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FM COMDT COGARD WASHINGTON DC//CG-5/CG-3P/CG-3-PSE/CG-3PCV// TO AIG  
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**SUBJ: VOLUNTARY COMPLIANCE AND REASONABLE OPERATING CONDITIONS FOR  
CERTAIN SMALL PASSENGER VESSELS**

REF: A. FEDERAL REGISTER NOTICE OF APRIL 26, 2006 (71 FR 24732)  
B. FEDERAL REGISTER NOTICE OF NOVEMBER 2, 2006 (71 FR 64546)

1. THIS MESSAGE PROVIDES ADDITIONAL CLARIFICATION TO THE SMALL PASSENGER VESSEL VOLUNTARY OPERATING GUIDANCE PUBLISHED IN REFERENCES (A) AND (B).

2. IN MARCH 2004, THE PONTOON WATER TAXI LADY D (O.N. MD8246BC) CAPSIZED WHEN IT ENCOUNTERED SEVERE WIND AND WAVES IN BALTIMORE HARBOR. AS A RESULT OF THAT CASUALTY THE NTSB RECOMMENDED THAT THE COAST GUARD REVISE OUR REGULATIONS TO REQUIRE THAT PASSENGER CAPACITY FOR DOMESTIC PASSENGER VESSELS BE CALCULATED BASED ON A STATISTICALLY REPRESENTATIVE AVERAGE PASSENGER WEIGHT STANDARD THAT IS PERIODICALLY UPDATED. THE COAST GUARD CONCURRED THAT A REVIEW OF AVERAGE PASSENGER WEIGHT FOR STABILITY CALCULATION PURPOSES WAS NEEDED BUT DETERMINED THAT THE RULEMAKING PROCESS TO REVISE THE STABILITY REGULATIONS WOULD LIKELY PROVE TOO LENGTHY TO SERVE THE PURPOSES OF AN IMMEDIATE NOTIFICATION IN THE INTEREST OF PUBLIC SAFETY. THEREFORE, WE PUBLISHED A VOLUNTARY NOTICE (REFERENCE (A)) TO PROVIDE INTERIM GUIDANCE TO OPERATORS ON HOW THEY COULD ASSESS THE PASSENGER CAPACITY OF THEIR VESSELS. THIS NOTICE ALSO DISCUSSED WEATHER LIMITS FOR "REASONABLE OPERATING CONDITIONS" WHEN USED AS A CONDITION OF OPERATION ON A VESSEL'S CERTIFICATE OF INSPECTION. THE SECOND NOTICE (REFERENCE (B)) CLARIFIED THE APPLICABILITY OF THE REASONABLE OPERATING CONDITIONS WEATHER PARAMETERS WITH RESPECT TO CERTAIN SMALL PASSENGER VESSELS. FEEDBACK FROM THE PASSENGER VESSEL INDUSTRY INDICATED THAT FURTHER CLARIFICATION WOULD BE HELPFUL TO AVERT ANY UNINTENDED CONSEQUENCES WHERE COAST GUARD PERSONNEL WOULD PLACE LIMITS ON OTHERWISE SAFE OPERATIONS. **OF PARTICULAR CONCERN TO THE MARITIME INDUSTRY WAS THAT THE COAST GUARD CLARIFIES THE VOLUNTARY VERSUS MANDATORY NATURE OF THE "REASONABLE OPERATING CONDITIONS."**

