

issue a letter disenrolling the vessel or company. Disenrolled vessels will be inspected in accordance with the requirements of 46 CFR part 2, subpart 2.01 of this chapter.

(b) *Company disenrollment.* The OCMI may issue a letter disenrolling the company if the company no longer has at least one enrolled vessel or if the company fails to continue to meet the eligibility requirements in §8.515.

(c) *Vessel disenrollment.* The OCMI may issue a letter disenrolling a vessel if any one or more of the following occurs:

- (1) The sale of the vessel.
- (2) A finalized letter of warning or assessment of a civil penalty for—
  - (i) Operating outside the scope of the vessel's COI or Stability Letter;
  - (ii) Not reporting a personnel or material casualty required to be reported under 46 CFR part 4; or
  - (iii) A material deficiency listed in §8.515(b)(3).

#### §8.560 Waiver.

(a) A Coast Guard District Commander may waive any requirement of this subpart—

- (1) If good cause exists for granting a waiver; and
- (2) If the safety of the vessel and those on board will not be adversely affected.

(b) Requests for waiver of any requirement of this subpart must be submitted in writing to the cognizant OCMI for review before forwarding to the Coast Guard District Commander for action.

(c) A copy of each waiver granted under this section shall be maintained at all times in the VAP.

#### §8.565 Appeal.

A company may appeal any decision or action taken under this subpart in accordance with 46 CFR part 1, subpart 1.03 of this chapter.

#### §8.570 Interim approval of prototype SIP company or vessel plans.

(a) A company operating under an approved prototype SIP company or vessel plan must apply in writing by November 1, 1998, to the cognizant OCMI for approval to continue operating under the plans while revisions are de-

veloped to bring the prototype SIP company or vessel plan into conformance with this subpart. The OCMI may approve the request for a period of up to 3 years.

(b) A company that does not request approval as required by paragraph (a) of this section or does not obtain approval to continue operating under a prototype SIP company or vessel plan by February 1, 1999, may no longer operate under the plans and will be inspected in accordance with the requirements of 46 CFR part 2, subpart 2.01 of this chapter.

### PART 9—EXTRA COMPENSATION FOR OVERTIME SERVICES

Sec.

- 9.1 Extra compensation; Coast Guard civilian personnel.
- 9.2 Payment although no actual service performed.
- 9.3 Overtime earnings not basis for overtime under Federal Employees Pay Act of 1945.
- 9.4 Waiting time; actual report for duties.
- 9.5 Night, Sunday, and holiday defined.
- 9.6 Rate for night service.
- 9.7 Rate for Sunday or holiday services.
- 9.8 Broken periods.
- 9.9 Two hours between broken periods.
- 9.10 Waiting time.
- 9.11 Proration of charges.
- 9.12 Travel status overtime.
- 9.13 Congressional appropriations necessary.
- 9.14 Assessment and collection of fees.
- 9.15 Application form.
- 9.16 Billing for services.
- 9.17 Protests.

AUTHORITY: 46 U.S.C. 2103; 49 CFR 1.46.

SOURCE: CGD 74-119, 39 FR 33336, Sept. 17, 1974, unless otherwise noted.

#### §9.1 Extra compensation; Coast Guard civilian personnel.

Civilians assigned to the duties formerly assigned to local inspectors and their assistants, United States shipping commissioners and their deputies and assistants prior to Reorganization Plan No. 3 of 1946 (3 CFR, 1946 Supp.), and customs officers and employees, while performing duties in connection with the inspection of vessels or their equipment, supplying or signing on or discharging crews of vessels, at night or on Sundays and holidays, shall receive extra compensation to be paid by

## §9.2

the master, owner, or agent of the vessel to the local United States collector of customs or his representative. (See §9.16.)

### §9.2 Payment although no actual service performed.

The rates of extra compensation are payable in cases where the services of officers or employees have been duly requested and the officers or employees have reported for duty, even though no actual service may be performed.

### §9.3 Overtime earnings not basis for overtime under Federal Employees Pay Act of 1945.

Overtime, Sunday, and holiday services which are covered by payments under this part shall not also form a basis for overtime or extra pay under the Federal Employees Pay Act of 1945.

### §9.4 Waiting time; actual report for duties.

Extra compensation for *waiting time* will not be allowed unless and until an officer or employee actually reports for duty.

### §9.5 Night, Sunday, and holiday defined.

(a) For the purpose of this part the word *night* shall mean the time between 5 p.m. of any day and 8 a.m. of the following day.

(b) The term *holiday* shall mean only national legal public holidays, viz., January 1, February 22, May 30, July 4, the 1st Monday in September, November 11, the 4th Thursday in November, December 25, and such other days as may be declared legal public holidays by an act of Congress or by an Executive order of the President of the United States.

(c) The term *Sunday* shall include the first day of each calendar week.

