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22 April 2013

MEMORANDUM

From: CG-CVC-3
To: CFVS Coordinators and Examiners
Subj: GUIDANCE ON PROVIDING ASSISTANCE TO COMMERCIAL TRAINING ORGANIZATIONS OFFERING SAFETY TRAINING TO FISHERMEN
Ref: (a) Title 5 Code of Federal Regulations Part 2635
(b) COMDTINST M5370.8B – Standards of Ethical Conduct

Reply to: CG-CVC-3
Attn of: Jack Kemerer
Ext. 2-1249

1. The Coast Guard has often assisted with or supported local safety training programs, and this collaboration has been greatly appreciated by the commercial fishermen receiving the training. These efforts have helped increase awareness of the risks involved in commercial fishing and are changing the industry's culture to better embrace safety. Coast Guard presence at these training programs has contributed to changes in safety attitudes and will continue to further the primary goal of improving safety in the industry. However, we must make certain everyone is aware that, at its sole discretion, the Coast Guard may only use its personnel and equipment to inform commercial fishermen of safety requirements. That means, at the request or with the permission of a commercial training entity, we may provide this information (including demonstrations) to fishermen during a commercial entity's training sessions.

2. Concerns and questions have arisen regarding the ability and legality of the Coast Guard to provide assistance to commercial training organizations that offer, for a fee, safety training programs to commercial fishermen. This issue may become more prevalent as we move toward implementing the requirement, when promulgated in new rules, for individuals in charge of a commercial fishing vessel to complete competency training as required by the *Coast Guard Authorization Act (CGAA) of 2010*.

3. Current training requirements apply to certain commercial fishing vessels and certain individuals on those vessels. These requirements will be expanded when provisions of the CGAA are implemented into our regulations. The Coast Guard does not provide and is not responsible for providing any of the current required training; the same will apply for future training requirements. These programs are conducted by commercial entities, including non-profit and commercial not-for-profit organizations. The current training programs required by regulation must be approved or accepted by the Coast Guard, as will any future required training programs.

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4. Some safety training organizations are under the impression that the Coast Guard will readily assist with and/or support their training programs. We have no such obligation. In fact, we must avoid the appearance that Coast Guard assets, personnel, property, or equipment, are being used in such a manner that they may provide an improper commercial gain, an impermissible selective benefit, or an improper commercial competitive edge to an entity that conducts any required or recommended training. Reference (a) requires Federal employees to act impartially and not show any preference to any private organization or individual. Further, it states that a government employee may not use his/her position, title, or authority to endorse a product or service except in furthering statutory authority, compliance with agency requirements or standards, or under an agency program that recognizes accomplishments in support of the agency's mission(s). Reference (b) discusses and re-states these restrictions and limitations for the Coast Guard.

5. The intent of this memorandum is to ensure that personnel understand and provide guidance that the Coast Guard does not provide support to any commercial training entity, but instead we are providing information to commercial fishermen. This is similar to what is permissible for industry conferences, seminars, and symposia that are produced and hosted by commercial entities where the Coast Guard provides official presenters or panelists on funded orders to such non-federal events to educate and inform industry attendees about our programs, operations, and requirements. So that all parties have realistic expectations regarding safety training programs for fishermen, the following specific information is provided:

- a. Training organizations or the qualified instructors are responsible for notifying OCMI's of an approved/accepted course to be conducted in the Sector's AOR.
- b. If a training organization is interested in a Coast Guard presentation at the training, a formal request should be received in a timely manner. The local Coast Guard unit should determine if it is willing and able to provide the requested information.
- c. Coast Guard units cannot offer or approve the use of any federally-owned or leased facilities to host commercially offered training courses unless specifically authorized and approved by a Designated Agency Ethics Official and subject to the limitations or restrictions outlined by that Official.
- d. The Coast Guard may provide a presenter and safety demonstrations with use of equipment such as dewatering pumps, damage control trainers, stability trainers, or other systems. However, this participation may be limited by command decision regarding personnel availability and operational commitments.
- e. Training organizations should not expect or assume that Coast Guard equipment and/or personnel will always be available for presentations or demonstrations, and any previous approval can be cancelled at any time due to operational requirements.

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f. If participation in training programs is provided, it should be on a consistent basis and available to all commercial training or fishermen's organizations, when possible, so there is no perception of preferential treatment toward any particular non-Federal entity.

6. This information and guidance does not in any way preclude a Coast Guard unit from organizing, hosting, and conducting "Industry-type" days to educate and inform individuals about our activities that focus on compliance, enforcement, safety, or services where there is no financial gain or fee for a commercial entity. Further, there should be no restriction on a commercial entity participating in this type outreach effort if there is no cost to the Coast Guard or attendees.

7. Please feel free to contact Mr. Jack Kemerer at (202) 372-1249, or Mr. Dave Belliveau at (202) 272-1247, should you require additional information or clarification on this guidance.

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