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within the district or zone of that District Commander or Captain of the Port, if the District Commander or the Captain of the Port determines that the vessel's history of accidents, pollution incidents, or serious repair problems creates reason to believe that the vessel may be unsafe or pose a threat to the marine environment.

(b) The authority to issue orders prohibiting operation of the vessels or transfer of cargo or residue under paragraph (a) of this section also applies if the vessel:

(1) Fails to comply with any applicable regulation;

(2) Discharges oil or hazardous material in violation of any law or treaty of the United States;

(3) Does not comply with applicable vessel traffic service requirements;

(4) While underway, does not have at least one deck officer on the navigation bridge who is capable of communicating in the English language.

(c) When a vessel has been prohibited from operating in the navigable waters of the United States under paragraphs (a) or (b) of this section, the District Commander or Captain of the Port may allow provisional entry into the navigable waters of the United States, or into any port or place under the jurisdiction of the United States and within the district or zone of that District Commander or Captain of the Port, if the owner or operator of such vessel proves to the satisfaction of the District Commander or Captain of the Port, that the vessel is not unsafe or does not pose a threat to the marine environment, and that such entry is necessary for the safety of the vessel or the persons on board.

(d) A vessel which has been prohibited from operating in the navigable waters of the United States, or from transferring cargo or residue in a port or place under the jurisdiction of the United States under the provisions of paragraph (a) or (b)(1), (2) or (3) of this section, may be allowed provisional entry if the owner or operator proves, to the satisfaction of the District Commander or Captain of the Port that has jurisdiction, that the vessel is no longer unsafe or a threat to the environment, and that the condition which

gave rise to the prohibition no longer exists.

[CGD 79–026, 48 FR 35404, Aug. 4, 1983, as amended by CGD 96–026, 61 FR 33668, June 28, 1996; USCG–1998–3799, 63 FR 35531, June 30, 1998; USCG–2006–24371, 74 FR 11212, Mar. 16, 2009]

§ 160.115 Withholding of clearance.

Each District Commander or Captain of the Port may request the Secretary of the Treasury, or the authorized representative thereof, to withhold or revoke the clearance required by 46 U.S.C. App. 91 of any vessel, the owner or operator of which is subject to any penalties under 33 U.S.C. 1232.

[CGD 79–026, 48 FR 35404, Aug. 4, 1983; 48 FR 39059, Aug. 29, 1983, as amended by USCG–1998–3799, 63 FR 35531, June 30, 1998]

Subpart C—Notification of Arrival, Hazardous Conditions, and Certain Dangerous Cargos

SOURCE: USCG–2002–11865, 68 FR 9543, Feb. 28, 2003, unless otherwise noted.

§ 160.201 General.

This subpart contains requirements and procedures for submitting Notices of Arrival (NOA) and Notice of Hazardous Condition. The sections in this subpart describe:

- (a) Applicability and exemptions from requirements in this subpart;
- (b) Required information in an NOA;
- (c) Required changes to an NOA;
- (d) Methods and times for submission of an NOA and changes to an NOA;
- (e) How to obtain a waiver; and
- (f) Requirements for submission of the Notice of Hazardous Conditions.

§ 160.202 Applicability.

(a) This subpart applies to U.S. and foreign vessels bound for or departing from ports or places in the United States.

(b) This subpart does not apply to U.S. recreational vessels under 46 U.S.C. 4301 *et seq.*, but does apply to foreign recreational vessels.

(c) Unless otherwise specified in this subpart, the owner, agent, master, operator, or person in charge of a vessel regulated by this subpart is responsible

for compliance with the requirements in this subpart.

(d) Towing vessels controlling a barge or barges required to submit an NOA under this subpart must submit only one NOA containing the information required for the towing vessel and each barge under its control.

[USCG-2002-11865, 68 FR 9543, Feb. 28, 2003, as amended by USCG-2004-19963, 70 FR 74669, Dec. 16, 2005]

§ 160.203 Exemptions.

(a) Except for reporting notice of hazardous conditions, the following vessels are exempt from requirements in this subpart:

(1) Passenger and supply vessels when they are employed in the exploration for or in the removal of oil, gas, or mineral resources on the continental shelf.