### §9.6 Rate for night service.

The rate of extra compensation for authorized overtime services performed at night on any week day is hereby fixed at one half the gross daily rate of regular pay of the employee who performs the services for each 2 hours of compensable time, any fraction of 2 hours amounting to at least one hour to be counted as 2 hours. In computing

## 46 CFR Ch. I (10-1-99 Edition)

the amount earned, each 2 hours is the time period for the purpose of computation, at least one hour means the minimum service in each period for which extra pay may be granted. If service continues beyond a 2 hour period, it must extend for at least one hour into the following 2 hour period to be entitled to extra pay for the second period. When the overtime extends beyond 5 p.m., payment of extra compensation from 5 p.m. for services consisting of at least one hour is authorized, even though such services may not actually begin until 7 p.m., 9 p.m., or later: *Provided*, That the officer rendering the service remained on duty from 5 p.m., in which case the time between 5 p.m., and the time of beginning the actual service shall be computed as waiting time; and where the actual services begin as late as 9 p.m., there should be an affirmative statement that the officer was required to remain on duty between 5 p.m. and 9 p.m., if a charge for waiting time is made. The maximum amount of extra compensation which may be paid an employee for services during one night shall not exceed two and one-half times the gross daily rate of his regular pay.

### §9.7 Rate for Sunday or holiday services.

The rate of extra compensation for Sunday or holiday services is hereby fixed at twice the gross daily rate of regular pay of the employee who performs the service, for any and all services totaling an aggregate of not more than nine hours, with one hour for food and rest, during the 24 hours from midnight to midnight of the Sunday or holiday including actual waiting time and time required for travel between posts of duty but not including other time not spent at the post of duty. This rate shall apply regardless of the length of time served within the aggregate of the aforesaid 9 hours, whether it is served continuously or in broken periods, and whether it is served for one or more applicants. Services in excess of an aggregate of the aforesaid 9 hours performed during the 24 hours of a Sunday or holiday shall be compensated on the same basis as overtime services performed at night on a week-day, the time between the completion

## Coast Guard, DOT

## §9.17

of the aggregate of the aforesaid 9 hours and midnight being considered as the hours of a night. The maximum amount which may be paid an employee for services performed during the 24 hours of a Sunday or holiday shall not exceed four and one-half times the gross daily rate of his regular pay.

### §9.8 Broken periods.

In computing extra compensation where the services rendered are in broken periods and less than 2 hours intervene between such broken periods the time served should be combined with the waiting time and computed as continuous service.

### §9.9 Two hours between broken periods.

Where 2 hours or more intervene between broken periods, one-half day's extra pay will be allowed for each distinct 2-hour period or part of a 2-hour period, if waiting time and actual service rendered within each period consists of at least 1 hour.

### §9.10 Waiting time.

The same construction should be given the act when charging for waiting time as governs the charge for services actually rendered. No charge should be made unless after having reported for duty the waiting time amounts to at least one hour.

### §9.11 Proration of charges.

If services are performed for two or more applicants during one continuous tour of overtime duty, the charge for the extra compensation earned shall be prorated equitably according to the time attributable to the services performed for each applicant.

### §9.12 Travel status overtime.

When employees are in travel status, overtime shall apply the same as at official station.

### §9.13 Congressional appropriations necessary.

Payment of extra compensation for overtime services shall be subject to appropriations being made therefor by Congress.

### §9.14 Assessment and collection of fees.

Assessment and collection of fees against steamship companies for overtime services shall be made even though the payment to employees for such services may not be made until funds are appropriated for that purpose.

### §9.15 Application form.

An application on a form prescribed by the Commandant of the Coast Guard, shall be filed with the office being requested to furnish overtime services before such assignment can be made.

### §9.16 Billing for services.

Overtime services shall be billed to the steamship companies on collection voucher provided for that purpose. Remittance shall be made by postal money order or certified check payable to the *Collector of Customs, Treasury Department* and forwarded to that officer at the port indicated on the voucher, who shall in turn deposit such remittance to a properly designated receipt account.

### §9.17 Protests.

Protests against the exaction of extra compensation shall be forwarded to the Commandant of the Coast Guard.



# INDEX

## SUBCHAPTER A—PROCEDURES APPLICABLE TO THE PUBLIC

EDITORIAL NOTE: This listing is provided for informational purposes only. It is compiled and kept current by the U.S. Coast Guard, Department of Transportation.

