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G-PCV Policy Letter
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To: Distribution

Subj: REGULATORY INTERPRETATION FOR NOTICE OF ARRIVAL REGULATION

Ref: (a) Title 33, Code of Federal Regulations Part 160, Subpart C, "Notification of Arrival, Hazardous Conditions, and Certain Dangerous Cargoes"

1. Purpose. This policy letter provides an interpretation of "port or place of destination" to eliminate a recurring problem associated with application of the Notice of Arrival (NOA) regulation, reference (a).

2. Action. Sector Commanders/OCMIs/COTPs should direct their staffs to use the guidance herein when reviewing Notices of Arrival provided by ships entering and navigating within their area of responsibility.

3. Directives Affected. None

4. Background and Information. Representatives from the maritime industry, as well as our operational units, have communicated problems with the definition of "port or place of destination" found in 33 CFR 160.204, currently defined as "any port or place in which a vessel is bound to anchor or moor." The cause of the problem lies in the specific definition of a port, which from a legal perspective is very difficult to clearly define.

a. Vessels arriving at a port or place when operating solely between ports within a single COTP zone are exempt from submitting a NOA (33 CFR 160.203(b)(2)). However, vessels carrying certain dangerous cargoes (CDCs) are not exempt, and must submit a NOA for any port or place of the United States, including movements within a COTP zone. Various interpretations of the definition of port or place exist within the Coast Guard and the maritime industry. As a result, vessels carrying CDCs submit NOAs every time the vessel changes berths or docks in the same port in certain COTP zones. In other COTP zones, the same vessels only submit NOAs when they depart the current port and enter another port within the same COTP zone.

b. Additionally, in some U.S. ports transit time or distance to the berth is lengthy (e.g. Portland, Oregon and New Orleans, Louisiana), and the cognizant COTP wants to know when a vessel arrives at the sea buoy or pilot station, depending on local requirements. In other U.S. ports, where transit is short or where the vessel must transit through another COTP zone to arrive at its intended berth (e.g. Baltimore, Maryland thru Hampton Roads, Virginia), the COTP wants to know the vessel's arrival time at the berth or dock. There is no uniform standard

applied and consequently, industry must know the requirement of each individual port in order to submit a proper NOA to that COTP.

5. Guidance.

a. A vessel submitting a NOA when moving within ports or places of a COTP zone (i.e. a vessel carrying CDCs), should only do so if the vessel is actually moving from one port to another port. Moving from one dock to another dock, one berth to another berth, or one anchorage to another anchorage within one port is not considered a transit from a "port or place" to a different "port or place" and therefore, no NOA is required. Making this clarification does not pose additional risk since the Coast Guard has already vetted the vessel, its cargo, and its crew through the Intelligence Coordination Center (ICC), CBP, and other agencies, prior to its initial arrival.

b. This clarification reduces the public burden since movement on and off berth within a port is sometimes spontaneous. Requiring a vessel to notify the Coast Guard 24 hours prior to that type of movement is impractical, hindering transportation and mobility in the port. If those responsible for the vessel are uncertain whether the movement is to a different port, (e.g. Houston to Galveston, Los Angeles to Long Beach), they should contact the cognizant COTP and request clarification.

c. The regulation specifies that a port or place of destination is where a vessel is bound to anchor or moor. Without amending regulatory language, COTPs should not apply this definition to a sea buoy or pilot station. Requiring arriving vessels to submit the NOA based on arrival at a sea buoy or pilot station is not consistent with the CFR. All NOAs to U.S. ports or places should address where the vessel is bound to anchor or moor.

1) In very rare situations, the COTP (under the authority of 33 U.S.C. 1226), can request information from arriving vessels beyond what is required in 33 CFR 160 by issuing a COTP Order outlining the additional information required.

6. G-PCV will add the interpretation as a Frequently Asked Question (FAQ) on the National Vessel Movement Center (NVMC) website (http://www.nvmc.uscg.gov/faq.html). G-PCV will also prepare a "Notice of Interpretation" for publishing this interpretation in the Federal Register.

7. Sector Commanders/OCMIs/COTPs may distribute this information to local shipping agents and other industry contacts to promote dissemination of this policy pending publication of the "Notice of Interpretation".

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