



16711/Serial No. 2116  
CG-CVC Policy Letter 23-03  
October 26, 2023

A handwritten signature in black ink that reads "Mark R. Neeland".

From: Mark R. Neeland, CAPT  
COMDT (CG-CVC)

To: Distribution

Subj: "COVERED SMALL PASSENGER VESSEL" FIRE SAFETY INTERIM RULE  
IMPLEMENTATION

Ref: (a) Elijah E. Cummings Coast Guard Authorization Act of 2020, Public Law 116-283  
(Division G), Section 8441, January 1, 2021 ([link](#))  
(b) 46 U.S. Code § 3306(n) ([link](#))  
(c) "Fire Safety of Small Passenger Vessels", Interim Rule, 86 Federal Register 73160,  
December 27, 2021 ([link](#))  
(d) Don Young Coast Guard Authorization Act of 2022, Public Law 117-263 (Division  
K), Section 11505, December 23, 2022 ([link](#))

1. PURPOSE. To provide clarifying policy to District Commanders, Sector Commanders, and Officers in Charge, Marine Inspection (OCMI) when implementing the interim regulations required by references (a) and (b) and promulgated in reference (c). This policy letter will expire on the effective date of the final regulations required by reference (b).

2. BACKGROUND.

- a. Reference (a) added reference (b), which directs the Secretary of Homeland Security to prescribe fire safety regulations for "covered small passenger vessels," (CSPVs). Reference (b) defines CSPVs as a small passenger vessel (as defined in 46 U.S.C. § 2101), except a ferry or a fishing vessel, that has overnight accommodations for passengers or that operates on a coastwise or oceans route. Prior to issuing final regulations, reference (b) required that the Coast Guard issue interim requirements, which were promulgated as an interim rule in reference (c). Having received several questions from the field and industry, CG-CVC is publishing this policy letter to offer clarification on many of the regulatory changes promulgated in reference (c).
- b. An agency's authority to promulgate regulations is typically derived from statutory law. An established tenet of rulemaking is that a regulation may not create an obligation, right or benefit beyond that granted by the controlling statutory authority; nor may it diminish, waive, or accept alternative compliance to an obligation absent such an allowance in statute. As such, certain specific statutory mandates in reference (b) cannot be altered by regulatory provisions related to OCMI discretion or equivalencies, unless otherwise allowed by a statutory provision, such as that found in 46 U.S. Code § 3306(e). The policy clarifications herein reflect the precedence of statutes over regulations.

- c. The requirements of reference (c) have been implemented in phases, beginning on March 28, 2022. The final implementation date is December 27, 2023, when the new requirements related to means of escape will come into effect for vessels with overnight accommodations for passengers. This policy letter clarifies certain OCMI authorities related to means of escape and establishes Coast Guard interpretations of certain statutory and regulatory language.
3. **ACTION.** All Coast Guard personnel implementing reference (c) must comply with the policy contained herein.
4. **AUTHORIZED RELEASE.** Internet release is authorized. An electronic version of this policy is located on the CG-CVC public website at <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/Commercial-Vessel-Compliance/CG-CVC-Policy-Letters/> and on the CG-CVC MMS SharePoint page (Coast Guard personnel only) at <https://uscg.sharepoint-mil.us/sites/cgcvc/cvcmmms/SitePages/Home.aspx>.
5. **POLICY.**
- a. **Applicability.** The statutory requirements of reference (b) are applicable to a small passenger vessel that meets at least one of three criteria: it has *overnight accommodations*<sup>1</sup> for passengers, it operates on a *coastwise* route, or it operates on an *oceans* route. Accordingly, every operation of the small passenger vessel must be evaluated against those criteria when determining applicability of CSPV requirements. The policy clarifications below reflect such an evaluation for certain regulatory sections and vessel operations.
- b. **Special consideration.** An OCMI may not authorize a special consideration under 46 CFR §§ 114.550 or 175.550 for a CSPV from the requirements listed in Table 1.

Table 1.

	Subchapter K	Subchapter T
Two means of escape*	116.500(a)	177.500(a)
Means of escape separation*	116.500(b)	177.500(b)
Means of escape not on berth*	116.500(o)	177.500(n)
Hazardous items	122.364	185.364
Watch monitoring device(s)	122.410(b)	185.410(b)
Training program	122.420(b)	185.420(b)
Egress drill	122.507(a)	185.507(a)

\*Limitation on special consideration applies only to spaces on CSPVs with overnight accommodations for passengers to which passengers have access; special consideration authority may be used for spaces to which passengers do not have access.

<sup>1</sup> Terms in italics are as defined in §§ 114.400 or 175.400 for vessels inspected under subchapters K or T, respectively.