*Part, subpart, or section*

### A

Absentia .....	5.527(d)
Acceptance of standards and functions delegated under existing regulations.....	8.250
Acting under authority of license, certificate or document.....	5.57
Action on appeal .....	5.705
Action on Marine Board of Investigation report.....	4.09-30
Action on petition .....	5.605
Action on review.....	5.805
Acts or offenses for which revocation of licenses, certificates or documents is mandatory .....	5.61
Addiction.....	5.35
Adherence to rules of evidence .....	4.19-5
Admissibility of respondent's Coast Guard records prior to entry of findings and conclusions .....	5.549
Admission.....	5.63, 5.533
Administrative actions.....	5.5
Administrative Law Judge.....	5.1, 5.19
Administrative Law Judge's findings and conclusions .....	5.563
Aggravation.....	5.565
Aialik Cape, AK .....	7.160
Aid to navigation .....	4.05-20
Alaska .....	2.01-80, 7.150, 7.155, 7.160, 7.165, 7.170, 7.175, 7.180
Alcohol or drug use by individuals directly involved in casualties .....	4.05-12
Aleutian Islands, AK.....	7.170
Allision.....	4.05-1(a)(1)
Allowances, payment of.....	5.401
Alternative Compliance Program.....	8.400
Agreement conditions.....	8.130
Applicability.....	8.410
Classification society authorization to participate in the Program .....	8.420
Purpose .....	8.400
Termination of classification society authority .....	8.450
U.S. supplement to class rules.....	8.430
Vessel enrollment in the Program.....	8.440
American Bureau of Shipping (ABS) .....	8.110
American National Standards Institute (ANSI) .....	8.110
Analysis and follow-up procedures for specimen.....	4.06-50
Annual inspection fee for vessels.....	2.10-101
Answer .....	5.527
Appeal cases in general.....	5.701
Appeal cases remanded for further proceedings.....	5.709
Appeal from action on petition.....	5.607

**46 CFR Ch. I (10–1–99 Edition)**

Appeals; decisions or actions involving documentation of vessels .....	1.03-45
Appeals; decisions or actions involving documentation of a District Commander .....	1.03-25
Appeals; decisions or actions involving documentation of a recognized classification society acting on behalf of the Coast Guard.....	1.03-35
Appeals; decisions or actions involving documentation of an OCMI.....	1.03-20
Appeals; decisions or actions involving documentation of the Marine Safety Center .....	1.03-30
Appeals to the National Transportation Safety Board.....	5.713
Appearances.....	5.513
Applicability of fees .....	2.10-1
Application of regulations to vessel or tankships on an international voyage .....	2.01-8
Application of regulations to oceanographic research vessels subject to requirements .....	3.03-1
Application for recognition .....	8.240
Application form .....	9.15
Application procedures.....	5.903
Applications for inspections.....	2.01-1
Approvals.....	2.75-1
Certificates of approval .....	2.75-5
Hazardous ship's stores .....	2.75-60
Portable fire extinguishers .....	2.75-25
Procedures for obtaining.....	2.75-10
Requirements and tests.....	2.75-15
Suspension of approval.....	2.75-40
Welding procedures and performance qualifications.....	2.75-70
Withdrawals or termination of approvals and appeals.....	2.75-50
Argument.....	5.559
Army.....	4.11-1
Assault, with a dangerous weapon .....	5.61(a)(1)
Assessment and collection of fees .....	9.14
Assignment of loadlines .....	2.85
Atlantic Beach, NY .....	7.25
Atlantic Coast... 7.10, 7.15, 7.20, 7.25, 7.30, 7.35, 7.40, 7.45, 7.50, 7.55, 7.60, 7.65, 7.70, 7.75, 7.80, 7.85, 7.90, 7.95, 7.100	
Attorney General .....	5.69
Authority for regulations .....	3.01-3, 4.01, 5.1
Authorized classification society .....	8.100
Availability of records .....	4.13

**B**

Billing for services .....	9.16
Block Island Sound, RI .....	7.2
Blueprints .....	2.90
Board .....	4.40-5(b)
British Virgin Island .....	2.10-120(a)
Broken periods.....	9.8
Burden of proof.....	5.539
Buzzards Bay, MA .....	7.20

**C**

California.....	7.115, 7.120, 7.125, 7.130, 7.135
Canadian (BC) .....	7.150
Cape Ann, MA.....	7.10
Cape Blanco, OR .....	7.140
Cape Charles, VA.....	7.45

## Subchapter A Index

Cape Fear, NC.....	7.60
Cape Flattery, WA.....	7.140
Cape Henlopen, DE.....	7.45
Cape Henry, VA.....	7.55
Cape May, NJ.....	7.35
Cape Spencer, Alaska.....	7.155
Cape St. Elias, AK.....	7.155
Cargo vessel.....	2.01-15(a)(3), 2.01-15(b)(3), 2.01-40
Cause or probable cause determinations from Board investigations.....	4.40-20
Certificates:	
Amending.....	2.01-5(c)
Applications.....	2.01-25(b)
Description.....	2.01-5(b)
Exempted vessel.....	2.01-25(e)
Foreign flag vessels.....	2.01-25(g)
Issuance of.....	2.01-5(a)
Issued to foreign vessels.....	2.01-6
Of approval.....	2.75-5
Of inspection.....	2.01-5
Or documents issued by Coast Guard or others.....	2.95-1, 2.95-5
Posting.....	2.01-25(f)
Certification of extracts from shipping articles, logbooks, etc.....	5.543
Changes in vessel service.....	2.10-115
Chairman.....	4.40-5(c)
Charges.....	4.09-35, 5.23, 5.107
Charleston Harbor, SC.....	7.65
Chemical test.....	4.03-7
Chemical testing, mandatory, following serious marine incidents involving vessels in commercial service.....	4.06
Chesapeake Bay and tributaries.....	7.50
Chief engineer's report.....	2.20-40
Chronological record of seaman's previous employment.....	6.07
Class rules.....	8.100
Classification society authorization to issue international certificates.....	8.320
Classification society authorization to participate in the Alternative Compliance Program.....	8.420
Classes of vessels (including motorboats) examined or inspected and certificated.....	2.01-7
Coast Guard:	
Civilian personnel.....	9.1
District.....	4.03-20, 5.13
Marine casualty investigations for the Board.....	4.40-25
National Transportation Safety Board Marine Casualty Investigations.....	4.40
Coercion of witnesses.....	4.11-5
Collection of specimens in incidents involving fatalities.....	4.06-30
Collection requirements.....	4.06-20
Collector of Customs, Treasury Department.....	9.16
Commandant... 1.01-10(a), 4.03-15, 4.07-1, 4.09-1, 5.11, 5.65, 5.711, 5.801, 5.807, 5.905, 8.100	
Commandant's decisions.....	5.541(a)(4)
Computation of time.....	4.21-1
Conduct of investigations.....	5.101
Congressional appropriations necessary.....	9.13
Construction of regulations.....	4.19-5, 5.51
Continuance of a hearing.....	5.511
Conviction for a dangerous drug law violation, use of, or addiction to the use of dangerous drugs.....	5.35

