection have prevented us from applying the exemption to qualified barges.

4. Questions regarding this matter may be directed to CDR Tetreau or LT McAvoy at (504) 589-6271.


J. W. CALHOUN
By direction

RCVD BY YN3 Paxson

Dist: All Eights District MSOs, MSU and MSDS

DATE 10/30/95