

U.S. Department
of Transportation

United States
Coast Guard



United States Coast Guard

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MRP Policy Ltr 2-97

From: Commandant

To: Distribution

Subj: VESSEL INSPECTION USER FEE CAPS ON SMALL PASSENGER VESSEL FEES,
EXEMPTIONS FOR PUBLICLY OWNED FERRIES AND CHANGES TO
EXEMPTION CRITERIA

Ref: (a) MRP Policy Ltr 2-96 16000.1 of 1 Nov 1996

1. This letter provides guidance on responding to comments or inquiries received in response to the 21 April 1997 publication of the interim rule "Vessel Inspection User Fees", enclosure (1). This rule amends 46 CFR Part 2 to reduce annual vessel inspection user fees for small passenger vessels, exempting publicly owned ferries from payment of vessel inspection user fees, and revising the exemption criteria to allow additional vessels to qualify for exemption from payment of the annual vessel inspection fee.

2. In accordance with reference (a), annual vessel inspection fees for small passenger vessels were administratively reduced on 1 November 1996 to comply with the requirements of the Coast Guard Authorization Act of 1996. The Coast Guard Authorization Act limits the annual fee for small passenger vessels less than 65 feet in length to not more than \$300 and for small passenger vessels 65 feet or over in length to not more than \$600. Current costs of inspecting small passenger vessels of all lengths exceed the fee limits set by the Act. The rule, therefore, reduces the annual vessel inspection fees for small passenger vessels to the limits established under the Act.

a. The separate fee categories for DUKW Vessels and Hydrojet Boats were first established because costs for inspecting these vessels were lower than for other small passenger vessel categories. Coast Guard records indicate, however, that all DUKW Vessels and Hydrojet Boats are under 65 feet in length and costs of inspecting these vessels exceed the Act's \$300 cap for small passenger vessels under 65 feet. The separate fee categories for these vessels, therefore, are no longer necessary and DUKW Vessels and Hydrojet Boats are included in the category for small passenger vessels less than 65 feet in length.

3. On 1 November 1996, G-MRP also adjusted the fee codes of Federal, State, county or city owned ferries to indicate that each was exempt from payment of vessel inspection user fees. The Act prohibits the establishment of a fee or charge for inspection or examination under Title 46, U.S. Code, of any publicly owned ferry. Small passenger vessels, passenger ships, and passenger

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barges currently operating as ferries pay the annual vessel inspection fee for the vessel category to which they belong. No fee category was established specifically for ferries.

a. The term *publicly owned* is defined as owned by the federal government or the government of any State or political subdivision thereunder.

b. The term *ferry* is defined as a vessel transporting passengers or vehicles on a regular run, over the most direct route between a point of embarkation and a point of debarkation on lands separated by a body of water other than an ocean, or between a point of embarkation and an island within the same State.

c. The term *political subdivision*, as used within the definition of publicly owned, includes county, district, parish, township, city or similar governmental entities established within a State. As used within this part, the term *State* in accordance with 46 U.S.C. 2101(1)(36) means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

4. The rule also revises the exemption criteria in 46 CFR 2.10-5 to allow some non-profit organizations that do not meet the current narrowly-drawn exemption criteria to qualify for exemption from payment of fees. Under current regulations, a vessel must be owned or operated by an organization that is (1) charitable in nature, (2) not for profit, and (3) youth oriented and the vessel must be used exclusively for training youth in boating, seamanship, and navigational skills. Under 46 U.S.C. 2110(g), exemptions from payment of user fees may be granted whenever it is in the public interest to do so. Since 1 May 1995, the Coast Guard has granted exemptions to only 48 vessels, of which 34 are owned or operated by the Outward Bound Organization, two by the Boy Scouts of America, and the remainder by a variety of other similar organizations.

a. At least 29 organizations applied for exemptions but did not meet the exemption criteria. Among those organizations denied exemptions was the Floating Hospital in New York, a charitable, non-profit organization providing medical services to inner city residents of New York City at no cost to the patients. The organization did not meet the exemption criteria because it was not youth-oriented, and did not train youth in boating, navigation, or seamanship. Similarly, a non-profit organization that provided enrichment excursions to individuals with a disability, regardless of their age, did not meet the criteria because it was not specifically youth-oriented.

b. Requests for exemption were also received from several non-profit organizations providing training to youth aboard the vessels, but which offered a curriculum exceeding the criteria specified under current regulation. Typically, these programs are centered around marine environmental awareness and education. The marine environmental awareness training offered

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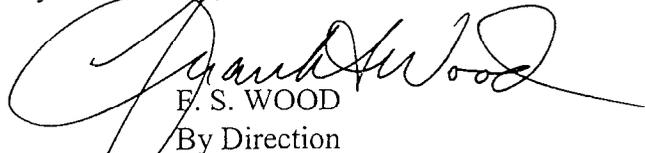
to youth aboard these vessels is a goal that is within the public interest to promote. It is necessary, however, to differentiate between a course in marine environmental studies, and environmental vacations consisting of sightseeing, whale watching, or other excursions for the enjoyment or appreciation of nature.

c. The term *not for profit corporation* is being changed to the more commonly used terminology of *non-profit organization*. Previously, the term had not been defined. The rule defines the term as an *organization under Internal Revenue Code (I.R.C.) section 501(c) which is exempt for the purposes of federal income taxation*. The Internal Revenue Service requires such organizations to be organized and operated exclusively for one or more of the following purposes: (a) religious; (b) charitable; (c) scientific; (d) testing for public safety; (e) literary; (f) educational; (g) prevention of cruelty to children or animals; or (h) to foster national or international sports. The rule removes the words *charitable in nature* from the exemption criteria because it is already included in the broader term non-profit organization.

d. The rule also adds *educating youth in a course of marine environmental studies; providing excursions for individuals with a disability; and providing medical services* to the activities in which a qualified vessel may be engaged. The term *disability* means a person having a disability as defined by the Americans with Disabilities Act (ADA) [42 U.S.C. 12102(2)]. The term *youth* is defined as an individual 18 years of age or younger.

5. Exemption requests must be submitted in writing to the cognizant OCMI. The OCMI should evaluate the request and forward it with recommendations, to (G-MRP-2) for action.

6. The cognizant OCMI should contact G-MRP-2 at the number listed above should they need assistance in answering questions regarding the regulatory changes, or where a vessel appears to meet the definition of a publicly owned ferry, but the MSIS fee code has not been adjusted.


E. S. WOOD
By Direction

Encl: (1) Federal Register/Vol. 62, No. 76/Monday, April 21, 1997

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