If an OCMI receives a request for special consideration for a CSPV requirement not listed in Table 1, such as interconnected fire detection or passenger safety bill, it should be processed and documented in accordance with applicable policies.

c. *Means of escape.*

- i. Applicability. Reference (c) revised the applicability sections in 46 CFR parts 114, 116, 175, and 177 to require a CSPV with *overnight accommodations* for passengers that is an *existing vessel* to comply with current requirements for means of escape in §§ 116.500 or 177.500, eliminating the option to comply with the requirements that were applicable to the vessel on March 10, 1996. Except as discussed in 5.c.ii. through v. below, the means of escape requirements in either §§ 116.500 or 177.500, as appropriate, apply in their entirety to all CSPVs with *overnight accommodations* for passengers, including *new vessels* and *existing vessels*.
- ii. Alternative means of escape. The Coast Guard may not accept an alternative *means of escape* under §§ 116.500(r) or 177.500(q) for spaces accessible to passengers on a CSPV unless it complies with the requirements in Table 2.

Table 2.

	Subchapter K	Subchapter T
Two means of escape	116.500(a)	177.500(a)
Means of escape separation	116.500(b)	177.500(b)
Means of escape not on berth	116.500(o)	177.500(n)

When a CSPV with overnight accommodations for passengers has an approved alternative means of escape from a space accessible to passengers, the OCMI must add a Special Note to the vessel's MISLE profile and issue a letter to the owner or operator stating the following:

This vessel has one or more spaces accessible to passengers with alternative means of escape, in accordance with 46 CFR [116.500(r) / 177.500(q)]<sup>2</sup>.

If the Marine Safety Center or an OCMI receives a request to deviate from a requirement in §§ 116.500 or 177.500 not listed in Table 2, such as minimum door width or scuttle diameter, it should be processed and documented in accordance with applicable policies.

- iii. Separation of *means of escape*. Sections 116.500(b) and 177.500(b) require that the two *means of escape* required by §§ 116.500(a) and 177.500(a), respectively, must be widely separated and, if possible, at opposite ends or sides of the space to minimize the possibility of one incident blocking both escapes. The preamble discussion of reference (c) stressed that the Coast Guard would enforce this wide separation requirement strictly, despite any ambiguity in the regulatory language. Due to the

<sup>2</sup> Delete section from inside square brackets as appropriate.

increased risk of CSPVs, the regulatory language “minimize the possibility of one incident blocking both escapes” is interpreted to mean that the two doors, hatches, scuttles, etc. forming part of the required *means of escape* on a CSPV lead to separate spaces, or one or both lead to an *open deck*.

- iv. Single means of escape. Sections 116.500(q) and 177.500(p) provide that a space is required to have a minimum of one *means of escape* if it meets four specified conditions. A space on a CSPV meeting these four conditions—summarized in Table 3—need only have one *means of escape*.

Table 3.

	Subchapter K	Subchapter T
Deck area less than 30 m <sup>2</sup> *	116.500(q)(1)	177.500(p)(1)
No source of fire	116.500(q)(2)	177.500(p)(2)
Far from machinery/fuel	116.500(q)(3)	177.500(p)(3)
No ladder/scuttle	116.500(q)(4)	177.500(p)(4)

\*Deck area, for the purpose of applying §§ 116.500(q) or 177.500(p), is the total area at the deck level, without any exclusions within the boundaries of the space (i.e., no deductions are permitted for moveable furniture, fixed items, piping, tanks, or cable runs). This differs from the calculation of deck area in §§ 116.438(n)(2)(iii) and 177.500(d)(3).

When a CSPV with overnight accommodations for passengers has a space accessible to passengers with a single means of escape, the OCMI must add a Special Note to the vessel’s MISLE profile and issue a letter to the owner or operator stating the following:

This vessel has one or more spaces accessible to passengers with only one means of escape in accordance with 46 CFR [116.500(q) / 177.500(p)]<sup>2</sup>.

- v. Non-passenger spaces. Reference (b) did not change the means of escape requirements for spaces to which passengers do not have access. Accordingly, a CSPV that is an *existing vessel* continues to have the option to comply with the means of escape requirements applicable to it on March 10, 1996 for spaces to which passengers do not have access (e.g., crew quarters, navigation bridge, machinery spaces). In addition, a space on a CSPV to which passengers do not have access may have means of escape located directly above, or dependent on, a berth, provided it complies with other applicable requirements. Lastly, the limitation on OCMI special consideration and alternative means of escape authorities described in paragraphs 5.b. and 5.c.ii., respectively, only applies to spaces with passenger access.
- d. **Excursion permits.** Sections 115.204 and 176.204 authorize the OCMI to permit a vessel to engage in a temporary excursion with a greater number of persons or on a more extended route, or both, than permitted on the COI. The OCMI may not issue an excursion permit to a vessel where passengers have access to *overnight accommodations* unless it complies with the requirements in Table 4.

Table 4.

	Subchapter K	Subchapter T
Two means of escape*	116.500(a)	177.500(a)
Means of escape separation*	116.500(b)	177.500(b)
Means of escape not on berth*	116.500(o)	177.500(n)
Egress drills	122.507(a)	185.507(a)

\* Applies only to spaces to which passengers have access.