46 CFR Ch. I (10–1–99 Edition)

Corrections or amendments of charges and/or specifications ..... 5.525  
Counsel for witnesses and parties in interest..... 4.07-35  
Course of action available ..... 5.105

**D**

Dangerous drug..... 4.05-12, 5.35  
Decision and order of the Administrative Law Judge on appeal to the  
  Commandant..... 5.707  
Decision of the Commandant on Appeal ..... 5.715  
Definitions ..... 1.01-5, 1.03-10, 2.10-25 3.05, 4.03, 4.40-5, 8.100  
Delaware Bay and tributaries ..... 7.40  
Delegated function..... 8.100  
Delegated function related to general vessel safety assessment ..... 8.100  
Delegation of OCMI signature authority ..... 2.01-30  
Delivery of decision ..... 5.571  
Deposit or Surrender of License, Certificate or Document:  
  Return or issuance of a license, certificate of registry, or merchant  
  mariners document ..... 5.205  
  Voluntary deposits ..... 5.201  
  Voluntary surrender ..... 5.203  
Deposition..... 4.07-25, 5.553  
Designation of Oceanographic Research Vessels:  
  Application..... 3.03  
  Authority and Purpose..... 3.01  
  Authority for regulations..... 3.01-3  
  Definitions ..... 3.05  
  Designation ..... 3.10  
  Letter of designation..... 3.05-1  
  Oceanographic research vessel ..... 3.05-3  
  Procedures for designating oceanographic research vessels..... 3.10-1  
  Purpose of regulations..... 3.01-1  
  Renewal of letter of designation..... 3.10-5  
  Right of appeal..... 3.10-10  
  Vessel subject to the requirements ..... 3.03-1  
Disqualification of Administrative Law Judge..... 5.507  
District Commander..... 1.01-10(a), 4.03-25  
Domestic vessels, inspection requirements..... 2.01-10  
Drawings ..... 2.90  
Drill ship MODU..... 2.10-25

**E**

Eastport, ME..... 7.10  
Employees of vessels controlled by Army or Navy as witnesses ..... 4.11-1  
Enforcement ..... 5.307  
Equipment or material required to be approved ..... 2.95-10  
Evidence ..... 5.537, 5.565  
Evidence of criminal liability ..... 5.69  
Excursion permit ..... 2.01-45  
Exemptions..... 2.10-5  
Existing vessel ..... 1.03-10(b)(2)(c)  
Explosives ..... 6.15  
Extra compensation for overtime services:  
  Application form ..... 9.15  
  Assessment and collection fees ..... 9.14  
  Billing for services ..... 9.16  
  Broken periods..... 9.8  
  Congressional appropriation necessary ..... 9.13

## Subchapter A Index

Coast Guard civilian personnel.....	9.1
Night, Sunday, and holiday defined.....	9.5
Overtime earnings not basis for overtime under Federal Employees Pay Act of 1945.....	9.3
Payment although no actual service performed.....	9.2
Proration of charges.....	9.11
Protests.....	9.17
Rate for night service.....	9.6
Travel status overtime.....	9.12
Two hours between broken periods.....	9.9
Waiting time.....	9.10
Waiting time; actual report for duties.....	9.4

