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Policy Letter 23-05  
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To: Distribution

Subj: GUIDANCE ON SURVEILLANCE REQUIREMENTS FOR CERTAIN COMMERCIAL  
VESSELS THAT DO NOT CARRY PASSENGERS

Ref: (a) James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023, SEC.  
11607 (H.R. 7776 – page 1756) Surveillance Requirements  
(b) Title 46, United States Code (U.S.C.) § 4901 – Surveillance requirements

1. PURPOSE. This policy letter provides clarification, policy, and guidance to the Officer in Charge, Marine Inspection (OCMI), Recognized Organizations (RO), and the maritime industry on reference (a) regarding surveillance policy requirements as codified in reference (b).
2. DIRECTIVES AFFECTED. None.
3. DISCUSSION.
  - a. The Coast Guard and maritime stakeholders recognize the importance of creating safe and respectful working environments and eliminating sexual assault and sexual harassment from the maritime industry. Many initiatives and measures have been implemented to address these issues and promote a zero tolerance for such behavior. Since 2021, the Coast Guard has sought recommendations from the National Merchant Marine Personnel Advisory Committee (NMERPAC) and National Merchant Mariner Medical Advisory Committee (NMEDPAC) to improve the culture and safety of mariners and eliminate sexual assault and sexual harassment from the workplace.
  - b. Reference (a) was signed into law on December 23, 2022, and adds reference (b) to require certain commercial vessels to establish a video surveillance system, retain audio and visual records for at least one year, and provide training for responding to incidents of sexual assault or harassment. The below policy represents the Coast Guard's current thinking on this topic and may assist industry, mariners, and the public, as well as other federal and state regulators, in complying with reference (b).
4. ACTION. Owners and operators of applicable vessels must comply with the requirements of reference (b). OCMI's must verify compliance with reference (b) during relevant inspections,

including oversight inspections for vessels participating in alternative inspection programs.<sup>1</sup> Recognized Organizations (RO) should include verification of elements of reference (b) when included in a vessel's Safety Management System (SMS).

5. **POLICY.** The following policy provides guidance on new statutory requirements for commercial vessels, excluding certain commercial fishing vessels, to install and maintain audio and visual surveillance systems, implement relevant crew training, and observe specific data handling protocols as required by references (a) and (b).
- a. **Applicability.**<sup>2</sup> Generally, these requirements apply to all vessels engaged in commercial service that do not carry passengers, excluding certain commercial fishing vessels. Specifically, reference (b) applies to:
- 1) Documented vessels with overnight accommodations for at least 10 individuals on board that are—
    - (a) on a voyage of at least 600 miles and crosses seaward of the Boundary Line; or
    - (b) at least 24 meters (79 feet) in overall length and required to have a load line under Title 46 U.S.C. Chapter 51 – Load Lines;
  - 2) Documented vessels of at least 500 gross tons as measured under Title 46 U.S.C. § 14502, or an alternate tonnage measured under Title 46 U.S.C. § 14302 as prescribed by the Secretary under Title 46 U.S.C. § 14104 on an international voyage;<sup>3</sup> and
  - 3) Vessels with overnight accommodations for at least 10 individuals on board that are operating for no less than 72 hours on waters superjacent to the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))).
- b. **Exemptions.** As provided in subsection (h) of reference (b), fishing vessels, fish processing vessels, and fish tender vessels, as defined in 46 U.S.C. § 2101, are exempt from the requirements of reference (b).
- c. **Video and Audio Surveillance Equipment.**
- 1) Per subsection (c)(1) of reference (b), the owner<sup>4</sup> of an applicable vessel must install video and audio surveillance equipment aboard the vessel not later than December 23, 2024<sup>5</sup>, or during the next scheduled drydock, whichever date is later.
  - 2) Per subsection (c)(2) of reference (b), video and audio surveillance equipment must be placed in passageways into which doors from staterooms open. Such equipment must be placed in a location and position, or multiple locations and positions, that can continually view every door in each such passageway.

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<sup>1</sup> Alternate Compliance Program (ACP), Maritime Security Program (MSP), MSP Select, and Streamlined Inspection Program (SIP)

<sup>2</sup> 46 U.S.C. § 4901(b).

<sup>3</sup> These statutes refer to 46 U.S.C. Subtitle II, Part J – Measurement of Vessels

<sup>4</sup> Per 46 U.S.C § 4901(g), “the term ‘owner’ means the owner, charterer, managing operator, master, or other individual in charge of a vessel.”

<sup>5</sup> Two years after enactment of the Don Young Coast Guard Authorization Act of 2022. 46 U.S.C. § 4901(c)(1).