(2) Oil Spill Recovery Vessels (OSRVs) when engaged in actual spill response operations or during spill response exercises.

(3) Vessels operating upon the following waters:

(i) Mississippi River between its sources and mile 235, Above Head of Passes;

(ii) Tributaries emptying into the Mississippi River above mile 235;

(iii) Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway and the Red River; and

(iv) The Tennessee River from its confluence with the Ohio River to mile zero on the Mobile River and all other tributaries between those two points.

(b) If not carrying certain dangerous cargo or controlling another vessel carrying certain dangerous cargo, the following vessels are exempt from NOA requirements in this subpart:

(1) Vessels 300 gross tons or less, except for foreign vessels entering any port or place in the Seventh Coast Guard District as described in 33 CFR 3.35-1(b).

(2) Vessels operating exclusively within a Captain of the Port Zone.

(3) Vessels arriving at a port or place under force majeure.

(4) Towing vessels and barges operating solely between ports or places in the continental United States.

(5) Public vessels.

(6) Except for tank vessels, U.S. vessels operating solely between ports or places in the United States on the Great Lakes.

(c) Vessels less than 500 gross tons need not submit the International Safety Management (ISM) Code Notice (Entry (7) to Table 160.206).

(d) Vessels operating solely between ports or places in the continental United States need not submit the Cargo Declaration (Customs Form 1302), (Entry (8) to Table 160.206).

(e) This section does not exempt any vessel from compliance with the U.S. Customs Service (USCS) reporting or submission requirements.

(f) U.S. vessels need not submit the International Ship and Port Facility Code (ISPS) Notice information (Entry (9) to Table 160.206).

[USCG-2002-11865, 68 FR 9543, Feb. 28, 2003, as amended by USCG-2003-14749, 68 FR 39313, July 1, 2003; 68 FR 63735, Nov. 10, 2003]

EFFECTIVE DATE NOTE: By USCG-2002-11865, 68 FR 27908, May 22, 2003, in § 160.203, paragraphs (d) and (e) were suspended, effective May 22, 2003.

§ 160.204 Definitions.

As used in this subpart:

Agent means any person, partnership, firm, company or corporation engaged by the owner or charterer of a vessel to act in their behalf in matters concerning the vessel.

Barge means a non-self propelled vessel engaged in commerce.

Carried in bulk means a commodity that is loaded or carried on board a vessel without containers or labels and received and handled without mark or count.

Certain dangerous cargo (CDC) includes any of the following:

(1) Division 1.1 or 1.2 explosives as defined in 49 CFR 173.50.

(2) Division 1.5D blasting agents for which a permit is required under 49 CFR 176.415 or, for which a permit is required as a condition of a Research and Special Programs Administration exemption.

(3) Division 2.3 “poisonous gas”, as listed in 49 CFR 172.101 that is also a “material poisonous by inhalation” as defined in 49 CFR 171.8, and that is in a quantity in excess of 1 metric ton per vessel.

(4) Division 5.1 oxidizing materials for which a permit is required under 49 CFR 176.415 or for which a permit is required as a condition of a Research and Special Programs Administration exemption.

(5) A liquid material that has a primary or subsidiary classification of Division 6.1 “poisonous material” as listed in 49 CFR 172.101 that is also a “material poisonous by inhalation,” as defined in 49 CFR 171.8 and that is in a bulk packaging, or that is in a quantity in excess of 20 metric tons per vessel when not in a bulk packaging.

(6) Class 7, “highway route controlled quantity” radioactive material or “fissile material, controlled shipment,” as defined in 49 CFR 173.403.

(7) All bulk liquefied gas cargo carried under 46 CFR 151.50–31 or listed in 46 CFR 154.7 that is flammable and/or toxic and that is not carried as certain dangerous cargo residue (CDC residue).

(8) The following bulk liquids except when carried as CDC residue:

- (i) Acetone cyanohydrin;
- (ii) Allyl alcohol;
- (iii) Chlorosulfonic acid;
- (iv) Crotonaldehyde;
- (v) Ethylene chlorohydrin;
- (vi) Ethylene dibromide;
- (vii) Methacrylonitrile;
- (viii) Oleum (fuming sulfuric acid); and
- (ix) Propylene oxide, alone or mixed with ethylene oxide.