3. IN PRESENTING THE VOLUNTARY MEASURES FOR PRUDENT OPERATION, OUR INTENTIONS WERE TO PROVIDE GUIDANCE TO PREVENT OVERLOADING OF ALL PASSENGER VESSELS IN RECOGNITION OF THE OUT OF DATE PASSENGER WEIGHT STANDARDS; TO RECOMMEND REASONABLE OPERATING CONDITIONS FOR PONTOON VESSELS ONLY; AND TO URGE OPERATORS OF OTHER (NON-PONTOON) SMALL PASSENGER VESSELS THAT ARE LESS THAN 65 FEET, CERTIFICATED TO OPERATE ON PROTECTED ROUTES ONLY, TO GIVE SPECIAL CONSIDERATION TO WEATHER CONDITIONS PRIOR TO GETTING UNDERWAY. IT WAS NOT OUR INTENTION TO LIMIT THESE SMALL PASSENGER VESSELS TO THE PONTOON VESSEL "REASONABLE OPERATING CONDITIONS." IN FACT, MANY SMALL PASSENGER VESSELS OPERATE SAFELY IN CONDITIONS THAT EXCEED THE PONTOON VESSEL "REASONABLE OPERATING CONDITIONS." THE COAST GUARD SIMPLY DESIRES TO EMPHASIZE THE NEED FOR DUE DILIGENCE WITH RESPECT TO THE WEATHER ALONG WITH THE OTHER FACTORS STIPULATED IN 46 CFR 185.304. **AS SUCH PLEASE KEEP IN MIND THAT THE NOTICES PUBLISHED IN REFERENCES (A) AND (B) ARE STRICTLY VOLUNTARY AND ARE NOT ENFORCEABLE BECAUSE THEY ARE NOT FOUNDED IN LAW OR REGULATION.**

4. TO SUMMARIZE THE APPLICABILITY OF REFERENCES (A) AND (B) THE RECOMMENDED

"REASONABLE OPERATING CONDITION" STANDARDS APPLY TO PONTOON VESSELS OF ANY LENGTH;

AND THE "SPECIAL CONSIDERATION" RECOMMENDATION APPLIES TO NON-PONTOON SMALL PASSENGER VESSELS LESS THAN 65 FEET THAT ARE CERTIFICATED FOR OPERATION ONLY ON PROTECTED WATERS.

THIS LAST GROUP DOES NOT INCLUDE SAILING VESSELS, PASSENGER VESSELS OVER 100 GT, SMALL PASSENGER VESSELS 65 FEET OR GREATER IN LENGTH, AND ANY VESSEL (EXCEPT PONTOON BOATS) WHOSE CERTIFICATE OF INSPECTION INCLUDES PARTIALLY PROTECTED OR EXPOSED WATERS.

5. WE UNDERSTAND THAT VESSELS COME IN ALL SIZES, TYPES, AND SEAKEEPING ABILITIES. THUS THE COAST GUARD MUST ALSO RELY ON THE PROFESSIONAL JUDGMENT OF THE LICENSED MASTERS TO UNDERSTAND THE PARTICULAR CHARACTERISTICS OF THEIR VESSELS AND, WHILE KEEPING THE SAFETY OF THE PASSENGERS AND CREW PARAMOUNT, TO KNOW WHEN IT WOULD BE PRUDENT TO CEASE OPERATIONS DUE TO UNFAVORABLE SEA CONDITIONS.

6. ON JUNE 4, 2007, COAST GUARD HEADQUARTERS REQUESTED ASSISTANCE FROM THE FIELD TO UPDATE CERTAIN VESSEL INFORMATION IN THE MISLE DATABASE AND TO RESEARCH AND PROVIDE ADDITIONAL INFORMATION ON 745 PASSENGER VESSELS TO THE REGULATORY PROJECT TEAM THAT IS CURRENTLY CONDUCTING THE ANALYSIS NECESSARY TO ESTABLISH NEW PASSENGER WEIGHT STANDARDS. THIS WAS A SIGNIFICANT BURDEN ON YOUR ALREADY TAPPED RESOURCES. I CANNOT EMPHASIZE ENOUGH HOW CRITICAL THE DATA PROVIDED BY THE FIELD IS TO THE ONGOING SUCCESS OF THIS PROJECT. THANK YOU FOR YOUR OUTSTANDING SUPPORT AND KEEP UP THE GREAT WORK.

7. PLEASE DIRECT QUESTIONS REGARDING THE VOLUNTARY PASSENGER WEIGHT NOTICES OR THE PENDING LEGISLATION TO CHANGE THE ASSUMED PASSENGER WEIGHT STANDARD TO MR. WILLIAM PETERS OF THE COAST GUARD'S OFFICE OF ENGINEERING AND STANDARDS (CG-3PSE-2) AT (202) 372-1371.

8. INTERNET RELEASE AUTHORIZED.

9. RDML SALERNO, ASSISTANT COMMANDANT FOR POLICY AND PLANNING (CG-5) AND MR. LANTZ, ACTING ASSISTANT COMMANDANT FOR PREVENTION OPERATIONS (CG-3P) SEND.

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