### F

Failure of respondent to appear at hearing.....	5.515
Federal Employees Pay Act of 1945.....	9.3
Federal law.....	5.541(a)(1)
Fees.....	2.10
Annual inspection fee.....	2.10-101
Applicability.....	2.10-1
Changes in vessel service.....	2.10-115
Definitions.....	2.10-25
Exemptions.....	2.10-5
For examination of foreign mobile offshore drilling units.....	2.10-130
For examination of foreign tankships.....	2.10-125
Overseas inspection and examination fees.....	2.10-120
Penalties.....	2.10-135
Prepayment of annual vessel inspection fees.....	2.10-105
Waivers.....	2.10-10
Ferry.....	2.10-25
Fire prevention equipment.....	2.20-50
Fishing vessels.....	2.01-50
Florida.....	7.85, 7.90, 7.95
Florida Reefs and Keys.....	7.100
Folly Island, SC.....	7.70
Foreign Mobile Offshore Drilling Units.....	2.10-130
Foreign tankships.....	2.10-125
Foreign Units of Coast Guard, investigations by.....	4.07-45
Foreign vessel, inspection requirements.....	2.01-13
Freight barge.....	2.10-25
Freight ship.....	2.10-25
Freight vessel.....	2.10-25

### G

General.....	1.03-15, 5.501
Flow of functions.....	1.01-25
Purpose of boundary lines.....	7.1
Requirements.....	2.10-20, 2.90-1
Georgia.....	7.75, 7.85
Governmental organizations.....	5.541(a)(3)
Gross tons.....	8.100
Gulf Coast.....	7.105

### H

Handling and shipping, specimen.....	4.06-40
Haro Strait, WA.....	7.145

46 CFR Ch. I (10–1–99 Edition)

Hawaii.....	7.110
Hazardous materials, incidents involving.....	4.05-30
Hazardous ship’s stores.....	2.75-60
Hearings:	
Administrative Law Judge’s findings and conclusions.....	5.563
Admissibility of respondent’s Coast Guard records prior to entry of findings and conclusions.....	5.549
Answer.....	5.527
Appearances.....	5.513
Argument.....	5.559
Burden of Proof.....	5.539
Certification of extracts from shipping articles, logbooks, etc.....	5.543
Continuance of a hearing.....	5.511
Corrections or amendments of charges and/or specifications.....	5.525
Delivery of decision.....	5.571
Disqualification of Administrative Law Judge.....	5.507
Evidence.....	5.537
Failure of respondent to appear at hearing.....	5.515
General.....	5.501
Medical examination of respondent.....	5.557
Modification of Administrative Law Judge’s decision and order.....	5.577
Motions or objections.....	5.523
Notification of right of appeal.....	5.573
Official notice by Commandant and Administrative Law Judge.....	5.541
Opening statement by or on behalf of the respondent.....	5.531
Opening statement of investigating officer.....	5.529
Opening the hearing.....	5.509
Order.....	5.567
Presentation of case where there is an admission or no contest an- swer.....	5.533
Public access to hearings.....	5.505
Record of the hearing.....	5.503
Rights of respondent.....	5.519
Selection of an appropriate order.....	5.569
Submission of prior record and evidence in aggravation or mitiga- tion.....	5.565
Submission of proposed findings and conclusion.....	5.561
Testimony by deposition.....	5.553
Treatises.....	5.555
Use of judgement of conviction.....	5.547
Verification of license, certificate, or document.....	5.521
Witnesses.....	5.535
Witnesses excluded from hearing room.....	5.517
Hilton Head Island, SC.....	7.70
Holiday defined.....	9.5

I

Incidents involving hazardous materials.....	4.05-30
Incompetence.....	5.31, 5.61(a)(9)
Incorporated by reference.....	8.110
Individual directly involved in a serious marine incident.....	4.03-4
Industrial vessel.....	2.10-25
Information to be furnished Marine Board of Investigation.....	4.07-55
Initiating suspension and revocation proceedings.....	5.53
Inspections:	
Applications.....	2.01-1
Application of regulations to vessel or tankships on an international voyage.....	2.01-8

## Subchapter A Index

Certificates issued to foreign vessels.....	2.01-6
Certificates of inspection .....	2.01-5
Classes of vessels (including motorboats) examined or inspected and certificated.....	2.01-7
Delegation of OCMI signature authority .....	2.01-30
Excursion permit .....	2.01-45
International Convention for Safety of Life at Sea, 1974.....	2.01-35
Notification of inspection.....	2.01-3
Overtime compensation .....	2.01-60
Passengers or persons in addition to crew on cargo or tank ves- sels .....	2.01-40
Persons other than crew on towing, oyster, or fishing steam ves- sels .....	2.01-50
Requirements for:	
Domestic vessels.....	2.01-10
Foreign vessels .....	2.01-13
Revocation of certificates of inspection .....	2.01-20
Right of appeal.....	2.01-70
Vessel inspections in Alaska.....	2.01-80
Vessel repairs.....	2.01-15
Interference with master, ship's officers, or government officials in per- formance of official duties.....	5.61(a)(10)
International Convention for Safety of Life at Sea, 1974 .....	2.01-25
International voyage.....	2.01-8
Investigations .....	4.07
Commandant or District Commander to order investigation .....	4.7-1
Counsel for witnesses and parties in interest.....	4.07-35
Foreign Units of Coast Guard, investigations by .....	4.07-45
Information to be furnished Marine Board of Investigation .....	4.07-55
Investigating officers, powers of.....	4.07-5
Opening statement .....	4.07-7
Recommendations, action on.....	4.07-15
Report of investigation.....	4.07-10
Testimony of witnesses in other districts, depositions.....	4.07-25
Testimony of witnesses under oath.....	4.07-30
Transfer of jurisdiction.....	4.07-20
Investigating officer.....	4.03-30, 5.15
Issuance of subpoenas .....	5.301