- 3) The Coast Guard advises that effective surveillance is not simply having a system in place but having sufficient quality of hardware to ensure intelligibility of information captured. Video capturing equipment should be of sufficient resolution, frame rate, and sensor and lens quality to identify persons and their actions under all ambient lighting conditions. Video cameras should also be installed so that no area requiring coverage under reference (b) is obstructed from view. Where obstructions exist, additional cameras should be installed to ensure comprehensive coverage. Audio recording equipment should be of sufficient sample rate, bit depth, and microphone quality to ensure reasonable discernment of conversations and words spoken in all foreseeable ambient noise conditions and from anywhere within the areas requiring coverage under reference (b). Where needed, owners should consider noise canceling microphone technology. This focus on quality and clarity of both video and audio surveillance is integral to effective implementation and compliance with reference (b) and to promote incident prevention and improved incident response measures.
- d. Notice of Video and Audio Surveillance.
    - 1) Per subsection (d) of reference (b), the owner of an applicable vessel “shall provide clear and conspicuous signs on board the vessel notifying the crew of the presence of video and audio surveillance equipment.”
    - 2) The Coast Guard advises that signage should be displayed in easily accessible areas of the required spaces and should be placed at eye level for optimal visibility. Signs should be of appropriate size to ensure clear visibility at a reasonable distance and be of durable material or enclosure to mitigate deterioration. Signage should be of legible font and appropriate font size that can be read at a reasonable distance in normal lighting conditions. Statements within the signage should be clear and concise and easy for all expected viewers to understand.
  - e. Access to Video and Audio Records. Per subsection (e) of reference (b), the owner of an applicable vessel “shall ensure that access to records of video and audio surveillance is not used as part of a labor action against a crew member or employment dispute unless used in a criminal or civil action.”
  - f. Retention Requirements.
    - 1) Per subsection (f) of reference (b), the owner of an applicable vessel “shall retain all records of audio and video surveillance for not less than 1 year after the footage is obtained. Any video and audio surveillance found to be associated with an alleged incident should be preserved for not less than 5 years from the date of the alleged incident.”
    - 2) The Coast Guard advises that video and audio recordings must be continuous and without interruption. All video and audio recordings must have accurate time synchronization, timestamping, and metadata to ensure all retained information can be accurately associated with the date, time, and location of a particular recording. Retention may be kept via physical storage on board the vessel or office or via a cloud-based service if the statutory timeframes for retention are met.
  - g. Personnel Training.
    - 1) Per subsection (g) of reference (b), the owner of an applicable vessel “shall provide training for all individuals employed by the owner or employer for the purpose of responding to

incidents of sexual assault or sexual harassment[.]” This training shall ensure individuals (A) “retain audio and visual records and other evidence in an objective manner; and (B) act impartially without influence from the company or others. Training must also be provided “on applicable Federal, State, Tribal, and local laws and regulations regarding sexual assault and sexual harassment investigations and reporting requirements.”

- 2) The Coast Guard advises that detailed records should be kept of all training sessions. These records should include specific information such as the date and location of the training, the topics covered, and personnel present for the training. Documenting this information is necessary to confirm compliance with the training requirements. In instances where a vessel is mandated, or voluntarily chooses to maintain a Safety Management System (SMS), the company and vessel policies and procedures for conducting and documenting training must be included in the SMS.<sup>6</sup>
6. ENFORCEMENT. OCMI's must ensure compliance with reference (b) in their respective Areas of Responsibility (AOR). Marine Inspectors must be aware of the requirements of reference (b) and ensure compliance during inspections for certification, annual inspections, and oversight examinations. Marine Inspectors should inspect materials and equipment, verify operational conditions, and review documentation necessary to verify compliance. Deficiencies must be documented via CG-835.<sup>7</sup>
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 guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to, nor does it impose legally binding requirements on any part. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, and the public, as well as other federal and state regulators, in applying statutory and regulatory requirements. You can use an alternative approach 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 at the email listed under the QUESTIONS section.
9. QUESTIONS. Contact the Office of Commercial Vessel Compliance (CG-CVC) at [CG-CVC@uscg.mil](mailto:CG-CVC@uscg.mil) with any questions. This policy letter and other vessel inspection policy documents are posted on the CG-CVC website at [CG-CVC Policy Letters \(uscg.mil\)](https://www.uscg.mil/CG-CVC/Policy-Letters).

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<sup>6</sup> See International Safety Management (ISM) Code, International Maritime Organization, Resolution A.741(18) (as amended).

<sup>7</sup> See Title 46 Code of Federal Regulations (CFR) § 2.01-10(a).