(9) The following bulk solids:

- (i) Ammonium nitrate listed as a Division 5.1 (oxidizing) material in 49 CFR 172.101 except when carried as CDC residue; and
- (ii) Ammonium nitrate based fertilizer listed as a Division 5.1 (oxidizing) material in 49 CFR 172.101 except when carried as CDC residue.

Certain dangerous cargo residue (CDC residue) includes any of the following:

(1) Ammonium nitrate in bulk or ammonium nitrate based fertilizer in bulk remaining after all saleable cargo is discharged, not exceeding 1,000 pounds in total and not individually accumulated in quantities exceeding two cubic feet.

(2) For bulk liquids and liquefied gases, the cargo that remains onboard in a cargo system after discharge that is not accessible through normal trans-

fer procedures, with the exception of the following bulk liquefied gas cargoes carried under 46 CFR 151.50–31 or listed in 46 CFR 154.7:

- (i) Ammonia, anhydrous;
- (ii) Chlorine;
- (iii) Ethane;
- (iv) Ethylene oxide;
- (v) Methane (LNG);
- (vi) Methyl bromide;
- (vii) Sulfur dioxide; and
- (viii) Vinyl chloride.

Charterer means the person or organization that contracts for the majority of the carrying capacity of a ship for the transportation of cargo to a stated port for a specified period. This includes “time charterers” and “voyage charterers.”

Crewmember means all persons carried on board the vessel to provide navigation and maintenance of the vessel, its machinery, systems, and arrangements essential for propulsion and safe navigation or to provide services for other persons on board.

Great Lakes means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far as Saint Regis, and adjacent port areas.

Gross tons means the tonnage determined by the tonnage authorities of a vessel’s flag state in accordance with the national tonnage rules in force before the entry into force of the International Convention on Tonnage Measurement of Ships, 1969 (“Convention”). For a vessel measured only under Annex I of the Convention, gross tons means that tonnage. For a vessel measured under both systems, the higher gross tonnage is the tonnage used for the purposes of the 300-gross-ton threshold.

Hazardous condition means any condition that may adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable waterway of the United States. It may, but need not, involve collision, allision, fire, explosion, grounding, leaking, damage, injury or illness of a person aboard, or manning-shortage.

Nationality means the state (nation) in which a person is a citizen or to which a person owes permanent allegiance.

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Operator means any person including, but not limited to, an owner, a charterer, or another contractor who conducts, or is responsible for, the operation of a vessel.

Persons in addition to crewmembers mean any person onboard the vessel, including passengers, who are not included on the list of crewmembers.

Port or place of departure means any port or place in which a vessel is anchored or moored.

Port or place of destination means any port or place in which a vessel is bound to anchor or moor.

Public vessel means a vessel that is owned or demise-(bareboat) chartered by the government of the United

States, by a State or local government, or by the government of a foreign country and that is not engaged in commercial service.

Time charterer means the party who hires a vessel for a specific amount of time. The owner and his crew manage the vessel, but the charterer selects the ports of destination.

Voyage charterer means the party who hires a vessel for a single voyage. The owner and his crew manage the vessel, but the charterer selects the ports of destination.

[USCG–2002–11865, 68 FR 9543, Feb. 28, 2003, as amended by USCG–2004–19963, 70 FR 74669, Dec. 16, 2005; 75 FR 59620, Sept. 28, 2010]

§ 160.206 Information required in an NOA.

(a) Each NOA must contain all of the information items specified in Table 160.206.