## J

Judgement .....	5.547
Judicial review.....	1.01-30
Jurisdiction.....	4.07-20

## K

Kenai Peninsula, AK.....	7.165
Kodiak Island, AK.....	7.165
Kotzebue Sound, AK .....	7.180

## L

Law enforcement officer .....	4.03-55
Letter of Compliance .....	2.10-125(a), 2.10-130(a)(b)
Letter of designation.....	3.05-1
License.....	5.57, 5.61, 5.205 5.521, 5.707, 5.715
Lifesaving equipment.....	2.20-50
Liquefied gas tankship.....	2.10-25

46 CFR Ch. I (10–1–99 Edition)

Little Talbot Island, FL.....	7.85
Load lines, assignment of .....	2.85, 2.85-1
Logbooks .....	5.543
Long Island Sound, NY.....	7.20

**M**

Major marine casualty .....	4.40-5(d)
Mamala Bay, HI.....	7.110
Mandatory chemical testing .....	4.06
Responsibilities of individuals involved in serious marine inci-	
dents.....	4.06-5
Responsibilities of the marine employer.....	4.06-1
Required specimens.....	4.06-10
Specimen analysis and follow-up procedures .....	4.06-50
Specimen collection in incidents involving fatalities.....	4.06-30
Specimen collection requirements.....	4.06-20
Specimen handling and shipping.....	4.06-40
Submission of reports and test results.....	4.06-60
Maritime labor disputes .....	5.71
Marine Board of Investigation .....	4.07-55, 4.09, 4.09-5
Marine casualty investigation by the Board.....	4.40-15
Marine casualty or accident .....	4.03-1, 4.05-1 4.05-5, 4.05-10
Marine employer.....	4.03-45, 4.06-1
Marine Safety Center.....	1.03-30
Marine type, portable fire extinguishers .....	2.75-25
MARPOL 73/78.....	8.100
Marquesas Keys, FL.....	7.100
Massachusetts Bay, MA .....	7.15
Medical examination of respondent .....	5.557
Medical facility .....	4.03-5
Medical personnel.....	4.03-6
Mental incompetence.....	5.201
Merchant mariners document .....	5.57, 5.205, 5.521
Merchant Vessel Location Filing System .....	4.04-3
Mexican border .....	7.120
Miami, FL.....	7.100
Mitigation.....	5.565
Military installations.....	6.15
Military Sealift Command .....	6.06
Minimum standards for a recognized classification society .....	8.230
Misconduct .....	5.27
Resulting in loss of life or serious injury.....	5.61(a)(2)
Mobile Offshore Drilling Units.....	2.10-25, 2.10-130
Modification of Administrative Law Judge's decision and order .....	5.577
Montauk Point, NY .....	
Motions of objections.....	5.523
Murder or attempted murder .....	5.61(a)(4)
Mutiny .....	5.61(a)(5)

**N**

Nantucket Sound .....	7.20
Narragansett Bay, MA .....	7.20
Nautical school vessel.....	2.10-25
Navy .....	4.11-1
Negligence.....	5.29
New vessel.....	1.03-10(b)
New York Harbor.....	7.30

## Subchapter A Index

Night defined .....	9.5
No contest .....	5.63, 5.527, 5.529, 5.533
Non-profit organization .....	2.10-25
Notice of marine casualty .....	4.05-1
Alcohol or drug use by individuals directly involved in casualties .....	4.05-12
Incidents involving hazardous materials .....	4.05-30
Report of accident to aid to navigation.....	4.05-1
Reports when state of war exists .....	4.05-25
Substance of marine casualty notice.....	4.05-5
Voyage records, retention of.....	4.05-15
Written report of marine casualty.....	4.05-10
Notification of inspection.....	2.01-3
Notification of right to appeal.....	5.573
Nuclear vessel .....	4.03-35
Nunivak, AK .....	7.175

## O

Oceanographic vessels .....	2.01-15(a)(6), 2.01-15(b)(6), 2.10-25
OCMI .....	1.03-20, 2.01-30
Officer in Charge, Marine Inspection (OCMI).....	8.100
Official notice by Commandant and Administrative Law Judge .....	5.541
Offshore supply vessel .....	2.10-25
OMB control numbers (assigned pursuant to the Paperwork Reduction Act) .....	1.01-35
Opening statement .....	4.07-7
Opening statement by or on behalf of the respondent .....	5.531
Opening statement of investigating officer .....	5.529
Opening the hearing.....	5.509
Order.....	5.567
Oregon.....	7.135, 7.140
Organization, Coast Guard Marine Safety:	
Districts .....	1.01-15
Headquarters.....	1.01-10
Overseas inspection and examination fees .....	2.10-120
Overtime compensation .....	2.01-60
Overtime earnings not basis for overtime under Federal Employees Pay Act of 1945 .....	9.3
Oyster vessels.....	2.01-50