The OCMI should evaluate deviations from other CSPV requirements following normal procedures for processing and documenting excursion permit requests.

e. **Exceptions.**

- i. Passengers prohibited from *overnight accommodations*. When a vessel has *overnight accommodations* but passengers are prohibited access to them, the vessel is deemed to not have “overnight passenger accommodations” as used in reference (b) and §§ 114.110(e)-(f) and 175.110(c)-(d). Accordingly, the requirements applicable to a vessel with *overnight accommodations* for passengers do not apply. If the vessel operates on a *coastwise* or *oceans* route, the requirements listed in §§ 114.110(e) or 175.110(c) still apply. When a vessel has *overnight accommodations* from which passengers are prohibited, the OCMI must add an endorsement to the COI and a Special Note in MISLE stating that passengers are prohibited access to overnight accommodation spaces.
- ii. Overnight voyages without *overnight accommodations*. The definition of CSPV in reference (b) refers to whether a vessel has *overnight accommodations* for passengers or whether it operates on a *coastwise* or *oceans* route; it does not refer to voyage duration or the time of day at which a vessel operates. Regardless of voyage duration or the time of day at which a vessel operates, if a vessel does not have *overnight accommodations* for passengers, then it is not subject to the requirements listed in §§ 114.110(f) or 175.110(d). Furthermore, by the definition of CSPV in reference (b), a vessel without *overnight accommodations* for passengers is only subject to new requirements if it operates on a *coastwise* or *oceans* route (§§ 114.110(e) or 175.110(c)).
- iii. Carrying six or less passengers. Sections 115.114 and 176.114 relax certain requirements for a vessel carrying six or less passengers, provided the OCMI authorizes the operation by documenting the route, maximum number of passengers, and minimum manning in an endorsement on the vessel’s Certificate of Inspection (COI). In addition to the provisions listed in §§ 115.114(a)(1) through (3) and 176.114(a)(1) through (3), a vessel need not comply with the requirements in Table 5, provided it has the corresponding COI endorsement listed in Table 5.

Table 5.

Relaxed Requirement (in addition to §§ 115.114(a)(1)-(3) & 176.114(a)(1)-(3))			COI Endorsement	
	Subchapter K	Subchapter T	Vessel w/ <i>overnight accommodations</i>	Vessel w/o <i>overnight accommodations</i>
Watch monitoring device(s)	122.410(b)	185.410(b)	When more than six passengers are carried, passengers are prohibited access to overnight accommodation spaces.	N/A
Egress drills	122.507(a)	185.507(a)		
Safety bill	122.515	185.515		
Means of escape* ( <i>existing vessel</i> only)	116.500	177.500		
Interconnected fire detection	118.400(d)	181.405(c)	When more than six passengers are carried, the vessel may not operate on a coastwise or oceans route and passengers are prohibited access to overnight accommodation spaces.	When more than six passengers are carried, the vessel may not operate on a coastwise or oceans route.
Hazardous items	122.364	185.364		
Training program	122.420(b)	185.420(b)		

\*An *existing vessel* with the appropriate COI endorsement continues to have the option to comply with the *means of escape* requirements applicable to it on March 10, 1996, when carrying six or less passengers.

- iv. “Covered historic vessels” and “historic wood sailing vessels”. Reference (d) provides OCMI authority to temporarily waive the statutory requirement for the two means of escape requirement of 46 U.S.C. 3306(n)(3)(A)(v) for “covered historic vessels” and “historic wood sailing vessels”, as defined in reference (d). Our interim rule in reference (c), which predates reference (d), eliminated the option for *existing vessels* to comply with the requirements applicable to it on March 10, 1996. However, a waiver granted under the statutory authority in reference (d) supersedes the change in applicability of §§ 116.500 and 177.500. An OCMI issuing a waiver must ensure the ‘notice to passengers’ requirements in paragraph (f) of reference (d) are met. OCMI will notify CG-CVC if a waiver is issued under reference (d).
- f. **Enforcement.** If a vessel is found not to conform to an applicable requirement, the OCMI must ensure the deficiency is documented on form CG-835V in accordance with CVC-PR-001(series) and explained to the owner or operator. The CG-835V must limit the operations of the vessel based on the applicability of the requirement.
- 6. APPEALS. Appeals of deficiencies issued to a vessel should follow the procedure outlined in 46 CFR subpart 1.03.
- 7. DISCLAIMER. This policy is not a substitute for applicable legal requirements, nor is it itself a regulation. It is intended to provide operational guidance for Coast Guard personnel and is not intended to nor does it impose legally binding requirements on any party outside the Coast Guard. A member of the public can use an alternative approach for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations.

Subj: "COVERED SMALL PASSENGER VESSEL" FIRE  
SAFETY INTERIM RULE IMPLEMENTATION

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8. QUESTIONS. Questions concerning this policy letter should be directed to the Office of Commercial Vessel Compliance, COMDT (CG-CVC), via [CGCVC@uscg.mil](mailto:CGCVC@uscg.mil).

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