TABLE 160.206—NOA INFORMATION ITEMS

| Required information | Vessels not carrying CDC | Vessels carrying CDC | |
|---|--------------------------|----------------------|---|
| | | Vessels | Towing vessels controlling vessels carrying CDC |
| <i>(1) Vessel Information:</i> | | | |
| (i) Name; | X | X | X |
| (ii) Name of the registered owner; | X | X | X |
| (iii) Country of registry; | X | X | X |
| (iv) Call sign; | X | X | X |
| (v) International Maritime Organization (IMO) international number or, if vessel does not have an assigned IMO international number, substitute with official number; | X | X | X |
| (vi) Name of the operator; | X | X | X |
| (vii) Name of the charterer; and | X | X | X |
| (viii) Name of classification society | X | X | X |
| <i>(2) Voyage Information:</i> | | | |
| (i) Names of last five ports or places visited; | X | X | X |
| (ii) Dates of arrival and departure for last five ports or places visited; | X | X | X |
| (iii) For each port or place in the United States to be visited list the names of the receiving facility, the port or place, the city, and the state; | X | X | X |
| (iv) For each port or place in the United States to be visited, the estimated date and time of arrival; | X | X | X |
| (v) For each port or place in the United States to be visited, the estimated date and time of departure; | X | X | X |
| (vi) The location (port or place and country) or position (latitude and longitude or waterway and mile marker) of the vessel at the time of reporting; and | X | X | X |
| (vii) The name and telephone number of a 24-hour point of contact | X | X | X |
| <i>(3) Cargo Information:</i> | | | |
| (i) A general description of cargo, other than CDC, onboard the vessel (e.g.: grain, container, oil, etc.); | X | X | X |
| (ii) Name of each certain dangerous cargo carried, including cargo UN number, if applicable; and | | X | X |
| (iii) Amount of each certain dangerous cargo carried | | X | X |
| <i>(4) Information for each Crewmember Onboard:</i> | | | |
| (i) Full name; | X | X | X |
| (ii) Date of birth; | X | X | X |
| (iii) Nationality; | X | X | X |
| (iv) Passport or mariners document number (type of identification and number); | X | X | X |

TABLE 160.206—NOA INFORMATION ITEMS—Continued

| Required information | Vessels not carrying CDC | Vessels carrying CDC | |
|--|--------------------------|----------------------|---|
| | | Vessels | Towing vessels controlling vessels carrying CDC |
| (v) Position or duties on the vessel; and | X | X | X |
| (vi) Where the crewmember embarked (list port or place and country) ... | X | X | X |
| (5) Information for each Person Onboard in Addition to Crew: | | | |
| (i) Full name; | X | X | X |
| (ii) Date of birth; | X | X | X |
| (iii) Nationality; | X | X | X |
| (iv) Passport number; and | X | X | X |
| (v) Where the person embarked (list port or place and country) | X | X | X |
| (6) Operational condition of equipment required by § 164.35 of this chapter .. | X | X | X |
| (7) International Safety Management (ISM) Code Notice: | | | |
| (i) The date of issuance for the company's Document of Compliance certificate that covers the vessel; | X | X | X |
| (ii) The date of issuance for the vessel's Safety Management Certificate; and | X | X | X |
| (iii) The name of the Flag Administration, or the recognized organization(s) representing the vessel flag administration, that issued those certificates | X | X | X |
| (8) Cargo Declaration (Customs Form 1302) as described in 19 CFR 4.7 | X | X | X |
| (9) International Ship and Port Facility Code (ISPS) Notice*: | | | |
| (i) The date of issuance for the vessel's International Ship Security Certificate (ISSC), if any; | X | X | X |
| (ii) Whether the ISSC, if any, is an initial Interim ISSC, subsequent and consecutive Interim ISSC, or final ISSC; | X | X | X |
| (iii) Declaration that the approved ship security plan, if any, is being implemented; | X | X | X |
| (iv) If a subsequent and consecutive Interim ISSC, the reasons therefor; | X | X | X |
| (v) The name and 24-hour contact information for the Company Security Officer; and | X | X | X |
| (vi) The name of the Flag Administration, or the recognized security organization(s) representing the vessel flag Administration that issued the ISSC. | X | X | X |

*The information required by items 9(i)-(iii) need not be submitted before January 1, 2004. All other information required by item 9 need not be submitted before July 1, 2004.

(b) Vessels operating solely between ports or places in the continental United States need submit only the name of and date of arrival and departure for the last port or places visited to meet the requirements in entries (2)(i) and (ii) to Table 160.206 of this section.

(c) You may submit a copy of INS Form I-418 to meet the requirements of entries (4) and (5) in Table 160.206.

(d) Any vessel planning to enter two or more consecutive ports or places in the United States during a single voyage may submit one consolidated Notification of Arrival at least 96 hours before entering the first port or place of destination. The consolidated notice must include the name of the port or place and estimated arrival and departure date for each destination of the voyage. Any vessel submitting a consolidated notice under this section must still meet the requirements of

§ 160.208 of this part concerning requirements for changes to an NOA.