## P

Pacific Coast.....	7.110
Paperwork Reduction Act.....	1.01-35
Party in interest .....	4.03-10, 4.07-35
Passenger barge .....	2.10-25
Passengers or persons in addition to crew on cargo or tank vessels.....	2.01-40
Passenger ship.....	2.10-25
Passenger vessels.....	2.01-15(a)(1), 2.01-15(b)(1), 2.10-25
Payment although no actual service performed .....	9.2
Payment of witness fees and allowances.....	4.09-10, 5.401
Penalties .....	2.10-135, 2.50, 2.50-1
Permits for commercial vessels handling explosives at military installations .....	6.15
Permits for excursion.....	2.01-45
Persons other than crew on towing, oyster, or fishing vessels.....	2.01-50
Perversion .....	5.61(a)(6)
Petition to reopen hearing.....	5.601
Physical incompetence .....	5.201

46 CFR Ch. I (10–1–99 Edition)

Physician-patient privilege.....	5.67
Plans, drawings, or blueprints.....	2.90
Point Conception, CA .....	7.125, 7.130
Point Fermin, CA .....	7.120
Point Sur, CA.....	7.130, 7.135
Point Vicente, CA.....	7.125
Point Whitshed, AK .....	7.160
Political subdivision .....	2.10-25
Portable fire extinguishers .....	2.75-25
Potential vessel casualty .....	4.04
Powers of:	
Investigating officer .....	5.103
Marine Board of Investigation.....	4.09-5
Preferment of charges.....	4.09-35
Preliminary investigation by Board .....	4.40-10
Preparations and service of charges and specifications.....	5.107
Prepayment of annual vessel inspection fees .....	2.10-105
Presentation of case (where there is an admission or no contest answer) .....	5.533
Prior record .....	5.565
Proceedings, record of.....	4.09-20
Procedures for appeal .....	5.703
Procedures for Coast Guard investigation .....	4.40-30
Procedures for designating oceanographic research vessels.....	3.10-1
Procedures for effecting individual waivers of navigation and vessel inspection laws and regulations .....	6.01
Procedures for obtaining approvals .....	2.75-10
Procedures for submitting petition .....	5.603
Proof of service .....	5.309
Proration of charges.....	9.11
Proof, standard of.....	5.63
Protests.....	9.17
Public access to hearings.....	5.505
Public availability of records .....	4.13-1
Public nautical schoolships.....	2.01-15(a)(5), 2.01-15(b)(5)
Public vessel .....	2.10-25, 4.03-40, 4.40-5(e)

**Q**

Qualifications for construction personnel.....	2.75
Qualified medical personnel .....	4.03-6
Quashing a subpoena.....	5.305

**R**

Rate for night service .....	9.6
Rate for Sunday or holiday services .....	9.7
Reciprocity .....	8.120
Recognition of a classification society.....	8.220
Recognized classification society .....	1.03-10(a), 8.100
Recognized laboratory .....	2.75-25(c)(3)
Recommendations, action on.....	4.07-15
Record, availability of.....	4.13-1
Record of hearing.....	5.503
Record of proceedings .....	4.09-20
Record of the Coast Guard and the Board.....	4.40-35
Recreational vessels.....	4.03-50
Regulations, authority and scope.....	4.01
Rehabilitation program.....	5.205

## Subchapter A Index

Relationship of the National Transportation Safety Board to the Coast Guard.....	4.40-3
Renewal of letter of designation.....	3.10-5
Repairs or alteration in lifesaving or fire protection equipment.....	2.20-50
Reporting exclusion.....	4.01-3
Report of accident to aid to navigation.....	4.05-20
Report of Chief engineer.....	2.20-40
Report of investigation.....	4.07-10
Report of lack of vessel communication.....	4.04-3
Report of potential vessel casualty.....	4.04-1
Reports and forms.....	2.20
Reports when state of war exists.....	4.05-25
Required specimens.....	4.06-10
Requirements and test, safety equipment.....	2.75-15
Rescue Coordination Center (RCC).....	4.04-1(a)
Respondent.....	5.303, 5.515, 5.519 5.531, 5.549, 5.557, 5.565
Responsibilities of individuals directly involved in serious marine incidents.....	4.06-5
Responsibilities of the marine employer.....	4.06-1
Retention of records by the public.....	2.95
Revocation.....	1.01-20, 2.01-20, 5.567
Revocation of a classification society recognition.....	8.260
Right of appeal.....	2.01-70, 3.10-10
Rights of the respondent.....	5.519
Rio Grande, TX.....	7.105
Rules for establishing boundary lines.....	7.5

