



Client Alert 19-2019

October 28, 2019

US Customs & Border Protection

Crew Shore Leave Policy - Changes in New York

On October 2, 2019, the US Customs and Border Protection (CBP) office in New York announced a **new policy restricting shore leave in the New York/Newark port area to only crew who have completed five contracts**. According to CBP NY, this new policy is in response to the increased number of crew who have deserted during shore leave there.

At this time we do not know how long this policy will remain in force, or the effect it might have on shore leave in other US ports. ECM recently checked with CBP Philadelphia, who advised us that a decision made by CBP NY denying a crew member shore leave would not necessarily mean that CBP Philadelphia would follow suit, should the vessel call at Philadelphia after NY. On the other hand, one of ECM's clients recently had a crew member detained on board a container vessel and denied medical repatriation by CBP NY. The vessel then called at Savannah, GA where the crew member was prevented from off-signing by CBP Savannah, even though he had a medical issue for which a US doctor had recommended repatriation. In that case, CBP Savannah advised the vessel's agent that the denial was issued because CBP NY had detained the same crew member in New York previously. Ultimately, each CBP office has full discretion to grant or deny shore leave and/or repatriation to a crew member in their jurisdiction, regardless of a US visa.

The new policy, announced in Informational Pipeline No, 19-032-NWK (appended), allows for exemptions to be filed by vessel operators on behalf of specific crewmembers. Such exemptions must be filed via local agents at least 48 hours prior to arrival and will be examined on a case-by-case basis. If approved, they will only be for that specific port call. A new request must be filed for each port call, even if an exemption request for a previous port call at New York had been approved.

ECM spoke with CBP representatives to confirm this policy and to clarify the meaning of the term "contract" as it relates to vessel voyages. **CBP has made it clear that they mean full contracts of service, not vessel voyages or calls made by a crew member to a particular port.** As an example, a crew member with a valid US visa may sign a one year contract to serve aboard a vessel. He/she could join the vessel in Europe and make a voyage to the US ports of Boston/New York/Philadelphia/Savannah, then return back to Europe to begin the rotation again. **During the course of his/her one year contract, he/she could make numerous US port calls on multiple voyages, but all that is considered one contract.** Accordingly, **this crew member would have to complete five such contracts before being allowed shore leave by CBP in New York.**

For additional information please contact local agencies in the New York region, who are already engaging with CBP on this issue.

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**U.S. CUSTOMS AND BORDER PROTECTION
FIELD OPERATIONS, NEW YORK
PORT OF NEW YORK / NEWARK**

INFORMATIONAL PIPELINE NO. 19-032-NWK

TO: All Vessel Owners, Agents, Consignees, Charterers, Masters, Commanding Officers, Carriers, Terminal Operators, Brokers, and Others Concerned in the Port of New York/Newark

SUBJECT: New Shore Leave Policy for Crewmembers in the Port of New York/Newark

DATE: SEP 25 2019

Purpose: The purpose of this pipeline is to provide interim guidance by Customs and Border Protection (CBP) at the Port of New York/Newark regarding the minimum number of completed contracts required for crewmembers to be granted shore leave until further notice.

Background: Recently, there has been an uptick in the number of deserters in the Port of New York/Newark. To mitigate this threat, CBP in the Port of New York/Newark will require crewmembers to have completed a minimum of 5 contracts before any consideration will be given to granting shore leave.

Action: Shore Leave Policy. Upon the issuance of this pipeline, CBP will not grant a conditional landing permit for any crewmember arriving into the Port of New York/Newark who are on their first through fifth contract until further notice. Once a crewmember has successfully completed a minimum of 5 contracts, CBP will consider granting a conditional landing permit for shore leave. In addition, CBP may exercise its authority to cancel shore for any crew member at any time without notice.

It is the responsibility of the vessel master or vessel agent to provide CBP with a list of crewmembers who have yet to complete a total of five contracts on the same vessel line prior to the arrival of the vessel into the port. It is also the responsibility of the vessel master and vessel agent to ensure that crewmembers who do not meet the criteria of 5 completed contracts and have not been granted a conditional landing permit remain secured on the vessel. Failure to adhere firmly to this policy will result in penalties.

CBP recognizes the hardship this may place on crewmembers however this protocol is necessary to address the increase of desertions in this port. We appreciate your continued partnership in this matter. For any questions or concerns please contact a Supervisory CBP Officer, Maritime Admissibility Unit, Port of New York/Newark at 201-436-2850 or e-mail MAU-NY-NWK@cbp.dhs.gov.



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