[USCG-2002-11865, 68 FR 9543, Feb. 28, 2003, as amended by USCG-2003-14749, 68 FR 39313, July 1, 2003; 68 FR 63735, Nov. 10, 2003]

EFFECTIVE DATE NOTE: By USCG-2002-11865, 68 FR 27908, May 22, 2003, in paragraph (a), item (8) in table 160.206 was suspended, effective May 22, 2003.

§ 160.208 Changes to a submitted NOA.

(a) Unless otherwise specified in this section, when submitted NOA information changes, vessels must submit a notice of change within the times required in § 160.212.

(b) Changes in the following information need not be reported:

(1) Changes in arrival or departure times that are less than six (6) hours;

(2) Changes in vessel location or position of the vessel at the time of reporting (entry (2)(vi) to Table 160.206); and

(3) Changes to crewmembers' position or duties on the vessel (entry (5)(v) to Table 160.206).

(c) When reporting changes, submit only the name of the vessel, original NOA submission date, the port of arrival, the specific items to be corrected, and the new location or position of the vessel at the time of reporting. Only changes to NOA information need to be submitted.

§ 160.210 Methods for submitting an NOA.

(a) *Submission to the National Vessel Movement Center (NVMC).* Except as provided in paragraphs (b) and (c) of this section, vessels must submit NOA information required by §160.206 (entries 1 through 9 in Table 160.206) to the NVMC, United States Coast Guard, 408 Coast Guard Drive, Kearneysville, WV 25430, by:

(1) Electronic submission via the electronic Notice of Arrival and Departure (eNOAD) and consisting of the following three formats:

(i) A Web site that can be used to submit NOA information directly to the NVMC, accessible from the NVMC web site at <http://www.nvmc.uscg.gov>;

(ii) Electronic submission of Extensible Markup Language (XML) formatted documents via web service;

(iii) Electronic submission via Microsoft InfoPath; contact the NVMC at sans@nvmc.uscg.gov or by telephone at 1-800-708-9823 or 304-264-2502 for more information;

(2) E-mail at sans@nvmc.uscg.gov. Workbook available at <http://www.nvmc.uscg.gov>;

(3) Fax at 1-800-547-8724 or 304-264-2684. Workbook available at <http://www.nvmc.uscg.gov>; or,

(4) Telephone at 1-800-708-9823 or 304-264-2502.

(b) *Saint Lawrence Seaway transits.* Those vessels transiting the Saint Lawrence Seaway inbound, bound for a port or place in the United States, may meet the submission requirements of paragraph (a) of this section by submitting the required information to the Saint Lawrence Seaway Development Corporation and the Saint Lawrence Seaway Management Corporation of Canada by fax at 315-764-3235 or at 315-764-3200. The Cargo Declaration (Cus-

toms Form 1302) in entry (8) in Table 160.206 must be submitted electronically to the USCS, as required by paragraph (d) of this section.

(c) *Seventh Coast Guard District.* Those foreign vessels 300 or less gross tons operating in the Seventh Coast Guard District must submit an NOA to the cognizant Captain of the Port (COTP). The Cargo Declaration (Customs Form 1302) in entry (8) in Table 160.206 must be submitted electronically to the USCS, as required by paragraph (d) of this section.

(d) *Submission to the United States Customs Service's Sea Automated Manifest System (AMS).* (1) Beginning July 1, 2003, the Cargo Declaration (Customs Form 1302) in entry (8) in Table 160.206 must be submitted electronically to the USCS Sea AMS by one of the following methods:

(i) By direct connection with USCS or by purchasing the proper software; or

(ii) Using a service provider or a Port Authority.

(2) To become a participant in Sea AMS, submitters must provide a letter of intent to USCS prior to first submission.

[USCG-2002-11865, 68 FR 9543, Feb. 28, 2003; 68 FR 63735, Nov. 10, 2003, as amended by USCG-2004-19963, 70 FR 74669, Dec. 16, 2005]

EFFECTIVE DATE NOTE: By USCG-2002-11865, 68 FR 27908, May 22, 2003, in §160.210, the last sentence of paragraph (b), the last sentence of paragraph (c), and paragraph (d) were suspended, effective May 22, 2003.