## S

Sabotage.....	5.61(a)(7)
Sailing school vessel.....	2.10-25
Sandy Hook, NJ.....	7.35
Santa Catalina Island, CA.....	7.115, 7.130
Savannah River.....	7.75
Scope of regulations.....	4.01-1
Sea-going towing vessel.....	2.10-25
Selection of an appropriate order.....	5.569
Self-elevating MODU.....	2.10-25
Semi-submersible MODU.....	2.10-25
Serious marine incident.....	4.03-2
Sessions to be public.....	4.09-17
Shipping articles.....	5.525, 5.543
Small passenger vessels.....	2.01-15(a)(2), 2.01-15(b)(2), 2.10-25
Smuggling of aliens.....	5.61(a)(8)
SOLAS.....	8.100
Specification.....	5.25
Specimen analysis and follow-up procedures.....	4.06-50
Specimen collection in incidents involving fatalities.....	4.60-30
Specimen collection requirements.....	4.06-20
Specimen handling and shipping.....	4.06-40
St. Johns Point, FL.....	7.95
St. Johns River, FL.....	7.90
St. Simons Island, GA.....	7.80, 7.85
Standard of proof.....	5.63
State.....	2.10-25
State law.....	5.541(a)(2)
Stay of effect of decision and order of Administrative Law Judge on appeal to the Commandant; temporary license, certificate, or document.....	5.707

46 CFR Ch. I (10–1–99 Edition)

Stay of effect of decision of the Commandant on Appeal; temporary document and/or license pending appeal to the National Transportation Safety Board..... 5.715  
Strait of Georgia, WA ..... 7.145  
Strait of Juan de Fuca, WA ..... 7.145  
Submersible MODU ..... 2.10-25  
Submersible vessel ..... 2.10-25  
Submission of prior record and evidence in aggravation or mitigation ..... 5.565  
Submission of proposed findings and conclusions ..... 5.561  
Submission of reports and test results ..... 4.06-60  
Subpoenas enforcement ..... 5.307  
Subpoenas issuance of ..... 5.301  
Subpoenas proof of service ..... 5.309  
Subpoenas quashing ..... 5.305  
Subpoenas service of on behalf of the respondent ..... 5.303  
Substance of marine casualty notice ..... 4.05-5  
Substance of reports ..... 4.04-5  
Sullivans Island, SC ..... 7.60  
Sunday, defined ..... 9.5  
Surrender to avoid hearing ..... 5.203  
Suspension and revocation proceedings ..... 1.01-20  
Suspension of approval ..... 2.75-40

T

Tank barge ..... 2.10-25  
Tankships ..... 2.01-8, 2.01-15(a)(4), 2.01-15(b)(4) 2.10-25, 2.10-125  
Tank vessel ..... 2.10-25  
Termination of classification society authority ..... 8.430,  
Testimony by deposition ..... 4.12, 5.553  
Testimony by interrogatories ..... 4.12  
Testimony of witnesses in other districts, depositions ..... 4.07-25  
Testimony under oath ..... 4.07-30  
Tests, for approval of safety equipment ..... 2.75-15  
Time and place of investigation, notice of; rights of witnesses, etc ..... 4.09-15  
Time limitations ..... 5.901  
Time limitations for service of charges and specifications ..... 5.55  
Transfer of jurisdiction ..... 4.07-20  
Travel status overtime ..... 9.12  
Treatises ..... 5.555  
Two hours between broken periods ..... 9.9  
Tybee Island, GA ..... 7.80

U

United States border ..... 7.120, 7.150  
U.S. Attorney ..... 4.09-25  
U.S. supplement to class rules ..... 8.430  
Use of judgement of conviction ..... 5.547  
User fee anniversary date ..... 2.10-25  
User fees ..... Table 2.10-101

V

Verification of license, certificate or document ..... 5.521  
Vessel enrollment in Alternative Compliance Program ..... 8.420  
Vessel identification number (VIN) ..... 2.10-25  
Vessel inspections ..... 2.01-80

## Subchapter A Index

Vessel of the United States .....	4.40-5(f)
Vessel repairs .....	2.01-15
Vessels:	
Oceanographic research vessels .....	3.03-1
Operated by or chartered to Military Sealift Command .....	6.06
Requisitioned by the United States for emergency evacuation .....	6.04
Subject to the requirements; Vineyard Sound, MA.....	7.20
Violation of law or regulation.....	5.33
Voluntary deposits in event of mental or physical incompetence.....	5.201
Voluntary surrender to avoid hearing .....	5.203
Voyage records, retention of.....	4.05-15

### W

Waiting time .....	9.10, 9.4
Waiting time; actual report for duties.....	9.4
Waivers .....	2.10-10
Waivers of navigation and vessel inspection laws.....	2.45
Authority for and limitations on issuance .....	2.45-1
Welding procedures and performance qualifications.....	2.75-70
Warning .....	5.105(e), 5.565
Withdrawals or terminations of approvals and appeals .....	2.75-50
Witnesses .....	5.535
Witnesses excluded from the hearing room .....	5.517
Witnesses fees.....	4.11, 4.11-10
Witnesses: payment of.....	4.09-10, 5.401
Written report of marine casualty .....	4.05-10
Wrongful destruction of ship's property .....	5.61(a)(11)

### Y

Youth .....	2.10-25
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