§ 160.212 When to submit an NOA.

(a) *Submission of NOA.* (1) Except as set out in paragraph (a)(2) of this section, all vessels must submit NOAs within the times required in paragraph (a)(3) of this section.

(2) Towing vessels, when in control of a vessel carrying CDC and operating solely between ports or places in the continental United States, must submit an NOA before departure but at least 12 hours before entering the port or place of destination.

(3) Times for submitting NOAs areas follows:

| If your voyage time is— | You must submit an NOA— |
|---------------------------|--|
| (i) 96 hours or more; or, | At least 96 hours before entering the port or place of destination; or |

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| | |
|--------------------------|--|
| If your voyage time is— | You must submit an NOA— |
| (ii) Less than 96 hours. | Before departure but at least 24 hours before entering the port or place of destination. |

(b) *Submission of changes to NOA.* (1) Except as set out in paragraph (b)(2) of this section, vessels must submit changes in NOA information within the times required in paragraph (b)(3) of this section.

(2) Towing vessels, when in control of a vessel carrying CDC and operating solely between ports or places in the continental United States, must submit changes to an NOA as soon as practicable but at least 6 hours before entering the port or place of destination.

(3) Times for submitting changes to NOAs are as follows:

| | |
|--|---|
| If your remaining voyage time is— | Then you must submit changes to an NOA— |
| (i) 96 hours or more; | As soon as practicable but at least 24 hours before entering the port or place of destination; |
| (ii) Less than 96 hours but not less than 24 hours; or | As soon as practicable but at least 24 hours before entering the port or place of destination; or |
| (iii) Less than 24 hours. | As soon as practicable but at least 12 hours before entering the port or place of destination. |

(c) *Submission of the Cargo Declaration (Customs Form 1302).* (1) Except as set out in paragraph (c)(2) of this section, all vessels must submit to USCS the Cargo Declaration (Customs Form 1302) in entry (8) to Table 160.206, within the times required in paragraph (a)(3) of this section.

(2)(i) Except for vessels carrying containerized cargo or break bulk cargo, vessels carrying bulk cargo may submit the Cargo Declaration (Customs Form 1302), (Entry (8) to Table 160.206) before departure but at least 24 hours before entering the U.S. port or place of destination.

(ii) Vessels carrying break bulk cargo operating under a USCS exemption granted under 19 CFR 4.7(b)(4)(ii) may, during the effective period of the USCS exemption, submit the Cargo Declaration (Customs Form 1302), (Entry (8) to Table 160.206) before departure but at

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least 24 hours before entering the U.S. port or place of destination.

[USCG–2002–11865, 68 FR 9543, Feb. 28, 2003; 68 FR 63735, Nov. 10, 2003]

EFFECTIVE DATE NOTE: By USCG–2002–11865, 68 FR 27908, May 22, 2003, in §160.212, paragraph (c) was suspended, effective May 22, 2003.

§ 160.214 Waivers.

The Captain of the Port may waive, within that Captain of the Port’s designated zone, any of the requirements of this subpart for any vessel or class of vessels upon finding that the vessel, route, area of operations, conditions of the voyage, or other circumstances are such that application of this subpart is unnecessary or impractical for purposes of safety, environmental protection, or national security.

§ 160.215 Notice of hazardous conditions.

Whenever there is a hazardous condition either aboard a vessel or caused by a vessel or its operation, the owner, agent, master, operator, or person in charge shall immediately notify the nearest Coast Guard Sector Office or Group Office. (Compliance with this section does not relieve responsibility for the written report required by 46 CFR 4.05–10.)

[USCG–2002–11865, 68 FR 9543, Feb. 28, 2003, as amended by USCG–2006–25556, 72 FR 36328, July 2, 2007]

Subpart D—Crewmember Identification

SOURCE: USCG–2007–28648, 74 FR 19140, Apr. 28, 2009, unless otherwise noted.

§ 160.300 Applicability.

(a) This subpart applies to crewmembers on the following vessels in the navigable waters of the United States en route to a U.S. port or place of destination or at a U.S. port or place:

- (1) A foreign vessel engaged in commercial service, and
- (2) A U.S. vessel engaged in commercial service and coming from a foreign port or place of departure.